

CHAPTER 14

THE SOUTHERN SOUTH ISLAND

14.1 Principal Data

14.1.1 Estimated total land area for the district (including lakes)

The estimated total land area for district 14 (the southern South Island), including lakes, is 34,253,201 acres.

14.1.2 Total percentage of land in Maori ownership

Historical Atlas maps held in the Alexander Turnbull Library indicate that, as a result of pre-1865 Crown purchases, the total percentage of land in Maori ownership in district 14 at 1890 was approximately one percent (or approximately 101.1 acres of largely mountainous land per head according to the 1936 census figures provided below).

14.1.3 Principal modes of land alienation

The principal mode of land alienation in district 14 was pre-1865 Crown purchases.

14.1.4 Population

The population of district 14 was approximately 1500 to 2500 in 1840 (estimated figure), 1579 in 1891 (estimated from census figures), and 2221 in 1936 (also estimated from census figures).

14.2 Main Geographic Features Relevant to Habitation and Land Use

The boundaries of this research district encompass most of the South Island and Stewart Island southward of a line from Kahurangi Point on the West Coast running inland to the Nelson Lakes and thence in a north-easterly direction to the mouth of the Awatere River.

The most outstanding geographical feature of this district is its mountainous nature. The Southern Alps, with their great ranges and inter-montane basins and valleys, descend to the rich Canterbury plains in the east and the narrow westland

coastal plain. There are splendid harbours at Otakau and on Banks Peninsula. Traditional Maori occupancy centred on fishing villages strung along the coasts, their inhabitants making seasonal forays to the interior for great catches of eels, flightless birds, and forest foods. The Arahura Valley and areas further south were sources of the greatly prized pounamu. The Southern Alps are home to New Zealand's leading ski fields and, combined with the lakes in the southern portion of this district, are one of the nation's most popular tourist locations. On the Canterbury Plains and in Otago and Southland, pastoralism is predominant.

14.3 Main Tribal Groupings

The principal tribe in this district is Ngai Tahu, formed from three main lines of descent that came together. The earliest of these three tribes was Waitaha, which was a collective name given to the ancient tribal groups that occupied the South Island. There is evidence that Maori were in the South Island 1000 years ago. The second tribe, Ngati Mamoe, came from the Heretaunga area around the sixteenth century and filtered down through the South Island, intermarrying with Waitaha. The third tribe, Ngai Tahu, also migrated from the east of the North Island, gradually uniting with Ngati Mamoe.

14.4 Principal Modes of Land Alienation

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

There may have been some pre-1840 purchases on Stewart Island.¹ Some British officials were originally under the misconception that the whole of Banks Peninsula had been sold to the French. Other old land claims by British subjects were found to be valid by the old land claims commission, but they were overlaid by subsequent Crown purchases before they were finally resolved.

14.4.2 Pre-emption waiver purchases

After several weeks of discussion, in July 1844 the Otakou block was transferred from Ngai Tahu to the New Zealand Company for the sum of £2400. Estimated at the time to contain 400,000 acres, the block was later found to contain around 534,000 acres. Three pieces of land within the block were excluded: a large block on the western side of the Otakou Heads, a reserve at Taieri, and a reserve at Molyneaux, together totalling 9615 acres. Based on an estimate that 335 people

1. For some discussion of this, see Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi*, Wellington, GP Publications, 1996, p 146.

Figure 23: District 14 (the southern South Island)

may have had rights in this block, this left Ngai Tahu with less than 30 acres per head.

14.4.3 Crown purchases before 1865

The Otakou purchase of 1844 was reasonably well conducted, with open discussion with the chiefs and assembled people and joint marking of boundaries. Reserves were made essentially according to Maori wishes in the New Edinburgh block of about 150,000 acres, but they were not made in the wider 400,000-acre purchase within which the New Edinburgh settlement was established.

In June 1848, Kemp transacted a purchase with Ngai Tahu for 20 million acres. This was the largest block of land ever bought by the Crown. Mantell, in implementing the agreement, heavily reduced the amount of land Ngai Tahu considered they were entitled to have reserved, allowing only 6359 acres out of the 20 million acres to be reserved for them. Payment for this block was £2000.

In August 1849, the Port Cooper deed was signed by the Crown and Ngai Tahu, involving 59,000 acres, for which the Crown paid £200. Ngai Tahu retained approximately 900 acres in reserves.

