

CHAPTER 1

AUCKLAND

1.1 Principal Data

1.1.1 Estimated total land area for the district

The estimated total land area for district 1 (Auckland) is 4,200,784 acres.

1.1.2 Total percentage of land in Maori ownership

The total percentage of land in Maori ownership in district 1 (as calculated from 1940 *Historical Atlas* maps held in the Alexander Turnbull Library) was approximately 60 percent in 1860, 25 percent in 1890, 19 percent in 1910, and 5 percent in 1939 (or 9.7 acres per head according to the 1936 census figures provided below).

1.1.3 Principal modes of land alienation

The principal modes of land alienation in district 1 were:

- old land claims (including surplus lands);
- pre-1865 Crown purchases;
- confiscations;
- purchases under the Native Land Acts; and
- pre-emption waiver purchases.

1.1.4 Population

The population of district 1 was approximately 16,000 to 17,000 in 1840 (estimated figure), 9542 in 1891 (estimated from census figures), and 22,426 in 1936 (also estimated from census figures).

1.2 Main Geographic Features Relevant to Habitation And Land Use

The boundaries of research district 1 stretch from Manawatawhi (Three Kings Island) to a line running from Waiuku on the west coast to Kaihua on the east coast. The district includes the main islands of the Hauraki Gulf and Great Barrier Island.

Since the district is almost entirely surrounded by water and contains numerous bays and harbours, the tangata whenua were never far from food resources and a

means of transportation. Settlements were clustered around the bays and harbours, which were also highly prized by European traders and settlers. One of these bays, the Bay of Islands, contained the principal port in New Zealand in the early nineteenth century, the place where the Treaty of Waitangi was first signed and where the Governor first resided. The upper half of the district was dominated by stretches of forests, mainly kauri, and became the centre of the timber and ship-building industries before and after 1840. The booming kauri gum industry was also at its height in the latter decades of the nineteenth century. In the south of this district in the area between the Manukau and Waitemata Harbours, there are a number of volcanic cones upon which Maori settled. These cones provided a place of refuge when security was threatened. Distributed around these cones were cultivations which flourished in the rich volcanic soil. Two important canoe portages (To Waka) were also in this area: the first at Otahuhu, which connected the Tamaki River and the Manukau Harbour, and the second at Waiuku, which connected with the Waikato River.

1.3 Main Tribal Groupings

Relations between the northern tribes, who share close connections through their waka and early descendants, have been affected by, among other things, Ngati Whatua's migration south to Kaipara and the Kaihu Valley in the early seventeenth century, as well as extensive battles between Ngati Whatua and local Maori, including Waiohau at Titirangi, Auckland, and Tamaki. Battle also occurred along the east coast in the early 1790s between, among others, Ngaoho and Ngati Paoa, as well as Ngati Paoa and Ngati Rongo. In the early part of the nineteenth century a series of battles also occurred between Ngapuhi and Ngati Whatua, as well as Ngapuhi and Ngati Paoa around the 1820s.

1.3.1 The situation around 1840

General Ngapuhi boundaries of the late eighteenth and early nineteenth centuries have been described as running from Puhanga-tohora to Te Ramaroa to Whiria, to Panguru, to Papata, to Maunga-taniwha, to the Bay of Islands, to Cape Brett, to Whangarei Heads, to Tutameo, to Manganui Bluff, and back to Puhanga-tohora.¹ There has been some discrepancy over the boundary of the Muriwhenua land, home to Ngati Kuri, reflecting the changing relationships between Muriwhenua tribes Te Aupouri, Te Rarawa, Ngati Takoto, and Ngati Kahu with Ngapuhi in the early nineteenth century. The Waitangi Tribunal in recent years has, for the purposes of hearing the Muriwhenua claims, extended the original southern boundary from Whangape Harbour to Mangonui (including the outlying islands) to the area east of

1. J R P Lee, *I Have Named it the Bay of Islands*, Auckland, Hodder and Stoughton, 1983, pp 289–291

the Mangonui Harbour.² Te Rarawa also have rights south of the area extending into the Hokianga, well south of the area included in the Muriwhenua claim.

A complicated relationship interconnecting the tribes present in the Orakei lands makes it difficult to summarise occupation in that particular area, although by one estimation, Ngati Whatua had slackened their grip on the land before 1840 but had not surrendered it to competing hapu from Ngati Paoa (among other tribes).³ Ngati Paoa have, however, been recognised as holding the rights to Waiheke, in conjunction perhaps, with Ngati Maru, with whom Ngati Paoa share close relations.⁴ Waikato–Tainui claims to the Manukau and lower Waikato have, on the other hand, been recognised as largely undisputed, although it is also recognised that this occupation was shared by related Kawerau, Waiohau, and Ngati Whatua tribes. The Ngapuhi invasion into Tainui lands has been regarded by the Waitangi Tribunal as a ‘temporary aberration in tribal affairs’. The only long-term effect of this was the closer union of the Manukau tribes.⁵ Furthermore, the Waikato (Tainui) tribes are said to have amalgamated with the inhabitants west and south of Manukau, giving rise to Ngatiteata, Ngatitamaoho, and Ngatipou, who were dominant in the Franklin area by 1840. Roughly speaking, Ngatiteata were situated in the Waiuku area, Ngatitamaoho in the Patumahoe–Drury area, and both tribes had pa sites on the Waiuku Peninsula. Ngatipa occupied the south bank of the Waikato River (and claimed land at the northern side), while Ngati Pou were living at Tuakau, Pokeo, and Maketu. Ngati Paoa were over on the Thames Coast and had little contact with other tribes in the Franklin area.⁶ It appears also that by 1840 Ngati Whatua and Kawerau had more or less divided interests in the land around the Manukau Heads, Waitakere, and Muriwai among themselves.⁷

