From Pukeroa Hill to Oruawhata Spring: Origins of the Pukeroa-Oruawhata Trust

The Fenton Agreement and Rotorua Township 1880

In 1877 Francis Dart Fenton Chief Judge of the Native Land Court, aided by our old ally Captain Gilbert Mair, first spoke to Ngāti Whakaue at Te Papa-i-ouru of his desire for a township to be established in Rotorua.[1] Fenton wished to preserve access to the thermal wonders of the district, and thought a township at Rotorua would help achieve that.

At the time Te Arawa in the Lakes District were in open opposition to the operation of the Native Land Court in our rohe as we felt this would lead to loss of land as had been the experience of other iwi. So strong was this opposition that the Government had been forced to suspend its operation in the district between 1873 and 1877.[2] Despite Fenton's overtures Ngāti Whakaue would not be rushed and it would be a number of years before Fenton would return to open formal negotiations.

Subsequently to Fenton's first visit, iwi around Lake Rotorua decided to establish a Committee of Rangatira to preserve our lands and express our own self-determination, similar to other committees which ran elsewhere such as Te Putaiki o Tuhourangi. Thus Te Komiti Nui o Rotorua, the Great or Superior Committee of Rotorua, was established after a hui at Tamatekapua on the 7th of December, 1878.[3]

It was with the Komiti Nui, as well as the people themselves, that Fenton returned to negotiate with as a formal Government Representative in November 1880. Fenton had been instructed by the Crown to see if the local people would sell outright or lease the land to the Government for a township. Following initial talks where Fenton again strongly advocated the establishment of a township, a sub-committee was chosen by Te Komiti Nui to negotiate and work out the details of an agreement with the Judge. As the ownership of the proposed area for the township was claimed by Ngāti Whakaue, and partly claimed by Ngāti Rangiwewehi and Ngāti Uenukukopako, the sub-committee comprised of Wi Maihi Te Rangikaheke of Ngāti Rangiwewehi, Pirimi Mataiawhea, Taekata Te Tokoihi, Te Tupara Tokoaitua and Pererika Ngahuruhuru of Ngāti Whakaue and Tamati Hapimana of Ngāti Uenukukopako.[4]

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[1] Tapsell, Paul. p.80

[2] Armstrong, David. p.107

[3] O'Malley, Vincent. (1995), p.112

[4] MA 13/79a 80/5876, National Archives and Rose. Kathryn. p.74-75

While the Crown preferred to purchase the land outright, this ran counter to the wishes and the purpose of Te Komiti Nui and as such Fenton was forced to accept the option of the Crown acting as an agent and trustee over 99 year leaseholds for the owners.

The resulting agreement, known contemporarily as Fenton's Agreement or the Fenton Agreement, was signed by 47 members of Ngāti Whakaue, Ngāti Rangiwewehi and Ngāti Uenukukopako on the 25th of November, 1880.

The Survey 1880-1881

As parts of the chosen site for the future township were claimed separately by Ngāti Whakaue, Ngāti Rangiwewehi and Ngāti Uenukukopako a clause of the Fenton Agreement stipulated that the lands had to be surveyed and passed through the Native Land Court in order to decide and formalise ownership. Unfortunately this process would result in the wearing down of Te Arawa's resolve not to engage with the Court, and eventually lead to the opening up of the district to the full mechanisms of the Native Land Court.

Henry Walker Mitchell, and a Mr Clayton begun surveying part of the proposed township Block, however this work was completed by Auckland Surveyor Ambrose Bole Morrow who re-started the plotting of the township boundaries on the 8th of December 1880, completing groundwork on the 11th of January 1881 with a survey of the area drawn and deposited on the 26th of January 1881.

Between the 16th of December and the 18th of December 1880 much thought was put towards the naming of the claimed area. An early suggestion by Petera Te Pukuatua was "Te Mania Nui o Rotorua". However eventually the name, Pukeroa-Oruawhata, was chosen and registered. This name was taken from two main landmarks on the block, Pukeroa Hill and Oruawhata Spring.

Henare Te Pukuatua, and the brothers Akuhata Kiharoa and Eruera Te Uremutu, on behalf of the "whole of Ngātiwhakaue" made a claim for the Pukeroa-Oruawhata block which was duly published in the New Zealand Gazette in January 1881.

