KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL **WAI 2180**

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF **THE TAIHAPE: RANGITĪKEI KI RANGIPŌ DISTRICT INQUIRY**

CROWN CLOSING SUBMISSIONS IN RELATION TO ISSUE 7: LAND BOARDS AND THE MĀORI TRUSTEE

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INTRODUCTION

1. From the late 1890s, Crown purchasing of Māori land was put on hold as the Seddon Liberal government's Māori land policy was strongly influenced by James Carroll and the Young Māori Party.[1] In the early 20th century, Māori land that was, in the Crown's view, lying unused or unproductive was to be put to better effect. Legislation and policy were created with a view to both increasing the retention of Māori land (ie reducing the amount of Māori land being permanently alienated) and making remaining land more accessible for settlement and development.

2. Māori land administration went through a number of permutations during the 20th century, which had varying effects on Māori-owned land. A number of statutes were enacted over this period providing for the vesting of Māori land for lease or sale in Māori Land Councils, Māori Land Boards and the Native Trustee (later the Māori Trustee) and for these bodies to undertake other functions relating to the administration of Māori land (such as administering estates and funds). The influence of these institutions over Māori land during this period underpin a number of alleged issues in regard to administration, transaction and the protection of Māori-owned land in the Taihape inquiry district.

3. It is important to note at the outset that the extent to which the mechanisms discussed in these submissions were utilised in the Taihape inquiry district is limited in comparison to other districts, as is any consequential prejudice. The evidence shows there was a delay in the use of these mechanisms in the inquiry district, and that much of the land in the inquiry district that was subject to the Stout-Ngata Commission's 1907 recommendations (discussed further below) was already leased or occupied. The evidence identifies only a small number of vestings occurring in the Taihape inquiry district before the 1950s (and none in the Māori Land Board).

4. The claimant submissions allege systemic prejudice and adverse impacts on Māori interests across the eight questions for this topic. For most of the

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1 Wai 2180, #A43, at 613–614; AJHR 1898, I-3a – Seddon speech regarding Native Land Settlement and Administration Bill. Mr Stirling says (at 618) The 1900 Acts that emerged from this consultative process did result in elected Māori councils and Land Boards, while also holding out the promise of local self-government for Māori communities and an end to land purchasing.

questions, however, only a few instances of alleged prejudice can be pointed to as evidence of this systemic prejudice.[2] The Crown submits that the narratives and examples canvassed briefly in these submissions below – which include many of the same examples cited by claimant submissions – do not substantiate widespread or systemic prejudice from the operations of Land Boards and the Trustee in this inquiry district. This is partly because the operation of these entities does not seem to have been nearly as prominent or dominant in this district as in other districts. But mainly, as a general summary for this inquiry district, the instances are few where prejudice can be clearly evidenced.

5. The claimants have also drawn heavily on the Tribunal's report on Te Rohe Pōtae (*Te Mana Whatu Ahuru*) and other inquiries in their submissions. The analysis in *Te Mana Whatu Ahuru,* however, stems from a vastly different factual background. Unlike in the Te Rohe Pōtae inquiry district, no Māori land was compulsorily vested in Māori Land Boards in the Taihape inquiry district. The evidence does not show any disposal, acquisition or vesting of uneconomic interests in the Māori Trustee.

6. In any case, the Crown recognises that while it is responsible for the underlying statutory framework that created the Māori Councils, Land Boards and Trustees, it is not responsible for how these entities exercised their powers. In this regard, the Crown submits that, to the extent these entities operated in the Taihape Inquiry district, their functions were not under the direct control of the Crown. Rather, they exercised independent discretionary powers. The Crown considers this to be consistent with the distinction drawn in *Te Mana Whatu Ahuru* in the roles of the entities. This is addressed further below.

Approach of these submissions

7. These submissions outline current Tribunal jurisprudence on Māori Land Boards and Trustees, the claimants' submissions and then address the issue questions.

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2 For example, Otumore block is the only example provided for issue 4 (consultation with Taihape Māori when land was vested in the Native/ Māori Trustee), see Wai 2180, #3.3.48, at 55–57.

8. As observed in the claimant generic closing submissions, several research reports for this inquiry deal with "occasions where the land boards and the Māori Trustee are involved in discrete events, but unfortunately we do not have a thematic assessment as part of the evidence of this inquiry".[3] This means that an assessment of Land Board and Trustee activity needs to be compiled from across a range of reports. The degree to which these entities were active (and prejudiced Taihape Māori in particular cases) is the relevant issue, as is the extent to which these activities were within the Crown's control.

9. Claimant generic submissions seek a long list of various findings in relation to this topic.[4] The Crown would observe however that:

   9.1 Many of the submissions seek high level findings of Tiriti/Treaty breach in relation to the various relevant statutory regimes, apparently based on findings in various other inquiry districts. The Crown has not, excepting a few aspects of these regimes (such as compulsory vesting without consent), accepted that these statutes or policies were in themselves breaches of te Tiriti/the Treaty.

   9.2 The bulk of the findings sought are not Taihape specific, and in some cases are irrelevant to Taihape, including compulsory vesting in Land Boards (which the submissions have acknowledged did not occur in Taihape) or "providing inadequate finance for compensation for improvements" (which is not discussed anywhere in the submissions with reference to a particular Taihape case).

10. The Crown has made submissions on the land administration legislation of the period c. 1900-1930s in its Twentieth Century submissions. Some specific instances of Land Board and Native Trustee activity are included in those submissions in relation to vesting in the Trustee for unpaid rates or survey liens, as are more general submissions on rating regimes (which are also addressed in submissions on Issue 10).[5]

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3 Wai 2180, #3.3.48, at [14].

4 Wai 2180, #3.3.48, at [440].

5 See submissions on rating regimes under Issue 7 of Crown submissions on Twentieth Century (Topic 12).

11. The Crown has also addressed matters relating to Pōtaka and Tūrangarere native townships in closing submissions on Native Townships (Issue 8). As outlined in those submissions, the Pōtaka Native township was administered by the Lands and Survey Department until 1908. The Crown accepts, therefore, that it was responsible for the establishment and management of Pōtaka Native township until 1908, when the Maori Land Laws Amendment Act 1908 vested legal ownership and management of all townships established under the Native Townships Act 1895 in the local Māori Land Boards. The Crown also accepts that its responsibility extends to the policy framework contained in Native township legislation (including, for example, provision for perpetual leases under the Māori Reserved Land Act 1955). As to Tūrangarere Native township, the Crown again notes the absence of claimant submissions on this matter and makes no further submissions on it.