Te Uriohau are claimed to have occupied lands north of a line between the Kaipara Heads and Te Arai Point on the east coast, while Ngati Rongo were said in 1897 to live south of that boundary, having ‘inherited’ the land from Waiohau by conquest.⁸ The Kaipara itself was considered the domain of Ngati Whatua ‘proper’, while Te Roroa occupied the area between Kaihu and Waimamaku.⁹ Of the Whangarei region, it has been noted that by 1840 this area was occupied by closely related sections of Te Parawhau tribe.¹⁰ (Ngai Tahu, closely related to Te Parawhau, are claimed to have occupied the upper Wairoa and Mangakahia Val-

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2. Waitangi Tribunal, *The Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim*, 2nd ed, Wellington, Government Printing Office, 1989, p 3
 3. I H Kawharu, *Orakei: A Ngati Whatua Community*, Wellington, New Zealand Council for Education Research, 1975, p 5
 4. Waitangi Tribunal, *Report of the Waitangi Tribunal on the Waiheke Island Claim*, 2nd ed, Wellington, Government Printing Office, 1989, p 8
 5. Waitangi Tribunal, *Report of the Waitangi Tribunal on the Manukau Claim*, 2nd ed, Wellington, Department of Justice: Waitangi Tribunal, 1989, p 11
 6. N Morris, *Early Days in Franklin*, Auckland, Franklin City Council and Pukekohe, Tuakau, and Waiuku Borough Councils, 1965, pp 18–19
 7. S P Smith, *The Peopling of the North: Notes on the Ancient Maori History of the Northern Peninsula and Sketches of the History of Ngati-Whatua Tribe of the Kaipara, New Zealand*, New Plymouth, Polynesian Society, 1897, pp 76–77
 8. *Ibid*, p 63
 9. S P Smith, *Maori Wars of the Nineteenth Century*, Wellington, Whitcombe and Tombs, 1910, p 478

leys.¹¹) Te Tao (Ngati Whatua hapu) have also been identified around the Whangarei Heads, while Ngati Wai worked land to the east of Waitira Creek in the Waikieki area, somewhat ‘sandwiched’ between Ngati Whatua to the south and Uriohau on the Tangiteroria and Titoki side.¹²

The pattern of land alienation in the Auckland district differs from that in most other districts. In other areas, the major losses of Maori land occurred at particular periods in the nineteenth and early twentieth centuries, as the colonial frontier swept over the tribes of the region. For South Island tribes, the land went in early Crown purchases, for Taranaki and Waikato it went through confiscation in the 1860s, while for the central North Island it went in purchases around the turn of the century. For the Auckland district, however, the pattern of alienation was more persistent over the whole period from the 1840s to the 1930s. Almost all the main instruments used by the Crown to allow for the extinguishment of Maori title were used in the Auckland district. Land was alienated early, through old land claims and Crown purchases and the temporary waiver of pre-emption in the mid-1840s. A relatively small proportion of the total area was confiscated during the wars of the 1860s. When the Native Land Court was introduced in 1862, and then as a more invigorated instrument of alienating Maori land in 1865, roughly half the total area was still in Maori ownership, however unevenly this ownership was spread over the whole district. The court allowed for private purchasing until the 1890s. The Crown too was in the market place, purchasing a substantial proportion of an ever-reducing estate, particularly in the 1870s and 1890s. The processes of alienation continued inexorably, even after the turn of the century, despite considerable concerns about the region’s ability to sustain its high Maori population.

1.4 Principal Modes of Land Alienation

1.4.1 Pre-1840 purchases (including approved old land claims and surplus lands)

In 1840, the European population of the country was settled largely in the north, with the largest settlements around the harbours of the Bay of Islands, the Hokianga, and Mangonui. Small European towns were already evident, trading with Maori and servicing the varied needs of passing shipping. Missionaries too had established model communities attempting to combine instruction in Christianity with the arts of European agriculture and industry. These ‘old settlers’ claimed rights to lands from Maori tribes and had them joined with those of speculators who flocked across the Tasman in the months before the Treaty of Waitangi was signed, hoping to achieve a significant profit once New Zealand became a Crown colony.

10. N Preece Pickmere, *Whangarei: The Founding Years, 1820–1880*, Whangarei, N Pickmere, 1986, pp 17–18

11. Smith, *Peopling*, p 36

12. J T Stephen, *Early Northland Waikiekie Pioneers, 1860–1900, and Their Descendants*, Whangarei, Small Cords Press, 1989, p 16

These claims to land were heard by a series of commissions, which attempted to determine whether land had been sold, the extent of the land sold, as well as which land should be claimed by the Crown as free of aboriginal title and which should be granted to European claimants. The issues surrounding these commissions are more fully discussed in volume ii, chapter 2. Many of the claims were not pursued because they were frivolous or unlikely to succeed, particularly those of the fleeting speculators. In the north, however, owing to the higher percentage of European residents, more claims were heard and grants subsequently awarded, than elsewhere. Because of the way the land was treated by the prevailing European interpretations of aboriginal title, the land involved can be divided into four categories: land reverting to or retained in Maori ownership; land where it was determined that aboriginal title had been extinguished, grants made to European claimants supposedly within the territory where Maori rights no longer existed; and a residual area of land not granted to European claimants and not returned to Maori that the Crown retained as ‘surplus land’.

