

Wai 686 #S 16
Wai 704 #A3

IN THE WAITANGI TRIBUNAL

WAI-704

IN THE MATTER OF The Treaty of Waitangi Act
1975

AND

IN THE MATTER OF Claims by the Haki Pene Hura
whanau regarding the alienation
of Poihaere Hura's interests in
several Hauraki land blocks

STATEMENT OF EVIDENCE OF TRACY TULLOCH

Introduction

1. My name is Tracy Tulloch. I am a historian based in the School of Social and Cultural Studies at Massey University, Albany Campus. I hold a PhD in History from the University of Canterbury.
2. I have researched and written four reports for claims before the Waitangi Tribunal. These include two reports on Hauraki claims: Wai 704 and Wai 754 and two reports for the Urewera District Inquiry.
3. I was commissioned to carry out research into several alienated Hauraki blocks of land in which Poihaere Hura and her father Hakipene Hura of Ngati Pu had interests. These blocks were Mangakirikiri 1, Tahanui 2A9, Te Kapua 1, Ohoupo IA, Ohoupo 2A, Hikutaia 1A2 and 1G3 and Whangamata 4D3, 4D4B1 and 4D4B2A.
4. Four blocks were sold during the nineteenth century. These blocks ranged in size from 5 1/2 acres to 1,155 acres. All were owned jointly with others of Ngati Maru or Ngati Pu. The largest block, Mangakirikiri 1, was sold to the Crown. The others were sold to private parties.

5. The six remaining blocks were alienated between 1914 and 1922. The blocks ranged in size from 2 1/2 acres to 2,460 acres. The Crown purchased the largest three blocks and the remainder were sold to private parties. Poihaere was the sole owner of two of these six blocks: Hikutaia 1G3, 81 acres, which was sold privately in 1917, and Whangamata 4D4B2A, 132 acres, which was sold to the Crown in 1922.

Legal processes

6. In most of the alienations the correct legal processes and procedures were followed by the Crown and by private purchasers. However, in two cases, required checks regarding the sale process do not appear to have been followed or may have been inadequate.
7. First, the alienation of Mangakirikiri 1, a 1,155 acre block, does not appear to have been confirmed by a Trust Commissioner in 1879 as was required under the Maori Lands Frauds Prevention Act 1870. It should, however, be noted that if the sale had come before the Trust Commissioner it is likely that he would have confirmed the alienation as the sale appears to have met the criteria taken into account by the commissioners.
8. Second, and perhaps more importantly, it appears that the extent of Poihaere Hura's landholdings were not adequately investigated by the Crown before it acquired the last of her significant interests in land in the 1920s.

9. Under the Native Land Act 1909 and its amendment Act of 1913, Maori land was not to be sold if the alienation would result in the Maori vendor becoming 'landless' as defined in the legislation. Landlessness was not defined by acreage but by what was described as 'a sufficiency for maintenance'. The Maori Land Boards were responsible for assessing whether vendors had sufficient other lands on which to support themselves if the sale went ahead. Research by David Alexander suggests that the Boards generally considered 30 acres of other lands to be sufficient. The Boards were also required to have due regard 'to the public interest and the interests of the owners' before confirming alienations.
10. In 1917, Poihaere sold Hikutaia 1G3, an 81 acre block, to a local farmer for £500. She was the sole owner of the block. At the time of the sale she was recorded as owning interests in land amounting to 166 acres, including Hikutaia 1G3.
11. However, the sale of this block was not taken into account when the Crown purchased Poihaere's remaining significant land interests in the Whangamata 4 block between 1918 and 1921. In 1916, the Waikato-Maniapoto District Maori Land Board determined that Poihaere was one of a number of Maori owners of Whangamata 4 who would not be rendered landless if the Crown purchased their interests in this block. The Board's investigations in 1916 showed that Poihaere owned interests in approximately 85 acres of Maori land in addition to her interests in Whangamata 4. These 85 acres included the 81 acres of Hikutaia 1G3.

12. The Crown subsequently purchased Poihaere's shares in Whangamata 4D3, 4D4B1 and 4D4B2A in 1918, 1920 and 1922 respectively. Its purchases were based on the Board's 1916 assertion that Poihaere would not be rendered landless by these alienations. The Crown's failure to ensure that its information about Poihaere's total land holdings was up to date meant that by the time it purchased Whangamata 4D4B2A in 1921, an area of 138 acres, Poihaere was left with only 4 acres of recorded other lands. This fell well below the 30 acres generally defined as sufficient other lands by the Maori Land Boards.
13. Had the Native Land Purchase Board been aware of the change in Poihaere circumstances it is possible that it could have turned to section 91 of the Native Land Amendment Act 1913 to justify the purchase. This section of the Act stated that 'landlessness did not occur where the land being sold would not in any event provide sufficient support to the Maori owner and also where a vocation, trade, profession or other form of income could provide an adequate alternative income.' Furthermore, under section 7 of the Native Land Act Amendment and Maori Land Claims Adjustment Act 1915 the Maori Land Board could confirm a purchase if it considered that the land was not likely to be of material means of support to its owners even if the owners would then become technically 'landless'.
14. Neither the Waikato-Maniapoto District Maori Land Board, nor the Native Land Purchase Board, appear to have been in a position to know whether the land did support Poihaere in any way or if she had any alternative form of income. The only investigation into her land-owning status appears to have been carried out in a fairly cursory manner in 1916: the results of which soon became out of date when Poihaere sold Hikutaia 1G3 in 1917.
15. As a result of the low test of sufficiency regarding Maori vendors' other lands, and the Crown's failure to fully investigate vendors' circumstances before purchasing their interests, Poihaere was rendered virtually landless by the early 1920s.

Erosion of Maori land ownership

16. It is not clear why Haki-pene and Poihaere sold their interests in land when they did. However, Poihaere and Haki-pene's abilities to hold onto their interests were undermined by a number of factors. These are detailed in my report and include such issues as the burden of survey costs on Maori land, the individualization of Maori titles, the partitioning of large tribal blocks into small units, the eroding of restrictions on the sale of Maori land and the Crown's use of monopoly purchasing powers.

17. The Crown exercised its monopoly purchasing powers with regard to the Mangakirikiri block in the 1870s and the Whangamata 4D block in the 1910s and 1920s. It invoked the Immigration Public Works Amendment Act 1871, with regard to Mangakirikiri, and section 363 of the Native Land Act 1909, with regard to Whangamata 4D, to prevent the Maori owners of these blocks from alienating their lands to anyone other than the Crown. This action severely limited the Maori title-holders' ability to raise revenue from the land other than by sale to the Crown.

Adequacy of protections

18. Legislative provisions intended to protect Maori landowners such as Poihaere from losing too much land were neither robust nor failsafe. Restrictions against alienation were progressively undermined or removed from legislation from the 1870s and investigations into Maori vendors' circumstances were cursory at best. As in the case of Mangakirikiri and Whangamata 4, these checks were not always carried out or if they were, might not be kept up to date.

19. By 1900 Hauraki Maori had alienated a significant proportion of their lands. The Crown's active pursuit of Hauraki lands for European settlement from 1910 resulted in the erosion of an already severely diminished Hauraki Maori land base. Poihaere Hura, who sold her last significant interests in land to the Crown between 1918 and 1921 was just one of many Hauraki Maori who were rendered almost landless in this period.