

## CHAPTER 6

# WAIKATO

### 6.1 Principal Data

#### 6.1.1 Estimated total land area for the district

The estimated total land area for district 6 (Waikato) is 2,387,034 acres.

#### 6.1.2 Total percentage of land in Maori ownership

The total percentage of land in Maori ownership in district 6 (as calculated from 1940 *Historical Atlas* maps held in the Alexander Turnbull Library) was 91 percent in 1860, 17 percent in 1890, 12 percent in 1910, and one percent in 1936 (or 5.3 acres per head according to the 1936 population figures provided below).

#### 6.1.3 Principal modes of land alienation

The principal modes of land alienation were:

- confiscation; and
- purchases under the Native Land Acts.

#### 6.1.4 Population

The population of district 6 was approximately 10,000 to 11,000 in 1840 (estimated figure), 2998 in 1891 (estimated from census data), and 6242 in 1936 (also estimated from census data).

### 6.2 Main Geographic Features Relevant to Habitation and Use

The boundaries of this research district run from Waiuku on the west coast across to Kaiawa on the Firth of Thames and then in a southerly direction along the edge of the Hauraki Plains before traversing the Piako Swamp to the east. The eastern boundary of the district follows the Kaimai Ranges, sweeps down to include Atiamuri and then continues westward towards the coast passing Arohena, Waikeria, Te Kawa, and Pirongia, hitting the west coast just south of the Aotea Harbour. As defined for the purposes of the Rangahaua Whanui project, the Waikato district encompasses all the territory of seven counties. These counties are, from north to

south, Manukau, Franklin, Waikato, Piako, Raglan, Waipa, and Matamata.<sup>1</sup> All or part of four major geographical regions are located within this district: the hills and plains to the north of the lower Waikato and Maungatawhiri Rivers up to the Manukau Harbour and Tamaki Strait; the Waikato and Waipa River valleys; the upper Hauraki Plains (from approximately Paeroa south to the Waikato River); and the western coast, including the harbours of Aotea and Raglan (Whaingaroa). Kawhia Harbour, although mainly within the King Country Rangahaua Whanui research district, has been discussed in the Waikato district as well, because of its importance to both districts.

These four regions have been referred to in this report as follows: South Auckland (Manukau Harbour to the Waikato River, including the Bombay Hills and Hunua Ranges); the Waikato claim area (the Waikato and Waipa Rivers and the lower Waikato lakes); eastern Waikato (the Piako and Waihou Rivers from the Kaimai Range to the east); and the western harbours (Mount Pirongia and the coastal hills and the Kawhia, Aotea, and Raglan–Whaingaroa Harbours).

### 6.3 Main Tribal Groupings

See section 7 of the Waikato Raupatu Claims Settlement Act 1995 for a list of the hapu of Waikato affected by the raupatu settlement and the boundaries of that settlement. Sections of Ngati Haua, Ngati Raukawa, and other tribes lie inside district 6, mainly to the east and south of the research district.

## 6.4 Principal Modes of Land Alienation

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

Claims relating to alleged purchases of Maori land made by Europeans before 15 January 1840 were placed before a succession of land claims commissioners during the 1840s and 1850s for investigation. Large amounts of land were claimed in the South Auckland area (particularly on the southern shores of Manukau Harbour) and on the Firth of Thames near the mouths of the Waihou and Piako Rivers. Lesser amounts were claimed on the Waikato and Waipa Rivers and around the Kawhia, Aotea, and Whaingaroa (Raglan) Harbours. The effect of these claims, however, appears to have been minimal outside the South Auckland region. Virtually all those filed either were withdrawn before a recommendation was made or were disallowed by the commissioners. Since very few claims were allowed, it is unlikely that (again, except in South Auckland) a significant amount of so-called ‘surplus land’ (constituting the difference between the amount sold by Maori in

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1. Boundaries as given in B Marshall and J Kelly, *Atlas of New Zealand Boundaries*, Auckland, University of Auckland, 1986, vol 1, map 1.5.7

Figure 13: District 6 (Waikato)

transactions later deemed to be valid by the Crown and that granted by the Crown to the European purchasers) reverted to Crown ownership.

**(1) *South Auckland***

A total of 18 claims relating to pre-Treaty purchases were investigated by the land claims commissioners in 1842 and 1843. The claims involved some 96,000 acres (largely within the Auckland Rangahaua Whanui research district, but bordering on the Waikato district), the greater part of which was within the poorly defined purchase made by William Fairburn between 1836 and 1839.<sup>2</sup> The commissioners recommended Crown grants totalling some 11,512 acres be made to the Church and Wesleyan Missionary Societies and a half-dozen individuals (some of whom were missionaries). By one count, the Crown acquired ‘not less than 71,512 acres’ of surplus lands in this region, largely within the Fairburn purchase.<sup>3</sup>

**(2) *Waikato claim area***

A total of 21 claims were made relating to purchases along the Waikato River and its principal tributary. They included one at the Waikato Heads, 10 along the Waikato River,<sup>4</sup> and 10 along the Waipa River.<sup>5</sup> The single Waikato Heads claim was for 80 acres and was made by the Church Missionary Society. The commissioners recommended an award be made, but it was not. The society finally received a grant of 168 acres in 1859.<sup>6</sup>

The ‘Waikato’ claims took in at least 21,835 acres.<sup>7</sup> A larger land area may have been involved, but additional research would be needed to ascertain this and to identify the location of awards. Most of the claims were withdrawn or disallowed. It appears that only 1977 acres were awarded by the first land claims commissioners as a result of Waikato claims. About half of this land went to Charles Marshall, a trader who had settled in the area in the early 1830s.<sup>8</sup>

The 10 ‘Waipa’ locality claims encompassed more than 80,000 acres. Only one of these claims was eventually accepted by the Crown. In 1862, Commissioner Bell awarded the Wesleyan Missionary Society 35 acres at Waipa.

