

CHAPTER 11

WAIRARAPAPA, HAWKE'S BAY, WAIROA

11.1 Principal Data

11.1.1 Estimated total land area for the district

The estimated total land area for district 11 (Wairarapa, Hawke's Bay, and Wairoa) is 6,062,761 acres.

11.1.2 Total percentage of land in Maori ownership

The total percentage of land in Maori ownership in district 11 (as calculated from 1940 *Historical Atlas* maps held in the Alexander Turnbull Library) was 52 percent in 1860, 26 percent in 1890, 17 percent in 1910, and 6 percent in 1939 (or approximately 40 acres per head according to the 1936 census figures provided below).

11.1.3 Principal modes of land alienation

The principal modes of land alienation in district 11 were:

- pre-1865 Crown purchases;
- purchases under the Native Land Acts; and
- confiscation.

11.1.4 Population

The population of district 11 was approximately 6000 to 7000 in 1840 (estimated figure), 5332 in 1891 (estimated from census figures), and 8604 in 1936 (also estimated from census figures).

11.2 Wairarapa

11.2.1 Main geographic features relevant to habitation and land use

The Rangahaua Whanui Wairarapa district includes all land on the east coast of the North Island of New Zealand south of the province of Hawke's Bay and east of the Rimutaka and Tararua Ranges. The southern limit is Te Matakitaki a Kupe (Cape

Palliser), and the northern limit is a line inland from the coast at the mouth of the Waimata River extending to the Manawatu River at its southern reaches before entering the gorge.

Just to the north of Palliser Bay, Lake Wairarapa provided inland food resources. This southern area was a focus of Maori settlement. Similar to the Hawke's Bay section of this district, Wairarapa was identified by European leaseholders as early as 1844 as ideal grazing land for sheep and cattle. The mountains to the west form a natural boundary, and the Manawatu Gorge in the north-west corner of the district provided a pathway for movement in and out of the area.

11.2.2 Main tribal groupings

The Rangahaua Whanui report on Wairarapa acknowledges that it can provide only a brief summary of the relevant traditional Maori history, because Maori alone are qualified to produce a comprehensive account. The following discussion is a summary of the district report.

By the mid-eighteenth century, the descendants of Ngati Kahungunu had extended over much of the Wairarapa district, intermarrying and building alliances with the peoples already established there, such as (among others) Rangitane, Ngai Tahu, and Ngati Ira. However, Rangitane in particular retained an important presence in the north, including the Hamua hapu, some of whose members could also trace descent to Ngati Kahungunu. Ngai Tamahau and Ngati Rangiwahakaaewa of Ngati Kahungunu were also major northern hapu, as were Ngati Kahuhuraawhitia, Ngati Moe, and Rakaiwhakairi. There is some evidence that Ngati Kahungunu were politically fragmented in the early nineteenth century, and that hapu in the area maintained substantial independence from each other.¹

Invasions by Te Ati Awa, Ngati Tama, and Ngati Mutunga from the west saw the retreat of Wairarapa Maori (Ngati Kahungunu in particular) from the Wellington region and, after 1824, from the Wairarapa region also. By 1833, they were in exile around Nukutaurua and the Mahia Peninsula, where they joined with Hawke's Bay Maori. Many Rangitane sought refuge around the Manawatu Gorge. Fighting ended in the late 1830s, and Wairarapa Maori began to return to the region in the early 1840s. Some interest in the region was retained by the invaders, although further research is required to determine whether any of these people remained in the district.

11.2.3 Principal modes of land alienation

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

Couper, Holt, and Rhodes claimed 883,000 acres at Cape Turnagain (situated just north of the Rangahaua Whanui Wairarapa district boundary), which no doubt would have included lands in the Wairarapa district. Scrip was issued to Rhodes and

1. H A Ballara, 'The Origins of the Ngati Kahungunu', PhD thesis, Victoria University of Wellington, 1991, p 280

Figure 18: District 11a (Wairarapa)

Buckland for 2560 acres in satisfaction of this and other claims in the Hawke's Bay region.²

(2) *Pre-1865 Crown purchases*

Following earlier failed attempts to buy land, from 22 June 1853 and 18 January 1854 about 1.5 million acres were acquired by the Crown in a series of 41 deeds for a total of £23,547 (of which, £14,690 was paid before or on the day each deed was signed).³ In nine of the largest purchases, Maori were also to receive the 'Wairarapa 5 percents', defined as:

certain additional consideration for the lands we [Maori] have sold, to be paid to us [when the land is sold by the Crown] for the forming of schools to teach our children, for the construction of flour mills for us, for the construction of Hospitals and for Medical attendance for us, and also for certain annuities to be paid to us for certain of our Chiefs.⁴

In June 1853, 'Castle Point' was purchased for £2500. This area, estimated at 275,000 acres, extended from the Whareama River mouth in the south as far as the Waimata River mouth in the north (a distance of some 45 miles) and inland to the Puketoi mountains. The deed was signed by 301 Maori, including the leading chief Wiremu Te Potangaroa from Mataikona.

In September 1853, purchases were made in the south of the valley, including: the Western Lake block of an estimated 200,000 acres (a large part of which was some of the Rimutaka Range) for £2000; the Eastern Lake block of 120,000 acres for £1100 (with 2840 acres reserved for one chief); the Tuhitarata block of 40,000 acres, which bordered the Eastern Lake block to the north, for £1000; and the Tauherenikau 4 block, estimated at 430,000 acres (of which 40,000 acres was in the valley with the rest extending over the Tararua Range) for £2000.

In October 1853, purchases were made in the Whawhanui block, estimated at 40,000 acres (actually only 25,500 acres) for £1000 (with a 10-acre block and a cultivation of 80 acres reserved to Maori), and the Pahaua block of 110,000 acres (although McLean had mistakenly estimated it at 250,000 acres) for £700. During November and December 1853, four blocks south of Castle Point were purchased, totalling an estimated 188,000 acres for £1000. The Waihora block, an estimated 12,000 acres, was purchased for £300. The Manawatu block (100,000 acres) was purchased for £800, with 1000 acres reserved for the chief Wiremu Waka. The Upokongaruru block was purchased on the same day (50,000 acres for £487). Also in December, the two Kuratawhiti blocks (4000 acres around modern Greytown) were purchased for £220. A block of 18,000 acres was also purchased at Owhanga,

2. See olc 129–134, as listed in the appendix to B Rigby, M Russell, D Moore, 'Old Land Claims', Waitangi Tribunal Rangahaua Whanui Series unpublished draft.

3. The figures provided in this discussion are from Turton's deeds. It should be noted that Turton had overestimated the amount of land sold in this district at the time by about 500,000 acres (although some of these figures have been adjusted where possible).

4. Turton, deed 88, p 267

near modern Featherston, for £1000. On the coast, the Kaiwhata block of 10,000 acres was purchased for £270.

In January 1854, the following purchases were made: the Te Awaite block on the coast, an estimated 100,000 acres (possibly only 35,000 acres), was purchased for £1500 (with three settlements, a cultivation, and 'a possible 500 acres' reserved); 40,000 acres of prime land at Wharekaka for £2000; Ahiaruhe of 5000 acres (east of modern Greytown) for £500; 'Smith's run' containing around 6000 acres for £500; Kuhangawariwari, around modern Masterton; and Awhea on the northern coast, comprising 15,000 acres, for £400.

From 1854 to 1865, about one-third of the land remaining to Maori, or about 25,000 acres, was alienated through Crown purchases. Between the end of November and the beginning of December 1854, McLean paid advances on four blocks: £200 for Kaimatarau (location uncertain); £100 for Kaiaho (north-west of Masterton); £200 for Otahua (east of Masterton between the Taueru and Whangaehu Rivers); and £100 for Papawhakarau (location uncertain).

In December 1854, the following purchases were made: the Maramamau block (between the lake and the Ruamahanga River), estimated at 5000 acres, for £700; the Kahutara block (to the south of Maramamau), of around 15,000 acres, for £650 (with no mention of reserves in either case); the Waikaraka block (south of Point Ureti) to the Crown for £100 and two (vaguely described) reserves; the Kuripuni block (west of Masterton), of 300 acres, for £150; a part of 'Smith's Run' (2500 acres in all) at Paeora for £300 (as well as an advance of £200 made one year earlier); £400 was advanced on the Te Karamu block (north-west of Masterton) of 30,000 acres; Hikuwera and Taratahi (between Featherston and Masterton) for £600 and an unspecified reserve for eel-fishing, which was not to exceed 100 acres.

In January 1855, two reserves from earlier purchases were sold: 50 acres at Mataikona for £40 and the Whakataki reserve of about 7000 acres, which went for £200. At the same time, advances were made on land within the area known as 'Seventy Mile Bush' (which was until this stage unalienated): £60 on the Aupapa block; £50 on the Puketoi block; and an undefined amount for the Parahihi block. Later in January, McLean purchased a 150-acre block called Kuratawhiti (near Greytown) for an undefined amount of money, and in February, he made an advance on the large Maungaraki block east of Masterton. These blocks, for which advances had been paid, took years to complete, although it was understood by the Government that from the time the advance was made the land had been alienated.

In August 1855, £100 was advanced for an estimated 1700 acres at Kopuaranga and a further £100 on a block 'seaward of Wainuiora' (with no reserves made in either case). Negotiations were also completed for a 640-acre block at Te Whiti, for which three chiefs located in Wellington had been paid £50 in December 1853. Eight people signed for the remaining £150. Instalments were paid on some of the larger blocks: £500 on the West Lake block; £400 on the East Lake block (both in September 1855); a final £400 on the Kurawhawanui block in October; and £100 on the Kuhangawariwari block in November.

In January 1856, advances were paid to several chiefs for land that is not clearly identified. Advances were also made on the following blocks: £50 on Maungaraki; a further £60 for 'Arama's land' at Maungaraki; and £60 on Makara. Wi Kingi and others agreed to sell 400 acres at Aranga Te Kura for approximately £60 (or three shillings per acre) and then proceeded to buy back 200 acres of the block at 10 shillings per acre. Later in 1856, £1150 was transferred as final payment for Puhangina and Hikawera. From 1858 to 1861, an estimated 173,048 acres of land were sold (although a more accurate figure could be closer to 150,000 acres). In March 1858, £100 was advanced on Whangaehu (450 acres), with 'Tukuwahine' (unspecified) reserved to Maori. In April 1858, £100 was advanced on a large and valuable area of land south of Ngaawapurura (in the region known as 'Seventy' or 'Forty' Mile Bush). In July, 'ad hoc' payments totalling £25 were made to others with an interest in the area.

In June 1858, Manaia (a prime piece of land immediately south of Masterton), containing an estimated 5500 acres, was purchased for £550 with 100 acres reserved. One hundred pounds was also advanced to six major chiefs for the Matapihi–Rangitumau block (with no reserves). The Tirohanga block (an estimated 1700 acres) was also purchased for £160.

By February 1859, Te Kopi, Tupurupuru, Whaiao, and Tupapokia, an area of 49,000 acres from the valley south-east of Masterton, had been purchased for £2370 (just under one shilling per acre). The 1350-acre reserve was described by one official as 'small'.⁵ During these negotiations, 518 acres were also purchased east of the lake, at Pihautea.

In February 1859, a £50 instalment was paid for the Korakonui and Ngapaiaka block (2500 acres on the Wainuioru River). An advance of £100 had been made for the land in 1855. The purchase of the Maungariki block estimated at 7500 acres was completed, having begun with an advance payment of £200 in 1855. A further £200 was paid in 1859, and the boundaries were extended. Three other sales were completed in March 1859: the Otahua block (3000 valuable acres near Masterton) for £200 (with £200 already paid in advance in December 1854); the Matapihi–Rangitumau block of around 8000 acres for £355 (for which £100 had been paid in advance in 1858); and finally the Te Whanga block of 3800 acres (east of the Tauhera River) for £200.