Although the land alienated from Maori ownership was supposedly alienated by agreements entered into prior to 14 January 1840, the actual blocks and their total area were not usually determined on the ground until Francis Dillon Bell’s Land Claims Commission (1856–63). It was only at this time that proper surveys were required and that the Crown was able to enforce its claims. So convoluted and drawn out was the process of initial application, hearings by the court, Crown grants, recalled grants, new investigations, quieting titles, survey, rehearing, and reissuing of Crown grants, that the final determination of title was often only an approximation of the original agreement. None the less it was, in most cases, Bell’s decisions that were enforced by the Crown.

Reworking Bell’s decisions from the original files, Dr Barry Rigby with other Tribunal researchers have been able more accurately to estimate the extent of Maori land alienation through this process, particularly in some important sub-regions within the Auckland district.

In total in the Auckland district, the Crown granted 255,433 acres in pre-Treaty transactions and acquired 133,372 acres of surplus land in the process, from a total area claimed of 1,509,348 acres.¹³ The figures are still subject to error because some of the surplus land was also included in later Crown purchases, other pieces reverted to Maori ownership, and the total area claimed was always an estimate. Nevertheless, the Auckland district accounts for 82 percent of the total area granted to private individuals and 95 percent of the area of surplus land acquired by the Crown.¹⁴

The effect of this varied across the district. Almost half the claims (45 percent) came from the Bay of Islands, a further one-fifth (18 percent) coming from the Hokianga. Ten percent were from Auckland, including islands in the Gulf, while

13. R Daamen, P Hamer, and B Rigby, *Auckland*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), July 1996, p 218. This figure has been adjusted to allow for a clerical error in the original database, which gave the area granted as 363,584.

14. *Ibid*, p 220

the number of claims from Kaipara, Muriwhenua, Whangaroa, and Whangarei ranged from around 5 to 7 percent of the total.¹⁵ The areas lost in different parts of the district also differed significantly. Case studies undertaken as part of the project show that 11 percent of the land at Muriwhenua and 25 percent of the land in the Bay of Islands were included, but only 5 percent of the land in Kaipara passed out of Maori ownership in this manner.¹⁶ In South Auckland, the Crown granted 10,786 acres to old land claimants and acquired 23,963 acres of surplus land in the process.¹⁷ It should be noted, however, that the huge Fairburn purchase south of Tamaki, dating from 1836, is essentially an old land claim, yielding the Crown a surplus of some 70,000 acres. It is not usually counted in the old land claims statistics because in the 1850s the Crown made payments to Maori protesters on the land to extinguish their claims, although both the purchase deed and the Land Claims Commission proposed that one-third of the block be returned to named Maori tribes.

The following table shows a sample of some of the larger old land claims in the district. Missionaries such as Henry Williams, William Fairburn, and James Kemp were prominent private purchasers of land, and the Church Missionary Society and other missions also purchased land separately for their missionary activities.

1.4.2 Pre-1865 Crown purchases

Between 1840 and 1865, the Crown purchased land under pre-emption, with the exception of a brief period during FitzRoy's governorship when pre-emption was waived. The Crown negotiated directly with rangatira for the purchase of specific blocks. Payments to other tribal groups with rights in these blocks were often negotiated subsequently. The intention was to purchase land at minimum cost, on the assumption that Maori would benefit substantially from the rising values of their land as European settlement increased.

While the 3000-acre Waitemata purchase in October 1840 allowed for the development of the newly chosen capital, and netted a significant profit for the Crown, comparatively small amounts of land were purchased in the 1840s. A dire shortage of capital and war in the north made further acquisitions difficult. Less than 10 percent of the land purchased by the Crown between 1840 and 1865 was acquired in the 1840s.¹⁸ While there were some abortive attempts to purchase land in Muriwhenua, the vast majority of the land acquired in the 1840s was around the growing town of Auckland. The Mahurangi purchase, which included land from Devonport to Leigh, took over a decade to complete as the interests of different tribes were extinguished piecemeal. In the meantime, Maori land was being pro-

15. Appendix to B Rigby, M Russell, and D Moore, 'Old Land Claims', Waitangi Tribunal Rangahaua Whanui Series unpublished draft

16. Daamen et al, p 215

17. P Husbands and K Riddell, *The Alienation of South Auckland Lands*, Waitangi Tribunal Research Series, 1993, no 9, pp 9–10

18. The figure from Dr Rigby's Crown purchases database is 105,509 acres, or 6 percent of the total. However, a higher percentage of deeds in this area were vague about their actual dimensions.

gressively acquired south of Auckland to the Bombay Hills and around the Manukau and Waitemata Harbours.

In the early 1850s, the emphasis on clearing title around Auckland continued, with substantial purchases in South Auckland. There were further acquisitions from islands in the Hauraki Gulf and purchase of blocks of increasing size in Waiuku and north to Mahurangi and Whangarei. The amount of land involved increased four-fold. In the last decade of the Crown pre-emption era and with most of the land around Auckland already available for settlement, Crown purchases officers spread themselves around the district more generally. There were substantial sales in Muriwhenua, including the largest block to be acquired in one purchase, the 86,885-acre Muriwhenua block in 1858. The Bay of Islands, Kaipara, and Whangarei regions also saw significant areas of land sold to the Crown. Between 60 and 70 percent of the total 1,643,243 acres was purchased during this decade, including almost all the land north of the Mahurangi purchase.