CURRENT TRIBUNAL JURISPRUDENCE

12. The claimant generic closing submissions draw on the Tribunal's *Te Mana Whatu Ahuru* findings as "the Tribunal's current position on the actions of the Crown during the period of 1913 and 1953."[6] The application or otherwise of those findings depends on the circumstances involved. It is notable that *Te Mana Whatu Ahuru* report findings on the Māori Land Council and Board regime begins by locating its findings very much in the specific circumstances of Te Rohe Pōtae.[7]

13. Te Rohe Pōtae was targeted for particular attention by the Crown because of what was perceived as its disproportionately large area of 'idle' Māori land. The Crown wanted to bring this land into productivity to boost the economy. Pākehā settlers, who were clamouring for land to purchase or lease, were viewed as the appropriate vehicle for achieving land development. *Te Mana Whatu Ahuru* found that the Crown acted in a "manner inconsistent with the Treaty of Waitangi" during the period 1913 – 1953 in a number of ways, including:[8]

6 Wai 2180, #3.3.48, at [218].

7 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 83.

8 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 82–84.

13.1 actions, policies, legislation and the land administration scheme under the Land Boards were not consistent with tino rangatiratanga;

13.2 "[C]ontrol, decision-making, and influence shifted away from Māori as a collective into the hands of land boards comprised entirely of Pākehā." These Land Boards were not given adequate support or funding;

13.3 in creating this regime, the Crown acted in a manner inconsistent with good governance and the principles of partnership and mutual benefit, and failed to act honourably and in good faith;

13.4 The Crown's actions were also discriminatory and inconsistent with Article III of te Tiriti/the Treaty. No such land administration regime (depriving landowners of the right to administer the leasehold or freehold of their land without any say) was imposed on Pākehā. The Crown acted inconsistently with the principle of equity by failing to address the inconsistent and unfair treatment experienced by Māori landowners who vested their land in the local Land Board. The property rights of such landowners were significantly limited, and when their land was alienated, there was no guarantee the owners would receive the income.

14. The Crown emphasises that the circumstances in Taihape differ markedly from those considered by the Tribunal in *Te Mana Whatu Ahuru*. A key difference is that there was no compulsory vesting in a Māori Land Board in this inquiry district, nor any vesting in Land Boards based on the Stout-Ngata Commission's recommendations. There was substantial land vested in the Board in Te Rohe Pōtae – and it is the subsequent treatment of that land that *Te Mana Whatu Ahuru* findings set out above largely relate to. These factors are explored further below.

CLAIMANT SUBMISSIONS

15. The claimant generic closings attempt to summarise from Tribunal reports the Treaty principles or duties relevant to 20th century land administration:[9]

9 Wai 2180, #3.3.48, at [37] (footnotes omitted).

In applying the test based on previous Tribunal findings, did the Crown:

a. Establish a land administration legislative scheme that enabled Taihape Māori to effectively control and manage their lands and resources?

b. Adequately support Native/Māori District Councils to support Māori aspirations?

c. Effectively consult with Māori on:

   i. Changes to the land administration system?

   ii. Land was vested in the Māori Trustee and District Māori Land Boards?

d. Did the operation of the Māori Trustee and District Māori Land Boards ensure that Taihape Māori retained a sufficient land base for their needs?

16. Claimant generic closings allege, *inter alia*:

16.1 that the evidence "demonstrate[s] that these entities [Māori Land Boards and the Native/Māori Trustee] failed to provide effective oversight and protection of Taihape Māori land on a number of occasions."[10]

16.2 conflicts of interest or duty in the operation of the Native Land Court, Native Department and/or Native Trustee. The submissions cite evidence of Mr Stirling under examination in which he referred to Shepherd filling "all three roles simultaneously".[11] They also allege various other conflicting roles or statutory duties exercised by the Māori Trustee and Boards.[12] In a similar vein, the claimants state that under the Native Land Amendment Act 1913, Land Boards consisted of only a Native Land Court judge and registrar, thus "merging the Land Board with the Court."[13]

16.3 that the Stout-Ngata Commission's assessment of Taihape district lands was "incomplete and marked by inaccuracies" and "did not provide a strong basis for assessment of the remaining Mōkai Pātea Māori land base and the needs of owners"; but, on the other hand,

10 Wai 2180, #3.3.48, at [40].

11 Wai 2180, #3.3.48, at [84].

12 Wai 2180, #3.3.48, at [225].

13 Wai 2180, #3.3.48, at [215].

these "shortcomings… may have limited immediate pressure to vest or sell these lands".[14]

16.4 The Māori Land Boards "facilitated rapid private purchasing" in various blocks, including Ōruamatua-Kaimanawa, Awarua and Motukawa.[15] Some detail is given regarding specific narratives with some apparent issues, being Motukawa 2B15B2, Ōruamatua-Kaimanawa 1T ("owners had little involvement" in process of sale to Crown), Ōwhāoko C5 (where owners were split on sale to a third party, and nevertheless reneged on the deal and the block remains Māori land).

16.5 Māori Land Boards had dual roles under the Native Land Act 1909 of managing Māori land for owners and facilitating alienations.[16] The Trustee and Boards "played an operative role" in the inquiry district and "effectively facilitated the alienation of Māori land through leasing, private purchases and Crown purchases".[17] Boards/Trustee management ultimately led to Māori owners losing control of their lands through leasing or sale.[18]

16.6 The Trustee did not adequately fulfil a Tiriti/Treaty duty of "protective oversight" of Māori interests in land.[19]

16.7 Māori Land Boards exercised undue control over the profits from sales and leases, including unreasonably withholding funds from Māori owners.[20] (Examples of these occurrences are outlined in submissions below.)

16.8 Māori Land Boards/Trustees did not adequately consult or engage with owners over land management or investment decisions.[21]

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14 Wai 2180, #3.3.48, at [112]–[113].

