INQUIRY INTO REMAINING HISTORICAL CLAIMS:

SOUTHERN NORTH ISLAND AND SOUTH ISLAND CLAIMS (REGION 1)

WAI 2800

Claim assessment for the Standing Panel:

The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163)

Research Services Team

Waitangi Tribunal Unit

July 2022

1 Introduction

This claim assessment provides summary and background information on the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) for the Inquiry into Remaining Historical Claims: Southern North Island and South Island Claims (Wai 2800). The Claim is one of five remaining historical claims that the Chairperson, Chief Judge Wilson Isaac, has determined as eligible for inquiry in Region 1 (pictured below).[1] Region 1 comprises:

- Taranaki;
- Whanganui;
- Te Whanganui a Tara/Wellington;
- Te Tau Ihu/Northern South Island;
- Southern South Island; and
- Rekohu/Chatham Islands.[2]

Map of the included inquiry districts[3]

[1] Chief Judge W W Isaac, memorandum-directions of Chief Judge W W Isaac concerning eligibility, 11 December 2019 (Wai 2800, #2.5.5), p 6.

[2] Chief Judge W W Isaac, memorandum of the Chairperson appointing a standing panel to inquire into remaining historical claims in the south-western North Island, the South Island and the Chatham Islands, 6 September 2018 (Wai 2800, #2.5.1), p 4.

[3] Chief Judge W W Isaac, Appendix A: Map of the included inquiry districts, 6 September 2018 (Wai 2800, #2.5.1(a)).

This document has been prepared by the research services team of the Waitangi Tribunal Unit to provide advice to the standing panel. It is an assessment of existing secondary sources relating to the claim issues raised in the statement of claim for the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). Primary research has not been undertaken in the preparation of this assessment. Where possible, reference to primary sources that appear most relevant to the claim have been included, should further evidence be required. These are listed in the attached Appendix.

The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) is one of two claims in the inquiry that concern land granted under the South Island Landless Natives Act 1906 (referred to throughout this paper as the SILNA). The other claim is the Southland Forests Claim (Wai 158). The claim assessments for these two claims have many similarities and should be read together.

This claim assessment comprises:

- A claim summary, including information on several claim amendments;
- Waitangi Tribunal inquiries and Treaty settlements relevant to the Claim;
- The Claim and the current Tribunal inquiry; and
- Existing relevant research sources and gaps in evidential coverage.

Methodology:

This claim assessment provides an overview of secondary sources that are relevant to the Claim. Some additional primary sources have been used to provide contextual information on the timeline of relevant events leading up to the current inquiry, including correspondence to the Tribunal, Māori Land Court minutes, Tribunal file notes, published government policy documents, and one non-published document provided by the Crown Law Office.

The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) raises a range of allegations concerning Crown legislation, actions, omissions, practices, and policies. The claim is summarised in Section 2 of this scoping paper. The various allegations raised in the claim have been organised into four key research topics for the purpose of assessing the existing evidential coverage of the claim issues. This was done by analysing allegations, using information in the statement of claim, claim amendments, and further secondary research when needed for context and/or clarification of the issues. The four research topics are:

- Topic One: Historical background to the SILNA and SILNA forests including their allocation and after the land was allocated;
- Topic Two: Alleged SILNA land alienations after 1906;
- Topic Three: Crown forestry policy relating to SILNA land and the economic consequences for SILNA owners; and
- Topic Four: Crown negotiations and the Ngāi Tahu settlement.

The four topics are not fully exclusive and there are some links between them, particularly between Topic Three and Topic Four (for example, the Resource Management Act 1991 is covered in both). Clarification from the claimants during the inquiry process should help to further determine the existing evidential coverage of the claim particulars. The first three topics are the same ones used for assessment of the Southland Forests Claim (Wai 158), but Topic Four assesses the coverage of additional issues not raised in that claim.

Given there have already been three Tribunal inquiries inquiring into SILNA-related issues, there was much information available in Tribunal reports, relevant evidence filed for the inquiries (such as research reports), and inquiry process documents (such as memorandum-directions and submissions) on which to develop relevant background information on the claim issues.

The three SILNA-related Tribunal inquiries that have already concluded are:

- The Ngai Tahu Lands and Fisheries Inquiry (Wai 27);
- The Waimumu Trust (SILNA) Inquiry (Wai 1090); and
- The Northern South Island/Te Tau Ihu o Te Waka a Maui Inquiry (Wai 785).[4]

The Records of Inquiry for these three inquiries contain hundreds of documents and not all were examined for this scoping paper. The documents that appeared most relevant by their titles have been considered (see a full list of Record of Inquiry documents considered in the bibliography under 'Reports filed in evidence for Waitangi Tribunal inquiries'). There are likely to be many other relevant documents on these Records of Inquiry and some of these are identified in section 5.

Where gaps in the coverage of claim issues are identified, this paper provides some suggested sources that may assist with addressing them should more information be required, including a list of archival materials held at Archives New Zealand. A keyword search of the Archives New Zealand catalogue (Archway) has produced nearly 150 results that appear relevant for more in-depth consideration of this claim if required. These files are predominantly from the following departments (including their predecessor departments): Land Information New Zealand; Te Puni Kōkiri; Department of Conservation; and Parliamentary Counsel Office. A full list of Archives New Zealand files that appear relevant is provided in the Appendix. It is not an exhaustive list of all files that may be relevant to this claim (Wai 2163).

2 Summary of the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163)

The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) was registered by the Waitangi Tribunal on 9 September 2009.[5] The claim comprises an original statement of claim, received on 13 August 2008, and two further letters elaborating on the claim, received on 19 March 2009 and 1 July 2009.[6] This section summarises the three documents and provides information on further amendments to the named claimants and claim particulars.

2.1 Original statement of claim received 13 August 2008

The Waitangi Tribunal received the original statement of claim on 13 August 2008. The claim was filed by Mahara Moruka Te Aika on behalf of herself and Hirini Matunga. In the claim, Ms Te Aika described

[4] A keyword search of the Waitangi Tribunal reports index shows that these three inquiries are the main inquiries that cover SILNA-related issues.

[5] James Skinner, Waitangi Tribunal to Mahara Te Aika, 11 September 2009, 'Registration of New Claim – Wai 2163'; Judge C M Wainwright, memorandum-directions of the Acting Chairperson, 9 September 2009 (Wai 2163, #2.1.1).

[6] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1); Mahara Te Aika, amended statement of claim received 19 March 2009 (Wai 2163, #1.1.1); Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1).

her and Mr Matunga as trustees of the Tautuku Waikawa Lands Trust.[7] Ms Te Aika advised the Tribunal that she had filed her claim 'several years ago' but that it was never acknowledged.[8] The Tribunal does not appear to have a record of this.

The claimants allege the Crown has breached human rights and the Treaty of Waitangi, 'particularly Article 2 and 3, while misusing those of Article 1'.[9] The claim concerns actions, policies, and recommendations by the Crown and Crown agents arising from the following (and other) legislative instruments:

- The South Island Landless Natives Act 1906;
- The Resource Management Act 1991;
- The Crown Forests Amendment Act 1992;
- The Local Government Act;
- Te Runanga o Ngai Tahu Act; and
- The 'Maori Lands Act'.[10]

The claim is made on behalf of land blocks allocated under the South Island Landless Natives Act 1906, including, but not limited to:

- Tautuku Block Ix Section 1A2;
- Tautuku Block X Section 1B;
- Tautuku Block Xiii Section 2;
- Waikawa Block Xvi Section 2;
- Waikawa Block Xvi Section 8A; and
- Waikawa Block Xvi Section 8B.

Specifically, the claimants allege:

- The Crown has provided poor quality lands and inadequate compensation;
- The Nature Heritage Fund, the Crown Forests Amendment Act, the Customs Act, and the Resource Management Act have prevented SILNA owners from enjoying the full economic benefits of their land;
- The management of the conservation estate adjacent to the SILNA lands has impacted SILNA lands;
- The Forest Amendment Bill (before Parliament at the time) would bring SILNA land into the process of the Resource Management Act, which will further erode SILNA owners' abilities to fully benefit from their land;
- Crown Minister, the Hon P Hodgson, had failed 'to accept settlement models, as a matter of negotiation, while forcing nonnegotiable [sic] settlement via Nature Heritage Fund and/or the proposed Forest Amendment Bill';

[7] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), pp 1-3.
[8] Mahara Te Aika to the Registrar, Waitangi Tribunal, 9 August 2008, received 13 August 2008, paras 1-2.
[9] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[10] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.

- 'Nature Heritage Fund monies for Local Authorities [have been used] to seduce owners into the ethos of sustainable management, and away from that of full and just settlement and in so circumventing due process';
- The Crown has negotiated with representatives of Te Runanga o Ngai Tahu on issues that impact SILNA land rather than 'the lawful representatives of the owners', and this has denied SILNA owners 'the right to direct representation to Government Agencies and is a breach of fundamental human rights'. The claimants state that Te Runanga o Ngai Tahu have 'failed to provide SILNA owners with benefits relating to the SILNA claims settled [b]etween the Crown and Te Runanga o Ngai Tahu';
- The Crown has included the SILNA estate in the Ngai Tahu Settlement Act without agreement from owners or the lawful representatives of owners;
- The Crown has failed to recognise the legal representatives of the SILNA estate and, in doing so, has undermined the authority of the Māori Land Court;
- The Crown has 'threaten[ed] blanket legislation in the proposed changes to the Forest Amendment Bill, placing the SILNA estate under unfair duress';
- The Crown has 'limit[ed] redress to timber, [which has] minimalis[ed] and den[ied] full and just settlement by means of subtle incrementalisation';
- The Crown has agreed to negotiate with the owners of some SILNA blocks, but will not negotiate with owners of other blocks yet to reach settlement;
- The Crown has failed to 'consider alternative models, such as the West Coast forests settlement';
- The Crown has 'proposed legislation to bring SILNA under the Forest Amendment Act and Resource Management Act', but no government or local government 'instruments provide for this';
- The Crown has used 'illegal measures' to halt the export of woodchip and caused the market to collapse; and
- The Department of Conservation and Lands and Survey have acquired 'Marginal Strips adjoining SILNA estate lands'.[11]

The claimants state that the Crown's actions:

- Have actively discriminated against SILNA owners;
- Will 'unfairly devalue the compensation lands and limit the full economic benefit';[12] and
- Have denied SILNA owners opportunities in the minerals and natural medicines industries.[13]

The claimants request that the Tribunal 'investigate the management of the lands by the Ministry of Conservation during its tenure of lease of Tautuku Waikawa Lands Trust lands', and:

1. The Tribunal investigate the historical grievences [sic] of SILNA owners to the present date.

[11] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), pp 1-3.
[12] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.
[13] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), pp 1-3.