A month later (in September 1849), the Crown transacted another deed with Ngai Tahu for 104,000 acres at Port Levy (Koukourarata). Only 1361 acres were reserved for Ngai Tahu. Most of this reserve was rocky hillside, only 300 acres being good, arable land. A survey carried out in 1880 found that within this reserve there were only three acres of arable land per capita.²

In 1856, almost all the remaining land on Banks Peninsula was purchased via the Akaroa deed. Ngai Tahu received 1200 acres of land as reserves. The Crown paid £150 for this block of approximately 67,000 acres.

In August 1853, Mantell (the commissioner of Crown lands) obtained Ngai Tahu agreement to the Murihiku deed. For £2600, the Crown acquired over seven million acres of land, reserving only 4875 acres to Ngai Tahu in seven separate reserves.

In February 1857, a deed was signed for the north Canterbury purchase, estimated to contain well over one million acres. Ngai Tahu were paid £500 but received no reserves. This was justified by the Crown on the basis of the value of Ngai Tahu's existing reserves, but was really due to the fact that the block was already almost totally occupied by European runholders.

In March 1859, the Crown purchased another large block of land, the Kaikoura purchase, estimated to contain 2.8 million acres. Ngati Kuri, a Ngai Tahu hapu centred on Kaikoura, received £300 to extinguish their interests, along with 5558 acres of reserves. There were nine reserves in all, ranging from three to 4800 acres in size. An additional 100,000 acres were requested for a reserve, but this was refused by the Crown. In a similar manner to the north Canterbury purchase, land in this block had already been parcelled out to runholders.

2. Waitangi Tribunal, *The Ngai Tahu Report 1991*, 3 vols, Wellington, Brooker and Friend Ltd, 1991, vol 1, p 92

In May 1860, the Crown purchased the Arahura block from Poutini Ngai Tahu for the sum of £300. The block contained seven million acres. A total of 6724 acres were reserved for individual allotment, 3500 acres for educational and religious endowment, and 2000 acres for later sale to cover surveying costs. Included was a 2000-acre reserve along the banks of the Arahura River, with which Ngai Tahu were anxious to protect their valuable pounamu resources. The reserves were spread along the coast in 54 different blocks.

In May 1864, the final Crown purchase of Ngai Tahu land was made at Rakiura, or Stewart Island, and included all the adjacent islands. It was completed for a total of £6000; one-third of which was paid in cash, with one-third allocated to a number of specific individuals, and the final third to be invested for educational and other purposes. Being a valued food resource, 21 of the Titi Islands were reserved for Ngai Tahu and Ngati Mamoe.

14.4.4 Confiscations

There were no confiscations in district 14.

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

Portions of the already scarce reserves were purchased after the titles to them had been individualised in 1868 and 1869.

14.4.6 Examples of land taken for public purposes

See the Waitangi Tribunal's *Ngai Tahu Ancillary Claims Report 1995* for details of the numerous ancillary claims, which included claims concerning land taken for public works, defence purposes, and recreational reserves.

Ancillary claim 18, for example, details land taken from one of Ngai Tahu's larger reserves at Mahitahi. In 1938, 48 acres were taken for an aerodrome, in 1941 just over seven acres were taken for a main road, and in 1952, 53 acres were taken for a scenic reserve. The Tribunal found that in all cases the Crown failed to consult or notify Ngai Tahu about the compulsory acquisition of their land for public purposes. There are many more examples of similar practices (see ancillary claims 17, 28, 56, 57, 61, and 67). The Tribunal also voiced concern about the number of small reserves reduced by public works acquisitions without notice, consultation, or consent.

14.5 Outcomes for Main Tribes in the Area

Under the Kemp purchase, Mantell reserved most if not all of Ngai Tahu's places of residence, but he did not include all their existing cultivations. He arbitrarily

allowed an average of 10 acres per person to those Ngai Tahu party to the deed, and the Tribunal found that this was ‘insufficient provision for their [then] present needs, viewed on any basis other than that of bare subsistence’. Mantell also failed to make any provision for additional reserves in order to ensure that Ngai Tahu ‘were left with generous areas of land fully sufficient to maintain access to mahinga kai and to develop alongside the European settlers, pastoral farming in addition to agriculture’. The Tribunal concluded that ‘It is not stating the position too strongly to say that the effect of the Crown’s niggardly allocations was to “ghetto-ise” Ngai Tahu on small uneconomic units on which they could do little more than struggle to survive.’³

The large Murihiku purchase of seven million acres meant that the Crown acquired land:

with high agricultural potential and heavily forested areas, of mountains, lakes and other features of great beauty. For the 273 Ngai Tahu recorded by Mantell as living in Murihiku and on Ruapuke, there were left only 4875 acres, or 17.8 acres per head.

