

RANGAHUA WHANUI DISTRICT I  
AUCKLAND  
COUNTING THE HECTARES:  
QUANTIFYING MAORI LAND LOSS IN THE  
AUCKLAND DISTRICT, 1865-1908

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PART II

JULY 1997

WORKING PAPER : FIRST RELEASE

WAITANGI TRIBUNAL  
RANGAHUA WHANUI SERIES

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## FOREWORD

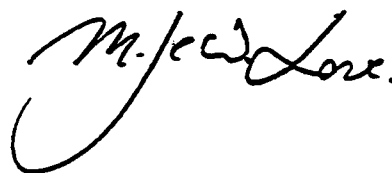
The research report that follows is one of a series of historical surveys commissioned by the Waitangi Tribunal as part of its Rangahaua Whanui programme. In its present form, it has the status of a working paper: first release. It is published now so that claimants and other interested parties can be aware of its contents and, should they so wish, comment on them and add further information and insights. The publication of the report is also an invitation to claimants and historians to enter into dialogue with the author. The Tribunal knows from experience that such a dialogue will enhance the value of the report when it is published in its final form. The views contained in the report are those of the author and are not those of the Waitangi Tribunal, which will receive the final version as evidence in its hearings of claims.

Other district reports have been, or will be, published in this series, which, when complete, will provide a national theme of loss of land and other resources by Maori since 1840. Each survey has been written in the light of the objectives of the Rangahaua Whanui project, as set out in a practice note by Chief Judge E T J Durie in September 1993 (see app 1).

I must emphasise that Rangahaua Whanui district surveys are intended to be one contribution only to the local and national issues, which are invariably complex and capable of being interpreted from more than one point of view. They have been written largely from published and printed sources and from archival materials, which were predominantly written in English by Pakeha. They make no claim to reflect Maori interpretations: that is the prerogative of kaumatua and claimant historians. This survey is to be seen as a first attempt to provide a context within which particular claims may be located and developed.

The Tribunal would welcome responses to this report, and comments should be addressed to:

The Chief Historian  
Waitangi Tribunal  
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Wellington



Morris Te Whiti Love  
Director  
Waitangi Tribunal



## LIST OF CONTENTS

<b>Chapter 1: Introduction: The Native Land Court in Auckland .....</b>	<b>1</b>
<b>Chapter 2: Method .....</b>	<b>5</b>
<b>Chapter 3: Blocks Awarded 1865 to 1885 .....</b>	<b>15</b>
<b>Chapter 4: The Impact of the Court: 1865-1869 .....</b>	<b>23</b>
<b>Chapter 5: The Rees Carroll Report: Maori land at 1891 .....</b>	<b>31</b>
<b>Chapter 6: The Stout Ngata Report: Maori land at 1908 .....</b>	<b>35</b>
<b>Chapter 7: The Number of Owners .....</b>	<b>43</b>
<b>Chapter 8: Crown Purchases.....</b>	<b>47</b>
<b>Chapter 9: Alienation and Retention 1865-1908.....</b>	<b>51</b>
<b>Chapter 10: Conclusion .....</b>	<b>61</b>



## LIST OF TABLES AND FIGURES

### Figures

<b>Figure 3.1: Blocks awarded title by Auckland Region .....</b>	<b>17</b>
<b>Figure 3.2: Blocks by area, by sample .....</b>	<b>17</b>
<b>Figure 3.3: Average Block Size by Sample: Grants 1865-1889. ....</b>	<b>18</b>
<b>Figure 3.4: Auckland regions.....</b>	<b>19</b>
<b>Figure 3.5: Area of blocks awarded in the Auckland Sample Area by region. ....</b>	<b>20</b>
<b>Figure 3.6: Number of blocks awarded in Auckland Sample Area by region .....</b>	<b>20</b>
<b>Figure 3.7: Block awards by region over time, 1865-1889.....</b>	<b>21</b>
<b>Figure 4.1 Land In Maori Ownership in the Auckland District in 1860.....</b>	<b>24</b>

### Tables

<b>Table 2.1: Data in sources contributing to the Auckland District Maori Land Database. ....</b>	<b>10</b>
<b>Table 2.2: Numbers of blocks included in each source. ....</b>	<b>13</b>
<b>Table 2.3: Origin of blocks in the database by source .....</b>	<b>14</b>
<b>Table 3.1 Area of blocks passing through the Native Land Court, AJHR, 1885.....</b>	<b>15</b>
<b>Table 3.2: Area of blocks by Province in LINZ database 1865 to 1884. ....</b>	<b>16</b>

<b>Table 3.3: Area and number of blocks in the Auckland Sample Region. ....</b>	<b>17</b>
<b>Table 4.1: Number of blocks awarded in Auckland Province by Sample District, 1865-1889.....</b>	<b>25</b>
<b>Table 4.2: Area of blocks awarded in the Auckland Province, by sample, 1865-1869...26</b>	
<b>Table 4.3: Block titles issued by district in Auckland Sample, 1865-1869.....</b>	<b>26</b>
<b>Table 4.4: Number of blocks alienated by sample, 1865-1869.....</b>	<b>27</b>
<b>Table 4.5: Area of blocks alienated by sample, 1865-1869.....</b>	<b>27</b>
<b>Table 4.6: Blocks leased, unsold and sold, by size, 1865-1869. ....</b>	<b>28</b>
<b>Table 4.7: Area of blocks leased, unsold and sold, 1865-1869. ....</b>	<b>28</b>
<b>Table 4.8: Blocks over 1000 hectares. ....</b>	<b>29</b>
<b>Table 5.1 : Area of 1891 blocks by region.....</b>	<b>32</b>
<b>Table 5.2: 1891 blocks over 2000 hectares.....</b>	<b>33</b>
<b>Table 5.3: Percentage of productive land in 1891 Maori land blocks.....</b>	<b>34</b>
<b>Table 5.4: Area of land leased and not leased in 1891 by region. ....</b>	<b>35</b>
<b>Table 5.5: Blocks leased and not leased in 1891 by area. ....</b>	<b>35</b>
<b>Table 5.6: Blocks leased by date of commencement of lease.....</b>	<b>36</b>
<b>Table 6.1: Size and number of 1908 blocks by county.....</b>	<b>38</b>
<b>Table 6.2: Areas of blocks 1908.....</b>	<b>39</b>



<b>Table 6.3: Stout Ngata recommendations .....</b>	<b>40</b>
<b>Table 7.1: Average number of owners by region. ....</b>	<b>45</b>
<b>Table 7.2: Average number of owners by county, 1908 .....</b>	<b>45</b>
<b>Table 8.1: Crown purchases 1865-1908.....</b>	<b>48</b>
<b>Table 8.2: Crown purchases over 4047 hectares .....</b>	<b>49</b>
<b>Table 8.3: Prices paid for land 1865-1908.....</b>	<b>50</b>
<b>Table 9.1: Area of LINZ Blocks remaining in 1908.....</b>	<b>52</b>
<b>Table 9.2: Area of LINZ blocks retained in 1908 by region.....</b>	<b>53</b>
<b>Table 9.3: Area of LINZ Blocks land retained in 1908 by date of award.....</b>	<b>54</b>
<b>Table 9.4: Block survivorship 1891-1908 .....</b>	<b>55</b>
<b>Table 9.5: Survivorship 1891 to 1908, by region. ....</b>	<b>55</b>
<b>Table 9.6: Survivorship, certificates of title. ....</b>	<b>57</b>
<b>Table 9.7: Survivorship by date of grant.....</b>	<b>58</b>
<b>Table 9.8: Average period between award of title and sale, by date of award. ....</b>	<b>58</b>
<b>Table 9.9: Average period between award and sale from Certificates of Title. ....</b>	<b>58</b>
<b>Table 9.10: Area of land sold by date of sale from Certificates of Title .....</b>	<b>58</b>
<b>Table 9.11: Total land sales 1840 to 1908 .....</b>	<b>59</b>



## PREFACE

This study is one of the first to quantify the impact of the Native Land Court in New Zealand in the nineteenth century in any depth. While the Court has been the subject of a very substantial literature, there has been no attempt to establish the patterns of alienation and their impact on different groups across a significant area of the country.

The report is the second study to deal with the Auckland region, Rangahaua Whanui District 1, and should be read alongside Rose Daamen, Paul Hamer and Barry Rigby's Auckland report for the period up to 1865, *Rangahaua Whanui District 1, Auckland*. With the establishment of Maori Councils and Maori Land Boards in 1900, the administration of Maori land in Auckland entered a new phase and this is taken up in Donald Loveridge's *Maori Land Councils and Maori Land Boards: A Historical Overview, 1900-1952*. All three reports have attempted to quantify the alienation of Maori land, but have been forced by necessity to adopt very different methods. During each of the three periods the alienation of Maori land was administered very differently leaving very different sets of records. While alienation records for the period 1840 to 1865 were centrally, if at times haphazardly, collected and those after 1900 produced by a single administrative body for the Auckland region, those created between 1865 and 1900 remain widely disbursed through a variety of different agencies.

Most of the collection of records for this report was undertaken by Richard Nightingale with some assistance from Sonya Cameron. The Maori Land Court Database was made available by John Lawrie of the Auckland University Library.



## CHAPTER 1

# INTRODUCTION: THE NATIVE LAND COURT IN AUCKLAND

The Auckland region, stretching from Tainui in the South to the iwi of Muriwhenua in the North, was subject to all the different forms of land alienation available to the Crown from 1840 to the end of the century. Settlement was early in the Bay of Islands, in the Hokianga and in Muriwhenua and large areas of land were included in the investigations of the various land claims commissions, culminating in Francis Dillon Bell's inquiry and report in 1862. These commissions investigated European claims that Maori had sold land prior to the Treaty of Waitangi.<sup>1</sup> The majority of these Old Land Claims were situated in the area North of Auckland. While there were much larger claims in the South Island, most of these were either disallowed or were subsumed under later purchases. The Old Land Claims snowballed into a land purchasing programme following 1840. This had two strands, the purchasing of land in Northland, partly to acquire land for settlement and partly to patch up difficulties that arose out of investigations into Old Land Claims and secondly purchasing land around Auckland to allow for the expansion of the city. When pre-emption was waived in 1844, the vast bulk of the land acquired through the 10s and one penny an acre proclamations was in Auckland. During the wars of the 1860s, a buffer of land between Auckland and the Waikato was confiscated. There were even investigations of title under the barely introduced Native Land Act 1862. From 1865 to 1900 the region came under the jurisdiction of the Native Land Act 1865 and its various successors and amendments.

The Court presided over the transformation of customary title into individual freehold title, the subdivision of blocks and the transfer of title through lease, sale or succession. It also implemented the taking of land for roads and compulsory acquisition through Public Works Acts from the 1870s on. The Court and the system of recording title that supported it became an essential feature of almost all areas of Maori social and economic existence. Interests in land were recognised or denied by the Court. Individual shares were allocated and succession to land administered. By the turn of the century the Court's oversight included the administration of urupa and kainga, of special reserves for fishing and birding and the allocation of whanau blocks for farming. In 1908 almost all the land still owned by Maori in 1865 had passed through the Court or was awaiting the award of a Native Land Court title.

When the Native Land Court was established in 1865, much of the best land for European settlement had already been purchased or confiscated. The comparative economic decline of the North and its reduced political importance

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<sup>1</sup> Or more accurately before the proclamation issued by Lieutenant-Governor Hobson in Sydney on 14 January 1840, declaring that the Crown would recognise no titles other than those derived from itself.

after the wars of the mid-1840s meant that it did not appear to face the same kinds of pressure to sell land experienced elsewhere. As a result, the frenzy of court activities and land selling in Hawkes Bay and parts of the Waikato was less evident in Auckland and the North. Nonetheless, the process of managing Maori land remained controversial throughout the period and was the subject of a steady stream of Maori complaints. While sometimes couched in cautious language, the majority report of the 1891 Commission on Native Land Laws was a comprehensive assault on the Court and a lament of its impact on Maori.<sup>2</sup> This study will show that far from being a backwater of the Court's activities in the nineteenth-century, Maori of Tai Tokerau lost very substantial areas of land through most of the period. The lands of Auckland and Northland passed early into Court titles and were continuing to be alienated to the Crown and Europeans in substantial areas right until the end of the century.

The Court was the subject of stinging criticism in the nineteenth-century and its governing legislation and operation have been critically attacked since the 1950s. Keith Sorrenson's 1955 masters thesis exposed many of the system's worst features.<sup>3</sup> These included the ability of a small coterie of European purchasers to use the Court as a means to acquire large areas of land from tribes, by swindling the small number of owners granted title to the tribal estate, and the debilitating effects of the Court sessions themselves, often far from the kainga of those forced to take part. Many of Sorrenson's conclusions have been sustained by later scholarship, but the Court has also proved to be a much more complex instrument of Crown policy, central to the relationship between Maori and government since the turbulent years of its introduction in the 1860s and early 1870s, the focus of Sorrenson's initial study. Work by Hugh Kawharu, Alan Ward and the new legal historians has expanded this general critique of the Court.<sup>4</sup> It remains, however, extremely difficult to assess what was actually happening on the ground between 1865 and 1908. Quantitative comparisons between different areas of the country have not yet been possible.

Evelyn Stokes, Hirini Melbourne and Hirini Milroy have been among the few to develop a systematic overview of land title, tracing not only the process of title investigation and transfer but also its results.<sup>5</sup> What happened to the land that passed through the Court, how was it alienated and what was retained? A few regional studies are now supplemented by some major Tribunal reports. In the Pouakani, Ngai Tahu Ancillary Claims and Te Roroa Reports there is extensive coverage of the Courts' activities.<sup>6</sup> David Williams' Crown Forest Rental Trust

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<sup>2</sup> Report of the Commission Appointed to Inquire into the Subject of the Native Land Laws, AJHR, Wellington, 1891, Session II, G-1.

<sup>3</sup> 'The Purchase of Maori Lands, 1865-1892', MA Thesis, The University of Auckland, 1955.

<sup>4</sup> Alan Ward, *A show of justice. Racial 'amalgamation' in nineteenth century New Zealand*, Auckland University Press, 1995; I.H. Kawharu, *Maori Land Tenure. Studies of a changing institution*, Clarendon, Oxford, 1977.

<sup>5</sup> Evelyn Stokes, J. Wharehuia Milroy and Hirini Melbourne, *People, land and forests of Te Urewera/ Te Urewera nga iwi te whenua te ngahere*, University of Waikato, Hamilton, 1986.

<sup>6</sup> Waitangi Tribunal, *The Pouakani Report 1993 (Wai33)*, Brooker and Friend, Wellington, 1993; *The Ngai Tahu Ancillary Claims Report 1995*, Brookers, Wellington; *The Te Roroa Report 1992, (Wai38)*, Brooker and Friend,

legislative database provides an extensive resource for following the convoluted development of Maori land law.<sup>7</sup> The Court as a forum for tribal history and as a focus for cultural change has also been the subject of some exciting developments in recent scholarship.

As a result of this scholarship we have a much richer understanding of the Court in particular regions and of its legislative history. Nonetheless, over four decades after Sorrenson's initial study, we do not yet have research that makes a comparative review of the Court's impact over long periods of time. Nor can we assess the different regional consequences of the Court's role in the alienation, management and retention of Maori land. Modern studies remain dependent on the few quantitative returns, outlined in the following chapter, that aggregated the extent of Maori land ownership at different times in the late nineteenth and early twentieth century.

This study goes behind and beyond those figures for the Rangahaua Whanui project, as it applies to the Auckland Region stretching from South Auckland to Muriwhenua. The fractionating of Maori land and a confusing and complex system of Maori land title make it difficult without substantial time and funding to provide a comprehensive and retrospective study of Maori land ownership. The range and extent of the records involved make this almost impossible for the Rangahaua Whanui project. Had such a study been initiated in the late 1980s, however, when the extent of Maori claims against the Crown was finally understood, it may have proved more cost effective than the piecemeal and dispersed funding of claims research that has occurred since.

To make a quantitative assessment of the impact of the Native Land Court on Maori land over a sustained period, we have created a database on which information from a variety of existing databases and from a number of nineteenth and early twentieth century schedules of blocks has been linked. Each of these sources allows an analysis of its own data, providing information about particular periods of the Court's activities and providing a slice of Maori land ownership at the time of its creation. By linking these sources, it is possible to obtain a more dynamic understanding of the changing nature of Maori land ownership over time. Although many of these sources have different data and show varying levels of comprehensiveness and accuracy, they still allow us to make a better estimate of the nature, rate and extent of Maori land alienation through the Court in this period.

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Wellington, 1992; and sections on land blocks in the *Ngawha Geothermal Resources Report, 1993*, Brooker and Friend, Wellington, 1993.

<sup>7</sup> *Maori Land Legislation Manual*, Crown Forest Rental Trust/Government Print, Wellington, 1994.





## CHAPTER 2

### METHOD

There is no single, centralised record of titles awarded by the Native Land Court, containing detailed and comprehensive information about the history of all the blocks awarded through the Court. As early as 1840, there were calls for a complete register of Maori lands. The Maori Land Act 1873 required registers of land owned by Maori to be established and maintained, but any attempts to put this into practice have not survived. Far from making an overview of Maori land ownership easier, the Native Land Court established a system which was considerably more complex and confusing than that applying prior to the Crown's waiver of pre-emption in 1863.

Earlier systems at least allowed for the creation of a centralised list. Because all the Old Land Claims were investigated by at least two commissions prior to 1862 their records were brought together in a single collection. Francis Dillon Bell's commission provided generally comprehensive information about the final awards, surveys and surplus land, eventually published by H.H. Turton.<sup>8</sup> The recording of Crown purchases under pre-emption also led to a centralised register and this was aided by H.H. Turton's compendium of these deeds.<sup>9</sup> While the detail within these schedules is often deficient and requires considerable more scrutiny, these lists at least provide a worthwhile base line from which to operate. There is no such parallel convenient starting point with blocks coming under the Native Land Court's jurisdiction.