2. The Tribunal investigate the actions of Local Government and Crown negotiations with third parties Rau Murihiku Whenua and Te Runanga o Ngai Tahu and not SILNA owners [sic] lawful representatives.
3. The Tribunal investigate and recommend remedies and that these remedies include the calculation of opportunity costs.
4. That this claim be joined with Wai 158 and other SILNA claims to be heard concurrently and also Wai 262, as the current action of the Crown adversely effect and prejudice [sic] the cultural and intellectual property of the owners.
5. The Tribunal review the South Island Landless Natives Act 1906 with a view to the creation of a new Act as a just instrument for legislative redress for SILNA owners.[14]

At the time of filing, the claimants requested an urgent hearing because the Crown was 'attempting to force legislation against the SILNA estate'.[15] This presumably refers to the Forests Amendment Bill, which was introduced to Parliament in 1999.

The claimants also requested that the Tribunal recommend to the Crown 'the halting of all settlement engagements between it and SILNA estate representatives or any other party, purporting to represent SILNA owners, and the discontinuation of any legislative instruments impacting on the SILNA estate, until such time as the Tribunal investigates, so that this case may be heard in full without undue duress'.[16] The claimants also requested that the Tribunal investigate the full history of land allocated under the South Island Landless Natives Act 1906 to address 'the full scope and scale of any wrongdoing'.[17]

2.2 Further information received 19 March 2009

On 10 December 2008, the Tribunal asked Ms Te Aika for more information on her claim so it could be registered and given a Wai number.[18] On 19 March 2009, the Tribunal received Ms Te Aika's response dated 2 March 2009. She further alleged that the Crown had:

- Attempted to confine Māori to 'inadequate reserves' in the mid-late 1800s under the South Island Landless Natives Act 1906;
- Over the next 100 years, implemented policies to further alienate Māori from their land. For example, by purchasing land after consulting with few owners, landlocking Māori land by purchasing roadside land, and strategically taking pieces of land as reserves; and
- More recently, legislated to stop Māori from utilising the assets on their land, including banning the sale of woodchips overseas under the Customs Act.[19]

[14] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), pp 1, 3.
[15] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[16] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[17] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[18] Angela Pointon, Waitangi Tribunal to Mahara Te Aika, 10 December 2008, 'Your Waitangi Tribunal Claim: More Information Needed'.
[19] Mahara Te Aika, amended statement of claim received 19 March 2009 (Wai 2163, #1.1.1), pp 4-5.

Ms Te Aika alleged the claimants have suffered prejudice as a result of the Crown's actions, including from:

- A 'rort upon Maori';
- A 'racist government';
- An inability of generations to develop land allocated under the South Island Landless Natives Act 1906 and realise their financial potential;
- Māori being deliberately shut out of the economy; and
- '[C]haos and confusion', and a lack of knowledge among Māori about land ownership.[20]

Ms Te Aika reiterated that the Crown's actions constituted a breach of the principles and articles of the Treaty of Waitangi. She also stated: 'This present generation were offered $19,000,000 to gift their assets in perpetuity to the nation', suggesting the land she referred to had been subject to negotiations with the Crown.[21]

2.3. Further information received 1 July 2009

Ms Te Aika elaborated on her claim in further correspondence to the Tribunal dated 23 June 2009, arguing that the Crown's actions had breached the principles of the Treaty of Waitangi by:

- Destroying the overseas market for woodchip by 'using Regulation 4 Customs Export Prohibition Order 1996'; and
- Implementing legislation that devalued timber on SILNA land.[22]

Responding to jurisdictional queries from the Registrar at the time, Ms Te Aika stated that 'although the land blocks mentioned [in her original statement of claim] do fall within the Ngai Tahu takiwa, they were not part of the Ngai Tahu Settlement Act 1998'.[23] She also attached a letter addressed to her from Te Rūnanga o Ngāi Tahu, explaining that, in its view, the Ngāi Tahu Claims Settlement Act 1998 prevents claims from being made regarding the allocation of SILNA land but does not restrict any other claims regarding SILNA land being made.[24]

Ms Te Aika also outlined that the blocks listed in the original statement of claim are only some of those included in the full SILNA estate, which she described as comprising land in Rowallan, Alton, Waimumu, Rakiura, Waitutu, Taukutu, and Waikawa.[25]

Ms Te Aika also stated that, in 2002, the Crown requested SILNA owners and trustees give up rights to their land in exchange for 'a process for future use of their private assets', but that this process 'did not recognise the economic loss they would suffer' and was not accepted.[26]

[20] Mahara Te Aika, amended statement of claim received 19 March 2009 (Wai 2163, #1.1.1), pp 4-5.
[21] Mahara Te Aika, amended statement of claim received 19 March 2009 (Wai 2163, #1.1.1), pp 4-5.
[22] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), pp 7-8.
[23] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7.
[24] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 9.
[25] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7.
[26] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 8.

2.4 Addition of named claimant on 16 April 2019

On 10 December 2018, Ms Te Aika requested that her son, Ben Te Aika, be added as a named claimant.[27] In the letter she described the claim as being made by Mahara Te Aika on behalf of the Tautuku Waikawa Lands Trust rather than Mahara Moruka Te Aika on behalf of herself and Hirini Matunga, as per the original statement of claim.[28] The Tribunal approved the addition of Ben Te Aika as a named claimant on 16 April 2019.[29]

2.5 Further claim amendments

On 1 February 2014, Ms Te Aika provided an update on her request for urgency, stating that the urgency 'section' of her claim was no longer urgent.[30] (It is unclear whether she meant parts of the claim were no longer urgent or the whole claim was no longer urgent.) She also explained that she was seeking advice from a lawyer on her original claim and that parts of the claim 'may no longer be relevant', although she does not specify which parts.[31] The Tribunal does not appear to have received any further correspondence regarding these matters.

In a Joint Memorandum of Counsel dated 10 July 2019 (received five months later on 11 December 2019), claimant counsel for the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) and the Southland Forests Claim (Wai 158) elaborated further on the specifics of the two related claims, arguing:

> The acts and omissions of the Crown within Wai 158 [the Southland Forests Claim] and Wai 2163 [the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim] cause interwoven prejudice across matters ranging from pre-existing aboriginal authority, rights and interests and insubstantial economic base, inappropriate legal structures and decision making to inadequate Māori health and housing over generations and a deliberate educational policy of preparing Maori for low-paying jobs.[32]

3 Waitangi Tribunal inquiries and Treaty settlements relevant to the claim

Several Waitangi Tribunal inquiries and Treaty settlements appear to have limited the scope of what aspects of the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) may be inquired into. These occurred before the Tribunal received the claim in August 2008, and include:

- The Waitutu Incorporation and Rakiura Maori Land Trust settlements;
- The Ngai Tahu Inquiry (Wai 27) and settlement;

[27] Dr B D Gilling, counsel for the Wai 2163 claimants, memorandum of counsel, 10 December 2018 (Wai 2163, #1.1.1(a)).
[28] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1; Dr B D Gilling, counsel for the Wai 2163 claimants, memorandum of counsel, 10 December 2018 (Wai 2163, #1.1.1(a)).
[29] Judge P J Savage, memorandum-directions of the Deputy Chairperson, 16 April 2019 (Wai 2163, #2.2.1).
[30] Ms Te Aika to Jack Campbell, Waitangi Tribunal, 1 February 2014, para 4.
[31] Ms Te Aika to Jack Campbell, Waitangi Tribunal, 1 February 2014, para 5.
[32] Dr B D Gilling, G M Davidson, R L Brown, counsel for the Wai 158 and Wai 2163 claimants, joint memorandum of counsel on behalf of Wai 158 and Wai 2163 responding to the Tribunal direction of 12 June 2019 and the Crown memorandum of 21 December 2018, 10 July 2019 (Wai 2800, #3.1.14), p 4.

- The Northern South Island/Te Tau Ihu o Te Waka a Maui Inquiry (Wai 785) and settlements; and
- The Waimumu Trust (SILNA) Inquiry (Wai 1090).

The following section outlines these developments and considers what impacts they appear to have had on the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).

3.1 The Waitutu Incorporation and Rakiura Maori Land Trust settlements

3.1.1 Initial negotiations between the Crown and SILNA indigenous forest owners concerning the Government's forestry policy

In March 1990, the Government announced a policy to ban the export of indigenous forest produce (timber, logs, or woodchips) that was not certified as sustainable.[33] The policy intended to protect the remaining indigenous forest on both private and public land.[34] It was implemented in July 1990 through regulations under the Customs Act 1966 that prohibited the export of indigenous woodchips.[35]

In March and April 1990, the Government held discussions with SILNA indigenous forest owners, through the Cabinet Committee on Treaty of Waitangi Issues, about possible compensation for opportunity losses. In August that year, the Crown and SILNA indigenous forest owners reached what is known as 'the framework agreement'. The agreement outlined the special circumstances of the South Island Landless Natives Act 1906 and, according to the Crown Law Office, 'advanced the solutions of' awarding various forms of compensation for commercial opportunity loss.[36]

During this time, SILNA landowners in Southland established Rau Murihiku Whenua Maori in opposition to the new policy.[37] Tribunal records show that Māori indigenous forest owners met on 21 April 1990 to elect a negotiating team, although it is unclear if this became Rau Murihiku Whenua Maori. Rex Austin, who was nominated as part of the negotiating team, said to owners that the Government had agreed in principle to compensate Māori landowners for the opportunity loss resulting from its new indigenous forestry policy.[38] The Southland Forests Claim (Wai 158) was filed in July 1990.

[33] Waitangi Tribunal, Waimumu Trust (SILNA) Report 2005 (Wellington: Legislation Direct, 2005); Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office].
[34] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office], p 4.
[35] Waitangi Tribunal, Waimumu Trust (SILNA) Report 2005 (Wellington: Legislation Direct, 2005); Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office].
[36] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office], p 4; Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005*, pp 31-32.
[37] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 31.
[38] Maori Owners of Indigenous Forests meeting minutes, 21 April 1990, Ascot Park Motor Hotel, Invercargill, p 3.