**(3) *Western harbours***

A total of 28 claims to land around the harbours relating to pre-1840 purchases were filed with the land claims commissioners in the 1840s.<sup>9</sup> Of these, 20 related to

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2. Alan Ward states that the 74,512 acres of surplus lands represented 74 percent of the old land claims, pointing to about 96,000 acres as the total originally claimed: A Ward, ‘Pre-1840 Purchases’, in P Husbands and K Riddell, *The Alienation of South Auckland Lands*, Wellington, Waitangi Tribunal Research Series, 1993, no 9, p 10.

3. The figures are derived from Ward, pp 9–10. See also the map of old land claim purchases on page 12. It is not clear which version of the Fairburn purchase boundaries is shown here.

4. One of these, olc 257, also involved land in Taranaki.

5. olc 145–146, 410–413, 474, 500, 950, 1014

6. olc 685

7. olc 73, 147, 257, 320–325, 1018

8. His reminiscences, ‘Waikato Forty Years Ago’, were published as part of J H H St John, *Pakeha Rambles through Maori Lands*, Wellington, Robert Burnett, 1873.

Kawhia,<sup>10</sup> one to Kawhia and Aotea together,<sup>11</sup> and seven to Whaingaroa.<sup>12</sup> In the case of Kawhia, the claims involved a total of more than 71,574 acres of land,<sup>13</sup> but only two small claims were eventually upheld. The awards amounted to just 122 acres out of the 604 acres involved in these two claims.<sup>14</sup> Many of the other claims appear to have been made by large-scale speculators such as W C Wentworth of Sydney, and were based on alleged purchases made hurriedly in 1839 on the eve of British annexation.

In the case of Whaingaroa, claims involving more than 22,000 acres were submitted. Most, however, either were not followed up by the claimant or were disallowed by the commissioners. The only awards made were for two claims by the Wesleyan Missionary Society for a total of 250 acres. These were cancelled by Bell in 1862, and new grants totalling some 413 acres at Whaingaroa, Kawhia, and Aotea were made to the society at that time.<sup>15</sup>

#### (4) *Eastern Waikato*

A total of 36 claims were filed that related to the Piako district on the Hauraki Plains.<sup>16</sup> In the absence of a detailed mapping exercise, it is not at present known which, if any, of these encompassed the territory inland that was later included in Piako County. In any case, these 36 claims involved at least 295,670 acres of land. Many were not pursued by the claimants, and more were withdrawn or disallowed. Only two led to awards. In the case of W E Cormack, Commissioner Godfrey awarded 2560 acres in the 1840s (for 18,300 acres claimed), but no grant was actually issued. Bell later granted Cormack 3639 acres.<sup>17</sup> In the case of William Webster (and a number of others whose claims were derived from his), various awards were made at different times during the 1840s and 1850s, including one of 15,290 acres by Bell, but this case was not finally resolved until 1925.<sup>18</sup> It seems unlikely that any grants or surplus lands resulting from the Piako claims affected this portion of the Waikato district.

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9. Figures given here are based on an analysis of data in Bell's tables (AJHR, 1862, d-14), using the claim numbers employed in that report.

10. olc 244, 258–259, 263–266, 501–503, 506–509, 572, 581, 948, 1008, 1026, 1040

11. olc 260

12. olc 261–262, 504–505, 516, 946–947

13. olc 261–262, 504–505, 516, 946–947

14. The Wesleyan mission received four acres for four claimed (olc 948), and W Johnson was granted 118 acres 2 roods 27 perches in 1848 out of 600 acres claimed.

15. See olc 946

16. olc 28, 34–35, 37, 64, 141, 143–144, 164, 170, 195, 198, 245, 282, 286, 292–293, 295, 297–300, 351, 414–415, 459, 585, 630, 632, 726, 747, 762–763, 837, 961, 996. Two of these claims involved 'Piako and Thames'.

17. olc 143–144

18. See the useful summary in Jack Lee, *The Old Land Claims in New Zealand*, Kerikeri, Northland Historical Publications, 1993, pp 46–49. The Webster purchases caused a good deal of trouble for Crown purchase officers in the area in the 1850s: see the reports in AJHR, 1861, c-1, pp 138–140 (Thames and Coromandel district).

**(5) *Late claims investigated by Bell***

As part of his investigations of old land claims in the 1850s and 1860s, Bell dealt with a number of claims that had not previously been investigated. Six of the ‘new’ claims that Bell dealt with were in the Waikato district. Two related to Kawhia, neither of which led to an award,<sup>19</sup> and a similar fate befell a claim arising from an alleged purchase in the Matamata area.<sup>20</sup> Three other claims related to the Waikato claim area. Two were not successful, but the other, which affected an area since purchased by the Crown, reportedly led to a replacement grant at Waiheke.<sup>21</sup>

**6.4.2 Crown purchases before 1865**

The Crown sought to acquire Maori lands in the South Auckland area for European settlement from 1840 onwards. A large number of purchases were made, some of which overlapped old land claims. During the 1850s, concerted efforts were made to purchase lands around the western harbours, in the northern part of the Hauraki Plains, and along the Waikato River. These efforts met with mixed success, running into the King movement’s opposition to further sales of Maori land to the Crown.

