

Muriwhenua Old Land Claims

12 September 2025

Commissioned for the Waitangi Tribunal
Renewed Muriwhenua Land Inquiry (Wai 45)

Barry Rigby and Calum Swears

RECEIVED Waitangi Tribunal
12 Sep 25
Ministry of Justice WELLINGTON

About the Authors

Barry Rigby:

Dr Barry Rigby is a Senior Researcher/Analyst in the Waitangi Tribunal Unit's Research Services Team. He has worked across a number of roles in the Waitangi Tribunal Unit since 1989. Together with John Koning he completed the first research report of the Muriwhenua Land Inquiry, *Toitu Te Whenua E: Only the land remains, constant and enduring*. He has written extensively for the Muriwhenua Land Inquiry including: 'The Mangonui Area and The Taemaro Claim' (Wai 45, doc A21), 'The Oruru Area and The Muriwhenua Claim' (Wai 45, doc C1), 'Empire on the Cheap' (Wai 45, doc F8), and 'A Question of Extinguishment' (Wai 45, doc F9). He was the principal author of the Auckland District, and the Old Land Claims Rangahaua Whanui reports in 1996-1997. He has subsequently produced Old Land Claims and Crown purchase reports for other Waitangi Tribunal inquiries, including *Te Paparahi o Te Raki*. He received his PhD in History and International Relations in 1978 from Duke University where he was a James B Duke Commonwealth Fellow. His thesis was entitled 'American expansion in the Pacific and Caribbean Islands 1865-1877'.

Calum Swears:

Calum Swears is a Researcher/Analyst in the Waitangi Tribunal Unit's Research Services Team where he has worked for two and a half years. In that time he has supported research for the Waitangi Tribunal's North Eastern Bay of Plenty (Wai 1750), Housing Policy and Services (Wai 2750), and *Te Rau o Te Tika: The Justice System* (Wai 3060) inquiries. He obtained an MA in History from Te Whare Wananga o Waikato. His thesis, which he completed in 2022, was entitled 'The Waikato Invasion 1863-1864: A counter-insurgency approach'. He had previously completed his undergraduate degree in Defence and Security Studies at Massey University in 2019.

Acknowledgements

We would like to thank Muriwhenua claimants, particularly those who participated in the research hui for this report (held in Taipā on 16 February 2024), those who took us on site visits within their rohe, and those who helped identify deed signers and their affiliations. Their insights and information were invaluable and greatly appreciated.

We have appreciated valuable correspondence with Tina Latimer, Ben Leonard, Professor Margaret Mutu, Ian Palmer, Tarewa Rota, and Nathan Williams.

We also acknowledge the following local informants who have communicated with us: Charles Adamson, Roger Dennison, Atihana Johns, Hariata Edwards, the late Rawiri Henare, Sandra Heihei, Owen Kingi, Roger Kingi, Rangitane Marsden, Adrienne Puckey, Arthur Rickit, Steve Schwarz, Robyn Tauroa, Tiger Tukariri, and Leah Wright.

We are grateful to Evald Subasic (WTU Research Services Team Manager) and Dr Therese Crocker (Principal Research Analyst) for their guidance and insight. We would like to thank, Esther McGill (Senior Researcher/Analyst), Dr Megan Mulder (Senior Researcher/Analyst) and Kate Jordan (Researcher/Analyst) for their vital support throughout. We are exceptionally grateful to Maia Berryman-Kamp (Research Assistant) for her sterling commitment, effort, and support throughout this process. We wish to thank the wider Research Services Team, unnamed but not unappreciated. We also wish to thank Janine Bedford at Jacobs for providing the mapping for this report and Tama Hata for providing translation where required.

Table of Contents

About the Authors.....	1
Acknowledgements.....	2
Table of Contents	3
Table of Figures	10
General Introduction.....	12
I. Report structure	12
II. Joint authorship	13
III. Sources and methodology	13
IV. The Renewed Muriwhenua inquiry district	14
V. The Iwi of Muriwhenua	16
VI. Nōpera Panakareao and Pororua Wharekauri	19
VII. Historical context: the Crown’s legal framework	21
VIII. The Crown’s validity test for assessing claims.....	23
IX. Old Land Claim component parts	25
X. Transactions and purchases	26
XI. The relationship between Old Land Claims and Crown purchases	26
XII. Financial constraints of Crown investigations	30
XIII. Western and Customary ownership defined.....	32
XIV. A mapped landscape	34
Table of Old Land Claims.....	40
Surplus land calculations.....	41
Crown grant information.....	42
Blocks and Transactions	48
1.1 Introduction	48

1.2	Block narratives	49
1.2.1	CMS-Kaitaia OLC 675	49
1.2.2	Puckey-Pukepoto and Ohotu OLC 774-775	51
1.2.3	J Matthews-Otararau, Waiokai & Parapara OLC 328-329.....	54
1.2.4	Richard Matthews-Warau & Matako OLC 330.....	60
1.2.5	James Davis-Mangatete OLC 160.....	62
1.2.6	Samuel Ford-Ōruru & Okiore OLC 704-705.....	64
1.2.7	Henry Southee & William Maxwell-Awanui & Otaki OLC 875-877	67
1.2.8	George Stephenson-Ruatorara OLC 1294.....	73
1.2.9	William Potter-Kaimaumu OLC 382	75
1.2.10	John Smith-Awanui OLC 1375	76
1.2.11	Walter Brodie-Kauhoeoe OLC 570.....	78
1.2.12	John Ryder-Maheatai OLC 1025.....	80
1.2.13	William Murphy-Oparera OLC 847-849	81
1.2.14	Stephen Wrathall-Tanepurapura OLC 851-856	82
1.2.15	James Berghan-Oruati & Taipā East OLC 558-566	83
1.2.16	James & Joseph Berghan-Muritoki OLC 1362.....	85
1.2.17	Thomas Ryan-Waiaua OLC 403-407	87
1.2.18	J Lloyd & J Duffus-Waiaua & Hihi OLC 458	89
1.2.19	William Butler-Waitetoki & Oneti OLC 913-914	91
1.2.20	G Thomas & T Phillips-Kaiwhetu & Oneti OLC 617-623.....	94
1.2.21	Clement Partridge-Oneti OLC 889-893	95
1.2.22	Hibernia Smyth-Mangōnui OLC 887-888.....	97
1.3	Taylor's Muriwhenua North transaction.....	99
1.3.1	A special trust	99
1.3.2	Deed documentation.....	100
1.3.3	Treaty context.....	101

1.3.4	Godfrey report and 1844 Crown grant.....	102
1.3.5	Kapowairua and Mangōnui East grants 1851-1853.....	103
1.3.6	Kapowairua visit 1866.....	103
1.3.7	‘Muriwhenua’ grant within surrounding surplus land.....	104
1.3.8	Yates-Jones alienation 1873.....	105
1.3.9	Kapowairua/Muriwhenua petitions 1974-1975	105
1.3.10	Muriwhenua Land Tribunal findings 1997 and subsequent settlement legislation 106	
1.4	Old Land Claim survey plans and Grants	107
1.4.1	Mapping Old Land Claims	107
1.4.2	FitzRoy’s survey waiver.....	111
1.4.3	Bell’s surveyed grants	113
1.4.4	Muriwhenua Crown grants	114
1.4.5	Crown purchase overlaps.....	115
1.5	Missionary versus Sawyer Claims.....	116
1.5.1	Introduction.....	116
1.5.2	Panakareao’s missionaries.....	116
1.5.3	Grey and missionary claimants	117
1.5.4	Panakareao’s alliance	118
1.5.5	Trust arrangements.....	119
1.5.6	Panakareao and sawyer claimants.....	121
1.5.7	Sawyer claimants	122
1.6	The relationship of Old Land Claims to Crown purchases	124
1.6.1	Introduction.....	124
1.6.2	Auckland Roll Plan 16.....	124
	Crown inquiries into Old Land Claims.....	126
2.1	1840-1841 Crown Mangōnui ‘purchases’	126

2.1.1	Introduction.....	126
2.1.2	Te Tiriti o Waitangi origins.....	126
2.1.3	Prelude to purchase	127
2.1.4	Clarke's 'interests' distinction.....	128
2.1.5	Pororua's 1841 sequel.....	128
2.1.6	Godfrey and the purchases.....	129
2.1.7	Clarke's vain Mangōnui intervention	130
2.2	The origins of surplus and scrip land.....	130
2.2.1	Statutory limits and surveys.....	130
2.2.2	Kaitaia protest February 1843.....	131
2.2.3	Stanley's imperial instructions	131
2.2.4	FitzRoy's colonial discretion	132
2.2.5	Clarke and Brodie's opposition.....	132
2.2.6	Scrip land.....	133
2.2.7	Mangōnui scrip offers	134
2.2.8	Unsound scrip land premises	134
2.3	Godfrey's suspended inquiry	134
2.3.1	Mangōnui declaration 11 January 1843.....	134
2.3.2	Kaitaia declaration 10 February 1843.....	135
2.3.3	Godfrey's scrip recommendations	135
2.3.4	Godfrey's acreage calculations	136
2.3.5	The scrip land aftermath.....	138
2.4	Grey's intervention.....	138
2.4.1	Grey and Mangōnui.....	138
2.4.2	Waikiekie purchase 1850.....	139
2.4.3	Extending extinguishment.....	139
2.5	Bell's connection strategy.....	140

2.5.1	Introduction.....	140
2.5.2	WH Clarke’s assistance	141
2.5.3	Hokianga scrip surveys.....	141
2.5.4	WB White’s assistance.....	142
2.5.5	Sandhills dispute.....	142
2.5.6	Bell’s ‘magic arithmetic’.....	143
2.5.7	Settling Mangōnui East.....	145
2.5.8	Unfulfilled connection	146
2.5.9	Bell on recovery of surplus and scrip land	147
2.5.10	Curnin’s 1880s recovery exercise.....	148
2.5.11	Judge Acheson’s advocacy.....	149
2.6	1946-1948 Myers Commission inquiry	151
2.6.1	Introduction.....	151
2.6.2	Commission staff.....	151
2.6.3	Taemaro-Whakaangi petition files.....	151
2.6.4	Plan illustrating overlapping areas	152
2.6.5	Dismissal of oral and local evidence	154
2.6.6	Myers Commission findings.....	155
2.6.7	Aftermath to the Myers inquiry	155
	Māori Understandings of the claims process.....	158
3.1	Introduction	158
3.2	Process, what process?	159
3.3	Inadequate deed evidence	159
3.3.1	English deeds.....	160
3.3.2	Lost or missing deeds.....	160
3.4	Tuku Whenua	161
3.5	Evidence of Māori engagement with the claims process	162

3.5.1	OLC file contents	162
3.5.2	Joseph Matthews Otararau-Waiokai	163
3.5.3	Joseph Matthews Parapara and Walter Brodie Kauhoehoe	164
3.5.4	James Berghan Oruaiti-Mangōnui East.....	165
3.5.5	Henry Southee and William Maxwell Awanui-Otaki.....	168
3.5.6	James and Joseph Berghan Jr Muritoki.....	170
3.6	1840-43 Ōruru-Mangōnui conflicts.....	174
3.6.1	Summary of events	175
3.6.2	Customary clash at Mangōnui.....	177
3.6.3	Panakareao and Pororua	179
3.6.4	Aftermath	180
3.6.5	Māori and White	181
3.6.6	Māori and Bell	184
3.6.7	Māori and European settlement	186
3.7	Northern Minute Books and petition evidence.....	187
3.7.1	Limitations of Minute Book and petition evidence	187
3.7.2	Minute Book evidence	189
3.7.3	Petition evidence.....	191
3.8	Summary	198
	Affiliations of Deed Signers and Crown Investigations.....	200
4.1	Introduction	200
4.2	Limitations in identifying transaction signers	201
4.3	Methodology for identifying Māori signers and their iwi/hapū affiliations	204
4.3.1	Panakareao	206
4.3.2	Pororua.....	209
4.3.3	Te Ururoa.....	211
4.4	European conceptions of Te Rarawa, Ngāpuhi, and Ngāti Kahu	213

4.5	White and the Rangatira.....	218
4.6	Reihana Kiriwi and the Church Missionary Society.....	222
4.7	Crown conceptions of customary land rights and OLC investigations	226
4.7.1	1838 and 1840 Select Committees and Crown understandings of Māori land rights 226	
4.7.2	1844 Select Committees and Crown conceptions of Māori land rights	229
4.7.3	Chief Protector of Aborigines George Clarke’s conceptions.....	229
4.8	Crown investigations of iwi and hapū affiliations	231
4.8.1	Godfrey and the inquiries	231
4.8.2	Grey’s Quieting Titles Ordinance 1849.....	234
4.8.3	Later Crown perception of Māori land rights.....	236
4.9	Summary.....	239
	Did Crown legislation, policies and practices safeguard Māori land interests?.....	241
5.1	Alienation assumptions and outcomes	241
5.2	Subordination of customary concepts.....	244
5.3	Inadequate reserves inadequately protected.....	245
	Conclusion	250
	Bibliography.....	255
	Appendix A: Commission	272
	Appendix B: Iwi-hapū affiliations of deed signers.....	276

Table of Figures

Figure 1: Renewed Muriwhenua Land inquiry district, 2022.....	15
Figure 2: Overlapping Areas of Iwi Interest.....	18
Figure 3: Muriwhenua 1865.....	27
Figure 4: Central Muriwhenua 1865.....	28
Figure 5: Auckland Roll Plan 16 1863	29
Figure 6: Awanui-Kaitaia	36
Figure 7: Mangatete-Parapara-Taipā	37
Figure 8: Mangōnui East.....	38
Figure 9: Auckland Roll Plan Revised 1865.....	39
Figure 10: Myers Commission Whakaangi-Taemaro Plan.....	40
Figure 11: Table of Old Land Claims	42
Figure 12: Kaitaia-Kerekere.....	49
Figure 13: Pukepoto	51
Figure 14: Otararau-Waiokai	54
Figure 15: Parapara	56
Figure 16: Warau Matako.....	60
Figure 17: Mangatete	62
Figure 18: Okiore-Awanui-Otaki.....	67
Figure 19: Ruatorara	73
Figure 20: Kauhoehoe.....	78
Figure 21: Taipā.....	80
Figure 22: Oruaiti-Muritoki.....	85
Figure 23: Mangōnui-Northeast	91
Figure 24: Taylor Transaction	99
Figure 25: Muriwhenua Old Land Claim Surveys.....	107

Figure 26: William Bertram White: c1870	181
Figure 27: Francis Dillon Bell: undated	184
Figure 28: Example Signature Condition Muritoki Deed	202
Figure 29: Example Signature Condition Muritoki Deed	202
Figure 30: Panakareao Otaki deed signature.....	206
Figure 31: Panakareao Warau deed signature	207
Figure 32: Panakareao Mark He Whakaputanga	207
Figure 33: Pororua's reproduced Oneti deed signature	209
Figure 34: Pororua Mangōnui deed signature.....	209
Figure 35: Pororua Oneti deed signature	210
Figure 36: Te Ururoa's Reproduced Mark Muritoki deed.....	212
Figure 37: Te Ururoa's Mark Muritoki gift deed	212
Figure 38: Te Ururoa's Mark He Whakaputanga 1835.....	212
Figure 39: Godfrey's final report on OLC 1/875-877.....	232

General Introduction

In this general introduction for the entire report we, firstly, set out its basic structure. Each chapter of our report attempts to answer one of the five questions the Tribunal asked us in our 2024 research commission. We state how we as joint authors divided the five chapters before briefly outlining our principal sources and methodology. We then describe the shape of the inquiry district prescribed in 2022 by the Renewed Muriwhenua Tribunal. We follow this with an introduction to Muriwhenua iwi, and to the two leading rangatira, Nōpera Panakareao and Pororua Wharekauri.

We begin our discussion of Crown inquiries into Old Land Claims by outlining the official formula designed to establish the validity of claims. We then provide a preliminary glossary of the terms used to define the components parts of Old Land Claims. We explain how we distinguish between ‘transactions’ and ‘purchases’ before stating how Old Land Claims relate to adjacent Crown purchases. We discuss the colonial financial limitations that hampered Crown claims inquiries. To conclude our general introduction, we contrast western and customary ownership assumptions implicit in our research commission question about ‘original’ and ‘correct’ ownership.

I. Report structure

We have organised the five chapters of this report in accordance with what the Renewed Muriwhenua Tribunal proposed as our focus in its January 2024 research directions.

The Tribunal’s 8 January 2024 Memorandum-Directions commissioning research directed the co-authors of this report to examine Muriwhenua ‘lands acquired by non-Māori’ prior to February 1840. Later during the nineteenth and twentieth centuries the Crown investigated what came to be referred to as Old Land Claims arising from pre-1840 transactions. Our commission includes an examination of these Crown inquiries. In accordance with our research commission, this report ‘will provide an update and add further detail on earlier research’ that informed the Tribunal’s 1997 Muriwhenua Land Report.

The Tribunal’s 2024 Old Land Claims research commission requested special attention be paid to the following five matters which we focus on in our five chapters:

- a) the details of lands identified and investigated by the Crown as Old Land Claims;
- b) the nature and extent of any Crown inquiries into these land claims (the specific ways in which the land claims were assessed) and any findings they made, including about ‘surplus’ or ‘scrip’ land;
- c) any evidence (in the documentary record) about Māori understanding of the old land claims process, including their intentions, expectations and experience (including any opposition, such as petitions);
- d) the iwi and hapū affiliations of the original landowners, and any efforts made by Crown agents in subsequent investigations and inquiries to identify the correct owners; and
- e) whether and to what extent Crown legislation, policies and practices at the time considered, monitored, and safeguarded Māori land interests.¹

The first ‘Transactions and Blocks’ chapter proceeds geographically from claims in the west (Awanui-Kaitaia) to claims in the east (Mangōnui). Chapters two, three, four, and five adopt a partly chronological and partly thematic pattern. Chapter five brings together the main themes woven throughout the previous chapters.

II. Joint authorship

As a jointly commissioned report, Barry Rigby wrote chapters one, two, and most of chapter five. Calum Swears wrote chapters three and four. We both contributed to this general introduction, and to the final conclusion (at the end of chapter five).

III. Sources and methodology

While we have used the voluminous official Old Land Claim files as our main primary sources throughout our report, we have paid particular attention to the original survey plans from which the Crown allocated the component parts of Old Land Claims. With the assistance of our cartographer’s skilfully executed maps, we have traced how the Crown transformed Muriwhenua land ownership. These maps illustrate our 23 block narratives. We have listed both the survey and the land title sources for these maps in two tables. The first appears as Figure 11: Table of Old Land Claims (at p 42), and the second as Figure 25: Muriwhenua Old Land Claim Surveys (at p 107).

¹ Memorandum-Directions commissioning research, 8 Jan 2024, para 3, Wai 45, #2.922

This reconstruction of how the Crown transformed Muriwhenua land ownership requires a disclaimer about the accuracy of acreage figures. Prior to the 1880s surveyors in Muriwhenua operated without the benefit of modern triangulation. Triangulation required trig stations to allow the precise geo-referencing of surveys. A British survey expert in 1875 described the 3.3 million acres surveyed prior to that date in Auckland province as insufficiently accurate to ‘be accepted as parts of a [connected] cadastral survey’.² Consequently, we have to accept a degree of inaccuracy in the acreage figures listed in our tables. As historians we must use the best available information available to us, with all its limitations.³

IV. The Renewed Muriwhenua inquiry district

The renewed Muriwhenua Tribunal in its December 2022 directions ‘decided to adopt the same district boundary as the original Muriwhenua Land Inquiry with one minor variation’. That variation sought consistency between the southern Muriwhenua Maungataniwha boundary and the adjacent northern Te Paparahi o Te Raki boundary in the same location.⁴ Figure 1 below marks the adjusted 2022 southern boundary of the Renewed Muriwhenua Land inquiry boundary with a broken red line.

Within this inquiry district we calculate that, on the basis of the pre-1840 transactions we examined, the Crown granted predominantly Pākehā claimants over 27,000 acres, and it acquired for itself approximately 27,457 acres of ‘surplus land’ within surveyed, but ungranted, claim areas. These figures exceed the Waitangi Tribunal’s 1997 estimates, mainly because we have been able to conduct a more exhaustive search of all the relevant survey sources than the hard-pressed 1990s researchers were able to conduct.

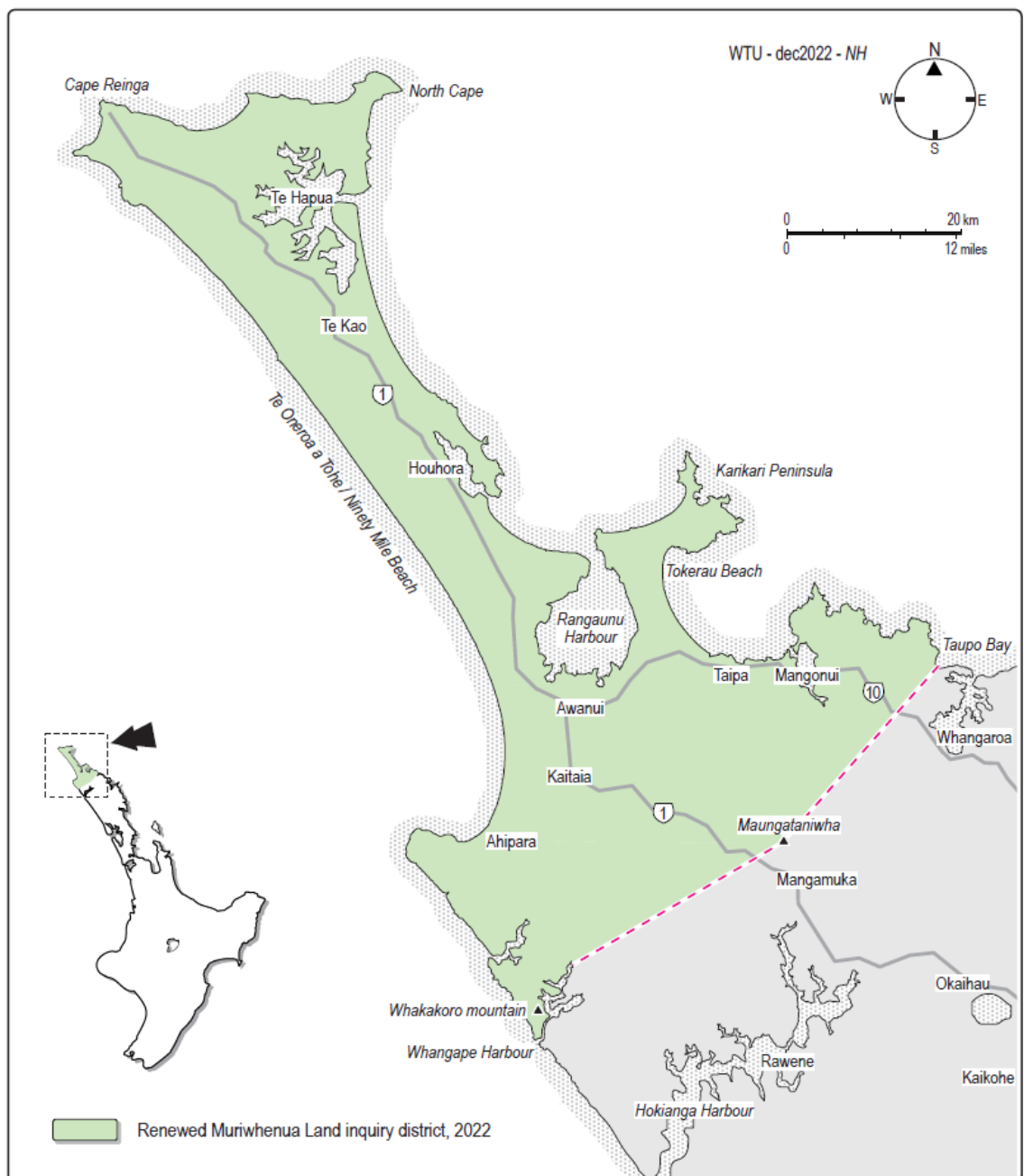
We have illustrated with several maps how the Crown allocated Muriwhenua land as a result of its Old Land Claim inquiries after 1840, and as a result of concurrent Crown purchases. In the remainder of this general introduction we will set out the most tangible outcomes of these inquiries.

² Major HS Palmer to Col Sec, 5 Apr 1875, AJHR 1875, H-1, p 32

³ The first colonial Inspector of Surveys recognised these limitations but failed to correct them. Theophilus Heale to Col Sec, 7 Mar 1871, AJHR 1871, A-2a, p 19

⁴ Memorandum-Directions of Judge CM Wainwright concerning research, 22 Dec 2022, para 4, Wai 45, #2.891

Figure 1: Renewed Muriwhenua Land inquiry district, 2022



(Judge CM Wainwright Memorandum Wai 45, #2.891, 2022)

⁵ Memorandum-Directions of Judge CM Wainwright concerning research, 22 Dec 2022, para 4, Wai 45, #2.891

V. The Iwi of Muriwhenua

The iwi of Muriwhenua mainly trace their descent to the waka Kurahaupo, Takitimu and Mamari. The iwi of these three waka were Ngāti Kaharoa, Ngāti Kahu and Te Rarawa. Ngāti Kaharoa in turn served as the foundation of Ngāti Kuri, Aupouri and Ngai Takoto.⁶ This was laid out in the evidence of the late Rev Maori Marsden and recognised in Professor Evelyn Stokes' 1997 review of the evidence.⁷ Ngāpuhi have also held some historical presence in Muriwhenua.⁸ Marsden and Stokes both stressed the intertwined connections of the iwi and their associated hapū.⁹ Marsden described them as 'inextricably intertwined'.¹⁰ This extends to the hapū of their respective iwi, which can share simultaneous connections to more than one iwi. As noted by the Waitangi Tribunal's 1997 report, the definition of hapū has developed over time, and that the early nineteenth century understanding of a 'tribe' was a 'hapū'.¹¹ The delineation between contemporary understandings of iwi and hapū is also not always definitive. In the case of Te Paatu they are defined as a hapū of Ngāti Kahu, a hapū of Te Rarawa and as their own independent iwi depending on source.¹² Marsden observed in his evidence that 'In Pakeha eyes this may appear to make distortions', an issue that will appear later in this report.¹³

In the broadest terms, Ngāti Kuri gravitates towards the Far North of Muriwhenua.¹⁴ Ngai Takoto and Te Aupouri are both associated with the Awanui and Parengarenga areas.¹⁵ Te Rarawa draw to the West towards Ahipara and Kaitaia.¹⁶ The Ngāti Kahu core area is in the vicinity of Doubtless Bay.¹⁷ The Ngāpuhi presence was generally limited to the south of the

⁶ Maori Marsden, Tuku whenua brief, 1992, Wai 45, doc F25, p 2

⁷ Marsden Tuku, whenua, pp 2-10; Evelyn Stokes, *A Review of The Evidence in The Muriwhenua Lands Claims: Volume I* (Wellington: GP Publications, 1997), p 12; Appendix 2 of the 1988 Muriwhenua Fishing report also examined the iwi-hapū affiliations and inter-relationships. Waitangi Tribunal, *Muriwhenua Fishing Report*, (Wellington: GP Publications, 1988), pp 255-263

⁸ Waitangi Tribunal, Muriwhenua Land report 1997, pp 36-40

⁹ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 14

¹⁰ Marsden, Tuku whenua, p 3

¹¹ Waitangi Tribunal, Muriwhenua Land report 1997, p 14

¹² Margaret Mutu et.al., *Ngāti Kahu: Portrait of a Sovereign Nation*, (Wellington: Huia Publishers), 2017, p 91; Edwards, Tuku whenua, pp 1-3; Dorothy Ulrich Cloher, *The Tribes of Muriwhenua: Their Origins and Stories* (Auckland: Auckland University Press, 2002), p 100

¹³ Marsden, Tuku whenua, p 3

¹⁴ Marsden, Tuku whenua, p 2; Cloher, Tribes of Muriwhenua, p XX; Te Puni Kōkiri, 'Te Tai Tokerau'. Available <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 9 September 2025

¹⁵ Marsden, Tuku whenua, p 2; Cloher, Tribes of Muriwhenua, p XX; Te Puni Kōkiri, 'Te Tai Tokerau'. Available <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 9 September 2025

¹⁶ Marsden, Tuku whenua, p 2; Cloher, Tribes of Muriwhenua, p XX; Te Puni Kōkiri, 'Te Tai Tokerau'. Available <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 9 September 2025

¹⁷ Marsden, Tuku whenua, p 2; Cloher, Tribes of Muriwhenua, p XX; Te Puni Kōkiri, 'Te Tai Tokerau'. Available <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 9 September 2025

Muriwhenua Inquiry district.¹⁸ However, these dispositions should be only considered as a general guide. The Waitangi Tribunal's 1997 Muriwhenua Land report observed that, 'traditionally hapū defined themselves by genealogical descent and only coincidentally by the occupation of land.'¹⁹

During the nineteenth century colonial officials habitually described all Muriwhenua groups as Te Rarawa, just as they described all groups further south as Ngāpuhi. In so doing they generally conflated iwi with old confederations. Te Rarawa functioned as a Panakareao-led confederation during his lifetime. The five iwi that launched Te Rūnanga o Muriwhenua in 1986 all belonged to the nineteenth century Te Rarawa confederation. Similarly, the Ngāpuhi Kowhao Rau pepeha (Ngāpuhi of a Hundred Holes) described an old confederation, rather than a modern iwi.²⁰ Thus, when Resident Magistrate WB White used the term Te Rarawa to describe all Muriwhenua groups, he merely repeated old confederation terminology.

In contrast to nineteenth century iwi confederations, Ngatikahu ki Whangaroa recently asserted its autonomy from neighbouring groups. Ngatikahu ki Whangaroa in 2015 negotiated its own Treaty settlement with the Crown.²¹

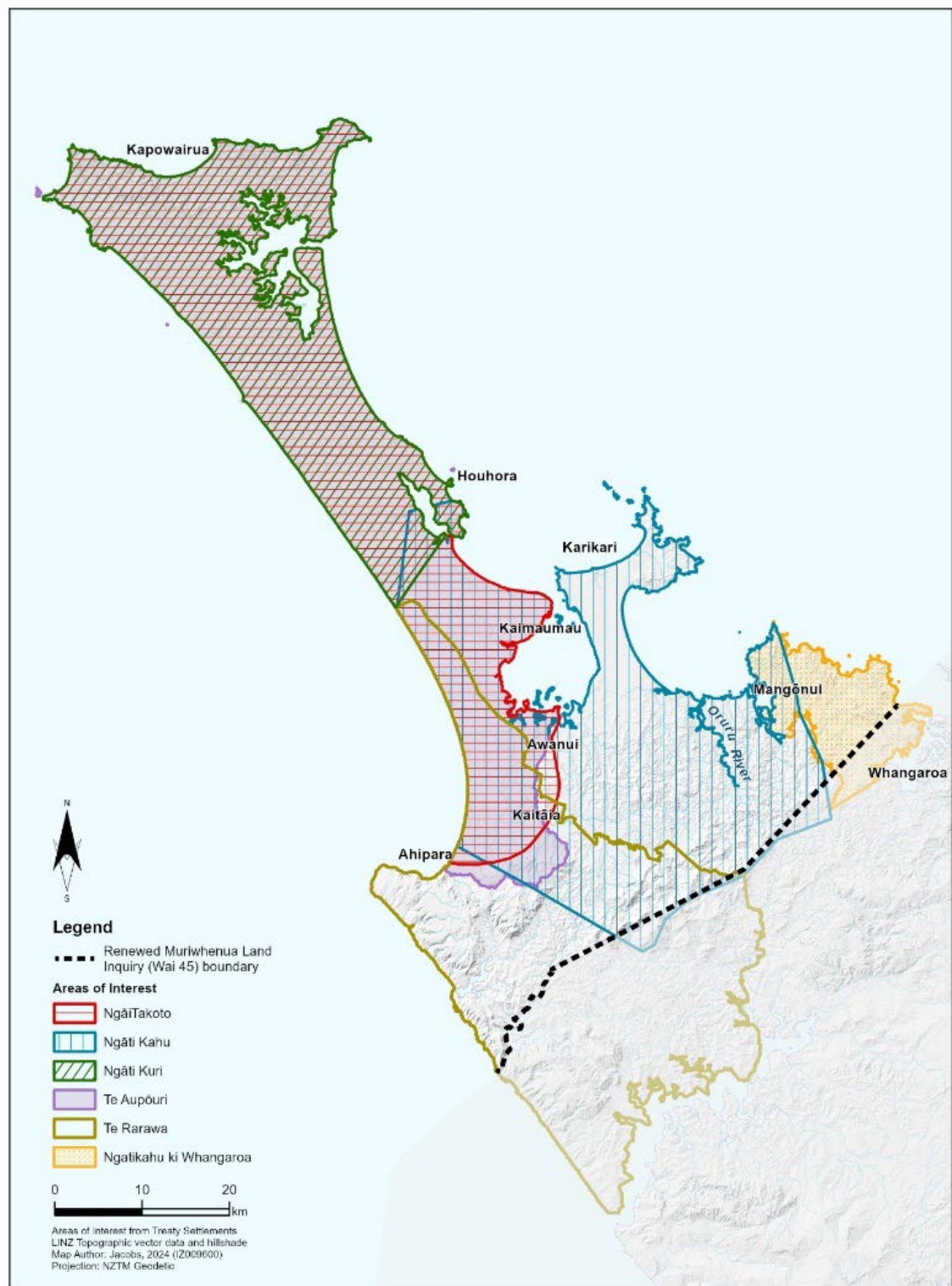
¹⁸ Memorandum-Directions of Judge CM Wainwright concerning research, 22 Dec 2022, Wai 45, #2.891); Te Puni Kōkiri, 'Te Tai Tokerau'. Available <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 9 September 2025

¹⁹ Waitangi Tribunal, Muriwhenua Land report 1997, p 14

²⁰ On Ngāpuhi Kowhao Rau, see Professor Patu Hohepa, 'Hokianga: From Te Korekore to 1840', Wai 1040, doc E36, pp 41-42, 180-186; and Waitangi Tribunal, Tino Rangatiratanga me te Kawanatanga, 2023, pp 5, 14, 93

²¹ Historical Account, Ngatikahu ki Whangaroa Deed of Settlement, 18 Dec 2015, pp 7-16. Available https://www.whakatau.govt.nz/assets/Treaty-Settlements/FIND_Treaty_Settlements/Ngatikahu_ki_Whangaroa/DOS_documents/Ngatikahu-ki-Whangaroa-Deed-of-Settlement-18-Dec-2015.pdf. Accessed 9 September 2025

Figure 2: Overlapping Areas of Iwi Interest



(Source: Bedford comp, Treaty Settlement data, 2025)²²

²² Te Tari Whakatau, 'Find a Treaty Settlement'. Available <https://whakatau.govt.nz/te-tira-kurapounamu-treaty-settlements/find-a-treaty-settlement>. Accessed 9 Sep 2025

VI. Nōpera Panakareao and Pororua Wharekauri

Muriwhenua at the time of European settlement and its ensuing historiography was dominated by two prominent rangatira, Nōpera Panakareao and Pororua Wharekauri. Both warrant a brief introduction. Contemporaries of one another, both were born in the Ōruru Valley and came to prominence shortly before European arrival in Muriwhenua.²³

Te Kaka was the father of Panakareao, a Ngāti Kahu Rangatira of Te Paatu.²⁴ Whakaeke was the mother of Panakareao, through whom he was a mokopuna tuarua of Te Rarawa Rangatira Tarutaru.²⁵ Panakareao was also connected to Ngai Takoto, Te Aupouri and Ngāti Kuri and ‘could trace descent from all the iwi of Muriwhenua.’²⁶ However, he identified primarily with Te Rarawa.²⁷ He was married to Ereonora, daughter of Te Rarawa rangatira and He Whakaputanga signer, Te Huhu.²⁸ Te Huhu was also affiliated with Ngāti Hao, Ngāti Miru and Ngāti Pou.²⁹ Under Panakareao, Te Rarawa held influence over much of Muriwhenua and was one of the first points of contact for European settlement in the region.³⁰ In 1834 Panakareao arranged the establishment of the CMS mission at Kaitaia and was baptised alongside his wife two years later in November 1836.³¹ It was at this point, he adopted the Christian name Nōpera, also recorded as ‘Noble’.³² Panakareao was described as the ‘principal signatory for most of the land purchases in northern and western Muriwhenua before February 1840.’³³ On 28 April 1840, Panakareao was a signatory to Te Tiriti at Kaitaia, alongside Ereonora.³⁴ At the signing, Panakareao made his oft cited declaration that, ‘the shadow of the land goes to Queen Victoria but the substance remains to us’, but reversed this less than a year later.³⁵ Panakareao fought with elements of Ngāpuhi under Pororua Wharekauri at Mangōnui and Taipā in 1841 and 1843 respectively.³⁶

²³ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

²⁴ Edwards, Tuku whenua, p 2

²⁵ Edwards, Tuku whenua, p 2

²⁶ Angela Ballara, entry on Panakareao, DNZB, vol 1, pp 327-328

²⁷ Marsden, Tuku whenua, p 4

²⁸ New Zealand History: Nga Korero a ipurangi o Aotearoa (hereafter NZH), entry on Ereonora. Available <https://nzhistory.govt.nz/politics/treaty/signatory/1-207>. Accessed 9 September 2025; NZH, entry on Te Huhu. Available <https://nzhistory.govt.nz/politics/declaration/signatory/te-huhu>. Accessed 19 July 2024

²⁹ NZH, entry on Te Huhu. Available <https://nzhistory.govt.nz/politics/declaration/signatory/te-huhu>. Accessed 19 July 2024

³⁰ Waitangi Tribunal, Muriwhenua Land report 1997, pp 36-40

³¹ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 222

³² Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 222

³³ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 223

³⁴ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 196

³⁵ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 5

³⁶ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 235

During the Northern War of 1845-1846 Panakareao sided with the Crown.³⁷ Later in life, Panakareao served as an assessor. He died in April 1856 and was interred at Kaitaia beside his father Te Kaka and his wife Ereonora.³⁸

While also born in Ōruru, Pororua Wharekauri was Ngāpuhi, from the Te Uri-o-Te-Aho and Matarahurahu hapū, he based his claim to Muriwhenua on conquest, not whakapapa.³⁹ His father, Te Taepa was Ngāpuhi from the Te Uri o Te Aho hapū. However, Pororua was still connected to Muriwhenua, his mother being the sister of Poroa, a Te Rarawa Rangatira.⁴⁰ His mother's connection to Te Rarawa allowed his parents to remain in Ōruru when Ngāpuhi were ejected from the region by Te Rarawa.⁴¹ Pororua was also married to Ngaurupa of Ngāti Kahu.⁴² However, Pororua soon departed for Whangaroa, where Te Taepa was involved in 'routing Ngāti Kahu from that area'.⁴³ According to Pororua, he founded his claim to Muriwhenua on the Ngāpuhi advance and his own occupancy in the region, such as his residency at Kohumaru.⁴⁴ Pororua made a number of transactions with European settlers in Eastern Muriwhenua around Mangōnui Harbour prior to the signing of Te Tiriti.⁴⁵ Panakareao strongly disputed if Pororua had the authority to make these transactions, leading to the Ōruru-Mangōnui conflicts of 1841-1843.⁴⁶ These conflicts, and the rangatira leading them have continued to dominate all inquiries in central Muriwhenua since. Despite their enmity, and echoing Marsden's assertion that the iwi of Muriwhenua were inextricably intertwined, Panakareao and Pororua shared relations. Ihaka Te Teira, the second wife of James Berghan, being connected to both rangatira.⁴⁷ Like Panakareao, Pororua also became an assessor later in life, living in Kohumaru, he died in 1875.⁴⁸ Both of these rangatira and their tribal affiliations are discussed further in chapter four of this report.⁴⁹

³⁷ Ballara, entry on Panakareao, DNZB, vol 1, pp 327-328

³⁸ Ballara, entry on Panakareao, DNZB, vol 1, pp 327-328

³⁹ Waitangi Tribunal, Muriwhenua Land report 1997, p 79; Tina Latimer (Te Paatu) and Nathan Williams (Ngāti Kahu); signatory feedback on Ryan deeds (OLC 403-707); Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 221

⁴⁰ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 240

⁴¹ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

⁴² Tony Walzl, Pre-Treaty Muriwhenua: Wai 45, doc D4, p 42

⁴³ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

⁴⁴ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 236

⁴⁵ Waitangi Tribunal, Muriwhenua Land report 1997, p 77

⁴⁶ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 235

⁴⁷ Waitangi Tribunal, Muriwhenua Land report 1997, p 85

⁴⁸ 'The Runanga of Mangonui', *Maori Messenger*, 20 Sep 1862 (in Papers Past); Report in *The Evening Star*, 7 Aug 1875

⁴⁹ See sections 4.3.1-4.3.2, (p 206-209)

VII. Historical context: the Crown's legal framework

Since the Tribunal's research commission at paragraph 3 (e) asks us to explore 'Crown legislation, policies, and practices' affecting Māori land interests in Old Lands Claims, we consider the Crown's legal framework for assessing claims as essential historical background. From the outset, the Crown presumed that in 1840 it acquired Radical title to all land in New Zealand as a function of sovereignty.⁵⁰

The Crown presumed that it acquired sovereignty in 1840, with multiple proclamations and signings of Te Tiriti o Waitangi/the Treaty of Waitangi throughout Aotearoa. After 1840 the Crown assumed that it alone could issue valid title to land. New Zealand's first colonial Governor Hobson extended this principle to pre-1840 transactions, when in January 1840 he proclaimed '... that Her Majesty ... does not deem it expedient to recognise as valid any Titles to Land in New Zealand which are not derived from or confirmed by Her Majesty'.⁵¹

Secretary of State for the Colonies Lord Normanby in August 1839 instructed Hobson to issue this proclamation upon reaching New Zealand.⁵² But Normanby charged Gipps, the Governor of New South Wales, with responsibility for setting up the legal basis for the investigation of pre-1840 transactions. He anticipated a flood of extravagant claims which only New South Wales possessed the administrative resources to deal with. He also believed that Gipps would be better equipped to resist Pākehā claimant pressure for making excessive grants. A New South Wales-appointed commission, he hoped, would avoid 'the dangers of the acquisition of large tracts of country by mere land-jobbers ...'.⁵³

Gipps modelled the New Zealand Land Claims Commission on the New South Wales Court of Claims established in 1833. The Crown in New South Wales sought to replace informal occupation licenses with indefeasible grants. Such licenses (and subsequent grants), informed by *terra nullius* assumptions, ignored the rights of aboriginal people.⁵⁴ Section 4 of the 1835 New South Wales Land Claims Act stipulated inquiries based on 'the real justice and good conscience

⁵⁰ On the importance of Radical title assumptions, see Waitangi Tribunal, *Tino Rangatiratanga me te Kawanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, (Wellington: Legislation Direct, 2023), pp 452, 528-529, 604, 665, & 705

⁵¹ Land Titles Validity Proclamation 30 January 1840, encl in Gipps to Russell, 19 Feb 1840, *British Parliamentary Papers* (hereafter BPP) 1840 (560), pp 8-9

⁵² Normanby to Hobson 14 Aug. 1839, BPP 1840 (238), p 39

⁵³ Normanby to Hobson 15 Aug. 1839, BPP 1840 (238), pp 44-45

⁵⁴ Donald Loveridge, 'The New Zealand Land Claims Act of 1840', Wai 45, doc I2, pp 44-49; Stuart Banner, *Possessing the Pacific: Land, Settlers and Indigenous People from Australia to Alaska*, (Cambridge Mass: Harvard University Press, 2007), pp 43-44

of the case without regard to legal forms and solemnities . . .’ Gipps repeated this New South Wales language in the New Zealand Land Claims Act 1840.⁵⁵

When New Zealand ceased to be a dependency of New South Wales in 1841, Hobson redrafted the New South Wales Act into the New Zealand Land Claims Ordinance in June 1841. This ordinance echoed the doctrine of Radical title in section 2 which declared ‘That all unappropriated lands . . . subject however to the rightful and necessary occupation and use thereof, by the Aboriginal inhabitants . . . are and remain Crown or domain lands of Her Majesty . . .’⁵⁶

Hobson’s subsequent instructions to commissioners largely followed Gipps’ original October 1840 instructions. His 1841 instructions required the Protector of Aborigines (or supporting staff) to attend hearings.⁵⁷ The 1841 ordinance failed to resolve claims mainly because it failed to require proper professional surveys of Crown grants. A subsequent 1856 Parliamentary Committee described Crown grants lacking precise boundary definition as entirely ‘defective’. That 1856 committee concluded that:

Some of the grantees are in possession of the land granted; but a greater part of those claimed are unoccupied by anyone. Some portions have been resumed by the natives, and some where the native title has been extinguished . . . [has] been considered as Crown Lands . . . Still, in a great number of cases no possession has been obtained by anyone; the natives disputing the ownership of the land in the absence of the claimants, or the insecurity of the titles . . . preventing . . . [claimants] from attempting to enforce their supposed rights.⁵⁸

The resulting Land Claims Settlement Act 1856 asserted the pressing need for a full and final settlement of ‘disputed grants’.⁵⁹ Section 2 of the new Act empowered commissioners ‘to hear and determine all claims which might have been heard examined and reported on’ by 1840s commissioners, ‘and to examine and determine all questions relating to grants . . .’ Unlike his predecessors, Commissioner Francis Dillon Bell’s section 2 powers allowed him to order grants directly, and not just make grant recommendations to the Governor.⁶⁰

⁵⁵ Section 4, New Zealand Land Claims Act 1840 (NSW) 4 Vict No 7

⁵⁶ Sections 2-3, New Zealand Land Claims Ordinance 1841, 4 Vict No 2

⁵⁷ Hobson to Commissioners, 11 July 1841, OLC 5/4B

⁵⁸ House of Representatives Select Committee report, 16 Jul 1856, BPP 1860 (2747), p 350

⁵⁹ Preamble, Land Claims Settlement Act 1856, 19 & 20V, No 32

⁶⁰ Section 2, Land Claims Settlement Act 1856

Section 19 of the 1856 Act required claimants ‘to survey the whole of the area claimed in the original transaction’, but it did not require Commissioner Bell to inquire into the nature of that transaction. The legislation evidently assumed that all transactions amounted to absolute alienations of all Māori interests.⁶¹

Bell took full advantage of his statutory powers to enforce full and final settlements of disputed claims.⁶² He transformed FitzRoy’s defective, unsurveyed grants into indefeasible, surveyed grants, often accompanied by surveyed Crown surplus land.⁶³

VIII. The Crown’s validity test for assessing claims

Hobson’s January 1840 Land Titles Validity proclamation followed Normanby’s instructions to establish Crown control over rampant land speculation. Normanby urged Hobson to reassure legitimate claimants that the Crown intended to ratify ‘equitable’ transactions. He anticipated vast speculative claims, such as the New Zealand Company’s October 1839 Kapiti claim. Normanby described such extravagant claims as ‘prejudicial to the latent interests of the community’.⁶⁴

Governor Gipps on 2 October 1840 instructed his first commissioners to accept from claimants ‘proof of conveyance according to the custom of the country . . . in the manner deemed valid by its inhabitants . . .’⁶⁵ Commissioners normally required claimants to produce signed, and properly witnessed deeds, but not necessarily in te reo Māori. An 1841 English-language notice to Māori involved in the first Bay of Islands commission hearings summoned them as witnesses:

. . . to give correct evidence concerning the validity or invalidity of the purchase of your lands. Hearken! this is the only time you have for speaking this, the entire acknowledgement of your land sale for ever and ever.⁶⁶

At subsequent hearings, commissioners routinely required two Māori witnesses to affirm the original transactions. In Muriwhenua, Subprotector HT Kemp recorded such Māori affirmations

⁶¹ Section 19, Land Claims Settlement Act 1856

⁶² Section 50, Land Claims Settlement Act 1856, 19 & 20V, No 32

⁶³ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 5-23

⁶⁴ Land Titles Validity Proclamation, 30 Jan 1840, encl in Gipps to Russell, 19 Feb 1840, BPP 1840 (560), pp 8-9; Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), pp 38-39. On Wakefield’s Kapiti transaction, see Patricia Burns, *Fatal Success: A History of the New Zealand Company*, (Auckland: Heinemann Reed, 1989), pp 118-120; and Philip Temple, *A Sort of Conscience: The Wakefields*, (Auckland: Auckland University Press, 2002), pp 254-258

⁶⁵ Gipps to Commissioners, 2 Oct 1840, BPP 1840 (569), pp 80-82

⁶⁶ Governor’s approval, 9 Jul 1841, IA 4/271, pp 12, 20, encl in David Armstrong, ‘The Land Claims Commission: Practice and Procedure 1840-1845’, Wai 45, doc 14, p 41

in English. Māori witnesses testified to the signing of deeds, the delivery of the payment, and they declared their understanding of the binding nature of the transactions. Kemp recorded this as consent to alienation even when commissioners reported arrangements that restricted alienation. For example, Kemp recorded in 1843 Muriwhenua's leading rangatira Panakareao's description of the Pukepoto reserve as:

The Natives have a right reserved to them of living & cultivating upon the land but they cannot sell or alienate any part of it.⁶⁷

Commissioners automatically assumed that in validating a claim they confirmed alienation. Their 1840s printed report forms referred only to purchases, sales and alienations. The exact wording of these standard printed forms used referred only to land 'purchased' from 'sellers'. The forms described a deed only as a 'Deed of Sale' with 'sellers' having 'admitted the payment they received, and the alienation of the Land . . .'.⁶⁸ These prevalent alienation assumptions form a unifying theme throughout this report.

During the 1850s Bell described 1840s grant recommendations as ratifying 'valid' transfers of the entire claim area, even though it remained unsurveyed until after 1856. Waimate Māori challenged the extent of 1840s Bay of Islands claims, but Bell refused to even consider returning land 'which had been *validly* sold by those . . . really empowered to sell, nor [would he] allow the claim of anyone who had failed to bring his objection forwards at the original [1840s] Inquiry . . .' (emphasis added).⁶⁹

To establish the validity of a claim, 1840s commissioners had to examine witnesses at a public hearing. In the case of his February 1843 Mangōnui hearing, however, Commissioner Godfrey dispensed with this requirement. In an effort to avoid conflict over disputed claims, he offered claimants scrip in exchange for their claims, without examining witnesses. FitzRoy, Bell and the 1946-1948 Myers Commission overlooked Godfrey's failure to examine witnesses when they ratified these claims as 'valid'. The Waitangi Land Tribunal in 1997 reported that those Mangōnui scrip claims did not meet the Crown's validity test. They were, in fact, uninvestigated and therefore unproven claims.⁷⁰

⁶⁷ Panakareao evidence, 31 Jan 1843, OLC 1/775, p 9 (HT Kemp translation)

⁶⁸ Godfrey report, 15 Apr 1843, OLC 1/775, pp 3-6

⁶⁹ Bell's hearing notes, 13 Oct 1857, OLC 5/34, unpaginated

⁷⁰ Waitangi Tribunal, Muriwhenua Land report 1997, pp 394-398, 401

IX. Old Land Claim component parts

In our maps of Muriwhenua Old Land Claims throughout this report, we identify the component parts of each claim.

Following New South Wales precedents, the Crown initially imposed a 2,560-acre statutory limit on grants that commissioners determined were based on ‘valid’ purchases. After 1856, Commissioner Bell exercised maximum discretion to increase grant acreage. Bell instructed surveyors to divide whole claim areas into different parts:

- a) Determining the full extent of the original claims based on pre-1840 transactions followed a process that required claimants to describe their claims in writing. In a statement of claim they named the parties they negotiated with, the location and extent of the land in question (including its boundaries), the date(s) of the transaction(s) and the nature of payments exchanged for the land. Commissioners hearing the claims expected claimants to file formal written deeds signed by parties to the transactions.⁷¹ After 1856 Bell insisted upon professional surveys to define the full extent of what we know today as Old Land Claims.⁷² He then divided the whole claims into different parts.
- b) A Crown grant recommended by Commissioners guaranteed secure title within the precisely surveyed area. This, the most tangible outcome of the entire inquiry process, also had to await Bell’s application of post-1856 survey requirements to produce ‘indefeasible’ Crown grants. Such grants thereafter could not be overturned by competing claims to the land.
- c) Bell calculated surplus land as the difference between the surveyed acreage of the whole claim, and the Crown grant acreage. Bell ensured that surveyors defined both grant and surplus land boundaries and acreage. While the Crown claimed ownership of surplus land, Māori during the nineteenth and twentieth centuries often challenged this claim.
- d) Commissioners could recommend Native reserves in areas where Māori retained rights. The Crown created six such Native reserves from Old Land Claims in Muriwhenua, usually in recognition of land-sharing arrangements. Bell recommended Native reserves at Pukepoto (south of Kaitaia), at Matarau and Waimanoni (near Awanui), at Te Aurere (near Parapara) and at Waiaua and Taemaro (near Mangōnui).
- e) At Mangōnui in 1843-1844 Commissioner Godfrey recommended exchanges of land elsewhere, instead of Crown grants. He evidently assumed that the scrip land claimed ‘reverted’ to the Crown. Yet the Crown surveyed scrip land only at Hokianga (south of Muriwhenua) to establish its claim to that land.

⁷¹ *New Zealand Government Gazette*, 30 Dec 1840, Hobson papers, MS-Papers-0046, Alexander Turnbull Library (hereafter ATL), Wellington

⁷² Rules Framed and Established by the Land Claims Commissioner, Francis Dillon Bell, Esquire, in Pursuance of the Power Vested in Him in that Behalf of the Land Claims Settlement Act 1856, 8 Sep 1857, *New Zealand Gazette*, 1857, pp 144-145

X. Transactions and purchases

We have consciously adopted the term ‘transactions’ rather than ‘purchases’ to describe pre-1840 land exchanges in this report. Our preference for ‘transactions’ over ‘purchases’ follows both the terms of our commission, and our understanding that pre-1840 transactions rarely resembled European style purchases. This also follows the Muriwhenua Land Tribunal’s insistence in rejecting ‘purchase’ terminology to describe pre-1840 transactions.⁷³

On the other hand, when we refer to adjacent pre-1865 Crown purchases, we prefer the conventional ‘purchase’ terminology. We may put quotation marks around that term, when describing the unusual 1840-1841 Mangōnui ‘purchases’. We do so because they attempted to nullify pre-1840 transactions in the Ōruru-Mangōnui area. Ultimately, however, the Crown never relied on its 1840-1841 Mangōnui ‘purchases’ to transfer land defined by survey. The Crown normally surveyed its pre-1865 purchases, but it almost never surveyed pre-1840 transactions.⁷⁴

XI. The relationship between Old Land Claims and Crown purchases

Throughout this report we contend that Old Land Claims can be understood only in relationship to pre-1865 Crown purchases. The Renewed Muriwhenua Tribunal in November 2023 commissioned Dr Megan Mulder to report on the parallel Crown purchases and reserves.⁷⁵ Our maps illustrate the combined effect of Old Land Claims adjoining Crown purchases. In particular, Figure 5: Auckland Roll plan 16, 1863 (at p 29) demonstrates Commissioner Bell’s deliberate connection strategy. As he reported to Parliament in July 1862 he:

... was enabled ... to compile a map of the whole country about the Bay of Islands and Mangonui, showing the Government purchases there as well as Land Claims; and a connected map now exists of all that part of the Province of Auckland which lies between the Waikato River and North Cape.⁷⁶

Our cartographer, Janine Bedford, reconstructed the Muriwhenua area within Auckland Roll plan 16, as Bell’s staff compiled it in 1863. We believe that this plan, now held at Archives New Zealand in Auckland, was a revision of the ‘connected map’ Bell referred to in his 1862 report.

⁷³ Waitangi Tribunal, Muriwhenua Land report 1997, pp 3-6, 12-13, 173

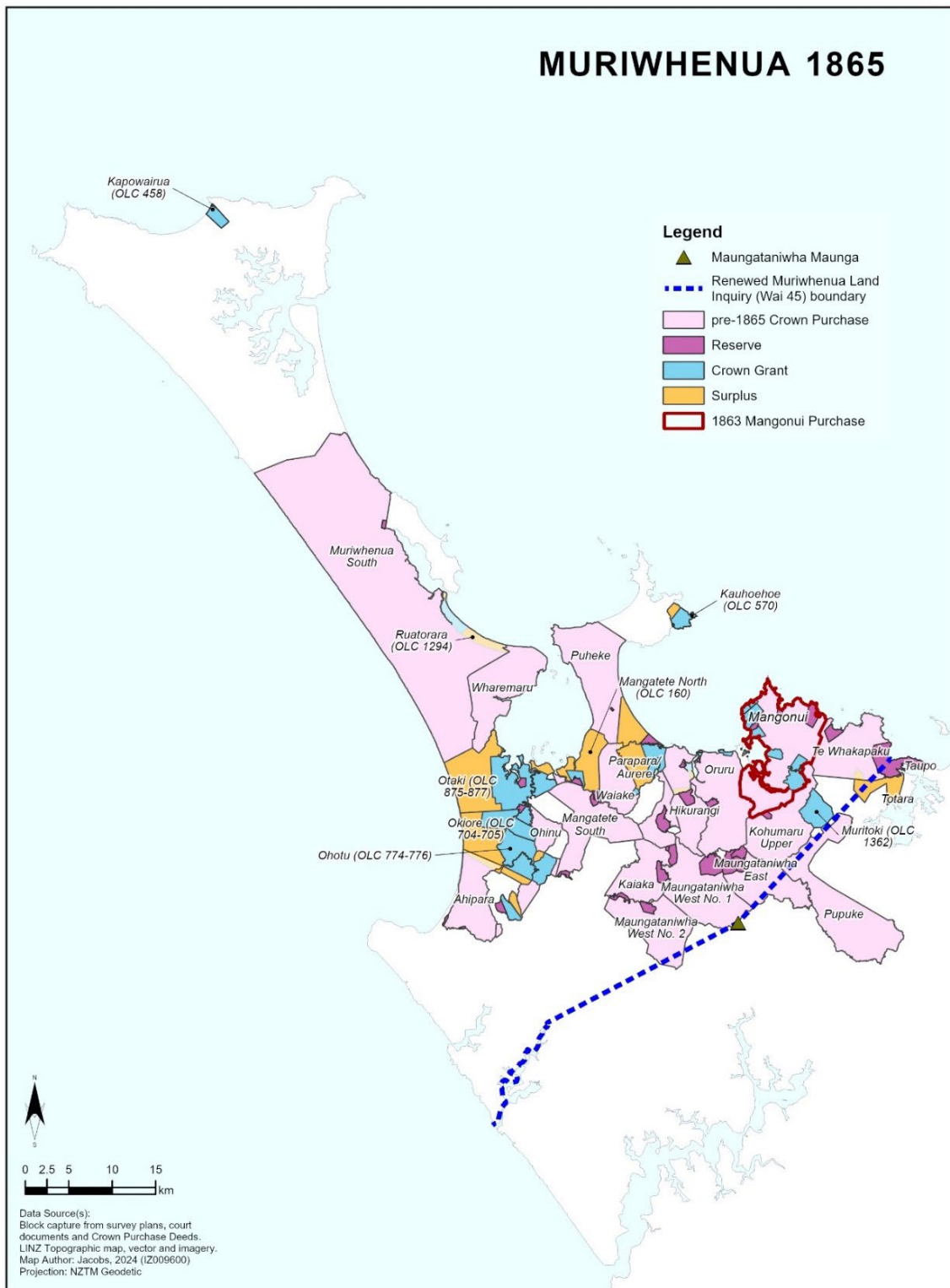
⁷⁴ The only exception to this rule was its SO 783 survey of the surplus land associated with the Davis Mangatete North transaction. See section 1.2.5 James Davis-Mangatete OLC 160, (p 62)

⁷⁵ Memorandum-Directions commissioning research, 19 Nov 2023, Wai 45, #2.920. See Dr Mulder’s 2024 report entitled ‘Pre-1865 Crown Transactions and Reserves’, Wai 45, doc T25

⁷⁶ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 5

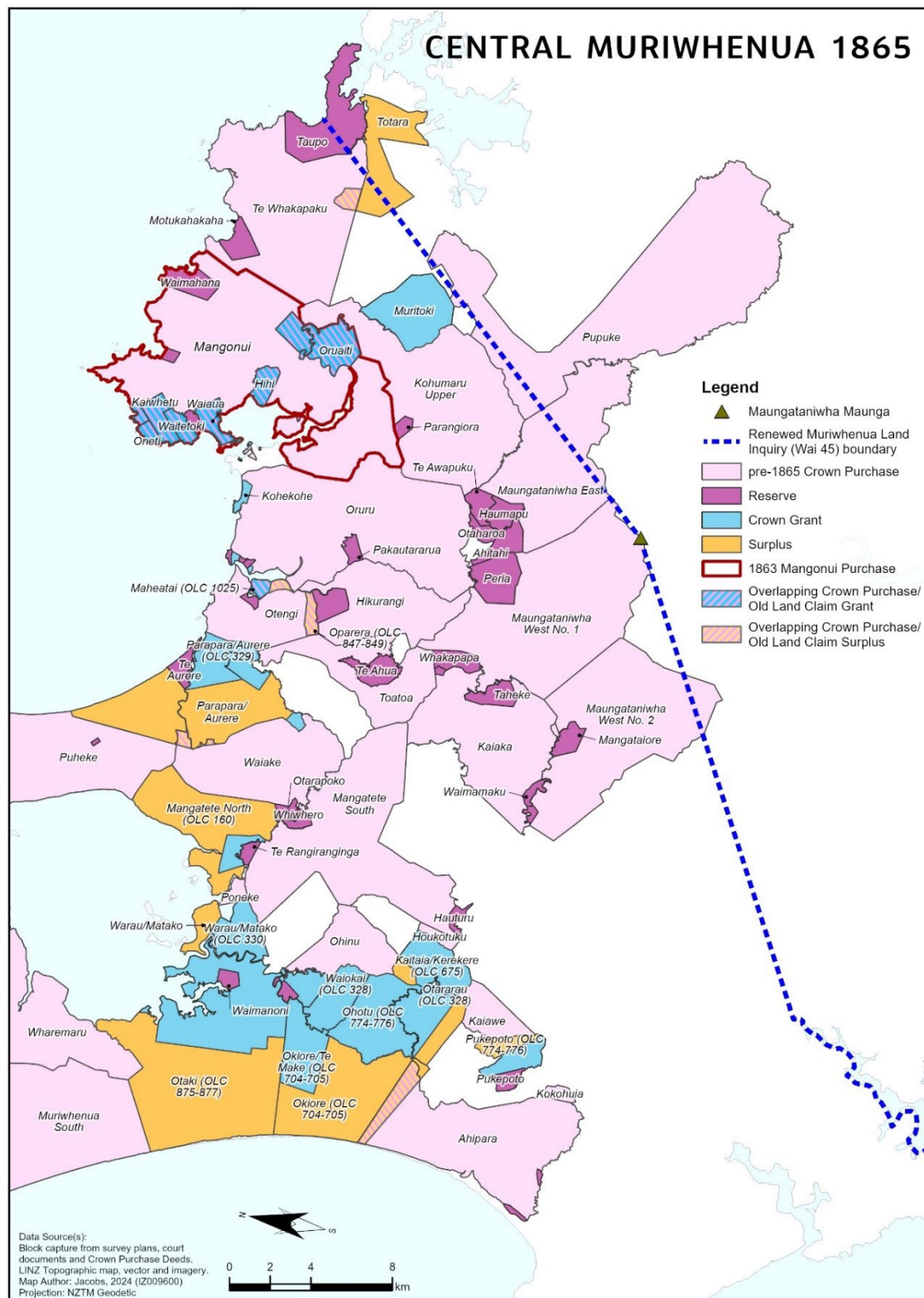
This plan omitted the way surveyors divided claims into Crown grants, and surplus land, but it did show two of the six Native reserves arising from pre-1840 transactions: Waimanoni (near Awanui), and Te Aurere (near Parapara).

Figure 3: Muriwhenua 1865



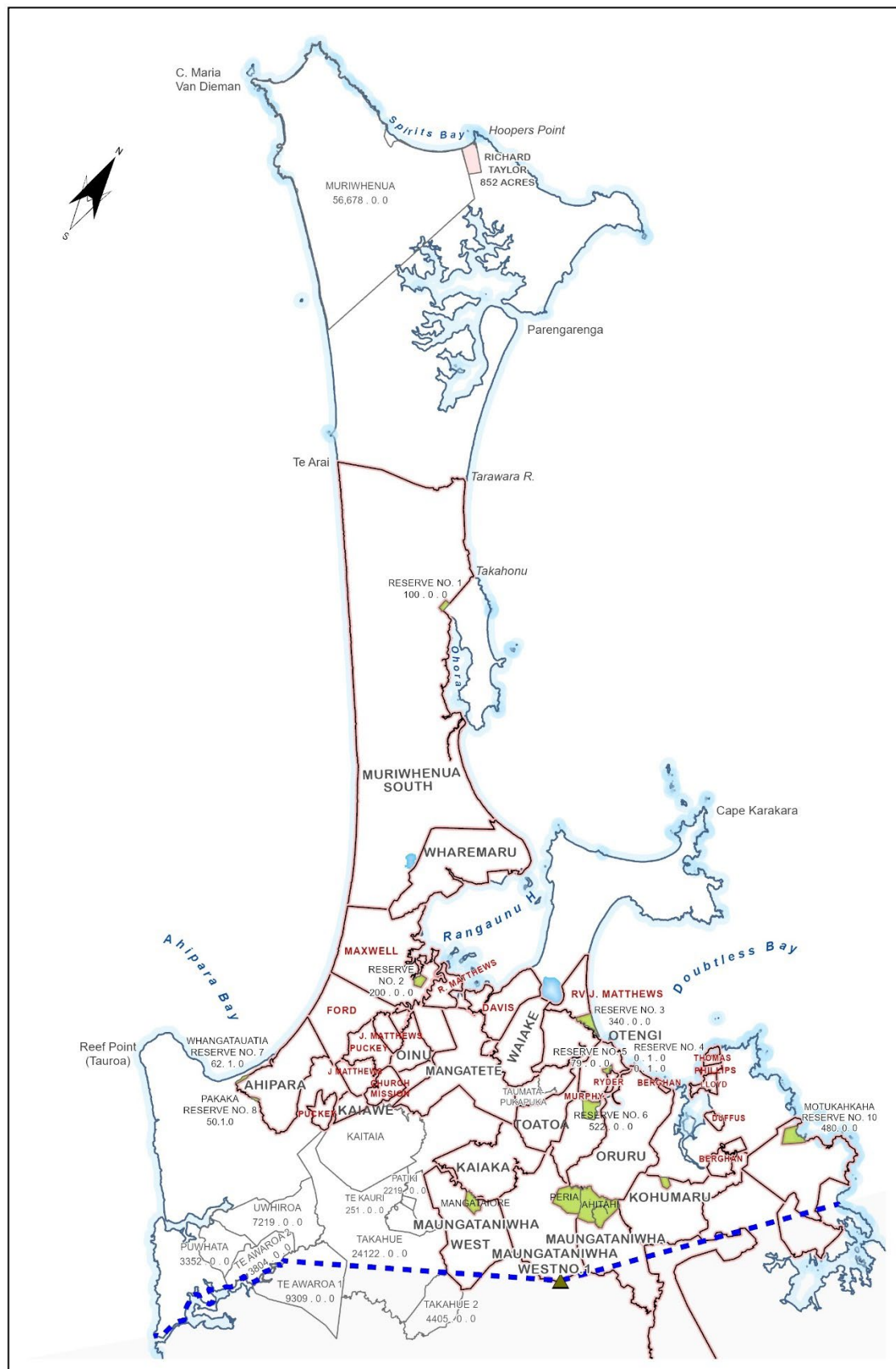
(Source: Bedford comp, OLC & SO plans, 2025)

Figure 4: Central Muriwhenua 1865



(Source: Bedford comp, OLC & SO plans, 2025)

Figure 5: Auckland Roll Plan 16 1863



(Source: Bedford reconstruction, Auckland Roll plan 16, 1863)

XII. Financial constraints of Crown investigations

When considering the Crown's investigation of Old Land Claims, context is imperative. The Crown's position in New Zealand was in part subject to the global requirements of a rapidly expanding, and increasingly overstretched British Empire with few resources to spare.⁷⁷ As Dr Rigby observed in his report 'Empire on the Cheap', New Zealand was intended to operate as a self-funding colony from the outset.⁷⁸ In his instructions to Captain Hobson, Normanby stated that the 'absolute necessity of a revenue being raised to defray the expenses of the Government of the proposed settlements in New Zealand has not, of course, escaped my careful attention'.⁷⁹ He went on to insist that expenses incurred against the Government of New South Wales, 'must be replaced by the earliest possible opportunity'.⁸⁰ Indeed, even the appointment of essential government roles was only to be conducted with, 'the most anxious regard to frugality'.⁸¹ This resulted in the newly appointed Governor Hobson having, 'no choice but to try to generate local revenue from land'.⁸² This 'strict economy', limited the Crown's ability to effectively implement policy, including the investigation of claims.

In March 1843, the same year as the Godfrey Commission's visit to Muriwhenua, the colony under Colonial Secretary and Hobson's interim successor Willoughby Shortland was informed by Lord Stanley, Secretary of State for War and the Colonies, that they were to receive a mere £10000 rather than the urgently requested £25000.⁸³ This left an already insolvent colony mired further in debt with little hope of further support. Shortland covered this deficit by issuing discounted debentures 'without any express authority', having been barred from issuing treasury bills.⁸⁴ He was also forced to set about downsizing the already meagre colonial government, in some cases by over eighty per cent.⁸⁵ By the time of Governor FitzRoy's arrival in New Zealand in December 1843 the colony was in a depression with the colonial government still insolvent. As Michael Littlewood observed in his 2021 article on Robert FitzRoy and the New Zealand Government's insolvency of the period:

⁷⁷ Michael Littlewood, 'Robert FitzRoy and the Insolvency of the New Zealand Government, 1843 - 1845', *New Zealand Universities Law Review*, 29 (2021), 465-499

⁷⁸ Rigby, *Empire on the Cheap*, p 18

⁷⁹ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), pp 38-39

⁸⁰ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), pp 38-39

⁸¹ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), pp 38-39

⁸² Rigby, *Empire on the Cheap*, p 18

⁸³ Littlewood, *FitzRoy & insolvency*, p 469

⁸⁴ Littlewood, *FitzRoy & insolvency*, p 470

⁸⁵ Littlewood, *FitzRoy & insolvency*, pp 469-470

The Government had no money at all. Its liabilities exceeded its assets, its revenues appeared to cover only about two thirds of its obligations and the salaries of the civil servants were several months in arrears⁸⁶

To resolve this, FitzRoy embarked on the rapid introduction of, and almost as rapidly abandoned, various taxes and customs duties as he attempted to balance the Colony's books.⁸⁷ This also included FitzRoy's waiver of the Crown's right of pre-emption in 1844, since it was unable to afford the land originally envisioned by Lord Normanby to fund the colony through resale.⁸⁸ It was in this context of economic turmoil that Crown conceptions of land rights were tempered by a harsh reality. This led to the Crown limiting itself to the most rudimentary of investigations into land transactions due to its financial constraints with only three Land Commissioners appointed for the entire colony by 1841.⁸⁹

When the imperial government in 1845 replaced Governor FitzRoy with Grey it abandoned financial stringency. It offered Grey twice FitzRoy's salary.⁹⁰ Lord Stanley secretly provided Grey with £10,000 to accelerate Crown purchasing, particularly in the South Island, in an effort to boost settlement.⁹¹ Grey's secret imperial subsidy allowed him to purchase 3.3 million acres for £3,000 south of Wairau in 1847, and for Kemp to purchase the 20-million-acre central section of the South Island for £2,000 during the following year.⁹² Stanley's imperial subsidy triggered a succession of profitable South Island Crown purchases. The Crown sold a 30,000-acre pastoral property in North Canterbury for £15,000 two years before it purchased the 1.14 million acre area around it from Ngai Tahu for a mere £500. The Crown thus received from a settler in 1855 1142 times the price per acre it paid Ngai Tahu in 1857.⁹³

The astonishing revenue generated by large South Island Crown purchases meant that land claims inquiries could never produce a similar rate of return. Consequently, the Crown never invested its dramatically increased revenue in Bell's land claims inquiries after 1856. The House Select Committee that year recommended the appointment of up to six commissioners,

⁸⁶ Littlewood, FitzRoy & insolvency, p 474

⁸⁷ Littlewood, FitzRoy & insolvency, pp 481-488

⁸⁸ Littlewood, FitzRoy & insolvency, p 477

⁸⁹ Francis Fisher, Matthew Richmond and Edward Godfrey. See Philippa Wyatt, 'The Old Land Claims and the Concept of Sale: A Case Study', Wai 45, doc E1, p 198

⁹⁰ Erik Olssen, *The Origins of an Experimental Society: New Zealand 1769-1860*, (Auckland: Auckland University Press, 2025), p 287

⁹¹ Stanley to Grey, 28 Jun 1845 (secret), Grey papers, GMS 38/1, fol 15, Auckland City Library (hereafter ACL); cited in Harry Evison, *The Ngai Tahu Deeds: A Window on New Zealand History*, (Christchurch: University of Canterbury Press, 2006), p 62

⁹² Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Northern South Island Report*, (Wellington: Legislation Direct, 2008), p 352; *The Ngai Tahu Report*, (Wellington: GP Publications, 1991), p 51

⁹³ Waitangi Tribunal, Ngai Tahu report, p xiv

including two Supreme Court Judges.⁹⁴ But between 1857 and 1863 Bell operated as a sole commissioner with a skeletal staff, despite the 1375 claims on his books. Consequently, he limited his inquiries. Without rigorous research he estimated the total area claimed exceeded 10 million acres, for which he calculated claimant payments to Māori at over £95,000. He even asserted that claimants paid Māori up to five shillings and six pence per acre, compared to a Muriwhenua Crown purchase average of one shilling and three pence per acre.⁹⁵

Bell devoted much of his 1862 preliminary report boasting of his recovery of 204,243 acres of mostly northern surplus land. Yet, at least 34,560 acres of this figure came from unsurveyed estimates in the Auckland and Mangōnui areas.⁹⁶ Although he claimed to have augmented the public domain, his careless calculations left many claims unsettled for decades. A properly financed and fully staffed set of land claims inquiries by a larger number of commissioners would almost certainly have produced more reliable results for the Crown.⁹⁷

XIII. Western and Customary ownership defined

Our research commission asked us to identify ‘the iwi and hapū affiliations of original landowners’, as well as Crown attempts ‘to identify correct owners’.⁹⁸ This requires us to distinguish western ownership from customary ownership. Western ownership emanated from individual property rights, while customary ownership generally relied upon community control. As the late Merimeri Penfold of Ngāti Kuri articulated the essence customary ownership:

Land is a very special taonga, because you belong to the land, not the land to you. Ko au te whenua, ehara te whenua nōku. (I am . . . the land, the land is not my possession).⁹⁹

Dame Joan Metge, in her 1992 Muriwhenua evidence, explained how the western/customary distinction applied to pre-1840 transactions. She wrote that the original CMS missionaries

⁹⁴ House Select Committee report, 16 Jul 1856, BPP 1860 (2747), p 353

⁹⁵ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 5-6, 20. The Crown purchase figure comes from Rigby, Question of Extinguishment: Crown purchases in Muriwhenua, 1850-1865, Wai 45, doc F9, p 32

⁹⁶ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 22; The estimated 11,000 acres of Mangōnui ‘surplus land’ was in fact unsurveyed scrip land. See section 2.5.9, (p 147)

⁹⁷ Raewyn Dalziel’s entry on Bell for the Dictionary of New Zealand Biography pointed out that he served as Native Minister during the completion of his two main land claims reports. This may explain the deficiencies in those reports. Dalziel, entry on Bell, *Dictionary of New Zealand Biography*, (Wellington: Allen & Unwin/Department of Internal Affairs, 1990), vol 1, pp 23-25 (hereafter DNZB)

⁹⁸ Memorandum-Directions commissioning research, 8 Jan 2024, para 3 d), Wai 45, #2.922

⁹⁹ Cited in Joan Metge, ‘Cross Cultural Communication and Land Transfer in Western Muriwhenua, 1832-1840’, Wai 45, doc F13, p 81

‘recognised that [customary] rights to a particular area were vested in group leaders’ or rangatira. They ‘held the land as trustees for the group’. The missionaries also recognised ‘that more than one group could have interests in a particular area . . .’¹⁰⁰

Marsden’s 1992 *tuku whenua* evidence reaffirmed the community basis of customary ownership. He stated ‘All lands were held in common and no individual, whether chief or whanaunga, enjoyed individual ownership’. Marsden explained how Panakareao acted as a guardian, rather than as a land owner. While Panakareao ‘identified more closely with Te Rarawa than he did with either Ngāti Kahu or Ngai Takoto . . . he regarded himself as having certain rights within Ngāti Kahu [through his father, Te Kaka] . . .’ With Ngai Takoto, Te Paatu and Patu Koraha living in exiled north of Houhora prior to 1840, Panakareao acted as ‘Kaitiaki (guardian)’ of their southern homeland. He alluded to this special relationship with his *whakataukī* ‘Kihai au i hoko whenua engari he mea tuku naku toku tuara ki Te Reinga’ (which Marsden translated as: I did not sell the land, but I tuku’d it with my back towards Reinga). He could not sell their southern land without consulting the displaced groups. Marsden concluded that neither Panakareao, nor his fellow rangatira, ‘had the right to sell or absolutely alienate lands’.¹⁰¹

Like Metge and Marsden, claimant counsel JV Williams set out the community basis of customary ownership, and how it differed from western ownership. In his 1994 closings, Williams submitted that ‘The Maori language has no word to denote ownership in the European sense . . . “Rights” in land were traditionally complex and interlinked . . . [They] were never strictly hierarchical. They overlapped and intertwined creating unique convolutions in particular cases’. He, too, referred to Panakareao to illustrate customary complexity. Even though Panakareao aspired to ariki (or paramount) status, his ancestral rights (*take tupuna*) ‘did not extend to a complete prerogative over the tribal territory’. He could ‘not act without the consent of the actual hapu on the ground’.¹⁰²

¹⁰⁰ Metge, *Cross Cultural Communication*, pp 41-42

¹⁰¹ Marsden, *Tuku whenua*, pp 4, 6, 9. Mutu quoted a longer version of this *whakataukī*, but with a similar translation. Margaret Mutu, ‘Tuku Whenua of Land Sale?’, Wai 45, doc F12, pp 4-5

¹⁰² Marsden, *Tuku whenua*, pp 6-7. Rima Edwards described Panakareao as an ariki in his original 1990 evidence. Edwards, ‘Traditional history’, Wai 45, doc B2, p 4; Transcript, 3 Dec 1990, Wai 45, #4.1, pp 3-5; cited by JV Williams, Closing submissions, Wai 45, doc N1, pp 16-18, 20-21

The Muriwhenua Land Tribunal's initial statement of issues highlighted the Crown's obligations to comprehend the complexity of customary ownership. The Tribunal's key issue regarding pre-1840 transactions highlighted the Crown's need to comprehend.

Was the Crown obliged to inquire . . . into the nature of Maori polity, society, land tenure and traditional and contemporary understandings and expectations of the [pre-1840] transactions and, if so, was an adequate inquiry made?¹⁰³

XIV. A mapped landscape

To illustrate the full sweep of pre-1865 Muriwhenua transactions, our cartographer Janine Bedford produced a detailed set of coloured maps reproduced below. Figure 3: Muriwhenua 1865 (at p 27) captures the relatively interconnected Old Land Claims and Crown purchases throughout the entire Muriwhenua inquiry district. This district extends from Taylor's grant at Kapowairua (or Spirits Bay) in the north to the Maungataniwha ranges forming the southern Muriwhenua boundary.

Figure 4: Central Muriwhenua 1865 (at p 28) focuses on the most intensively transacted area from Ahipara in the west, to Taupo (Whangaroa) in the east. Most observers consider this central area to be the most populated and productive part of Muriwhenua, both historically and today.¹⁰⁴

We have divided the central area into three sections. Figure 6: Awanui-Kaitaia (at p 36) shows relatively connected transactions between Rangaunu Harbour and Ahipara. That area features missionary claims together with associated Native reserves (shown in purple).

Figure 7: Mangatete-Parapara-Taipā traverses (at p 37) the area from Rangaunu Harbour to Taipā. It shows a large number of Crown purchases (in pink) between Mangatete, Parapara, and Taipā Old Land Claims. The orange surplus land area arose from the blue Davis Mangatete, and from the Matthews-Clarke Parapara Crown grants.

¹⁰³ 'The Tribunal's Initial Statement of Issues', Jul 1993, Waitangi Tribunal, Muriwhenua Land report 1997, Appendix 1, p 414

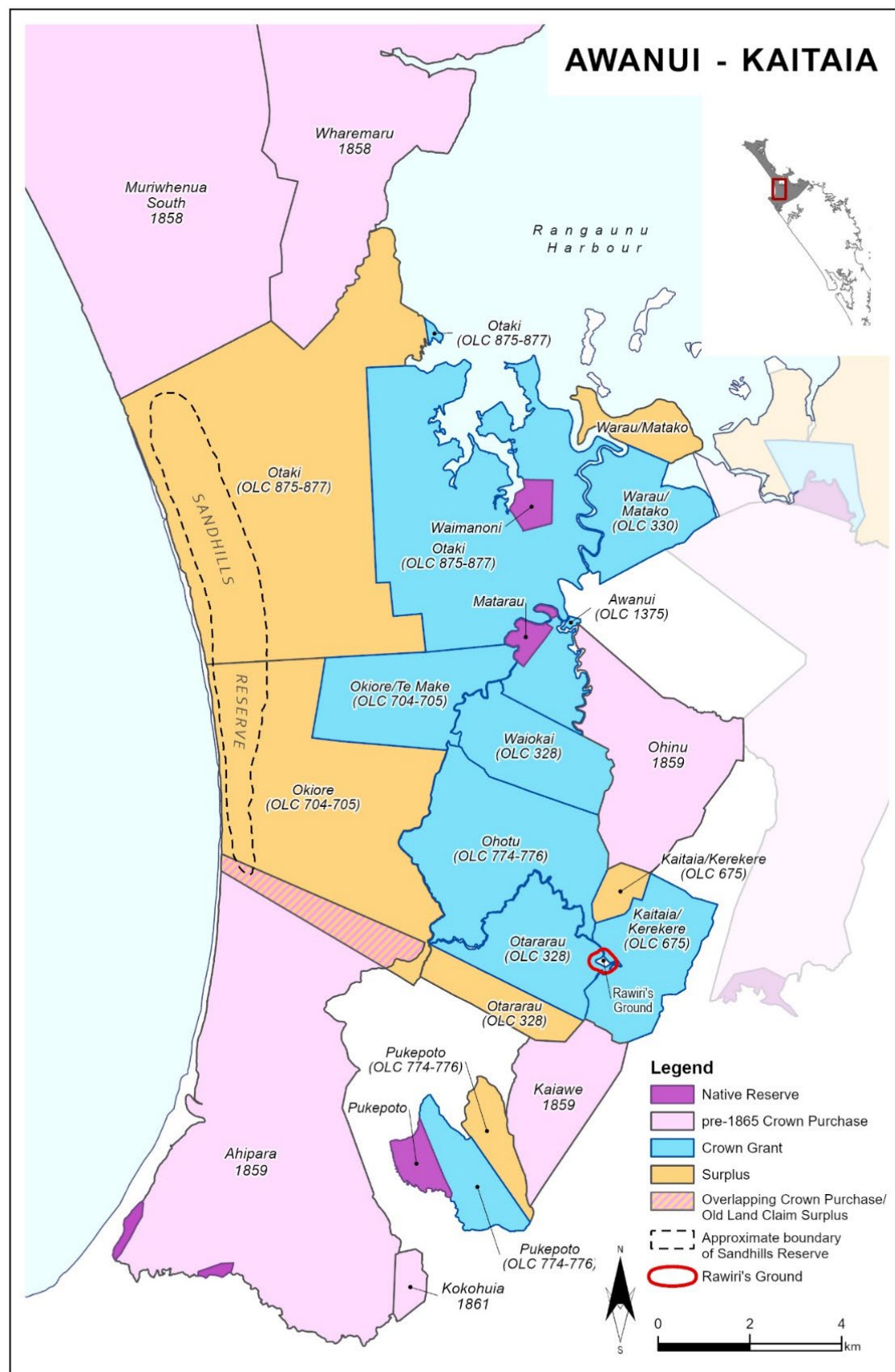
¹⁰⁴ Nigel Haworth, Val Lindsay, Richard Higham and Manuka Henare, 'Sustainable Commercial Development in the West Ngati Kahu and Whangaroa Region' in Dorothy Urlich Cloher, ed., *Sustainable Development in Tai Tokerau: Case Study Three West Ngati Kahu*, (Auckland: James Henare Maori Research Centre, University of Auckland, 1997), pp 244-265

Figure 8: Mangōnui East (at p 38) surrounds the disputed 1863 Mangōnui Crown purchase (with a bold red boundary). We conclude that this area generated no orange surplus land, despite the attention that the 1946-1948 Myers Commission on Surplus Land devoted to it.

While the five maps referred to above follow a geographic pattern, three further maps follow a historical sequence. Janine's reconstruction of Commissioner Bell's attempt to connect Old Land Claims with Crown purchases appears above as Figure 5: Auckland Roll plan 16, 1863 (at p 29). This 1863 plan and its subsequent 1865 revision revealed the Crown's overall strategy to attain a general extinguishment of Native title throughout Muriwhenua.

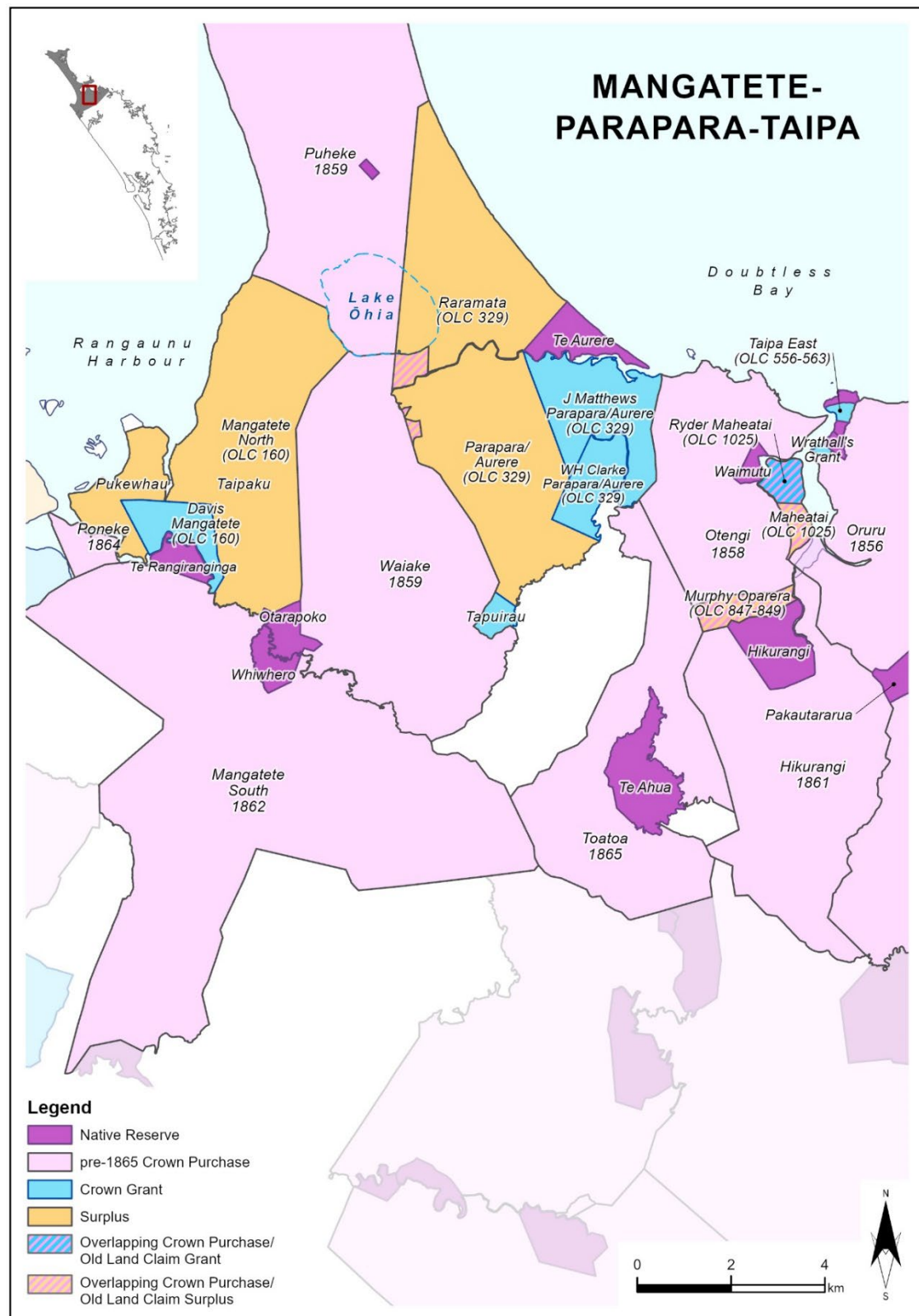
Finally, the Myer's Commission's twentieth century version of what Bell attempted in 1863 revealed its confusion over definitions of scrip and surplus land. The Myer's Commission's cartographers attempted to show how all the overlapping lines within the disputed 1863 Mangōnui Crown purchase merged in a multi-coloured, seamless web. We have entitled this multi-coloured map Figure 10: Myers Commission Whakaangi Taemaro Plan (at p 40).

