

TAKING OF MAORI LAND FOR PUBLIC WORKS IN THE TAIHAPE INQUIRY DISTRICT

PART II: NON-DEFENCE TAKINGS

Scoping Report



A report commissioned by the Waitangi Tribunal for the Taihape district inquiry
(Wai 2180)

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Title page: Mangaweka Railway Station, circa 1905, photographed by Hubert Earle Girdlestone, image 1/2-081606-F, Alexander Turnbull Library.

Introduction

The purpose of this scoping report is to set out a plan for preparing a draft report on non-defence public works takings in the Taihape inquiry district – the second part of the Taihape public works project. In particular, the scoping report identifies the takings that should be examined, providing a brief description of these takings and the issues that they involve. The availability of relevant source material is discussed and a bibliography is included. The scoping report also suggests a structure for the proposed draft report, which sets out how the research will be presented.

Claims

Several claims raise issues concerning land takings for non-defence public works purposes in the Taihape inquiry district. Claimants have also discussed relevant issues during meetings with Waitangi Tribunal staff. The following matters have been raised:

General

- Under the Public Works Act, the Crown took large amounts of land for roads, railways, and other public works without consulting with Ngati Whitikaupeka. (Wai 1888.)
- The Crown disadvantaged the peoples of Mokai Patea by taking land for railways, roading, education and other public works. (Wai 1639.)

North Island Main Trunk (NIMT) railway

- Mataroa Township was acquired under the Primary Education Act and adjoins areas taken for the railway. (Wai 151.)
- The Crown took lands under the Main Trunk Line Development Act for ballast and timber as well as for railway purposes. (Wai 581.)
- The Crown took various areas of Awarua, such as Awarua 4A1, for example, for the NIMT railway. (Wai 647.)
- The Crown took land from Ropoama Pohe for the NIMT railway without compensation, cutting off road access to the whanau farm in Raketapauma. (Wai 1632.)
- More land was taken for the NIMT railway than required and the excess land was leased. The 1918 influenza epidemic was introduced into the district by the railway. The privatisation of New Zealand Railways in the 1990s and resultant job losses was carried out without any assessment of the social impact. (Graeme Gummer, research undertaken in support of Wai 588, 647, and 662.)
- An excessive area of land was taken from Raketapauma 2B1C for the NIMT railway and efforts to secure the return of this land have been unsuccessful. (Wai 1632.)

Roads

- The Crown took portions of Oruamatua Kaimanawa 2Q1 and 2Q2 for roading. (Wai 1868.)
- The District Council has failed to return closed roads at Moawhango Village. (Issue raised at meeting.)

Timber and Gravel reserves

- Significant portions of land were taken without compensation for timber and gravel reserves. (Issue raised at meeting.)

Research commission

The research commission requires the author to examine the following questions in respect of both defence and non-defence public works takings of Maori land in the Taihape inquiry district:

- How much Maori land was taken for public works in the inquiry district, for what purposes and under what processes?
- Who was affected and with what impact?
- How was the acquisition of Maori land for public works justified?
- To what extent were Maori land owners consulted or alternative sites considered before Maori land was taken for public works? How did this compare to any relevant takings of general land?
- What compensation did Maori owners receive for public works takings? How did this compare to any relevant takings of general land?
- To what extent was land taken for public works returned to Maori land owners if it was no longer required?

Takings proposed for examination

Preliminary research shows that takings of Maori land for non-defence public works purposes in the Taihape inquiry district have not been especially extensive and have been carried out for a relatively small number of purposes.¹ The general pattern of takings, which will be discussed in the report, no doubt owed much to land alienation patterns, which saw land purchased from Maori before it was required for public works. The fact that the inquiry district has been relatively sparsely settled and has few towns is also important as public works takings were often carried out in connection with the establishment and development of urban areas.

Though containing some inaccuracies, Heinz's preliminary land alienation work has provided useful details of the non-defence public works takings, identifying when they were carried out and the amount of land involved. Issues concerning some of these takings, as detailed above, have been raised by claimants. The earliest takings were carried out in late nineteenth century in connection with the NIMT railway and roads. Few non-defence takings appear to have been carried out after the mid-twentieth century.