**(1) *South Auckland***

During the 1840s and 1850s, the Crown purchased virtually all the land in the western half of the South Auckland region. According to one report, ‘By 1860 most of the flat, fertile land in the area – with the exception of a few reserves – had passed out of Maori hands.’<sup>22</sup> The Crown also acquired substantial amounts in the eastern half. By one estimate, its total acquisitions in South Auckland, through 73 recorded transactions, totalled in excess of 260,000 acres. The boundaries of purchases were in many cases not clearly defined or surveyed at the time of sale, however, leading to uncertainty as to boundaries and acreages.<sup>23</sup> It should be noted that many of the lands reserved for the owners at the time of these sales were later confiscated by the Crown in the 1860s.<sup>24</sup> It was these purchases, incidentally, which enabled Grey to build the all-weather Great South Road down to Waikato in 1862 without having to cross Maori-owned land. Gorst later described the construction of this road as rendering ‘the peaceful solution of the native difficulty, a sheer impossibility’.<sup>25</sup>

**(2) *Waikato claim area***

Between 1848 and 1865, the Crown purchased more than 70,000 acres in the Waikato and Waipa River valleys. (Some of this may have been located on the right

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19. olc 1314, 1353

20. olc 1356a

21. olc 1325, 1343, 1352. George Graham’s claim 1352 fell within the Crown’s Waiuku 1 purchase.

22. Husbands and Riddell, p 15. In the early 1850s the Crown’s intention was to purchase all the land north of the Waikato River if it could: see Colonial Secretary to Donald McLean, 26 April 1854, AJHR, 1861, c-1, p 105, no 1.

23. Husbands and Riddell, pp 15–16; p 24, map 3

24. Ibid, pp 43–44

25. Sir John Gorst, *The Maori King*, 2nd ed, K Sinclair (ed), Hamilton and Auckland, Paul’s Book Arcade, 1959, p 149

bank of the lower Waikato, so falling within the South Auckland region.) More than half the total acreage (44,000 acres) was acquired in two transactions in 1864.<sup>26</sup> The latter deeds were signed a short time before the Waikato confiscations were proclaimed but some considerable time after confiscations had been officially threatened.<sup>27</sup> The 1850s purchases were negotiated in an atmosphere of rising opposition to sales by the Waikato tribes. In 1853, a tapu was imposed on a district stretching from the Maungatawhiri Stream to the Firth of Thames, and the following year the Waikato chiefs placed one on ‘The whole of the South bank of the Waikato from Taupo [to the sea] and the North bank, from its confluence with the Whangamarino and up that river to its source’.<sup>28</sup> By 1856, Donald McLean was reporting that, although Crown purchasing was being extended ‘towards the Waikato and Waipa Districts’:

I expect it will be some considerable time before any extent of the interior portions of those districts will be alienated by the Natives, as it is with considerable reluctance they even dispose of the homesteads for the few Europeans who have for many years resided in that part of the interior.<sup>29</sup>

There is reason to suspect that some of the late-1850s transactions were of dubious validity. Writing in 1863, for example, John Gorst commented that:

There are several pieces of land in Lower Waikato which have been partly paid for, and are marked down on our maps as the property of Government, which friendly and loyal chiefs assert to be their property, and to have been fraudulently sold.<sup>30</sup>

All the land south of the Waikato River that had been purchased by the Crown was later included in the Waikato confiscation block. Part of the ‘western harbours’ region was also included in the Waikato claim area (see below).

### (3) *Western harbours*

Crown purchasing around Whaingaroa Harbour during the 1850s was extensive. An influx of European settlers was reported in 1856, and the European name

26. The 4000-acre ‘Awaroa and Otaua’ purchase of 20 May 1864 (td 420) and the 40,000-acre ‘Horotiu and Waipa’ purchase of 15 September 1864 (td 421).

27. In the Governor’s proclamations of 11 July 1863, issued on the eve of the invasion of Waikato, Grey warned the chiefs of Waikato that:

Those who wage war against Her Majesty, or remain in arms, threatening the lives of Her peaceable subjects, must take the consequences of their acts, and they must understand that they will forfeit the right to the possession of their lands guaranteed to them by the Treaty of Waitangi, which lands will be occupied by a population capable of protecting for the future the quiet and unoffending from the violence with which they are now so constantly threatened.

(AJHR, 1863, e-5, pp 5–6; RDB, vol 16, pp 6006-6007.) The first formal step towards the confiscation of Waikato land was taken with Grey’s proclamation of 17 December 1864.