Figure 6: Awanui-Kaitaia



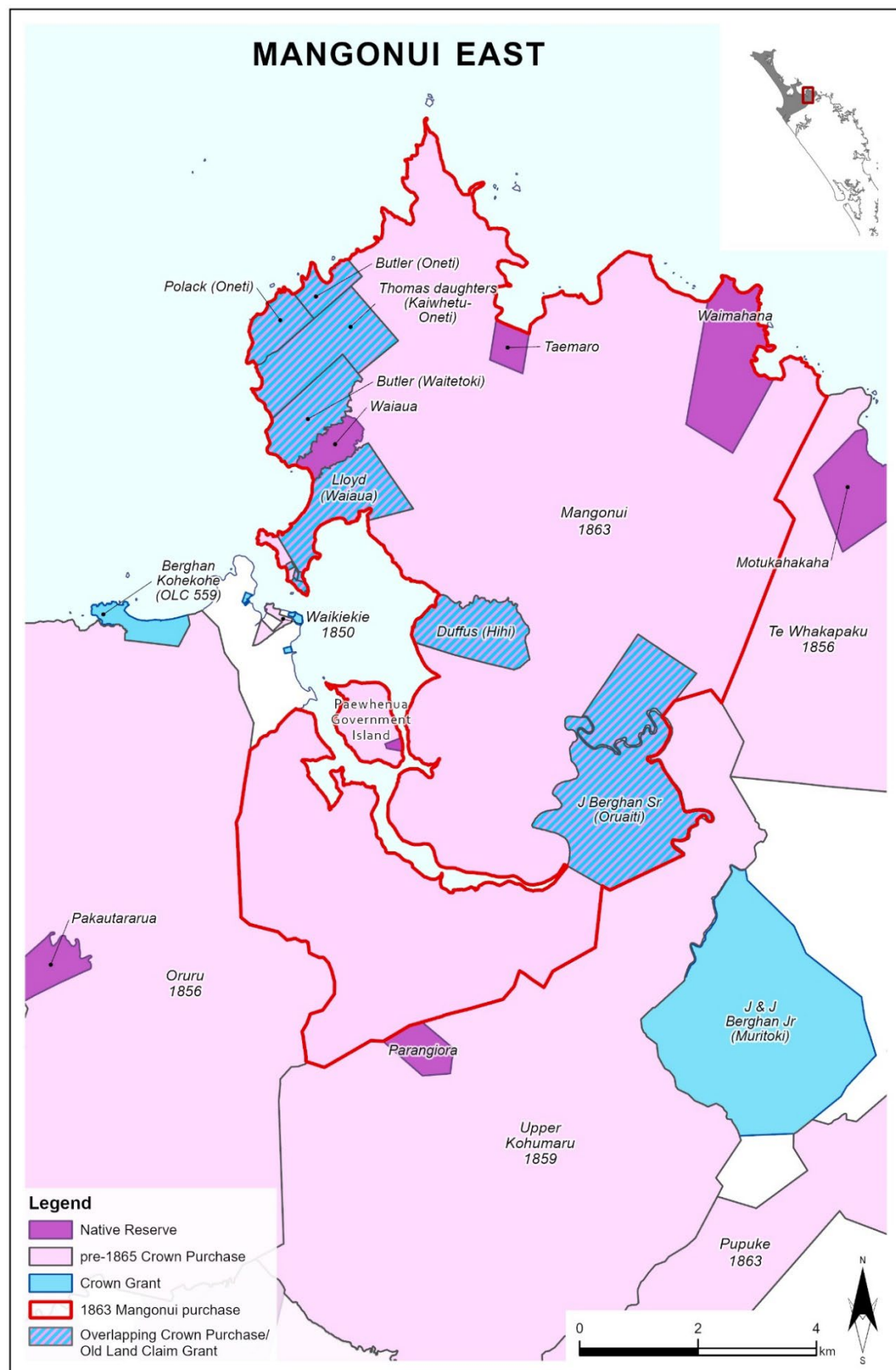
(Source: Bedford comp, OLC & SO plans, 2025)

Figure 7: Mangatete-Parapara-Taipā



(Source: Bedford comp, OLC & SO plans, 2025)

Figure 8: Mangōnui East



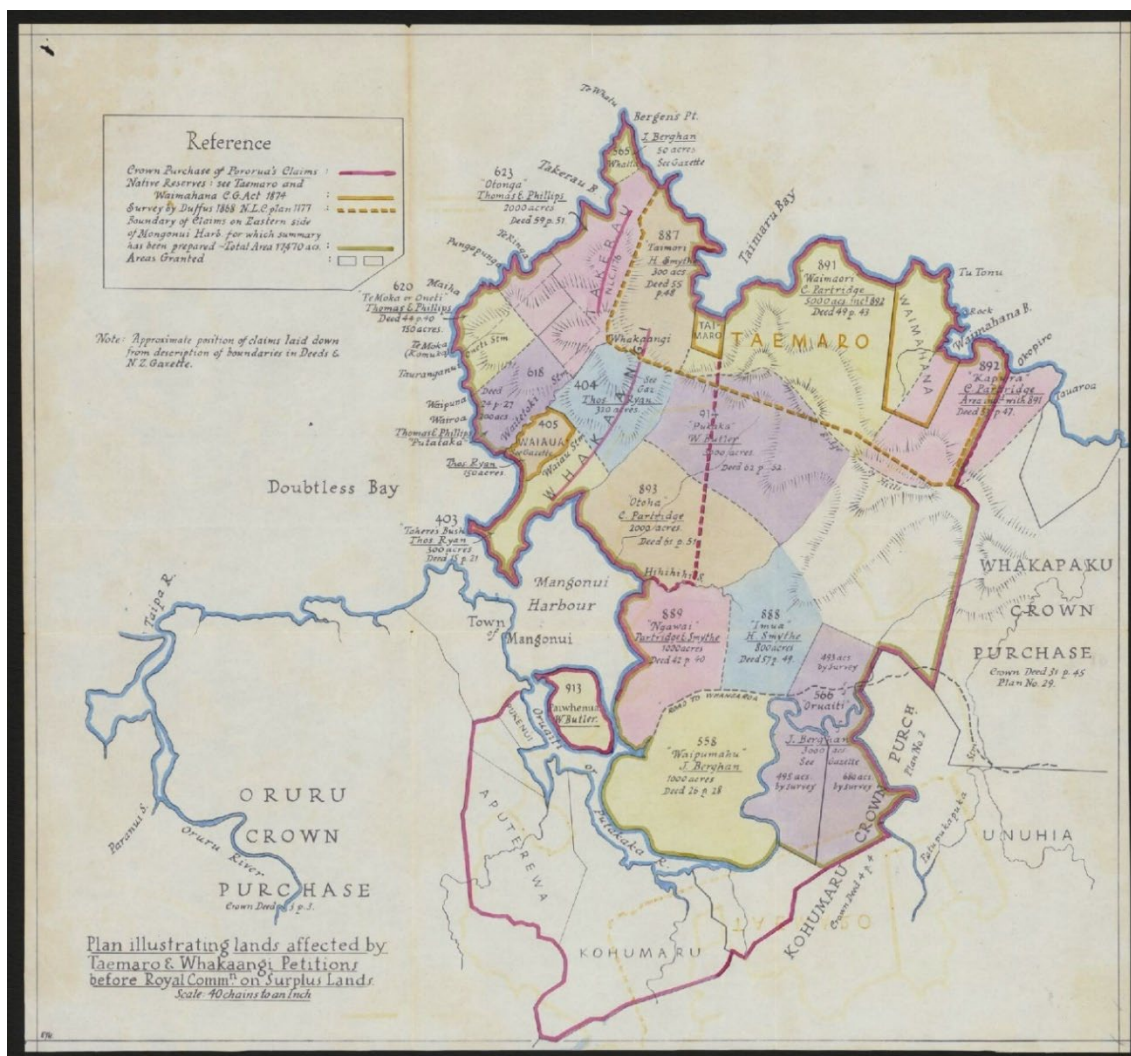
(Source: Bedford comp, OLC & SO plans, 2025)

Figure 9: Auckland Roll Plan Revised 1865



(Source: MapColl-832.11gbbd/1865/Acc.462, ATL)

Figure 10: Myers Commission Whakaangi-Taemaro Plan



(Source: MA 91/9, Exhibit G, plan facing p 18)

Table of Old Land Claims

The table of Muriwhenua Old Land Claims we have compiled below describes the most essential information on the tangible outcomes of the entire process. We have concentrated on what we regard as data essential to understanding how Muriwhenua Old Land Claims, and adjacent Crown purchases, transformed legal land ownership

In the table below we have normally aggregated the multiple claims of significant claimants to highlight resulting Crown grants. For example, James Berghman's eight Oruaiti/Kohekohe/Taipā East claims (OLC 558-566) resulted in five Crown grants totalling 1,854 acres. Rendering this information in a single row simplifies the admittedly complex process. This also applies to the

five Thomas and Phillips Kaiwhetu/Oneti claims (OLC 617-623). They produced a single 550-acre Crown grant, even though the four associated surveys produced other Crown grants for derivative claimants (such as Butler's Oneti and Waitetoki grants) nearby.

We have not aggregated all multiple missionary claims in the same way. For instance, Joseph Matthews' two Kaitaia/Parapara claims (OLC 328-329) ultimately produced four different Crown grants. Thus, we could not reduce them to a single row. Nor was it useful to aggregate all surplus land acreage, since surveyors sometimes separated it. On the other hand, surveyors aggregated the acreage of the three Puckey claims that produced two Crown grants.

Generally, our rule of thumb in aggregating claims data is to make concrete outcomes (such as total grant acreage) more intelligible. Again, we consciously strove to prevent the complexity of the way the Crown processed Old Land Claims from obscuring the most tangible outcomes. According to our table calculations, the Crown granted 27,869 acres to predominantly Pākehā claimants, it acquired 27,457 acres of surplus land, and it reserved 1,149 acres for Māori as a result of pre-1840 transactions in Muriwhenua.

Surplus land calculations

In calculating surplus land acreage, we have relied upon the original OLC survey plans which normally identify both grant and surplus boundaries. We have checked plan-based surplus acreage with what Commissioner Bell calculated in 1862. In his main AJHR report, Bell listed 11,000 acres of what appears to be Mangōnui East scrip land.¹⁰⁵ The 1946-1948 Myers Commission apparently believed this was Bell's surplus land calculation. The commission reported that 'the whole question about' Mangōnui East land 'could only be one of surplus lands . . .'.¹⁰⁶ Since none of those 11,000 acres appeared in proper surveys, as either scrip land, or as surplus land, we treat it as a scrip legacy that the Myers Commission confused with surplus land. The Crown during the twentieth century relied upon the unsurveyed 1863 Mangōnui Crown purchase to assert its title to that disputed land. Dr Mulder's Muriwhenua pre-1865 Crown transactions report deals with the 1863 purchase in detail.¹⁰⁷

¹⁰⁵ Bell, Report of Land Claims Commissioner, 8 July 1862, AJHR 1862 D-10, p 22

¹⁰⁶ Myers Commission report, 18 Oct 1948, AJHR 1948, G-8, p 15

¹⁰⁷ Mulder, Pre-1865 Crown transactions, pp 207-211

Crown grant information

As previously stated, aggregating multiple grants by claim and claimant yields one of the most tangible outcomes of the entire claims process. We have therefore compiled a detailed record of properly referenced Crown grant Register information. This includes grantee, date and Register (=R) references in the details column. In cases of multiple grants, we have summarised the grantee information.

Figure 11: Table of Old Land Claims

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
155	R Dacre	Mangōnui			Lapsed. AJHR 1863, D14, p 11		
160	James Davis	Mangatete/Pukewhau	4,880	466	R15a, fol 243 (10 Feb 1862)	4,414	31
328	Joseph Matthews	Otararau/Waiokai	3,134	2,449	Otararau 1170 acres R15, fol 23 (15 Feb 1859); Waiokai 1279 acres R15, fol 25 (15 Feb 1859)	685	7, 66, & 193
329	Joseph Matthews	Parapara/Aurere	7,317	1,748	Matthews 1089 acres R15, fol 24 (15 Feb 1859); WH Clarke 659 acres R15, fol 180 (25 Jan 1861). 340-acre Aurere Native reserve	5,229	9
330	Richard Matthews	Warau/Matako	1,750	1,183	R15, fol 40 (24 Feb 1859)	567	119

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
382	William Potter	Kaimaumu	60		No grant		352
403- 407	Thomas Ryan	Waiaua/Whakaangi			Location of 147- acre Waiaua Native reserve		ML 5538
443	T Spicer	Mangōnui			Withdrawn. AJHR 1863, D14, p 34		
458	Richard Taylor	Kapowairua/Mangōnui East	1,716	1,704	R5c, fol 13 (22 Oct 1844); The Crown on 14 Jan 1853 granted Taylor 852 acres at Kapowairua on the reverse of the original. It granted the remainder in 1851-1852 to Duffus and Lloyd at Mangonui East. See R6, fols 193 & 213 (both for 426 acres)		157, 234 & SO 1535B

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
558- 566	James Berghan	Oruaiti/Kohekohe/Taipā East	1,862	1,861	Oruaiti 1668 acres R15, fol 116 (4 Oct 1859); Kohekohe & Taipa East 186 acres R15, fol 115 (4 Oct 1859); Berghan town lots of 8.93 acres R15, fols 112-114 (4 Oct 1859). Total grants = 1860.93.		104, 105 & 129
570	Walter Brodie	Kauhoehoe	1,326	947.5	R5d, fol 23 (21 Oct 1844)	378.5	101
617- 623	George Thomas and Thomas Phillips	Kaiwhetu/Oneti	550	551	Thomas daughters Kaiwhetu 550 acres R15a, fol 366 (13 Jun 1870); Town lots 1.0.17 R15, fol 109 (4 Oct 1859). Total grants = 551 acres.		95, & 287- 290
675	CMS	Kaitaia/Kerekere	1,727	1,470	R15, fol 138 (1 Nov 1859)	257	242
704- 705	Samuel Ford	Ōruru/Okioire	8,280	2,627	R15, fol 175 (8 Aug 1860) at Okioire, near Awanui. Matarau Native reserve (132 acres)	5,653	159 & 160

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
774- 776	WG Puckey	Pukepoto/Ohotu	4,036	3,346	Pukepoto 765 acres R15, fol 12 (3 Nov 1857); 246-acre Pukepoto Native reserve; Ohotu 2581 acres R15, fol 11 (3 Nov 1857)	450	8 & 214
751- 752	JJ Bernard	Rangaunu			No grant		
847- 849	W Murphy	Oparera			259 acres apparently surveyed as scrip land		SO 797 & 780
850	C Olman	Mangōnui			No grant		
851- 856	S Wrathall	Taipā/Tanepurapura		15.5	Taipa East 15.5 acres R2b, fol 176 (4 Aug 1854)		DP 84608

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
875- 877	Henry Southee/ William Maxwell/FD Fenton	Awanui/Otaki	14,070	5,210	Maxwell grants 4578 acres R15, fol 152,154 (27 Apr 1860), & 500 acres R15a, fol 224; Southee grant 106 acres R5e, fol 389 (5 Nov 1853); 185-acre Waimanoni Native reserve; Fenton grant 26 acres R15a, fol 238 (10 Feb 1862). Total grants= 5210 acres.	8,174	6 & 294
887- 888	Hibernia Smyth	Mangōnui			No grant		
889- 893	Clement Partridge	Oneti/Taemaro		184	JS Polack Oneti grant 184 acres R15, fol 120 (4 Oct 1859); 99-acre Taemaro Native reserve		290 ML 2988
894- 895	William Wright	Mangōnui			No grant		

No.	Claimant(s)	Locality	Survey acreage	Grant	Register refs & other details	Surplus acreage	OLC Plan
913- 914	William Butler	Mangōnui/Oneti	559	559.5	Butler Waitetoki 406 acres R15, fol 117 (4 Oct 1859); Town lot 0.2.34, Mangonui East 3 acres R15, fol 110- 111 (4 Oct 1859); Butler Oneti 150 s R15a, fol 203 (11 Jul 1861). Total grants = 559.5 acres		
1025	John Ryder	Maheatai	124	120	R15, fol 186 120 acres (25 Jan 1861)	167	246
1294	George Stephenson	Houhora/Ruatorara	2,482	1,000	R15a, fol 244 (10 Feb 1862)	1,482	SO 948A
1362	James & Joseph Berghan Jr	Mangōnui/Muritoki	2,414	2,414	R15a, fol 327 (25 Oct 1864)		103
1375	John Smith	Awanui	14	14	R15a, fol 333 (1 Nov 1865)		315

Blocks and Transactions

1.1 Introduction

The following blocks and transactions narrative begins with the area from Kaitaia to Ōruru where missionary claims prevailed. Missionaries negotiated most of what could be described as on-going transactions with Panakareao. These featured deeds in both languages, land-sharing arrangements, and progressive re-negotiation. The missionary mode extended as far east as Ōruru. Ford's strategic 1839-1840 agreements extended almost to Mangōnui township.

As detailed in the first six block narratives below, the missionary mode set the pattern too for Awanui area transactions. Southee's and Smith's Awanui riverside kainga, and Ryder's Maheatai claim near Taipā, followed this pattern. Some transactions, such as Stephenson's Houhora area 'Ship Claim', and Brodie's isolated Karikari area Kauhoehoe claim, followed neither the western missionary, nor the eastern sawyer pattern.

Murphy and Wrathall's claims along the Ōruru River followed the contrasting sawyer pattern. Negotiated predominantly with Pororua Wharekauri, sawyer and trader transactions produced English-only language deeds. James Berghan, the leading sawyer claimant, claimed from the lower Ōruru valley to the upper Oruaiti valley. Oruaiti formed the kauri-cutting hinterland of the port of Mangōnui. Captain William Butler operated the port after 1839. He advertised his provisioning trade for whalers at Mangōnui as far away as Massachusetts.¹⁰⁸ Both Panakareao and Pororua recognised his economic significance. Although many sawyer claimants married into the local hapū, some left for Auckland soon after claim-related conflict erupted at Taipā in 1843, but Berghan stayed at Mangōnui with his Māori family.¹⁰⁹

Standing out from the west to east claim sequence, the Rev Richard Taylor's Muriwhenua North transaction warrants separate treatment. In the remote far north of the Aupouri Peninsula, Taylor created a special trust arrangement. Consequently, we conclude these narratives with his controversial claim.

¹⁰⁸ Pers comm, Jan Ferguson, Butler House, Mangōnui East, 6 Jan 2025

¹⁰⁹ On Berghan's customary and commercial networks, see Adrienne Puckey, *Trading Cultures: A History of the Far North*, (Wellington: Huia Publishers, 2011), pp 22-23, 339

1.2 Block narratives

1.2.1 CMS-Kaitaia OLC 675

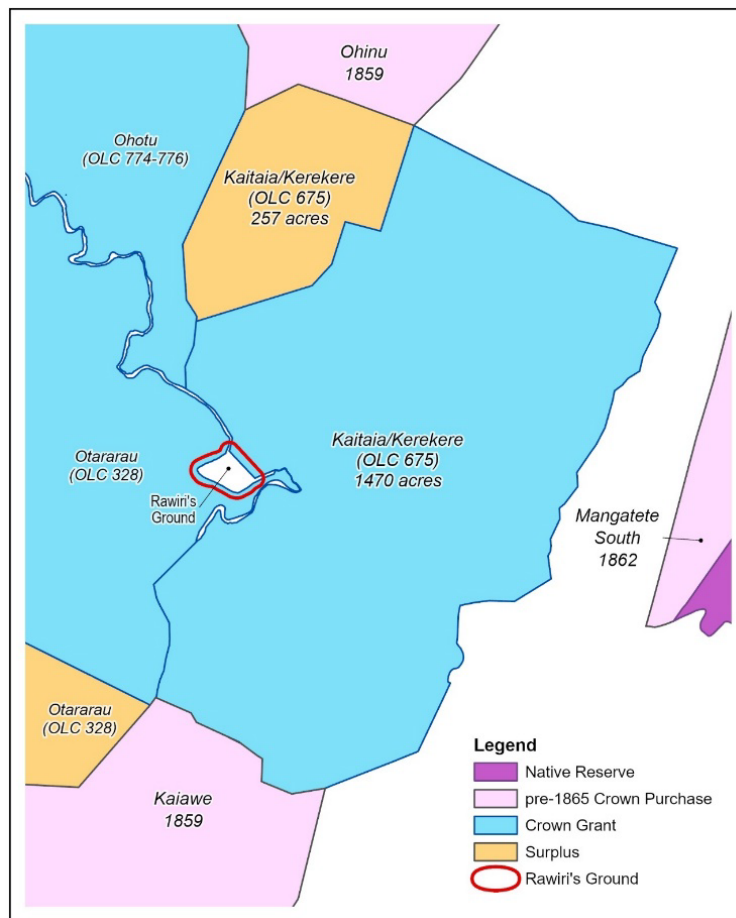


Figure 12: Kaitaia-Kerekere

(Source: Bedford comp, OLC & SO plans, 2025)

William Gilbert Puckey and Joseph Matthews, the founding CMS missionaries at Kaitaia after 1832, negotiated with Panakareao the standard setting western Muriwhenua transactions. Together they initiated land-sharing arrangements in their 1834 and 1840 Kaitaia transactions that established the Mission Station there.¹¹⁰ Panakareao, Rawiri Tiro and Popata Te Waha, acting for the local hapū in January 1843 supported the CMS Kaitaia claim before Commissioner Godfrey. Subprotector Kemp translated Panakareao's statement that he 'and other chiefs sold [approximately 2,000 acres at Kaitaia] . . . to Mr Puckey for the Church Missionary Society . . . We had a right to sell the land and have never sold it to any other person'.¹¹¹ Godfrey

¹¹⁰ WG Puckey evidence, 31 Jan 1843, OLC 1/675, p 10

¹¹¹ Panakareao, Tiro, and Waha evidence 31 Jan 1843, OLC 1/675, pp 11-12

recommended a 1,273-acre Crown grant for the CMS at Kaitaia, which Governor Robert FitzRoy subsequently confirmed.¹¹²

A later 1840 payment amounted to re-negotiation of the original 1834 Kaitaia CMS agreement. Godfrey made only a cursory remark about Puckey making similar subsequent payments on his own behalf at nearby Pukepoto and Ohotu. Puckey claimed 800 acres at Pukepoto, and 1,500 acres at Ohotu, both near Kaitaia.¹¹³ In all three claims (Kaitaia, Pukepoto and Ohotu), the CMS and Puckey provided local hapū with continued use of the land particularly along waterways. These land-sharing arrangements with local hapū emerged as an essential part of a distinctive western Muriwhenua pattern of on-going negotiations.

Commissioners Godfrey and Richmond in 1842 reported that the welter of adjoining Bay of Islands transactions persuaded many claimants to allow Māori ‘to remain upon the Lands, with an . . . understanding of never being molested’. They recommended reserves of kainga, fisheries, and wahi tapu ‘in every case’, unless Māori ‘totally abandoned’ them. The commissioners hoped that this form of land-sharing would protect Māori who ‘never calculated the consequences of so entire an alienation of their territory’.¹¹⁴

Years later, CMS Secretary Robert Burrows commented on this land-sharing as a key feature of Kempthorne’s Kaitaia survey plan. He stated that ‘The Native Cultivations marked on the Plan are occupied by the Natives under permission from the Society’.¹¹⁵ Kempthorne’s 1856 Kaitaia plan defining the CMS boundaries showed part of these cultivations along the Kaitaia River. He marked one such area as ‘Rawiri’s ground’, after Rawiri Tiro, an 1835 deed signer (together with Panakareao and Popata Te Waha).¹¹⁶

Yet when Commissioner Bell ‘settled’ the CMS Kaitaia claim in 1859, he failed to provide anything for local hapū within the 1,470-acre Crown grant. ‘Rawiri’s ground’ became a small (7.25-acre) area of Māori land called Te Kahaka outside the grant until Rawiri Tiro’s niece sold it to a Matthews descendant during the early twentieth century.¹¹⁷ On the other hand, the Crown grant defined a 257-acre surplus land area appropriated by the Crown within the CMS claim

¹¹² Godfrey report, 15 Apr 1843; Burrows evidence, 20 Sep 1859, OLC 1/675, pp 7, 26

¹¹³ Puckey to Col Sec NSW, 25 Nov 1840, OLC 1/774, p 16; Puckey evidence, 28 Jan 1843, OLC 1/775, p 7

¹¹⁴ Commissioners to Col Sec, 2 May 1842, IA 1/1842/721, Wai 45, doc I4a, pp 433-435

¹¹⁵ Burrows evidence, 20 Sep 1859, OLC 1/675, p 26

¹¹⁶ Kempthorne, OLC plan 242, 1856. See ‘Rawiri’s ground’ highlighted in Figure 6: Awanui-Kaitaia, (p 36), and in Figure 12: Kaitaia-Kerekere, (p 49)

¹¹⁷ Te Kahaka MLC Correspondence file, M331; Te Kahaka ML 12083 plan, 1923

area.¹¹⁸ Bell, in effect, transformed CMS land-sharing arrangements into absolute alienation after 1856.

1.2.2 Puckey-Pukepoto and Ohotu OLC 774-775

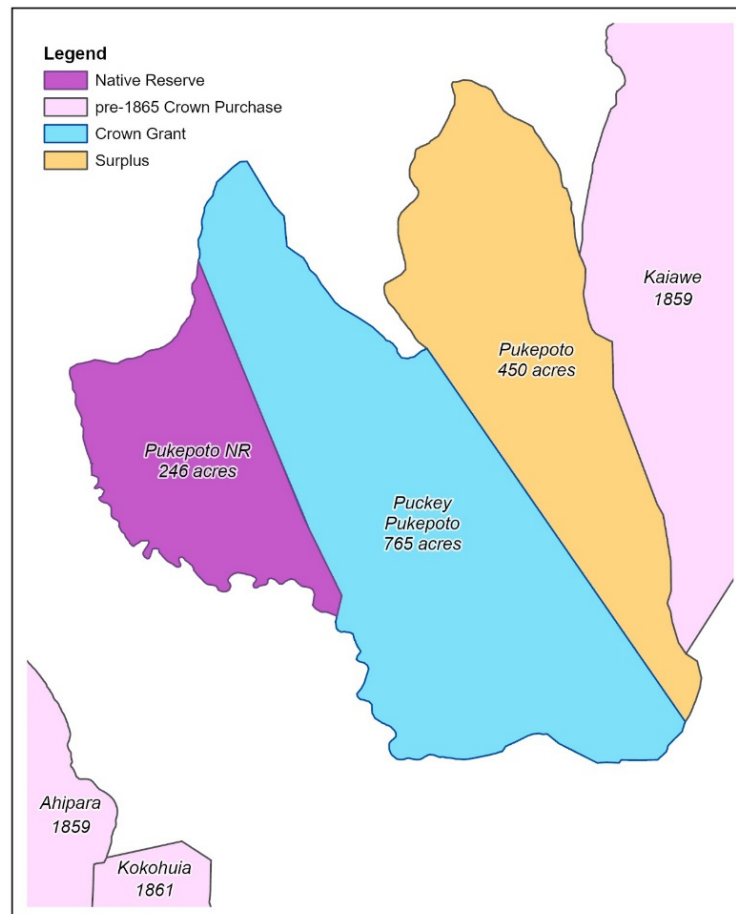


Figure 13: Pukepoto

(Source: Bedford comp, OLC & SO plans, 2025)

Puckey's explicit provision for continued hapū use of the land at nearby Pukepoto followed the Kaitaia precedent. His 19 December 1839 Pukepoto deed concluded 'The land [is] for Mr Puckey and his children and for the Natives and their Children . . . A ma te Paki to wenua me ona uri o muri i a ia noho mua ano te henga o tenei wahi mate noa me o ratou tamariki'.¹¹⁹ Puckey in January 1843 told Commissioner Godfrey that this 'guaranteed to the Natives all the land required by them for Cultivation grounds . . .'¹²⁰ HT Kemp translated Puhipi Te Ripi, the

¹¹⁸ Kempthorne, OLC plan 242, 1856; CMS Kaitaia Crown grant, 1 Nov 1859, R15, fol 138

¹¹⁹ Pukepoto deeds, 19 Dec 1839, OLC 1/775, p 12

¹²⁰ Puckey evidence, 28 Jan 1843, OLC 1/775, p 7

leading Pukepoto signer, as stating that ‘we understood that we had parted with our [land] . . . altho’ Mr Puckey allowed some [of us] to remain on the land and cultivate’.¹²¹ Panakareao, a co-signer, added ‘The Natives have a right reserved to them of living & cultivating upon the land but they cannot sell or alienate any part of it’ (HT Kemp translation).¹²²

Eventually, this arrangement for sharing Pukepoto land became a 246-acre Native reserve near the ‘Old Pa’ there. William Hendrie Clarke, a Scots surveyor, marked off the Pukepoto reserve on his 1857 plan.¹²³ Commissioner Bell required Clarke to identify the area remaining after he identified Puckey’s grant, as Crown ‘surplus land’. Clarke dutifully marked off 450 acres of Pukepoto surplus land, after he surveyed both the Puckey 768-acre grant and the 246-acre Pukepoto reserve.¹²⁴

Godfrey’s 1843 recommendation ‘excepted’ from Puckey’s grant ‘. . . all Cultivations or other Grounds in the present occupation of the Natives – and [also] any quantity judged to be required for their use by the Protector of Aborigines’.¹²⁵ Yet, before Governor Grey disestablished his position in 1846, Protector Clarke failed to examine the adequacy of the Pukepoto reserve. In referring to the reserve at Commissioner Bell’s 1857 hearing, Puckey stated that it ‘was originally understood between Puhipi and myself as land that ‘should revert to me at the death of the Natives: but I am willing that it should be made a permanent reserve’. Yet the Crown stated Godfrey’s reserve ‘exception’ in Puckey’s 1845 grant. This ‘exception’ legalised Puckey’s private understanding with Puhipi.¹²⁶

Pukepoto was one of only four western Native reserves to emerge from pre-1840 Muriwhenua transactions. Bell subsequently ratified the 185-acre Waimanoni and the 132-acre Matarau reserves on riverside land near Awanui. Finally, the Matthews Parapara claim generated the 340-acre Te Aurere reserve on Doubtless Bay.¹²⁷ All four reserves emerged from the western Muriwhenua land-sharing arrangements.

¹²¹ Puhipi evidence, 28 Jan 1843, OLC 1/775, pp 8-9 (HT Kemp translation)

¹²² Panakareao evidence, 31 Jan 1843, OLC 1/775, p 9 (HT Kemp translation)

¹²³ Clarke, OLC plan 8, 1857

¹²⁴ Bell to WH Clarke, 15 Nov 1857, OLC 8/2, pp 102-103

¹²⁵ Godfrey report, 15 Apr 1843, OLC 1/775, p 6

¹²⁶ Puckey evidence, 5 Oct 1857, OLC 1/774, pp 25-26; Puckey Pukepoto Crown grant, 15 Feb 1845, R5, fol 21; OLC 1/775, pp 14-15

¹²⁷ For the location of these reserves, see Figure 6: Awanui-Kaitaia, (p 36); for Pukepoto, Matarau and Wamanoni; and Figure 7: Mangatete-Parapara-Taipā for Te Aurere, (p 37). Two additional eastern reserves at Waiaua and Taemaro sprang from a combination of pre-1840 transactions, and from the disputed 1863 Mangōnui Crown purchase, illustrated in Figure 8: Mangōnui East, (p 38).

Puckey's larger Ohotu claim (northwest of Kaitaia) followed the same pattern. The 1835 Ohotu deed stated, 'The land [is] for Mr Puckey for ever and the Natives . . . Mo te wenua me nga rakau katoa noa iho ma te Paki ake tonu te wenua ma te tāngata Maori ano'.¹²⁸ Just as in Kaitaia, Panakareao led hapū signers in affirming the 1835 Ohotu transaction at Godfrey's January 1843 hearing. He also explained a subsequent payment followed from on-going negotiations repeated at Kaitaia and Pukepoto. At Ohotu Matthews verified that Puckey provided an additional payment as late as 1842.¹²⁹

On sharing Ohotu land with local hapū, Puckey told Godfrey in 1843 that he 'guaranteed to them the undisturbed possession of as much land as they required for Cultivation . . .' His brother-in-law, Joseph Matthews, added that 'The term placed in the deeds "for the use of the Natives also" was explained to them [in 1835] to be "on sufferance"'.¹³⁰ Godfrey had no difficulty with the subsequent payments. He stated that they were consistent with Puckey's continued occupation of the land since 1835 'allowing, as stated in the deed, the continuance of the Natives upon the land'.¹³¹

Although Godfrey initially recommended a small 155-acre Ohotu grant, FitzRoy extended this to 1,500 acres, representing 'the *whole* of his claim' (emphasis in original).¹³² Puckey's 1845 Crown grant boundaries remained undefined until WH Clarke in 1857 produced a professional survey, as required by section 40 of the Land Claims Settlement Act 1856.¹³³ Clarke in October 1857 certified before Bell that he had surveyed Puckey's Ohotu claim without 'interruption . . . by the Natives'.¹³⁴ Bell, unlike his predecessor Godfrey, could order grants. He decided to grant Puckey everything that Clarke surveyed for him at Ohotu, without recognising the continued hapū occupation that both Puckey and Matthews testified to in 1843.¹³⁵ Bell simply ordered a 2,581-acre Ohotu grant for Puckey to coincide with Clarke's survey of his entire claim. In doing so, Bell almost doubled Puckey's 1,500-acre 1845 grant acreage without recognising Godfrey's provision for 'the continuance of the Natives upon the land'.¹³⁶

¹²⁸ Ohotu deeds, 20 Jul 1835, OLC 1/774, pp 11-12

¹²⁹ Panakareao & J Matthews evidence, 28 Jan 1843, OLC 1/774, pp 9-10

¹³⁰ Puckey & Matthews evidence, 28 Jan 1843, OLC 1/774, pp 8-10

¹³¹ Godfrey report, 15 Apr 1843, OLC 1/774, p 7

¹³² Godfrey report, 15 Apr 1843; FitzRoy to Sinclair, 13 Jan 1845, OLC 1/774, pp 7, 20

¹³³ Section 40, Land Claims Settlement Act 1856

¹³⁴ Bell to Puckey, 4 Jun 1857; WH Clarke statement, Sep 1857, OLC 1/774, pp 23, 44-45

¹³⁵ Puckey & Matthews evidence, 28 Jan 1843; Bell report, 31 Oct 1857, OLC 1/774, pp 8-10, 27

¹³⁶ Bell report, 31 Oct 1857, OLC 1/774, p 27; OLC plan 214, nd.; Puckey Ohotu Crown grant, 3 Nov 1857, R15, fol 11

1.2.3 J Matthews – Otararau, Waiokai & Parapara OLC 328-329

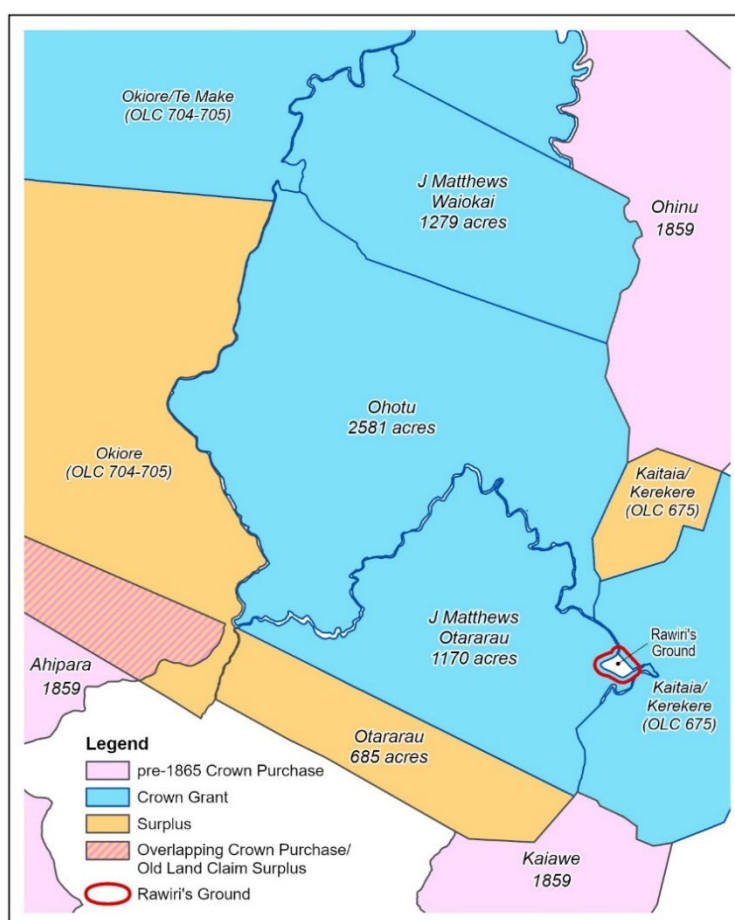


Figure 14: Otararau-Waiokai

(Source: Bedford comp, OLC & SO plans, 2025)

Joseph Matthews followed the 1834 CMS Kaitaia land-sharing pattern by entering into two nearby agreements the following year. Matthews in July 1835 negotiated agreements with Panakareao and other Kaitaia hapū representatives at Otararau (near Pukepoto), and at Waiokai, (near Awanui). Just as at Kaitaia, Matthews supplemented the initial Otararau cash payment with exchanges of goods in 1836, and again in 1842. Similarly, he delivered a horse in 1842 to supplement his 1835 Waiokai cash payment.¹³⁷ Panakareao told Godfrey that because he considered the first payment insufficient, he ‘demanded and received the second . . .’ (HT Kemp translation).¹³⁸ Godfrey considered that these subsequent payments strengthened Matthews’ claims. He even valued these late payments at £50, and he increased his grant recommendations

¹³⁷ Otararau & Waiokai deeds, 20 Jul 1835, OLC 1/328, pp 11-12

¹³⁸ Panakareao evidence, 28 Jan 1843, OLC1/328A, p 9 (HT Kemp translation)

accordingly.¹³⁹ Godfrey in 1843 recommended 1,400 grants for Otararau and Waiokai combined, and the October 1844 Crown grant also combined the two separate areas.¹⁴⁰

Just as with Puckey's grants, those at Otararau and Waiokai remained undefined until 1857 when WH Clarke surveyed them. Bell then supervised the deduction of a 685-acre surplus strip along the southern Otararau boundary.¹⁴¹ This surplus land at Tangonge provoked concerted hapū protest during the twentieth century. The 1927 Sim Commission on confiscated land dismissed Herepete Rapihana's petition against the Crown's 685-acre claim.¹⁴² Michael Nepia, in his 1992 Tribunal-commissioned report on the surplus land issue, referred repeatedly to these sustained Tangonge protests.¹⁴³

When Bell reported on the Matthews Otararau and Waiokai claims in 1859, he ordered separate Crown grants for 1,170 acres and for 1,279 acres respectively. Thus, again, Bell's 1859 grants far exceeded the combined total of 1,400 acres that Godfrey recommended in 1843. Bell reserved no land for local hapū within these grants, despite carving off the 685-acre strip of surplus land for the Crown at Tangonge.¹⁴⁴

¹³⁹ Godfrey report, 15 Apr 1843, OLC 1/328A, pp 5-6

¹⁴⁰ Godfrey report, 15 Apr 1843, OLC 1/328A, pp 4-7; Matthews Otararau-Waiokai Crown grant, 22 Oct 1844, OLC 1/328B, pp 7-8

¹⁴¹ Bell note on draft Otararau plan, 29 Jul 1858; Bell to CH McIntosh, 23 Nov 1858, OLC 1/328B, pp 28-29

¹⁴² Sim Commission report, 29 Jun 1927, AJHR, 1928, G-7, pp 34-35

¹⁴³ Michael Nepia, *Muriwhenua Surplus Lands*, Wai 45, doc G1, pp 11-14, 19-30, 32-33, 37-53, 62-66, 103-106, 116-117

¹⁴⁴ Bell report, 31 Jan 1859, OLC 1/328B, pp 44-45; J Matthews Otararau Crown grant, 15 Feb 1859, R15, fol 23; J Matthews Waiokai Crown grant, 15 Feb 1859, R15, fol 25

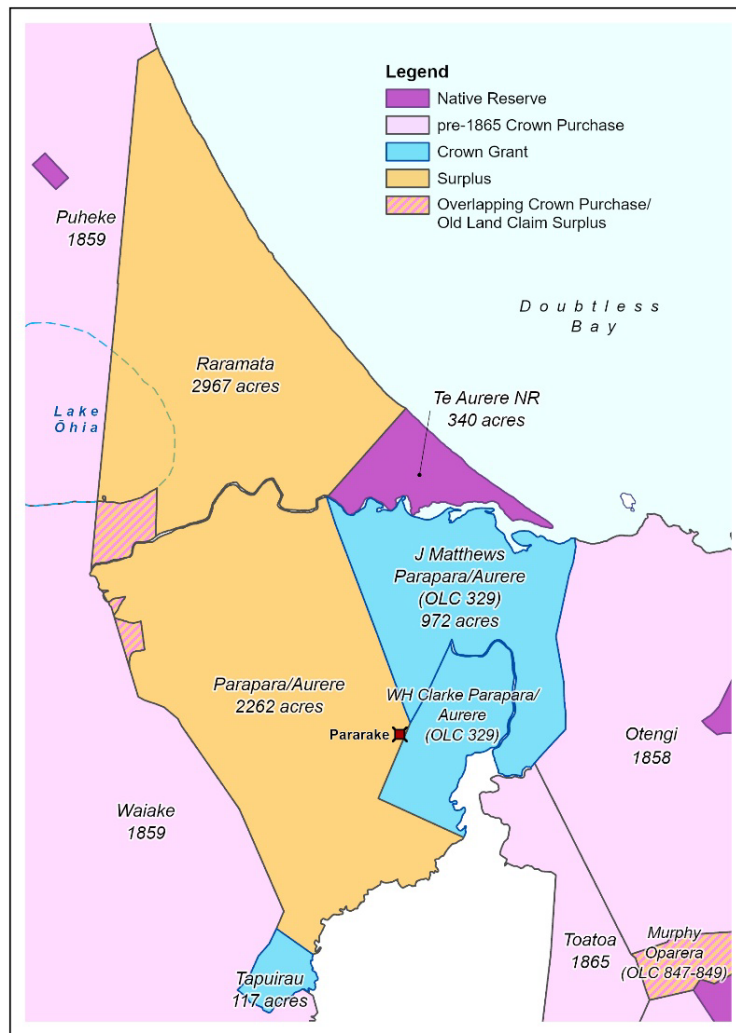


Figure 15: Parapara

(Source: Bedford comp, OLC & SO plans, 2025)

Bell in 1857 authorised the appropriation of 5,229 acres of Crown surplus land from the Matthews Parapara claim. Reihana Kiriwi featured in the original 1839 transaction. He helped Matthews convert Ngāti Kahu, Te Paatu and Ngāti Tara to Christianity during the 1830s. Originally named Te Morenui, he apparently lived with the Matthews family for almost twenty years. He took the Christian name Richard Greaves (Reihana Kiriwi). CMS missionary John King taught him English at Rangihoua (where Marsden arrived in 1814), and Joseph Matthews taught him carpentry at Kaitaia.¹⁴⁵ Although Panakareao signed the November 1839 Parapara deed at the bottom, Kiriwi signed near the top of a list of 23 local Parapara signers.¹⁴⁶

¹⁴⁵ J Matthews to CMS, 27 Aug 1866, Matthews Annual Letter, 1876, CMC/CN/0.61, ATL

¹⁴⁶ J Matthews Parapara deed, 14 Nov 1839, OLC 1/329, pp 11-12

The 1839 Parapara deed included a crucial land-sharing provision. Godfrey recommended on 15 April 1845 that Raramata (an almost 3,000-acre coastal area) should be ‘reserved to the natives’.¹⁴⁷ When Matthews at Godfrey’s 1843 hearing claimed 800 acres at Parapara, he deliberately excluded all except a small beach cottage at Raramata.¹⁴⁸ Panakareao testified that ‘Mr Matthews has but a small portion of Raramata – the remainder of that place belongs to the Natives’ (HT Kemp translation).¹⁴⁹

When the Crown granted Matthews 800 acres in 1844-1845, it described the larger claim area as ‘Raramata, Parapara, Tapairau and Mata’. The Crown also included a Raramata reserve provision in the text of the 1844 grant. This provision stated that the grant excepted ‘all land’ at Raramata.¹⁵⁰ The strategic location of the land at the base of the Karikari Peninsula prompted Wi Tana Papahia’s September 1855 protest. The Hokianga rangatira with strong Ngāti Kahu connections challenged Matthews’ right to claim such a large area without his consent. Papahia also rejected the right of ‘other Natives’ to transfer hapū land to Matthews without consulting him. Addressing the Governor, he declared ‘I shall not give up the claims I possess to this land . . . O Governor, I shall continue to urge my claims to these lands, until some compensation has been received by me . . .’¹⁵¹

HT Kemp reported that Wi Tana, the son of the powerful Hokianga rangatira Papahia, commanded widespread respect. On the other hand, Kemp initially dismissed his protest by stating that years had passed ‘since the purchases were made’. Kemp maintained that Wi Tana should ‘have applied [for redress] long before this’.¹⁵² Colonial Secretary William Gisborne later wrote on Wi Tana Papahia’s protest that ‘These Native disputes with reference to the Old Land Grants’ showed the necessity to introduce new land claims legislation.¹⁵³ Governor Browne even thought the matter significant enough to notify the imperial government in London. He informed Lord John Russell that Wi Tana’s protest was typical ‘of many others likely to be brought forward’ because they could not ‘be settled in the ordinary courts . . .’ Browne met with Papahia in Auckland on 28 September 1855. Kemp then reported on Papahia’s Parapara complaint that ‘this land had been sold by persons belonging to another tribe . . .’ Kemp added

¹⁴⁷ Godfrey report, 15 Apr 1843, OLC1/329, pp 3-6

¹⁴⁸ Matthews evidence, 28 Jan 1843, OLC 1/239, p 7

¹⁴⁹ Panakareao evidence, 30 Jan 1843, OLC 1/329, p 8 (HT Kemp translation)

¹⁵⁰ J Matthews Parapara Crown grants, 22 Oct 1844; 20 Oct 1845, OLC 1/329, pp 176-18

¹⁵¹ Wi Tana Papahia to Governor, 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation)

¹⁵² HT Kemp to Governor, 20 Sep 1855, OLC 1/328B, p 1

¹⁵³ Gisborne minute, 22 Sep 1855, OLC 1/328B, pp 3-4

‘that it was not until some years afterwards that he [Papahia] found out . . .’ about the 1839 transaction.¹⁵⁴

Papahia in 1865 persisted with his Parapara protest. With other Hokianga rangatira he lobbied McLean in Auckland over their combined Parapara-Ōruru claims. They sought a share of the Crown’s Ōruru purchase payments, and the setting aside of Pararake as a Parapara reserve. Although McLean asked Kemp to report on these Hokianga claims, Kemp’s response has evidently not survived.¹⁵⁵ Pararake remained an unreserved pā site just west of WH Clarke’s Parapara Crown grant.¹⁵⁶

Matthews honoured Godfrey’s Raramata reserve recommendation. He attempted to get WH Clarke to separate the 3,000-acre coastal area within his 1857 Parapara survey. Matthews presented Clarke’s draft survey at Bell’s 5 October 1857 Kaitaia hearing. He told Bell that local hapū were prepared to pay Clarke for his Raramata survey, because ‘the whole of the land [there] . . . was agreed to be reserved for the Natives’. This large reserve, he added, provided ‘for their canoes, nets and other purposes’.¹⁵⁷ Clarke later confirmed that he surveyed Raramata ‘for the Natives’ in accordance with what Matthews ‘arranged with’ local hapū.¹⁵⁸

But Bell rejected the proposed 3,000-acre Raramata reserve for local hapū. He announced at his 5 October 1857 Kaitaia hearing that he ‘declined to accede to this’ large reserve. Instead, ‘upon discussion with the natives [he] agreed to make them a reserve of 300 [later surveyed as 340] acres at Raramata . . .’ According to Bell, ‘The whole question was gone into with the natives respecting the surplus reverting to the Crown’.¹⁵⁹ The area Bell set aside later became the Aurere Native reserve at the southern extremity of a 2,967-acre stretch of Crown surplus land at Raramata. Local hapū recovered only 10 per cent of what Matthews’ 1844 Crown grant reserved for them.¹⁶⁰

Subsequently, Bell granted Matthews 1,089 acres at Parapara, with an additional 659 acres granted to WH Clarke as a survey allowance. In Bell’s haste to claim 90 per cent of Raramata as Crown surplus land, he appears to have overlooked a smaller inland reserve at Tapuirau.

¹⁵⁴ Kemp ‘Land Claims’ report, nd., encl in Browne to Russell, 29 Sep 1855, BPP 1860, (2719), p 156

¹⁵⁵ McLean to Kemp, 11 Dec 1856, MA91/9, Exhibit N, p 30

¹⁵⁶ On the location of Pararake, see Figure 15: Parapara, (p 56)

¹⁵⁷ Matthews evidence, 5 Oct 1857, OLC 1/328B, pp 13-15

¹⁵⁸ WH Clake evidence, 31 Mar 1858, OLC 1/328B, p 20

¹⁵⁹ Bell’s hearing notes, 3 Oct 1857, OLC 5/34, pp 8-9

¹⁶⁰ Matthews Parapara Crown grant, 22 Oct 1844, R4, fol 28; OLC 1/329, pp 17-18. See Figure 15: Parapara, (p 56)

Matthews mentioned Tapuirau in a September 1858 letter to Bell. He wrote that WB White ‘my good friend . . . wished you to mark on the [Parapara] tracing the proposed Native reserve . . . at Tapuirau’. WH Clarke shaded this as a ‘Forest’ area of 117 acres in his final Parapara plan.¹⁶¹ Bell evidently expected Matthews to deduct this area from his 1,089-acre grant. Bell noted on 29 July 1858 in the middle of the draft 1857 Parapara plan that Matthews’ grant would reduce to 972 acres ‘after allowing for Tapuirau’.¹⁶² But the later 15 February 1859 Matthews Parapara Crown grant plan marks ‘Tapuirau Rev J Matthews 117 acres’. The grant plan also shows the full extent of Crown surplus land within the Matthews claim area as 5,229 acres. This included 2,967 acres of coastal land at Raramata, and a further 2,262 acres of inland surplus. Together they are marked as the ‘Other part of the original claim of Joseph Mathews – Reverting to the Crown’.¹⁶³

Local hapū appear to have missed out on the 117-acre Tapuirau bush reserve, and on 90 per cent of their promised 3,000-acre Raramata coastal reserve. They apparently named the 340-acre sandbar left to them Te Aurere (moan, or groan) to mark a bitter legacy.¹⁶⁴

Reihana Kiriwi’s descendant Heta Kiriwi led the first recorded protests about this legacy in a 1923 petition to Parliament. Judge Frank Acheson vainly attempted to investigate this and other surplus land grievances during the 1930s. The Crown succeeded in thwarting Native Land Court scrutiny with repeated adjournments. Then during the 1940s, the Myers Commission gave Te Aurere only cursory attention. The Muriwhenua Land Tribunal in 1997 finally gave it the attention it deserved.¹⁶⁵

¹⁶¹ Clarke, OLC plan 9, nd.; Matthews to Bell 23 Sep 1858, OLC 1/328B, pp 24-26

¹⁶² Bell note, 29 Jul 1858 (in red) on draft Parapara plan, OLC 1/328B, pp 44-45

¹⁶³ J Matthews Parapara Crown grant, 15 Feb 1859, R15, fol 24

¹⁶⁴ When Heke-mai-nuku-nga-iwi Busby launched his ocean-going waka there in 1992, he named it Te Aurere. See Figure 15: Parapara, (p 56)

¹⁶⁵ Waitangi Tribunal, Muriwhenua Land report 1997, pp 141, 146, 228, 232, 234, 260, 341

1.2.4 Richard Matthews-Warau & Matako OLC 330

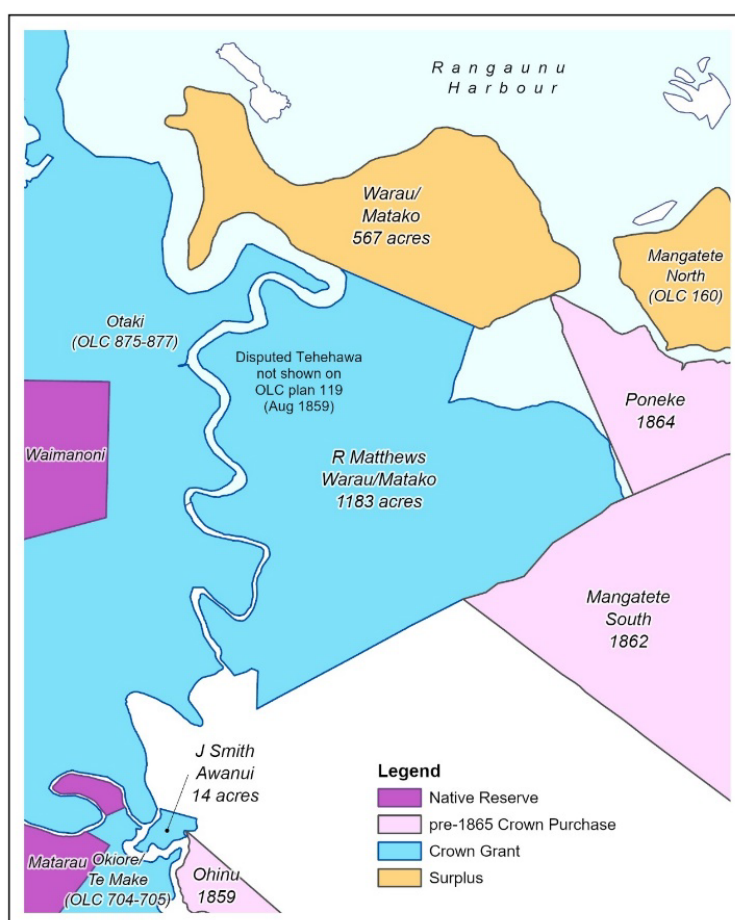


Figure 16: Warau Matakō

(Source: Bedford comp, OLC & SO plans, 2025)

Richard Matthews arrived in the Awanui area several years after his older brother Joseph arrived at Kaitaia.¹⁶⁶ While serving the CMS as a catechist in Wanganui in December 1840, Matthews claimed over 2,000 acres near Awanui through successive 1839 agreements with Panakareao, Taua, and Popata Te Waha.¹⁶⁷ During Godfrey's January 1843 hearing, Taua explained the location of two adjoining areas Matthews claimed: Warau and Matakō. At Warau, Haunui (Popata's brother) claimed that 'a small point of land called "Tehehawa" which belongs to me . . .' He called upon Godfrey to exclude this small area from the Matthews grant. Furthermore, Haunui alleged that Matthews tried to prevent him from raising this matter in open hearing.¹⁶⁸ Godfrey complied with Haunui's request by recommending that any Richard Matthews Warau-

¹⁶⁶ On Richard Matthews's background, see Kaye Dragicevich, *The Matthews Family of Kaitaia*, Kaitaia: privately published, 2009, pp 18-19

¹⁶⁷ R Matthews to Col Sec NSW, 10 Dec 1840; R Matthews evidence, 31 Jan 1843, OLC 1/330, pp 8, 14

¹⁶⁸ Taua evidence, 31 Jan 1843; Haunui & Popata evidence, 10 Feb 1843, OLC 1/330, pp 9-10 (HT Kemp translation)

Matako grant exclude 'Tehekawa and Okuraiti'.¹⁶⁹ Matthews failed to discredit Haunui's protest by telling Godfrey that Haunui had only 'an old hut' at Tehehawa, for which Matthews gave him a blanket. Later Matthews also alleged that Haunui's Pākehā son-in-law, Thomas Granville, provoked the Tehehawa protest.¹⁷⁰

Matthews contracted WH Clarke to survey his 1,750-acre claim in preparation for Bell's October 1857 Kaitaia and Mangōnuī hearings. There Matthews declared that Clarke traversed the boundaries with appropriate hapū representatives, but he neglected to name any of them. Matthews again attempted to dismiss Haunui's Tehehawa protest.¹⁷¹

Bell in February 1859 ordered a 1,183-acre Warau-Matako Crown grant for Richard Matthews. This grant included a 263-acre survey allowance in accordance with section 44 of the 1856 Act.¹⁷² WH Clarke's survey allowed Bell to carve off 567 acres of surplus. Furthermore, Bell ignored Haunui's sustained protest. Bell, true to form, ensured that Tehehawa and Okuraiti did not become the Native reserves that Godfrey recommended 16 years earlier.¹⁷³

¹⁶⁹ Godfrey probably misspelt 'Tehehawa' since HT Kemp recorded that as the correct spelling in his translation of Haunui's evidence. Godfrey report, 15 Apr 1843, OLC 1/330, pp 5, 7

¹⁷⁰ R Matthews evidence, 10 Feb 1843; R Matthews to Col Sec, 27 Mar 1845, OLC 1/330, pp 11, 35-39

¹⁷¹ Bell's Hearing Notes, 3 Oct 1857, OLC 5/34, p 1; R Matthews evidence, 5 Oct 1857, OLC 1/330, pp 51-52

¹⁷² Section 44, Land Claims Settlement Act 1856; Bell report, 20 Feb 1859, OLC1/330, p 69

¹⁷³ OLC plan 119; R Matthews Warau-Matako Crown grant, 24 Feb 1859, R15, fol 140

1.2.5 James Davis-Mangatete OLC 160

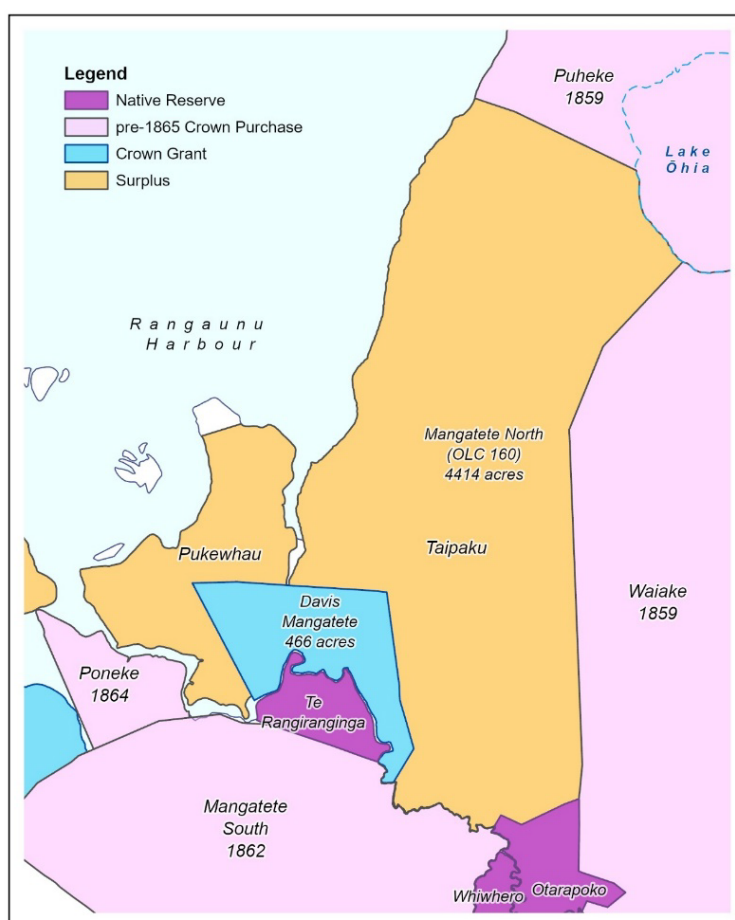


Figure 17: Mangatete

(Source: Bedford comp, OLC & SO plans, 2025)

The son of Waimate missionary, Richard Davis (whose elder daughters married Joseph Matthews and WG Puckey), James Davis claimed 1,000 acres at Mangatete (just east of Awanui). Puckey negotiated the 1837 deed with Taua on behalf of James Davis. At Godfrey's 1843 hearing Puckey stated that he paid Taua £40 for the Mangatete land.¹⁷⁴ Taua and Popata Te Waha both affirmed the validity of the original 1837 transaction.¹⁷⁵ Although Godfrey recommended a small 160-acre grant for Davis (probably because he continued to reside at Waimate), FitzRoy doubled this acreage in ordering the 320-acre 1844 grant.¹⁷⁶

¹⁷⁴ WG Puckey evidence, 31 Jan 1843, OLC 1/160, p 6

¹⁷⁵ Taua & Popata evidence, 31 Jan 1843, OLC 1/160, pp 7-9 (HT Kemp translation)

¹⁷⁶ Godfrey report, 15 Apr 1843; FitzRoy order, 7 Jun 1844, OLC 1/160, p 5

During the 1840s and 50s James Davis continued to farm at ‘Swaraton’, a prosperous 1,107-acre Bay of Islands property.¹⁷⁷ He brought his Mangatete claim before Bell in Waimate (100 kilometres southeast of Mangatete). There he told Bell that he wished to avail himself of the survey allowance to enlarge his 320-acre Mangatete grant. Crown purchase agent HT Kemp also wanted the Davis Mangatete survey to connect with his 1858 Puheke Crown purchase.¹⁷⁸ Davis in 1858 employed RA Fairburn (the son of another notable missionary) to survey Mangatete. Fairburn’s survey showed a 466-acre Davis grant, with only 69 acres of surplus land.¹⁷⁹ Bell discovered that local hapū limited Fairburn’s survey to no more than 535 acres. He reported ‘As however it was known that a very much larger quantity had originally been sold, I directed steps to be taken through WB White for the recovery of the [unsurveyed] surplus . . .’ Bell claimed that local hapū ‘agreed to give up the whole of the original Boundaries . . . shown to amount to 4886 acres’.¹⁸⁰

Bell arranged ‘through WB White’ to get the Crown to pay for James Campbell’s survey of an additional 4,414 acres connecting Fairburn’s Mangatete survey with surrounding Crown purchases.¹⁸¹ When Bell reported the Mangatete grant and surplus acreage in his final published land claims report, he declared that the Crown acquired 4,414 acres of surplus land, and that it granted Davis 466 acres at Mangatete.¹⁸²

Local hapū referred to the northern surplus extending to Lake Ohia as Pukewhau and Taipaku. Davis in 1877 informed the Crown District Officer, William Webster, that Mangatete hapū sought to regain possession of Pukewhau-Taipaku. Davis asserted that ‘Ponikata’ (probably Popata Te Waha) in 1859 traversed and verified the extended Mangatete boundaries with Crown surveyor James Campbell. Davis denounced ‘The natives who are now wishing to claim it [Pukewhau-Taipaku] from the Government . . . because they say the Government did not purchase it’. He believed they conceded ‘my right as they have always done *but not the right of the Government . . .*’ (emphasis in original). Davis urged the Crown to stand firm. ‘It would be the greatest injustice to me for the Govt. to take my land and give it up again to those [local hapū] who have no honest claim to it’. Instead he thought he could lease it for a decent rental to his nephew, Herbert Matthews. He offered the Crown his loyal support in this dispute. ‘I learn

¹⁷⁷ J Davis Waimate Crown grant, 15 Feb 1859, R15 fol 30

¹⁷⁸ J Davis evidence, 13 Oct 1857; Kemp to Bell, 12, 17 Sep 1859, OLC 1/160, pp 13-15, 22-24

¹⁷⁹ Clarke, OLC plan 31, nd.; Davis to Bell, 6 Sep 1860, OLC 1/160, pp 33-34

¹⁸⁰ Bell report, 26 Dec 1859, OLC 1/160, p 31

¹⁸¹ J Campbell, SO 783 ‘Maungatete’, June 1859; White to Bell, 3 Sep 1859, OLC 1/160, pp 20-21

¹⁸² J Davis Mangatete Crown grant, 10 Feb 1862, R15a, fol 243; Bell’s ‘Statement of Surplus land reverting to the Crown’, AJHR, 1862, D-10, p 21

much from the natives on these cases and am sure my recommendation of firmness is the best and only right way'.¹⁸³

Although James Davis's brother-in-law, Joseph Matthews stood in support of the nearby Raramata hapū, Davis opposed Pukewhau-Taipaku hapū. He also remained an absentee Waimate-based landlord. Just as Heta Kiriwi led a Raramata protest in 1923, Hare Popata (a Popata Te Waha descendant) petitioned Parliament on behalf of Mangatete hapū in 1924. Hare Popata alleged that the Crown appropriated Pukewhau-Taipaku 'without any right from my people'.¹⁸⁴ Again, it took the Muriwhenua Land Tribunal in 1997 to reveal the depth of these enduring hapū grievances.¹⁸⁵

1.2.6 Samuel Ford-Ōruru & Okioire OLC 704-705

Samuel Hayward Ford came to Muriwhenua in the late 1830s as a visiting CMS doctor.¹⁸⁶ At a time of disastrous epidemics, local hapū valued his medical services. Panakareao, and local Ōruru hapū, encouraged the frequency of Ford's medical visits to their area by engaging him in large-scale 1839 transactions.¹⁸⁷ Although Ford claimed 5,000 acres at Ōruru, the area described in the deed probably included 20,000 acres, extending west as far as Otanguru Pā (near Te Aurere), and east as far as Kohumaru. Furthermore, the 1839 deed provided for land-sharing at both Ōruru and Kohumaru. The people of those kainga could 'sit upon their places . . . within the boundary'.¹⁸⁸ Panakareao and Reihana Kiriwi then in October 1840 negotiated a marked reduction in the original area, perhaps in response to the June 1840 Mangōnui Crown purchase with Panakareao. That 1840 Mangōnui purchase, repeated in mid-1841 with Pororua Wharekauri, overlapped most of the original Ōruru 1839 transaction area.¹⁸⁹

¹⁸³ J Davis to W Webster, 15 May 1877, OLC 1/160, pp 28-31

¹⁸⁴ Nepia Muriwhenua Surplus Lands, p 66. Parahiku Waiporo and 69 others petitioned the Crown about their Taipaku grievances in 1897. Native Dept Undersecretary Patrick Sheridan later confessed that the Crown lost this petition which it declared remained 'undealt with'. Petition No 276, AJHR 1897, I3, p 10; Sheridan to Surveyor-General (telegrams) nd., Exhibit F, MA 91/9, pp 29-31

¹⁸⁵ Waitangi Tribunal, Muriwhenua Land report 1997, pp 23-231, 342, 344

¹⁸⁶ Robert Glen, ed., *Mission and Moko: The Church Missionary Society in New Zealand 1815-1882*, (Christchurch: Latimer Fellowship, 1992), p 200

¹⁸⁷ Ford Oruru deed, 12 Nov 1839, OLC 1/704, pp 12-13, 24-25

¹⁸⁸ See Map 4: 1839 Ford Transaction Boundaries, in Rigby, 'The Oruru Area and the Muriwhenua Claim', Wai 45, doc C1, p 20; Ford Oruru deed, 12 Nov 1839, OLC 1/704, pp 12-13, 24-25; Ford evidence, 4 Mar 1844, OLC 1/704, pp 8-9

¹⁸⁹ Ford Oruru deed, 5 Oct 1840, OLC 1/704, pp 16-17; Mangonui Crown purchase deed, 24 Jun 1840, Auc 5651; Mangonui Crown purchase deed, 24 May 1841, Auc 56A

In any case, Pororua and his Te Uri o Te Aho kin, at Godfrey's 12 January 1843 Mangōnui hearing, disputed the 1839-1840 Panakareao Ōruru transactions with Ford. Pororua there declared that Te Uri o Te Aho rejected Panakareao's right to 'sell' their Ōruru land.¹⁹⁰ This Te Uri o Te Aho challenge provoked the April 1843 'Oruru War' when an estimated seven people died at Taipā.¹⁹¹

In the aftermath of the Taipā tragedy, Commissioner Godfrey and Governor FitzRoy attempted to remove Ōruru-Mangōnui pre-1840 claims by issuing claimants with scrip awards for land elsewhere. The scrip offered these claimants could be exercised near the relatively secure colonial capital of Auckland. Having reported that Pororua rejected Panakareao's right 'to alienate this [Ōruru] land . . .', Godfrey then suspended his inquiry into Ford's Ōruru claim 'in consequence of the violence of this dispute'.¹⁹² When FitzRoy increased Godfrey's initial 575-acre scrip offer to 1,725 acres, Ford readily accepted.¹⁹³

Subsequent Ōruru Crown purchases acknowledged the enduring significance of Ford's original 1839 Ōruru transaction. White's 1854 deed, negotiated with Panakareao, referred to the purchase as 'containing the old boundaries of Ford's old purchase'.¹⁹⁴ When Kemp and White negotiated the final September 1856 Ōruru Crown purchase with the remaining claimants, they also cited Ford's boundaries from his 1839 deed 'transferred by him, and is now in the possession, and become [sic] the property of *the Government*' (emphasis in original).¹⁹⁵ Thus, the Crown believed that it already owned Ōruru as scrip land arising from Ford's claim before repurchasing it in 1854, and again in 1856. When White eventually surveyed the 1856 Ōruru Crown purchase boundaries, they departed from the boundaries of the 1839 Ford transaction. The 1839 transaction included both Taipā and Kohumaru, as well as Ōruru. White included Taipā in his 1858 Otengi Crown purchase, and upper Kohumaru in the 1859 Crown purchase of that name.¹⁹⁶ The Crown, in this way, often fashioned subsequent purchases out of pre-1840 transactions.

¹⁹⁰ Pororua evidence, 12 Feb 1843, OLC 1/704, p 7 (HT Kemp translation)

¹⁹¹ Wiremu Pikahu, Pukenui evidence, 8 Mar 1877, Northern Minute Book (hereafter NMB) vol 1, p 166; Ron Crosby, *Kupapa: The bitter legacy of Maori alliances with the Crown*, (Auckland: Penguin Books, 2015), p 29

¹⁹² Godfrey report, 10 Mar 1844, OLC 1/704, pp 3-6

¹⁹³ FitzRoy minute, 20 May 1844; Ford to Col Sec, 13 Jun 1844, OLC 1/704, pp 6, 26-28

¹⁹⁴ Oruru Crown purchase deed, 3 Jul 1854, Auc 703-B

¹⁹⁵ Oruru Crown purchase deed, 17 Sep 1856, Auc 41

¹⁹⁶ See White's Oruru plan (SO 810), Otengi plan (SO 797), and Sampson Kempthorne's upper Kohumaru plan (SO 781)

Ford, earlier in 1839, negotiated with both Panakareao and with Puhipi Te Ripi, a smaller Okiore transaction south of Awanui. At Godfrey's 1843 hearing Puckey verified the original transaction, while Matthews alluded to the inclusion of reserves along the Awanui River.¹⁹⁷ Panakareao and Puhipi also referred to reserves, prompting Godfrey to exclude them from his 1843 Okiore grant recommendation.¹⁹⁸

Kemphthorne's 1856 Okiore survey deliberately excluded 'any Native Land or the [river] banks referred to . . .' by Commissioner Godfrey in his 1900-acre grant recommendation.¹⁹⁹ Kemphthorne surveyed a 132-acre riverside reserve (eventually called Matarau) at the northern end of Ford's claim. Kemphthorne located Ford's 1,550-acre grant on both sides of the river, but he left outside his survey over a thousand acres in the western sandhills.²⁰⁰ Māori signers named the sandhills Te Tupehau, as the western boundary of Ford's Okiore and Southee's Otaki claims. This subsequently provoked prolonged dispute at both Okiore and at Otaki.²⁰¹

Bell in 1857 criticised Kemphthorne's survey as 'incorrect in several particulars'.²⁰² Bell stated that Kemphthorne failed to follow 'a general rule . . . [to] survey the exterior lines of the entire claim, in order that I may know the Boundaries originally sold to the Natives in each case'.²⁰³ Bell then prevailed upon Ford to replace Kemphthorne with WH Clarke (Bell's surveyor of choice) to extend Kemphthorne's survey across the sandhills, all the way to Te Oneroa a Tohe (Ninety Mile Beach).²⁰⁴

Clarke's 1857 survey expanded the Ford Okiore claim area from the 2,757 acres in Kemphthorne's plan to 8,280 acres. Clarke titled his plan 'Te Make &c, The Entire Claim of Dr SH Ford at Awanui near Kaitaia'. On Clarke's plan Bell increased the grant and surplus acreage. He granted Ford 2,627 acres and claimed 5,653 acres of sandhills surplus land for the Crown.²⁰⁵ Clarke provoked further concerted hapū opposition when he surveyed an even larger sandhills surplus area along the northern Okiore boundary at Otaki.

¹⁹⁷ Puckey & Matthews evidence, 31 Jan 1843, OLC 1/705, pp 11, 13 (HT Kemp translation)

¹⁹⁸ Panakareao & Puhipi evidence, 31 Jan 1843, p 15; Godfrey report, 15 Apr 1843, OLC 1/705, pp 8, 15

¹⁹⁹ Kemphthorne to Col Sec 8 Sep 1856; W Gisborne to Kemphthorne (draft) nd., OLC 1/705, pp 43-44

²⁰⁰ Kemphthorne, OLC plan 160, August 1856

²⁰¹ Ford Okiore deed, (te reo) 11 Sep 1839, OLC 1/705, pp 28-32; Southee Otaki deed (te reo) 17 Dec 1839, OLC 1/875-877, pp 14-16; Richard Boast, 'Surplus lands: Policy making and Practice in the Nineteenth Century', Wai 45, doc F16, p 191

²⁰² Bell minute, 20 Mar 1857, OLC 1/705, p 51

²⁰³ Bell minute, 19 Jun 1857, OLC 1/705, pp 52-53

²⁰⁴ Ford evidence, 12 Oct 1857, OLC 1/705, p 57

²⁰⁵ Clarke, OLC plan 159, 1857

1.2.7 Henry Southee & William Maxwell-Awanui & Otaki OLC 875-877

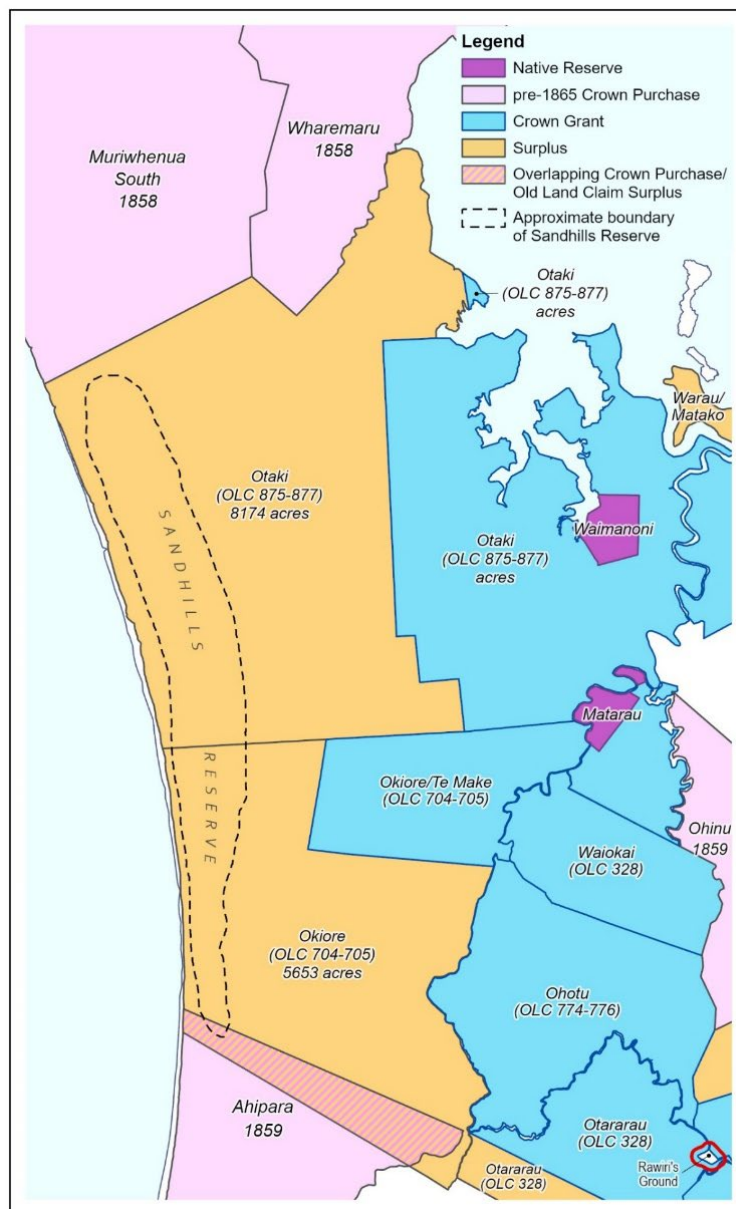


Figure 18: Okiore-Awanui-Otaki

(Source: Bedford comp, OLC & SO plans, 2025)

The extensive Southee-Maxwell Awanui and Otaki claims, adjacent to Okiore connected the 1858-1859 Ahipara, Muriwhenua South, and Wharemaru Crown purchases with the privately claimed Kaitaia-Awanui area.²⁰⁶ The combined 13,827-acre western Okiore and Otaki sandhills surplus connected the 100,440-acre 1858 Muriwhenua South-Wharemaru Crown purchases in the north with the 9,470-acre 1859 Ahipara Crown purchase in the south. As indicated above,

²⁰⁶ See Figure 3: Muriwhenua 1865 map, (p 27)

the sandhills surplus in 1858-1859, during the negotiation of the adjacent Crown purchases, became a focus of intense dispute.

Henry Southee's community standing stemmed from his 1838 marriage to Eliza Ati, the daughter of Awanui rangatira Ruanui Kauri. Panakareao and local rangatira marked the marriage by gifting approximately 500 acres around Southee's farm to Eliza and her expected children. The donors named Eliza and her children, not Southee, as the beneficiaries.²⁰⁷ Then, in late 1839, Southee signed more conventional deeds of transfer to a larger area adjacent to Awanui. Panakareao, Puhipi and local rangatira called the larger area Awanui-Otaki. This extended the 1838 area west to Waimoho, near today's Waipapakauri Beach, and south to the Matarau reserve boundary of Ford's Okiore claim. The 1839 deeds left the western boundaries ambiguous. The te reo original referred to 'te tupehau' or the sandhills, while Kemp's 1843 English translation named the west coast (or Te Oneroa a Tohe) as the boundary.²⁰⁸

Land-sharing featured in both the 1838, and in the 1839, deeds. The 1838 Awanui gifting 'affirmed that the land would remain a home for Māori . . . [who] retained the right to work' there. The Kemp translation of the 1839 deed specified that local hapū 'who are living on this place . . . are to have the banks of the river to cultivate for themselves. The places are to remain sacred for them for ever'.²⁰⁹

Sadly, in 1841-1842 Southee lost his wife and two of their three children to disease. Apparently without consulting local rangatira, Southee entered into several deals with Pākehā contrary to his hapū obligations. He admitted William Maxwell as an equal business partner in his Awanui farm.²¹⁰ Unconnected with local hapū, Maxwell descended from a former West Indies and West Africa colonial Governor.²¹¹ Southee then mortgaged 3,200 acres of the larger 1839 claim area to Bay of Islands traders, William Powditch and Gilbert Mair.²¹²

Southee's father-in-law Ruanui told Godfrey in 1843 that, with the concurrence of Panakareao, Puhipi and J Matthews, local hapū retained 'the right of living and cultivating along the banks of

²⁰⁷ Awanui deed of gift, 1 Jun 1838 (te reo), OLC 1/875-877, pp 121-122 (Tama Hata translation)

²⁰⁸ Southee Awanui-Otaki deeds, 17 Dec 1839 (te reo & English), OLC 1/875-877, pp 12-16

²⁰⁹ Awanui deed of gift, 1 Jun 1838 (te reo); Southee Awanui-Otaki deed, 17 Dec 1839 (English), OLC 1/875-877, pp 121-122, 12-13

²¹⁰ Maxwell-Southee agreement, 10 Sep 1842, OLC 1/875-877, pp 116-120

²¹¹ We are indebted to Tarewa Rota for the information about Maxwell's background. Tarewa Rota, Pers comm, 19 Sep 2023. Tarewa believes Maxwell's mother may have been African

²¹² Undated note attached to Godfrey report, 15 Apr 1843, OLC 1/875-877, p 11

the [Awanui] river'.²¹³ Accordingly, Godfrey recommended a 1,955-acre Southee grant 'Excepting all the Banks of the River Awanui and Kaitaia – [to be] reserved as Cultivation Grounds for the Natives'.²¹⁴

At the same time, Maxwell took over Southee's claim. He persuaded Southee in July 1843 to pay him £500 for a promise to obtain a 500-acre Crown grant for his surviving son, Henry Southee Jr.²¹⁵ FitzRoy assured Southee that he could 'retain possession of five hundred acres' around his Awanui farm, but he failed to Crown grant this area to him.²¹⁶ Instead, FitzRoy granted Maxwell the maximum 2,560 acres at Awanui. This Maxwell grant retained Godfrey's reserve clause: 'Excepting all the Banks of the River Awanui and Kaitaia reserved as Cultivation Grounds'.²¹⁷ FitzRoy then awarded Powditch and Mair £3,200 in scrip in exchange for their mortgages on Southee's claim.²¹⁸

Oblivious to Maxwell's Crown grant, local hapū stood by Southee. Panakareao appealed to FitzRoy that the community still valued Southee's services. He asked FitzRoy to 'be kind to him our European – as we regard him ourselves . . . allow him to have the land we gave him for ever and ever'.²¹⁹ On the other hand, Maxwell failed to act on his July 1843 agreement with Southee to secure a 500-acre Crown grant for Henry Southee Jr.

When Southee in 1850 appealed to Grey to rectify the situation, the Governor asked Resident Magistrate WB White to certify 'that the natives admitted the validity of Southee's title'.²²⁰ Eventually Southee paid for the survey of only 186 acres at the southern end of his Awanui farm. Grey subsequently Crown granted him this reduced area in late 1853.²²¹

The unsurveyed surplus land west of Maxwell's larger Crown grant soon became the subject of a protracted dispute. Without Southee's community standing, Maxwell alienated Awanui hapū. As early as October 1855, Crown purchase agent HT Kemp reported 'the existing dispute between the Natives and W Maxwell as to the [western] boundaries of the land' he claimed at Awanui, all the way to the west coast. At Kemp's behest, White investigated the nature of the Okiore-Otaki

²¹³ Ruanui, Panakareao, Puhipi & J Matthews evidence, 31 Jan 1843, OLC 1/875-877, pp 7-8

²¹⁴ Godfrey report, 15 Apr 1843, OLC 1/875-877, pp 9-11

²¹⁵ Maxwell-Southee Indenture, 10 Jul 1843, OLC 1/875-877, p 128

²¹⁶ FitzRoy to Col Sec, 27 Jun 1843; FitzRoy to FitzGerald, 12 Sep 1844, OLC 1/875-877, pp 5, 29

²¹⁷ W Maxwell Awanui Crown grant, 22 Oct 1844, R4, fol 77, OLC 1/875-877, pp 107-108

²¹⁸ FitzRoy to Col Sec, 16, 21 Jan 1845, OLC 1/875-877, pp 28, 31

²¹⁹ Panakareao to FitzRoy, 15 Apr 1845, OLC 1/875-877, pp 55-57 This was probably WG Puckey's translation.

²²⁰ Southee to Grey, 21 May 1850; Grey to Sinclair, 9 Aug 1850, OLC 1/875-877, pp 68-69

²²¹ Southee Awanui Crown grant, 5 Nov 1853, R5c, fol 389, OLC 1/875-877, pp 109-110

sandhills dispute.²²² White reported in early 1856 that he had ‘for several years’ allowed local hapū to dig kauri gum in the western sandhills. White considered this area to be Crown surplus land, which allowed him to sanction hapū use of it. Maxwell objected to hapū gum digging there, and he consequently clashed with both Panakareao and White. White described this as Maxwell’s ‘interference [which], if permitted, would be likely to lead to considerable danger’ for other local Pākehā.²²³

After Panakareao’s death in 1856, Puhipi Te Ripi and Waka Rangaunu led local hapū claims to access rights in the sandhills. This 13,827-acre area stretched through the Okiore-Otaki surplus connecting the adjacent Ahipara and Muriwhenua South Crown purchase areas. Puhipi and Rangaunu asked both White and Kemp to ratify hapū rights at an August 1858 Pukepoto hui discussing the Ahipara and Muriwhenua South Crown purchases. White noted that Maxwell had employed WH Clarke to survey the Otaki surplus, just as Bell employed him to survey the contiguous Okiore surplus. White believed that Clarke surveyed both areas ‘without the knowledge of the natives [who were, consequently] . . . much exasperated . . .’ by his secret surveys.²²⁴

From an August 1858 Crown purchase discussion at Pukepoto, White concluded that the Crown was prepared to concede to local hapū a sandhills reserve. White thought that he and Kemp ‘settled’ the dispute by ‘recommending to the Government that a reserve should be made for Busby [Puhipi] in the claim outside Mr Maxwell’s [grant] selection’.²²⁵ Chief Crown Purchase Commissioner, Donald McLean agreed that ‘Puhipi’s’ reserve should ‘be situated on land which reverts to the Government’.²²⁶

On the other hand, Bell disagreed. He rebuked White by stating; ‘I think you are under an error as to any *Reserve* having been made of the sandhills . . . the natives began by objecting to the sale of the Sandhills but gave in upon receiving our explanations [apparently at his October 1857 hearings]’ (emphasis in original). Bell insisted that only cultivations could be reserved. While he was prepared to allow Awanui hapū to graze cattle in the sandhills, he wanted the area to remain Crown surplus land. ‘I have always held the doctrine that no land *once sold* should be *taken back*

²²² Kemp to Col Sec, 17 Oct 1855; Col Sec to White, 19 Dec 1855, OLC 1/875-877, pp 79-80, 94

²²³ White to Col Sec, 26 Jan 1856, OLC 1/875-877, pp 99-102

²²⁴ For the ‘Approximate boundary of the Sandhills Reserve’, see Figure 6: Awanui-Kaitaia, (p 36); and Figure 18: Okiore-Awanui-Otaki, (p 67). White to Bell, 23 Mar 1858; White Survey Diary, 10-14 Aug 1858, OLC 1/875-877, pp 155, 166, 209-214

²²⁵ White Survey Diary, 10-14 Aug 1858, OLC 1/875-877, p 166

²²⁶ McLean memo, 15 Sep 1858, OLC 1/875-877, p 166

under any circumstances whatever . . . [Yet, it was] quite a different thing . . . *to give it back* from the Government . . .’ (emphasis in original). He was prepared to consider White creating a future ‘Permanent Reserve of the sandhill’, but only on the Crown’s terms.²²⁷

Maxwell pursued his private interests in the sandhills dispute. He recalled Bell telling local hapū, probably at his 1857 hearings, that he ‘made a rule to hold [to pre-1840] agreements . . . as sacred’.²²⁸ White recorded that during Bell’s 1857 hearings, he and Bell negotiated a 200-acre Waimanoni reserve near Awanui with both Maxwell and local hapū. Maxwell maintained that Popata Te Waha represented the hapū, and that, in accepting the Waimanoni reserve, he agreed to abandon their sandhills claim. Maxwell reported that local hapū expected that they could graze their cattle there, but only until the Crown on-sold it to settlers.²²⁹

Maxwell in 1859 engaged in a related legal dispute with his surveyor, WH Clarke. Dissatisfied with various aspects of Clarke’s Otaki survey, Maxwell contracted Harold Hyde Fenton (brother of the first Chief Judge of the Native Land Court) to resurvey his claim. Maxwell alleged that Clarke had improperly included Rangaunu Harbour foreshore within his Otaki survey. After engaging Fenton, Maxwell appealed to Bell to arbitrate in this survey dispute.²³⁰

Bell initially supported Clarke in this survey dispute. He criticised Fenton’s resurvey, particularly when Fenton just followed Clarke’s original bearings.²³¹ Fenton’s deduction of Rangaunu foreshore areas from his 1859 survey reduced the total area of his survey from Clarke’s 1858 figure from 14,766 acres to 13,684 acres.²³² Eventually Bell overcame his loyalty to Clarke. He accepted Fenton’s resurvey as the basis for a more precise division of the Awanui-Otaki area. From Fenton’s resurvey Bell calculated that Maxwell was entitled to a 4,198-acre Crown grant. This grant, however, included 500 acres for Southee’s son, and 400 acres for Clarke (as a survey allowance). Bell ratified the 200-acre Waimanoni reserve agreed to in 1857. He also appeared to leave the door open for ‘a Reserve for the Chief Puhipi outside Mr Maxwell’s selection . . .’ He

²²⁷ Bell to White, 3 Apr 1858, OLC 1/875-877, p 215

²²⁸ Maxwell to Bell, 25 May 1858, OLC 1/875-877, pp 140-144

²²⁹ Maxwell evidence, 5 Oct 1857; Waimanoni reserve agreement, nd., OLC 1/875-877, pp 103-104. Ten other members of Awanui hapū signed the reserve agreement

²³⁰ Maxwell to Clarke, 2 Aug 1859; Maxwell to Bell, 6 Sep 1859, OLC 1/875-877, pp 169-170, 172-173

²³¹ Bell memo, 3 dec 1859; HH Fenton reply, nd., OLC 1/875-877, pp 174-176

²³² Fenton OLC plan 6, 1859; Clarke OLC plan 294, 1858; Bell’s acreage calculations, nd., OLC 1/875-877, p 181

alluded to the 'Land Purchase Department' promising such a sandhills reserve, while stating that it required the Executive Council's confirmation. Yet, no such confirmation followed.²³³

During the subsequent *Clarke v Maxwell* litigation, FD Fenton represented Maxwell. Under cross-examination Clarke admitted that local hapū twice obstructed his 1858 Otaki survey, and that their right to dig gum in the sandhills caused the dispute.²³⁴ Bell then granted FD Fenton, the brother of the surveyor, 26 acres on the shores of Rangaunu Harbour in his final Awanui-Otaki report.²³⁵ Maxwell's 4,198-acre Awanui-Otaki Crown grant showed the 200-acre Waimanoni Native reserve shaded pink on his grant plan.²³⁶ This was poor consolation for the loss of a substantial sandhills reserve that local hapū fought for over several years.

²³³ Bell report, 14 Mar 1860, OLC 1/875-877, pp 186-187

²³⁴ Fenton's examination of Clarke, 26-28 May 1861, OLC 4/29 re *Clarke v Maxwell*

²³⁵ Bell's further order, 2 Jul 1861, OLC 1/875-877, pp 188-190; FD Fenton Rangaunu Crown grant, 10 Feb 1862, R15a, fol 238

²³⁶ W Maxwell Awanui-Otaki Crown grant plan, 27 Apr 1860, R 15, fol 152. The Native Land Court reduced Waimanoni from 200 to 185 acres in 1867. Waimanoni, ML 334, 1867

1.2.8 George Stephenson-Ruatorara OLC 1294

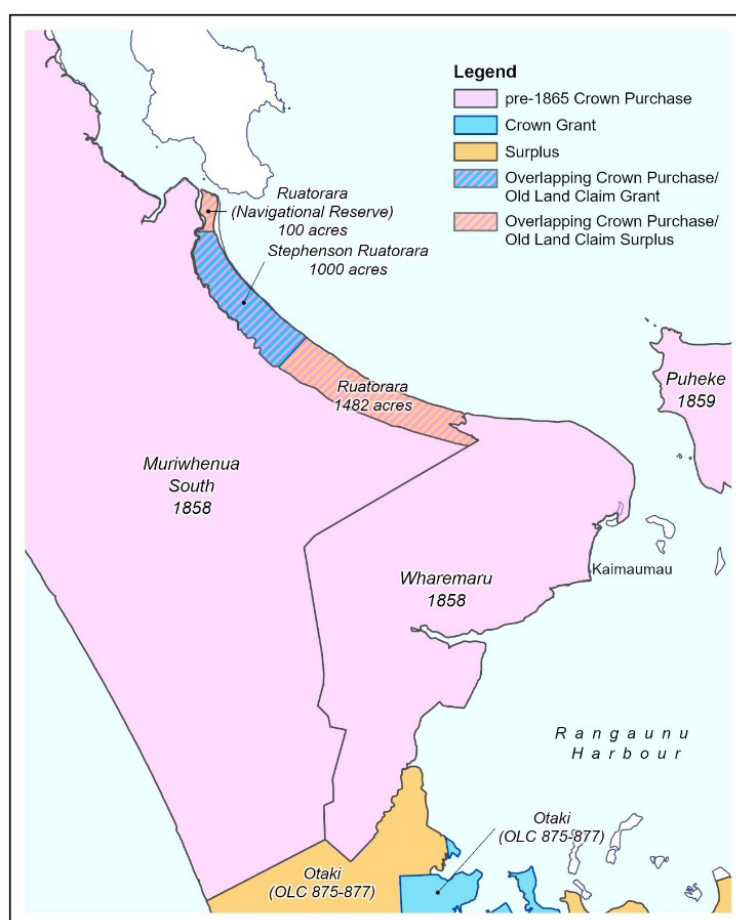


Figure 19: Ruatorara

(Source: Bedford comp, OLC & SO plans, 2025)

George Stephenson's 'ship claim' originated with the 1842 wreck of his schooner, the *Eclipse*, near Ahipara on the west coast. Like the later Smith Awanui claim, the Crown treated it as an Old Land Claim, despite its post-1840 origins. Stephenson told Bell at his 1857 Mangōnui hearing, that Ahipara residents 'came on Board armed . . . and took possession of the ship . . . [which] they stripped . . . in a few hours'. He alleged that this customary salvage operation cost him 'at least £800'.²³⁷ At the time of the 'stripping', acting Governor Shortland instructed Protector Clarke to investigate, and 'to procure redress for the injury' Stephenson suffered.²³⁸

Clarke persuaded Panakareao and 'Makaore' to accept responsibility for the salvage operation.²³⁹ The rangatira sought to compensate Stephenson by offering him land on the opposite side of the

²³⁷ Stephenson evidence, 5 Oct 1857, OLC 1/1294, pp 30-31

²³⁸ Col Sec to Stephenson, 1 Nov 1842, OLC 1/1294, pp 5-7

²³⁹ The 'Makaore' referred to may have been the Hokianga Te Popoto rangatira, Makaore Taonui

Aupouri Peninsula, just south of Houhora Harbour. According to the Muriwhenua Land Tribunal, 'There is no record of whether Panakareao consulted those affected, either at Ahipara where the ship ran aground, or at Houhora where Te Aupouri and Ngai Takoto appear to have resided'.²⁴⁰ Having failed to refer Stephenson's claim to Commissioner Godfrey for investigation in 1843, the Crown in 1844 treated it as a 'pre-emption waiver claim'. The Crown offered Stephenson 500 acres (or £500) in scrip 'for the land at Waro [Ahipara] which was agreed to be given to you by the Natives'.²⁴¹ Officials involved evidently failed to understand that the land referred to was not at Ahipara, but almost 60 kilometres away on the opposite side of the Aupouri Peninsula. This should have been clear when Stephenson in November 1845 received a Pre-Emption Certificate 'for 999 acres at Ruatoroa [Ruatorara, near Houhora]'.²⁴²

Pre-emption Waiver Commissioner Matson made the Ruatorara grant conditional on Stephenson surveying the land in question.²⁴³ Since Stephenson failed to file such a survey, Attorney General Swainson recommended the disallowance of Stephenson's claim. Perhaps aware of the questionable nature of his claim, Governor Grey promptly confirmed the disallowance.²⁴⁴

Yet, when White revived Stephenson's claim with Chief Land Purchase Commissioner McLean almost nine years later, he reported that Puhipi Te Ripi, the leading Ahipara rangatira, supported the 'Ship Claim'. According to White, Puhipi suspected that 'some Kaitote [Awanui] Natives' attempted to include Ruatorara in the 1857-1858 Muriwhenua South-Wharemaru Crown purchase negotiations. White led McLean to believe that Puhipi wished to uphold the questionable 1842 agreement between Panakareao, Makaore and Protector Clarke.²⁴⁵

White probably encouraged Stephenson to appear before Bell in October 1857, because at that hearing White produced his own Ruatorara survey plan. White, on behalf of Stephenson, certified that 'the Native title [there] was fully extinguished'.²⁴⁶ White later added a written statement ostensibly confirming that the 'land containing 2482 acres ceded by Nopera Panakareao has been surveyed and there is no Native dispute respecting it'.²⁴⁷ White obtained his

²⁴⁰ Waitangi Tribunal, Muriwhenua Land report 1997, p 267

²⁴¹ Col Sec to Stephenson, 28 Dec 1845, OLC 1/1294, pp 9-10

²⁴² James Coney to Stephenson, 6 Nov 1845, OLC 1/1294, p 12

²⁴³ Matson memo, 18 Jul 1848, OLC 1/1294, p 14

²⁴⁴ Swainson memo, 28 Jul 1848; Grey minute, nd., OLC 1/1294, p 14

²⁴⁵ White to McLean, 24 Jan 1857, OLC 1/1294, pp 25-26

²⁴⁶ Stephenson claim notification, 18 Aug 1857, OLC 1/1294, p 5; Bell's hearing notes, 5 Oct 1857, OLC 5/34, p 12

²⁴⁷ White statement, nd., OLC 1/1294, pp 31-32

acreage figure from Samuel Campbell's inclusion of the 'Ship claim' in his 1857 survey of the Muriwhenua South and Wharemaru Crown purchases.²⁴⁸ George Clarke (the former Protector) then defended the original 1842 'cession'. He wrote 'I have a distinct recollection of the whole affair. He [Stephenson] was shamefully robbed . . .' Clarke believed Stephenson deserved compensation.²⁴⁹

Bell in his September 1861 report recorded that the Crown in 1848 disallowed Stephenson's Pre-emption Waiver Certificate. Nonetheless, Bell maintained that section 50 of the Land Claims Settlement Act 1856 gave him maximum discretion to consider any claims he wished to settle. Accordingly, in 1862 he granted Stephenson 1,000 acres at Ruatorara. This meant that the Crown could claim the balance of the surveyed area as surplus land. This surplus amounted to 1,482 acres southeast of Stephenson's grant.²⁵⁰

1.2.9 William Potter-Kaimaumu OLC 382

Potter's Kaimaumu claim on Rangaunu Harbour (about 10 kilometres southeast of Ruatorara) arose from a December 1839 transaction between Thomas Granville, Panakareao and Taua.²⁵¹ Granville married the daughter of Haunui, the later Warau-Matako protestor.²⁵² Granville then, in May 1840, transferred his Kaimaumu claim to William Potter.²⁵³

Godfrey recommended a 225-acre grant to Potter, but with an unusual exception. He recommended that the grant exclude 'a good and sufficient landing . . . for public uses'.²⁵⁴ FitzRoy added a condition. The Colonial Secretary advised Potter to 'send evidence of the *Protector's opinion* that the land in question was fairly purchased from the Natives . . .' (emphasis in original).²⁵⁵ Why FitzRoy chose to add such additional scrutiny remains a mystery. In any case, no evidence of subsequent Protector scrutiny survives.