The Crown purchased an estimated 53 percent of the land in Kaipara, about 20 percent in the Bay of Islands and 36 percent in Muriwhenua. In Muriwhenua, the Crown purchased approximately 215,187 acres for £8097, while in South Auckland, the Crown purchased 416,386 acres for £16,051.¹⁹

Locality	Number	Acres	Percentage
Muriwhenua	24	215,187	13
Whangaroa	2	25,800	2
Hokianga	5	14,584	1
Bay of Islands	26	70,597	4
Whangarei	49	266,527	16
Kaipara	39	372,103	23
Mahurangi–Kumeu	22	188,195	11
Waitemata–Auckland	36	28,299	2
South Auckland	73	416,386	25
Hauraki Gulf	7	45,556	3
		Σ 1,643,234	Σ 100

Crown purchases, 1840–65. Source: Daamen et al, pp 153, 219.

Between the Bombay Hills in the south and Whangarei in the north, Maori had very little land left on the east coast or in the Hauraki Gulf in 1865. Only around the Kaipara Harbour were there significant blocks of Maori land. North of Whangarei, very substantial proportions of the land in Muriwhenua and around the Bay of Islands were in Crown hands, but all the rest of the west coast and most of the land

19. Daamen et al, p 219

Claim no	Claimant(s)	Locality	Originally claimed	Surveyed	Grant(s)	Scrip	Surplus
23–24	Busby	Whangarei	40,000	12,000	12,000		1010
36	Abercrombie, Nagle, and Webster	Great Barrier Island	20,000	56,387	30,732		15,382
590	W Fairburn	Auckland	40,000	8,055	8054		21,500
603–606	J King	Bay of Islands	5150	21,226	12,480		8757
802–808	Shepherd	Whangaroa, Upokorau, and Bay of Islands	8860	18,920	9,685		8098
175	Elmsley, Walton, and Walton	Kaipara	6000	44,171	11,708		5825
875–877	Southee (Maxwell)	Kaitaia	10,000	13,800	5,310	3200	8174
1324	Busby and Leivington	Ngungururu		2544	292	14,200	1220
521–526	H Williams	Bay of Islands	11,000	9226	9203		3042
9	Wright and Graham	Kaipara	40,000	11,800	6744		5345
594–598	J Kemp	Waimate, Kerikeri, and Bay of Islands	5276	7207	6967		4000
633–634	G Clarke	Waimate	5500	10,383	7994		2426
114–115	Clendon	Okiato–Waikare	300	10,000	10,000		320
704–705	S H Ford	Mangonui–Kaitaia	8000	8280	2627	1725	5653

809	J Orsmond	Waimate	3000	11,741	5014		4926
517-519	White and Russell	Hokianga	10,720	3871	1280	6259	2372
889-893	Partridge	Mangonui	8000	184	184	2310	7252
328-329	J Mathews	Kaitaia	2200	10,451	4197		5229
14-22	Busby	Bay of Islands	9545	10,315	3264		4800
734-736	CMS Families	Kerikeri-Waimate	3600	6780	5395		1412
899-905	J Hamlin	Manukau, Otahuhu	3350	5,803	5213		587
453	H Taylor and Sparke (Campbell)	Weiti	20,000	5569	5569		
626-628	T Forsaith	Kaipara	3078	1752	1074	3390	678
160	Davis	Kaitaia	1000	4880	466		4414
1047	G Mair	Whangarei		4800	910		3890
773	de Sentes (R Davis)	Bay of Islands	3000		4,308		362
161	Davis	Waimate	15	4613	4251		362
599-602	J Kemp	Whangaroa	4000	4464	2736	68	1742
549-550	W Baker	Whangaroa	10,015	4178	1289		2889
106-107	Clayton	Auckland	1300			4000	

Old land claims: Auckland district

in the Hokianga (excluding old land claims) was retained in Maori ownership. With the 'surplus' land from the old land claims also being determined in this period, the late 1850s and early 1860s were the period of greatest land loss for the district overall.

1.4.3 Pre-emption waiver purchases

In the north Auckland area, under the pre-emption waivers introduced by Governor FitzRoy in 1844 to 1846, around 250 parcels of land changed hands, ranging from a few perches to a few thousand acres. For a further discussion of these purchases, see volume ii, chapter 4. In South Auckland, the Crown apparently granted 2140 acres to pre-emption waiver claimants (probably acquiring 5000 acres of surplus land in the process). In total, for the Auckland district, the Crown granted 28,381 acres in pre-emption waiver grants while acquiring 31,468 acres of surplus land. All such grants were made in the Auckland district, where 97 percent of the surplus land also lay.

1.4.4 Confiscations

In early 1865, the Crown proclaimed 135,907 acres in South Auckland under the New Zealand Settlements Act 1863 (although there is some uncertainty of the actual extent of the lands confiscated because the acreage of some blocks was not documented and some lands were later returned). The confiscated land, which covered east Wairoa (estimated at 50,000 acres), west Pukekohe (1133 acres), Mangere, Pukaki, Ihumatao, and Kerikeri (2730 acres), also included the reserves from previous Crown purchases in the Waiuku North and Waiuku South blocks. Land was also forcibly taken by the Crown at Patumahoe (702 acres), Pokeno (19,000 acres), Pukekohe (5381 acres), Tuakau (10,887 acres), and Tuimata (640 acres). The Crown reserved about 4 percent of the total area for Maori from earlier Crown purchases, but it then confiscated a further 7000 acres, leaving less than 3 percent as Maori land.²⁰ An estimated 100,000 acres were confiscated from Maori overall within the district.

