

Claims Not Reported On

The following matters are listed in the schedule of ancillary grievances published in the *Ngai Tahu Report 1991* as grievances made by members of Ngai Tahu. On further consideration, however, the Tribunal has decided not to report on these matters. The reasons for this are given in each of the claims detailed below.

8.1 **Kaikoura**

The following three grievances are said to have been made by Trevor Howse. However, no record exists of these complaints having been made in either the written or the oral submissions of this claimant. It is possible that the matters may have been brought up verbally during the Tribunal's site visit of the Kaikoura reserves. There is also a possibility that certain issues were brought to the attention of the Crown but escaped the formal notice of the Tribunal. In light of the absence of any record of these complaints, the Tribunal has decided not to report on them.

Claim no: **101**

Claim area: **Kaikoura E (Takahanga Pa)**

This is listed as a claim concerning the loss of area in exchange pre-1890.

Claim no: **102**

Claim area: **Kie Kie H**

This is said to be a claim that excessive roads were put through the reserve.

Claim no: **103**

Claim area: **South Bay F**

This is listed as a grievance concerning the loss of a landing reserve at South Bay on the Kaikoura Peninsula. The history of this reserve has been researched by the Crown.

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Claim no: **104**
Claim area: **Haututu L**

It is said that Mr Howse claimed that the land behind Haututu was never received in an exchange. This is assumed to be the subject of claim 1, the exchange of Waiharakeke J and part of Omihi K for land behind Haututu. It has therefore been dealt with in that context.

8.2 **Canterbury**

Claim no: **105**
Claim area: **Houhoupounamu Lagoon**
Claimant: **Te Maire Tau (H6:34)**

In his submission, Mr Tau outlined the prejudicial effects of drainage on mahinga kai such as Houhoupounamu Lagoon, referred to by the Reverend G P Mutu in 1891 in front of Commissioner Mackay. Mutu explained that most of the fishery easements awarded by the court in 1868 were now destroyed:

The one at Rotorua has been drained. Waimaiaia has been rendered useless by sea encroachment and Houhoupounamu has been drained.

These same fisheries were the subject of Te Oti Pita Mutu's petition in 1879, although Houhoupounamu Lagoon in that petition was referred to as Ohuapounamu Lagoon. The Tribunal considers that this matter has already been dealt with in its discussion of the Canterbury fishing reserves of 1868.

Claim no: **106**
Claim area: **Taumutu**
Claimant: **Rewi Brown (tape A1:6418)**

This is listed as a claim to the village of Taumutu. Mr Brown, however, was simply drawing the Tribunal's attention at the first hearing of Ngai Tahu's claim to the tribe's land and fishing rights at Taumutu and Waihora (Lake Ellesmere). He added that these would be looked at more closely in the course of the hearings. The Tribunal considers that the tribe's rights regarding Waihora have already been reported on. Recommendations regarding the lake were made in the *Ngai Tahu Report 1991*. It is assumed that the reference to Ngai Tahu's land rights at Taumutu relates to the commonage and the landing reserve there, both of which have been reported on at claims 12 and 13. The Tribunal therefore considers that no further action is necessary.

Claim no: **107**

Claim area: **Koru Creek**

Claimant: **Rewi Brown (H9)**

It is stated that Mr Brown claimed the right to Koru Creek. On reviewing his evidence, however, it is clear that Mr Brown's reference to the Koru Creek is a geographical one; he is merely pointing out that a deep channel extended parallel to the landing reserve at Taumutu and right of the creek. As there is no grievance expressed by Mr Brown, the Tribunal expresses no view thereon.

Claim no: **108**

Claim area: **Waihao 903**

Claimant: **Kelvyn Te Maire (H10:33)**

In his submission, Mr Te Maire stated that his people's marae is located on Waihao 903, a 500-acre 'occupation' reserve granted by the Native Land Court in 1868. He added that the area is of poor agricultural value. The Tribunal considers that this was not intended as a specific grievance as such, the claimant merely lending support to the general theme that the land which Ngai Tahu received from the court in 1868 was of poor quality. For this reason, the Tribunal has not taken the matter further.