²⁴⁸ Kemp to McLean, 7 Dec 1857, AJHR 1861, C-1, pp 22-23. See Campbell's Muriwhenua South-Wharemaru plan, SO 948A showing Ruatorara as the 'Ship claim'.

²⁴⁹ George Clarke Sr to Bell, 22 Mar 1858, OLC 1/1294, pp 27-29

²⁵⁰ Bell report, 17 Sep 1861, OLC 1/1294, pp 33-35; Stephenson Ruatorara Crown grant, 10 Feb 1862, R15a, fol 244

²⁵¹ John Steddy & Henry Southee evidence, 8 Feb 1843, OLC 1/382, pp 7-8

²⁵² R Matthews to Col Sec, 27 Mar 1845, OLC 1/330, pp 35-39. R Matthews tried to use these inter-relationships to discredit Haunui's 1843 Warau-Matako protest

²⁵³ Taua evidence, 8 Feb 1843; Granville evidence 9 Feb 1843, OLC 1/382, pp 8-9

²⁵⁴ Godfrey report, 15 Apr 1843, OLC 1/382, pp 5-6

²⁵⁵ Col Sec to Potter, 16 Oct 1844, OLC 1/382, p 24

Without a survey Potter's Kaimaumau claim remained in abeyance. White in May 1859 informed Bell that Campbell's 1858 Wharemaru Crown purchase survey included Kaimaumau. He reminded Bell that he thought Kaimaumau should also be reserved as a township site.²⁵⁶ William Macky in November 1860 notified Bell that he had purchased Potter's claim. Bell then consulted White further about his proposed township.²⁵⁷ Eventually Bell awarded Macky £130 in exchange for Potter's claim. Potter by then had arranged a sketch survey, but without acreage, it looked suspiciously like a part of Campbell's larger 1857 Muriwhenua South-Wharemaru Crown purchase survey.²⁵⁸ Strangely, the Crown paid Macky £130 in 1862, despite the fact that it purchased the land four years earlier.

1.2.10 John Smith-Awanui OLC 1375

Like Thomas Granville, the original Kaimaumau claimant, John Smith married into the nearby Awanui community. Smith commanded the schooner *Maria* when it took Panakareao with about 100-150 warriors to the scene of hostilities during the 1845-1846 Northern War. In return, Panakareao gifted Smith 14 acres at Awanui. There he raised at least four children with his Māori wife.²⁵⁹

Panakareao's Awanui gift to Smith followed the Battle of Ruapekapeka in January 1846. Thus, like Stephenson's 'Ship Claim', it was a post-1840 transaction. Smith's bi-cultural marriage sealed the deal, just as it had sealed Southee's. Puckey represented Smith at Bell's October 1857 Mangōnuī hearing. Puckey probably arranged WH Clarke's 14-acre survey which he presented to Bell. Bell informed Puckey 'that he did not see how it was possible to bring forward this claim'.²⁶⁰ Bell probably believed that he lacked statutory authority to investigate an 1846 transaction.

Nonetheless, Governor Grey considered Smith's valuable services to the Crown during the Northern War warranted favourable consideration. In his January 1863 letter to Grey, Smith

²⁵⁶ White to Bell, 12 May 1859, OLC 1/382, pp 15-16

²⁵⁷ Bell to White, 2 Mar, 1 Apr 1861, OLC 1/382, pp 29-30

²⁵⁸ Clarke, OLC plan 352; Macky evidence, 7 Oct 1861; Bell report, 20 Jan 1862, OLC 1/382, pp 35-36

²⁵⁹ John Smith to Grey, 8 Jan 1863, OLC 1/1375, pp 12-13; Ralph Johnson, 'The Northern War 1844-1846', Wai 1040, doc A5, pp 355-357

²⁶⁰ Bell's hearing notes, 6 Oct 1857, OLC 5/34, p 14

sought a Crown grant for his ‘half caste’ children.²⁶¹ Smith wrote to Bell two months later naming his children ‘Noble’, ‘Te Waka’, and William. When White supplied the names of these children to Bell’s office later he Anglicised their names to Edward, Walter and William.²⁶² Even though Bell’s successor as Commissioner, Alfred Domett, wrote that the ‘Grant [was] to be made *not* to John Smith [but] for his Native wife [and for] . . . his children – as joint tenants’ (emphasis added), he neglected to add Smith’s wife’s name to the eventual Crown grant.²⁶³

The Crown in November 1865 granted Smith 14 acres at Awanui ‘during his lifetime and after his decease to the children of John Smith viz. Edward Smith, Walter Smith, William Smith and William Bolger Smith, their heirs and assigns, as Joint Tenants’.²⁶⁴ The 14-acre Smith Awanui grant resembled the nearby Matarau and Waimanoni riverside reserves as part of the western land-sharing legacy, but, unlike the nearby reserves, Smith’s Crown granted land never went through the Native Land Court.²⁶⁵

²⁶¹ Smith to Grey, 8 Jan 1863, OLC 1/1375, pp 12-13. The Crown later described Smith’s Awanui claim as a ‘Half Caste’ claim. Fenton to Land Claims Commissioner, 15 May 1872, OLC 1/5A, pp 7-8, 23-24

²⁶² Smith to Bell, 6 Mar 1863; White to CH McIntosh, 26 Jan 1865, OLC 1/1375, pp 6-7, 10-11

²⁶³ Domett minute, 2 Oct 1865, OLC 1/1375, p 5

²⁶⁴ Smith Awanui Crown grant, 1 Nov 1865, R15a, fol 333; OLC plan 315, 1859

²⁶⁵ No 14-acre area at Awanui appears in pre-1910 volumes of the Northern (NLC) Minute Books.

1.2.11 Walter Brodie-Kauhoehoe OLC 570

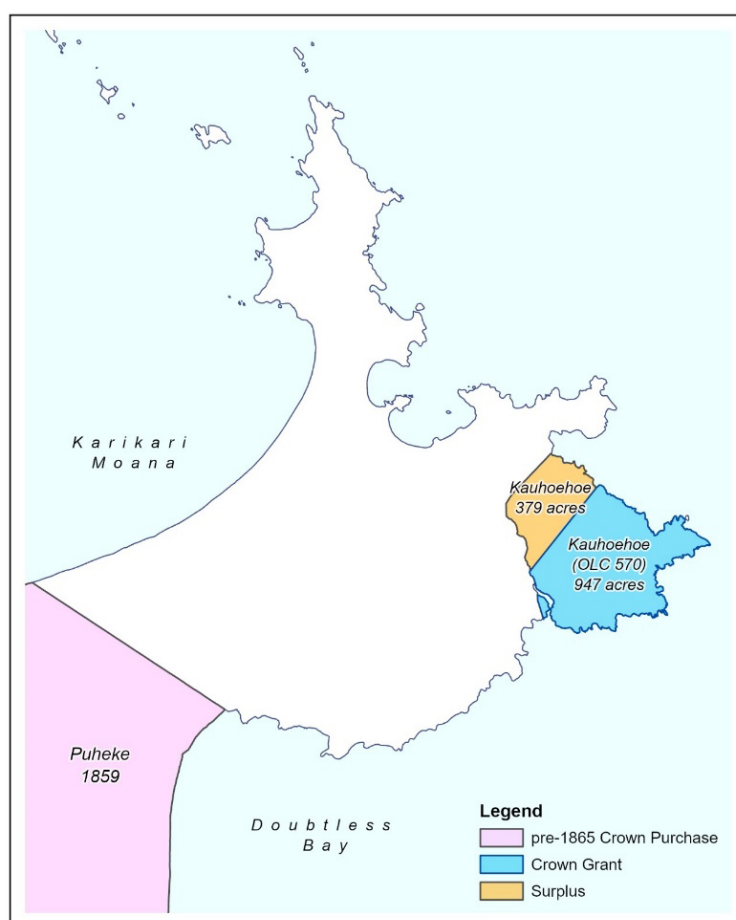


Figure 20: Kauhoehoe

(Source: Bedford comp, OLC & SO plans, 2025)

Brodie, who claimed land on Karikari Peninsula, shared with William Maxwell descent from a wealthy English family. His grandfather in 1785 founded the *London Times*, and his father in 1820-1830 served as Chaplain to King George IV.²⁶⁶ Brodie arrived in Northland during 1839 with a large number of other colonial speculators. They eagerly anticipated colonisation in the knowledge that a secure Crown grant would enhance the value of their land claims.²⁶⁷

Brodie in 1839 found that whalers watering at what later became known as Brodie's Creek near Knuckle Point had observed green oxidation there. Brodie recognised this as evidence of local copper deposits. Yet he failed to disclose this when presenting his Kauhoehoe claim to Godfrey

²⁶⁶ MW Brockwell to RRD Milligan 17 Nov 1955, Milligan papers, MS-Papers-0220-21; Brockwell manuscript, nd., Brodie papers, MS-Papers-0133, ATL. Brockwell was Brodie's grandson

²⁶⁷ John C Weaver, *The Great Land Rush and the making of the Modern World*, (Montreal and Kingston: McGill-Queens University Press, 2003), p 145

in February 1843.²⁶⁸ Two hapū witnesses, Ahuahu and 'Pakiah' supported his claim, as did George Thomas, a seafarer who married into Doubtless Bay hapū.²⁶⁹ In his 1845 book Brodie published in Britain summarising his 1844 evidence before the House of Commons Select Committee on New Zealand, he asserted that Panakareao also supported his claim. Despite this, he still criticised the Crown's alleged cosy relationship with Panakareao.²⁷⁰

Brodie, in a chapter entitled 'The Non-Settlement of the Land Claims', denounced New Zealand's Land Claims Commissions. He also criticised the Crown's doctrine of Radical title, its rationale for surplus land acquisition.²⁷¹ He complained that Godfrey failed to uphold his Kauhoehoe claim even though he presented required hapū witnesses and a proper survey plan to support it. He concluded that ineffective commission inquiries into pre-1840 transactions crippled the colonial economy.²⁷² The fact that he had paid Thomas Florance almost £75 for his Kauhoehoe survey, without receiving a grant in return, particularly irked him. He was among only a handful of northern claimants who produced such an 1843 survey.²⁷³

Brodie's protests in London over the inefficiency of the New Zealand Land Claims Commissions paid off. The Crown finally delivered him a 947-acre Kauhoehoe grant on 21 October 1846.²⁷⁴ Bell ruled this properly surveyed grant 'valid' when he considered it over a decade later. He recorded in 1862 that the Crown acquired 381 acres of surplus land from Brodie's Kauhoehoe claim.²⁷⁵

Brodie, who had been a severe critic of 'The Non-Settlement of the Land Claims' during the 1840s, became a respectable colonial politician during the 1850s. He represented Auckland Suburbs in the House of Representative from 1855 to 1860, and he served as an Auckland Provincial Councillor for the same constituency from 1855 to 1857.²⁷⁶ As far as we know, he refrained from continuing his 1845 denunciation of the Crown's doctrine of Radical title, and its consequent surplus land acquisition.

²⁶⁸ Brodie evidence, 1 Feb 1843, OLC 1/570, p 7; Brodie evidence to the House of Commons Select Committee on New Zealand, 4 Jun 1844, BPP 1844 (556), pp 31, 49, 51-52

²⁶⁹ Ahuahu & Pakiah evidence, 1 Feb 1843; George Thomas evidence, 2 Feb 1843, OLC 1/570, pp 8-9 (HT Kemp translation)

²⁷⁰ Walter Brodie, *Remarks on the Present and Past State of New Zealand*, (London: Whitaker & Co, 1845), pp 34-35, 40-41, 59-60

²⁷¹ Brodie, *State of New Zealand*, pp 44-48, 55

²⁷² Brodie, *State of New Zealand*, pp 57-61, 72-76

²⁷³ Brodie, *State of New Zealand*, pp 59-60; Florance, Kauhoehoe OLC plan 101, May 1843

²⁷⁴ Brodie Kauhoehoe Crown grant, 5 Oct 1846, R5e, fol 358, OLC 1/580, p 18

²⁷⁵ Bell, Land Claims Commission report, 5 Jul 1862, AJHR 1862, D-10, p 20

²⁷⁶ *New Zealand Parliamentary Record* 1925, pp 80, 169

1.2.12 John Ryder-Maheatai OLC 1025

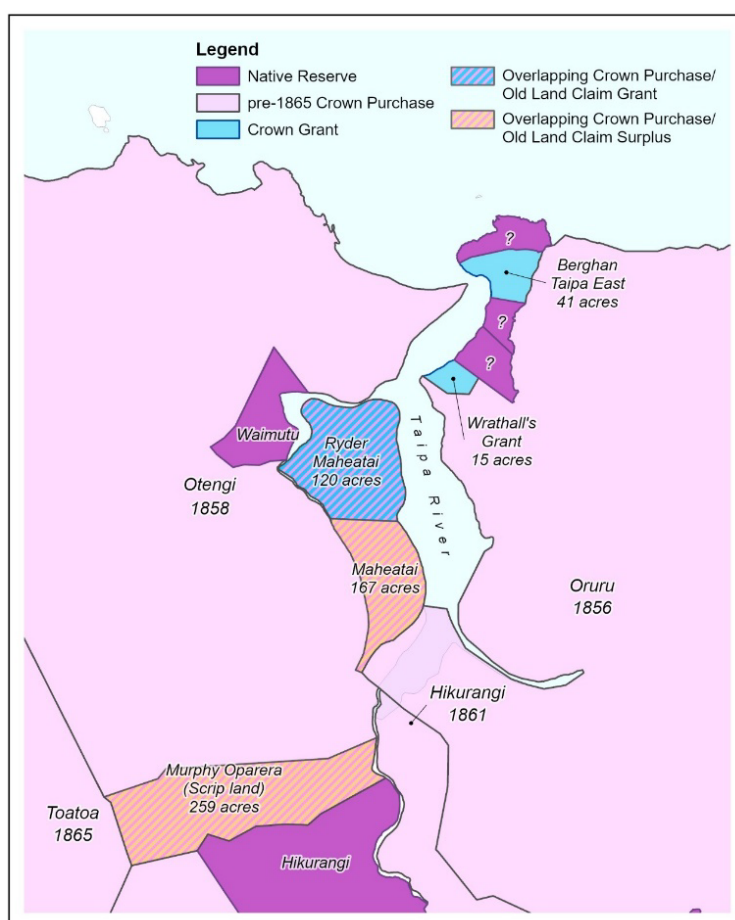


Figure 21: Taipā

(Source: Bedford comp, OLC & SO plans, 2025)

Ryder apparently settled near Taipā after 1839. As a carpenter he helped build CMS churches in both Waimate and Kaitaia during the 1830s. WG Puckey evidently helped him negotiate a January 1840 Maheatai transaction with Panakareao along what we today know as Ryder's Creek.²⁷⁷ The April 1843 Taipā clash led Godfrey to abandon hearings for both Taipā and Mangōnui claimants. For Ryder's 200-acre Maheatai claim, Godfrey recommended 'No Grant', because Ryder failed to appear at his early 1843 hearings.²⁷⁸

Ryder asserted that the local hapū unanimously supported the Maheatai residence he established with his Māori wife. FitzRoy, on the other hand, thought the Taipā area unsafe for Pākehā settlers. He offered Ryder 200 acres (or £200) in Land Credit.²⁷⁹ In an 1849 letter to Governor

²⁷⁷ White to Col Sec, 22 Nov 1849; Ryder to Bell, 19 Dec 1859, OLC 1/1025, pp 18-22, 30-31

²⁷⁸ Godfrey report, 12 May 1844; Ryder to FitzRoy, 23 Sep 1844, OLC 1/1025, pp 3, 8-9

²⁷⁹ FitzRoy to FitzGerald, 5 Oct 1844, OLC 1/1025, pp 8-10

Grey, Ryder applied for a Maheatai grant.²⁸⁰ Grey's instructed Colonial Secretary Sinclair to refer the matter to newly arrived Resident Magistrate White. White immediately reported local hapū support for Ryder's claim. He considered it 'the most complete and satisfactory purchase of land . . . by a European in this district'.²⁸¹

But Ryder, like most other claimants, neglected to engage a surveyor. Fortunately for him, White marked off Maheatai in his 1857 Otengi Crown purchase survey. When Bell first investigated his claim in 1859, he proposed a 75-acre grant. Ryder held out for the 200 acres FitzRoy offered him in 1844, an offer Sinclair supported in 1849.²⁸²

Eventually, Bell met him half-way. He used the discretion afforded him in section 12 of the Land Claims Settlement Extension Act 1858 to grant Ryder 120 acres at Maheatai.²⁸³ HH Fenton's 1860 Maheatai survey plan went onto Ryder's January 1861 Crown grant. Conveniently, this yielded the Crown 167 acres of surplus in an area that White surveyed earlier for the 1858 Otengi Crown purchase.²⁸⁴

1.2.13 William Murphy-Oparera OLC 847-849

Just up the Ōruru River from Ryder's Maheatai claim, William Murphy claimed 700 acres at Oparera. Unlike other predominantly sawyer eastern claims, Murphy produced both te reo and English deeds.²⁸⁵ Oparera bordered Ford's Ōruru claim. Panakareao supported both Ford's and Murphy's claims. Pororua opposed Ford's claim but neglected to oppose Murphy's Oparera claim.²⁸⁶ Consequently, Godfrey recommended a local 303-acre grant, without specifying the scrip provision he stated when reporting other sawyer claims.²⁸⁷

Godfrey later attempted to correct his inconsistency in this regard by offering Murphy scrip, rather than a local grant. Without waiting for Murphy to consider this offer, the Crown in

²⁸⁰ Ryder to Grey, 4 Jun 1849; Grey to Sinclair, 2 Jul 1849, OLC 1/1025, pp 8-10

²⁸¹ Sinclair to White, 22 Oct 1849; White to Col Sec, 22 Nov 1849, OLC 1/1025, pp 14, 18-22

²⁸² See White Otengi survey, SO 780, 1857; Bell memo, 29 Mar 1859; Ryder to Col Sec, 1 Apr 1859, OLC 1/1025, pp 24-29

²⁸³ Bell to White, 15 Feb 1860; Bell report, 27 Mar 1860, OLC 1/1025, pp 32, 38

²⁸⁴ Fenton Maheatai OLC plan 246, 1860; Ryder Maheatai Crown grant, 25 Jan 1861, R15, fol 186

²⁸⁵ Murphy Oparera deeds 1837, 1839 (te reo & English), OLC 1/848-849, pp 14-15, 19-24

²⁸⁶ Murphy, Panakareao & Frederick Hanckel evidence, 3 Feb 1843, OLC 1/848-849, pp 8-9

²⁸⁷ Godfrey report, 15 Apr 1843, OLC 1/848-849, pp 3-7

August 1844 granted him the 303 acres Godfrey originally recommended.²⁸⁸ Murphy then apparently accepted the final FitzRoy scrip offer, in effect abandoning his 1844 Oparera grant. He exercised this scrip by purchasing three Auckland town lots, and 35 acres of rural land on the North Shore.²⁸⁹

Even though Murphy revived his claim in 1857, White, at Bell's October hearing, presented surveys of both Murphy's Oparera claim, and Ryder's Maheatai claim. White surveyed both claims within his 1857 Otengi Crown purchase survey. In this survey White described the area in question as 'Opurera [sic] Murphy's claim, 959.0.0'.²⁹⁰ After cancelling Murphy's 1844 Crown grant, Bell took no further action. He noted only that Murphy had exercised his scrip in the greater Auckland area.²⁹¹ Although Bell listed Murphy's claim (which White surveyed as 259 acres) in his appendix entitled 'Lands in Land Claims Reverting to the Crown', this land arose from scrip, not surplus.²⁹²

1.2.14 Stephen Wrathall-Tanepurapura OLC 851-856

Another sawyer, Stephen Wrathall, claimed land just east of Taipā by virtue of 1839 transactions with Pororua. Like most sawyers, Wrathall produced only English deeds to support his claims.²⁹³ According to local historians, Neva McKenna and Ruth Reid, Wrathall took Maraea Te Inutoto as his Māori wife.²⁹⁴

Godfrey's 1844 scrip offer to Wrathall stated that 'Nopera and others' disputed his claims. FitzRoy then almost tripled this offer.²⁹⁵ Wrathall declined this scrip offer, because he operated a small Taipā riverside sawmill. White in 1850 persuaded Governor Grey to offer Wrathall the

²⁸⁸ Godfrey to Murphy, 28 Jan 1844; Murphy Oparera Crown grant, 9 Aug 1844, OLC 1/848-849, pp 16-17, 29-30

²⁸⁹ Murphy to Col Sec, 26 Dec 1844; FitzRoy minute 27 Dec 1844; G Elliott minute, 17 May 1852, OLC 1/848-849, pp 4, 27-28

²⁹⁰ Bell's hearing notes, 5 Oct 1857, OLC 5/34, p 12

²⁹¹ Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, p 64; White, Otengi plans, SO 780, 797, 1857, both show Oparera as 259 acres of what he probably considered to be 'scrip land'

²⁹² Appendix 1, Statement of Lands in Land Claims Reverting to the Crown on the Settlement of the Various Cases', AJHR 1862, D-10, p 22

²⁹³ Wrathall to Col Sec NSW, 4 Jan 1841, OLC 1/851-856, pp 7-8

²⁹⁴ Maraea is David Seymour MP's great, great, great grandmother. 'Maori have nothing to fear . . .' *New Zealand Herald*, 25 May 2025. McKenna, Mangonui, p 106; Ruth Reid, 'Early Taipa', unpublished manuscript c2020, p 1

²⁹⁵ Godfrey report, 20 May 1844; FitzRoy minute, 20 May 1844; FitzRoy to Sinclair, 27 Dec 1844, OLC 1/851-856, pp 3-6, 10

option of purchasing this land from the Crown.²⁹⁶ Accordingly, White in 1852 sold Wrathall this 15.5-acre 'Government Land' lot at Tanepurapura.²⁹⁷

White evidently believed that claimed land such as at Tanepurapura reverted to the Crown, even if Godfrey omitted examining the original transactions.²⁹⁸ Thus, White's assumption that it was 'scrip land' reverting to the Crown evidently produced Wrathall's 15.5-acre Tanepurapura Crown grant just south of today's Taipā Bridge.²⁹⁹

1.2.15 James Berghan-Oruati & Taipā East OLC 558-566

Leading Mangōnui sawyer claimant James Berghan arrived in 1831 aboard a ship loading kauri spars for the Royal Navy. He married Turikatuku from the Ururoa-Hongi Whangaroa whānau. This strategic 1836 marriage allowed him to enter into multiple timber land transactions inland from the trading port of Mangōnui.³⁰⁰ Pororua featured prominently in all these Berghan transactions. For that reason, Panakareao initially disputed Berghan's claims. Godfrey consequently recommended scrip for Berghan, in his 1843 - 1844 attempt to clear Mangōnui of disputed claims.³⁰¹

Berghan, with his well-connected Māori wife and family, never considered accepting Godfrey and FitzRoy's scrip offers. In addition to his claims in the timber rich Oruaiti valley, Berghan also claimed township lots, and coastal land between Mangōnui and Taipā. By 1848 both Pororua and Panakareao sank their differences by cooperating in their support of Berghan's claims. According to Berghan, when Grey visited Mangōnui in September 1849, he promised him a 1,146-acre local Crown grant, the equivalent of FitzRoy's 1844 scrip offer.³⁰²

Thomas Florance in 1852 surveyed part of Berghan's main Oruaiti claim, together with his smaller coastal claims. Surveyor General Ligar supported Crown grants to match the 1,137-acre

²⁹⁶ Wrathall to White, 31 Jul 1850; White to Coll Sec, 2 Aug 1850; Grey minute, 7 Aug 1850, OLC 1/851-856, pp 33-35

²⁹⁷ White to Col Sec, 27 May 1852; White, Tanepurapura plan, 27 May 1852; Ligar memo, 23 Aug 1852, OLC 1/851-856, pp 38-43

²⁹⁸ White to Col Sec, 15 Jul 1852, OLC 1/851-856, pp 45-49

²⁹⁹ Wrathall Taipā Crown grant, 4 Aug 1854, R2b, fol 176. See Figure 21: Taipā, (p 80)

³⁰⁰ McKenna, Mangonui, pp 103-104

³⁰¹ Godfrey report, 12 May 1844, OLC 1/558-566, pp 4-9

³⁰² Berghan to Governor, nd., (received 26 Sep 1849); Ligar report, 17 Dec 1849; Grey minute, 24 Jun 1850; Berghan to White, 25 Sep 1858, OLC 1/558-566, pp 23-27

area surveyed.³⁰³ On the other hand, Colonial Secretary Sinclair, and Attorney General Frederick Whitaker debated the legality of the Crown's promise to Berghan.³⁰⁴ Berghan, meanwhile, continued to plead his case. He maintained that Panakareao told Grey in 1849 that 'he would not allow me to exchange my land or remove my Wife and Children from here'.³⁰⁵

At Bell's October 1857 Mangōnui hearing, HT Kemp testified that 'Panakareao (a short time before his death) stated that it was his express desire that James Berghan did not remove to Auckland with his family . . .'.³⁰⁶ White declared that he traversed all Berghan's claim boundaries 'with the principal sellers and that [they raised] no dispute . . .'. Twelve rangatira, including Pororua, Wi Kaitaia and Tuhua, signed White's 1857 statement.³⁰⁷ Bell then informed Berghan that he would add generous survey allowances to augment his grants.³⁰⁸

This gave Berghan incentive to employ the Campbell brothers to survey the remainder of his Oruaiti claim. Bell eventually granted Berghan 1,668 acres at Oruaiti, together with 186 acres along the coast, and three township lots.³⁰⁹ Bell's combined grants of 1,860.93 acres significantly exceeded the 1,146 acres Grey in 1849 promised Berghan.

Unusually, Bell's 1859 Berghan grant orders generated no surplus land for the Crown. White later alleged collusion between Berghan and Pororua to deny the Crown surplus at Oruaiti. But Bell dismissed White's allegations as baseless.³¹⁰ In any case, the disputed May 1863 Mangōnui Crown purchase eliminated the need for the Crown to claim any surplus in the area east of Mangōnui. White, on the other hand, described this area in December 1862 as 'Government land . . . [arising from] Exchanged or Settled' pre-1840 claims.³¹¹ This echoed White's assumption that the welter of overlapping claims, including Berghan's, in the Mangōnui East area extinguished Native title there well before the 1863 Mangōnui Crown purchase.

³⁰³ Florance to Col Sec, 11 Nov 1852; Ligar memos, 21,25 Apr 1853, OLC 1/558-566, pp 34, 39-40

³⁰⁴ Berghan to Col Sec, 14 Nov 1853; Sinclair minute, 26 Nov 1853; Whitaker minute, 8 May 1856, OLC 1/558-566, pp 46-47, 50

³⁰⁵ Berghan to Col Sec, 1 Apr 1856, OLC 1/558-566, p 49

³⁰⁶ Kemp, 'Certificate' nd., OLC 1/558-566, p 72

³⁰⁷ White evidence, 3 Oct 1857, OLC 1/558-566, p 87

³⁰⁸ Bell's hearing notes, 6 Oct 1857, OLC 5/34, p 12

³⁰⁹ Berghan to Bell, 20 Jul 1859; Bell report, 25 Sep 1859, OLC 1/558-566, pp 92, 106

³¹⁰ White minute, 13 Feb 1863; Bell minute 13 Jun 1863, OLC 1/558-566, pp 113, 127

³¹¹ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

1.2.16 James & Joseph Berghan-Muritoki OLC 1362

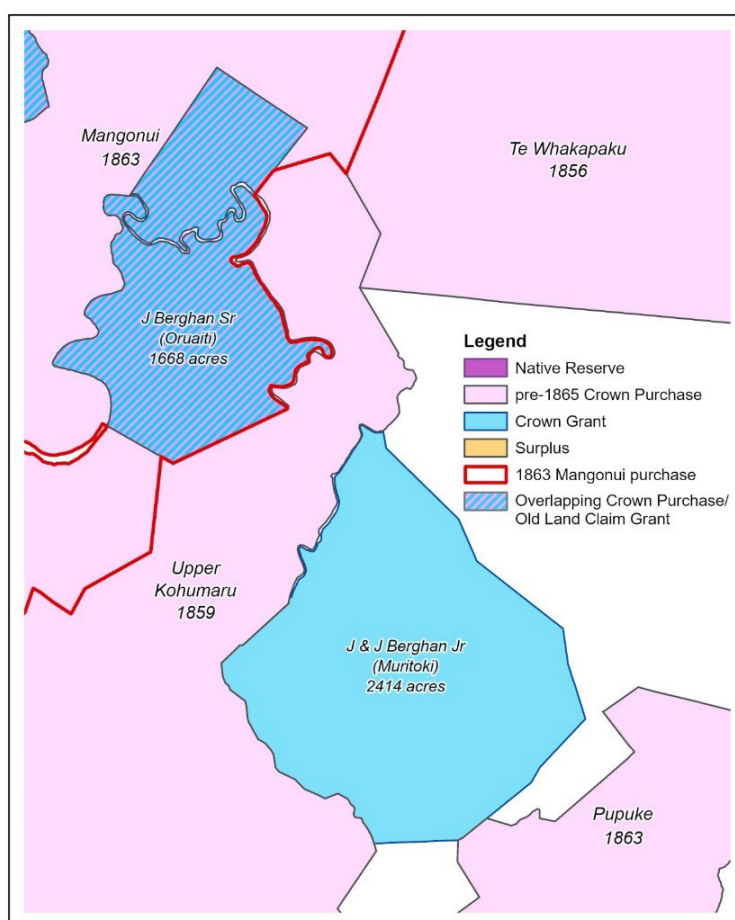


Figure 22: Oruaiti-Muritoki

(Source: Bedford comp, OLC & SO plans, 2025)

Whangaroa rangatira, led by Ururoa and Hare Hongi Hika, gifted the family of James Berghan Sr and Turikatuku over 2,000 acres at Muritoki on the occasion of their 1836 marriage.³¹² The donors specified that the children of this marriage, not their father, should inherit Muritoki land. Berghan exchanged goods in return for the gift, but the customary nature of the transaction led Godfrey to deem it outside his jurisdiction.³¹³ The acting Governor in 1842 maintained that the Crown could not grant land ‘acquired in consequence of intermarriage’ unless the claimant paid a minimum of five shillings an acre. On the other hand, the imperial government directed ‘that some provision be made’ for the children of such intermarriage.³¹⁴

³¹² Muritoki deed of gift 31 May 1836. OLC 1/1362, pp 15-16, 20 (both copies in English)

³¹³ J Berghan Sr statement, nd., OLC 1/1362, pp 4-6

³¹⁴ Willoughby Shortland to F Whitaker, 6 May 1842, OLC 1/1362, pp 8-9

Grey in 1849 evidently instructed White to inquire into the circumstances of the 1836 Muritoki gift.³¹⁵ In a subsequent letter, Berghan informed Grey that the Muritoki gift would support his ‘young family of half cast[e] children’.³¹⁶

In preparation for Bell’s 1857 hearing, Berghan won the support of Hugh Carleton, the Bay of Islands Member of the House of Representatives [MHR]. Through Berghan, Carleton urged Bell that section 54 of the 1856 Act gave him jurisdiction over so-called ‘half caste claims’.³¹⁷ Te Ururoa, on behalf of other Whangaroa rangatira, appeared at Mangōnui before Bell in 1857 to reiterate their support for the 1836 Muritoki gift. Thomas Florance also completed a preliminary Muritoki survey during the following year.³¹⁸

Berghan and Turikatuku’s sons, James Jr and Joseph, in 1861 took up their own case as beneficiaries. They alerted Governor Browne that they suspected that Hare Hongi Hika offered Muritoki to be included in the Pupuke Crown purchase negotiations.³¹⁹ Their father shared their suspicions. He told the new Mangōnui MHR, Captain William Butler, that if the Crown violated the original Muritoki gift, it would risk a repeat of the 1843 Taipā clash.³²⁰

Pororua and his brother, Hohepa Kiwa, joined this protest against suspected Crown designs on Muritoki. In letters to both McLean and Governor Grey, they accused White and Kemp of attempting to subvert the Muritoki gift by transferring the land to the Crown.³²¹ Pororua and his allies during the 1860s remained heavily involved in kauri cutting in the Muritoki-Oruaiti area. According to J Berghan Sr, Pororua continued to float kauri logs down the Oruaiti River for Butler to load onto trading vessels at Mangōnui. Pororua also guarded Butler’s Mangōnui store against theft.³²²

Campbell and Richardson in late 1862 completed the 2,414-acre Muritoki survey. White certified that they did so ‘with the consent of the Native Chiefs’ who originally gifted the land. Pororua

³¹⁵ Undated note on 31 May 1836 deed of gift, OLC 1/1362, p 20

³¹⁶ J Berghan Sr to Governor, Sep 1849, OLC 1/1362, pp 24-25

³¹⁷ J Berghan Sr to Bell, 28 Apr 1857, OLC 1/1362, p 57; Section 54, Land Claims Settlement Act 1856

³¹⁸ Te Ururoa evidence, 3 Oct 1857; J Berghan Sr to Bell, 2 Nov 1857; White to CH McIntosh, 1 Nov 1858; J Berghan Sr to Bell, 4 Jun 1860, OLC 1/1362, pp 7, 12, 85, 94

³¹⁹ J & J Berghan Jr to Browne [misfiled], 27 May 1861, OLC 1/330, p 65

³²⁰ J Berghan to Capt W Butler MHR, 26 Jul 1861, OLC 1/1362, pp 73-75

³²¹ Pororua & Kiwa to McLean, 14 Jun 1861; Pororua & Kiwa to Governor, 13 Jul 1861, OLC 1/1362, pp 68-72, 76-78

³²² J Berghan Sr to Capt Butler, 26 Jul 1861, OLC 1/1362, p 75

and Kiwa continued to press for a Muritoki Crown grant to Berghan's sons.³²³ Domett, Bell's successor as Land Claims Commissioner in September 1864 declared his intention to grant Muritoki under the 'half caste claims' section of the Land Claims Settlement Extension Act 1858.³²⁴ Commissioner Domett in October 1864 therefore granted 'James and Joseph Berghan Sons of James Berghan of Whangaroa' 2,414 acres at Muritoki.³²⁵

In an unusual postscript to the long-running Muritoki saga, Turikatuku's sons transferred the land granted to them to Captain William Butler within a few years. James Jr transferred his half share of 1,207 acres to Butler in 1868. His brother Joseph transferred the other half to Butler in 1870. Joseph in 1863 married Pororua's daughter Maraea shortly before selling his share of Muritoki to Butler.³²⁶

1.2.17 Thomas Ryan-Waiaua OLC 403-407

Thomas Ryan, an illiterate Irish sawyer, arrived at Mangōnui soon after James Berghan Sr. Ryan filed five extensive Ōruru-Mangōnui claims in advance of Godfrey's abbreviated 1843 hearings.³²⁷ Like most other sawyers, he presented only English deeds. All featured Pororua as a principal transactor, and he kept copies of only two of his five deeds.³²⁸ Godfrey reported that, since Panakareao disputed Pororua-based claims, he offered Ryan the equivalent of 514 acres in scrip. FitzRoy then promptly tripled Godfrey's offer.³²⁹

Ryan, of course, lacked the capital to develop his claimed timber land. Consequently, he mortgaged his Ōruru claim to trader Gilbert Mair. This Mair mortgage meant that he had to decline scrip in respect of that claim, but he still wanted to collect scrip for his remaining four claims. FitzRoy wrote in response 'Impossible. Against all rules'.³³⁰ Presumably, Mair's mortgage prompted FitzRoy's objection. FitzRoy also noticed that Ryan used an Auckland land agent to act for him. On this he expressed consternation: 'These land Agents are working hard to . . .

³²³ White statement nd., on Campbell & Richardson, OLC plan 103, Nov 1862; Pororua & Kiwa, to Governor 1864, OLC 1/1362, pp 36-37

³²⁴ Section 13, Land Claims Settlement Extension Act 1858; Alfred Domett report, 24 Sep 1864; Domett memo, 26 Sep 1864, OLC 1/1362, pp 41, 43

³²⁵ J & J Berghan Jr Muritoki Crown grant, 25 Oct 1864, R15a, fol 327

³²⁶ McKenna, Mangonui, pp 104, 159

³²⁷ Ryan to Col Sec NSW, Dec 1840, OLC 1/403-407, pp 8-11

³²⁸ Ryan Oruru & Waikiekie deeds, 9 Nov 1837, 21 Jun 1838, OLC 1/403-407, pp 13-14, 80

³²⁹ Godfrey report, 12 May 1844; FitzRoy minute, 20 May 1844, OLC 1/403-407, pp 3-7

³³⁰ Ryan to Col Sec, 18, 19 Dec 1844; FitzRoy to Sinclair, 30 Dec 1844, OLC 1/403-407, pp 19-20, 27-28

bring forward every fragment of a claim – however rotten’.³³¹ When Ryan failed to produce most of his deeds, Sinclair minuted that this disqualified him from receiving scrip, but apparently not from qualifying for a Crown grant.³³²

Ryan applied for grants at Mangōnui on the grounds that, while most other Pākehā had left for Auckland, he remained there under hapū protection. FitzRoy remained unmoved. He wrote: ‘I have already done all that I am enabled to do for this man . . . A special [scrip exchange] arrangement was made for Mungonui [Mangōnui] Settlers which cannot be altered’.³³³

When White arrived at Mangōnui as Resident Magistrate in 1848, he began rewarding persistent claimants like Ryan with township lot offers. White used his 1850 Waikiekie Crown purchase negotiated with Panakareao to accommodate township claimants. White reported that resident hapū ‘say that the Government shall have as much land as it requires . . .’ to support the township serving the port.³³⁴

Captain Butler in 1847 established his eastern shore trading post on Mangōnui East land claimed by Ryan which became known as Butler Point.³³⁵ When Governor Grey tried to ratify Butler’s transfer from Ryan, however, his Attorney General and Colonial Secretary Sinclair objected to the transfer.³³⁶ Yet neither Grey nor Swainson objected to Butler’s acquisition of Ryan’s township claim. Swainson wrote ‘assuming the Native Title to have been extinguished, I see no objection’. Grey instructed White to confirm this township extinguishment.³³⁷

When Crown officials examined Ryan’s Ōruru claim mortgaged to Mair, they applied similar extinguishment standards. Auditor General Charles Knight reported in March 1851 that ‘Mair could have no claim on the Government in respect of his [£1,500 mortgage] . . . without an assignment in favour of the Crown. On the other hand, if Ryan’s title has not been revived . . . [it] equitably reverts to the Crown . . .’ Swainson agreed with Knight. In his view, Commissioner

³³¹ FitzRoy to Sinclair, 21 Dec 1844, OLC 1/403-407, p 28

³³² Sinclair minute, 8 Sep 1845, OLC 1/403-407, p 23

³³³ Ryan to FitzRoy, 1845; FitzRoy to Sinclair, 17 Sep 1845, OLC 1/403-407, pp 23-26

³³⁴ White to Col Sec, 4 Oct, 9 Nov 1849, OLC 1/403-407, pp 29-32

³³⁵ Butler to Col Sec, 19 Nov 1849, OLC 1/403-407, p 33; Janice C Mogford, *Butler House, Mangonui 1847-1990*, (Mangōnui: privately published, 1992), pp 14-15

³³⁶ Butler to Col Sec, 19 Nov 1849; Grey minute, 22 May 1850; Atty-Gen William Swainson minute, 23 May 1850; Sinclair memo, 17 May 1850, OLC 1/403-407, pp 33-36

³³⁷ Butler to Col Sec, 28 May 1850; Grey minute nd.; Swainson minute, 14 Jun 1850; Ligar minute, 26 Jul 1850; Grey minute, 29 Jul 1850, OLC 1/403-407, pp 37-38

Godfrey never confirmed Ryan's Ōruru claim. 'But if such purchases ever have been made by any one, then the Land is the property of the Crown'.³³⁸

Knight and Swainson in 1851 restated their adherence to the Crown's doctrine of Radical title. With this official support Resident Magistrate White believed he could ratify 'the extinguishment of Native Title' within any pre-1840 transaction areas. Just prior to Bell's arrival at Mangōnui in 1857, Ligar wrote that White had 'been deputed to settle claims to land at Mangonui'.³³⁹

Both Bell and White assumed that the Crown's assertion of Radical title allowed them to treat all land on the eastern side of Mangōnui Harbour as 'Government land'. As White put it in his December 1862 letter to McLean, this was by virtue of the 'Exchanged or Settled' pre-1840 claims. He listed these claims as those of Ryan, Butler, Thomas and Phillips, Partridge and Smyth.³⁴⁰

1.2.18 J Lloyd & J Duffus-Waiaua & Hihi OLC 458

The Crown applied Radical title assumptions to the 1851-1852 grants to John Lloyd at Waiaua, and to John Duffus at Hihi, both on the eastern shore of Mangōnui Harbour. Lloyd and Duffus derived their grants from Rev Richard Taylor's 1844 1,704-acre Muriwhenua grant (at Kapowairua) over 130 kilometres north of Mangōnui. Taylor subsequently assigned 852 acres, or half his grant to Lloyd and Duffus.³⁴¹ Details of this assignment remain undocumented, because the Taylor OLC 458 file is missing from Archives New Zealand.³⁴²

Lloyd and Duffus then divided their half of Taylor's distant Kapowairua grant equally. Although the Crown did not register a Kapowairua survey until 1853, in 1851-1852 it granted Duffus 426 acres at Hihi, and Lloyd 426 acres at Waiaua.³⁴³ This extraordinary 130-kilometre transfer of Taylor's bisected Kapowairua grant to Mangōnui East illustrates an unusual application of the Crown's doctrine of Radical title.

³³⁸ Knight report, 10 Mar 1851; Swainson minute, 13 Mar 1851, OLC 1/403-407, pp 48-51

³³⁹ White to Col Sec, 18 Jun 1857; Ligar minute, 19 Sep 1857, OLC 1/403-407, pp 61-63

³⁴⁰ White to McLean, 30 Dec 1862, OLC 1/558-566, pp 127-132

³⁴¹ Taylor Muriwhenua grant, 22 Oct 1844, R5c, fol 13

³⁴² The Muriwhenua Land Tribunal recorded the 'lost' [Taylor OLC] file in its 1997 report. Waitangi Tribunal, Muriwhenua Land report 1997, p 165

³⁴³ Survey General Ligar on 14 January 1853 certified a 852-acre plan on the reverse of Taylor's 1844 grant. This followed the Duffus Crown grant, 20 Oct 1851, R6, fol 193; and the Lloyd Waiaua Crown grant, 7 Jan 1852, R6, fol 213

Bell's January 1859 letter to Lloyd about his 1852 Waiaua grant again echoed Radical title assumptions. Bell reported that in 1851 the Government authorised Lloyd 'to select your 426 acres [derived from Taylor's Muriwhenua grant] in any of the Crown Lands at Mangonui'. White ensured that Lloyd's grant did not include a planned public reserve at the northern entrance to Mangōnui Harbour. Lloyd contacted Panakareao to ensure that he 'had not interfered with Native rights'. Neither the Government, nor Bell ever doubted that pre-1840 transactions effectively extinguished Native title around the harbour. Lloyd and Duffus could therefore select their derivative grants from 'any of the Crown Lands' there.³⁴⁴

The recitals on the Duffus and Lloyd grants echoed Radical title assumptions. The grants referred to how Land Claims 'Commissioners' reported that Rev Richard Taylor was 'entitled to receive a grant of 1704 acres of Land particularly mentioned' in his 1840 Muriwhenua North claim. The Crown omitted information on the distant location of the original 1844 Kapowairua grant. Instead it stated merely that Duffus and Lloyd, as 'derivative' claimants, were 'allowed to exchange' Taylor's 'claim' for 426 acres each 'by the Harbour of Mongonui [Mangōnui]'.³⁴⁵

Bell examined neither of these 1851-1852 Mangōnui East grants. Nor did he examine the originating 1844 Taylor Kapowairua grant. In the detailed 1863 appendix to his 1862 report, he misleadingly referred to how the Crown in January 1853 'corrected' the original 1,704-acre Taylor grant to 852 acres. He neglected to refer to the 130 kilometres distance between the originating grant and the derivative Mangōnui East grants to Duffus and Lloyd.³⁴⁶

³⁴⁴ Bell to Lloyd, 11 Jan 1859, OLC 8/2, pp 285-289

³⁴⁵ Duffus Crown grant, 20 Oct 1851, R6, fol 193; and the Lloyd Waiaua Crown grant, 7 Jan 1852, R6, fol 213

³⁴⁶ Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, p 35

1.2.19 William Butler-Waitetoki & Oneti OLC 913-914

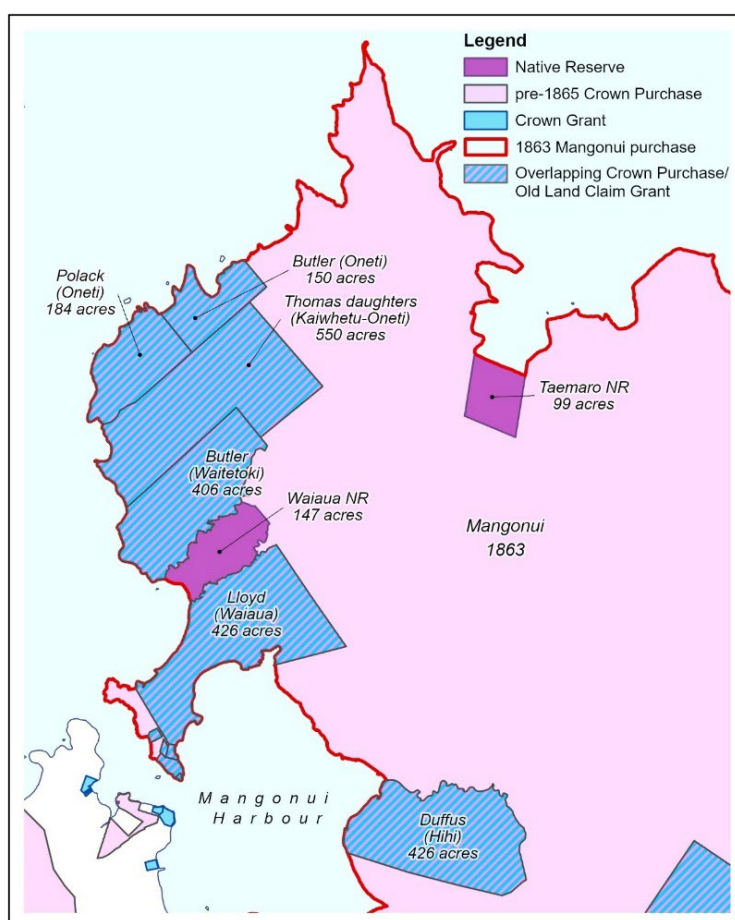


Figure 23: Mangōnui-Northeast

(Source: Bedford comp, OLC & SO plans, 2025)

Butler House historian Janice Mogford recounted Captain William Butler's arrival at Mangōnui during 1838-1839 as the master of the whaleship *Nimrod*.³⁴⁷ Butler immediately saw Mangōnui's potential as a whaling and timber port. Consequently, he negotiated with Pororua and Kiwa for access to forested and coastal areas at both Mangōnui and Ōruru.³⁴⁸

Until 1847 Butler lived both on land he claimed at Paewhenua, an island in Mangōnui Harbour, and across the river from Taipā. Hone Heke's forces in 1843 muru'd his sawpits, livestock and buildings at Taipā. He alleged that they committed 'every other species of wanton depredation short of taking the lives of the whites'. Butler demanded that the Crown punish Heke. Clement Partridge, his Auckland agent, urged acting Governor Shortland not to rely upon Protector Clarke's 'old expedient' of scolding Heke. Clarke predictably described Butler's protest as 'greatly

³⁴⁷ Mogford, Butler House, pp 4-6

³⁴⁸ McKenna, Mangonui, p 108

exaggerated', but he recommended 'some steps . . . to prevent a recurrence of similar outrages' in the aftermath of the Wairau tragedy. In the event the Crown failed to reinforce its authority at either Taipā or Wairau in 1843. A few years later, Butler moved to a more secure location across Mangōnui harbour at what we now call Butler Point.³⁴⁹

Godfrey abandoned his Mangōnui hearings before Butler could present his pre-1840 claims, despite that fact that Panakareao made a special exception for Butler's claims.³⁵⁰ Although Panakareao protested all claims based on Pororua transactions, he told Godfrey that only Butler 'could remain undisturbed upon these lands . . .' as long as he did not 'transfer them to others'.³⁵¹ Butler believed that the combined support of both Panakareao and Pororua entitled him to generous grants. FitzRoy apparently agreed, but, for some reason, he failed to grant Butler Mangōnui land during the 1840s.³⁵²

White, however, accommodated Butler within the May 1850 Waikiekie Crown purchase. In establishing the 32-acre township site, White believed that his 1850 purchase extinguished all remaining Native title there. As a service to Captain Butler, he also wanted to extend this extinguishment across the harbour to Butler Point. With this in mind White in August 1850 surveyed Butler's headquarters there.³⁵³ In approving White's Butler Point survey plan the following month, Surveyor-General Ligar ratified White's wishful thinking that extinguishment extended across the harbour.³⁵⁴ White stated that his eastern shore survey included the approximately 50-acre Butler Point area, 'all native title to it having been extinguished . . .' Ligar may not have noticed the location of Butler Point outside White's 1850 Waikiekie Crown purchase.³⁵⁵ When Bell reported Ryan's claims later, he affirmed White's view that he could grant Butler Point land 'in respect of a derivative claim from T Ryan 205a [OLC 404-Waiaua]'.³⁵⁶

At Butler Point he became the leading local timber trader and supplier of provisions for whaleships in port. The government in 1852 appointed him Pilot of that bustling colonial port.

³⁴⁹ Butler to Partridge, 22 May 1843; Partridge to Shortland, 29 May 1843; Shortland minute, 30 May 1843; Clarke minute, 1 Jun 1843, IA 1 1843/1180; Mogford, Butler House, pp 14-15

³⁵⁰ Butler to Col Sec NSW, 2 Dec 1840, OLC 1/913-914, pp 13-14

³⁵¹ Godfrey report, 20 Jan 1844, OLC 1/913-914, pp 3-4

³⁵² Butler to Governor, nd., (received 6 Nov 1844; FitzRoy to Sinclair, 24 Dec 1844, OLC 1/913-914, pp 6, 19

³⁵³ White, Ryan Waiaua claim plan, 4 Aug 1850; White to Col sec, 25 Sep 1850, OLC 1/403-407, pp 2, 40-41

³⁵⁴ Ligar minute, 27 Sep 1850, OLC 1/403-407, p 41

³⁵⁵ White to Col Sec, 14 Aug 1850, OLC 1/403-407, p 46

³⁵⁶ Bell report, 26 Sep 1859; White, Butler Point plan, 28 Apr 1856, OLC 1/403-407, pp 81, 85

He ran several coastal schooners during the whaling boom of the 1850s. During that decade he regularly stored more than 1,000 barrels of whale oil at his east harbour headquarters.³⁵⁷

Commercial success during the 1850s paved the way for Butler's political career during the 1860s. During 1861-1866 he served as the first Mangōnui MHR.³⁵⁸ Māori employed by Butler during the 1850s and 60s often resided at Waiaua, just north of his Butler Point headquarters. White described Waiaua residents as Ngāti Rēhia, but other hapū, such as Ngati Ruaiti, Ngāti Kuri, 'Te Tourite' and Matarahurahu, gathered there too.³⁵⁹ Butler ran cattle on land north and east of Waiaua. He apparently employed Waiaua residents to round up livestock to be butchered near his headquarters.³⁶⁰

Within the Mangōnui East area, surrounding Waiaua, Pororua maintained his rights. He traded with Butler, but refused to yield on matters of disputed land. The Crown in 1859 granted Butler 406 acres at Waitetoki along the northern side of Waiaua to Butler on land Thomas and Phillips sold him.³⁶¹ Less than five years later Pororua protested. He told Governor Grey '... ko Whaitotoki kihai i tukua e au ki nga pakeha'. An official translated this as 'I did not dispose of Waitetoki [Waitetoki] to the Pakehas'.³⁶² In addition to his disputed Waitetoki grant, Butler derived another Oneti 150-acre grant to the north also from the Thomas and Phillips claims. As far as we know, Pororua did not challenge Butler's Oneti grant, but he may not have known about it.³⁶³

After Pacific whaling declined during the 1860s, Butler diversified his commercial activities into general merchandise. According to Mogford this earned him at least £400 per annum during his last decade. When he died in 1875 he owned over 4,800 acres in the Ōruru-Mangōnui area, valued at over £6,000.³⁶⁴ William James Butler, his son, trained as a surveyor, and later became a

³⁵⁷ Mogford, Butler House, pp 7-10, 14-15, 19-20, 27-29

³⁵⁸ NZ Parliamentary Record 1925, p 77

³⁵⁹ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132; Mutu et.al., Ngāti Kahu, pp 53, 62, 83

³⁶⁰ Mogford, Butler House, pp 54-55; White to Native Min, 21 Jul 1891, MA 91/9, File G, pp 51-52

³⁶¹ W Butler Waitetoki Crown grant, 4 Oct 1859, R15, fol 117

³⁶² Pororua to Governor, 5 Apr 1864, OLC 1/1362, pp 61-64

³⁶³ Butler claims, 5 Oct 1857; Bell memo 15 Feb 1859, OLC 1/617-623, pp 110, 116; Butler Oneti grant, 11 Jul 1861, R15a, fol 203

³⁶⁴ Mogford, Butler House, pp 56, 62-63; Property-Tax Department, *A Return of the Freeholders of New Zealand*, (Wellington: Government Printer, 1882), p B108

Native Land Court Judge.³⁶⁵ The Butler family therefore became major beneficiaries of Crown grants arising from pre-1840 transactions.

1.2.20 G Thomas & T Phillips-Kaiwhetu & Oneti OLC 617-623

George Thomas and Thomas Phillips engaged with Pororua in several pre-1840 transactions north of Waiaua. Both were seamen, and Thomas eventually captained the schooner *Neptune*.³⁶⁶ Godfrey in 1843 recommended the equivalent of 279 acres in scrip for the joint Thomas and Phillips claims. FitzRoy almost tripled this offer, but neither Thomas nor Phillips accepted the offer.³⁶⁷

Thomas deplored the Crown's futile efforts to abandon Mangōnui after the 1843 Taipā clash. He instructed his Auckland agent, Clement Partridge, to tell the Colonial Secretary that the Crown should uphold its 1840-1841 Mangōnui purchases with Panakareao and Pororua as the surest way to 'prevent any [further] dispute between Natives' there.³⁶⁸ When Thomas drowned in 1846 attempting to salvage the wreck of HMS *Osprey* at Herekino, Partridge acted briefly on behalf of his two Māori daughters. He claimed that all local rangatira supported Thomas's daughters as his beneficiaries.³⁶⁹

Attorney General Swainson, however, reminded Grey that Commissioner Godfrey in 1843 did 'not report that the Claimants [Thomas and Phillips] made a valid purchase'.³⁷⁰ His scrip recommendations by-passed proper inquiry into the validity of the original transactions. When Sinclair in 1848 referred the Phillips case to White, the new Resident Magistrate reported Panakareao and Pororua's support for his 279-acre Kaiwhetu claim. White also announced the validity of Phillips's Waitetoki claim, adjacent to Waiaua.³⁷¹ Phillips then appealed to Governor Grey that his 'nearly 17 years endurance of the vicissitudes and privations' at Mangōnui entitled him to 'the enjoyment of a Crown grant there'.³⁷² Although White allocated small township lots

³⁶⁵ Judge William Butler Jr presided over the ceremonial conclusion of the 1896 Crown purchase of Lake Wairarapa Photograph, Ngati Kahungunu Signing Ceremony, Jan 1896, PAColl-7489-85, ATL

³⁶⁶ Thomas & Phillips to Col Sec NSW, 5 Dec 1840, OLC 1/617-623, pp 42-44; McKenna, Mangonui, p 131

³⁶⁷ Godfrey report, 20 Jan 1844; FitzRoy minute, 20 May 1844, OLC 1/617-623, pp 36-39

³⁶⁸ Partridge (on behalf of Thomas) to Col Sec, 15 Mar 1844, OLC 1/889-893, pp 53-55

³⁶⁹ George Thomas Will, 1 Jul 1846; Partridge to Col Sec, 7 Jul 1848, OLC 1/617-623, pp 64-65, 131-133

³⁷⁰ Grey minute, 29 Apr 1847; Swainson minute, nd., OLC 1/617-623, p 54

³⁷¹ Sinclair minute, 31 Jul 1848; White to Col Sec, 16 Apr 1849, OLC 1/617-623, pp 69-71

³⁷² Phillips to Governor, 17 Sep 1849, OLC 1/617-623, p 72

to Phillips and to the Thomas daughters in 1850, they remained without a substantial grant until Bell intervened after 1856.³⁷³

Prior to his 1857 Mangōnui hearings, Bell resisted Partridge's attempts to recognise his joint Oneti claim with Thomas and Phillips.³⁷⁴ WG Puckey replaced Partridge in representing the Thomas daughters at Bell's October hearings. Puckey there presented deeds and plans associated with their father's Kaiwhetu and Oneti claims, which he shared with Butler.³⁷⁵

Bell reported in September 1859 that the Thomas daughters were entitled to a 550-acre Kaiwhetu-Oneti grant, later surveyed by William Butler Jr.³⁷⁶ When the Crown eventually prepared the grant for the daughters, it erroneously named the elder daughter, Mereana Rapihana, as 'Marianne wife of the Chief Hopihana'.³⁷⁷ A year later Butler's lawyer, (and son-in-law) HH Lusk, alerted Commissioner Domett to this error. Captain Butler regretted that the error could delay the transfer of the land to him. Domett then quickly corrected it.³⁷⁸ Butler had already derived a 406-acre Waitetoki grant from a Thomas and Phillips claim in 1859. Then in 1871, Mereana Rapihana transferred her 550-acre Kaiwhetu grant to him.³⁷⁹

1.2.21 Clement Partridge-Oneti OLC 889-893

Among the predominantly local Mangōnui claimants, Clement Partridge arrived during the late 1830s as an Auckland-based speculator. Yet in 1843 he helped precipitate the breach between Panakareao and Pororua over the local claims when he appeared before Godfrey.

Like the other Mangōnui claimants, Partridge's negotiated most of his transactions with Pororua.³⁸⁰ Pororua and his brother Kiwa appeared before Godfrey at Mangōnui on 11 January 1843 to support Partridge's claims. They asserted their rights to transact land with Partridge by

³⁷³ White to Ligar, 24 Sep 1850, OLC 1/617-623, pp 77-78

³⁷⁴ Bell minute, 10 Feb 1857, OLC 1/617-623, p 100

³⁷⁵ WG Puckey evidence, 6 Oct 1857, OLC 1/617-623, pp 108-109; Bell's hearing notes, 6 Oct 1857, OLC 5/34, pp 12-13

³⁷⁶ Bell report, 26 Sep 1859; WJ Butler to Land Claims Commissioner, 24 Jul 1868, OLC 1/617-623, pp 19-20, 140-142

³⁷⁷ Thomas daughters Kaiwhetu Crown grant, 13 Jun 1870, R15a, fol 366. Mereana survived her younger sister, who died soon after June 1870.

³⁷⁸ HH Lusk to Domett, 28 Feb 1871 (tel), 15 May 1871, OLC 1/617-623, pp 3, 6-7; Mogford, Butler House, p 46

³⁷⁹ W Butler Waitetoki Crown grant, 4 Oct 1859, R15, fol 117; WJ Butler, Validation Court application, *New Zealand Gazette*, 10 Dec 1896, p 2037

³⁸⁰ Partridge to Col Sec NSW 4 Dec 1840; Partridge evidence, 11 Jan 1843; Godfrey report, 14 May 1844, OLC 1/889-893, pp 3-5, 8-10, 20-26

virtue of ‘conquest – and possession & cultivation – for many years’. At the same time, they admitted Panakareao’s rejection of their rights ‘ever since the Governor’s arrival’.³⁸¹ This set the stage for Panakareao’s ultimatum that brought Godfrey’s Mangōnui inquiry to a premature conclusion.

Godfrey cited Panakareao’s ultimatum under five headings:

1. He opposed all Mangonui ‘purchases . . . not made from himself . . .
2. He asserted his priority of right over all Mangonui land. He denied Pororua’s right ‘to sell any land . . . in any case except Capt. Butler[']s . . .
3. He did not feel bound by his 24 June 1840 Mangonui Crown purchase.
4. He, Nopera, promised that the Settlers at Manganui [Mangōnui] shall . . . be permitted to occupy the spots they reside on . . . by agreement with Pororua, and finally;
5. He would not now relinquish his right over these lands either to the Settlers or to the Government . . . he will maintain his right *vi et armis* (emphasis in original).³⁸²

Panakareao’s ultimatum at the Partridge hearing prompted Godfrey to suspend his inquiry into Mangōnui claims negotiated with Pororua. Partridge believed that Godfrey erred in concluding that the 1840-1841 Mangōnui Crown purchases effectively nullified private claims. Partridge maintained that, in subsequent private discussion with him, Godfrey denied that as commissioner he retained any ‘power to decide against the Government who opposed us . . .’ private claimants.³⁸³

When Partridge appealed his case to FitzRoy, the harried Governor responded with a generous 1,810-acre scrip offer.³⁸⁴ Officials then told Partridge he could take up only rural sections outside Auckland with his scrip.³⁸⁵ In exasperation Partridge insulted Godfrey, describing him as ‘morose, sullen . . . coarse and vulgar . . . and exceedingly disobliging towards the [Mangōnui] claimants’.³⁸⁶ In defence of Godfrey FitzRoy stated that he had ‘most disagreeable duties to

³⁸¹ Pororua & Kiwa evidence, 11 Jan 1843, OLC 1/889-893, p 12 (HT Kemp translation)

³⁸² Panakareao evidence, 11 Jan 1843, OLC 1/889-893, pp 13-14 (HT Kemp translation)

³⁸³ Partridge to Col Sec, 15 Mar 1844, OLC 1/889-893, pp 53-55

³⁸⁴ FitzRoy minute, 20 May 1844, OLC 1/889-893, p 8; Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, p 67

³⁸⁵ FitzRoy to Sinclair, 20 Apr 1844; FitzRoy to Godfrey, 14 May 1844; Sinclair & FitzRoy minutes, 5 Jul 1844, OLC 1/889-893, pp 39-40, 57, 60

³⁸⁶ Partridge to Col Sec, 14 Dev 1844, OLC 1/889-893, p 92

perform' as commissioner at Mangōnui. FitzRoy soon lost patience with Partridge's litigious manner. He granted Partridge nothing at Mangōnui during the 1840s.³⁸⁷

Bell in 1857 initially dismissed Partridge's joint Oneti claim with Thomas and Phillips.³⁸⁸ But Partridge's skill as a land agent paid off when he succeeded in assigning his Oneti interest to trader Joel S Polack. Although Partridge never reaped his own Mangōnui reward, his assignment to Polack produced a 184-acre Oneti Crown grant in 1859.³⁸⁹

1.2.22 Hibernia Smyth-Mangōnui OLC 887-888

Hibernia Smyth arrived at Mangōnui via South Australia in 1839. As another Irish sawyer, he attempted small-scale farming along the Whangaroa Road near Mangōnui.³⁹⁰ After Godfrey abandoned his 1843 Mangōnui hearings, Smyth used Partridge as his Auckland agent to pursue Godfrey's modest scrip recommendation of 73 acres. FitzRoy then tripled this offer.³⁹¹

The most remarkable aspect of Smyth's case resulted from the April 1843 hostilities at Taipā. In a December 1844 letter to FitzRoy, Smyth claimed that Ngāpuhi combatants returning from Taipā muru'd his Mangōnui farm, just as they pillaged Butler's Taipā East establishment. Smyth accused those responsible of having 'committed depredations with impunity . . .' In his words, they 'plundered me of 100 baskets of potatoes . . .' and killed his 80 pigs. Rampaging warriors 'robbed me of everything worth carrying away . . .' leaving his family destitute, until the Kaitaia missionaries came to their rescue. Smyth appealed to FitzRoy to compensate him for the damages suffered with a more generous scrip offer.³⁹²

³⁸⁷ FitzRoy minute, 18 Dec 1844; FitzRoy to Sinclair, 26 Dec 1844, OLC 1/889-893, pp 93, 99

³⁸⁸ Partridge to Bell, 2 Feb 1857; Bell minute, 10 Feb 1857, OLC 1/889-893, p 100

³⁸⁹ Partridge evidence, 9 Sep 1859, OLC 1/889-893, p 128; Polack Oneti Crown grant, 4 Oct. 1859, R15, fol 120

³⁹⁰ McKenna, Mangonui, pp 10, 20, 117

³⁹¹ Godfrey report, 12 May 1844; FitzRoy minute, 20 May 1844, OLC 1/887-888, pp 8-10

³⁹² Smyth to FitzRoy, 17 Dec 1844, OLC 1/887-888, pp 18-21; Brodie maintained that Berghan, Ryan Wrathall and Flavell suffered similar damages. Brodie, State of New Zealand, p 27

FitzRoy accordingly increased his scrip offer from 219 to 500 acres.³⁹³ More importantly, Protector Clarke promptly investigated the post-Taipā muru. Clarke held Hone Heke responsible. He wrote Heke a strongly worded rebuke:

If it is true that you have plundered the Europeans, it is very wrong. My heart is very dark on account of your late proceedings; the act of fighting amongst yourselves is bad enough, but is greatly aggravated by your plundering the Europeans . . . When this comes to the Governor's ears I cannot tell what will be the consequence; you will know that your whole conduct in this case is very bad, and [it] shows that you are going back to your old customs.³⁹⁴

Heke defiantly rejected Clarke's accusations. Heke insisted that his tribe took only their enemies' goods and weapons. Moreover, he asserted that Ngāpuhi protected settler homes at both Taipā and Mangōnui from their local enemies. He added:

I only asked them [the settlers] for potatoes for my tribe, and they gave me some . . . had they been withheld I should have been angry . . . When they [the settlers] are niggardly I get angry, but when they are generous, I say, 'treat the Europeans well'.³⁹⁵

Rangatira like Hone Heke harboured customary expectations of settler hospitality. Mangōnui claimants like Smyth fled to Auckland to escape such onerous customary expectations.

³⁹³ FitzRoy minute, 27 Dec 1844, OLC 1/887-888, p 21

³⁹⁴ Clarke to Heke, 12 Apr 1843, encl in Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), p 113. Brodie alleged that Clarke ignored his complaints about Heke's post-Taipā murus. Brodie, *State of New Zealand*, p 150

³⁹⁵ Heke to Clarke, May 1843, encl in Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 113-114. According to Crosby, the Crown's failure to discipline Heke 'left [among Ngāpuhi] an impression . . . of serious weakness or lack of resolve . . .' Crosby, *Kupapa*, p 29

1.3 Taylor's Muriwhenua North transaction

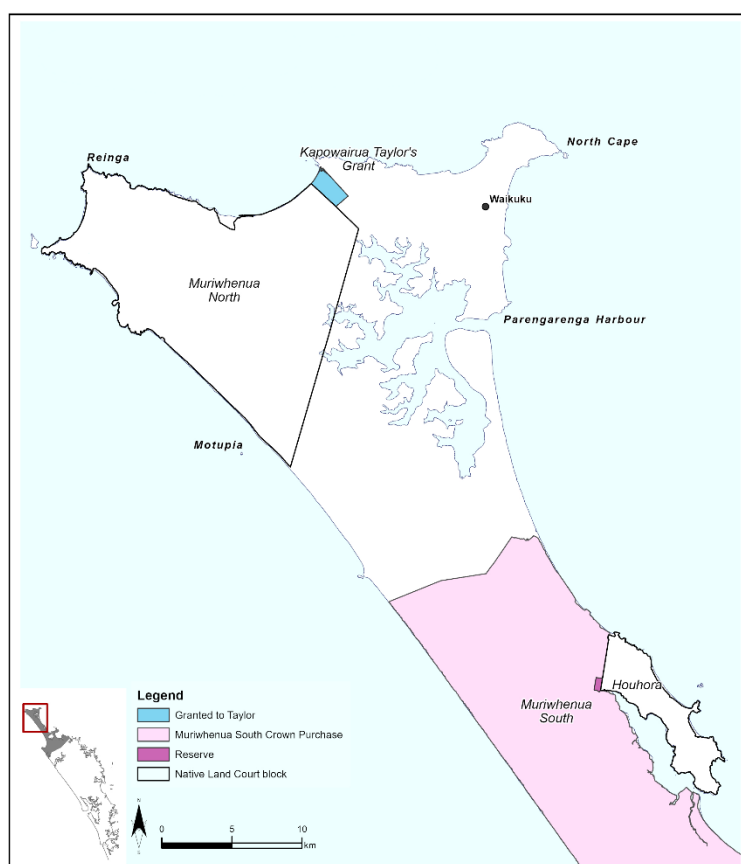


Figure 24: Taylor Transaction

(Source: Bedford comp, OLC & SO plans, 2025)

1.3.1 A special trust

The 1997 Muriwhenua Land Tribunal reported that the Rev Richard Taylor ‘saw himself as holding the land’ he claimed north of Houhora ‘on trust for the customary hapū . . .’³⁹⁶ Hence the Taylor claim stood out as a special trust arrangement. On the day he signed the Muriwhenua North deed with Panakareao, Taylor wrote that ‘by becoming purchaser’ of an estimated 65,000 acres, he would restore that vast area to its original Te Aupouri inhabitants.³⁹⁷ He reported his ‘purchase’ to the CMS in London as ‘providing for the whole tribe’. He claimed to have restored Aupouri to their ‘native home’.³⁹⁸ Taylor then informed Governor Hobson that he held his entire

³⁹⁶ Waitangi Tribunal, Muriwhenua Land report 1997, p 102

³⁹⁷ Taylor Journal, 20 Jan 1840, vol 2, pp 184-185, Auckland Institute and Museum (hereafter AIM)

³⁹⁸ Taylor to William Jowett, 5 Oct 1840, Taylor papers, folder 9, ATL

claim 'in trust for the natives of the Aupouri tribe reserving 6000 acres for myself'. He described Aupouri as previously 'vanquished and expelled' from their homeland by Panakareao's people.³⁹⁹

Taylor reiterated this trust arrangement in his November 1840 statement of claim. He stated that his January 1840 agreement with Panakareao conveyed to Aupouri 'the greater portion' of the land he claimed.⁴⁰⁰ Almost twenty years later he wrote that he considered his claim 'as a reserve in perpetuity . . . as I viewed myself in the light of a trustee' for Aupouri returning to the area after 1840.⁴⁰¹ John Owens in his 2004 Taylor biography agreed with the Muriwhenua Land Tribunal's conclusion that by allowing Aupouri to 'return to their ancestral land', Taylor created 'a trusteeship for the[ir] benefit . . .'.⁴⁰²

1.3.2 Deed documentation

According to Taylor's private deed documentation (now held in the John White papers at the Alexander Turnbull Library) he first negotiated with Panakareao over the future of Muriwhenua North in November 1839.⁴⁰³ Taylor's own translation of the subsequent January 1840 deed stated that Panakareao and 29 other Te Rarawa rangatira transferred to him both a 'Portion of Land . . . and the chieftainship and power' associated with it. Taylor described the land as extending from Motupia (an islet off Te Oneroa a Tohe/Ninety Mile Beach) northwest to Te Reinga, and eastwards across the top of the Aupouri Peninsula to the North Cape. Kapowairua, later Crown granted to Taylor, lay approximately halfway between Te Reinga and the North Cape.⁴⁰⁴

Taylor complicated the Trust arrangement stated in the 1840 deed by adding to it an undated partnership agreement with Lieutenant Sadleir, and Colonel Phelps, two colonial military officers. They provided most of the goods exchanged with Te Rarawa as payment for the land.

³⁹⁹ Taylor to Hobson, 6 Oct 1840, IA 1/1840/567

⁴⁰⁰ Taylor to Col Sec NSW, 12 Nov 1840, Taylor papers, ATL

⁴⁰¹ Taylor MS, c 1860, Taylor papers, 297/42, Auckland City Library (hereafter ACL)

⁴⁰² JMR Owens, *The Mediator: A Life of Richard Taylor 1805-1873*, (Wellington: Victoria University Press, 2004), pp 39-40

⁴⁰³ Taylor transaction summary, 1839-1840, John White papers, MS-Papers-0075-106E, ATL

⁴⁰⁴ Taylor deed, 20 Jan 1840, John White papers, MS-Papers-0075-106E, ATL. J Matthews and Puckey witnessed the signing of this deed. See Figure 24: Taylor Transaction, (p 99)

Taylor designated them as 50 per cent partners in the transaction. At the same time, he restated his obligations to Aupouri in his business partnership agreement.⁴⁰⁵

1.3.3 Treaty context

Taylor negotiated his Muriwhenua North trust arrangement just weeks before he witnessed the three major northern Treaty signings. At Hokianga on 12 February 1840 he recorded Papahia questioning the legitimacy of ‘two men’ claiming ‘all the land from the North Cape to the Hokianga’. According to Owens, Puckey’s defence of what were probably the Taylor and Ford claims stood out ‘as an early and public statement that the [Taylor] purchase was regarded as a trust held in the interest of Maori’.⁴⁰⁶ At Kaitaia on 28 April Taylor recorded that Panakareao’s son, Paratene Wairo, alluding to the Taylor transaction, denied that his father intended ‘to cut off all the people at the North Cape’.⁴⁰⁷ When in early 1841 Taylor visited the area he claimed, he found the Aupouri returnees there sceptical of the trust deed he negotiated on their behalf. They told Taylor that ‘Noble had no business to sell it without’ their consent.⁴⁰⁸ During a week-long traversing of claim boundaries, Taylor visited a remote northeastern kainga called Waikuku. He imagined that it ‘could form a very pretty farm’ in the future. At Te Werahi near Te Reinga, Taylor found ‘Wareware’ living in another ‘beautiful’ location, but Taylor refused to recognise his right to reside there.⁴⁰⁹

At a 5 February hui near Parengarenga Harbour, Aupouri specified ‘what part of the purchase they allowed’ Taylor to claim for himself. They identified a triangular area from Pakohu westward to Waitohora (both near Kapowairua) and south to Motupia as Taylor’s land.⁴¹⁰ Taylor then travelled to Kaitaia with four Aupouri representatives to formalise this land-sharing agreement. Taylor on 16 February 1841 signed an agreement with Wiki Taitumu as ‘Rangatira of

⁴⁰⁵ Sadleir and Phelps partnership agreement, nd., John White papers, MS-Papers-0075-106E, ATL

⁴⁰⁶ Owens, Mediator, pp 50, 69-70

⁴⁰⁷ Kaitaia notes, 28 Apr 1840, encl in Taylor to Jowett, 20 Oct 1840, Taylor papers, ATL; Taylor Journal, 28 Apr 1840, vol 2, pp 196-201, AIM

⁴⁰⁸ Taylor Journal, 25-27 Jan 1841, vol 2, pp 226-227, AIM

⁴⁰⁹ Taylor Journal, 28-30 Jan 1841, vol 2, p 234, AIM

⁴¹⁰ Taylor Journal, 5 Feb 1841, vol 2, pp 235-236, AIM

te Aupouri' and his three whanaunga. They agreed to set aside Waikuku (not the much larger central triangular area discussed at Parengarenga) as 'Teira's settlement'.⁴¹¹

1.3.4 Godfrey report and 1844 Crown grant

Since the Native Department during the late nineteenth century misplaced the original Taylor claim file, we have had to reconstruct Commissioner Godfrey's 1843 inquiry into it from incomplete related sources. In Taylor's absence, Joseph Matthews presented his Muriwhenua North claim to Godfrey at a January 1843 Kaitaia hearing. Matthews confirmed that, although Taylor and Panakareao signed a subsequent 1840 deed, Taylor began negotiating with Panakareao in 1839.⁴¹² Godfrey recorded that 'Ngatakimoana' initially objected to Taylor's claim, at the same time that Ōruru people objected to Ford's claim. Godfrey explained that, in both cases, the 'adverse Tribes . . . [stated] with more shew of justice [that] . . . these lands have been their dwelling places for very many years'.⁴¹³ But Godfrey persuaded Ngatakimoana to withdraw his objection, 'Having convinced him that the lands of his family remained unsold and unclaimed'.⁴¹⁴ Perhaps Matthews reassured Godfrey that Taylor's trust arrangements protected Ngatakimoana's interests.

In any case, when Godfrey reported Taylor's claim the following month, he recommended a Crown grant of no more than 1704 acres within the 65,000-acre claim area described in the 1840 deed. Godfrey excluded from Taylor's grant 'Any cultivation or other Grounds required by the Aupouri Tribes at the discretion of the Protector of Aborigines . . .' He specifically excluded Waikuku.⁴¹⁵ Godfrey's exclusion of Waikuku, of course, flew in the face of Taylor's 1841 agreement with Aupouri which set aside that place as 'Teira's settlement'.

Taylor's 1844 Crown grant repeated the detailed exterior boundary description encompassing 65,000 acres from his 1840 deed, Godfrey's 1704-acre grant recommendation, and his pointed exclusion of Waikuku. Without a visual plan to clarify the contradictory geographic detail of a modest grant covering less than three per cent of a vast claim area, the original Taylor Crown

⁴¹¹ Aupouri agreement, 16 Feb 1841, John White papers, MS-Papers-0075-106D, ATL. Matthews and Puckey, together with Panakareao, witnessed this agreement. See the respective locations in Figure 24: Taylor Transaction, (p 99)

⁴¹² Taylor claim, Register of Reports, OLC 3/2

⁴¹³ Godfrey to Col sec, 15 Jan 1843, OLC 8/1, pp 54-56

⁴¹⁴ Godfrey to Col Sec, 10 Feb 1843, BPP 1845 (369), pp 73-74

⁴¹⁵ Godfrey report summary, 15 Apr 1843, OLC 3/2

grant remained almost incomprehensible.⁴¹⁶ It remained an abstraction until Taylor had half of it surveyed almost a decade later.

1.3.5 Kapowairua and Mangōnui East grants 1851-1853

Taylor's business partnerships required him to halve his grant acreage. By 1850, Sadleir and Phelps transferred their combined half interest in Taylor's grant to Rev John Duffus, and to John P Lloyd. Taylor selected Kapowairua as the location of his 852-acre half in 1852, and his new business partners located their two 426-acre derivative grants at Mangōnui East (see Lloyd and Duffus block narrative, above). Florance's 1852 Kapowairua survey became part of the final 1853 Taylor 852-acre Crown grant, certified by both Surveyor-General Ligar and Colonial Secretary Sinclair.⁴¹⁷ Duffus and Lloyd previously located their derivative grants on the eastern side of Mangōnui Harbour, almost 130 kilometres south of Kapowairua.⁴¹⁸

Taylor's changing business partnerships compromised his trust obligations. The hundreds of Aupouri who returned to their home area after 1840 undoubtedly believed that he had provided them with what the Muriwhenua Land Tribunal called a 'northern sanctuary'.⁴¹⁹ Taylor repeated this in his regular CMS correspondence.⁴²⁰ He even asked Governor Grey to ratify his trust by creating 'a permanent reserve for the Aupouri tribe . . .'.⁴²¹ Taylor unwisely chose to locate his grant at Kapowairua, a place of special significance to both Aupouri, and to Ngāti Kuri. He nonetheless sought their consent for this when he visited them in 1866.

1.3.6 Kapowairua visit 1866

When Taylor arrived at Kapowairua in July 1866 he met 'Rewiti' (probably Rewiri Hongi of Ngāti Kuri). He described him as 'my tenant . . . cultivating my land'. Rewiri accompanied Taylor to the main Ngāti Kuri/Aupouri kainga near Parengarenga Harbour. There at a well-attended hui

⁴¹⁶ Rev Richard Taylor Crown grant, 22 Oct 1844, R5c, fol 247

⁴¹⁷ Kapowairua survey, OLC plan 234, 1852; Ligar/Sinclair certification of Taylor Crown grant, 14 Jan 1853, R5c, fol 247

⁴¹⁸ Duffus Hihi Crown grant, 28 Oct 1851; Lloyd Waiaua Crown grant, 16 Feb 1852, R6, fols 193-194

⁴¹⁹ Waitangi Tribunal, Muriwhenua Land report 1997, pp 99-105

⁴²⁰ Taylor to Coates, 8 Aug 1843, 9 Jan 1846, Taylor to Kissling, 16 Sep 1850, Taylor papers, folders 13, 28 & 250, ATL

⁴²¹ Taylor to Grey, 12 Jun 1848, Taylor papers, folder 206, ATL

Taylor announced that he wanted to settle his son Cecil at Kapowairua ‘in return for my having given them [Māori] back the land of their forefathers’.⁴²² Wiki’s son, Hemi Taitimu, apparently accepted Taylor’s proposal on behalf of the hau kainga. He composed a letter thanking Taylor for returning to them ‘the land of their forefathers . . .’ Taylor added in his reply to Taitimu that he ‘stipulated’ that his vast claim area ‘should never be sold’.⁴²³ Taylor believed he continued to exercise authority over the entire 65,000-acre area, not just over his 852-acre Kapowairua grant. He translated Taitimu’s 1866 undertaking ‘that the land I had given [65,000 acres] was to be a permanent residence for their tribe . . .’⁴²⁴

1.3.7 ‘Muriwhenua’ grant within surrounding surplus land

Theoretically, the Crown ‘owned’ the 97 per cent of Taylor’s claim outside Kapowairua as surplus land. Aupouri, Ngāti Kuri and Te Rarawa applicants, however, challenged the Crown’s dormant title when in 1870 they applied for a 56,678-acre Native Land Court title determination of the Muriwhenua North area, including Te Reinga. WB White alerted Native Minister McLean to this application. He warned him that local Māori had begun to reject the 1840 deed by which Taylor claimed the area from Panakareao. He believed that Taylor’s trust arrangements would ‘tell with the Court against the Government claim . . .’ to the surrounding surplus. White therefore advised McLean to waive the Crown’s claim, because it ‘never exercised any rights of ownership . . .’ Furthermore, ‘the effect upon the Native mind [of a contest in Maning’s Native Land Court] would be such as to induce them to oppose every inch of land they have hitherto sold’ if they won the Muriwhenua case.⁴²⁵

Consequently, McLean instructed White ‘to state that the Government relinquishes its [surplus land] claim’ at Judge Maning’s Ahipara courtroom.⁴²⁶ Maning in 1872 ordered certificates of title for seven Aupouri/Ngāti Kuri and Te Rarawa applicants. These applicants then became the seven owners named in the 56,678-acre Muriwhenua North Crown grant.⁴²⁷

⁴²² Taylor Journal, 26 Jul 1866, vol 15, p 23, AIM

⁴²³ Taylor to Venn, 3 Sep 1866, Taylor papers, folder 196, ATL

⁴²⁴ Taylor to FD Fenton, 19 Jun 1873, Taylor papers, 297/18, ACL

⁴²⁵ White to McLean, 18 Mar 1870, McLean papers, MS-Papers-0032-0633; ATL; White to Native Dept, 22 Sep, 11 Nov 1870, Wai 45, doc F1, No 13, pp 136-139, 150-151; White undoubtedly wished to avoid a repeat of the 1870 success of Taemaro applicants in Maning’s Haruru courtroom. White to McLean; White to Fenton, 20 Sep 1870, Wai 45, doc F1, No 13, pp 156-157

⁴²⁶ Halse to WB White, 23 Dec 1870, MA 4/65, pp 430-431

⁴²⁷ Muriwhenua Crown grant, 22 Nov 1872, R87A, fol 77

1.3.8 Yates-Jones alienation 1873

Within a few months the seven Muriwhenua grantees transferred all 56,678 acres to the leading local gum trader, Samuel Yates, and to his Auckland financial backer, Stannus Jones. WB White praised this private alienation as preferable to a contest with the Crown over surplus land. He reported that ‘by allowing the Natives to sell, the Government . . . derive a revenue . . . by the beneficial occupation of the land by Europeans’.⁴²⁸

In complete contrast, Taylor protested the 1873 Muriwhenua alienation as a violation of his long-standing trust arrangements. He maintained that Aupouri/Ngāti Kuri in 1841, and again in 1866, promised ‘never to alienate’ the vast area he secured for their benefit. He appealed to Chief Judge Fenton to rule that Yates and Jones could not legitimately acquire ‘the land of which I was the original purchaser without my sanction’. He virtually accused Aupouri/Ngāti Kuri owners of having ‘broken their covenant with me . . .’ He concluded that such a breach meant he could resume his ‘original position as the first purchaser’.⁴²⁹

Taylor’s futile last stand shortly before his October 1873 death demonstrated how fervently he clung to his trust obligations. He regarded them as a sacred covenant like Te Tiriti o Waitangi/the Treaty of Waitangi. Yet Aupouri and Ngāti Kuri could say that he had broken faith with them. Contrary to his trust obligations, in his last will and testament, he provided for the alienation of Kapowairua. This enabled Samuel Yates to purchase Kapowairua, or ‘Taylor’s grant’ in 1875.⁴³⁰

1.3.9 Kapowairua/Muriwhenua petitions 1974-1975

Andrew Rollo, a leading Aupouri Maori Trust Boards member, revived memories of Taylor’s grant with a 1974 petition. Addressed to Hon Matiu Rata, the Ngāti Kuri Minister of Maori Affairs, Rollo’s fellow Aupouri petitioners challenged the validity of the original Taylor transaction with Panakareao. They maintained that, despite Taylor’s Kapowairua grant, they occupied their papakainga there for generations. They therefore called upon Minister Rata to

⁴²⁸ White to McLean, 12 Mar 1873, McLean papers, MS-Papers-0032-0633, ATL; White to Native Dept., 22 Apr 1873, AJHR 1873, G-1, pp 1-2

⁴²⁹ Taylor to FD Fenton, 19 Jun 1873, Taylor papers, 297/18, ACL

⁴³⁰ Owens, Mediator, p 295

ensure the return of ‘our ancestral land at Kapowairua . . . to us . . .’⁴³¹ Nine months later, Hana Romana Murray, on behalf of Ngāti Kuri, addressed a similar petition to Minister Rata, their whanaunga. In particular, the petitioners questioned the validity of the 1873 Yates-Jones Muriwhenua alienation.⁴³²

The Lands and Survey Department commissioned their research officer Paul Phillips to inquire into the history behind the Aupouri petition. His 8 July 1975 report informed Minister of Lands Venn Young’s reply to Rollo. Minister Young stated that the available historical evidence demonstrated the validity of the Crown’s title at Kapowairua. He asserted that Commissioner Godfrey’s 1843 grant recommendation verified that the Crown ‘properly extinguished’ Native title there. Furthermore, Young announced that Godfrey ‘dealt with hundreds of land claims to the complete satisfaction of the Maoris concerned at the time’. Young relied upon Phillips’ conclusion that Aupouri provided insufficient evidence of their continuous occupation at Kapowairua to warrant the Crown returning the land to them.⁴³³ We located no Crown reply to the Murray Ngāti Kuri petition.

1.3.10 Muriwhenua Land Tribunal findings 1997 and subsequent settlement legislation

The 1997 Muriwhenua Land Tribunal found the Crown’s 1976 denial of continuous customary occupation at Kapowairua unconvincing. Five 1992 claimant briefs of evidence supported the original 1974 Aupouri contention of continuous customary use of the land at Kapowairua.⁴³⁴ Furthermore, at the first Muriwhenua Tribunal hearing in December 1986, Maori Marsden identified Kapowairua as the first Kurahaupo waka papakainga.⁴³⁵ Subsequently the Crown conceded the special historical significance of Kapowairua to Ngāti Kuri in its Claims Settlement Act 2015. Section 31 of that Act vested Kapowairua in iwi trustees as a recreational and scenic reserve, while Section 48 of the same Act registered it as a cultural redress property.⁴³⁶

⁴³¹ Andrew Rollo petition, 1974, Lands and Survey file 23/1099, HO 4/919. Rollo’s daughter, Gloria Herbert, later served as a Waitangi Tribunal member

⁴³² Hana Romana Murray petition, 14 May 1975 (te reo), MLC Muriwhenua corres file M26, pp 7-10

⁴³³ Paul Phillips report, 8 Jul 1975, Wai 22, doc A32; Young to Rollo, 16 Jan 1976, Lands and Survey file, 23/1099, HO 4/919

⁴³⁴ Waitangi Tribunal, Muriwhenua Land report 1997, pp 167, 320, 350-354

⁴³⁵ Marsden evidence, Dec 1986, Wai 22, doc A14, pp 4-6. Both Aupouri and Ngāti Kuri descend from the Kurahaupo waka.

⁴³⁶ Sections 31 & 48, Ngāti Kuri Claims Settlement Act 2015

1.4 Old Land Claim survey plans and Grants

1.4.1 Mapping Old Land Claims

Figures 3: Muriwhenua 1865 (at p 27) and Figure 4: Central Muriwhenua 1865 (at p 28), illustrate the most enduring features of pre-1840 transactions. Private pre-1840 transactions created Crown grants (shown in blue) and adjoining Crown surplus land (orange). Only six Native reserves (coloured dark pink) totalling just over 1,000 acres emerged from these private transactions, while a larger number emerged from pre-1865 Crown purchases.⁴³⁷

Our cartographer Janine Bedford mapped the Crown grants, surplus land, Native reserves and Crown purchases from original nineteenth century survey plans. Janine has also listed these OLC survey plans in the Plans column of the Muriwhenua Old Land Claim Surveys table. In our general introduction we explained how pre-triangulation surveys limit the accuracy of our acreage figures below.

