

CHAPTER 2

HAURAKI

2.1 Principal Data

2.1.1 Estimated total land area for the district

The estimated total land area for district 2 (Hauraki) is 818,659 acres.

2.1.2 Total percentage of land in Maori ownership

The total percentage of land in Maori ownership in district 2 (as calculated from 1940 *Historical Atlas* maps held in the Alexander Turnbull Library) was 90 percent in 1860, 37 percent in 1890, 12 percent in 1910, and one percent in 1939 (or 3.5 acres per head according to the 1936 population figures provided below).

2.1.3 Principal modes of land alienation

The principal modes of land alienation were:

- purchases under the Native Land Acts; and
- some public works takings and old land claims.

2.1.4 Population

The population of district 2 was approximately 2000 to 3000 in 1840 (estimated figure), 1971 in 1891 (estimated from census data), and 2056 in 1936 (also estimated from census data).

2.2 Main Geographic Features Relevant to Habitation and Land Use

The boundaries of this research district encompass the entire Coromandel Peninsula, together with the Hauraki Plains southward to the Piako Swamp and bordered to the west by a line running south from Miranda and then eastwards to Waihi.

The Coromandel Peninsula is largely mountainous in nature and covered in rugged bush. Rights to mill kauri on Maori land had been arranged by lease prior to 1865.¹ Numerous harbours and bays dot the peninsula: Manaia, Te Kouma, and Coromandel Harbours and Colville Bay on the west coast; Waikawau and Kennedy Bays and Whangapoua, Whitianga, Tairua, Wharekawa, and Whangamata Har-

bours on the east coast. At the base of the Firth of Thames, the Hauraki Plains, where dairy farming predominates, stretch southward into the Piako Swamp. The Piako and Waihou Rivers drain from the swamp across the plains and into the Firth. As well as milling, both goldmining (which began in the early 1850s) and coalmining took place in this district.

2.3 Main Tribal Groupings

The following summary is drawn from a report prepared for the Crown Forestry Rental Trust, which provides a more detailed discussion of the Hauraki rohe and iwi.²

A mixed group of iwi occupied the Hauraki region prior to the seventeenth century: the Marutuahu confederacy, comprising Ngati Maru, Ngati Paoa, Ngati Tamatera, and Ngati Whanaunga; the 'original' peoples, such as Patukirikiri, Ngati Hei, Ngati Hako, Ngati Tara, and Ngati Koi; and incoming groups such as Ngati Pukenga, Ngati Porou, Ngati Rahiri, and Whakatohea.

The Ngapuhi raids in the early nineteenth century, along with other skirmishes between various iwi such as Marutuahu and Ngati Whatua, continually challenged tribal relations in the area. The arming of all tribes with muskets greatly exacerbated these tribal rifts immediately prior to the declaration of British sovereignty. The retreat of the Hauraki tribes to the interior and their subsequent expansion brought them into competition with Waikato tribes and Ngati Whatua for control of the shores of the southern gulf and greatly complicated claims of native tenure in the region.

2.4 Principal Modes of Land Alienation

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

After 1840, claims were lodged by private parties in respect of 53 transactions in the Hauraki district made between 1836 and 1840. 100,388 acres were originally claimed, of which 21,726 acres were surveyed. Of the amount surveyed, 14,602 acres were awarded to settler claimants, plus scrip in lieu of a further 4002 acres (the claim thereafter being taken over by the Crown) plus 48 acres of Crown surplus after grants were made to the settlers. Special mention should be made of the claims by McCaskill in the Thames area in 1839, which amounted to over 16,000 acres (as discussed below).

1. R Anderson, 'Hauraki Historical Overview Report', Hauraki claimant report (confidential working draft), July 1996, p 109
 2. Anderson

Figure 9: District 2 (Hauraki)

2.4.2 Pre-1865 Crown purchases

In April 1841, 30,000 acres at Mahurani were purchased from Ngati Paoa, Ngati Maru, Ngati Tamatera, and Ngati Whanaunga for £200, 400 blankets, and other goods. Also in 1841, the Crown purchased 6000 acres at Kohimarama (in the Auckland district) from 24 Ngati Paoa chiefs for £100 and assorted goods.