15 Wai 2180, #3.3.48, at [124]–[156].

16 Wai 2180, #3.3.48, at [147].

17 Wai 2180, #3.3.48, at [222].

18 Wai 2180, #3.3.48, at [233(d)].

19 Wai 2180, #3.3.48, at [224].

20 Wai 2180, #3.3.48, at [227].

21 Wai 2180, #3.3.48, at [233(a)] and [348]–[364].

17. Claimant generic closings also record important factual matters, including that:

17.1 No land was vested in a Māori Council established under the Maori Lands Administration Act 1900.[22]

17.2 No compulsory vesting of land in a Land Board took place in the inquiry district.[23]

17.3 None of the technical witnesses undertook close or systematic analysis of Land Board processes for their central blocks report (although each records some transactions where Board authorisation is involved).[24]

17.4 Land Boards were responsible for confirming timber leases on Māori land under the Māori Land Claims Adjustment and Laws Amendment Act 1907, and there are two examples of this happening in Taihape cited in the inquiry research.[25] (There is no allegation of prejudice.)

17.5 There were no significant examples of title consolidation, aggregation, or amalgamation in this inquiry district.[26] However, the submissions also refer to cases where owners did exchange and consolidate interests to enable better land development: examples cited are the Pōtaka whānau in the Taraketi blocks, and Hira Wharawhara, who secured sole ownership of the Motukawa 2B17A block though purchasing the shares of other owners (that block was then included in the Taihape development scheme, as below).[27]

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22 Wai 2180, #3.3.48, at [48], citing Wai 2180, #A48, at 184 ("According to Walzl, no land in the Taihape inquiry district was vested under the 1900 Act."), and Wai 2180, #A46, at 169 (Walzl).

23 Wai 2180, #3.3.48, at [55]. The claimants submissions say: "the 1905 Act also enabled a greater degree of compulsory vestment of land in Land Boards, although this was not practiced in this Inquiry district."

Wai 2180, #A46, at 56 Mr Walzl says: the 1905 Act "contained principles allowing for a greater degree of compulsory vestment of land in the new Boards (however, this was only applied in Tokerau and Tairawhiti.)"

Logically, because no vesting occurred under the 1900 Act (including compulsory vesting), and then the 1905 Act allowed for a greater degree of vesting to have taken place but this didn't occur in the Inquiry District. It is therefore (unless evidence is located to the contrary) seems a reasonable to conclude that no compulsory vesting occurred in the district.

24 Wai 2180, #3.3.48, at [56]. Wai 2180, #A06; #A07; #A08; and #A43.

25 Wai 2180, #3.3.48, at [115]–[119].

26 Wai 2180, #3.3.48, at [367]–[368], referring to Wai 2180, #A08, at 10.

27 Wai 2180, #3.3.48, at [377]–[379], referring to Wai 2180, #A48, at 264.

17.6 There were no significant development schemes instigated in the inquiry district, although Phillip Cleaver identifies the "small-scale" Taihape development scheme.[28] The claimants note, in relation to this development lending, that an "important consideration is that the owners applied for funding and were not compelled to do so by the Māori Trustee".[29] (The Crown notes that this so-called "Taihape Development Scheme", identified by Philip Cleaver and outlined below, does appear to have involved sizeable development funding on at least two blocks.[30])

ISSUES

Issue 1: What was the role of the Native/Māori Trustee and Crown-operated District Māori Land Boards in the inquiry district? To what extent, if at all, did they provide effective oversight and protection of Taihape Māori land?

18. Submissions on this issue first address the legal position with respect to the independence of the Land Boards and Trustees from the Crown. Such analysis is key in considering the Crown's responsibility for the actions of these entities.

19. The submissions then go on to outline the role of these entities in the Taihape inquiry district. In short, no Taihape land was vested compulsorily without consent in the Board, although it appears two blocks may have been by the Māori Land Court in the Māori Trustee. Significant leasing oversight was undertaken, which had mixed success.

20. There is evidence of the Trustee authorising alienation but there is also evidence of the Trustee refusing to do so – the claim that the Trustee operated to facilitate the sale of Māori land to Pākehā is not substantiated on the evidence.

Independence of Boards and Trustee from the Crown

21. The Crown created, and is responsible for, the underlying statutory framework and policies that created the Māori Councils, Land Boards and

28 Wai 2180, #3.3.48, at [369], [373]–[374], referring to Wai 2180, #A48, at 255.

29 Wai 2180, #3.3.48, at [376].

30 Wai 2180, #A48, at 255–256.

Trustees. However, the Crown submits it is not responsible for how these entities exercised their powers.

22. In *Te Mana Whatu Ahuru,* the Tribunal found that Māori Land Boards acted for some purposes as either part of the Crown or as agents for the Crown, while for other purposes, they were neither part of the Crown nor were they agents of the Crown.[31] Applying the 'control' test,[32] the Tribunal's distinction between these two categories turned on the level of ministerial oversight and control involved.[33]

23. In the first category, the Tribunal stated that "the principal statutory role of the land boards in preparing land for settlement involved a high degree of ministerial control": the Boards' functions relating to compulsory vesting required Crown approval and the "boards' roles were circumscribed by statutory requirements for which the Crown was responsible."[34] The Tribunal concluded "that for the purpose of implementing the Crown's policy of land settlement and in terms of its compulsory vesting provisions in part I of the Native Land Settlement Act 1907, Māori land boards were acting either as part of the Crown or as agents for the Crown."[35]

24. The Tribunal went on to distinguish the Boards' functions once land had been sold or leased, as in that case there was less ministerial oversight. It said for the purposes of administering land after sale or lease (including collecting rents and purchase payments, investing and distributing that money, monitoring and enforcing lease and sale terms, monitoring improvements and overseeing lease transfers), the Board had a "fiduciary duty as a trustee to the owners, and discretion to act independently in service of that duty." As regards this second category, the Tribunal concluded that for these purposes, Māori Land Boards were not part of the Crown, nor were they agents of the Crown.[36]

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31 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 130.

32 Being "whether the public body, as a matter of law, was under the direct control of a Minister of the Crown, or, conversely, had independent discretionary powers" (Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 129).

33 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 129.

34 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 130.

35 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 130.

36 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 130.

25. As discussed further below, the Land Boards' activities in the Taihape inquiry district were limited to approving leases, sales, alienations, mortgages and gifts, and other post-sale or lease administration. There was no compulsory vesting, nor any vesting in Land Boards based on the Stout-Ngata Commission's recommendations.