In October 1859, the purchase of the Makuri block estimated at 45,000 acres was completed with a payment of £240, following two advances of £60 and £50 made in March 1855 and March 1858 respectively. An area of 25,000 acres from the Ihurua block was also purchased for £650, and 21 acres were reserved for just one chief (despite the fact that the deed was signed by 24 Maori).

In November 1859, a 530-acre block, which had been reserved from one of the Whareama blocks, was purchased at Hikurangi and Awatoetoe for £100. The Waikaraka block of 14,000 acres was completed the next day for £600, following

5. Goldsmith, p 60

an advanced payment of £100 in December 1854. A 'reserve at Eparaima' and 100 acres were excluded from the purchase for Maori.⁶

In January 1860, an estimated 1200 acres were acquired at Raparimu for £100, as well as 3500 acres at Korakonui for £500. Only vague boundaries were offered for the piece of land reserved for Maori.

According to Turton's deeds, from 1862 to 1865 about a further 56,902 acres were sold (although a more likely estimate is around 50,000 acres). The following purchases were completed: the Mahara block of 8000 acres, for a further £320 (bringing the total amount paid to £400), with a reserve of not more than 100 acres; the Pahaoa block (an estimated 3900 acres), for which £100 had already been paid, for a payment of £175; the Te Whiti block of 740 acres for a final £60, following £40 in staggered payments since 1860; and a 1000-acre reserve from the Whawhanui block (purchased in 1853) for £80.

In January 1863, the following purchases were made: the Tauheru block of an estimated 21,000 acres for £220 (one of the eight signatories received a 156-acre reserve); the Kahutara Bush block, estimated at 900 acres for £200; and the Otumaunga block for £40. In May 1863, Te Kohutu, a 62-acre block, was acquired from two sellers for £15.

In April 1864, 430 acres at Whangaehu were purchased for £25; 4620 acres (location unspecified) were acquired for £300; 150 acres at Pouawatea near Featherston were purchased for £150; and the Kumurau block at Tauhera (12,000 acres) was acquired for £200 payment. In August, 4000 acres were purchased at Upokongaruru for £100.

(3) *Pre-emption waiver purchases*

There were no pre-emption waiver purchases in this part of district 11.

(4) *Confiscations*

There were no confiscations in this part of district 11.

(5) *Purchases under the Native Land Acts (Crown and private as indicated)*

(a) *1865–73*: Advances had been made against land in Seventy Mile Bush as early as 1855, but by 1865 it remained the single largest unpurchased block of land in Wairarapa. Negotiations from the Hawke's Bay end of the bush were resumed in April 1870, and there is evidence that the negotiations for three blocks, Maharahara, Te Ahuaturanga, and Puketoi, had been concluded by May 1870 with an advance of £50 paid on each block. Most of the bush lying on the Wairarapa side did not go through the Native Land Court owing to the absence of principal claimants, although the Puketoi blocks, some of which were in Wairarapa, did pass through the court. The purchase of land at Tamaki that had passed through the court included about 85,000 to 90,000 acres in the Wairarapa district. The deed for this

6. Turton, deed 163, deed receipt 33 (cited in Goldsmith, p 66)

257,071-acre purchase was signed on 16 August 1871, with no reserves made on Wairarapa land (although some were made in the Hawke's Bay). The Crown paid £12,000 of the £16,000 promised on the day, assuring that the rest would be paid once the surveying and reserving of land was settled. There were 69 signatories to the deed.

Having paid the £16,000, the Government still did not possess all the shares and spent the rest of the 1870s pursuing the interests of those Maori who were still shareholders in the area. The acquisition of all interests cost the Crown around £19,033, with an additional £6191 paid out for expenses.

In October 1871, the deed for the 'Seventy Mile Bush, Wairarapa District' of 125,000 acres (divided in 10 blocks) was signed. The blocks were: Kaihinu 1 (22,000 acres) and 2 (19,000 acres); Mangahao 1 (23,000 acres) and 2 (8000 acres); Manawatu–Wairarapa 1 ('Eketehuna', 6000 acres), 2 ('Mongorongo', 15,000 acres), 2a ('Pukahu', 6000 acres), and 2b ('Pahi Atua', 15,000 acres); Ngatapu 1 (4000 acres) and 2 (7000 acres). A total of £10,000 was paid for these blocks (just over 1 s 7 d per acre) to some 60 sellers. Eight reserves totalling 4369 acres were scattered through six of the 10 blocks.

The 500-acre reserve from the Ngatapu block sale was also purchased in June 1879 for £500. The following year, 350 acres at Mangahao 2 were acquired for £175. Finally, in 1885 two areas of the reserve in Mangahao 1 were purchased for £190 and £175. In summary, by the turn of the century, 1829 of the 4369 acres reserved had been purchased by the Crown.

In April 1873, Kauhanga 1 and 2 (near the Manawatu Gorge), estimated at 7000 acres, were acquired for £550, with two 20-acre reserves set aside for some of the vendors. In October 1873, the Tararua Range (estimated at 103,000 acres extending from the western boundaries of many Wairarapa blocks) was sold for £2792 (with two reserves of 1000 acres each). In 1881, the block appears to have been extended to 113,500 acres for an additional £3885. An advance payment was made on the Mangatainoka block of 62,000 acres by June 1873, with further payments amounting to £770.

Throughout mid-1872, four new agreements were made to sell parcels of land in Wairarapa: 'Upper Tauheru' in March 1872; about 690 acres at Kurumainono also in 1872 for £200; 610 acres at 'Arikirau' for £100; and 1666 acres in the Maungaraki region for £300.

(b) *1874–1910*: In 1876, the Wairarapa lakes were 'sold' by Piata Te Hiko and 14 others. The deed stated that Ngati Kahungunu had retained rights over the water of the lake for eel fishing, which had prevented Europeans from draining areas. These rights were sold for £800 and a £50 per annum pension to principal chief Piata Te Hiko.

By 1881, £242 had been paid on the 2077-acre Whangaehu 2 block, which appears to have completed the purchase. In 1883, the purchase of a 500-acre block called Umukereru was listed as complete (having been under negotiation in 1882).

Following further advanced payments, the Government divided up the Mangatainoka block into smaller parcels in 1882, and these were subsequently bought individually. In 1885, the sub-blocks were rearranged so that six of these had their title fully extinguished for £12,052, plus about £873 in expenses. Following further subdivisions of existing blocks, another five blocks were purchased from Maori by 1888 for a total of £7683. Further smaller subdivisions were purchased over the following years. By 1900, 57,061 of the 66,390 acres from this block that had passed through the court had been purchased. It would appear that the rest of the land remaining was also sold off during the twentieth century, and by 1995, only 459 acres of the Mangatainoka block remained in Maori hands.

(c) *Post-1910*: The Wairarapa district was encompassed within the regions of the Ikaroa and Tairawhiti (later Takitimu) Maori Land Boards, which covered land from East Cape to Wellington. Annual returns of alienations through the land boards do not specify block names, and an exhaustive search of the files would be necessary to establish which of the board's alienations fell with the Wairarapa sub-district. However, the total amount of land alienated in district 11 between 1910 and 1939 was 704,170 acres (estimated with the use of the maps reproduced at the start of this volume), although a very small (but important) percentage of this would have been in the Wairarapa sub-district, where most of the land had earlier been alienated through Crown purchases.

(6) *Land taken for public purposes*

In this, as in all other districts, taking of Maori land by central and local government for public purposes regularly occurred. Details of particular takings were not available for this report, but for a general discussion of public works policy and law, see volume ii, chapter 11.

11.2.4 Outcomes for main tribes in the area

Goldsmith notes that, while land alienation in Wairarapa was not characterised by confiscation, by the end of the nineteenth century land alienation had resulted in 'landlessness and social and economic marginalisation on a scale comparable to, if not more severe than, some of those areas affected by confiscation'.⁷ Heaphy's return of 1871 shows that approximately 68,000 acres remained in Maori hands in the form of reserves, which represents about 3.5 percent of the total area (although this included some of the choicer pieces of Wairarapa) and did not include Maori customary land, which Heaphy did not attempt to calculate. In 1886, the figure for land in the district not yet passed through the Native Land Court was 95,442 acres, bringing the total figure of Maori land in 1886 to just over 162,012 acres, or about 8 percent of the total area of the district. An estimated 757 people were to share in

7. Goldsmith, p vii

this land in 1886; equating to about 214 acres for each man, woman, and child, although some hapu were worse off than the Wairarapa average.

The 162,000 acres remaining to Maori in the 1890s was gradually reduced through time – some was retained as Maori freehold land under multiple ownership, some became general freehold land owned by Maori, and most was sold to Pakeha. Most of the land held in 1886 was retained until the turn of the century, after which the history of each block becomes too complicated to recount individually.

Goldsmith estimates that, between 1886 and 1994, some 140,000 acres of Maori land were sold and only 30,000 acres have been retained.⁸

11.2.5 Examples of Treaty issues arising

(1) *The Native Land Purchase Ordinance 1846*

Maori made clear financial benefits from their leasing agreements with the early European settlers in Wairarapa. By 1847, they were estimated to be receiving £300 per annum for leased land. In August 1848, rents for 100,011 acres were estimated at £609. While proving a profitable practice, leasing arrangements also meant that Wairarapa Maori retained control over their land. However, the Native Land Purchase Ordinance, which was passed by the Legislative Council in 1846, strongly reaffirmed the Crown's right of pre-emption with regard to purchase (following Governor Fitzroy's waiver in 1844). Under the ordinance, private leasing arrangements were illegal and punishable by fine. According to Goldsmith, the Government's motivation in introducing this measure was 'to guide Maori towards permanently alienating their land.'⁹

As it happened, the ordinance was not brought into effect straight away in Wairarapa for fear of alienating potential Maori sellers, although the provision remained. Leasing flourished from 1846 as Maori seemed unconcerned that the ordinance had been passed, and by August 1851, rents received by Maori in Wairarapa had risen to the order of £1244 (although estimates of this figure vary).¹⁰ This development of leasing was a probable cause of resistance to sales by Wairarapa Maori. In the face of resistance, Governor Grey increased the pressure on Maori to sell, assuring them that 'ample reserves will be retained for you if you will sell your lands'. Grey also warned that, if Maori refused to sell, the Europeans would depart from the land, ending the existing arrangements (and presumably also economically isolating Wairarapa Maori).¹¹

In 1851, McLean was instructed to take steps to enforce the ban on leasing and to punish those who persisted in breaking the law in this manner. This is said to have encouraged the sale of land at Castle Point in 1853 after a run-holder on the land was forced off by the Government. Maori responded by offering to sell the

8. Ibid, p 111

9. Ibid, p 7

10. McLean to Colonial Secretary, 26 August 1851, GBPP, vol 9, sess 1779, p 41

11. Grey to Wairarapa chiefs, circa 20 March 1847, GBPP, vol 8, sess 570, p 57 (cited in Goldsmith, p 12)

land in order to allow the farmer to stay.¹² This sale, in turn, encouraged further Wairarapa sales.

(2) *The adequacy of reserves and surveys*

According to the deeds, 12 of the 25 major blocks of land sold between 1853 and 1854 did not provide for reserves. This could, however, be simply a reflection of the vagueness of the deeds. In a majority of cases, the boundaries of land identified in deeds were not surveyed but were instead described by various villages and other landmarks, which left ample scope for disagreement about the precise areas sold after the deed was signed. For example, the deed for 'Part Pahaua Block and Wilson's Run' referred to 'the piece of land shown by Hoera to Te Hapuku and Mr McLean on the east side of the Pahaua River'.¹³

Where reserves were listed, it is difficult to assess their size. It can therefore only be tentatively demonstrated that in some cases the reserves were very small. For example, from the Whawhanui purchase of an estimated 25,500 acres, only 90 acres were reserved to Maori. Also, of the estimated 100,000 acres purchased at Te Awaite (possibly only 35,000 acres), the reserves were described as 'not large' and included three settlements, a cultivation, and a possible 500 acres. Finally, of the estimated 40,000 acres purchased at Wharekaka, 1000 acres (just 2.5 percent of the total) were reserved, but to only one individual. Other purchases appeared to have allowed for more substantial reserves, which were minimal all the same, such as the reserves in the Puhawa block (about 4 percent of the block).