The system of recording Maori land title is decentralised, dispersed and involves a series of different records within a number of different local registries. Records are held by the various Maori Land Courts throughout the country in a variety of different files. The Minute Books record court activities on individual blocks and copies of these exist both in microfilm form (of limited value) and in recent hard backed archival copies. Within the courts themselves there are a variety of different files required to examine the history of each block. For the Auckland District these files are all held at the Court in Whangarei, although some historic material is also deposited in National Archives in Auckland. The applications and certificates of title are held in the registers of the District Land Registrar in Auckland. Included with these records are copies of deeds and leases and records of transfers. Copies of Maori Plans are held by Land Information New Zealand (LINZ) (previously the Department of Survey and Land Information or DOSLI) at Auckland.

Archives of land information such as Crown Grants and Certificates of Title, or the Maori Land Court records, were created to provide specific information

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<sup>8</sup> *Maori deed of old private land purchases*, Government Printer, Wellington, 1882.

<sup>9</sup> *Maori deeds of land purchase in the North Island of New Zealand. Volume 1, Auckland Province*, Government Printer, Wellington, 1882.

about the title history of individual blocks. The record systems were not designed to provide an aggregated overview of land title, particularly through time. Recently a number of Geographic Information Systems (GIS) have been developed which will provide an overview of contemporary land titles, along with other geographic information. Their visual emphasis does allow for patterns of land tenure to be viewed more easily, but providing retrospective information goes well beyond the very extensive task of providing and maintaining up-to-date contemporary data.

Undertaking a comprehensive study of Maori Land Blocks under the Court's jurisdiction would involve a very complex, time consuming and expensive reconstruction of several thousand blocks for the Auckland region alone. The history of each of these blocks would need to be traced from their initial survey and investigation of title, through partitions, successions and consolidations. This would include the taking of sometimes very small pieces for roads and other public works. Given the thousands of blocks and tens of thousands of transactions involved, this level of detail is beyond anything other than a long term and well funded research programme.

Since, it was impossible to reconstruct the history of every block from the Maori Land Court records, we proceeded to identify existing databases and schedules of blocks and to feed these into a single linked database, which could then be subject to statistical analysis.

### **The Databases**

There were a number of computer readable databases with information on Auckland region Maori land blocks already in existence. Where possible these were entered or transferred into an Access Database designed specifically for this project. Other sources from nineteenth and early twentieth-century schedules of blocks were added with data from a search of Certificates of Title. Blocks from different sources were then matched.

### **The Sources**

#### *A: The LINZ Block List*

The LINZ Block List comprises a nineteenth-century block index from Land Information New Zealand, Head Office, Wellington. This computer readable database comprised the core data for this study, extracted from returns of memorials or certificates of titles sent to Wellington from the 1860s until the mid-1880s. The schedule includes 5274 blocks from the entire country, 4950 blocks when obvious duplications have been eliminated. Of these, 1182 blocks are in the sample region from South Auckland north. The blocks were given a running number from 1 to 5274 and this has formed the basic identifier for all blocks in the database. As subsequent blocks or subdivisions were located they were given the next available LINZ number as an identifier.

The original list was compiled by adding batches of blocks from various regions within different provinces, usually in groups from specific areas or locations where the Court sat. This list was not created sequentially, but retrospectively in the

1880s. Bundles of CTs or Memorials of Ownership were added somewhat randomly. Some sequences are of one or two individual titles, while others are in sequences of several hundred.

*B: The 1885 Number of Grantees Schedule*

This is a schedule of the number of grantees made in each award from the Native Land Court from 1865 until 1885. It is arranged by block and acreage and printed in the AJHR, 1885, G6A. There are 4261 blocks included, giving the acreage and number of owners awarded title for each. No block names are given, but because the sequence of blocks generally parallels that of the LINZ Block List, it has been possible to match a high percentage of these to specific blocks.

*C: The 1873-1885 Private Purchasers Schedule*

This schedule is of limited value and was printed in the AJHR in 1885 as G6. It purports to be a list of blocks of land which passed through the Native Land Court subsequent to the Native Land Act 1873. The schedule notes that 445 blocks had passed through the Court in this manner up until that time. However this list only shows twelve blocks from the sample region.

*D: The 1891 Schedule.*

Following the Rees Carroll inquiry into the Native Land Laws in 1891, the House of Representative had printed a schedule of Maori blocks providing extensive information about ownership and economic use of blocks at that time. Different information was collected depending on whether the block was leased or not. The survey included the terms of leases and the extent that the blocks were cultivated or developed. It was printed in AJHR, 1891, Session II, G. 10.

*E: The CPDI list.*

The computer readable Crown Purchase Deed Index provides a numbered schedule of all Crown purchase deeds from 1840 to the present. The deeds are held in Land Information New Zealand, Head Office, Wellington. This list of purchase deeds contains information on 13,546 deeds, only a small proportion of which are purchases from Maori, although the area involved in Maori purchases is much more substantial. The list does not distinguish between purchases from Maori and from Europeans. While Land Information New Zealand provided both this list and the deed list, no attempt has been made previously to link the two. The database was reviewed for all purchases which could be identified as Maori land from blocks purchased within the period 1865 to 1908 in the Auckland region. Copies of the original deeds were then searched from the microfiche collection of LINZ Head Office and some cross checking was undertaken at the Maori Land Court in Whangarei. The microfiches included purchase deeds, Crown Grants or Certificates of Titles and Court Orders. Most blocks had only one of these sources. Very few had full records of the transaction.

*F: H.H. Turton's Compendium*

Detail on Crown purchase deeds to 1875 is recorded in Henry Hanson Turton's schedules of Crown Purchase deeds and plans, published in 1877. Turton included copies of the deed texts, information on price and area, as well as some plans. None of this information is available in the CPDI. Turton's CLO (Crown Land Office) numbers for each block correspond to the Deed Index Numbers used for the CPDI, making matching straight forward.

*G: Completed Crown Purchases.*

Schedules of Maori blocks purchased by the Crown were published in the AJHR from 1890 to 1908. These schedules also contain information about area and price not contained in the CPDI, and are also easily linked by Deed Number to that index.

*H: The Stout Ngata Block Schedules, 1908.*

A return of Maori blocks in Auckland and Northland was prepared for the Stout Ngata Commission in 1908, and noted in AJHR, 1908 G1G, G1I, G 1J. This is the most comprehensive survey of Maori land holding included in the database. Arranged by county, information includes the size and disposition of each block, the number of owners and often substantial comments about the block's current use. The blocks were divided into groups according to the Commission's brief to recommend lands for permanent reservation, and for sale and leasing for general settlement.

*I: Certificates of Title*

Samples of certificates of title from the Land Title Services, Auckland, contain comprehensive information about each block and its ownership. The CTs contain the names of those originally awarded title and any transfers of the land or interests in land to others. This includes information about leasing and transfers of mineral, timber and flax rights. The certificates of title also contain references to copies of leases and transfers, some of which can still be located. Each CT also contains a sketch map of the original block. Unfortunately the state of preservation of these records means that comparatively few have been located, despite an extensive search of the registry.

*J: The 1869 Schedule.*

An 1869 return provides details of blocks awarded by the Native Land Court from April 1865 to that date. This manuscript return from National Archives, Wellington (MA-MT 1B 157) was prepared on 16 June 1869. The return covers the Auckland Province and includes information about sales and leasing of Maori blocks as well as providing a list of Maori blocks still in Maori occupation at the time.

*K: The Native Land Court Minute Book Index.*

A selected computerised index of Maori Land Court Minute Books has been prepared by the Auckland University Library. The Minute Books references are far from comprehensive and do not attempt to provide references to all blocks or all

references to those blocks which are included. No attempt has been made to link the Minute Book references exactly to blocks. Linking was undertaken by block name alone. A check of adjoining subdivisions or parent blocks may provide a link to the relevant Minute Book references. Further attempts to match this source with blocks in the database could be undertaken, but for the present it provides a valuable backup resource for matching and linking blocks. Although some links are incorrect, this is easily seen from the data.

*L: The Auckland LINZ Maori Block Plan Index*

This is a list of Maori Land Plans by Block for the Auckland Region from 1865 to 1900, from Land Information New Zealand, Auckland Office. This list was used as a reference but was not entered onto the database.

The various kinds of information included with each source is recorded in Table 2.1.

**Table 2.1: Data in sources contributing to the Auckland District Maori Land Database.**

FIELDS INCLUDED IN DATABASE	A	B	C	D		E	F	G	H	I	J		K	L
				1	2						1	2		
Block Name	•		•	•	•	•	•	•	•	•	•	•	•	•
Acres	•	•	•	•	•		•	•	•	•	•			
Roods	•	•	•	•	•		•	•	•	•	•			
Perches	•	•	•	•	•		•	•	•	•	•			
Location/Country	•		•			•	•	•	•	•		•		
Date of Award	•									•				
Date of Application										•				
Antevesting Date										•				
Province	•													
CT/Memorial Number	•									•	•	•		
Comment	•				•		•		•	•	•		•	
Number of Grantees		•							•	•	•			
Names of Grantees											•	•		
Names of Purchasers			•							•	•			
Price Paid			•				•	•		•	•			
Date of Purchase/Lease etc.				•		•	•	•		•	•			
Rent value											•			
Property Valuation			•	•										
Productive land				•										
Unproductive land				•										
Term of lease					•									
Valuation of lessors' interests					•									
Valuation of lessees' interests					•									
Crown Purchase Deed Number						•	•	•						
Land purchase officer								•						
Gazette reference								•						
Origins of purchase money								•						
Stout Ngata recommendation									•					
Date of hearing													•	
NLC Minute Book Reference													•	
NLC Reason for hearing													•	
Plan Number													•	
Survey District Number													•	

<b>A: The LINZ Block List</b>	<b>G: Completed Crown Purchases.</b>
<b>B: The 1885 Number of Grantees Schedule</b>	<b>H: The Stout Ngata Block Schedules, 1908.</b>
<b>C: The 1873-1885 Private Purchasers Schedule</b>	<b>I: Certificates of Title</b>
<b>D: The 1891 Schedule. 1: Leased 2: Not leased</b>	<b>J: The 1869 Schedule. 1: Alienated 2: Not Alienated</b>
<b>E: The CPDI list.</b>	<b>K: The Native Land Court Minute Book Index.</b>
<b>F: Turton's Deeds</b>	<b>L: The Auckland LINZ Maori Block Plan Index</b>

## **Data Entry**

Where a computer readable copy did not exist, each source was entered onto the computer in a form that resembled the original as much as possible. The computer database was designed so that each record copied the original as much as possible. Records were also kept in their original sequence. Each source can be analysed according to its own information as well as being linked to other sources.

## **Copyright**

Existing databases, such as those supplied by Land Information New Zealand and Auckland University, were supplied for the use of this research project and for use within the Waitangi Tribunal. No arrangement has been made with the copyright holders for making this data available more generally.

## **Matching**

The Auckland Maori Land Database does not contain records of every block made by the Court between 1865 and 1908. The LINZ list includes the primary list of files where title was awarded by the Court. It does not contain any information about subsequent subdivision. The Certificates of Title list, the 1891 and 1908 schedules on the other hand do contain information about subdivided blocks. As a result while we may have information about an initial award of title, its subsequent history cannot be completely reconstructed from the data available from the other sources. A block awarded in 1868 may have been subdivided several times before 1908, going to a third or fourth generation before what remains in Maori ownership can be identified as a number of much smaller blocks. Blocks subdivided and alienated or further subdivided between the time of their award and the 1891 or 1908 schedules and not in the CTs list will not be included in their original form.

Matching blocks from one source to another is far from automatic and falls well short of the degree of certainty that could be achieved if the database had been constructed from the original block files. In matching blocks across different fields the following protocols were adopted:

- a) For a certain match, two major variables needed to be identified, particularly the block's name and its size.
- b) Where no block name matched, checks were made of blocks of similar acreage to identify any transcription errors.
- c) Blocks with Te as a prefix were checked against blocks without this prefix.
- d) Where identical block names existed for apparently different blocks the LINZ Maori Block Plan Index was checked to see if there were blocks with the same name in similar localities.

## **Block names**

The system of naming Maori blocks devised by the Court has created a nightmare of identification. Blocks were originally given a Maori name and as they were

subdivided they were given new generations of block numbers. The more extensively a block was subdivided the more complicated the numbering system. Take for instance the Opanake Block of 14,457 acres, granted in 1874 to Parore Te Awha and Rore Te Oho. The block remained intact until 1894 when it was divided into two blocks, Opanake 1 and Opanake 2. Opanake 1 was further divided into five blocks, Opanake 1A to Opanake 1E. An Opanake 1C South was cut out of 1C and this was further divided into five blocks, Opanake 1C South 1 to Opanake 1C South 5. Opanake 2 was subdivided into 13 blocks (A to M) and some of these were again divided. After the subdivisions began in the 1890s, they were subject to a plethora of sales, timber leases and public works takings. By 1908 there were nineteen blocks, but only just over half of the land remained in Maori ownership.

The Opanake Block is a relatively straight forward example and comparatively easily managed. Blocks were commonly subdivided at the time title was awarded. Sometimes they were given one name with different block numbers, such as Kirikiri 1 to 5 awarded in 1865, near Whangarei. At other times the titles could be divided into Mapere and Mapere 2, with no Mapere 1 ever being created. The same block name can be used in different locations, sometimes not too distant from each other, giving a very substantial potential for confusion. The use of Waipuna as a block name amply illustrates how complicated this can be. Two adjoining Waipuna blocks were created in the Kawakawa S.D. in 1867, one of 146 acres and the other of 379 acres. The former was quickly sold, but the 379 acre block remained intact and in Maori ownership until at least 1891. The following year title was awarded to Waipuna A and Waipuna B, of 56 and 43 acres, in the Purua S.D. near Whangarei. Then in 1882 two more Waipuna blocks emerged, 1 and 2, in Mangonui S.D., to be followed by a Church site in Muriwhenua S.D. in 1885. This last 6 acre block was the only block by this name to be still in Maori ownership in 1908.

In the period up until the 1890s, the subdivision of blocks was comparatively rare. From the 1890s on, however, blocks were cut into smaller and smaller subdivisions with increasing rapidity, particularly those blocks where title was newly ascertained. This further complicated the process of matching blocks in the period after 1890. This study precedes the period of consolidation and amalgamation of title which accompanied the land development schemes introduced in the 1920s. Once these began, matching blocks with the method used here would have been considerably more complicated.

### **Comprehensiveness**

None of the sources used in this study can be regarded as comprehensive. All sources contained blocks which do not exist in any other source. The most comprehensive list is the Maori Plan list although this includes plans for blocks which were never approved by the Court. As many as 108 blocks from the LINZ list, created prior to 1885, were still in existence in 1908, despite not being located in the 1891 lists. Only six of these were over 100 acres. At the same time 22 blocks in the 1908 list, recorded as still being in Maori ownership, were clearly purchased prior to the turn of the century. Some of these were purchased by Maori and most retained in Maori ownership. Maunu 1A, 1B, 1D, 1F and 1G, near Whangarei,



were sold to a variety of local settlers in the late 1880s, after Maunu 1 was subdivided in 1887. Yet these are all still recorded in 1908 as Maori land.

Errors within the original sources have inevitably been drawn into the database. For this reason, the database should not be relied upon as an accurate record for each individual block. The database can only be as accurate as the records it includes. This study has underlined the need for a comprehensive retrospective database of Maori land. However the purpose of this study has not been to create a database reliable in every detail, but to provide sufficient data to draw general quantitative conclusions on the patterns of Maori land ownership and alienation over four decades. For this purpose the database is sufficient.

The number of blocks covered by the study is given in Table 2.2. The LINZ list and Number of Owners data provides information beyond the Auckland District defined as District 1 for the Rangahaua Whanui project, covering the whole country. There are, however, inevitably few South Island Blocks included, given that most of the South Island had been the subject of extensive Crown purchases prior to 1865. The 1869 Return includes information about blocks for the rest of the Auckland Province. These three sources have allowed us to make some comparisons between what is happening in the Auckland Region and elsewhere in the country. In general, this helps underline the need to look at regional variation in examining the impact of Crown policies over the latter decades of the nineteenth century.

In the following tables and discussion, the term Auckland Sample refers to blocks which are within the Auckland district, District 1 as defined by the Rangahaua Whanui project. Non-Sample blocks are those included in the various sets of data, but from outside District 1. For most sets of data the inclusion of non-sample blocks reflects the more comprehensive nature of the original schedules. This allows comparison between the District 1 data and elsewhere. Non-sample blocks within the Certificates of Title and 1891 lists, however, are blocks originally included and then found to have been outside the region.

**Table 2.2: Numbers of Blocks Included in Each Source.**

Sources	Sample	Non Sample	Total	
<b>Certificates of Title</b>		382	7	389
<b>Private purchases 73-85</b>		12	0	12
<b>1869 Return</b>		287	177	464
<b>LINZ Blocks</b>		1161	3789	4950
<b>1908 Return</b>		1820	0	1820
<b>1891 Return</b>		405	5	410
<b>Crown Purchases</b>		312	0	312
<b>Number of grantees</b>		1068	2264	3332

Table 2.3 shows the number of distinct blocks located in each source. It can be seen that the 1908 and LINZ Block List provide the original source for the vast majority of the blocks in the sample (87 percent). While the LINZ blocks are

almost all original blocks (duplicates have been removed) a good proportion of the 1908 sample are subdivisions of blocks already in the database.