1.4.5 Purchases under the Native Lands Act (Crown and private)

(1) 1865–85

The momentum of land alienation established in the late 1850s continued into the period of the Native Land Court. Pre-emption was waived and the court was able to convert land from customary title to a transferable Maori freehold title. The Native Lands Act 1865 was introduced to break down a growing resistance to land sales by allowing Maori to trade their land individually, free from the constraints of a collective title, and negating any veto on sale that could be applied by non-sellers.

20. Husbands and Riddell, pp 41–47

In the Auckland district, however, there is little evidence that there was open or effective resistance to land purchases, even during the wars themselves. Almost as much land was purchased in the district between 1860 and 1865 as between 1855 and 1860.

Because of this lack of resistance to sale and continued Maori 'loyalty' to the Crown, the Native Land Court was very quickly established in the district and its impact was dramatic. Of a sample of 477 blocks awarded title in the Auckland province between 1865 and 1869, two-thirds were in the Auckland district. In the rest of the province, much of the land awarded through the court was in very large blocks, averaging 3102 acres. In the Auckland district, the average block size was 1104 acres.²¹ Sixty percent of the number of blocks was retained in Maori ownership, but almost half the area (149,766 acres) had been alienated by 1869. While this figure does not account for all the land alienated in this period, it would suggest that the rate of Maori land loss established prior to the establishment of the court declined considerably in the late 1860s to a good deal less than half what it had been in the previous five years.

Between 1865 and 1885, around 1,576,450 acres were granted in titles issued by the Native Land Court in 1136 blocks. Almost three-quarters of this land came from the Hokianga, Kaipara, and Whangarei regions, with the remaining 27 percent coming from the Auckland, Mahurangi, Bay of Islands, and Mangonui regions. The Auckland numbers in particular were small, since that land had already been largely acquired by 1865.²²

The introduction of private purchasers allowed some very substantial blocks to pass directly from Maori to European hands. Often the Maori ownership had been reduced by the Native Land Court to a very small number of owners. The Nukutawhiti block of 12,768 acres was bought from four owners for £600, soon after its grant in 1867. The Muriwhenua block of 56,678 acres was bought from seven owners in 1873, six months after title was awarded. In 1878, the year after title was awarded, the Aoroa block, of 13,839 acres, was purchased for £3000.²³ Even when ownership was shared more generally, blocks were not protected from sale. The Kaihu block of 43,700 acres had title awarded in 1871 to 10 owners, with an additional list of 66 owners.²⁴ The whole block was sold in 1880 for £3865. The table below gives the total amount of land privately acquired through the court between 1865 and 1908 at 9 percent. The actual figure must be seen as slightly higher than this, since this is the most difficult figure to estimate and is the area left when all other forms of alienation, and remaining Maori land at 1908, are subtracted from the total area of the block. There is good reason to believe that there is some duplication in areas included for other instruments of alienation, inflating their totals slightly.

21. See M Belgrave and R Nightingale, 'Counting the Hectares: Quantifying Maori Land Loss in the Auckland Rangahaua Whanui District, 1865–1908', Waitangi Tribunal Rangahaua Whanui Series unpublished draft, 1996, fig 3.6

22. Ibid, table 3.1

23. Ibid, Maori land database for the Auckland district

24. Waitangi Tribunal, *The Te Roroa Report 1992*, Wellington, Brooker and Friend Ltd, 1992, p 44

1.4.5(1)

National Overview

Private sales of land that had passed through the Native Land Court from 1865 to 1873 in the Kaipara district included the following: Makiri (515 acres) around 1865; Oahau (113 acres) in 1866; Unuwahao (2800 acres) in 1868; Paraheke (1633 acres) in 1869; Tunatahi (167 acres) in 1872; Mateanui (80 acres) in 1871 for £144; Huarau (100 acres) in 1871 for £50; Ahikiwi (1000 acres) in 1872 for £2000; Te Opu (795 acres) in 1877 for £590; Waikino 1 (90 acres) in 1879; and Te Wairau (just over five acres) in 1881.²⁵

The Native Lands Act 1865 was designed to allow the direct private purchase of land and to limit the necessity for direct purchase by the Crown. Despite this, and despite the absence of any special reapplication of pre-emption in this region, the pace and extent of alienation in this period was still being set by direct Crown purchases. Direct Crown purchasing between 1865 and 1908 totalled at least 843,818 acres, which could be as much as two-thirds of all the land alienated from Maori ownership in this period. When the whole period from 1840 to 1908 is included, the old land claims accounted for almost as much land as private sales through the land court.

Pre-1865	Acres	Percentage
Old land claims	382,627	9
Pre-emption waivers	59,849	1
Crown purchases	1,623,937	39
Confiscation	120,000	3
1865 to 1908		
Crown purchases	843,818	20
Private Purchases	383,248	9
Remaining Maori Land	787,305	19
	Σ 4,200,784	Σ 100

Land loss, 1840–1908

Crown purchasing was far from uniform throughout the period, however, with the major thrust of purchasing being in the late 1870s and in the 1890s. Crown purchases associated with the Vogel development era made up more than two-thirds of the total acquired by the Crown, and all of this was acquired in the short period between 1875 and 1879. The process of Crown purchases at this time has been extensively discussed in the Tribunal's *Te Roroa Report 1992*.²⁶ In the 1890s, it was the Crown determination to provide land for settlers that led to a new and widespread programme of land acquisition, supported by the reintroduction of partial pre-emption in 1894. While sales in the late 1870s yielded a lot more than the

25. Daamen et al, p 266

26. *The Te Roroa Report 1992*, ch 2

107,000 acres acquired by the Crown after 1894, they were from a much larger total estate. The techniques used by the Crown also changed. In the 1870s, the Crown negotiated to purchase whole blocks, using the carrot of pre-payment. In the 1890s, the Crown purchased individual shares over a number of years and then applied to the court to have the Crown interest partitioned out. Almost another 90,000 acres were identified for purchase but were not acquired because of resistance by individual Maori to sell their shares.