Figure 25: Muriwhenua Old Land Claim Surveys

Area	Category	Plans	Acres
Smith Awanui grant (OLC 1375)	Grant	OLC 315	14
Butler Township grants (OLC 913-914)	Grants	OLC 112	17.85
Duffus Hihi grant (OLC 458)	Grant	OLC 157	426
CMS Kaitaia/Kerekere grant (OLC 675)	Grant	OLC 242, DP 405	1470
CMS Kaitaia/Kerekere (OLC 675)	Surplus	OLC 242, DP 405	257
Rapihana Kaiwhetu-Oneti grant(OLC 617-623)	Grant	OLC 287, ML 6731	550

⁴³⁷ Figure 3: Muriwhenua 1865 and Figure 4: Central Muriwhenua 1865, above

Area	Category	Plans	Acres
Taylor Kapowairua grant(OLC 458)	Grant	OLC 234, DP 4435	864
Brodie Kauhoehoe grant (OLC 570)	Grant	OLC 101	947
Brodie Kauhoehoe (OLC 570)	Surplus	OLC 101	378.5
J Berghan Kohekohe grant (OLC 559)	Grant	OLC 129	145
Ryder Maheatai grant (OLC 1025)	Grant	OLC 246, SO 780	120
Ryder Maheatai (OLC 1025)	Surplus	OLC 246, SO 797	167
Davis Mangatete North grant (OLC 160)	Grant	OLC 31, SO 1161/A	466
Davis Mangatete North (OLC 160)	Surplus	SO 783, ML 4890; ML 5098	4414
J Berghan Township grants(OLC 558-566)	Grants	OLC 111-112	8.93
Thomas & Phillips Township grants (OLC 617)	Grants	OLC 111-112	7.75
Matarau Native Reserve	Native Reserve	ML 333	147.75
J& J Berghan Jr Muritoki grant (OLC 1362)	Grant	OLC 103	2414
Puckey Ohotu grant OLC 774-776)	Grant	OLC 214	2581

Area	Category	Plans	Acres
Ford Okiore grant (OLC 704)	Grant	OLC 159, OLC 160	2627
Ford Okiore surplus (OLC 704)	Surplus	OLC 159, Roll 1/1	5653
Polack Oneti grant (OLC 889-893)	OLC	OLC 290	184
Butler Oneti grant (OLC 617-623)	OLC	OLC 95	150
Murphy Oparera claim(OLC 847-849)	Scrip/Surplus	SO 797	259
J Berghan Oruaiti grant(OLC 558-566)	Grant	OLC 104-105	1668
Southee Awanui grant (OLC 875-877)	Grant	OLC 6, OLC 294	186
Maxwell Otaki grant (OLC 875-877)	Grant	OLC 6, OLC 294	5184
Fenton Otaki grant (OLC 875-877)	Grant	OLC 6	26
Maxwell Southee Otaki (OLC 875-877)	Surplus	OLC 6, OLC 294	8174
J Matthews Otararau grant (OLC 328)	Grant	SO 1160, OLC 7	1170
J Matthews Otararau (OLC 328)	Surplus	SO 1160, OLC 7	685
WH Clarke Parapara grant (OLC 329)	Grant	OLC 9, SO 1275	659
J Matthews Parapara grant (OLC 329)	Grant	OLC 9, SO 1275	1089
Matthews-Clarke Parapara (OLC 329)	Surplus	SO 1275, OLC 9	5229
Te Aurere Native Reserve	Native Reserve	OLC 9	340

Area	Category	Plans	Acres
Puckey Pukepoto grant (OLC 774-776)	Grant	OLC 8	765
Puckey Pukepoto (OLC 774-776)	Surplus	OLC 8	450
Pukepoto Native Reserve	Native Reserve	OLC 8	246
Stephenson Ruatorara grant (OLC 1294)	Grant	SO 948A	1000
Stephenson Ruatorara (OLC 1294)	Surplus	SO 948A	1582
Taemaro Native Reserve	Native Reserve	ML 2988	99
J Berghan Taipa East grant (OLC 556-563)	Grant	OLC 129	41
Lloyd Waiaua grant (OLC 458)	Grant	SO 1535B-C	426
Waiaua Native Reserve	Native Reserve	ML 5538	147
Waimanoni Native Reserve	Native Reserve	ML 334	185
J Matthews Waiokai grant (OLC 328)	Grant	OLC 193	1279
Butler Waitetoki grant (OLC 617-623)	Grant	OLC 290	406
R Matthews Warau/Matako grant (OLC 330)	Grant	OLC 119	1183
R Matthews Warau/Matako (OLC 330)	Surplus	OLC 119	567

Area	Category	Plans	Acres
Wrathall's Tanepurapura grant (OLC 851-856)	Grant	DP 84608	15.5

The process by which Commissioner Bell after 1856 coordinated comprehensive claim surveys effectively alienated customary land. These coordinated surveys post-dated the original pre-1840 transactions by almost two decades, but they permanently changed the legal landscape of Muriwhenua. Bell's predecessor, Commissioner Godfrey, failed to leave such an indelible mark, principally because Governor FitzRoy waived Crown grant survey requirements. Brodie's Kauhoehoe grant stood as the sole example of an enduring Crown grant to emerge from Godfrey's 1840s Muriwhenua inquiries.⁴³⁸ For Māori, Godfrey left no lasting legacy. Customary land remained largely intact until Bell's private surveyors arrived to carve it up after 1856. A new era of supervised surveys dawned upon Muriwhenua.

1.4.2 FitzRoy's survey waiver

New South Wales Governor Gipps in his October 1840 instructions to New Zealand Land Claims Commissioners indicated that Crown surveys would 'set forth the situation, measurement and boundaries by which the [Crown granted] lands . . . may afterwards be described . . .'⁴³⁹ The Crown in the very first December 1840 *New Zealand Government Gazette* required claimants to identify the location and approximate acreage of their land claims.⁴⁴⁰ Sections 3 and 6 of the subsequent New Zealand Land Claims Ordinance 1841 required commissioners to 'ascertain the extent and situation of land claims, including 'the number of acres . . . ' claimed.⁴⁴¹

Nonetheless, by the time Hobson died in September 1842, Crown surveyors had failed to define the 42,000 acres northern commissioners recommended grants for. Surveyor General Ligar informed the Executive Council that it would take the Crown seven years to survey this backlog.

⁴³⁸ Brodie Kauhoehoe Crown grant, 21 Oct 1846, R5d, fol 23

⁴³⁹ Gipps to Commissioners, 2 Oct 1840, BPP 1840 (569), pp 80-82

⁴⁴⁰ *New Zealand Government Gazette*, 30 Dec 1840, Hobson papers, MS-Papers-0046, ATL

⁴⁴¹ Sections 3 & 6, New Zealand Land Claims Ordinance 1841

In desperation, acting Governor Shortland convinced Colonial Secretary Lord Stanley in London to authorise private survey contracts.⁴⁴²

The Crown's failure to compel claimants to survey their Crown grants privately produced a colonial crisis in 1844. FitzRoy informed an emergency Executive Council meeting that he needed to bring 'to a speedy termination the long protracted subject of [unsettled] land claims . . .' He convinced the Council to waive strict Crown grant survey requirements. Instead, he chose completely unscientific 'descriptive boundaries . . . assisted by eye sketches'.⁴⁴³

Commissioner Godfrey understood the hazards of unsurveyed grants. Far from resolving disputes, the absence of precise boundary definition only exacerbated them. Godfrey in mid-1843 reported that unsurveyed grants produced 'much confusion and opposition'.⁴⁴⁴ In response to Godfrey's concerns about unsurveyed (later described as 'floating') grants, FitzRoy denied the Crown's responsibility to 'maintain the correctness of the boundaries, or the extent of the lands granted'. He insisted that grants based on 'valid purchases', which he defined as having 'fairly satisfied all native claims', secured themselves. If Māori disputed them 'it is neither *intended nor desired*' that the grants 'should be sufficient . . .' (emphasis in the original), he wrote. The '*Crown cannot grant that which it does not possess . . .*' (emphasis added). He repeated that 'if a valid and complete purchase has not been made – the Crown cannot give a title to the land'.⁴⁴⁵

Upon replacing him as Governor in late 1845, Grey promptly denounced FitzRoy's failure to require Crown grant surveys. Grey's scathing mid-1846 dismissal of FitzRoy's chaotic land claims legacy led him to condemn the extended, but undefined, missionary grants issued in his name. In his infamous 'blood and treasure' despatch, Grey alleged that these extended grants contributed to the 1845-1846 Northern War. He even accused Protector Clarke of allowing his extensive private land claims to dispossess local Māori.⁴⁴⁶

⁴⁴² Executive Council minutes, 19 Sep 1842, EC 1/1; Shortland to Stanley, 24 Sep 1842, BPP 1844 (566), App 4, pp 189-190

⁴⁴³ Executive Council minutes, 8 Jan 1844, EC 1/1; Legislative Council minutes, 9 Jan 1844, BPP 1845 (247), pp 30, 96

⁴⁴⁴ Godfrey to Col Sec, 8 Jun 1844, encl. 3 in Grey to Gladstone, 23 Jun 1846, BPP 1847 (837), p 36

⁴⁴⁵ Col Sec (for FitzRoy) to Godfrey, 18 Jun 1844, encl. 4 in Grey to Gladstone, 23 Jun 1846, BPP 1847 (837), p 37

⁴⁴⁶ Grey to Gladstone, 23 Jun 1846, BPP 1847 (837), pp 32-34

1.4.3 Bell's surveyed grants

The 1856 Parliamentary Select Committee on Land Claims followed in Grey's footsteps with scathing criticism of FitzRoy's legacy. It reported that FitzRoy's unsurveyed grants epitomised 'insecurity'. To the committee '... no possession has been obtained by anyone, the natives disputing the ownership of the land in the absence of the [Pākehā] claimants ...'. Claimants usually refrained from even 'attempting to enforce their supposed rights'.⁴⁴⁷

Following the Select Committee's recommendations, Parliament titled the 1856 Act an attempt to 'provide for the full settlement of Claims arising ... out of dealings with the Aborigines of New Zealand'. The Act's preamble stated its goal as the final settlement of 'disputed grants', not just claims. Section 19 required claimants 'to survey the whole of the area claimed in the original transaction'.⁴⁴⁸ Although the Select Committee recommended Crown surveys, section 23 (e) opted for private surveys.⁴⁴⁹

Bell in September 1857 proclaimed by official Gazette notice that private surveys would follow his 'Rules'. He required surveyors to connect their plans 'with some neighbouring survey' to create consistency between surveys. Surveyors also had to file 'a certificate ... that the survey has been completed without disturbance from the Natives'.⁴⁵⁰

Bell dedicated himself to enforcing the statutory requirement that surveys capture 'the whole of the area claimed in the original transaction'. This expanded Crown land around Crown grants, since surplus land formed the balance between what the Crown granted, and the entire surveyed claim area. Bell also urged surveyors to ensure that Māori traversed claim boundaries with them. He thought that personal traversing would guarantee 'that the natives admit the alienation of the whole claim ...', not just the alienation of the Crown granted area.⁴⁵¹ In policing comprehensive surveys Bell hoped to prevent surplus land reverting to either Māori, or to the Pākehā claimants.

⁴⁴⁷ Parliamentary Select Committee on Land Claims report, 16 Jul 1856, BPP 1860 (2747), pp 349-350

⁴⁴⁸ House of Representatives Select Committee report, 16 Jul 1856, BPP 1860 (2747), p 353; Section 19, Land Claims Settlement Act 1856

⁴⁴⁹ Section 23 (e), Land Claims Settlement Act 1856

⁴⁵⁰ 'RULES Framed and Established by the Land Claims Commissioner ...', 8 Sep 1857, *New Zealand Gazette*, 8 Sep 1857, pp 144-145. In fact, only about 10 per cent of surviving OLC survey plans certify 'that the survey has been completed without disturbance from the Natives'. Duncan Moore, Barry Rigby and Matthew Russell, *Rangahaua Whanui Old Land Claims*, 1997, pp 42-43

⁴⁵¹ Bell memo, 10 Jun 1857, MA 91/18 (9i), pp 7-8

He anticipated that such reversion would subsequently force the Crown to repurchase the surplus.⁴⁵²

The 1856 Act prescribed liberal survey allowances which gave surveyors ample incentive to expand exterior claim boundaries. Section 23 (d) permitted Bell to increase the acreage of FitzRoy grants by one-sixth. Section 44 provided for additional survey allowances ‘at the rate of one shilling and sixpence per acre . . . computed at the rate of one acre for every ten shillings paid on account of such charges’. Section 45 also allowed claimants defray commission fees.⁴⁵³

Moreover, Bell ensured that his commission staff inscribed Old Land Claim surveys on the Crown grants he ordered. Unlike Godfrey, who could only recommend grants, Bell operated with the full executive authority to order Crown grants.⁴⁵⁴

1.4.4 Muriwhenua Crown grants

Our Muriwhenua Old Land Claim table reveals how rapidly Bell ordered new grants and defined Crown surplus land after 1856. Puckey’s 765-acre Pukepoto grant plan showed both a 450-acre slice of surplus land to the northeast, and a southwest Native reserve of ‘about 250 acres’.⁴⁵⁵ Ford’s 2,627 Okiore grant plan showed an unnamed Native reserve (later called Matarau) near Awanui, without revealing the 5,653 acres of surplus land in the western sandhills.⁴⁵⁶ Unlike adjacent Okiore, Maxwell’s 4,198-acre Otaki grant plan showed both a 200-acre Waimanoni Native reserve, and also the full 8,174 acres of sandhills surplus.⁴⁵⁷ Over to the east on Doubtless Bay, Joseph Matthews’ 1,089-acre Parapara grant plan gave no acreage for either the surrounding surplus, or for the small Te Aurere Native reserve.⁴⁵⁸

Brodie’s 1846 Kauhoehoe grant plan, the only one to survive from the 1840s, resembled a crude precursor to the more refined Bell era grant plans. Florance’s original 1843 survey plan may have anticipated a subsequent deduction of 381 acres of western surplus, but he did not mark it off as surplus. The 1846 written grant recital occupied only a short paragraph to the right of a

⁴⁵² Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 5

⁴⁵³ Sections 44-45, Land Claims Settlement Act 1856

⁴⁵⁴ Section 36 implies such executive authority in referring to how, in cases of subdivided grants, ‘Commissioners shall, in directing grants to be issued . . .’ do so in an equitable way.

⁴⁵⁵ Puckey, Pukepoto Crown grant, 3 Nov 1857, R15, fol 12, as illustrated in Figure 13: Pukepoto, (p 51)

⁴⁵⁶ Ford, Okiore Crown grant, 8 Aug 1860, R15, fol 175, as illustrated in Figure 18: Okiore-Awanui-Otaki, (p 67)

⁴⁵⁷ Maxwell, Otaki Crown grant, 27 Apr 1860, R15, fol 152, as illustrated in Figure 18: Okiore-Awanui-Otaki, (p 67)

⁴⁵⁸ J Matthews, Parapara Crown grant, 15 Feb 1859, R15, fol 24, as illustrated in Figure 15: Parapara map, (p 56)

thumbnail sketch of Florance's plan. Florance may have omitted identifying the surplus land on Brodie's instructions, since Brodie initially opposed the Crown's acquisition of surplus land. Nonetheless, Brodie's opposition failed to prevent the Crown acquiring the western 379 acres as surplus land after 1856.⁴⁵⁹

1.4.5 Crown purchase overlaps

Although several Crown purchases overlapped Crown grants arising from pre-1840 transactions, surveyors rarely drew attention to such overlaps. The Crown in February 1862 granted 1,000 acres to Stephenson at Ruatorara within the boundaries of the 1858 Muriwhenua South-Wharemaru Crown purchase. Stephenson's grant plan probably originated with Campbell's 1858 SO 948A Muriwhenua South-Wharemaru survey. Crown officials evidently superimposed the outline of Ruatorara on the Campbell Crown purchase plan after the issuance of the 1862 grant. But these officials neglected to disclose the overlap either on the Crown purchase plan, or on Stephenson's subsequent grant plan.⁴⁶⁰

In surveying the Otengi Crown purchase in 1857, WB White included both the 287-acre Maheatai Ryder claim area just south of Taipā, and the 259-acre Oparera Murphy claim area in SO 780 and 797.⁴⁶¹ After Bell agreed to grant Ryder 120 acres at Maheatai, he reported that he had acquired an additional 200 acres of surplus for the Crown, as well as 259 acres of scrip land at Oparera.⁴⁶² White's SO 780 and 797 plans looks suspiciously like a Te Whakapaku-style sketch map, rather than professional surveys. Hence, HH Fenton's 1860 Maheatai survey ignored White's 1857 Otengi plan.⁴⁶³

The same sorts of omissions featured in the seven Mangōnui East grants overlapped by the 1863 Mangōnui Crown purchase. The 1851-1852 Duffus and Lloyd grants at Hihi and Waiaua near Mangōnui Harbour preceded the subsequent Crown purchase by more than a decade. Berghan's Oruaiti grant, Butler's Waitetoki grant, and Polack's Oneti grant preceded the 1863 purchase by

⁴⁵⁹ Florance, Kauhoehoe OLC plan 101, May 1843; Brodie Kauhoehoe Crown grant, 21 Oct 1846, R5d, fol 358. On Brodie's opposition to surplus land, see Brodie, *State of New Zealand*, pp 44-48, 55

⁴⁶⁰ Campbell, Wharemaru plan, SO 948A, 1858; Stephenson, Ruatorara Crown grant, 10 Feb 1862, R15a, fol 244, as illustrated in Figure 19: Ruatorara map, (p 73)

⁴⁶¹ White's Otengi plans, SO 780 & 797, 1957, as illustrated in Figure 21: Taipā, (p 80)

⁴⁶² Fenton, Maheatai OLC plan 246, 1860; Ryder Maheatai Crown grant, 25 Jan 1861, R15, fol 186; Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 21-22

⁴⁶³ HH Fenton, Maheatai OLC plan 246, 1860, as illustrated in Figure 21: Taipā, (p 80)

more than three years. Butler's 1861 Oneti grant also preceded the purchase. The Crown then took until June 1870 to grant Kaiwhetu-Oneti land to Mereana Rapihana and her sister, Sarah Thomas.⁴⁶⁴ The six 1851-1861 grant plans could not have anticipated the 1863 'blanket' purchase. Why the 1870 Rapihana-Thomas grant plan discloses nothing about the 1863 overlapping purchase defies belief. Crown officials never explained why their 1863 Mangōnui purchase plan omitted the six pre-existing Crown grants within its boundaries.⁴⁶⁵

1.5 Missionary versus Sawyer Claims

1.5.1 Introduction

Pre-1840 Muriwhenua transactions fell into two main categories. Missionary claims predominated from Kaitaia to Parapara. Missionary claimants invariably documented their transactions with te reo Māori deeds, unlike eastern sawyer claimants. Missionaries often participated in renegotiable land-sharing arrangements. They usually re-negotiated these arrangements with Panakareao, who became a CMS ally. Sawyer claims predominated in the Ōruru-Mangōnui hinterland. With minor exceptions, sawyers recorded their deeds only in English. Their deeds usually referred to timber resources, and they usually negotiated them with Pororua.

1.5.2 Panakareao's missionaries

Panakareao brought CMS missionaries to Kaitaia after 1832. He protected Puckey and Matthews as they established their headquarters near his Kaitaia residence in 1834.⁴⁶⁶ Panakareao served as a powerful patron of the Kaitaia mission for the next 22 years. When the CMS contemplated transferring Puckey elsewhere in 1839, Panakareao protested. He wrote to the London-based

⁴⁶⁴ Duffus, Hihi Crown grant, 20 Oct 1851, R6, fol 193; Lloyd, Waiaua Crown grant, 7 Jan 1852, R6, fol 213; Berghan, Oruaiti Crown grant, 4 Oct 1859, R15, fol 116; Butler, Waitetoki Crown grant, 4 Oct 1859, R15, fol 117; Polack, Oneti Crown grant, 4 Oct 1859, R15, fol 120; Butler, Oneti Crown grant, 11 Jul 1861, R15a, fol 186; Rapihana-Thomas, Kaiwhetu-Oneti Crown grant, 13 Jun 1870, R15a, fol 366

⁴⁶⁵ Mangonui Crown purchase deed, 19 May 1863, Auc 412, as illustrated in Figure 8: Mangōnui East, (p 38), and in Figure 23: Mangōnui Northeast, (p 91)

⁴⁶⁶ Matthews to Coates, 5 Mar 1839, CMS/CN/0.61, ATL; Edwards, Tuku whenua, pp 3-4; Puckey, Trading Cultures, pp 24-25

organisation that 'If our candlesticks are taken away . . . the sheep [their congregations] will all be scattered'.⁴⁶⁷

Panakareao's championing of the Christian cause inspired his whanaunga to follow suit. Later in 1838 44 adults followed him and his wife, Ereonora, when Rev William Williams performed a mass baptism. At a February 1841 Gala, preceding the Christian marriage of Panakareao and Ereonora, '20 different tribes' and 19 newly recruited 'Native Teachers' celebrated.⁴⁶⁸

1.5.3 Grey and missionary claimants

Panakareao's loyalty to missionaries even withstood Governor Grey's post-1846 assault on their extended private land grants. Grey's private secretary, Captain Nugent, visited Mangōnui in late 1847 to condemn extended missionary grants. Nugent told Panakareao that the Crown contemplated resuming 'a portion of [missionary] land from individuals who had procured . . . larger quantities than they could use, to the exclusion of other Europeans . . .' He added that the Crown would 'reserve the portion taken away [from the missionaries] for the use of the natives'. In Nugent's report, Panakareao pronounced the return of what sounded like surplus land 'to be perfectly just'.⁴⁶⁹

Grey's accusations that missionaries dispossessed local hapū outraged Matthews. He told the CMS Home Committee that Grey 'trample[d] upon truth and justice' in his attempt to deceive Panakareao. He described Grey's accusations 'that *we* had driven away the natives from our neighbourhood' (emphasis in original) as a blatant lie. Matthews declared that Kaitaia hapū 'have lived with us in harmony for fourteen years!!' Panakareao, 'our chief', he wrote, remained unconvinced by Grey's deception. The hapū were 'living inside my fence and have done so ever since our station was formed'. He deplored Grey's dishonesty, while applauding Panakareao's determination to uphold the truth.⁴⁷⁰

Grey, in the case of *Queen v Clarke*, pursued his campaign against extended missionary grants all the way to the Privy Council in 1851. There the Crown successfully argued that FitzRoy lacked

⁴⁶⁷ Panakareao to CMS, 5 Mar 1839, CMS/CN/M11, ATL. See the original te reo, and Puckey's translation of this letter in Metge, *Cross-cultural communication*, pp 149-150

⁴⁶⁸ Matthews to Jowett, 17 Feb 1841, CMS/CN/0.61, ATL

⁴⁶⁹ Nugent to Col Sec, 2 Jan 1848, encl. in Grey to Earl Grey, 17 Mar 1848, BPP 1847-48 (1002), pp 99-100

⁴⁷⁰ Matthews to CMS, 13 Apr 1848, CMS/CN/M18, ATL

lawful authority to extend commissioners' grant recommendations.⁴⁷¹ In preparation for taking this case to London, officials compiled a 'Return of Cases Heard . . . by the Original commissioners . . . afterwards referred to a new Commissioner, who reversed the decision of the former Commissioners . . . without having heard the case . . .' In addition to Bay of Islands extended grants, officials listed Puckey's Pukepoto and Ohotu grants as excessive. They recorded how FitzRoy in 1845 extended Godfrey's Puckey grant recommendations from 900 to 2,300 acres.⁴⁷²

Grey prepared his Privy Council test case with a sustained legal campaign against FitzRoy's unsurveyed grants. He described them to his imperial superior, Earl Grey, in 1847 as 'not only void on the ground of uncertainty', but also incapable of settling competing pre-1840 claims.⁴⁷³ In an attempt to remove this uncertainty, Grey introduced an 1849 New Zealand Quieting Titles Ordinance. Earl Grey applauded the Ordinance as an attempt to remedy further 'uncertainty and litigation'.⁴⁷⁴ Nonetheless, when Grey found his ordinance ineffective in settling claims, in 1851 he went all the way to the Privy Council with *Queen v Clarke*.⁴⁷⁵

1.5.4 Panakareao's alliance

Even as Grey vilified their land transactions, Panakareao and his fellow rangatira stood by the missionaries. Matthews and Puckey used land-sharing provisions in these transactions to forge an alliance with Panakareao and local hapū. Such land-sharing arrangements at Kaitaia, Pukepoto, Okiore, Parapara and Ōruru established the western pattern of reciprocal obligations.⁴⁷⁶

At the same time, Panakareao's alliance with CMS missionaries risked alienating resident hapū. He negotiated major Muriwhenua North transactions with Rev Richard Taylor on behalf of Te Aupouri in January 1840 and February 1841. Subsequently, Aupouri challenged both

⁴⁷¹ Queen in Council order, 25 Jun 1851, encl in Earl Grey to Gov Grey, 30 Jul 1851, OLC 1/634, pp 36-46

⁴⁷² 'Return of Cases Heard . . .', 31 Dec 1849, OLC 5/13

⁴⁷³ Grey to Earl Grey, 1 Sep 1847, BPP 1848 (1002), pp 117-118

⁴⁷⁴ Grey to Earl Grey, 30 Aug 1849; Earl Grey to Grey, 13 Aug 1850, BPP 1850 (1280), pp 28-31, 154-155

⁴⁷⁵ 'An Ordinance for Quieting Titles to Land in the Province of New Ulster', 25 Aug 1849, 13 Vict No 4; Report of the Judicial Committee of the Privy Council, 15 May 1851; encl in Order of Queen in Council, 25 Jun 1851, OLC 1/634, pp 38,46

⁴⁷⁶ Panakareao Pukepoto evidence, 28 Jan 1843, OLC 1/774, p 9; Panakareao Parapara evidence, 30 Jan 1843, OLC 1/329, p 8; Panakareao Kaitaia evidence, 31 Jan 1843, OLC1/675, p 11; Panakareao Okiore evidence, 31 Jan 1843, OLC1/705, p 15; Panakareao Awanui evidence, 31 Jan 1843, OLC1/875-877, pp 7-8

Panakareao's and Taylor's right to act on their behalf.⁴⁷⁷ Panakareao also negotiated the Stephenson 'Ship Claim' in 1842 with former missionary, George Clarke, in his capacity as Protector of Aborigines. Again, he evidently failed to consult the Aupouri and Ngai Takoto people at Houhora directly affected.⁴⁷⁸ Nonetheless, Maori Marsden (of Ngai Takoto) in 1992 defended Panakareao's exercise of extended customary authority. Arguably, Panakareao's alliance with CMS missionaries reinforced his ariki-like authority throughout Muriwhenua.⁴⁷⁹

1.5.5 Trust arrangements

In the ongoing debate over the effect of Te Tiriti o Waitangi, most scholars agree that the Crown in 1839-1840 acknowledged protective obligations towards Māori. Normanby's August 1839 instructions to Hobson attempted to protect Māori from disorder and dispossession. Hobson, at Normanby's behest, appointed Protector Clarke to fulfil such obligations.⁴⁸⁰ In pursuit of protection, the New Zealand CMS Committee during 1840-1842 had Clarke convey to both Hobson and NSW Governor Gipps numerous trust deeds. These deeds identified 17 locations throughout the North Island that created what amounted to inalienable reserves for Māori.⁴⁸¹

Governor Gipps in 1841 instructed the first land claims commissioners to refrain from recommending 'the alienation to other Individuals (Ordinary Claimants) . . . the Lands vested by these Deeds of trust in the Missionaries for the benefit of the Aborigines' without special justification.⁴⁸² At Hobson's request, Protector Clarke in December 1840 sent Governor Gipps copies of the original 17 CMS trust deeds. Clarke subsequently sent Wellington-based Commissioner Spain copies of those deeds affecting thousands of acres in the lower North Island.⁴⁸³

The 1840 Waitangi, Hokianga, and Kaitia Treaty discussions addressed trust arrangements. When Bay of Islands rangatira, Manu Rewa and Moka Kaingamata, on 5 February at Waitangi

⁴⁷⁷ Puckey, *Trading Cultures*, p 30; Taylor Journal 14 Feb 1841, qMS-1986, ATL

⁴⁷⁸ Waitangi Tribunal, *Muriwhenua Land report* 1997, p 267

⁴⁷⁹ Marsden, *Tuku whenua*, pp 6-7. Rima Edwards described Panakareao as an ariki in his original 1990 evidence. Edwards, *Traditional history*, p 4; Transcript, 3 Dec 1990, Wai 45, #4.1, pp 3-5

⁴⁸⁰ Normanby to Hobson, 14 Aug 1839, BPP 1840, (238), pp 37-42

⁴⁸¹ Clarke to Col Sec NSW, 16 Nov 1840, MA 4/58, pp 13-17; Clarke to Col Sec NZ, 21 May 1842, MA 4/58, pp 86-90

⁴⁸² Col Sec NSW to NZ Land Claims Commissioners, 2 Jan 1841, IA 1/1841/135

⁴⁸³ Hobson minute, 16 Nov 1840; Clarke minute, 8 Dec 1840; Col Sec NZ to Commissioners of Claims, 2 Jun 1842, IA 4/253, p 18

challenged George Clarke and Charles Baker to justify their missionary claims, Baker replied that his ‘purchases’ always contained ‘an inalienable deed of gift’ to protect Māori.⁴⁸⁴ At Hokianga Papahia on 12 February asked Hobson ‘whether it was right for two men to have all the land from the North Cape to Hokianga’. Papahia may have targeted the 1839-1840 Ford Ōruru and Taylor Muriwhenua North transactions. Puckey rose to the defence of his missionary brethren. Taylor recorded him as stating that ‘the land alluded to was held under a trust deed for the use of the natives’. He added that the claimants would willingly transfer their trust obligations to the Crown.⁴⁸⁵

When at Kaitia on 28 April 1840 Panakareao pronounced that ‘the shadow of the land goes to the Queen’, he may have meant a protective shadow. In appearing before the Muriwhenua Land Tribunal, both Professor Dame Anne Salmond, and kaumatua Rima Edwards, attributed a protective meaning to Panakareao’s memorable metaphor.⁴⁸⁶

The land-sharing features of western Muriwhenua missionary transactions echoed trust arrangements. The Muriwhenua Land Tribunal referred to these transactions as creating ‘land held in trust for Maori’.⁴⁸⁷ The Tribunal quoted Ford’s original statement of claim that he acquired Ōruru ‘at the urgent request of the Natives . . . as their guardian, allowing [them] to cultivate spots of land within my boundaries’. There were ‘now many natives settled in legal and undisturbed possession on my [Ōruru] purchase’. Ford added that at Okiore, near Awanui, the ‘natives are similarly provided for . . .’ by him.⁴⁸⁸ Although in 1840 Ford agreed with Panakareao to halve his Ōruru claim area, the Tribunal believed that this only reaffirmed the original ‘inalienable trust’.⁴⁸⁹

The Muriwhenua Land Tribunal believed that Taylor’s extensive January 1840 transaction created ‘the Northern Sanctuary’ for Ngāti Kuri and Te Aupouri. Having fled their homeland long before 1840, Taylor negotiated with Panakareao for their safe return. As Taylor reported to Hobson in October 1840, he ‘secured in behalf of the natives’ the top half of the Aupouri

⁴⁸⁴ Colenso memo, 5 Feb 1840, Colenso papers, MS-Papers-10535, ATL; Colenso, *The Treaty of Waitangi*, 1890, pp 17-19

⁴⁸⁵ Taylor Hokianga notes, 12 Feb. 1840, Taylor papers, MS-Papers-0254, ATL

⁴⁸⁶ Waitangi Tribunal, Muriwhenua Land report 1997, p 112

⁴⁸⁷ Waitangi Tribunal, Muriwhenua Land report 1997, pp 54, 65-66, 71-72, 93-94

⁴⁸⁸ Ford to Col Sec NSW, 24 Nov 1840, OLC 1/700, pp 17-18: cited in Waitangi Tribunal, Muriwhenua Land report 1997, p 98. See the land-sharing provisions of Ford’s 1839 deeds. Ford Ōruru deeds, 12 Nov 1839 (te reo & English), OLC 1/704, pp 12-13, 18-23

⁴⁸⁹ Waitangi Tribunal, Muriwhenua Land report 1997, p 99

peninsula. He proclaimed that he regarded himself as a guardian, holding all land north of Houhora ‘in trust for the . . . Aupouri tribe’.⁴⁹⁰

These trust arrangements influenced the Muriwhenua Land Tribunal’s general perspective that Māori never accepted pre-1840 ‘transactions in Muriwhenua as land sales in the European sense’.⁴⁹¹ The Tribunal found that trust arrangements prevailed at ‘Oruru, Raramata, Mangatete, Okiore, Tangonge, and Muriwhenua North . . .’⁴⁹²

Missionary attempts to justify themselves as honourable trustees in the face of Crown condemnation of their claims increased their commitment to maintaining such arrangements. Puckey bridled at Grey’s 1846-1848 accusations of missionary land jobbing. Puckey believed that during the 1830s Māori unwisely alienated ‘their land in all directions . . .’ In these circumstances, missionaries transacted more land than they considered prudent, but with the provision ‘that the natives should occupy [it] . . . with our children . . . providing some of them with homes which they could never alienate from their families . . .’⁴⁹³

Puckey and Matthews deplored Grey’s unsubstantiated allegations that missionaries knowingly dispossessed Māori. Puckey maintained that missionaries honoured their obligations both to their Māori followers, and to their own children. He concluded that missionaries acquired land ‘with upright motives’, to provide for their Māori neighbours, and for their own families.⁴⁹⁴ During the latter part of the nineteenth century, Muriwhenua missionaries remained committed to upholding trust obligations. When the Native Land Court in 1873 facilitated the private alienation of 56,000 acres at Muriwhenua North, Rev Richard Taylor denounced this as a violation of what he regarded as a solemn trust.⁴⁹⁵

1.5.6 Panakareao and sawyer claimants

Even in the Mangōnui area dominated by Pororua-initiated sawyer transactions, Panakareao exercised customary authority. Despite their April 1843 Taipā clash, local historian (and

⁴⁹⁰ Taylor to Hobson, 6 Oct 1840, IA 1/1840/567; cited in Waitangi Tribunal, Muriwhenua Land report 1997, p 102

⁴⁹¹ Waitangi Tribunal, Muriwhenua Land report 1997, p 106

⁴⁹² Waitangi Tribunal, Muriwhenua Land report 1997, pp 108, 144, 150, 164-165, 167, 274, 316, 324 & 402

⁴⁹³ Puckey to CMS, 22 Jan 1846, Puckey Journals 1831-1850, qMS-1665, ATL

⁴⁹⁴ Puckey to CMS, 8 May 1848, Puckey Journals 1831-1850, qMS-1665, ATL

⁴⁹⁵ Taylor to FD Fenton, 19 Jun 1873, Taylor papers, ACL; cited in Rigby, Muriwhenua North report, Wai 45, doc B15, pp 52-53

missionary descendant) Adrienne Puckey described Panakareao and Pororua as cousins.⁴⁹⁶ Moreover, Panakareao supported Berghan's Pororua-derived claims in both 1849, and in 1856.⁴⁹⁷

Contrary to Panakareao's sweeping dismissal of Pororua-derived claims at Godfrey's 11 January 1843 Mangōnui hearing, he also supported Butler's claims there. Panakareao wanted Butler to remain as the de facto harbourmaster at Mangōnui.⁴⁹⁸ Panakareao later supported Mangōnui township claims (also derived from Pororua). Panakareao's negotiation of the 1850 Waikiekie Crown purchase effectively ratified several township claims. White surveyed most of the township claims on 3 May 1850, as an integral part of the 3 May 1850 Waikiekie Crown purchase, apparently without consulting Pororua.⁴⁹⁹

1.5.7 Sawyer claimants

Berghan, Ryan, Smyth, Thomas, Phillips, Murphy and Wrathall formed a significant Mangōnui sawyer community. They funnelled cut timber through Butler's port facilities. Berghan's strategic marriage to Turikatuku allowed him to lead the sawyer community. He operated mainly in the Oruaiti valley on land he transacted with Pororua in 1839. Most of Berghan's deeds highlighted timber resources. For example, his Waipumahu deed referred to 'all that . . . land timber mines and minerals' along the Putakaka (Oruaiti) River, and his coastal Kohekohe deed used similar language.⁵⁰⁰

Different considerations applied to the almost 2,500 acres at Muritoki gifted by Whangaroa rangatira Ururoa and Hare Hongi Hika for Berghan and Turikatuku's children. The English text of the 31 May 1836 deed referred to the land as a gift 'to our near blood Relation (Turi) and her children by James Berghan . . .'⁵⁰¹ This distinctive deed of gift evidently superseded a much more conventional 30 May 1836 deed of transfer. Without referring to the 31 May 1836 deed of gift,

⁴⁹⁶ Puckey, *Trading Cultures*, p 46

⁴⁹⁷ Berghan to Gov, (rec'd 26 Sep 1849); Kemp 'Certificate' 1856, OLC 1/558-566, pp 23-24, 72

⁴⁹⁸ Panakareao evidence, 11 Jan 1843, OLC 1/889-893, pp 13-14; Godfrey report, 20 Jan 1844, OLC 1/913-914, pp 3-4

⁴⁹⁹ White, OLC plan 111, 3 May 1850; Waikiekie Crown purchase deed, 3 May 1850, Auc 411

⁵⁰⁰ All of Berghan's deeds are missing from his OLC 1/558-566 file, but Turton printed his 7 Feb 1837 Waipumahu and his 4 Nov 1839 Kohekohe deeds. H Hanson Turton comp, *Maori Deeds of Old Private Land Purchases in New Zealand, From the Year 1815 to 1840, with Pre-Emptive and Other Claims*, (Wellington: Didsbury, Government Printer, 1882), pp 28-29, 41

⁵⁰¹ Muritoki deed of gift, 31 May 1836, OLC 1/1362, pp 15-16, 20

Turton later printed the English text of this 30 May transfer as the Berghan Putakaka ‘Half Caste Claim’.⁵⁰²

Thomas Ryan, who shared Berghan’s Irish ancestry, witnessed his Muritoki transactions. Ryan arrived in New Zealand from Australia as a released convict in the early 1830s. He made his way to Mangōnui via Whitianga and Hokianga (other timber areas). He alleged that Māori ‘plundered’ him, and assaulted his Māori wife before he reached Mangōnui.⁵⁰³ After mortgaging his Ōruru claim to Gilbert Mair, and receiving generous scrip offers in exchange for his other claims, he left for Auckland with his Māori family. There he died in late 1848, leaving his family destitute.⁵⁰⁴

Hibernia Smyth exercised scrip in the Auckland area. He shared Ryan and Berghan’s Irish ancestry, and with Ryan experienced the customary practice of muru. This may have motivated Smyth to move to Auckland. On the other hand, Berghan, Thomas, Phillips, Murphy and Wrathall all stayed at either Ōruru or Mangōnui with their Māori families.

Adrienne Puckey in her 2011 economic history of the Far North described the distinctiveness of sawyer transactions. She wrote:

The [sawyer] families were allocated land according to the customs of the hapū with whom they associated. Some of the allocations around Mangonui were supported by deeds written in the 1830s, the wording of which suggests they were intended to secure access to trees for logging . . .

Berghan, Flavell, Thomas and Wrathall entered into land agreements with Pororua Wharekauri . . . all initially for access to trees. In these early encounters before 1840, Māori communities remained autonomous but incorporated changes under their traditional value system. Most Europeans were incorporated closely or loosely into a tribal structure while remaining European.⁵⁰⁵

Ms Puckey contrasted her account of Mangōnui sawyer transactions with western missionary transactions. She believed that ‘Sawyers accessed land through their marriages to Māori women, while missionaries’ access was through their incorporation into the tribes . . .’⁵⁰⁶ This missionary incorporation, however, did not include intermarriage.

⁵⁰² Muritoki deed, 30 May 1836, OLC 1/1362, pp 13-14; Putakaka (‘Half-Caste’) deed, 30 May 1836, Turton’s Private Deeds, p 519

⁵⁰³ Ryan to Gov, nd., OLC 1/403-407, pp 25-26

⁵⁰⁴ We are indebted to local historian, Ian Palmer, for much of what we know about Ryan. Ian Palmer, Pers comm, 18, 29 April 2024

⁵⁰⁵ Puckey, *Trading Cultures*, p 22

⁵⁰⁶ Puckey, *Trading Cultures*, p 29

1.6 The relationship of Old Land Claims to Crown purchases

1.6.1 Introduction

As previously indicated, Muriwhenua Old Land Claims assume their full significance only when they are related to adjacent Crown purchases. Figures 3 and 4: Muriwhenua 1865, and Central Muriwhenua 1865, (at pp 27-28) amply illustrate their juxtaposition. Bell, in his 1862 report to Parliament, declared:

Under the arrangements which I directed to be adopted by the surveyors . . . I was enabled, as the original boundaries of a great number of the Claims were coterminous, to compile a map of the whole country about the Bay of Islands and Mangonui, showing the Government purchases there as well as Land Claims; and a connected map now exists of all that part of the Province of Auckland which lies between the Waikato River and North Cape.⁵⁰⁷

1.6.2 Auckland Roll Plan 16

Bell may have imagined that what we know today as Auckland Roll plan 16 connected major claims and Crown purchases from the Waikato River to the North Cape. If so, he did not examine the Muriwhenua sections of that plan closely. Janine Bedford's reproduction of those northern sections of the 1863 roll plan reveals many gaps.

At the top of the Aupouri Peninsula, Taylor's 1853 Kapowairua Crown grant stood separated from the 1858 Muriwhenua South Crown purchase by more than 40 kilometres. The creators of Roll plan 16 omitted the 2,400-acre Stephenson 'Ship Claim' just south of Houhora, along the eastern side of the Muriwhenua South purchase.

The plan's creators named Crown purchases in black to distinguish them from red names on claims. Curiously, they named claims after claimants, rather than using the locational names they gave to Crown purchases. They also failed to distinguish internal claim components. Surveyed claims invariably contained both Crown grants and surplus land because Bell insisted upon that distinction. Bell also used stretches of surplus land to connect claims and Crown purchases. But the creators of Roll plan 16 deliberately left out the surveyed division between grants and surplus within claim areas.

⁵⁰⁷ Bell, Land Claims Commission report, 5 Jul 1862, AJHR 1862, D-10, p 5

Roll plan 16 revealed a continuous chain of claims from the southern boundary of the Muriwhenua South purchase, at the base of the Aupouri Peninsula, to the northern boundary of the Ahipara Crown purchase. Unidentified Native land (at Kareponia and Oturu) divided Awanui-Kaitaia claims from a series of Crown purchases stretching eastward towards Doubtless Bay. The Ohinu and Mangatete Crown purchases linked the Davis Mangatete North, and the Matthews Parapara claims. The plan's creators scattered small Native reserves in olive green throughout this central area, but they overlooked a number of them (Pukepoto, Matarau, Waiaua Taemaro and Taupo, for example).

Roll plan 16 omitted the estimated 16,000-acre Puheke Crown purchase area, at the base of the Karikari Peninsula, as well as the sizable 1863 Mangōnui Crown purchase east and south of the township. Within the 1863 Mangōnui purchase boundaries the plan authors included the Mangōnui East Crown grants to Butler, Polack, Rapihana-Thomas, Lloyd, Duffus and Berghan. Since White and Kemp signed the disputed 1863 purchase deed on 19 May 1863, this signing may have followed the completion of Roll 16. In any case, the area east of Mangōnui township formed a major gap in what Bell previously claimed as a 'connected map' from North Cape to the Waikato River.⁵⁰⁸

In between the relatively contiguous Awanui-Kaitaia claims and the vacant Mangōnui East area, a relatively connected belt of Crown purchases occupied the northern slopes of the Maungataniwha Range. Three of these purchases bore the Maungataniwha name. Kemp and White named the others (from west to east) as Kaiaka, Toatoa, Hikurangi, Ōruru, and Kohumaru. Te Whakapaku divided Mangōnui East from Whangaroa.⁵⁰⁹

On balance, however, Bell failed to connect the major Muriwhenua sections of Auckland Roll plan 16. Although he strove to create 'coterminous' connections between claims and Crown purchases, the private and Crown surveyors left a lot of gaps. Bell's use of the word 'coterminous' revealed his underlying gap-filling strategy. During 1859-1861, Bell and Kemp repeatedly urged WH Clarke and WB White to fill the gaps. In seeking 'coterminous' boundaries between Old Land Claims and Crown purchases, Bell, Kemp and White sought a general, but incomplete, extinguishment of Native title.

⁵⁰⁸ Bell, Land Claims Commission report, 5 Jul 1862, AJHR 1862, D-10, p 5. On the major gap within the 1863 Mangōnui purchase boundaries, see Figures 8: Mangōnui East, (p 38); and Figure 23; Mangōnui Northeast, (p 91)

⁵⁰⁹ See Figure 8: Mangōnui East, (p 38)

Crown inquiries into Old Land Claims

The Crown conducted three major inquiries into Muriwhenua Old Land Claims during the nineteenth and twentieth centuries. Commissioner Godfrey's 1843-1844 inquiry, and Commissioner Bell's 1857-1863 inquiry preceded the 1946-1948 Myers Commission inquiry. The initial 1840-1841 Crown Mangōnui 'purchases', and the early development of Crown surplus and scrip land policies affected all three inquiries. Māori petitions protesting Crown surplus and scrip land policies prompted the Myers Commission inquiry.

2.1 1840-1841 Crown Mangōnui 'purchases'

2.1.1 Introduction

The 1840-1841 Crown Mangōnui 'purchases' resembled Crown attempts to extinguish Pākehā and Māori claims within a poorly defined area. The purchase boundaries cannot be found in our numerous maps, because the Crown never surveyed them. These, the very first colonial Crown purchases in New Zealand, left behind a confusing legacy. They were, strictly speaking, not defined 'purchases' of land, but attempts to extinguish all contending claims to land and authority. The origins of these 1840-1841 'purchases' help explain the uneven pattern of subsequent Crown inquiries into Old Land Claims.

2.1.2 Te Tiriti o Waitangi origins

The three initial 1840 signings of Te Tiriti o Waitangi formed a prelude to these 'purchases'. The first Te Tiriti signing followed a 5 February 1840 dialogue about pre-1840 transactions. The first speaker that day startled Crown officials. Te Kemara called upon them to 'return me my lands . . . the land on which we stand this day . . .' In response, Hobson declared 'that [the Crown would return] all lands unjustly held . . .' to Māori.⁵¹⁰

Papahia (the father of Wi Tana Papahia) continued this stirring dialogue at the 12 February second signing in Hokianga. There he asked Hobson 'whether it was right for two men to have all the land from the North Cape to Hokianga'. As previously stated, he probably alluded to

⁵¹⁰ Colenso memo, 5 Feb 1840, Colenso papers, MS-Papers-10535, ATL; William Colenso, *The Treaty of Waitangi*, 1890, pp 17-19

Ford's and Taylor's 1839-1840 Muriwhenua transactions. Puckey defended his CMS colleagues by evoking Trust deeds designed to protect the local hapū.⁵¹¹

The Te Tiriti discussion continued two months later in Kaitaia, without Hobson. His March 1840 stroke forced him to send subordinates to treat with Panakareao and other Muriwhenua rangatira at Kaitaia on 28 April 1840. Panakareao there declared that Te Tiriti transferred to the Crown only the 'shadow of the land', not its substance. Hobson's deputy Shortland assured rangatira present that the Crown 'was ready to purchase . . . [land] they did not require'. Muriwhenua Māori appeared eager for Crown purchases payments to replace income from previous private transactions. Shortland also promised the rangatira that:

the Queen will not interfere with their native laws nor customs but would appoint gentlemen to protect them and prevent them from being cheated in the sale of their lands

Shortland concluded that the Crown 'would take care were respectable men who would not injure them . . .'.⁵¹²

2.1.3 Prelude to purchase

The ailing Hobson expected prompt Crown purchases to ease the transition for Māori away from private transactions, banned by his 30 January 1840 Land Titles Validity Proclamation.⁵¹³ For Hobson, Crown purchases promised Māori material benefits to 'maintain the pledge that was given them in the Treaty'.⁵¹⁴ Panakareao, on 5 May 1840, offered the Crown undefined Mangōnui land.⁵¹⁵ In reply, Hobson invited him to negotiate New Zealand's first Crown purchase at his Okiato (Bay of Islands) headquarters.⁵¹⁶ Hobson subsequently completed negotiations in Kaitaia during early June, with the assistance of Protector Clarke.⁵¹⁷

⁵¹¹ Hokianga speeches, 12 Feb 1840, encl in Shortland to Stanley, 18 Jan 1845, BPP 1845 (108), pp 10-11; Taylor Notes, 12 Feb 1840, Taylor papers, MS-Papers-0254, ATL

⁵¹² Johnson Journal, 28 Apr 1840, Johnson papers, Micro-MS-0154, ATL; Kaitaia speeches, 28 Apr 1840, BPP 1845 (108), p 10

⁵¹³ Hobson, Land Titles Validity Proclamation, 30 Jan 1840, encl in Gipps to Russell, 19 Feb 1840, BPP 1840 (560), pp 8-9

⁵¹⁴ Hobson to Gipps, 5 May 1840, G36/1, pp 76-77

⁵¹⁵ Panakareao to Hobson, 5 May 1840, Hobson papers, MS-Papers-0046, ATL

⁵¹⁶ Hobson to Panakareao, 13 May 1840, Colenso Journal, IV: 76-77; Hobson to Russell, 25 May 1840, BPP 1841 (311), pp 15-17

⁵¹⁷ Puckey to CMS, 12 Jun 1840, CMS/CN/M12, ATL

In reporting the first Mangōnui ‘purchase’, Hobson revealed how little local inquiry preceded it. He described it as ‘a preliminary arrangement with . . . [Panakareao] for the purchase of Mangonoui [Mangōnui]’. Clarke failed to estimate ‘the extent of the land . . .’ on offer. Nonetheless, Hobson hoped the purchase would ‘restrain . . . [Pākehā] settlers from making encroachments on the land . . . a cause of much annoyance to the Natives’.⁵¹⁸ These encroachments presumably referred to the welter of competing Mangōnui Pākehā claims.

2.1.4 Clarke’s ‘interests’ distinction

Hobson may have wanted a simple transfer of Mangōnui land, but Clarke limited this transfer to Panakareao’s undefined ‘interests’ there. In the English text of the 24 June 1840 deed, Clarke specified that Panakareao transferred ‘his possessions and *interests* in Mangonui . . .’ (emphasis added). In the Māori text he rendered this as ‘i hoko a Nopera Panakareao . . . tana wahi o to kainga i Mangonui’. Clarke identified boundary points east of the Ōruru River in the deed, but he never instructed a surveyor to sketch these points onto a deed plan. Panakareao signed the deed with Puhipi Te Ripi, and with three other hapū representatives (including Reihana Kiriwi from Parapara). When Clarke reported the purchase, he referred again to the ‘Deed of Purchase of Nopera Panakareao’s *Interests* in the Lands of Mangonui’ (emphasis added).⁵¹⁹ He implied that Panakareao transferred to the Crown his non-exclusive interests in the Mangōnui area, rather than the land itself.

2.1.5 Pororua’s 1841 sequel

Soon after this first Mangōnui ‘purchase’ in August 1840, Hobson instructed Clarke to mediate between Pororua and Panakareao over their respective interests at Mangōnui. Clarke travelled to Kaitaia in late 1840 to secure Panakareao’s consent to a duplicate deal with Pororua. Clarke described this deal as ‘the most healing measure’ to resolve the Mangōnui dispute. Even though

⁵¹⁸ Hobson to Gipps, 18 Jul 1840, G36/1, pp 113-115

⁵¹⁹ ‘Mangonui Deed of Sale’, 24 Jun 1840, IA 15/4, Auc 5651; Clarke to Col Sec, 1 Sep 1840, MA 4/58, p 6

Pororua protested Panakareao's refusal to define his interests, Clarke accepted that he could not insist upon such precise definition.⁵²⁰

Months later Clarke reported 'a proposal from the Chief Pororua to sell his *Interests* in the land of Mangonui in the vicinity of Oruru to the Crown' (emphasis added).⁵²¹ Clarke's 28 May 1841 Pororua purchase deed described him as 'te Rangatira o Mangonui', even though he signed as 'pororua rangatira oruru'. Clarke described the 1841 sequel with Pororua as 'i tukua i hoko . . . mo te Kuini', which he translated as to 'sell and give up . . . to the Queen' the same land previously transacted by Panakareao. In the 1841 deed, Clarke did not even bother to repeat the imprecise 1840 boundaries.⁵²²

Again, Clarke left Pororua's interests undefined, even though Pororua previously protested Panakareao's refusal to define his interests. Clarke purchased in duplicate transactions Panakareao and Pororua's undefined interests in a largely undefined area. He recognised the overlapping authority of the contending rangatira, but he clearly failed to mediate a successful settlement between the two of them. Hence, they remained at odds with each other.

2.1.6 Godfrey and the purchases

Clarke in 1842 alerted Godfrey to the intertribal rivalry he attempted to resolve with his duplicate 1840-1841 'purchases'. He listed both transactions in a 'Schedule of protest against [Pākehā] claims to Land' there. Clarke recognised that the pre-1840 private claims generated intertribal conflict.⁵²³ Godfrey in September 1842 asked Clarke for 'a copy of the [Mangōnui] Deed of Sale', apparently unaware that there were two such deeds. Godfrey anticipated problems in determining 'what claims interfere with the [Mangōnui] land you have purchased . . .' for the Crown.⁵²⁴

Prior to his early 1843 Muriwhenua hearings, Godfrey vainly attempted to get Panakareao to affirm 'the sales . . . made by him and Pororua to the Government, of the identical lands . . .' Panakareao, however, refused to oblige Godfrey. He asserted that 'Pororua had previously sold

⁵²⁰ Protector's report nd., encl in Clarke to Col Sec, 1 Sept 1845, BPP 1846 (337), pp 125-127. David Armstrong titled his 1993 Crown commissioned report of the 1840-1841 purchases 'The Most Healing Measure', Wai 45, doc J3

⁵²¹ Clarke to Col Sec, 9 Feb 1841, MA 4/58, pp 19-20

⁵²² Mangonui Crown purchase deed, 28 May 1841, Auc 56a

⁵²³ Clarke to Commissioners, 22 Aug 1842, MA 4/1, p 31

⁵²⁴ Godfrey to Clarke, 13 Sep 1842, OLC 8/1, p 50

nearly every foot of land at Mangonui to individual Europeans . . .’ Godfrey added that Panakareao ‘most stoutly’ denied that ‘he ever parted with his *Interest* in them for the paltry [June 1840] consideration given him’ (emphasis added).⁵²⁵ With some trepidation Godfrey soon abandoned his Mangōnui claims inquiry. He wrote in mid-1843 that he feared that his abandonment of Mangōnui hearings could ‘occasion the natives at other places to attack the settlers in the hope of similarly resuming their lands’.⁵²⁶ Unable to mediate effectively himself, Godfrey called upon the Crown to re-engage Protector Clarke to resolve the conflict.⁵²⁷

2.1.7 Clarke’s vain Mangōnui intervention

Clarke initially insisted that his 1840-1841 ‘purchases’ could resolve intertribal rivalry by facilitating ‘the quiet adjustment of [Pākehā and tribal] Claims . . .’.⁵²⁸ After the April 1843 Taipā clash wrecked his wishful thinking about a ‘quiet adjustment’, Clarke continued to defend the duplicate ‘purchases’ as transferring ‘(not the land, but) all remaining *interests* of each chief in the disputed territory . . .’ (emphasis added).⁵²⁹ In reality, the ‘purchases’ only created confusion which contributed to Godfrey’s premature abandonment of his Mangōnui inquiry. Clarke’s illusory ‘quiet adjustment’ was no more than a vain hope.

Subsequently, the Crown attempted to clear Mangōnui of contentious Pākehā claims with ill-considered scrip offers. Prior to Godfrey’s withdrawal from Mangōnui, the Crown increased tension by advancing an equally ill-considered claim to surplus land in the face of determined Māori opposition.

2.2 The origins of surplus and scrip land

2.2.1 Statutory limits and surveys

Both the New Zealand Land Claims Act 1840 (passed in New South Wales), and the subsequent New Zealand Land Claims Ordinance 1841, limited Crown grants to 2,560 acres. This crude New South Wales-derived statutory limit enabled the Crown to either return the balance of the

⁵²⁵ Godfrey to Col Sec, 16 Feb 1843, OLC 8/1, pp 56-59

⁵²⁶ Godfrey to Col Sec, 13 Jun 1843, OLC 8/1, p 69

⁵²⁷ Godfrey to Col Sec, 10 Feb 1843, encl 1 in FitzRoy to Stanley, 18 Dec 1844, BPP 1843-45 (369), pp 73-74

⁵²⁸ Clarke to Col Sec, 24 Mar 1843, MA 4/58, p 194

⁵²⁹ Clarke to Col Sec, 1 Sep 1845, BPP 1846 (337), p 123

land claimed to Māori, or to appropriate it for itself. Nonetheless, no colonial statutes referred explicitly to surplus land. The later Land Claims Settlement Act 1856 even omitted a single mention of the term ‘surplus land’.⁵³⁰

For the Crown to appropriate surplus land it first had to survey the full extent of land claimed from pre-1840 transactions. Surveyor-General Ligar in September 1842 stated that Land Claims Commissioners by then had recommended a total of 42,000 acres in Crown grants. He further calculated that ‘the original claims amounted to 192,000 acres’. He calculated that ‘150,000 acres will consequently remain demesne lands of the Crown’.⁵³¹ The Crown then published a Gazette notice stating that ‘. . . Crown grants will convey the number of acres, to which the Claimant shall be found entitled. Should the boundaries be found to contain a greater quantity of land that shall be contained in the . . . Grant, *the excess will be resumed*’ (emphasis added).⁵³² While the Crown declared its intention to appropriate surplus land, it could not do so effectively without surveys.

2.2.2 Kaitaia protest February 1843

Before any surveyors arrived in Muriwhenua, ‘Kaitaia chiefs’ told Godfrey and HT Kemp (his interpreter) in no uncertain terms ‘That any surplus land remaining after the surveys shall be completed of the lands they have sold to the Europeans *will be resumed by the original proprietors . . .*’ (emphasis added).⁵³³ At the time the Crown, preoccupied with containing intertribal conflict, lacked the ability to even consider appropriating Muriwhenua surplus. Surplus land in 1843 Muriwhenua remained an abstract proposition. A few months later Butler reported that local Māori threatened to muru ‘the first [Crown] surveyor’ who dared to set foot on surplus land.⁵³⁴

2.2.3 Stanley’s imperial instructions

The February 1843 Kaitaia protest anticipated Lord Stanley’s June 1843 instructions to Robert FitzRoy, the incoming Governor. Stanley formulated an embryonic Crown surplus land policy. He defined surplus as the land in excess of the statutory 2,560-acre grant limit ‘validly purchased

⁵³⁰ Section 6, New Zealand Land Claims Ordinance 1841

⁵³¹ Executive Council minutes, 19 Sep 1842, EC 1/1

⁵³² Notice to Land Claimants, 27 Sep 1842, MA 91/8, Exhibit B, p 14a

⁵³³ Kemp to Clarke, 10 Feb 1843, G30/3, pp 743-747; Godfrey to Col Sec, 10 Feb 1843, encl 1 in FitzRoy to Stanley, 18 Dec 1844, BPP 1843-45 (369), pp 73-74

⁵³⁴ Butler to Partridge, 22 May 1843; encl in Partridge to Shortland, 29 May 1843, IA 1/1843/1180

from' Māori. Once commissioners 'established that the original transaction was untainted by . . . fraud or injustice', Stanley believed that the Crown had 'justly extinguished' Native title. Logically, since Māori were therefore 'no longer the Proprietors – hence . . . the [surplus] . . . vested in the Sovereign as representing and protecting the interests of Society at large . . .' was land then 'available for . . . Sale and Settlement'. On the other hand, if Māori protested, Stanley cautioned FitzRoy to treat them 'with the utmost possible tenderness . . . [compatible] with the other and higher [Public] interests'.⁵³⁵

2.2.4 FitzRoy's colonial discretion

FitzRoy, upon his late 1843 arrival in New Zealand, took full advantage of the discretion Stanley granted him. Rather than provoke the Māori opposition demonstrated at Kaitaia, he chose to waive the Crown's claim to surplus land. He reported to Stanley in late 1844 that any attempt to defy Māori opposition 'would have injured the character of the Queen's government very seriously . . . so tenacious are the natives in what they consider to be strict justice'.⁵³⁶

2.2.5 Clarke and Brodie's opposition

As Governor Grey (FitzRoy's successor) prepared to abolish the Protectorate in 1846, Clarke informed him that Māori suspected that the Land Claims Commissions' judicial procedures disguised the Crown's real intent: the dispossession of customary owners. Clarke wrote that 'This opinion was still further strengthened when it became known that the surplus land[s] confiscated under the sanction of the Land Claims Ordinance were to be resold for the benefit of the government and not restored to the natives, as in the [Tamaki] case of Mr Fairburn'.⁵³⁷

Karikari claimant, Walter Brodie, in 1844-1845 revealed how the Māori rejection of its claim to Tamaki surplus embarrassed the Crown. In the House of Commons Select Committee on New Zealand hearings in London, Brodie testified that the Crown initially claimed 37,000 acres of Tamaki surplus land (south of Otahuhu). It then granted a flax miller 20,000 acres in that unsurveyed area, but local hapū prevented him from taking possession. They insisted that 'the

⁵³⁵ Stanley to FitzRoy, 26 Jun 1843, G 1/9. The Crown never published this key despatch in British Parliamentary Papers.

⁵³⁶ FitzRoy to Stanley, 15 Oct 1844, BPP 1845 (369), pp 28-30

⁵³⁷ Clarke to Col Sec, 30 Mar 1846, BPP 1847, (837), pp 15-16

Government had no authority to give' him the land. They believed that if the land 'did not belong to Mr Fairburn, it did not belong to the Government, *but to the natives themselves . . .*' (emphasis added).⁵³⁸

Brodie revisited this Tamaki protest in his 1845 book published in London. He reported that Clarke's Protectorate staff yielded to militant Māori opposition.⁵³⁹ By 1845, of course, FitzRoy had decided against enforcing the Crown's claims to surplus land arising from pre-1840 transactions. Consequently, the Crown's surplus land claim remained latent, until Commissioner Bell, appointed under the Land Claims Settlement Act, revived it in 1856.

2.2.6 Scrip land

Like surplus land, scrip land entered into Crown claims policy soon after 1840. Like surplus, scrip lacked explicit statutory authority. Hobson previewed a scrip land policy in December 1841. He recommended to his Legislative Council the Crown's removal of settlers from remote areas such as Mangōnui and Hauraki considered insecure. He proposed resettling them in more 'secure' areas such as Hokianga, the Bay of Islands, and Auckland. He believed that by issuing scrip equivalent to the value of anticipated Crown grants, the Crown could persuade claimants to resettle.⁵⁴⁰ Hobson miscalculated. A storm of settler protest forced him to abandon his 1841 resettlement proposal almost immediately. Nonetheless, his successors persisted with the discredited proposal after his untimely death in September 1842.

Acting Governor Shortland in 1842 adopted Hobson's scrip proposal, again without statutory authority. Days after Hobson's death he told the Executive Council that the Crown would offer scrip to claimants 'who may prefer land in the immediate vicinity of the settled districts . . .' nearer the colonial capital of Auckland.⁵⁴¹

⁵³⁸ Walter Brodie evidence, 4 Jun 1844, BPP 1844 (556) vol 2, p 42; See 'The Fairburn Land Purchase' in RCJ Stone, *From Tamaki-Makau-Rau to Auckland*, (Auckland; Auckland University Press, 2001), p 167

⁵³⁹ Walter Brodie, State of New Zealand, pp 47-50

⁵⁴⁰ Hobson, Address to Legislative Council, 14 Dec 1841, encl in Hobson to Stanley, 16 Dec 1841, BPP 1841 (569), pp 197-200

⁵⁴¹ Executive Council minutes, 19 Sep 1842, EC 1/1; Notice to Land Claimants, 27 Sep 1842, MA 91/9, Exhibit B, pp 12-14, 14a-14b

2.2.7 Mangōnui scrip offers

Crown officials assumed that, once Mangōnui claimants accepted scrip offers, the land they claimed reverted to the Crown. Initially, these officials assumed that they could offer scrip only to the recipients of Crown grants. After Godfrey suspended his Mangōnui inquiry in February 1843, however, he began offering claimants scrip without following Stanley's precondition that commissioners establish the validity of such claims. Only then could the Crown consider Native title 'justly extinguished'.⁵⁴² In practical terms, two Māori witnesses had to corroborate the validity of the original transaction in front of Godfrey. By abandoning his Mangōnui hearings, Godfrey deprived Māori of the opportunity to appear either in support of, or in opposition to, individual Pākehā claims. Furthermore, Mangōnui Māori encouraged valued claimants like Berghan and Butler to refuse to move to Auckland.⁵⁴³

2.2.8 Unsound scrip land premises

The Crown evidently based its poorly formulated scrip land policy on unsound premises. It assumed that a claim arising from a pre-1840 transaction, whether proven or not, was sufficient to extinguish Native title. Moreover, the Crown neglected to establish the location and acreage of unsurveyed claims. As FitzRoy wrote in 1845, The 'Crown cannot grant that which it does not possess . . .' Thus, the Crown could appropriate neither scrip nor surplus without a proper survey.⁵⁴⁴

2.3 Godfrey's suspended inquiry

2.3.1 Mangōnui declaration 11 January 1843

At Godfrey's first Mangōnui hearing, Pororua's statement of support for Partridge's claim effectively eliminated the possibility of any reconciliation with Panakareao. In asserting his authority at Mangōnui, Panakareao denied Pororua's right 'to sell any land . . .' except to Butler. He declared that 'he would not now relinquish his right over these [Mangōnui] lands either to the

⁵⁴² Stanley to FitzRoy, 26 Jun 1843, G 1/9

⁵⁴³ Godfrey report (Berghan), 12 May 1844, OLC 1/558-566, pp 4-9; Godfrey report (Butler), 20 Jan 1844, OLC 1/913-914, pp 3-4

⁵⁴⁴ Col Sec (for FitzRoy) to Godfrey, 18 Jun 1844, encl. 4 in Grey to Gladstone, 23 Jun 1846, BPP 1847 (837), p 37

Settlers or to the Government . . .’ On the contrary, he vowed to ‘maintain his right *vi et armis*’ (emphasis in original).⁵⁴⁵

Weeks later Pororua wrote to acting Governor Shortland denying Panakareao’s customary authority at Mangōnui.⁵⁴⁶ Then, when Pororua issued an uncompromising rejection of Ford’s Ōruru claim (derived from Panakareao), Godfrey decided to suspend his Mangōnui hearings.⁵⁴⁷

In his subsequent claims reports, Godfrey referred to how Panakareao and Pororua mutually vetoed each other’s rights to alienate Mangōnui land. Godfrey’s standard Mangōnui report text repeated: ‘The rights of the Native Chiefs who sold these lands having been disputed by Nopera Panakareao’. Accordingly, he recommended scrip or grants for ‘land elsewhere’ in acres, with the equivalent number of pounds sterling.⁵⁴⁸

2.3.2 Kaitaia declaration 10 February 1843

When Godfrey withdrew from Mangōnui, he addressed a conference of Kaitaia rangatira on 10 February. At Kaitaia they issued a ringing declaration in what Godfrey described as ‘many violent and seditious speeches . . .’ The Kaitaia rangatira not only rejected the Crown’s incipient surplus land policy, they declared their intention to ‘exercise all their ancient rights and authority . . .’ without Crown interference.⁵⁴⁹ Thus, they affirmed what they believed the Crown had agreed to in signing Te Tiriti o Waitangi at Kaitaia on 28 April 1840 when Shortland promised that ‘the Queen will not interfere with their native laws nor customs’.⁵⁵⁰

2.3.3 Godfrey’s scrip recommendations

With the dual Mangōnui and Kaitaia declarations ringing in his ears, Godfrey resorted to scrip exchanges to avoid further conflict. Godfrey’s scrip offers sought to remove claimants from the

⁵⁴⁵ Panakareao evidence, 11 Jan 1843, OLC 1/889-893, pp 13-14 (HT Kemp translation)

⁵⁴⁶ Pororua to Governor, 30 Jan 1843, IA 1 1843/1180

⁵⁴⁷ Pororua evidence, 12 Jan 1843; Godfrey (Oruru) report, 10 Mar 1844, OLC 1/704, pp 3-7

⁵⁴⁸ Godfrey (Butler) report, 20 Jan 1844, OLC 1/913-914, pp 3-4; Godfrey (Thomas & Phillips) report, 20 Jan 1844, OLC 1/617-623, pp 36-39; Godfrey (Berghan) report, 12 May 1844, OLC 1/558-566, pp 4-9; Godfrey (Ryan) report, 12 May 1844, OLC 1/403-407, pp 3-7; Godfrey (Smyth) report, 12 May 1844, OLC 1/887-888, pp 8-10; Godfrey (Partridge) report, 14 May 1844, OLC 1/889-893, pp 20-26

⁵⁴⁹ Godfrey to Col Sec, 10 Feb 1843, encl 1 in FitzRoy to Stanley, 18 Dec 1844, BPP 1843-45 (369), pp 73-74

⁵⁵⁰ Johnson Journal, 28 Apr 1840, Johnson papers, Micro-MS-0154, ATL; Kaitaia speeches, 28 Apr 1840, BPP 1845 (108), p 10

disputed Mangōnui area. He defended resettlement as necessary both ‘to prevent discord between the Tribes . . . [and] to induce them to settle similar disputes . . . with less annoyance to the Settlers’. He believed that the anticipated Pākehā exodus would teach Mangōnui Māori the error of their ways. He hoped that they would then invite settlers to return ‘to take quiet possession of the lands *alleged* to have been purchased’ (emphasis added). Godfrey could report only alleged claims, because he failed to validate any of the original Mangōnui claims. He was prepared to offer scrip equivalent to their original declared payment, but, for unproven claims, he refused to triple the value of the payment in kind (as provided for in the 1841 Ordinance). He later explained that he could not treat unproven claims as ‘valid’ claims ‘admitted by the Natives’.⁵⁵¹

Godfrey formalised his Mangōnui scrip offers with a 20 January 1844 letter to all eligible claimants. He repeated how their ‘titles were disputed by the tribe of Nopera and others’.⁵⁵² As far as we know, only Butler, Ryan, Partridge, Smyth, Murphy, Wrathall and Ford accepted their scrip offers totalling £7,986.⁵⁵³ But the Crown later claimed an estimated 11,000 acres of unsurveyed Mangōnui East land on the strength of these offers. It assumed that Godfrey validated these claims, but in failing to examine witnesses, he had not. He allowed Panakareao and Pororua to veto Mangōnui claims. They therefore remained unproven and invalid, although Godfrey’s successors, Bell and Myers, later failed to appreciate this.⁵⁵⁴

2.3.4 Godfrey’s acreage calculations

Schedule B of the Land Claims Ordinance 1841 guided Godfrey’s 1843-1844 grant recommendations. Derived from the same schedule attached to the New Zealand Land Claims Act 1840 this set a sliding scale for calculating grant acreage equivalent to declared claimant pre-1840 payments. Schedule B contained a tripling formula for goods exchanged that gave earlier transactions greater value than those conducted in 1839 when colonisation beckoned. Thus, 1835-1836 payments of one to two shillings yielded one acre; while 1839 payments of four to

⁵⁵¹ Godfrey to Col Sec, 3 Feb, 12 May 1844, OLC 8/1, pp 80-81, 86-87

⁵⁵² Godfrey to Dacre, Ryan, Berghan, Thomas & Phillips, Murphy, Olman, Wright, Butler, Ryder, Smyth, Partridge and Ford, 20 Jan 1844, OLC 8/1, pp 77-78

⁵⁵³ Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, pp 31, 54, 64, 66-68

⁵⁵⁴ ‘Statement of Land in Land Claims Reverting to the Crown . . .’, Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 22

eight shillings yielded the same area. The tripling formula allowed Godfrey to calculate payments in kind ‘at three times their selling price in Sydney at the time’.⁵⁵⁵

Godfrey’s complicated acreage calculations concluded his 1843-1844 Muriwhenua grant and scrip recommendations. Despite his complex calculating, the 1841 Ordinance did not require him to scrutinise payment evidence. He simply accepted claimant statements about what they paid for land, no matter how inflated their figures may have been. For example, Godfrey accepted Clement Partridge’s increase in the value of his 1839 payments from an initial estimate of a modest £165 to a princely £1807. Subsequently the Crown paid Partridge £2,310 in scrip.⁵⁵⁶

Godfrey also departed from consistent application of Schedule B in calculating grant acreage for almost half the Muriwhenua claims he reported. In addition to tripling goods exchanged, he applied a different formula from the disallowed 1842 Ordinance to nine claims he reported on 15 April 1843. He adopted the flat five shillings an acre 1842 measure, originally designed to accommodate extravagant New Zealand Company claims, and added it to his 1841 Schedule B calculations.⁵⁵⁷ When the Imperial government disallowed the new Ordinance in December 1842, Godfrey failed to correct his nine 1842 Ordinance-based calculations.⁵⁵⁸ Godfrey and Richmond removed the disallowed 1842 bonus from new Puckey and J Matthews Kaitaia grant recommendations in December 1843, without correcting the other nine calculations.⁵⁵⁹

For almost all his Mangōnui scrip recommendations, Godfrey deliberately refused to apply the Schedule B tripling formula. This recognised the fact that such claims remained unproven. Scrip offers to Mangōnui claimants ranged £500 for Smyth to £2,310 for Partridge.⁵⁶⁰ Godfrey gave Captain William Butler, the main operator of the colonial port, more generous treatment. Recognising both Panakareao’s and Pororua’s support for his claims, Godfrey applied the tripling formula for a local 1,054-acre grant recommendation.⁵⁶¹

⁵⁵⁵ Schedule B, Land Claims Ordinance 1841 (NZ); derived from Schedule D, New Zealand Land Claims Act 1840 (NSW)

⁵⁵⁶ ‘Statement of goods &c paid to Native Chiefs before Nov 1839’, nd., OLC 1/889-893, p 7. Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, pp 66-67

⁵⁵⁷ Land Claims Ordinance 1842 (NZ) 5 Vict No 14

⁵⁵⁸ Stanley to Hobson, 19 Dec 1842, G 1/6, pp 422-460. Commissioner Bell in 1859 noted this error with regard to Godfrey’s CMS Kaitaia grant recommendation. Bell minute, 29 Sep 1859, OLC 1/675, p 8. The other eight erroneous recommendations were for Puckey (Pukepoto), J Matthews (Kaitaia/Parapara), R Matthews (Awanui), Davis (Mangatete), Ford (Okioire), Potter (Kaimaumu) and Brodie (Karikari).

⁵⁵⁹ Godfrey-Richmond reports, 20 Dec 1843, OLC 1/774; OLC 1/328, p 7

⁵⁶⁰ Godfrey reports, 12 May 1844, OLC 1/894-895, pp 5-6; OLC1/403-407, pp 6-7

⁵⁶¹ Godfrey report, 12 May 1844; FitzRoy minute, 20 May 1844, OLC 1/913-914, pp 4-5

FitzRoy's almost habitual increases of Godfrey's Muriwhenua grant and scrip recommendations produced a largely arbitrary set of acreage calculations. Grey's subsequent condemnation of FitzRoy's extended grants from 1846 until 1851 then stalled further Muriwhenua inquiries for almost a decade.

2.3.5 The scrip land aftermath

Godfrey's failure to validate Mangōnui scrip claims escaped the attention of his 1840s Subprotector HT Kemp. After negotiating New Zealand's largest Crown purchase in the South Island during 1848, Kemp nine years later in 1857 urged McLean to send Crown surveyors to Mangōnui to recover over 18,000 acres of scrip land. He even imagined that Hokianga scrip land exceeded 75,000 acres.⁵⁶²

Kemp's 1857 list of 'Lands over which the Native Title is supposed to be Extinguished . . . for Government Scrip' may have prompted Commissioner Bell to launch his 1858-1859 Hokianga scrip surveys. Bell in 1862 reported that these Hokianga surveys recovered 15,446 acres in return for the Crown's outlay of £32,000 it paid scrip claimants during the 1840s.⁵⁶³ But the Crown failed to survey Mangōnui scrip land.

2.4 Grey's intervention

2.4.1 Grey and Mangōnui

During his first term as colonial Governor Grey consolidated the Crown's position in Muriwhenua by turning Mangōnui township into a colonial administrative centre. He did so at the invitation of local rangatira, Panakareao. Panakareao wrote to Grey in early 1847 to complain about Butler's control of Mangōnui shipping, and to object to Pororua's continued presence at both Ōruru and Mangōnui. He asked Grey to appoint a magistrate to arbitrate in local disputes.⁵⁶⁴ Consequently, Grey appointed WB White to the position of Mangōnui Resident

⁵⁶² 'Rough Estimate of Lands over which the Native Title is supposed to be Extinguished . . . for Government Scrip', encl in Kemp to McLean, 11 Feb 1857, AJHR 1861, C-1, pp 16-18

⁵⁶³ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 6-8, 22

⁵⁶⁴ Panakareao to Grey, 30 Jan 1847, MA 7/1

Magistrate in 1848. Having visited Panakareao at Mangōnui in May 1846, Grey visited him again aboard another naval vessel in October 1849 to ratify White's authority.⁵⁶⁵

2.4.2 Waikiekie purchase 1850

Even before Grey's October 1849 visit, White negotiated with Panakareao what became the 1850 Waikiekie purchase of township land. He wrote that local Māori wanted 'to have Europeans amongst them, and they say that the Government shall have as much land as it requires . . . ' White himself surveyed a small township area, together with harbourside Pākehā land claims.⁵⁶⁶ With brief written instructions from Grey, Surveyor-General Ligar, and Attorney-General Swainson, White surveyed only 32 acres for the Crown, as well as five or six adjacent private claims. He attached to his Waikiekie deed a plan entitled ' . . . Land at Mongonui to which the Chief Noble has resigned in favour of Government all claim which he *may* have' (emphasis added).⁵⁶⁷ White included in his Waikiekie plan a 'twenty eight yards square' waka landing reserve for Panakareao. For this township land, White paid Panakareao only £5.⁵⁶⁸

2.4.3 Extending extinguishment

The undefined legal status of the surveyed township claims came up almost immediately. Butler in May 1850 asked if the Crown could grant him Ryan's 3-acre Waikiekie claim he purchased from Ryan in 1845. He assumed that it had 'fallen into the hands of the Government' with the Waikiekie Crown purchase. Swainson's legal advice to Grey rubber-stamped extinguishment.⁵⁶⁹ With Grey's support, Ligar subsequently asked White to this confirm extinguishment, without requiring him to explain his grounds for doing so.⁵⁷⁰ White evidently assumed that Panakareao's consent to the 1850 purchase effectively extinguished all Native title in the township area.⁵⁷¹

⁵⁶⁵ White Reminiscences, ATL, pp 1-14; Matthews Journal, 26-29 May 1846, 19 Oct 1849, CMS/CN/0.16, ATL

⁵⁶⁶ White to Col Sec, 4 Oct 1849, OLC 1/403-407, pp 31-32

⁵⁶⁷ White filed his Waikiekie plan as OLC plan 111 on 3 May 1850. It is therefore both a Crown purchase, and an Old Land Claim plan

⁵⁶⁸ Waikiekie Crown purchase deed, 3 May 1850, Auc 411

⁵⁶⁹ Butler to Col Sec, 28 May 1850; Grey minute, nd; Swainson minute, 14 Jun 1850, OLC 1/403-407, pp 37-38

⁵⁷⁰ Ligar minute, 26 Jul 1850; Grey minute, 29 Jul 1850, OLC 1/403-407, pp 37-38; White to Ligar, 24 Sep 1850, OLC 1/617-623, pp 77-78

⁵⁷¹ White's 1850 township survey (OLC plan 111) also referred to adjacent western strips of land at Rangikapiti and Ruakarama as 'Waste Land'

White then extended this extinguishment across the harbour by allowing Butler to swap Ryan's Waikiekie claim for land adjoining his Butler Point residence.⁵⁷² Then in mid-1852 White extended the Mangōnui extinguishment area again, this time to Butler's former Paewhenua residence (renamed Government Island). White's subsequent 1852 OLC plan 112 subdivided 'Government Island' into three allotments. This extension of extinguishment followed White's belief that when he arrived at Mangōnui in 1848, well before his 1850 Waikiekie Crown purchase, 'all this land was acknowledged to belong to the Government'.⁵⁷³ This also allowed White to arrange the 1851-1852 Crown grants to Duffus and Lloyd at Hihi and Waiaua, both on the eastern side of the harbour. The Crown granted them 426 acres each over 130 kilometres south of the originating Taylor claim. To White the Waikiekie purchase merely confirmed the Crown's title to land around the harbour, even though he confined that purchase to 32 acres within his first township survey.⁵⁷⁴

2.5 Bell's connection strategy

2.5.1 Introduction

Commissioner Bell's attempt to connect Muriwhenua Old Land Claims and Crown purchases, illustrated in 1863 by Auckland Roll plan 16, sprang from similar extinguishment assumptions. In anticipating Bell's arrival, District Land Purchase Commissioner HT Kemp wrote to his superior in Auckland that Bell 'will have to deal very cautiously in settling . . . claims, especially when the Natives raise any opposition'. Kemp wanted McLean to caution Bell to resist Māori complaints 'or they will be down a third time on the unfortunate [Pākehā] claimants'.⁵⁷⁵ Kemp perhaps imagined that Māori prevailed in Godfrey's premature withdrawal from Mangōnui.

Between 1856 and 1863, Bell conducted lengthy correspondence with Crown officials, claimants and surveyors on the subject of connected extinguishment.⁵⁷⁶ Initially Bell concentrated on obtaining the services of Scots surveyor WH Clarke to connect different surveys. After Clarke encountered hapū resistance to his Hokianga scrip surveys in 1858-1859, Bell resorted to WB

⁵⁷² White to Col Sec, 14 Aug, 25 Sep 1850; Ligar minute, 27 Sep 1850; Sinclair minute, 15 Oct 1850, OLC 1/403-407, pp 40-42, 46-47. The Crown formally granted the 3 acres next to Butler Point in 1859. Butler Crown grant, 4 Oct 1859, R15, fol 111

⁵⁷³ White to McLean, 30 Dec 1862, OLC 1/558-566, pp 127-132

⁵⁷⁴ See Figure 8: Mangōnui East, (p 38), for the location of the harbourside claims adjacent to the 1850 Waikiekie Crown purchase, based on White's OLC plan 111, May 1850.

⁵⁷⁵ HT Kemp to McLean, 14 Jun 1857, McLean papers, MS-Papers-0032-0368, ATL

⁵⁷⁶ Old Land Claims Letterbooks, 1856-1863, 2 vols, OLC 8/2-3

White's less skilled survey assistance. White's unrivalled local knowledge of claims, as Kemp put it, 'both *European & Native*', (emphasis in original) compensated for his lack of surveying skill.⁵⁷⁷

2.5.2 WH Clarke's assistance

Bell first contacted Clarke 'on the Subject of Surveys' before his opening February 1857 Bay of Islands hearings. Clarke previously surveyed many Bay of Islands claims.⁵⁷⁸ Bell undoubtedly consulted Clarke in drafting his gazetted September 1857 'Rules for Surveyors'. Bell's Rule 15 required authorised surveyors to identify all the 'exterior boundaries' of each claim. It also stressed the need for individual surveys to connect with adjacent surveys.⁵⁷⁹ Bell, for example, referred to the Pukepoto surplus near Kaitaia, as the area that Clarke should 'cut off' after establishing the location of Puckey's Crown grant.⁵⁸⁰

Bell in late 1857 asked WH Clarke about 'the Cost of connecting the different surveys which you have made in the Northern District'. At Bell's request, Clarke provided him with a list of survey plans highlighting those 'bounded by other claims', and estimating 'the probable cost of connecting those which are separate'. A month later Bell relayed Clarke's connection proposal to the Crown Lands Department.⁵⁸¹

2.5.3 Hokianga scrip surveys

Yet, during 1858, Bell diverted WH Clarke from this Muriwhenua work. Instead, he sent him to Hokianga with John White (descended from Hokianga missionaries) as his interpreter to survey over 52 scrip claims there. Clarke and White encountered concerted Hokianga hapū resistance to many of these surveys. John White sent Bell seven 1858 reports explaining these contested claims. Bell instructed Clarke and White to reject these determined protests. Bell dismissed out of hand the 'disposition on the part of the Natives to dispute Old [Land] Claims'. He even wrote a patronising letter to Orira (Mangamuka) rangatira with the words 'Let this foolish interference

⁵⁷⁷ HT Kemp to McLean, 16 Mar 1858, McLean papers, MS-Papers-0032-0368, ATL

⁵⁷⁸ Bell to WH Clarke, 20 Feb 1857, OLC 8/2, p 23

⁵⁷⁹ Bell's 'RULES . . . in pursuance of . . . the Land Claims Settlement Act 1856', 8 Sep 1857, *New Zealand Gazette*, 8 Sep 1857, pp 144-145

⁵⁸⁰ Bell to WH Clarke, 15 Nov 1857, CH McIntosh to RA Fairburn, 18 Jan 1858, OLC 8/2, pp 102-103, 152

⁵⁸¹ Bell to WH Clarke, 25 Nov, 30 Dec 1857, OLC 8/2, pp 125-141

therefore cease . . .’ He called upon Orira rangatira to honour the ‘sacred’ pre-1840 transactions.⁵⁸²

2.5.4 WB White’s assistance

Instead of extracting WH Clarke from numerous Hokianga disputes, Bell resorted to WB White for Muriwhenua survey assistance. White had previously provided Bell with the detailed acreage information necessary to settle Muriwhenua claims. In a long February 1858 letter to White, Bell summarised eight sets of claims, based on tracings that White sent him. Bell concluded his letter by expressing exaggerated gratitude for WB White’s assistance.⁵⁸³

2.5.5 Sandhills dispute

The dispute over the proposed sandhills reserve west of Awanui-Kaitaia tested the relationship between Bell and White. It also threatened Bell’s overall connection strategy. Since the western sandhills stretched through surplus land almost 10 kilometres south from the 1858 Muriwhenua South Crown purchase to the 1859 Ahipara purchase, Bell viewed it as a key connection area outlining the possible extent of the sandhills reserve. White concluded from an 1858 discussion with HT Kemp at Pukepoto that Chief Land Purchase Commissioner McLean saw the reserve as a way of winning Te Rarawa support for large scale Crown purchases. On the other hand, Bell berated White for assuming that a large sandhills reserve could occupy most of the 13,827 acres of western surplus land between the two major Crown purchases.⁵⁸⁴

Bell expressed strong reservations about accommodating Te Rarawa rangatira in this way. On the other hand, he was prepared to consider the reserve if Puhipi understood that it was ‘. . . a mark of esteem from the Government to himself’. He warned White that Puhipi should not consider such a reserve as overturning the Crown’s claim to surplus land.⁵⁸⁵ Eventually, Bell’s commitment to connection prevented a sandhills reserve ever emerging. Instead, White and Bell

⁵⁸² Bell to J White, 14 Dec 1858; Bell to Orira Chiefs, 3 Mar 1859, OLC 8/3, pp 271-272, 314-315; J White Hokianga scrip claims report, 8 Aug 1859, OLC 4/4, pp 1-64

⁵⁸³ Bell to WB White, 15 Feb 1858, OLC 8/2, pp 162-168

⁵⁸⁴ Bell to WB White, 5 Apr 1858, OLC 8/2, pp 175-176. See Figure 6: Awanui-Kaitaia, (p 36) and Figure 18: Okiore-Awanui-Otaki, (p 67)

⁵⁸⁵ Bell to WB White, 8 Nov 1858, OLC 8/2, pp 247-248

fobbed off local hapū with a much smaller Waimanoni reserve near Awanui.⁵⁸⁶ The vast belt of almost 14,000 acres of Crown surplus land remained Bell's legacy in the western sandhills.

2.5.6 Bell's 'magic arithmetic'

In his 1992 pre-1840 transactions evidence, claimant historian Maurice Alemann portrayed Bell as combining statutory survey requirements with 'magic arithmetic' to dispossess hapū. Alemann concluded that Bell inflated 10,000 acres of unsurveyed 1840s grants into over 22,000 acres of surveyed grants, with an additional 26,000-acre of Crown surplus land after 1856.⁵⁸⁷

Strict compliance with statute should have allowed Bell to add no more than one-sixth to the acreage of FitzRoy's 1840s grants. Both the 1856 Select Committee and the subsequent Act specified this limit. The 1856 committee reported that 'new grants should not convey in any case more than *one-sixth* more land than the amount [of] the old grant . . .' (emphasis added). Section 23 (d) of the 1856 Act stated 'In no case shall any person be entitled to a new grant of more than . . . *one-sixth* . . .' (emphasis added).⁵⁸⁸ But Bell more than doubled the 8,321 acres of the eleven FitzRoy grants he cancelled in Muriwhenua. Bell increased these grants to over 17,000 acres, well beyond the one-sixth allowed by statute.⁵⁸⁹

The Matthews Parapara claim best illustrated how Bell achieved this quantum leap. When Godfrey in 1843 first reported this claim, he used a combination of the 1841 and 1842 Ordinance formulas to recommend a 470-acre Parapara grant.⁵⁹⁰ FitzRoy routinely increased Godfrey's grant recommendations, but in the 1844 Parapara case, he reduced it to 306.5 acres in conformity with the 1841 Schedule B sliding scale.⁵⁹¹ A year later, Matthews apparently persuaded FitzRoy to increase this grant acreage from 306.5 to 800 acres.⁵⁹² Instead of replacing the October 1844 306.5-acre grant with a new 800-acre Parapara grant, FitzRoy in October 1845

⁵⁸⁶ Bell report, 14 Mar 1860, OLC 1/875-877, pp 186-187

⁵⁸⁷ Maurice Alemann, Pre-Treaty Land Transactions, Wai 45, doc F11, p 28

⁵⁸⁸ Select Committee report, 16 Jul 1856, BPP 1860 (2747), p 353; Section 23 (d), Land Claims Settlement Act 1856, cited in Moore Rigby and Russell, Rangahaua OLC report, p 54

⁵⁸⁹ I have arrived at these figures by calculating only Bell's increases on FitzRoy's eleven Muriwhenua grants. Bell, Appendix to Land Claims Commission Report, 1863, AJHR 1863, D-14, pp 11, 24-25, 30, 35, 45, 59, 66

⁵⁹⁰ Godfrey report, 15 Apr 1843, OLC 1/329, pp 5-6

⁵⁹¹ FitzRoy minute, 14 Jul 1844, OLC 1/329, p 6

⁵⁹² FitzRoy to Sinclair, 13 Jun 1845, OLC 1/329, pp 13-14

issued a second 493.5-acre grant. Both grants describe the same location ‘On the River Parapara, and called Raramata, Parapara, Tapairau [Tapuirau] and Mata’.⁵⁹³

When WH Clarke in 1857 surveyed the entire Parapara claim area, as required by section 19 of the 1856 Act, he found it contained a total of 7,317 acres. On Clarke’s draft 1857 survey plan, Bell noted that he had surveyed 2,967 acres (or 40 per cent) at Raramata ‘for Natives’. This referred to the Raramata area along Doubtless Bay ‘reserved to the Natives’ in the 1844 Parapara grant.⁵⁹⁴ When Matthews at Bell’s 3 October 1857 Mangōnui hearing repeated his wish ‘to return [Raramata] to the natives’, Bell ‘declined to acceded to’ his request. Instead, he conceded a reserve of 300 acres at what became known as Te Aurere, at the southern extremity of the 3,000-acre area.⁵⁹⁵

Bell combined Matthews’ three Kaitaia and Parapara claims in his grant calculations. The combined 1844-1845 Kaitaia-Parapara grant acreage totalled 2200. To this he added one-sixth (allowed by section 23 of the 1856 Act) which came to 366 acres. Then he added up the combined survey acreage for all three claims which came to 10,451 acres (70 per cent of it at Parapara). He added a one shilling per acre allowance on the surveyed area, which yielded a further 1567 acres (as per section 44). Finally, a fees allowance of 64 acres topped up the grand total which came to 4197 acres. This allowed him to increase the 1844 Matthews Kaitaia grants from 1400 to 2449 acres, and the 1844-1845 Parapara grants from 800 to 1748 acres.⁵⁹⁶

The big difference at Parapara emerged from the size of the surplus land acreage. The Tangonge 685-acre surplus strip looked insignificant in comparison with the 5229-acre Crown surplus land windfall at Parapara. Bell’s refusal to honour the Raramata reserve provisions of the 1844-1845 grants, combined with his magic arithmetic, effectively dispossessed local hapū. His complicated acreage calculations benefitted the Crown to the detriment of the people Godfrey’s original Raramata reserve recommendation strove to protect.⁵⁹⁷

⁵⁹³ J Matthews, Parapara Crown grant, 22 Oct 1844 (306.5 acres), OLC 1/329, pp 17-18; J Matthews, Parapara Crown grant, 20 Oct 1845 (493.5 acres), OLC 1/329, pp 15-16

⁵⁹⁴ Clarke, Draft Parapara plan, 1857, OLC 1/328B, p 37; Clarke, Parapara OLC plan 9, nd

⁵⁹⁵ Bell’s hearing notes, 3 Oct 1857, OLC 5/34, pp 8-9. See Figure 7: Mangatete-Parapara-Taipā, (p 37); and Figure 21: Taipā, (p 80) showing the location of Raramata and Te Aurere.