**Table 2.3: Origin of Blocks in the Database by Source**

Source	Sample	Non Sample	Total
1869	17	62	79
1891	84	0	84
1908	1595	0	1595
CPDI	145	0	145
CTs	167	1	168
LINZ	1161	3789	4950
Private Sales	1	0	1
<i>Grand Total</i>	<i>3170</i>	<i>3852</i>	<i>7022</i>

## BLOCKS AWARDED 1865-1885

## The National Picture

Between 1865 and the late 1880s almost all tribes in the North Island and South Island had lands pass through the Native Land Court. For those in the South Island this involved many of their remaining reserves from earlier purchases. Only the Urewera remained outside the Court's orbit. In 1885 the House of Representatives was informed that 9,830,253 acres had passed through the Court since its inception two decades earlier.<sup>10</sup> The vast majority of this land was in the Auckland Province. Unfortunately the figures were not broken down into clear provincial areas. This total made up around 15 percent of the country's land area, divided initially into 4261 blocks, an average size of just over 2300 acres, although the majority of blocks were considerably smaller than this.

Table 3.1 Area of blocks passing through the Native Land Court, AJHR, 1885.

Region	Acres	R	P	Hectares
Auckland	5,041,992	1	38½	2,040,428.82
Gisborne and Napier	2,508,052	2	26	1,014,976.31
Wanganui and Taranaki	1,171,121	2	18	473,937.69
Wellington	1,109,087	0	37	448,833.18
<i>Total</i>	9,830,253	3	39½	3,979,176.00

Table 3.2 shows the aggregate hectares for blocks included in the LINZ Blocks List, without including those blocks granted after the end of 1884 and eliminating obvious duplications. Individual provincial comparisons with the 1885 figures are not possible since the totals for Table 3.2 include Gisborne with Auckland and Wanganui with Wellington. Taking away the South Island blocks, this leaves 3,756,185 hectares, or 223,018 hectares less than the 1885 national total. Much of this difference is explained by duplicate blocks in the 1885 list. The two lists of blocks link more completely for the Auckland Province as a whole than they do for Wellington data and are even closer for the Auckland Region.<sup>11</sup>

<sup>10</sup> AJHR, G6A, p.1

<sup>11</sup> See below chapter 7 on number of owners for more details on matching the two sets of data.

**Table 3.2: Hectares of blocks by province in LINZ database 1865 to 1884.**

Province	No Date	1865- 1869	1870-1874	1875- 1879	1880- 1884	Grand Total
Auckland	55,760	308,422	384,048	967,294	878,214	2,593,738
Canterbury	0	113	0	0	1,244	1,357
Hawkes Bay	0	169,857	85,119	14,256	16,497	285,729
Nelson	0	0	0	0	35,754	35,754
Otago	0	4,118	0	0	0	4,118
Taranaki	0	0	0	8,571	107,973	116,544
Wellington	571	47,873	118,228	271,203	322,172	760,047
<b>Grand Total</b>	<b>56,331</b>	<b>530,382</b>	<b>587,395</b>	<b>1,261,324</b>	<b>1,361,854</b>	<b>3,797,287</b>

There was often some delay between a block's passing through the Court and the award of a memorial or certificate of title. Nonetheless it is possible to see the chronological sequence of awards. In the Auckland Province the area of land passing through the Court was substantial from the beginning of the legislation, increasing steadily over the period, peaking in the late 1880s as the Court completed investigations into large central North Island blocks in the Rohe Potae. In Hawkes Bay the blocks were rushed through the Court in its first five years with almost 60 percent of the total area of Maori land passing into Court titles by 1870. In the Wellington Province the Court's work began much more slowly, increasing in the area covered as central North Island and Wanganui blocks had title awarded in the 1880s.

### The Auckland Sample

The Auckland Sample Region accounts for a substantial proportion of all lands passing through the Court and included in the LINZ Blocks List. This region comprised 1162 of the 4951 blocks in the database, or 23 percent. The total area was 649,028 hectares, 14.5 percent of the total area of 4,470,176 hectares.

The North had from the beginning of contact with the European world been the first to experience the impact of European culture. This continued with the advent of the Native Land Court. The central North Island was at war and the Court had a freer hand north of Auckland in investigating titles to land. As Figure 3.1 shows, the Auckland Northland Region had a much greater proportion of blocks investigated and title awarded in the early period, compared with the 1880s. By this later decade the proportion of blocks being brought to the Court for investigation of title had reduced considerably, just when it was rising steeply for the remainder of the country. A similar pattern occurred over the total area of land granted.

**Table 3.3: Area and number of blocks in the Auckland Sample Region.**

	Hectares	% Area	Number of Blocks	% Blocks
Sample Area	649,028	14.5	1162	23.5
Non Sample	3,821,148	85.5	3789	76.5
Grand Total	4,470,176	100.0	4951	100.0

**Figure 3.1: Blocks awarded title by Auckland Sample.**

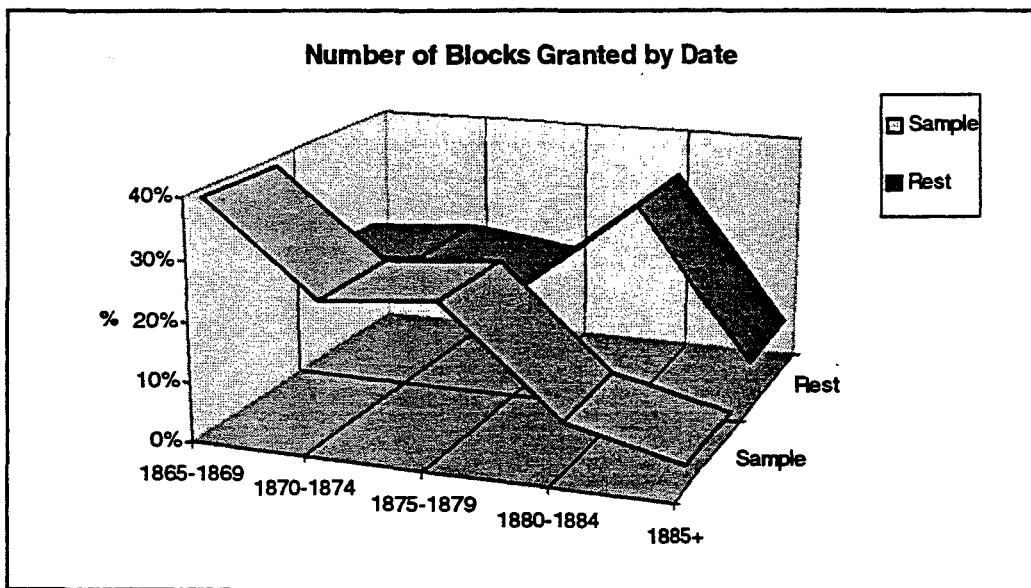
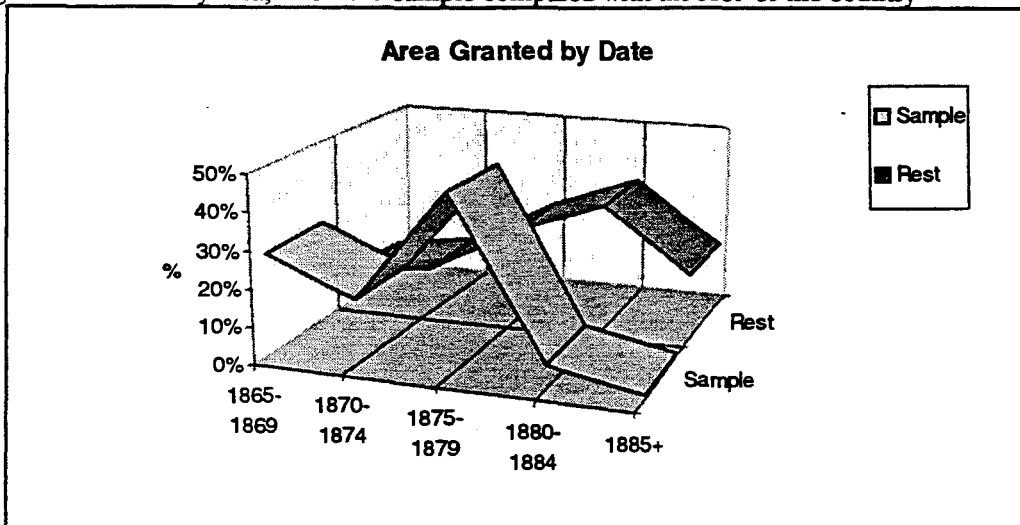


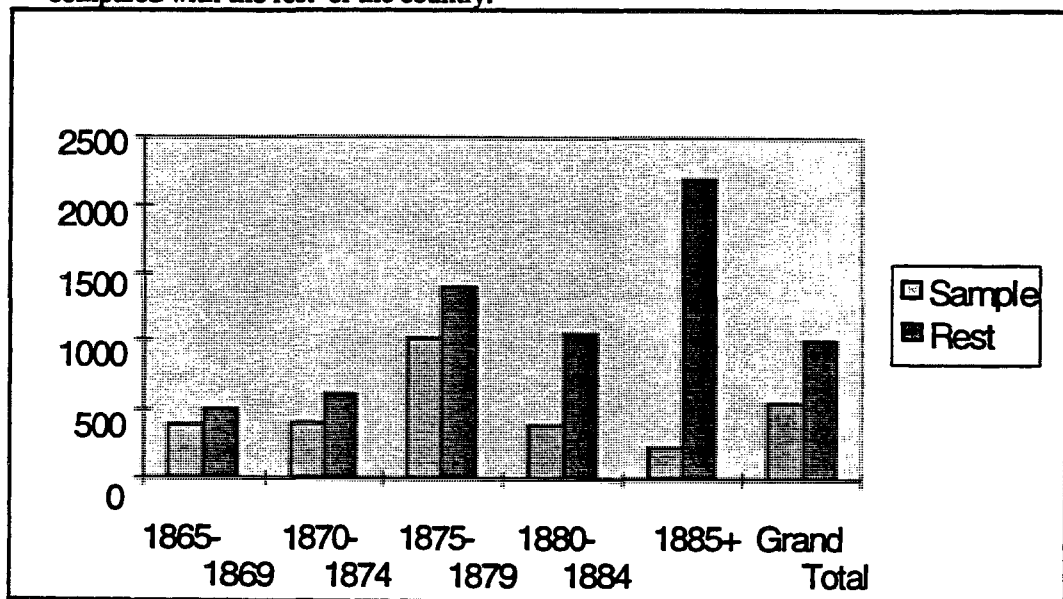
Figure 3.2 shows a pattern very similar to that of Figure 3.1.

**Figure 3.2: Blocks by area, Auckland sample compared with the rest of the country**



Not only does the Auckland region experience the Native Land Court earlier, it does so with a greater intensity than elsewhere. There are some large blocks that come before the Court, but generally the blocks awarded title are smaller than for the rest of the country, throughout the whole period. The difference between the average size of blocks in the sample area and the rest of the country increases as well as time goes on. The overall average block size was 547 hectares for the Auckland Sample and 1009 for the rest of the country. Only in the late 1870s did the average block size in the North briefly rise to around 1000 hectares.

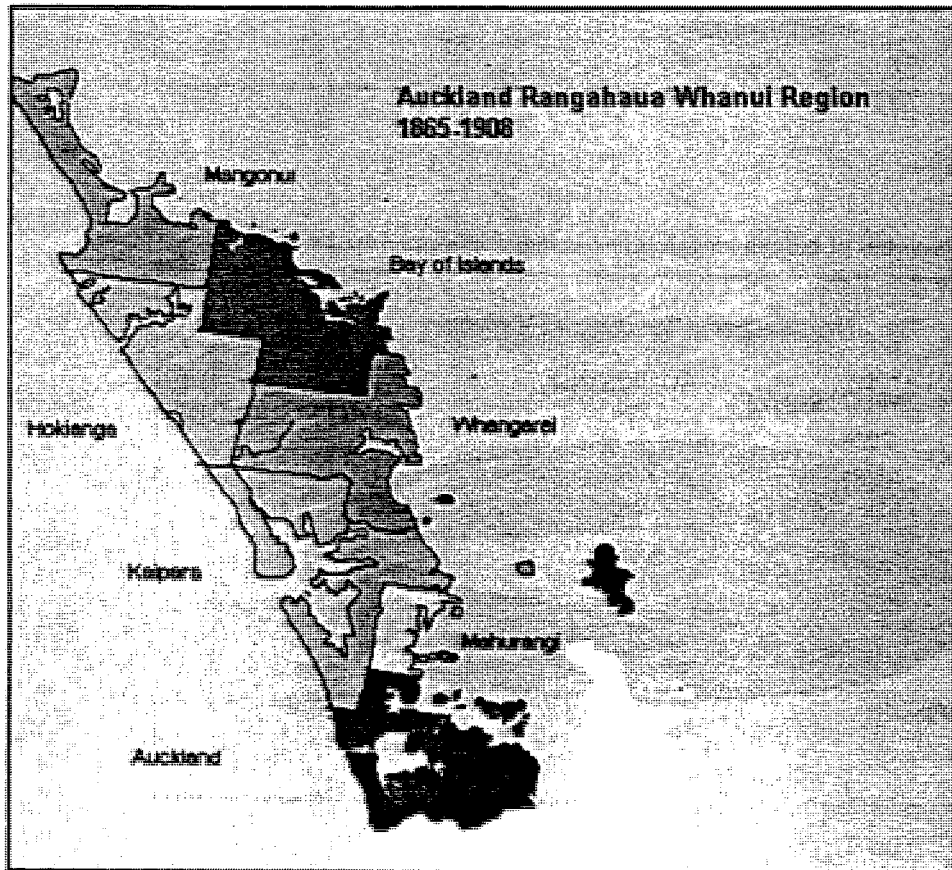
Figure 3.3: Average block size in hectares by sample grants 1865-1889, Auckland sample compared with the rest of the country.



### Regions within the Auckland Sample

An attempt was made to divide the Auckland Sample blocks by geographic location. Without full location references for each block this must be regarded as approximate. The LINZ Blocks List had a location given for each block, but these were far from systematic and were not tied to survey district. Batches of blocks within the list had sequential CT or Memorial of Title numbers. The batches were often, but not always, tied to a particular area. Survey districts were broken up into rough regions within the sample area, although many blocks crossed over these arbitrary lines. We have used a rough division based on survey districts to allocate blocks to regions. These generally corresponded with the informal labelling used in most sources. Unfortunately it was not possible to match the regions used in a parallel study for the period prior to 1865.<sup>12</sup>

Figure 3.4: Auckland regions.



Almost three quarters of the area granted came from the Kaipara, Whangarei and Hokianga areas. The remaining 27 percent was split between

<sup>12</sup> Rose Daamen, Paul Hamer and Barry Rigby, *Rangahaua Whanui District 1, Auckland, Waitangi Tribunal*, Wellington, 1996.

the Auckland, Mahurangi, Bay of Islands and Mangonui regions. As may have been expected the Auckland numbers are small, as the majority of land around Auckland had already been acquired by the Crown prior to 1865.

Figure 3.5: Area of blocks awarded in the Auckland Sample Area by region.