Years	Acres	Percentage
1865–69*	12,868	2
1870–74	52,020	6
1875–79	568,981	67
1880–85	68,587	8
1885–89	18,979	2
1890–94	15,279	2
1895–99	99,341	12
1900–08	7,764	1
	Σ 843,819	Σ 100

* The 68,000-acre Waiuku purchase, although concluded in 1867, has been included as a pre-1865 purchase.

Crown purchases

The following list of Crown purchases of blocks over 10,000 acres shows how heavily concentrated these acquisitions were in the late 1870s, as land purchase officers used loan money raised on the London market to open lands for settlement.

In addition to sales, from the 1870s to the 1890s, leasing played a significant part in the alienation of land, with over one-third of the area under some kind of formal lease in 1891, including 59 percent of Auckland and Whangarei, 55 percent of Kaipara, and 50 percent of the land at Hokianga. Only 2 percent of land at Muriwhenua was leased. Dr Belgrave notes, however, that formal leasing does not appear to have provided a useful source of income for Maori at any time and by 1891 was on the decline. The majority of long-term formal leases were entered into in the 1870s, at the same time that very large areas of land were being alienated to the Crown. Few additional areas of land were leased in the 1880s, however, and it would seem that most of these long-term leases were allowed to lapse in the 1890s, often as the blocks were partitioned and sold. The Maori preference for leasing rather than selling land did not, therefore, become a practical option.

The Belgrave study shows that by 1908 only 13 percent of the area granted by the court prior to 1890 remained in Maori ownership. For blocks where title was

1.4.5(1)

National Overview

Block Name	Acres	Pounds	Locality	Date
Taupaki	12,868	59	Riverhead	18 September 1867
Kaitaia	11,026	124	Kaitaia River, Bay of Islands	5 September 1872
Kaitaia	11,026	726	Kaitaia Hokianga	31 July 1872
Hukerenui	12,500	1513	KawaKawa, Bay of Islands	5 November 1873
Wairua	27,800	2402	Kawakawa	2 June 1875
Waoku 1	17,650	1250	Bay of Islands Hokianga	28 April 1875
Takahue 1	24,122	2814	Bay of Islands Mangonui	4 May 1875
Purua	15,410	1861	Whangarei	23 June 1875
Tangihua	15,600		Whangarei	23 June 1875
Opouteke	42,000		Kaipara	18 September 1876
Waimamaku	27,200	1203	Waimamaku River Hokianga	10 January 1876
Waipoua	35,300	2200	Hokianga	8 February 1876
Maunganui	27,591	2300	Waipoua	8 February 1876
Kairara	25,700	2079	Kaipara	1 February 1876
Tauroa	10,510	175	Northern	8 March 1877
Opuawhanga 4	15,157	826	Whangarei	5 November 1878
Otonga 1	26,810		Whangarei	5 November 1878
Tikinui	10,702	1605	Kaipara	4 October 1882
Puhipuhi 1	14,490	8574	Whangarei	5 September 1883
Hukatere	10,410	1248	Kaipara	26 June 1885
Mangakahia 1, 2a	12,515	1685	Whangarei	8 October 1896
Pouto b, 2d	15,835	118	Kaipara	10 October 1898

Crown purchases of blocks over 10,000

awarded between 1865 and 1869, the retention rate was as low as 10 percent. While almost a quarter of the land awarded title after 1885 was still in Maori ownership in 1908, this made up only a small part of the total area.

Blocks awarded	Acres	Remaining at 1908	Percentage at 1908
1865–69	395,908	41,501	10
1870–74	258,461	33,085	13

Land retention at 1908. Source: Belgrave and Nightingale, table 9.3.

1875–79	778,780	94,646	12
1880–84	122,391	29,299	24
1885+	20,908	9,973	48
	Σ 1,576,450	Σ 208,504	Σ 13

Land retention at 1908. Source: Belgrave and Nightingale, table 9.3.

The alienation of Maori land was significantly more dramatic for larger blocks than for smaller blocks. Of the 25 blocks larger than 12,355 acres (5000 ha), only three had any land at all left in 1908. The Pouto block of 50,647 acres, granted in 1878, was still 65 percent in Maori ownership. Of the other 24 blocks comprising 522,055 acres, only 6322 acres, or 1.2 percent, remained in Maori ownership in 1908.

(2) *Post-1910*

With respect to post-1910 purchases, the Auckland research district fell largely within the Tai Tokerau Maori Land Board district, as well as the very northern portion of the Waikato–Maniapoto Land Board’s district. While the Tai Tokerau Maori Land Board alienated 376,911 acres of land in the Auckland district between 1910 and 1930, it is difficult to calculate the amount of land alienated by the other land board without an exhaustive search of the files. The amount of land involved would, however, be limited. The table of alienations for the boards as a whole is set out at the end of this volume. More than half the land that remained in Maori ownership in 1910 had been sold by 1930.