28. See report from J G Johnson to Donald McLean, 6 October 1854, AJHR, 1861, c-1, pp 105–106, no 8

29. Report of 21 April 1856 in H H Turton (ed), *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington, Government Printer, 1883, vol 1, pp 54–55, no 53

30. Gorst, p 32

'Raglan' was officially attached to the area in 1858.<sup>31</sup> Deeds and receipts suggest that more than 75,000 acres were acquired here in the period 1850 to 1858.<sup>32</sup> The rate and pattern of Crown purchasing appears to be similar to that in South Auckland. Another 80,000-acre block was purchased by the Crown at Whaingaroa in September 1864, shortly before the confiscations were proclaimed but after the threat to take land had been made.<sup>33</sup> Since the northern half of this area was included in the Waikato confiscation block, the specific location of all these purchases, and the effect of the confiscation on them, needs to be ascertained.

The Crown made efforts to purchase lands around the two southern harbours during the 1850s but with much less success than at Whaingaroa. It appears that one small purchase was made at Aotea in 1854,<sup>34</sup> but the amount of land is not given in the deed. Two Crown purchases were made at Kawhia in 1854 and 1857, involving a total of 12,000 acres.<sup>35</sup> It should be noted here that later maps seem to show no Crown lands in the neighbourhood of Kawhia Harbour, which at this point lay well inside the boundaries of the Rohe Potae.<sup>36</sup>

#### (4) *Eastern Waikato*

Although the Crown expended a good deal of effort on attempts at further purchasing in the lower Hauraki Plains during the 1850s, little or no land further inland (within what later became Piako County) appears to have been acquired by the Crown before 1865. Reporting to Donald McLean in 1861, District Commissioner G W Drummond Hay noted that:

The land for thirty-five miles south of the mouths of the Waihou and Piako rivers, bounded on the west by the wooded range between the Piako and the Waikato, on the east by the coast line . . . is the only portion of the [Thames and Piako] district at present available for land purchase. The land lying to the south of this tract of country is in the hands of tribes who are thoroughly opposed to the sale of land.<sup>37</sup>

Further investigation is required to ascertain the effect of Crown purchasing on the inland portion of the Hauraki Plains during this period.

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31. See Turton, *Epitome*, vol 1, p 54, no 53, 'Report of 21 April 1856'; p 58, no 57, 'Notice of 2 March 1858'

32. See td 431–445 and receipts 119–132

33. The 'Waitetuna and Waipa' purchase of 17 September 1864 (td 446)

34. 'Aotea' deed dated 6 June 1854, td 448. One hundred pounds was paid for an amount of land that is not specified.

35. The Harihari 1 and 2 purchases of 4 July 1854 and 10 August 1857 (td 450–451). Two receipts worth a total of £69 are recorded for 1854 (nos 133–134), one relating to an old land claim, along with one 1854 deed of gift (no 5) involving 160 acres.

36. See, for example, 'Map of the North Island, New Zealand, Shewing the Land Tenure, June 30th 1884', AJHR, 1884, vol 2, c-1, and also Waitangi Tribunal, *The Pouakani Report 1993*, Wellington, Brooker's Ltd, 1993, p 97, map 7.1

37. General report of 4 July 1861, AJHR, 1861, c-1, pp 145–146. Drummond Hay noted that, of approximately 600,000 acres within his district, the native title to some 108,500 acres had been extinguished. Some 15,000 acres of this were old land claims, and 39,500 acres had been acquired by the Crown since 1856.

### 6.4.3 Pre-emption waiver purchases

As part of his investigations in the 1850s and 1860s, F D Bell also dealt with claims arising from the waiver of the Crown's pre-emptive rights by Governor FitzRoy in 1844 and 1845, under the so-called '10 shillings-an-acre' and 'penny-an-acre' proclamations of 1844. Two of the pre-emption waiver claims that Bell dealt with were in the Waikato claim area. One was for 80 acres and involved land on the Waikato River, and the other, for 42 acres, was located on the Waipa River. The former was disallowed. The latter claim, made by James Wallis, was included in Bell's revised settlement of the Wesleyan Missionary Society's claims.<sup>38</sup>

A larger number of pre-emption waiver purchases were made in South Auckland – some 26 claims in all. Of these, 20 (involving nine separate transactions) eventually led to Crown grants. Although only 2140 acres were granted to the purchasers, between 15,000 and 17,000 acres of land were taken by the Crown as surplus land.<sup>39</sup>

### 6.4.4 Confiscations

Following the fighting of 1863 and 1864, large quantities of land within the Waikato claim area were confiscated by the Crown under the terms of the New Zealand Settlements Act 1863. As noted above, all claims relating to confiscations within the Waikato claim area defined in the Waikato Raupatu Claims Settlement Act 1995 will not be discussed further here. Claims relating to the South Auckland confiscations north of the Waikato River have not been settled. The East Wairoa block (see chapter 2 for Hauraki interests in this land) is under consideration and was not included in the Act.

### 6.4.5 Purchases under the Native Lands Act (Crown and private), 1865–1900

The Native Lands Act 1865 permitted the purchase of land from Maori by private persons, as well as by the Crown, after titles had been determined by the new Native Land Court. By this point in time, the only part of the Waikato district where large quantities of land remained in Maori hands was the eastern Waikato region. By the mid-1880s, the greater part of it had been sold, mainly to private purchasers.

#### (1) *Western harbours*

Two purchases were apparently made by the Crown in the 1870s. One involved a 15,047-acre block in the Whaingaroa–Raglan area,<sup>40</sup> the other a small block of 566 acres in the parish of Pirongia at Aotea in 1875.<sup>41</sup> No evidence concerning private purchases has been located, but it would appear that no land south of Aotea was sold or leased to Europeans before the turn of the century.<sup>42</sup>

38. See olc 1264, 1297

39. Husbands and Riddell, pp 34–35. Map 4 on page 33 shows seven 'pre-emption waiver purchases'. It is not clear exactly what is being portrayed.