North Island Main Trunk railway

The acquisition of land for the NIMT railway is an issue that has been raised by claimants and is the most important of the non-defence takings carried out in the district. A significant proportion of the land taken for the railway was in Maori ownership and the railway was associated with a number of wider impacts. These included the government's purchasing of Maori land along the railway with the intention of selling the land to pay for the cost of construction. The railway was also related to public works takings for other purposes – Maori lands were taken for roads constructed in connection with the railway and for the preservation of scenery along the railway.

¹ In assessing the extent of public works takings in the inquiry district, the author has relied particularly on preliminary land alienation research undertaken by Waitangi Tribunal staff member Adam Heinz.

It should be noted that a boundary direction has stipulated that all of the section of the NIMT railway that lies between Turangarere and Waiouru is to be examined in the Taihape district inquiry. Between these places, the line criss-crosses the Hautapu River at a number of points and passes through the Raketapauma block, which lies outside the inquiry district proper. Takings of Maori-owned portions of the Raketapauma block for the railway will therefore be covered in the research.

The draft report will briefly examine the background to the building of the NIMT railway, drawing on existing research to trace the political and economic events that preceded construction.² It will attempt to establish the extent to which Maori within the Taihape inquiry district were consulted about the construction of the railway through their lands. Preliminary research has found no evidence that Maori in the inquiry district were consulted prior to the building of the line, even though much of the land through which the line would pass remained in Maori ownership when the railway was being surveyed.³ This apparent lack of consultation contrasts with the negotiations that were undertaken with Maori in Te Rohe Potae.

Most of the land takings for the NIMT railway were carried out during the construction of the railway, which in the inquiry district took place between 1885 and 1908.⁴ Land was taken progressively as construction advanced. All of the proclamations concerning the acquisition of land for the railway in the Taihape inquiry district have been collected during preliminary research. About one-third of the land taken for the railway was in Maori ownership – portions of the Taraketi, Pouwhakarua, Awarua, Motukawa, and Raketapauma blocks. The total area of Maori land involved in these takings has yet to be calculated, but would appear to involve between 500 and 600 acres.⁵

As well as identifying takings for the route of the railway, the draft report will look at any associated takings carried out in connection with the railway, including, for example, the taking of land for water supply purposes and ballast pits. Where evidence is available, the draft report will also discuss the use of any resources (for example, water and gravel) that were located upon lands that were not taken for the railway. Similarly, any evidence concerning the destruction of waterways and the impact of construction upon mahinga kai will also be examined.

An important aspect of the NIMT railway that will be discussed in the draft report is the connection between the railway and land purchase in the Taihape inquiry district. As noted above, the government purchased Maori land along the railway with the aim of selling the land and using the profits to pay for the construction. As discussed in research reports for the Te Rohe Potae inquiry, the government restricted a large swath of lands in the broad vicinity of the NIMT from private alienation and applied a portion of the loan monies raised for construction to the purchase of these lands.⁶ The report will discuss this policy and detail the results of the purchasing, but will not examine the individual purchase transactions in detail. (These transactions will be dealt with in the various block history reports.) The annual reports of the Public Works Department provide a clear picture of how the purchase of land along the railway

² See, for example, Philip Cleaver and Jonathan Sarich, 'Turongo, North Island Main Trunk Railway and the Rohe Potae, 1870-2008', a report commissioned by the Waitangi Tribunal, December 2009.

³ Surveyor John Rochfort reported that he encountered Maori at Turangarere in 1884 when surveying the line. This chance meeting did not constitute consultation with Maori of the Taihape area. Rochfort's report indicates that the attitudes of Turangarere Maori toward the proposed railway may have differed. *AJHR*, 1884, D-5, p 3.

⁴ The annual reports of the Public Works Department provide a detailed description of construction progress.

⁵ This will require an examination of the relevant *Gazette* notices and the Public Works Department's proclamation and compensation registers held at Archives New Zealand.

⁶ See, for example, Cleaver and Sarich.

was seen to be important, not just as a means of paying for the railway, but for meeting general settlement objectives. The reports show that there was a reluctance to proceed with construction before land had been purchased from Maori.