Only general information was available at the time of writing regarding other Crown purchases prior to 1865. From 1853 to 1855, McLean made a series of down-payments purporting to extinguish the interests of different persons in vaguely defined blocks in the Piako and Thames district. From 1857 to 1859, a series of deeds was signed for blocks on Coromandel Harbour, Mercury Bay, and Mercury Islands.³ For example, in November 1857, a deed was signed for Piako block (Turton deed no 398), with reserves made for Ngati Paoa's various claims in the district, which included eel fisheries. Also in 1857, the Patapata block, which adjoined the goldfield district, was purchased for £120 from Patukirikiri. Two other Waiiau blocks, Matakitaki and Papawhakanoho, were also acquired in the same year from Patukirikiri and Ngati Whanaunga respectively.

A further wave of purchases was subsequently effected from 1864 to 1865 at Mercury Island off Whitianga, at Pungapunga at Whangapoua, and on several blocks at Waiiau.⁴ Hauraki tribes had also been involved in transactions to the north-west of their rohe boundaries in the 1840s – in particular, the sale of Mahurangi, the Gulf Islands, Kohimarama, and Howick in Auckland (see ch 1).

2.4.3 Pre-emption waiver purchases

Pre-emption waiver purchases in the Hauraki district included 3500 acres purchased by Whitaker and Du Moulin at Great Barrier Island from Ngati Maru (disallowed in 1848 for a lack of survey, although Bell awarded 5463 acres in the late 1850s from a surveyed area of 28,608 acres, with the Crown claiming the difference); 850 acres purchased by Chisholm from Patukirikiri at Waiheke (formally disallowed, although the Crown assumed control of the land); 700 acres purchased by de Witte from Ngati Paoa with the consent of Patukirikiri at Waiheke (disallowed in 1848, although Bell awarded 280 acres in the late 1850s); 2550 acres purchased by Brigham from Ngati Maru and Ngati Paoa at Waiheke (compensated for in 1848 with debentures for £290); 900 acres purchased by Merrick from Ngati Paoa at Waiheke (disallowed in 1848, with 368 acres later granted by Bell); 600 acres acquired by McGregor from Ngati Tamatera at Coromandel (disallowed in 1848, with 93 acres later awarded by Bell); and 800 acres purchased by Peppercorne from Patukirikiri at Coromandel and Colleville (disallowed in 1848, but £125 compensation was paid at that time).

Further pre-emption waiver purchases in the district include: Chalmers at Thames (olc 147); Warbrick at Thames (olc 1245); Moores at Coromandel

3. Turton, *Deeds*, nos 292–304, 306–313

4. *Ibid*, nos 336–343

(olc 1257); McGregor at Cape Colville (olc 1259); and Oakes in the Taipoke block at Thames (olc 1286, Turton deed no 121/518, signed 20 October 1845).

2.4.4 Confiscation

In May 1865, an Order in Council brought the Tauranga district under the provisions of the New Zealand Settlements Act 1863 (see chapter 3 for confiscation boundaries). The boundaries of this confiscation block transected the interests of Hauraki Maori at Ngakuriwhare and Te Aroha. In September 1866, Hauraki hapu were paid for their interests in confiscated Tauranga lands. Ngati Hura received £100 for claims at Katikati and Te Aroha; Tawera, based at Manaia, received £500 for interests in lands extending from Katikati to Waimapu; Te Moananui received £600 for specific claims at Katikati and Aroha-auta; the Ngati Tumutumu hapu of Ngatimaru were given £500 for their interests in the block between Katikati and Te Puna; and £25 was paid for a claim on behalf of Ngati Whanaunga.

The central Waikato district, which was proclaimed forfeit in May 1865, also implicated Hauraki Maori interests, particularly in the East Wairoa block at the back of the Hunua Ranges. Hearings were held in the Compensation Court for East Wairoa in 1865, followed by Native Land Court hearings, which extinguished the rights of ‘rebel’ Maori north of the East Wairoa confiscation line and awarded certificates of title to ‘loyal’ Maori. In 1866, the interests of Maori on the eastern side of the Waikato River were brought by the Crown in a series of transactions described as ‘compensation’ rather than purchase.⁵

2.4.5 Purchases under the Native Lands Act (Crown and private as indicated)

(1) 1865–73

In December 1872, the Crown paid £1000 to a mixture of tribal groups and individuals to satisfy claims to land at Piako, in order to complete the purchase of this land. Subsequently, in late 1873 the purchase of 12 blocks totalling some 38,000 acres was reported, including Piako (19,500 acres); Waitoa (8000 acres); Hangawera (3680 acres); Mohonui (2580 acres); Te Nge (1070 acres); Otamatai; Te Hina; Te Hotu; Aronga; Waemaro; Te Awaroa; and Mangakahika.