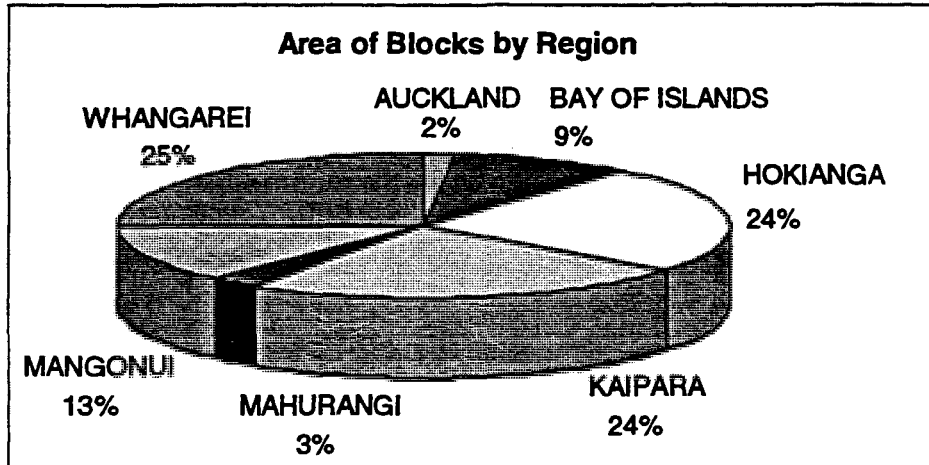
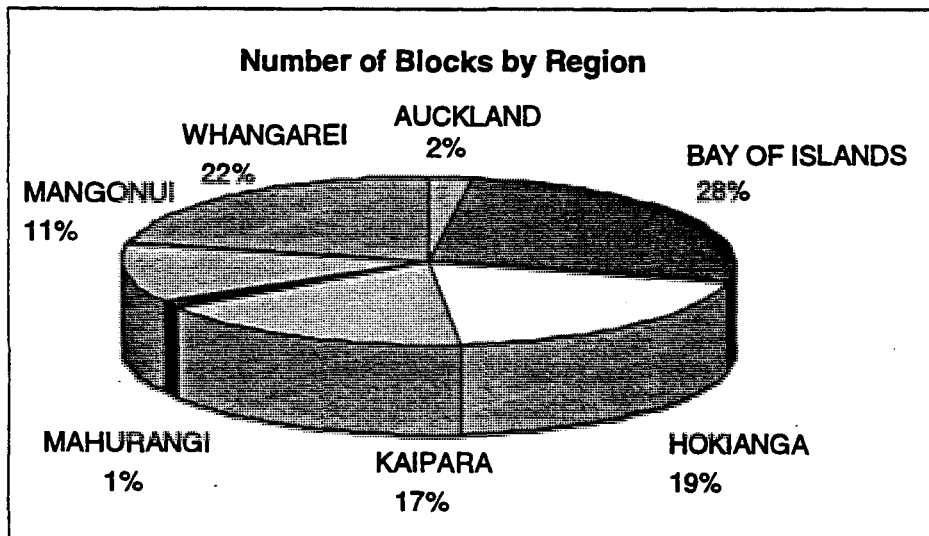


Figure 3.6: Number of blocks awarded in Auckland Sample Area by region



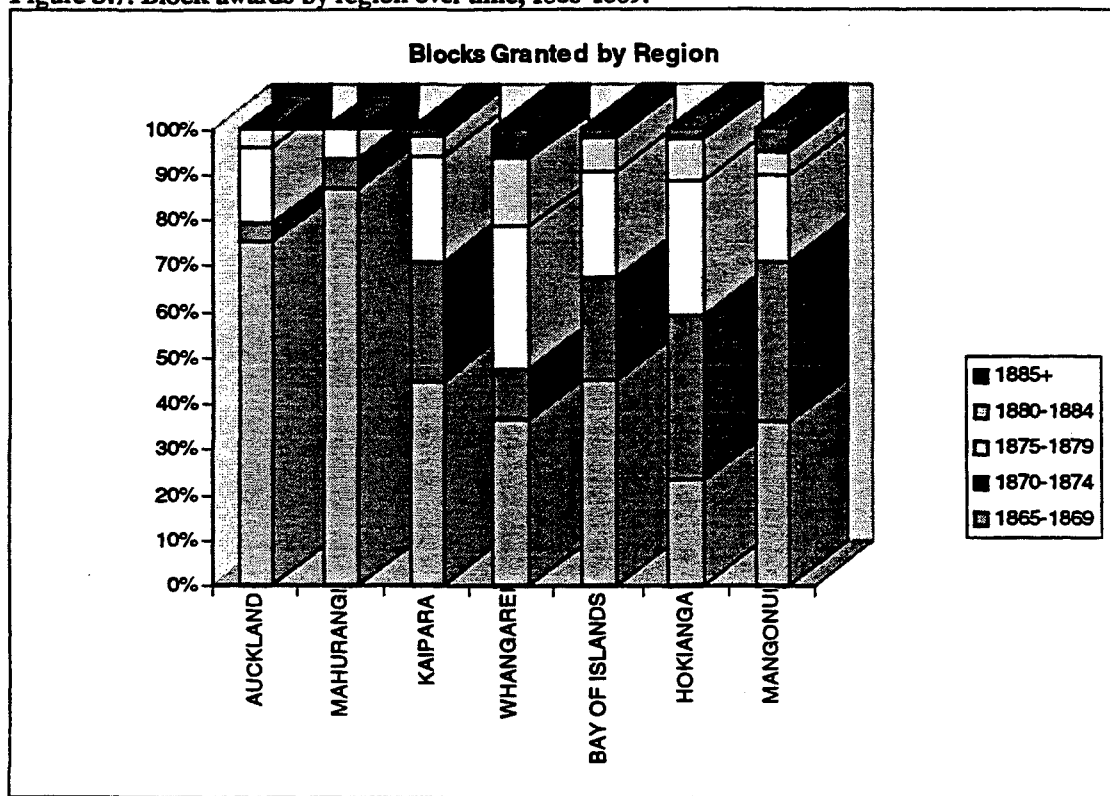
The number of blocks awarded (Figure 3.6) corresponds closely to the area granted. We can conclude from this, that there was little difference in the average size of blocks across the whole sample region.

Turning to the sequence of awards, there are significant areas of regional variation. Those blocks closest to Auckland came into the Court first, with title



being awarded to 75 percent of the blocks around Auckland before 1870. Those districts further away from European settlement, Hokianga, Mangonui and more isolated parts of the Kaipara, got drawn into the Court in the 1870s. The number of new blocks awarded title declines considerably across the whole region in the 1880s.

Figure 3.7: Block awards by region over time, 1865-1889.





## CHAPTER 4

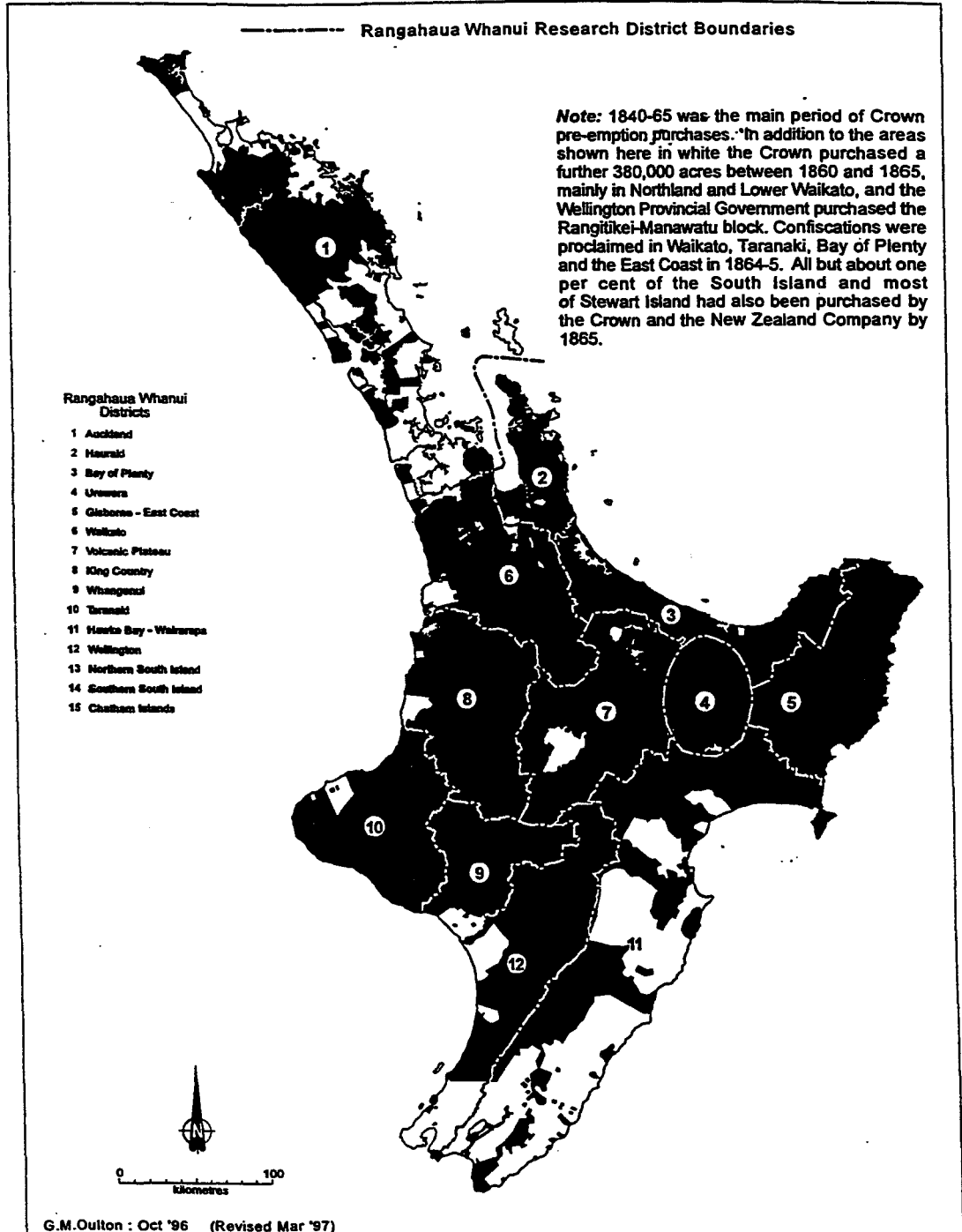
### THE IMPACT OF THE COURT: 1865-1869

#### Land Ownership at 1865

By 1860 there had been two decades of concentrated attempts to acquire land from Maori in the Auckland Region. The earliest patterns of European penetration of the North focused on the Bay of Islands, the Hokianga and the Whangarei area, with also some later speculative pre-1840 purchases in the Hauraki gulf and around Auckland. By 1860 the pattern of Crown land acquisition reflected the changing demographic and economic development of the region. With the relocation of the capital to Auckland in 1842, much of the emphasis in extinguishing aboriginal title shifted to this area. Maori title had been extinguished almost completely around the Waitemata harbour and around the eastern side of the Manukau harbour by 1860. On the southern side of the Manukau, Crown title extended as far as the Waikato river and east to the Hunua ranges. The confiscation of the Wairoa and other South Auckland Maori Blocks, along with the larger Waikato confiscated blocks, greatly extended the land available to European settlement to the south. To the north of Auckland the Crown had purchased, or acquired through the Land Claims process, title to almost all the land on the East Coast from Auckland to north of Whangarei. Only at Whangarei had the Crown's purchasing extended from coast to coast. North of Whangarei the Crown had purchased substantial areas of land around the Bay of Islands and in Whangaroa and Muriwhenua. In these areas too, the Crown could rely on title from a large number of pre-1840 purchases, many of them in the best coastal areas. North of the Wairoa river and south of Muriwhenua, the Crown had acquired almost no Maori title at all. Only in the Hokianga were there pockets of land where Maori title had been extinguished and most of these were the result of pre-1840 European purchases. (See Figure 4.1)

We have seen in the last chapter how Maori land in the Auckland Region was brought into the Court early so that a substantial number of blocks had titles awarded prior to 1870. The 1869 list of blocks provides detailed information about a good many of these early blocks. Because the list was prepared for the entire Auckland Province it is possible to compare these early years in the North with the rest of the Province.

**Figure 4.1 Land In Maori Ownership in the Auckland District in 1860**



There are 515 blocks in the 1869 schedule, of which there is information about their size for 477 of these. Almost two to one (311 to 166) of these are from the sample region. The blocks from the rest of the province show a significantly large number of blocks (34) less than a hectare in size. These are mostly blocks from the Thames goldfields, often subdivisions of the Kauaeranga Block. The non-sample group also shows a larger number of very large blocks, mostly in the Waikato and Thames Valley. Sixty four percent of the sample blocks were between 10 and 500 hectares in size and 28 percent 10 to 50 hectares.

**Table 4.1: Number of blocks awarded in Auckland Province by Sample District, 1865-1889.**

Hectares	Sample	Rest of Province	Total	% Sample	% Rest of Province
A: 0-1	15	34	49	4.8	20.5
B: 1-5	29	16	45	9.3	9.6
C: 5-10	21	9	30	6.8	5.4
D: 10-50	88	28	116	28.3	16.9
E: 50-100	45	18	63	14.5	10.8
F: 100-500	67	22	89	21.5	13.3
G: 500-1000	18	12	30	5.8	7.2
I: 1000-2000	9	11	20	2.9	6.6
J: 2000-5000	13	10	23	4.2	6.0
K: 5000-10000	5	1	6	1.6	0.6
L: 10000-20000	1	5	6	0.3	3.0
<b>Grand Total</b>	<b>311</b>	<b>166</b>	<b>477</b>	<b>100.0</b>	<b>100.0</b>

When comparing the total areas involved the situation appears reversed. Whereas 205,811 hectares were granted in the rest of the Province only 138,941 hectares were granted in the Auckland sample. However, the five Waikato and Central Plateau blocks larger than 10,000 hectares contained a total 132,280 hectares, whereas the only block over 10,000 hectares in the Auckland sample region was the 16,754 hectares Hoteo block. If these blocks are disregarded then 122,218 hectares were granted for the Auckland region and 73,532 for the rest of the Province. Blocks larger than 2000 hectares made up 66 percent of the area in the sample region and 85 percent for the rest of the Province. While the average block size in the Auckland sample area was 447 hectares, for the rest of the Province it was 1256 hectares. All of which suggests how intensively the Court was adopted within the region.

Active participation in the Court was widespread throughout the Auckland district, but much more so in the Kaipara and Whangarei and Bay of Islands regions than elsewhere. The Bay of Islands was already extensively settled by Europeans, and aboriginal title had been extinguished over much of the best land. While the number of blocks from this area was large, their average size was considerably smaller than elsewhere at 174 hectares, considerably less than half the 447 hectares average for the region. In the Kaipara, the number of blocks was high as was their average size. Over 40 percent of the area awarded title was in the Kaipara, which also had the highest average block size of 763 hectares. The number of Auckland blocks is small and includes two from Waiheke Island. The

higher than average size was due to these blocks and to blocks from the Wairoa region on the Hauraki Gulf. One of these, Mataitai 6, was of 3249 hectares. The list excludes blocks in Auckland city, including the Orakei Block.

**Table 4.2: Area of blocks awarded in the Auckland Province, by sample, 1865-1869.**

Hectares	Sample	Rest of Province	Total	% Sample	% Rest of Province
A: 0-1	9	15	24	0.01	0.01
B: 1-5	88	39	127	0.06	0.02
C: 5-10	154	67	221	0.11	0.03
D: 10-50	2,619	671	3,290	1.89	0.33
E: 50-100	3,109	1,355	4,464	2.24	0.66
F: 100-500	14,749	5,023	19,772	10.62	2.44
G: 500-1000	13,126	8,842	21,968	9.45	4.30
I: 1000-2000	12,772	15,003	27,775	9.19	7.29
J: 2000-5000	42,723	34,221	76,944	30.75	16.63
K: 5000-10000	32,837	8,296	41,133	23.63	4.03
L: 10000-20000	16,754	132,280	149,034	12.06	64.27
<b>Grand Total</b>	<b>138,941</b>	<b>205,811</b>	<b>344,752</b>	<b>100.00</b>	<b>100.00</b>

**Table 4.3: Block titles issued by district in Auckland Sample, 1865-1869.**

District	N	Average Area	Total Hectares	% of Total Area
AUCKLAND	9	695	6,255	4.5
BAY OF ISLANDS	83	174	14,417	10.4
HOKIANGA	36	504	18,151	13.0
KAIPARA	74	763	56,451	40.6
MAHURANGI	11	151	1,659	1.2
MANGONUI	32	482	15,424	11.1
WHANGAREI	66	403	26,585	19.1
<b>Grand Total</b>	<b>311</b>	<b>447</b>	<b>138,941</b>	<b>100.0</b>

### Alienation

The Court's role was to speed the alienation of land to Europeans and there is ample evidence that this occurred in a region which had offered little effective resistance to land purchasers since the 1830s. What is surprising is the comparative absence of leasing. Outside of the Auckland metropolitan area, formal leasing of the whole block appears to have been a very minor activity, although leases for the taking of timber, flax and copper were common.

The Court was not just a simple route to sale, at least when looking at the number of blocks alienated. While 48 percent of blocks in the rest of the Province were sold, only 37 percent were sold from this region. Leasing involved less than

three percent of the blocks in the Auckland region, compared to 28 percent for the rest. A much higher proportion of blocks was retained in Maori control in the Auckland region than elsewhere, 60 percent of blocks against only 23 percent for the rest of the Province.

**Table 4.4: Number of blocks alienated by sample, 1865-1869.**

	LEASED	NOT SOLD	SOLD	Total
<b>Sample</b>	8 (2.6%)	188 (60.5%)	115 (37.0%)	311
<b>Rest of Province</b>	46 (28.2%)	38 (23.3%)	79 (48.5%)	163
<b>Total</b>	54 (11.4%)	226 (47.7%)	194 (40.9%)	474

Turning to the area of land alienated and retained, the situation is somewhat altered. The differences in leasing are even more dramatic when area is concerned. Seventy four percent of the non-sample area was leased compared to less than nine percent in the Auckland sample. Almost 50 percent of the land passing through the Court in its first three years was sold by 1869. For the rest of the province the figure was only 13 percent. However many of the large Central North Island blocks which were initially leased were soon purchased by their European lessees. It needs to be noted that the alienation figures may involve a slight overestimate, as the schedule did not give acreages for unalienated blocks and the acreage of some could not be established.

**Table 4.5: Area of blocks alienated by sample, 1865-1869.**

	LEASED	NOT SOLD	SOLD	Total
<b>Sample</b>	12,004 (8.6%)	60,011 (43.2%)	66,926 (48.2%)	138,941
<b>Rest of Province</b>	151,742 (74.1%)	27,409 (13.4%)	25,583 (12.5%)	204,733
<b>Total</b>	163,746 (47.7%)	87,419 (25.4%)	92,509 (26.9%)	343,674

The likelihood of alienation increased with the length of time the blocks had been granted. Of the 288 blocks whose date of grant has been established through cross-linking to the LINZ Block List, only 39 percent of blocks with titles issued in 1865 remained unalienated by 1869 compared with 61 percent of 1866 titles, 68 percent of 1867 titles and 66 percent of 1868 titles.

**Table 4.6: Blocks leased, unsold and sold, by size, 1865-1869.**

Size	Leased	Unsold	Sold	Total	% Leased	% Unsold	% Sold
A: 0-1	0	11	4	15	0.0	73.3	26.7
B: 1-5	0	22	7	29	0.0	75.9	24.1
C: 5-10	0	14	7	21	0.0	66.7	33.3
D: 10-50	1	56	31	88	1.1	63.6	35.2
E: 50-100	0	24	21	45	0.0	53.3	46.7
F: 100-500	2	33	32	67	3.0	49.3	47.8
G: 500-1000	2	13	3	18	11.1	72.2	16.7
H: 1000+	3	15	10	28	10.8	53.6	35.8
<b>Grand Total</b>	<b>8</b>	<b>188</b>	<b>115</b>	<b>311</b>	<b>2.6</b>	<b>60.5</b>	<b>37.0</b>

The ratio of sold to unsold blocks varied with size. With the exception of blocks between 500 and 1000 hectares, the smaller the block the more likely it was to be retained. Blocks less than 50 hectares had a higher retention rate than blocks over 50 hectares. The average retention rate of 43 percent was exceeded in all block sizes except for blocks over 1000 hectares.