40. Ngaitamainu block, 16 July 1874 (td 447)

41. Lot 327, 4 June 1875 (td 449)

**(2) *Eastern Waikato***

Starting in the mid-1860s, substantial amounts of land began to be sold on the Hauraki Plains within the northern edge of the Waikato district, to the east of the Waikato confiscation block. Purchasers soon shifted their attentions southwards, culminating in the massive acquisitions in the Patetere block in the early 1880s.

In the period 1866 to 1883, Joseph C Firth, an Auckland businessman, acquired more than 50,000 acres in what later became the northern part of Matamata County for an outlay of less than £12,000. Firth's strategy was reportedly to tie up the desired land in long-term leases before titles had been determined by the Native Land Court, taking advantage of his good relations with Wiremu Tamihana of Ngati Haua and making use of the expert services of former Crown purchase officers such as Drummond Hay and John Wilson. Firth would then exploit the owners' growing debts to gradually secure the freehold title to the land piecemeal.<sup>43</sup>

Other Auckland businessmen and speculators were also active in the area (as they were on an even larger scale in confiscated lands across the aukati line, the boundary of the Waikato confiscation block, to the west). Several acquired large blocks in the Morrinsville area. The Morrin brothers reportedly purchased some 40,000 acres in the period 1873 to 1877 for an average of 3s 3d per acre. Like Firth, they made use of experienced former land purchase officers such as E T Brissenden. One W I Taylor bought another 20,000 acres during this period, and other substantial purchases were made by J Walker, James and Joseph Bell, and J McDonald.<sup>44</sup> Although private purchasers predominated, the Crown also bought four blocks of land in the Piako district late in 1872. These blocks encompassed a total of 56,000 acres.<sup>45</sup>

The purchases in the northern part of the region described above evidently involved lands for which the owners had been determined by the Native Land Court before the Native Land Act 1873 came into effect. Other such lands may have been affected, but no further information is at present available. A parliamentary paper lists 88 sales 'otherwise than to the Crown' in the period 1876 to 1883 for lands in the eastern Waikato region whose owners had been determined after the 1873 Act came into effect. The following table summarises the acreages sold, distinguishing between the northern and southern portions of the eastern Waikato region.<sup>46</sup> This analysis indicates that the bulk of the purchasing prior to 1880 involved lands in the northern part of the region. Thereafter, the emphasis switched to the south, as the

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42. See map in AJHR, 1891, vol 2, g-10

43. See R C J Stone, *Makers of Fortune: A Colonial Business Community and its Fall*, Auckland, Auckland University Press and Oxford University Press, 1973, pp 141–143, and the map of his estate on page 133. See also M P K Sorrenson, 'The Purchase of Maori Lands, 1865–1892', MA thesis, Auckland, 1955, p 43.

44. Stone, pp 132–133; see also Sorrenson, p 43

45. The blocks were Waitoa; Te Hotu; Piako, Mohonui, and Te Hina; and Waemaro (td 401–403).

46. 'Dealings with Native Lands', AJHR, 1883, g-6. The return lists all lands that had passed through the Native Land Court under the 1873 Act and that 'have been alienated otherwise than to the Crown'. All are purchases. Using the 'locality' of the block given for each transaction, the 'Thames and Coromandel Districts' list has been reduced to one of blocks, which are probably located within the counties of Piako and Matamata (the eastern Waikato region). See the attached lists.

lands in the huge 'Patetere' block were taken through the Native Land Court and were sold by the persons named as owners.

The original Patetere block consisted, in essence, of all but a northern strip of what later became Matamata County.<sup>47</sup> A report is available that outlines the lengthy and convoluted process that led to the large-scale sales of the early 1880s.<sup>48</sup> The process involved a series of private negotiations for the lease or purchase of these lands. The negotiations were punctuated by two Government proclamations, one each in 1874 and 1878, forbidding private activities where the Government held interests in the lands in question. (These interests, for the most part, were privately negotiated leases that had then been acquired by the Crown.) Following a politically inspired accommodation between the Government and private speculators, most of Patetere was passed through the Native Land Court in 1881. The court defined the Government's interests in the same year. It received the Huihuitaha and Pokaiwhenua blocks, together with part of the Te Tokoroa block, as its share, a total of 28,260 acres.<sup>49</sup> As the table shows, at least 229,649 acres of Maori land in this area were sold to private individuals between 1881 and 1883.

By the mid-1880s, a substantial portion of the Maori lands in the eastern Waikato and western harbours regions had been sold after being passed through the Native Land Court. Contemporary land tenure maps indicate that most of the balance was leased to Europeans at this point in time.<sup>50</sup> It is unlikely that any substantial amount of land in the Waikato claim area that was not already confiscated was sold before end of the century.