⁵⁹⁶ Bell ‘Computation of Acreage’, nd; Bell report, 31 Jan 1859, OLC 1/328B, pp 19, 44-45

⁵⁹⁷ Bell did not report the Crown acquisition of 5229 acres of surplus until July 1862 in his published report. Bell Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 21

2.5.7 Settling Mangōnui East

Bell shared White's firm belief that pre-1840 transactions extinguished Native title both in the township and around the harbour. Their cross-harbour extinguishment extended north to Waiaua (also known as Waitetoki). At his October 1857 Mangōnui hearing, Bell agreed to create 'a small reserve . . . for the Natives at Waitetoki'.⁵⁹⁸ White and Kemp later instructed Samuel Campbell to survey Waiaua as one of two reserves within the contested 1863 Mangōnui Crown purchase. But Bell had anticipated them by almost six years.⁵⁹⁹ Hence, the later 147-acre Waiaua Native reserve arose from uninvestigated pre-1840 Mangōnui East transactions, not from the later 1863 Mangōnui Crown purchase.⁶⁰⁰

Pororua in 1864 protested the Crown's inclusion of Waitetoki [Waiaua] as a reserve within the 1863 purchase. He wrote to Governor Grey ' . . . ko Whaitotoki ki kihai i tuku e au ki nga pakeha/I did not dispose of Waitotoki [Waitetoki] to the Pakehas'.⁶⁰¹ He evidently objected to the Crown annexing a stream there he previously used to sell water to whalers.⁶⁰² Likewise, he objected earlier to Crown claims to Muritoki, and Paewhenua, further south within the Mangōnui East area.⁶⁰³

Bell merely ratified White's 1850-1852 township claims arrangements. He redrew White's November 1857 township sketch in 1858 and 1859, but without major changes.⁶⁰⁴ Bell issued six 4 October 1859 township grants to Berghan, Butler Flavell and the Thomas daughters for a total of just over 13 acres outside the 1850 Crown purchase area of 32 acres.⁶⁰⁵

Soon after Bell ordered the 1859 township grants, Auckland Provincial Superintendent John Williamson appointed White as the local Waste Land Commissioner. Initially, Williamson wanted White to create a 'Special Settlement' within the boundaries of the 1859 Kohumaru Crown purchase. Williamson planned to locate a group of settlers led by Lincolnshire chemist, Thomas Ball, there.⁶⁰⁶ The Ball settlers eventually moved to Oruaiti closer to the township. There in 1861

⁵⁹⁸ Bell hearing notes, 6 Oct 1857, OLC 5/34, pp 12-13

⁵⁹⁹ Campbell, Waiaua-Taemaro reserves plan, ML 12827, May 1863

⁶⁰⁰ Waiaua ML plan 5538, 1883

⁶⁰¹ Pororua to Governor Grey, 5 Apr 1864, OLC 1/1362, pp 61-64

⁶⁰² White memo, 21 Jan 1862, Mangonui Resident Magistrate's letterbooks, p 130

⁶⁰³ Pororua & Kiwa to McLean, 14 Jun 1861, OLC 1/1362, pp 76-78

⁶⁰⁴ White to Bell, 22 Dec 1857, OLC 1/558-566, pp 88-91; Bell reports, 14 Feb 1858, 26 Sep 1859, OLC 1/617-623, pp 137-142

⁶⁰⁵ Township grants 4 Oct 1859, R15, fols 108-110, 112-114. Ellen Flavell received a 1.75-acre grant on 3 May 1860, R15, fol 162

⁶⁰⁶ *Auckland Provincial Gazette* (hereafter APG), Vol 8, nos 20-21, 24 Sep, 19 Oct 1859, pp 124,126; Williamson to Ball, 18 Oct 1859, Mangonui Deputy Waste Land Commissioner's letterbook, p 32, ANZ-A

they established an octagonal chapel as their symbolic headquarters. White and HD Morpeth, his successor as local Waste Land Commissioner, accommodated this community of almost 80 people on Mangōnui East lots across from Paewhenua.⁶⁰⁷

Morpeth resided on Paewhenua prior to succeeding White as Waste Land Commissioner in 1861. There he discovered that the Crown earlier established an 8.5-acre Native reserve, the origins of which remain a mystery.⁶⁰⁸ More importantly, the Crown established the Ball Oruaiti settlement well before the 1863 Mangōnui Crown purchase legalised these arrangements. This premature arrangement provided a major incentive for Kemp and White to push through that disputed 1863 purchase. With almost 80 settlers already in residence there, the Crown needed to legalise their right to remain there.⁶⁰⁹

2.5.8 Unfulfilled connection

Yet, despite Bell's repeated reminders, White never completed his connecting surveys. Bell in September 1859 provided him with 'a tracing of the Northern plan . . . from the Bay of Islands' to help him along. But as late as 1861, Bell had to again repeat the reminder, to no avail.⁶¹⁰ Earlier in 1858, HT Kemp tried to get McLean to adopt Bell's connection strategy. Noting how many claims surveys connected with Crown purchases, Kemp believed that 'by fixing the principal points', his surveyors could just estimate acreage. McLean replied that Kemp could not avoid 'accurately surveying exterior boundaries of each Native [Crown] purchase . . .'⁶¹¹ During 1861 Kemp reported Pupuke Crown purchase negotiations with the same connection considerations in mind. He informed McLean that Pupuke's 'acquisition would be very desirable as connecting the whole of the public lands between the Bay of Islands and Mangōnui, and is the only intervening Block over which the Native title has not been extinguished'. He reported that White assisted him in seeking to connect adjacent Crown purchases.⁶¹²

⁶⁰⁷ APG, Vol 8, no 25, (5 Dec 1859), p 153; McKenna, Mangonui, pp 14-15, 120-123

⁶⁰⁸ Morpeth to Auck Waste Land Commissioner, 16 Sep 1861, Mangonui Deputy Waste Land Commissioner's letterbook, pp 38-45. The Paewhenua (Government Island) Native reserve appears on the south-eastern side of the 280-acre island on SO 4617, Nov 1997

⁶⁰⁹ Dr Mulder covers this 'premature arrangement' in her 2024 report on Crown transactions, pp 157-158. Thomas Ball succeeded William Butler as Mangōnui MHR in 1866-1870. NZ Parliamentary Record 1840-1925, p 77

⁶¹⁰ Bell to WB White, 1 Sep 1859; nd (probably 1861), OLC 8/2, pp 373-375, OLC 8/3, p 50

⁶¹¹ Kemp to McLean, 29 May 1858; McLean to Kemp, 28 Jun 1858, AJHR 1861, C-1, pp 26-28

⁶¹² Kemp to McLean, 14 Apr 1861, AJHR 1861, C-1, p 43. The Pupuke Crown purchase, completed in 1863, bordered both the 1859 Upper Kohumaru Crown purchase, and the 1864 Berghan Muritoki Crown grant, on the Whangaroa side.

Alfred Domett, Bell's successor as Land Claims Commissioner, eventually sent NLC Chief Judge FD Fenton in September 1866 'a General Plan of Mangonui and the Bay of Islands . . . shewing the relative position of Old Land Claims and Government Lands . . .' This plan, he added, 'was originally compiled under Mr Bell's direction . . .'⁶¹³ Domett evidently referred to the 1865 General Survey Office 'Plan shewing part of the Bay of Islands and Hokianga Districts'⁶¹⁴. Like the original 1863 Auckland Roll plan 16, it revealed the gaps White left unfilled.

Bell also facilitated 'settlement of the Boundaries respectively claimed by Partridge, Butler, [and] the children of Thomas and Phillips' along the eastern side of Doubtless Bay.⁶¹⁵ This wide band of privately claimed land north of the township left a glaring gap in Bell's connected map between the coastal claims and the 1856 Te Whakapaku Crown purchase boundary. Bell encouraged WB White to survey from the coastal claims to the western Whakapaku boundary (a distance of perhaps 12 kilometres). He wrote that 'This would enable me to complete the connection between Whangaroa and Mangonui harbours'.⁶¹⁶ White in May 1859 reminded Bell to get him 'the necessary authority . . . to connect the Mangatete and Kaitaia surveys'. Bell obliged by getting the Crown Lands Office to authorise these connecting surveys, from Mangatete all the way to Te Whakapaku. Bell believed that these were the only gaps in 'the Plan from the Bay of Islands to the 85000 [acre Muriwhenua South] Block . . .'⁶¹⁷

2.5.9 Bell on recovery of surplus and scrip land

Bell's 1862 report to Parliament revealed his commitment to the recovery of disputed surplus and scrip land. He devoted less attention to relatively uncontested Crown grants than he did to surplus and scrip areas. He believed that in disputed areas, such as Hokianga and Mangōnui East, Pākehā claimants made '*bona fide* purchases . . .' (emphasis in original). There, 'if the state of the country had permitted [it] I should have taken measures to recover as much as the natives would

⁶¹³ Domett to FD Fenton, 19 Sep 1866, OLC 8/3, p 249

⁶¹⁴ See Figure 9: Auckland Roll plan Revised 1865, (p 39)

⁶¹⁵ Bell in 1859-1861 issued three grants in this coastal area: two to Butler and one to Polack. See Polack Oneti grant, 4 Oct 1859; Butler Waitetoki grant, 4 Oct 1859, R15, fols 117, 120; and the Butler Oneti grant, 11 Jul 1861, R15a, fol 203

⁶¹⁶ Bell to WB White, 15 Feb 1859, OLC 8/2, pp 297-298

⁶¹⁷ White to Bell, 12 May 1859, OLC 1/382, pp 15-16; Bell to Sec Crown Lands, 23 Jun 1859; Bell to WB White, 29 Aug 1859, OLC 8/2, pp 336, 371

agree to give up of this land for the Crown'. He admitted that the possibility of provoking Māori resistance during the New Zealand Wars deterred him from more determined recovery efforts.⁶¹⁸

Nonetheless, Bell celebrated his 'recovery' of over 200,000 acres of northern surplus and scrip land. In the main appendix to his 1862 report he included both scrip and surplus land as 'reverting' to the Crown.⁶¹⁹ He assumed that the Crown's right to acquire surplus prevailed over Pākehā claimant rights, without even considering Māori rights to the same land. According to Bell, 'There was never any doubt that the Imperial government considered the Crown was entitled to the surplus land . . .' He never questioned Stanley's 1843 proposition that the 'extinction of the native title over all the land comprised [with]in the exterior boundaries of a claim . . .' eliminated Māori from the surplus land equation. Bell imagined that returning surplus land to Pākehā claimants, or to Māori, would deprive the Crown of millions of acres.⁶²⁰

He concluded his 1862 report with a tribute to the 'public spirit, fairness and good sense of the great body of the [Pākehā] land claimants . . .' He knew that they harboured 'suspicion and dislike' when he began his inquiry in 1856. He attributed their subsequent cooperation in part to the 1856 Select Committee's instructions for him to balance 'the public interest' with 'strict justice' for the Pākehā claimants. Neither Bell, nor the committee, considered the injustice of depriving Māori of surplus land. At the conclusion of Bell's land claims inquiry, Māori remained virtually invisible.⁶²¹

2.5.10 Curnin's 1880s recovery exercise

Bell's failure to complete his 'connected map' up and down Taitokerau left Māori opportunities to challenge Crown recovery of unsurveyed areas. Ngatikahu ki Whangaroa in 1870 briefly won NLC Judge Maning's support for their rights to over 4,000 acres of the disputed Taemaro-Waimahana area.⁶²² After Māori brought other unsurveyed areas to the NLC, John Curnin, a Lands Department official, recommended that the Crown gazette and map all these areas. 'One

⁶¹⁸ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, p 8

⁶¹⁹ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 8, 20-22

⁶²⁰ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 17-18

⁶²¹ Bell, Land Claims Commission report, 8 Jul 1862, AJHR 1862, D-10, pp 20-21

⁶²² Waitangi Tribunal, Muriwhenua Land report 1997, pp 401-403

such map', he wrote, 'would save a ream of correspondence' with Māori applicants. The Crown could then on-sell the land to get it 'for ever out of the reach of the Natives'.⁶²³

Lacking recognised legal qualifications, Curnin nonetheless declared that in 1840 alienated Māori land, by 'International Law', became Crown land. The Treaty of Waitangi protected only those 'lands in their possession' at that time. He concluded, therefore, that the 'question of surplus lands must not be debated in relation to the Natives, but really in relation to the Crown'.⁶²⁴ When Curnin drew Assistant Surveyor-General Percy Smith's attention to the 20,000-acre disputed Mangōnui East area, Smith could not explain how it 'became the property of the Crown'. He surmised that it must have been 'absorbed in . . .' multiple pre-1840 transactions. This to him meant that it could 'be proved I suppose that the surplus out of these claims became Crown land and consequently no Maori land is left'. Without proving anything, the Native Minister's letter to Hemirua Paeara used Smith's exact words that there was 'no Maori land . . . left' near Taemaro.⁶²⁵ Paeara and Ngatikahu ki Whangaroa continued to reject the Crown's peremptory dismissal of their petitions. Paeara on behalf of Ngatikahu ki Whangaroa petitioned Parliament on at least five more occasions between 1891 and 1912.⁶²⁶

2.5.11 Judge Acheson's advocacy

Twentieth century Māori petitions to Parliament soon challenged the legal basis of the Crown's surplus land doctrine. Section 34 of the Native Lands Claims Adjustment Act 1925 allowed the NLC Chief Judge to delegate to Judge Acheson inquiry into grievances arising from numerous surplus land petitions. Acheson stated in 1927 that he was 'compelled to say that the [Crown's] retention of "surplus Lands" . . . would hardly meet with the approval of anyone today'.⁶²⁷ After the Crown repeatedly adjourned his Muriwhenua surplus land hearings for 12 years, Acheson convened parties and witnesses at a scheduled Mangōnui hearing on 28 May 1938. Former Royal Commissioner, Robert Sim, appeared for Māori, but the Crown forced Acheson to accept a further adjournment.⁶²⁸

⁶²³ Curnin to SP Smith, 16 Mar 1885; Curnin to Native Minister, 16 Mar 1885, MA 91/5, pp 42-43, 45

⁶²⁴ Curnin to SP Smith, 15 Apr 1885, MA 91/5, p 41; On Curnin's lack of legal qualifications, see Boast, *Surplus lands*, p 79

⁶²⁵ Smith to Undersec Lands, 10 Feb 1888: TW Hislop approval, 17 Feb 1888, Wai 45, H1 (a), p 220

⁶²⁶ Paeara petitions, 9 May 1891, 7 Sep 1892, 14 Jun 1894, 21 Jun 1905, 26 Aug 1912, MA 91/9, Exhibit G, pp 49-65

⁶²⁷ Acheson to Undersec Native Dept, 7 Mar 1927; cited in Nepia, *Muriwhenua Surplus Lands*, p 24

⁶²⁸ Undersec Native Dept to Native Minister, 1 Feb 1940; cited in Nepia, *Muriwhenua Surplus Lands*, pp 28-30

Had Acheson heard the Ngatikahu ki Whangaroa case in 1938, it had every chance of success. But the Crown had already set in motion a series of events to oust Acheson from his judicial position. Firstly, it ensured that the inexperienced George Shepherd, not Acheson, became Chief Judge in 1941. Shepherd toed the Native Department line by overruling several of Acheson's remedial recommendations on historical claims. He resented Acheson's enviable judicial reputation established with his landmark 1929 Omapere decision.⁶²⁹

Acting Native Minister Langstone, just prior to the May 1938 Mangōnui hearing, berated Acheson over his repeated clashes with Native Department officials.⁶³⁰ Langstone apparently believed that Acheson's status as a distinguished judge did not supersede his obligations to serve the Crown. Langstone's successor as Native Minister, HGR Mason, realised that Acheson would not willingly bow to executive control. Consequently, Mason cooperated with Chief Judge Shepherd to force Acheson to retire from the Court. Although Acheson protested to Prime Minister Fraser against this flagrant violation of judicial independence, his involuntary ouster took effect on 31 December 1943.⁶³¹ By ousting Acheson from the Native Land Court, the Crown ensured that Muriwhenua Māori never got to present their surplus land grievances to a sympathetic pro-Treaty judge.

⁶²⁹ Richard Boast, *The Native/Maori Land Court, 1910-1953*, (Wellington: Thomson Reuters, 2019), pp 865-896; Boast, 'Judge Acheson, The Native Land Court and the Crown', Wai 1040, doc A64, pp 6-7, 10, 24-25

⁶³⁰ Langstone to Acheson, 6 May 1938; Acheson to Langstone, 20 May 1938, AAMK (Maori Affairs files) box 23/2/1, pt 1

⁶³¹ Acheson to PM Fraser, 9 Nov 1943; Acheson to Nat Min Mason, 9 Nov 1943; Acheson to Mason, 14 Dec 1943, AAMK, (Maori Affairs files) box 23/2/1, pt 2. On Acheson's ouster, see Philip Cleaver and Andrew Francis, 'Aspects of Political Engagement between Iwi and Hapu of the Te Paparahi o Te Raki Inquiry District and the Crown, 1910-1975', Wai 1040, doc A50, pp 149-152

2.6 1946-1948 Myers Commission inquiry

2.6.1 Introduction

During twentieth century commissions of inquiry into Māori grievances over the outcomes of pre-1840 transactions, the Crown clung stubbornly to the asserted legality of its title to surplus land. Lands and Survey staff steadfastly defended the official position in their investigation of Māori petitions to Parliament. These staff assisting the 1946-1948 Myers Commission's inquiry into surplus land grievances assembled voluminous typescripts from official records to inform counsel and commissioners. Counsel for Māori, Hugh Cooney, found the 'inextricable maze' of complex historical information given him at short notice completely overwhelming.⁶³²

2.6.2 Commission staff

The Lands and Survey officials assisting the Myers Commission lacked the historical training to understand the depth of Māori surplus land grievances. They blithely accepted the accuracy of the Crown's account of the dispute without exploring the Māori side of the story, largely absent from official files. A rapid sweep through their bulky Mangōnui East files demonstrates the inadequacy of their reconstruction of the surviving historical evidence.

2.6.3 Taemaro-Whakaangi petition files

The official record of the Mangōnui East grievances included repeated Ngatikahu ki Whangaroa petitions from the 1880s to the 1920s. The official Lands and Survey chronology began with a misleading account of the 1840-1841 Mangōnui Crown purchases. Officials conveniently ignored the fact that the Crown abandoned these poorly documented transactions long before the more significant, but equally disputed and unsurveyed, 1863 Mangōnui purchase. Officials predictably treated the better documented 1863 purchase as a definitive 'blanket' extinguishment of Native title. They simply accepted WB White's self-interested justification of the disputed purchase. The official interpretation of official written sources prevailed over Māori complaints, usually based on oral sources.⁶³³

⁶³² HO Cooney submission, 16 Oct 1947, Myers Commission minutes, MA 91/2, p 182

⁶³³ WB White to HT Clarke, 26 Apr 1870, MA 91/9, Exhibit G, p 32

While noting that that the Crown failed to survey the disputed Mangōnui area, officials claimed that it ‘reverted’ to the Crown mainly because of pre-1840 transactions. According to officials, Ryan’s unsurveyed scrip claims ‘apparently lapsed to the Crown’. They added that ‘without survey’ it was ‘not possible to say to what extent. There may have been between 600-700 acres reverting to the Crown . . .’ But, they asserted, the land was ‘blanketed by [the 1863 Mangōnui] Crown purchase . . .’ In other words, if the pre-1840 transactions failed to extinguish Native title, the 1863 purchase mopped up any remaining rights.⁶³⁴

Even when the officials examined surveyed claims, such as Berghan’s, they reached the wrong conclusions. By deducting what the Crown granted Berghan from what he claimed in 1841, officials calculated that his claims generated 2,737 acres of surplus. In fact, Berghan’s claims generated no surveyed surplus. WB White in 1863 alleged that Berghan and Pororua conspired to conceal surplus, but Bell rejected White’s unfounded allegation.⁶³⁵

In their summary of the coastal Thomas and Phillips claims, officials contradicted themselves. ‘Owing to the lack of plan information’, they stated, they could not ‘ascertain with any degree of accuracy the surplus [acreage] . . .’ Yet this did not prevent them from estimating 2,468 acres ‘for the purpose of arriving at some figure’.⁶³⁶

Greater attention to non-existent surveys of Smyth’s claims led officials to conclude that no surplus arose, because his claims were all ‘within the [1863 Mangōnui] purchase . . .’ But they failed to explain why this observation did not apply equally to the Ryan, Berghan and Thomas and Phillips claims. Those claims, also located within the boundaries of that disputed 1863 purchase, somehow generated surplus.⁶³⁷ Thus, Lands and Survey staff presented unsound, ahistorical advice to the commission and counsel.

2.6.4 Plan illustrating overlapping areas

To illustrate their complex Mangōnui exhibits, officials produced an unnecessarily complex (and confusing) colour map. They chose the ‘blanket’ 1863 Mangōnui purchase, with a bold red

⁶³⁴ Ryan claims summary, MA 91/9, Exhibit H, p 1

⁶³⁵ White minute, 13 Feb 1863; Bell minute, 13 Jun 1863, OLC 1/558-566, pp 113, 127; Berghan claims summary, MA 91/9, Exhibit I, pp 2-3

⁶³⁶ Thomas & Phillips claims summary, MA 91/9, Exhibit J, pp 1-2

⁶³⁷ Smyth claims summary, MA 91/9, Exhibit K, p 1

outline as their exterior boundaries. They added the Waiaua, Taemaro and Waimahana Native reserves, as well as the 1870 Taemaro-Whakaangi NLC title determination plans in different colours. The five pastel colours denoting pre-1840 transaction areas, and the four different coloured Crown purchases, three Native reserve and intersecting NLC boundaries inevitably clashed. They even added seven Crown grants within the 1863 boundaries, without explaining that six of these grants preceded the 1863 purchase. They attempted to disguise obvious overlaps by showing a mirage of how these multiple transactions magically fitted neatly together.⁶³⁸

Owen Darby's Lands and Survey team compiled the Myers Whakaangi-Taemaro plan (Figure 10 at p 40). In anticipation of Judge Acheson's postponed 1939 NLC hearing, Darby earlier listed the 'supposed' Mangōnui East claims as follows:

Claims	Claimants	Acreage
403-407	Ryan	770
558-566	Berghan	4000
617-623	Thomas & Phillips	2350
887-888	Smyth	1100
889-893	Partridge	8000
913-914	Butler	3000
Total		19,220

Darby's suppositions contained numerous inconsistencies. His 'supposed' Berghan claim acreage of 3000 almost doubled Berghan's 1668-acre Oruaiti Crown grant. Moreover, he omitted estimating the area of Butler's Paewhenua claim (OLC 913). Further complicating his 1939 claims list totalling 19,220 acres was a Lands and Survey 'planimeter' estimate of 17,470 acres for what appears to be the same area. This included the surveyed acreage of seven Mangōnui Crown grants, and three Native reserves. Together, the grants and reserves came to 4,703 acres. Darby deducted this from the planimeter estimate of 17,470 to conclude that 12,767 acres reverted to the Crown.⁶³⁹

Darby's multicoloured Whakaangi-Taemaro plan allowed the Myers Commission to try to reconcile the confusing 1939 claims acreage figures.⁶⁴⁰ The recorded 15 October 1947 commission discussion of this reconciliation exercise, instead, demonstrated continuing confusion. Cooney, counsel for Māori, struggled to comprehend the figures and categories. He tried to relate them to Bell's original 1862 estimate of 11,000 acres at Mangōnui East reverting to

⁶³⁸ Figure 10: Myers Commission Whakaangi-Taemaro Plan, (p 40); based on MA 91/9, Exhibit G, plan facing p 18

⁶³⁹ Darby Mangonui East claims summary, 20 Aug 1939, MA 91/9, Exhibit G, p 17

⁶⁴⁰ Figure 10: Myers Commission Whakaangi-Taemaro Plan, (p 40)

the Crown. He suspected that almost half that area must have been scrip, not surplus, land. Bell in 1862 included both categories in his calculations. Yet the Myers Commission members in 1947 failed to distinguish scrip from surplus land. They eventually adopted an 8,646-acre ‘reverting to the Crown’ figure, without explaining how they arrived at it.⁶⁴¹

The Myers Commission, and their Lands and Survey assistants, overlooked the most obvious defining feature of their primary category: surplus land. Bell’s original September 1857 ‘Rules for Surveyors’ concluded that only surveyed acreage qualified either as surplus, or as scrip land.⁶⁴² Yet in 1947, the voluminous written and visual record disclosed absolutely no surveyed surplus or scrip land at Mangōnui East. The Myers Commission, and its Lands and Survey assistants, failed to admit that the absence of local surveys undermined all their Mangōnui findings.

2.6.5 Dismissal of oral and local evidence

Astonishingly, the Myers Commission at the outset ruled out the admissibility of Māori oral evidence. Crown counsel, Sir Vincent Meredith, in November 1946 stated categorically ‘... as far as the Crown is concerned, all the evidence could only be documentary, and I cannot see that there can be any oral evidence’.⁶⁴³ The commission also refused to hear any local evidence in Muriwhenua. As Michael Nepia pointed out in his 1992 Tribunal-commissioned report, counsel for Māori HO Cooney ‘conceded that in spite of the wishes of Muriwhenua claimants, it was not necessary for the Commission to sit in Muriwhenua or to hear any oral Maori evidence’.⁶⁴⁴

Nepia considered the Myers Commission’s failure to hear oral and local evidence ‘clearly prejudiced the Maori case’. Nepia maintained that only by considering oral and local evidence could the commission address the following three key issues:

1. The nature of Maori land tenure prior to 1840.
2. The nature of pre 1840 transactions.
3. The effect of the Treaty of Waitangi on pre 1840 transactions.⁶⁴⁵

⁶⁴¹ Myers Commission proceedings, 15 Oct 1947, MA 91/2, pp R1-3, S1

⁶⁴² RULES Framed and Established by the Land Claims Commissioner, Francis Dillon Bell, Esquire, in Pursuance of the Power Vested in Him in that Behalf of the Land Claims Settlement Act 1858, 8 September 1857, *New Zealand Gazette*, 8 Sep 1857, pp 144-145

⁶⁴³ Meredith submissions, 21 Nov 1946, Myers Commission proceedings, MA 91/2, p 4;

⁶⁴⁴ Mangōnui claimants requested local hearings in a 9 Oct 1947 letter to Myers. Myers Commission proceedings, MA 91/2, p A4; Nepia, Muriwhenua Surplus Lands, p 43

⁶⁴⁵ Nepia, Muriwhenua Surplus Lands, pp 52, 118

2.6.6 Myers Commission findings

The Myers Commission failed to comprehend the weight of the complex historical evidence contained in the bulky Lands and Survey-assembled Mangōnui exhibits presented. It ignored clear evidence that the Crown's failure to survey the area negated its claim to surplus land there. 'The whole question' at Mangōnui, it concluded, 'could only be one of surplus lands, and, *even if there was any surplus in this case*, any rights of whatever kind the Maoris may have had there were extinguished by the Crown purchases from the Maoris' (emphasis added).⁶⁴⁶

On the one hand, the commission admitted that it doubted the existence of Mangōnui surplus. On the other hand, it fell back on the 'blanket' 1863 extinguishment. This was a convenient way of denying the validity of a steady trail of Māori protests beginning even before the disputed 1863 purchase. Nor did the Myers Commission attempt to understand the nature of the pre-1840 transactions. Its inquiry, as Nepia and the Muriwhenua Land report concluded, was clearly inadequate.⁶⁴⁷

2.6.7 Aftermath to the Myers inquiry

The inadequacy of the 1946-1948 Myers Commission inquiry fed into the first 1980s Waitangi Tribunal inquiries in Muriwhenua. Peter Pangari in 1985 took up his Ngatikahu ki Whangaroa grievances with the then Minister of Lands, Koro Wetere. He informed Wetere that the Lands and Survey Department administered the 7,000-acre Stoney Creek Farm Settlement within the Ngatikahu ki Whangaroa claim area. Pangari referred to previous historical inquiries that had 'relied on the lawfulness' of pre-1840 Pākehā claims (an oblique allusion to the Myers Commission). He reminded Wetere that the historical jurisdiction of the Treaty of Waitangi Amendment Act 1985 called for 'a full and frank disclosure of the Government's [nineteenth century] land dealings . . .' He called for a formal Ministerial inquiry into his iwi grievances.⁶⁴⁸

In preparing Wetere's response to Pangari's request, Lands and Survey research officer Kevin Cayless, retrieved the original 1840 Mangōnui Crown purchase deed at National Archives in Wellington. Cayless found New Zealand's first Crown purchase deed, missing for almost 140 years, misfiled among Internal Affairs records. He supplemented this with Darby's 1939 claims

⁶⁴⁶ Myers Commission report, 18 Oct 1948, AJHR 1948, G-8, p 15

⁶⁴⁷ Waitangi Tribunal, Muriwhenua Land report 1997, pp 346-349

⁶⁴⁸ Peter Pangari to Hon K'T Wetere, 20 Aug 1985, ABWN 6095, L&S 7/683

list from the Myers Commission records.⁶⁴⁹ Cayless then got Steven Schwarz at Lands and Survey in Auckland to plot the boundaries of the 1840 deed on a standard modern cadastral (NZMS 261) sheet.⁶⁵⁰

Cayless's report on the 'Origins of Crown Ownership' at Mangōnui East dismissed Pangari's call for a Ministerial inquiry. Cayless relied almost entirely on the 1948 Myers Commission finding that the 1840, 1841 and 1863 Mangōnui purchases extinguished 'any rights of whatsoever kind the Maoris might have had' there.⁶⁵¹ Wetere's 16 December 1985 reply to Pangari's request repeated the Cayless conclusion that in 1948 the Myers Commission established the validity of the Crown's title. Consequently, Minister of Lands Wetere denied 'any need for a Ministerial inquiry . . .'⁶⁵²

Wetere failed to add that as Minister of Maori Affairs, the Waitangi Tribunal reported to him. He neglected to notify Pangari of his right to pursue a Waitangi Tribunal claim. Fortunately, Pangari on 11 July 1986 filed what may have been the first Muriwhenua Waitangi Tribunal historical claim. In filing that claim he stated that Ngatikahu ki Whangaroa 'raised this matter with Mr Koro Wetere recently, but we are not satisfied with his response'.⁶⁵³ Wetere's Lands and Survey advisor, Cayless, even corresponded with counsel for Ngāti Kahu on Ōruru history shortly afterwards. In his 1986 correspondence, Cayless remained convinced of the validity of the 1948 Myers Commission findings on pre-1840 Muriwhenua transactions.⁶⁵⁴

⁶⁴⁹ KW Cayless, Ministerial, 3 Oct 1985, ABWN 6095, L&S 7/683

⁶⁵⁰ S Schwarz, Ministerial, 18 Oct 1985, ABWN 6095, L&S 7/683

⁶⁵¹ Cayless report, 'Origins of Crown Ownership over Lands adjoining Taemaro Block', 9 Dec 1985, ABWN 6095, L&S 7/683

⁶⁵² Wetere to Pangari, 16 Dec 1985, ABWN 6095, L&S 7/683

⁶⁵³ Pangari to Registrar, Waitangi Tribunal, 11 Jul 1986, Wai 116, #1.1

⁶⁵⁴ SE Kenderdine to Cayless, 8 Sep 1986; Cayless to Kenderdine, 11 Sep 1986; Kenderdine to Cayless, 22 Sep 1986; Cayless to Kenderdine 30 Sep 1986, ABWN 6095, L&S 7/683

Conclusion

The three major Crown inquiries into Old Land Claims failed on at least two fundamental levels. Firstly, they failed to examine the nature of pre-1840 transactions. Instead of considering Māori perspectives on transactions, commissioners assumed that all such transactions resembled western-style alienations. Secondly, commissioners failed to apply the Crown's own validity test in the disputed Mangōnui area. There Godfrey failed to inquire into conflicting claims. Instead, he recommended scrip exchanges without examining witnesses to each transaction. Subsequently, both Bell and Myers overlooked Godfrey's failure to establish the validity of Mangōnui claims. They attempted to retrospectively validate what were essentially unproven claims.

Māori Understandings of the claims process

3.1 Introduction

Evidence of Māori understandings of the claims process relies upon an incomplete and almost entirely English written record. Māori intentions, expectations and experience seldom feature in the English language sources. Some evidence of Māori understandings survives in translated witness statements. Māori wrote several letters that officials translated for the use of commissioners in their inquiries. Officials and Commissioner Godfrey also recorded Māori protests during early 1843. Subsequent Native Land Court Minute Books and Māori petitions presented further evidence. This chapter examines such evidence before considering the broader meaning of this limited evidence.

An examination of Māori understandings reveals the limitations of the written record. Evelyn Stokes in her 1997 review of Muriwhenua evidence explained these limitations in detail.⁶⁵⁵ She pointed out that the lack of explicit Māori objection in the official written record cannot be construed as consent. We cannot assume that Māori attended most commission hearings. Māori who did appear in support of claims may not have understood much about the legal consequences of their actions.

The claims process also varied from one inquiry to another with no consistent single process. Commissioners Godfrey, Bell, and later Myers treated Māori evidence differently.⁶⁵⁶ The claims process varied according to local circumstances, limiting a comprehensive Māori understanding of the process. As with other chapters in this report, this chapter builds on research already completed for the Waitangi Tribunal that also examines Māori conceptions of the claims process and complements further claimant evidence.⁶⁵⁷

⁶⁵⁵ Stokes, Muriwhenua evidence, Wai 45, doc P2, vol 2, p 659

⁶⁵⁶ See section 2.6, (p 151)

⁶⁵⁷ Stokes, Muriwhenua evidence, vol 1-2, Wai 45, doc P2; Waitangi Tribunal, Muriwhenua Land report 1997, p 97; David Armstrong, Land Claims Commission; Philippa Wyatt, 'The Old Land Claims and the Concept of 'Sale': A Case Study', Wai 45, doc E1; Barry Rigby, 'The Mangonui Area and the Taemaro Claim', Wai 45, doc A21; Barry Rigby and John Koning, 'Toitu Te Whenua E: A preliminary report on the historical evidence', Wai 45, doc A1; Wyatt, 'Issues Arising from the Evidence of F. Sinclair', Wai 45, doc I3; David Armstrong and Bruce Stirling, 'Surplus Lands, Policy and Practice: 1840-1950', Wai 45, doc J2; Salmond, Submission, Wai 45, doc D17; Rigby, 'Empire on the Cheap: Crown Policies and Purchases in Muriwhenua 1840-1850', Wai 45, doc F8; Rigby, 'Oruru Report', Wai 45, doc C1

3.2 Process, what process?

Variations in the claims process reflect changing Māori understandings, intentions, expectations, and experience as well as local circumstances. These changing processes occurred in parallel with adjoining and overlapping Crown purchases. Some of these issues have been discussed in the previous chapters.⁶⁵⁸ Stokes observed that Godfrey investigated only sixteen of more than 60 claims and that few Māori attended Godfrey's hearings.⁶⁵⁹ Due to the events at Taipā in April 1843, Godfrey attempted to settle a number of affected claims through scrip awards, 'without a formal inquiry'.⁶⁶⁰ As stated in the Waitangi Tribunal's 1997 Muriwhenua Land Report, Bell believed that the 1856 Land Claims Settlement Act prevented him from rehearing Māori evidence.⁶⁶¹ Surveyors seldom consulted Māori on boundaries. Surveyors certified only about ten per cent of the roughly 450 Old Land Claim survey plans across New Zealand as being completed 'without disturbance by the Natives'.⁶⁶² Bell also lacked the jurisdiction to re-investigate claims that had resulted in scrip awards.⁶⁶³ In 1946, the Myers Commission ruled out direct Māori oral evidence due to the lack of living witnesses, further excluding Māori from the Crown's investigation.⁶⁶⁴ Māori cannot have experienced a consistent 'claims process' that they could comprehend easily, but rather a series of different processes that continued for decades, often without their involvement.

3.3 Inadequate deed evidence

In its investigation of pre-1840 transactions, the Commission inquiries placed too much reliance on written deeds. Even when supplemented by witness statements, deeds provided limited written evidence. Deeds lacked evidence on the nature of transactions and mutual understandings. Furthermore, six claims files lack any form of written deed, and ten eastern Muriwhenua deeds were only recorded in English.⁶⁶⁵

⁶⁵⁸ See sections 2.1-2.5, (pp 126-140)

⁶⁵⁹ Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, p 658

⁶⁶⁰ Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, p 658

⁶⁶¹ Waitangi Tribunal, Muriwhenua Land report, p 131

⁶⁶² Moore, Rigby, and Russell, Rangahaua OLC report, 1997, pp 42-43

⁶⁶³ Waitangi Tribunal, Muriwhenua Land report 1997, p 131

⁶⁶⁴ Meredith submissions, 21 Nov 1946, Myers Commission proceedings, MA 91/2, p 4

⁶⁶⁵ OLC 1/5A, Half-caste claims; OLC 1/155, Ranulph Dacre, Mangonui; OLC 1/403-407, Thomas Ryan, Mangonui East & Oruru; OLC 1/443; Thomas Spicer, Mangonui; OLC 1/458, Richard Taylor, Kapowairua & Mangonui East; OLC 1/558-566, James Berghan, Oruaiti & Taipa East; OLC 1/570, Walter Brodie, Kauhoehoe; OLC 1/617-623, Thomas & Phillips, Kaiwhetu-Oneti; OLC 1/776, WG Puckey, Okurati; OLC 1/847, W Murphy, Oparera; OLC 1/850; C Olman, Mangonui; OLC 1/887-888; Hibernia Smyth, Mangonui; OLC 894-895;

3.3.1 English deeds

Of the ten claims files containing deeds written only in English, three represented ‘Sawyer’ transactions to the east of Mangōnui Harbour. Sawyer claimants James Berghan (558-566), Hibernia Smyth (OLC 887-888), and Thomas Ryan (403-407) all relied on English deeds.⁶⁶⁶ These sawyers lacked the ability to draft te reo deeds.⁶⁶⁷ Land speculator Walter Brodie could draft deeds, but only in English.⁶⁶⁸ Missionaries, by contrast, carefully prepared deeds in te reo Māori.⁶⁶⁹ Anne Salmond cautioned against relying on deeds in her 1991 evidence:

Strictly speaking the English texts of bi-lingual land deeds are evidence only of the desires and intentions of the European who drafted them. The match between the English and the Maori texts is evidence of the integrity and the linguistic ability of those same Europeans. Only the Maori texts (in so far as they were read out to monolingual, and often exclusively oral audiences of Maori speakers) are good evidence of what Maori people might have understood and agreed to.⁶⁷⁰

By contrast, the English-only deeds provide evidence of transaction details which must have remained incomprehensible to Māori. Only a deed written in te reo Māori could convey to Māori an understanding of what the transaction entailed.⁶⁷¹ In Governor Gipps’ 2 October 1840 instructions, he required commissioners to accept ‘proof of conveyance according to the customs of the country . . . in the manner deemed valid by the inhabitants’.⁶⁷² A deed committed only in English could not meet this requirement.

3.3.2 Lost or missing deeds

While English deeds shed little light on how Māori understood transactions, at least six claims files lack any form of deed at all. William Puckey withdrew his Okuraiti claim after he failed to present a deed in 1843.⁶⁷³ In 1844, Godfrey recommended no grant for Ranulph Dacre’s Mangōnui claim, because he, too, failed to file a deed.⁶⁷⁴ Godfrey noted that in Dacre’s claim,

W Wright, Mangonui; OLC 1/913-914, William Butler, Mangonui & Oneti; OLC 1/1362, J & J Berghan, Muritoki; OLC 1/1375, J Smith, Awanui

⁶⁶⁶ See section 1.5, (p 116)

⁶⁶⁷ See section 1.5.1, (p 116)

⁶⁶⁸ OLC 1/570, Walter Brodie, Kauhoehoe; See 1.2.11, (p 78)

⁶⁶⁹ See section 1.5.1, (p 116)

⁶⁷⁰ Salmond, Submission, Wai 45, doc D17, p 6

⁶⁷¹ Margaret Mutu, ‘Tuku Whenua or Land Sale? The Pre-Treaty Land Transactions of Muriwhenua’, Initial draft sent, 1992, Wai 45, doc F12, pp 19-20

⁶⁷² Gipps to Commissioners, 2 Oct 1840, BPP 1840 (569), pp 80-82

⁶⁷³ Godfrey report, 8 Apr 1843, OLC 1/776, WG Puckey, Okurati, p 3

⁶⁷⁴ Godfrey report 12 May 1844, OLC 1/155, Ranulph Dacre, Mangonui, p 3

‘the land appears to have been abandoned and sold to others by the Natives’.⁶⁷⁵ Charles Olman also failed to produce a deed, but FitzRoy nonetheless offered him scrip.⁶⁷⁶ Similarly, William Wright failed to produce deeds to support his Mangōnui claims, but FitzRoy still awarded him scrip.⁶⁷⁷ Both Godfrey and Bell failed to report John Smith’s Awanui claim on behalf of his Māori children. Smith’s 1863 claim alleged that Panakareao gifted land to Smith’s children.⁶⁷⁸ Panakareao’s death in 1856 meant his support could not be verified.⁶⁷⁹ Certainly Smith produced no authenticated deed of gift. Upon Smith’s assurance that no objection would be offered by local Māori, White and Commissioner Domett arranged a Crown grant to Smith and his Māori children in 1865.⁶⁸⁰ On the other hand, a May 1836 deed of gift supported the 1864 Crown grant to the Māori sons of James Berghan at Muritoki.⁶⁸¹ While a deed of gift supported the Berghan Muritoki grant, no such deed supported the Smith Awanui grant.

3.4 Tuku Whenua

The 1997 Muriwhenua Land Tribunal considered Māori conceptions of pre-1840 transactions as a matter of fundamental importance to its inquiry. In making findings on the historical understanding of tuku whenua, the Tribunal considered a wide range of expert evidence on the similarities and differences between customary ‘tuku whenua’ transactions and western ‘sales’ or purchases.⁶⁸² Anne Salmond, Joan Metge, and Margaret Mutu considered that Māori ‘tuku whenua’ transactions exchanged conditional land use rights similar to western leases.⁶⁸³ Mutu argued that ‘tuku whenua’ allocated of land rights with ‘a clear understanding that when these Pakeha and their descendants no longer needed to use the land it would be returned to the

⁶⁷⁵ Godfrey report 12 May 1844, OLC 1/155, Ranulph Dacre, Mangonui, p 3

⁶⁷⁶ Godfrey report 12 May 1844, OLC 1/850, C Olman, Mangonui, pp 3-4

⁶⁷⁷ Godfrey report 12 May 1844, OLC 1/894–895, W Wright, Mangonui, pp 5-6

⁶⁷⁸ Smith to Grey 8 Jan 1863, OLC 1/1375, J Smith, Awanui, p 12

⁶⁷⁹ Ballara, entry on Panakareao, DNZB, vol 1, pp 327-328

⁶⁸⁰ J Curnin cover note, 12 Jan 1872, OLC 1/1375, J Smith, Awanui, p 3; Smith Awanui Crown grant, 1 November 1865, R15, fol 333

⁶⁸¹ Berghan Muritoki deed of gift, 31 May 1836, OLC 1/1362, pp 15-16; Berghan Muritoki Crown grant, 25 October 1864, R15a, fol 327

⁶⁸² Salmond, Submission, Wai 45, doc D17; Metge, Cross Cultural Communication, Wai 45, doc F13; Wyatt, Old Land Claims, Wai 45, doc E1; Margaret Mutu, ‘Tuku Whenua or Land Sale?’ The Pre-Treaty Land Transactions of Muriwhenua, Initial draft sent, 1992, Wai 45, doc F12; Winifred Bauer, ‘Tuku Whenua: Some Linguistic Issues’, Wai 45, doc L2; Lyndsay Head, ‘An Analysis of Linguistic Issues . . .’ Wai 45, doc G5; Head, ‘An Analysis of issues in the report of Dr M Mutu on Crown purchases in Muriwhenua 1840-1865’, Wai 45, doc J7; Sinclair, Issues Arising from transactions, Wai 45, doc I3

⁶⁸³ Salmond, Submission, Wai 45, doc D17; Metge, Cross Cultural Communication, Wai 45, doc F13; Margaret Mutu, ‘Tuku Whenua or Land Sale?’ The Pre-Treaty Land Transactions of Muriwhenua, Initial draft sent, 1992, Wai 45, doc F12

tribe'.⁶⁸⁴ Fergus Sinclair and Lyndsay Head, for the Crown, suggested that Māori usage of 'tuku' in pre-1840 deeds approximated western 'sales'.⁶⁸⁵ The Muriwhenua Land Tribunal concluded that:

The traditional process of allocating land carried unique referents to continuing relationships and responsibilities, as was fundamental to Maori society. Despite changes in outer form, such fundamental values remained the same. Western land sales were diametrically opposed to the traditional concepts.⁶⁸⁶

The Tribunal also concluded that Godfrey and Bell never investigated the nature of pre-1840 transactions. Instead, they assumed that all such transactions produced permanent alienation.⁶⁸⁷ Consequently, commissioners ignored customary alternatives to alienation. The Tribunal found that pre-1840 transactions 'did not and could not have effected binding sales . . .'⁶⁸⁸

3.5 Evidence of Māori engagement with the claims process

3.5.1 OLC file contents

The claims files provide some insight into Māori understandings of the pre-1840 transactions. This evidence includes correspondence relevant to Māori signers, along with applicant and official correspondence that documented Māori reactions to commission inquiries. In the case of English correspondence, the material indicates mainly Pākehā perceptions of Māori engagement in transactions. As previously stated, the records of Godfrey's and Bell's hearings remain incomplete.⁶⁸⁹ Bell's summary hearing minutes largely omit Māori oral contributions. In most claim files Māori voices are almost entirely absent or interpreted by officials.

To illustrate the difficulty of interpreting claims evidence, we have chosen five groups of claims as case studies: Otararau, Otaki, Parapara, Mangōnui East, and Muritoki serve to illustrate the difficulty of recovering Māori voices. In most of these areas Māori generated direct correspondence, but these remain muted voices in the documentary record.

⁶⁸⁴ Mutu, Tuku Whenua or Land Sale, Wai 45, doc F12, p 5

⁶⁸⁵ Head, Analysis of Crown purchases, Wai 45, doc J7, pp 27-29; Sinclair, Issues Arising from transactions, Wai 45, doc I3, p 302-303

⁶⁸⁶ Waitangi Tribunal, Muriwhenua Land report 1997, p 74

⁶⁸⁷ Waitangi Tribunal, Muriwhenua Land report 1997, pp 392-397

⁶⁸⁸ Waitangi Tribunal, Muriwhenua Land report 1997, p 392

⁶⁸⁹ Armstrong, Land Claims Commission. Practice and Procedure: 1840-1845, Wai 45, doc I4, p 218, refers to the Spain Commission's 'voluminous evidence'.

3.5.2 Joseph Matthews Otararau-Waiokai

Joseph Matthews' Otararau-Waiokai claim stemmed from two 1835 transactions with Panakareao. He supported the claim at Godfrey's 28 January 1843 hearing. Kemp translated Panakareao's 1843 evidence that he 'sold the land' and received payments for it.⁶⁹⁰ Panakareao understood that Godfrey needed to establish the validity of these transactions. Remarkably, only Panakareao supported Matthews' Otararau-Waiokai claims.⁶⁹¹ This breached Godfrey's requirement that a minimum of two Māori witnesses confirmed each claim. Panakareao's status as a regional rangatira may explain this rare omission of a second Māori witness. Kemp wrote on behalf of Panakareao, 'That is my Signature to the two deeds [that] were shown to me. I sold the land described in them . . . & received the payment stated . . . I had a right to sell this land I have never sold it any other person'.⁶⁹² Panakareao also acknowledged a second payment made after 'not deeming the first payment sufficient'.⁶⁹³ Panakareao appeared as a witness like this on at least nine other occasions, indicating his familiarity with Godfrey's procedures. On the other hand, he presented unsworn evidence. Kemp recorded him stating that he did 'not understand the nature of an oath but declaring to tell the truth'.⁶⁹⁴ Panakareao gave a standard disclaimer for Māori giving evidence to Godfrey, suggesting his lack of familiarity with legal protocol. Similarly, Panakareao could not have fathomed how these formal procedures failed to produce Matthews' Otararau-Waiokai Crown grants for almost 16 years.⁶⁹⁵

Panakareao's support for Matthews' Otararau-Waiokai claims demonstrated his familiarity with Godfrey's procedures. He confirmed his participation in the 1835 transactions, but he did not live on the land Crown granted to Matthews in 1859. Panakareao failed to attach land-sharing conditions to the Otararau-Waiokai transactions. Such conditions featured in his subsequent 1839 Parapara transaction with Matthews.

⁶⁹⁰ Panakareao evidence 28 Jan 1843, OLC 1/328A, pp 9-10

⁶⁹¹ Godfrey report 15 Apr 1843, OLC 1/328A, pp 4-7

⁶⁹² Panakareao evidence 28 Jan 1843, OLC 1/328A, pp 9-10

⁶⁹³ Panakareao evidence 28 Jan 1843, OLC 1/328A, pp 9-10

⁶⁹⁴ Panakareao evidence 28 Jan 1843, OLC 1/328A, pp 9-10

⁶⁹⁵ J Matthews Otararau Crown grant, 15 Feb 1859, R15, fol 23; J Matthews Waiokai Crown grant, 15 Feb 1859, R15 fol, 25

3.5.3 Joseph Matthews Parapara and Walter Brodie Kauhoehoe

Wiremu Tana Papahia's objection to Joseph Matthews' Parapara claim at illustrated both delayed Māori objection to claims and the wide-ranging extent of Māori land rights affected.⁶⁹⁶ Papahia's 1855 Parapara protest addressed to Governor Browne asserted his rights as a Te Rarawa rangatira residing in Hokianga. With his father, Papahia, Wi Tana signed the Treaty of Waitangi at Mangungu on 12 February 1840. At that signing, Wi Tana objected to two large northern land claims.⁶⁹⁷ The Muriwhenua Land Tribunal considered that he objected to Richard Taylor and Samuel Ford's claims.⁶⁹⁸ Neither Wi Tana, nor his father, participated in Matthews' 1839 Parapara transaction with Panakareao. Wi Tana was recorded in 1855 as stating that 'kātahi anō ahau ka rongō/I have only just heard about it'.⁶⁹⁹ His objection came twelve years after Godfrey had reported his recommendations for the Matthews Parapara claim.

Wi Tana Papahia's Parapara protest began: 'Kua tae mai ahau ki te whare o au hoa whakamāori/I have arrived at the house of my interpreter friends [office of the Native Secretary]'.⁷⁰⁰ This suggested that he only learned of the transaction by travelling to Auckland. Papahia stated that 'kore e tukua e ahau taua whenua kia pā ia nei e Kawana/I will never allow that land to be touched by the Governor', a clear denial of the Crown's claim to surplus land at Parapara.⁷⁰¹ He also protested that, 'He tuku ngā whenua māku ki te pākehā, ka tau tēnei hē ki runga ki taku tohe mō te whenua hoki/It is said that I gave the land to the Pākehā but this mistake lies against my effort to retain the land', and noted a dispute between himself and 'Matu [Matthews], Kaitaia'.⁷⁰² Kemp translated the letter as a denial that Papahia had 'even received a sixpence' as acknowledgement of his Parapara rights.⁷⁰³ Kemp's translation also suggested that if Papahia received appropriate compensation, he would be willing to 'give up the claims I [Papahia] possess to this land'.⁷⁰⁴ The Tribunal considered that Papahia's 'primary concern was the failure to recognise his own interest and authority'.⁷⁰⁵ Papahia knew the external boundaries of

⁶⁹⁶ Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (Tama Hata translation)

⁶⁹⁷ Waitangi Tribunal, Muriwhenua Land report 1997, p 98

⁶⁹⁸ Waitangi Tribunal, Muriwhenua Land report 1997, p 98

⁶⁹⁹ Kemp's translation reads 'It is now only that I have been made aware of this fact'; Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation)

⁷⁰⁰ Kemp's translation reads Listen 'I have been at the office of the Native Secretary' Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation); Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (Tama Hata translation)

⁷⁰¹ Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (Tama Hata translation)

⁷⁰² Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (Tama Hata translation)

⁷⁰³ Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation)

⁷⁰⁴ Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation)

⁷⁰⁵ Waitangi Tribunal, Muriwhenua Land report 1997, p 193

Matthews' Parapara claim, but not the Raramata land-sharing trust arrangement negotiated with Māori.

Papahia also objected to his omission from Walter Brodie's nearby Kauhoehoe transaction which included 'wāhi tapu katoa/all my sacred places'.⁷⁰⁶ As with Matthews' transaction, Papahia believed he deserved payment and notification of Godfrey's 1843 hearing. Lack of public notification delayed Wi Tana Papahia's objection to the Matthews and Brodie claims at Parapara and Kauhoehoe. The Government Gazette announcing Godfrey's Kaitaia and Mangōnui hearings may not have reached remote rural areas north of Hokianga.⁷⁰⁷ HT Kemp later criticised Papahia for his delayed objection, but as a Subprotector in 1843 he must have been aware of the difficulties in ensuring sufficient notice of hearings.⁷⁰⁸

3.5.4 James Berghan Oruaiti-Mangōnui East

James Berghan's Oruaiti transactions related to more than two decades of misunderstanding in the larger Mangōnui East area. Leading Mangōnui sawyer claimant, James Berghan, belonged to the Ururoa-Hongi Whangaroa whānau through his 1836 marriage to Turikatuku.⁷⁰⁹ Berghan's transactions created tension between Panakareao and Pororua, even though his marriage made him a relation of both.⁷¹⁰ Berghan stated in September 1848 that both Panakareao and Pororua supported his Mangōnui claims.⁷¹¹ Berghan's whānau commitments denied him the opportunity to accept Godfrey's 1844 scrip offer.⁷¹² Godfrey had offered Berghan scrip in his attempt to remove Mangōnui claimants from the scene of tribal conflict.⁷¹³ Berghan confirmed in 1857 that Panakareao had refused to allow 'his sister [Turikatuku] or children to go to Auckland' with him.⁷¹⁴ Berghan then stated that, 'Native Chiefs having been satisfactorily examined and the

⁷⁰⁶ Kemp's translation reads 'my Sacred places a burying ground' Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (HT Kemp translation); Wi Tana Papahia to Governor 19 Sep 1855, OLC 1/328A, pp 23-30 (Tama Hata translation)

⁷⁰⁷ *New Zealand Gazette*, Vol 2, no 33, 17 Aug 1842, p 232; David Armstrong, 'The Land Claims Commission. Practice and Procedure: 1840-1845', Wai 45, doc I4, p 58-59

⁷⁰⁸ HT Kemp to Governor, 20 Sep 1855, OLC 1/328B, p 1; Waitangi Tribunal, Muriwhenua Land report 1997, p 127

⁷⁰⁹ Muritoki deed of gift 31 May 1836. OLC 1/1362, pp 15-16, 20

⁷¹⁰ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6, Turikatuku was connected to Te Ururoa

⁷¹¹ Berghan to White 25 Sep 1848, OLC 1/558-566, p 23

⁷¹² Godfrey report, 12 May 1844, OLC 1/558-566, p 9

⁷¹³ Godfrey report, 12 May 1844, OLC 1/558-566, p 9

⁷¹⁴ Berghan to White 25 Sep 1848; Berghan to Carleton, 1857, OLC 1/558-566, pp 23, 53-56

boundaries of my claims defined by the Resident Magistrate [WB White] and Native Chiefs'.⁷¹⁵ Māori probably traversed the boundaries of Berghan's claims with Thomas Florance, his surveyor. White took this initiative without Bell's statutory authority since Bell routinely supported his 'settlement' of local claims.⁷¹⁶ Pororua and eleven other Māori verified Berghan's boundaries in a signed 3 October 1857 statement.⁷¹⁷ No Whangaroa rangatira signed the 1857 statement.⁷¹⁸

White observed in the Mangōnui East area that 'after Noperas death many claimants sprung up whose voices were still during his life time'.⁷¹⁹ White asserted in late 1862 that the 'whole eastern side of Mongonui harbour' belonged to the 'Government, exchanged or settled claims, Berghan's claim inclusive'.⁷²⁰ Earlier in 1862, however, White had reported that, 'Pororua and the Natives along the Coast reclaimed all the land from the Whakapaku Block to Mongonui . . .'.⁷²¹ While White objected to this, he admitted that there was 'a portion of this block, which as far as I can ascertain, really belongs to the natives, situated at the back of James Berhan[']s'.⁷²² White's endeavour to alienate this land caused further dispute. White stated that he had forbidden Rakena Waiaua's 1857-1858 attempt to gift the land to 'Flavells' children.⁷²³ He admitted that Pororua had 'at last established a claim of a piece at the back of Berghan's Orouriti [Oruaiti] land', which Berghan had not claimed.⁷²⁴ White noted that Berghan 'surveyed what he had claimed and there was no surplus', but that 'Pororua and his party' admitted Berghan's claim to 'just the 600 acres'.⁷²⁵ White alleged that Berghan attempted to conceal the surplus, but Bell later rejected White's allegation.⁷²⁶ White also dismissed Mangōnui protests by stating he had 'a very low opinion of the whole party' of protestors.⁷²⁷ White added that those involved had 'quarrelled with Pororua Te Taepa's party' and requested an additional payment of 'fifty or one hundred

⁷¹⁵ It is unclear if this was a reconfirmation of Berghan's claim boundaries. Surveyor Thomas Florance had already completed surveys for Berghan at Oruaiti (OLC plans 104-105), Taipā and Kohekohe (OLC plan 129) before 1857; Berghan to Carleton 1857, OLC 1/558-566, pp 53-54

⁷¹⁶ Waitangi Tribunal, Muriwhenua Land report 1997, p 189

⁷¹⁷ White evidence 3 Oct 1857, OLC 1/558-566, p 87; Berghan restated that Pororua Wharekauri later confirmed the boundaries 'according to the boundaries marked by him and others when purchased in 1837'. Berghan to Bell 20 Jul 1859, OLC 1/558-566, pp 92-93

⁷¹⁸ White evidence 3 Oct 1857, OLC 1/558-566, p 87

⁷¹⁹ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁰ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²¹ White to McLean 13 Feb 1862, OLC 1/558-566, pp 134-137

⁷²² White to McLean 13 Feb 1862, OLC 1/558-566, pp 134-137

⁷²³ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁴ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁵ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁶ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁷ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

pounds'.⁷²⁸ On the other hand, he believed Pororua was 'at the bottom of the whole affair but has been afraid of compromising his [assessor's] salary'.⁷²⁹ He concluded that 'They [Māori] do not even deny that the land has been sold before'.⁷³⁰

The party White complained about sent a petition with 38 signatories to Governor Grey on 20 November 1862.⁷³¹ The petitioners objected to White's actions in preparing what later became the 1863 Mangōnui Crown purchase.⁷³² Petitioners led by Te Rakena Waiaua, Rewiri Kaiwaka, and Te Huirama Tukariri, alleged that the land White was attempting to purchase was 'i tangohia e Te Waiti/taken by Te Waiti [White]'.⁷³³ They implicated Pororua as colluding with White.⁷³⁴ The petitioners distrusted Pororua, despite his differences with White.⁷³⁵ They added that they would 'kore mātou e whakarongo ki tōna reo nō te mea i ahu mai ana, i tāna hoa i a Waiti Te Kino/not listen to his voice, because it comes through his associate, White the Wrongdoer'.⁷³⁶

The 1862 dispute demonstrated the confusion arising when White's Crown purchase negotiations overlapped pre-1840s land claims. The November 1862 petitioners believed that White combined uninvestigated pre-1840 claims with Crown purchase negotiations to extinguish their Mangōnui East rights.

The 1862-1863 Mangōnui East dispute revealed that neither Māori petitioners nor the Crown fully understood its historical antecedents. Godfrey never investigated the pre-1840 Mangōnui transactions prior to making scrip recommendations.⁷³⁷ The rangatira who in 1857 confirmed Berghan's Mangōnui claims did so to keep his whānau from leaving the area.⁷³⁸ His Crown grants sealed their alliance with his local whānau.⁷³⁹ By 1862, Māori had 'reclaimed' land along the coast north of Mangōnui and north of Berghan's Oruaiti, Kohekohe and Taipā East Crown grants.⁷⁴⁰

⁷²⁸ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷²⁹ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷³⁰ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷³¹ Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143

⁷³² Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143

⁷³³ Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143 (Tama Hata translation)

⁷³⁴ Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143

⁷³⁵ Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143

⁷³⁶ Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143 (Tama Hata translation)

⁷³⁷ Berghan to White 25 Sep 1848, OLC 1/558-566, p 23

⁷³⁸ Pororua & ors signed statement 3 Oct 1857, OLC 1/558-566, p 87

⁷³⁹ White to McLean 30 Dec 1862, OLC 1/558-566, pp 127-132

⁷⁴⁰ White to McLean 13 Feb 1862, OLC 1/558-566, pp 134-137

3.5.5 Henry Southee and William Maxwell Awanui-Otaki

Henry Southee and William Maxwell's Awanui and Otaki claims dominated the area all the way to Te Oneroa-a Tohe (Ninety Mile Beach). Southee had married the daughter of Ruanui Kauri, the local rangatira, in 1838, to establish his standing in the community.⁷⁴¹ Southee's subsequent transfer of much of his claim to William Maxwell weakened the relationship that had underpinned the original Southee Awanui transaction. It also changed Māori understandings and expectations of the process. While Māori cooperated with their relative Southee, he transferred much of his claim to Maxwell without their consent.⁷⁴² Community support for Southee featured in Panakareao's support for his claim, together with Puhipi, Ruanui, and Joseph Matthews, at Godfrey's 31 January 1843 Kaitaia hearing.⁷⁴³

At that hearing close, Ruanui was recorded as stating that Matthews negotiated the transaction on behalf of Southee in 1839.⁷⁴⁴ All four witnesses specified that 'the Natives retain the right of living and cultivating along the banks of the river'.⁷⁴⁵ These land-sharing conditions maintained the alliance between Southee and the Awanui community.

Panakareao reiterated his support for Southee's claim in his 1845 letter to Governor FitzRoy.⁷⁴⁶ In it Panakareao laid out the nature of Southee's relationship with his Māori neighbours. Panakareao omitted William Maxwell's name, even though Southee transferred most of his Awanui claim to him in 1843. Panakareao also omitted mention of William Powditch and Gilbert Mair's mortgages on Southee's claim. Notwithstanding Southee's loss of his immediate whānau to disease, Panakareao informed FitzRoy that 'mātou pākehā me mātou anō e aroha atu ki a ia kia/He [Southee] is our Pākehā, and we ourselves hold affection for him', indicating an enduring relationship.⁷⁴⁷ Panakareao also told FitzRoy that 'kia tukua anō e koe taua whenua e hoatu ana e mātou mōna, āke, ake/You [FitzRoy] should honour his deed, and release again to him the land that we gave to him, forever'.⁷⁴⁸

⁷⁴¹ See section 1.2.7, (p 67)

⁷⁴² WG [Mair?] to Maxwell nd; Southee-Mair agreement (with map) nd, OLC 1/875-877, pp 23, 51-53

⁷⁴³ Southee, Panakareao, Ruanui, J Matthews, Puhipi evidence 31 Jan 1843, OLC 1/875-877, pp 6-8

⁷⁴⁴ Southee Otaki deed 17 Dec 1839 (Engl), OLC 1/875-877, pp 12-13

⁷⁴⁵ Southee, Panakareao, Ruanui, J Matthews, Puhipi evidence 31 Jan 1843, OLC 1/875-877, pp 6-8

⁷⁴⁶ Panakareao to Gov 15 Apr 1845, OLC 1/875-877, pp 55-57

⁷⁴⁷ Panakareao to Gov 15 Apr 1845, OLC 1/875-877, pp 55-57; For further discussion of the detail of this see 1.2.7, (p 67)

⁷⁴⁸ Kemp's translation read 'be kind to him our European – as we regard him ourselves', Panakareao to Gov 15 Apr 1845, OLC 1/875-877, pp 55-57 (HT Kemp translation); Panakareao to Gov 15 Apr 1845, OLC 1/875-877, pp 55-57 (Tama Hata translation); Panakareao's statement does not mention the earlier 1838 deed which excluded Southee; Awanui deed of gift, 1 Jun 1838 (te reo), OLC 1/875-877, pp 121-122 (Tama Hata translation)

Maxwell, Southee's successor, did not have a close relationship with the local Māori community. By the 1850s he was engaged in protracted local boundary disputes with them.⁷⁴⁹ These disputes centred around Māori continuing to use part of the unsurveyed sandhills area for grazing cattle and for gum digging. Maxwell sought to define the sandhills as within his claim in order to prevent gumdigging on 'his land'.⁷⁵⁰ White observed in early 1856 that his 'principal difficulty with the Natives arises in preventing Noble [Panakareao], and others, from interfering with the Europeans', in reaction to Maxwell's provocations.⁷⁵¹ During Bell's 5 October 1857 hearing of Maxwell's claim, eleven Māori filed an undated statement that allowed Clarke to complete his survey for Maxwell.⁷⁵² This statement ratified a 200-acre Waimanoni reserve for Māori and their continued use of 'government [surplus] land' as a cattle run.⁷⁵³ In return, Māori agreed to 'give up the rest of the land bought by Southee', which implied the sandhills.⁷⁵⁴ This indicates that by 1857, some Māori were aware that their access to the land west of Maxwell's eventual Crown grant could be restricted.

Nonetheless, Clarke's survey of the sandhills for Maxwell in 1857 proved problematic. Local Māori prevented Clarke from completing his survey on at least two occasions.⁷⁵⁵ White in March 1858 stated that Maxwell 'must have perfectly understood that the reserve by "Busby" extended along the coast excluding his own claim'. White even accused Maxwell and Clarke of surveying the disputed sandhills without Māori knowledge.⁷⁵⁶ Māori, led by Ahipara-based Puhipi, persisted in obstructing the sandhills survey. They considered the sandhills as the western boundary of Maxwell's claim.⁷⁵⁷ Maxwell complained to Bell in May 1858 that he had 'no legal power' to prevent Māori from continuing to dig gum in the sandhills.⁷⁵⁸ He alleged that, while White allowed Māori access to the sandhills, 'until the grant is issued all the [surplus] land belongs to the Government'.⁷⁵⁹

⁷⁴⁹ See section 1.2.7, (p 67)

⁷⁵⁰ See section 1.2.7, (p 67); White to Col Sec 26 Jan 1856, OLC 1/875-877, pp 99-102

⁷⁵¹ White to Col Sec 26 Jan 1856, OLC 1/875-877, pp 99-102

⁷⁵² Reserve agreement (Engl) nd., OLC 1/875-877, p 104

⁷⁵³ Signatories were Henare Popata, Haretanga, Hetaraka, Haim Ona, Wata kaki, Raharuki, Riurei Kakingare, Hoheopa Whata, Kapinaua Paikaha, Wieremu Tanaru, Paraone Ngapuhi in Reserve agreement (Engl) nd., OLC 1/875-877, p 104

⁷⁵⁴ Reserve agreement (Engl) nd., OLC 1/875-877, p 104

⁷⁵⁵ According to WH Clarke's account William Maxwell's brother Christopher Maxwell, not Māori, acted as his guide in surveying the claim's boundary. Boast, Surplus lands, pp 189-190

⁷⁵⁶ White to Bell, 23 Mar 1858, OLC 1/875-877, pp 209-214

⁷⁵⁷ White to Bell, 23 Mar 1858, OLC 1/875-877, pp 209-214; Boast, Surplus lands, pp 190-191

⁷⁵⁸ Maxwell to Bell 25 May 1858, OLC 1/875-877, pp 140-144

⁷⁵⁹ Maxwell to Bell 25 May 1858, OLC 1/875-877, pp 140-144

White in July 1858 wrote to Bell that ‘Busby and other Ahipara Chiefs seldom come to Monganui without objecting to it [Maxwell’s claim]’⁷⁶⁰ White condemned Maxwell for preventing Māori from ‘using the reserve’ to dig gum ‘[in] a most arbitrary and tyrannical’ way.⁷⁶¹ White informed Maxwell that ‘as soon as the Survey was completed, and the boundaries properly defined that these difficulties would cease’.⁷⁶² During July, Henare Popata signed a statement objecting to Maxwell’s survey. Popata was recorded as stating that ‘I have been to Mr Maxwell since the land has been Surveyed. I told him he had surveyed my land’. Popata also observed that he had been the ‘person who marked off the land’ during the initial 1839 transaction.⁷⁶³ The dispute intensified and by 19 July the surveyor Mr. Clarke noted that ‘It [the survey] cannot be finished till Mr. Bell has communicated with you as to the native dispute’.⁷⁶⁴ Leading Ahipara rangatira Puhipi told White in August 1858 that the sandhills surplus had not been included in the original transaction.⁷⁶⁵ When Clarke continued the survey, Māori seized his theodolite to obstruct him.⁷⁶⁶ The obstructors then assaulted Puhipi when he attempted to recover the theodolite.⁷⁶⁷ These protestors obviously saw surveying as the last step in the effective alienation of their land. They realised that unless they stopped Clarke’s sandhills survey, they would lose all hope of recovering it as a large reserve.⁷⁶⁸

3.5.6 James and Joseph Berghan Jr Muritoki

Overwhelming Māori support for James and Joseph Berghan’s claim to Muritoki was due to its customary nature. The Berghan’s Muritoki claim generated half of all direct Māori correspondence as preserved in the Muriwhenua claims files. The Berghan whānau’s intimate relationship with Whangaroa and Muriwhenua iwi and hapū explained Māori support. As the sons of James Berghan and Turikatuku, James and Joseph Berghan belonged to the Ururoa-Hongi Whangaroa whānau.⁷⁶⁹ Whangaroa whānau gifted Muritoki in recognition of Berghan’s marriage to Turikatuku.⁷⁷⁰ A conventional English deed of transfer signed by Ururoa, Hare

⁷⁶⁰ White to Bell 8 Jul 1858, OLC 1/875-877, pp 145-151

⁷⁶¹ White to Bell 8 Jul 1858, OLC 1/875-877, pp 145-151

⁷⁶² White to Bell 8 Jul 1858, OLC 1/875-877, pp 145-151

⁷⁶³ White to Bell 8 Jul 1858, OLC 1/875-877, pp 145-151

⁷⁶⁴ Maxwell to Bell 19 Jul 1858, OLC 1/875-877, p 132-134

⁷⁶⁵ White to Bell 16 Aug 1858, OLC 1/875-877, pp 152-155; Register of Chiefs c1865, MA 23/25

⁷⁶⁶ White to Bell 16 Aug 1858, OLC 1/875-877, pp 152-155

⁷⁶⁷ White to Bell 16 Aug 1858, OLC 1/875-877, pp 152-155

⁷⁶⁸ See section 2.5.5, (p 132)

⁷⁶⁹ See section 1.2.16, (p 85)

⁷⁷⁰ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, p 20

Hongi Hika, Taepa, Pororua, Kiwa, and other rangatira on 30 May 1836 immediately preceded the 31 May deed of gift.⁷⁷¹ The first deed mimicking ‘the New Zealand manner of selling land’ included the usual exchange of goods.⁷⁷² The subsequent 31 May 1836 deed of gift for the same land expressed customary imperatives.⁷⁷³ The 31 May deed of gift stated, ‘For the love and good will we bear unto our near blood Relation (Turi) do give grant and make over unto her and her Children by James Berghan of Mongonui’.⁷⁷⁴ While James Berghan Sr exchanged goods in both transactions, he again mimicked conventional transfers.⁷⁷⁵ Such payments anticipated the Crown’s opposition to deeds of gift as not legally binding contracts.⁷⁷⁶ This rendered the Muritoki deed of gift a Muriwhenua rarity. The Crown later described the gifting as a ‘Half-Caste claim’.⁷⁷⁷ Paora Patete Ururoa in 1864, on the other hand, referred to the Berghan children beneficiaries as ‘our own’.⁷⁷⁸

Māori defended the legitimacy of both 1836 transactions. Te Ururoa and Nōpera Panakareao claimed credit for gifting the land.⁷⁷⁹ Essentially, Turikatuku’s Muritoki dowry gave her children’s gift customary authority.⁷⁸⁰ James Berghan Sr maintained that the donors, Panakareao, Te Ururoa, and Hare Hongi Hika all belonged to the same whānau.⁷⁸¹ They all supported the Berghan children’s claim. Although Te Ururoa expected the Crown to ratify the gift, neither Godfrey nor Bell investigated the Muritoki claim.⁷⁸² Panakareao asked White in 1848 to settle all Berghan’s claims, including Muritoki.⁷⁸³ Panakareao was recorded as stating that it was his right to gift Muritoki, since he was a ‘near relation to all the chiefs about’.⁷⁸⁴ Hobson may have assumed that the 1840-1841 Mangōnui ‘purchases’ had included Muritoki, but it remained terra incognita.⁷⁸⁵

Te Ururoa, Pororua and Te Morenga appeared before Bell in October 1857 and signed a statement confirming that they had ‘given certain lands to . . . the children of Berghan by my

⁷⁷¹ Berghan Muritoki deed 30 May 1836 (Engl), OLC 1/1362, pp 13-14

⁷⁷² Berghan Muritoki deed 30 May 1836 (Engl), OLC 1/1362, pp 13-14

⁷⁷³ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, pp 15-16

⁷⁷⁴ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, p 20

⁷⁷⁵ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, pp 15-16

⁷⁷⁶ See section 1.2.16, (p 85)

⁷⁷⁷ See section 1.2.16, (p 85); Undated note on Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, p 16

⁷⁷⁸ Ururoa to Governor 15 Jul 1864, OLC 1/1362, pp 54-56

⁷⁷⁹ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸⁰ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸¹ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸² James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸³ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸⁴ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

⁷⁸⁵ James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6

Daughter [Turikatukū]'. Te Ururoa urged completion of the Muritoki survey (which he evidently believed to be a Crown responsibility) so that a grant could be given to the Berghan children.⁷⁸⁶ Māori requesting a Muritoki Crown grant wrote nine letters between 1861-1864 to press their case. Pororua, Paora Ururoa, Hare Hongi Hika, and Hohepa Kiwa persisted in their support for the Berghan children's grant.⁷⁸⁷ They also referred to how Bell had already awarded the land to Berghan and his sons.⁷⁸⁸ The letter closed with the statement that 'He mea hoko hē te hoko i te kāinga o te pākehā/It is a wrongful sale, the sale of the Pākehā settlement'.⁷⁸⁹ The writers may have been referring to the Berghan brothers' suspicion that Hare Hongi Hika was conspiring with the Crown to include Muritoki in its 1863 Pupuke Crown Purchase.⁷⁹⁰ The same writers sent a further letter a month later.⁷⁹¹ In this case, they addressed it to Governor Grey, requesting a Crown grant.⁷⁹² The writers stated that 'Ururoa Renata Pu [sic]', Hare Hongi, Hohepa Kiwa, and Pororua were in a dispute with other Māori over the transaction.⁷⁹³ Pororua and his brother Hohepa Kiwa also confusingly observed that 'the land was not finished (paid for fully) in time' but that it was 'sold to the Queen'.⁷⁹⁴

Pororua, Hare Hongi Hika, and Paora Ururoa as 'President of Runanga' in late 1863 once again appealed to Bell to order a Muritoki Crown grant.⁷⁹⁵ They repeated their support for Berghan's claim on behalf of his sons.⁷⁹⁶ Once more they requested a Muritoki Crown grant.⁷⁹⁷ The same month, James Berghan Sr informed the then Native Minister and former Commissioner Bell that Pororua, Hongi Hika, Paora Ururoa, Ruinga, and Mihi Te Pahi had defined the boundary of the 1862 Muritoki survey.⁷⁹⁸ Berghan again repeated that the rangatira were 'very anxious to have this claim settled for their near blood relatives'.⁷⁹⁹ His children reminded the Native Minister in July 1864 that the land was 'set apart for us by our near blood relatives Ururoa, Hongi Heka and other chiefs of Wangaroa – and the Taepa and his sons Pororua and Ekiwa of Mangonui'.⁸⁰⁰

⁷⁸⁶ Te Ururoa evidence 3 Oct 1857, OLC 1/1362, p 12

⁷⁸⁷ Pororua & Kiwa to McLean 14 Jun 1861, OLC 1/1362, p 78

⁷⁸⁸ Pororua & Kiwa to McLean 14 Jun 1861, OLC 1/1362, p 78

⁷⁸⁹ Pororua & Kiwa to McLean 14 Jun 1861, OLC 1/1362, p 78 (Tama Hata translation)

⁷⁹⁰ See section 1.2.16, (p 85); J & J Berghan Jr to Browne [misfiled], 27 May 1861, OLC 1/330, p 65

⁷⁹¹ Pororua & Kiwa to Governor 13 Jul 1861, OLC 1/1362, pp 68-72

⁷⁹² Pororua & Kiwa to Governor 13 Jul 1861 OLC 1/1362, pp 68-72

⁷⁹³ Pororua & Kiwa to Governor 13 Jul 1861 OLC 1/1362, pp 68-72

⁷⁹⁴ Pororua & Kiwa to Governor 13 Jul 1861 OLC 1/1362, pp 68-72

⁷⁹⁵ Pororua, Hongi & Ururoa to Gov 6 Oct 1863, OLC 1/1362, pp 65-67

⁷⁹⁶ Pororua, Hongi & Ururoa to Gov 6 Oct 1863, OLC 1/1362, pp 65-67

⁷⁹⁷ Pororua, Hongi & Ururoa to Gov 6 Oct 1863, OLC 1/1362, pp 65-67

⁷⁹⁸ Berghan to Bell 6, 26 Oct 1863, OLC 1/1362, pp 44-46

⁷⁹⁹ Berghan to Bell 6, 26 Oct 1863, OLC 1/1362, pp 44-46

⁸⁰⁰ J & J Berghan to Nat Min 22 Jul 1864, OLC 1/1362, p 47

Pororua, Hare Hongi Hika, and Paora Ururoa's August 1864 letter laid out the claims process as they understood it:

I te taenga mai o Te Pere ki Mangonui ka whakamātau i te kāinga mō ngā tamariki a Himi Parikena, a Paora, a Hongi, [arā] noa kua tae mātou katoa ki a Te Pere. Kua rite te kāinga o ngā tamariki ki muri iho ka tae mai te pukapuka o Te Pere kia ruriā, ka ruriā, kua oti te ruri kua tae mai te mapi ki te [whare whakawā] ki a māua ko Te Waiti ka puta te kupu a te Waiti e Pororua he pono tēnei kāinga mō ā mātou tamariki tēnei kāinga, nō reira ka tuhia taua ingoa ki roto ki te pukapuka, ka mapi, kua tae atu taua mapi ki te whare o Te Pere i Ākarana.

Ko te mutunga tēnei, e pīrangi ana mātou ki tētahi pukapuka pono mā ngā tamariki mō tō rātou kāinga

When Te Pere [Bell] arrived in Mangonui, he investigated the land for the children of Himi Parikena, Paora, and Hongi. All of us went to Te Pere. The land for the children was confirmed, and afterwards the document from Te Pere arrived for it to be surveyed. It was surveyed, completed, and the map was submitted to the court, to myself and Te Waiti [White]. A statement was made by Te Waiti and Pororua that this land was indeed for our children. Therefore, that name was written into the document and mapped. That map has now reached Te Pere's office in Auckland.

This is the end of the matter we now request a proper legal deed for the children, for their land.⁸⁰¹

Clearly, Pororua, Hongi, and Ururoa understood how to get the Berghan brothers a Crown grant. They appeared at Bell's 1857 hearing. Subsequently, after some confusion regarding who would commission the survey, Berghan evidently arranged the completion of the 1862 Muritoki survey. He also ensured that White approved the Muritoki plan.⁸⁰² Although White approved the plan in early 1863, Pororua, Hongi, and Ururoa remained anxious to confirm the Crown grant.⁸⁰³ They wrote further letters in 1865 requesting the long delayed Muritoki Crown grant.⁸⁰⁴ Pororua suggested to the Governor that 'e kore koe e rongō ki ōku pukapuka, me haere atu au ki

⁸⁰¹ The official translation reads 'When Mr Bell came to Mangonui – we had decided about the place for Berghans Children Myself – Pororua, (Hare) Hongi & Ururoa – we then all went to Mr Bell and made the matter straight – afterwards a letter came from Mr Bell for the land to be surveyed – it was surveyed. That completed the map was sent to the court house (Mangonui) to Mr White & Myself – Mr White then asked me "Pororua is it correct about this land . . . (to which I replied) yes this place is for our children upon which he wrote his name upon the map & it was then sent to Mr Bell's office in Auckland – those are all the circumstances of the case' Pororua, Hongi & Ururoa to Gov 1 Aug 1864, OLC 1/1362, pp 49-50; Pororua, Hongi & Ururoa to Gov 1 Aug 1864, OLC 1/1362, pp 49-52, (Tama Hata translation)

⁸⁰² N. Muritoki, OLC plan 103, 1862

⁸⁰³ Pororua, Hongi & Ururoa to Gov 1 Aug 1864, OLC 1/1362, pp 49-52

⁸⁰⁴ Pororua to Land Claims Commissioner (Domett) 28 Jan 1865, OLC 1/1362, pp 33-34

Akarana/if you continue to ignore my letters, I will come to Auckland myself.⁸⁰⁵ Commissioner Domett signed the 2,414 acres Muritoki Crown grant in October 1864.⁸⁰⁶

Berghan Sr understood the importance of rangatira support for the Muritoki Crown grant.⁸⁰⁷ He, like the rangatira involved in gifting the land, realised that only a Crown grant would guarantee secure title for the Berghan sons. Given the Crown's promptness in delivering grants to other claimants, its tardiness in producing the Muritoki Crown grant suggests unequal attention to 'Half-caste claims' based on gifting. Over the decades after the original 1836 transactions, Māori increasingly recognised that the need to secure a Crown grant for their relatives required extraordinary persistence. As such, Māori engagement with the Muritoki Crown grant was more evidence of Māori agency in support of their customary arrangements than an adoption of the official process. Sadly, by 1870 the Berghan brothers transferred most of Muritoki to Captain William Butler.⁸⁰⁸ Whether they consulted their whanaunga prior to selling Muritoki to Butler was not recorded.

3.6 1840-43 Ōruru-Mangōnui conflicts

The 1840-1843 Ōruru-Mangōnui conflicts blighted the beginning of both Crown purchasing and commission inquiries. The Crown's duplicate 1840-1841 Mangōnui 'purchases' overlapped many private claims.⁸⁰⁹ Samuel Ford's two Ōruru transactions negotiated with Panakareao, and Mangōnui sawyer transactions negotiated with Pororua revealed competing customary interests.⁸¹⁰ The 1840-1841 Mangōnui 'purchases' epitomised these competing customary interests.⁸¹¹ The Muriwhenua Land Tribunal concluded that Panakareao and Pororua saw the 1840-1841 'purchases' as recognising their mutual authority.⁸¹² The Crown confused itself by thinking Panakareao prevailed at Ōruru, and Pororua at Mangōnui.⁸¹³ The two leading rangatira each contended for primacy in both areas, and the 1840-1841 'purchases' embraced both.⁸¹⁴

⁸⁰⁵ Pororua to Governor 21 January 1864, OLC 1/1362, pp 36-43 (Tama Hata translation)

⁸⁰⁶ See section 1.2.16, (p 85); Section 13, Land Claims Settlement Extension Act 1858. Pororua to Governor 21 January 1864, OLC 1/1362, pp 36-43

⁸⁰⁷ James Berghan Sr statement, nd., OLC 1/1362, p 10

⁸⁰⁸ See section 1.2.16, (p 85)

⁸⁰⁹ Rigby, Oruru report, Wai 45, doc C1, pp 20, 25

⁸¹⁰ Ford evidence 4 Mar 1844, OLC 1/704, pp 8-9; Waitangi Tribunal, Muriwhenua Land report 1997, p 119

⁸¹¹ Waitangi Tribunal, Muriwhenua Land report 1997, pp 217-218

⁸¹² Waitangi Tribunal, Muriwhenua Land report 1997, p 120

⁸¹³ Waitangi Tribunal, Muriwhenua Land report 1997, pp 78-79

⁸¹⁴ Waitangi Tribunal, Muriwhenua Land report 1997, pp 135-316

Missing Māori voices limit our understanding of the customary Ōruru-Mangōnui conflicts. The Crown recorded only ‘official’ perspectives and observations. Crown officials such as Protector of Aborigines Clarke sometimes reported Māori perspectives, but he favoured official perspectives heavily influenced by his Christian commitment to reconciliation.⁸¹⁵ Thus he considered the duplicate 1840-1841 Crown purchases as ‘the most healing measure’, when clearly they failed to heal anything.⁸¹⁶

3.6.1 Summary of events

The familiar sequence of the Ōruru-Mangōnui conflicts traversed earlier requires only a brief recapitulation. The Ōruru land between Te Rarawa in western Muriwhenua and Ngāpuhi in the south, invited dispute.⁸¹⁷ Due to its central location, Ōruru was a disputed border area between Te Rarawa and Ngāpuhi.⁸¹⁸ Both Panakareao and Pororua were related to Ngāti Kahu and both claimed primacy at Ōruru, either by birth, marriage, or conquest.⁸¹⁹ The 1997 Tribunal doubted their authority to ‘represent the local Ngāti Kahu community’, although both as Ngāti Kahu descendants could prove their ancestral rights to the land in question.⁸²⁰

The Crown’s duplicate 1840 and 1841 ‘purchases’ attempted to resolve the conflict between the leading rangatira, but only compounded rival pre-1840 transactions in the Ōruru-Mangōnui area.⁸²¹ Far from resolving the dispute, the 1840-1841 ‘purchases’ stoked the fires of customary conflict.⁸²² Stokes noted in her 1997 review of the evidence that the Crown ignored the vested interests of Mangōnui settlers, who negotiated their transactions with Pororua rather than with Panakareao.⁸²³ The Crown’s June 1840 effort to placate Panakareao failed. He led an expedition of 250 people to Mangōnui in August 1840 to assert his authority there.⁸²⁴ On that occasion, Pororua’s strenuous opposition forced Panakareao to withdraw to Kaitaia.⁸²⁵ Clarke’s subsequent mediation, based on treating the Ōruru river as a boundary between Panakareao and Pororua’s

⁸¹⁵ Report of House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844, (556), pp 269-276

⁸¹⁶ Protectors report, n.d., encl in Clarke to Col Sec, 1 September 1845, BPP 1846 (337), pp 125-127

⁸¹⁷ Waitangi Tribunal, Muriwhenua Land report 1997, pp 14, 79; Ōruru, Northland, NZ Topo50 Map

⁸¹⁸ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

⁸¹⁹ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

⁸²⁰ Waitangi Tribunal, Muriwhenua Land report 1997, p 79

⁸²¹ Rigby, *Empire on the Cheap*, Wai 45, doc F8, pp 36-43

⁸²² Waitangi Tribunal, Muriwhenua Land report 1997, p 118

⁸²³ Stokes, *Muriwhenua evidence*, vol 2, Wai 45, doc P2, p 234.

⁸²⁴ ‘To the Editor of the New Zealand Advertiser and Bay of Islands Gazette’. *New Zealand Advertiser and Bay of Islands Gazette*, Volume I, Issue X, 13 August 1840, p 3

⁸²⁵ ‘To the Editor of the New Zealand Advertiser and Bay of Islands Gazette’, 13 August 1840, p 3

spheres of influence, also failed.⁸²⁶ With the fundamental conflict unresolved, Commissioner Godfrey's arrival at Mangōnui in January 1843 exacerbated tensions.

At Godfrey's 11 January 1843 Mangōnui hearing, he allowed both Panakareao and Pororua to veto the claims they had not negotiated. Thus, Panakareao vetoed Pororua's Mangōnui sawyer transactions, while Pororua vetoed Panakareao's Ōruru missionary transactions.⁸²⁷ Sporadic conflict between Te Rarawa and Ngāpuhi erupted in armed conflict at Taipā in April 1843.⁸²⁸ Elements of Ngāti Kahu sided with both the Ngāpuhi and Te Rarawa coalitions.⁸²⁹ Ngāpuhi forces again compelled Panakareao to retreat to Kaitaia.⁸³⁰ Protector Clarke witnessed the clash at Taipā after he unsuccessfully attempted to mediate the conflict.⁸³¹ The sporadic fighting after early April 1843 cost at least 23 Māori lives.⁸³²

Karikari claimant Walter Brodie criticised Crown actions at Taipā in the House of Commons Select Committee for New Zealand 1844 hearing.⁸³³ There he alleged that both Clarke's duplicate purchases and Godfrey's Mangōnui hearing caused the 1843 Taipā clash.⁸³⁴ Brodie accused Godfrey of favouring Māori at his 1843 hearings. He stated, 'that if a native disputed any land, and the case came before the court, the chances were that the Commissioners would give it against the Europeans'.⁸³⁵ Clarke later corrected the record by refuting a number of Brodie's unsubstantiated accusations.⁸³⁶

⁸²⁶ The document and its contents no longer exist but were referred to by George Clarke in his undated Protector's report. Clarke to Col Sec, nd, BPP 1846 (337), pp 125-127

⁸²⁷ Godfrey to Col Sec, 15 Jan 1843, BPP 1844 (556), pp 125-126

⁸²⁸ Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), pp 109-112

⁸²⁹ Kohumaru evidence 2 Oct 1901, NMB vol 31, p 185

⁸³⁰ 'Untitled', *New Zealand Colonist and Port Nicholson Advertiser*, Volume I, Issue 88, 2 June 1843, p 4

⁸³¹ Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), pp 109-112

⁸³² Exact casualty estimates differ. See Clarke to Col Sec, 1 Jun 1843, 1 Sep 1845, BPP, 1846 (337), pp 109-112, 123-125; Rigby and Koning, Preliminary report, p 68; Waitangi Tribunal, *Mangonui Sewerage Report*, (Wellington: Department of Justice, 1988), p 20; Walter Brodie, *Remarks on the Present and Past State of New Zealand*. (London: Whitaker & Co, 1845), p 38

⁸³³ Report of House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844, (556), pp 268-272, 453-454. Walter Brodie was the Kauhoehoe claimant (OLC 570) on the Karikari Peninsula. Godfrey report, 15 Apr 1843, OLC 1/570, pp 3-7

⁸³⁴ Select Committee on New Zealand, 29 Jul 1844, BPP 1844, (556), p 35

⁸³⁵ Select Committee on New Zealand, 29 Jul 1844, BPP 1844, (556), p 46

⁸³⁶ Clarke to Col Sec, 1 Sep 1845, BPP 1846 (337), pp 123-125

3.6.2 Customary clash at Mangōnui

When Godfrey arrived at Mangōnui on 11 January 1843, Panakareao and Pororua's rivalry dominated his first hearing.⁸³⁷ Pororua conceded that Panakareao had 'laid a claim to Mangonui', but he insisted that his claim was 'contested by us [Pororua and Kiwa] ever since the Governors arrival'. Kemp translated Panakareao's declared assertion of primacy at Mangōnui:

1stly. He opposed all the purchases of Land, not made from himself, at Manganui.

2ly. That he had a priority of right over all the land in the neighbourhood of Doubtless Bay, and denies the right of any other party to sell any land there without his sanction and ratification – which – however, had not been obtained in any case, except in Capt. Butler's purchase – which consequently was the only one he would allow of.

3ly. That he considered the trifling property and cash given to him in 1840 by the Government for the lands in Doubtless Bay [the 1840 Mangonui Purchase], was only and earnest of what he was to receive for these lands, (Pororua having received as much, tho' he had disposed of his rights and had received payment from the Settlers). This purchase by the Government not having been completed – according to his view of the matter – he thinks that the amount he has already received is only a fair equivalent of the feast given by him at Kaitaia upon the late Governor's arrival there:

4thly. He Nopera, promises that the settlers at Mangonui shall remain unmolested and be permitted to occupy the spots that they reside on, with any cultivations attached, until the whole of the matter be arranged, and this license he considers an ample compensation to Pororua etc. for any rights thy might have had to the lands.

5thly. That he would not, now relinquish his right over these lands either to the settlers or to the Government, for any consideration that could be offered – but that he will maintain his right to the lands 'Vi et armis'.⁸³⁸

Panakareao used Godfrey's hearing as a platform to announce his 'priority of right', or 'Arikitanga'.⁸³⁹ Panakareao's objection regarded inadequate payment he received for the Crown's 1840 Mangōnui 'purchase' conveniently pointed out that the Crown came to him first.⁸⁴⁰ Pororua's payment in May 1841 hardly evened the score. Panakareao continued to repeat his claim to primacy over Pororua. Thus, he consented to a few Mangōnui sawyer-trader

⁸³⁷ Godfrey to Col Sec, 10 Feb 1843, MA 91/9, Exhibit N, pp 13-14

⁸³⁸ Panakareao evidence 11 Jan 1843, OLC 1/889-893, pp 13-14 (HT Kemp translation)

⁸³⁹ Edwards, Traditional History, Wai 45, doc B2, p 4; Edwards transcript, 3 Dec 1990, Wai 45, #4.1, pp 3-5

⁸⁴⁰ Godfrey to Col Sec, 10 Feb 1843, MA 91/9, Exhibit N, pp 13-14

transactions, but only if they acknowledged his primacy and his ‘absolute right and title to the whole of the purchased lands’.⁸⁴¹

When Godfrey reached Kaitaia on 10 February 1843, customary context again prevailed. Godfrey summarised Panakareao and his supporters’ four demands:

1. They acknowledged Kaitaia, or western transactions, but ‘any surplus lands . . . will be resumed . . .’
2. They vowed to cease further sales ‘either to individuals or to Government’
3. Above all, they declared that ‘the chiefs will exercise all their ancient rights and authority . . .’ They vowed that they would ‘not in future, allow any claims or interference on the part of the Government.’
4. Finally, only Panakareao was willing to settle the Mangonui conflict. All his fellow Kaitaia rangatira were ‘very unwilling to arrange’ that dispute.⁸⁴²

Panakareao was willing to compromise, but only on the condition that the Crown conceded his claim to political primacy. Godfrey’s hearings in early 1843 failed to prevent the April hostilities at Taipā.⁸⁴³ The Muriwhenua Land Tribunal recorded that the Ngāpuhi-Te Rarawa conflicts temporarily displaced Ngāti Kahu who withdrew from the Ōruru-Mangōnui area to Karikari, Awanui, Kaitaia, and even Parengarenga.⁸⁴⁴ Early Ōruru-Mangōnui conflicts predated European arrival.⁸⁴⁵ Some Ngāti Kahu returned to Ōruru by 1839 when they participated in the first Ford transaction.⁸⁴⁶ They also participated in a subsequent reduction of the extent of this transaction in October 1840, and in the April 1843 Taipā clash.⁸⁴⁷

⁸⁴¹ Godfrey to Col Sec, 10 Feb 1843, MA 91/9, Exhibit N, pp 13-14

⁸⁴² Godfrey to Col Sec, 10 Feb 1843, MA 91/9, Exhibit N, pp 13-14

⁸⁴³ Rigby, Oruru report, Wai 45, doc C1, p 30; and Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, p 251 attribute the Godfrey Commission with contributing to the outbreak of the 1843 Ōruru-Mangōnui conflict.