**Table 4.7: Area of blocks leased, unsold and sold, 1865-1869.**

Size	Leased	Unsold	Sold	Total	% Leased	% Unsold	% Sold
A: 0-1	0	7	2	9	0.0	73.9	26.1
B: 1-5	0	67	21	88	0.0	75.6	24.5
C: 5-10	0	104	50	154	0.0	67.5	32.5
D: 10-50	43	1,655	922	2,619	1.6	63.2	35.2
E: 50-100	0	1,572	1,537	3,109	0.0	50.6	49.5
F: 100-500	754	7,600	6,396	14,749	5.1	51.5	43.4
G: 500-1000	1,272	10,048	1,806	13,126	9.7	76.6	13.8
H: 1000+	9,936	38,959	56,192	105,086	9.5	37.1	53.5
<b>Grand Total</b>	<b>12004</b>	<b>60011</b>	<b>66926</b>	<b>138941</b>	<b>8.6</b>	<b>43.2</b>	<b>48.1</b>

The first four years of the Court's involvement with the Auckland District had a significant impact on the way that Maori in the area managed their lands. High levels of participation involving many blocks firmly entrenched the Court and the assumptions on which it operated. While around half the land taken to the Court went out of Maori ownership, the result was not an acceleration of alienation. So much land had passed into Crown title in the decade before the Court's creation, that when the losses of the period 1865-1869 are compared with the earlier period, there was actually a significant reduction in Maori land loss. This is discussed in more depth in Chapter 10.



**Table 4.8: Auckland sample blocks over 1000 hectares as at 1869.**

LINZ No	Block Name	Date Awarded	Leased (L) Sold (S) Unsold (NS)	Hectares	Price/ Hectare (Pounds)
332	AHUTOATO	1866	NS	1731	
4932	HOTEO	1867	S	16754	0.24
1023	HOUHORA	1865	S	3120	0.18
1064	KAITAI	1868	L	4463	
4924	KAITARA 2	1867	NS	2711	
337	KARUHIRUHI	1866	NS	2137	
493	MATAITAI 6	1867	S	3249	0.12
7056	MAUNGANUI		S	8628	0.23
4901	MAUNGARU	1866	NS	8628	
4887	MAUNGATAWHIRI	1866	NS	2184	
243	NUKU-TAWHITI	1867	S	5167	0.12
256	PAPAKURI	1867	NS	1282	
4915	PAPAROA	1865	NS	1837	
4916	PUKETOTARA	1865	NS	3484	
921	PUNGAERE	1868	S	2907	0.10
4923	TAUPAKI	1867	S	5208	0.02
245	TE KARAKA	1867	S	4739	0.17
955	TE RUATAHI	1867	NS	1029	
4918	TI KOKOPU	1865	NS	1625	
4890	UNUWHAO	1866	L	1018	
4926	WAIKOUKOU 2	1867	S	1212	0.26
4913	WAITANGI	1865	NS	1635	
355	WAITAROTO	1867	NS	3072	
1007	WHAKARARA	1866	NS	1410	



## CHAPTER 5

# THE REES CARROLL REPORT: MAORI LAND AT 1891

In 1891 the Native Land Acts had been in operation for a quarter of a century. From 1862 when the Court was established there had been 19 acts and amendments, not counting legislation dealing with fraud, the Court's role in determining ownership of confiscated land, reserves or specific blocks. By the late 1880s amendments were being passed annually. The system was the subject of enormous criticism, although from widely different perspectives. Maori complaints covered hundreds of individual blocks where the Court had acted in ways which left Maori concerned that their interests had been trampled upon. More generally Maori criticisms were levelled at the role of the Court in individualising Maori interests and in dramatically eroding the Maori estate. In February 1891, W.L. Rees, James Carroll and Thomas Mackay were commissioned with a wide brief to review the history of the Court and to make recommendations about how the whole system of managing the disposition and alienation of Maori lands should be handled. The Commission's majority report was one of the most damning critiques of government policy to Maori that has been produced. While protecting the reputations of many, such as Donald McLean and praising F.D. Fenton's decisions, Rees and Carroll attacked almost every facet of the Court's actions. They saw the interpretation and implementation of the Native Land Laws and especially the Native Land Act 1873, as fatally flawed because they imposed an individual system of property ownership where a tribal ownership and control should have prevailed. It is an interpretation that on Rees' part idealised the Crown purchase period before 1862. Both men also ignored the intensive settler hostility to tribalism which underlined the 1865 and 1873 Acts.<sup>13</sup>

The 1891 schedules of blocks were not created by or for the Commission, but they were part of a response to unease expressed in the report about the effect of the Court. Rees and Carroll emphasised the lack of farming training or support for economic development of Maori land, and Carroll's advocacy of tribally based land development is clear. The 1891 schedules aimed at providing an assessment of the value of Maori land, the extent of leasing and the proportions of Maori land in pasture or being farmed in some way. Despite this information being collected, the intent was to quantify undeveloped Maori lands for further purchasing rather than provide a basis for Maori development of land still in their ownership.

Three lists of blocks from this schedule have been used for this chapter, although only two have been entered into the database. The schedule includes a list of lands still not passed through the Native Land Court, a list of blocks leased to Europeans and a list of blocks retained for Maori use and occupation. The first of

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<sup>13</sup> Report of the Commission Appointed to Inquire into the Subject of the Native Land Laws, AJHR, 1891, Session II, G-1.

these lists was analysed but is not included in the database since the database consists only of awarded blocks.

The database provides a good sample of Maori ownership at the time (particularly of large blocks) but it is far from comprehensive. There are 415 awarded blocks, a number far short of the 1817 blocks identified in 1908. While the 1890s saw the commencement of a significant period of subdivision, there is strong evidence that a good number of blocks were missed. There are, for instance, 108 blocks recorded in the 1908 schedule which predate the 1891 record, but were not included in it. These blocks are generally small in size. The implications of this under-recording will be dealt with in Chapter 9 when we try to assess the extent of land loss over time.

### Number of blocks and area

The total area of land passed through the Native Land Court since 1865 and still in Maori ownership was 117,594 hectares. The largest area, 42,866 hectares, was in the Hokianga, followed by the Bay of Islands. The Kaipara and Whangarei had each less than 10 percent of the total area of land remaining in 1891. Discounting the very small number of Mahurangi blocks, average block size ranged from 162 hectares for the Bay of Islands, to 510 hectares in the Kaipara.

The list contains 83 blocks which were not formerly identified in either the LINZ block list or in the 1869 return. Almost half of these (38) had plans which could be identified and dated from the Auckland LINZ Maori Plan list. A third, mainly small blocks, appear to have been awarded early in the Court's life, prior to 1873, the majority of these before 1868. Only Waima of 7456 acres, with an 1867 plan, was significant. The rest of the blocks were recent awards in 1891 dating largely from the late 1880s, when the comprehensiveness of the LINZ Block List declined. Altogether these blocks total 16,508 hectares, or 9.3 percent of the total 1891 area.

Table 5.1 : Area of 1891 blocks by region.

Region	Hectares	Number of Blocks	Average Size
Unknown	20	1	20
AUCKLAND	1,692	6	282
BAY OF ISLANDS	23,178	143	162
HOKIANGA	42,866	107	401
KAIPARA	16,845	33	510
MAHURANGI	4,165	4	1,041
MANGONUI	13,099	54	243
WHANGAREI	15,729	65	242
Grand Total	117,594	413	285

The compilers of the 1891 schedules also attempted to estimate the areas of land remaining in Maori ownership but yet to pass through the Court. Some of these were blocks already before the Court, or with existing survey plans. The rest were no more than estimates, some very wide of the mark. The Parengarenga

block was estimated at 96,000 acres (38,850 hectares), but when surveyed it turned out to be only 57,306 acres (23,191 hectares). The total area was given as 222,033 hectares. Of this, 85 percent was located in 13 blocks over 2000 hectares in size. Because these areas were unsurveyed, we could not link these to specific areas within the region.

**Table 5.2: 1891 blocks over 2000 hectares.**

Block	Hectares
MOTATAU	47,935.58
PARENGARENGA	38,849.95
RUSSELL	20,145.32
MANGAMUKA	18,987.91
MANGAKAHLA	17,174.92
PUNAKITERE	13,089.60
WAIHOU	8,010.78
HEREKINO	5,827.49
KAIKOHE	5,281.17
KUMEU	3,844.53
KAIPARA	3,682.65
WAIHOU	3,464.12
KAIPARA	2,606.18

Compared with the blocks listed for the rest of the Auckland Province, the amount of land remaining in customary Maori ownership is significant and in a comparatively larger number of pockets. The 107 Auckland sample blocks made up 70 percent of the total 151 blocks in the schedule and 29 percent of the total 767,921 hectares for the Auckland Province. Accepting that these figures are to some extent guess work, they suggest two things. First, they confirm the LINZ Block List figures discussed in Chapter 3, that the early penetration of the Court in the 1860s and 1870s had slowed down in the 1880s. Secondly, there still remained a substantial area of papatupu land under continuing customary ownership. Despite this reduction in Court activity, much of the region had already passed through the Court, leaving numerous smaller customary blocks surrounded by those already awarded title.

Possible reasons for this reduction in the transfer of blocks through the Court can be identified in the unique economy of the North. Gum digging and timber felling provided income for Maori which may have prevented the need for land sales to the same extent as elsewhere, while a lack of other land development opportunities reduced other pressures to bring this land into the European economy.

### **Land development and value**

The blocks in Maori control were divided into productive and unproductive areas. Productive acres were defined as those developed for agriculture, habitation and in pasture. The rest were deemed unproductive. This was an arbitrary division and one that ignored both cultural and economic considerations. Maori land use was

not restricted to European-style agriculture and land that was not raising animals or crops was still used as an economic resource. For much of the North in the nineteenth century, the land's immediate value was not its farming potential, but its stock of kauri gum, timber or minerals. For these reasons not too much store should be given to the following figures as indicators of the value of the lands described. At the time aggregations of unproductive Maori land provided Europeans with justification for accelerated programmes of land purchase. The makers of the schedules made no attempt to distinguish between unproductive and productive land in those blocks Maori had leased to Europeans.

Table 5.3 shows three different ways of looking at the rate of agricultural development. If all land is included, then just under a fifth (18 percent) of the area was already being used by Maori for agriculture or settlement. Excluding papatupu land but including land being leased as "developed" (if only to the extent that it earned an income) the percentage rises to 48 percent. For those blocks with a Court title and remaining in Maori occupation (not leased), the amount of utilised land falls to 19 percent. Although there were considerable areas of land which could be developed for some form of agricultural use from 1891 to the present time a considerable amount would prove more suitable for conservation. These figures suggest that Maori land was far from just 'waste land'. The actual proportion of land being used for some identified economic purpose must be seen as higher than a fifth.

**Table 5.3: Percentage of productive land in 1891 Maori land blocks**

Region	A	B	C	D	E	F	G	H	I
				%	%				%
<b>Unknown</b>	1	20	0	100	100	1	20	0	100
<b>AUCKLAND</b>	9	1,458	510	74	74	5	302	510	37
<b>BAY OF ISLANDS</b>	145	5,941	17,283	26	26	144	5,890	17,283	25
<b>HOKIANGA</b>	107	22,879	19,987	53	53	99	1,546	19,987	7
<b>KAIPARA</b>	32	10,086	6,757	60	60	22	699	6,757	9
<b>MAHURANGI</b>	4	221	3,944	5	5	4	221	3,944	5
<b>MANGONUI</b>	54	3,974	9,124	30	30	53	3,690	9,124	29
<b>WHANGAREI</b>	63	11,668	3,898	75	75	49	2,359	3,898	38
<b>PAPATUPU</b>		6,722	222,034	3					
<b>Grand Total</b>	415	62,970	283,538	18	48	377	14,728	61,504	19

## Leasing

The amount of land leased was in this period significant. Over a third (35 percent) of the area was under some form of formal lease. The Auckland and Whangarei Blocks were most likely to be leased with 59 percent of the land alienated in this way, followed by the Kaipara at 55 percent and the Hokianga at 50 percent. Muriwhenua at the Far North had the smallest proportion of its land leased at only 2 percent.

**Table 5.4: Area of land leased and not leased in 1891 by region.**

Auckland Region	Not Leased	Leased	Total	% Not Leased	% Leased
Unknown	20	0	20	100.0	0.0
AUCKLAND	694	998	1,692	41.0	59.0
BAY OF ISLANDS	23,178	0	23,178	100.0	0.0
HOKIANGA	21,534	21,333	42,866	50.2	49.8
KAIPARA	7,575	9,270	16,845	45.0	55.0
MAHURANGI	4,165	0	4,165	100.0	0.0
MANGONUI	12,814	284	13,099	97.9	2.1
WHANGAREI	6,419	9,309	15,729	40.9	59.1
<b>Grand Total</b>	<b>76,400</b>	<b>41,194</b>	<b>117,594</b>	<b>65.0</b>	<b>35.0</b>

While the area leased was substantial, at 34 blocks it made up only 8.2 percent of the total number of blocks. Larger blocks were considerably more likely to be leased, with 86 percent of the area leased as blocks over 1000 hectares in size, compared with only 42 percent of the remaining area.

**Table 5.5: Blocks leased and not leased in 1891 by area.**

Area Total (Hectares)	Not Leased	Leased	Total	% Not Leased	% Leased
A: 0-1	10	0	11	0.01	0.00
B: 1-5	64	2	66	0.08	0.00
C: 5-10	183	0	183	0.24	0.00
D: 10-50	3,057	58	3,115	4.00	0.14
E: 50-100	4,505	152	4,657	5.90	0.37
F: 100-500	19,433	2,642	22,076	25.44	6.41
G: 500-1000	17,362	2,913	20,274	22.73	7.07
H: 1000+	31,785	35,427	67,212	41.60	86.00
<b>Total</b>	<b>76,400</b>	<b>41,194</b>	<b>117,594</b>	<b>100.00</b>	<b>100.00</b>

While compared with the 1869 figures, leasing now appeared to play a very significant part in the management of Maori land and in the economic life of Maori communities, these figures alone are deceptive. If we look at the terms of these leases and their termination dates, it is clear that most leases were entered into in the 1870s.

**Table 5.6: Blocks leased by date of commencement of lease.**

Start of Lease	Number of Block	Total Hectares
1869	3	1,297
1870	1	4,937
1872	1	395
1873	3	8,476
1874	2	6,517
1875	6	2,855
1876	1	1,837
1877	4	6,559
1878	2	151
1879	6	2,592
1880	1	117
1881	2	153
1882	3	3,753
1883	1	284
1886	1	1,594
1888	1	2
<b>Grand Total</b>	<b>38</b>	<b>41,520</b>

Only nine leases had been entered into in the years since 1880 and only two later than 1883. Half of the leases were due to expire within five years and only seven had lives beyond 1900. This is despite 32 of the 37 leases having 21 year terms. Only three of the remaining leases had terms below 21 years; 12, 14 and 16 years respectively. Opanake had a 50 year lease from 1874 and Ratakaramu F had a 37 year lease from 1886. The remaining block, Tuatetua South, had a 22 year lease.

Returns from these leased blocks did not usually provide for an annual rental. Twenty-nine of the blocks paid only a nominal sum per year, if at all. The most common term of lease was 'consideration', a one-off payment, which ranged from £10 to £2000 pounds. Four of the blocks included were covered by timber leases, a number that falls far short of the actual number of timber leases, many of which were however of doubtful legality. The larger blocks did allow for annual rental, such as the 10,027 acre Kaihu 2B, with an annual rental of £100. Paparoa, at under half that size, earned £40 per annum, while the 60 acre Tuatetua South was worth £6 per annum. In total these blocks earned no more than £236 10s per year. Consideration, excluding annual rental, totalled £8902 10s. Spreading this over the term of the leases, this amounted to only £11 per block per annum. Income from informal leasing or from other timber leasing was probably considerably more significant.

It does need to be remembered that these figures exclude metropolitan Auckland, where leasing was more formalised and more lucrative to the lessees. Nonetheless across the whole of the region leasing does not appear to have provided a useful source of income for Maori communities and while Maori entered into a significant number of leases from the late 1860s until the early 1880s, by 1891 leasing was very much in decline.



## THE STOUT NGATA REPORT: MAORI LAND AT 1908

Despite the continual erosion of the tribal estates of Tai Tokerau since the establishment of the Native Land Court, pressure for yet more land to be made available for settlement intensified in the prosperous years after the turn of the century. Pre-emption was largely reintroduced in 1894 and the Maori Lands Administration Act 1900 all but abolished private purchasing. Under James Carroll's influence, Parliament placed significant, if ultimately temporary restrictions on the sale of Maori lands. A *New Zealand Herald* campaign of 1905 promised that 50,000 more settlers could be placed on the land if only the remaining Maori land of the province could be unlocked for European family farms.<sup>14</sup> These claims were typical of a campaign popular with Pakeha against Maori landlords and the so called 'waste land' held by Maori. The campaign to open up the country was also the result of the new economic viability of small dairy units and farms for the growing frozen meat trade. That James Carroll's 'Taihoa' policy appeared to be putting a break on Maori land purchase only increased demands for more active intervention in the land market. Bowing to this pressure, the Liberal Government appointed Sir Robert Stout and Apirana Ngata to survey the extent of Maori land owning and to recommend which lands should be retained for Maori occupation and which could be made available for European settlement through sale or lease.