#### 6.4.6 Purchases under the Native Lands Act (Crown and private) after 1900

The Royal Commission on Native Lands and Native Land Tenure (better known as the Stout–Ngata commission) spent a good deal of time in the Waikato district. Six of the seven counties in the district were dealt with in their reports.<sup>51</sup> Stout and Ngata dealt with a total of 207,079 acres of Maori land, of which some 59,415 acres (28.7 percent) were already under lease. They concluded that fully 57.4 percent of the remainder (118,890 acres) should be set aside for the 'use and occupation of Maoris' under Part ii of the Native Land Settlement Act 1907. Only 28,774 acres in the whole district were considered to be 'not required for occupation by the Maori owners'. Of these, the commissioners recommended that 13,807 acres be leased,

47. Sorrenson, p 138, and the map in AJHR, 1881, g-13f, p 18. This shows some of the survey blocks within Patetere.

48. Brian Gilling, 'The Purchase of the Patetere Block, 1873–1881: An Exploratory Report', report to the Waitangi Tribunal on behalf of Ngati Mahana, November 1992

49. *Ibid*, p 60

50. See AJHR, 1884, c-1, which shows that only a scattering of small blocks in the eastern Waikato region remained unalienated at 30 June 1884. It should be noted that the redrawn version of this map in *The Pouakani Report 1993* (map 5.2, p 77) shows as 'private purchases' lands that, on the original, were purchased and leased by private individuals.

51. AJHR, 1909, g-1 (Piako); 1909, g-1a (Manukau and Waikato); 1909, g-1b (Raglan). Waipa County in the south was omitted, for reasons unknown. At that time, Franklin County was part of Manukau County, and Matamata was part of Piako.

## 6.4.6

## National Overview

leaving just 14,967 acres, which were considered to be surplus to requirements and available for sale to Europeans.<sup>52</sup>

County	Already leased	For lease or sale	For Maori occupation	Total
Manukau (and Franklin)	8514	8316	22,538	39,368
Waikato	4929	4495	2522	11,946
Raglan	17,639	15,663	66,704	100,006
Piako and Matamata	28,333	300	27,126	55,759
Waipa	—	—	—	—
Total	59,415	28,774	118,890	207,079

## Stout–Ngata commission recommendations by county

The commissioners concluded their report on Manukau and Waikato with the comment that:

The lands now held by the Waikato and kindred tribes are but a remnant of the lands they once possessed. Most of the tribal land was confiscated, and much has since been sold. The area left, considering the number of people and the quality of much of the land, is not very large.<sup>53</sup>

If the figure of 207,079 acres includes all or most of the Maori freehold land in the Waikato district in 1909, the total represents less than one-tenth of the 2.7 million acres in the district. All the rest had been sold to the Crown or private individuals or confiscated by the Crown in the seven decades since 1840. Under the provisions, 28,774 acres of land were earmarked for sale and lease, but not all the recommendations of the Stout–Ngata commission were actually implemented.<sup>54</sup> The amount of land vested in the Waikato–Maniapoto Maori Land Board under Part i of the 1907 Act (later Part xiv of The Native Land Act 1909) may thus have been less than this total, and therefore the amount liable for sale may have been less than the 14,967 acres supposedly earmarked.

More than 200,000 acres of land were vested in the Waikato–Maniapoto Maori Land Board, which covered the King Country as well as Waikato.<sup>55</sup> More than 80,000 acres of this land had been sold by the board by 1930. During the period 1911 to 1930, another 146,144 acres of Maori freehold land in the Waikato–

52. The proceeds from a portion of the lands for sale were to be held in trust to form a fund for the purchase of lands at Ngaruawahia and Taupiri.

53. AJHR, 1909, g-1a, p 2

54. See D M Loveridge, *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900–1952*, Waitangi Tribunal Rangahaua Whanui Series, 1996, p 78

55. Some 203,530 acres had been vested under Part xiv by 31 March 1911: see Loveridge, p 113.

Year	Vested lands	Part xviii (to Crown)	Part xviii (private)	Confirmations	Total
1911–12	13,564	0	16,221	48,804	78,589
1912–13	21,870	852	17,748	46,893	87,363
1913–14	13,572	0	7805	39,769	61,146
1914–15	1119	6278	26,370	60,213	93,980
1915–16	958	4785	14,857	29,165	49,765
1916–17	20,141	250	7631	35,566	63,588
1917–18	1450	0	9757	24,597	35,804
1918–19	4733	0	4760	14,227	23,720
1919–20	0	0	4248	31,016	35,264
1920–21	1838	0	9573	27,212	38,623
1921–22	3233	0	2638	14,149	20,020
1922–23	0	0	2913	7212	10,125
1923–24	0	0	387	3999	4386
1924–25	0	825	2686	2391	5902
1925–26	0	793	339	6811	7943
1926–27	385	197	2013	4412	7007
1927–28	0	0	38	7666	7704
1928–29	0	0	281	5682	5963
1929–30	0	0	1899	8751	10,650
Totals	82,863	13,980	132,164	418,535	647,542

Sales of land by and through the Waikato–Maniapoto Maori Land Board, 1911–30.  
Source: AJHR, 1912–31, g-9. See Loveridge, pt ii.

Maniapoto Maori land district were sold through the board under the provisions of Part xviii of the 1909 Act, and the board approved privately negotiated sales of some 418,535 acres.<sup>56</sup> It is probable that most of this land was in the King Country, but research will be needed to identify the locations and quantity of lands in the Waikato district that were affected. Even a few thousand acres would have constituted a significant portion of the lands that remained in Maori hands at the turn of the century.