By the end of 1873, the Government had purchased Hikutaia 2 and 3 (around 8000 acres) for £2065, and Whangamata 1, 3, and 5 for £5067. These blocks were endowed with valuable timber resources. Also in 1873, it was reported that the Government had purchased 17 blocks, together comprising some 96,000 acres, that had previously been subject to private timber leases, technically in breach of the Land Purchase Ordinance 1846. Down-payments had also been made on a further 17,000 acres also subject to timber leases.⁶

5. Whitaker to Colonial Secretary, 19 February 1866, and minutes, RBD, pp 42,858–42,859

6. AJHR, 1875, c-3, p 3; c-3a, p 2

By early 1873, the Crown had paid over £1350 to Maori grantees for their interests in some 600 acres of the foreshore blocks. A further £250 commission was paid to the son-in-law of chief Rapana for his part in the sale.

Between 20 March and 5 April 1872, an estimated £3064 was paid to members of Ngati Tamatera for land at Waikawau and Moehau (together comprising some 98,988 acres). Signatures on a deed dated 31 May 1872 (understood to be a preliminary agreement) indicated the conveyance of the freehold at Waikawau, excepting reserves at Te Puru and Waiomu. By March 1873, advances on both blocks had increased to just over £13,966. A second deed was signed in 1875, which stated that Ngati Tamatera conveyed the Waikawau block to the Crown for the sum of £8500. Following delays in the purchase (during a period in which the land was leased to the Government), the transaction was finalised in 1878 when the Native Land Court found in favour of Ngati Tamatera claimants. The whole block was subsequently vested in the Crown, except for 16 reserves totalling 5017 acres. With respect to the Moehau block, the transfer of interests to the Crown was advanced by a deed in December 1876 whereby certain Ngati Tamatera agreed to the alienation of 32,930 acres for £953 plus reserves. In September 1878, the Native Land Court awarded subdivisions in favour of Ngati Whanaunga and the Crown.⁷

(2) 1874–90

In September 1874, on behalf of ‘all’ their tribe 48 Ngati Paoa signed a deed that transferred to the Government their lands adjacent to the Piako and Waitoa Rivers (comprising an estimated 200,000 acres), as well as land on the west side of the Waihoa River (namely Thames) and some pieces of land at Waitakaouru and Pukorokoro, in return for £5400. The Government agreed to set aside an area for permanent residence and cultivation.⁸ The block was then proclaimed under negotiation, and by 1877 down-payments and credit amounting to £16,500 had accrued with Ngati Paoa and their kin Ngati Tai. Further developments were delayed until 1888, however, at which point the Government returned to the purchase of Piako, and further attempts were made to have the land pass through the court. In late 1889, it was proposed that 120,000 acres of the block (exclusive of the land promised to be returned to rebels) be set aside for the Crown in payment of debts accrued by Maori. Further negotiations followed as details regarding the amount of the debts and the identities of the debtors were debated. For their part, Ngati Paoa were largely anxious to settle the matter and admitted their debt to the Government, which the Government took to be a willingness to sell. The hapu offered the Government 45,000 acres in payment for the £11,776 received by them. The Government accepted this offer, and Piako went through the court in early May.