The schedules that were created as part of this process provide the most detailed and extensive review of Maori land holding undertaken prior to that time. The information was collected by county. These regions vary from those used in the rest of this report, because it was impossible from the data available to cross match other sources to counties.

### Number and size of blocks

By 1908 there were 267,564 hectares in blocks with full titles passed through the Native Land Court, a considerable increase on the 1891 figure. The number of blocks included is higher than the actual number of titles. The Stout Ngata Commission divided blocks into categories based on its recommendations. If a block was to be divided between land for a kainga, land for leasing to Maori, and land for general settlement, then it may have been divided into three or four different parts. It was proposed, for example, to divide Motatau 1 into two parts, 10,660 acres which were recommended for Maori occupation and 8000 acres

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<sup>14</sup> Supplement to the *New Zealand Herald*, 17 November, 1905.

recommended for sale. There were 1737 discrete titles. Ninety-eight blocks were divided by the commission into 170 parts.

The largest area of land was in the Hokianga, followed by the Bay of Islands, with the smallest proportions of Maori land in the counties nearest to Auckland.

**Table 6.1: Size and number of 1908 blocks by county.**

County	% Blocks		% Hectares		Average Size
	Blocks	Blocks	Hectares	Hectares	
BAY OF ISLANDS	409	22.5	68,097	25.5	166
HOBSON	100	5.5	24,422	9.1	244
HOKIANGA	558	30.7	70,841	26.5	127
MANGONUI	153	8.4	41,344	15.5	270
OTAMATEA	76	4.2	15,014	5.6	198
RODNEY	13	0.7	6,265	2.3	482
WAITEMATA	41	2.3	8,012	3.0	195
WHANGAREI	324	17.9	21,719	8.1	67
WHANGAROA	141	7.8	11,850	4.4	84
<b>Grand Total</b>	<b>1,815</b>	<b>100.0</b>	<b>267,564</b>	<b>100.0</b>	<b>147</b>

The average block size was 147 hectares, with the smallest blocks in the Hokianga, Bay of Islands, Whangaroa and Whangarei counties. The largest average size was in the Kaipara counties of Rodney and Hobson and in Mangonui.

The area of blocks recorded in 1908 reflects both the actual size of blocks as awarded at the time and Stout and Ngata's recommendations. This means that the larger blocks are somewhat under-reported as these were more likely to be recommended for subdivision, to allow for some of the block to be retained and the rest to be made available for lease or sale.

While the economics of agriculture varied considerably across the North, it can be seen that by 1908 blocks were beginning to conform to a pattern of family occupation and farming. The vast bulk of the blocks were between 10 and 500 hectares. This included 72 percent of the blocks and 57 percent of the area. Each block cannot be seen as a discrete economic entity, however, because blocks often adjoined each other and had common or similar ownership.

Nonetheless the 1908 returns show Maori actively pursuing mainstream agricultural development for their lands. A small but significant area of land was being used for dairying and grazing cattle and sheep. While Ngata looked for and encouraged Maori to work their lands, there is ample evidence from the report that Maori too were accepting the message and many whanau had begun the process of improving their lands. What is very clear in the transformation of Maori land holdings from the 1860s to the 1900s, is the increasing importance of whanau holdings at the expense of hapu blocks. Subdivision, multiple ownership and economic opportunity allowed the growth of small units owned largely by whanau and dealing with their lands more or less independently of the larger group. There were exceptions in that many of the kainga remained in single undivided titles. However, numerous other blocks were already being subdivided into individual and family farms. Whirinaki 5 and 6 for instance (1609 acres) are good examples of such partially improved blocks. They had been divided into 32 family and

individual holdings with kainga throughout and grazing 250 to 300 head of cattle. While Stout and Ngata were encouraging such developments they were already well underway by the time of their Commission. Almost all the developed agricultural land had been divided into similar whanau blocks.

**Table 6.2: Areas of blocks 1908.**

Hectares	Number Blocks	% Blocks	Area	% Area
A: 0-1	100	5.5	48	0.0
B: 1-5	197	10.9	582	0.2
C: 5-10	127	7.0	960	0.4
D: 10-50	624	34.4	16,405	6.1
E: 50-100	286	15.8	20,022	7.5
F: 100-500	387	21.3	82,204	30.7
G: 500-1000	62	3.4	43,058	16.1
I: 1000-2000	20	1.1	28,296	10.6
J: 2000-5000	8	0.4	24,704	9.2
K: 5000-10000	2	0.1	13,931	5.2
L: 10000-20000	1	0.1	14,164	5.3
M: 20000+	1	0.1	23,191	8.7
<b>Grand Total</b>	<b>1,815</b>	<b>100.0</b>	<b>267,564</b>	<b>100.0</b>

At the same time other areas of land were being cut off as having cultural or religious significance, including wahi tapu, urupa and church sites. Already land was being compartmentalised through a system of title into kainga, land for occupation and some subsistence cultivation and gathering, agricultural land, and culturally valuable but not economically useful land.

The large area of papatupu land remaining in 1891 had been substantially reduced. While 59,798 hectares remained without a formal title, all but a few thousand acres were already divided into blocks and under investigation of title. Under the 1900 legislation, the Maori Land Boards took over many of the investigative functions of the Court. They were able to establish block committees of claimants who would determine the owners for any block. This attempt to include Maori decision making in the determination of customary title was short-lived. But in the brief period before the Board's Maori influences were watered away and then subsumed by the Court, very substantial areas of land were placed in the hands of Block Committees. Where they agreed on ownership the Board could issue a title. If there was no agreement or if the decision was appealed, title was determined by the Appellate Court. For the five northernmost counties, Stout and Ngata commented that there had recently been just over 100,000 acres of papatupu land. Since 1900, they found, 70,979.33 hectares of land had been passed to Block Committees. Of these 11,458.98 hectares had been awarded titles by the agreement of the Block Committees and without appeal. A further 29,630.17 hectares were awarded after determination of the Appellate Court, leaving 29,307.43 hectare still to have title determined. Less than half of the land identified as papatupu land had not been investigated already and a good deal of this was awaiting title.

**Table 6.3: Stout Ngata recommendations.**

Class	BAY OF ISLANDS	HOBSON	HOKIANGA	MANGONUI	OTAMATEA	RODNEY COUNTY	WAITEMATA	WHANGAREI	WHANGAROA	Grand Total
Leased	3,837	7,503	5,965	275	12,372	1,023	2,692	1,783	1,407	36,856
<b>MAORI OCCUPATION</b>										
Papakāinga	18,186	4,519	27,444	9,296	2,037	2,937	1,042	5,728	5,321	76,510
Lease to Maori	342	0	4,472	0	0	0	43	0	0	4,856
Incorporation	9,143	0	1,363	0	0	1,250	0	607	0	12,363
Purchased	0	212	0	0	267	0	0	0	0	480
<b>GENERAL SETTLEMENT</b>										
For lease	15,859	0	19,410	2,609	167	405	81	4,910	3,724	47,164
For sale	1,235	6,102	2,345	397	0	410	11	391	646	11,539
To Land Board	18,257	6,086	7,906	23,191	0	0	3,689	0	0	59,130
Papatupu land	23,329	1,051	19,750	2,794	170	241	0	10,526	1,897	59,758
Not dealt with: title ascertained	1,238	0	1,184	5,576	0	0	453	0	752	9,203
Special Recommendation	0	0	752	0	0	0	0	0	0	752
<b>Grand Total</b>	<b>91,427</b>	<b>25,473</b>	<b>90,592</b>	<b>44,138</b>	<b>15,014</b>	<b>6,265</b>	<b>8,012</b>	<b>23,944</b>	<b>13,747</b>	<b>318,612</b>

NOTE: These figures have been corrected in minor details from those in the Commission's schedules. Differences in the way that the figures were presented for different counties have been standardised.

If the European population believed that Maori had large areas of land surplus to their needs then the Stout Ngata report does not support this for the Auckland District. Their inquiry rejected the view that Maori were anxious to sell land and that only misguided government policy was preventing these sales. Everywhere Maori wished to retain land for their own use, then to lease to members of their own communities and failing this to lease to Europeans. Selling was very much a last resort. Stout and Ngata found little land that was suitable for sale and in counties in the Far North were concerned about the scarcity of land still available for Maori use. They recommended only 11,539 hectares be sold, or only 3.6 percent of the total 318,612 hectares. Over 6000 hectares of this was in sandhills. The owners had generally agreed to have the land sold and the majority of the blocks included were already in negotiation for sale. Stout and Ngata deliberately overrode the strongly expressed wishes of the owners only once in recommending that 1000 hectares of Maunganui 1 and 2 in the Bay of Islands be sold. Some of the owners preferred that the block be leased, but the Commissioners considered the owners had sufficient land elsewhere. In Whangaroa and Mangonui counties the Commission even suggested that the government should not push through the alienation of lands available for general settlement.

The Commissioners recommended that 14.8 percent of the land be leased in addition to the 11.6 percent already leased or in negotiation to be leased. In addition, 59,130 hectares or 18.6 percent of the land was already vested in the Maori Land Board, under the 1905 Act. There are also some discrepancies in the way the Commission dealt with the different counties. Their later report, covering the four northern counties, included more detail than the earlier schedule for the southernmost counties. Under section 4 of the Native Land Settlement Act 1907, all lands the Commission decided were not required for Maori occupation would be vested in the Maori Land Board. Then under section 11 the lands were to be divided in two, half to be leased and the other half sold. While Stout and Ngata presented their reports after the passing of the Act, they certainly did not envisage that half of the land remaining after that reserved for Maori use should be sold.

In 1908 Maori land in the North had been systematically reduced over sixty years of Crown purchase and Native Land Court control. Maori owners clearly wanted to retain ownership of all but a few small pieces of the remaining land. Given the political difficulties facing them they were not hostile to leasing, although this had become since the 1890s only a small part of the overall economic management of their lands. They preferred that land be leased to Maori able to develop the land and take up farming. There was plenty of enthusiasm for farming as part of the European economy and some evidence of independent efforts to improve the land. Stout and Ngata, like Rees and Carroll before them, saw agricultural education as a way forward. Ngata encouraged state assistance. Yet even in 1908, when the Commission's report was released, the pressures to continue the acquisition of Maori land remained, as illustrated in the contradiction between the very small area of land recommended for sale and the intent of section 11 of the 1907 legislation. For the time-being, Carroll's political influence prevented the landslide continuing.

Very little land had been alienated by 1910. After the fall of the Liberals in 1912, however, the work of the Commission would be used not to preserve and develop the Maori landed estate in the North, but to strip it away even further.

## CHAPTER 7

### THE NUMBERS OF OWNERS

The Court's transfer of customary ownership from collectively held rights under tribal control to individually held rights under a Court title has been the subject of considerable criticism by the Waitangi Tribunal.<sup>15</sup> The legislation and the Judges who implemented it looked to the emergence of a gentry of chiefly land owners, who would manage in a European manner what land had not been sold. At first this meant that a few owners, generally 10 or less, were awarded titles. In this way the very complicated and interconnected system of customary ownership was simplified, more often than not disinheriting and disenfranchising the tribe. Not only did customary land owners lose rights to blocks of land, the tribe as a whole lost its collective control over the land. Alienation was made easier by silencing the tribal veto to sale. By the 1890s a quite different problem was emerging. Shares in land were inherited equally by all children. With the increasing tendency, compensating for early practice, to award title to all those with an interest, blocks of land came increasingly to be held in individual title by large numbers of owners. As these blocks were subdivided, multiple ownership became more pronounced. Multiple ownership, however, did not mean collective management. While recognising prior customary property rights of more individuals, these individuals were still able to alienate their shares without reference to the all owners as a group. None of these issues have previously been explored quantitatively. The database has provided an opportunity to show how ownership changed over the period from 1865 to 1908 in the Auckland region.

The number of owners was determined from three sources.

- certificates of titles
- AJHR 1885, G6A
- The Stout-Ngata report of 1908.

In March 1885 the House of Representatives requested a return of the number of blocks awarded title from the establishment of the Native Land Court to the end of that month, showing the area and number of owners of each block.<sup>16</sup> The return gives a numbered list of 4251 blocks from the entire country. The information provided for each block consists only of acres, roods and perches and the number of owners granted title. No block names were given. Fortunately, the block schedule used to create the list is similar,

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<sup>15</sup> Waitangi Tribunal, *Report of the Waitangi Tribunal on the Orakei Claim (Wai 9)*, Government Print, Wellington, 1987.

<sup>16</sup> AJHR, 1885, G6a

although not identical, to the LINZ Block List. The return consists of groups of blocks with each block in a group in the same order as those in the database. The groups themselves, however, are not in the same order and some groups are completely out of the order used in the database. For these latter records no matching was possible. Groups ranged in size from three or four blocks to almost 200 blocks. Where the acreage in the sequence was not the same in the two sources, no match was made unless there was an obvious transcribing error. Of the 4251 blocks in the return, it was possible to link 3414 blocks to the database (80 percent). The percentage of matched blocks within the Auckland Province and for the Auckland sample was somewhat higher. The number of blocks in the database with titles issued prior to 31 March 1885 was 4946. We had information on 69 percent of these, but the percentage for the Auckland Province was 73 percent (2498 of 3406) and for the Auckland Region 94 percent (1073 of 1145).

The Stout Ngata inquiry provided the number of owners of almost all of the blocks in its schedules. Unlike the other two returns these were not based on the number of grantees at the time *when the title was awarded*, but on the number of owners recorded on the title, including those who had succeeded earlier owners, at the time when the Stout Ngata inquiry was undertaken.

Linking the owners recorded in those blocks in both the 1885 return and the 1908 return we can gauge the extent that changes in the number of owners was linked to partition and the time of award. Of the 166 blocks awarded before 1885 and still unchanged in 1908<sup>17</sup> only 30 had a different number of owners at the later date. Nor were the changes significant. Just over half of these (16) increased the number of owners, only five of these adding more than 10 owners, with the largest number rising from eight to 26. Of those with reduced numbers of owners, one block dropped from 25 to 10 another from six to two and the rest reduced by only one or two owners. Many of these differences could probably be accounted for by clerical error.

Of those blocks that remained in Maori ownership with the areas intact between the 1880s and 1908, there was little variation in the number of owners. The number of blocks remaining unchanged makes up 16 percent of those for which we have information in the 1885 lists. One hundred of the 171 blocks were granted prior to the 1873 legislation. There is no evidence that attempts were made to alter the title to blocks awarded under the '10 owners' regime by keeping successions up to date and by increasing the number of owners on the title. Those blocks which survived un-purchased until the turn of the century and undivided remained with a stable pattern of ownership as well.

The effect of subdivision on ownership patterns is more marked. Of the 554 blocks existing in 1908 with parent blocks for which we have ownership data from prior to 1885, 480 had changed numbers of owners. The average number of owners increased from 19 for the parent blocks to 28 in the subdivisions.

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<sup>17</sup> There were 171 blocks which could be matched, but in only 166 of these was there was information on the number of owners for both sources.



### Regional Differences in the Number of Owners

There was also a significant difference across the whole Auckland region in the average number of owners in awards. The Kaipara, Mahurangi and Auckland areas did not show the same rise in number of owners compared to the Bay of Islands and Hokianga area. By the 1880s blocks in these areas were being awarded to an average of 19 to 20 individuals, compared to 12 for Muriwhenua and only three for Whangarei.

**Table 7.1: Average number of owners by region.**

Region	Year of award				Overall Average
	1865-1870	1870-1875	1875-1880	1880-1885	
Auckland	5		5		5
Bay of Islands	3	4	12	19	7
Hokianga	4	10	9	20	8
Kaipara	2	5	6	4	4
Mahurangi	2	3	8		2
Mangonui	6	7	6	12	7
Whangarei	2	4	5	3	3
Grand Total	3	7	8	12	6

**Table 7.2: Average number of owners by county, 1908.**

County	Average number of owners
BAY OF ISLANDS	35
HOBSON	10
HOKIANGA	22
MANGONUI	22
OTAMATEA	13
RODNEY COUNTY	26
WAITEMATA	14
WHANGAREI	8
WHANGAROA	17
Grand Total	21

Reasons for this variation could include tribal differences and different policies being applied in different courts. The differences are more or less sustained in the 1908 figures. The further North the greater the number of owners, but with Whangarei recording the least number of owners. Whangaroa, Whangarei, Waitemata, Otamatea and Hobson recorded less than the average of 21 owners and the Bay of Islands, Hokianga and Rodney counties above the average figure.

There are then two factors influencing the extent that blocks became subject to increasing multiple ownership. First, the later time of award or subdivision the more likely that the block would have a larger number of

owners. Secondly there were significant regional differences with tribes appearing to adopt slightly different strategies. In the Kaipara, for instance, a number of important blocks which were retained had had their title awarded to a single rangatira. In the Far North this was rarer. Succession itself was a minor issue up until 1908. The most important implication of these developments became apparent in the 1890s and beyond when Crown purchase officers were able to buy up large numbers of small dispersed interests in blocks.

## CHAPTER 8

### CROWN PURCHASE

The Native Land Court was designed to allow the private market place to resolve the confusion and tensions which had beset Crown negotiations for land purchases under pre-emption. A persistent belief in free-market capitalism was tempered in New Zealand by an extensive use of the State to promote economic development and the establishment of an infrastructure for economic development. After 1865 much of the attention in Maori land matters was focused on politically opening up new areas of land to the Court's jurisdiction. The Rees Carroll Commission was primarily concerned with the Court's role in facilitating private purchases. Important as the waiver of pre-emption was for land purchase policies between 1865 and 1908, the Crown's role as a purchaser of land should not be ignored. Not only did the Crown purchase very large areas of land over the whole period, at particular and significant times it dominated the market. There were also significant qualitative differences in the kind of blocks acquired by the Crown.

