

CHAPTER 1

INTRODUCTION

1.1 PURPOSES

The Waitangi Tribunal commissioned this Auckland district report as part of its Rangahaua Whanui programme launched in mid-1993. The Tribunal stated the four main purposes of this programme were:

- (a) to identify issues common to a variety of different claims before the Tribunal;
- (b) to provide the Tribunal with the means to compare the Treaty history of different districts;
- (c) to place particular grievances in a broader historical and spatial context than is possible with claim by claim investigation; and
- (d) to avoid, if possible, unnecessary duplication of research conducted by Tribunal staff, Crown, and claimants in preparation for hearings, mediation, or negotiation.¹

The Tribunal indicated that district reports such as this one should provide ‘basic data . . . on comparative iwi resource losses, the impact of loss and alleged causes within an historical context.’²

1.2 AUDIENCES

The purposes stated above indicate two primary audiences for Rangahaua Whanui reports. The Tribunal, of course, requires a preliminary assessment of historical evidence in order to plan hearings, and to consider possible ways of grouping claims for this purpose. Secondly, parties before the Tribunal, such as the Crown and claimants, need the same information in order to determine their own research priorities.

1. Waitangi Tribunal practice note on Rangahaua Whanui, 23 September 1993, p 1

2. Ibid, p 2

The Tribunal commissioned this and other district reports in an attempt to stimulate Crown and claimant researchers. It assumed that researchers for parties would wish to conduct more in-depth, localised investigations than those undertaken by Tribunal staff. The Tribunal indicated that, on the basis of wide-ranging research, its staff would be able to identify Treaty issues. Issue-specific Rangahaua reports would then 'enable claimant, Crown and other parties to advise [the Tribunal] on the areas [or issues] they seek to oppose, support or augment.'³

1.3 LIMITS

In recognition of the above, the authors of this report have had to limit their investigation in at least five ways. Limits apply to approach, the role of the authors, the range of sources consulted, the historical time covered and the geographic area investigated.

The approach of a broad survey is necessarily general rather than specific. Furthermore, the purpose of preparing material useful to Crown and claimant researchers, as well as time constraints, dictates that this report is preliminary in nature. It is designed to begin, not to end, investigations into claims before the Tribunal. In fact, it reaches its initial audiences as a 'first working release', rather than as a final polished product with any definitive conclusions. Later revisions of this report may incorporate the results of responses to it by parties.

As Tribunal staff members, the role of the authors of this report is strictly limited. The authors are research officers appointed to service the needs of the Tribunal. They are not members of the Waitangi Tribunal, and their views expressed in this report do not represent the views of the Tribunal. The Tribunal will consider this report together with Crown and claimant reports and submissions, before deciding upon its own findings. The views expressed in this report may be challenged by Tribunal members, as well as by Crown and claimant representatives, in open hearings.

Time and resource constraints have limited the range of sources consulted. Generally the authors have conducted a broad survey of published primary and secondary sources. Unpublished primary sources, largely those held at the National Archives and Alexander Turnbull Library, have been consulted for subjects such as old land claims and the Native Land Court, in which the published material is clearly inadequate.

3. Ibid

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Time and resource constraints have also limited the historical time covered. The authors originally planned to cover topics in both the nineteenth and the twentieth centuries. This may still be possible, but the authors felt that the length of the study up until 1873 justified its early release. Readers may wish to suggest topics that we could cover in a subsequent volume, since there are obviously topics for which further investigation is required.

The Tribunal set the geographic limits of this study when it adopted the boundaries of the Northland and Auckland local government regions for this district. In very general terms, the Auckland district extends from Manawatawhi (Three Kings Islands) in the north, to the Bombay Hills in the south. It includes the main islands of the Hauraki Gulf and Great Barrier Island.

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A major episode missing in this report is a study of the land purchased in the Northland–Auckland area under the pre-emption waivers introduced by Governor FitzRoy in 1844–46. Under these waivers, around 250 parcels of land ranging from a few perches to a few thousand acres changed hands, almost all of which were in the Auckland region. This story, however, is an important part of the wider story of Crown pre-emption, a central and not well-documented part of early colonial land and race relations policy, which produced often strong responses from northern Maori and settlers. The analysis of the causes, enactment, and effect of the waivers will instead need to be covered as a key part of a separate, national study being completed on the history of Crown pre-emption.