26. The Crown notes an example set out in the Northern Aspect Report which may extend beyond this:[37] the Report states that in 1914 the Aotea Māori Land Board offered Ōruamatua–Kaimanawa 1T block to the Crown for purchase and that the Native Land Purchase Board approved the offer, with the owners having had "little involvement or say in this straightforward process." The land was accordingly purchased from the owners "through the Aotea Land Board" by the Crown in 1915. Without more evidence, it is unclear exactly what the Land Board's role was and the extent to which it was facilitating a sale or acting of its own volition. The Crown cannot take this example any further without further evidence.

27. Although the Crown's view may differ on the Tribunal's finding as regards the first category of functions described above, it submits that in any case, the Māori Land Board operated within the second category in the Taihape inquiry district. In other words, the Land Boards did not carry out functions under the direct control of a Minister or the Crown; they were using independent, discretionary powers. Therefore, the Crown says (consistent with *Te Mana Whatu Ahuru)* that the Māori Land Boards in Taihape were not part of the Crown, nor were they agents of the Crown.

28. The *Te Mana Whatu Ahuru* report went on to say that, even in respect of the second category above, the Crown retained an overall duty of active protection towards Māori interests administered by the Land Board, extending beyond the statutory framework to include a duty to monitor the "operation of delegate bodies for Treaty compliance." The Crown accepts it has an ongoing duty to monitor the effectiveness of the legislative framework and, if necessary, promote statutory changes. However, the Crown submits that any duty to monitor such bodies which extends beyond this (for example

37 Wai 2180, #A06 at at 166.

to oversight of particular decision-making) would be inconsistent with the independent nature of those bodies.

29. We now turn to the Native/Māori Trustee. The Tribunal has previously found that the Māori Trustee and Public Trustee are not Crown bodies. The Tribunal in *Te Whanganui a Tara Me Ono Takiwa: Report on the Wellington District* found:[38]

> Whether a function test or a control test or a combination of the two is applied where appropriate, we are of the opinion that the trustees have not, as a matter of law, been acting by or on behalf of the Crown in the performance of their statutory responsibilities as trustees. They have remained throughout subject to the jurisdiction of the Supreme Court (more recently the High Court) in the exercise of their duties and responsibilities to their beneficiaries.

30. And in *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims*:[39]

> We have found that the trustee, existing in various forms since 1882, has not been and is not an agent of the Crown, but a body with wide discretion to undertake actions of its own initiative. In this respect, our finding is consistent with the findings of the Te Whanganui a Tara report.[40]

31. The Crown's view is that such findings are consistent with conventional administrative law jurisprudence (which, as noted above, turns on the degree of control the Crown exercises over a body exercising its functions).

32. The Tribunal's finding in Te Tau Ihu was cited in Te Rohe Pōtae in support of its analysis of the Crown's responsibility for Land Boards (outlined above).[41] However, citing the Wairarapa ki Tararua and Tauranga Moana reports, *Te Mana Whatu Ahuru* referred to the same duty on the Crown to monitor the Trustees for compliance with the Treaty as it did for Land Boards. The Crown has addressed this in its submissions above.

Principal Functions of Māori Land Boards

33. In 1909 the Stout-Ngata Commission undertook a "systematic inventory and appraisal of the status of Māori lands" with a view to identifying lands that

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38 Waitangi Tribunal *Te Whanganui a Tara Me Ono Takiwa: Report on the Wellington District* (Wai 145, 2003) at 377.

39 Waitangi Tribunal *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims* (Wai 785, 2008) vol II at 899.

40 The Crown notes, for completeness, that the Tribunal found that the Trustee may have been an agent of the Crown in undertaking certain functions.

41 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 129–130 (footnotes omitted).

were required for Māori needs for the foreseeable future and lands that were surplus to their needs and were not being "used" at that time.[42] The "surplus lands" were to be vested in the Māori Land Boards for leasing or sale at the earliest opportunity. Māori owners would receive the income from those leases and sales. Analysis of Taihape inquiry evidence reveals, however, that there were no vestings in Boards in the inquiry district, whether compulsory or otherwise, based on the Stout-Ngata Commission recommendations. In fact, only a few vestings at most can be identified prior to the 1950s. This detail is outlined below.

34. From 1905 to 1932, all alienations of Māori freehold land had to be approved by the relevant Māori Land Board.[43]

35. Under the 1905 legislation, Boards were given the statutory responsibility to approve all proposed private leases of Māori land on the basis that the rent was fair, that the transaction would not render the Māori leasing the land landless, and that the proposed lease would be a benefit to the Māori concerned.[44]

36. Under the same legislation, Boards could advance "by way of mortgage to the owners, or registered proprietors in the case of a body corporate, of any land owned by Maoris any sum not exceeding one-third of its unimproved value for the purpose of stocking, improving, or farming the same".[45] As the Crown submitted in the Northland inquiry that:[46]

> the 1905 Act, though paternalistic by present standards, was nevertheless intended to benefit Māori, loosening controls on leasing, while providing oversight to ensure that leases were fair and did not render owners landless. It also set up a system for financing the development of Māori land, which was sorely needed.

37. By 1911, close to a million acres across New Zealand was vested in Māori Land Boards for lease or sale.[47] However, this did not include any Taihape

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42 Wai 2180, #A46, at 57.

43 Loveridge, D (1996) *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900 to 1952* (Wai 1200, #A60), p.viii

44 Maori Land Settlement Act 1905, s 16.

45 Maori Land Settlement Act 1905, s 18.

46 Wai 1040, #3.3.414, at [61].

47 Loveridge, D (1996) *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900 to 1952* (Wai 1200, #A60), p.viii.

land.[48] The Native Land Amendment Act 1913 brought an end to compulsory vesting.

38. In 1952, the Crown promoted the Māori Land Amendment Act, which abolished the Māori Land Boards and most of their powers, duties, assets, and liabilities of the Boards were transferred to the Māori Trustee.[49]

Principal Functions of the Māori Trustee

39. The Native Trustee Act 1920 provided for the appointment of a Native Trustee. The Trustee was empowered to establish a Native Trustee's Account, using money transferred to him from the Public Trustee, including any funds that had been deposited with the Public Trustee by the Land Boards.[50] The Trustee was then directed to invest this money in various kinds of securities, including mortgages over any Māori freehold land.[51] In this way, Māori funds would be channelled to Māori, with suitable titles, who were seeking development finance.