Crown purchasing was far from uniform throughout the period, however, with the major thrust of purchasing being in the late 1870s and in the 1890s. Crown purchases associated with the Vogel development era made up more than two-thirds of the total acquired by the Crown and all of this was acquired in the short period between 1875 and 1879. The process of Crown purchases at this time has been extensively discussed in the Tribunal's *Te Koroa Report*.<sup>18</sup> In the 1890s it was the Crown determination to provide land for settlers that led to a new and widespread programme of land acquisition, supported by the reintroduction of partial pre-emption in 1894. While the 43,000 hectares acquired by the Crown after this date is much smaller than that from sales in the late 1870s, it was from a much smaller total estate. The techniques used by the Crown also changed. In the 1870s the Crown negotiated to purchase whole blocks, with the carrot of pre-payment. In the 1890s the Crown purchased individual shares over a number of years and then applied to the Court to have the Crown interest partitioned out. Over 36,000 additional hectares were targeted for purchase, but were not acquired because the Crown was unable to persuade individual owners to part with their shares. While the Liberal Government did not expect to be able to purchase all the land for which it opened negotiation, neither did it set any limits on the areas to be purchased.

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<sup>18</sup> Waitangi Tribunal, chapter 2

**Table 8.1 Crown purchases 1865-1908**

	N	Average size	Hectares	% of total area
1865-1869	2	2604	5,208	2
1870-1874	14	1504	21,052	6
1875-1879	116	1985	230,259	67
1880-1885	31	895	27,756	8
1885-1889	12	640	7,681	2
1890-1894	12	515	6,183	2
1895-1899	89	452	40,202	12
1900-1908	18	175	3,142	1
<b>Total</b>	<b>294</b>	<b>1162</b>	<b>341,483</b>	<b>100</b>

Just over 5,000 hectares were acquired in two purchases by the Crown in the years immediately after the passing of the 1865 legislation, although a much greater area was mopped-up from earlier uncompleted purchases begun prior to 1865 under pre-emption. Purchases increased in the early 1870s, but it was not until the 1875-1879 period that the Vogel purchasing really began to take effect. Over a third of the total number of Crown purchases between 1865 and 1908 took place in these five years. In area, the percentage was even more dramatic, making up a massive two thirds of the total area purchased by the Crown. Purchasing almost stopped in the 1880s, only to gather pace again in the 1890s, when the second largest area in any five year period was acquired. The number of purchases in the late 1890s was proportionally of a similar order to that of the late 1870s, despite less than 20 percent of the total area being involved.

The average size of purchases demonstrates the declining availability of large tracts of unsubdivided land within the Auckland region. The average size of blocks in the 1870s was between 1500 and 2000 hectares. By the 1890s this had fallen to below 500 hectares. To a limited extent the declining average was also due to the impact of small purchases for native schools.

The following list of Crown purchases of blocks over 4047 hectares (10,000 acres) shows how heavily concentrated these acquisitions were in the late 1870s, as land purchase officers used loan money raised on the London market to open lands for settlement.

**Table 8.2: Crown purchases over 4047 hectares**

Block Name	Hectares	Pounds	Locality	Date
TAUPAKI	5,208		59 RIVERHEAD,	18/09/1867
WAIUKU	27,519	5,250	WAIUKU,	1/01/1867
KAITAIA	4,462		124 KAITAIA RIVER, BAY OF ISLANDS.	5/09/1872
KAITAIA	4,462		726 KAITAIA HOKIANGA.	31/07/1872
HUKERENUI	5,059	1,513	KAWAKAWA, BAY OF ISLANDS.	5/11/1873
WAIROA	11,250	2,402	KAWAKAWA.	2/06/1875
WAOKU 1	7,143	1,250	BAY OF ISLANDS HOKIANGA.	28/04/1875
TAKAHUE 1	9,762	2,814	BAY OF ISLANDS MANGONUI.	4/05/1875
PURUA	6,236	1,861	WHANGAREI.	23/06/1875
TANGIHUA	6,313		WHANGAREI.	23/06/1875
OPOUTEKE	16,997		KAIPARA	18/09/1876
WAIMAMAKU	11,007	1,203	WAIMAMAKU RIVER HOKIANGA.	10/01/1876
WAIPOUA	14,285	2,200	HOKIANGA.	8/02/1876
MAUNGANUI	11,166	2,300	WAIPOUA.	8/02/1876
KAIRARA	10,400	2,079	KAIPARA.	1/02/1876
TAUROA	4,253		175 NORTHERN.	8/03/1877
OPUAWHANG A 4	6,134		826 WHANGAREI.	5/11/1878
OTONGA 1	10,850		WHANGAREI.	5/11/1878
TIKINUI	4,331	1,605	KAIPARA.	4/10/1882
PUHIPUHI 1	5,864	8,574	WHANGAREI	5/09/1883
HUKATERE	4,213	1,248	KAIPARA.	26/06/1885
MANGAKAHI A NO.2A NO.1	5,065	1,685	WHANGAREI.	8/10/1896
POUTO B & 2D	6,408		118 KAIPARA.	10/10/1898

**Table 8.3: Prices paid for land 1865-1908**

	Total pounds	% of total expenditure	Hectares	s.d./acre	
1865-1869	59	0.1	5,208	0	3
1870-1874	5,213	5.3	21,052	5	11
1875-1879	47,142	47.9	230,259	4	1
1880-1885	17,747	18.0	27,756	13	9
1885-1889	3,983	4.0	7,681	10	4
1890-1894	4,282	4.4	6,183	14	10
1895-1899	19,277	19.6	40,202	10	7
1900-1908	707	0.7	3,142	5	6
<b>Total</b>	<b>98,411</b>	<b>100.0</b>	<b>341,483</b>	<b>6</b>	<b>9</b>

Almost £100,000 was spent on land purchasing over the whole period, almost half in the late 1870s. There was a significant increase in prices paid in the 1880s, more than doubling those paid a decade earlier. A decline in average block size contributed to this increase. Rising prices were not sustained throughout the rest of the century. The failure of Maori to benefit from increasing values for their land in the 1890s, when the Crown was much more vigorously in the market, may well be attributed to the new Crown purchasing techniques. The buying up of individual shares further reduced the collective ability of tribes either to veto sales or to increase the asking price.

The relationship between Crown purchases and private purchases is discussed in the next chapter, but the sheer volume of purchases and the block size involved meant that the Crown continued to dominate the market for Maori despite the intention of the Crown to step out of this market in 1865.

## CHAPTER 9

### ALIENATION AND RETENTION 1865-1908

So far we have examined the state of Maori ownership at different points in time. We now tie these sources together to get an overall picture of change over the four decade period from 1865 to 1908. To achieve this we have used a linking process to match blocks from one source to another. The most reliable part of this matching exercise involves blocks which remain unchanged in name or size over the whole period. A proportion of all blocks was subdivided, often to allow for the alienation of a part, or simply to divide out whanau and individual interests. The database linked all blocks from the 1908 Stout Ngata lists with those from the LINZ Blocks List, matching each block with its block of origin, if one could be found. Only those blocks derived from a title issued prior to 1890 and more likely prior to 1885 could be matched. The residue of papatupu land for which title was progressively awarded from 1890 to 1908 complicated overall figures.

The first objective is to look at the blocks of land awarded between 1865 and 1890 and see the rate of retention of this land. How many of these blocks and what proportion of the land involved was alienated from Maori ownership by 1908? As Table 9.1 shows, the total area of land for which title was issued in the LINZ Block list was 638,129 hectares. This figure does not include Auckland sub-region lands since the Eden and Manukau counties were excluded from the Stout Ngata schedules. Of this area only 84,411 hectares remained in 1908. This was 13.2 percent of the total area. Thirty-two percent of blocks in the LINZ list were still locatable in 1908, although this includes blocks where only a part of the original remained. It may have been expected that larger blocks would be more likely have at least a portion of the original reserved, but the reverse is true. Not only is the area of the larger blocks retained in 1908 considerably smaller than for the rest, the proportion of these blocks with any land remaining, however small, is also considerably below average.

**Table 9.1: Area of LINZ Blocks remaining in 1908**

Hectares	Total Original Area	Number Blocks	% Area Remaining	Number Blocks Remaining	% Blocks Remaining
A: 0-1	37	73	27.3	18	25
B: 1-5	339	121	35.6	41	34
C: 5-10	590	82	28.3	25	30
D: 10-50	7,575	274	31.5	101	37
E: 50-100	9,501	135	23.6	40	30
F: 100-500	52,200	235	24.8	73	31
G: 500-1000	58,779	84	22.1	30	36
H: 1000-2000	90,474	65	20.3	16	25
J: 2000-5000	143,434	44	13.4	12	27
K: 5000-10000	77,770	12	3.3	1	8
L: 10000-20000	153,995	11	0.1	1	9
M: 20000+	43,434	2	30.3	1	50
<b>Grand Total</b>	<b>638,129</b>	<b>1,138</b>	<b>13.2</b>	<b>359</b>	<b>32</b>

The Pouto Block alone ran against the trend of declining rates of retention for larger blocks. This 20,496 hectare Kaipara block was awarded in 1878. In 1908 65 percent was still Maori owned in a single block, Pouto 2. Only two of the 12 blocks over 10,000 hectares in size had any Maori land left. This made up only 8 percent of the original area. Putting the Pouto Block to one side, of the remaining 24 blocks over 5000 hectares in size, only 1.4 percent of their original area remained. Including the Pouto Block, only three of the twenty-five blocks survived in any form whatsoever. Blocks under 50 hectares in size were considerably more likely to be retained than larger blocks. Small subsistence blocks of one to five hectares and farm blocks of 10 to 50 hectares were the most likely to be retained.

Only the Bay of Islands region managed to retain a significant area of land, at least in comparison with elsewhere. The impact of very large alienations could be a significant contribution to these rates of loss. The Muriwhenua Block of 22,936 hectares was over a quarter of the total area of the region. Its alienation in 1873 accounts for much of the very poor rate of retention in Muriwhenua. Land loss in the Whangarei area was very substantial and exceeds that of the rest of the North in both rate and quantity. The LINZ Blocks List accounts for 172,659 hectares for the Whangarei region. In 1908 only 11,279 or 7 percent remained.



**Table 9.2: Area of LINZ blocks retained in 1908 by region.**

Region	Original Hectares	No. Blocks	No. Blocks 1908	Hectares 1908	% Area 1908	Average size 1908
<b>BAY OF ISLANDS</b>	58,441	299	195	16,931	29	140
<b>HOKIANGA</b>	142,771	232	615	20,071	14	214
<b>KAIPARA</b>	149,893	198	757	24,803	16	689
<b>MAHURANGI</b>	27,756	18	1,542	2,725	10	1,363
<b>MANGONUI</b>	81,841	131	625	8,602	11	191
<b>WHANGAREI</b>	172,659	254	680	11,279	7	185
<b>Grand Total</b>	<b>633,362</b>	<b>1,132</b>	<b>560</b>	<b>84,411</b>	<b>13</b>	<b>235</b>

The date when the blocks were awarded also had an impact on their likelihood of alienation. Both the area and number of blocks retained in 1908 increased the later title was awarded. As may be expected, the earlier awards (prior to 1869) had the lowest rate of retention, at 10.5 percent. As discussed in Chapter 5, half of the area awarded in these years had been alienated as early as 1869. While the rate of retention increased to between 12 and 13 percent for the period 1870 to 1879, this is not a dramatic increase on the Court's first five years of operation. The modest increase suggests that any protections included in the Native Land Act 1873 were of limited if any effect in stemming the alienation of Maori land in the Auckland region. These rates are likely to be significantly influenced by the awarding and alienation of a number of very large blocks in the late 1870s. The average block size increased from 380 hectares before 1874 to 1054 hectares between 1874 and 1879. Eleven of the 13 blocks over 10,000 hectares were awarded in the 1870s. These included Muriwhenua, Maunganui, Kaihu, Waipoua and Opouteke.

The 84,379 hectares of land retained from pre-1890 awards comprised 32 percent of the 267,564 hectares of Maori land in Maori title in the region in 1908. Between the 1880s and 1908, the level of Maori land ownership was maintained by the continual entry of new parcels of land into the Court system of title. This reservoir of land was substantially reduced after the turn of the century with the rapid transfer of remaining land into the Court's titles between 1900 and 1908. Different areas had, after 1890, quite different reserves of customary land. Table 9.3: Area of LINZ Blocks land retained in 1908 by date of award.

**Table 9.3: Area of LINZ blocks retained in 1908 by date of award.**

Date Award	Original Hectares	1908 Retained	% Area Retained 1908	No. Original Blocks	Blocks 1908	% Blocks Retained 1908
1865-1869	160,219	16,795	10.5	414	112	27
1870-1874	104,596	13,389	12.8	268	99	37
1875-1879	315,162	38,302	12.2	299	91	30
1880-1884	49,530	11,857	23.9	109	38	35
1885+	8,461	4,036	47.6	46	18	39
<b>Grand Total</b>	<b>637,969</b>	<b>84,379</b>	<b>13.2</b>	<b>1,136</b>	<b>358</b>	<b>32</b>

### 1891 to 1908 Retention

Because of reservations about the comprehensiveness of the 1891 lists, it is not worthwhile using the aggregate figures to estimate overall land loss up to 1891. Too many blocks appear to have been missed to get an overall picture of the extent of land loss between 1865 and 1891. However, the 1891 blocks do comprise a very large proportion of the land still in Maori ownership at that time. It is possible to get an estimate of the rate of land loss between 1891 and 1908, by looking at the survivorship of blocks over this period. Table 9.4 matches those blocks in the 1891 list with those in the 1908 schedule. This includes matching both complete blocks and identifiable subdivisions. Twenty-eight percent of the 415 blocks were still there in 1908, although there may have been slight changes in their overall size due to minor adjustments to their boundaries or new surveys. Almost the same proportion (27 percent) had been reduced in size through subdivision and the remaining 43 percent could not be located.

Of 117,757 hectares in 1891, 61,178 hectares were still identified as in Maori ownership in 1908, a survival rate of 52 percent. Very small and very large blocks were the most vulnerable to alienation. Only a quarter of blocks below one hectare in size were matched, although their small size may have made them likely to be under-represented in the later lists. Alternatively such small blocks were insufficient to maintain a subsistence agriculture. Agricultural reasons suggest higher survival rates in the 10 to 50 hectare group and again for blocks between 400 and 1000 hectares.

**Table 9.4: Block survivorship 1891-1908**

Area +	Hectares 1891	Hectares 1908	% Remaining
A: 0-1	11	3	26.6
B: 1-5	66	28	42.1
C: 5-10	183	89	48.5
D: 10-50	3,152	1,823	57.8
E: 50-100	4,657	2,513	54.0
F: 100-500	22,197	11,082	49.9
G: 500-1000	20,274	12,506	61.7
I: 1000-2000	26,634	12,845	48.2
J: 2000-5000	34,664	17,693	51.0
K: 5000-10000	5,914	2,596	43.9
<b>Grand Total</b>	<b>117,752</b>	<b>61,178</b>	<b>52.0</b>

A preference for retaining developed or agricultural land is not supported, however, if we compare the rates of survival for land judged productive and non-productive in 1891. Excluding land leased, the rate of survival was 55 percent both for lands recorded as 100 percent productive and 100 percent unproductive.<sup>19</sup> It would seem that by 1891 standards, Maori lost developed and undeveloped land at an equal rate. In this period, however, New Zealand agriculture was dramatically transformed by the new economic viability of small dairy farms and pastoral farming, thanks to refrigeration. Land that was leased in 1891, was, however, more likely to have been alienated than other land. Only 44 percent of leased land remained in 1908, compared with 55 percent of the other blocks.

**Table 9.5: Survivorship 1891 to 1908, by region.**

Region	Hectare 1891	Hectares 1908	% Remaining
Unknown	20	0	0.0
BAY OF ISLANDS	23,225	16,044	69.1
HOKIANGA	42,866	20,817	48.6
KAIPARA	16,843	7,506	44.6
MAHURANGI	4,165	2,725	65.4
MANGONUI	13,099	4,819	36.8
WHANGAREI	15,687	8,999	57.4
<b>Grand Total</b>	<b>117,752</b>	<b>61,178</b>	<b>52.6</b>

Survivorship also varied across the North. The highest significant levels of survivorship were in the Whangarei and Bay of Islands regions. The high levels for the Bay of Islands are in line with the overall pattern suggested in Table

<sup>19</sup> These figures exclude leased land and land without a Native Land Court title.

2.1, but the much higher rate of survival for the Whangarei area suggests that the rate of alienation had peaked prior to the 1890s and then declined. The Mangonui losses are extremely significant, particularly as the Stout Ngata Commission expressed considerable concern about the potential state of landlessness in this area. The Auckland sub-region figures have been excluded because they were not available for 1908.

### **Certificates of Title**

The sample of blocks for which we have collected certificates of title data, although a good deal smaller than the other schedules, provides us with an alternative means of testing the overall alienation of Maori land and also gives more information on the process of alienation itself. Unlike the 1869, 1891 and 1908 data, the certificates of title do not provide a slice of information at a particular time. They cover the period 1870 to 1900. Only a proportion of blocks were ever awarded such titles and we can assume that alienation, registering of leases and other transactions would make registering more likely. For this reason we would expect those blocks receiving these certificates to be more likely to be alienated. The certificates themselves identify the original grantees and the names of any individuals who acquired an interest in the block. Unfortunately there appears to have been little co-ordination between the Court and the Registry. Some groups of blocks were awarded certificates while others were not. The legislative framework alternated between a memorial of ownership and a Crown grant, with Crown grants eventually being replaced by certificates of title. In addition a good many records have gone missing. Subdivisions of blocks were not recorded on certificates and new certificates not necessarily awarded for new subdivisions.