1.5 Outcomes for Main Tribes in the Area

By 1865, Maori in the Bay of Islands were left with 54 percent of their lands, which was of marginal quality, relatively rugged, and remote from the main commercial and transport centres. Maori in Kaipara were left with approximately 43 percent of their lands with reasonable water access, although the value of the land would depend largely on the use of the forest resources.²⁷ Overall, around half the land in the district had been alienated by 1865. While for some tribes this meant comparative landlessness, for others most, and in some cases all, of the tribal estate was still in Maori ownership.

By 1908, all but 18 percent of the land in the Muriwhenua area (or around 53.4 acres per capita) was owned by non-Maori, and Maori controlled about 9 percent of the entire area (the other 9 percent was usually leased through the Tokerau Maori Trust Board without the owners’ consent).²⁸ By about the same time, Maori in the

27. Daamen et al, p 213

28. W H Oliver, ‘The Crown and Muriwhenua Lands’, report commissioned by the Waitangi Tribunal (Wai 45 rod, doc 17), pp 2–3

Bay of Islands retained about 89 acres per capita, while around the Kaipara Harbour, Maori retained 83.3 acres per capita.²⁹ Over the whole area, Maori land ownership had been reduced to less than 20 percent of the total area. For those tribes who had lost much of their land prior to 1865, continued alienation through Crown purchases and the court reduced levels of ownership to below 5 percent. This was particularly true in areas where economic development had been most intensive. By 1930, the overall amount of land remaining in Maori ownership had fallen to less than 9 percent of the total area, the vast majority of this being in isolated, under-developed, and economically marginal areas in the north.

1.6 Examples of Treaty Issues Arising

With its high Maori population and its long contact with the Crown, the Auckland district is not dominated by a single Treaty issue, in the way that war and confiscation overshadow the history of Waikato and Taranaki or early Crown purchases dominated the relationship between the Crown and iwi in the South Island. The broad and persistent relationship between the Crown and the tribes of the Auckland district means that most of the major Treaty issues involved are covered in the national theme discussions. For FitzRoy's pre-emptive waivers, the national theme is almost completely contained within the Auckland area. The vast majority of land alienated through the old land claims process was within this district, if the company purchases are excluded.

The significant impact of many national themes on Auckland should be considered. The combined effect of old land claims, pre-emption waivers, confiscation, Crown purchases throughout the period, and private purchases from 1865 was particularly significant on a district with a very high Maori population. It was also a district where 'loyalty' to the Crown was maintained throughout the entire period of extensive Crown purchasing. The very persistence of Crown purchasing, especially after 1891, when there was ample evidence that many Maori were being made landless, needs particular attention. Equally important in assessing the Treaty implications of the alienation of Maori land since 1840s was the stripping of land from Maori ownership in the most economically developed areas of the district. Almost no land within the Auckland metropolitan area remained in Maori ownership after 1939. Although good agricultural land was retained in Maori ownership in southern Taranaki despite being under perpetually renewable leases to Europeans, no such bank of quality agricultural land remained in the Auckland district. Isolation and under-development remained almost the only criteria for retention of Maori interests. When after the 1920s Maori development schemes began to attempt to ensure Maori participation in mainstream agriculture, it was often on poor land, unsuitable for intensive farming.

29. Stout-Ngata commission report, AJHR, 1908, g-1j, p 1

At no time prior to 1930 was there a determined attempt to enforce restrictions on the alienation of Maori land in the light of Maori needs. When officials warned that further land alienation could only be detrimental to Maori, the warnings went almost universally unheeded. That half of the land remaining in 1910 was no longer in Maori ownership in 1930, when the Stout–Ngata commission had carefully detailed both Maori views on sale and the limited amount of land remaining to them, is a major issue. So is the way that individual shares were acquired until blocks could be cut off by the court.

The enthusiasm of the Crown for acquiring very large blocks of land with little or no reserves also needs to be carefully examined, particularly given the comparatively large number of Maori that had to be supported on what remained. Maori willingness to engage with the European economy and continued loyalty to the Crown was exploited through policies that divided people into sellers and non-sellers and sacrificed the long-term needs of Maori in the interest of European settlement.

The use of case studies has highlighted a series of anomalies in the process of alienation as applied to relatively small areas within the whole district. These anomalies must be regarded as only a small example of similar, as yet unidentified, issues elsewhere in the district. Concerns about individual blocks abound at a local level. These concerns included the failure adequately to determine boundaries (particularly those of reserves), the often contradictory and ever-changing regime for private purchasing, and issues of consent and adequacy of payment. Some of these issues have become evident in the case studies, but these cannot be regarded as comprehensive or even representative of Maori complaint. Dr Rigby, too, has proposed a series of standards for evaluating Crown responsibilities to Maori in the old land claims process and some of the following flows from his discussion.

1.6.1 Old land claims in the Bay of Islands: representation of Maori interests

In 1834, James Busby began a series of private transactions at Waitangi. It is uncertain whether he was dealing with all the people with legitimate interests in the land because no recorded evidence has survived. Busby eventually acquired the entire area along the northern side of the Waitangi River from the Treaty House to a point several miles west of and including Puketona Pa.³⁰ The Crown also granted Busby 9374 acres without implementing reserve provisions.

At Orongo (Pomare Bay), Maori rights remain unclear. While Ngati Manu were involved in negotiations, other Maori appeared to have claimed rights, although Kemp's report failed to identify who held these rights or how they were extinguished.³¹ Also, in one case at least, although Maori had not extinguished their rights, the Crown acquired scrip land (that is land vacated by settlers when an equivalent in land or cash was offered by the Crown). For example, in the Parahau–Tuainui claim near Mongonui Te Tii, Commissioner Fitzgerald reported that there

30. Daamen et al, p 75

31. Ibid, p 83

was no proof that the land was purchased from the natives.³² Despite this, the area was surveyed and the claimant received scrip for the land.