In 1851, McLean had promised Hawke's Bay Maori that their reserves would be inalienable and protected by law. However, the status of the land reserved to Maori in Wairarapa was far from clear after 1853. Even in the first summer of sales in Wairarapa, some reserves were sold. Goldsmith comments that it is unlikely that, by the end of January 1854, any more than 50,000 of the 1.5 million acres (or just 3.3 percent) sold remained reserved to Maori.¹⁴ Questions arise in the light of this finding as to whether the land remaining was sufficient to meet the immediate and future needs of Wairarapa Maori and whether those reserves retained by Maori should have been made inalienable and actively protected by the Crown.

When District Land Purchase Commissioner Searancke arrived in the area in 1858, very little accurate surveying had been done. In 1859, Malcolm Fraser began surveying the blocks and reserves that had been purchased earlier in the decade. Searancke was of the opinion that 'strict accuracy [in surveying] was not so much required as a good general plan or sketch'. He is said to have been critical of an accurate survey of a 5000-acre block south of Seventy Mile Bush because of the expense involved.¹⁵

The failure to provide reserves that had been promised, though not clearly described, in the deed was also problematic. Goldsmith notes, 'on some occasions

12. Goldsmith, pp 27–28

13. Turton, *Maori Deeds*, p 276 (cited in Goldsmith, p 37)

14. Goldsmith, p 41

15. Searancke to McLean, 10 May 1858, McLean papers (cited in Goldsmith, p 72)

the Crown Lands Commissioner tired of waiting for the necessary surveys and simply sold the land to the settlers'.¹⁶ In the case of the Owhanga block, where this occurred, settlers constructed houses before the matter was resolved with Maori. In the case of the Awhea block (on the south of the east coast), reserves were supposed to be resolved once McLean returned to Wairarapa from Auckland. This did not happen, and Searancke was asked to mark them out when he arrived in 1858. Upon doing so, Searancke discovered the land intended for the reserve was the best in the block, and he made it quite clear that he felt Maori did not require such valuable land. By 1861, the reserve had been agreed to at just under 2000 acres.¹⁷

The insecure nature of reserves meant that Maori preferred securing title of land to themselves through Crown grant by buying back small sections of land the Crown had purchased from them. Searancke noted himself that:

[a] general feeling of insecurity respecting the tenure of their reserves now pervades the Native mind . . . and I believe results from a want of tangible proof that the Crown has made over such reserves to them and their prosperity forever. There appears a feeling that they will be deprived by the Europeans of such reserves as are not held either by grant from the Crown, or other documents emanating from the Governor himself.¹⁸

Furthermore, despite payments by Maori, promises by the Crown, and the enthusiasm of the native land purchase officers, no Crown grants had actually been made by 1862 because of the slow nature of the mechanics of receiving grants. This annoyed Maori and aroused their suspicions. In some cases, Goldsmith reports, a Crown grant could be delayed for over 10 years.¹⁹

(3) *Land purchasing techniques*

McLean was known to obtain an agreement of sale from interested parties with a tenuous connection to the land and then force the completion of the purchase on the legitimate landowners, regardless of whether they wanted to sell. By refusing to accept return of payments made or stop negotiations once they had started, McLean was able to deprive legitimate landowners of their free choice in selling or retaining their lands. This may have been the case with the many advance payments made, especially when such payments went to chiefs with only a general interest in the land and undermined the wider hapu interests or those of the more immediate occupants. (Note also that the mandate of some younger chiefs to sell was highly questionable.²⁰) Four examples of this are the Upokongaruru block, the Kuhangawariwari purchase, and the Kaiwhata and Manawatu deeds. Furthermore, while McLean regarded the cession of 'Barton's block' by Maori (as utu for a quarrel) as an injustice to them, he stated that the deed could not be repudiated and suggested

16. Goldsmith, p 72

17. Searancke to McLean, 6 June 1861, c-1/82, p 304 (cited in Goldsmith, p 74)

18. Searancke to McLean, 21 February 1860, AJHR, 1861, pp 288f (cited in Goldsmith, p 77)

19. Goldsmith, pp 78–79

20. Ibid, p 42

that Maori offer a bit more land and be paid for the whole area. After some discussion, Maori assented.²¹

Despite the fact that he had observed the 'helpless state of debt and poverty' of some of the leading chiefs, Searancke encouraged further land alienation. While he was apparently aware of some obligation on the part of the Crown not to encourage 'irresponsible behaviour' by certain chiefs,²² he argued that the land he continued to purchase was under-used and a constant source of disagreement among Maori.²³ It is important to ask whether the Crown should have refrained from purchasing so much land and taken steps to help Maori resolve disagreements and farm the land themselves.²⁴

According to Gary Scott and Angela Ballara, the Government acted improperly when it sent out 'bounty hunters' to acquire the signatures of Maori who still held shares in the Seventy Mile Bush area. In doing so, the interests of Maori hapu were undermined by the Crown (see the Hawke's Bay discussion below)²⁵.

(4) *The '5 percents'*

The Government was very slow to pay the '5 percents' promised in the sale of some of the larger blocks in Wairarapa. While the Government began receiving money from the sales of the land almost immediately (by March 1854, £8194 had reached the Government), a system of payment to Maori was not set up until 1870. During this time, Maori petitioned the Government to make the payments owed to them. No clear instructions were given to Searancke on the payment of the '5 percents' when he arrived (in 1858), and payments during his time were made in an ad hoc manner. Goldsmith comments that small 'ad hoc' payments made to chiefs as '5 percents' were part of a strategy to foster the support of chiefs or, at least, to buy their neutrality.²⁶ Goldsmith comments that the Government's attention to the provision of health care, schools, and general economic prosperity for Maori (as promised in the sales) was noticeably absent.²⁷

(5) *Wairarapa lakes*

Carter and Ballara argue that Te Hiko, an old man, was placed under extreme pressure by those who supported the sale of the lake in 1876.²⁸ Piripi Te Maari and others with an interest in the lake were not consulted about the 1876 sale, much less gave their permission. In the Native Land Court, beginning in 1882, Te Maari was successful in getting the Government's claim dismissed and having 137 others listed as the owners of the lakes. In 1885, these owners presented a list of grievances

21. McLean to Featherston, 14 January 1854, AJHR, 1861, c-1/28, p 266 (cited in Goldsmith, p 55)

22. Searancke to T E Smith, 7 November 1859, AJHR, 1861, c-1/59, p 287 (cited in Goldsmith, p 68)

23. Searancke to McLean, 21 February 1860, AJHR, 1861, c-1/61 (cited in Goldsmith, p 69)

24. Goldsmith, p 82

25. A Ballara and G Scott, 'Crown Purchases of Maori Land in the Early Provincial Hawke's Bay', report commissioned by the Waitangi Tribunal, 1994, p 87 (cited in Goldsmith, p 89)

26. Goldsmith, p 79

27. Ibid, p 100

28. M Carter and A Ballara, 'Te Maari-o-te-rangi, Piripi', in *The Dictionary of New Zealand Biography*, Wellington, vol 1, pp 449-467

to the Government relating to the lakes, which included the Government's sale of land raised up out of the lake by earthquake, which Maori said belonged to them; the shooting of ducks around the lake that belonged to Maori; and the proposal to open a permanent drain on the lakes, which would ruin the fishing for Maori.

Following a further proposal by the Ruamahanga River Board to declare Lake Wairarapa a public drain, a commission of inquiry was established to look into the matter in 1891. The report produced by the commission ambiguously stated that endangering the fishing rights of the owners was contrary to the Treaty of Waitangi but that the lake owners were not justified in allowing land sold by them to be flooded. In 1892, the river board forced the issues by digging a channel. Maori protested, but offered no physical resistance. In 1895, following an appeal to the Native Affairs Committee, compensation (arranged in 1896) of £2000 and reserves (30,486 acres in 1915) were awarded to the claimants, although they did not regain control of the eel fisheries, the water, or the land.

11.3 Hawke's Bay

11.3.1 Main geographic features relevant to habitation and land use

The boundaries of the Hawke's Bay section of district 11 are marked to the south by a line leading westward from the mouth of the Waimata River, just south of Te Poroporo (Cape Turnagain), to the Manawatu Gorge. The inland, western boundary (which is the hardest to define) follows the Ruahine, Kaweka, and Ahimanawa Ranges, and the catchment areas of the Ngaruroro, Tutaekuri, Mohaka, and Waikare Rivers. The northern boundary is formed by a line running east to the Waihua River on the coast.

The western boundary of this district consists of a solid chain of mountain ranges, which act as catchment areas for the numerous rivers that exit into the Pacific Ocean. The rivers and lagoons were the centres of Maori habitation, while the plains and valleys of this district were quickly noted by Pakeha to be ideal for grazing sheep and cattle.

11.3.2 Main tribal groupings

The main tribal grouping in the Hawke's Bay, Ngati Kahungunu, include ancient peoples such as Ngati Awa (situated at Otatara and Heipipi Pa, Ahuriri), Ngati Apa (situated in the mountainous Kaweka, Ahimanawa, area and elsewhere), Ngati Whatumamoia (situated at Heipipi Pa, Petane, and surrounds), Ngati Hotu, Ngati Moe, Ngai Tara, Moaupoko, and Rangitane.²⁹ The descendants of Kahungunu of the Takitimu waka entered the region in the sixteenth century, settling north of the old path of the Ngaruroro River and south of the Tukituki River. Through 'might

29. Ballara (cited in D Cowie, *Hawke's Bay*, Wellington, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996), p 2

Figure 19: District 11b (Hawke's Bay)

and marriage' the latter group, the descendants of Kahungunu, took hold in the majority of the Hawke's Bay,³⁰ although some of the ancient groups such as Rangitane, Ngati Tauiri, and Ngati Moe maintained an independent identity. Kahungunu descendants also claim descent and land rights from ancient tribes.³¹ The following is a guide to the centres of various Maori groups' main geographic zones (as distinct from their complete rohe) in the nineteenth century.