Correspondence to the Tribunal suggests that Janett Associates wrote a submission on behalf of Murihiku forest owners to Ministers of the Environment and Conservation on indigenous forest policy sometime around 1990.[39] The submission stated that:

> Murihiku forest owners wish to retain full and exclusive rights to their forest resources as guaranteed in Article Two of the Treaty of Waitangi, the South Island Landless Natives Act 1906 and other legislation.[40]

The Crown Law Office recorded that little progress was made in negotiations after 1990, noting this was possibly because parties were awaiting the outcome of the Tribunal's inquiry into the Ngāi Tahu ancillary claims.[41] In its *Ngai Tahu Ancillary Claims Report 1995*, the Tribunal recorded that negotiations were 'held in abeyance while the Government considered a proposal for the settlement of the claim made by a special negotiator appointed by the Minister of Conservation'.[42]

On 24 January 1992, owner Sydney Cormack expressed concern to the Tribunal about the Crown's methods for valuing the land and timber for the purpose of setting compensation.[43]

On 3 February 1992, John Delamere, then Manager, Claims & Negotiations at the Department of Justice, advised the Deputy Chief Judge of the Māori Land Court, Judge McHugh, that the next phase of negotiations would require an agreed methodology for valuing the economic loss resulting from the Government's indigenous forestry policy, but that it could not undertake 'the next phase of negotiations' before the Government announced its indigenous forest policy.[44]

The Tribunal has found, in its *Waimumu Trust (SILNA) Report 2005*, that from 1990, the Minister of Customs continued to permit the export of unsustainably harvested indigenous wood products 'as a transitional measure'.[45] According to the Crown Law Office, SILNA forests were 'accorded a special status', which meant they were exempt 'on a case by case basis' from the export ban on indigenous woodchips between 1990 and 1995, and later exempt from 'the export and milling control, and the requirement for sustainable management' introduced by the Forests Amendment Act 1993.[46]

The Government proposed the Forests Amendment Bill in 1992, which would require all privately owned indigenous forest to be milled sustainably, but agreed to exclude SILNA forests from the Bill and continue negotiations owners to reach some sort of agreement on protecting the forests.[47] The Forests Amendment Act 1993 is discussed further in Section 5.3.

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[39] Janett Associates, 'Submission to Ministers of the Environment and Conservation on Indigenous Forest Policy by Murihiku Forest Owners' [not dated]. The Tribunal does not have a record of if or when this was submitted, but it was filed with other documents around this time.
[40] Janett Associates, 'Submission to Ministers of the Environment and Conservation on Indigenous Forest Policy by Murihiku Forest Owners' [not dated], p 1.
[41] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office], p 5.
[42] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 309.
[43] S Cormack to the Registrar, Department of Justice, 24 January 1992.
[44] John Delamare, Manager, Claims & Negotiations, Department of Justice to Deputy Chief Judge A G McHugh, Waitangi Tribunal, 3 February 1992.
[45] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 33.
[46] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office], p 3.
[47] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 33-34.

In correspondence to the Tribunal dated 23 June 2009, Ms Te Aika outlined that the Crown had tried 'to achieve a non-negotiated settlement with SILNA owners and Trustees in 2002' but was unsuccessful.[48] She stated that the Crown's offer would have 'required owners to give up rights in perpetuity, and accept a process for future use of their private assets which did not recognise the economic loss they would suffer'.[49] No further information on this has been found during research for this paper.

3.1.2 Representation issues

Over the course of these negotiations, issues were raised about representation for SILNA owners and the extent of Rau Murihiku Whenua Maori's mandate to negotiate on behalf of owners. Issues appear to have included whether its mandate was restricted to the issue of negotiating compensation for losses as a result of the government policy, or also extended more widely to representing owners generally in matters concerning the future economic use of their SILNA forests. Some SILNA owners took action through the Māori Land Court to form trusts to allow them to negotiate more directly with the Crown over their forest lands. This is outlined below.

In June 1991, Timothy Te Aika (a SILNA landowner) raised the issue of landowner concerns with Deputy Chief Judge McHugh, stating that the Janett Associates report, written on behalf of the negotiating team, did not reflect the interests of owners in Rowallan and Alton.[50] Deputy Chief Judge McHugh responded that he was 'most concerned at the situation' that had developed. He referred to several meetings called by the Māori Land Court on the issue of owner support to form an entity to be called Murihiku Forests Ltd, which intended to establish exotic forests over SILNA land. Deputy Chief Judge McHugh stated that he understood this proposal was opposed by the Government, which favoured exchanging the land or providing compensation in order to protect the remaining forest. Deputy Chief Judge McHugh advised Timothy Te Aika that he intended to raise owner representation issues with the Treaty of Waitangi Policy Unit (the Crown negotiating unit that was a predecessor to Te Arawhiti – The Office for Māori Crown Relations).[51]

On 10 July 1991, the Deputy Registrar of the Māori Land Court, S J Hadfield, advised landowner Mr M Colgan: 'Our opinion is that the owners in Rowallan/Alton are largely unrepresented by the Negotiation Team (Rau Murihiku Whenua Maori)'.[52] S J Hadfield advised that a structure, such as a trust, would need to be established before the Crown could negotiate with landowners. Māori Land Court minutes record that in September 1991 Deputy Chief Judge McHugh made an order under section 438 of the Maori Affairs Act 1953 to vest 42 Rowallan and Alton blocks in trustees. The minutes note that the purpose of vesting the land in trustees was, in part, '[t]o deal with the Government policy on conservation of indigenous forests and related issues'.[53]

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[48] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7.
[49] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), pp 7-8.
[50] Timothy Te Aika to Judge McHugh, Deputy Chief Judge, Māori Land Court, 28 June 1991, para 3.
[51] A G Mcugh, Deputy Chief Judge, Māori Land Court to Timothy Te Aika, 9 July 1991. More information on Murihiku Forests Ltd is provided in the minutes to a meeting of Māori landowners in Alton/Rowallan, the Māori Trustee, and the Trust Officer, Registrar, and Deputy Chief Judge of the Māori Land Court dated 30 August 1991. See Alton/Rowallan meetings minutes, 30 August 1991, Arowhenua Marae, Temuka.
[52] S J Hadfield, Deputy Registrar, Māori Land Court to Mr M Colgan, 10 July 1991, 'Indigenous Forest Policy – Rowallan Alton : File TEW 98/1/5', para 2.
[53] Māori Land Court minutes, 18 September 1991, 74 South Island MB 104-108, Invercargill; Māori Land Court minutes, 19 September 1991, 74 South Island MB 109-111, Invercargill.

On 3 February 1992, John Delamere, then Manager of Claims & Negotiations at the Department of Justice, also appeared to acknowledge SILNA landowners' concerns about the makeup of the negotiating team. He wrote to the Chairperson of the Waitangi Tribunal, Deputy Chief Judge McHugh, that the Crown had 'been aware of conflict within the wider claimant group for several months' and that the Crown believed the Rau Murihiku Whenua Maori Negotiating Team had a 'limited mandate' because some owners were not present when the team was elected in 1990.[54]

3.1.3 The Waitutu Incorporation and Rakiura Maori Land Trust settlements

The Waitutu Incorporation, which administers SILNA land in Waitutu, reached a settlement with the Crown in 1996, given effect through the Waitutu Block Settlement Act 1997. The settlement set out that the forest would be preserved and managed by the Crown, while still owned by the Waitutu Incorporation. The Crown paid the Waitutu Incorporation $18.5 million over five years, based on the commercial value of the timber. The Waitutu Incorporation in return 'gave up its claims' under the Ngai Tahu Lands and Fisheries Claim (Wai 27) and the Southland Forests Claim (Wai 158).[55] The Waitutu Block Settlement Act 1997 states:

> **13 No further inquiries into claim by [Waitutu] Incorporation to Waitangi Tribunal**
>
> (1) Despite any other enactment or rule of law, no court or tribunal has jurisdiction to inquire or further inquire into or to make any finding or recommendation in respect of those parts of the following claims made to the Waitangi Tribunal that are attributable to the Incorporation:
>
> (a) the Wai 27 claim made by Tariana Nilsen on behalf of the [Waitutu] Incorporation concerning Wairaurahiri land [discussed above]:
>
> (b) the Wai 158 claim made by Robert Kenneth McAnergney as a member of the Murihiku negotiating team and others.[56]

The Rakiura Maori Land Trust reached a settlement with the Crown in 1999, given effect through the Tutae-Ka-Wetoweto Forest Act 2001. The Crown paid the Rakiura Maori Land Trust $10.9 million, again based on the commercial value of the timber. This came from $20 million set aside for negotiations. In return, the Trust would continue to manage the forest based on an agreement of conserving it 'in perpetuity'.[57]

It appears that the consequence of these settlements is that any claims concerning the Waitutu or Rakiura forests are now legally settled and they are no longer eligible for inquiry. In her first amended statement of claim, dated 2 March 2009, Ms Te Aika stated: 'This present generation were offered $19,000,000 to gift their assets in perpetuity to the nation'.[58] It is unclear from sources viewed for this scoping paper whether she is referring to the Waitutu Incorporation settlement (of $18.5 million) or to other negotiations.

SILNA land policy was 'extensively revised' after the change of government in 1999. This involved the Government replacing settlement negotiations for grants 'to develop sustainable development plans

[54] John Delamare, Manager, Claims & Negotiations, Department of Justice to Deputy Chief Judge A G McHugh, Waitangi Tribunal, 3 February 1992, para 2.
[55] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 34.
[56] Waitutu Block Settlement Act 1977, s 13.
[57] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 39.
[58] Mahara Te Aika, amended statement of claim received 19 March 2009 (Wai 2163, #1.1.1), p 5.

and streamline consent processes'.[59] The Crown replaced negotiations with opportunities for conservation covenants with the Nature Heritage Fund and implemented the Forests Amendment Act 2004, which banned compensation for economic losses. These issues are discussed in more detail in Section 5.3.