40. Under the Native Land Act 1931, land could be vested in the Native Trustee to be held for the beneficial owners. The Maori Vested Lands Administration Act 1954 extended the powers of the Trustee with respect to vested lands: vested land could be sold with majority owner consent, and land could be revested in beneficial owners.

41. The Native Trustee was renamed the Māori Trustee after the passage of the Māori Purposes Act 1947.

42. The Māori Purposes Act 1950 provided that the Māori Trustee could be appointed agent of unoccupied Māori land, which owed rates, or which contained noxious weeds to lease or sell the block in order to pay rates.[52] Claimant submissions state that "there is no evidence that the 1950 Act was enforced in this [Taihape] Inquiry rohe".[53] (However a similar power under s

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48 See Wai 2180, #A46, at 60 (Walzl): "this interim report [referring to the first Stout-Ngata report] also dealt with lands vested in the Land Board, but there were not in the Rangitikei County."

And at 172: "Most of the country did not embrace the opportunity to vest land and no lands were vested in Mokai Patea."

49 Loveridge, D (1996) *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900 to 1952* (Wai 1200, #A60), p.vii.

50 Native Trustee Act 1920, ss 16, 18–19.

51 Native Trustee Act 1920, s 21.

52 Maori Purposes Act 1950, s 34.

53 Wai 2180, #3.3.48, at [286], [288].

387 of the Maori Affairs Act 1953 was relied on initially in relation to the application regarding Awarua 2C15B2 in 1967.[54])

43. The Maori Affairs Act 1953 provided for title reform by conversion, whereby uneconomic interests could be acquired both voluntarily and compulsorily by the Māori Trustee. The intention was to deal with the problems created by the increasing emergence of small, uneconomic shares or interests in blocks of land. An uneconomic interest was defined as an interest that did not exceed £25 in value.[55] The evidence in this inquiry has not identified any examples of acquisition of uneconomic interests by the Trustee; none are cited in the claimant generic closings.[56] This is again a further critical point that distinguishes the role of the Māori Trustee in Te Rohe Pōtae from this inquiry district (and thus cautions against applying those findings here).

44. The Maori Trust Act 1953 Act empowered the Trustee to advance money from its own funds to individual Māori on appropriate security.[57]

45. The Maori Affairs Amendment Act 1974 contained new procedures for the alienation of Māori land, giving owners a greater say in any proposal to sell their land. Existing provisions relating to the compulsory vesting in the Māori Trustee of uneconomic interests at the point of succession were repealed.[58]

46. The Maori Purposes Act 1975 removed the ability of the Māori Trustee to purchase or alienate Māori vested or reserved land.[59]

47. The Maori Affairs Amendment Act 1987 abolished the conversion fund (established for the acquisition of uneconomic interests), and provided a way for the return of land still held by the Māori Trustee. The Māori Trustee was to make interest-free advances to be repaid over a long period to assist owners in purchasing the interests.[60]

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54 See Crown closing submissions re Awarua 2C15B2 in Issue 12 (Twentieth Century Land Alienation) at [146]–[162].

55 Maori Affairs Act 1953, ss 149–154.

56 A search for "uneconomic" was done for #A06, #A07, #A08, #A43, #A46, #A48 reports – none turned up discussion of uneconomic interests (uneconomic is used as a descriptor of some titles but not in the context of the acquisition of uneconomic lands).

57 Maori Trustee Act 1953, s 32.

58 Maori Affairs Amendment Act 1987, s 23.

59 Maori Purposes Act 1975, s 9.

60 Maori Affairs Amendment Act 1987, amending the Maori Affairs Act 1953.

48. The Crown notes that it is probable that the Māori Trustee still holds Taihape Māori interests in land in trust for various beneficiaries.

Vesting in Boards/Trustee

49. There appears to be very few cases in the inquiry district of vesting in the Land Board or the Māori Trustee for the purposes of land management, whether voluntary or compulsory vesting (and no instances of compulsory vesting at all in the Land Board):

    49.1 The Stout-Ngata Commission of 1907-09 identified a number of blocks within Mōkai Pātea, but probably because they were already leased or occupied, they could not be further set aside for sale or lease. Recommendations that certain Ōwhāoko partitions be vested in the Land Board were not subsequently acted on.[61]

    49.2 In 1933, the Native Trustee applied to the Native Land Court to be appointed agent to manage the blocks Motukawa 2B16B3 and 2B16B2C on the basis they were unoccupied or unleased, had outstanding rating liens and many of the owners were unknown. Several owners objected, however, on the basis they were actually in occupation, and the Court granted the application over an unoccupied portion of the block.[62] (Although not a vesting, the Trustee here effectively became trustee/manager of the block.)

    49.3 In February 1956, Taraketi 2G and 2H, owned solely by Tenga Pōtaka (sic), were vested in the Māori Trustee. A loan from the Trustee of £1,410 for a term of 8 years was secured by mortgage over the blocks. The Māori Land Court approved a lease of the land to a third party (John Meads) in March 1959. The rent was £750 pa and the land had a capital value of £7200, the bulk of which was improvements. In 1968 the Māori Trustee arranged for another lease of the block(s). The title of the land was Europeanised in the same year.[63]

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61 Wai 2180, #A46, at 60–62, 995–998 (latter pages provide a breakdown of all blocks identified by Commission that were mostly leased or occupied).

62 Wai 2180, #3.3.48, at [396]–[398]; and Wai 2180, #A06, at 55–56.

63 Wai 2180, #A46, at 821–23.

49.4 In 1968, the Commissioner of Crown Lands applied to the Native Land Court for Ōwhāoko C7 to be vested in the Māori Trustee in order to facilitate a sale of the block to the Crown. The Court was critical of this attempt to use a "trusteeship" statutory function to facilitate sale without adequate engagement with the Māori owners: it declined the application under the relevant provisions of the Maori Affairs Act 1953 stating that the owners had not been given a reasonable opportunity to express their views on a trustee.[64]

49.5 There appear to be two compulsory vestings by the Māori Land Court in the Māori Trustee – Ōtumore and Awarua 2C15B. (See submissions on Issue 12 in response to those specific examples.)