- *Mohaka*: In 1850, Mohaka was identified with the iwi Ngati Pahauwera; in particular a chief called Paora Rerepu, who claimed ancestry from Kahungunu and pre-Kahungunu descent groups and with whom McLean subsequently had considerable dealings.³²
- *Mohaka–Waikare*: The hapu of Mohaka–Waikare include Ngai Tatara–Ngati Kurumokihi, Ngati Tu, and Ngati Hineuru. The latter occupy the inland Mohaka–Waikere district and surrounds, centred on Te Haroto and Tarawera, and can trace their ancestry to a number of neighbouring tribes, including Ngati Tuwharetoa, Ngati Manawa, and Tuhoe, as well as Hawke's Bay iwi and other ancient tribes such as Ngati Hotu, Ngati Marangaranga, Ngati Awa, and Ngati Apa.³³
- *Ahuriri and Heretaunga*: For the purpose of the Hawke's Bay district report, the hapu of Ahuriri and the Heretaunga Plains have been identified under the umbrella identity of Ngati Kahungunu-ki-Heretaunga (although claimants have tended not to use this term). The hapu Ngati Hinepare and Ngati Mahu centred their influence around Moteo and Wharerangi, while Ngati Te Upokoiri and Ngati Hinemanu hapu were centred further inland, around Omahu and inland Patea.
- *Ngati Te Whatuiapiti and hapu*: Ngati Te Whatuiapiti and hapu have different primary descent lines from those under the Ngati Kahungunu-ki-Heretaunga umbrella and ultimately trace their ancestry from both Ngati Kahungunu lines of descent and (on the other hand) back to Toi. Their main centres of influence include Waipawa, Waipukurau, Patangata, Te Hauke, and others. The tension between Ngati Te Whatuiapiti and Ngati Kahungunu-ki-Heretaunga is important to acknowledge because it was re-ignited in the 1850s. Hapu that identify with Ngati Te Whatuiapiti include Ngati Te Rangikoinake and Ngati Hawea.³⁴ The latter were prominent at Te Matau a Maui (Cape Kidnappers), along with other hapu such as Ngati Kurukuru, who lived at Waimarama with Ngati Whaiti and Ngati Kautere (of Ngati Ira descent).³⁵ Ngati Kere, Ngati Hinete-wai, and Ngati Manuhiri, also descending from Te Whatuiapiti, were prominent in the 1850s at Porangahau.³⁶

30. Cowie, p 2

31. H A Ballara and G Scott, 'Claimants' Reports to the Waitangi Tribunal: Crown Purchases of Maori Land in Early Provincial Hawke's Bay' (Wai 201 rod, doc i1), introduction, p 36 (cited in Cowie, p 3)

32. Ballara, pp 94–98 (cited in Cowie, p 3)

33. See P Parsons, 'The Mohaka–Waikare Confiscated Lands Ancestral Overview (Customary Tenure)', 1993, pt a, pp 4–31, and Ballara, pp 184–188 (both cited in Cowie, p 4)

34. Ballara, pp 197–198 (cited in Cowie, p 7)

35. H A Ballara and G Scott, 'Matau a Maui Block' (Wai 201 rod, doc i1), pp 1–2 (cited in Cowie, p 7)

- *Tamaki-nui-a-Rua*: Tamaki-nui-a-Rua was occupied by various descendants of Toi, including Te Aitanga-a-Whatua, Ngai Tara, and Rangitane, the latter never having been expelled from their homes by Kahungunu, according to Ballara, although admittedly many Rangitane also trace descent to Kahungunu (among other tribes).³⁷

Many of the hapu discussed above shared resources. For example, Ngati Whatu-iapiti and Ngati Hawea would gather fish from around the harbour area. It has been argued that Hawke's Bay Maori also applied 'whanaungatanga' rights indiscriminately within and outside the prescribed Hawke's Bay–Kahungunu rohe, including, for example, other iwi such as Ngati Tuwharetoa and Tuhoë.³⁸ Hawke's Bay Maori also made alliances with tribes such as these outside their district in order to ward off invaders, particularly during the musket wars of the 1820s and 1830s.

11.3.3 Principal modes of land alienation

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

Captain William Barnard Rhodes claimed on 27 January 1840 to have purchased (save one signature) 1.4 million acres of land that included Te Mahia Peninsula, Te Wairoa, Hawke's Bay, and Wairarapa. Payment of £150 had apparently been made and a tenth of the area was reserved for Maori.³⁹ Eventually, however, Rhodes was awarded just 2560 acres worth of scrip by the Land Claims Commission in settlement of this claim, although the location of these blocks is uncertain. (See below for a discussion of other old land claims in the Wairoa district.)

(2) *Crown purchases before 1865*

Crown purchases before 1865 are summarised in the table on the following pages.

(3) *Pre-emption waiver purchases*

There were no pre-emption waiver purchases in this part of district 11.

(4) *Confiscations*

By Order in Council dated 12 January 1867, 270,000 acres in the Mohaka area were proclaimed confiscated (although only approximately 50,000 acres were retained by the Crown). It was noted that the 'loyal' occupants would retain their land, although no such guarantee was afforded to the 'rebels', who would receive a 'sufficient quantity' for their needs when they submitted to the authority of the Queen.

36. H A Ballara and G Scott, 'Porangahau Block' (Wai 201 rod, doc i1), pp 1–7 (cited in Cowie, p 7)

37. H A Ballara and G Scott, 'Tamaki Block' (Wai 201 rod, doc i1), pp 4, 6–7 (cited in Cowie, p 7)

38. Cowie, p 3

39. A E Woodhouse, *George Rhodes of the Levels and his Brothers: Early Settlers of New Zealand*, Whitcomb and Tombs Ltd, 1937, pp 18–19 (cited in Cowie, p 19)

Block name	Acreage	Date	Signatures	Price (£)	Reserves
Waipukurau	279,000	4 November 1851	376	4800	8 reserves totalling 4,378 acres
Ahuriri	265,000	17 November 1851	300	1500	3 reserves totalling 2,415 acres, plus a waka landing
Mohaka	85,700	5 December 1851	240	800	1 reserve of 100 acres and a burial site
Tautane (1st)	70,000	3 January 1854	32	1000	Tautane (and forest) Waimata, Tutaki 5 percent included
(2nd)		11 March 1858	90	500	5 percent excluded Te Wainui 1000 acres Burial site 50 acres
(3rd)		26 January 1863	Karaitiana	150	
Okawa	16,000	17 January 1854 7 June 1859	4 2	800 50	
Kahuranaki	22,000	9 January 1854	4	1100	
Te Umuopa		6 January 1854	5	300	
Waimarama		10 February 1855	Tamihi-koia		
Ngaruroro	5000	14 February 1855	6	200	
Matau a Maui	29,000	28 March 1855 24 February 1857	33 11	2000 1000	Rangaika 300 acres

Tutaekuri	1000	11 April 1855 13 November 1856	Tareha 3	100 200	Tareha's reserve 10 acres
Mataruahou (land adjoining)		11 April 1855 13 November 1856	Tareha 3	25 25	Tareha's two town sections 178-179 Carlyle Street
Te Mata	16,000	13 April 1855 13 November 1856	12 10	500 500	Karanema's 4000 acres Kohinerakau 1200 acres Heipora whanau
Waipureku	200	13 April 1855 15 May 1855	2 2	100 30	
Otapahi	6400	13 August 1855	4	200	
Ruahine- Ruataniwha north	130,000	1855 to 1859		10,500	12 Crown grants 1150 acres 4 Crown grants 1050 acres Tikokino 900 acres
Te Totara	26,000	28 August 1855	3	1300	
Aorangi	38,000	22 March 1856	88	2000	Not named 803 acres
Maraekakaho	30,000	20 November 1856 4 July 1857	18 16	1000	
Manga o Rangipeke	10,000	3 January 1857 29 June 1857	3 19	150 500	
Ruahine bush	100,000	13 July 1857	128	3000	
Te Aute College	1745 816	31 March 1857 31 March 1857	45 45		
Otaranga	50,000	15 March 1857	27	1000	
Puahanui	12,000	3 August 1857	32	1200	

Crown purchases before 1865. Source: Cowie, pp 57–59.

Block name	Acreage	Date	Signatures	Price (£)	Reserves
PorangaHau	145,000	10 March 1858	83	3000	Eparaima 1 and 2, and four reserves totalling 278 acres
Omarutaiari (Takapau)	11,700	1858 16 July 1859 12 August 1859	Uru Peni 2 4	100 50 400	Not named 1000 acres
Karanema's reserve*	4000	5 March 1858 29 September 1858	8 6	400 400	
Middle south Porangahau	16,000	18 July 1859	2	400	Crown grants 1300 acres
Aropaoanui	2000	19 April 1859 20 June 1859	12 5	150 240	
Ranga a Tawhao	5000	28 April 1859	5	350	
Kaweka	50,000	1859 to 1875		430	
Moeangiangi	12,000	7 July 1859	15	310	Moeangiangi 200 acres
Kereru	5000	15 August 1859	12	600	
Tukuwaru reserve*	71	15 August 1859	3	40	
Pourerere* and Tuingarara*		10 August 1859 15 May 1862 15 May 1862	Morena Morena Te Hapu	25 100 280	(82 acres remained)
Te Heru o Tureia*		5 July 1859	11		
Eparaima bush*	500	26 May 1859	5	150	

* Reserves

Crown purchases before 1865. Source: Cowie, pp 57–59.

McLean subsequently negotiated the division of loyal and rebel land, resulting in the Mohaka–Waikare 1 deed, or the 1868 agreement, in which the Crown relinquished its claims to the coastal half of the confiscation district, except for the Tangoio block (8500 acres) and Otumatahi (4470 acres, for which a down-payment was made in January 1866 of £400) and the Moeangiangi and Arapaoanui blocks (13,686 acres), which the Crown claimed it already owned through earlier purchases. In return, Maori withdrew their rights to the rest of the block (about 193,000 acres) and the Crown paid signatories £150 each to relinquish their claims to that area.

In June 1870, the Mohaka–Waikare 2 deed clearly spelt out the land the Government was to retain. The coastal Tangoio block (9050 acres) was to be retained by the Crown, except for one 10-acre reserve. In 1872, this block was transferred to a private individual in exchange for land in Poverty Bay. The Waitara block (40,000 acres, leased in 1872 to a private individual) and redoubt sites at Te Haroto (1000 acres) and Tarawera (2000 acres), as well as those sites the Crown considered it had already purchased (listed within the 1868 agreement), were also retained by the Crown. Tareha and others were paid £400 in full and final settlement of Mohaka–Waikare.

The rest of the confiscation area was divided into 12 blocks, under the names of 30 (on average) loyal Maori to whom the land was returned. The Crown was thereby acknowledging that Hawke's Bay Maori wished to secure for themselves their remaining land in perpetuity. One significant clause of the deed stated that:

the whole of the land [to be retained by Maori] shall be inalienable both as to the sale and mortgage, and held *in trust* in the manner provided, or hereinafter to be provided by the General Assembly for Native Land held *under trust*. [Emphasis added.]⁴⁰

The deed was validated by the Mohaka and Waikare District Act 1870, which was then repealed in 1878. The blocks were then in a kind of limbo, as unallocated Crown land, until the Native Lands Act Amendment Act 1881 reinstated the provisions of the 1870 Act.

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

Although this is not an exhaustive list of purchases under the Native Land Acts, purchases of significance are given below.

(a) *1865–73*: What appears to be the final deed for the Kaweka block was signed on 15 June 1864 (for which negotiations had begun with deeds in 1859). Although a survey had not been completed, £300 was paid. A further deed for land that lay entirely within this Kaweka block was later signed in 3 May 1875 by 43 Maori apparently representing Ngati Kurapoto, who were paid £540 by the Crown.

In January 1866, the first deed was signed for the Otumatahi block (north-east of the Moeangiangi block), and £20 was paid to each of the 11 signatories. A second

40. 'Mohaka–Waikere Block No 2', deed, 13 June 1870, in Turton, p 559 (cited in Cowie, p 113)

deed was signed by different people (once the block had passed through the court) in December 1866, at which time £400 was paid out for the 4470 acres. On 9 June 1866, the Crown negotiated the purchase of the land reserved from the Moeangi block sold in 1859 (which was by that time identified as comprising 1000 acres).

In 1867, the Heretaunga block (of 19,000 acres) passed through the Native Land Court, and in April 1867, the Crown grant was issued to 10 representatives of 11 hapu. The majority (although not all) of shareholder interests were subsequently purchased (one at a time) until, by 1870, all the grantees had consented to the sale of the block in some form or other. The sale was confirmed by a final signing and distribution of payment in Napier.

On 4 July 1867, a Crown grant was made over to J G Gordon in exchange for £100 for the 300 or so acres originally reserved from the sale of Te Matau-a-Maui in 1855.

On 1 June 1868, the Government paid a further £85 for the extinguishment of the title at Maungaharuru, for which a down-payment had been made in 1865 and 1866 (a block that had previously been confiscated).

On 29 April 1870, preliminary deeds were signed for the Maharahara, Te Ahuaturangi, and Puketoi blocks, and £50 was paid for each block. Having been passed through the court, the Puketoi block (110,000 acre) was split into five, while Te Ahuaturangi was awarded to just seven people, as was Maharahara. The Oamaru block of 3573 acres on the southern bank of the Tutaekuri River passed before the Native Land Court in March 1866 and was purchased outright by a private individual in 1870 for £2500. By April 1871, an estimated £1300 had been advanced to grantees of these three large blocks, which had been subdivided by the court.