Our claim took in all the land within Morrow's general survey, which according to our rangatira's application published on the 16th of December, 1880 was described as follows:

> *Ka timata i Puarenga, haere tonu i roto o taua awa tae noa ki Te Ruakiokoko, ka rere ki uta whakate-hauauru tae atu ki Hinekura, tae atu ki Tangatarua, rere tonu ki te Rautawhiri, ka makere ki te awa o Utuhina, pakaru noa ki Rotorua moana, haere tonu*

ki Motutara, tae atu ki te puau o Puarenga, te wahi i timata ai. Erangi me pana a Ohinemutu ki waho.

Commences at Puarenga and goes along in that river to Te Ruakiokoto [sic], then goes inland westward to Hinekura, thence to Tangatarua, and on to Te Rautawhiri, then falls into the Utuhina River, and by that river to the Rotorua Lake, goes thence to Motutara, and on to the mouth of the Puarenga River, the starting point, but excluding Ohinemutu. [5]

The total area of the Pukeroa-Oruawhata amounted to over 3000 acres.

Native Land Court at Ohinemutu 1881-1884

The Native Land Court hearing over the Pukeroa-Oruawhata claim was heard in Tamatekapua at Ohinemutu and ran, at various times and lengths, for a period of five months starting 29 January 1881. Ngāti Whakaue's claims were represented by one of our most venerable living repositories of knowledge; Hamuera Pango. It was during this case that Hamuera Pango first presented the whakapapa of those tupuna now known as the koromātua. It was their descendants who occupied the Pukeroa-Oruawhata lands; Te Rangiiwaho, Taeotu (through Tunohopu), Pukaki (through Rangitakuku), Te Rorooterangi (through Manawa), Hurungaterangi (through Hua) and Tunohopu.

Following long evidence given by the rangatira of competing iwi, Judge John Jermyn Symonds delivered his judgement on the 4th of June, 1881. The Court awarded the majority of the claim to Ngāti Whakaue, under the title of Te Pukeroa-Oruawhata 1, with a smaller area at Tarewa (or Pukeroa-Oruawhata 2) being awarded to Ngāti Kea and Ngāti Tuara. While an attempt was made at drawing up a list of owners immediately after the judgement, Ngāti Whakaue decided to wait until the divisionary interests of Pukeroa-Oruawhata were worked out by a later court. Thus Judge Symond's Court at Ohinemutu was adjourned. [6]

With the general boundaries of Pukeroa-Oruawhata block settled by his original survey, Morrow then undertook the task of dividing the lower section of the block into streets, lots and reserves for a township as advised by his superiors. Meanwhile Morrow's associate, Robert Charles Lucas Reay, divided the much larger upper section of the block into suburban and rural sections. Morrow's township survey was amended slightly in December 1881 before being merged with Reay's survey and included in the Government Printed

[5] NZG January 1881 76-77

[6] 1 Rotorua MB

prospectus for the proposed Township. The auction of township lots in March 1882, under the watchful eye of Hamuera Pango, Pirimi Mataiawhea and Fenton himself, proved a great success with many sections being leased for prices far beyond expectation.

On the 13th of April 1882 Chief Judge Fenton returned to Rotorua to begin investigating the ownership list for Pukeroa-Oruawhata. Judge Fenton was very earnest in his belief that only "tuturu" members of Ngāti Whakaue be allowed on the ownership list. Although a great many lists of people were handed into the courts many were struck off. Fenton finally made his order regarding the names of the owners on the 27th of April 1882. This amounted to some 187 Adults on the 1st schedule, 15 Adults on the 2nd schedule and 93 persons on the 3rd schedule, the total being 295 persons.[7] These owners were later re-organised into lists based upon the koromātua hapu.[8]

A later agreement known as the Clarke Agreement was signed by Government representative, Henry Tacy Clarke, and Ngāti Whakaue on the 26th of February 1883.[9] It was entered into in order to amend parts of the Fenton Agreement and to set out the framework for working out individual interests within the block and payment of lease money. This agreement resulted in Ngāti Whakaue being engaged in a lengthy investigation process to locate the interests of different owners throughout the block, amounting to some 200 orders by Clarke creating a multitude of 'paper' divisions and titles within the township block.