56. Lands with more than 10 owners had to be dealt with under Part xviii, while lands with fewer than 10 had to have private alienations confirmed by the boards.

### 6.4.7 Land takings for public purposes

No data are available on land takings for public purposes, although the usual takings for roading, railways, and various local body purposes would have applied. For a further discussion, see volume ii, chapter 11.

## 6.5 Outcomes for Main Tribes in the Area

All the tribes in the Waikato district lost the greater part of their lands in the half century following 1840. The principal mechanisms of land loss were as follows:

- (a) *In South Auckland*: old land claims and pre-1865 Crown purchases, with confiscation stripping away most of what was left.
- (b) *In the western harbours*: pre-1865 Crown purchases and confiscations (in the northern half of the region).
- (c) *In the Waikato claim area*: confiscation.
- (d) *In eastern Waikato*: private and Crown purchases under the Native Land Acts of 1865 to 1885.

## 6.6 Treaty Issues Arising

Extensive historical research is required into all aspects of land alienation in the Waikato district. The following appraisal is exceedingly tentative.

### 6.6.1 Old land claims

It seems clear that there were serious problems with the way the Crown dealt with some of the old land claims in the South Auckland region. In particular, its failure to ensure that the terms of the original Fairburn sale were fulfilled, and one-third of the land returned to the original owners, appears to have been a serious breach of the Treaty.<sup>57</sup> Serious questions have also been raised about the amount of surplus land taken as a result of the pre-emption waiver claims, and the Crown's failure to provide reserves.<sup>58</sup> The claims in the Waikato district for which awards were made would need to be closely examined to ascertain the validity of the Land Claims Commission's findings.

An appraisal of larger issues concerning the adequacy of the various investigations of old land claims by the Crown has been made in the report of the Waitangi Tribunal in the *Muriwhenua Land Report* (see also volume ii, chapter 2 of this report).<sup>59</sup>

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57. See Ward, pp 13–14

58. Husbands and Riddell, pp 35–37

59. Waitangi Tribunal, *Muriwhenua Land Report*, Wellington, GP Publications, 1997

### 6.6.2 Pre-1865 Crown purchases

The circumstances in which all of the Crown purchases in the Waikato district were made need to be ascertained, along with the prices paid and the reserves created. Purchases in the South Auckland region appear to have excessive, in terms of future Maori requirements, but the adequacy of reserves needs to be considered before any conclusion can be reached. This conclusion, however, will necessarily be affected by the loss of many of these reserves by an act of confiscation that was clearly unjustified (see below).

The aggressive purchasing strategy that the Crown apparently pursued in this area during the 1850s also requires a close and thorough examination. Concerted and continuing efforts were made to buy Maori lands in South Auckland, in the Waikato valley, on the west coast, and in the lower Hauraki Plains. This effort was sustained despite the clearly expressed opposition of many Waikato (and other) chiefs – an opposition given shape and direction by the King movement. The preamble to the Waikato Raupatu Claims Settlement Act 1995 points out that:

The New Zealand Government at the time perceived the Kiingitanga as a challenge to the Queen's sovereignty and as a hindrance to Government land purchase policies, and did not agree to any role for, or formal relationship with, the Kiingitanga.

There can be little doubt that the Crown's refusal to ease off on its purchasing efforts and come to terms with the Kingitanga was one of the principal causes of the build-up of tensions that led to war in South Auckland and Waikato in 1863.

Lands purchased by the Crown during 1840 to 1865 in the Waikato claim area (including part of the Raglan area) and parts of South Auckland were later included in the confiscations. The Waikato Raupatu Claims Settlement Act defines the 'Raupatu claims' settled thereby as including 'all claims arising out of, or relating to, the Raupatu or any aspect of the Raupatu'. It is not obvious that this definition encompasses grievances relating to the manner in which purchases were made between 1840 and 1865 in the Waikato claim area by the Crown, should any such grievances be identified.

### 6.6.3 South Auckland confiscations

After the Waikato war of 1863 and 1864, the Crown confiscated approximately 1.2 million acres of Maori land in a continuous block south of the Waikato River under the New Zealand Settlements Act 1863.<sup>60</sup> This encompassed all of what later became Waikato County and large portions of northern Raglan County and north-western Waipa County. In May 1995, the Crown reached a settlement with the hapu of Waikato that were affected by these actions. The settlement was ratified by the Waikato Raupatu Claims Settlement Act 1995, in which the Crown acknowl-

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60. See recital f of the preamble to the Waikato Raupatu Claims Settlement Act 1995. Approximately one-quarter of the confiscated land was returned to Maori ownership, 'but not under customary title and generally not to those who had fought for the Kingitanga'.

edged that the invasion of Waikato in 1863 had constituted a breach of the Treaty of Waitangi. In point 1 of section 6, the Crown expressed:

its profound regret and apologises unreservedly for the loss of lives because of the hostilities arising from its invasion, and at the devastation of property and social life which resulted.

In point 3 of section 6, it acknowledged that:

the subsequent confiscations of land and resources under the New Zealand Settlements Act 1863 of the New Zealand Parliament were wrongful, have caused Waikato to the present time to suffer feelings in relation to their lost lands akin to those of orphans, and have had a crippling impact on the welfare, economy, and development of Waikato.