Issues concerning the payment of compensation for land taken for the NIMT railway will be examined in detail. It appears that compensation was paid to Maori owners for the earliest of the NIMT railway takings, which were carried out in the late 1880s.⁷ However, no evidence has been located to suggest that compensation was paid for subsequent takings of Maori land carried out during the construction of the railway.⁸ As detailed in research elsewhere, it appears that from about 1900 the legislative provision that enabled five percent of a block to be taken for road and rail purposes without compensation was applied to the Maori land acquired for the NIMT railway.⁹ It is unclear if this rule was applied equally to European and Maori land owners in the Taihape inquiry district. This question will be addressed in the draft report.

Preliminary research has yet to identify how much Maori land was acquired as a result of additional takings for the NIMT railway in the Taihape inquiry district, which were carried out after the construction of the railway to provide new facilities and to accommodate deviations of the line. In 1978, one area of Maori land, part of Pouwhakarua 1E2B, about 19 hectares, was taken for a major deviation of the line between Utiku and Mangaweka.¹⁰ This taking will be examined to shed light on how later railway takings were carried out. However, relevant file evidence concerning this taking has yet to be located.

The leasing of railway land – an issue raised by one claimant – will also be briefly discussed in the report. A considerable area of railway land was leased throughout New Zealand, indicating that the area of land taken for railways often exceeded requirements. However, a search of New Zealand Railways' lease files held at Archives New Zealand suggests that railway land was not leased in the Taihape inquiry district. This will be noted in the draft report.

An examination of the railway land plans held at KiwiRail shows that numerous parcels of railway land in the Taihape inquiry district have been disposed of.¹¹ It is likely that most of these disposals were carried out from the mid-1980s as part of the restructuring of New Zealand Railways, though some disposals may have been connected to earlier track realignments and station closures.¹² The disposal of railway lands taken from Maori will be discussed in the draft report, though research has yet to establish the extent to which the lands that were subject to disposal included areas taken from Maori. One area of land acquired from Maori was disposed of following the completion of the Utiku-Mangaweka deviation and might be examined as a case study of how the disposals were handled.¹³ An obstacle to examining the disposals is that many of the relevant files appear to have been lost.

⁷ This was the case with the land taken from Taraketi block in March 1888, an area of about 12 acres. The Native Land Court awarded compensation to the owners on 26 October 1888. The Native Land *New Zealand Gazette*, 1888, p 386. Whanganui minute book 14, pp 120-121, 133.

⁸ A search has been made of compensation cases heard in the Native Land Court and an examination has also been made of the Public Works Department's proclamation and compensation registers.

⁹ See Cleaver and Sarich, pp 157-160.

¹⁰ *New Zealand Gazette*, 1978, p 1981.

¹¹ These plans record all of the railway land acquisitions and disposals carried out up until about the mid-1990s.

¹² See Cleaver and Sarich, pp 248-270.

¹³ See Railway Plan book 6, KiwiRail. It is unclear whether this disposal was carried out before or after the passage of the Public Works Act 1981.

Social issues relating to railways in the Taihape inquiry district have been raised by one claimant, including the loss of jobs following the restructuring and privatisation of New Zealand Railways. However, it is considered that these issues lie outside the scope of this project and they will therefore not be covered in the draft report.

Roads

The taking of land for roads, another issue raised by claimants, may have been the most significant of the non-defence takings in respect of the amount of Maori land that was acquired. Preliminary land alienation work records a significant number of road takings, which cover a broad period of time and were carried out under a number of different legislative provisions. It is notable that local authorities, as well as central government, were involved in road takings.

Though some roads in the Taihape inquiry district preceded the NIMT, the construction of the railway was, as noted above, a major catalyst for road building in the inquiry district. The Public Works Department's annual report provides details of the road construction that was carried out in conjunction with the railway as well as subsequent road building. In 1885, work began on a service road that would follow the railway north from a point that lay about 20 miles from Marton.¹⁴ The following year, construction commenced on a road that would provide a connection between the NIMT and Napier. This involved an existing road, which lay between Napier and the Rangaitiki River, being extended to Turangarere.¹⁵ In 1892, work also started on a road that would link the railway service road with Tokaanu, enabling coach and rail traffic between Auckland and Wellington.¹⁶

It appears that many of the early roads were built through Maori land. With the exception of a road built through Taraketi block, preliminary research has located little evidence concerning the extent to which Maori owners were consulted about early road building and associated land takings.¹⁷ Newspapers have not yet been examined and may provide some details of consultation with Maori and whether owners opposed roads being formed across their land.