On 1 June 1871, 12 grantees signed an agreement to sell 12 blocks within Seventy Mile Bush for £16,000, of which £600 was paid immediately. Following further negotiations with the shareholders, £12,000 was paid on 16 August to the 69 signatories of the Seventy Mile Bush deed. On 25 December 1873, the final £4000 was paid over to about 65 signatories who also largely appeared on the 1871 deed for the sale of 230,000 acres of the 300,000-acre Hawke's Bay part of the Tamaki (Seventy Mile) Bush. By paying small cash advances to customary owners, the Crown was eventually successful in gaining the consent of a majority of shareholders to acquire the land.

(b) *1874–90*: Very little purchasing was done in the Hawke's Bay area between 1874 and 1890. The discussion below includes examples of the purchases made at this time.

From the mid-1880s, purchasing in the Tamaki blocks extended to include other blocks in the southern Hawke's Bay area. In 1888, a down-payment of £122 was made on Waikopiro, estimated at 26,400 acres. Also in 1888, £100 was advanced on the 58,000-acre Manawakito block. By 1891, the Tiratu block had a £6 deposit paid against it and Piripiri block had £1013 paid against it (although the block had been awarded an inalienable status by the Crown in 1870).

The Te Awa o te Atua block of 5070 acres came before the Native Land Court in March 1866. A final conveyance was made for the private sale of this block in 1877. One 400-acre reserve was made that remained in Maori ownership.

In 1880, the Crown took possession of a 16,684-acre partition of the 19,792-acre Rotokakarunga block, having purchased 25 of the 30 shares in it. By 1914, the remaining 2805 acres had been sold to Europeans in a piecemeal fashion.

In 1883, the Maungataniwha block was sold to a Wellington accountant.

(c) *1891–1910*: Following something of a lull in land purchasing after 1875, the Crown renewed its energies in land purchasing in the Hawke's Bay district in 1891. Note once again that this is not an exhaustive account of purchases made at this time.

In 1891, the Crown was engaged in the purchasing of the Manawakitoe, Piripiri, Umutaoroa, Waikopiro, and Tiratu blocks in the southern Hawke's Bay area. From 1894, this was extended to include Ngapaeruru, Tamaki, and Rakautatahi. An initial payment of £500 was made on 22,079 acres in the Tamaki block. Also in 1894, payments were made on Ngapaeruru (£700), Waikopiro (£400), Rakautatahi (£100). Waikopiro b (226 acres) was gazetted as purchased by the Crown in July 1896 for £113.

In 1895, Tiratu was purchased for 10 shillings an acre, and Ngapaeruru 1 to 9 for five shillings an acre. Rakautatahi (165 acres) was further subdivided and received 11 shillings an acre, while the Waikopiro subdivision of 506 acres was purchased for 10s 6d an acre. Piripiri was partially purchased for nearly £2000 (a rate of 10 shillings an acre), and in 1899 the bulk of Piripiri, less 933 acres, was gazetted. Ngapaeruru 6c (93,699 acres) was finally gazetted as acquired in August 1898 for 10 shillings an acre, likewise Tamaki 1 and 2, gazetted on the same day.

In 1905, Ngapaeruru 7f2 (617 acres) was finally acquired on 24 August. In 1906, the Crown purchased 5414 acres from Waimarama shareholders (an estate totalling 32,000 acres), and by 1908 it had acquired 10,500 acres of the land. In 1911, 6698 acres belonging to one shareholder were sold to private buyers, and by 1929, Maori had sold most of the Waimarama estate.

(d) *Post-1910*: Until 1910, none of the 'returned' Mohaka–Waikare blocks, which were supposed to be inalienable, had been sold to the Crown. However, 12,030 acres of the Kaiwaka block (one of the blocks of land 'returned' to Maori after the confiscations in the 1860s) was sold for just over £14,100 in 1911. The Crown undertook similar efforts to purchase land in other blocks returned to Maori.⁴¹ By 1928, only three of the 13 blocks, Tangoio South, Tarawera, and Tatarakaia, were left wholly in Maori hands.

Crown purchasing of the Mohaka and Whareraurakau blocks commenced in 1912. Most of Whareraurakau was purchased by the Crown between 1915 and 1918, with one section sold to a European. Further remaining land was sold to the

41. For a discussion of the history of the Tarawera and Tatarakaia blocks, see R Boast, 'Report on the Mohaka–Waikare Confiscation', February 1994 (Wai 201 rod, doc j1), vol 1, pp 160–214.

Crown as late as 1973. By 1931, the Crown had also purchased outright 19 subdivisions of the Mohaka block and shares in 46 other subdivisions, thereby owning just under half of the original 22,355 acres. Similar proportions of the Waihua block were acquired by the resident lessees between 1910 and 1930, so by that time Ngati Pahauwera retained just 30,000 acres of their original 200,000-acre rohe.

(6) *Land taken for public purposes*

Under the 1870 agreement, 10 acres was taken for a public landing at Whakaari and 50 acres was taken for a ferry landing site on the Mohaka River.

Evidently, land was also taken for the construction of the Manawatu to Napier and Napier to Gisborne railways. Other land was taken mostly in small blocks for a variety of reasons, such as for roads, quarries, river diversion, suburban development, and water supplies, although details of these acquisitions are not supplied in the Hawke's Bay report.⁴²

11.3.4 Outcomes for main tribes in the area

According to Samuel Locke's 1873 quantification of land alienation in the southern area of the bay (south of the Petane River and the Taupo road), 1.34 million acres were purchased by the Crown before 1865, and of the remaining 760,000 acres, a further 236,894 acres were purchased before 1873. By 1873, the Native Land Court had awarded certificates of title for 623,433 acres, of which 132,483 acres were identified as inalienable. This left 490,950 acres available for alienation. A further 4668 acres were reserved for Maori. Locke estimated that 136,567 acres were left in Maori customary ownership: about 50,000 acres at Waimanawa; 28,831 acres at Porangaahau; 41,000 acres at Tamaki; and the remaining 13,000 or so acres scattered throughout Hawke's Bay.⁴³ A list drawn up in 1874 of blocks that had been through the Native Land Court (excluding those that were part of the Wairoa court sittings) demonstrated 'how little Maori were in direct control or occupation of Hawke's Bay lands . . . Only 13,500 acres appear to have still been in Maori occupation.'⁴⁴ Cowie concludes that 'most Maori land in the Hawke's Bay had been alienated to Crown or private purchasers. That which remained in their ownership was either leased to Europeans, heavily mortgaged, or suffered from a lack of capital development.'⁴⁵

In 1891, official statistics recorded that Hawke's Bay Maori held just under 100,000 acres of customary land. Officials believed that around 20,000 acres of this were being used by Maori for pastoral or agricultural purposes. Of the approximately 460,000 acres for which title was awarded and that had not been alienated,

42. Cowie, p 174

43. Ibid, p 98

44. Ibid, p 125

45. Ibid, p 124

almost all was leased to Europeans, only 10,000 acres being identified as used directly by Maori.⁴⁶

By 1891, Hawke's Bay Maori had lost most of their traditional rohe.⁴⁷ Even so, some hapu had managed to retain land for their own farming and were receiving income from leased land. In the next 40 years, the picture changed considerably, as the Liberals' land purchase policy, and alienations under the Maori land boards between 1910 and 1930, deprived Maori of much of this remaining land. Their economic marginalisation and consequent social problems were probably at their worst in the 1920s and 1930s, just at the time when increasing immunity to epidemic disease was leading to rapid demographic increase.

11.3.5 Examples of Treaty issues arising

(1) *The Crown's 1851 purchasing programme*

As was the case in the Wairarapa district also, the question arose in Hawke's Bay as to whether the chiefs had the right to alienate land on behalf of their people. For an alienation to be comprehensive, all Maori with customary interests had a right to be identified and consulted either directly or through their representatives in open and public proceedings, and their full consent gained to all aspects of the purchase, including boundaries and price.⁴⁸ Despite McLean's assurances to Colenso that he did not intend to depart from his stated intention of 'not taking any Lands without the full consent of the rightful owners',⁴⁹ McLean's consultation with the customary owners was inadequate in respect of the Mohaka block in particular and was dubious in others.⁵⁰

The distribution of gold in payment for Waipukurau is questionable. McLean was anticipating the next purchases planned for the district and he convinced chiefs distributing the payment among eligible tribes to advance £100 to the potential sellers of the Castle Point block in Wairarapa. As a result, one tribe missed out on its share of the original distribution of money paid for the land.⁵¹

Maori ceding land at this period were certainly led to expect ongoing benefits other than the initial purchase price (which was very low). But the Crown concentrated these benefits essentially upon a few chiefs, and then for a relatively short period. By not making residential reserves absolutely inalienable, by not leaving a sufficient excess for Maori leasing, and by progressively limiting Maori access to mahinga kai, the Crown failed to ensure that ongoing benefits were made secure for Maori vendors of these vast areas.

46. Ibid, p 134

47. Ibid, p 163

48. Ballara and Scott, vol 1, pp 196–197, 201 (as paraphrased by Cowie, p 26)

49. Colenso journal, 29 March 1851, p 1155 (cited in Cowie, p 28)

50. Cowie, p 30

51. McLean journal, 6 November 1851, p 1344 (cited in Cowie, p 33)

(2) 1854 purchases

Under the supervision of McLean, the Crown undertook covert agreements with specific chiefs that resulted in the alienation of land to which many of the customary title holders had not consented. The legitimacy of the 1854 purchases of Kahuranaki and Okawa, in particular, is called into question by the Crown's subsequent actions in 1858, when it effectively repurchased some areas of land where (as Cooper admitted)⁵² there had not been adequate extinguishment of native title. Further 'compensation' was paid for the Okawa block (although the original deed in 1854 was defended), and the Kahuranaki block of 12,000 acres was evidently purchased in 1858 (although records are scant on the earlier purchase).

According to Cowie, McLean negotiated the Tautane block purchase without consulting with the occupants of the land.⁵³ Cowie provides evidence that some of those included in the deed had, at best, only marginal interests in the land.⁵⁴ He comments that the Crown, in this respect, failed in its responsibility to conduct purchases that respected the rights of all Maori.⁵⁵ Land Purchase Commissioner Cooper noted when land purchasing operations in Hawke's Bay were suspended in 1860 and that, if they were ever to resume, they would first need (among other things) to conduct an investigation into customary ownership of the blocks. This casts doubt upon the adequacy of the Crown's investigation up to that point.⁵⁶

(3) 1856–57 purchases

The Crown's responsibility to provide Maori active protection is also drawn into question with respect to Cooper's actions in the purchase of the Maraekakaho and other blocks. According to Cowie, Cooper enforced the 1846 prohibition on district leasing, thus denying chiefs rents as a way of repaying debts, and exploited Maori factionalism and Maori financial difficulties in order to purchase Maori land.⁵⁷ Cooper explicitly stated to McLean that he intended to 'suspend purchases and starve the Natives into compliance' as a solution to resistance to sales.⁵⁸

(4) The Pakiaka war

Crown purchasing is understood to have caused the violence between Ngati Te Whatuiapiti (and associated hapu) and Ngati Kahungunu in the Pakiaka war, because Cooper and McLean insisted on accepting land offered by Te Hapuku, whom the Crown chose to promote as the paramount chief of the whole Hawke's Bay region, thereby exploiting and exacerbating factionalism among Hawke's Bay Maori.⁵⁹ When fighting eventually broke out, Cooper was to admit privately to McLean (and in doing so implicate the Crown by association) that there was 'no