⁸⁴⁴ Waitangi Tribunal, Muriwhenua Land report 1997, pp 39-40

⁸⁴⁵ Waitangi Tribunal, Muriwhenua Land report 1997, pp 14-15, 30-40

⁸⁴⁶ Rigby, Oruru report, Wai 45, doc C1, p 41

⁸⁴⁷ ‘To the Editor of the New Zealand Advertiser and Bay of Islands Gazette’, 13 August 1840, p 3

3.6.3 Panakareao and Pororua

Māori understandings of the Ōruru-Mangōnui conflicts differed depending on iwi and hapū alignment at the time. Changing circumstances limited the Crown's perceptions of Panakareao and Pororua's broad alliances during the 1840s. Essentially, Panakareao led a Te Rarawa rūpū and Pororua led a Ngāpuhi rūpū. Protector Clarke rejected Panakareao's assertions of primacy or arikitanga if it provoked united Ngāpuhi opposition.⁸⁴⁸ After Hone Heke joined Pororua's cause in April 1843, Clarke denounced Panakareao as 'unflinchingly obstinate and unsparing in his remarks respecting the Government, and those who interfere in his concerns'.⁸⁴⁹ Clarke informed Panakareao that, if Te Rarawa did not settle matters peacefully with Ngāpuhi, the Crown would 'do it for them'.⁸⁵⁰ Despite this warning, Panakareao's defiance provoked the Crown's 'displeasure'.⁸⁵¹ Kaitaia rangatira, after all, thought Panakareao too willing to compromise at Mangōnui.⁸⁵² Although Panakareao may have considered compromise at Kaitaia in February 1843, after his defeat at Taipā in April he adopted a much more militant stance.⁸⁵³

Clarke found Pororua and his Ngāpuhi coalition more amenable to negotiate a resolution to the conflict after their military success at Taipā.⁸⁵⁴ Victorious Ngāpuhi could easily accept Clarke's proposed Ōruru boundary, because it favoured Ngāpuhi interests.⁸⁵⁵ Clarke in June 1843 considered Pororua's case to be the stronger than Panakareao's, simply because Ngāpuhi outnumbered Te Rarawa.⁸⁵⁶ The Crown considered that 'the right of conquest, and undisturbed possessions for a number of years' on the part of Ngāpuhi, represented by Pororua, made the more reasonable claim.⁸⁵⁷ The Crown sided with a larger and more powerful group.⁸⁵⁸ After Taipā Clarke supported Ngāpuhi, stating that 'There was great plausibility in the terms of the Ngāpuhi, and in my estimation, much apparent justice'.⁸⁵⁹

⁸⁴⁸ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁴⁹ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁰ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵¹ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵² Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵³ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁴ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁵ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁶ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁷ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁸ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

⁸⁵⁹ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

3.6.4 Aftermath

The tribal conflict at Ōruru and Mangōnui caused Godfrey's abandonment of his early 1843 hearings there. Grey's recruitment of Panakareao as an ally during the Northern War left little impression on his local rivalry with Pororua, or his association with Ngāti Kahu at Ōruru.⁸⁶⁰ Ngāti Kahu and Pororua later asserted their independence at Ōruru before renewed Crown purchase negotiations in 1856.⁸⁶¹ When Bell resumed hearings in October 1857, he carefully avoided taking any actions that might have contributed to further tribal conflict.⁸⁶²

⁸⁶⁰ Jamie Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland: Auckland University Press, 1986, pp 58, 60, 68; Rigby and Koning, Preliminary report, Wai 45, doc A1, p 118
Boast, Surplus lands, Wai 45, doc F16, p 147

⁸⁶¹ Te Hira, Penehama et.al. to Governor, 6 Feb 1856, MA 91/9, Exhibit N, p 22

⁸⁶² Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, p 662

Figure 26: William Bertram White: c1870



Mantell album, Alexander Turnbull Library (PA1-o-326-30)

3.6.5 Māori and White

William Bertram White arrived in Muriwhenua in April 1848, almost a decade before Bell. White continued to serve as Resident Magistrate until 1878. With limited police power, White's ability to enforce the Crown's will in Muriwhenua depended in part on his relationship with rangatira. He had little knowledge of Māori culture and declined to inform himself, adopting a paternalistic attitude to Māori throughout his career. For all his flaws, however, White exhibited unwavering self-confidence. He clashed with rangatira like Panakareao and Pororua while appeasing them

with assessor salaries. White's c1865 Register of Chiefs documented his contradictory relationships. Despite conflicts, White oversaw the Crown's growing control over Muriwhenua after 1848.

White attempted to settle Mangōnui township claims early in his tenure.⁸⁶³ Most township claims supported of the establishment of an administrative centre at the trading port of Mangōnui.⁸⁶⁴ White 'settled' these township claims without hearing or recording evidence. He 'settled' most of these claims within the 1850 Waikiekie Crown purchase.⁸⁶⁵ He claimed to have won Panakareao's prior support for the Waikiekie purchase in October 1849. White also claimed the support of unnamed 'Natives' who he made out had assured him that 'the Government shall have as much [township] land as it requires'.⁸⁶⁶ White later won Panakareao's support for the preliminary 1854 purchase at Ōruru.⁸⁶⁷ Kemp assisted White by paying Panakareao £100 out of his private funds.⁸⁶⁸ Kemp also paid Tipene Te Taha and Pororua in the subsequent 1856 Ōruru purchase.⁸⁶⁹

Māori understandings and expectations of White varied. Māori could see how closely White later worked with Bell. White, according to the Muriwhenua Land Tribunal, 'presumed to act as both a commissioner for land claims and a commissioner for land purchase'.⁸⁷⁰ White wrote in his memoirs that Bell's inquiry 'officially confirmed all I had done' at Mangōnui.⁸⁷¹ Stokes noted in her review that White did not investigate Pākehā claims as much as settle them. He also dismissed Māori claims 'with some exasperation on a take it or leave it basis - £100 or nothing - since in White's opinion the lands were Crown lands anyway'.⁸⁷² White appears to have assumed that all claims the Crown had settled with scrip had been reverted to the Crown, with no further investigation of Māori understandings of the affected pre-1840 transactions required.⁸⁷³

⁸⁶³ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 286

⁸⁶⁴ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 286

⁸⁶⁵ Waitangi Tribunal, Muriwhenua Land report 1997, p 218-221

⁸⁶⁶ White to Col Sec, 4 Oct, 1849, OLC 1/403-407, pp 29-32

⁸⁶⁷ Kemp to McLean 7 Sep 1856, MA 91/9, Exhibit N, p 26

⁸⁶⁸ White to Ligar, 3 Jul 1854, MA 91/9, Exhibit N, p 15; Margaret, Mutu, 'Muriwhenua-Crown Alliances as Described in the Maori Language Documents relating to Crown Land Purchases in Muriwhenua in the period from 1840 – 1865', Wai 45, doc H10, p 12

⁸⁶⁹ Kemp to McLean, 29 Sep 1856, MA 91/9, Exhibit N, pp 27-30

⁸⁷⁰ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 286; Waitangi Tribunal, Muriwhenua Land report 1997, p 183

⁸⁷¹ Waitangi Tribunal, Muriwhenua Land report 1997, p 189

⁸⁷² Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, pp 392-395

⁸⁷³ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, pp 394-395

White, in 1870, advised the Crown against claiming surplus land from Taylor's Muriwhenua North claim. Originally covering over 65,000 acres, most of this area surrounded his 852-acre Kapowairua Crown grant.⁸⁷⁴ White believed that an unsuccessful Crown claim might encourage Māori 'to oppose every inch of land they have hitherto sold'.⁸⁷⁵ Thus, White recognised that Māori customary rights still held considerable authority in Muriwhenua and avoided taking actions which might lead to conflict. He described his acceptance of this reality as making a 'virtue of necessity'.⁸⁷⁶

White's role in pursuing the settlement of claims in conjunction with related Crown purchases, such as Waikiekie, blurred the distinction between the two processes for Māori. White's close collaboration with Bell and Kemp, demonstrated the Crown's conscious attempt to link the settlement of pre-1840 claims to the negotiation of pre-1865 Crown purchases.

⁸⁷⁴ White to Under Secretary, Native Dept, 16 Sept 1870; cited in Boast, Surplus lands, Wai 45, doc F16, pp 207-208

⁸⁷⁵ Boast, Surplus lands, Wai 45, doc F16, p 208

⁸⁷⁶ Boast, Surplus lands, Wai 45, doc F16, p 207

Figure 27: Francis Dillon Bell: undated



Bett Loan collection, Nelson Museum (315566)

3.6.6 Māori and Bell

Commissioner Francis Dillon Bell dedicated himself to the task of making the nominal Crown grants and associated surplus land a reality.⁸⁷⁷ As claimant Walter Brodie observed in 1845, ‘in New Zealand surveying is the next thing to taking possession’.⁸⁷⁸ Accordingly, WH Clarke’s surveys, supervised by Bell, should have revealed to Māori for the first time the extent of land alienation.⁸⁷⁹ Contemporary Māori understandings and expectations of the Bell Commission appear in the documentary evidence, although seldom from Māori themselves.

⁸⁷⁷ Boast, ‘Surplus Lands’, Wai 45, doc F16, pp 168-170

⁸⁷⁸ Brodie, *State of New Zealand*, p 85

⁸⁷⁹ Stokes, ‘Muriwhenua evidence’, vol 2, Wai 45, doc P2, p 529

Bell's brief hearing minutes contended that he resolved all Māori objections to Crown surplus land. Bell boasted of his successful settlement of disputes in both the western sandhills, and at Raramata.⁸⁸⁰ Henare Popata and ten other rangatira signed an October 1857 agreement, apparently relinquishing their claim to the western sandhills in exchange for a 200-acre reserve at Waimanoni.⁸⁸¹ These rangatira had not signed the 1839 Southee deed. Two of the original signers, Hāre Popata Wāha and Puhipi Te Ripi, did not relinquish their sandhills claim.⁸⁸² Both Popata and Puhipi actively objected to Clarke's surveys of the disputed land.⁸⁸³ Despite this, in his capacity as an assessor, Puhipi did escort WH Clarke on his Otaki survey, although he did not support the October 1857 agreement.⁸⁸⁴ Bell failed to explain how he negotiated that agreement, and Hāre Popata continued to oppose it.

Bell repeated his unexplained sandhills strategy at Raramata, north of Parapara. At Raramata, Bell opposed Māori claims to almost 3,000 acres of Crown surplus land. Reihana Kiriwi requested that the Crown return 'whole surplus' from Joseph Matthew's Parapara claim as the Native reserve that Godfrey recommended in 1843.⁸⁸⁵ Instead, Bell awarded local hapū a 'Reserve of 340 acres only' at Aurere.⁸⁸⁶ Bell neglected to record how he explained this to Kiriwi. As Oliver noted in his 1994 report, Bell likely 'interpreted a silent withdrawal as some kind of assent'.⁸⁸⁷

Bell's recording of alleged Māori acceptance of the Crown surplus land belies his extensive efforts to conceal the nature of Māori objections at his hearings.⁸⁸⁸ Bell also concealed the Crown's involvement in surplus land acquisition by insisting upon private, rather than Crown, surveys.⁸⁸⁹ He deliberately urged private claimants to 'exert all their influence with the native sellers to give up the whole boundaries originally sold', noting that Crown surveys would offend Māori.⁸⁹⁰ The few small Native reserves, Bell recommended, were poor consolation for Māori. They obtained derisory reserves, while the Crown acquired thousands of acres of surplus land.⁸⁹¹

⁸⁸⁰ Oliver, Crown and Muriwhenua, Wai 45, doc L7, p 17

⁸⁸¹ White to Bell 8 Jul 1858, OLC 1/875–877, pp 145–151

⁸⁸² Southee Otaki deed 17 Dec 1839 (Engl), 1/OLC 875–877, pp 12–13; White to Bell 8 Jul 1858, OLC 1/875–877, pp 145–151

⁸⁸³ White to Bell 8 Jul 1858, OLC 1/875–877, pp 145–151

⁸⁸⁴ White to Bell 16 Aug 1858, OLC 1/875–877, pp 152–155

⁸⁸⁵ Oliver, 'Crown and Muriwhenua', Wai 45, doc L7, p 17

⁸⁸⁶ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 349; Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368; Oliver, Crown and Muriwhenua, Wai 45, doc L7, p 17

⁸⁸⁷ Oliver, Crown and Muriwhenua, Wai 45, doc L7, p 21

⁸⁸⁸ Boast, 'Surplus Lands', Wai 45, doc F16, p 188

⁸⁸⁹ Boast, 'Surplus Lands', Wai 45, doc F16, pp 186–188

⁸⁹⁰ Bell, Land Claims Commission report, 8 Jul 1862, AJHR, 1862, D-10, p 5

⁸⁹¹ Section 2, Land Claims Settlement Act 1856; Waitangi Tribunal, Muriwhenua Land report 1997, p 305

Bell further reduced Māori opposition to surplus land acquisition by limiting their access to the official record. As noted by the Muriwhenua Land Tribunal in 1997:

The allocation of land to Europeans, to the Government, and to Maori was happening on paper. No change was apparent on the ground. One needed to have access to the documents and plans to know what was happening. Only White, Kemp, Bell, and whoever kept the papers in Auckland were in that privileged position. No physical possession was taking place.⁸⁹²

The Crown's delay in implementing physical possession of the alienated land delayed Māori objection.⁸⁹³ Accordingly, when Bell declared in his 1862 report that he had completed surveys 'showing Government purchases there [Muriwhenua] as well as the Land Claims; and a connected map [Auckland Roll plan 16] now exists', his 'connected map' remained unpublished.⁸⁹⁴

3.6.7 Māori and European settlement

While Godfrey, White, and Bell often obscured the claims process, Māori retained a general desire for European settlement in Muriwhenua. Māori actively encouraged trade and European settlement throughout the region, as long as it served Māori needs.⁸⁹⁵ Māori sought Europeans who enhanced their economy and mana.⁸⁹⁶ Discussion between Panakareao and Governor Grey in 1846 encouraged trade and settlement. Panakareao's return to Ōruru helped revive the provisioning of ships visiting the port of Mangōnui.⁸⁹⁷ As the Muriwhenua Land Tribunal observed, 'The only concern Muriwhenua Maori had, therefore, was that the number of Europeans was too few'.⁸⁹⁸ Adrienne Puckey stated in *Trading Cultures*, that after 1840, 'Panakareao had continued to encourage settlement . . . He was concerned that too few settlers were entering the region, and the economy was in decline'.⁸⁹⁹ With the Māori demand for European settlement in Muriwhenua, the Crown could have settled claims. Māori understood that cooperation with the Crown was required for European settlement.⁹⁰⁰ Accordingly, the

⁸⁹² The Crown surplus resulted from the Davis (OLC 160) and Matthews (OLC 329) claims; Waitangi Tribunal, Muriwhenua Land report 1997, p 234

⁸⁹³ White to Grey, 28 Aug 1861, AJHR, 1862, E-07, p 24

⁸⁹⁴ Bell, Land Claims Commission report, 8 Jul 1862, AJHR, 1862, D-10, p 5. See Figure 5: Auckland Roll plan 16, 1863, (p 29)

⁸⁹⁵ Waitangi Tribunal, Muriwhenua Land report 1997, p 190

⁸⁹⁶ Waitangi Tribunal, Muriwhenua Land report 1997, pp 189-191

⁸⁹⁷ Rigby, *Empire on the Cheap*, Wai 45, doc F8, p 77

⁸⁹⁸ Waitangi Tribunal, Muriwhenua Land report 1997, p 191

⁸⁹⁹ Puckey, *Trading Cultures*, p 69

⁹⁰⁰ Waitangi Tribunal, Muriwhenua Land report 1997, p 191

Crown could have promoted more active Māori participation in the claims process. The Crown could have negotiated land-sharing to promote the promised economic advantages of European settlement. Instead, the Crown preferred surplus land acquisition to the pre-1840 land-sharing arrangements which were more acceptable to Māori.⁹⁰¹

3.7 Northern Minute Books and petition evidence

3.7.1 Limitations of Minute Book and petition evidence

As noted in previous sections, Māori had few opportunities to record objections in claims hearings during the 1840s and 1850s. Most Māori correspondence complained about this.⁹⁰² As boundary lines gradually turned into fence lines however, Māori voiced their objections at Native Land Court hearings and through petitions. Many of these objections expressed dissatisfaction with their exclusion from previous hearings, and from access to official information. Previous exclusion meant their objections often lacked accuracy, such as the incorrect use of ‘confiscation’ to describe Māori land alienation in Hoone Pereene Tukariri’s 1946 Ōruru petition.⁹⁰³ The Crown used this technicality to dismiss Tukariri’s legitimate objections.⁹⁰⁴ The Crown also used the delay between hearings and Māori dissent to dismiss their objections.⁹⁰⁵ As Kemp wrote to Governor Browne in 1855 regarding Wi Tana Papahia’s Parapara protest, ‘It was in his power to have applied long before this’.⁹⁰⁶ Since Papahia lacked information about the 1840s hearings, he could not act effectively. The petitions and Native Land Court hearings also often occurred long after the Godfrey and Bell hearings. The Crown purported to have settled claims by 1863, but Māori complaints continued.

Poor record keeping and confined jurisdiction limited Māori understandings of the Native Land Court process. The Native Lands Act 1865 confined the court’s jurisdiction to unalienated Māori land.⁹⁰⁷ This denied it jurisdiction over land where the Crown claimed it had ‘extinguished’ Native title. Yet, Māori brought previously unsurveyed areas, such as land at Whakaangi and

⁹⁰¹ Rigby, Question of Extinguishment, Wai 45, doc F9, pp 75-76

⁹⁰² Rakena Waiaua & ors protest 20 Nov 1862, OLC 1/558-566, pp 139-143; WJ Butler to Domett 4 Jul 1868, OLC 1/617-623, pp 26-33; Pororua & Kiwa to Governor 13 Jul 1861, OLC 1/1362, pp 68-72

⁹⁰³ Tukariri petition 1946, MA 91/9, Exhibit N, p 1

⁹⁰⁴ Waitangi Tribunal, Muriwhenua Land report 1997, p 344

⁹⁰⁵ Waitangi Tribunal, Muriwhenua Land report 1997, p 344

⁹⁰⁶ Kemp to Governor 20 Sep 1855, OLC 1/328B, p 1

⁹⁰⁷ Preamble, Section 2 Native Lands Act 1865, 29 Vic, No 71

Taemaro in 1868-1870, to the court.⁹⁰⁸ Stokes noted that court minutes tended to ‘provide only fragmentary accounts . . .’⁹⁰⁹ Court minutes in English rarely recorded Māori perspectives on the previous pre-1840 claims process. Papers associated with Maning’s missing minutes provide fragmentary evidence of Taylor’s Muriwhenua North claim, and the same applies to Maning’s sketchy 1870 Whakaangi and Taemaro notes.⁹¹⁰ At Muriwhenua North, the Crown withdrew its claim to significant surplus on the advice of WB White and Judge Maning.⁹¹¹ At Whakaangi and Taemaro, while Maning initially upheld the claims, he later dismissed the Whakaangi claim and in 1874 Parliament revoked his 1870 Taemaro decision in favour of Māori.⁹¹² Maning’s missing hearing minutes have impeded historical inquiry on these cases.⁹¹³ We have had to piece together what happened regarding Whakaangi, Taemaro, and Muriwhenua North between 1870 and 1873 with meagre surviving information.⁹¹⁴ Even surviving minute books provide only limited evidence. They record an abbreviated English interpretation of original statements, rather than a detailed Māori-language transcription of what witnesses said in court.⁹¹⁵

Most of the Māori petitions to the Crown also suffer from originating decades after the events they attempted to describe. By the time of the 1946-1948 Myers Commission, more than a century had passed since the initial transactions complained of in petitions.⁹¹⁶ These petitions often combined issues, not limited to the claims process and Māori understandings thereof.⁹¹⁷ Issues arose from pre-1840 transactions, surplus land allocations, and Crown purchases.⁹¹⁸ In the case of Keita Te Ahere’s 1924 Whakaangi petition, the petitioners rejected the validity of the pre-1840 ‘sale’ to Berghan at Te Whatu (Berghan Point).⁹¹⁹ They noted Maning’s 1870 Whakaangi decision, but not the cause of its subsequent cancellation.⁹²⁰ The petitioners mistakenly claimed that surveyor Duffus mislabelled his plan as ‘Takerau’ as the cause of Maning’s subsequent cancellation.⁹²¹ The petitioners stated that ‘The land has been taken by the Crown and neither we

⁹⁰⁸ Waitangi Tribunal, Muriwhenua Land report 1997, p 271; Whakaangi Petition and relevant correspondence, c1946-1948, MA 91/9, Exhibit G, pp 1-7

⁹⁰⁹ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 236

⁹¹⁰ Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, pp 454-459, 550-562, 406-416

⁹¹¹ Waitangi Tribunal, Muriwhenua Land report 1997, pp 270-272

⁹¹² Preamble, Taimaro [sic] and Waimahana Grants Act 1874, 38 Vic No 77; Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, pp 572, 665

⁹¹³ Stokes, Muriwhenua evidence, vol 2, Wai 45, doc P2, p 404

⁹¹⁴ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 388

⁹¹⁵ Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 365-379

⁹¹⁶ Pre-Treaty transactions ended with the signing of Te Tiriti O Waitangi on 6 February 1840, the 1946 Myers Commission later than 1941; See section 2.6, (p 151)

⁹¹⁷ Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 365-379

⁹¹⁸ Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 365-379

⁹¹⁹ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

⁹²⁰ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

⁹²¹ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

nor our parents know why the Crown took it'.⁹²² They evidently knew nothing about Whakaangi's inclusion in the disputed 1863 Mangōnui Crown purchase six decades earlier. The length of time which had passed compounded grievances about distinct, but related, Crown actions.⁹²³ As the Muriwhenua Land Tribunal reported, the Myers Commission 'brushed aside' many of these inaccurate petitions.⁹²⁴ It penalised petitioners for the lack of information available to them.

3.7.2 Minute Book evidence

Māori participated at the Pukenui, Okokori, and Kohumaru hearings. Native Land Court applicants had to focus on unalienated Māori land, although this was not always clear. The hearings demonstrate Māori confusion over the preceding Crown actions. The 1877 Pukenui witnesses struggled to differentiate between pre-1840 transactions and later Crown purchases at Mangōnui.⁹²⁵ Wiremu Pikahu was recorded as stating that 'my tuakana sold some land at Mangonui to the early settlers – ngapuhi sold some there', but he did not specify to whom.⁹²⁶ He was also recorded as stating that, 'I don't know whether the island opposite this land [Pukenui] is sold there are pakehas in possession. I did not sell it to them'.⁹²⁷ Presumably he referred to Paewhenua, the alienation history of which remains mysterious. Historians still struggle to explain why it became 'Government Island', and Pikahu's evidence shows that in 1877 he could not explain it either.⁹²⁸

The 1897 Okokori Native Land Court hearing indicated a more nuanced understanding of the previous Parapara protests.⁹²⁹ This hearing on Okokori, or Aurere, referred to Bell's 1857 decisions regarding land at Raramata.⁹³⁰ Bell reserved Okokori/Aurere from the Joseph Matthews Parapara claim.⁹³¹ Mawene Kiriwi, Henare Pikaahu, Timoti Puhipi, an accompanying assessor, and others presented evidence.⁹³² Mawene Kiriwi, son of Reihana Kiriwi, was recorded as stating that 'my ancestors Popata and others also sold this 7000 odd acres to Mr. Matthews'.

⁹²² Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

⁹²³ Geiringer, 'Subsequent Maori Protest', Wai 45, doc H7, pp 4-5

⁹²⁴ Waitangi Tribunal, Muriwhenua Land report 1997, p 335

⁹²⁵ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, pp 164-186

⁹²⁶ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, p 167

⁹²⁷ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, p 167

⁹²⁸ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, p 167

⁹²⁹ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 132

⁹³⁰ Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 365-379

⁹³¹ See Figure 7: Mangatete-Parapara-Taipā, (p 37)

⁹³² Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 365-379

He related how ‘Mr. Matthews together with [Reihana] Kiriwi who appeared before Commissioner Bell and asked for the Reserve of this piece’.⁹³³ Both Reihana Kiriwi and ‘Kepa Waha’ (presumably Popata) participate in the original 1839 transaction as ‘Kai Titiro’ (witnesses) rather than ‘Kai Tuku’ (vendors) of the original deed.⁹³⁴ Their descendants evidently relied upon an oral account of Kiriwi’s prominence in the 1839 transaction. Mawene alleged that ‘Reihana Kiriwi alone exercised Mana over this piece after the Reservation of the land by Sir Dillon Bell’, before leasing it to Matthews.⁹³⁵ While Mawene Kiriwi referred to the reserve, Henare Pikaahu stated that, ‘Mr Matthews was with Reihana when [he] asked Cmr Bell to return the land’.⁹³⁶

Timoti Puhipi, who had attended the 1857 hearing along with Matthews and Kiriwi, was recorded as stating that the reserve was ‘given to Reihana by Cmr. Bell’. According to Puhipi, Bell’s hearing ‘was a Big meeting and all the people were present’.⁹³⁷ At this point, assessor Hone Peti was recorded to note that Reihana Kiriwi asked ‘for the whole surplus to be returned, but the Commissioner cut off this Reserve of 340 acres only’.⁹³⁸ Henare Pikaahu was then recorded as stating that the ‘govt were taking all the land beyond 2000 acres and we asked for the surplus to be returned to us’.⁹³⁹ Most Māori present at the 1897 hearing clearly understood Bell’s surplus and Native reserve actions which Reihana Kiriwi and his whanaunga had opposed in 1857.⁹⁴⁰ Kiriwi and his supports in 1857 rejected Bell’s decision to reduce their reserve from almost 3,000 acres to a mere 340 acres.⁹⁴¹

Some Native Land Court hearings revisited the Ōruru-Mangōnui conflicts of 1841-1843.⁹⁴² The October 1901 Kohumaru hearing featured Pororua’s nephew Karena Kiwa. He asserted Ngāpuhi’s Mangōnui claim, being recorded as stating that ‘the people conquered were Ngāti Kahu’ and that, ‘N. Kahu fled, after the fall of Rangitoto pa’.⁹⁴³ Huirama Tukariri of Matarahurahu disputed this. He was recorded as stating that ‘Ngapuhi did not conquer N. Kahu lands . . . Pororua’s [claim] that his people conquered the land at the Rangitoto fight is not

⁹³³ Okokori evidence, 4 Oct 1897, NMB, vol 17, Northern Minute Book 17, p 366

⁹³⁴ Parapara deed, 14 Nov 1839, OLC 1/329, p 9-12 (Tama Hata translation)

⁹³⁵ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 367

⁹³⁶ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368

⁹³⁷ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368

⁹³⁸ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 349; Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368

⁹³⁹ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368

⁹⁴⁰ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 367

⁹⁴¹ Oliver, Crown and Muriwhenua, p 17

⁹⁴² See Huirama Tukariri’s 2 Oct 1901 Kohumaru evidence featuring Panakareao and Pororua, Kohumaru evidence, NMB, vol 31, pp 171-200

⁹⁴³ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, pp 135,138

correct'.⁹⁴⁴ Tukariri devoted almost thirty pages of his recorded evidence to Ngāti Kahu's participation in the historical Mangōnui conflicts.⁹⁴⁵

3.7.3 Petition evidence

Māori documented their surplus land and other grievances in petitions about Tangonge, Pukewhau-Taipaku, Parapara-Aurere, Ōruru, and Whakaangi-Taemaro.⁹⁴⁶ These petitions challenged Crown actions arising from pre-1840 transactions, scrip awards, and Crown surplus land acquisition.⁹⁴⁷ These petitions demonstrated Māori understandings of Crown actions related to pre-1840 transactions.⁹⁴⁸

3.7.3.1 Tangonge petitions

Crown surplus acquisition from a Joseph Matthews' Otararau transaction provoked several petitions.⁹⁴⁹ Pukepoto and Ahipara Māori lodged these petitions between 1893 and 1939, all objecting to the Otararau surplus land at lake Tangonge.⁹⁵⁰ Timoti Puhipi led the first 1893-1896 petitions, with Joseph Matthews' support.⁹⁵¹ Since Māori only discovered the Crown's claim when they began gum digging in the area, the early petitions omitted reference to surplus.⁹⁵² Both Māori and Matthews believed that he had returned the Tangonge land to Puhipi Te Ripi, oblivious to the Crown's claim. Only when Herepete Rapihana went to Auckland in 1895 to locate the survey plans did he discover the basis of the Crown's claim to Tangonge.⁹⁵³ In Houston's 1907 inquiry, the local parliamentary representative and gum trader concluded that Matthews had returned Tangonge to Puhipi. Houston recommended that the Crown should

⁹⁴⁴ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, p 200

⁹⁴⁵ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, pp 171-200

⁹⁴⁶ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1; Hare Popata Pukewhau petition, 1924, MA 91/9, Exhibit F, p 1; Keita Te Ahere Whakaangi petition, 1924, Kere Erihe Taemaro petition, 1921, MA 91/9, Exhibit G, pp 2, 10-11; Hoone Pereene Tukariri Oruru petition, 1946, MA 91/9, Exhibit N, p 1

⁹⁴⁷ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁴⁸ Geiringer, 'Subsequent Maori Protest', Wai 45, doc H7; Nepia, 'Muriwhenua Surplus Lands', Wai 45, doc G1; Boast, 'Surplus lands', Wai 45, doc F16

⁹⁴⁹ Timoti Puhipi Tangonge petition, 10 Sep 1894, MA 91/9, Exhibit E, pp 25-26

⁹⁵⁰ HT Rapihana Tangonge petition, 20 Nov 1946, Timoti Puhipi Tangonge petition, 10 Sep 1894, MA 91/9, Exhibit E, pp 1, 25-26

⁹⁵¹ Timoti Puhipi Tangonge petitions, 4 Aug 1893, 10 Sep 1894, MA 91/9, Exhibit E, pp 22, 25-26. Joseph Matthews signed the 4 August 1894 petition.

⁹⁵² Timoti Puhipi Tangonge petition, 4 Aug 1893, MA 91/9, Exhibit E, p 22

⁹⁵³ Timoti Puhipi Tangonge petition, 4 Aug 1893, MA 91/9, Exhibit E, p 22

rescind its claim.⁹⁵⁴ The Crown ignored Houston's advice. Rapihana led later 1924-1939 petitions based on Houston's recommendation.⁹⁵⁵ Rapihana requested the return of the disputed 685-acre strip of Tangonge surplus land, noting that it had already been returned by Matthews.⁹⁵⁶ Native Land Court Judge MacCormick decided in 1925 that the Crown's claim prevailed over both Matthews and Houston.⁹⁵⁷ The 1927 Sim Commission on confiscated land dismissed Rapihana's petition against the Crown's 685-acre claim.⁹⁵⁸ Native Land Court Judge Acheson complicated the situation further in 1933 when he determined that Lake Tangonge remained customary land.⁹⁵⁹ While the Crown retained a 685-acre strip of surplus land stretching east of the lake, Māori regained possession of the largely dry 693-acre lakebed.⁹⁶⁰ The Tangonge petitions indicate that Māori discovered the Crown's surplus claim decades after Bell's hearings. The Crown neglected to communicate the extent of its surplus land claims to local Māori. Instead, Māori, years later, and acting on their own initiative, discovered the nature of the Crown's claim in Auckland.⁹⁶¹

3.7.3.2 Pukewhau-Taipaku petitions

Hare Popata and Tiopira Paerata, both descendent of the original Pukewhau and Taipaku transactors, led the 1924 Pukewhau petition alleging that the land, 'was taken by the Government without any right from my people'.⁹⁶² Pukewhau formed the western section of surplus arising from the Davis Mangatete North claim and Taipaku adjoined it on the northeast. Together they covered 4,665 acres.⁹⁶³ In 1857, Davis' land remained unsurveyed.⁹⁶⁴ At the direction of Davis, RA Fairburn surveyed 535 acres to define the Davis grant 1858.⁹⁶⁵ Bell noted that this acreage was 'all that the natives would at the time [1858] agree to give up'.⁹⁶⁶ Bell had White arrange a Crown surplus survey in 1859 which covered 4,414 acres.⁹⁶⁷ Davis recorded in 1877 that 'Other

⁹⁵⁴ Waitangi Tribunal, Muriwhenua Land report 1997, p 261; RM Houston report, 22 Jul 1907, MA 91/9, Exhibit E, pp 29-30

⁹⁵⁵ HT Rapihana Tangonge petition, 30 Jul 1924, MA 91/9, Exhibit E, pp 31-32

⁹⁵⁶ HT Rapihana Tangonge petition, 30 Jul 1924, MA 91/9, Exhibit E, pp 31-32

⁹⁵⁷ RN Jones report on 1924 Tangonge petition, 14 Jul 1925, MA 91/9, Exhibit E, p 33

⁹⁵⁸ Sim Commission report, 29 Jun 1927, AJHR, 1928, G-7, pp 34-35

⁹⁵⁹ Heather Bassett, 'Muriwhenua Post-1865 Block Narratives: Northern Blocks', Wai 45, doc T38, p 437

⁹⁶⁰ See ML 12775, Lake Tangonge

⁹⁶¹ Houston Kaitaia hearing 10 May 1907, MA 91/9, Exhibit E, p 27

⁹⁶² Popata-Paerata Pukewhau petition, 1924, MA 91/9, Exhibit F, p 1

⁹⁶³ James Davis, Mangatete North, OLC 1/160; See Pukewhau ML 5098 (802 acres); Taipaku ML4890 (3863 acres)

⁹⁶⁴ Davis evidence 13 Oct 1857, OLC 1/160, p 14

⁹⁶⁵ Bell report, 26 Dec 1859, MA 91/9, Exhibit F, p 16

⁹⁶⁶ Bell report, 26 Dec 1859, MA 91/9, Exhibit F, p 16

⁹⁶⁷ Bell report, 26 Dec 1859, MA 91/9, Exhibit F, p 16; See 'Mangatete' plan SO 783 (4414 acres)

Natives' advanced a claim to Pukewhau-Taipaku. They consented to 'my right as they have always done but not the right of the Government'.⁹⁶⁸ He stated that it 'would be the greatest injustice to me for the Government to take my land and then give it up again to those who have no honest claim to it'.⁹⁶⁹ Instead, he suggested that his nephew Herbert Matthews should lease the land 'at a small rental'.⁹⁷⁰ Māori in 1880 employed Campbell and O'Neill to survey both Pukewhau and Taipaku.⁹⁷¹ The 802-acre Pukewhau, and the 3,863-acre Taipaku surveys overlapped the Crown's claimed surplus of 4,345 acres.⁹⁷² This survey overlap caused Chief Surveyor S Percy Smith to request a reconciliation of the boundaries on 16 November 1880.⁹⁷³ Māori presented their Pukewhau-Taipaku surveys to Judge John Symonds in 1882.⁹⁷⁴ When they brought both surveys to the Native Land Court they also attempted to gain information from Native Department Under Secretary TW Lewis. He stated in a May 1882 telegram that the land was 'Surplus Land of the Crown'.⁹⁷⁵ HW Hadfield, who represented the Māori claimants in court, requested a delay to allow further correspondence.⁹⁷⁶ Symonds granted a delay of two days, before he dismissed the application without further correspondence from TW Lewis.⁹⁷⁷

The Myers Commission considered the 1924 Popata-Paerata petition and as a case of 'straight-out surplus land'.⁹⁷⁸ This meant that Māori as a whole, rather than petitioner groups, were entitled to compensation.⁹⁷⁹ Eventually, the Crown paid the Tai Tokerau Māori Trust Board £47,154 in compensation for all aggrieved Northland groups.⁹⁸⁰ The Pukewhau petition, alongside the 1880 survey, indicated that Māori became aware of the Crown surplus land survey too late to counter the Crown's claim effectively. Māori still raised objections to Crown claims as early as 1877.⁹⁸¹ The 1880 Pukewhau-Taipaku surveys showed that Māori could adopt the Crown's tactics to contest its claim to surplus land.⁹⁸²

⁹⁶⁸ Davis to WM Webster, 15 May 1877, MA 91/9, Exhibit F, p 19

⁹⁶⁹ Davis to WM Webster, 15 May 1877, MA 91/9, Exhibit F, p 19

⁹⁷⁰ Davis to WM Webster, 15 May 1877, MA 91/9, Exhibit F, p 19

⁹⁷¹ HW Bishop to Surveyor-General, 4 Sep 1883, MA 91/9, Exhibit F, p 28

⁹⁷² Pukewhau, ML plan 5098; Taipaku ML plan 4890

⁹⁷³ SP Smith to Campbell & O'Neill. 16 Nov 1880, MA 91/9, Exhibit F, p 20

⁹⁷⁴ SP Smith to JJ Symonds, 19 May 1882, MA 91/9, Exhibit F, p 24. It is unclear why the application referred to Taipaku as 'Part' of the Pukewhau, they have separate ML plans. Pukewhau ML plan 5098 and Taipaku ML plan 4890.

⁹⁷⁵ Pukewhau-Taipaku entry, 25 May 1882, NMB, vol 1, p 251

⁹⁷⁶ Pukewhau-Taipaku entry, 25 May 1882, NMB, vol 1, p 251

⁹⁷⁷ Pukewhau-Taipaku entry, 25 May 1882, NMB, vol 1, p 251

⁹⁷⁸ Myers Commission report, AJHR, 1948, G-08, p 14-15

⁹⁷⁹ Myers Commission report, AJHR 1948, G-8, pp 17-18

⁹⁸⁰ Nepia, Muriwhenua Surplus Lands, Wai45 G1, p 116

⁹⁸¹ Davis to WM Webster, 15 May 1877, MA 91/9, Exhibit F, p 19

⁹⁸² Pukewhau, ML plan 5098; Taipaku ML plan 4890

3.7.3.3 Parapara-Raramata petitions

Heta Kiriwi and others lodged a 1923 petition which allowed them to revisit their original Raramata claim at Parapara.⁹⁸³ The petitioners noted that their tupuna sought a large Raramata reserve in ‘fear that the land might be taken’.⁹⁸⁴ The petitioners accused Matthews as having ‘perpetrated’ the original 1839 ‘confiscation’ at Raramata.⁹⁸⁵ Far from perpetrating confiscation there, Matthews defended the Raramata reserve in 1857. He previously informed Bell that ‘I am desirous in performance of my promise to the Natives, the whole of land between the Raramata (or Awopoko) River and Te Pikinga should be given up as a Reserve for their use’.⁹⁸⁶ Matthews evidently remained loyal to his original intention of reserving Raramata for Māori.⁹⁸⁷ The petitioners underestimated Matthews’ loyalty.⁹⁸⁸ By 1923 the lack of living witnesses from Bell’s 1857 hearing hampered Māori understanding of their struggle to recover the Raramata reserve. At the 1897 Okokori hearing they reported 1857 events accurately.⁹⁸⁹ Unlike the 1897 witnesses, the 1923 petitioners failed to recall Matthews’s attempts to return Raramata as a reserve.⁹⁹⁰ While they recalled Kiriwi’s attempt to retain the Raramata reserve in 1857, they failed to recall that he did so with the full support of Matthews.⁹⁹¹

The delays before the 1923 petition put Māori at a distinct disadvantage. Local circumstances not documented by the official record, shaped their understanding of the fate of the land. The Myers Commission frequently referred to Aurere in its proceedings. In its 1948 report, however, it dismissed the 1923 Kiriwi petition by stating that counsel for Māori ‘expressly and correctly admitted that the grounds upon which the petitions were based could not be supported’.⁹⁹² A delayed and confused protest followed a confusing Crown claim to ownership of surplus land at Raramata.

⁹⁸³ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁸⁴ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁸⁵ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁸⁶ Matthews to Bell, 27 Mar 1857, MA 91/9, Exhibit D, pp 14-15

⁹⁸⁷ Matthews to Bell, 27 Mar 1857, 3 Sep 1858, MA 91/9, Exhibit D, pp 14-15, 23

⁹⁸⁸ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁸⁹ Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 367-379

⁹⁹⁰ Godfrey report, 15 Apr 1843, OLC 1/329, pp 4-6; Okokori evidence, 4 Oct 1897, NMB, vol 17, pp 367-379

⁹⁹¹ Heta Kiriwi Aurere petition, 1923, MA 91/9, Exhibit D, p 1

⁹⁹² Myers Commission report, AJHR 1984, G-8, p 14

3.7.3.4 Ōruru petitions

Kenana-based Hoone Pereene Tukariri led a 1946 petition regarding ‘confiscated land’ at Ōruru.⁹⁹³ Tukariri alleged that the Crown in 1856 ‘confiscated’ 15,000 acres at Ōruru.⁹⁹⁴ Tukariri associated the 1928 Sim Commission’s inquiry into Crown confiscations with the 1856 Ōruru purchase.⁹⁹⁵ This confused two different things. The Crown did not confiscate any Muriwhenua land under the 1863 New Zealand Settlements Act.⁹⁹⁶ The Crown negotiated the final 1856 Ōruru Crown purchase. It did not compel consent by either Ngāti Kahu or Te Rarawa.⁹⁹⁷ Tipene Te Taha in 1855 advanced the Ngāti Kahu claim to Ōruru, following White’s initial 1854 payment to Panakareao.⁹⁹⁸ White reported that Tipene and Ngāti Kahu expressed dissatisfaction over Ōruru negotiations, but they voluntarily signed the final 1856 deed.⁹⁹⁹ Given Tukariri’s confusion between Crown purchases and ‘confiscation’, the Crown dismissed his 1946 petition.¹⁰⁰⁰ A Myers Commission note on the petition correctly stated that there ‘was no confiscation at any time’ but failed explain the source of Tukariri’s misunderstanding.¹⁰⁰¹ Rigby suggested that ‘Maori may have thought that the Crown considered nothing less than confiscation as worthy of investigation’ after the 1927 Sim Commission.¹⁰⁰²

3.7.3.5 Whakaangi-Taemaro petitions

Māori petitioned repeatedly about pre-1840 claims east of Mangōnui Harbour.¹⁰⁰³ Between 1868 and 1870, Māori successfully claimed 4,000 acres at Maning’s Native Land Court, but Parliament overturned this in the Taimaro and Waimahana Grants Act 1874.¹⁰⁰⁴ Unlike in western and central Muriwhenua, these Mangōnui claims failed to generate surveyed surplus.¹⁰⁰⁵ Hemirua Paeara, Kere Erihe, and Keita Te Ahere filed successive 1876-1924 petitions over unexplained

⁹⁹³ Tukariri petition 1946, MA 91/9, Exhibit N, p 1

⁹⁹⁴ Tukariri petition 1946, MA 91/9, Exhibit N, p 1

⁹⁹⁵ Tukariri petition 1946, MA 91/9, Exhibit N, p 1

⁹⁹⁶ Sim Commission report, AJHR, 1928, G-07, p 1

⁹⁹⁷ Kemp to McLean, 7 Sep 1856, MA 91/9, Exhibit N, p 26

⁹⁹⁸ Oruru deed receipt, 3 Jul 1854; Kemp memo on Tipene claims, 4 May 1855, MA 91/9, Exhibit N, pp 17, 20

⁹⁹⁹ White to McLean, 25 Jun 1856; Kemp to McLean, 7 Sep 1856, MA 91/9, Exhibit N, pp 24, 26

¹⁰⁰⁰ Rigby, ‘Oruru Report’, Wai 45, doc C1, pp 40, 44, 52

¹⁰⁰¹ Lands & Survey note on Thomas and Phillips claims, nd, MA 91/9, Exhibit N, p 4

¹⁰⁰² Rigby, ‘Oruru Report’, Wai 45, doc C1, pp 53-54

¹⁰⁰³ Thomas Ryan, Mangonui East & Oruru, OLC 1/403-407; James Berghan, Oruaiti & Taipa East, OLC 1/558-566; Thomas & Phillips, Kaiwhetu-Oneti, OLC 1/617-623; Hibernia Smyth, Mangonui, OLC 1/887-888; Clement Partridge, Oneti-Taemaro, OLC 1/889-893; William Butler, Mangonui & Oneti, OLC 1/913-914

¹⁰⁰⁴ Preamble, Taimaro [sic] and Waimahana Grants Act 1874, 38 Vic No 77

¹⁰⁰⁵ Figure 8: Mangōnui East, (p 38)

Crown actions.¹⁰⁰⁶ Paeara submitted repeated petitions to the Crown between 1876 and 1912.¹⁰⁰⁷ The Crown may have misfiled his 1876 petition, but in July 1876, HT Clarke indicated that Paeara had protested surplus land.¹⁰⁰⁸ Paeara's 19 January 1887 petition opposed Crown claims east of Mangōnui and stated, 'we do not recollect selling . . . to the Crown or to any European or Maori'.¹⁰⁰⁹ In 1891, Paeara protested White's actions regarding Taemaro.¹⁰¹⁰ Paeara alleged that White surreptitiously enlarged the unsurveyed 1863 Mangōnui Crown purchase.¹⁰¹¹ Paeara also accused White of repressing protest through threats of imprisonment and persistent denials.¹⁰¹² White countered by threatening Māori witnesses with charges of perjury arising from evidence given at Maning's 1870 hearing. He strenuously denied Paeara's accusations of official misconduct.¹⁰¹³ According to White, the Crown's title to Taemaro stemmed from numerous pre-1840 transactions in the vicinity. On the other hand, he admitted that the 1863 blanket purchase applied only to 'small patches' between Mangōnui Harbour and Te Whakapaku.¹⁰¹⁴

Paeara's 1892 petition described White's response to his accusations as deceptive.¹⁰¹⁵ White's singling out of Partridge's claim ignored the fact that Partridge failed to complete the agreed payments.¹⁰¹⁶ Paeara frequently appeared to confuse the 1863 Crown purchase with pre-1840 claims. For example, he named HT Kemp as the only 'Commissioner' who 'dealt with large blocks that were sold for a few goods'. Since the Crown described both Kemp and Bell as 'commissioners', Paeara misunderstood the different roles each undertook.¹⁰¹⁷ Paeara knew only of a roading survey because Kemp and White failed to survey the 1863 purchase.¹⁰¹⁸ Paeara detected a pattern of prevarication in the way White evaded his accusations.¹⁰¹⁹ Not to be deterred, Paeara continued petitioning during the early twentieth century. These later petitions often repeated some of his earlier accusations.¹⁰²⁰

¹⁰⁰⁶ 1892 Paeara, 1921 Erihe, and 1924 Te Ahere petitions, MA 91/9, Exhibit G, pp 2, 53-55, 66

¹⁰⁰⁷ Paeara petitions, 1891, 1892, 1893, 1905, 1908, 1912, MA 91/9, Exhibit G, pp 49-50, 53-55, 56-57, 63, 64, 65

¹⁰⁰⁸ Stokes, Muriwhenua evidence, vol 1, Wai 45, doc P2, p 422

¹⁰⁰⁹ Hemi Rua Paeara to John Balance, 19 January 1887, Wai 45, doc H1a (part 1), pp 213-217

¹⁰¹⁰ Paeara petition, 1891, MA 91/9, Exhibit G, pp 49-50

¹⁰¹¹ Paeara petition, 1891, MA 91/9, Exhibit G, pp 49-50

¹⁰¹² Paeara petition, 1891, MA 91/9, Exhibit G, pp 49-50

¹⁰¹³ White to Native Dept, 21 Jul 1891, MA 91/9, Exhibit G, pp 51-52

¹⁰¹⁴ White to Native Dept, 21 Jul 1891, MA 91/9, Exhibit G, pp 51-52

¹⁰¹⁵ Paeara petition, 1892, MA 91/9, Exhibit G, pp 53-55

¹⁰¹⁶ Paeara petition, 1892, MA 91/9, Exhibit G, pp 53-55

¹⁰¹⁷ Paeara petition, 1892, MA 91/9, Exhibit G, pp 53-55

¹⁰¹⁸ Paeara petition, 1892, MA 91/9, Exhibit G, pp 53-55

¹⁰¹⁹ Paeara petition, 1892, MA 91/9, Exhibit G, pp 53-55

¹⁰²⁰ Paeara petition, 1893, MA 91/9, Exhibit G, pp 56-57

White responded to the 1904-1905 Paeara petitions by denying wrongdoing. He stated that he had ‘no sympathy whatsoever with Hemi Peara [Paeara] whose conduct from beginning to end has been most disreputable’.¹⁰²¹ To White’s credit, he admitted that the Crown had ‘accidentally omitted’ Paeara from the 1874 Waimahana grantee list and that ‘Paeara has sustained a serious wrong’ in the process.¹⁰²² White sought to reinstate Paeara as a Waimahana grantee.¹⁰²³ Paeara’s 1912 petition again requested the return of Taemaro. He restated that ‘we are absolutely certain that neither our ancestors or elders ever sold this land either to a European, a Maori, or to the Government’.¹⁰²⁴ The Paeara petitions demonstrate understandable confusion between White’s manipulation of the 1863 Mangōnui purchase and his role in overturning Maning’s 1870 Taemaro decision. The Crown denied Paeara access to survey evidence. Consequently, Kemp and White’s failure to ensure a proper survey of the 1863 purchase remained a mystery to him.¹⁰²⁵

Kere Erihe’s 1921 Taemaro petition continued the Paeara pattern of persistence.¹⁰²⁶ Erihe repeated that Taemaro ‘was not sold in the early sales neither was it gifted to any person or persons’.¹⁰²⁷ He alluded to the 1863 purchase including only patches of land. Erihe knew that Maning had awarded almost 4,000 acres Taemaro to Ngatikahu ki Whangaroa in 1870. He attributed the 1874 surrender of the Taemaro certificates to White’s intimidation.¹⁰²⁸ Like Paeara’s petitions, he attributed to White responsibility for Crown violations of Ngatikahu ki Whangaroa rights.¹⁰²⁹

Keita Te Ahere’s 1924 petition requested an inquiry into land taken by the Crown at Whakaangi on the eastern Taemaro boundary.¹⁰³⁰ Like Erihe, Te Ahere stated that the land ‘was not sold in the early sales, neither was it gifted’.¹⁰³¹ She heard that a portion had been ‘fraudulently sold by Hohepa [Kiwa] to Himi Poto [James Berghan Sr]’ but Ngatikahu ki Whangaroa compensated

¹⁰²¹ White to Carroll, 10 Jun 1904; White to Native Dept, 11 Jun 1905, MA 91/9, Exhibit G, pp 60-61

¹⁰²² White to Carroll, 10 Jun 1904; White to Native Dept, 11 Jun 1905, MA 91/9, Exhibit G, pp 60-61

¹⁰²³ Paeara petition, 1912, MA 91/9, Exhibit G, p 63

¹⁰²⁴ Paeara petition, 1912, MA 91/9, Exhibit G, p 65

¹⁰²⁵ See the first trigonometry station survey in Muriwhenua completed by Crown Surveyor Neumann in 1882; Mangonui District, SO 2975. Ngatikahu ki Whangaroa objected to this survey in 1881. Tukariri to Rolleston 28 September 1881, Wai 45, doc H1a, p 193

¹⁰²⁶ Erihe petition, 1921, MA 91/9, Exhibit G, p 66

¹⁰²⁷ Erihe petition, 1921, MA 91/9, Exhibit G, p 66

¹⁰²⁸ Judge Maning’s decision at Taemaro was cancelled by the Taimaro and Waimahana Grants Act 1874.

¹⁰²⁹ White to Native Dept, 21 Jul 1891, MA 91/9, Exhibit G, p 51

¹⁰³⁰ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

¹⁰³¹ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

Berghan with Oruaiti land ‘given in satisfaction of the purchase money’.¹⁰³² Te Ahere noted Maning’s cancellation of the Whakaangi certificates.¹⁰³³ She thought that the name ‘Takerau’ on the survey plan prompted Maning’s cancellation in 1870.¹⁰³⁴ She stated with full conviction that the ‘land has been taken by the Crown and neither we nor our parents know why the Crown took it’.¹⁰³⁵ Without written evidence, Keita Te Ahere remained puzzled by the complicated chronology, but she knew that the Crown failed to uphold Ngatikahu ki Whangaroa rights.¹⁰³⁶

Hapeta Renata in 1946 filed a Whakaangi claim for the Myers Commission¹⁰³⁷ Renata represented a prominent Waiaua-based whānau.¹⁰³⁸ He alleged that Pororua sold Waiaua as ‘a portion of the Whakaangi Block’, to the Crown.¹⁰³⁹ Renata also disputed the Native Land Court’s inclusion of Huirama Tukariri and Kingi Waiaua in its 1885 Native Land Court Waiaua title determination. Renata referred to parts of Whakaangi as ‘Surplus lands’, probably because the Myers Commission listed the 1921 and 1924 petitions for inquiry.¹⁰⁴⁰ The Myers Commission staff mistakenly referred to much of Mangōnui East as surplus land, despite the absence of surveyed surplus there.¹⁰⁴¹

3.8 Summary

Māori seldom engaged in the poorly defined, inconsistent, and often arbitrary claims process. Godfrey’s hearings in Muriwhenua lasted for only a few days in January and February 1843 before he abandoned them entirely in the face of Māori protest. He completed his inquiries in Auckland. FitzRoy altered many of his recommendations without engaging with Māori. White conducted sporadic investigations of claims without explicit statutory authority and without public hearings at Mangōnui. He also negotiated related Crown purchases, thus blurring the distinction between two different processes. Bell held half a dozen hearings in October 1857, but his brief hearing notes obscure the extent of Māori participation or understanding. We know that he generally dismissed Māori dissent in a peremptory fashion. Bell conducted an extensive

¹⁰³² Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

¹⁰³³ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

¹⁰³⁴ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2; This may refer to the 1868 RDL Duffus Whakaangi survey, the reason for the discrepancy in dates is unknown, Whakaangi ML plan 1176.

¹⁰³⁵ Te Ahere petition, 1924, MA 91/9, Exhibit G, p 2

¹⁰³⁶ Boast, *Surplus lands*, p 219

¹⁰³⁷ Renata to Blane, 18 Nov 1946, MA 91/9, Exhibit G, pp 3-4

¹⁰³⁸ Renata to Blane, 18 Nov 1946, MA 91/9, Exhibit G, pp 3-4

¹⁰³⁹ Renata to Blane, 18 Nov 1946, MA 91/9, Exhibit G, pp 3-4

¹⁰⁴⁰ Renata to Blane, 18 Nov 1946, MA 91/9, Exhibit G, pp 3-4

¹⁰⁴¹ See section 2.6, (p 151); Secretary to Heemi Roha, MA 91/9, Exhibit G, p 13

correspondence with White and many of the Pākehā claimants and surveyors, but not with Māori. Māori lacked ready access to official claims documents, grants, or plans. These erratic investigations dominated by experienced Crown officials with full access to the record disadvantaged Māori dissatisfied with the unjust outcomes.

The sparse official record of the claims process presents disjointed and contradictory evidence of how Māori understood the process. Pre-1840 deeds recorded only in English obscured Māori understandings of the transactions in the written record before Crown investigations even began. Terminology used in te reo deeds, such as the translation of ‘tuku’ as ‘sell’, created the potential for miscommunication.¹⁰⁴² The small volume of Māori correspondence in the claims files indicated a lack of engagement with Māori. Where Māori supported claims, they were those of longstanding neighbours and whānau who appear to have participated in land-sharing arrangements. When Māori objected to surplus land acquisition, White and Bell either dismissed or downplayed their legitimate protests. Lack of living witnesses hampered Māori protests inadequately documented in minute books and petitions often decades after the original transactions. The Crown penalised Māori by for their lack of accurate information, while denying them access to that information in official files.

The Muriwhenua Land Tribunal’s 1997 conclusions on Māori engagement with the Godfrey commission applied to the Crown’s claims process:

Nor do we imply, in examining the Government’s process, that Maori acquiesced in it. It is doubtful whether it was even understood.¹⁰⁴³

¹⁰⁴² Margaret, Mutu, ‘Muriwhenua-Crown Alliances as Described in the Maori Language Documents relating to Crown Land Purchases in Muriwhenua in the period from 1840 – 1865’, Wai 45, doc H10, pp 19-20; Margaret Mutu, “Tuku Whenua or Land Sale?’ The Pre-Treaty Land Transactions of Muriwhenua’, Initial draft sent, 1992, Wai 45, doc F12, pp 42-45

¹⁰⁴³ Waitangi Tribunal, Muriwhenua Land report 1997, p 179

Affiliations of Deed Signers and Crown Investigations

4.1 Introduction

The Crown's conception of Māori tribal affiliations and land rights underlay the claims inquiry into Muriwhenua pre-1840 transactions. These conceptions of land rights shaped successive Crown commissions which failed to investigate effectively either 'original ownership' or the owners' iwi and hapū affiliations. Commissioners examined recorded transactions and any objections made, but they failed to examine effectively whether the Māori signing on behalf of the 'sellers' had a right to participate. This chapter examines the iwi and hapū affiliations of deed signers and how the Crown's preconceptions of rights and affiliations influenced its subsequent inquiries. These preconceptions limited the recording of deed signers' tribal affiliations, as Crown officials may not have recognised their significance. For the purposes of this research, our discussion on the tribal affiliations of deed signers is limited to three prominent signers – Panakareao, Pororua, and Te Ururoa. They represent only three of the fifty-two signers identified in Appendix B.¹⁰⁴⁴ We chose these rangatira as examples due to their prominence and availability of sources identifying their tribal affiliations. Claimant researchers will undoubtedly have more to say on the accuracy of official observations.¹⁰⁴⁵

The Crown's incomplete understanding of customary relations between Te Rarawa, Ngāpuhi, and Ngāti Kahu underlay its poor grasp of tribal affiliations. White's difficulties with Muriwhenua rangatira point to his limitations in this regard. Nonetheless, he played a leading role in investigating pre-1840 transactions.¹⁰⁴⁶ Although he enjoyed a close relationship with Reihana Kiriwi, his 'right hand man', Kiriwi lacked the customary authority of Panakareao, Pororua, and Te Ururoa.

The Crown's understandings of land rights in New Zealand developed over time. We will examine some of the key influences on the Crown's understanding of pre-1840 transactions, such as the 1838 House of Lords Select Committee hearing on New Zealand. We will also examine the Crown's understandings of the customary rights involved in pre-1840 transactions and how the Crown's evolving conception of Māori land rights shaped their investigations of these land transactions.

¹⁰⁴⁴ Appendix B, (p 276)

¹⁰⁴⁵ Megan Mulder, 'Pre-1865 Crown Transactions and Reserves', Wai 45, doc T25, p 360

¹⁰⁴⁶ White minute, 7 Jun 1864, OLC 1/1362, p 61

¹⁰⁴⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 129-130

4.2 Limitations in identifying transaction signers

The official record of early land transactions tends to be incomplete, with limited information on tribal affiliations of deed signers and their customary ownership rights. We have already discussed some aspects of customary rights in chapter three.¹⁰⁴⁷ We also discussed overlapping tribal interests in Muriwhenua and how these relationships changed over time.¹⁰⁴⁸

Maori Marsden, in evidence prepared for the Waitangi Tribunal's original land inquiry, explained the interwoven nature of customary rights.¹⁰⁴⁹ Individual signers usually affiliated with many groups and identified their different affiliations in response to different situations.¹⁰⁵⁰ Deed signers lacked exclusive rights to alienate land. Rima Edwards demonstrated Panakareao's ability to 'trace descent from all the iwi of Muriwhenua'.¹⁰⁵¹ Marsden added that rangatira in 'Muriwhenua identified primarily with a single iwi but had rights based on take tupuna throughout the region'.¹⁰⁵² Accordingly, identified tribal affiliations do not necessarily denote or deny a right to the land transacted.

The official record often ignored these interwoven customary land rights. Ignoring Māori who did not sign pre-1840 deeds (and who therefore did not yield their rights to the land transacted), the deeds recorded only those who did sign. The deeds did not record the tribal affiliations, nor the representative capacity of those who did sign.¹⁰⁵³

The poor condition of many surviving pre-1840 deeds reveal obvious limitations in identifying those who did sign transaction documents. Below are examples of the surviving deeds from the Berghan Muritoki transactions. Figure 28 is a surviving copy of the 30 May 1836 transaction deed. Figure 29 shows the deed of gift, signed a day later.

¹⁰⁴⁷ See section 3.4, (p 161)

¹⁰⁴⁸ Marsden, Tuku whenua Wai 45, doc F25, p 3; Figure 2: Overlapping Areas of Iwi Interest, (p 18)

¹⁰⁴⁹ Marsden, Tuku whenua, pp 2, 4

¹⁰⁵⁰ See section XIII, (p 32)

¹⁰⁵¹ Rima Edwards, Tuku whenua Wai 45, doc F23, p 2

¹⁰⁵² Marsden, Tuku whenua, p 3

¹⁰⁵³ Margaret Mutu, at a research hui held on 15 July 2025 and in feedback on this draft suggested that deed signatures are only a reliable indication of who was present at a deed signing and does not necessarily indicate a right or intent to undertake a transaction. Margaret Mutu, Muriwhenua Old Land Claims Report second research hui feedback, 15 July 2025

Figure 28: Example Signature Condition Muritoki Deed

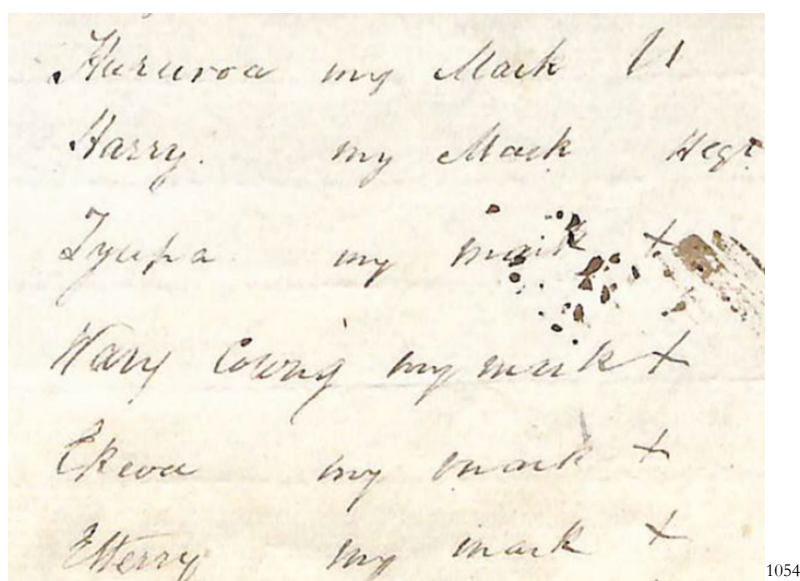
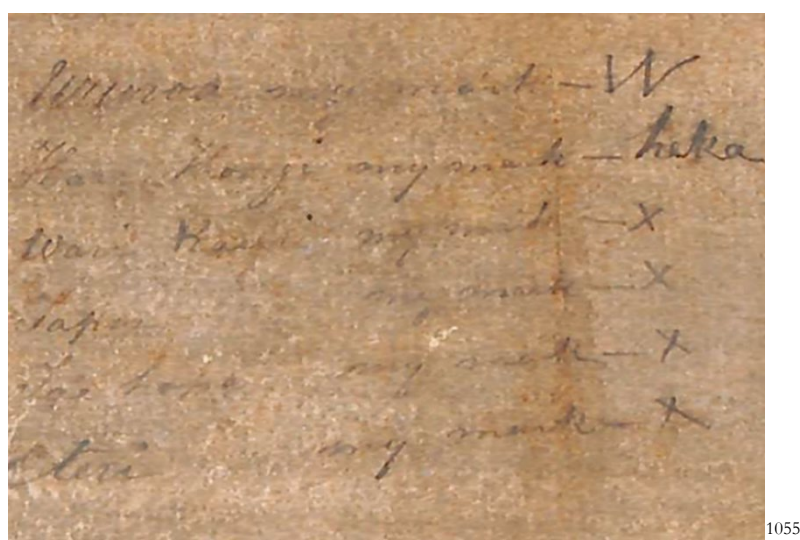


Figure 29: Example Signature Condition Muritoki Deed



As seen in Figure 29, the poor condition of the 31 May deed of gift made it almost illegible.¹⁰⁵⁶ The copy of the 30 May deed, while legible, has subtly different names for the same signer.¹⁰⁵⁷ Pororoa Wharekauri's signature appears as 'Wary Cowry' in the 30 May copied deed copy but as 'Wari Kauri' on the 31 May original deed of gift. Variations in spelling such as this can make it difficult to identify deed signers consistently, especially those who signed fewer deeds and do not feature as prominently in the documentary record as Pororoa.

¹⁰⁵⁴ Berghan Muritoki deed 30 May 1836 (Engl), OLC 1/1362, p 13

¹⁰⁵⁵ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, pp 15-16

¹⁰⁵⁶ Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, pp 15-16

¹⁰⁵⁷ Berghan Muritoki deed of gift 31 May 1836, OLC 1/1362, p 20

Pākehā almost certainly prepared the written primary pre-1840 deeds.¹⁰⁵⁸ Official records from the nineteenth century used tribal terms such as ‘iwi’ and ‘hapū’ apparently interchangeably. For example, officials identified Te Paatu as both an iwi and a hapū.¹⁰⁵⁹ White’s c1865 Register of Chiefs identified ‘Patu’ as both a ‘Section or Rarawa’ and as a separate group.¹⁰⁶⁰ White often oversimplified tribal affiliations. Officials usually reduced everyone in Muriwhenua to the old Te Rarawa or Ngāpuhi confederations.¹⁰⁶¹ Chief Protector Clarke and White seldom identified hapū affiliations. Normally, officials recorded Crown preferences, not Māori perspectives, as they elevated confederations and iwi over hapū. As the Muriwhenua Land Tribunal reported, ‘It is difficult to escape the impression that the [land claims] commissioners assumed that Maori had sold the land, and all that was needed was for one or two Maori to attend and affirm the transactions’.¹⁰⁶² Commissioner Godfrey relied on HT Kemp’s translation of Māori evidence at hearings and pre-1840 te reo deeds.¹⁰⁶³

Godfrey’s reports listed only the deed signers he considered most prominent. His official claims reports followed a familiar format: ‘Natives names from . . . Whom purchased or obtained.’¹⁰⁶⁴ For example, Godfrey summarised the signers of Ryan’s Mangōnui deeds as ‘Warekowri & co’, or ‘Pororua and his kin’.¹⁰⁶⁵ He failed to identify tribal affiliations, identifying groups only by their association with either Panakareao or Pororua. Later, Native Land Court Minute Book evidence clarified affiliations, but the court often pitted Māori applicants against each other.¹⁰⁶⁶ As a result, the court tended to focus on tribal conflict. Post-1865 court minutes recorded a shifting political landscape far removed from the pre-1840 transactions.¹⁰⁶⁷ Nonetheless, the Minute Books provided valuable evidence on tribal affiliations.¹⁰⁶⁸ The following section details how we recognised the limitations of the pre-1840 evidence used to identify deed signers and their tribal affiliations.

¹⁰⁵⁸ Waitangi Tribunal, Muriwhenua Land report, 1997, p 2

¹⁰⁵⁹ Cloher, Tribes of Muriwhenua, p 100; Mutu et.al., Ngāti Kahu, p 91

¹⁰⁶⁰ Register of Chiefs c1865 MA 23-25

¹⁰⁶¹ Reference to Ngāpuhi and Te Rarawa are present throughout the official record. See Report from the Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), p 343

¹⁰⁶² Waitangi Tribunal, Muriwhenua Land report, 1997, p 126

¹⁰⁶³ Waitangi Tribunal, Muriwhenua Land report, 1997, p 127

¹⁰⁶⁴ All OLC Reports feature the same format, an example is Godfrey report (on Spicer claim), 8 Apr 1843, OLC 1/443, pp 3-4

¹⁰⁶⁵ Godfrey report 12 May 1844, OLC 1/403-407, p 3

¹⁰⁶⁶ Stokes, Muriwhenua evidence, vol 2 Wai 45, doc P2, p 790

¹⁰⁶⁷ ‘Noble Ngakuku Panakareao’. *Maori Messenger: Te Karere Maori*, Volume II, Issue 9, 30 September 1856, p 11

¹⁰⁶⁸ An Example of this is Timoti Ngātote’s evidence at a Native Land Court hearing. Karikari evidence, 7 Mar 1877; NMB, vol 1, pp 153-154

4.3 Methodology for identifying Māori signers and their iwi/hapū affiliations

Limited deed evidence increased the difficulty of accurately identifying pre-1840 signers. We recorded the deed signers' names with all potential spelling permutations.¹⁰⁶⁹ We then provided the resulting signers' list to claimants at the February 2024 research hui for assistance with identification of signers and their iwi-hapū affiliations.¹⁰⁷⁰ We compared the recorded signers to those identified by claimants. We checked these signers with those Turton recorded during the nineteenth century.¹⁰⁷¹ We then selected the most probable name based on all available sources, to identify their most likely tribal affiliations. After the initial February 2024 hui discussions, Nathan Williams (a Ngāti Kahu historian), Tina Latimer (a Te Paatu claimant), and Tarewa Rota (a Ngāti Mokokohi claimant), provided further valuable information.¹⁰⁷² Of the 201 recorded signatures (duplicate signatures inclusive), we successfully identified fifty-two names with iwi and hapū affiliations.¹⁰⁷³ We then compared claimant information with written archival sources.¹⁰⁷⁴ We emphasised the pre-1840 written record when the importance of this information needed checking. We have listed the names of identified signers in Appendix B of this report.¹⁰⁷⁵

Previous research for Tribunal inquiries has often shown contested land rights. We recognised that commissioners and officials provided limited information on customary rights. We attempted to reconstruct interrelated iwi and hapū land rights with considerable difficulty. Given the intertwined nature of Muriwhenua tribal affiliations, our conclusions remain tentative. As Marsden noted, intertwined relationships 'may appear to create distortions,' even though local rangatira 'identified primarily with a single iwi'.¹⁰⁷⁶ Where possible, we identified a primary

¹⁰⁶⁹ Barry Rigby and Calum Swears, Claimant Input Request: Identifying iwi and hapū affiliations of Old Land Claim deeds and stated signatories, circulated 29-01-2024

¹⁰⁷⁰ Rigby and Swears, Claimant Input Request

¹⁰⁷¹ H. Hanson Turton, *An Epitome of Official Documents Relatives to Native Affairs and Land Purchases in the North Island of New Zealand*, Didsbury: Government Printer, 1883

¹⁰⁷² Nathan Williams, Pers comm, 16 Feb 2024; Tina Latimer, Pers comm, 13 Mar 2024; Tarewa Rota, Pers comm, 6 Feb 2024

¹⁰⁷³ Appendix B, (p 276)

¹⁰⁷⁴ Sources include but are not limited to: Register of Chiefs c1865, MA 23/25; and the Berghan OLC 1/558-588 & OLC 1/1362 files. 'Death of Reihana Kiriwi'. *Waka Maori*, Volume 12, Issue 9, 2 May 1876, p 108; 'Native Meeting at Mangonui'. *Daily Southern Cross*, Volume XXIX, Issue 4920, 2 June 1873; 'Steadfast Friend of the Mission'. *Northland Age*, Vol. 3, Iss 27, 6 Apr 1934; 'Bay of Islands'. *New Zealander*. Vol. 1, Iss 6, 12 July 1845; WE Bedggood, 'Tribes of the Far North', *Northland Age*, Vol. 3, Iss 27, 6 Apr 1934

¹⁰⁷⁵ Appendix B, (p 276)

¹⁰⁷⁶ Marsden, Tuku Whenua, pp 1-10

affiliation for each of the signers, as well identifying all other recorded affiliations. We used a wide range of sources.¹⁰⁷⁷

Old Land Claim files containing original deeds

British Parliamentary Papers, volumes 1-11

Northern Minute Books, volumes 1,2, 17 and, 31

Appendix to the Journals of the House of Representatives

Papers Past newspaper archive

Waitangi Tribunal, *Muriwhenua Land Report*, 1997

Evidence from the Muriwhenua Record of Inquiry

Published secondary sources

Tina Latimer, Tarewa Rota, and Nathan Williams's lists of tribal affiliations

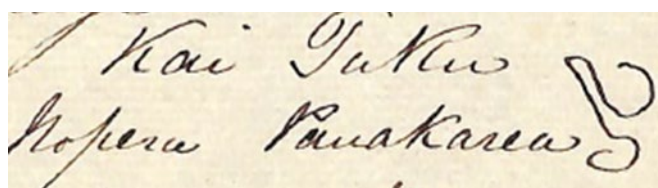
We recognised the limitations of our initial identification efforts. For example, not all signers' names appeared in available source material. Difficulties with names limited our ability to determine their tribal affiliations. Panakareao and Pororua appeared in a wide range of records, while other signers remain undocumented. The stories of three prominent rangatira – Panakareao, Pororua, and Te Ururoa – who we identified as dominant signers in the written record illustrate some of the difficulties we encountered in our cooperative research.

¹⁰⁷⁷ See OLC 1/155; OLC 1/160; OLC 1/328; OLC 1/329; OLC 1/330; OLC 1/382; OLC 1/403-407; OLC 1/443; OLC 1/458; OLC 1/558-566; OLC 1/570; OLC 1/617-623; OLC 1/675; OLC 1/704-705; OLC 1/774-776; OLC 1/751-752; OLC 1/847-849; OLC 1/850; OLC 1/851-856; OLC 1/875-877; OLC 1/887-888; OLC 1/889-893; OLC 1/894-895; OLC 1/913-914; OLC 1/1025; OLC 1/1294; OLC 1/1362; and OLC 1/1375 files; *British Parliamentary Papers*, volumes 1-11 (Shannon, Ireland: Irish University Press, 1968-1971); NMB vol 1-2, 17 and 31; See AJHR volumes; See Papers Past. Available <https://paperspast.natlib.govt.nz/>. Accessed 4 February 2025; Waitangi Tribunal, *Muriwhenua Land report*, 1997; Sources included but are not limited to: Pairama Tahere brief Wai 45, doc R47; Rigby and Koning, Preliminary report, Walzl Pre-Treaty Muriwhenua; Philippa Wyatt, Crown Purchases; Haami Piripi brief Wai 45, doc R43; David Armstrong, 'Te Paatu Scoping Report' Wai 45, doc T14; Atihana Johns brief, Wai 45, doc R41; Cloher, Tribes of Muriwhenua; McCully Matiu and Margaret Mutu. *Te Whānau Moana: Customs and Protocol*. (Auckland: Reed Books, 2003); Melinda Webber and Te Kapua O'Connor. *A Fire in the Belly of Hineāmaru: A Collection of Narratives about Te Tai Tokerau Tūpuna*, (Auckland: Auckland University Press, 2022); Mutu et.al., Ngāti Kahu; Nathan Williams, Pers comm, 16 Feb 2024; Tina Latimer, Pers comm, 13 Mar 2024; Tarewa Rota, Pers comm, 6 Feb 2024

4.3.1 Panakareao

Panakareao featured prominently in the customary and colonial history of Muriwhenua. Almost all sources noted his tribal affiliations, and in most of these he identified primarily with Te Rarawa. Panakareao signed He Whakaputanga in October 1835 without indicating affiliation.¹⁰⁷⁸ He signed Te Tiriti o Waitangi in Kaitaia on 28 April 1840 as Te Rarawa.¹⁰⁷⁹ He signed seventeen pre-1840 deeds, mostly with CMS missionaries. People knew him by several names, including ‘Noble’, Nōpera, Tūwhare, Parone Tūwhare, Puna Kurrihou, and Ngākuku.¹⁰⁸⁰ These names varied in different deeds.¹⁰⁸¹ In 1839 he signed the Warau-Matako deed with Richard Matthews as ‘Nōpera Tuware’.¹⁰⁸² The same year, Panakareao signed Joseph Matthew’s Parapara deed and Henry Southee’s Otaki deed as ‘Nōpera Panakareao’, with the translated version of the latter recording him as ‘Noble Panakareao’.¹⁰⁸³ Panakareao adopted Nōpera as a transliteration of Noble.¹⁰⁸⁴ Four years earlier he signed Puckey’s Ohotu deeds as both ‘Panakareao’ and ‘Nōpera Panakareao’.¹⁰⁸⁵ Marsden stated that Panakareao’s multiple tribal affiliations gave him the right to participate in all these transactions.¹⁰⁸⁶

Figure 30: Panakareao Otaki deed signature



1087

¹⁰⁷⁸ Jared Davidson (ed), *Introducing He Whakaputanga*, (Wellington: Bridget Williams Books, 2023), pp 19, 75

¹⁰⁷⁹ Salmond, Submission pp 55-56, cited in Evelyn Stokes, Muriwhenua evidence, vol 1, pp 193-194

¹⁰⁸⁰ Davidson, *Introducing He Whakaputanga*, pp 19, 75; ‘Munganui Land Claims’. *Auckland Chronicle and New Zealand Colonist*, Volume 2, Issue 38, 25 April 1844, p 4; Nathan Williams, Pers comm, 16 Feb 2024

¹⁰⁸¹ Variations in Panakareao’s signature suggest that some deeds were signed on his behalf. There was precedent, Missionary William Puckey scribed his signature on Te Tiriti o Waitangi at Kaitaia on Panakareao’s behalf in 1840. Rigby, *Empire on the Cheap*, p 35. While there does not appear to be any evidence that Panakareao’s signature was committed to deeds without his approval, this does go some way to explain the variation in style and name on the deeds he approved.

¹⁰⁸² Warau deed signatures page, 6 May 1839, OLC 1/330, p 15

¹⁰⁸³ Parapara deed 14 Nov 1839 (Engl), OLC 1/329, p 9; Southee Otaki deed 17 Dec 1839 (English & Te Reo), OLC 1/875-877, pp 12-16; Southee papers, encl in Bell memo, 24 Dec 1857, p 121

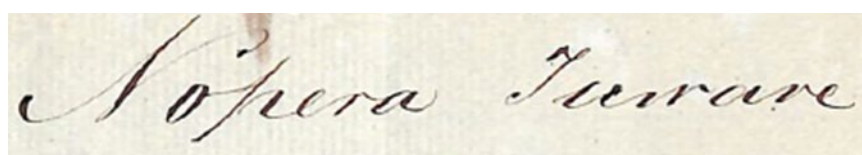
¹⁰⁸⁴ Southee Otaki deed 17 Dec 1839 (Engl), OLC 1/875-877, pp 12-13

¹⁰⁸⁵ Puckey Ohotu deeds 20 Jul 1835 (Te Reo & Engl), OLC 1/774, pp 11-12; Puckey Pukepoto deeds 19 Dec 1839 (Te Reo & Engl), OLC 1/774, pp 40-46

¹⁰⁸⁶ Marsden, Tuku whenua, p 6

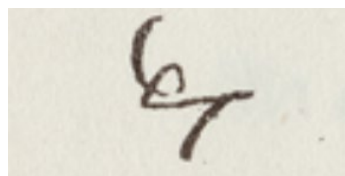
¹⁰⁸⁷ Southee Otaki deed 17 Dec 1839 (Engl & Te Reo), OLC 1/875-877, p 15

Figure 31: Panakareao Warau deed signature



1088

Figure 32: Panakareao Mark He Whakaputanga



1089

Edwards affirmed that Panakareao ‘could trace descent from all the iwi of Muriwhenua’ as a ‘mokopuna tuarua of Tarutaru’, Panakareao’s key Te Rarawa ancestor.¹⁰⁹⁰ Panakareao succeeded his great uncle Poroa, unchallenged as the leading Te Rarawa rangatira.¹⁰⁹¹ During the Ōruru dispute in June 1843, Clarke confirmed Panakareao’s leading role in Te Rarawa.¹⁰⁹² Ereonora, Panakareao’s principal wife and Treaty signer shared his Te Rarawa descent.¹⁰⁹³ She and her father Te Huhu exercised considerable authority in their own right.¹⁰⁹⁴ On the other hand, Panakareao’s father Te Kaka affiliated with Ngāti Kahu, as well as with Te Paatu and Patukoraha.¹⁰⁹⁵ In his youth, Panakareao joined in Ngāpuhi confederation taua such as the Amiowhenua expedition.¹⁰⁹⁶ Marsden pointed out that he also affiliated with Ngai Takoto, Patukoraha, and Te Aupouri.¹⁰⁹⁷

This wide kin network meant Panakareao lived throughout central Muriwhenua. Born at Ōruru, he travelled widely before he adopted Kaitaia (Te Ahu) as his primary residence. The Muriwhenua Land Tribunal reported his presence at Ōruru and ‘Takahue (Victoria Valley)’.¹⁰⁹⁸ At Kaitaia he served as the ‘chief Maori sponsor’ of the mission station.¹⁰⁹⁹ After 1846, Grey

¹⁰⁸⁸ Warau deed signatures page, 6 May 1839, OLC 1/330, p 15

¹⁰⁸⁹ NZH, entry on Panakareao

¹⁰⁹⁰ Edwards, Tuku whenua, p 2

¹⁰⁹¹ Marsden, Tuku whenua, p 5

¹⁰⁹² Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

¹⁰⁹³ NZH, entry on Ereonora

¹⁰⁹⁴ NZH, entry on Ereonora; Margaret Mutu stated at a research hui held on 15 July 2025 that Ereonora was senior to Panakareao and that he was never a Te Paatu rangatira. Margaret Mutu, Muriwhenua Old Land Claims Report second research hui feedback, 15 July 2025; Lloyd Pōpata stated in 2012 that he had ‘not found any clear whakapapa that Nōpera is Te Paatu’, Lloyd Pōpata ‘Brief of Evidence’, 2012, Wai 45, doc R15, p 18

¹⁰⁹⁵ Edwards, Tuku whenua, p 2

¹⁰⁹⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 36

¹⁰⁹⁷ Marsden, Tuku whenua, p 6

¹⁰⁹⁸ Waitangi Tribunal, Muriwhenua Land report, 1997, p 38

¹⁰⁹⁹ Rigby, Oruru report, p 9; Waitangi Tribunal, Muriwhenua Land report, 1997, p 48

encouraged him to move to Ōruru.¹¹⁰⁰ There in 1854, White created a 100-acre (later 200-acre) Ōruru reserve for his whānau.¹¹⁰¹

Upon Panakareao's death in 1856, the *Daily Southern Cross* identified his 'family tribe' as Te Paatu and noted that his passing left a 'great void' among the affiliated 'Aupouri and [Te] Rawawa tribes'.¹¹⁰² His legacy and multiple tribal affiliations generated disputes.¹¹⁰³ Native Land Court witnesses discussed some of Panakareao's affiliations. Tipene Te Taha was recorded as stating at an 1875 Kauri Putete hearing, that 'Nōpera was of Rarawa'.¹¹⁰⁴ Huirama Tukariri was recorded to state at the 1901 Kohumaru hearing that 'Nōpera was of N. Kahu' and that 'the rights of both [Panakareao and Pororua to Mangōnui] was as N. Kahu'.¹¹⁰⁵ Hapeta Henare at a Kohumaru hearing the following year, was recorded as stating that 'Nōpera [was the] leading chief of Te Rarawa'.¹¹⁰⁶ Later sources also recognised the connections of Panakareao to Te Paatu and Ngāti Kahu. Dorothy Ulrich Cloher's 2002 history entitled *The Tribes of Muriwhenua*, stated that 'although Nōpera's father [Te Kaka] was Ngāti Kahu, he [Panakareao] identified with Te Rarawa and was related to most of the tribal groups'. She did not differentiate between the old Te Rarawa tribal confederation and the current Te Rarawa iwi.¹¹⁰⁷ The Muriwhenua Land Tribunal reported that 'Although his father was Ngāti Kahu, and although Panakareao himself identified with Te Rarawa, he was related to all the hapu'.¹¹⁰⁸

Marsden established that Panakareao's primary affiliation with Te Rarawa paralleled his Te Paatu whakapapa. His right to transact land arose partly from his leadership of the Te Rarawa confederation and partly from his multiple tribal affiliations throughout Muriwhenua.¹¹⁰⁹ He acted in support of his Ngāti Kahu and Te Paatu rights at Ōruru and Mangōnui.¹¹¹⁰ He exercised rights that Marsden considered 'neither dominant nor exclusive'.¹¹¹¹ Marsden concluded that

¹¹⁰⁰ Rigby, Oruru report, p 32

¹¹⁰¹ Pukenui evidence 3 Mar 1877, NMB, vol 1, pp 182-183; doc D5, pp 161-162; cited in Stokes, Muriwhenua evidence, vol 1, p 241

¹¹⁰² 'Noble Ngakuku Panakareao'. *Maori Messenger: Te Karere Maori*, Volume II, Issue 9, 30 September 1856, p 11

¹¹⁰³ Waitangi Tribunal, Muriwhenua Land report, 1997, p 40

¹¹⁰⁴ Kauri Putete evidence, 12 Apr 1875, NMB, vol 2, p 72

¹¹⁰⁵ Kohumaru evidence, 14 Oct 1901, NMB vol 31, p 199

¹¹⁰⁶ Kohumaru evidence, 20 Jun 1902, vol 33, pp 331

¹¹⁰⁷ Dorothy Ulrich Cloher, *The Tribes of Muriwhenua*, pp 72-76

¹¹⁰⁸ Waitangi Tribunal, Muriwhenua Land report, 1997, p 37

¹¹⁰⁹ Marsden, Tuku whenua, p 4

¹¹¹⁰ Marsden, Tuku whenua, p 4

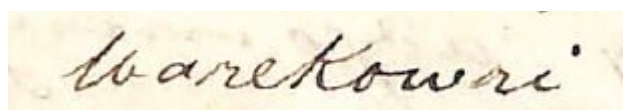
¹¹¹¹ Marsden, Tuku whenua, p 4

Panakareao admitted this limitation when he acknowledged that ‘whilst he could not sell, he had authority to allow the use of those land by virtue of the rights derived from take tupuna’.¹¹¹²

4.3.2 Pororua

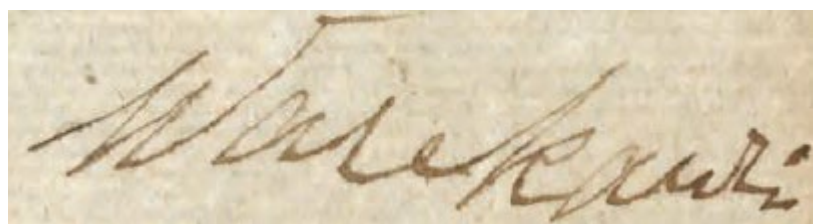
Pororua, much like Panakareao in the west, dominated pre-1840 transactions east of the Ōruru River.¹¹¹³ In doing so, Panakareao and Pororua drew upon different tribal affiliations for their land rights. While Panakareao based his Muriwhenua claims on multiple tribal affiliations, Pororua based his land rights almost entirely on Ngāpuhi conquest, despite sharing Ngāti Kahu ancestry.¹¹¹⁴ Pororua affiliated with Te Uri-o-Te Aho and Matarahurahu hapū within Ngāpuhi.¹¹¹⁵ For reasons that remain unclear, he adopted the name Wharekauri.¹¹¹⁶ These deeds featured spelling variations such as ‘Wari Cowri’, ‘Ewari’, ‘Waukouri’, ‘Warekauri’, ‘Wa Reohouri’, and ‘Waiahu uri’.¹¹¹⁷ White identified him as ‘Pororua Wharekauri Te Taepa’ in the c1865 Register of Chiefs, listing ‘Ngapuhi’ as Pororua’s primary affiliation.¹¹¹⁸

Figure 33: Pororua’s reproduced Oneti deed signature



1119

Figure 34: Pororua Mangōnui deed signature



1120

¹¹¹² Marsden, Tuku whenua, p 4

¹¹¹³ Pororua has been confidently identified as signing (Ryan) OLC 1/403-407; (Berghan) OLC 1/558-560; (Olman) OLC 1/850; (Smyth) OLC 1/887-888; (Partridge) OLC 1/890; (Wright) OLC 1/894-895; and (Butler) OLC 1/913-914 deeds.