From an examination of *Gazette* notices, it is evident that the early roads of the Taihape inquiry district were taken in two ways, neither of which required compensation to be paid to the owners. First, it is clear that a number of early takings were carried out under the five percent rule. (It appears that the rule, which was eventually abolished in 1927, was not applied much in the Taihape inquiry district after the first decade of the twentieth century.) In other cases, it appears that early roads were legalised after construction under statutory provisions that provided that roads that were in use were vested in the Crown.¹⁸ (Like takings under the five percent rule, this type of taking was carried out without compensation being paid to the owners.) Later takings, some of which were associated with road deviations, appear to have been carried out under general land taking provisions, which provided standard protections of notification and compensation.

¹⁴ *AJHR*, 1886, D-1, p 31.

¹⁵ *AJHR*, 1887, D-1, p 34.

¹⁶ *AJHR*, 1892, D-1, p 12.

¹⁷ The Taraketi case is mentioned in S.G. Laurenson, *Rangitikei, the day of striding out*, Dunmore Press, Palmerston North, 1979.

¹⁸ This provision appears to be introduced in 1876. See section 80, Public Works Act 1876.

Given the number of road takings in the Taihape inquiry district, it is proposed that the draft report should provide a general overview of the takings and then focus on several case studies that illustrate the different means by which land was taken. The following case studies are suggested:

1. Road through Awarua block. In 1900, about 350 acres was taken from various subdivisions of Awarua block under the five percent rule – probably the largest single taking under the rule in the inquiry district.¹⁹ Preliminary research has yet to determine the exact location of the road, the details surrounding its construction, and whether any effort was made to consult with the Maori owners.
2. The Napier-Patea Road. As discussed above, a substantial portion of this road was formed in connection with plans to connect Napier with the NIMT railway at Turangarere. The road was legalised subsequent to construction, with survey plans recording that the Survey General had declared the land to be a legal road under section 100 of the Public Works Act 1894.²⁰ Under this provision, any land upon which a road had been ‘taken, constructed, or used’ under central or provincial government authority was deemed to be a public road.
3. Deviation of main road approach to Turangarere. In 1949, 1950, and 1951, small areas of land were taken from numerous subdivisions of Motukawa block for a road deviation.²¹ Parts of the existing road were also stopped and disposed of.²² The takings were carried out under the Public Works Act 1928 under general land taking provisions. The case study will establish whether the owners were consulted and examine compensation issues. Unlike the earlier takings, substantial file evidence concerning the road deviation has been located.²³
4. Unformed roads at Moawhango. Claimants have raised the issue that there are unformed (paper) roads at Moawhango – land taken from Maori that they believe should be returned. It is proposed that the existence of these roads be briefly discussed.

Another issue raised by claimants concerns the taking of land for roads within Oruamatua Kaimanawa 2Q1 and 2Q2. However, no evidence has been located in respect of this and it seems that no land was taken from these blocks for roads.

Scenic reserves

The taking of land for scenery preservation provides an example of how the purposes for which land could be taken under public works legislation were progressively extended. Provisions enabling land to be taken for scenic purposes were enacted in 1903, upon the establishment of the Scenery Preservation Commission. These developments reflected an increasing appreciation of scenic landscape and the economic potential of tourism.

¹⁹ *New Zealand Gazette*, 1900, p 1128.

²⁰ SO 14033, sheet 1, Wellington land district.

²¹ *New Zealand Gazette*, 1949, p 1705, 2831. *New Zealand Gazette*, 1950, p 2028. *New Zealand Gazette*, 1951, p 1037.

²² *New Zealand Gazette*, 1951, p 1968. *New Zealand Gazette*, 1954, pp 408-409.

²³ See, for example, AAZZ 889 W4923 145 70/8/29/0 part 4, Horopito-Bulls via Taihape SH, 1950-1954, ANZ Wellington.