52. Ballara and Scott, vol 4, document bank, pt 6, sec 104 (cited in Cowie, p 47)

53. Cowie, p 36

54. Ballara and Scott, Tautane block file, vol 2, p 4 (cited in Cowie, p 36)

55. Cowie, p 38

56. Cooper to McLean, 20 June 1861, AJHR, 1862, c-1, no 74, pp 353–355 (as discussed in Cowie, p 51)

57. Cowie, p 42

58. Cooper to McLean, 29 November 1856, AJHR, 1862, c-1, p 323

59. Ballara and Scott, vol 1, introduction, pp 85–112, particularly p 106 (as discussed in Cowie, p 44)

disguising the fact' that Te Hapuku had 'robbed his enemies to an enormous extent' and that he was bemused as to why Te Moananui and others had not taken action earlier.⁶⁰ The Reverend Samuel Williams also later attributed the cause of the fighting to Te Hapuku's agenda of selling land that belonged to others, and he accused McLean of encouraging this behaviour.⁶¹ The peace agreement itself, reached in September 1858 by all Hawke's Bay Maori except Te Hapuku and his immediate family, focused on abolishing the system of selling through chiefs and emphasised that anyone found guilty of selling others' land in the future would face the punishment of death.⁶² The tendency among Hawke's Bay Maori themselves, however, was to attribute the blame for the factions in their inter-hapu relation to themselves rather than the Crown. This arguably says more about Maori sense of ongoing authority over their land than it does about absolving the Crown of its responsibility of active protection and article 2 guarantees under the Treaty of Waitangi.⁶³

(5) *Reserves in pre-1865 purchases*

According to oral record, McLean gave assurances that a reserve would be made at Kaiarero at the time of the Ahuriri purchase in 1851, although this reserve did not appear on the deed.⁶⁴ Inadequate surveying by the Crown also appears to be the cause for further grievances related to reserves, as in the case of the Oreo reserve, which Maori claimed was over 2000 acres, although the Crown had estimated it as just 308 acres. In order to resolve this discrepancy, the Crown purchased all but 308 acres of the land in question in 1859. When the reserve was later reduced to 257 acres, owing to a further surveying error, no compensation was paid to Maori.⁶⁵

Of the approximately 1.5 million acres purchased by the Crown in the 1850s, only about 21,000 acres, or just 1.5 percent, of this land was held back in reserve for Maori.⁶⁶ Despite the small size of this land reserved to Maori, few attempts were made to make these reserves inalienable. In fact, the Crown subsequently purchased some of this reserved land itself. For example, the Tukuwaru reserve was purchased in August 1859, as well as parts of Haowhenua and Pourerere in 1861 and 1862⁶⁷ and the reserves in Mohaka and Porangahau in 1859.

(6) *The purchase of the Moeangiangi reserve in 1859*

According to Cowie, 'the Crown's role in this purchase deserves wholesale condemnation'. According to Cowie, not only did it involve the acquisition of an area that had been specifically exempted from an earlier, larger sale in 1859, but the

60. Cooper to McLean, 30 March 1857, McLean papers, folder 227, ATL (cited in Cowie, p 45)

61. Memo by Samuel Williams, 9 September 1861, Williams family papers, folder 50, ATL (cited in Cowie, p 46)

62. Cooper to McLean, 30 September 1858, AJHR, 1862, c-1, no 47, p 340 (cited in Cowie, p 46)

63. Cowie p 46

64. Ballara and Scott, Ahuriri block file, vol 1, pp 49–50 (cited in Cowie, p 53)

65. Ballara and Scott, Waipukurau block file, vol 2, pp 30–33 (cited in Cowie, p 53)

66. Cowie, p 54

67. Ballara and Scott, Waipukurau block purchase, vol 2, pp 19–20, 26, 28 (cited in Cowie, p 54)

second purchase was negotiated with men who did not sign the original transaction and reserve agreement. Furthermore, in selecting the 'owners' in this manner, the Crown usurped the court's role in determining customary Maori owners of the land.⁶⁸

(7) *The Heretaunga and other '10-owner rule' transactions*

Despite assurances by the Native Land Court that, under the Native Land Act 1865, individual grantees were trustees for the hapu and did not have the power to alienate shares in the Heretaunga block without the consent of all 10 owners, individual shares were subsequently purchased in a piecemeal fashion (after it was discovered that this was legally possible), until all grantees had, by 1870, consented to the sale of the block.⁶⁹ Many other blocks with 10 or fewer owners under the 1865 Act were similarly alienated (particularly in Hawke's Bay and Wairarapa, but in other districts as well). In Hawke's Bay, the manipulations and pressure that were involved, to the advantage of certain prominent men in the province, became an open scandal and a target of attack in the context of settler politics. Native Minister McLean responded by setting up a commission of inquiry into the operation of the land Acts under H W Haultain in 1871. In 1873, a royal commission, the Hawke's Bay Commission, inquired into the operation of the land Acts in that province.

The evidence presented to the commission of inquiry in 1873 shows that the grantees were subject to consistent pressure and threats of prosecution for debt to force them into the sale of their shares.⁷⁰ Although the majority of commissioners concluded that this was not unlawful and did not recommend undoing past transactions, the minority view of Commissioner Hikairo is more to the point in Treaty terms; the land law left the Maori grantees bereft of reasonable protections they had customarily had and may have expected under the Treaty. Restrictions against mortgaging began to be introduced under section 17 of the Native Lands Act 1867, but not all land that went through the court was so protected. Maori also remained subject to the pressure to sell unmortgaged land for the repayment of civil debt.

The Government's position in the Hawke's Bay transactions (and land law generally) was clearly that it would not involve itself in private transactions occurring in the market place. However, it did pay to create some statutory protection for Maori. Notably, this included the Native Land Frauds Prevention Act 1870, which provided for trust commissioners to check against outright fraud and certify all transactions. More importantly, a new Act, the Native Land Act 1873, developed out of the 1873 commission. This required that every owner be listed on the 'memorial of ownership' and that each sign a deed of alienation affecting their interests. These lands are discussed in volume ii, chapter 7.

Fundamentally, however, the settler government and parliament sought to create titles in Maori land that were as negotiable as any other titles. Maori also rejected excessively paternalistic controls. The difficulty was that the traditional community

68. Cowie, pp 93–94

69. Ibid, p 68

70. For a further discussion of the experiences of the grantees, see Cowie, pp 71–84.

controls over land had been replaced by a form of title in which every listed owner (whether up to 10 owners or all owners) could individually and severally sell his or her interest. This left Maori fully exposed to market forces but with little prior experience in handling them. They had virtually to compete on an equal footing with Pakeha businessmen in the market place.⁷¹ Indeed, the use of credit as a means of securing a lien on Maori land, together with the individual purchase of interests rather than sale by public auction, was deliberately facilitated by the Legislature, despite strong arguments against it by prominent figures such as former chief justice Sir William Martin.

(8) *War and confiscations*

Confiscations in the Mohaka–Waikare district were undertaken by the Crown on the basis that Maori within the district (largely identified as Ngati Hineuru) had rebelled against the Government. It has been argued, with justification, that the fighting in Hawke's Bay did not warrant the tag of 'rebellion', nor did it justify the Crown's subsequent confiscations.⁷² Hawke's Bay tribes were simply caught up in the sequence of events flowing from the Waitara purchase and the rise of Pai Marire as a means of preserving land and self-determination.

Apart from the Treaty breaches involved in land confiscation itself, the Government's handling of the land in the Mohaka–Waikare district is dubious in Treaty terms. A list of owners of the returned land was prepared under McLean's direction in 1869 and formalised by the Mohaka and Waikare District Act 1870. The named owners were not, however, defined as trustees and the returned blocks were not surveyed and Crown granted. (See volume ii, chapter 6, for a more general discussion of raupatu policy and law in general, including the Hawke's Bay confiscations.)

(9) *The sale of Oamaru*

When the case of the purchase of the Oamaru block went to the Supreme Court, the jury found that Ngatihira's interests (affecting 163 acres) should not be affected by the conveyance, because their consent had not been obtained for the alienation. The judge, however, refused to upset the grant awarded as a result of the sale, and he awarded costs to the private purchaser. In identifying the injustice to Ngatihira with this ruling, Cowie comments that the Government 'should have been able to intervene in order to amend the error at Oamaru, and save Paora Kaiwhata's hapu from eviction'.⁷³ Comment was made at the time also that it was proper for the Government to legislate to overrule the Supreme Court decision.⁷⁴ In the case of Te Awa o te Atua, the courts again failed to protect Maori interests, and the Government admitted there was a dispute, but was unable to settle it.⁷⁵

71. Cowie, p 90

72. Boast, p 40; Ballara and Scott, Mohaka–Waikare file, vol 1, pp 24–29 (cited in Cowie, pp 104–105)

73. Cowie, p 144

74. Evidence for Ormond, AJHR, 1881, i-2b, p 11 (cited in Cowie, p 142)

75. As discussed in Cowie, pp 142–145

(10) Reserves

Of the 36,264 acres that Heaphy reserved for Maori in a trust deed in 1870, only half remained by 1891. Reports indicate that applications to have the inalienable status of reserves removed were accepted when there appeared no better reason for the initial making of the land inalienable, other than the fact that Maori did not wish to sell it. For the inalienable status of the land to remain, Maori were asked by judges to 'rationalise their reasons', a request that, although recognising Maori rights of self-determination, is clearly out of step with the Crown's duty of active protection of Maori against their own immediate pressures and temptations (and in some cases compulsion) to sell. All the same, the removal of restrictions in the Hawke's Bay is rare, at least until 1891.

11.3.6 Post-1910 alienations

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

11.4 Wairoa**11.4.1 Main geographic features relevant to habitation and land use**

The boundaries of the Wairoa section of Rangahaua Whanui research district 11 cover the area from the Waihua River to Lake Waikaremoana and then run along the southern boundary of the Urewera National Park across the top of the Hangaroa Valley to Maraetaha on the East Coast.

This mostly hilly district is drained by the Wairoa, Waihua, Nuhaka, and Ta-haenui Rivers, as well as by numerous smaller streams. Settlement by Maori appears to have been focused inland on the valleys of the Ruakituri, Waiau, and other rivers, and along the coast, particularly around Wairoa and Whakaki Lagoons, where abundant food resources were located. Whaling stations were established at Wairoa and Mahia in the early 1830s.

11.4.2 Main tribal groupings

The account of Maori history in Wairoa given in the district report, upon which this summary is based, is subject to interpretation. Joy Hippolite advises that this is not

Figure 20: District 11c (Wairoa)

the only version and is intended only to introduce the hapu that had an interest in the district in 1840. The names mentioned here may not be the only hapu associated with the area.⁷⁶

According to one tradition, Ngati Kahungunu began with Tamatea, the commander of the Takitimu waka.⁷⁷ Kahungunu himself, Tamatea's great grandson, grew up in Tauranga, later marrying a daughter of Ruapani (from whom Ngati Ruapani descend). Kahungunu travelled on down the coast to the Mahia Peninsula, where he formed an important union with Rongomaiwahine, from which many East Coast Maori descend. Their children eventually migrated from Mahia to Turanganui, where they intermarried with prominent people of the Poverty Bay district.

Kahungunu's grandchildren, Hinemanuhiri and Rakaipaaka, migrated from Turanganui after a fight in which Rakaipaaka's life was spared on the condition that he left the district. He left with Hinemanuhiri, and the two parted ways – she and her people settled at the place now known as Te Mania, while his descendants eventually settled on the Mahia Peninsula, and Rakaipaaka himself settled on the hills behind Nuhaka. Following a battle at Taupara with Ngai Taura (who were already resident there), Ngati Hinemanuhiri became established in Wairoa.

Two of Hinemanuhiri's children became eponymous ancestors of hapu: Ngaitamaterangi and Ngati Hinganga, who had claims to the Waiau and Ruakituri Rivers respectively.⁷⁸ The eastern and western sides of the Wairoa River were named Te ari a Te Maaha and Te ari a Tapuwae respectively, after two brothers who were separated and placed on opposite sides of the river but whose descendants later intermarried, reuniting the family.⁷⁹ Tapuwae was, according to one tradition, the principal and outstanding ancestor of the Wairoa district.⁸⁰ Other marriages and alliances, discussed in more detail by Hippolite, were important in uniting the people of the area, especially during the musket wars in the first few decades of the nineteenth century.⁸¹ Other important ancestors of the Wairoa district include Te Kapuamatatoru, of the inland Wairoa area, and Pourangahua, whose people's territory included the Te Tahora block at the far end of the Ruakituri Valley.