3.2 The Ngai Tahu Inquiry (Wai 27) and settlement

3.3.1 The Ngai Tahu claim

The Ngai Tahu Lands and Fisheries Claim (Wai 27) included grievances concerning land allocated to Ngāi Tahu under the SILNA in Te Wai Pounamu/the South Island. The original claim was filed on 28 August 1986 by Henare Rakihia Tau and the Ngāi Tahu Māori Trust Board.[60] Over the following two years, seven amended statements of claim were filed, including one on 2 June 1987, which argued lands allocated to Ngāi Tahu under the SILNA were inadequate and unfit for purpose.[61] Between 1987 and 1989, the Tribunal travelled around Te Wai Pounamu/the South Island and was notified of further grievances concerning SILNA land.[62]

3.2.2 The Waitangi Tribunal's Ngāi Tahu findings

These SILNA-related grievances were reported on in the *Ngai Tahu Report 1991* and the *Ngai Tahu Ancillary Claims Report 1995.* In its *Ngai Tahu Report 1991*, the Tribunal found that 'the Crown's policy and the legislative implementation of the policy in relation to landless Ngai Tahu to be a serious breach of the Treaty principle requiring it to act in good faith'.[63] The Tribunal also concluded that the landless natives grants were 'a cruel hoax' implemented by the Crown 'to appear to be doing something' and 'to appease its conscience'.[64]

In its *Ngai Tahu Ancillary Claims Report 1995*, the Tribunal reiterated its earlier finding that the SILNA scheme was 'a cruel hoax, enacted to appease [the Crown's] conscience'.[65] That report also made findings on several grievances concerning SILNA land in Murihiku/Southland that were alleged to have occurred *after* the original allocation of land. (These are sometimes referred to as 'post-allocation SILNA claims'.) Those claims were brought to the attention of the Tribunal during hearings for the earlier land and sea fisheries claims and so were not allocated separate Wai numbers. They are all considered Wai 27 claims and are referred to as claims 1 through to 117 in the Tribunal's report. None of these claims concern the Tautuku or Waikawa blocks, but they do cover land in Waimumu, Waitutu, and Rakiura, which are mentioned in Ms Te Aika's claim as part of the 'SILNA Estate'.[66]

Claim 61 alleged that the Crown acquired SILNA land in Waimumu for a television transmitter site in 1964 and the surplus area was not returned when it was not needed. The Tribunal found that the Crown's lack of notification in taking the land, its failure to return the surplus area, and the failure to

[59] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 39, 76.
[60] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 1, p 4.
[61] See Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 1, Appendix 3.
[62] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995).
[63] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 3, p 1000.
[64] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 3, p 1000.
[65] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp xvi, 229.
[66] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7.

compensate owners constituted a breach of Article Two of the Treaty in that it failed to act in good faith and protect the rangatiratanga of Ngāi Tahu.[67]

Claim 63 alleged that SILNA land with millable timber in Forest Hill (Waimumu) was sold in 1970 for an unfair price. The Tribunal did not uphold this claim because the Māori Land Court had investigated the purchase and found the price offered was adequate.[68]

Claim 89 alleged that government forestry policies had prevented the owners of SILNA land in Wairaurahiri (now administered by the Waitutu Incorporation) from generating income from the land, including policies that led to:

- The inability to log the forest for commercial gain;
- The inability to access the land, for example, due to difficulties gaining permission to build roads;
- The inability to export logs, for example, due to the Customs Act 1966;
- Pressure to relinquish the land, for example, from local government for unpaid rates and central government interests to see the land integrated into Fiordland National Park; and
- '[T]housands of dollars' in costs for attending planning tribunals and district scheme hearings.[69]

The Tribunal concluded the claim was 'well founded' and that there was 'an obligation on the Crown to compensate such owners for lost milling opportunities'. It made several recommendations, including that:

> The Crown should either allow the owners of the Waitutu Incorporation to market their forest to best advantage or compensate them adequately … [and] … the Crown should reimburse the Waitutu Incorporation for all provable, actual, and reasonable costs incurred in negotiations and planning applications up to the date on which the incorporation receives consent to market its timber resources or alternative remedies are agreed upon between the incorporation and the Crown.[70]

The claim was later settled by the Waitutu Block Settlement Act 1997 (discussed in the previous section).[71]

Claim 92 was filed by Harold Ashwell and concerns land in Port Adventure and Toitoi (Rakiura/Stewart Island) that was set aside under the South Island Landless Natives Act 1906 but never granted. In 1964, the Government considered 'resuming the land under section 110(6) of the Maori Purposes Act 1931 and compensating the intended owners', but this did not eventuate. The Tribunal found that, at the time of publishing, the land had not been surveyed and remained in Crown hands. It found the Crown's actions constituted a Breach of Article Two of the Treaty and recommended the land be granted to descendants of those originally allocated the land.[72]

[67] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 243-245, 389.
[68] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 249.
[69] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 308-309.
[70] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 309-310.
[71] Waitutu Block Settlement Act 1997, s 13(1).
[72] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 326-335, 368.

3.2.3 The Ngāi Tahu settlement

The Crown and Ngāi Tahu signed the Ngāi Tahu Deed of Settlement on 21 November 1997, given effect the following year by the Ngāi Tahu Claims Settlement Act 1998. The Ngāi Tahu Claims Settlement Act 1998 settles all Ngāi Tahu claims concerning the allocation of land under the South Island Landless Natives Act 1906. The Act does not settle non-Ngāi Tahu claims within the Ngāi Tahu takiwa, nor does it settle all claims concerning SILNA land.[73] The Act also specifically excludes the Southland Forests Claim (Wai 158) from its settlement provisions insofar as the claim does not relate to the original allocation of land under the South Island Landless Natives Act 1906. This is set out in section 10 of the Act, where it defines 'Ngāi Tahu claims' as follows:

> **10 Meaning of Ngāi Tahu claims**
>
> (1) In this Act, **Ngāi Tahu Claims**—
>
> …
>
> (e) excludes the claim to the Waitangi Tribunal designated Wai 158, but such exclusion does not apply to any part of Wai 158 that might relate to the original allocation of land under the South Island Landless Natives Act 1906, being a matter dealt with in the Wai 27 claims referred to in paragraph (b) … [74]

3.3 The Northern South Island/Te Tau Ihu o Te Waka a Maui Inquiry (Wai 785)

The Northern South Island Claims/Te Tau Ihu o Te Waka a Maui Inquiry (Wai 785) also included several grievances that are relevant to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). This included claims concerning:

- Land allocated to Te Tau Ihu iwi under the South Island Landless Natives Act 1906;
- The Crown's treatment of Te Tau Ihu iwi during its negotiations and settlement with Ngāi Tahu;
- The Te Runanga o Ngai Tahu Act 1996;
- The Ngāi Tahu Claims Settlement Act 1998;
- The Resource Management Act 1991; and
- The Local Government Act 2002.

Ngāti Apa alleged that the Crown had failed to properly consult with them during the Crown's negotiations with Ngāi Tahu. They claimed the Ngāi Tahu Claims Settlement Act 1988 'impinged on Ngati Apa's ability to seek redress in their claim with respect to the perpetual leases issue' and that the Crown had 'misled them into believing that the settlement with Ngai Tahu would not impact on any future negotiations between themselves and the Crown'.[75] Ngāti Toa alleged the Crown had inadequately defined the Ngāi Tahu takiwa in both the Te Runanga o Ngai Tahu Act 1996 and the Ngāi Tahu Claims Settlement Act 1998, and that the Crown had similarly 'failed to consult with them during negotiations with Ngai Tahu'.[76] Te Ātiawa alleged that land on the Heaphy River, which was originally

[73] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008).
[74] Ngāi Tahu Claims Settlement Act 1998, s 10.
[75] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), p 1351.
[76] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007), p 176.

granted to Ngāti Apa and Te Ātiawa under the South Island Landless Natives Act 1906, was included in the Ngāi Tahu Deed of Settlement. Rangitāne alleged the Ngāi Tahu Claims Settlement Act 1998 has prevented them from accessing land in the Ngāi Tahu takiwa on Rakiura/Stewart Island that was granted to Rangitāne under the South Island Landless Natives Act 1906.[77]

These claims are addressed in *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* and *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008.*[78] The Tribunal found that the landless natives reserves were 'an inadequate remedy' and the Crown's actions in that regard constituted a breach of its Treaty obligations.[79]

With regard to the Crown's settlement with Ngāi Tahu, the Tribunal found that the Crown had breached the Treaty of Waitangi by dealing only with Ngāi Tahu within the Ngāi Tahu takiwa:

> We find that the Crown has not breached its Treaty obligations to Te Tau Ihu iwi by the passing of, or the content of, the Te Runanga o Ngai Tahu Act 1996 or the Ngai Tahu Claims Settlement Act 1998. However, in dealing with Ngai Tahu exclusively within the Ngai Tahu takiwa, the Crown has breached the principles of active protection and equal treatment, and Te Tau Ihu iwi have been prejudiced as a result.[80]

The Tribunal recommended that 'the Crown take urgent action to ensure that these breaches do not continue' and that the Crown negotiate with Te Tau Ihu iwi on 'equitable compensation'.[81]

Since then, legislation has settled the historical claims of Te Tau Ihu iwi. The historical claims of Ngāti Apa and Rangitāne were settled by the Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014. The historical claims of Ngāti Toa were settled by the Ngati Toa Rangatira Claims Settlement Act 2014. The historical claims of Te Ātiawa were settled by the Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014.

3.4 The Waimumu Trust (SILNA) Inquiry (Wai 1090)

In 2004, the Tribunal began an urgent inquiry into the Waimumu Trust Claim (Wai 1090). The Waimumu Trust Claim (Wai 1090) concerned the impacts of Crown indigenous forestry policy on SILNA landowners in Waimumu (Murihiku/Southland). The claim was brought on 18 November 2003 by Rewi Walter Anglem, Taare Hikurangi Bradshaw, and Kemble Wingham Roderique on behalf of all beneficiaries of the Waimumu Trust. The Waimumu Trust was formed in 1984 to manage Māori land

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[77] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007), pp 175-177.

[78] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007); Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008).

[79] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), vol III, p 1365.

[80] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007), p 181; Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), vol III, p 1358.