By 1877, £7000 had been paid to Hauraki tribes for their interests in land at Te Aroha (within the confiscation boundary in the Tauranga district) in addition to payments made to Ngati Haua and the Waikato tribe for their interests (see chapter 3 for a further discussion of these confiscated lands). Following protest by

7. Anderson, p 129

8. Ngati Paoa deed, 5 September 1874, nlp 81/167, in Piako special block ma 13/64 (b)

Ngati Rahiri regarding their unrecognised interests in the land, a special land court hearing granted 7500 acres to Ngati Rahiri at the Omahu end of the block. The following month, a deed was signed with Ngati Rahiri for 53,902 acres at Te Aroha in exchange for £2752.⁹

In 1880, all but the northern end of the Ohinemuri goldfield (comprising 73,231 acres) was brought before the Native Land Court and subsequently divided into 21 blocks: Ohinemuri 1 to 19 and Owharua 1 and 2. Following delays in determining the Crown's title in Ohinemuri (when it was revealed that some Maori had been overpaid for their interests and others had not received adequate compensation), the Crown's title was considered in 1882 and evidence was presented of the purchase of various interests in the goldfields by the Crown. Non-sellers (who were forced to define where their interests lay) had 7213 acres reserved for them, while Ngati Tamatera were awarded 3430 acres; Ngatikoi, 1170 acres; Uriwha, 793 acres; and Ngatitaharua, 147 acres. No restrictions were placed on the reserved lands. The total reserved area (including a further six inalienable reserves) comprised 6636 acres.

From 1880 to 1885, at least 8000 acres were purchased. Larger purchases included Ahuroa 1b (313 acres); Horete 3 (1459 acres); Ipu o Moehau (1245 acres); Ipu o Moehau 2 (605 acres); Iringa o Pirori 2 (240 acres); Kuaotunu 1b (1151 acres); Mangakirikiri 3 (409 acres); Moehau 3g (422 acres); Ohinemuri divisions (acreage unknown); Otautu 1 and 2 (176 acres); Te Tauti 2 (300 acres); Waihou West 1a (1211 acres); and Waihou West 2 (279 acres).

(3) 1891–1910

Although research was not available regarding purchases made between 1891 and 1910, calculations using maps reproduced in volume i of this report indicate that approximately a further 200,000 acres were alienated during this time from the Hauraki district.

(4) Post-1910

With respect to post-1910 purchases, the Hauraki research district fell within the Waikato–Maniapoto Maori Land Board district, which also included most of the Waikato district and parts of the Bay of Plenty and the King Country. Annual returns of alienations through the land boards do not specify block names, and an exhaustive search of all files would be necessary to establish which of the board's alienations fell within the Hauraki district. Calculations using maps reproduced in volume i, however, indicate that alienations under the Native Land Act 1909 in this district totalled approximately 88,200 acres between 1910 and 1939.

9. Anderson, p 131

2.4.6 Examples of land taken for public purposes

Some general projects in Hauraki which required the taking of Maori land for public purposes included the improvement of the navigation of the Waihou River, the construction of the road along the east bank of the river, and the railway to Ohinemuri, connecting Waikato and Tauranga. For a further discussion of public works policy and the law in general, see volume ii, chapter 11. The following are examples of public works identified in research:

- In 1898, just over two acres were taken from the Moehau block for the purposes of a road. The land taken was not under title derived from the Crown.
- In 1913, 40 acres were proclaimed in the *Gazette* as having been taken from the Moehau 2a block according to section 393 of the Native Land Act 1909.
- In 1928, over 80 acres of land were proclaimed as public roads in the Moehau and Waikanae blocks under sections 49 and 50 of the Native Land Amendment Act 1913.

2.5 Outcomes for Main Tribes in the Area

The heaviest land purchasing by the Crown in the Hauraki district was between 1870 and 1885. During this time, 400,000 acres were purchased by the Crown and 70,000 acres by private individuals.¹⁰ Robyn Anderson comments that:

Already by 1880 it was clear that the land was leaving the hands of Hauraki people at too fast a pace . . . The pace of alienation slowed temporarily. With the transfer of much of Ohinemuri, immediate interest in the Hauraki area declined . . . The respite was shortlived . . . A new wave of purchasing developed in the mid 1890s stimulated by the heavy debts accumulated in putting the first Piako blocks through the Land Court.¹¹

By 1939, Maori retained only about 7000 acres, or just one percent of the original district.