¹¹¹⁴ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

¹¹¹⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 78-79

¹¹¹⁶ Rigby and Swears, Claimant Input Request; Nathan Williams, Pers comm, 16 Feb 2024; Tina Latimer, Pers comm, 13 Mar 2024

¹¹¹⁷ In order of appearance; OLC 1/403-407, OLC 1/558-566, OLC 1/850, OLC 1/887-888, OLC 1/894-895, OLC 1/913-914

¹¹¹⁸ Register of Chiefs c1865, MA 23/25

¹¹¹⁹ Partridge-Smyth deed (Eng), 15 Oct 1839, OLC 1/889-893, p 16

¹¹²⁰ Smyth deed (Eng), 14 Nov 1839, OLC 1/887-888, p 14

Figure 35: Pororua Oneti deed signature

1121

Pororua's father, Te Taepa, descended from Te Uri o Te Aho (Ngāpuhi ki Hokianga), and his mother, Pou, was a sister of Te Rarawa rangatira Poroa.¹¹²² Pororua's brother, Hohepa Kiwa, lived at Ōruru with his family and moved between Ōruru, Kohumaru, and Whangaroa.¹¹²³ Pororua married Ngaurupa of Ngāti Kahu.¹¹²⁴ Te Ururoa was a Whangaroa relative. Clarke recorded Pororua as Ngāpuhi in the 1843 Ōruru dispute.¹¹²⁵ Clarke identified the Ngāpuhi claim to Ōruru as the 'right of conquest and undisturbed possession'.¹¹²⁶

At Native Land Court hearings, Pororua repeated conquest as the source of his Ōruru-Mangōnui rights. At an 1869 Mangataraire hearing, Pororua was recorded as stating, 'I live at Kohumaru. I belong to the tribe Ngapuhi, hapu Te Uri o te Aho. My claim [comes] principally from conquest'.¹¹²⁷ At an 1875 Kauri Putete (Mangamuka) hearing, Pororua was recorded as stating: 'We exercised the right of ownership over it [the land] by taking lives on it'.¹¹²⁸ In 1877, Wiremu Pikahu gave evidence at a Pukenui hearing where he was recorded as stating that Pororua's mana over Mangōnui was 'mana tahae [stolen mana]'.¹¹²⁹ Pororua's nephew, Karena Kiwa, was recorded to state at the 1901 Kohumaru hearing that 'Pororua was half N. Kahu'.¹¹³⁰ Huirama Tukariri confirmed this, being recorded to state that 'Pororua had [a] N. Kahu side', and that 'Pororua was half N. Kahu', but stressed that this 'did not give him a right' to the nearby Pukenui land.¹¹³¹ Tukariri was also recorded to state that Pororua 'was himself a chief but had no auth. over N. Kahu'.¹¹³² He noted Pororua's rights at Kenana came from his wife, Ngaurupa.¹¹³³ Despite their famous rivalry, Pororua occasionally cooperated with Panakareao.¹¹³⁴ Both were

¹¹²¹ Paewhenua deed, 17 Dec 1838, OLC 1/913-914, p 26

¹¹²² Waitangi Tribunal, Muriwhenua Land report, 1997, pp 78-79; Pukenui evidence 8 Mar 1877, NMB vol1, p 175; Adrienne Puckey, *Trading Cultures*, p 339

¹¹²³ Pukenui evidence, 8 Mar 1877, NMB vol1, pp 170-176

¹¹²⁴ Pukenui evidence, 9 Mar 1877; NMB, vol 1, pp 180-181

¹¹²⁵ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

¹¹²⁶ Clarke to Col Sec, 1 Jun 1843, BPP 1846 (337), pp 109-112

¹¹²⁷ Mangataraire evidence, 19 Oct 1869, NMB, vol 1, p 47

¹¹²⁸ Kauri Putete evidence, 13 Apr 1875, NMB, vol 2, p 87; Stokes, Muriwhenua evidence, vol 1, p 238

¹¹²⁹ Taumatawiwi evidence, 10 Mar 1877, NMB, vol 1, p 187

¹¹³⁰ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, p 162

¹¹³¹ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, p 187

¹¹³² Kohumaru evidence, 2 Oct 1901, NMB, vol 31, p 185

¹¹³³ Kohumaru evidence, 2 Oct 1901, NMB, vol 31, p 181

¹¹³⁴ Waitangi Tribunal, Muriwhenua Land report, 1997, p 85

related to claimant James Berghan's second wife, Ruhihana Te Teira, daughter of Ihaka Te Teira, and both supported James and Joseph Berghan's Muritoki claim.¹¹³⁵ Adrienne Puckey referred to Panakareao and Pororua as 'cousins' in her 2011 book *Trading Cultures*.¹¹³⁶

4.3.3 Te Ururoa

Whangaroa Ngāpuhi rangatira Te Ururoa exercised influence in Muriwhenua during the mid-nineteenth century. He signed He Whakaputanga in 1835.¹¹³⁷ As with Pororua, Te Ururoa's affiliations extended beyond Ngāpuhi to Ngāti Kahu and Te Tahaawai hapū.¹¹³⁸ Te Ururoa shared other names: Rewharewa Te Koki, Rewharewha, and Ururoa Te Koki.¹¹³⁹ He signed at least four Mangōnui pre-1840 deeds. These included deeds for Thomas Ryan at Waiaua, Thomas Spicer at Mangōnui township, Hibernia Smyth at Taemaro, and Clement Partridge at Oneti.¹¹⁴⁰ Godfrey omitted Te Ururoa in his reports. He identified only Pororua as the leading signer in all his English deeds.¹¹⁴¹ As with other rangatira who signed English deeds, Te Ururoa's name appears with spelling variations. These included 'Ururoa' at Oneti, 'Huuiroa' in Spicer's Mangōnui claim, 'Hooderoa' in Smyth's Mangōnui claim, and 'Hurua' at Muritoki.¹¹⁴² Te Ururoa sometimes left a distinctive mark, which appeared prominently as the second signature on He Whakaputanga in 1835 and a year later on the Muritoki deed of gift.¹¹⁴³ He used a distinctive 'U' and 'W' mark alongside his name.¹¹⁴⁴ He varied this mark with an 'X' in an 1857 Muritoki statement of support for the Berghans' claim.¹¹⁴⁵

¹¹³⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 85; OLC 1/1362, pp 5, 50; Puckey, *Trading Cultures*, p 339

¹¹³⁶ Puckey, *Trading Cultures*, p 46

¹¹³⁷ Davidson, *Introducing He Whakaputanga*, p 19

¹¹³⁸ Davidson, *Introducing He Whakaputanga*, p 19

¹¹³⁹ Davidson, *Introducing He Whakaputanga*, p 19

¹¹⁴⁰ (Ryan) OLC 1/403-407; (Spicer) OLC 1/443; (Smyth) OLC 1/887-888; and (Partridge) OLC 1/890 deeds

¹¹⁴¹ Godfrey reports, Apr 1843, May 1844, OLC 1/403-407, pp 3-7; OLC 1/443, pp 3-4; OLC 1/887-888, pp 7-10; OLC 1/890, pp 3-10

¹¹⁴² (Ryan) OLC 1/403-407; (Spicer) OLC 1/443; (Smyth) OLC 1/887-888; and (Partridge) OLC 1/890 deeds

¹¹⁴³ NZH, entry on Ururoa. Available <https://nzhistory.govt.nz/keyword/ururoa>. Accessed 12 July 2024; Berghan Muritoki deed of gift 31 May 1836 (Engl), OLC 1/1362, p 20

¹¹⁴⁴ Berghan Muritoki deed 30 May 1836 (Engl), OLC 1/1362, pp 13-14

¹¹⁴⁵ Te Ururoa evidence 3 Oct 1857, OLC 1/1362, p 12

Figure 36: Te Ururoa's Reproduced Mark Muritoki deed

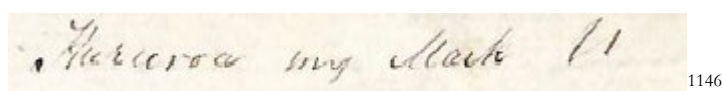
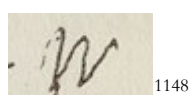


Figure 37: Te Ururoa's Mark Muritoki gift deed



Figure 38: Te Ururoa's Mark He Whakaputanga 1835



Te Ururoa should not be confused with his son, Paora Ururoa, who signed later Crown purchase deeds.¹¹⁴⁹ Nathan Williams and Tina Latimer identified Paora Ururoa, also known as Paora Putete, as a signer of pre-1840 deeds at Waiaua/Whakaangi, Whangaroa, and Oneti.¹¹⁵⁰ Nathan Williams stated that Paora Ururoa was also known as ‘Ururoa’.¹¹⁵¹ Williams and Latimer identified Te Ururoa’s affiliations to Te Tahaawai, Ngāti Mokokohi, Ngāti Kahu, Ngāpuhi, and Te Rarawa.¹¹⁵² White estimated Paora Ururoa as being 35 years old in the c1865 Register of Chiefs.¹¹⁵³ The 1898 *Auckland Star* obituary for Paora Ururoa recorded him as ‘close on one hundred years of age’ and as a veteran of ‘early inter-tribal wars in the North’.¹¹⁵⁴ Some records refer to both the father and the son as ‘Ururoa’, which may cause confusion.¹¹⁵⁵ Despite the confusion in the documentary record, the father-son relationship between the two meant they shared iwi-hapū affiliations.¹¹⁵⁶

¹¹⁴⁶ Berghan Muritoki deed 30 May 1836 (Engl), OLC 1/1362, pp 13-14

¹¹⁴⁷ Berghan Muritoki deed of gift 31 May 1836 (Engl), pp 15-16

¹¹⁴⁸ NZH, entry on Ururoa

¹¹⁴⁹ He signed the 1856 Te Whakapaku, the 1862 Maungataniwha East & the 1863 Pupuke ki Runga deeds. Mulder, Pre-1865 Crown transactions, pp 448-449

¹¹⁵⁰ OLC 1/403-407; OLC 1/443; OLC 1/890; Nathan Williams, personal communication, 16 Feb 2024; Tina Latimer, Pers comm, 13 Mar 2024; Tarewa Rota, Pers comm, 6 Feb 2024

¹¹⁵¹ Nathan Williams, Pers comm, 16 Feb 2024

¹¹⁵² Nathan Williams, Pers comm, 16 Feb 2024; According to Tina Latimer Te Ururoa’s first wife was Te Rarawa; Tina Latimer, Pers comm, 13 Mar 2024

¹¹⁵³ Register of Chiefs c1865, MA 23/25

¹¹⁵⁴ ‘Obituary’. *Auckland Star*, Volume XXIX, Issue 111, 12 May 1898, p 7

¹¹⁵⁵ ‘He Panuitanga ki te Ao katoa’. *Korimako*, Issue 66, 22 August 1887, p 5; ‘The Flag-staff at Mongonui’. *Maori Messenger: Te Karere Maori*, Volume V, Issue 4, 27 February 1858, p 1

¹¹⁵⁶ ‘He Panuitanga ki te Ao katoa’. *Korimako*, Issue 66, 22 August 1887, p 5;

Born at Te Pupuke around 1780, Ururoa served as one of Hongi Hika's 'principal lieutenants' in the 1827 Ngāpuhi campaign against Ngāti Pou at Whangaroa.¹¹⁵⁷ Hongi deputised him to attack Kaitangata, a Ngāti Pou ally.¹¹⁵⁸ The *Daily Southern Cross* in April 1843 reported that he led a force of eight hundred from Whangaroa to support Pororua at Taipā.¹¹⁵⁹ James Berghan referred to his first wife, Turikatuku Makareta, as Te Ururoa's daughter.¹¹⁶⁰ In the 1857 statement supporting the Berghans' Muritoki claim, Te Ururoa associated with Te Tahaawai, a hapū which connected him to both Ngāti Kahu and Te Rarawa.¹¹⁶¹ White recorded Paora Ururoa's tribal affiliation as Ngāpuhi in his Register of Chiefs but he also listed Ururoa's relative Hare Hongi Hika as Te Tahaawai.¹¹⁶² Paora Ururoa identified himself at a Native Land Court hearing on Otangaroa in 1875 stating that, 'I belong to Ngapuhi & reside at Te Pupuke Whangaroa'.¹¹⁶³

Jared Davidson noted Te Ururoa's affiliations to Ngāpuhi, Ngāti Kahu, and Te Tahaawai in *Introducing He Whakaputanga*.¹¹⁶⁴ The Te Raki Tribunal in 2023 reported Te Ururoa's affiliations as Te Tahaawai and Ngai Tāwake.¹¹⁶⁵ The Muriwhenua Land Tribunal reported him as a 'Whangaroa rangatira of Nga Puhi'.¹¹⁶⁶ Te Ururoa retained his primary affiliations to Ngāpuhi and Te Tahaawai. In *Ngāti Kahu: Portrait of a Sovereign Nation*, Zarrah Pineaha identified Te Tahaawai as a hapū of Ngāti Kahu, while also associating them with Ngāpuhi and Te Rarawa.¹¹⁶⁷

4.4 European conceptions of Te Rarawa, Ngāpuhi, and Ngāti Kahu

As previously discussed, complexity dominated intertwined patterns of Muriwhenua customary rights.¹¹⁶⁸ Māori understandings of tribal land rights differed radically from the Crown's.¹¹⁶⁹ During the nineteenth century, Ngāti Kahu land rights overlapped with Te Rarawa's in the

¹¹⁵⁷ Davidson, *Introducing He Whakaputanga*, p 19; Manuka Henare, Hazel Petrie, and Adrienne Puckey, 'He Whenua Rangatira' Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)', Wai 1040, doc A37, pp 188-190; Te Uira, Whangaroa report, p 138

¹¹⁵⁸ Henare, Petrie, and Puckey, *He Whenua Rangatira*, pp 188-190; Te Uira Whangaroa report, p 138

¹¹⁵⁹ 'Native War. Battle of Manganui'. *Daily Southern Cross*, Volume I, Issue 2, 29 April 1843, p 2

¹¹⁶⁰ James Berghan married twice, first to Turikatuku Makareta 'daughter' of Te Ururoa and mother of Joesph Berghan, and later to Ihaka Te Teira who was connected to both Pororua Wharekauri and Nōpera Panakareao. James Berghan Sr statement [c1862], OLC 1/1362, pp 4-6; Waitangi Tribunal, Muriwhenua Land report, 1997, p 85

¹¹⁶¹ 'Ngahui' appears as it was crossed out in the correspondence file statement; OLC 1/1362, p 12

¹¹⁶² Register of Chiefs c1865 MA23-25; Te Ururoa evidence 3 Oct 1857 OLC 1/1362, p 12

¹¹⁶³ Otangaroa evidence, 3 May 1875, NMB, vol 1, p 79

¹¹⁶⁴ Davidson, *Introducing He Whakaputanga*, p 19-20

¹¹⁶⁵ Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga*, pp 130, 395

¹¹⁶⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 85

¹¹⁶⁷ Mutu et.al. *Ngāti Kahu*, p 151

¹¹⁶⁸ Marsden, *Tuku Whenua*, p 3

¹¹⁶⁹ See section XIII, (p 32)

Kaitaia area and with Ngāpuhi's at Ōruru, Kohumaru, and Mangōnui.¹¹⁷⁰ In the 1830s and 1840s, Ngāti Kahu kainga at Taipā and in the Ōruru valley bore the brunt of conflicts between the Te Rarawa and Ngāpuhi confederations.¹¹⁷¹ Pākehā settling in Ōruru and Mangōnui found themselves caught in the same tribal conflict. Centuries of iwi and hapū conflict complicated the European settlement process.¹¹⁷²

Larger Te Rarawa and Ngāpuhi groups often overlooked Ngāti Kahu in the negotiation of pre-1840 transactions. Smaller related hapū such as Te Paatu, Ngāti Tara, Ngāti Rēhia, Matarahurahu, and other groups living near Mangōnui township shared Ngāti Kahu's status as overlooked residents. Both the Crown and European settlers overlooked these groups despite Mangōnui township's importance in colonial history. Mangōnui township hosted the first land claims hearings and was the site of its first Resident Magistrate's Court.¹¹⁷³ Ngāti Kahu's close association with Mangōnui township stood in stark contrast to how colonial officials like White virtually ignored them.

Ngāti Kahu, while distinct from neighbouring iwi, dominated the western part of the Doubtless Bay area. According to *Ngāti Kahu: Portrait of a Sovereign Nation* authors, the hapū of contemporary Ngāti Kahu now include, Te Whānau Moana/Te Rorohuri, Matarahurahu, Ngāti Ruaiti, Ngāi Takiora, Pātu, Te Paatu ki Pāmapūria, Te Paatu ki Kauhanga, Patukōraha, Ngāi Tohianga, Ngāti Taranga Te Paatu, Matakairiri, Te Tahaawai, and Ngāti Tara/Ngāti Te Rūrunga.¹¹⁷⁴ The inclusion of Matarahurahu, a hapū associated with Ngāpuhi rangatira Hone Heke, exemplifies how tribal relations were intertwined.¹¹⁷⁵ By 1901, Huirama Tukariri of Matarahurahu led Ngāti Kahu's claim at Kohumaru in opposition of Karena Kiwa's Ngāpuhi-Te Uri o Te Aho claim.¹¹⁷⁶ Te Paatu also shared close relations with Ngāti Kuri and Te Rarawa.¹¹⁷⁷ Ngāti Kuri and Te Paatu

¹¹⁷⁰ Figure 2: Overlapping Areas of Iwi Interest, (p 18). For Ngāti Kahu area, see Mutu et.al., *Ngāti Kahu*, pp 12-13, 2017

¹¹⁷¹ Waitangi Tribunal, *Muriwhenua Land report*, 1997, pp 14, 28; Mutu et.al., *Ngāti Kahu*, Map 1 (illustrative insert between pp 12-13)

¹¹⁷² Rigby, *Oruru report*, pp 8-10

¹¹⁷³ Other Muriwhenua iwi such as Ngāi Takoto and Ngāti Kahu ki Whangaroa also have limited mention in the nineteenth century documentary record. Te Aupouri are mentioned in Richard Taylor's Muriwhenua North deed. See Stokes, 'The Muriwhenua Land Claims Post 1865', Wai 45, doc R8, Appendix, pp 407-413

¹¹⁷⁴ Mutu et.al., *Ngāti Kahu*, p 5

¹¹⁷⁵ Freda Kawharu, entry on Hone Heke Pokai, DNZB, vol 1, pp 184-187

¹¹⁷⁶ Reremoana Renata 2012 brief; Kohumaru evidence 7 Oct 1901 NMB vol 31, pp 135-139

¹¹⁷⁷ Herewini Karaka (Selwyn Clarke) cited in: Mutu et.al., *Ngāti Kahu*, p 105

usually fought alongside the Te Rarawa confederation in most nineteenth century battles in Muriwhenua.¹¹⁷⁸

Such dynamic tribal relationships militate against a fixed understanding of iwi composition, their rohe, and their wider affiliations.¹¹⁷⁹ According to Marsden, the ever-changing political dynamics of Muriwhenua developed through inter-marriage with alliances ‘entered into and dissolved just as quickly’.¹¹⁸⁰ Muriwhenua rangatira, their iwi, and their hapū intertwined through extensive cooperation, despite conflict. The Muriwhenua Land Tribunal reported the situation Europeans faced when they first began to arrive:

Although each hapu had one or several rangatira, a particularly powerful rangatira could stand above them all and draw several hapu together as one body. This happened extensively in Aotearoa in the early nineteenth century, following the trauma of major population loss through unusual levels of war and disease. A significant factor in the transactions referred to in these claims was that, shortly before they were entered into, Muriwhenua had become dominated by one rangatira, Nōpera Panakareao, although around Mangonui there was a contest between Panakareao and Pororua Wharekaui.¹¹⁸¹

Settler interaction with the Panakareao and Pororua shaped the European understanding of the resident hapū and iwi. These interactions went on to further influence the Crown’s understanding of land rights to the detriment of smaller groups.

Panakareao and Pororua enhanced their prominence through their readiness to trade with the European arrivals.¹¹⁸² Panakareao authorised a significant number of pre-1840 transactions, especially with members of the CMS community as represented by Matthews, Puckey, and Ford.¹¹⁸³ Marsden believed Panakareao acted as a kaitiaki or guardian for Ngai Takoto, Te Paatu, and Patukoraha due to his connection with these Ngāti Kahu hapū.¹¹⁸⁴ Nonetheless, even as a kaitiaki, he lacked independent authority to alienate land.¹¹⁸⁵ Pororua conducted transactions with

¹¹⁷⁸ Tiare (Charlie) Petera cited in: Mutu et.al., Ngāti Kahu, p 102

¹¹⁷⁹ Joan Metge quoted in Cloher, The Tribes of Muriwhenua, pp 18-20

¹¹⁸⁰ Marsden, Tuku whenua, p 3

¹¹⁸¹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 30

¹¹⁸² Waitangi Tribunal, Muriwhenua Land report, 1997, p 53

¹¹⁸³ (Matthews, Otararau-Waiokai) OLC 1/328, (Matthews, Parapara) OLC 1/329, (Davis, Warau-Matako) OLC 1/160, (Puckey, Ohotu-Pukepoto) OLC 1/774-775; Stokes, Muriwhenua evidence, vol 1, pp 119-123

¹¹⁸⁴ Marsden, Tuku whenua, p 7

¹¹⁸⁵ Marsden, Tuku whenua, p 6-7

his sawyer and trader allies east of the Ōruru River.¹¹⁸⁶ Many sawyers and traders such as James Berghan and George Thomas forged customary ties with local Māori through marriage.¹¹⁸⁷

Since Panakareao and Pororua exercised obvious authority in Muriwhenua during the 1830s and 1840s, Europeans treated them as the principal ‘owners’ of the land transacted.¹¹⁸⁸ Both asserted conflicting interests in the Ōruru-Mangōnui area.¹¹⁸⁹ These two leading rangatira separately signed most of the surviving deeds. Panakareao signed all of the western Muriwhenua te reo deeds with the exception of Davis’ Mangatete North deed, which Taua signed.¹¹⁹⁰ Pororua, meanwhile, signed twenty-three of the thirty-one surviving eastern Muriwhenua English deeds.¹¹⁹¹ Northern Minute Book references to pre-1840 transactions used hapū and iwi labels interchangeably. Witnesses often referred to Ngāti Kahu both as a hapū and as an iwi.¹¹⁹² Pre-1840 Europeans claimants preferred to deal with Panakareao and Pororua rather than less prominent Ngāti Kahu residents.¹¹⁹³ They considered prominent Te Rarawa and Ngāpuhi rangatira as more legitimate than Ngāti Kahu representatives.¹¹⁹⁴

The Crown readily acknowledged Panakareao and Pororua’s prominence in pre-1840 Muriwhenua.¹¹⁹⁵ Panakareao led the signing of Te Tiriti at Kaitiāia in April 1840.¹¹⁹⁶ He also negotiated the first Crown Mangōnui ‘purchase’ in June 1840. The Crown then repeated the exercise with Pororua in May 1841.¹¹⁹⁷ Although often at odds with White, Panakareao referred to his alliance with the Crown as a ‘marriage’.¹¹⁹⁸ Similarly, Pororua’s willingness to trade with Europeans and support the founding of Mangōnui township enhanced his standing with officials.¹¹⁹⁹ The Crown also targeted Pororua to negotiate the disputed 1863 Mangōnui ‘purchase’ with him.¹²⁰⁰ By repeatedly negotiating predominantly with Panakareao and Pororua, the Crown ratified Panakareao and Pororua’s authority at the expense of other iwi and hapū. The

¹¹⁸⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 45-46

¹¹⁸⁷ E Dieffenbach, *Travels in New Zealand*, (London: John Murray, 1843), vol 1, p 229; Waitangi Tribunal, Muriwhenua Land report, p 85, 139

¹¹⁸⁸ Waitangi Tribunal, Mangonui Sewerage report, 1988, pp 16-17

¹¹⁸⁹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 120

¹¹⁹⁰ Taua evidence 31 Jan 1843 (English & Te Reo), OLC 1/160, pp 8-9

¹¹⁹¹ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 80-84

¹¹⁹² Pukenui evidence, 9 Mar 1877, NMB, vol 1, p 180, Kauri Putete evidence, 13 Apr 1875, NMB, vol 2, p 81

¹¹⁹³ Waitangi Tribunal, Mangonui Sewerage report, 1988, pp 16-17,

¹¹⁹⁴ Waitangi Tribunal, Mangonui Sewerage report, 1988, pp 16-17,

¹¹⁹⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 217-218

¹¹⁹⁶ Edwards, Tuku whenua, pp 12-15

¹¹⁹⁷ Rigby, Empire on the Cheap, p 37; Rigby, Oruru report, p 25

¹¹⁹⁸ Waitangi Tribunal, Muriwhenua Land report, 1997, p 188-192

¹¹⁹⁹ Rigby, Oruru report, p 23

¹²⁰⁰ Waitangi Tribunal, Muriwhenua Land report, 1997, p 244

Muriwhenua Land Tribunal reported that this reinforced a pattern in which Europeans often inflated the role of leading rangatira by ascribing ‘autocratic powers’ to them.¹²⁰¹

White considered Te Rarawa as the dominant local confederation, subsuming smaller groups. He recognised Te Paatu as subordinate to Te Rarawa, but he routinely ignored Ngāti Kahu. He omitted Ngāti Kahu from both his 1861 report on Mangōnui and his c1865 Register of Chiefs.¹²⁰² He recorded Te Paatu, but only as a ‘hapu of the Rarawa’. White listed Reihana Kiriwi and Wiremu Pikahu as Te Paatu but not as Ngāti Kahu.¹²⁰³ Both rangatira identified themselves as belonging to Ngāti Kahu at later court hearings.¹²⁰⁴ White identified Tipene Te Taha in 1861 as both Te Rarawa and Ngāti Te Ao.¹²⁰⁵ Then, in 1866 he identified him as Te Paatu.¹²⁰⁶ District Land Commissioner Johnson in 1855 identified Te Taha as Ngāti Kahu in Ōruru purchase correspondence.¹²⁰⁷ Johnson identified Ngāti Kahu as separate from Te Rarawa having, ‘quarrelled with their late chief, Noble’.¹²⁰⁸ Kemp later considered Te Taha to be ‘connected with Noble’s [Panakareao] party’, but he recognised him as a distinct claimant.¹²⁰⁹ White described Te Taha as ‘constantly at variance with the people at Ōruru and is making vigorous efforts to return to settle there’. The Crown eventually paid Te Taha £100 separately from Te Rarawa to complete the 1856 Ōruru purchase.¹²¹⁰ The Crown then granted Te Taha a 79-acre reserve in Waimutu to complete the 1858 Otengi purchase.¹²¹¹

Crown officials in Muriwhenua readily recognised the tribal affiliations of more prominent rangatira such as Panakareao and Pororua but ignored their important iwi and hapū affiliations in the process. The Crown also relegated rangatira such as Tipene Te Taha to secondary status until they required the consent of smaller local groups to complete purchases. While Ngāti Kahu may

¹²⁰¹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 29

¹²⁰² White to Grey, 28 Aug 1861, AJHR 1862, E-07, p 23; Register of Chiefs c1865, MA 23/25

¹²⁰³ White to Grey, 28 Aug 1861, AJHR 1862, E-07, p 23

¹²⁰⁴ White to Grey, 28 Aug 1861, AJHR 1862, E-07, p 23

¹²⁰⁵ White to Grey, 28 Aug 1861, AJHR 1862, E-07, p 23; Panakareao’s headstone at St Saviours in Kaitaia also identified the Te Rarawa rangatira as Ngāti Te Ao

¹²⁰⁶ Register of Chiefs c1865, MA 23/25

¹²⁰⁷ Johnson to McLean, 23Feb 1855, MA 91/9, Exhibit N, pp 18-19

¹²⁰⁸ Kemp memo, 4 May 1855, MA 91/9, Exhibit N, p 20

¹²⁰⁹ Kemp to McLean, 12 Apr 1856, MA 91/9, Exhibit N, pp 21-22

¹²¹⁰ The files are not definitive on the exact amount paid to Tipene Te Taha, but it appears to be £100. Kemp recommended £100 pounds in 1855 and £150 in 1856, with the additional £50 going to ‘Moetara, Busby and other Northern tribes. The same year, White stated that Tipene Te Taha was to receive £100 but the exact amount he received was not stated in the 17 September 1856 deed. Kemp memo, 4 May 1855, Kemp to McLean, 12 Apr 1856, White to McLean, 25 Jun 1856, Kemp to McLean, 7 Sep 1856, McLean to Kemp, 11 Dec 1856, MA 91/9, Exhibit N, pp 20-22, 24, 26, 30

¹²¹¹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 225

not have been the only group sidelined in this process, they demonstrate the Crown's preference for dealing only with larger groups.¹²¹²

4.5 White and the Rangatira

After White's 1848 arrival in Muriwhenua, he assumed responsibility for investigating the pre-1840 Mangōnui claims.¹²¹³ The Crown initially appointed him as a Collector of Customs and an Inspector of Police but Governor Grey rapidly promoted him to Resident Magistrate.¹²¹⁴ White's 30 year tenure as Resident Magistrate in Muriwhenua and the impact of his actions featured in the Muriwhenua Land Tribunal's findings.¹²¹⁵ The Tribunal described him as the personification of the 'introduction of British rule to Muriwhenua'.¹²¹⁶ White lacked legal qualifications and experience, but set himself the task of 'civilising' Māori.¹²¹⁷ The Tribunal reported that he:

took the job [of Resident Magistrate] a stage further, effecting an extraordinary economy by investing in himself the plenipotentiary powers of law-maker, judge, agent, and executor.¹²¹⁸

As the sole permanent Crown representative in Muriwhenua, White upheld a 'law of his own'.¹²¹⁹ Lacking respect for Māori culture, he avoided learning te reo throughout his long local career.¹²²⁰ The Tribunal observed that, 'White sought to marginalise Maori while standing aloof'.¹²²¹ White's 'aloofness' created a rift with the rangatira, particularly with Panakareao, who frequently challenged his assertion of authority.¹²²² When White established his small constabulary at

¹²¹² Even decades later, official census' between 1864 and 1881 listed virtually all other groups in Mangōnui as part of the 'Principle tribe' of Te Rarawa or Ngāpuhi. Return of All Officers Employed in Native Districts, AJHR 1864, E-7, p 3; Return Giving the Names, Etc., of The Tribes of The North Island, AJHR 1870, A11, p 3; Approximate Census of The Maori Population, AJHR 1874, G7, p 1; Census of The Maori Population, AJHR 1881, G3, p 11

¹²¹³ Throughout his 30-year tenure in Muriwhenua from 1848-1878, White served as a Collector of Customs, Inspector of Police, Resident Magistrate, and Civil Commissioner, Alan Ward, *A Show of Justice Racial 'Amalgamation' in nineteenth century New Zealand* (Auckland: Auckland University Press, 1973), p 78; Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²¹⁴ Ward, *Show of Justice*, p 78

¹²¹⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 186-189; Stokes, Muriwhenua evidence, vol 1, pp 278-283

¹²¹⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 186

¹²¹⁷ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 129, 209; While not having any legal qualifications for his role, White's resume included working as an unqualified surveyor for the New Zealand Company. He was also a former militia officer and advisor on the creation of an armed police force to Sub-Protector of Aborigines Donald McLean immediately prior to his appointment to Muriwhenua. Richard Hill, *Policing the Colonial Frontier: Part 1*, (Wellington: Government Printing Office, 1986), pp 246-247

¹²¹⁸ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²¹⁹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²²⁰ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²²¹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²²² Rigby, Oruru report, p 33

Mangōnui in 1848, Panakareao established a significantly larger force directly opposite White's headquarters.¹²²³ In his 1850 Crown purchase of most of Mangōnui township, White reserved for Panakareao a mere 28 square yards as a waka landing site. He entirely overlooked Pororua's mana at Mangōnui in the 1850 purchase.¹²²⁴ White and Panakareao's clashed in 1851. According to White's later memoirs, Panakareao, 'abolished the Customs and all Governmental Authority and abused me personally, the Governor and the Queen'.¹²²⁵ White even resorted to requesting naval assistance on that occasion.¹²²⁶ This prompted Grey to scold Panakareao, stating: 'It is not becoming that a great chief like yourself and the Officer of the Queen [White] should be at variance – it makes my heart sad'.¹²²⁷ White believed naval intervention 'impressed the natives very much, they thought I had the power to bring a force down at any moment: It helped me very much in the execution of my duties there, more especially in the suppression of many very harmful Maori customs'.¹²²⁸ Yet, White had to request naval support again in January 1852 to overawe Panakareao.¹²²⁹

Resident Magistrates in colonial New Zealand exercised local judicial authority over minor matters both criminal and civil.¹²³⁰ White sat alongside two Māori assessors in civil cases involving only Māori. Alan Ward described these local courts as 'the most important institution mediating European law and administration to the Maori'.¹²³¹ Richard Hill described them as having 'collective juridico-political authority . . . assigned specifically to implement rapid assimilation of Maori to Pakeha norms of behaviour'.¹²³² While allowing limited assessor participation, these courts attempted to win Māori respect for colonial law enforcement. Ward believed that White's relationship with Muriwhenua rangatira such as Puhipi, 'demonstrated possibilities in the Resident Magistrate and assessor system far richer than the formal duties set out in the Ordinance'.¹²³³ White's 1861 report to Grey on local Māori indicated how he tried to garner assessor support for the Crown. White summarised his assimilation strategy in his 1861 report:

¹²²³ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²²⁴ Waitangi Tribunal, Muriwhenua Land report, 1997, p 187

¹²²⁵ White Reminiscences, ATL, p 57

¹²²⁶ White Reminiscences, ATL, p 58

¹²²⁷ Grey to Panakareao, 9 Jun 1851, MA 7/2

¹²²⁸ White Reminiscences, ATL, p 58

¹²²⁹ During the HMS Calliope incident Panakareao reminded Lieutenant Governor Wynard of his alliance with the government and that 'the marriage ring has not dropped from my finger'. Rigby, Oruru report, p 33 citing 58 White to Col. Sec. 2 Jan., Noble Ngakuku [Panakareao] to Wynyard 14 Jan., Wynyard to Noble 15 Jan., Wynyard to Grey 15 Jan. 1852, G 8/5/8; Waitangi Tribunal, Muriwhenua Land report, 1997, p 188

¹²³⁰ Between case maximums of 20-100 pounds, and no sentence greater than 12 months imprisonment

¹²³¹ Ward, Show of Justice, p 74

¹²³² Hill, Policing the Colonial Frontier, p 258

¹²³³ Ward, Show of Justice, p 78

The Natives of this district have shown an evident disposition within the last few years to abandon their old customs. This effort is yet in its infancy, and it will be for the Government to actively assist and confirm them in so desirable an object.¹²³⁴

White employed several approaches to control Muriwhenua Māori. He zealously promoted the alienation of Māori land. Even though he lacked the legal authority of a commissioner, he assisted Bell and Kemp with claims inquiries, and with Crown purchases. With encouragement from Governor Grey, he investigated Mangōnui township claims after 1849. On township claims he wrote:

I . . . got the Govt to send me all the papers connected with them, and, after a good deal of trouble succeeded in getting them properly mapped off, purchasing from the natives on behalf of the Government blocks.¹²³⁵

White considered that Bell ‘officially confirmed all that I [White] had done’ after his 1857 Mangōnui hearing.¹²³⁶ For their part, Bell and Kemp appreciated White’s detailed knowledge of local claims both Māori and Pākehā.¹²³⁷ On his assistance with Crown purchases, White wrote to Native Minister Mantell:

We have also for several years been leading the Natives to acquiesce in the desirability of ceding their lands to the government. There are many large districts which we are in actual negotiation for, and in the course of a few years confidently look forward to the total extinction of Native title.¹²³⁸

That same year, White reported to Grey that he had been ‘preparing the Natives to consider the propriety of individualizing their lands.’¹²³⁹

The post-1861 Runanga attempted to turn the existing Māori institution into an agency of colonial control.¹²⁴⁰ Grey promoted his Runanga as an alternative to independent Māori political movements such as the Kīngitanga.¹²⁴¹ The Muriwhenua Land Tribunal reported:

Historians have suggested that Grey himself, with his pensions and assessor salaries for chiefs, was simply manipulating the rangatira to advance his own rule, or was cultivating a Maori aristocracy that he could control¹²⁴²

¹²³⁴ White to Grey, 28 Aug 1861, AJHR, 1862, E-07, p 23-24

¹²³⁵ White Reminiscences, p 55

¹²³⁶ White Reminiscences, p 55

¹²³⁷ Kemp to McLean, 29 Sep 1855, MA 91/9, Exhibit N, p 27; Bell report, 26 Dec 1859, MA 91/9, Exhibit F Pukewhau, p 16; Bell to White 15 Feb 1858, OLC 8/2, pp 162-168

¹²³⁸ White to Native Minister, 29 Nov 1861, Mangonui Resident Magistrate’s letterbooks, pp 100-104

¹²³⁹ White to Grey, 28 Aug 1861, AJHR 1862, E-07, pp 22-24

¹²⁴⁰ Vincent O’Malley, ‘Rūnanga and Komiti: Māori Institutions of Self-Government in the Nineteenth Century’, PhD Thesis, Victoria University of Wellington, 2004, p 46

¹²⁴¹ O’Malley, Rūnanga and Komiti, p 44

In Grey's Runanga, assessors acted as judicial officers with limited law enforcement authority under the supervision of their local Resident Magistrate. Alongside Crown purchasing, White's appointment of Māori assessors increased his influence over Muriwhenua rangatira. Grey's post-1861 Runanga system allowed White to appoint additional assessors.¹²⁴³ Grey's Runanga transformed traditional 'tribal councils' that pre-dated European arrival.¹²⁴⁴

White appointed an unusually large number of assessors in Muriwhenua. His thirteen appointees almost doubled the legislated quota of seven.¹²⁴⁵ His c1865 Register of Chiefs comments column illustrated the qualities he valued in his assessors.¹²⁴⁶ White described Ahipene Te Pae, Te Paatu rangatira and former assessor, as 'A quiet, amiable man, easily influenced'.¹²⁴⁷ He described Paora Ururoa, as 'A sensible, well conducted chief – mainly honourable character – has considerable influence personally and by birth'.¹²⁴⁸ Hill concluded that White, through his assessors, used Grey's Runanga as an agency of the Pākehā state.¹²⁴⁹ According to the Muriwhenua Land Tribunal, 'White had become the rangatira, performing the allocating role that was supposed to have been 'preserved' for Panakareao.'¹²⁵⁰

White continued to clash with both Panakareao and Pororua. He described Pororua in 1856 as a 'violent, insolent Native', and later accused him of supporting protests against the 1863 Mangōnui Crown purchase.¹²⁵¹ White nonetheless appointed both Pororua and Panakareao as assessors, but he also appointed a number of less prominent rangatira such as Reihana Kiriwi, Tipene Te Taha, and Paora Ururoa.¹²⁵² White may have appointed them to represent smaller

¹²⁴² Waitangi Tribunal, Muriwhenua Land report, 1997, p 192

¹²⁴³ In *Trading Cultures*, Adrienne Puckey recorded White's appointed assessors, Kaitiak, and pensioners between 1863 and 1867; assessors: Parone, Puhipi Te Ripi, Pororua Wharekauri, Paora Putete Ururoa, Hohepa Poutema, Karaka Te Kawau, Tipene Te taha, Kingi Wiremu, Hare Reweti Hukahu, Penetito Te Huhu, Pene Te Tai, Maihi, Te Huhu, Hone Taua, Wiremu Naihi, Nepia Te Morenga, Tuhua, Timoti Ngatote, Ruinga, Napipip Mumu, Kaitiaki: Waka Rangaunui, Reihana Kiriwi, Heremaia Te Ara, Pensioners: Ahipene Te Pai, Wi Waihi; Puckey, *Trading Cultures*, pp 336-337; White's c1865 Register of Chiefs' listed assessors as; Heremaia Te Ara, Maihi te Huhu, Wharerau te Kanohi, Karaka Te Kawau, Reihana Kiriwi, Nepia te Morenga, Ngapipi Mumu, Wiremu Naihi, Timoti Ngatote, Ahipene te Pae, Paraone, Wiremu Pikahu, Hohepa Poutama, Waka Rangaunu, Puhipi te Ripi, Ruinga, Tipene te Taha, Hone Taua, Tuhua, Paora Putete Ururoa, Kingi Wiremu, Pororua Wharekauri Te Taepa, Tamaho te Anga (Te Wharemate), Te Aratai, Hare Hongi, Pangari; Register of Chiefs c1865, MA 23/25, pp 1-5

¹²⁴⁴ Hill, *Policing the Colonial Frontier*, pp 805-806

¹²⁴⁵ Hill, *Policing the Colonial Frontier*, p 802

¹²⁴⁶ Register of Chiefs c1865, MA 23/25

¹²⁴⁷ Register of Chiefs c1865, MA 23/25

¹²⁴⁸ Register of Chiefs c1865, MA 23/25

¹²⁴⁹ Hill, *Policing the Colonial Frontier*, p 827

¹²⁵⁰ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 222-223

¹²⁵¹ White to Col Sec, 31 Jan 1856, IA 56/336 [re Oruru dispute]; Waitangi Tribunal, Muriwhenua Land report, 1997, p 188; Katherine, Orr-Nimmo, 'A Land Flowing with Milk and Honey: Aspects of the History of Kohumaru in the Vicinity of Kenana', 1999, Wai 45, doc R1, p 19

¹²⁵² White to Grey, 28 Aug 1861, AJHR, 1862, E-07, p 23-24

groups, or groups less threatening to his own authority. Whatever the case, White always sought to reward groups for their perceived loyalty. White let Grey know in 1861 that Te Rarawa knew that ‘their real safety is in their loyal support of the Government’.¹²⁵³

White’s attempts to evoke loyalty among Muriwhenua rangatira drew the expected local applause. Mangonui residents, both Māori and European, in 1878 farewelled him in fashion. Pākehā residents congratulated him on, ‘the salutary influence which you [White] have acquired over native minds’.¹²⁵⁴ White told Māori farewelling him that: ‘Your fathers have rendered me the obedience of children to a father’.¹²⁵⁵ White epitomised the colonial arrogance of a great white father.

4.6 Reihana Kiriwi and the Church Missionary Society

Reihana Kiriwi served as a key intermediary between Pākehā and Māori during White’s thirty-year official tenure in Muriwhenua. As a young convert to Christianity, Kiriwi developed a special association with CMS missionary Joseph Matthews at Parapara.¹²⁵⁶ Born Morenui, he took the Christian name of Reihana Kiriwi, a transliteration of Richard Greaves, after the Vicar of Matthews’ home parish in Oxfordshire.¹²⁵⁷ Kiriwi’s recorded iwi and hapū affiliations vary. He identified as Te Paatu, Ngāti Kahu, Te Rarawa, Ngāti Te Rūrunga, and Ngāti Tara, depending on the context.¹²⁵⁸ Matthews considered Kiriwi Ngāti Kahu, while White later identified him as Te Rarawa and his hapū as Te Paatu.¹²⁵⁹ Kiriwi’s 1876 obituary in *Waka Maori* labelled him Te Rarawa.¹²⁶⁰

¹²⁵³ White to Grey, 28 Aug 1861, AJHR 1862, E-07, pp 23

¹²⁵⁴ ‘Mangonui: Farewell to Mr. White, R.M.’. *New Zealand Herald*, Volume XV, Issue 5112, 5 April 1878, p 3

¹²⁵⁵ ‘Mangonui: Farewell to Mr. White, R.M.’. *New Zealand Herald*, Volume XV, Issue 5112, 5 April 1878, p 3

¹²⁵⁶ See section 1.2.3 (p 54-56); Rigby, Oruru report, p 11

¹²⁵⁷ Rigby, Oruru report, p 11; ‘Incidents in the Early Days of the Colony’, *New Zealand Herald*, Volume XXXVIII, Issue 11614, 30 March 1901, p 1 (Supplement)

¹²⁵⁸ Rigby, Oruru report, p 11; Okokori evidence, 4 Oct 1897, NMB, vol 17, p 366; Register of Chiefs c1865, MA 23/25; Otarapoka and Whiwhero, applications file, MLC, Whangarei Box 4, R23265752; Whangārei Archives, Māori Land Court, Taumatapukapuka, M27; cited in Mulder, Pre-1865 Crown Transactions, Wai 45, doc T25, p 45; Mutu et.al., Ngāti Kahu, p 159; Raniera Bassett, ‘Brief of Evidence’, 2012, Wai 45, doc R38, pp 14-21; Tamaki Legal, ‘Closing Submissions for Ngāti Tara (Wai 2000)’, 2012, Wai 45, doc S34, pp 6-8

¹²⁵⁹ Rigby, Oruru report, p 11; Okokori evidence, 4 Oct 1897, NMB, vol 17, p 366; Register of Chiefs c1865, MA 23/25

¹²⁶⁰ ‘Death of Reihana Kiriwi’. *Waka Maori*, Volume 12, Issue 9, 2 May 1876, p 108

Kiriwi lived with the Matthews family in Kaitaia after 1833.¹²⁶¹ During his time with Matthews he assisted CMS to strengthen its connections with Māori throughout Muriwhenua. Kiriwi witnessed deeds, such as Richard Matthew's at Matako in 1839 and Richard Taylor's 1840 Muriwhenua North deed. He signed both deeds as Reihana Morenui.¹²⁶² He signed Samuel Ford's 1839 Ōruru deed as 'Reihana Marenuī', as a 'Kai Titiro' (witness).¹²⁶³ Kiriwi and Panakareao both signed the 1840 Ōruru deed, reducing Ford's claim area there.¹²⁶⁴ His continued participation in missionary transactions, further demonstrated his loyalty to the CMS. Kiriwi's son, Rev Timoti Morenui Kiriwi, born in 1867, continued his father's CMS connections.¹²⁶⁵

Kiriwi participated in Bell's October 1857 Mangōnui hearing of Joseph Matthews' Parapara claim.¹²⁶⁶ At this hearing, Kiriwi requested Bell's ratification of the 3000-acre Raramata reserve specified in Matthews' 1844 Crown grant.¹²⁶⁷ Instead, Bell reduced the reserve to 340 acres at Aurere.¹²⁶⁸ Reihana Kiriwi's descendant, Mawene Kiriwi, testified about this at the 1897 Okokori Native Land Court hearing.¹²⁶⁹ Reihana Kiriwi's son, Rev Timoti Kiriwi, confirmed that his father in 1857 'asked for the reserve . . . [He] alone exercised Mana over this piece after the reservation of the land'.¹²⁷⁰ Timoti Puhipi corroborated Rev Kiriwi's evidence that Reihana asked 'for the whole surplus to be returned but the commissioner cut off this reserve 340 acres only'.¹²⁷¹ Rihi Pikahu added: 'I know that all these people deputed Reihana to be their spokesman as he was the most intelligent of all the younger generation – he was an assessor – a catechist'.¹²⁷² Piri Raiti (a former Native policeman) continued that 'Reihanas mana was his being a deputy for the others and not his own personal right'.¹²⁷³ In other words, all present agreed to Reihana Kiriwi's authority to speak for local hapū, but Bell still refused to ratify the original reserve provision.

¹²⁶¹ Rigby, Oruru report, p 11

¹²⁶² Turton's Private Deeds; Stokes, The Muriwhenua Land Claims Post 1865: Wai 45 and Others, 2002, Wai45, doc R8, p 407

¹²⁶³ Ford Oruru deed 12 Nov 1839 (Te Reo), OLC 1/704, pp 18-20

¹²⁶⁴ Ford Oruru deed 5 Oct 1840 (Te Reo), OLC 1/704, pp 14-15; Ford's 5 October transaction with Panakareao reduced his claim area by roughly half. Ford's signature, however, was not present on the deed, while Reihana Kiriwi's (Richard Morenui) witness signature was.

¹²⁶⁵ Michael Winston Blain and Robert Arthur Bruere, eds., *Blain Biographical Directory of Anglican Clergy in the South Pacific Ordained Before 1952*, 2025, p 1500

¹²⁶⁶ Okokori and Aurere are the same location. Stokes, Muriwhenua evidence, vol 2, p 548-549

¹²⁶⁷ Waitangi Tribunal, Muriwhenua Land report, 1997, p 172 Okokori evidence, 4 Oct 1897, NMB vol 17, p 368

¹²⁶⁸ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 379

¹²⁶⁹ Evelyn Stokes, Muriwhenua evidence, vol 2, p 549; Northern Minute Book 17

¹²⁷⁰ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 367

¹²⁷¹ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 368

¹²⁷² Okokori evidence, 4 Oct 1897, NMB, vol 17, p 371

¹²⁷³ Okokori evidence, 4 Oct 1897, NMB, vol 17, p 373

Kiriwi continued to play a prominent intermediary role after White appointed him an assessor soon after 1862.¹²⁷⁴ In his c1865 Register of Chiefs, White described Kiriwi as ‘a very clever well informed sensible chief (My right hand man) whose conduct White considered as ‘1st Rate’.¹²⁷⁵ The ‘right hand man’ comment demonstrated how much he valued Kiriwi’s services.¹²⁷⁶ White entrusted Kiriwi and Hare Rewiti with the responsibility for recording the minutes of the first major 1864 Runanga meeting at Ōruru.¹²⁷⁷

White in February 1864 sent Reihana Kiriwi, together with Paora Ururoa, Tipene Te Taha, and Karaka Te Kawau to Waikato as a rangatira delegation, to witness major military engagements there.¹²⁷⁸ Governor Grey and General Duncan Cameron hosted the Muriwhenua delegation.¹²⁷⁹ Grey evidently planned the visit as a political exercise to convince Muriwhenua rangatira that the Crown had prevailed over the Kīngitanga.¹²⁸⁰ Towards the end of the tour, which included viewing the battlefields of Rangiriri, Paterangi, and Rangiaowhia, Kiriwi also witnessed the Battle of Orakau.¹²⁸¹ The Crown distributed Kiriwi’s account of the battle in English and Te Reo, which ended in his exhortation to Māori: ‘i te rangimarire, kia mau tatou kite ture whaka-te-rangi’.¹²⁸² White and Grey’s use of Kiriwi to exert influence illustrates his standing among both Māori and Pākehā.¹²⁸³ Kiriwi, as a skilled mediator, succeeded in resolving disputes between Te Paatu and western Te Rarawa near Pāmapuria in 1867.¹²⁸⁴ Grey awarded Kiriwi and fellow rangatira Te Huhu two portraits for ‘their exertions in preventing hostilities between Tamaho (of Whangape) and the Patu’ on that occasion.¹²⁸⁵ Kiriwi also signed no fewer than ten Crown

¹²⁷⁴ Reihana Kiriwi is cited by Richard Hill as one of White’s three runanga ‘Wardens’ in 1862 alongside Waka Ranganu and Heremaia Te Ara on an annual 30 salary, but this was backdated ‘as all have been actively engaged in the work of the Government’, according to White. Hill, *Policing the Colonial Frontier*, p 827; Register of Chiefs c1865, MA 23/25

¹²⁷⁵ Register of Chiefs c1865, MA 23/25

¹²⁷⁶ Register of Chiefs c1865, MA 23/25

¹²⁷⁷ ‘Police court – Thursday’. *New Zealander*, Volume XX, Issue 2052, 27 February 1864, p 4

¹²⁷⁸ ‘He Korero no te haere ki Waikato, a Reihana Kiriwi’. *Waka Maori*, Volume II, Issue 28, 25 June 1864, p 2

¹²⁷⁹ ‘Reihana Kiriwi’. *Waka Maori*, p 2

¹²⁸⁰ Paora Ururoa, Tipene Te Taha, and Karaka Te Kawau were also part of the delegation. ‘Reihana Kiriwi’. *Waka Maori*, p 2

¹²⁸¹ ‘Reihana Kiriwi’. *Waka Maori*, p 2

¹²⁸² ‘Reihana Kiriwi’. *Waka Maori*, p 2

¹²⁸³ Accounts of visits to the Waikato of Reihana Kiriwi Raneira Te Kooturangi, Te Rauhihi and Rio Haeaterangi in 1864 (Te Reo and Engl) Box 3, ANZ-Wgtn; ‘Reihana Kiriwi’. *Waka Maori*, p 2

¹²⁸⁴ Heather Bassett, Muriwhenua Post-1865 Block Narratives Report One: Northern Blocks, 2025 Wai 45, doc T28, pp 53-54

¹²⁸⁵ Bassett, Muriwhenua Post-1865 Block Narratives pp 53-54

purchases between 1856 and 1865.¹²⁸⁶ This made him the leading Crown purchase signer among rangatira.¹²⁸⁷

During this time, Kiriwi maintained his prestige among the CMS missionaries. For example, in 1871 he escorted the Bishop of Auckland from Taipā to Ōruru and Kaitaia.¹²⁸⁸ White penned Kiriwi's obituary upon his death at Parapara in 1876. He stated that Kiriwi:

. . . was an assessor of 26 or 27 years standing, and during the whole of that time, my most faithful assessor and companion. I never travelled on duty without being accompanied by him, and he at all times rendered me most valuable assistance; he was eloquent and persuasive, of a most gentle and pleasing address, and strong practical common-sense. The Government have lost an able and zealous officer, and I a valued friend.¹²⁸⁹

The *New Zealand Herald* added a tribute that, 'there are very, very few here who have the entire confidence of both races such as the lamented deceased had'.¹²⁹⁰ White supported the erection of a memorial for Kiriwi and wrote to the Native Department 1882 asking, 'Did you get my letter . . . asking Govt to erect a tombstone over Reihana Kiriwi . . . I should be thankful if you could obtain this favour from Govt'.¹²⁹¹ In 1887, Māori erected a monument at Parapara in memory of Kiriwi. At its presentation, Kiriwi was described as 'a man of great firmness of character, and was always found on the side of right, and was respected by all classes of natives and Europeans'.¹²⁹²

Reihana Kiriwi served for over forty years as an effective intermediary between Māori and Pākehā. His facilitation of missionary transactions helped seal an alliance between Muriwhenua Māori and the CMS.¹²⁹³ Kiriwi's legacy lived on among both Māori and Europeans. His affiliations with Te Rarawa, Ngāti Kahu, Te Paatu, and Ngāti Tara and relationship with Europeans provided an opportunity for Europeans to expand their understanding of tribal affiliations in Muriwhenua. The praise both the CMS and White lavished on Kiriwi's loyalty demonstrated their support of him as a model rangatira.

¹²⁸⁶ These Crown purchases were: Kaiaka 1865, Waiake 1859, Mangatete South 1862, Maungataniwha East 1862, Maungataniwha West No. 1 1863, Maungataniwha West No. 2 1863, Oruru 1856, Otengi 1858, Toatoa 1865, and Ahipara 1859; Mulder, Pre-1865 Crown transactions, pp 355-356

¹²⁸⁷ Mulder, Pre-1865 Crown transactions, pp 410-427

¹²⁸⁸ 'The Bishop of Auckland in the North'. *Daily Southern Cross*, Volume XXVII, Issue 4295, 20 May 1871, p 6

¹²⁸⁹ 'Death of Reihana Kiriwi'. *Waka Maori*, Volume 12, Issue 9, 2 May 1876, p 108

¹²⁹⁰ 'Mongonui'. *New Zealand Herald*, Volume XIII, Issue 4501, 17 April 1876, p 3

¹²⁹¹ White to Native Dept 7 Aug 1882 MA91/9, Exhibit G, p 47

¹²⁹² It was rumoured, although entirely unsubstantiated that White himself contributed to the monument, if so, it was an uncharacteristic tribute; 'The Erection of a Maori Monument'. *New Zealand Herald*, Volume XXIV, Issue 7919, 11 April 1887, p 6

¹²⁹³ Far North Māori made up eight of the thirty-five Māori ordained by the Anglican Church by January 1880, this excluded un-ordained mission teachers. Puckey, *Trading Cultures*, p 98

4.7 Crown conceptions of customary land rights and OLC investigations

Fundamental differences between Western and Māori customary ownership hampered the Crown's investigation of customary title in Muriwhenua.¹²⁹⁴ How did Crown agents attempt to learn about customary title in preparation for their inquiries into pre-1840 transactions? Did officials like Protector Clarke examine pre-1840 Māori customary title in the context of the relatively recent enclosure of the British countryside?¹²⁹⁵ Clarke undoubtedly knew about how James Busby as British Resident to New Zealand after 1833 monitored pre-1840 transactions as it affected customary ownership.¹²⁹⁶

4.7.1 1838 and 1840 Select Committees and Crown understandings of Māori land rights

The 1838 House of Lords Select Committee on New Zealand examined witnesses from New Zealand.¹²⁹⁷ The Select Committee questioned Māori understanding of land rights and transactions. Nineteen witnesses appeared before the Committee during mid-1838.¹²⁹⁸ Of these witnesses, only one was Māori, only two others had been in New Zealand longer than a year, and none had visited Muriwhenua.¹²⁹⁹ Captain Robert FitzRoy, later to serve as Governor, presented evidence to the Select Committee, having visited the Bay of Islands for just ten days in 1835.¹³⁰⁰ In his brief visit, FitzRoy learned about the primacy of tribal ownership in New Zealand. FitzRoy

¹²⁹⁴ See section XIII, (p 32)

¹²⁹⁵ EP Thompson described the period of 1760-1820 as 'the great age of parliamentary enclosure'; Thompson, *Customs in Common*, p 110

¹²⁹⁶ See Samuel Carpenter, 'Te Wiremu, Te Puhipi, He Wakaputanga me Te Tiriti/Henry Williams, James Busby, A Declaration and the Treaty', Wai 1040, doc A17, pp 1, 24, 53, 65, 69

¹²⁹⁷ House of Lords Select Committee on New Zealand report, 8 Aug 1838, BPP 1837-38, (680), p 3

¹²⁹⁸ Select Committee Witnesses, affiliation, date visited New Zealand, and duration of visit; John Liddiard Nicholas, CMS, 1814 for 10 weeks; John Watkins, surgeon, 1833 and 1835 for 3 months; John Flatt, CMS, 1834-1837 for 2.5 years; Joseph Barrow Montefiore, merchant, 1830 for 4 months; Charles Enderby, whaler, 1794- for unknown time; Joel Samuel Polack, Trader, 1831-1837 for 6 years; Reverend Frederick Wilkinson, unaffiliated, 1837 for 3 months; John Downing Tawell, unaffiliated, 1837 for 2+ months; Nayti [Ngaiti], New Zealand Association, Indigenous; Reverend Samuel Hinds, New Zealand Association, never visited; Honourable Francis Baring, New Zealand Association, never visited; Captain Robert FitzRoy, Royal Navy, 1835 for 10 days RN; Dandeson Coates, CMS, never visited; Reverend John Beecham, WMS, never visited; Octavius Brown, CMS, never visited; William Albin Garratt, CMS, never visited; George Samuel Evans, New Zealand Association, never visited; The Right Honourable the Lord Petre, New Zealand Association, never visited; Frederick Elliot, Office of Agent General of Emigration, never visited. House of Lords New Zealand Committee evidence, BPP 1837-38 (680), pp 3-346

¹²⁹⁹ While no witnesses gave evidence pertaining directly to Muriwhenua, the majority of those who had visited New Zealand had visited the neighbouring Bay of Islands.

¹³⁰⁰ Ian Wards, entry on FitzRoy, DNZB, vol 1, pp 130-132; Lords New Zealand Committee evidence, BPP 1837-38 (680), pp 163-165; Lords New Zealand Committee evidence, BPP 1837-38 (680), pp 171-174

in 1843-1844 intervened to increase the size of several Crown grants Godfrey recommended in Muriwhenua.¹³⁰¹

In his 1838 evidence, FitzRoy noted that Māori retained full access to the land they transacted, in accordance with ‘the Right of the Common’.¹³⁰² He viewed customary transactions as incompatible with permanent alienation to individuals.¹³⁰³

Understandings emerging from the 1838 Select Committee report probably influenced Lord Normanby’s instructions to Captain Hobson the following year.¹³⁰⁴ Normanby instructed Hobson that Māori ‘title to the soil’ was ‘indisputable’, and that they ‘must not be permitted to enter into any contracts in which they might be the ignorant or unintentional authors of injuries to themselves’.¹³⁰⁵ Further, Normanby stated that Māori ‘must be carefully defended in the observance of their own customs’, including customary land rights. Normanby delegated the investigation of pre-1840 transactions to Governor Gipps of New South Wales, much to Hobson’s relief.¹³⁰⁶ Nothing in Normanby’s instructions suggested that Māori should be compelled to abandon their customary land rights in 1840.

A further House of Commons Select Committee in 1840 paid special attention to the New Zealand Company’s promotion of ‘systematic colonisation’.¹³⁰⁷ This 1840 Select Committee report discussed pre-1840 transactions and conceptions of land rights.¹³⁰⁸ The New Zealand Company founder, Edward Gibbon Wakefield, gave lengthy evidence before the 1840 Committee, appearing five times.¹³⁰⁹ Dandeson Coates defended CMS land claims in New Zealand against company criticism.¹³¹⁰ His evidence highlighted the CMS trust deeds designed to protect Māori against dispossession. He stated that CMS land in this category was ‘still the

¹³⁰¹ Waitangi Tribunal, *Muriwhenua Land report*, 1997, pp 139-140

¹³⁰² House of Lords New Zealand Committee evidence, BPP 1837-38 (680), p 174

¹³⁰³ Captain R FitzRoy House of Lords New Zealand Committee evidence, 11 May 1838, BPP 1837-1838 (680), p 171-174

¹³⁰⁴ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), p 37-42

¹³⁰⁵ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), p 37-42

¹³⁰⁶ Normanby to Hobson, 14 Aug 1839, BPP 1840 (238), p 37-42; Hobson to Normanby, August 1839, BPP 1840 (238), pp 42-44

¹³⁰⁷ Commons Select Committee report, 3 Aug 1840, BPP 1840 (582), CMS statement, 29 Nov 1839, Appendix No. 21, p 167

¹³⁰⁸ 1840 Select House of Commons on New Zealand Committee Members: Lord Eliot [Chair], F Baring, Briscoe, Hawes, Vernon Smith, Gladstone, Chapman, Captain Boldero, Lord Howick, E. Buller, GW Hope, Labouchere, R Seuart, Hindley, and Tufnell

¹³⁰⁹ Edward Gibbon Wakefield appeared before the Select Committee on 13, 16, 17, 22, and 24 July 1840. House of Commons Select Committee on New Zealand evidence, BPP 1840 (582), pp 1-57, 97-112

¹³¹⁰ Commons Select Committee report, 3 Aug 1840, BPP 1840 (582), CMS statement, 29 Nov 1839, Appendix No. 21, p 167

property of the natives and is held by the missionaries as their trustees.¹³¹¹ Governor Gipps in 1841 instructed land claims commissioners to honour trust deeds by not recommending Crown grants to other claimants of the affected land.¹³¹² The 1840 Select Committee nonetheless emphasised active land use as evidence of land ownership, rather than customary land rights.¹³¹³

Lord John Russell's Royal Instructions to Hobson in December 1840 and January 1841 followed the 1840 Select Committee report.¹³¹⁴ Russell explicitly recognised customary rights. He warned Hobson of the possibility that:

The custom or understanding of the natives, that the lands of each tribe are a species of common property, which can be alienated on behalf of the tribe at large only by the concurrent acts of various chiefs¹³¹⁵

He also stated the 'absolute invalidity' of individual European land transactions.¹³¹⁶ Russell instructed Hobson to accommodate Māori customs not 'directly injurious' until they were 'voluntarily laid aside'. He warned that enforcing the 'law of England' would otherwise 'subject the natives to much distress, and many unprofitable hardships'.¹³¹⁷

On the other hand, Russell echoed the 1840 Select Committee's focus on land usage when he stated that nothing in his instructions affected the 'rights of any . . . aboriginal natives . . . the actual occupation or enjoyment . . . of any lands in the said colony now actually occupied or enjoyed by such natives'.¹³¹⁸ Despite Russell's recognition of customary land rights in New Zealand, he recommended to Hobson a report from Captain George Grey's South Australian aboriginal experiment, which promoted rapid assimilation and the forceful introduction of British law.¹³¹⁹

¹³¹¹ Commons Select Committee report, 3 Aug 1840, BPP 1840 (582), CMS statement, 29 Nov 1839, Appendix No. 21, p 167

¹³¹² See section 1.5.5, (p 119)

¹³¹³ Commons Select Committee report, 3 Aug 1840, BPP 1840 (582), pp ix-x

¹³¹⁴ Commons Select Committee report, 3 Aug 1840, BPP 1840 (582), p ix; Russell to Hobson, 9 Dec 1840, BPP 1841 (311), p 24; Russell to Hobson, 28 Jan 1841, BPP 1841 (311), pp 51-52

¹³¹⁵ Russell to Hobson, 28 Jan 1841, BPP 1841 (311), p 51-52

¹³¹⁶ Russell to Hobson, 28 Jan 1841, BPP 1841 (311), p 52

¹³¹⁷ Russell to Hobson, 9 Dec 1840, BPP 1841 (311), pp 28

¹³¹⁸ Russell to Hobson, 9 Dec 1840, BPP 1841 (311), p 32

¹³¹⁹ Russell to Hobson, 28 Jan 1841, BPP 1841 (311), p 43-47

4.7.2 1844 Select Committees and Crown conceptions of Māori land rights

The New Zealand Company dominated the 1844 House of Commons Select Committee much more forcefully than it had in 1840.¹³²⁰ The 1844 committee rejected the Crown's protection of Māori land rights in article 2 of Te Tiriti/the Treaty.¹³²¹ The Committee derided Hobson's failure to establish British sovereignty in New Zealand, to allow the Crown to appropriate 'all unoccupied lands'.¹³²²

The Committee blithely assumed that land claims inquiries could be reduced to determining ownership of occupied Māori land.¹³²³ It recognised the impossibility of disentangling 'complicated and conflicting' tribal claims.¹³²⁴ But this difficulty only emboldened the committee to advocate the Crown's wholesale appropriation of unoccupied Māori land.¹³²⁵ When Select Committee chair Lord Howick, as Earl Grey, succeeded Stanley as Secretary of State for the Colonies in 1846, he instructed Governor Grey to appropriate unoccupied 'Waste Land' in New Zealand.¹³²⁶

4.7.3 Chief Protector of Aborigines George Clarke's conceptions

Charles Buller, a Whig supporter of the 1844 Select Committee, used its report to condemn George Clarke as the source of New Zealand's land problems. He believed that Protector Clarke elevated Māori land rights in a manner that impeded colonisation.¹³²⁷ Appointed by Hobson as his Chief Protector of Aborigines in May 1841, Clarke had first arrived in New Zealand as a CMS missionary in 1824 and participated in dozens of Bay of Islands pre-1840 transactions.¹³²⁸ On the other hand, in November 1840 Clarke acted as a CMS representative in filing seventeen trust deeds with the Crown. These deeds applied to locations throughout the North Island that the CMS wished to forbid the alienation of to protect local Māori.¹³²⁹ As Chief Protector, Clarke

¹³²⁰ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), pp 3-14; Committee Proceedings, 8-23 Jul 1844, pp 3-14

¹³²¹ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), pp 3-14

¹³²² Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), pp 3-14

¹³²³ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), pp 3-14

¹³²⁴ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), p 7; Stokes, Muriwhenua evidence, vol 1, pp 218-219

¹³²⁵ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), pp 3-14

¹³²⁶ Stokes, Muriwhenua evidence, vol 1, pp 218-219

¹³²⁷ British Parliamentary Debates (17 Jun 1845) vol 81, cds 673-675

¹³²⁸ Rigby, *Empire on the Cheap*, p 11; Tonk, *First New Zealand Land Commissions*, p 131

¹³²⁹ Waitangi Tribunal, *Muriwhenua Land report*, 1997, p 69

negotiated the Crown's 1840 and 1841 Mangōnui 'purchases' with Panakareao and Pororua.¹³³⁰ In these duplicate purchases Clarke recognised of the non-exclusive and overlapping nature of customary interests.¹³³¹ Clarke stressed the complexity of such transactions which required 'knowing the language and customs of the natives'.¹³³²

Clarke understood that customary complexity often generated conflict.¹³³³ He insisted that rangatira acted in their 'collective capacity' to defend rights based on occupancy and use.¹³³⁴ He believed that despite occasional 'encroachment', tribal boundaries or 'grand divisions' remained largely stable.¹³³⁵ Clarke therefore, proposed a 'Doomsday-Book' which registered both 'grand divisions' and 'internal divisions' to settle tribal disputes.¹³³⁶ He suggested that much like its Norman predecessor, the 'Domesday-Book', it should record boundaries as understood in 1840.¹³³⁷ In doing so, Clarke anticipated the later Native Land Court '1840 rule'.¹³³⁸ Given his familiarity with Muriwhenua, Clarke recommended Te Rarawa control of the northernmost 'grand divisions' surveyed.¹³³⁹

Despite his recognition of customary complexity, Clarke seems to have resorted to simple surveyed boundaries which normally identified exclusive rights. This contradicted the customary reality of overlapping tribal interests. While continuing to evoke 'distinct but overlapping land rights' and Māori determination to retain 'their paternal possessions', which were generally their 'best lands', he never compiled a Māori 'Doomsday-Book'.¹³⁴⁰

Clarke by 1845, lost his confidence in land claims commission inquiries. He reported that such inquiries had 'been far from satisfactory; all that has been ascertained is, that various Europeans have made purchases from certain natives, but whether those natives had a right to sell, or how that was acquired is still in the majority of cases quite a matter of doubt'.¹³⁴¹

¹³³⁰ Rigby, Oruru report, pp 23-26

¹³³¹ Clarke to Col Sec, 1 Sep 1845, BPP 1846 (337), pp 123-125

¹³³² Clarke to Col Sec, 30 Sep 1841, BPP 1841 (311), pp 189-190

¹³³³ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113

¹³³⁴ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113

¹³³⁵ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113

¹³³⁶ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113

¹³³⁷ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113; A Williams and G H Martin (eds), *Domesday Book: A Complete Translation*, (London: Penguin, 2003)

¹³³⁸ Bryan Gilling, 'The Queen's sovereignty must be vindicated: the 1840 Rule in the Māori Land Court', *New Zealand Universities Law Review*, 16.2 (1994), pp 136-174

¹³³⁹ Tribal boundaries, encl No 2 in Clarke to Col Sec, 1 Jun 1843 BPP 1846 (337), pp BPP 1846 (337), pp 112-113

¹³⁴⁰ Clarke to Col. Sec. 17 Oct., 1 Nov. 1843, CO 209/33, pp 356-60 cited in Rigby, *Empire on the Cheap*, p 47; Rigby, Oruru report, p 31

¹³⁴¹ Clarke to Col Sec, 1 July 1845 BPP 1846 (337), pp 131-137

4.8 Crown investigations of iwi and hapū affiliations

4.8.1 Godfrey and the inquiries

Godfrey's formulaic claims reports deserved Clarke's criticism. Godfrey followed narrow wording that confined itself to ratifying 'that various Europeans have made purchases of certain natives'.¹³⁴² This simple wording defied Clarke's grasp of the complexity of customary rights. Clarke could honestly question 'whether those natives [appearing] before Godfrey had a right to sell, or how that was acquired . . .'.¹³⁴³ Godfrey's reports recorded only a brief list of 'sellers' declared to 'have admitted the payment they received and the alienation of the land'.¹³⁴⁴ These reports presupposed that the deeds presented validated western-style transactions for the alienation of land.¹³⁴⁵

Nor did Godfrey attempt to identify the tribal affiliations that Clarke understood as essential to establish who 'sellers' represented. Godfrey's forms also reduced lists of the 'sellers' to the three to four most prominent deed signers.¹³⁴⁶ For example, Gilbert Puckey's 1835 Ohotu deed listed 'Ripi', 'Mokanga', and 'Nopera Panakareao' as signers. Godfrey's report named only 'Panakareao' without bothering to mention the other participants.¹³⁴⁷ Furthermore, Godfrey never mentioned the iwi or hapū affiliations of deed signers in his reports.

¹³⁴² Clarke to Col Sec 1 July 1845, BPP 1846 (337), pp 131-137

¹³⁴³ Clarke to Col Sec, 1 July 1845 BPP 1846 (337), pp 131-137

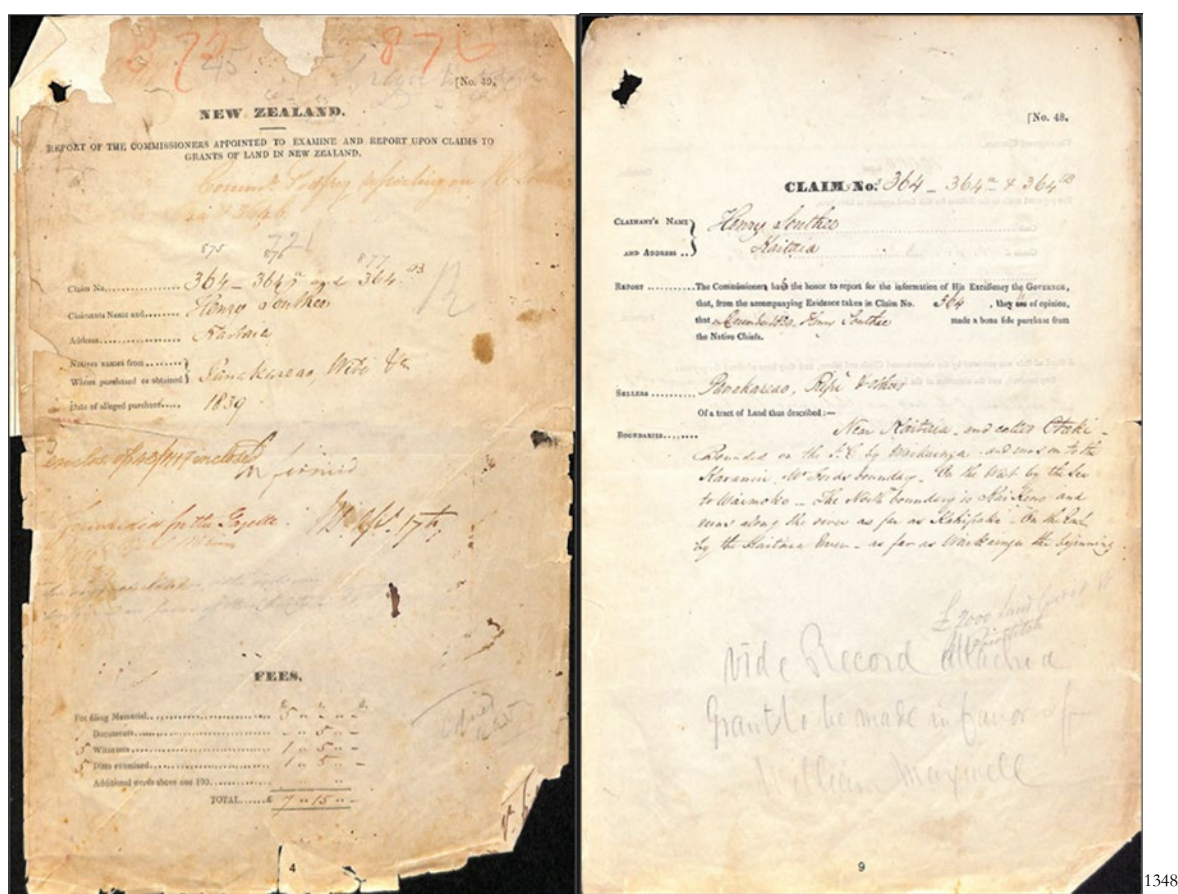
¹³⁴⁴ Godfrey report (Matthews-Parapara) 15 Apr 1843, OLC 329, pp 3-6

¹³⁴⁵ Godfrey report (Matthews-Parapara) 15 Apr 1843, OLC 1/329, pp 3-6

¹³⁴⁶ Godfrey report (Southee-Awanui) 15 Apr 1843, OLC 1/875-877, pp 4, 9-11

¹³⁴⁷ Godfrey report (Puckey-Ohotu) 15 Apr 1843; Puckey Pukepoto deeds 19 Dec 1839 (Te Reo & Engl) OLC 1/774, pp 4-7, 40-46

Figure 39: Godfrey's final report on OLC 1/875-877



Godfrey at least attempted to verify witness statements. Kemp recorded identical witness statements from two people claiming they 'had a right to sell this land and have never sold it to any other persons'.¹³⁴⁹ These proforma statements implied that Godfrey and Kemp prepared standardised questions for all witnesses. Neither recorded the wording of these questions, but Muriwhenua claimant historian Philippa Wyatt reconstructed what they may have asked:

- i. Do you claim the land described in this deed ?
- ii. Are the boundaries described in this deed correctly stated?
- iii. What is the approximate acreage of this claim ?
- iv. When did you purchase this land ?
- v. Who did you purchase this land from ?
- vi. What were the payments made?
- vii. Have you ever sold any part of this land ?

¹³⁴⁸ Godfrey report (Southee-Awanui) 15 Apr 1843, OLC 1/875-877, pp 4, 9-11

¹³⁴⁹ Examples of the phrase were made by signers Panakareao, Rauri, Ripi, Taua, and other rangatira. These examples are; Panakareao evidence, 31 Jan 1843, OLC 1/675, p 11; Panakareao, Rauri [Ruanui] and [Puhipi] Ripi evidence, 31 Jan 1843, OLC 1/875-877, pp 6-8; Taua (Henare Popata also gave a statement but without reference to his 'right') evidence, 31 Jan 1843, OLC 1/160, p 7

- viii. Has your possession ever been disputed by either Natives or Europeans?¹³⁵⁰

Such standardised questioning left little room for nuance that may have been present in the pre-1840 transactions.

The Ōruru-Mangōnui conflict of 1843 left an indelible impression on Godfrey. That conflict shaped the legacy of his inquiries into pre-1840 Muriwhenua transactions. Following his confrontation with Panakareao, Godfrey reported confidently that he intended to ‘bring Nopera to terms during my stay there [Kaitaia]’ but was unsuccessful.¹³⁵¹ Then he abruptly informed Clarke: ‘It is quite certain I can do no more in this affair’, and left Muriwhenua. Godfrey’s premature withdrawal from attempts to resolve the Ōruru-Mangōnui dispute shows how little he knew about the tribal context. Godfrey completed his Muriwhenua reports from the distant colonial capital in Auckland, without further hearings or contact with Māori witnesses.

Godfrey consequently advised the Colonial Secretary in 1844, that Mangōnui should be abandoned, to ‘prevent discord between the Tribes’ and to deprive local Māori ‘of the benefits . . . they derive from Europeans dwelling there’.¹³⁵² He considered that these measures would encourage a ‘more amicable’ settling of disputes in future.¹³⁵³ Godfrey miscalculated if he thought that a Pākehā withdrawal from Mangōnui would teach Māori the error of their ways. Few claimants left Mangōnui, and those who stayed were the most likely to co-operate with Māori. Godfrey simply misjudged the local situation.¹³⁵⁴

Godfrey followed his instructions to the best of his ability, but since they originated in New South Wales, their lack of attention to the essential Māori context proved fatal. Godfrey paid more attention to local Māori rights in his later Coromandel area inquiries. There he ‘excepted’ several disputed areas in his grant recommendations.¹³⁵⁵ He noted that claimants either avoided calling Māori witnesses likely to raise disputes, or they attempted to pay off such witnesses.¹³⁵⁶ If Māori failed to dispute Pākehā claims Godfrey also expressed concern that the ‘Natives will

¹³⁵⁰ Philippa Wyatt, ‘The “Sale” of Land in Muriwhenua: A Historical Report on Pre-1840 Land Transactions’, Wai 45, doc F17, pp 101-103, 109

¹³⁵¹ Godfrey to Col Sec, 10 Feb 1843, encl 1 in FitzRoy to Stanley, 18 Dec 1844, BPP 1843-45 (369), pp 73-74

¹³⁵² Godfrey to Col Sec, 3 Feb 1844, OLC 8/1, pp 80-81

¹³⁵³ Godfrey to Col Sec, 3 Feb 1844, OLC 8/1, pp 80-81

¹³⁵⁴ Godfrey to Col Sec, 3 Feb 1844, OLC 8/1, pp 80-81

¹³⁵⁵ Godfrey to Col Sec, 8 Jun 1844, OLC 8/1, pp 89-90

¹³⁵⁶ Godfrey to Col Sec, 8 Jun 1844, OLC 8/1, pp 89-90

suffer injustice'.¹³⁵⁷ In general, Godfrey appears to have applied 'good conscience' in following his instructions, but his ignorance of tribal context disadvantaged Māori.¹³⁵⁸

Godfrey's Muriwhenua inquiry in failed to identify 'original' Māori land rights holders. The 1844 House of Commons Select Committee ridiculed Godfrey's mission as a 'manifest absurdity'.¹³⁵⁹ Later, FitzRoy altered most of Godfrey's recommendations. Subsequently, White and Bell altered them further.

4.8.2 Grey's Quieting Titles Ordinance 1849

Grey inherited the result of FitzRoy's uneven approach to Crown grants.¹³⁶⁰ According to Grey, FitzRoy's unsurveyed Crown grants were full of 'irregularities' which cast doubt on their legality.¹³⁶¹ Grey and Attorney General William Swainson had already unsuccessfully challenged the legality of FitzRoy's Crown grants on technical grounds in the Supreme Court.¹³⁶² The Justices' judgements for *R v Symonds*, *R v Clarke* and *R v Taylor* all confirmed the validity of FitzRoy's grants.¹³⁶³ Chief Justice Martin in *R v Clarke* found these grants 'wholly in the discretion of the governor'.¹³⁶⁴ Justice Chapman stated in his *R v Taylor* judgment that commissioners' recommendations did not bind the terms of FitzRoy's grants.¹³⁶⁵ Justice Martin's judgement found that even a 'false recital' did not 'render a grant void, provided the grantee be blameless'.¹³⁶⁶ Grey decided not appeal these judgements, fearing 'two more years of doubt and uncertainty'. Instead, he sought a 'speedy, general and conclusive settlement' through legislation.¹³⁶⁷

Grey's Ordinance validated all Crown grants and granted title 'against all other persons whatever', without further investigation.¹³⁶⁸ Attorney General Swainson noted in his introduction

¹³⁵⁷ Godfrey to Col Sec, 8 Jun 1844, HH Turton comp., *Native Land Purchases: An Epitome of Documents Relative to Native affairs and Land Purchases in the North Island of New Zealand*, (Wellington: George Didsbury, 1883), pp B10-11

¹³⁵⁸ Clause 4, New Zealand Land Claims Act 1840 (NSW); Section 6, New Zealand Land Claims Ordinance 1841

¹³⁵⁹ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), p 7

¹³⁶⁰ Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 66-68

¹³⁶¹ Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 66-68

¹³⁶² Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 1-3

¹³⁶³ Justices Martin and Chapman judgement, encl, Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 3-15

¹³⁶⁴ Justice Martin judgement, encl, Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 3-10

¹³⁶⁵ Justice Chapman judgement, encl, Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 10-15

¹³⁶⁶ Justices Martin and Chapman judgement, encl, Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 3-10

¹³⁶⁷ Grey to Earl Grey, 24 Jul 1849, BPP 1850 (1280), pp 1-3

¹³⁶⁸ Crown titles Ordinance 1849, encl 16, Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 68-70

at the Ordinance's second reading that the previous 'Land Claims Ordinances did not require that Commissioners should ascertain that the land claimed had been purchased from the true native owners'.¹³⁶⁹ Rather than resorting to further investigation, Grey and Swainson included a provision for compensating Māori if they could prove title to land granted to claimants. Māori had to file claims before 1 January 1853. They had to prove their claims 'to the satisfaction' of a Supreme Court judge, placing the onus of proof on Māori, not the Crown or claimants.¹³⁷⁰ Claimants could exchange land if Māori offered 'serious obstruction', the exchange land becoming 'demesne lands of the Crown' rather than being returned to Māori.¹³⁷¹ The Ordinance also provided for the reservation of 'sacred places', or land claimed by a certain natives or natives' as defined by a commissioner.¹³⁷² Grey considered the Quieting Titles Ordinance to 'inflict the least possible amount of injustice on the natives', while still validating Crown grants.¹³⁷³

The Crown subsequently failed to assist Māori to bring cases to the Supreme Court under the 1849 ordinance. Swainson later expressed regret that during the 1850s the lack of familiarity with an alien legal system denied Māori effective access to the highest court in the land.¹³⁷⁴ The House of Representatives Select Committee on Land Claims in 1856 described the 1849 ordinance as 'inoperative'. Only a limited number of Pākehā claimants engaged surveyors to define their grants. The Committee concluded that claimants remained convinced 'that their grants were good and would ultimately be recognised'.¹³⁷⁵ In the recent Te Raki inquiry, which featured over 500 claims based on pre-1840 transactions, the Crown applied the 1849 ordinance in only one case. It granted Gilbert Mair 1,798 acres at Whangarei in 1853 without reserving three areas specified in his original 1844 grant. The Te Raki Tribunal concluded, therefore, that the Quieting Titles Ordinance 'aimed to remove uncertainty about settlers' title in Crown granted lands, but provided inadequate protections for enduring Māori customary interests'.¹³⁷⁶

¹³⁶⁹ William Swainson, Crown Titles Bill.- Second Reading, encl, Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 70-73

¹³⁷⁰ Crown titles Ordinance 1849, encl 16, Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 68-70

¹³⁷¹ Crown titles Ordinance 1849, encl 16, Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 68-70

¹³⁷² Crown titles Ordinance 1849, encl 16, Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 68-70

¹³⁷³ Grey to Earl Grey, 3 October 1849, BPP 1850 (1280), pp 66-68

¹³⁷⁴ William Swainson, *New Zealand and its Colonisation*, (London: Smith Elder & Co, 1859), pp 176-177

¹³⁷⁵ House Land Claims Select Committee report, 16 Jul 1856, encl in Browne to Labouchere, 25 Aug 1856, BPP 1860 (2719), p 350

¹³⁷⁶ Waitangi Tribunal Stage 2 Te Raki report, 2023, pp 711, 717

4.8.3 Later Crown perception of Māori land rights

The Crown's stated understanding and investigation of Māori land rights developed further during the 1850s. Governor Browne in 1856 convened a Board of Inquiry into Native Affairs to report on both Crown purchasing and land claims.¹³⁷⁷ Browne had posed three primary questions regarding Māori land to the board.¹³⁷⁸ Firstly, could the Crown require Māori vendors to identify land purchase boundaries?¹³⁷⁹ Secondly, could other claimants to the land be required to publicly defend their claims or forfeit them?¹³⁸⁰ Lastly, could the Crown grant reserves to individual Māori?¹³⁸¹

The report traversed a wide range of understandings of Māori land rights. The board consisted of Surveyor General CW Ligar, Major Nugent (Grey's former private secretary), WC Daldy, and acting Native Secretary TH Smith.¹³⁸² Witnesses appearing before the board included Chief Land Commissioner Donald McLean, former British Resident James Busby, and eight Māori.¹³⁸³ Surprisingly, the board asked neither Bell nor Kemp to appear, despite their experience in Māori-Crown land issues. The board reported just five weeks prior to the passing of the Land Claims Settlement Act 1856.¹³⁸⁴ The board displayed an impressive grasp of the complexity of Māori land rights. It summarised Crown negotiating experiences concluding:

4. It appears that the title or claim of land by tribes *arose from occupation*, dating sometimes from remote periods, and from more recent *conquests, followed by occupation* either by themselves personally or by remnants of the conquered people.

5. That this title existed no longer than it could be defended from other tribes.

6. That the boundaries were in some cases clearly defined and admitted by adjoining tribes, *but that in many others they were quite the reverse, and were causes for constant quarrels.*

7. That narrow belts of land, as being *claimed by two tribes, could not have been occupied* by either without causing an appeal to arms. That there is *no part of the country which is not claimed* by some party or another.

¹³⁷⁷ Report of the Board of Native Affairs, 9 Jul 1856, BPP 1860 (2747), pp 236-245

¹³⁷⁸ Browne memo, nd., encl in Browne to Labouchere, 23 Jul 1856, BPP 1860 (2747), pp 235-236

¹³⁷⁹ Browne memo, nd., encl in Browne to Labouchere, 23 Jul 1856, BPP 1860 (2747), pp 235-236

¹³⁸⁰ Browne memo, nd., encl in Browne to Labouchere, 23 Jul 1856, BPP 1860 (2747), pp 235-236

¹³⁸¹ Browne memo, nd., encl in Browne to Labouchere, 23 Jul 1856, BPP 1860 (2747), pp 235-236

¹³⁸² Board report, 9 Jul 1856, BPP 1860 (2747), p 237

¹³⁸³ Māori witnesses were Hemi Takā (missionary, either Ngāti Tamaoho or Ngāti Te Ata), Ihaka Takanini (Te Akitai), Rev. Riwai Te Ahu (Te Ati Awa), Wiremu Maihi (Te Arawa), Paora Tūhaere (Ngāti Whātua), Kepa (Ngatipakiao), Tamati Ngapora (Ngāti Mahuta), and Te Hira Te Awa (Ngāpuhi). Board report, 9 Jul 1856, BPP 1860 (2747), p 236

¹³⁸⁴ Land Claims Settlements Act 1856

8. That as land is inherited in the female line, the constant intermarriages between the tribes led to the descendants by such marriages having *claims to land in more tribes than one*.

9. That it frequently happened that *one tribe gave land within their own limits* to the members of another tribe, for assistance rendered in times of danger, which gifts were held most sacred.

10. That claims to land were made by one tribe and admitted by another as compensation for the murder of a chief thereon or other injury.

11. That the accidental death of a chief on the land of another tribe gave his family a claim to it.

12. *It will therefore be seen that no tribe has in all instances a well-defined boundary to its land as against adjoining tribes; and that members of several other tribes are likely to have claims within its limits . . .*

15. Generally there is *no such thing as an individual claim* clear and independent of the tribal right . . .

18. When the natives first came into contact with Europeans in the relative position of sellers and buyers of land, the evidence of which before the Board extends as far back as the year 1822, it has been shown that the natives in disposing of their land intended only to convey a title similar to that which they, as individuals, hold themselves; - *the right of occupancy*. They *did not imagine that anything else could be wanted . . .*

19. They *soon, however, ascertained*, when a knowledge of their language had been sufficiently acquired by the Europeans, *that this sort of tenure was unsatisfactory; and in all subsequent transactions of the kind, gave written title in perpetuity, with the right of transfer* (emphasis added).¹³⁸⁵

The board's findings anticipated Bell's insistence on surveyed Crown grants arising from pre-1840 claims.¹³⁸⁶ Nonetheless comprehensive claim surveys failed to remedy Bell's failure to inquire into the full range of rightsholders before ordering grants. While some surveyors certified the absence of Māori obstruction, few had Māori traverse the boundaries as a gesture of consent.¹³⁸⁷ The board presented tribal boundaries as intricately intertwined with different rights, rather than static or fixed. Frequently, several groups exercised overlapping and evolving land rights. The board concluded that tribal rights requiring group ratification prevailed over individual alienation. Most board findings questioned the possibility of permanent land alienation, yet the board's final finding (#19) contradicted this consensus in its previous eighteen findings.

¹³⁸⁵ Board report, 9 Jul 1856, BPP 1860 (2747), pp 237-238

¹³⁸⁶ See sections 2.5.1-2.5.2, (pp 140-141)

¹³⁸⁷ See section 1.4.3, (p 113); WH Clarke & John White ensured such traversals with their 1858 surveys of Hokianga scrip claims, J White Hokianga scrip claims report, 8 Aug 1859, OLC 4/4, pp 1-64

Only William White's Hokianga evidence attempted to explain the onset of alienation.¹³⁸⁸ White stated: 'At first they [Māori] had no idea that they were alienating the land for ever, and from not knowing the language it was impossible to convey that meaning to them in the commencement of such transactions, and in the early period of our intercourse . . . When I first arrived [during the 1830s] the idea of selling land was quite new to the natives, but whenever any land was wanted, they never objected to sell'.¹³⁸⁹ Neither White, nor the board, adequately explained just when Māori understood the concept of permanent land alienation. White and the board just assumed that this radical change in Māori perception occurred at some point in the distant past. Neither did they verify the effect of such a dramatic change on Māori.

Not only did the board fail to produce evidence in support of its alleged Māori adoption of individual alienation, but Māori witnesses recorded their disagreement. When presented with the board's proposal on individualising Crown grants, Ihaka Takaanini (Te Akitai ki Tamaki) was recorded as stating 'I do not approve of the system as explained'.¹³⁹⁰ Even witnesses who agreed with the board's proposal in principle noted practical difficulties. Riwai Te Ahu (Te Atiawa ki Taranaki) was recorded to note that, 'there is no individual claim, they are all entangled or matted together, the children of one common ancestor claiming the land belonging to them'.¹³⁹¹ Witnesses supporting individual Crown grants added qualifications. Kepa (Te Arawa) was recorded as agreeing to individual grants, only 'if the difficulties are removed and all natives consent'. Paora Tuhaere (Ngāti Whātua Ōrākei) was recorded as limiting his assent to 'if they [Māori] had individual claims'.¹³⁹² The board failed to include these reservations in its findings.

The board's finding contrived Māori consent to alienation rights without witness support. The board further failed to demonstrate that Māori acceptance of individual Crown grants to replace their collective customary rights. While some witnesses politely accepted the possibility of individual grants, this did not amount to majority Māori acceptance of what Boast recently described as a 'revolution in land tenure'.¹³⁹³

¹³⁸⁸ Board report, 9 Jul 1856, BPP 1860 (2747), pp 237-238. William White a former Wesleyan missionary from Hokianga is not to be confused with Resident Magistrate WB White of Mangōnui.

¹³⁸⁹ W White evidence, 1 May 1856, BPP 1860 (2747), pp 288-289

¹³⁹⁰ Takanini evidence, 3 Apr 1856, BPP 1860 (2747), p 277

¹³⁹¹ Riwai Te Ahu evidence, 10 Apr 1856, BPP 1860 (2747), p 278

¹³⁹² Paora Tuhaere & Kepa evidence, 14, 16 Apr 1856, BPP 1860 (2747), pp 280-282

¹³⁹³ Boast, Surplus lands, pp 3, 25

4.9 Summary

The Crown's successive inquiries into customary rights along with related tribal affiliations fell short of reaching a coherent conclusion. Officials never accepted that tribal affiliations underlay customary rights. Inadequate deed evidence, even in te reo Māori, seldom revealed the nature of customary rights. We have established multiple shared affiliations of selected signers from incomplete official evidence. Nonetheless, official sources revealed that Māori and Crown conceptions of land rights differed significantly. Clarke understood the interconnected nature of Muriwhenua tribal affiliations. Kemp may have also, but Godfrey, White, and Bell exhibited little customary comprehension. While distinct, local iwi and hapū shared close kin ties. Even the great rivals Panakareao and Pororua can be considered cousins.

We have listed the primary affiliations of deed signers Panakareao, Pororua, and Te Ururoa, along with others listed in Appendix B.¹³⁹⁴ Clarke imagined a 'grand' Te Rarawa and Ngāpuhi division in his never-completed 'Doomsday Book'. This grand division, in any case, disregarded smaller groups such as Ngāti Kahu. Officials like White preferred larger groups. They elevated rangatira within these groups to secure their cooperation. On the other hand, the 'commoner' Reihana Kiriwi exercised special skill as a mediator between Māori and Europeans. He may have enhanced Crown understandings of the complexity of Muriwhenua customary ownership through his close personal association with the CMS and White. While White lumped Kiriwi together with Te Rarawa, Kiriwi primarily represented Te Paatu, Ngāti Kahu, and Ngāti Tara. Crown officials generally failed to grasp these complex affiliations.

Despite a long European history of land held in common, the Crown asserted the 'modern' western legacy of exclusive individual ownership. This contradicted the prevalence of collective Māori customary land rights. FitzRoy's 1838 Parliamentary Select Committee evidence recognised the primacy of customary rights. Clarke also understood the customary pattern that combined tribal ownership and deterred individual alienation. Yet official land claims commission inquiries largely ignored customary realities in an effort to produce exclusive Crown grants, or 'indefeasible title' for individuals. The Crown treated 'customs in common' as a relic of the past. Nineteenth century colonisation treated land as a tradable commodity. It ushered in an era of alienation in Aotearoa.

¹³⁹⁴ Appendix B, (p 276)

FitzRoy ignored his 1838 insights when he ordered numerous unsurveyed Crown grants after 1843. Bell's later inquiries produced surveyed individual Crown grants, plus a few small Native reserves and larger areas of Crown surplus land. Bell ignored Māori evidence on their range of rights and varied affiliations. After 1856, Bell merely ratified Godfrey's inadequate 1843-1844 inquiries. Bell simply dismissed Māori objections to surplus land acquisition at his hearings. His successors thereafter dismissed subsequent persistent Māori protests.

As the Muriwhenua Land report concluded, the Crown left Māori with scattered and inadequate reserves.¹³⁹⁵ This 'prejudicially affected . . . claimant hapu by assuming, without demonstrating that Māori accepted the alienation of their interests in the land'.¹³⁹⁶ Bell did most of the damage. He pursued a 'mission to recover for the Europeans and the Government as much Māori land as he could'.¹³⁹⁷ The Crown thus failed to recognise either tribal affiliations or 'rightful ownership'.

¹³⁹⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 170

¹³⁹⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 394-396

¹³⁹⁷ Waitangi Tribunal, Muriwhenua Land report, 1997, pp 394-396

Did Crown legislation, policies and practices safeguard Māori land interests?

5.1 Alienation assumptions and outcomes

Throughout the nineteenth century the Crown acted to transform, rather than to protect, customary Māori land interests. Officials believed that Māori had to adopt western proprietary ways of treating land as an alienable commodity in order to progress towards ‘civilisation’. Land claims legislation almost always treated customary ways as obstacles to effective Māori participation in the developing colonial economy. Officials deemed such participation as the surest path towards ‘civilisation’.

Officials, accordingly, followed legislation, policies and practices that aimed to remove such customary constraints on Māori commercial participation. Preferring alienation to land-sharing and trust arrangements, the Crown encouraged Māori to act as individual proprietors exchanging their land and produce for profit. Crown agents claimed that this promotion of western ways, to replace customary ways, safe-guarded Māori land interests, even if it resulted in further alienation.

The Crown’s determination to ‘extinguish Native title’ sprang from this promotion of western ways for Māori. The English transition from their own ‘customs in common’ to absolute individual property during the eighteenth and nineteenth centuries formed the historical context for the Crown’s colonial agenda. The British Empire exported this proprietary culture to America, Asia and Aotearoa. English historian EP Thompson, writing in 1980, asked in relation to Aotearoa: ‘How could land be loosed for the market when even a hapū, or sub-tribe, might share among hundreds of persons communal rights in land?’ His answer referred to the way the Native Land Court individualised Māori land ownership after 1865.¹³⁹⁸

The Crown extinguished Native title in both its Old Land Claim processes, and in its direct purchases. Donald McLean advertised his voluminous 1861 documentation of the major 1846-1861 Crown purchases as reports ‘relative to the Extinguishment of Native Title’. After 1857 the Crown regularly gazetted its proclamations of the ‘Extinguishment of Native Title’ prior to

¹³⁹⁸ Thompson, *Customs in Common*, pp 14-15, 104-110, 166-167.

handing over Crown purchased land to the Auckland province for disposal to settlers.¹³⁹⁹ The 'Extinguishment of Native Title' expressed the abolition of customary ownership, and it remained central to Crown policies towards Māori throughout the nineteenth century.

The 1856 land claims legislation that Bell implemented treated extinguishment as a necessary precondition for his Crown grants to settlers. Section 18 of the 1856 Act stated that failure to extinguish Native title nullified previous grants, unless additional payments to vendors remedied unextinguished title. Section 12 of the 1858 extension Act allowed settler claimants to offer such remedial payments at the old New Zealand Company rate of five shillings per acre.¹⁴⁰⁰ Overall, the 1841-1858 legislation assumed that Crown grants based on private pre-1840 transactions effectively extinguished Native title.