In the Taihape inquiry district, Maori land was taken for one scenic reserve. In July 1911, about 62 acres was taken from Motukawa 2B7 for Maungakaretu scenic reserve.²⁴ Maori lands within the Whanganui inquiry district, subdivisions of Raketapauma and Ngaurukehu blocks, were also taken for this reserve, which had a total area of about 216 acres. The reserve was one of a number of scenic reserves created along the NIMT around the time that construction of the railway was completed. In 1907, an officer of the Department of Lands and Survey Department inspected the lands adjoining the railway and recommended the reservation of numerous areas along the line.²⁵ In addition to the Maungakaretu Scenic Reserve, several other reserves involving Crown and European land were created in the Taihape inquiry district in conjunction with the railway.²⁶ There were also several reserves involving Crown and European land established in other parts of the inquiry district.

A substantial amount of file evidence has been located in respect of Maungakaretu Scenic Reserve, including papers that shed light on consultation with owners and the notification that preceded the taking of the land.²⁷ Details concerning compensation have also been located.²⁸ File evidence relating to the subsequent management of the reserve has also been identified. It is proposed that this matter briefly be examined in the draft report because it relates to the question of whether the land was used for the purpose for which it was taken. Also, the file evidence relating to the management of the reserve contains details of Maori attitudes towards the reserve. Maungakaretu Scenic Reserve is today known as Ngaurukehu Scientific Reserve.

In order to provide a comparison between takings of Maori and European land, it is also suggested that a brief examination be made of the taking of European land for Makohine Viaduct Scenic Reserve in 1907 and 1908.²⁹ Sufficient file evidence concerning this taking has been located.³⁰

Other takings

Four other takings of Maori land have been identified. These takings, carried out between 1896 and 1946 involved relatively small area of land and were required for community amenities. Three of the takings involved land at Moawhango. According to Batley, this settlement had grown around several Maori kainga and was the centre of business and transport in the northern part of the Taihape inquiry district prior to the construction of the NIMT railway.³¹

It is proposed that the four takings should all be briefly examined to provide a complete picture of public work acquisitions in the Taihape inquiry district. In at least three of the cases, the land was no longer required for the purpose for which it was taken and was disposed of.

²⁴ *New Zealand Gazette*, 1911, p 2238. In his preliminary research, Heinz suggested that the 1909 taking of Otaihape Scenic Reserve involved Maori land, but it appears that this land (Awarua 4C15A) was in Crown ownership at the time of taking. *New Zealand Gazette*, 1909, p 2899.

²⁵ *AJHR*, 1907, C-6, pp 33-38.

²⁶ LS 70 15/16, Register of reserves under the Scenery Preservation Act 1903, 1907-1915, ANZ Wellington.

²⁷ AANS 6095 W5491 315 4/428, Scenic reserves – Turangarete Scenic Reserve, 1909-1955, ANZ Wellington. AFIE 619 126 8/6/7 part 1, Ngaurukehu Scientific Reserve, 1909-1974, ANZ Wellington.

²⁸ LS 70 15/16, Register of reserves under the Scenery Preservation Act 1903, 1907-1915, ANZ Wellington, p 26.

²⁹ *New Zealand Gazette*, 1907, pp 558-559. *New Zealand Gazette*, 1908, p 734.

³⁰ AFIE 619 137 13/120 part 1, Makohine Scenic Reserve – Tiriraukawa SD Parts Pauerawera 1 and 2 Blks XVI Parts 11 & 12 Town of Makohine Blk XVI, 1897-1907, ANZ Wellington.

³¹ Batley, R.A.L., *Moawhango Valley and school: a short history of the Inland Patea published to commemorate the Diamond Jubilee of the Moawhango Maori School 1897-1957*, Moawhango School Jubilee Committee, Taihape, pp 23-26.

Orangipongo School

In January 1934, part of Otamakapua 1A (Lot 5, DP 5996), an area of 1 acre, was taken for the site of Orangipongo School.³² In the mid-1960s, the school was closed and the site was declared Crown land for the purposes of disposal.³³ Research has yet to establish details relating to the disposal.³⁴

Moawhango Maori School

In 1897, a public school was established at Moawhango.³⁵ The school initially operated on private land before being transferred to the site that Moawhango School occupies today. The acquisition of this land requires further research. In 1944, the school became a Maori school.³⁶ Two years later, in March 1946, about 2 roods was taken for a teacher's residence from Awarua 2C13L.³⁷ It appears that the owners were consulted about the taking.³⁸ On 5 August 1947, the Maori Land Court awarded the owners compensation of £40. The present status of this land is unclear. The school site continues to be occupied for education purposes.