2.6 Examples of Treaty Issues Arising

2.6.1 Goldfields

Despite the fact that the Crown initially recognised the right of Hauraki Maori to retain their possession of land on which gold was found, as early as the 1850s pressure mounted from miners to open up this land. The Government consequently attempted to bring Hauraki land still under native title within the State's mining jurisdiction. Furthermore, it refused to relinquish control of land in Hauraki after mining activity had ceased, instead pursuing its freehold. Maori were paid an

10. Anderson, p 189

11. Ibid, pp 194–195

increasingly small percentage of the revenue from the mining on their land and, in most cases, also eventually lost the freehold of the land. For further discussion of goldmining policy and law, see volume ii, chapter 10.

Following the 1852 Coromandel (Patapata) agreement between Ngati Whanaunga, Ngati Paoa, Patukirikiri, and the Government, which opened up for mining purposes approximately 17 square miles of land belonging to the signatory tribes, Hauraki Maori made reasonable efforts to cooperate with the Government. According to Anderson, however, doubts soon arose among Maori as to whether the Government would honour its promises of paying for and protecting property. The extension of the goldfields remained the primary objective for the Government, despite the Patapata agreement and the Treaty of Waitangi.¹² In particular, transgressions on Te Matewaru territory were condoned by the Government, and some finds (often made without Maori knowledge) that indicated rich gold deposits on the eastern side of the peninsula were compensated for after the fact. The failure of the Coromandel goldfield, which petered out in mid-1854, was blamed by non-Maori on the insecurity of capital invested in lands that could be closed by Maori and the confinement of mining activity to the negotiated areas. This indicates the way in which public interest and Maori interest conflicted in respect of mining. There was also the problem that fields could be rushed by miners to the detriment of all concerned without appropriate collaboration between the Crown and Maori.

Over the next decade, the Crown began to acquire the holdings of signatory tribes to the 1852 agreement. For example, the Patukirikiri block, which adjoined the goldfield, was purchased in 1857 for £120. By 1862, it was clear that the sales were having a detrimental effect on Waiiau Maori (notably the purchases of the Matakiki and Pawhakanoho blocks in 1852), but purchases continued regardless.¹³ In particular, McLean was aware that Ngati Paoa based in Waiheke and Kawakawa Bay were falling deeply into debt by the late 1850s.¹⁴ Anderson comments that:

Ten years after the Patapata agreement, the Crown broke guarantees that lands would not be entered without the willing consent of right-holders and forced open lands which had been withheld by Ngati Tamatera from its jurisdiction.¹⁵

For example, declining hapu were encouraged to sell off their lands (even in the face of wider tribal opposition), although reserves were not considered necessary for individual hapu as much land remained to the tribe as a whole.¹⁶

Attempts frequently made by Maori to avail themselves of the Crown's active protection and at the same time increase their economic self-reliance by offering the Crown lease arrangements for land were largely rebuffed by the Government. For

12. Ibid, p 10

13. Turton to Minister Native Affairs, 12 September 1862, Coromandel resident magistrate outward letterbook, bacl a 208/634; Turton to Pollen, 17 June 1862, Coromandel commissioner of Crown lands outward letterbook, bacl a 208/688

14. McLean papers, mss 32, folder 9, diary notes, 6 January 1857

15. Anderson, p 12

16. See Hay to chief commissioner, 4 July 1861, in H H Turton (comp), *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington, 1883, c338

example, a proposal by Patene Puhata to allow the mining of 4 or 5 square miles of land was refused because the arrangement interfered with the ultimate acquisition of the land by the Crown.¹⁷ Furthermore, Drummond Hay (the land purchase officer for Hauraki) pursued the tactic of supporting minority sellers at the expense of majority non-sellers,¹⁸ and he accepted offers by minority sellers, especially where the majority of the tribe was opposed to the alienation of their territory.¹⁹

Although the Crown can argue that it had no *legal* obligation to acknowledge Maori Treaty rights in respect of gold-bearing land in Hauraki or elsewhere, in the 1850s and 1860s it in fact did so. The progressive diminution of Hauraki Maori rights over the land (and hence of rights in respect of gold mining), which the Crown had initially acknowledged, has elements of bad faith.