1.6.2 Pre-1865 Crown purchases in the Kaipara region

Further discussion of pre-1865 Crown purchases is available in volume ii, chapter 5. The following discussion is limited to questionable acts particular to the Kaipara region only, as discussed in the Auckland report.

(1) *Representation of Maori interests*

Despite the creation of district runanga empowered to decide Maori land disputes, the Crown failed to establish a native district at Kaipara until February 1864 (although Kaipara Maori had pledged common loyalty to the Crown and defended their respective tribal interests during the Kohimarama conference in 1860). By the time the district was established, Maori had taken matters into their own hands with the dispute at Mangakahia in 1862 and 1863, which began as a conflict between Maori (Te Uri o Hau and Ngapuhi) over land at Mangakahia and broadened into a dispute over land and authority in the larger Te Wairoa area. It has been argued that, in order to solve the dispute, the Crown would have had to ascertain the political authority and define the proprietary rights of Maori. Furthermore, in order to avoid such disputes recurring in the future, the Crown needed to devise an equitable way of determining Maori representation in the structures of government. The extent to which the Crown provided active protection of Maori interests is thus questionable.

(2) *The adequacy of the equivalent*

Rogan's correspondence with McLean reveals that the Crown took full advantage of its superior bargaining position on some occasions in its dealings with Maori, such as in the statement that: 'you got that Pakiri block [south of the river] at a ridiculously low price the Kauri alone is worth twenty times the sum paid by the Govt.'³³ This arguably constitutes a breach of active protection of Maori interests on the part of the Crown, especially in light of the lack of reserves allocated to Maori for their future needs.

(3) *Sufficient endowments?*

The Crown's main attempt prior to 1865 to fulfil its obligations to protect Maori interests was in the form of reserves allocations. McLean instructed Rogan to take care that ample and eligible reserves were made for the use of the natives, the selection, number and extent of which must be determined by the wishes of the vendors themselves, and his own discretion.³⁴

In accordance with his instructions, Rogan presided over the creation of 15 Kaipara native reserves.³⁵ However, between January 1860 and November 1862

32. Robert A Fitzgerald report, 15 October 1844, olc 1/380

33. Rogan to McLean, 12 January 1858, McLean papers, fol 541

34. McLean to Rogan, 31 January 1857, Turton, *Epitome*, c101

(that is to say, within 18 months of being originally created), the Crown purchased nine of these reserves from Maori. No records survive to explain why the Crown acted in this manner, although it has been suggested that inaccurate information received by the Crown concerning the population of Kaipara Maori may have convinced Crown officials that reserves could be extensively purchased without depriving Kaipara Maori of necessary resources.³⁶

1.6.3 Crown purchases, 1866–73

Despite the fact that the Crown was required under the Native Land Act 1865 only to purchase land for which Maori title had been determined by the Native Land Court, in the case of the 1872 Kaitaia North and the 1873 Pakiri North purchases, the Native Land Court appears to have legalised purchase arrangements prior to the determination of title by means of cooperation between the Native Land Court and Crown purchase agents. In the case of the 1873 Pakiri purchase (as the last coastal outlet for Maori along the east coast from Auckland to Whangarei), title to the land had been awarded by the court to a woman and two minors in 1870. A dramatic series of events resulted in an agreement which required simultaneous Native Land Court and parliamentary action to allow the completion of the purchase (which had begun in 1872). When it became evident to the Crown that the original purchase may not have been valid, it nevertheless allowed it to proceed. This resulted in a deed that purported to transfer title to the 31,000-acre block, despite the fact that one of the three owners opposed the sale. Of the £700 transferred in payment, only £300 was banked in the name of the trustees, while the rest went on expenses. Notwithstanding the fact that it later withdrew from further negotiations for the land, the Crown had allowed public funds to be drawn on the understanding that the purchase would be legalised after the fact by means of simultaneous action by the Native Land Court and Parliament. Furthermore, the fact that the purchase had been disallowed was not made public, and in 1876 efforts were still being made to legalise the purchase. The Crown succeeded in completing the purchase of two-thirds of Pakiri North in 1881.

The lack of satisfactory documentation in respect of the Pakiri North purchase is typical of the 13 provincial purchases for which the general government did not register a deed of conveyance in its own files. The issue is whether the Crown fulfilled its Treaty obligations to Maori in failing to preserve a satisfactory record of its purchases.³⁷ Purchases for which documentation does exist also raise serious questions. Retrospective action in transactions such as the Pariki purchase may have been legal, but it is questionable whether it was consistent with the Crown's Treaty obligation to act in the utmost good faith with Maori.

35. Listed in Daamen et al, p 203

36. Ibid, pp 205–207

37. Daamen et al, p 236

1.7 Additional Reading

The following are recommended for additional reading:

Rose Daamen, Paul Hamer, and Barry Rigby, *Auckland*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996;

Michael Belgrave and Richard Nightingale, 'Counting the Hectares: Quantifying Maori Land Loss in the Auckland Rangahaua Whanui District, 1865–1908', Waitangi Tribunal Rangahaua Whanui Series unpublished draft;

Paul Husbands and Kate Riddell, *The Alienation of South Auckland Lands*, Waitangi Tribunal Research Series, 1993, number 9; and

Barry Rigby, Matthew Russell, and Duncan Moore, 'Old Land Claims', Waitangi Tribunal Rangahaua Whanui Series unpublished draft.