[81] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), vol III, p 1358)

in Waimumu. In 2005, the Waimumu Trust administered 4440 hectares of indigenous forested SILNA land, owned by 4166 beneficial owners.[82]

The Waimumu Trust Claim (Wai 1090) alleged the Forests Amendment Bill 1999 (now the Forests Amendment Act 2004) would cause significant economic loss by removing the claimants' ability to export timber that was not sustainably logged, and by failing to compensate for this loss. The claim was broadened in January 2004, through an amended statement of claim, to also include the impacts of the Resource Management Act 1991, the Southland District Plan in 2001, and changes to SILNA land policy in the early 2000s.[83]

The Chairperson of the Tribunal at the time, Chief Judge Joseph Williams, granted urgency to the inquiry on 9 February 2004 because he determined that 'the loss complained of, if made out, is significant, even crippling' and that 'the loss would be ongoing and therefore compounding'.[84] At this time, the loss had been quantified at just over $20 million by an expert valuation.[85]

For the purpose of the urgent inquiry, the Tribunal focussed on the original part of the claim regarding the Forests Amendment Bill 1999 (which would become the Forests Amendment Act 2004). This meant that for urgency purposes, the Tribunal did not undertake a broad scope inquiry into claimant concerns on *all* issues raised in their claim. Instead, the Tribunal chose to treat the further issues raised in the amended statement of claim as 'ancillary'.[86]

The Tribunal covering letter to the Minister for Māori Affairs and the Minister Coordinating SILNA Policy explained this approach and confirmed that the Tribunal had not inquired into wider SILNA-related claims or issues:

> In hearing this urgent claim, we have been conscious of the need not to make findings on matters which relate to other SILNA claims without hearing from those claimants, and not to treat this inquiry as if it were a full hearing of all SILNA issues. Our findings relate to the Wai 1090 claim alone.[87]

In its report, the Tribunal stated that the urgency inquiry had not been able to address all issues in the Waimumu Trust Claim (Wai 1090) and because of this: 'The appropriate course in our view is for the completion of a general inquiry by the Tribunal into all SILNA-related claims not affected by the Ngai Tahu Claims Settlement Act 1998'.[88] However, the Tribunal also advised that, due to the prioritising of historical and urgent claims: 'It may be many years before the Tribunal is in a position to inquire further into the SILNA claims'.[89]

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[82] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp viii, 1.
[83] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 1; Rewi Walter Anglem, Taare Hikurangi Bradshaw, and Kemble Wingham Roderique, statement of claim, 18 November 2003 (Wai 1090, #1.1); Rewi Walter Anglem, Taare Hikurangi Bradshaw, and Kemble Wingham Roderique, amended statement of claim, 16 January 2004 (Wai 1090, #1.1(a)).
[84] Chief Judge J V Williams, decision of the Chairperson with respect to urgency, 9 February 2004 (Wai 1090, #2.1), p 2.
[85] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 1.
[86] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 7-8,76, 77.
[87] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p viii.
[88] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 77.
[89] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 77.

The Tribunal found that the first part of the claim relating to the Forests Amendment Bill 1999 was not well founded because the Tribunal was not presented with any credible valuations of the economic loss faced by the Waimumu Trust as a direct result of the policy.[90]

As noted above, the wider claim grievances raised in the amended statement of claim concerning the Resource Management Act 1991, the Southland District Plan in 2001, and other changes to SILNA land policy in the early 2000s were all treated as 'ancillary' by the Tribunal for the purposes of the urgency inquiry and report. While the Tribunal therefore did not make findings on these wider issues, it felt it had received enough evidence to make some preliminary views 'for the guidance of claimants and the Crown in any further discussions'.[91] The Tribunal found: 'the evidence available to us enabled well-grounded preliminary views on other [ancillary] issues, which will be of value to the claimants and the Crown in the resolution of these important claims'.[92] The Tribunal recorded the following preliminary views:

- The Resource Management Act 1991 'is a key constraint on the claimants' ability to make an economic use of their SILNA lands', although it did not make a full finding 'because the claimants ha[d] not actually tested the parameters of this constraint by seeking a resource consent';
- The Crown's policy change to no longer treat SILNA land as compensatory and therefore no longer a special class of Māori land, 'was probably inconsistent with both the historical facts and the principles of the Treaty'. The Tribunal cautioned that this preliminary view was based on incomplete evidence, stating: 'we make no findings in the absence of hearing from other SILNA claimants, and with no opportunity to carry out a full inquiry into the historical facts'; and
- The Crown's actions in replacing negotiations with SILNA owners with payments under the Nature Heritage Fund 'breached the principles of the Treaty of Waitangi'.[93]

These issues are discussed further in section 5 of this paper.

3.5 Summary of remaining claim issues

In summary, there have been several Tribunal inquiries, Treaty settlements, and other developments that appear to have limited the scope of what remains to be inquired into in the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). The issues that appear to remain open for inquiry include grievances that:

- Do not relate to the original allocation of SILNA land;
- Have not previously been inquired into by the Tribunal (such as in the Ngai Tahu Inquiry (Wai 27), the Northern South Island Inquiry (Wai 785), or the Waimumu Trust (SILNA) Inquiry (Wai 1090)); and
- Have not been settled by Treaty settlement legislation (such as the Waitutu Incorporation settlement, the Ngāi Tahu settlement, or the Rakiura Māori Land Trust settlement).

[90] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 6, 81.
[91] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp viii.
[92] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 77.
[93] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 103-104.

4 The Claim and the current Tribunal inquiry

4.1 Developments in the status of the claim

On 28 April 2009, the Assistant Registrar of the Waitangi Tribunal advised Ms Te Aika that her claim (Wai 2163) may have been settled by the Ngāi Tahu Claims Settlement Act 1998 because the land blocks appear to fall within the Ngāi Tahu takiwa.[94] Ms Te Aika responded that she does not reference 'any land blocks within the Ngai Tahu takiwa that could have been settled by the Ngai Tahu Claims Settlement Act 1998'. She maintained that the land blocks were not included in the Ngāi Tahu Settlement Act 1998, though they do fall within the Ngāi Tahu takiwa.[95]

Ms Te Aika also stated that these blocks are only a portion of the lands allocated under that South Island Landless Natives Act 1906, which she described as covering land in Rowallan, Alton, Waimumu, Rakiura, Waitutu, Tautuku, and Waikawa. She recognised that the owners of two of these areas have settlements with the Crown (Waitutu and Rakiura, discussed above).[96]

As outlined in section 2 of this paper, Ms Te Aika also provided a letter from Te Rūnanga o Ngāi Tahu outlining its views on the jurisdiction of the Waitangi Tribunal to hear claims concerning land allocated under the South Island Landless Natives Act 1906. Te Rūnanga o Ngāi Tahu argued it was 'not aware of any SILNA forestry lands other than those on Rakiura (Port Adventure and Toitoi) which would otherwise fall within the ambit of SILNA claims that have been settled'.[97]

In the view of Te Rūnanga o Ngāi Tahu, the Ngāi Tahu Claims Settlement Act 1998 'prevent[s] claimants from making claims that relate to the allocation of the lands (such as adequacy of the size of the reserves and their location)'. However, it argued the Act 'places no further restrictions on the range of complaints which may be made'.[98] Te Rūnanga o Ngāi Tahu also argued that the Ngāi Tahu Claims Settlement Act 1998 does not restrict contemporary claims arising after 21 September 1992.[99]

Te Rūnanga o Ngāi Tahu also discussed the Crown's position that 'complaints about the original SILNA grants – their size, location, and quality, or whether they were an adequate response to the grievances of Ngai Tahu – are no longer within the Tribunal's jurisdiction'.[100] Te Rūnanga o Ngāi Tahu argued that:

> … the Crown interpretation of what claims could be made and considered by the Waitangi Tribunal [in the Waimumu Trust (SILNA) Report] is a narrow one, and it would be the view of Te Rūnanga o Ngāi Tahu that the true scope of the remaining jurisdiction is much wider. It is our view that there have been many historical and contemporary actions by the Crown in respect of SILNA forestry lands which amount to breaches of the Treaty of Waitangi. In our

[94] Nyenyezi Siameja, Waitangi Tribunal to Mahara Te Aika, 28 April 2009, 'Your Waitangi Tribunal Claim: More Information Needed', para 2.
[95] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7.
[96] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 7. See Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005) for information on the Waitutu and Rakiura settlements.
[97] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 8.
[98] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 9.
[99] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 10.
[100] Crown Law, Te Tari Ture o Te Karauna, Crown memorandum on jurisdiction, [not dated] (Wai 1090, #2.48), para 6.

> view the owners of these lands are not prevented from having those claims heard or from seeking redress from the Crown.[101]

In more recent correspondence received on 1 February 2014, Ms Te Aika further argued that her claim had not been settled by the Ngāi Tahu Claims Settlement Act 1998.[102]

The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) was formally registered by the Waitangi Tribunal on 9 September 2009.[103] In the Memorandum-Direction registering the claim, the Acting Chairperson, Judge C M Wainwright suggested there were some aspects of the claim that the Tribunal does not have jurisdiction to inquire into. Judge Wainwright stated: 'When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into…'.[104] However, she also gave a provisional view that 'all historical issues raised in this claim relating to land in the Ngāi Tahu claim area have already been settled by the Ngāi Tahu Claims Settlement Act 1998 and the Tribunal cannot inquire into these'.[105] Judge Wainwright also suggested the claim would need to be amended to provide further particulars of the alleged Treaty breaches before the Tribunal hears the claim.

Judge Wainwright also explained that the Tribunal had already inquired into claims in the Southern South Island district and that it was unclear when the Tribunal would be able to inquire into the claim:

> The Tribunal has already held an inquiry and issued a report on claims in this area. It is currently unclear how or when the Tribunal will inquire into claims that relate to districts that have already been the subject of a Tribunal inquiry and report', but that the Tribunal will provide more information about this when it makes a plan.[106]

On 4 September 2013, Ms Te Aika informed the Waitangi Tribunal that she and Hirini Matunga (named as a claimant on the original statement of claim) had developed a plan to engage a researcher to progress the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).[107] On 8 November 2013, Mr Matunga visited the Waitangi Tribunal to request an update on two claims regarding the South Island Landless Natives Act 1906: the Tautuku and Waikawa Lands (Resource Management) Claim (Wai 783) (discussed later); and the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). The Tribunal informed Mr Matunga that it had already held an inquiry in the claim district and it was unsure how or when further claims would be inquired into.[108]

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[101] Mahara M Te Aika, amended statement of claim received 1 July 2009 (Wai 2163, #1.1.1), p 10.
[102] Ms Te Aika to Jack Campbell, Waitangi Tribunal, 1 February 2014, para 6.
[103] James Skinner, Waitangi Tribunal to Mahara Te Aika, 11 September 2009, 'Registration of New Claim – Wai 2163'; Judge C M Wainwright, memorandum-directions of the Acting Chairperson, 9 September 2009 (Wai 2163, #2.1.1).
[104] Judge C M Wainwright, memorandum-directions of the Acting Chairperson, 9 September 2009 (Wai 2163, #2.1.1), p 2.
[105] Judge C M Wainwright, memorandum-directions of the Acting Chairperson, 9 September 2009 (Wai 2163, #2.1.1), p 2.
[106] Judge C M Wainwright, memorandum-directions of the Acting Chairperson, 9 September 2009 (Wai 2163, #2.1.1), p 2.
[107] Ms Te Aika wrote 'Wai 2013' but she appears to mean Wai 2163. See Mahara Te Aika to Jack Campbell, the Waitangi Tribunal, 4 September 2013.
[108] Caitlin McKay, Waitangi Tribunal to Hirini Matunga, 13 January 2014, 'Wai 783, Wai 2163, and Your Unregistered Waitangi Tribunal Claim'; Jack Campbell, Waitangi Tribunal to Mahara Te Aika, 19 March 2014, 'RE: Wai 2163 and your recent correspondence to the Waitangi Tribunal'.