The Township Fails

Although the original auction had been very successful and initially the start was promising, financial and administrative troubles soon beset the township scheme.

Defaulting and non-payments of leases, a national economic downturn and the Tarawera eruption in 1886 all contributed to an enormous loss in revenue. The Crown, acting as our agent and trustee, proved to be largely ineffectual in the guarding of our interests. The financial losses to our people, already under pressure from survey, land court costs and merchant debts, were severe.

It was in this unfavourable environment that the Crown, our supposed agent and trustee, approached Ngāti Whakaue in 1888 to purchase the Pukeroa-Oruawhata block. Ngāti Whakaue met with Government representatives a number of times before finally succumbing

[7] 2 Rotorua MB

[8] 7 Rotorua MB 119

[9] Rose, Kathryn. p.110

to pressure to sell. Although Judge Clark's court failed to complete the paper divisions before the courts adjournment, and Clark's retirement, in 1888 Clark did eventually provide a list of owners and 1100 shares (albeit outside of the Court), which were eventually used as the basis to purchase Pukeroa-Oruawhata from the owners.[10]

A pre-requisite negotiated by our Ngāti Whakaue elders in 1889 was that a certain amount of land be returned for the benefit and future use of those of Ngāti Whakaue who had sold their shares to the Crown.[11] For this reason a total of 20 acres, encompassing some 48 township lots were reserved on the 26th of January 1897. These lands would eventually come to form the core of what is known today as the Pukeroa-Oruawhata Trust.

Certain members of the Ngāti Te Kohu, Ngāti Ruamano and Ngāti Tiki hapū would hold off the sale of their shares for a while longer, and eventually negotiate a further 1 and a half acres reserves for themselves in exchange for the sale.[12] These lands are now held by the Ngāti Te Kohu-Ngāti Ruamano-Ngāti Tiki Trust today.

The majority of Te Pukeroa-Oruawhata was sold in 1889, with further share purchases taking place up and until the final few shareholders were compulsorily acquired under the terms of the Thermal Springs Act of 1910, the same act which converted Pukeroa-Oruawhata, with the exception of the Native Reserves, into Crown Land.[13] The balk of the original Pukeroa-Oruawhata block has long since been on-sold into private hands.

Investigations

The circumstances surrounding the government's role as our trustee and agent in the Rotorua Township scheme and the failure and subsequent sale of the Rotorua Township would form the basis of a number of official investigations over the years instigated by official petitions by Ngāti Whakaue to the Government.

The foremost of these include the Jones Inquiry, by Native Land Court Chief Judge Jones in 1930 and the Myers Royal Commission under a panel lead by Sir Michael Myers in 1948. While the Jones Inquiry was largely sympathetic to our complaints, it had no binding power for the Government to act. The Meyers Commission inquiry proved far less critical of the Governments actions, and while they too recommended an amount to be paid in

[10] Rose, Kathryn. p.342
[11] Rose, Kathryn. p.358
[12] Rose, Kathryn. p.359-360
[13] Rose, Kathryn. p.365

compensation, it was far less than the award given by Jones. £16,500 compensation was approved by Cabinet on the 6th December 1949.

As Ngāti Whakaue debated accepting the compensation, the Government applied pressure by threatening to pull the offer off the table[14]. This resulted in an urgent meeting of the descendants of the owners at Tamatekapua on 31st October 1953. Although earnest for the owners to settle the matter themselves, our rangatira of the time Kepa Ehau was against Ngāti Whakaue taking the Governments offer, as was Hohepa Te Rake Te Kiri. Raniera Kingi in particular objected strongly to the proposal and both he and Kepa Ehau pointed out that, considering the township and land involved, the amount was far too small. Despite this our rangatira agreed to abide by whatever the majority decided. The majority attending the meeting agreed to take compensation and the payment was formalised by the Māori Purposes Bill 1954.[15]

Legacy of The Gifted Reserves

One very important principle that Ngāti Whakaue holds firmly to is that when the Fenton Agreement was signed in 1881 Ngāti Whakaue gifted to the Crown certain lands to be used as public reserves in the new township such as the various recreation reserves and the Education Endowment. This is expressed in an early letter by our ancestors to the Stout-Ngata Land Commission in 1908 which reads, in part that:

> *we gave the Pukeroa Reserve of 30 acres, also the Sanatorium Grounds, the Kuirau Reserve, the Arikikapakapa Reserve, and sites for public buildings for both races forever*

Various and successive Government Departments involved with these reserves would either minimalise or deny altogether any such gift, with one official report by an inter-departmental committee in 1976 categorically denied that Ngāti Whakaue had either legal or moral standing in regards to them.