The Tribunal concluded that, ‘By any standard, this was a totally inadequate provision for the present, let alone future, needs of Ngai Tahu.’⁴ Furthermore, the Crown had conceded that:

although Mantell allowed Ngai Tahu to reserve most of the lands they asked for in the locations they sought, the total amount of land reserved did not ‘prove to be adequate in area of quality’. An 1891 survey of Ngai Tahu land holdings showed that only 7.7 per cent of Southland Maori were seen as having sufficient land, while 41.7 per cent had no land at all.⁵

An outcome of all the purchases was that Ngai Tahu gradually lost access to their traditional mahinga kai, yet they were left with insufficient land to engage in the new economy that resulted from European settlement. To participate in agricultural or pastoral farming, they needed to retain more extensive areas of suitable land. Similarly, Ngai Tahu were not able to engage in the pastoral sheep farming that dominated the north Canterbury purchase area, because no reserves were allocated to them under this purchase.

In 1840, over half of New Zealand’s land area was owned by Ngai Tahu, but by 1864 this had been reduced to 37,492 acres.⁶

Mackay’s 1886 investigation into the extent of landlessness among Maori living in the South Island reported ‘that 50 per cent of Ngai Tahu had no land and, using 50 acres per head as a measure of sufficient land holdings, only 10 per cent of Ngai Tahu were found to have sufficient land’. Mackay’s report also ‘gave a depressing account of poverty, listlessness and despair amongst Ngai Tahu at the time’.⁷ The

3. *The Ngai Tahu Report 1991*, vol 1, p 77

4. *Ibid*, p 107

5. *Ibid*

6. *Ibid*, p 166

7. *Ibid*, p 171

Tribunal has concluded that, despite promises to the contrary, 'little was done to ensure that the lack of educational and health facilities available to Ngai Tahu was rectified'.⁸

14.6 Examples of Treaty Issues Arising

The following discussion is taken from the Tribunal's reports on the Ngai Tahu claims (Wai 27).

The Tribunal found that the Crown's failure to set aside ample reserves from the purchases for the tribe's present and future needs was a serious breach of both the Crown's duty to protect Ngai Tahu rangatiratanga and its obligations when exercising its pre-emptive right.

In considering the system of perpetual leases on the West Coast, which in effect took away forever Ngai Tahu's future rights to the use and enjoyment of their reserves for very little return, the Tribunal concluded that this system was also in breach of article 2 of the Treaty.

A breach was found by the Tribunal in relation to the Crown's neglecting to ensure the tribe's continued use and enjoyment of mahinga kai, as assured in the Maori language deed in the Kemp purchase.

A further breach of article 2 of the Treaty was the Crown's failure to preserve and protect Ngai Tahu's rangatiratanga over their land and valued possessions. In the case of land on Banks Peninsula, land was leased or sold before the Crown had lawfully acquired it.

With regard to the taking of land for public purposes, the Tribunal considered that statutory shortcomings in the notification given to Maori landowners in no way recognised or protected Ngai Tahu's rangatiratanga over their lands. Furthermore, the fact that Maori landowners were not afforded the same rights as non-Maori landowners was a breach of article 3. Crown actions in failing to return lands no longer required for the purpose for which they were originally acquired displayed to the Tribunal the Crown's lack of inclination to act in good faith and to protect Ngai Tahu's rangatiratanga.

The Tribunal found that the Crown failed to protect Ngai Tahu's right to retain pounamu (as they requested) and that it failed to respect their rangatiratanga over this taonga.

14.7 Additional Reading

The following are recommended for additional reading:

Waitangi Tribunal, *The Ngai Tahu Report 1991*, three volumes, Wellington, Brooker and Friend Ltd, 1991;

8. *The Ngai Tahu Report 1991*, vol 1, p 169

Waitangi Tribunal, *The Ngai Tahu Sea Fisheries Report 1992*, Wellington, Brooker and Friend Ltd, 1992; and
Waitangi Tribunal, *The Ngai Tahu Ancillary Claims Report 1995*, Wellington, Brooker's Ltd, 1995.