Claim no: **109**

Claim area: **Te Anau**

Claimant: **Robert Agrippa Whaitiri (L32:4)**

Mr Whaitiri claimed that a quarter-acre section originally intended for a nurses' home at Te Anau has been offered back to Ngai Tahu at an inflated price. The Tribunal is not aware of the exact location of this property, but it is believed that Mr Whaitiri was referring to land included in the Crown purchase of Murihiku. According to Mr Whaitiri, the Crown offered the land to the Ngai Tahu Maori Trust Board because it was no longer needed. His point is that in terms of the Murihiku purchase the quarter-acre section would have been worth two shillings, or 20 cents. This, he says, is incongruous with the Crown's recent offer of the land to the trust board for \$40,000. He agreed that the land should be sold to Ngai Tahu, but at a price which covered legal fees, and little more.

The Tribunal does not see that there is any obligation on the part of the Crown to offer the land back to the trust board, as the land in question was part of that purchased by the Crown in 1853.

8.3 **Otakou**

Claim no: 110

Claim area: **Waitaha**

Claimant: **Mori Pickering (L32)**

Mrs Pickering claimed that land was taken from members of her family (the Ellisons) at Waitaha without notice. She believes that this land is now reserve. The grievance has not been investigated because the Tribunal does not have sufficient information regarding the location of the land and the nature of the grievance to do so.

Claim no: 111

Claim area: **Otakou Peninsula**

Claimant: **Riwai Karetai**

Mr Karetai claimed the right to live on his family land at the kaik on the Otakou Peninsula (L32:41). His grievance is said to stem from the use of the land by non-Maori crib owners. At the time of Mr Karetai's submission it was not known whether the land had been sold, or whether the cribs were leased. Again the lack of information regarding the location of the kaik has meant that inquiry into this claim has not proceeded.

8.4 **Murihiku**

Claim no: 112

Claim area: **Tautuku**

Claimant: **Sydney Cormack (E16)**

Mr Cormack referred to a 1000-acre block set aside at Tautuku for those who signed Kemp's deed but did not receive a grant within the area designated in the deed (E16:1).

One thousand acres of land at Tautuku were granted by Judge Fenton at the Native Land Court sitting at Dunedin in 1868 in fulfilment of:

all demands under Kemp's Deed, and [the land] is set apart for those Natives and their descendants who signed the Deed, but who never received any share of the land reserved for Native purposes within the boundaries of that purchase. (O14B:88)¹

The block was to be divided into two equal parts of 500 acres each. Hori Kerei Taiaroa and nine others, and Teone Topi Patuki and nine others were made trustees of the land, which was to be 'absolutely inalienable'. Mr Alexander submitted that the full 1000 acres of the reserve has been

allocated, as promised by the court. Today, he maintained, 93 percent of the Tautuku block is still Maori freehold land (O14A:38). About 52 acres have become legal roading upon survey of the block and 19 acres have been taken for a scenic reserve.

In light of Mr Alexander's evidence that the 1000-acre grant has been allocated to Ngai Tahu, it is not clear to the Tribunal just what Mr Cormack's grievance is.

Claim no: **113**

Claim area: **Waimumu**

Claimant: **Sydney Cormack (E16)**

Mr Cormack claimed that he attended a meeting of owners of a block in Waimumu where the owners' proposition of joint management in forestry with the Crown was refused; the Crown was interested only in a purchase of the land.

The Tribunal has been not been presented with any information regarding this grievance, and research in the Maori Land Court and National Archives in Christchurch has not uncovered any material.

In addition to the above claim, on which the Tribunal has no information, three other non-specific claims were made by Mr Cormack.

Claim no: **114**

Claim area: **East Rowallan and Alton blocks (E16)**

Claimant: **Sydney Cormack**

Mr Cormack objected to the existence of small pockets of Crown land scattered throughout east Rowallan, and the two-chain width of the roads passing through this land (E16:2).

The land that Mr Cormack is referring to is land granted to landless Ngai Tahu in 1908. In the Rowallan and Alton survey districts, over 43,000 acres were permanently reserved for this purpose but, according to the Crown witness, some of this land was not granted and therefore remained Crown land (O14B:96).² Mr Alexander thought Mr Cormack to be under a misconception that, because the block was reserved, all of it was therefore to become Maori land (O14A:47). He submitted that, while it was possible for all the land in a larger block to be so allocated, it was not inevitable that this would happen. Provided that the named individuals received the areas specified for them, any balance could remain Crown land.