The gifting of these reserves, and Ngāti Whakaue's involvement in certain parts of their administration, has been fiercely defended in the past, firstly by Ngāti Whakaue elders including Kepa Ehau and Taiporutu Mitchell, who were succeeded variously in this cause by Raniera Kingi (Dan Kingi), Haratua Rogers, Te Kotahitanga Tait, Hamuera Mitchell (Snr),

[14] memo for ministers of Cabinet AAMK 869 W3074 206 7-6-66 part 4, National Archives

[15] Rose, Kathryn. p.422

William Kingi, Rev Manu Bennett, Remi Morrison and others throughout the 1960's, 1970's and early 1980's.

If needed this was often done under the umbrella of Te Kotahitanga o Ngāti Whakaue, and in later years under the Ngāti Whakaue Tribal Lands.

Birth of the Pukeroa-Oruawhata Trust

Although legally identified under its various, respective Lot titles, or in official correspondence as the Ngāti Whakaue Rotorua Native or Township Reserves, in later years the 20 acre reserve set side for those who sold their interests in the Pukeroa-Oruawhata Block to the Crown would, as one Judge later observed, itself become "popularly referred to as Pukeroa-Oruawhata".[16] These sections were located in Froude-Sala Street and Ti-Fenton Street areas.

The ownership of the 20 acre reserve within the Pukeroa-Oruawhata block was first investigated by the Native Land Court, empowered by an Order in Council on the 29th of January 1900, in December 1901. This court under Judge David Scannell awarded the Reserve solely to those of Ngāti Whakaue (excluding Ngāti Rangiwewehi and Ngāti Uenukukopako included by error in the 1897 gazette) who had sold their interests in Pukeroa-Oruawhata to the Crown. On the 16th of December 1901 this court ordered that some 312 persons were the owners, with their interests undefined.

The administration and terms for leasing of these lands were undertaken by Government Departments between 1903 and 1906. The passing of the Reserves and Domains Act 1908 vested the administration of these blocks in the crown. By 1913 a few of these blocks had been leased for 99 year periods and so small income, of around 7 pounds per annum per block, was finally trickling in. However due to the fact that the 'relative interests', or the size of the shares of the owners, had yet to be determined any money resulting from these lands were collected into a coffer. No meaningful income was provided to the owners. These lands were vested in the Waiariki Māori Land Board by the Native Land Amendment and Native Claims Adjustment Act 1924 who administrated them on behalf of the owners. Due to a number of petitions, the same act also annulled Judge Scannell's 1901 court decision regarding ownership of the 20 acres.

[16] 164 Rotorua MB 572

For this reason, on the 11th of February 1929 the Board applied to the Court to define the owners and the interests of the owners in the Pukeroa-Oruawhata 20 acre Reserve. On the 12th of December 1930 the Court awarded the 20 acres to the 295 persons together with their share holdings originally totalling 1000 shares, but later re-adjusted to 293 persons and 997.3874 shares. Once this was completed the funds were finally able to be distributed directly to the owners. It is the descendants and successors of these 293 persons that are now the beneficiaries and owners in the Pukeroa-Oruawhata Trust. By August 1930, 41 of the 48 lots were leased bringing in a total annual income of around £347. In 1952 the Board transferred the administration of these blocks to the Māori Trustee.

Meagre financial returns saw very little interest from the majority of the owners of Pukeroa-Oruawhata and while moves for the creation of an owner empowered Committee of Management for the Pukeroa-Oruawhata lands were put forward as early as 1927, the idea gained little support.

During the late 1960's the Ngāti Whakaue Tribal Lands Incorporation, many shareholders of which were also owners in the Reserve, interested themselves in the Māori Trustees administration of the Reserve. Of particular interest were the issues of perpetual leases, which produced little income, but which operated over these land blocks due to the operation of the Maori Land Reserves Act 1955.