Moawhango Police Station

In August 1896, 5 acres of Maori customary land, Section 1 Motukawa 2 block, was taken for the site of police station.³⁹ No file evidence relating to this taking has been located and details concerning compensation have yet to be established.⁴⁰ The police station closed in 1931 and the land became surplus to requirements.⁴¹ There was no statutory requirement for the land to be offered back to the former owners. The Rangitikei County Council expressed an interest in acquiring the land for the site of a roadman's hut. In June 1937, the land was transferred to the Council in accordance with the provisions of the Public Works Act 1928.⁴² Today, the land is again in Maori ownership.⁴³ Further research is required to establish the events that led to this.

Moawhango Post Office

In December 1916, an area of 20.9 perches was taken from Awarua 2C13J for the site of a post office at Moawhango.⁴⁴ The Post Office Department had been interested in acquiring the land since 1913.⁴⁵ It sought to purchase the land from its sole Maori owner and by June 1915 had reached an agreement to purchase the land for £30. The land was formally transferred as a

³² *New Zealand Gazette*, 1934, pp 42.

³³ AAQB W4073 288 31/733, Schools – Orangipongo School (Otama Kapua Block), Wanganui Education Department, 1933-1967, ANZ Wellington.

³⁴ ABDV W3571 977 88/4, School subject files – Orangipongo – building and accommodation, 1965-1967, ANZ Wellington.

³⁵ Batley, p 34.

³⁶ *Ibid*, pp 32-34.

³⁷ *New Zealand Gazette*, 1946, pp 347-348.

³⁸ AAQB W4073 298 31/1146, Schools – Moawhango Native School – acquisition of additional site, teacher's residence, 1945-1947, ANZ Wellington.

³⁹ *New Zealand Gazette*, 1896, p 1077.

⁴⁰ See Whanganui minute book 48, pp 265-267, 381.

⁴¹ AFIE 619 W5683 100 8/5/265, Police Station site – Moawhango, 1936-1937, ANZ Wellington.

⁴² *New Zealand Gazette*, 1937, p 1518.

⁴³ See MLIS (Maori Land Information System) and MLOL (Maori Land Online).

⁴⁴ *New Zealand Gazette*, 1916, p 3884.

⁴⁵ AADI W3190 35/16/14, Leases and sites – Moawhango, 1912-1937, ANZ Wellington.

taking carried out under the Public Works Act. It is unclear if the land was ever used as the site of a post office. In 1927, it was leased to a private individual for several years. Several years later, it was decided that the property was no longer required and the Public Works Department arranged for the land to be disposed of under the Public Works Act 1928. In 1937, it was sold to Moawhango Social Club without offer back to the former owner.

Proposed structure of report

It is proposed that the structure of Part II of the Taihape Public Works report be similar to the Part I report on defence takings. It will therefore include an introduction, a brief overview of legislative provisions, separate chapters on the takings, and a conclusion:

Introduction. The introduction will provide details of relevant issues raised by claimants and the commission questions as well as a brief discussion of the methodology and sources.

Chapter one: overview of development of legislation. This chapter will briefly discuss the development of public works land taking provisions, with a particular focus on the provisions that relate to takings for non-defence purposes in the Taihape inquiry district. This will include, for example, a discussion of the rule that enabled up to five percent of roads and railways to be taken without compensation.

Chapter two: railway takings. This chapter will examine initial and additional takings connected with the NIMT railway as well as disposals of railway land.

Chapter three: road takings. This chapter will provide a general discussion of road takings in the Taihape inquiry district before examining the four case studies identified above.

Chapter four: scenic reserve takings. This chapter will examine the taking of land for Maungakaretu scenic reserve and also discuss the subsequent management of this reserve. It will also briefly look at the acquisition of European-owned land for Makohine Viaduct Scenic Reserve.

Chapter five: other takings. This chapter will examine four relatively small takings: Orangipongo School, Moawhango Maori School, Moawhango Police Station and Moawhango Post Office. Disposal issues relating to these takings will be covered.

Conclusion. The conclusion will summarise the research findings, directly addressing the commission questions.

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