2.6.2 McCaskill's old land claim

A source of ongoing protest for Hauraki Maori has been the McCaskill claims at Hikutaia, which derive from the alleged purchase of four blocks of land in 1839: two at Hikutaia, one at Opukeko, and one at Ohinemuri. In the case of the first two blocks at Hikutaia, the relationship between the McCaskill brothers and the Maori residents of the land (who did not reside in the immediate vicinity of the claims) was initially harmonious, owing largely, perhaps, to the absence of a survey establishing the claim boundaries. When the McCaskill grants were eventually surveyed in 1851, however, Maori resistance to the boundaries of the purchase became evident. When the survey was attempted again in 1858, it was obstructed by Ngati Maru and Ngati Tamatera, who disputed the sale of land east of the Paiakau Ridge. Prior to this surveying, Maori had beseeched Commissioner Bell to settle the matter. Bell eventually arrived in February 1859. When Maori opposition became apparent, proceedings to investigate the claims under question were postponed until such time as McCaskill could produce evidence to support his claims. Bell, however, did not return to Hikutaia. Instead, Drummond Hay appeared before Bell in Auckland in 1862 and gave evidence that Maori opposition to the survey could be removed by the appropriate financial compensation.²⁰ Bell subsequently recommended that grants be reissued for the block south of Hikutaia (among others), on the basis of the evidence provided by Hay that there was no risk of disturbance by Maori in issuing the grant. Until the time the grants were reissued, Maori were under the impression that McCaskill had yet to produce evidence in support of his claim to South Hikutaia and that Bell would return to Hikutaia 'to complete his work and fulfil his promise'.²¹

As it was, the feeling among Maori that an injustice had been committed by the non-fulfilment of Bell's 1859 promises was enduring. Maori continued to deny

17. Chief commissioner to Governor, 5 June 1857, *Epitome*, c299

18. Anderson, p 21

19. Hay to chief commissioner, 29 October 1859, *Epitome*, c333

20. Hay to Bell, 14 May 1862, ma, 13/36, pt 4, NA Wellington

21. Mackay, 'Native Statements Respecting the Lands at Hikutaia Granted to Messrs McCaskill', 5 September 1866, olc 1/287, vol 1, NA Wellington

McCaskill access to timber on disputed lands and continued to correspond with various colonial officials. In a new form of resistance, Maori also took up continuous residence at Hikutaia. As the dispute escalated, acts of violence were perpetrated by both sides. The acquittal of Lachlan McCaskill following one particular incident, and his subsequent return to Hikutaia in 1872, brought renewed Maori protest, forcing McCaskill to sell his interests to Hawke's Bay settler Henry Alley (given that the Colonial Government had refused to buy out McCaskill's shares). Maori resistance continued. Finally, in 1879, the issue went to the Native Land Court, where Judge Henry Halse was sympathetic to the grievances raised by Maori in relation to Hikutaia, ruling that compensation should be paid to Maori (since the court was unable to rule on the validity of the grants themselves). While the exact nature of the settlement reached has yet to be thoroughly researched, it is clear that Bell's proceedings were not adequate to meet the situation.

2.6.3 Pre-1865 land transactions

Anderson identifies several questionable aspects of the Crown's early dealings in Hauraki. For example, she presents evidence that purchase commissioners took advantage of Crown pre-emption to pay Hauraki Maori as little as possible and to cheat them of the value of their sub-surface resources. For example, one purchase officer recommended that the Government give quick approval of a purchase before Maori could become aware of the quantities of coal existing within the land.²² Maori themselves came to see the payments as inadequate.

Only limited thought was given to the future of Hauraki tribes in the deeds signed in this period, with only one deed for Piako in 1853 making provision for 10 percent of the sale profits to be redirected back into Maori welfare. In addition, with the exception of Motutapere Island, very little provision was made for reserves. There were growing indications of stress at Hauraki by 1860. McLean himself was aware of the debt among Ngati Paoa in Waiheke and Kawakawa Bay by the late 1850s.²³ Turton, as the resident magistrate, had also noted the impact of sales in the district and had suggested that Maori in the region were in a 'declining state'.²⁴

In theory, land purchase officers were to await offers of sale, but in practice Drummond Hay pursued 'divide and rule' tactics in actively encouraging those indicating a willingness to sell. According to Anderson, he consciously operated on the basis of individual interests in Hauraki with a view to deliberately undermining tribal authority. Hay stated at one time:

the Natives were distinctly told that if any natives, however few, could prove a sound title to land that they wished to sell, the offer would be entertained; and that if