The incorporation applied to the Māori Land Court in late 1972 for advice.[17] Judge Kenneth Gillander Scott gave a lengthy opinion regarding the possible re-vestment of the 20 acre lands in the beneficial owners on the 15th of November.[18]

According to one report, by Ngāti Whakaue solicitor Richard Charters, by 1974 the 20 acre sections were generating around $7194 per annum with a 6 percent commission, around $431, going to the Māori Trustee and a further 7% being held for taxes.[19]

An informal meeting of owners was eventually convened around 1974-1975 where a resolution was passed to vest the Reserve in the Ngāti Whakaue Tribal Lands with advisory trustees.[20] The Māori Trustee finally filed an application to re-vest the reserve in the beneficial owners under section 14 of the Māori Reserved Land Act on the 13th of October

[17] 164 Rotorua MB 561

[18] 164 Rotorua MB 570-574

[19] Submission 59, AAMK 869 W3074 143D 60-0-30-10. During the hearing the following figures were given: Rental of $5706.30, unimproved value was $649,650. From this a total of $5706.30 is deducted the Maori Trustee's commission of $342.38 and a further $570.63 (land tax) which gives a net available for distribution of $4793.29.

[20] 193 Rotorua MB 240

1978.[21] After a number of aborted attempts, a meeting was called by the Ngāti Whakaue Tribal Lands on the 13th of December 1980, with another meeting held on the 15th of December 1980.

The meeting of owners on the 15th of December decided to form a separate trust away from the Ngāti Whakaue tribal lands and temporary trustees were elected by a show of hands, just in time to appear before Judge William Collinson Nicholson that very same day.

The Pukeroa-Oruawhata Trust was finally established by the Māori Land Court on the 15th of December 1980.[22] The trust was established under section 438 of the Māori Affairs Act of 1953, with the following temporary trustees:

James Alexander Wilson

Anthony Te Uruhi Wihapi

Malcolm Tukino Short

Grace Dorina Theresa Dorset

Albert Fredrick Arthur Orme

Basil Corbett

Stuart Rotohiko Haupapa Harris

Akuhata Hekenui Morrison

Although 7 trustees had originally been envisioned, the votes for Stuart Harris and Akuhata Morrison were tied and after some discussion the 8 were agreed to. According to the minutes, the trustees were only temporary and elections were to take place before June 1982.

The new Trusts first AGM took place at the Māori Land Court in Rotorua on the 25th of June 1982 with James Alexander Wilson as the Trusts inaugural Chairman, Anthony Te Uruhi Wihapi acting as the Trusts first secretary, Timoti Nikora as Accountant and Hinton and Hulton as auditor.

According to the chairman, following the enactment of the terms of trust (or Trust Order) on the 22nd of September 1981 it was arranged for all the paper work regarding the

[21] 193 Rotorua MB 286

[22] 195 Rotorua MB 240-242

administration of the reserve to be transferred to the trustees, with the accounting function being fully transferred over on the 1st of April 1982 .

In order to satisfy previous court orders, and the Trust Order, all previous trustee positions were vacated, and an election of permanent trustees at the AGM saw all but two of them return. Albert F A Orme was replaced by John David Rangitauira and Basil D Corbett by Maxine Waiti Rennie. Gus Cleal and future long-time trustee, Bishop Kingi, were unsuccessful nominees. The trustees were appointed on the 18th of August 1982.

On the 3rd of September 1982 the lands were temporary re-vested in the Māori Trustee under the Māori Affairs Act 1953, followed by an order under Section 14 of the Māori Reserved Act 1955 re-vesting the lands in the beneficial owners. The Trust was then recreated with an order vesting the land in:

James Alexander Wilson

Anthony Te Uruhi Wihapi

Stuart Rotohiko Haupapa Harris

Malcolm Tukino Short

Grace Dorina Thearesa Dorset

Akuhata Hekenui Morrison

John David Rangitauira

Maxine Waiti Rennie

Who were appointed pursuant to section 348 of the Maori Affairs Act 1953 (a 438 Trust). Thus, through a labyrinth of history and a web of legislation, owners meetings and Court hearings did the destiny of these lands finally return to the hands of the owners, and the Pukeroa-Oruawhata Trust come into being.

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