Approval functions of Boards

50. Under the Māori Land Settlement Act 1905 and subsequent legislation, the relevant Māori Land Board exercised legislative powers to approve leases and other alienations. For example:

50.1 In 1906, Whatu Raumaewa applied to the Board to lease Awarua 1A2East3B to a local farmer (a lease that included timber cutting rights).[65]

50.2 In 1906, Motukawa 2A4 was leased to Matthew Morrison for a period of 21 years, with an annual rent set at the standard five percent of capital value, and with Morrison agreeing to pay rates and taxes on the block. In September 1911, however, an application for the sale of the block to Patience Tait was lodged. Tait undertook to purchase the block at the Government valuation (amounting to £2,219), but the Aotea Māori Land Board was initially reluctant to confirm the sale fearing a case of 'dummyism' – Tait was Morrison's sister-in-law, and the Board suspected she was simply acting as his proxy in this matter in an effort to get around the restrictions then in place on land aggregation. However, J B Jack, the President of the Aotea Māori Land Board, also recognised that the price offered (now £2,394, or £3 10s. per acre) was very advantageous to the

64 Wai 2180, #3.3.48, at 53.

65 Wai 2180, #A46, at 262.

Māori owners, especially considering that the rent due to them from the lease of the same block would only amount to £1,700 over the next 15 years. In the end the Board decided that, considering the price offered and the fact that the principal owner, Waikari Karaitiana, had already committed the anticipated funds from the sale to other endeavours, along with the declarations given by Tait herself before the Board, the sale of the block was advantageous to the owners, and gave its consent to the sale on 7 May 1912. In September 1912, Patience Tait acquired the remaining interests in Motukawa 2A4 from Rangiapaoa Waikari for a consideration of £178/10/-.[66]

50.3 In 1906 Peter Arcus applied for a lease of Motukawa 2B15B2 from Hori Wi Maihi. The proposed term was for a period of 21 years, with the rental set at £196 for the first year, £99 13s. for the next 5 years and £27 5s. for the remainder of the term. It is not clear from the file whether the lease was actually confirmed by the Board, but it appears that it was, since in December 1907 Hori Wi Maihi contacted Judge Brown (from the Maniapoto-Tūwharetoa Māori Land Board) requesting that the lease to Arcus be cancelled, as they disagreed on terms. The reason for this request seems to have been a further agreement between the parties, with Hori Wi Maihi agreeing to sell the block to Peter Arcus in November 1907. The main obstacle was that the block had been made inalienable, and on 11 December 1907 Arcus applied for the removal of restrictions on the sale of the block. Hori Wi Maihi had made the same application on 18 November 1907, just two days after reaching the agreement for sale with Arcus. The transaction, however, was ultimately not approved by the Board.[67]

50.4 In c. 1907, the Pōtaka whānau had approximately six leases over various Awarua subdivisions approved by the Aotea Māori Land Board. [68]

66 Wai 2180, #A08, at 49.

67 Wai 2180, #A08, at 52.

68 Wai 2180, #A46, at 466.

50.5 In 1907, the Aotea Māori Land Board approved a sale of Ōtamakapua 1K and simultaneously approved the purchase of a neighbouring property with the sale proceeds, with additional mortgage monies to be obtained from the Government Advances to Settlers Office.[69]

50.6 In 1909, the Maniapoto Tūwharetoa District Māori Land Board was involved in facilitating approval of a mortgage over Awarua 2C19 for the benefit of owners Karipango Hakopa and Ngawaita Kahunguru.[70]

50.7 In August 1911, the Aotea Māori Land Board called a meeting of owners to consider a Crown proposal to purchase Timahanga nos. 2 and 6; the meeting approved the sale.[71]

50.8 In March 1912, the Aotea Māori Land Board approved a sale of Ōtamakapua 1H3 to the Crown; the Board had refused to confirm a sale of the block to two Māori individuals a year earlier.[72]

50.9 Also in 1912, the Māori Land Board confirmed a lease of Awarua 2C7 to a third party (Arthur James), the major interest holder in this block being a minor Te Whareherehere Te Awaroa (for whom Winiata Te Whaaro was a trustee).[73]

50.10 In 1914, the Native Land Purchase Board, on recommendation of the Aotea Māori Land Board, approved the purchase of Ōruamatua-Kaimanawa 1T (3,583 acres) by the Crown from Hakopa Te Ahunga and 13 other owners for £2,239.7.6.[74] Alienations of other Ōruamatua-Kaimanawa sections went through the Board approval process in the early part of the 20th century.[75]

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69 Wai 2180, #3.3.48, at 50.

70 Wai 2180, #A46, at 473.

71 Wai 2180, #A46, at 286.

72 Wai 2180, #A46, at 292–293.

73 Wai 2180, #A46, at 390.

74 Wai 2180, #A46, at 271. But see paragraph 26 above.

75 Wai 2180, #A6, at 5.

50.11 In 1918, the Aotea Māori Land Board was involved in confirming the process whereby land was gifted for soldier resettlement in the Ōwhāoko block.[76]

50.12 In September 1918, the Aotea Māori Land Board confirmed a gift of Taraketi 1E1 between members of the Hunia whānau.[77] In 1929, the block was partitioned and Taraketi 1E1B was sold. The Board suggested that the balance sale funds be reinvested in a farm to be worked by a whānau member, however one whānau member insisted that her share be reinvested separately on her behalf (in under s 92 of 1913 Act – see below).[78]

50.13 In 1921, the Aotea Māori Land Board after some delay approved a lease of Ohingaiti 6 to a private lessee.[79]

51. This is a substantial degree of activity. It is primarily focussed on leasing but there are also some sales and mortgages. There is little evidence of owners contesting or disputing decisions made for the above transactions.

Financial Administration Functions of Boards – and allegations by owners of unreasonable withholding of funds

52. Māori Land Boards had a power to invest sale or other receipts to the account of owners under s 92 of the Native Land Act 1913.

53. There are examples throughout the evidence of instances where the Crown was reticent to interfere with decisions made by the Māori Land Boards.