The New Zealand Company legacy influenced not only claims legislation, but also the leading agents of alienation in Muriwhenua. Kemp, White and Bell each learned the art of colonisation from the company. Kemp, after serving as Subprotector with Commissioner Godfrey in Muriwhenua in 1843, in 1848 negotiated the largest Crown purchase in Aotearoa. He purchased 20 million acres in the South Island on behalf of the New Zealand Company. An 1847 Imperial Act allowed the Crown to appoint the company as its colonisation agent. Kemp's 1848 deed named the company as the recipient of his enormous purchase, for which he paid less than a farthing (0.25 pence) an acre.¹⁴⁰¹

Charles Kettle, the company's chief surveyor, attached a crude sketch map to Kemp's 1848 deed. WB White, who learned the rudiments of surveying with the New Zealand Company, used equally crude sketches in Muriwhenua. His 1856 Te Whakapaku sketch estimated as just 2,688 acres of what Churton in 1857 surveyed as 12,332 acres. White in 1859 at Puheke estimated a 16,000-acre area to be just 6,000 acres.¹⁴⁰² Sloppy sketches also accompanied the infamous 1839

¹³⁹⁹ Native Land Purchase Department reports, 'Extinguishment of Native Title', AJHR 1861, C-I, p i. For gazetted proclamations of extinguishment at Muriwhenua South, Wharemaru and Otengi, see *New Zealand Gazette* 1858, pp 52-53

¹⁴⁰⁰ Section 39, Land Claims Settlement Act, 1856; Section 12, Land Claims Settlement Extension Act, 1858

¹⁴⁰¹ Waitangi Tribunal, *Ngai Tabu report*, GP Publications, Wellington, 1991, pp 56, 412-413, 467; Catherine Comyn, *The Financial Colonisation of Aotearoa*, (Auckland: Economic & Social Research, Aotearoa, 2023), pp 85-87

¹⁴⁰² Te Whakapaku Crown purchase deed, 23 Dec 1856, Auc 43; Churton, Te Whakapaku plan, SO 795 (1857); Puheke Crown purchase deed, 7 Sep 1859, Auc 18. Janine Bedford, using advanced computer technology, recently estimated the Puheke purchase area as 16,000, not 6,000 acres.

New Zealand Company Kapiti claim that probably covered 20 million acres (the estimated area of the 1848 Kemp purchase).¹⁴⁰³

McLean always treated accurate surveys as necessary for effective extinguishment. White, in a November 1857 letter to McLean, even dared accuse Kemp of insufficient attention to extinguishment. He wrote ‘My opinion is that the Native title should be extinguished over all lands as soon as possible . . . I would urge you to hasten Kemp in this matter . . .’¹⁴⁰⁴ Despite this rare disagreement, both Kemp and White shared an enduring commitment to extinguishment which the Crown inherited from the company. Writing to Native Minister WDB Mantell in November 1861, White stated that he and Kemp had

. . . for several years been leading the Natives to acquiesce in the desirability of ceding their lands to the Govt. There are many large districts which we are in actual negotiation for, and in the course of a few years [we] confidently look forward to the total extinction of Native title.¹⁴⁰⁵

Francis Dillon Bell, even more than Kemp and White, owed his colonial career to the New Zealand Company. As a second cousin of Edward Gibbon Wakefield, he joined the company’s London head office staff just after the *Tory* departed Plymouth in May 1839. He became the company’s acting secretary two years later when only 21 years old. After becoming land claims commissioner in 1856, Bell acquired a large Otago pastoral property in the area Kemp purchased for the company a decade earlier. When he prepared his 1862 land claims report he served as Native Minister under Premier Domett, another New Zealand Company man.¹⁴⁰⁶

Ironically, Bell’s insistence that professional surveys define his Crown grants flew in the face of a company tradition of by-passing such precise measurement. On the other hand, Bell shared with Kemp and White the company’s commitment to large-scale alienation. This commitment in 1839 alerted the Crown to the dangers implicit in Gibbon Wakefield’s rallying cry ‘possess yourself of the Soil, & you are secure . . .’¹⁴⁰⁷ This company rallying cry contributed to the Crown’s insistence in Normanby’s instructions that it must seek Māori consent for its actions in New Zealand. In many ways, Te Tiriti o Waitangi expressed the consent that New Zealand Company supporters

¹⁴⁰³ On the 1839 Kapiti transaction, see Burns, *Fatal Success*, pp 118-120; and Temple, *The Wakefields*, pp 254-258

¹⁴⁰⁴ White to McLean, 10 Nov 1857, McLean papers, MS-Papers-0032-0633, ATL

¹⁴⁰⁵ White to Native Min, 29 Nov 1861, Mangonui Resident Magistrate’s letterbooks, pp 100-104

¹⁴⁰⁶ Raewyn Dalziel, entry on Bell DNZB vol 1, pp 23-25; NZ Parliamentary Record 1840-1925, pp 20, 52. Domett, of course, in 1864 succeeded Bell as Land Claims Commissioner

¹⁴⁰⁷ Burns, *Fatal Success*, p 14

in the 1844 House of Commons Select Committee mocked as ‘part of a series of injudicious proceedings’.¹⁴⁰⁸

5.2 Subordination of customary concepts

At the April 1840 Kaitia Treaty signing, Hobson’s deputy, Willoughby Shortland, on behalf of the Crown, promised the rangatira present that ‘the Queen will not interfere with their native laws nor customs . . .’.¹⁴⁰⁹ Had the Crown kept Shortland’s promise to protect customary ways, it would have refrained from ratifying pre-1840 transactions as absolute alienations. These private transactions, once ratified as absolute alienations, together with numerous Crown purchases, accounted for over 50 per cent of the most valuable Muriwhenua land prior to 1865.¹⁴¹⁰

Auckland Roll plan 16, dated 1863, illustrated the cumulative result of these alienations. Together these alienations amounted to a general, but incomplete, extinguishment of Native title throughout central Muriwhenua. In this process the Crown effectively subordinated customary ways. Only scattered Native reserves, and marginal remaining Māori land, stood in the way of the ‘total extinction of Native title’ White confidently predicted in 1861.¹⁴¹¹

The relative silence of the official record on Māori matters formed another important way in which the Crown subordinated customary concepts in their inquiries into pre-1840 transactions. As stated in the 1997 Rangahaua Whanui report on Old Land Claims:

The plain fact of the matter is that, throughout the voluminous Old Land Claim files . . . , Maori voices are seldom heard speaking for themselves. Most of the Maori language evidence was recorded by colonial officials or by Commissioners with an agenda of their own. When Maori spoke to Commissioners, officials recorded what they considered significant. When Maori wrote in their own language to officials or Commissioners, this too was invariably refracted through an English language lens by the translation process. In other words, we simply do not know the Maori ‘side of the story’ well enough to say much about Maori views on the process of investigating Old Land Claims¹⁴¹².

¹⁴⁰⁸ Burns, *Fatal Success*, p 255

¹⁴⁰⁹ John Johnson Journal, 28 April 1840, Micro-MS-0154, ATL

¹⁴¹⁰ This is the Muriwhenua Land Tribunal’s estimate. Waitangi Tribunal, *Muriwhenua Land report* 1997, p 380

¹⁴¹¹ White to Native Min, 29 Nov 1861, Mangonui Resident Magistrate’s letterbooks, pp 100-104

¹⁴¹² Moore, Rigby and Russell, *Rangahaua OLC report*, 1997, pp 49-50

5.3 Inadequate reserves inadequately protected

Commissioner Bell could have chosen to sustain land-sharing and trust agreements arising from pre-1840 transactions. He could have agreed to the sizeable reserves hapū claimed in the western sandhills, along Te Oneroa a Tohe (Ninety Mile Beach), and at Raramata, along the shore of Doubtless Bay. Instead, he took advantage of the fact that the Land Claims Settlement Act 1856, like the original 1840-1841 legislation, never referred to Native reserves.¹⁴¹³ He refused hapū requests for a large sandhills reserve, and he reduced the 3,000-acre Raramata reserve request to just over 300 acres at Te Aurere.

Bell evidently ignored Normanby's warning about the Crown's duty to prevent the alienation of land essential to Māori 'comfort, safety or subsistence'.¹⁴¹⁴ Native Secretary and Chief Native Land Purchase Commissioner McLean set out the Crown's reserves policy in July 1854. He defined Native reserves as '... land excepted [from Crown purchases] by the natives, for their own use and subsistence'. While overlooking pre-1840 transaction reserves, McLean probably assumed that they too should remain inalienable as 'essential for their [Māori] ... present and future wants'. McLean believed local commissioners, including rangatira, should manage such reserves. He thought that this commissioner role would provide rangatira with valuable experience and 'divest the Natives generally of any suspicion' regarding Crown intentions.¹⁴¹⁵

The Crown failed to follow McLean's 1854 recommendations, or the provisions of the 1856 Native Reserves Act, on the appointment of local reserves commissioners. Native Minister McLean in 1870 appointed Charles Heaphy as a North Island Native Reserves Commissioner to monitor hundreds of scattered and neglected reserves.¹⁴¹⁶ In his 1871 report to Parliament, Heaphy changed the definition of reserves to include areas subject to Native Land Court restrictions on alienation. Since the Court seldom enforced such restrictions, this weakened protective provisions. On the other hand, Heaphy highlighted the plight of 'the Rarawa of Mongonui' (essentially all Muriwhenua Māori) who by then owned less than 19 acres per person.

¹⁴¹³ Section 8 of the Land Claims Settlement Extension Act 1858 referred only to the Crown facilitating alienation of Native reserves to claimants.

¹⁴¹⁴ Normanby to Hobson, 14 Aug 1839, BPP 1840 (237), p 39

¹⁴¹⁵ McLean to Col Sec 29 Jul 1854, Turton, *Epitome of Official Documents*, pp D21-22

¹⁴¹⁶ Auckland Roll plan 16, 1863, which extended from Muriwhenua to Waikato, showed 74 numbered Native reserves. By 1900, this list had diminished as alienation took its toll.

He recommended that the Crown forbid further alienation of their cultivations. He even proposed the creation of endowment reserves out of Crown surplus land.¹⁴¹⁷

Yet, none of the subsequent Native commissioners' reports revisited Heaphy's 1871 Muriwhenua recommendations. Nor did local Native Land Courts enforce restrictions on alienation until Judge Acheson arrived during the 1920s. When Acheson consistently upheld Treaty-based customary rights and restricted alienation, the Crown, in December 1943, forced him to retire from the Native Land Court.¹⁴¹⁸ Consequently, Ms Geiringer in 1992 concluded that the 'Native Land Court failed on every count to protect the rights of Maori claimants to Muriwhenua land'.¹⁴¹⁹

Even when taking into consideration the larger number of reserves arising from pre-1865 Crown purchases, the Crown reserved barely three per cent of alienated Central Muriwhenua area.¹⁴²⁰ Our central Muriwhenua map (Figure 4, at p 28), combining private and public alienations, show that by 1865 few significant productive stretches of Māori-owned land remained between Ahipara in the west, and Te Whakapaku in the east. Scattered bush reserves at Mangatete, Te Ahua, Kaiaka, Hikurangi and Peria only highlighted a bitter legacy of dispossession.¹⁴²¹

Muriwhenua people undoubtedly valued these remote reserves for their ancestral associations and natural beauty, but they proved incapable of supporting a growing population. Scattered coastal reserves at Te Aurere, Paewhenua, Waiaua, Taemaro, Waimahana, Motukahakaha and Taupo Bay provided access to precious kaimoana. Coastal people, however, also required access to inland crops, timber, gum and pastoral resources. To participate in the developing cash economy, hapū required access to at least part of the expanded public domain created by the Crown purchases and from the land considered Crown surplus.

The Auckland Provincial Gazettes during the 1860s recorded individual applications to lease thousands of acres of the newly created public domain, mainly for livestock grazing. J and T Norman in June 1862 applied to graze their 500 sheep on 11,000 acres at Te Whakapaku.¹⁴²² Capt. William Butler in March 1866 applied to graze 70 cattle on 4,000 acres at Mangōnui East.

¹⁴¹⁷ Commissioner of Native Reserves report, 19 Jul 1871, AJHR 1871, F-4, p 5

¹⁴¹⁸ Acheson to PM Fraser, 9 Nov 1943; Acheson to Nat Min Mason, 9 Nov 1943; Acheson to Mason, 14 Dec 1943, AAMK, (Maori Affairs files) box 23/2/1, pt 2

¹⁴¹⁹ Claudia Geiringer, *Muriwhenua Historical Background*, pp 110-115

¹⁴²⁰ This 'barely three per cent' figure appears to apply to both the pre-1865 Crown purchased, and to the Old Land Claims, areas within Muriwhenua. See Mulder, *Pre-1865 Crown transactions*, p 24

¹⁴²¹ Waitangi Tribunal, *Muriwhenua Land report* 1997, pp 298, 332

¹⁴²² APG, Vol 10, no 9 (7 Jun 1862), p 53

Then, a year later, he applied to graze his sheep and cattle on 4,000 acres at Ōruru.¹⁴²³ Further north, according to Adrienne Puckey, the Subritzky brothers grazed their livestock on the 25,000-acre area south of Houhora Crown purchased in 1858.¹⁴²⁴

Had the Crown treated the vast disposable public domain in a way similar to the pre-1840 land-sharing and trust agreements, Māori may have participated in extensive extractive and pastoral enterprises. Instead, they participated only in gum-digging when the Crown created reserves for that purpose during the late nineteenth century.¹⁴²⁵ Sadly, the patterns of pre-1865 Crown-supervised alienation confined Māori to remote areas outside the most productive agricultural, pastoral and forestry activities. As the Muriwhenua Land Tribunal reported in 1997, Māori became ‘marginalised on marginal lands, insufficient for traditional subsistence and inadequate for an agrarian economy’.¹⁴²⁶

Inevitably, remote reserves succumbed to corrosive alienation. The Crown in September 1864 purchased the Waimutu reserve, bordering Ryder’s Maheatai Crown grant at Taipā. Created within the 1858 Otengi Crown purchase, Waimutu survived only six years as the last Ngāti Kahu toehold near their ancestral waka landing site.¹⁴²⁷ The Muriwhenua Land Tribunal reported in 1997 that the Crown created twenty central Muriwhenua reserves totalling 6,828 acres. According to the Tribunal, by 1941, the Crown presided over the alienation of 73 per cent of these reserves. It concluded that ‘The marked lack of proper protective arrangements for these ‘reserves’ was reflected also in the fact that most of them were soon sold after their ‘ownership’ was ‘established’.¹⁴²⁸

Nonetheless, Mangōnui hapū refused to accept confinement on inadequate reserves. Mangōnui Māori protests generated repeated nineteenth and twentieth century petitions. Waiaua and Taemaro protests began after Bell in 1857 set apart Waiaua (which he misnamed ‘Waitotoki’) as ‘a small reserve’.¹⁴²⁹ White in 1861 described Waiaua people as Ngāti Rehia, and Taemaro people

¹⁴²³ APG, Vol 15, no 10 (29 Mar 1866), p 73; APG, Vol 16, no 50 (12 Nov 1867), p 474

¹⁴²⁴ Puckey, *Trading Cultures*, p 117. This also included the over 2,000-acre area subject to the 1842 Stephenson ‘Ship Claim’. In addition to this 25,000-acre leased area, the Subritzky family in 1882 owned almost 10,000 acres (valued at over £5,000) in Mangōnui County. Property-Tax Department, *A Return of the Freeholders of New Zealand*, Wellington: Government Printer, 1882, p S94

¹⁴²⁵ See Geiringer, *Muriwhenua Historical Background*, pp 30-37

¹⁴²⁶ Waitangi Tribunal, *Muriwhenua Land report 1997*, p 404

¹⁴²⁷ Waitangi Tribunal, *Mangonui Sewerage report, 1988*, p 22

¹⁴²⁸ Waitangi Tribunal, *Muriwhenua Land report 1997*, p 298

¹⁴²⁹ Bell’s ‘Notes of Various Sitzings . . .’ 5 Oct 1857, OLC 5/34, p 13

as Ngāti Aukiwa. White considered both groups as ‘squatters’ on Crown land, by which he meant Crown-claimed land.¹⁴³⁰

White deplored how, during 1862, Waiaua and Taemaro people joined Pororua in reclaiming disputed Mangōnui land as far east as Te Whakapaku. He described their protest as ‘one of the most dishonourable and unblushing attempts at extortion . . .’ to evade confinement on the reserves. He commissioned Samuel Campbell to survey Waiaua and Taemaro the following year to confirm their confinement.¹⁴³¹ Kenana people then joined the protest in November 1862 when 38 people petitioned Governor Grey about the Crown’s Mangōnui East land grab. ‘Ko ta matou whenua/This land is ours’, they wrote. ‘It will rest with you [Grey] to return us our land’.¹⁴³²

White defended his conduct in a long letter to McLean. He declared:

I have always dealt liberally with the Natives in land matters. They have plenty of Reserves, and generally [these reserves are] the best parts . . . They do not even deny that the [Mangōnui East] land has been sold . . . [but they want to reclaim] the greater portion . . . [between] the Reserves.¹⁴³³

Pororua supported the Mangōnui East protest, even after the Crown’s disputed 1863 Mangōnui purchase purported to extinguish his claims. He petitioned Grey in April 1864 writing ‘Ko Whaitotoki [Waiaua] ki kihai i tuku e au ki nga pakeha/I did not dispose of Whaitotoki to the Pakehas’. He protested how Campbell allegedly ignored his requests to witness the 1863 reserves survey. Pororua concluded his petition with ‘all the Maoris land is going to the Pakehas and to the Queen for the Surveyor is a dishonest man’.¹⁴³⁴ White predictably denounced ‘Pororua’s unscrupulous manner’. He rested his case on the disputed May 1863 Mangōnui Crown purchase ‘and besides I have two reserves marked off for them, one at Waitetoki [Waiaua], the other at Taimaro [Taemaro]’.¹⁴³⁵

White’s special pleading to McLean that he ‘always dealt liberally’ with Muriwhenua Māori had a hollow ring to it. He had not given them ‘plenty of Reserves . . .’ And they were definitely not ‘the best parts’. White’s own 1543-acre Crown grants at Ōruru and Manawaora (in the Bay of

¹⁴³⁰ White to McLean, 28 Aug 1861, AJHR 1862, E-7, pp 22-24

¹⁴³¹ White to McLean, 13 Feb, 9 Sep 1862, OLC 1/558-566, pp 134-137. Campbell initially surveyed 144 acres at Waiaua and 77 acres at Taemaro in 1863. Reserves plan, ML 12827 (May 1863)

¹⁴³² Rakena Waiaua, Rewiri Kaiwaka, Huirama Tukariri & ors to Gov, 20 Nov 1862, OLC 1/558-566, pp 139-143

¹⁴³³ White to McLean, 30 Dec 1862, OLC 1/558-566, pp 127-132

¹⁴³⁴ Pororua to Gov, 5 Apr 1864, OLC 1/558-566, pp 61-64

¹⁴³⁵ This referred to Campbell’s 1863 Waiaua-Taemaro plan. Reserves plan, ML 12827 (May 1863). White minute, 7 Jun 1864, OLC 1/1362, p 61

Islands) made the 200 odd acres he reserved for Mangōnui Māori at Waiaua and Taemaro look completely inadequate.¹⁴³⁶ The story continued when Taemaro and Whakaangi people successfully claimed 4,000 acres in the disputed area at Maning's 1870 Haruru (Waitangi) Native Land Court. Then the Crown cancelled Maning's NLC Certificates of Title with the 'Taimaro [sic] and Waimahana Grants Act 1874' to keep local hapū confined to their inadequate coastal reserves.¹⁴³⁷

The Crown added insult to injury by denying the leading post-1880 petitioner, Hemirua Paeara, the Crown grant he should have received in 1874. By 1905 even White declared that Paeara had 'sustained a serious wrong'.¹⁴³⁸ Not only did the Crown create inadequate reserves east of Mangōnui, but it also failed to protect the rights of the leader of a dispossessed people. Hemirua Paeara's trail of petitions from 1880 to 1908 led the Muriwhenua Land Tribunal to find in 1997:

- No inquiry was made of whether the land purchased [in 1863] was in excess of the needs of the hapu, or whether the lands retained would be sufficient for them to be full participants in a new economic regime; . . . No land was left to the hapu as a group.
- The Crown omissions above were contrary to the principles of the Treaty of Waitangi and were prejudicial to Maori . . . not only of land loss, but of tribal dispersal, the attendant social collapse, and the burden of the grievance borne over the years, either permissively, or actively in Native Land Court proceedings, complaints and petitions.¹⁴³⁹

Consequently, the Muriwhenua Land Tribunal found in 1997, not only that Muriwhenua Māori were 'marginalised on marginal land' during the nineteenth century. Additionally, the Crown provided them with inadequate reserves, and failed to protect their reserves from continuing alienation into the twentieth century.¹⁴⁴⁰ This all revolves back to the statement in the original 1986 Muriwhenua statement of claim calling for a Tribunal inquiry into 'the extent to which and the circumstances in which the original land of the claimants and their Taonga passed into other and particularly Crown hands . . .'¹⁴⁴¹

¹⁴³⁶ White Oruru Crown grants, 21 Sep 1855, 26 May 1856, R2G, fols 23, 227; White Manawaora Crown grant, 5 Dec 1862, R15a, fol 267. According to the official return, White owned 896 acres at Mangōnui, valued at £2,034. Property-Tax Department, *A Return of the Freeholders of New Zealand*, (Wellington: Government Printer, 1882), p W42

¹⁴³⁷ Geiringer covers this in her commissioned report on Subsequent Maori Protest, pp 13-15

¹⁴³⁸ Geiringer, Subsequent Maori Protest, p 22

¹⁴³⁹ Waitangi Tribunal, Muriwhenua Land report 1997, p 403

¹⁴⁴⁰ Waitangi Tribunal, Muriwhenua Land report 1997, p 298

¹⁴⁴¹ Appendix 1, The Muriwhenua Claim, Waitangi Tribunal, *Muriwhenua Fishing report*, Department of Justice, Wellington, 1988, p 249

Conclusion

In conclusion we address in summary form the key matters stated in the Waitangi Tribunal's January 2024 research commission requiring our special attention:

- a) 'the details of lands identified and investigated by the Crown as Old Land Claims . . .'

In our section 1.2 (at p 49) entitled 'Block narratives' we have described in detail 23 areas in which the Crown inquired into pre-1840 transactions. With the assistance of our cartographer, Janine Bedford, we have illustrated in section 1.2 the location of each of these areas with coloured maps. Each of these maps break down the components of claims into Crown grants, surplus land and Native reserves. Ms Bedford has also reproduced the Crown's own 1863 plan which sought to connect Old Land Claims with adjacent Crown purchases (see Figure 5: Auckland Roll plan 16, 1863 at p 29). In section 1.4 (at p 107) we have also summarised essential land survey and title information in a detailed four page table, together with an accompanying explanation of the key terms employed.

Further historical analysis of major themes in section 1.2 followed the differences between two main categories of claims. We explain the differences between western missionary claims, and eastern sawyer claims. The former usually entailed both te reo and English language deeds, and frequent land-sharing features. Sawyer claims, by contrast, invariably produced only English language deeds, with fewer land-sharing features. Our explanations of these contrasting claims highlighted the many and varied locations traversed in the 23 detailed block narratives.

- b) 'the nature and extent of any Crown inquiries into these land claims . . .'

We began our treatment of Crown inquiries in our general introduction where we set out what we described as the Crown's validity test. This test aimed to determine whether pre-1840 claims warranted ratification in the form of a Crown grant to the claimant. In applying the validity test, commissioners normally required sufficient deed documentation, and at least two Māori participants in the original transaction to confirm their understanding of the nature of the transaction. Prevalent alienation assumptions, however, led commissioners to treat all transactions, almost by default, as absolute alienations, with minimal land-sharing and trust features. Their application of the validity test routinely led to individual Crown grants, with few concessions to remaining customary interests. The only concessions to customary interests took

the form of scattered Native reserves amounting to barely 1,000 acres. On the other hand, Crown grants to predominantly Pākehā claimants exceeded 27,000 acres.¹⁴⁴²

Like claims, Crown inquiries fell into two main categories. Conflicting customary interests dominated Commissioner Godfrey's 1840s inquiries, while ratification of supposedly *bona fide* claims dominated Commissioner Bell's 1857-1863 inquiries. When Godfrey arrived at Mangōnui in early 1843, he faced a major intertribal conflict over the pre-1840 transactions in the eastern area. The two leading rangatira, Panakareao and Pororua, refused to affirm each other's transactions due to their competing assertions of customary interests. Without requiring Māori validation of these contested transactions, Godfrey resorted to issuing scrip in what amounted to an abandonment of his Mangōnui inquiry.

Commissioner Bell's inquiry over a decade later began with a false premise. Bell believed that Godfrey's 1843-1844 inquiries had validated disputed claims, when they really by-passed the validity test at Mangōnui. Bell consequently assumed that he had only to determine the extent, or acreage, of Crown grants for proven, or *bona fide*, claims. Moreover, Bell instructed surveyors to ensure that the Crown appropriated the balance between grants and claims as surplus land. At Mangōnui, the Crown failed to survey either surplus or scrip land. Instead, it resorted to a 'blanket' 1863 purchase to remedy this deficiency. But it also failed to survey this disputed purchase. Thus, at Mangōnui, the Crown repeatedly failed to follow its own validity test.

Yet when the 1946-1948 Myers Commission re-investigated the Mangōnui area, it concluded that the 'Blanket' 1863 purchase validated the Crown's title there. This Myers verdict at Mangōnui flew in the face of available historical evidence. Like the nineteenth century Godfrey and Bell inquiries, the twentieth century Myers inquiry failed to follow the Crown's own validity test.

c) 'any evidence (in the documentary record) about Māori understanding of the Old Land Claims process, . . .'

We examined the documentary record for evidence of Māori understandings of the Old Land Claims process. We noted several limitations of the record, which provides more information on Crown perspectives of this process than Māori perspectives. The deed evidence in preserved OLC files provided severely limited information about Māori understandings of these transactions. In the case of English-only deeds detailing pre-1840 transactions, this information

¹⁴⁴² Crown grants to the children of Māori mothers, such as Mereana Rapihana, James Jr and Joseph Berghan, make it misleading to refer to all claimants as Pākehā.

was virtually non-existent. Some Crown records recorded Māori understandings of the Old Land Claims process, although this was through the perspective of Crown officials. The Northern Minute Books and petition evidence consulted demonstrate that Māori later objected to the process.

What emerges is a chaotic picture of rushed inquiry into Old Land Claims – the process was often inadequate, with some inquiries even abandoned. In particular, Godfrey's Old Land Claims inquiry was abandoned following the 1843 conflict in the Ōruru area. The subsequent Bell inquiry in 1857 incorrectly assumed that Godfrey had completed his inquiry. The evidence suggests that Māori were often confused about how their land had been alienated. While Māori actively engaged in the Old Land Claims process in good faith, their understandings did not appear to match that of the Crown. While Māori supported European settlement in Muriwhenua, it was to be on their own terms. As noted throughout chapter three, they opposed Crown surplus land and surveys that resulted in the alienation of their land. Panakareao expressed this opposition at Mangōnui in 1843, as did later Māori when attempting to obstruct the Clarke sandhills survey. The Old Land Claims process was abandoned by Godfrey following the 1843 conflict in Muriwhenua. The later Bell inquiry assumed that Godfrey had completed his inquiry, which he had not.

Māori were not made adequately aware of the Crown's actions by WB White or FD Bell, who did not make the extent of land alienation clear to Māori involved in the transactions. Bell also failed to record Māori objections to the process while alleging that he had answered them. Evidence of Māori understandings in Northern Minute Books and petitions show that Māori often only became aware that their land had been alienated after it was disposed of and occupied. The petitions we examined illustrate both that Māori objected to the Old Land Claims process, and that the Crown did not effectively communicate the process or its outcomes. Despite their participation in these pre-1840 transactions, Māori were excluded from effective participation in a largely alien Old Land Claims inquiry process conducted by the Crown.

d) the iwi and hapū affiliations of the original landowners, and any efforts made by Crown agents in subsequent investigations and inquiries to identify the correct owners. . .

It has been difficult to identify the iwi and hapū affiliations of the original landowners. This was partly due to limitations in the documentary record. The intertwined tribal affiliations of deed signers and overlapping land rights throughout Muriwhenua militated against definitive identification of tribal affiliation and land rights of those participating in pre-1840 land

transactions. Accordingly, the concept of ‘ownership’ was less relevant than non-exclusive land rightsholding. We demonstrated the affiliations of three rangatira who signed several of the pre-1840 deeds, Panakareao, Pororua, and Te Ururoa. Other deed signers are also examined in Appendix B.¹⁴⁴³ As we highlighted, the pattern of pre-1840 affiliations and land rightsholding was a nuanced tapestry of intertwined relationships and overlapping non-exclusive land rights.

The Crown and Europeans in Muriwhenua did not recognise this nuance. Iwi and hapū affiliations were reduced to confederations led by Te Rarawa and Ngāpuhi. Other iwi and hapū were often not formally recognised in this simplified understanding of tribal affiliations in Muriwhenua. This was reinforced by the Crown’s attempt to mediate the Ōruru-Mangōnui conflict in 1843 which saw them only recognising Te Rarawa and Ngāpuhi. We showed that White’s interaction with rangatira was often focussed more on alienating Māori land and asserting the Crown’s influence rather than inquiring into Māori perspectives.

The Crown’s limited inquiry into identifying the ‘correct owners’ of the land included in pre-1840 transactions was driven by its own conception of land rights. We have shown that despite significant evidence to the contrary, the Crown assumed that its conception of land rights applied to pre-1840 transactions. Furthermore, despite its apparent awareness of differences in Māori conceptions of ownership and land rights, the Crown did not adequately inquire into the ‘correct ownership’ of the land transacted. In the case of the abandoned Godfrey inquiry, Māori ‘sellers’ and their affiliations were reduced to two short lines in his reports. Later inquiries, including that conducted by Bell in 1857, did not effectively revisit or expand on this inadequate investigation. The 1844 Select Committee exemplified the Crown’s approach to investigating the ‘correct ownership’ of land included in pre-1840 transactions. The committee stated that identification was ‘necessary’ but the difficulties ‘insuperable’ and declared such investigation a ‘manifest absurdity’.¹⁴⁴⁴ Accordingly, we consider that the Crown abandoned any meaningful investigation before it had even begun.

¹⁴⁴³ Appendix B, (p 276)

¹⁴⁴⁴ Report of the House of Commons Select Committee on New Zealand, 29 Jul 1844, BPP 1844 (556), p 7

e) whether and to what extent Crown legislation, policies and practices at the time considered, monitored, and safeguarded Māori land interests.

In this report we conclude that the Crown legislation, policies and practices concerning Old Land Claims failed to consider, monitor and safeguard Māori land interests. The Crown in the Land Claims Ordinance 1841 asserted its claim to unoccupied land, regardless of the protective provisions of Te Tiriti o Waitangi/the Treaty of Waitangi. While the ordinance contemplated professional surveys of claims based on pre-1840 transactions, it failed to require such surveys. Commissioners considered only Māori evidence confirming absolute alienation of land interests, ignoring alternative land-sharing and trust arrangements with the predominantly Pākehā grantees. The ordinance failed to require commissioners to verify the rights of Māori engaged in pre-1840 transactions. Commissioner Godfrey in Muriwhenua calculated grant recommendations from claimant payment information, without attempting to verify this information. Governor FitzRoy, without explicit authority, routinely increased Godfrey's grant recommendations beyond statutory acreage limits.

The Land Claims Settlement Act 1856 sought to confirm defective 1840s Pākehā grants. The Act failed to protect Māori land interests. Commissioner Bell required professional surveys of all the land claimed based on pre-1840 transactions. The Act did not require him to determine the nature of such transactions. Consequently, he failed to consider the fact that these transactions may have approximated land-sharing and trust arrangements between Pākehā and Māori. Comprehensive surveys then allowed the Crown to appropriate thousands of acres of surplus land, without explicit statutory authority, and often in defiance of concerted Māori opposition.

The 1856 Act ignored the provision of Native reserves. Such reserves, if generously endowed, could have protected Māori from the consequences of dispossession. Thus, Bell provided Māori with only about a thousand acres of reserves derived from pre-1840 transactions within the area of more than 54,000 acres he either granted to predominantly Pākehā claimants or acquired for the Crown as surplus land.

On behalf of the Crown, Bell, Kemp and White combined to achieve by 1865 a general, but not complete, extinguishment of Native title within Muriwhenua. They intentionally failed to consider, monitor and safeguard Māori land interests. Crown legislation, policies and practices failed to require them to deliver the protection of Māori land interests promised in Te Tiriti o Waitangi/the Treaty of Waitangi.

Bibliography

Primary archival sources

Old Land Claims records, Archives New Zealand, Wellington

Series 1 Case files

160	James Davis	Mangatete
328-329	Joseph Matthews	Otararau/Waiokai/Parapara
330	Richard Matthews	Warau-Matako
382	William Potter	Kaimaumu
403-407	Thomas Ryan	Waiaua & Oruru
458	Richard Taylor	Kapowairua & Mangonui East
558-566	James Berghan	Oruaiti & Taipa East
570	Walter Brodie	Kauhoehoe
617-623	Thomas and Phillips	Kaiwhetu-Oneti
675	Church Missionary Society	Kaitaia
704-705	Samuel Ford	Oruru & Okiore
774-776	William G Puckey	Ohotu & Pukepoto
847-849	William Murphy	Oparera
851-856	Stephen Wrathall	Tanepurapura
875-877	Southee & Maxwell	Awanui & Otaki
887-888	Hibernia Smyth	Mangonui

889-893	Clement Partridge	Oneti-Taemaro
913-914	William Butler	Mangonui & Oneti
1025	John Ryder	Maheatai
1294	George Stephenson	Ruatorara
1362	James & Joseph Berghan Jr	Muritoki
1375	John Smith	Awanui

Series 4

4/4	Hokianga scrip claims	1859
4/29	Clarke v Maxwell	1860-1861

Series 5

5/34	Bell's hearing notes	1857-1859
------	----------------------	-----------

Series 8, outward letters

8/1	1840-1844
8/2	1856-1860
8/3	1860-1869

Myers Commission (MA 91) records

Commission proceedings (MA 91/2)

Exhibits (MA 91/9)

D	Aurere Petition
E	Tangonge Petition
F	Pukewhau Petition
G	Whakaangi & Taemaro Petitions
H	Thos Ryan
I	J Berghan
J	Thomas & Phillips
K	H Smyth
L	C Partridge & H Smyth
M	W Butler
N	Oruru Petition
O	SH Ford
P	S Wrathall

OLC-derived Crown Grants, series 8090, Archives NZ, Wellington

Registers	5 C-E	1844-1853
	6	1851-1852
	15	1857-1861
	15A	1861-1870

Survey plans, Archives NZ, Wellington

OLC plans

Survey Office (SO) plans

Maori Land (ML) plans

Miscellaneous Archival

Executive Council Minutes	EC 1/1	1842-1850
Colonial Secretary (IA) records	IA	1840-1850
Governors' records	G	1840-1852

Maori Land Court-Whangarei records

MLC Correspondence files

Northern Minute Books 1866-1901

Private papers

Alexander Turnbull Library

Brodie papers, MS-Papers-0133

Colenso papers, MS-Papers-10535

Hobson papers, MS-Papers-0046

Johnson papers, Micro-MS-0154

McLean papers, MS-Papers-0032-0368

Milligan papers, MS-Papers-0220-21

Puckey Journals 1831-1850, qMS-1665

Taylor Journals: 1805-1873, qMS-1984-1999

Taylor papers, MS-Papers-0254

White, John papers, MS-Papers-0075

White, William Bertram, 1821-1910: Reminiscences, qMS-2210

Auckland City Library/Auckland Institute and Museum

Grey, George papers, GMS 38/1, ACL

Taylor Journal & papers, 297/42, AIM

Published primary sources

Appendices to the Journals of the House of Representatives (AJHR), 1856-1948

Auckland Provincial Gazettes, 1859

British Parliamentary Papers (BPP), 1837-1860

British Parliamentary Debates, 1845

Maori Messenger – Te Karere Maori, 1856-1861

New Zealand Gazettes, 1840-1858

New Zealand Parliamentary Record, 1925

Papers Past, 1841-1934

Statutes

Crown Titles Act 1849 (13 Victoriae 1849 No 4)

Land Claims Settlement Act 1856 (19 and 20 Victoriae 1856 No 32)

Land Claims Settlement Extension Act 1858 (21 and 22 Victoriae 1858 No 76)

Native Lands Act 1865 (29 Victoriae 1865 No 71)

New South Wales Act 4 Vict No 7 Repealed Act 1841 (4 Victoriae 1841 No 2)

New Zealand Land Claims Act 1840 (NSW) (4 Victoriae 1840 No 7)

New Zealand Land Claims Ordinance 1841 (4 Victoriae 1841 No 2)

Taimaro and Waimahana Grants Act 1874 (38 Victoriae 1874 No 77)

Personal communications

Ferguson, Jan, 6 Jan 2025

Latimer, Tina, 13 Mar 2024

Palmer, Ian, 18, 29 Apr 2024

Rota, Tarewa, 19 Sep 2023, 6 Feb 2024

Williams, Nathan, 16 Feb 2024

Translations

Hata, Tama, 'translation of Old Land Claim files te reo Māori correspondence', 10 Jun 2025

Waitangi Tribunal reports and publications

Waitangi Tribunal, Muriwhenua Fishing report, Wellington: Department of Justice, 1988

Waitangi Tribunal, Muriwhenua Land Report, Wellington: GP Publications, 1997

Waitangi Tribunal, Ngai Tahu report, Wellington: GP Publications, 1991

Waitangi Tribunal, Te Tahu Ihu o te Waka a Maui: Report on Northern South Island: Volume 1.
Wellington: Legislation Direct, 2008

Waitangi Tribunal, Te Whanganui A Tara Me Ona Takiwa: Report on the Wellington District.
Wellington: Legislation Direct, 2003

Waitangi Tribunal, Tino Rangatiratanga me te Kāwanatanga The Report on Stage 2 of the Te
Paparahi o Te Raki Inquiry Waitangi Tribunal Report 2023 Wai 1040 Part 1, Lower Hutt:
Legislation Direct, 2023

Waitangi Tribunal evidence

Alemann, Maurice, 'Muriwhenua Land Claim Pre-Treaty Transactions', (Wai 45 doc F11)

Armstrong, David Anderson and Bruce Stirling, 'Surplus Lands, Policy and Practice: 1840-1950', (Wai 45 doc J2)

Armstrong, David Anderson, 'The Land Claims Commission. Practice and Procedure: 1840-1845', (Wai 45 doc I4)

Armstrong, David, 'Wai 45 Renewed Muriwhenua Inquiry District: Te Paatu Scoping Report', 2022, (Wai 45, doc T14)

Bassett, Heather, 'Muriwhenua Post-1865 Block Narratives Report One: Northern Blocks', 2025, (Wai 45 doc T28)

Bassett, Raniera, 'Brief of Evidence', 2012, (Wai 45 doc R38)

Bauer, Winifred, 'Tuku Whenua: Some Linguistic Issues', (Wai 45 doc L2)

Boast, R.P., 'Surplus Lands Policy-Making and Practice in the Nineteenth Century', 1992, (Wai 45 doc F16)

Boast, Richard, 'Judge Acheson, The Native Land Court and the Crown', (Wai 1040 doc A64)

Busby, Hector, 'Brief of Evidence of Hector Busby on Behalf of te Runanga o Te Rarawa', 2012, (Wai 45, doc R45)

Carpenter, Samuel, 'Te Wiremu, Te Puhipi, He Wakaputanga me Te Tiriti/Henry Williams, James Busby, A Declaration and the Treaty', 2009, (Wai 1040 doc A17)

Carpenter, Samuel, 'The Native Land Laws: global contexts of tenure reform, individual and collective agency, and the structure of 'the Māori economy' – a 'landless brown proletariat'?', 2019, (Wai 2180 doc M29(a))

Cleaver, Philip and Andrew Francis, 'Aspects of Political Engagement between Iwi and Hapu of the Te Paparahi o Te Raki Inquiry District and the Crown, 1910-1975', (Wai 1040 doc A50)

Edwards, Rima, 'Brief of Evidence', 1992, (Wai 45, doc F23)

Edwards, Rima, 'Traditional History', 1990, (Wai 45 doc B2)

Edwards, Rima, 'Transcript: Extract R Edwards evidence 3 Dec 1990', 1990, (Wai 45, doc 4.1)

Gabel, Robert, 'Brief of Evidence', 2012, (Wai 45 doc R39)

Geiringer, Claudia, 'Muriwhenua Land Claim: Subsequent Maori Protest Arising from the Crown Land Purchases in Muriwhenua 1850 - 1865', 1993, (Wai 45 doc H7)

Harrison, Chappy, 'Brief of Evidence', 2012, (Wai 45 doc R40)

Head, L.F., 'An Analysis of issues in the report of Dr M Mutu on Crown purchases in Muriwhenua 1840-1865', (Wai 45 doc J7)

Head, L.F., 'An Analysis of Linguistic Issues raised in Margaret Mutu (1992) 'Tuku Whenua or Land Sale?' and Joan Metge (1992) 'Cross Cultural Communication and Land Transfer in Western Muriwhenua 1832-1840'.', (Wai 45 doc G5)

Henare, Manuka, Hazel Petrie, and Adrienne Puckey, 'He Whenua Rangatira' Northern Tribal Landscape Overview (Hokianga, Whangaroa, Bay of Islands, Whāngārei, Mahurangi and Gulf Islands)', 2009, (Wai 1040 doc A37)

Houghton, Ricky Martin, 'The Statement of Claim', 2008, (Wai 45 doc 1.44)

Johns, Aihana Moana, 'Brief of Evidence', 2017, (Wai 45 doc T1)

Johns, Aihana, 'Brief of Evidence', 2012, (Wai 45 doc R41)

Johnson, Ralph, 'The Northern War 1844-1846', (Wai 1040, doc A5)

Kapa, Aata and Waatahirama Kapa, 'Statement of Claim', 1998, (Wai 45 doc 1.27)

Karaka, Te Karaka David, 'Brief of Evidence', 2012, (Wai 45 doc R14)

Karaka, Te Karaka, 'The Statement of Claim', 2004, (Wai 45 doc 1.36)

Loveridge, Donald M., 'The New Zealand Land Claims Act of 1840', (Wai 45 doc I2)

Marsden, Maori, 'In the Matter of the Treaty of Waitangi Act 1975 and in the Matter of the Muriwhenua Land Claim (Wai 45)', (Wai 45 doc F25)

Marsden, Maori, 'Te Mana O Te Hiku O Te Ika', 1986, (Wai 22 doc A14)

Matiu, McCully, 'Evidence of McCully Matiu, Kaumatua, in Respect to We Wharo Oneroa a Tohe', (Wai 45 doc C11)

Metge, Joan, 'Cross Cultural Communication and Land Transfer in Western Muriwhenua 1832 – 1840', 1992, (Wai 45 doc F13)

Mulder, Megan, 'Pre-1865 Crown Transactions and Reserves', 2024, (Wai 45 doc T25)

Muriwhenua Claimants, 'Outline of Closing Submissions on Behalf of Claimants Volume 1', (Wai 45 doc N1)

Mutu, Margaret Shirley, 'Brief of Evidence', 2012, (Wai 45 doc R17)

Mutu, Margaret Shirley, 'Tuku Whenua or Land Sale?', 1992, (Wai 45 doc F12)

Mutu, Margaret, 'Muriwhenua-Crown Alliances as Described in the Maori Language Documents relating to Crown Land Purchases in Muriwhenua in the period from 1840 – 1865', (Wai 45 doc H10)

Nepia, Michael, 'Muriwhenua Surplus Lands Commissions of Inquiry in the Twentieth Century', 1992, (Wai 45 doc G1)

Norman, Waerete Violet Beatrice, 'Evidence of Waerete Violet Beatrice Norman MA in Respect of Claim to Wharo Oneroa a Tohe/Ninety – Mile Beach', 2012, (Wai 45 doc C19)

Oliver, W.H., 'The Crown and Muriwhenua Lands: An Overview', (Wai 45 doc L7)

Orr-Nimmo, Katherine, '“A Land Flowing with Milk and Honey” Aspects of the History of Kohumaru in the Vicinity of Kenana', 1999, (Wai 58 doc A2, Wai 295 doc A1, and Wai 320 doc R1)

Peri, Malcom, 'Brief of Evidence of Malcolm Peri on Behalf of Te Runanga o Te Rarawa', 2012, (Wai 45 doc R46)

Phillips, Paul, 'Taylor's Grant Report', 1975, (Wai 22 doc A32)

Piripi, Haami, 'Affidavit of Haami Piripi in response to Wai 2366 Wai 2364 and Wai 2372 Applications for Urgency', 2012, (Wai 45 doc R43)

Piripi, Haami, 'Brief of Evidence', 2012, (Wai 45 doc R42)

Pōpata, Lloyd, 'Brief of Evidence', 2012, (Wai 45 doc R15)

Renata, Reremoana, 'Brief of Evidence', 2012, (Wai 45 doc R61)

Rigby, Barry, 'A Question of Extinguishment Crown Purchases in Muriwhenua 1850 – 1865', 1992, (Wai 45 doc F9)

Rigby, Barry, 'Empire on the Cheap: Crown Policies and Purchases in Muriwhenua 1840-1850', 1992, (Wai 45 doc F8)

Rigby, Barry, 'The Mangonui Area and the Taemaro Claim', 1990, (Wai 45 doc A21)

Rigby, Barry, 'The Muriwhenua North Area and the Muriwhenua Claim', (Wai 45 doc B15)

Rigby, Barry, 'The Oruru Area and the Muriwhenua Claim', (Wai 45 doc C1)

Rigby, Barry, and John Koning, 'Toitu Te Whenua E: A preliminary report on the historical evidence', 1989, (Wai 45, doc A1)

Salmond, Anne, 'Submission for Waitangi Tribunal – Muriwhenua Land Claim', 1991, (Wai 45 doc D17)

Salmond, Anne, 'Submission for Waitangi Tribunal – Muriwhenua Land Claim', 1991, (Wai 45 doc F19)

Sinclair, F.R.J, 'Issues Arising from Pre-Treaty Land Transactions', (Wai 45 doc I3)

Stokes, Evelyn, 'A Review of the Evidence in the Muriwhenua Lands Claims.' Volume 1, 1997, (Wai 45 doc P2)

Stokes, Evelyn, 'A Review of the Evidence in the Muriwhenua Lands Claims', Volume 2, 1997, (Wai 45 doc P2)

Tahere, Pairama, 'Brief of Evidence', 2012, (Wai 45 doc R47)

Tahere, Pairama, 'Brief of Evidence', 2019, (Wai 45 doc T4)

Tamaki Legal, 'Closing Submissions for Ngāti Tara (Wai 2000)', 2012, (Wai 45 doc S34)

Tauhara, Pereniki, 'Brief of Evidence', 2012, (Wai 45 doc R63)

Te Uira Associates, 'Oral and Traditional History Report for Te Rohe o Whangaroa', 2009, (Wai 1040, doc E32)

Walzl, Tony, 'Report on the Historical issues Relating to the Taemaro Mediation c. 1830-1925', (Wai 45 doc E2)

Walzl, Tony, 'The Evidence of Tony Walzl Pre-Treaty Muriwhenua', (Wai 45 doc D4)

Wyatt, Philippa, 'Crown Purchases in Muriwhenua', 1993, (Wai 45 doc H9)

Wyatt, Philippa, 'Issues Arising from the Evidence of F. Sinclair (doc I3), D. Armstrong (doc J3), D. Armstrong (doc I4) and D. Armstrong and B. Stirling (doc J2) in reference to Pre-Treaty Land Transactions', (Wai 45 doc L6)

Wyatt, Philippa, 'The "Sale" of Land in Muriwhenua: A Historical Report on Pre-1840 Land Transactions', 1992, (Wai 45 doc F17)

Published books, journal articles, and reports

Baack, Ben, 'The development of exclusive property rights to land in England: An exploratory essay', *Economy and History*, 22:1 (1979), 63-74

Ballara, Angela, 'Hōne Heke Rankin'. In 1921-1940. Vol 4 of *The Dictionary of New Zealand Biography*. Edited by Claudia Orange. Wellington: Department of Internal Affairs, 1998

Ballara, Angela, 'Nōpera Pana-kareao'. In 1769-1869. Vol 1 of *The Dictionary of New Zealand Biography*. Edited by WH Oliver. Wellington: Department of Internal Affairs, 1990

- Banner, Stuart, *Possessing the Pacific: Land, Settlers and Indigenous People from Australia to Alaska*, Cambridge Mass: Harvard University Press, 2007
- Belich, Jamie, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict*, Auckland: Auckland University Press, 1986
- Boast, Richard, Andre Erueti, N.F. Smith, and Doug McPhail., *Maori Land Law*, second edition, Wellington: LexisNexis, 2004
- Boast, Richard, *The Native/Maori Land Court, 1910-1953*, Wellington: Thomson Reuters, 2019
- Brodie, Walter, *Remarks on the Present and Past State of New Zealand*, London: Whitaker & Co, 1845
- Burnette, Joyce, 'Agriculture, 1700-1870', in *The Cambridge Economic History of Modern Britain*, 2nd edn ed. by R. Floud, J. Humphries, & P. Johnsons. Cambridge: Cambridge University Press, 2014, 89-117
- Burns, Patricia, *Fatal Success: A History of the New Zealand Company*, Auckland: Heinemann Reed, 1989
- Cloher, Dorothy Ulrich, *Hongi Hika: Warrior Chief*, Auckland: Penguin, 2003
- Cloher, Dorothy Ulrich, *The Tribes of Murinwhenua: Their Origins and Stories*, Auckland: Auckland University Press, 2002
- Cloher, Dorothy Ulrich ed., *Sustainable Development in Tai Tokerau: Case Study Three West Ngati Kahu*, Auckland: James Henare Maori Research Centre, University of Auckland, October 1997
- Colenso, William, *The Authentic and Genuine History of The Signing of The Treaty of Waitangi*, Wellington: Government Printer, 1890
- Comyn, Catherine, 'The Financial Colonisation of Aotearoa', Auckland: Economic & Social Research, Aotearoa, 2023
- Crosby, Ron, Kupapa: *The Bitter Legacy of Maori Alliances With The Crown*, Auckland: Penguin Books, 2015

- Dalziel, Raewyn, 'Francis Dillon Bell'. In 1769-1869. Vol 1 of *The Dictionary of New Zealand Biography*. Edited by WH Oliver. Wellington: Department of Internal Affairs, 1990
- Davidson, Jared (ed), *Introducing He Whakaputanga*, Wellington: Bridget Williams Books, 2023
- Dragicevich, Kaye, *The Matthews Family of Kaitaia*, Privately Published, 2009
- Erik Olssen, *The Origins of an Experimental Society: New Zealand 1769-1860*, Auckland: Auckland University Press, 2025
- Evison, Harry, *Te Wai Pounamu*, Christchurch: Aoraki Press, 1993
- Evison, Harry, *The Ngai Tahu Deeds: A Window on New Zealand History*, Christchurch: University of Canterbury Press, 2006
- Gilling, Bryan, 'The Queen's sovereignty must be vindicated: the 1840 Rule in the Māori Land Court', *New Zealand Universities Law Review*, 16.2 (1994) 136-174
- Glen, Robert, Mission and Moko: *The Church Missionary Society in New Zealand 1815-1882*, Christchurch: Latimer Fellowship, 1992
- Hill, Richard, *Policing the Colonial Frontier: Parts 1 – 2*, Wellington: Government Printing Office, 1986
- Littlewood, Michael, 'Robert FitzRoy and the Insolvency of the New Zealand Government, 1843 - 1845', *New Zealand Universities Law Review*, 29 (2021), 465-499
- Locke, John, *Second Treatise of Government*, New York: Jonathan Bennett, 2005
- Mackay, Alexander, *A Compendium of Official Documents Relative to Native Affairs in the South Island, Volume One*, Nelson, New Zealand: The Govt. of N.Z., 1871-1872
- Marsden, Maori. 'God Man and Universe' in *Te Ao Huriburi: The World Moves on: Aspects of Māoritanga*. Edited by Michael King. Wellington: Hicks Smith & Sons, 1975
- Matiu, McCully, and Margaret Mutu, *Te Whānau Moana: Customs and Protocol*, Auckland: Reed Books, 2003
- McConnell, Robin, *Tana of Kareponia: leader from the north*, Hamilton: Te Maru Press, 1993

- Miller, Robert., Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg, *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*, Oxford: Oxford University Press, 2010
- Mogford, Janice C., *Butler House, Mangonui 1847-1990*, Mangōnui: Privately published, 1992
- Moore, D., Rigby, B. & Russell, M., 'Rangahaua Whanui National Theme A: Old Land Claims', Wellington: Waitangi Tribunal, 1997
- Mutu, Margaret, Te Kani Williams, Ānahera Herbert-Graves, Reremoana Rēnata, JudyAnn Cooze, Zarrah Pineaha, Tania Thomas, Te Ikanui Kingi-Waiaua, *Ngāti Kahū: Portrait of a Sovereign Nation*, Wellington: Huia Publishers, 2017
- New Zealand Government, *New Zealand Parliamentary Record*, Wellington: Government Printers, 1925
- O'Malley, Vincent, 'English Law and the Māori Response', *Journal of the Polynesian Society*, 166.1 (2007), 7-33
- Orange, Claudia, *The Treaty of Waitangi*, Wellington: Bridget Williams Books, 1987
- Owens, John MR, *The Mediator: A Life of Richard Taylor 1805-1873*, Wellington: Victoria University Press, 2004
- Puckey, Adrienne, *Trading Cultures: A History of the Far North*, Wellington: Huia Publishers, 2011
- Sorrenson, M.P.K., 'Folkland to Bookland: F.D. Fenton and the Enclosure of the Māori 'Commons''. *New Zealand Journal of History*, 45:2 (2011), 149-169
- Temple, Phillip, *A Sort of Conscience: The Wakefields*, Auckland: Auckland University Press, 2002
- Thompson, E.P., *Customs in Common Studies in Traditional Popular Culture*, New York: The New Press, 1980
- Turton, Henry H., *Maori Deeds of Old Private Land Purchases in New Zealand, From the Year 1815 to 1840, with Pre-Emptive and Other Claims*, Wellington: Didsbury, 1882
- Turton, Henry H., *Native Land Purchases: An epitome of Documents Relative to Native affairs and Land Purchases in the North Island of New Zealand*, Wellington: Didsbury, 1883

Ward, Alan, *A Show of Justice Racial 'Amalgamation' in Nineteenth Century New Zealand*, Auckland: Auckland University Press, 1975

Wards, Ian, 'Robert FitzRoy'. In 1769-1869. Vol 1 of *The Dictionary of New Zealand Biography*. Edited by WH Oliver. Wellington: Department of Internal Affairs, 1990

Weaver, John C., *The Great Land Rush and the making of the Modern World*, Montreal and Kingston: McGill-Queens University Press, 2003

Webber, Melinda, and Te Kapua O'Connor, *A Fire in the Belly of Hineāmaru: A Collection of Narratives about Te Tai Tokerau Tupuna*, Auckland: Auckland University Press, 2022

Williams, A. and G. H. Martin (eds), *Domesday Book: A Complete Translation*, London: Penguin, 2003

Williams, David V., 'The Annexation of New Zealand to New South Wales in 1840: What of the Treaty of Waitangi?' *Australian Journal of Law and Society*, vol 2, issue 2 (1985), 41-55

Theses

O'Malley, Vincent, 'Rūnanga and Komiti: Māori Institutions of Self-Government in the Nineteenth Century', doctoral thesis, Victoria University of Wellington, 2004

Tonk, Rosemarie V, 'The First New Zealand Land Commissions 1840-1845', MA thesis, University of Canterbury, 1986

Wyatt, Philippa, 'The Old Land Claims and the Concept of 'Sale': A Case Study', MA thesis, University of Auckland, 1991

Webpages

Archives NZ, 'Whenua and Māori Land', 2023, Available:
<https://www.archives.govt.nz/research-guidance/research-guides/maori/whenua-and-maori-land>. Accessed 9 September 2025

Blain, Michael, 'The Canterbury Association (1848-1952): a study of its members connections. Revised edn, 2019'. Available https://anglicanhistory.org/nz/blain_canterbury2007.pdf. Accessed 9 September 2025

McLintock, A.H., An Encyclopaedia of New Zealand, 'SHORTLAND, Commander Willoughby, RN'. Available: <https://teara.govt.nz/en/1966/shortland-commander-willoughby-rn>. Accessed 12 July 2024

New Zealand History, 'Ereonora'. Available <https://nzhistory.govt.nz/keyword/ereonora>. Accessed 12 July 2024

New Zealand History, 'Hinds'. Available <https://nzhistory.govt.nz/keyword/hinds>. Accessed 12 July 2024

New Zealand History, 'Te Huhu'. Available <https://nzhistory.govt.nz/keyword/tehuu>. Accessed 12 July 2024

New Zealand History, 'Ururoa'. Available <https://nzhistory.govt.nz/keyword/ururoa>. Accessed 12 July 2024

Te Puni Kōkiri, 'Te Tai Tokerau'. Available: <https://www.tkm.govt.nz/region/te-tai-tokerau/>. Accessed 29 August 2025

Appendix A: Commission

Commissioning Document, Wai 45, #2.922

OFFICIAL

Wai 45, #2.922

IN THE WAITANGI TRIBUNAL

Wai 45

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Renewed Muriwhenua Land Inquiry

**MEMORANDUM-DIRECTIONS COMMISSIONING RESEARCH
INTO OLD LAND CLAIMS**

8 January 2024

1. Pursuant to clause 5A of the second schedule of the Treaty of Waitangi Act 1975, the Waitangi Tribunal commissions Dr Barry Rigby, Senior Research Analyst, and Calum Swears, Researcher Analyst of the Waitangi Tribunal Unit, to prepare a report on pre-1840 land transactions ('Old Land Claims') specific to the Muriwhenua district, for the Renewed Muriwhenua Land Inquiry.
2. The researchers should focus on examining lands acquired by non-Māori in the inquiry district prior to the signing of Te Tiriti o Waitangi in 1840 and investigated through Crown commissions of inquiry held during the nineteenth and twentieth centuries, including any lands declared 'surplus' or 'scrip'. In doing so, this report will provide an update and further detail on earlier research utilised by the Tribunal in its 1997 *Muriwhenua Land Report*.
3. The researcher should provide detailed analysis of the sources available for the blocks identified as being relevant to this report, with a focus on:
 - a) the details of lands identified and investigated by the Crown as Old Land Claims;
 - b) the nature and extent of any Crown inquiries into these land claims (the specific ways in which the land claims were assessed) and any findings they made, including about 'surplus' or 'scrip' land;
 - c) any evidence (in the documentary record) about Māori understandings of the old land claims process, including their intentions, expectations, and experience (including any opposition, such as petitions);
 - d) the iwi and hapū affiliations of the original landowners, and any efforts made by Crown agents in subsequent investigations and inquiries to identify the correct owners; and
 - e) whether and to what extent Crown legislation, policies, and practices at the time considered, monitored, and safeguarded Māori land interests.
4. The commission commences on 8 January 2024. A complete draft of the report will be circulated to parties for feedback by 6 September 2024, to be followed by quality assurance and final revision.
5. The commission ends on **6 December 2024**, at which time one copy of the final report must be submitted to the Registrar for filing in unbound form, together with indexed copies of any supporting documents or transcripts. An electronic copy of the report and any supporting documentation should also be provided in PDF file format.
6. The report may be received as evidence and the authors may be cross-examined on it.
7. The Registrar is to send copies of this direction to:
 - a) Dr Barry Rigby and Calum Swears;

- b) Claimant counsel, Crown counsel, and unrepresented claimants in the Renewed Muriwhenua Land Inquiry;
- c) Chief Historian, Waitangi Tribunal Unit;
- d) Principal Research Analysts, Waitangi Tribunal Unit;
- e) Manager Research Services, Waitangi Tribunal Unit;
- f) Manager Inquiry Facilitation, Waitangi Tribunal Unit;
- g) Principal Inquiry Facilitators, Waitangi Tribunal Unit;
- h) Solicitor-General, Crown Law Office;
- i) Chief Executive, Te Arawhiti;
- j) Chief Executive, Crown Forestry Rental Trust; and
- k) Chief Executive, Te Puni Kōkiri.

DATED at Ōmarumutu this 8th day of January 2024

A handwritten signature in black ink, appearing to read 'C Wainwright', followed by a period.

Judge C
Wainwright
Presiding Officer

**WAITANGI
TRIBUNAL**

Appendix B: Iwi-hapū affiliations of deed signers

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Ahuahu	570			Te Ma Ngatitoke ¹⁴⁵⁰		Te Patu ¹⁴⁵¹		Ngāti Kahu ¹⁴⁵² Te Whānau Moana ¹⁴⁵³	Te Paatu ¹⁴⁵⁴	
Aperahama Morenui / Aperahama More (Eru Aperahama)	704-705	Ngāti Te Ao ¹⁴⁵⁵ Te Whanau Pani ¹⁴⁵⁶							Ngāti Taranga ¹⁴⁵⁷	

¹⁴⁴⁵ N.B. Names of signers who could not be positively identified and signers whose iwi-hapū affiliations could not be identified have not been included in this table.

¹⁴⁴⁶ British Parliamentary Papers

¹⁴⁴⁷ Appendix to the Journals of the House of Representatives

¹⁴⁴⁸ Waitangi Tribunal, Muriwhenua Land Report, 1997

¹⁴⁴⁹ Nathan Williams, Pers comm, 16 Feb 2024; Tina Latimer, Pers comm, 13 Mar 2024; Tarewa Rota, Pers comm, 6 Feb 2024

¹⁴⁵⁰ White to Native Sec, 28 Aug 1861, AJHR 1862, E-07, p 23

¹⁴⁵¹ Bedggood, W.E., 'Tribes of the Far North'. *Northland Age*. Vol. 3, Iss 27, 6 April 1934, p 4

¹⁴⁵² Armstrong and Stirling, Surplus Lands (Wai 45, doc J2), 1840-1950, p 172

¹⁴⁵³ Johns 2012 brief (Wai 45, doc R41), p 11

¹⁴⁵⁴ Cloher, Tribes of Muriwhenua, p 112

¹⁴⁵⁵ MLC Otaharoa corres file M24, p 2

¹⁴⁵⁶ MLC Haumapu corres file M122, p 2

¹⁴⁵⁷ Mutu et.al., Ngāti Kahu, p 140

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Hahakai Kapahu	558-566 1025									Te Paatu - father to Kohikiko (W Pikaahu)/ Matakairiri
Hare Hongi Hika	403-407 443 890	Ngāpuhi/ Tahaawai ¹⁴⁵⁸	Ngāpuhi/ Ngāi Tawake/ Te Whiu ¹⁴⁵⁹		Ngāpuhi tribe/ Te Tahawai hapū ¹⁴⁶⁰	Ngāpuhi ¹⁴⁶¹		Te Uri o Te Aho/ Ngāpuhi ¹⁴⁶²	Ngāpuhi ¹⁴⁶³ Ngāti Kahu through mother / Te Uri o Hua / Ngāti Tautahi/ Ngāi Tawake ¹⁴⁶⁴	Te Tahawai/ Ngāti Mokokohi/ Ngāpuhi/ Ngāti Kahu/ Ngāpuhi Tahawai at Te Pupuke
Hare Matenga Ikaroa	328 403-407 875-877					Te Paatu ¹⁴⁶⁵ Ngāpuhi ¹⁴⁶⁶		Ngāi Takoto/ Ngāi Tamatea/ Patukoraha ¹⁴⁶⁷		Te Paatu/ Patukoraha/ Ngāi Takato/ Te Rarawa/ Te Patu Koraha

¹⁴⁵⁸ Register of Chiefs c1865, MA 23/25, file 26

¹⁴⁵⁹ Protector's report nd., encl in Clarke to Col Sec, 1 Sept 1845, BPP 1846 (337), p 125

¹⁴⁶⁰ Return Giving the Names, Etc., of the Tribes of the North Island Aug 1870, AJHR 1870, A-11, p 3; White to Native Sec, 28 Aug 1861, AJHR 1862, E-07, p 23

¹⁴⁶¹ 'Death at 103' *New Zealand Herald*, Volume 79, Issue 24323, 11 Jul 1942, p 6; 'Maori Celebrations at Whangaroa.' *New Zealand Herald*, Volume XXIV, Issue 7901, 21 Mar 1887, p 6

¹⁴⁶² Tahere 2019 brief (Wai 45, doc T4), p 3; Walzl, Pre-Treaty Muriwhenua (Wai 45, doc D4), p 20

¹⁴⁶³ Cloher, Tribes of Muriwhenua, p 46; Cloher, Hongi Hika, p 19; Mutu et.al., Ngāti Kahu, p 121; Webber and O'Connor, Fire in the Belly of Hineamaru, p 49

¹⁴⁶⁴ Cloher, Hongi Hika, pp 20-23

¹⁴⁶⁵ Bedggood, Tribes of the Far North, p 4

¹⁴⁶⁶ 'Te Haerenga o Te Kawana ki te taha ki raro'. *Waka Maori*. Vol. 12, Iss 12, 13 Jun 1876, p 132

¹⁴⁶⁷ Johns 2012 brief (Wai 45, doc R41), p 11; Johns 2017 brief (Wai 45, doc T1), p 2

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Haunui	382 704-705 875-877									Te Rarawa/ Patukōraha
Hemi Kapa	675	Aupouri ¹⁴⁶⁸					Te Rarawa ¹⁴⁶⁹			Te Aupouri/ Te Rarawa
Henare Popata	382 675 851-856					Hapū of Kaitoti ¹⁴⁷⁰		Te Rarawa ¹⁴⁷¹		Te Paatu/ Ngāi Takoto/ Kaitoti / Te Rarawa
Hira Te Kuri	329 458 704-705 1025									Te Paatu/ Ngāpuhi/ Te Rarawa

¹⁴⁶⁸ MLC Muriwhenua corres file M26, p 2

¹⁴⁶⁹ Waitangi Tribunal, Muriwhenua Land report, 1997, p 2

¹⁴⁷⁰ 'I Mate'. *Maori Messenger Te Karere Maori*. Vol. 1, Iss 12, 2 Sep 1861, p 19

¹⁴⁷¹ Wyatt, Crown Purchases (Wai 45, doc H9), p 79

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Hohepa Kiwa	403-407 558-566 887-888 890 894-895 913-914	Te Uri o te Aho ¹⁴⁷²	Ngāpuhi ¹⁴⁷³		Ngāpuhi/ Te Urioteaho hapū ¹⁴⁷⁴	Ngāpuhi ¹⁴⁷⁵		Ngāpuhi ¹⁴⁷⁶ Uri o te Aho hapū of the Mahurehure ¹⁴⁷⁷ Te Uri o Te Aho under Ngāpuhi ¹⁴⁷⁸		Te Uri-o-Te-Aho/ Ngāpuhi/ Ngāti Kahu/ Matarahurahu
Hohepa Wata	382 675 704-705									Patukōraha / Te Arawa
Hone Paratene	458									Te Rarawa/ Te Paatu

¹⁴⁷² MLC, Mangataira corre file M31, p 2

¹⁴⁷³ Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), p 111

¹⁴⁷⁴ Return Giving the Names, Etc., of the Tribes of the North Island Aug 1870, AJHR 1870, A-11, p 3

¹⁴⁷⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 93

¹⁴⁷⁶ Rigby and Koning, Preliminary report, (Wai 45, doc A1), p 34

¹⁴⁷⁷ Walzl Pre-Treaty Muriwhenua (Wai 45, doc D4), p 216

¹⁴⁷⁸ Tahere, 2005 Taepa Kiwa Claim (Wai 45, doc 1.37), p 1; Tahere 2012 brief (Wai 45, doc R47), p 2

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Huhu Waitaha	329	Rarawa ¹⁴⁷⁹		Te Aupouri ¹⁴⁸⁰				Te Rarawa ¹⁴⁸¹ Te Aupouri ¹⁴⁸²	Te Rarawa ¹⁴⁸³	Likely a relative of Te Rarawa chief Te Huhu from Pawarenga
Huirama Tukāriri	403-407 558-566 887-888 890			Matarahurahu a hapū of Ngāpuhi ¹⁴⁸⁴				Ngāti Kahu ¹⁴⁸⁵ Matarahurahu hapū ¹⁴⁸⁶	Matarahurahu / Ngāi Takiora ¹⁴⁸⁷	Te Matarahurahu / Ngāpuhi, Ngāti Kahu
Ihaka Hapakuku	329									Ngāti Kuri
Karu / Karu Wero	329	Patu ¹⁴⁸⁸								

¹⁴⁷⁹ Register of Chiefs c1865, MA 23/25, file 9

¹⁴⁸⁰ Kauaeiruruwahine evidence, 1 Jun 1875, NMB vol 2, p 112

¹⁴⁸¹ Piripi 2012 brief (Wai 45, doc R42), pp 2-3; Peri 2012 brief (Wai 45, doc R46), p 8

¹⁴⁸² Peri 2012 brief (Wai 45, doc R46), p 8

¹⁴⁸³ Matiu and Mutu, Te Whānau Moana, p 58

¹⁴⁸⁴ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, pp 164

¹⁴⁸⁵ Muriwai Popata 1992 Claim (Wai 45, doc 1.13), p 15; Armstrong, Te Paatu Scoping Report (Wai 45, doc T14), p 133

¹⁴⁸⁶ Reremoana Renata 2012 brief (Wai 45, doc R61), p 2

¹⁴⁸⁷ Mutu et.al., Ngāti Kahu, p 49

¹⁴⁸⁸ MLC Te Hororoa corres file M14B, p 2

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Kepa Waha or Hare Popata Waha	675 704-705 851-856 875-877					Rarawa ¹⁴⁸⁹	Te Rarawa ¹⁴⁹⁰		Te Paatu ¹⁴⁹¹	Te Rarawa/ Te Paatu Te Paatu
Kingi Kohuru	329									Ngāitakoto Te Paatu
Matenga Paerata	875-877									Te Paatu / Te Patukōraha
Matenga Tohoraha	329 330 382					Te Patu ¹⁴⁹²			Patukoraha ¹⁴⁹³	

¹⁴⁸⁹ Bedggood, Tribes of the Far North, p 4

¹⁴⁹⁰ Waitangi Tribunal, Muriwhenua Land report, 1997, p 66

¹⁴⁹¹ Robin McConnell, *Taua of Kareponia: leader from the north*, (Hamilton: Te Maru Press, 1993), p 35

¹⁴⁹² Bedggood, Tribes of the Far North, p 4

¹⁴⁹³ McConnell, Taua of Kareponia, p 22

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Matiu Tauhara / Tiu Tauhara	403-407	Aupouri ¹⁴⁹⁴			Ngāti Tarahape hapū and Te Paatu iwi ¹⁴⁹⁵					Te Rarawa/ Te Paatu
Moihi Riwhi	403-407									Ngāti Uru
Neho Wetekia / Te Wiki Pikaahu	458									Te Paatu
Nopera Panakareao / Nopera Tuwhare / Parone Tūwhare / Nopera Paerata	328 329 330 382 458 675 704-705 774-776 847-849 851-856 875-877 1025 1294 1375	Aupouri ¹⁴⁹⁶ Rarawa ¹⁴⁹⁷ Rarawa/ Ngātimoro ki ¹⁴⁹⁸	Rarawa ¹⁴⁹⁹		Aupouri ¹⁵⁰⁰	Te Rarawa ¹⁵⁰¹ Te Aupouri/ Ngāti Kahu ¹⁵⁰²	Te Rarawa ¹⁵⁰³ / 'he was related to all the hapū' ¹⁵⁰⁴	Te Rarawa ¹⁵⁰⁵ Related to Ngāti Kahu ¹⁵⁰⁶ Ngāti Moroki/ Te Rarawa through Ngāti Kahu ¹⁵⁰⁷	Te Rarawa ¹⁵⁰⁸ Father was Ngāti Kahu, but Panakareao was not ¹⁵⁰⁹	Te Rarawa/ Te Paatu Patukoraha Not Ngāti Kahu Rarawa/ Ngātimoroki at Ahipara

¹⁴⁹⁴ MLC Houhora corres file M8, p 8

¹⁴⁹⁵ White to Native Sec, 28 Aug 1861, AJHR 1862, E-07, pp 22-24

¹⁴⁹⁶ MLC Muriwhenua, corres file M26, p 2

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Paratene Hamu	329									Matarahurahu
Paratene Waiora / Paratene Karuhuri	328									Te Rarawa

¹⁴⁹⁷ MLC Te Hu, corres file M29, p 2

¹⁴⁹⁸ Register of Chiefs c1865, MA 23/25, file 13

¹⁴⁹⁹ Clarke to Col Sec, 30 Jun 1843, BPP, 1844 (556), p 342; Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), p 110

¹⁵⁰⁰ Return Giving the Names, Etc., of the Tribes of the North Island Aug 1870, AJHR 1870, A-11, p 3

¹⁵⁰¹ 'Steadfast Friend of the Mission'. *Northland Age*, Vol. 3, Iss 27, 6 Apr 1934, p 8; 'Bay of Islands'. *New Zealander*. Vol. 1, Iss 6, 12 Jul 1845, p 2; Native Meeting at Mangonui. *Daily Southern Cross*, Volume XXIX, Issue 4920, 2 Jun 1873, p 6

¹⁵⁰² 'Maori Welcome'. *Northland Age*, Vol. 26, Iss 36, 26 Jan 1927, p 6

¹⁵⁰³ Waitangi Tribunal, Muriwhenua Land report, 1997, p 79

¹⁵⁰⁴ Waitangi Tribunal, Muriwhenua Land report, 1997, p 37

¹⁵⁰⁵ Rigby and Koning, Preliminary report, (Wai 45, doc A1), p 18; Rigby, Mangonui-Taemaro report (Wai 45, doc A21), p 4; Alemann, Pre-Treaty Transactions (Wai 45, doc F11), p 56; Armstrong and Stirling, Surplus Lands 1840-1950 (Wai 45, doc J2), p 174; Wyatt, Crown Purchases (Wai 45, doc H9), 78; Walzl Pre-Treaty Muriwhenua (Wai 45, doc D4), p 31; Piripi 2012 brief (Wai 45, doc R42), p 8; Haami Piripi, 2012 affidavit (Wai 45, doc R43), p 4

¹⁵⁰⁶ Armstrong, Te Paatu Scoping Report (Wai 45, doc T14), p 234

¹⁵⁰⁷ Johns 2012 brief (Wai 45, doc R41), p 11

¹⁵⁰⁸ Matiu and Mutu, Te Whānau Moana, p 213; McConnell, Taua of Kareponia, p 25; Cloher, Tribes of Muriwhenua, p 72

¹⁵⁰⁹ Cloher, Tribes of Muriwhenua, p 74

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Pororua Wharekauri	403-407 558-560 850 887-888 890 894-895 913-914	Te Uri o te Aho ¹⁵¹⁰ Ngāpuhi ¹⁵¹¹	Ngāpuhi ¹⁵¹²	Ngāpuhi ¹⁵¹³ / Te Uri o te Aho ¹⁵¹⁴			Ngāpuhi ¹⁵¹⁵	Matearoa hapū of Ngāpuhi ¹⁵¹⁶ Ngāpuhi ¹⁵¹⁷ Ngāpuhi but related to Ngāti Kahu ¹⁵¹⁸ Uri o te Aho hapū of the Mahurehure ¹⁵¹⁹ Te Uri o Te Aho ¹⁵²⁰ Te Rarawa ¹⁵²¹	Ngāpuhi ¹⁵²² Eastern Muriwhenua Tribes ¹⁵²³	Te Uri-o-Te- Aho/ Ngāpuhi/ Ngāti Kahu/ Matarahurahu

¹⁵¹⁰ MLC Patupukapuka, corres file M13, p 2; MLC Mangataraire, corres file M31, p 2

¹⁵¹¹ James Berghan to WB White, 25 Sep 1848, OLC 1/558-566, p 23; Register of Chiefs c1865, MA 23/25, file 17

¹⁵¹² Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), p 111; Protector's report nd., encl in Clarke to Col Sec, 1 Sept 1845, BPP 1846 (337), p 126

¹⁵¹³ Otangaroa evidence, 3-4 May 1875, NMB vol 1, p 91

¹⁵¹⁴ Kauri Putete evidence, 12-14 Apr 1875, NMB vol 2, p 70

¹⁵¹⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 79

¹⁵¹⁶ Rigby and Koning, Preliminary report, (Wai 45, doc A1), p 130

¹⁵¹⁷ Rigby, Mangonui-Taemaro report (Wai 45, doc A21), p 3; Alemann, Pre-Treaty Transactions (Wai 45, doc F11), p 56; Wyatt, Crown Purchases (Wai 45, doc H9), p 79; Haami Piripi 2012 brief (Wai 45, doc R42), p 4

¹⁵¹⁸ Armstrong, Te Paatu Scoping Report (Wai 45, doc T14), pp 133, 234

¹⁵¹⁹ Walzl Pre-Treaty Muriwhenua (Wai 45, doc D4), p 28

¹⁵²⁰ Tahere, 2005 Taepa Kiwa Claim (Wai 45, doc 1.37), p 1; Tahere 2008 Claim (Wai 45, doc 1.39), p 2; Tahere 2012 brief (Wai 45, doc R47), pp 2-3; Tahere 2019 brief (Wai 45, doc T4), p 3

¹⁵²¹ Piripi 2012, brief (Wai 45, doc R42), p 4

¹⁵²² Cloher, Tribes of Muriwhenua, p 76; Mutu et.al., Ngāti Kahu, p 59

¹⁵²³ Cloher, Tribes of Muriwhenua, p 76

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Rakena	890									Te Paatu
Raniera Patuware	329 330 458									Probably Ngāti Kahu - related to Nopera/ Te Rarawa
Rawiri Tiro	328 675 851-856					Rarawa ¹⁵²⁴	Te Rarawa ¹⁵²⁵			Te Rarawa/ Te Paatu
Reihana Kiriwi / Reihana Morenui	458	Patu (Rarawa) ¹⁵²⁶			Te Paatu ¹⁵²⁷	Rarawa ¹⁵²⁸		Ngāti Kahu ¹⁵²⁹ Ngāti Tara ¹⁵³⁰ Ngāti Te Rūrunga ¹⁵³¹	Te Paatu ¹⁵³² Ngāti Tara ¹⁵³³	Ngāti Tara

¹⁵²⁴ Bedggood, Tribes of the Far North, p 4

¹⁵²⁵ Waitangi Tribunal, Muriwhenua Land report, 1997, p 66

¹⁵²⁶ Register of Chiefs c1865, MA 23/25, file 11

¹⁵²⁷ White to Native Sec, 28 Aug 1861, AJHR 1862, E-07, pp 23; Return of all Officers Employed in Native Districts, Jan 1864, AJHR 1864, E-07, p 3

¹⁵²⁸ 'Death of Reihana Kiriwi'. *Waka Maori*, Volume 12, Issue 9, 2 May 1876, p 108

¹⁵²⁹ Wyatt, Crown Purchase (Wai 45, doc H9), p 80

¹⁵³⁰ Gabel 2012 brief (Wai 45, doc R39), p 5; Harrison 2012 brief (Wai 45, doc R40), p 3

¹⁵³¹ Mulder, Pre-1865 Crown Transactions (Wai 45, doc T25), p 45

¹⁵³² McConnell, Taua of Kareponia, p 36; Cloher, Tribes of Muriwhenua, p 112

¹⁵³³ Mutu et.al., Ngāti Kahu, p 159

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Reihana Teira Mangonui	458									Te Rarawa / Te Paatu
Reihana Teira Mangonui	458									Te Rarawa/ Te Paatu
Rihi Paora	458									Te Rarawa/ Te Paatu
Tahere / Tahere Pororua	403-407 558-566 1362							Te Uri o Te Aho ¹⁵³⁴		Te Uri-o-Te- Aho/ Matarahurahu/ Te Paatu/ Ngāpuhi/ Ngāti Kahu

¹⁵³⁴ Tahere 2005 Taepa Kiwa Claim (Wai 45, doc 1.37), p 1

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Te Morenga / Kirihihi Te Morenga / Nepia Te Morenga	329 1362	Te Rarawa ¹⁵³⁵				Rarawa ¹⁵³⁶		Te Rarawa ¹⁵³⁷ Ngāti Kahu ¹⁵³⁸	Te Rarawa ¹⁵³⁹ Ngāare Hauata hapū ¹⁵⁴⁰	Te Rarawa/ Te Paatu
Te Ripi Puhipi	704-705 875-877	Te Uri o Hina hapū ¹⁵⁴¹ Aupouri ¹⁵⁴² Rarawa ¹⁵⁴³		Te Rarawa and 'connected with the Aupouri' ¹⁵⁴⁴		Te Rarawa ¹⁵⁴⁵	Te Rarawa / 'Hokianga people' ¹⁵⁴⁶	Te Rarawa/ Rarawanui ¹⁵⁴⁷	Te Rarawa ¹⁵⁴⁸	Te Rarawa/ Rarawanui

¹⁵³⁵ MLC Mapere corres file M65, p 2; Register of Chiefs c1865, MA 23/25, file 12

¹⁵³⁶ 'Parliamentary News and Gossip', New Zealand Herald, Vol. XIX, Iss. 6464, 5 Aug 1882, p 5; Bedggood, Tribes of the Far North, p 4

¹⁵³⁷ Wyatt, Crown Purchases (Wai 45, doc H9), p 79; Mutu, brief, 2012 (Wai 45, doc R55), p 4; Piripi 2012 brief (Wai 45, doc R42), p 3; Matiu 1991 Te Wharo Oneroa a Tohe brief (Wai 45, doc C11), p 2

¹⁵³⁸ Mutu, Manuera, and Matiu, 1992 Claim (Wai 45, doc 1.11), p 6; Mutu, brief, 2012 (Wai 45, doc R55), p 3

¹⁵³⁹ Matiu and Mutu, Te Whānau Moana, p 23; Cloher, Tribes of Muriwhenua, p 72

¹⁵⁴⁰ Cloher, Hongi Hika, p 62

¹⁵⁴¹ MLC Pukepoto corres file M1, p 2

¹⁵⁴² MLC Houhora, corres file M8, p 8

¹⁵⁴³ Register of Chiefs c1865, MA 23/25, file 15; MLC Mapere corres file M65, p 2; MLC Whangatauatia corres file M86, p 2

¹⁵⁴⁴ Parapara evidence, 5-6 Mar 1877, NMB vol 1, p 133

¹⁵⁴⁵ 'Pukepoto', *Waka Maori*, Vol. 8, Iss. 8, 3 Apr 1872, p 57; 'Parliamentary Portraits', *Christchurch Star*, Issue 7354, 6 Aug 1892, p 3; Bedggood, Tribes of the Far North, p 4

¹⁵⁴⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 223

¹⁵⁴⁷ Rigby and Koning, Preliminary report, (Wai 45, doc A1), p 44; Armstrong and Stirling, Surplus Lands 1840-1950 (Wai 45, doc J2), p 229; Wyatt, Crown Purchases (Wai 45, doc H9), p 80; Busby 2012 brief (Wai 45, doc R45), p 6

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Te Taepa	403-407 558-566 847-849 890 1362							Te Uri o Te Aho/ Ngāpuhi ¹⁵⁴⁹		Matarahurahu (father of Hohepa Kiwa and Pororua)
Te Teira	1362					Te Patu ¹⁵⁵⁰			Te Paatu ¹⁵⁵¹	
Te Ururoa/ Paora Putete / Paora Ururoa	403-407 443 887-888 890 1362	Te Hawai Tribe ¹⁵⁵² Ngāpuhi ¹⁵⁵³	Ngāpuhi ¹⁵⁵⁴		Ngāpuhi/ Te Puahi Tahawai hapū ¹⁵⁵⁵	Ngāpuhi ¹⁵⁵⁶	Ngāpuhi ¹⁵⁵⁷	Ngāpuhi ¹⁵⁵⁸		Te Tahawai/ Ngāti Mokokohi/ Ngāti Kahu/ Te Rarawa/ Te Uri-o-Te-Aho/ Ngāpuhi at Whangaroa/ Ngāti Kahu ki Whangaroa

¹⁵⁴⁸ McConnell, Taua of Kareponia, p 35

¹⁵⁴⁹ Tahere, 2005 Taepa Kiwa Claim (Wai 45, doc 1.37), p 1; Tahere 2012 brief (Wai 45, doc R47), p 2; Tahere 2019 brief (Wai 45, doc T1), p 3

¹⁵⁵⁰ Bedggood, Tribes of the Far North, p 4

¹⁵⁵¹ Cloher, Tribes of Muriwhenua, p 112

¹⁵⁵² Te Ururoa statement, FD Bell Mangonui hearing, 3 Oct 1857, OLC 1/1362, p 12

¹⁵⁵³ Register of Chiefs c1865, MA 23/25, file 16

¹⁵⁵⁴ Protector's report nd., encl in Clarke to Col Sec, 1 Sept 1845, BPP 1846 (337), p 125

¹⁵⁵⁵ Appendix to Dispatches: List of Native Assessors, 26 June 1862, AJHR 1862, E-01, Appendix, p 1; Return of all Officers Employed in Native Districts, Jan 1864, AJHR 1864, E-07, p 3

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Tipene Te Taha	704-705	Ngāti Te Ao ¹⁵⁵⁹ Te Patu ¹⁵⁶⁰ Te Whanau Pani ¹⁵⁶¹ Patu ¹⁵⁶²		Te Paatu ¹⁵⁶³ / Te Rarawa ¹⁵⁶⁴ / Ngāti Kahu ¹⁵⁶⁵			Ngāti Kahu ¹⁵⁶⁶	Ngāti Kahu ¹⁵⁶⁷ Ngāti Tara ¹⁵⁶⁸	Ngāti Te Ao ¹⁵⁶⁹	
Tuperiri	675 851-856									Ngāti Whatua ki Orakei
Waka Rangaunu	847-849	Rarawa ¹⁵⁷⁰		Rarawa ¹⁵⁷¹		Rarawa ¹⁵⁷²		Te Rarawa ¹⁵⁷³	Rarawa ¹⁵⁷⁴	

¹⁵⁵⁶ 'Death of an Old Chief'. *Bay of Plenty Times*. Vol. XXIV, Iss 3694, 6 May 1898, p 6; 'Northern Cruise of the Luna'. *New Zealand Times*. Vol. XXX, Iss 4321, 26 Jan 1875, p 3

¹⁵⁵⁷ Waitangi Tribunal, Muriwhenua Land report, 1997, p 85

¹⁵⁵⁸ Rigby and Koning, Preliminary report, (Wai 45, doc A1), p 129; Tahere 2019 brief (Wai 45, doc T1), p 3

¹⁵⁵⁹ MLC Otaharoa corres file M24, p 2; MLC Pakautararua corres file M69, p 3

¹⁵⁶⁰ MLC Te Awapuku corres file M49, pp 3-4; Register of Chiefs c1865, MA 23/25, file 15

¹⁵⁶¹ MLC Haumapu corres file M122, p 2; MLC Te Korihi corres file M144, p 5

¹⁵⁶² Register of Chiefs c1865, MA 23/25, file 45

¹⁵⁶³ Awapuku No.3 Awapuku No.4 evidence, 2 Mar 1877, NMB vol 1, p 112

¹⁵⁶⁴ Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, p 170

¹⁵⁶⁵ Kauri Putete evidence, 12-14 Apr 1875, NMB vol 2, p 71

¹⁵⁶⁶ Waitangi Tribunal, Muriwhenua Land report, 1997, p 22

¹⁵⁶⁷ Rigby, Mangonui-Taemaro report (Wai 45, doc A1), p 20; Wyatt, Crown Purchases (Wai 45, doc H9), p 80

¹⁵⁶⁸ Raniera Bassett, 'Brief of Evidence', 2012, (Wai 45, doc R38), pp 14-21; Tamaki Legal, 'Closing Submissions for Ngāti Tara (Wai 2000)', 2012, (Wai 45, doc S34), pp 6-8

¹⁵⁶⁹ McConnell, Taua of Kareponia, p 36

¹⁵⁷⁰ Register of Chiefs c1865, MA 23/25, file 15; MLC Paripari No.2, corres files M55, p 5 & MLC Paripari No. 4, corres files M72, p 2

¹⁵⁷¹ Te Aou Patiki evidence, 26 Jan 1866, NMB vol 1, p 5; Mokaikai evidence, 1 May 1875, NMB vol 1, p 69; Awapuku No.3 Awapuku No.4 evidence, 2 Mar 1877, NMB vol 1, p 113

¹⁵⁷² Bedggood, Tribes of the Far North, p 4

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Ware	851-856		Ngāpuhi ¹⁵⁷⁵					Ngāpuhi ¹⁵⁷⁶		Lloyd Pōpata sceptical of Ware being an Ōruru chief
Watene Wera	329									Te Paatu
Whaitua	570									Whanau Moana
Wi Kaitaia	890			Ngāti te Rūrūngā ¹⁵⁷⁷				Te Patu ¹⁵⁷⁸		Te Paatu/ Kauhanga
Wi Tana Papahia	675	Rarawa ¹⁵⁷⁹		Ngāti Kahu/ Te Rarawa ¹⁵⁸⁰	Rarawa ¹⁵⁸¹	Rarawa ¹⁵⁸² Te Patu ¹⁵⁸³				Te Rarawa/ Te Paatu

¹⁵⁷³ Wyatt, Crown Purchases (Wai 45, doc H9), p 80

¹⁵⁷⁴ McConnell, Taua of Kareponia, p 35

¹⁵⁷⁵ Clarke to Col Sec, 1 Jun 1843, BPP, 1846 (337), p 111

¹⁵⁷⁶ Armstrong and Stirling, Surplus Lands, 1840-1950 (Wai 45, doc J2), p 172

¹⁵⁷⁷ Parapara evidence, 5-6 Mar 1877, NMB vol 1, p 134

¹⁵⁷⁸ Tauhara 2012 brief (Wai 45, doc R63), pp 11, 15

¹⁵⁷⁹ Register of Chiefs c1865, MA 23/25, file 21

¹⁵⁸⁰ Kauri Putete evidence, 12-14 Apr 1875, NMB vol 2, p 75

¹⁵⁸¹ List of Maori Tribes and Chiefs, encl in Bowen to Col Sec 17 Mar 1868, AJHR 1868, A-11, p 59

¹⁵⁸² Bedggood, Tribes of the Far North, p 4; 'The First Maori Parliament', *New Zealander*, Vol. XVIII, Iss 1682, 31 May 1862, p 7

¹⁵⁸³ Bedggood, Tribes of the Far North, p 4

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Wiremu Pikaahu / Pikahu	329	Patu ¹⁵⁸⁴ Ngāti Whata ¹⁵⁸⁵ Patu ¹⁵⁸⁶		Ngāti Te Rūrunga ¹⁵⁸⁷ / a hapū of Te Paatu ¹⁵⁸⁸ / Te Rarawa ¹⁵⁸⁹	Te Paatu ¹⁵⁹⁰	Te Patu ¹⁵⁹¹		Te Rarawa ¹⁵⁹² Te Rarawa/ Ngāti Kahu hapū ¹⁵⁹³ Te Patu/ Ngāti Mokokohi/ Ngāti Rurunga ¹⁵⁹⁴ Ngāti Tara ¹⁵⁹⁵	Te Paatu ¹⁵⁹⁶ Ngāti Kahu/ Mokokohi ¹⁵⁹⁷	Te Paatu
Wiremu Taua / Hone Taua	160 329 330 847-849 875-877	Kaitoe ¹⁵⁹⁸ Patu ¹⁵⁹⁹							Kaitoti hapū / Ngāti Kahu ¹⁶⁰⁰	Te Paatu/ Kaitoti/ Kaitote/ Patukoraha

¹⁵⁸⁴ MLC Te Hororoa corres files M14B, p 2; MLC Te Hororoa corres files M134, p 3

¹⁵⁸⁵ MLC Opouturi corres file M275, p 2

¹⁵⁸⁶ Register of Chiefs c1865, MA 23/25, file 14

¹⁵⁸⁷ Parapara evidence, 5-6 Mar 1877, NMB vol 1, p 132

¹⁵⁸⁸ Te Hororoa evidence, 21 July 1868, NMB vol 1, p 39

¹⁵⁸⁹ Otangaroa evidence, 3 May 1875, NMB vol 1, p 80; Pukenui evidence, 8-10 Mar 1877, NMB, vol 1, pp 166

¹⁵⁹⁰ White to Native Sec, 28 Aug 1861, AJHR 1862, E-07, pp 22-24

¹⁵⁹¹ Bedggood, Tribes of the Far North, p 4

¹⁵⁹² Armstrong and Stirling, Surplus Lands, 1840-1950 (Wai 45, doc J2), p 286

¹⁵⁹³ Walzl Pre-Treaty Muriwhenua (Wai 45, doc D4), p 38

¹⁵⁹⁴ Pai Claim, 1998 (Wai 45, doc 1.26), p 1

¹⁵⁹⁵ Raniera Bassett, 'Brief of Evidence', 2012, (Wai 45, doc R38), pp 14-21; Tamaki Legal, 'Closing Submissions for Ngāti Tara (Wai 2000)', 2012, (Wai 45, doc S34), pp 6-8

¹⁵⁹⁶ Cloher, Tribes of Muriwhenua, p 112; McConnell, Taua of Kareponia, p 36

¹⁵⁹⁷ Mutu et.al., Ngāti Kahu, p 147

¹⁵⁹⁸ MLC Omaia corres file M20, p 3

Name(s) as identified A-W ¹⁴⁴⁵	OLC	Archival Sources	BPP ¹⁴⁴⁶	Northern Minute Books	AJHR ¹⁴⁴⁷	Papers Past	Muriwhenua Land Report 1997 ¹⁴⁴⁸	Wai 45 Research and Evidence	Published secondary sources	Latimer, Williams, and Rota ¹⁴⁴⁹
Witi (possibly Te Whiti)	704-705 875-877									Te Rarawa/ Te Aupouri

¹⁵⁹⁹ Register of Chiefs c1865, MA 23/25, file 16

¹⁶⁰⁰ McConnell, Taua of Kareponia, p 14