From 1769 to 1840, the major hapu of the Wairoa and Te Mahia region were: Hinemanuhiri, Rakaipaaka, and Kahu. The latter were located at the mouth of the Wairoa between Rakaipaaka and Ngati Hinemanuhiri to the east and north and Ngati Pahauwera and associated hapu to the south, and there is some debate as to their origins. Ngati Hikairo hapu (of Kahungunu descent) also had interests in the Mahia Peninsula, mainly at Tawapata. Ngai (or Ngati) Tu were also living at Nukutaurua in the 1820s. Ngati Ruapani, on the other hand, were in the Wairoa–Waikaremoana area.⁸²

76. J Hippolite, *Wairoa*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996, p 1

77. Ballara, p 61 (cited in Hippolite, p 1)

78. Ballara, p 177 (cited in Hippolite, p 6)

79. J H Mitchell, *Takitimu*, Southern Reprints, 1972, pp 120–121 (cited in Hippolite, p 7)

80. W E Gudgeon, *Journal of the Polynesian Society*, vol 6, 1897, p 183; Mitchell, p 118 (cited in Hippolite, p 7)

81. Mitchell, pp 143–145 (cited in Hippolite, p 7)

82. Ballara, p 167 (cited in Hippolite, p 8)

In the early decades of the nineteenth century, the invasions of northern tribes focused attention on forming a wider hapu alliance in the district. In particular, invasions by musket-bearing Ngapuhi from the north encouraged resident hapu to band together to protect themselves and their land. In 1824, Te Pakake Pa in Heretanga was attacked by Ngati Raukawa, Waikato, and Tuwharetoa. Having claimed victory over the pa, Waikato chiefs made peace with the captive chiefs. Also around this time, northern Ngapuhi came back to the district and attacked Titirangi Pa. The result of these various battles was to concentrate the population that escaped into a single unit at Nukutaurua, with profound implications in the kinship bonds it encouraged between previously disparate elements of the Kahungunu community.

Throughout 1826, Ngati Ruapani, Ngati Hinemanuhiri, and Ngati Pahauwera fought back against Tuhoe and their allies in a series of battles. By 1838, the wars had ended and peace was established between Ngati Kahungunu and Tuhoe and boundaries laid down between them. After this time, Ngati Kahungunu began returning to their former lands. Those hapu based in the Wairoa district by the 1830s were Hinemanuhiri, Rakaipaaka, Kahu, Kurupakiaka, Ngati Hikairo, Rongomaiwahine, Ngati Tu, and Ruapani.

11.4.3 Principal modes of land alienation

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

Old land claims in the Wairoa area were made by W B Rhodes on 10 December 1839 for 345,000 acres, for which he apparently paid £185, and 71,000 acres at Table Cape (Mahia Peninsula) on 13 December 1839, for which he paid £50. These claims were not reported upon or investigated by the Godfrey–Richmond commission. In 1852, the matter was referred to Francis Dillon Bell, the commissioner of Crown lands, who recommended that Cooper and his partners be granted 2560 acres in satisfaction of all claims lodged by them. In 1855, Commissioner Dommett at Ahuriri rejected a conditional acceptance of this grant by Rhodes, and the matter remained unresolved. In 1857, Rhodes complained that the land had been opened for public sale before his claim had been satisfied, but sales continued regardless. The matter was considered again in 1862 by Bell, who referred the matter to the Government for consideration. It is uncertain as to whether Rhodes ever took up the original grant.⁸³

(2) *Pre-1865 Crown purchases*

Seven blocks of approximately 179,370 acres were purchased by the Crown between October 1864 and the middle of 1865, for a total cost of £15,118, including survey costs and any extras. Although these purchases (as discussed below) were completed after the passing of the Native Land Act 1862, none of the blocks passed

83. See Hippolite, pp 15–18

through the Native Land Court before agreements to purchase were made. In fact, the first Native Land Court sitting at Wairoa was not held until 16 February 1867.

On 20 October 1864, the deed was signed for the Mahia block, for which a total price of £2000 was agreed to, with £1500 paid at the time and the remaining £500 to be paid on the completion of the survey. While originally estimated at 16,000 acres, the block turned out to contain 14,600 acres. A mahinga ika at Kinikini, below Taupiri Hill, was reserved from the sale. It would appear that the reserve was sold in 1909.⁸⁴

On 16 March 1865, the Nuhaka block on the north bank of the Huhaka River was purchased for £3300, of which £2200 was paid on the day. The remaining £1100 was paid on 30 March 1866 to Ihaka Whaanga, Paora Apatu, and Hamuera Whaanga of Rakaipaaka. No reserves were set out in the deed, although according to Locke it was 'thoroughly understood' that Ihaka Waanga should be able to purchase about 600 acres at Waikokopu.⁸⁵ In 1880, 693 acres 37 perches were listed in a return for Ihaka, although he had died in 1875.

On 31 October 1864, McLean purchased the lower Wairoa block on behalf of the Crown from Pitiera Kopu, Tamihana Te Rautahi, Paora te Aputu, and Hiporakau. The Crown paid £1000 for the 3570-acre block, which included the Whakamahi Lagoon, an important mahinga kai. No reserves were indicated in the deed.

The Upper Wairoa block was purchased on 2 November 1864. The sum of £1200 was paid for the land: £700 on the day and £500 to be paid in Napier. The signatories to the deed included Pitiera Kopu, Hamana Tiakiwai, Tiopira Kaukau, Apirama Te Whenuariri, Maihe Kaimoana, Paora te Apatu, Pakuku, and Paraone. No reserves were marked on the original deed, but two reserves were marked on an attached plan: 28 acres 2 roods at Orere and 71 acres 3 roods at Pouhatu.

The Waihua block, within the area dominated by the Ngati Pahauwera hapu, was estimated at 12,000 acres but, once surveyed, was discovered to be closer to 14,000 acres. On 7 March 1865, £1000 was paid for the block. By the time the deed was signed, the block's area had increased to 21,000 acres and the purchase price had also increased to £1250. There were 72 signatories to the deed, including Paora Rerepu. One reserve of two acres was made at Tarere for Toha of Wairoa.

On 15 July 1865, Locke paid Maraki Kohea, Tamati Te Koari, Nira, and Kohere Nira £300 for their interests in Wairoa and Turiroa. Final payment was made for the Turiroa block proper on 19 July 1865, with £2600 paid for interests remaining in the land and a deed signed by Pitiera Kopu, Karaitiana, Kerei, Hare, Hamuera, Raharuhi, Raihanaia, Hapurona, and Paora Apatu.

By the same *Gazette* notice in 1866 that extinguished native title in the Turiroa block, the Potutu block (north of the Waihua Valley) was also announced to have been sold. At approximately 2800 acres, the block was purchased for £1100. The original deed for the purchase has not yet been located.

84. ma 94/3, Royal Commission of Inquiry into the Mahia Block, correspondence and notes (cited in Hippolite, p 21)

85. Samuel Locke to McLean, 21 March 1865, McLean papers, ms 32, folder 393 (cited in Hippolite, p 23)

(3) *Pre-emption waiver purchases*

There were no pre-emption waiver purchases in district 11c.

(4) *Confiscations*

Under the East Coast Land Titles Investigation Act 1866, and its 1867 amendment Act, the Native Land Court was required to investigate the title of all lands between Lottin Point and Lake Waikaremoana in order to transfer all rebel land to Crown title and to issue 'loyal' Maori with a Crown grant (see sec 5.1).

On 5 April 1867, a 'deed of cession' was 'agreed' to by Wairoa Maori that ceded their blocks of land lying between the Wairoa and Waiau Rivers and between the Mangapoiki and Kauhauroa Streams on the left bank of the Wairoa River. Approximately 500 acres at Pakowhai and 20 sections of 50 acres each between the Kauhouroa and Wairoa Rivers were reserved to Maori. In return, the Crown withdrew its claim to rebel interests outside the ceded block. A payment of £800 was made to Wairoa Maori in complete extinguishment of native title. The Government retained 42,430 acres, of which 6888 acres were allocated to military settlers or immigrants, with the rest made available for sale.

The remaining land lying between the Waiau and Wairoa Rivers and the Ruakituri Stream stretching inland to Waikaremoana Lake was to be divided into blocks and returned to 'loyal chiefs' with a Government certificate of title. In 1872, Samuel Locke met with Wairoa Maori, and after lengthy discussions, it was agreed that the land to be returned would be divided into four blocks: Ruakituri (52,000 acres), Taramarama, Tukurangi (37,000 acres), and Waiau. An agreement was signed on 6 August by which the Government acquired, in addition to the land originally identified, 250 acres at Onepoto and 50 acres for a proposed road at the crossing of the Waikaretaheke Stream.

Tuhoe, however, laid claim to these four blocks also and the case went to the Native Land Court. The hearings were very short and did little to solve the problem of the ownership of the blocks. Locke proposed a payment of up to £2000 to Tuhoe, plus a reserve, in extinguishment of their claims, indicating that such a settlement had been reached. By a deed dated 12 November 1875, Tuhoe and Ruapani were paid £1250 to relinquish their claims. The four blocks in question (estimated to contain 157,000 acres in total) were almost immediately purchased by the Crown for £12,610. A total of 10,920 acres was reserved from the purchase for Maori. This included the payment to Tuhoe, as well as £9700 to those awarded title by the Crown (£2350 for Waiau, £2350 for Tukurangi, £2600 for Ruakituri, and £2400 for Taramarama). A further £160 was paid to leading Ngati Kahungunu, Tuhoe, and Ruapani chiefs for their assistance in completing the negotiations. A further sum of £1500 was paid to Ihaka Whaanga and 440 other 'loyal' Maori on 15 January 1876. By this transaction, a total of 146,080 acres were acquired by the Crown. The lands were proclaimed wastelands of the Crown on 13 August 1877.

From the ceded block, Ngati Kahungunu were promised 3800 acres out of Tukurangi, 1700 acres out of Taramarama, and 2920 acres out of Ruakituri; while

11.4.3(4)

National Overview

Block	Acreage	Block	Acreage
Awatere		Pihanui 2	1331
Hangaroa Matawai	3269	Potaka	
Hereheretau	8820	Ruarakaiputara	298
Hinewhaki	229	Takararoa	2707
Huramua 1, 3	1894	Taumataoteo	425
Huramura 2	187	Taupara	693
Kahuitara 1, 2		Tauwharetoi	50,389
Kairangi	418	Tawapata North	6444
Kaiwaitau	1371	Tawapata South	10,408
Kauhoroa 1	225	Te Aranui	453
Kauhoroa 2	440	Te Kiwi	133
Kauhoroa 3	100	Te Koutu	
Kauhoroa 4	458	Te Mahanga 1	2735
Kinikini reserve	115	Te Mahanga 2	932
Kopuawhara	6943	Te Mahanga North	3293
Mangaaruhe East	3878	Te Mahanga South	1120
Mangaaruhe West	2267	Te Matuku	2107
Moutere 1, 2	854	Te Rato	301
Ngaruetepe	75	Te Rewa	194
Nukuroa	10	Te Whakaki	1569
Nukutaurua	3432	Te Whakapau	281
Ohuia	1068	Te Wharepu	91
Opoho		Tuahu	9250
Opoit		Tukemokihi	
Opoutama	167	Tutaekuri 1	12,542
Orangitirohia	211	Tutaekuri 2	629
Orere	28	Tutaekuri 3	
Owhio	5667	Tutuotekaha	
Paeroa 1	1495	Waihau	13,800
Paeroa 2	1850	Waimana	

Source: Wairoa minute book 1; AJHR, 1880, c-3; 1881, c-6: 1881, g-8; 1886, g-15; 1891, sess 2, g-10

Block	Acreage	Block	Acreage
Paeroa 3	236	Wairau	298
Pakowhai	600	Whakaongaonga	12,418
Paritu	12,142	Whangawehi 1	3071
Pihanui 1	6061	Whangawehi 2	1112
Total	203,534	Total	203,534

Source: Wairoa minute book 1; AJHR, 1880, c-3; 1881, c-6; 1881, g-8; 1886, g-15; 1891, sess 2, g-10

Tuhoe and Ruapani were promised 2500 acres. Crown grants for these reserves were issued in February 1881.