54. In the case of Tutunui Rora, who was married to Iwakau Te Heuheu, she received £4,000 over a 12-year period, at which point the Land Board refused to disburse further sale funds received to her account but instead invested them on her behalf. Despite appeals to the Native Minister (Ngata), the Board was firm in its response that it considered that the funds received had not been put to good use (many of these being loans for farming development, for which the Board thought there was little to show). The Native Minister subsequently approved release of smaller amounts when repeated requests

76 Wai 2180, #A46, at 304.

77 Wai 2180, #3.3.48, at [321].

78 Wai 2180, #3.3.48, at [322]–[323].

79 Wai 2180, #3.3.48, at [316].

and complaints were received about the Board withholding funds and the family being in need.[80]

55. Similar stories are recounted by Mr Walzl concerning the Te Raro whanau mortgages and the Aotea Land Board,[81] sale monies of the Hohepa whānau withheld by the Tairawhiti Māori Land Board,[82] and some other examples.

56. Although this type of Board management can be viewed as paternalistic, it was intended to maintain a capital base for Māori owners. A typical response from Board officials was that the Board was seeking to prevent the loss of "the residue" of an estate under threat through "improvident", or even "extravagant" living.[83] Native Minister Ngata seems to have considered that the Board was justified in many cases in withholding capital assets (ie cash from sales of land) for reinvestment purposes. In the case of Hineiti Arani, Ngata stated: "This is apparently one of the cases to which the protection of Section 92 of the Act of 1913 was intended to apply, I regret that I cannot see my way to intervene in the matter".[84]

57. Further, although there are numbers of cases cited in this inquiry where money was withheld, it was usually against the background of previous amounts having been paid over before the Board's management reins were tightened.

58. Claimant evidence in this inquiry has provided local insight into the roles and operation of the Māori Trustee, including the following from Kerry Whale:[85]

> The role of the Māori Trustee (now Te Tumu Paeroa) has differed from whānau to whānau. For our whānau, the Māori Trustee provided oversight and some independence in the leasing of land, and ensured the equitable distribution of rents. However, I am very aware of many horror stories of long-term leases by the Māori Trustee of Māori land at minimal rents.

80 Wai 2180, #A46, at 491–503; this is a detailed account.

81 Wai 2180, #A46, at 504–510.

82 Wai 2180, #A46, at 512–513.

83 Wai 2180, #A46, at 517–518.

84 Wai 2180, #A46, at 518.

85 Wai 2180, #J06, at [51].

Lending by the Native Trustee

59. There are instances of Taihape Māori obtaining loans from the Native Trustee, including:

59.1 Pamoana Hauiti Pōtaka obtained a loan from the Native Trustee in 1917.[86]

59.2 In 1922, Tutunui Rora obtained a loan of £800 from the Native Trustee by mortgaging her Te Reureu property.[87]

60. As detailed in the Twentieth Century submissions, a number of other loans were obtained from other sources. Philip Cleaver tallies loans raised against 41 blocks between 1910 and 1930.[88] For the period 1931-1980, Cleaver tallies loans against 16 blocks.[89]

Other Functions/Activity of Māori Trustee post-1953

61. In 1992, the Māori Trustee was involved in arranging a lease of Awarua o Hinemanu to the Department of Conservation. Claimant submissions allege the initial lease and its renewal was arranged without consultation with owners.[90] The Crown notes that the claimants' submissions appear to cite the Stirling and Subasic report for the point that there was no consultation, but that report does not make any comment on the level of consultation.

62. In 1959, the Māori Trustee was appointed as trustee of the Hiraka Te Rango estate.[91]

63. In 1963, the Māori Trustee acted as agent for the owners in lease negotiations for Awarua 3D3 17C1. In April 1999, this block was brought under an Ahu Whenua Trust with the Whanganui Māori Trustee as the responsible trustee.[92]

86 Wai 2180, #A46, at 564.
87 Wai 2180, #A46, at 494, 588.
88 Wai 2180, #A48, at 256–258.
89 Wai 2180, #A48, at 258–261.
90 Wai 2180, #3.3.48, at [394]–[395]; Wai 2180, #A08 at 190.
91 Wai 2180, #A46, at 796.
92 Wai 2180, #A46, at 778.

Issue 2: How did Trustees enforce survey fees and rates on the lands in the inquiry district? How did these survey fees and rates affect Taihape Māori?

64. The Tribunal is referred to the Crown's submissions on survey fees and rates in Issue 12: Twentieth Century Land Alienation and Issue 10: Local Authorities and Rating at [64]–[66].

Issue 3: What interests, if any, did the Trustees have in the lands in the inquiry district? Did the decisions made by the Native/Māori Trustee have the intent or effect of advancing Crown interests over, and to the detriment of, Taihape Māori interests in the inquiry district?

65. The Crown's submissions above are that the Native/Māori Trustee were not Crown bodies, but rather had statutory duties and responsibilities to their beneficiaries. As such, the purpose of Trustees was not to advance Crown interests. There is no evidence in Taihape of the Trustees advancing Crown interests over and to the detriment of Taihape Māori.

66. In *Te Mana Whatu Ahuru* the Tribunal pointed to the potential for conflicts of interests between the two roles the Land Boards operated.[93] However, in Taihape they were not operating two roles.

67. Various claimant submissions and Tribunal commentary throughout the inquiry (including the claimant generic closings on this issue) have alleged that conflicts of interest arose through the functions of the Trustee and the Land Boards being exercised within the administration of a single department, and sometimes even by the same person. The Crown has addressed this matter in previous inquiries. In summary, the Crown's submission has been that although one department (or person) might have been appointed to multiple roles, that did not in law constitute a conflict of interest, as the roles could still be exercised separately at different times pursuant to the different statutory functions of those roles, *viz*.: "there is no reason in law why the same person may not exercise the two functions".

68. The Crown has, however, accepted that the possibility of conflicts of interest was (arguably, at least) greater in such a situation of multiple roles, and

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93 Waitangi Tribunal *Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims* (Wai 898, 2019) part III at 63–64. "The nature of the Native Land Act 1909 meant that the land boards continued to face a potential conflict of interest. On the one hand, they were required to act as trustee for land which Māori wanted to retain and use themselves; on the other, they had pivotal roles in activities related to transferring land out of Māori control and even ownership for settlement. Examples of the latter included calling meetings of owners to consider alienations (often requested by would-be purchasers or lessees), and in administering alienations in general."

certainly a perception of conflict was greater. In practice, allegations that conflicts actually arose and prejudiced Māori would need to be proven in particular cases.[94]

69. The Crown does not consider that there is sufficient evidence on the record to reach conclusions on allegations (queried by the Presiding Officer) of the Māori Trustee or Native Trustee acting under conflicts of interest, or in the interests of the Crown or third parties to the detriment of the Māori owners of lands in the inquiry district.