This Act defined ‘raupatu’ as taking in ‘the confiscation of land in the Waikato claim area’,<sup>61</sup> and including ‘the related invasion, hostilities, war, loss of life, destruction of taonga and property, and consequent suffering, distress, and deprivation’. The ‘raupatu claims’ were defined in section 8(1) as meaning ‘all claims arising out of, or relating to, the Raupatu or any aspect of the Raupatu’, and included ‘all claims arising from the loss of land and of interests in land in the Waikato claim area by confiscation’, ‘all claims to coal, other minerals, and forests within the Waikato claim area’, and a number of specific claims already filed with the Waitangi Tribunal.<sup>62</sup> The settlement of these claims effected by the deed of settlement of May 1995 was deemed to be final: no court or tribunal is able to inquire into or make any finding or recommendation in respect of the raupatu claims, the deed of settlement, or the benefits provided to Waikato under the deed or the Act (s 9).

The raupatu claims do not include any claims by Waikato with regard to rivers and harbours within the Waikato rohe – specifically, those relating to the Waikato River and the harbours on the west coast – or claims relating to the confiscations north of the Waikato River. Also excluded are claims ‘by individual hapu of Waikato to non-Raupatu land outside the Waikato claim area’, and a number of specific claims already filed with the Waitangi Tribunal (s 8(2)).<sup>63</sup> The effect of the 1995 Act within the Waikato district, therefore, is that claims within the ‘Waikato claim area’ that do not relate to raupatu, including river and harbour claims, have not been settled. Claims relating to South Auckland, the upper Hauraki Plains, and the western coast south of the aukati line are not affected by the 1995 Act.

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61. Defined by a map provided as attachment 1 to the deed of settlement of May 1995.

62. The specific claims identified are Wai 306, Wai 494, Wai 530, and Wai 537.

63. The specific claims identified are Wai 185, Wai 100, Wai 373 (and other claims by the Hauraki Maori Trust Board, past and future), Wai 454, Wai 495, and Wai 349.

#### 6.6.4 Purchases under the Native Lands Act, 1865–1900

Many Maori in the eastern Waikato region had been strongly opposed to sales of land during the 1850s. Opposition to sales continued (in various forms) into the 1870s and 1880s.<sup>64</sup> For this reason alone, until further evidence is available it would be prudent to treat as open the question of whether all the private and Crown purchases made in this region during the period 1865 to 1883 were carried out in a manner that fully protected the owners' Treaty rights under article 2. The extinguishment of customary tenure under the Native Land Acts, and the substitution of a list of owners with individual rights of alienation, undermined the control exercised by hapu over the disposition and disposal of land. After 1865, sales commonly proceeded in a piecemeal fashion through a series of partitions. In the case of Patetere, important parts of the sale process took place behind closed doors, as the Government and private interests negotiated over various issues. Gilling has concluded from this that the 'Maori owners were obviously excluded to some extent from the dealings which closely affected the sale of their own [Patetere] lands'.<sup>65</sup> Major issues on which further information is required include:

- the adequacy of the amounts that were actually received by Maori owners for their land;
- the extent to which reserves were set aside in the course of the eastern Waikato sales and, in general, the adequacy of the lands remaining to the owners after the sales; and
- the role that the Native Land Court played in the alienation of lands in the eastern Waikato region.<sup>66</sup>

#### 6.6.5 Purchases under the Native Lands Act after 1900

The extent of sales made under the Native Lands Act after 1900 has yet to be ascertained. In view of the amount of land that had already been purchased or taken from Maori of the Waikato district during the nineteenth century, it is difficult to see – as Stout's and Ngata's comments in 1909 indicate – how any further sales would have been justified. If any took place, the Crown's involvement in promoting sales through the 1907 and 1909 Acts will require very close scrutiny. The lack of assistance given to Maori of the Waikato district, until the 1920s and 1930s, for the agricultural development of their remaining lands is also an issue that needs to be considered.

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64. The murder of a farm-hand near Cambridge in 1873 is a well-known example (see Gilling, p 6), but see also C W Vennell et al (comps), *Centennial History of Matamata Plains*, Matamata County Council, 1951, pp 111–117, for one example of ongoing resistance to 'progress'.

65. Gilling, p 91

66. With respect to Patetere, Gilling has concluded that this 'generally deserves detailed scrutiny', with particular reference to the question of whether the court acted 'as a rubber stamp for the Government or against its statutory duties to fairly ascertain the correct ownership of the lands involved' (p 93).

**6.7 Additional Reading**

Although the amount of secondary source material relating to Waikato and surrounding areas is of course very substantial,<sup>67</sup> relatively little of a detailed nature has been written about the alienation of Maori lands in this part of the North Island. Research on Treaty claims relating to this area is also in short supply. The Waikato–Tainui Settlement of 1995 was not based on an extensive programme of historical research by the claimants, the Crown, and the Waitangi Tribunal similar to those carried out (for example) for the Ngai Tahu and Muriwhenua land claims. Claims research relating to the South Auckland and eastern Waikato regions is, in essence, confined to one major report each, both of which are exploratory and summary in nature and necessarily raise more questions than they answer.<sup>68</sup> A good deal of work remains to be done on all the matters touched upon here.

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67. See especially R C Hallett and A P U Millett (comps), *Bibliography of the Waikato Region*, Hamilton, University of Waikato Library, 1988

68. See respectively Husbands and Riddell, and Gilling