On 9 December 2013, Waitangi Tribunal staff, on behalf of the Registrar, provided a further update to Ms Te Aika on the status of her claim, reiterating Judge Wainwright's earlier comments that it was unknown when the Tribunal would inquire into the claim. Tribunal staff stated:

> The Tribunal has already inquired and reported on claims in this area, and there is no longer an active inquiry. It is currently unclear how or when the Tribunal will inquire into claims that relate to districts that have already been the subject of a Tribunal inquiry and report. More information will be issued about this when a plan is made.[109]

On 1 February 2014, Ms Te Aika responded with an update on developments regarding trusts in the claim area. She stated that she had held a meeting of 'Trustees of Trusts of Tautuku Waikawa' in Dunedin on 1 December 2013 to inform the trustees of the Claim.[110] She also provided information on the Tautuku Waikawa Lands Trust (of which Ms Te Aika was a trustee at the time) and the land it manages:

> We are waiting for events currently before the Maori Land Court, concerning Tautuku Waikawa Lands Trust, the parent Trust from which many of the present trusts withdrew. I am still a Trustee of that parent Trust but am not privy to their meetings or information if any, of their decisions or actions … They have proceeded to obtain a comprehensive financial report, still to be presented to owners, through accountants, Polson Higgs. There are still 8 sections still within the Parent Trust, therefore a possible 12 which are not committed to T.W.L.T. [Tautuku Waikawa Lands Trust][111]

4.2 Inclusion in the Inquiry into Remaining Historical Claims: Southern North Island and South Island Claims (Wai 2800)

On 6 September 2018, Chief Judge Isaac appointed a Tribunal standing panel to inquire into remaining historical claims in the South-Western North Island, the South Island, and the Chatham Islands, and appointed himself as Presiding Officer.[112] On 8 March 2019, he appointed Dr Monty Soutar and Dr Robyn Anderson as members of the inquiry panel.[113]

On 1 October 2018, Chief Judge Isaac included the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) on a list of 30 claims considered possibly eligible to participate in the Inquiry (Wai 2800). He advised claimants of their claims' inclusion on this list and asked parties to file submissions if they considered this assessment to be incorrect.[114] Although the Tribunal did not receive submissions from counsel for the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163), the Tribunal did receive a notice of authority to act in relation to the inquiry, which Chief Judge Isaac took 'to indicate that those claimants wish to participate in the inquiry'.[115]

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[109] Jack Campbell, Waitangi Tribunal to Mahara Te Aika, 9 December 2013, 'Re: Waitangi Tribunal Claim Wai 2163', para 2.
[110] Ms Te Aika to Jack Campbell, Waitangi Tribunal, 1 February 2014, para 3.
[111] Ms Te Aika to Jack Campbell, Waitangi Tribunal, 1 February 2014, para 3.
[112] Chief Judge W W Isaac, memorandum of the Chairperson appointing a standing panel to inquire into remaining historical claims in the south-western North Island, the South Island and the Chatham Islands, 6 September 2018 (Wai 2800, #2.5.1).
[113] Chief Judge W W Isaac, memorandum-directions of the Presiding Officer, 8 March 2019 (Wai 2800, #2.5.3).
[114] Chief Judge W W Isaac, memorandum-directions of the Presiding Officer, 1 October 2018 (Wai 2800, #2.5.2).
[115] Chief Judge W W Isaac, memorandum-directions of the Presiding Officer, 12 June 2019 (Wai 2800, #2.5.4), p 2.

The Crown's response submission of 21 December 2018 identified several claims the Crown believed raised post-allocation SILNA land issues (issues concerning SILNA land after it was originally allocated), and Crown views on which claims were eligible to participate in the Inquiry (Wai 2800). The Crown identified six claims potentially eligible as being post-allocation SILNA land claims that also raise forestry issues. These are:

- The Southland Forests Claim (Wai 158);
- The Section 3A Block XIV Tautuku Survey District (Chaslands Mistake) Claim (Wai 709);
- The Tautuku and Waikawa Lands (Resource Management) Claim (Wai 783);
- The Pohio Newton Rickus Trust SILNA Claim (Wai 994);
- The Waimumu Trust Claim (Wai 1090); and
- The SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).[116]

Four of these claims were not included in the current inquiry.[117] Advice from Tribunal Legal Advisors/Deputy Registrars is that the Section 3A Block XIV Tautuku Survey District (Chaslands Mistake) Claim (Wai 709) and the Tautuku and Waikawa Lands (Resource Management) Claim (Wai 783) both appear to be inactive and the Tribunal has no record of any communication from the claimants since the claims were originally registered in 1998 and 1999 respectively. The Pohio Newton Rickus Trust SILNA Claim (Wai 994) is considered a contemporary claim and the Tribunal has additionally not received any recent communication from the claimants. The Waimumu Trust Claim (Wai 1090) is considered a contemporary claim and was partly reported on in the *Waimumu Trust (SILNA) Report 2005* (discussed above).[118]

The Crown submitted that the Tribunal should hear parts of the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) (along with other claims concerning SILNA forestry policy) within its economic development kaupapa inquiry. It was suggested the elements not related to forestry policy could then be heard in the current Inquiry (Wai 2800). The Crown submitted this approach 'would allow these matters [forestry policy] to be dealt with by a panel with expertise on economic development and alongside other forestry issues'.[119]

On 12 June 2019, Chief Judge Isaac directed claimants to respond to the Crown's submission by 10 July 2019.[120] Claimants for the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) responded but this initially was not received by the Tribunal (discussed below).[121]

On 11 December 2019, Chief Judge Isaac decided that, unless submissions were filed by 17 January 2020 seeking a different approach, the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika)

[116] Crown Law, Te Tari Ture o Te Karauna, memorandum of counsel for the Crown responding to 1 October 2018 directions of the Presiding Officer, 21 December 2018 (Wai 2800, #3.1.3), pp 12-13.
[117] These are: The Section 3A Block XIV Tautuku Survey District (Chaslands Mistake) Claim (Wai 709); The Tautuku and Waikawa Lands (Resource Management) Claim (Wai 783); and the Pohio Newton Rickus Trust SILNA Claim (Wai 994).
[118] Advice from Waitangi Tribunal Legal Advisor/Deputy Registrar, received September 2020 and 1 February 2021. Any residual historical elements of the claim are largely contextual to the core issues and are generic in nature. The Tribunal has additionally not received any recent communications from the claimants.
[119] Crown Law, Te Tari Ture o Te Karauna, memorandum of counsel for the Crown responding to 1 October 2018 directions of the Presiding Officer, 21 December 2018 (Wai 2800, #3.1.3), p 12.
[120] Chief Judge W W Isaac, memorandum-directions of the Presiding Officer, 12 June 2019 (Wai 2800, #2.5.4).
[121] Chief Judge W W Isaac, memorandum-directions of Chief Judge W W Isaac concerning eligibility, 11 December 2019 (Wai 2800, #2.5.5).

Claim (Wai 2163) would be heard as part of the Tribunal's Inquiry into Remaining Historical Claims: Southern North Island and South Island Claims (Wai 2800). This was because the Tribunal had received a request from claimants to be heard as part of that inquiry (and not as part of a future economic development kaupapa inquiry) and because it was unknown when the Tribunal economic development kaupapa inquiry would take place.[122]

After considering submissions, Chief Judge Isaac determined the claims to be included in the current inquiry are:

- The Southland Forests Claim (Wai 158);
- The Ngāti Rangatahi kei Rangitīkei Claim (Wai 1623);
- The SILNA Estate Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163);
- The Descendants of Priscilla Muriwai Dennison Claim (Wai 2236); and
- The Geary Whānau Middle Island Half-Castes Crown Grants Act 1877 Lands Claim (Wai 2324).[123]

On the same day, 11 December 2019, the Tribunal received the Joint Memorandum of Counsel on behalf of the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) and the Southland Forests Claim (Wai 158) claimants dated five months earlier on 10 July 2019.[124] In the memo, claimant counsel reiterated that the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) was eligible to participate in the Inquiry into Remaining Historical Claims: Southern North Island and South Island Claims (Wai 2800) because it 'include[d] allegations about Crown actions that occurred after the allocation of SILNA land and prior to the 1992 historical-contemporary cut-off'.[125]

Claimant counsel also submitted that the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) and the Southland Forests Claim (Wai 158) 'should fully participate and be heard in the Wai 2800 Inquiry rather than partly adjourned to the future economic development kaupapa inquiry' for the following reasons:

- It was unknown when the economic development kaupapa inquiry would commence (claimant counsel set out that Ms Te Aika was elderly and 'living under significant care in a rest home');
- Splitting the subject matter of the claim into the two different inquiries would be an 'impossible and superficial' divide of subject matter;
- Deferring some elements of the claims would 'limit the possible redress the Wai 2800 Tribunal would be likely to recommend, as only part of the picture would be presented to the Tribunal';
- Because 'the named claimants have a legal interest in that claim … [and] … should therefore as of right have the choice of which inquiry to progress their claim if they are recognised to be eligible in more than one'; and

[122] Chief Judge W W Isaac, memorandum-directions of the Presiding Officer, 12 June 2019 (Wai 2800, #2.5.4).
[123] Chief Judge W W Isaac, memorandum-directions of Chief Judge W W Isaac concerning eligibility, 11 December 2019 (Wai 2800, #2.5.5).
[124] Chief Judge W W Isaac, further memorandum-directions of Chief Judge W W Isaac concerning eligibility, 18 December 2019 (Wai 2800, #2.5.6); Dr B D Gilling, G M Davidson, R L Brown, counsel for the Wai 158 and Wai 2163 claimants, joint memorandum of counsel on behalf of Wai 158 and Wai 2163 responding to the Tribunal direction of 12 June 2019 and the Crown memorandum of 21 December 2018, 10 July 2019 (Wai 2800, #3.1.14).
[125] Dr B D Gilling, G M Davidson, R L Brown, counsel for the Wai 158 and Wai 2163 claimants, joint memorandum of counsel on behalf of Wai 158 and Wai 2163 responding to the Tribunal direction of 12 June 2019 and the Crown memorandum of 21 December 2018, 10 July 2019 (Wai 2800, #3.1.14), p 2.