Issue 4: What forms of consultation, if any, did the Crown undertake when vesting Taihape Māori land interests in the Native/Māori Trustee? If there was consultation, was it adequate?

70. The Crown did not itself vest land in the Native/ Māori Trustee.

71. Two examples have been identified where the Crown applied to the Court for land to be vested in the Native/Māori Trustee and consultation relating to those proposed vestings was questionable.[95]

Issue 5: How were consolidation and development schemes decided upon and implemented in the Taihape inquiry district? For those schemes that were created:
a. What were their objectives?
b. How successful were they?
c. To what extent, if any, was there opportunity for Taihape Māori to raise concerns about potential consolidation and development schemes, and the management of their interests vested in the Native/Māori Trustee?

72. There were no consolidation schemes in the inquiry districts and only one – relatively small – development scheme.

73. The Taihape Development Scheme is discussed in the Crown's closing submissions on Issue 12 at [64]–[70].

Issue 6: How were Taihape Māori affected by the actions of the Native/Māori Trustee, such as in land sales or perpetual leases or other actions that formally, or effectively, alienated land from Taihape Māori without their consent or consultation? In such instances, did the Crown provide any relief? If so, was it sufficient?

74. The evidence shows there were very few cases in the inquiry district of voluntary or compulsory vesting in the Māori Trustee for the purposes of

94 Refer Crown closings in Hauraki, see Wai 686, #AA01, at 284–285.

95 See [47.4] above regarding Owhaoko C7, and Crown closing submissions on Issue 12 at [113]–[145].

land management. The details of that land management are described in detail above.

75. To the extent the claimants allege that land alienation data can be tied directly to the operation of the Land Boards and the Trustees, the Crown refers to the record of Board or Trustee actions in Taihape and (for consultation) to paragraph 71 above. There appears to be consent in most cases (with the possible exceptions set out in paragraph 71 above and the two examples addressed in submissions on Issue 12 (Otumore and part Awarua 4C).[96]

76. It is submitted that there where sales were undertaken, there may have been multiple reasons involved. It is a misapprehension of the actual functions of Boards/Trustees to explain alienation in terms of what were, in many cases, administrative functions, such as Boards approving or confirming pre-existing agreements between Māori and private parties.[97]

77. The Crown's position is that the Native/Māori Trustee is not part of the Crown, nor an agent of the Crown – especially when exercising its more administrative function. The Tribunal has accepted this position in previous inquiries. As such, the Crown's responsibility is to ensure the statutory framework is sufficient – there is not sufficient evidence in this inquiry for findings to be made that this was not the case.

78. The Crown notes that it has addressed matters relating to perpetual leases in Native townships in its submissions on Issue 8.[98]

Issue 7: To what extent did the Native/Māori Trustee act on behalf of Taihape Māori minors?

a. Did this prejudice Taihape Māori overall? If so, what responsibility, if any, did the Crown have, through the mechanisms of the Native/Māori Trustee, to protect Taihape Māori from potential prejudice in such cases?

79. The Native Trustee could be appointed by the Native Land Court to act on behalf of minors.[99]

96 See, for example, Wai 2180, #3.3.48, at [430].

97 Including various of the examples cited under issue 3, see Wai 2180, #3.3.48, at 49–55.

98 See [15]–[21].

99 Native Land Act 1909, s 172(1).

80. Mr Walzl's report refers to three instances where undivided interests in blocks were vested in the Native Trustee, usually in the interests of minors:

80.1 On the passing of members of the Pohe whānau, their interests were succeeded to by children or were vested in the Native Trustee (no further detail is given, but these were likely minors).[100]

80.2 In 1931, the Native Trustee held the interests of six minors of the Hekenui whanau in Awarua 3A2D2. The Trustee facilitated a succession of leases, a part sale and rental negotiations over the block in the period 1930-1960s. The value of the block increased largely through improvements made by the lessee: from a capital value of £7,500 in 1947 to a capital value of £21,120 in 1967, when the block was leased again for £882/5/0 pa.[101]

80.3 The will of Ropoama Pohe vested all his interests in the Native Trustee.[102]

81. Claimant submissions identify other examples where the Public Trustee was appointed for minors.[103] The submissions allege that prejudice resulted from these trusteeships, however, the examples given are not examined to the extent necessary to substantiate actual prejudice.

Issue 8: What steps, if any, were taken by the Crown to ensure Taihape Māori retained control over their land when it was vested in Māori Land Board trusts?

82. As noted above, there is limited evidence of land in the inquiry district being vested in Māori Land Boards.

CONCLUSION

83. The Crown reiterates that, as previously held by the Tribunal, the Native Trustee and the Māori Trustee are not Crown bodies – particularly when exercising its more administrative functions.[104] It submits that, to the extent

100 Wai 2180, #A46, at 376.

101 Wai 2180, #A46, at 854–857.

102 Wai 2180, #A46, at 1191.

103 Wai 2180, #3.3.48, at [409].

104 *Te Whanganui a Tara Me Ono Takiwa: Report on the Wellington District* (Wai 145, 2003) at 377; and – in a qualified extent – *Te Mana Whatu Ahuru*.

Land Boards undertook activity in the Taihape inquiry district, the Boards were acting neither as the Crown nor as agents of the Crown.

84. That extent was limited – little land was vested (never mind compulsorily); and no uneconomic shares were dealt with. There is evidence (from Mr Whale) of the Trustee being of assistance in his direct dealings with it (and acknowledgement of poor management on other lands).

85. These submissions have been focussed on identifying the nature and extent of Board and Trustee involvement in the inquiry district, including a range of detail concerning Board and Trustee action. Evidence suggests that while the Māori Land Boards and Māori Trustee were noticeably involved in some areas, including financial administration and lease administration, unlike in other inquiry districts, little land became vested in the Boards or Trustees in this inquiry district. Specific actions of the Māori Trustee, especially in the post-1953 period have been explored in the Twentieth Century submissions.[105]

28 May 2021

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Counsel for the Crown

TO: The Registrar, Waitangi Tribunal
AND TO: Claimant Counsel

[105] See especially issues 5–8 in Issue 12 (Twentieth Century Land Alienation).