22. Preece to McLean, 8 July 1858, ms 32-516

23. McLean papers, mss 32, folder 9, diary notes, 6 January 1857

24. Turton to Minister of Native Affairs, 12 September 1862, Coromandel resident magistrate outward letterbook, bacl a 208/634; Turton to Pollen, 17 June 1862, Coromandel commissioner of Crown lands outward letterbook, bacl a 208/688

opposed by the tribe on no better grounds than that the land should not be sold, such opposition would carry no weight with it.²⁵

Instances are recorded where payments were made to claimants for land to which they did not hold exclusive title. For example, a down-payment to Te Urikaraka (of Ngatai) did not cause the immediate transfer of Maori interests in Piako but did work as a wedge when the Crown later called on Ngati Paoa to honour the debts of one hapu. Officials were also known to enter into arrangements with other Maori whose claims were known to be doubtful, while Maori were left out when payments were made for interests in the land, as in the case of Ngati Maru at Waiheke.²⁶

2.6.4 War and confiscation

Only a few sections of Hauraki were drawn into fighting against British troops when war broke out in Waikato. Those who remained in the district attempted to preserve their neutrality but suffered increasingly under the Government's campaigns. For example, a strict blockade imposed upon the whole coast between Maraetai Point and the River Thames to Cape Colville cut across tradelines established between Hauraki and Auckland tribes. One Crown official objected to this measure, insisting that the restrictions 'would be most severely felt by the Natives of Hauraki who have taken no part in the war – who have been frequently assured that if they remained quiet they would not be interfered with'.²⁷ Nevertheless, the blockade went ahead.

In appraising the confiscation of Hauraki lands, Anderson comments:

That the Hauraki interests were forfeit in these lands – or that they were forced to accept their loss and to take compensation instead – was unjust, more especially in light of the efforts of the majority to adhere to a peaceful and neutral position.²⁸

While there was the opportunity for the Compensation Court to sit and hear the claims of Hauraki Maori, this did not happen. Instead, Hauraki Maori only attended hearings for East Wairoa in May 1865 with awards made to Ngati Tai and Ngati Paoa claimants.²⁹ Following that hearing, Hauraki Maori were forced to deal with Mackay outside the court in his capacity as Civil Commissioner, in what Anderson has described as 'a compulsory sale of their interests within the lands declared as forfeited'.³⁰ Over the course of two months, Mackay acquired the interests of 'loyal' Ngati Paoa, Ngati Whanaunga, and Ngati Maru in a series of 'complex payments'³¹ totalling some £1475, the greatest portion of which (£1045) went to

25. Hay to chief commissioner, 4 July 1862, *Epitome*, p 338

26. Anderson, p 18

27. Shortland to Fox, 2 November 1863, ma 1/1 1863/342, RDB, vol 55, pp 21,153–21,160

28. Anderson, p 41

29. See RBD, pp 19,903–19,905

30. Anderson, p 48

31. *Ibid*, p 50

Ngati Paoa. For a general discussion of confiscation policy and legislation, see, volume ii, chapter 6.

2.6.5 The purchase of Ohinemuri

There appears to be some confusion over the pre-1865 payments made for Ohinemuri, the Government maintaining that these were for the complete alienation of the block, while Maori right-holders understood them to be for the opening up of the block for mining.

The MacCormick commission later stated that those least willing to sell Ohinemuri are likely to have been most unduly penalised by the transaction, noting that:

It is clear that all revenues from 1875 (the date of opening of the Goldfield) to 1882 (the date of completion of the purchase) were retained by the Government as a set-off against the £15,000 payment and no Goldfield revenues were distributed to the Natives. It is possible that some individual owners who sold later in the purchase negotiations did not participate in any part of the £15,000 payment, and in addition, did not receive any revenues.³²

2.6.6 Purchase of the foreshore

Hauraki Maori expressed a strong preference in the 1870s to lease foreshore blocks rather than to sell them outright, largely because of the limited amount of land remaining under their control.³³ This course of action was flatly denied to them, however, and Maori were advised to surrender their exclusive use of the foreshore in order to avoid conflict with the settler population.³⁴ Control of the foreshore had slipped from Maori control by the end of the decade. By 1885, the Government presumed that the question of the ownership of land below the high-water mark in Hauraki was covered by common law prescripts.³⁵ Concerns presented to the Government by Hauraki Maori were rejected on the grounds that Maori could not maintain any exclusive right to the foreshore.³⁶ For a further discussion, see volume ii, chapter 13.