- Deferring some elements of the claims would obstruct the claimants' rights to development and natural justice.[126]

Following receipt of this submission, Chief Judge Isaac confirmed again that the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) would be inquired into fully as part of the Inquiry into Remaining Historical Claims: Southern North Island and South Island Claims (Wai 2800) because the submission was consistent with his previous direction.[127]

5 Existing relevant sources and potential gaps in evidential coverage

This section assesses existing coverage of issues relating to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163), identifies potential gaps, and provides suggested sources for any further research that may be required. As discussed earlier in this paper, this assessment has been divided into more detailed consideration of four discrete topics relevant to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). The first three topics are the same ones used for assessment of the Southland Forests Claim (Wai 158), but Topic Four assesses the coverage of additional issues not raised in the other claim. The four topics are:

- Topic One: Historical background to the SILNA and SILNA forests including their allocation and after the land was allocated;
- Topic Two: Alleged SILNA land alienations after 1906;
- Topic Three: Crown forestry policy relating to SILNA land and the economic consequences for SILNA owners; and
- Topic Four: Crown negotiations and the Ngāi Tahu settlement.

As discussed above in Section 3, Ngāi Tahu claims relating to the original allocation of land under the South Island Landless Natives Act 1906 have been settled by the Ngāi Tahu Claims Settlement Act 1998 and are no longer open for inquiry by the Tribunal. Nevertheless, some context on the historical background to the Act and related historical developments with the SILNA lands is likely to prove useful for understanding the claimants' grievances that have not been settled. For this reason, Topic One, concerning a brief historical background to the SILNA and SILNA forests, has been included as a discrete topic.

Existing published sources provide mixed coverage of the four topics. Most of the information comes from the three Waitangi Tribunal inquiries that have considered some SILNA-related grievances, namely: The Ngai Tahu Lands and Fisheries Inquiry (Wai 27); The Waimumu Trust (SILNA) Inquiry (Wai 1090); and the Northern South Island Claims Inquiry (Wai 785).[128] Some gaps in coverage remain, which are discussed below.

[126] Dr B D Gilling, G M Davidson, R L Brown, counsel for the Wai 158 and Wai 2163 claimants, joint memorandum of counsel on behalf of Wai 158 and Wai 2163 responding to the Tribunal direction of 12 June 2019 and the Crown memorandum of 21 December 2018, 10 July 2019 (Wai 2800, #3.1.14), pp 3-9.

[127] Chief Judge W W Isaac, further memorandum-directions of Chief Judge W W Isaac concerning eligibility, 18 December 2019 (Wai 2800, #2.5.6).

[128] A keyword search of Waitangi Tribunal reports shows that these three are the main inquiries that cover SILNA-related issues.

5.1 Topic One: Historical background to the SILNA and SILNA forests, including their allocation and after the land was allocated

5.1.1 Topic One: Overview

The South Island Landless Natives Act was passed in 1906 to grant land to Te Waipounamu/ South Island Māori left landless following the extensive Crown land purchases between 1844 and 1864. This includes the Murihiku purchase in 1853 and the Rakiura purchase in 1864.[129] During this time, the Crown acquired 34.5 million acres of land from Ngāi Tahu, which comprised 'most of the South Island and more than half the land mass of New Zealand', leaving a total 37,492 acres.[130]

Claims made by Te Waipunamu/South Island Māori led to a series of commissions and, eventually, the South Island Landless Natives Act in 1906. The Act granted 57,000 hectares of land in Te Waipounamu/the South Island to approximately 4,000 Māori individuals deemed 'landless'.[131] At this time, qualifying as 'landless' meant owning less than 40-50 acres of land.[132] Today, SILNA lands are primarily managed through trusts and incorporations, and some are managed by the Māori Trustee.[133] Correspondence to the Tribunal in 1990 indicates, at the time, there were an estimated 10,000 owners of 70 sections of SILNA forest in Southland, with roughly 100 owners in each section.[134]

It is unclear, from sources examined in the preparation of this paper, how much of this land was covered with indigenous forest when it was granted. In 2009 the Ministry of Agriculture and Forestry reported on a 1999 survey showing approximately 17,3000 hectares of SILNA land had some form of indigenous forest cover (excluding forests on Rakiura/Stewart Island and in the Waitutu and Whakapoai blocks). Most of the SILNA land that contains indigenous forest is located in the lower South Island in Rowallan Alton, West Rowallan, Tautuku-Waikawa, Hokonui-Waimumu, and Waitutu. There are also SILNA forests in South Westland, the Heaphy River area, and the outer Marlborough Sounds. According to the Ministry of Agriculture and Forestry, SILNA forests made up '1.6 percent of all privately owned indigenous forests in New Zealand, and account[ed] for approximately 4 percent of Māori-owned indigenous forests'.[135]

Major relevant developments after the South Island Landless Natives Act passed in 1906, include:

- Regulations passed under the South Island Landless Natives Act 1906 in early 1909, which allowed the Governor to lease SILNA land on behalf of owners;

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[129] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 1, pp 99, 145.
[130] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 1, p 821.
[131] Ministry of Agriculture and Forestry, 'SILNA Forests: Review of the 2002 SILNA Policy and the Implementation Package', discussion document, 2009, p 6.
[132] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001.
[133] Ministry of Agriculture and Forestry, 'SILNA Forests: Review of the 2002 SILNA Policy and the Implementation Package', discussion document, 2009, p 6.
[134] Maori Owners of Indigenous Forests meeting minutes, 21 April 1990, Ascot Park Motor Hotel, Invercargill, p 3; R. K. McAnergney, Murihiku Maori Land Owners Negotiation Group to Mr Parou Tupangaia, Maori Land Information Office, Department of Justice, 16 August 1990; Unsigned 'Revised Framework Agreement on Southland Indigenous Forest Allocated to Maori Landowners under 1906 Legislation', September 1990 [no further information given].
[135] Ministry of Agriculture and Forestry. 'SILNA Forests: Review of the 2002 SILNA Policy and the Implementation Package'. Discussion document, 2009, p 8.

- The Native Land Act 1909, which repealed and replaced the South Island Landless Natives Act 1906 (along with other legislation concerning Māori land) and allowed SILNA land to be alienated;
- The Gilfedder and Haszard Commission in 1914, which considered title issues and leasing arrangements for SILNA land;
- The Native Land Amendment Act 1914, which made changes to title and leasing provisions for SILNA land under the Native Land Act 1904, and made SILNA land once again inalienable;
- The investigation into claims relating to SILNA land by Judge Rawson in 1916-17;
- The Native Land Amendment and Native Land Claims Adjustment Act 1919, which, among other things, enabled money to be granted to those who did not receive land during the original allocations;
- The Native Land Claims Commission in 1921, which inquired into Kemp's Deed;
- The Native Land Amendment and Native Land Claims Adjustment Act 1923, which enabled SILNA land to be alienated again; and
- Ongoing claims for the settlement of Ngāi Tahu grievances and the Ngaitahu Claim Settlement Act 1944.[136]

Existing sources provide extensive coverage of these developments and are discussed below.

5.1.2 Topic One: Existing relevant sources

The *Ngai Tahu Report 1991* provides extensive historical background to the South Island Landless Natives Act 1906 and the original allocations of land to Māori that were considered landless, including land in Tautuku. The report details the events leading up to, and some events following, the passing of the Act in 1906. This begins with background information on the Crown land purchases in Murihiku/Southland and Rakiura/Stewart Island. The report then outlines the series of commissions that responded to calls by South Island Māori for redress over the land purchases, including: the Mackay Royal Commission 1886-87; the Joint Middle Island Native Claims Committee 1888 and subsequent committees of 1889 and 1890; and the Mackay Royal Commission 1891 and its subsequent reports. After detailing the government's landless natives scheme and grants made under the South Island Landless Natives Act 1906, the report also covers the Gilfedder and Haszard Commission of Inquiry 1914.[137]

Evidence on the Record of Inquiry for the Ngai Tahu Inquiry (Wai 27) written by David Armstrong (Wai 27, #M16), and its supporting papers (Wai 27, #M17), provide further coverage of the South Island Landless Natives Act 1906 and some key events following its enactment. This includes: the Crown's reserve policy concerning Ngāi Tahu 1890-1944; the Gilfedder and Haszard Commission in 1914, which

[136] Cecilia Edwards, 'Origins of Government Policy: South Island Landless Māori' (report for the Crown Law Office, Wellington, 2000); Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office]; David Anderson Armstrong, evidence concerning the Crown's reserve policy concerning Ngāi Tahu 1890-1944 (Wai 27, #M16); David Anderson Armstrong, supporting papers for evidence concerning the Crown's reserve policy concerning Ngāi Tahu 1890-1944 (Wai 27, #M17).
[137] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991).

considered title issues and leasing arrangements for SILNA land; the Native Land Claims Commission in 1921, which inquired into Kemp's Deed; and the Ngaitahu Claim Settlement Act 1944.[138]

'Origins of Government Policy: South Island Landless Maori' was written by Cecilia Edwards for the Crown Law Office in 2000 (Wai 1090, #A10). The report provides an overview of SILNA policy, examines the Government's intentions behind SILNA policy, considers how SILNA policy has changed over time, and examines the relationship between SILNA policy and the settlement of Ngāi Tahu claims.

Chapter 2 sets out the origins of SILNA land policy, including:

- Early government responses to Ngāi Tahu claims;
- The first and second Mackay Commissions in 1886-1887 and 1890-1891 respectively;
- The Joint Committee reports in 1888, 1889, and 1890; and
- Landlessness claims in Marlborough, which Edwards describes as 'the separate but parallel track Government embarked on in relation to the landless Maori in northern South Island'.[139]

Chapter 3 details land allocations before the South Island Landless Natives Act 1906 was passed, including:

- The Smith/Mackay Commission from 1893-1905, which began the process of allocating land to landless Māori and recommended legislation as a mechanism to issue title (this would become the South Island Landless Natives Act 1906); and
- The integration of policy with Marlborough/Buller landless Māori from around 1896, described by Edwards as a policy 'of dealing with landlessness of South Island Maori, rather than Ngai Tahu, Ngati Kuia and Rangitane' [emphasis in original].[140]

Chapter 4 details the drafting of the South Island Landless Natives Act 1906 and its passage through Parliament in 1906.