1.4 SAMPLING

This range of available sources and the time available to consult them determined the need for a careful selection of evidence with regard to old land claims and pre-1865 Crown purchases. Almost all previous work on these topics relied on published reports. Commissioner Bell's 1862–63 reports on old land claims, and McLean's 1861 'Extinguishment of Native Title' correspondence, presented what could be described as the 'official view.' In both cases, these sources present little direct evidence of Maori views. Consequently, a selective sampling of primary sources was necessary to counteract the one-sided nature of this evidence.

With old land claims the sheer volume of material in the original files held at the National Archives made selection both necessary and difficult. Since the Bay of Islands was the first and most intensively transacted area (ie, in numbers of claims per area), it appeared to be a logical case study. Rather than examining the 250 or so claims, 50 claims for which there were legible typescript precis files were the first port of call. This then led to more detailed research into approximately 25 original files for claims relevant to selected issues.

The sampling of pre-1865 Crown purchases followed a similar scheme, albeit with some modifications. Since the most intensively transacted Crown purchase area, south Auckland, had already been the subject of a report commissioned by the Tribunal, the areas considered for sampling were Whangarei and Kaipara.⁴ Since Rogan, the Kaipara Crown purchase agent after 1856, conducted a voluminous and revealing private correspondence with his superior, Donald McLean (who was really the architect of national purchase policy), Kaipara got the nod ahead of Whangarei. On the other hand, the crucial Te Wairoa/Mangakahia dispute, which dominated the history of both areas during 1862–63, also requires a section of this chapter.

4. Paul Husbands and Kate Riddell, *The Alienation of South Auckland Lands*, Waitangi Tribunal Research Series, 1993, no 9

A comparative chapter following those on old land claims and pre-1865 Crown purchases is designed to establish how typical or atypical the Bay of Islands and Kaipara samples appear in the district as a whole. This chapter compares the two sample areas with two others (Muriwhenua and south Auckland), and with the statistical data for the entire district.

The limited number of 1866–73 Crown purchases obviated the necessity for sampling a particular area within the district. Instead, that post-1865 chapter examines two or three purchases for each of the four main categories of Crown purchases.

1.5 ISSUES

In addition to the sampling techniques described above, each old land claim and Crown purchase chapter selects information on the basis of explicitly identified Treaty issues. Since the Waitangi Tribunal has to measure the Crown's performance by what the Tribunal decides are Treaty obligations, such issues should guide the research of Tribunal staff. This should not unnecessarily constrain a broader enquiry into matters such as what other historians have written about areas under investigation. None the less, the areas under investigation in reports commissioned by the Waitangi Tribunal have to be those relevant to Treaty issues.

In the old land claim and pre-1865 Crown purchase chapters, the Treaty issues which guide the selection of information are:

- (a) Were Crown policies used to identify the owners or those holding rights in Maori land (and other resources) adequate? Did they give adequate consent to the transfer of their land/resource rights to the Crown or to Crown grantees?
- (b) What was the extent of the land/resources transferred? Were the boundaries clear and understood?
- (c) Was an adequate equivalent exchanged? Did it include no more than immediate payment in cash or goods, or did it entail ongoing obligations?
- (d) At the end of the pre-emption era (ie, 1865), were Maori left with sufficient resources and authority to provide for current and future generations?

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In the comparative chapter, the fourth issue (what was left for Maori) dominates the analysis. It does so simply because it is the only issue that allows for reasonably reliable quantitative comparison. Finally, the issues raised by 1865–73 Crown purchases are somewhat peculiar to that period. They are:

- (a) lack of satisfactory documentation;
- (b) negotiation anomalies;
- (c) adequacy of reserves; and
- (d) Crown protective responsibilities.

These chapters, therefore, do not attempt to reconstruct all that happened. They attempt to reconstruct only that which the author maintains is germane to the Crown's Treaty obligations.