2.6.7 Control of the rivers

In Hauraki, the Government undertook river ‘improvements’ along the Waihou and Ohinemuri Rivers to allow access for steamer traffic (under the Timber Floating Act 1873). Following protest from Maori, the clearing of snags in the Paeroa region was delayed until 1883, by which time even the most ardent opponents had weak-

32. Thames County petition, ‘Statement of the Facts and Circumstances Affecting the Ohinemuri Block’, ma 13/35(b), p 18

33. Puckey to Civil Commissioner, 17 August 1870, ma 1/16/1854

34. Pollen to McLean, 12 June 1871, ms 32 (508)

35. Anderson, pp 105–106

36. AJHR, 1885, g-1, pp 38, 40

ened in their stance. The subsequent loss of Maori traditional food traps was not considered a matter of significance by the Government, and no compensation was paid.

2.6.8 The impact of debt on Hauraki Maori

It was apparent that Mackay deliberately fostered debt among Ohinemuri and Piako right-holders by allowing them to run up credit, in order to secure leverage for Government purchases.³⁷ While the Government, in the early 1870s, checked the practice of land officers making advances against land before it had passed through the land court, in the case of the Ohinemuri and Piako blocks in particular, considerable debt had mounted against the land by this time, which constituted a considerable pressure upon Maori to sell. Under what was referred to as the 'raihana' system, Maori were given credit by the Crown on undefined interests on extensive tracts of territory, which had not necessarily passed through the court. Fairly small sums of money would be regularly paid out to Maori and would accrue over the years and culminate in a series of individual 'final payments' for land, at which time signatures would be attached to an incomplete deed.³⁸ Through this method, a debt of over £11,000 was listed against Ohinemuri by 1875. This is an example of a practice that was widespread across New Zealand at this time.

2.6.9 The loss of timber resources

The Crown generally insisted that timber on land was acquired when the land was purchased, without paying extra for it in the transaction. Maori did not always agree. Also, when kauri was removed from Ohinemuri block 20 without payment to the Maori right-holders, Maori protested to the Government.³⁹ While this grievance was partly resolved by the Government's payment of £150 for legal costs in bringing the case, nothing was done to satisfy similar instances of timber being removed without payment from other parts of Ohinemuri.

2.6.10 Public works

In 1885, Hauraki Maori complained to Ballance that the route of roads at best ignored Maori needs while respecting Pakeha interests and, at worst, took essential Maori land in order to avoid acquiring the land of European owners. The example of the Paeroa township was used, with the comments that:

The Council have determined to run a road right through the Native cultivations. The Maoris say 'No; it should not be so, because you take land from us that is valuable for cultivation.' The Council say, 'We want to do it in order to make the road straight.' Now there is a European block close to it; the road goes over it, but the road

37. Anderson, p 118

38. Ibid

39. Ibid, p 165

is bent, and the Council never attempted to straighten it; but over this Maori land they straighten it by taking it through the land.⁴⁰

For a general discussion of public works policy and law, see volume ii, chapter 11.

2.6.11 Post-1910 sales

A main concern about the post-1910 sales under the Maori land board is that the board's check on whether the board's Maori beneficial owners had sufficient other land or means was perfunctory in many cases. In addition, the meeting of 'assembled owners', which authorised sales by the boards under Part xviii of the Native Land Act 1909, commonly did not represent a majority (let alone a totality) of the beneficial owners, either by value or by number. Given the limited areas of land remaining in Maori hands and the burgeoning population, any alienations at this time must be regarded as likely to infringe the Crown's Treaty obligation of active protection.

2.7 Additional Reading

The following are recommended for additional reading:

A comprehensive report on the Hauraki district that is currently being prepared by Robyn Anderson for the Hauraki Maori Trust Board; and
Robyn Anderson, *Goldmining: Policy, Legislation, and Administration*, Waitangi Tribunal Rangahaua Whanui Series (first release), 1996.

40. AJHR, 1885, g-1, p 33