Mr Alexander did not address the issue of the excessive width of the roads through the block. The Tribunal has no information on this aspect of Mr Cormack's grievance.

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Claim no: 115

Claim issue: Murihiku cemeteries

Claimant: Sydney Cormack

Mr Cormack claimed that a number of old Ngai Tahu/Ngati Mamoe cemeteries in Murihiku should be reserved. His application to get them reserved 20 years ago lapsed because survey maps were not provided by the Department of Lands and Survey. He stated that old cemeteries exist at Colac Bay, Kawhakuputaputa, and Tautuku.

Maori Land Court records reveal that in 1971 Mr Cormack applied to the court for a recommendation to have the following areas reserved for Ngai Tahu and Ngati Mamoe under section 439 of the Maori Affairs Act 1953:

- Kawhakuputaputa section 6;
- Kawhakuputaputa section 7;
- Oraka Maori reserve 184, section 1;
- Jacobs River section 37, block XXV; and
- Oraka section 2A, block XI, Longwood (AB24:131).³

It was said that all of these areas had been reserved as cemeteries at various times. The condition of the different urupa varied. Section 6 at Kawhakuputaputa was fenced off and the gravestones were visible, if overgrown. Section 7 on the other hand was not fenced off, stock were grazing there, and there was no sign of burials. At the court hearing on 25 February 1972, the applicant submitted that further consultation with the tangata whenua would be necessary before trustees were appointed (AB24:131).⁴

On 22 May 1972 the court recommended that the sections listed above:

be set apart for the purposes of burial grounds for the common use or benefit of members of Ngati Mamoe and Ngaitahu tribes. (AB24:132)⁵

It was not until February 1973 that copies of the orders were sent to head office for an Order in Council to have the land gazetted as Maori reservations. The delay in forwarding the orders was said to be:

due to difficulty in acquiring sketch plans for the Kawhakuputaputa sections 6 & 7. These sections were only recently found to be Maori lands and the Chief Surveyor was kind enough to compile a sketch plan for our purposes. (AB24:133)⁶

Apart from section 37 in Jacobs River Hundred, the Tribunal has no information whether the sections were subsequently gazetted as Maori reservations. The Tribunal is of the opinion that the claim is capable of resolution in the Maori Land Court.

Claim no: **116**

Claim issue: **Maori titles**

Claimant: **Sydney Cormack**

Mr Cormack stated that titles for half-caste lands and lands on Stewart Island and at Whakapatu, Ouetoto, Colac Bay, and Jacobs River need a thorough search because a great deal of land became general land under the 1967 Act. It is assumed that Mr Cormack is referring to Part I of the Maori Affairs Amendment Act 1967, which provided that Maori freehold land would cease to have that status if the land were owned by four or less owners. While not expressly stated in the Act, such land would have become general land.

There is provision for this land to again have the status of Maori land. Without more specific details the Tribunal is not prepared to take the matter further. In any event, the matter is capable of resolution in the Maori Land Court.

Claim no: **117**

Claim issue: **Timber fifths**

Claimant: **Sydney Cormack**

Mr Cormack claimed that revenue paid to the county from Maori-owned timber for the maintenance of roads was never spent on the upkeep of Maori roads. He submitted that, under the provisions of the Counties Act, a levy of one penny per 100 super feet of sawn timber from logs conveyed to a sawmill was paid to the local authority. As he understood it, the levy to the local authority was payable in lieu of rates until all of the timber had been milled from the land.

This was a very general claim made by Mr Cormack without any particulars that would enable the Tribunal to investigate it. For this reason the Tribunal has not dealt with the matter.

1. 'Schedule of Reserves attached to Report by Major C Heaphy on Native Reserves in Otago', AJHR, 1870, D-16, p 29
2. *New Zealand Gazette*, 1908, p 1514
3. SIMB 49, pp 82-84
4. *Ibid*, p 84
5. *Ibid*, p 138
6. Registrar to secretary, head office, 12 February 1973, correspondence file Southland 1, MLC Christchurch

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