Table 9.6 shows the area of land covered by certificates of title linked to the 1908 schedules, excluding the area of subdivisions. The certificates themselves show an average survivorship of 35 percent. Survivorship was considerably higher for smaller blocks, almost double the average for blocks of between one and five hectares. When the certificate of title blocks are matched with the 1908 schedule the survivorship rate drops to 12.1 percent. This is remarkably, although not significantly, consistent with the 13.2 percent survivorship rate for the LINZ block data. However the survivorship rates vary between the two groups when different blocks sizes are compared. Nonetheless the overall pattern of declining survivorship with size is maintained.

**Table 9.6: Survivorship, certificates of title.**

Hectares	CTs Not Sold	CTs Sold	Total	% Retained	Area 1908	% 1908
0	0	0	0		0	
A: 0-1	10	7	17	59.62	5	29.2
B: 1-5	116	57	174	66.97	55	31.8
C: 5-10	74	86	160	46.17	33	20.6
D: 10-50	1,194	1,658	2,852	41.87	668	23.4
E: 50-100	1,536	1,230	2,766	55.53	1,244	45.0
F: 100-500	6,592	9,422	16,014	41.16	2,695	16.8
G: 500-1000	3,409	7,193	10,602	32.15	941	8.9
I: 1000-2000	10,891	8,472	19,363	56.25	4,843	25.0
J: 2000-5000	11,144	8,332	19,476	57.22	3,017	15.5
K: 5000-10000	12,087	14,941	27,027	44.72	2,596	9.6
L: 10000-20000	0	11,250	11,250	0.00	0	0.0
M: 20000+	0	22,937	22,937	0.00	0	0.0
<b>Grand Total</b>	<b>47,052</b>	<b>85,585</b>	<b>132,637</b>	<b>35.47</b>	<b>16,098</b>	<b>12.1</b>

The older the block the more likely it was to have been alienated. Less than eight percent of the area of land awarded before 1870 was still in Maori ownership in 1908, compared to around 30 percent for blocks awarded after 1880. The almost complete alienation of land awarded between 1875 and 1880 must be regarded as a sampling anomaly, otherwise the results are very similar to those for the LINZ Blocks List group in Table 9.2.

While early blocks were more likely to have been sold, the average period between award and sale was six years four months. The sample size is too small to be significant for the periods, 1865-1869 and 1880-1885. Those large blocks which make up a disproportionate part of the total area were alienated sooner after the award of title than smaller blocks. All blocks over 500 hectares had an average life in Maori ownership of four years or less, three years shorter than the average of seven years for all blocks. This is surprising. Putting aside the very large blocks for which title tended to be awarded as part of sale negotiation, these results suggest that Maori were not contemplating immediate sale for the vast majority of blocks awarded title.

**Table 9.7: Survivorship by date of grant.**

Year of Award	Hectares CIs	Hectares 1908	% Retained
1865-1869	12,207	946	7.75
1870-1874	50,488	6,616	13.10
1875-1879	37,688	214	0.57
1880-1884	10,202	3,029	29.69
1885+	19,395	5,293	27.29
<b>Grand Total</b>	<b>129,979</b>	<b>16,098</b>	<b>12.38</b>

**Table 9.8: Average period between award of title and sale, by date of award.**

Year	Number of blocks	Average years before sale
1865-1869	3	4.90
1870-1874	103	8.89
1875-1879	26	5.96
1880-1884	6	9.35
1885+	54	1.18
<b>Grand Total</b>	<b>192</b>	<b>6.28</b>

**Table 9.9: Average period between award and sale from Certificates of Title.**

Hectares	Average interval in years between award and sale
A: 0-1	9
B: 1-5	7
C: 5-10	9
D: 10-50	7
E: 50-100	6
F: 100-500	7
G: 500-1000	4
I: 1000-2000	4
J: 2000-5000	4
K: 5000-10000	4
L: 10000-20000	1
M: 20000+	1
<b>Overall average</b>	<b>7</b>

**Table 9.10: Area of land sold by date of sale from Certificates of Title**

Date	Hectares	No	Ave. Size	% of Total
1865-1869	8,628	1	8,628	9.4
1870-1874	28,103	21	1,338	30.8
1875-1879	33,247	57	583	36.4
1880-1884	852	26	33	0.9
1885+	20,555	90	226	22.5
<b>Grand Total</b>	<b>91,384</b>	<b>195</b>	<b>469</b>	<b>100.0</b>

The average life of a block in Maori ownership prior to its sale does not tell us what quantity of Maori land was being exchanged at different times. Table 9.9 shows the passage of land into European private hands at different periods.

The period 1865-1869 is represented by a single block, as only a very small proportion of blocks awarded title in that period were issued with certificates of title. Clearly the most significant period was the 1870s with a decided tailing off in purchases in the early 1880s. The volume of purchases then increased from the mid-1880s, helped by the sale of the Aoroa Block in 1887 and Pakiri 1 in 1885. While purchases in the 1890s came to 8910 hectares, or just under 10 percent of the total, this marks a very substantial amount overall, since the complete Maori estate was significantly reduced by this time. The number of blocks sold in this period is very extensive, 46 percent of the total number of blocks, but at half the average size for the whole sample. The increasing pressure on remaining land in the 1890s is clearly evident from these figures.

### Comparing land loss 1865 to 1908 with the whole period 1840 to 1939

The 1865 legislation was designed to allow direct private purchase of land and to limit the necessity for direct purchase by the Crown. Despite this, and despite the absence of any special reapplication of pre-emption in this region, the pace and extent of alienation in this period was still being driven by direct Crown purchases. Direct Crown purchasing between 1865 and 1908 totalled at least 843,818 acres, which could be as much as two-thirds of all the land alienated from Maori ownership in this period. When the whole period from 1840 to 1908 is included, the Old Land Claims accounted for almost as much land as private sales through the Land Court.

Table 9.11: Total land loss 1840 to 1908

	Hectares	% of Total
<b>Pre 1865</b>		
Old Land Claims	382,627	9
Pre-emption waivers	59,849	1
Crown purchases	1,623,937	39
Confiscation	120,000	3
<b>1865 to 1908</b>		
Crown purchases	843,818	20
Private Purchases	383,248	9
Remaining Maori Land	787,305	19
<b>Total</b>	<b>4,200,784</b>	<b>100</b>

The above figures are based on this research and on that undertaken by Dr Barry Rigby and others in trying to assess the quantity of land alienated prior

to 1865.<sup>20</sup> The total figure for the region of 1,700,003 hectares has been arrived at by estimation. As with all figures used here, there is a reasonable margin of error. Some land has undoubtedly been included twice. Because the estimate of land alienated by Private Purchase has been made by subtracting the other categories from the total area, unlike the others, this figure is likely to be an underestimate. As such it is also more likely to be significantly less than the actual figure, possibly as much as 20 percent less, or 70,000 hectares. Yet even allowing for this the overall proportion of post-1865 private purchases to other forms of alienation would be within the range 9 to 12 percent.

After 1908 and a brief period of respite the Crown embarked on yet another vigorous land purchasing campaign, largely in defiance of the recommendations of the Stout Ngata Report. The minor protections which had been introduced were substantially stripped away and the Reform Government (1912-1928) maintained an extensive land purchase policy into the 1920s. By 1939, as Dr Donald Loveridge has shown, the remaining Maori land in Auckland and Northland had been reduced by a half. This affected urban land, such as the Orakei Block, as well as rural land throughout the region.

The certificates of title also provide access to a wide range of qualitative sources, deeds, leases and other agreements which illustrate the complex nature of entrepreneurial relationships with Maori land owners. We have not had the opportunity to discuss these in depth in this study. The Court and nineteenth century capitalism made it difficult for Maori to compete in an economy where they were largely excluded from access to capital, other than through land sales. Yet rangatira also tried to use the system to their economic advantage, where this was possible. Maori entered into economic agreements which were sometimes a good deal more equal than many of the one-sided sales which typified the period. Paora Tuhaere and Tawhaio, in particular, were able to negotiate a range of lease and timber deals that allowed land to be retained successfully in Maori ownership. Individuals formed partnerships with European entrepreneurs to develop blocks and they purchased lands from other Maori. This participation in the European economy was far from supported by European society as a whole, but it is evidence of very complex arrangements between tribes, rangatira and the Europeans in the latter part of the nineteenth century. It was not successful, however, in stemming the flow of land from Maori hands.

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<sup>20</sup> Daamen, et al., pp.218-219.



## CHAPTER 10

### CONCLUSION

The role of the Native Land Court in undermining collective Maori control over land and other resources has been a major concern of many writers. The Court was designed to replace collectivism with individualism, by introducing a capitalist market for land within the Maori world itself. Those with only peripheral claims were to be excluded from the title and individual chiefs transformed into independent land-owning gentry. For the settler controlled government and judiciary, this process had the added, but essential advantage, of ensuring that Maori land was transferred into the European market. There was a strong view among Crown officials that land would be made freely available if those who 'really' owned it were free to place it in the market place. An all-but free-market for land would, in nineteenth-century parlance, ensure that land would be owned by those who were best able to profit from it and few Europeans accepted that Maori could engage equally in the nineteenth-century economy.

Most studies have concentrated on the process of awarding title in breaking down tribal and chiefly authority. Where purchases of very large blocks of land took place soon after the awarding of title, then this was very much the case. The very large blocks of land identified in the LINZ Block List include some of the most controversial of blocks. They were purchased as part of the process of awarding title or soon after, covered wide areas, and often little or no land was reserved. Such blocks have often remained a source of petition and complaint ever since. The Waitangi Tribunal has examined or is examining the Crown's role in the acquisition or transfer of many of these blocks.

Because Auckland and Northland were the successful target for land purchase agents throughout the 1840s and 1850s, Maori ownership of land around Auckland was already extremely limited prior to 1865. Because of this there is a tendency to underplay the role of the Native Land Court. While much of the best land for the developing nineteenth-century economy had already been purchased by that date, this study has shown how the Court maintained the momentum of land alienation, apart from a short period in the 1880s and after the turn of the century. The first lull in land purchasing resulted from an economic downturn and the second from legislative intervention. The absence of warfare and a tradition of participation in the economy and accommodation of government further disguised the extent that Maori land ownership was being rapidly eroded throughout the period.

The study has confirmed the following:

- Nineteenth-century statistical aggregations of Maori land blocks must be treated with some scepticism. All figures up until the 1908 Stout Ngata schedules have significant omissions.
- Maori in Tai Tokerau brought their lands into the Court earlier than elsewhere and by 1869 almost half of the lands awarded a court title had been alienated.
- Large blocks were considerably more likely to be alienated than small blocks, both to the Crown and to private purchasers. Large blocks were also much more likely to be alienated in their entirety. These alienations occurred a good deal sooner after the award of title than alienations of smaller blocks.
- By 1890, at least 649,028 hectares of land in Auckland and Northland had passed through the Court
- In the 1890s Maori lost approximately half of the lands with a Court title which had remained at the beginning of the decade.
- In 1908 only 12 percent of land which had passed through the Court prior to 1890 remained in Maori ownership.
- While the earlier a block was awarded, the less likely it was to be retained, there is little evidence that the 1867 amendment to the Native Land Act 1865 or the Native Land Act 1873 gave any greater long term protection to Maori land.
- Increasing partition of blocks did not generally occur until the 1890s.
- The fragmentation of blocks following 1890 was first a result of the increasing fragmentation of papatupu land passing through the Court and only secondly caused by the subdivision of existing blocks. Crown purchasing policy, the purchasing of individual shares, further prompted subdivision.
- The increasing average size of the numbers of owners was also the result of new blocks being awarded and subdivision rather than succession.
- The 'ten owners' system was only gradually changed into one where higher numbers of owners were recorded in the title. Variations in the average number of owners throughout the region suggest significant tribal variations in how ownership was distributed.
- Leasing of land was rarely used in the late 1860s and was a feature of the 1870s, very much on decline from the mid-1880s. Leasing of land outside Auckland provided only limited returns compared with sale of timber or lease of timber, flax and mining rights.
- Nonetheless, leasing remained the first choice of Maori when faced with the threat that otherwise their land would be lost to them.

- By 1908 there was ample warning that Maori land had in some parts of the North declined to a level which would be unable to support Maori communities if further reduced.
- In 1908 the reserve of papatupu land which had been drawn on to meet the demand for further land sales was gone, almost completely included in the pool of land for which titles had been awarded.
- Fractionating of title and alienation of large blocks may be seen as encouraging the transfer of economic authority from hapu to whanau as blocks became smaller and moved towards being family farms.
- Although the transfer of Maori land into the European economy through alienation suggests that Maori were excluded or excluded themselves from participation in that economy, there is significant evidence to the contrary. Maori engaged in formal transfers of land amongst themselves, leasing and selling amongst themselves and taking European partners. However this activity was insufficient to step the ongoing asset stripping of land purchases.

One of the most notable features of this ongoing relationship with lands administered by the Court is the inability to determine from any of the official land records, the extent that owners acted as individuals, or as rangatira with traditional ties of loyalty to collective interests. From the Crown grants, certificates of title, leases and sale deeds, there is an overwhelming assumption that owners act as individuals in their own interests. Yet the situation was far from that simple. Once individuals received a title they could, in Pakeha terms, call their own, they did not cease to be Maori and to avoid the obligations of being rangatira. Resource use, decision making, distribution of rents, leases and sale money could were still subject to Maori traditional Maori legal obligations. Few of these obligations (succession is to a limited extent an exception) were given any legal recognition or protection.

A few major rangatira, Paora Tuhaere and Tawhiao, were able to engage in some degree of entrepreneurial activity. They could lease and trade in timber rights, in a manner less available to less significant individuals. Their ability to form alliances with key Europeans gave some protection to their customary role as rangatira, to the extent that they were prepared to maintain this role within the European developed, Native land system. Once fragmentation of title became developed more extensively from the 1880s then tribal authority at a hapu level was even more strongly eroded.

By 1908 the amount of land Maori had remaining (787,305 hectares) was less than 20 percent that held in 1840. Around 50 percent of the original estate was already out of Maori ownership by 1865. In the 43 years following the establishment of the Court, a further 30 percent of the total area of the region was alienated. While the Crown attempted to privatise trade in Maori land through the abolition of pre-emption and establishment of a Court to create tradable titles, the Crown remained the principal purchaser of land. Only around 10 percent of the total area of the region was acquired by private purchases prior to 1908. At times, particularly in the late 1870s, Crown

purchasing almost reached a frenzy as a large number of huge blocks were purchased. While, at the end of the period, Maori still retained 20 percent of land within the region as a whole, this was far from evenly distributed, with some groups rapidly becoming landless.

## APPENDIX I

### PRACTICE NOTE

#### WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND Rangahaua Whanui and the claims as a whole

#### PRACTICE NOTE

This practice note follows extensive Tribunal inquiries into a number of claims in addition to those formally reported on.

It is now clear that the complaints concerning specified lands in many small claims, relate to Crown policy that affected numerous other lands as well, and that the Crown actions complained of in certain tribal claims, likewise affected all or several tribes, (although not necessarily to the same degree).

It further appears the claims as a whole require an historical review of relevant Crown policy and action in which both single issue and major claims can be properly contextualised.

The several, successive and seriatim hearing of claims has not facilitated the efficient despatch of long outstanding grievances and is duplicating the research of common issues. Findings in one case may also affect others still to be heard who may hold competing views and for that and other reasons, the current process may unfairly advantage those cases first dealt with in the long claimant queue.

To alleviate these problems and to further assist the prioritising, grouping, marshalling and hearing of claims, a national review of claims is now proposed.

Pursuant to Second Schedule clause 5A of the Treaty of Waitangi Act 1975 therefore, the Tribunal is commissioning research to advance the inquiry into the claims as a whole, and to provide a national overview of the claims grouped by districts within a broad historical context. For convenience, research commissions in this area are grouped under the name of Rangahaua Whanui.

In the interim, claims in hearing, claims ready to proceed, or urgent claims, will continue to be heard as before.

Rangahaua Whanui research commissions will issue in standard form to provide an even methodology and approach. A Tribunal mentor unit will review the comprehensiveness of the commission terms, the design of the overall programme, monitor progress and prioritise additional tasks. It will comprise Tribunal members with historical, Maori cultural and legal skills. To avoid research duplication, to maintain liaison with interested groups and to ensure open process:

- (a) claimants and Crown will be advised of the research work proposed;
- (b) commissioned researchers will liaise with claimant groups, Crown agencies and others involved in treaty research; and
- (c) Crown Law Office, Treaty of Waitangi Policy Unit, Crown Forestry Rental Trust and a representative of a national Maori body with iwi and hapu affiliations will be invited to join the mentor unit meetings.

It is hoped that claimants and other agencies will be able to undertake a part of the proposed work.

Basic data will be sought on comparative iwi resource losses, the impact of loss and alleged causes within an historical context and to identify in advance where possible, the wide ranging additional issues and further interest groups that invariably emerge at particular claim hearings.

As required by the Act, the resultant reports, which will represent no more than the opinions of its authors, will be accessible to parties; and the authors will be available for cross-examination if required. The reports are expected to be broad surveys however. More in-depth claimant studies will be needed before specific cases can proceed to hearing; but it is expected the reports will isolate issues and enable claimant, Crown and other parties to advise on the areas they seek to oppose, support or augment.

Claimants are requested to inform the Director of work proposed or in progress in their districts.

The Director is to append a copy hereof to the appropriate research commissions and to give such further notice of it as he considers necessary.

Dated at Wellington this 23rd day of September 1993

Chairperson  
WAITANGI TRIBUNAL