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

(a) 1865–86: In April 1868, the Kopuawhara block, 6312 acres on the west end of the Mahia Peninsula, was purchased by the Crown for £500, once it had passed through the Native Land Court. The deed indicated that Opoutama (167 acres) was reserved, and Kaiwaitau was exempted from the purchase. Also that month, a final payment of £350 (following an earlier payment of £250) was made on the Whangawehi 2 block (1112 acres also on the Mahia Peninsula), which had passed through the court in 1867, after the first payment had been made.

Hippolite notes that the figures in the table above do not represent all the blocks passed through the Native Land Court prior to 1886. Rather, they represent the blocks she was able to find in the time available to her.

(b) 1886–1910: Large blocks of land in the northern part of the district, including the Mahia Peninsula, were acquired for little or no initial payment by the New Zealand Land Settlement Company directed by Wi Pere and W L Rees. The company was promoted as a trustee company and promised to secure substantial returns to the Maori owners when the land was developed (largely by Auckland capital) and on-sold. Instead, the land became security for the company's mortgages to the Bank of New Zealand. Some land in the area was sold under mortgagee's sale in 1891. In 1896, Nukutaurua and Moutere on the Mahia Peninsula were sold to J D Ormond by the Carroll–Wi Pere Trust, which had taken over from the now-defunct company to try to redeem the mortgage. More blocks were sold in 1904 and 1905, when Carroll and Wi Pere were in turn replaced by the statutory East Coast Trust.⁸⁶ (See volume ii, chapter 9, for the role of the Validation Court in these proceedings; for the New Zealand Company and the subsequent trust administrations, see chapter 5 of this volume.)

86. See list of blocks, AJHR, 1905, g-9, pp 1-2

(c) *Post-1910*: With respect to post-1910 purchases, the Wairoa sub-district fell within the Tairāwhiti and Takitimu Māori Land Boards' districts, which also ran from East Cape to Wairarapa. Annual returns of alienations through the land boards do not specify block names, and an exhaustive search of all files would be necessary to establish which of the boards' alienations fell within the Wairoa district. The total amount of land alienated between 1910 and 1930 for district 11 was 704,170. While it is not possible to say how much of this land came from the Wairoa sub-district, it is evident that some sales were made by the board in the area in an attempt to reduce the debt on the trust lands to manageable proportions.

(6) *Land taken for public purposes*

Public works takings in the Wairoa sub-district were particularly made for the purposes of road and rail links. For example, in 1916 customary land between the Awatere block and the north bank of the Wairoa River was taken for railway purposes. The Ministry of Works refused to pay compensation, arguing that this was already Crown land.⁸⁷

(7) *Other alienations*

In 1881, Māori vested about 400,000 acres of land in the East Coast Native Land Settlement Company (renamed the New Zealand Native Land Settlement Company in 1883). Seventeen of the blocks concerned were in the Wairoa sub-district. In 1895, the Validation Court vested approximately 9930 acres of the Mahia Peninsula in the Carroll and Wi Pere Trust Estate, which was mortgaged by Carroll and Pere to redeem debts owed by the trust (see chapter 5 for a discussion of the trust's establishment). In 1896, a further 60,000 acres of inland Wairoa were also vested by the court, as well as 60,000 acres at Tahora 2. By 1897, the trustees controlled 222,094 acres of East Coast land, of which approximately 110,930 acres were in the Wairoa sub-district. Further lands in Wairoa were sold by the East Coast Trust after 1902 in order to clear the debt incurred by the Carroll–Wi Pere Trust. For a further discussion, see chapter 5.

11.4.4 Outcomes for main tribes in the area

By 1875, the Crown had acquired approximately 375,304 acres from Wairoa Māori as the result of 1864, 1865, and 1868 land sales, confiscations, and post-confiscation sales. This represents nearly half the land in the sub-district.⁸⁸

By 1886, the amount of land left in the Wairoa district that had not passed through the Native Land Court totalled 276,300 acres. Of the 200,000 acres that had passed through the court since 1867, 36,622 acres were inalienable Māori land, the rest presumably sold or leased to the Crown and Europeans (not including reserves

87. Wairoa minute book 1 (cited in Hippolite, p 83)

88. Hippolite, p 52

from confiscated land).⁸⁹ Much more land was alienated after 1886, including alienations through the Validation Court and the Carroll–Wi Pere Trust.

Today, the amount of land remaining in Maori ownership in the Wairoa district is approximately 14,900 hectares,⁹⁰ including lands returned when the East Coast trust was wound up.

11.4.5 Examples of Treaty issues arising

(1) *Early Crown purchases*

Hippolite notes that none of the blocks purchased by the Crown in 1864 and 1865 had been passed through the Native Land Court, despite the fact that the Native Land Act had been passed in 1862. She notes that the purpose of the Act was to determine Maori ownership of land prior to its sale or lease and that purchases should not have continued prior to determination of ownership. The Native Land Act 1865 was also not in effective operation in Wairoa (with the first court sitting in February 1867) before the Crown made further purchases. Hippolite concludes that:

Perhaps because it was not in operation, McLean in at least one instance failed to ascertain whether all the right-holders had agreed to the sale of the land. This set off a chain reaction resulting in the Government buying more land.⁹¹

(This was typical of the purchasing under Crown pre-emption before 1865.)

At least one purchase was made in Wairoa at this time without adequate consultation with all owners. In the case of the Mahia purchase, McLean failed to ascertain whether all owners had agreed to the sale of the land. Hippolite reports that this led to a bitter dispute, with threats from Rongowhakaata to drive Pakeha off the land if it was not returned to them.⁹²

Hippolite observes that, while some Maori in Wairoa wanted to sell land, they would have wanted to control the rate of alienation. She notes:

They may have been compelled, though, into selling more land than they wanted to by McLean telling them that if they wanted European sellers, they would have to part with a sufficient quantity of land. In the case of Nuhaka, a 'small block of land' was increased to over 100,000 acres, after McLean had talked to them.⁹³

She adds that 'McLean's deliberate disparagement of the value of land, which in the case of Wairoa was superb, also sits uneasily with the Crown's duty of active protection of Maori interests'.⁹⁴

89. AJHR, 1886, g-15, p 1 (cited in Hippolite, p 64)

90. Hippolite, p 75. See also the table that identifies the block names, pp 78–80.

91. Ibid, pp 30–31

92. Ibid, p 34

93. Ibid, p 33

94. Ibid, p 34

(2) *Crown purchases post-1870*

A series of complaints came before the Hawke's Bay Native Land Alienations Commission (established in 1873) regarding sales in Wairoa. According to Hippolite, the Te Kiwi block is an example of land acquired through fraud. William Couper took up a 21-year lease on this 133-acre block in 1869, in joint occupation of the land with the lessors. Couper, however, deceived Maori into signing an agreement giving him exclusive rights to the land. This was done with the knowledge of George Worgan, a licensed interpreter, who was subsequently charged with fraudulent behaviour in relation to a separate incident. Despite these and other occurrences that were acknowledged as genuine grievances of Maori, both Pakeha commissioners did not find any illegality.⁹⁵

(3) *Confiscations*

The return of the four blocks of land to 'loyal' Wairoa Maori by the Crown may have been expedient rather than legal, because the Native Land Court should have issued a certificate transferring the land to the Crown under the East Coast Act (on the basis that the Maori owners were in rebellion) before the Crown could issue title.⁹⁶ Maori complained that persons without customary entitlement were admitted. (For a discussion of the implications of the East Coast Land Titles Investigation Act 1866 and subsequent legislation, see volume ii, chapters 5 and 6.)

(4) *Reserves*

Speaking generally of the reserves made from the lands ceded to the Crown, Hippolite notes that 'dissatisfaction over the way the grants for reserves were awarded was to persist into the twentieth century'.⁹⁷ Instead of each reserve being granted in accordance with hapu interests and occupation, reserves had been issued on an individual basis to all grantees identified as having an interest in the block. Following a series of petitions by Maori, the Native Land Claims Adjustment Act 1901 allowed the Native Land Court to re-investigate the ownership of the reserves. Further research is required to determine the fate of these reserves.

In 1881, Tamihana Huata requested the return of 300 acres known as Whakamarino, which he claimed had been wrongfully included in the 1100-acre Urewera reserve out of the Taramarama block. The Government took no action, and the 300 acres were eventually sold to private interests, at which point Huata demanded 300 acres elsewhere for his hapu. Upon investigation, it was discovered that the 300 acres had been accidentally omitted from the deed at the time of purchase and that the Native Land Court had ruled that the hapu look to the Government for redress. Upon doing so, the hapu was informed that 'these Natives have no claim and this has repeatedly been explained to them'.⁹⁸ Also, in 1887 the Tamihana Huata petitioned the Government claiming that 40 acres known as Ohuka in the Taramar-

95. AJHR, 1873, g-7, p 6 (cited in Hippolite, p 58)

96. Hippolite, p 40

97. Ibid, p 46

98. ma 1/1915/2346, minute dated 12 May 1896 (cited in Hippolite, p 49)

ama block had been loaned to the Government at the time of Te Kooti's raids but had never been returned to them. The petitioners were informed that the matter could not be reopened.⁹⁹

(5) *Trust administrations*

The New Zealand Native Land Settlement Company was a private company. Its dealings in land became a matter of notoriety on the East Coast by the mid-1880s, however, and the Crown's responsibilities are at issue in a number of ways:

- (a) The company's acquisitions from Maori did not conform strictly to the requirements of law in many cases, yet they passed the scrutiny of the trust commissioners or were subsequently legalised by the Validation Court. In particular, many blocks were mortgaged to the Bank of New Zealand and were subsequently sold. Although these may have involved a form of agreement with some of the Maori owners, doubts were cast on the adequacy of consultation, and it is significant that the practice of bringing more blocks in to support the mortgage ceased after Batham became judge and Ngata became counsel for the Maori owners.
- (b) Although requested from 1891, the Government did not intervene to salvage the settlement company or the Carroll–Wi Pere Trust until 1902, when the debt had escalated and more land had to be sold (in 1904 and 1905) to salvage the remainder of the estate.
- (c) The form of intervention that was eventually taken in 1902 effectively shut Maori out from farming their own land or sharing in the management of the East Coast Trust. Although ultimately very effective in redeeming the debt, developing the asset, and handing the land back to Maori in good order (thanks in part to the wool boom), the trust was also paternalistic and reduced the beneficial owners' autonomy and opportunity for important management experience.

(6) *Post-1910 alienations*

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

99. ma 1/1915/2346, 17 April 1890 (cited in Hippolite, p 50)

11.5 Additional Reading

The following are recommended for additional reading:

Angela Ballara and Gary Scott, 'Crown Purchases of Maori Land in Early Provincial Hawke's Bay', report commissioned by the Waitangi Tribunal for Wai 201, 1994;

Richard Boast, 'Mohaka–Waikare Confiscation: Consolidated Report', two volumes, 1996;

Dean Cowie, *Hawke's Bay*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996;

Paul Goldsmith, *Wairarapa*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996;

Joy Hippolite, 'Raupatu in Hawke's Bay', report commissioned by the Waitangi Tribunal, 1993 (Wai 201 rod, doc i17);

Joy Hippolite, *Wairoa*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), 1996; and

Vincent O'Malley, 'The Ahuriri Purchase', report commissioned by the Crown Forestry Rental Trust, 1995.