Chapter 5 covers some further developments from when the Act was passed to the mid-1900s that may also provide useful context to more recent SILNA policy, including:

- Regulations passed under the South Island Landless Natives Act 1906 in early 1909, which allowed the Governor to lease SILNA land on behalf of owners;
- The Native Land Act 1909, which repealed and replaced the South Island Landless Natives Act 1906 (along with other legislation concerning Māori land) and allowed SILNA land to be alienated;
- The Gilfedder and Haszard Commission in 1914 and subsequent amendment to the Native Land Act 1909, which made changes to title and leasing provisions for SILNA land under the Native Land Act 1904, and made SILNA land inalienable again;
- The investigation into claims relating to SILNA land by Judge Rawson in 1916-17;

[138] David Anderson Armstrong, evidence concerning the Crown's reserve policy concerning Ngāi Tahu 1890-1944 (Wai 27, #M16); David Anderson Armstrong, supporting papers for evidence concerning the Crown's reserve policy concerning Ngāi Tahu 1890-1944 (Wai 27, #M17).
[139] Cecilia Edwards, 'Origins of Government Policy: South Island Landless Maori' (report for the Crown Law Office, Wellington, 2000), p 26.
[140] Cecilia Edwards, 'Origins of Government Policy: South Island Landless Maori' (report for the Crown Law Office, Wellington, 2000), p 30.

- The Native Land Amendment and Native Land Claims Adjustment Act 1919, which, among other things, enabled money to be granted to those who did not receive land during the original allocations;
- The Native Land Amendment and Native Land Claims Adjustment Act 1923, which made further changes to title provisions and enabled SILNA land to be alienated again; and
- Ongoing claims for the settlement of Ngāi Tahu grievances and the Ngaitahu Claim Settlement Act 1944.[141]

'Report on Crown Historical Research on the South Island Landless Natives Act 1906', written by Jim McAloon in 2001 (Wai 1090, #A4) covers the political context of the South Island Landless Natives Act 1906 in slightly more detail, providing a perspective on how the Crown and Ngāi Tahu saw the purpose of the South Island Landless Natives Act 1906. McAloon examines the political context in which the Act came into being, considers how land allocations made under the Act were viewed by Ngāi Tahu and by the Crown, and provides an overview of events leading up to and following the Act's passing in 1906. The report was written for Te Puni Kōkiri/Ministry of Māori Development and Rau Murihiku Whenua Māori.

The report covers the history of Ngāi Tahu claims from 1849-1878, beginning with petitions concerning the inadequacy of reserves and the failure of the Crown to fulfil the terms of Kemp's Deed. It then covers the series of Royal commissions, commissions of inquiry and parliamentary inquiries that heard Ngāi Tahu claims, including:

- The Smith/Nairn Commission from 1878-81;
- The Mackay Commissions of 1886-87 and 1890-91;
- The Joint Committees from 1888-90;
- The land allocations from 1890-1906;
- The Smith/Mackay Commission from 1893-1905;
- The passage of the South Island Landless Natives Act 1906; and
- The Gilfedder and Haszard Commission in 1914.[142]

'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', written by the Crown Law Office in 2001, provides further information on the background to the South Island Landless Natives Act 1906. This includes considering the purpose behind the Act, the series of commissions leading up to the Act, the drafting of the Act, some limited information on the land and forests granted under the Act, and some developments after the Act was passed (such as the 1914 Inquiry and the Native Land Amendment Act 1919).[143]

The *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* and the *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims*

[141] Cecilia Edwards, 'Origins of Government Policy: South Island Landless Māori' (report for the Crown Law Office, Wellington, 2000).
[142] Jim McAloon, 'Report on Crown Historical Research on the South Island Landless Natives Act 1906', (report for Te Puni Kōkiri/Ministry of Māori Development and Rau Murihiku Whenua Māori, 2001) (Wai 1090, #A4), p 1.
[143] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office].

2008 provide further background information on the landless natives grants that will be useful for contextualising the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). Much like the above sources, they provide information on events leading up to the South Island Landless Natives Act 1906, the passing of the Act in 1906, and some developments after the Act's passing. They provide additional information on the relationship between Ngāi Tahu and Te Tau Ihu iwi, as well as the Te Tau Ihu iwi land allocations in Murihiku that are not covered in the Ngāi Tahu reports.

In particular, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008* covers the reserves created for 'landless Māori' in Te Tau Ihu. The Tribunal noted that nearly 10,000 acres of land in Port Adventure (Rakiura/Stewart Island) was designated for approximately 3000 Marlborough Māori in 1905. However, the Tribunal found that the land designations were never actually made available. The Crown considered compensating those who had been designated land in Rakiura/Stewart Island but never received it, but nothing came of this consideration.

Further background to the allocation of SILNA land in Murihiku/Southland and Rakiura/Stewart Island that does not need to be repeated here can be found in the *Ngai Tahu Ancillary Claims Report 1995* and the *Waimumu Trust (SILNA) Report 2005.*[144]

5.1.3 Topic One: Summary

Together, the sources outlined above provide substantial coverage of the historical background to the South Island Landless Natives Act 1906. They provide sufficient context for understanding the history and unique circumstances of SILNA land and how this relates to the claimants' grievances that remain open for inquiry today.

There are further sources on the Record of Inquiry that have not been reviewed for this paper but may provide useful for supplementing the sources discussed here. These can be found on the Records of Inquiry for the Ngai Tahu Inquiry (Wai 27), in the Record of Documents, and the Northern South Island Claims Inquiry (Wai 785), also in the Record of Documents. This includes, but is not limited to:

- Additional supporting documents to Tribunal research Vols 1, 2 (Wai 27, #AB27);
- Evidence of Robert A Whaitiri, Sydney Cormack and Jim McAloon on Murihiku (Wai 27, #E1);
- Evidence of Sydney Cormack on the Murihiku reserves (Wai 27, #E16);
- Further evidence of James Peter McAloon on the Murihiku Block (Wai 27, #J2);
- Evidence of Graham John Sanders on the Murihiku and Rakiura purchases (Wai 27, #O12);
- Evidence of David James Alexander on the Murihiku and Stewart Island reserves (Wai 27, #O14(a)) and supporting papers (Wai 27, #O14(b));
- Supporting papers to evidence of David J Alexander on Otakou, Murihiku and Rakiura reserves (Wai 27, #P6);
- Evidence of David James Alexander on Otakou, Murihiku and Rakiura reserves (Wai 27, #P7);
- Evidence of Ronald Tindal on Titi Islands (Wai 27, #P8(a));
- Further evidence of David Anderson Armstrong on the Murihiku purchase (Wai 27, #P18);

[144] Claims relating to the original allocation of SILNA land in Murihiku/Southland and Rakiura/Stewart Island in the *Ngai Tahu Ancillary Claims Report 1995* include Wai 27 Claims 62, 86, 88 92, and 114.

- Further evidence of James Peter McAloon on Murihiku Block and Rakiura, February 1989 (Wai 27, #Q3);
- Evidence of Deborah Montgomerie on the Rakiura purchase, July 1989 (Wai 27, #U3);
- Report by GV Butterworth and SM Butterworth, *Review of research on Northern South Island claims*, February 1993 (Wai 785, #A21);
- Ngai Tahu casebook, 28 September 2000 (Wai 785, #B1); and
- Crown casebook (filed by Nadine Johnston), 27 March 2013 (Wai 785, #V16).

Archival sources that may provide useful information are listed in the Appendix to this paper.

5.2 Topic Two: Alleged SILNA land alienations after 1906

5.2.1 Topic Two: Overview

There is less coverage of the alienation of SILNA land after 1906. Most of the information found for this paper comes from a research report, 'Landless Natives Reserves in Nelson and Marlborough', written in 1999 by David Alexander (Wai 785, #A54), the Tribunal's *Waimumu Trust (SILNA) Report 2005,* and the Tribunal's *Ngai Tahu Ancillary Claims Report 1995*. Together these provide an overview of legislative developments that enabled SILNA land to be alienated, but do not provide information on specific instances of SILNA land subject to that power that are not already reported on by the Tribunal. The relevant powers, policies, and other developments include:

- The Native Land Act 1909, which first allowed SILNA land to be alienated;
- 1909 Regulations setting out the Governor's powers to lease SILNA land on behalf of owners;
- The Native Lands Amendment Act 1914, which again removed the ability for SILNA land to be alienated;[145]
- Crown proposals in 1921-1922 to repurchase SILNA land that had not been occupied, which did not eventuate;
- The Native Land Amendment and Native Land Claims Adjustment Act 1923, which enabled SILNA land to be alienated again; and
- Appeals by some SILNA landowners to sell their interests in the Port Adventure block to the Crown in 1924, which also did not eventuate.[146]

Sources relevant to these developments are discussed below.

5.2.2 Topic Two: Existing relevant sources

The most recent and most extensive report considering SILNA land policies appears to be David Alexander's 1999 report, 'Landless Natives Reserves in Nelson and Marlborough' (Wai 785, #A54). Although the focus is on the northern South Island area and does not detail specific instances of alienation of SILNA land in Murihiku/Southland, the report provides a useful outline of relevant

[145] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001, Appendix II.

[146] See the Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001, Appendix II; David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54); Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005); Cecilia Edwards, 'Origins of Government Policy: South Island Landless Māori' (report for the Crown Law Office, Wellington, 2000); Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005).

legislative developments enabling the alienation of SILNA lands, along with Crown proposals to purchase land on Rakiura/Stewart Island that did not eventuate. In his summary of the report, Alexander states: 'Since being granted in 1910 the [SILNA] lands have been treated no differently to other Maori owned land. They have been able to be partitioned, alienated (for long term lease or by sale), and become multiply owned'.[147]

Alexander's report outlines major mechanisms by which SILNA land could be regularly alienated. Firstly, Alexander provides an overview of how succession laws, along with the Native Land Act 1909, enabled the removal of restrictions against alienation and allowed SILNA land to be sold under certain conditions.[148]

Secondly, Alexander explains how the Native Lands Amendment Act 1914 gave the Governor 'power to vest any lands awarded to landless Maori in the local Land Board in trust for the beneficial owners. The Land Board then had the power to lease out the lands'. Alexander discusses examples of SILNA land in Marlborough that was vested in the local Land Board but does not provide examples of similar experiences for land in Murihiku/Southland (as that district was outside the report scope). Alexander explains that the Native Lands Amendment Act 1914 was amended by 1916 so that 'only the control of the landless native lands, rather than the land itself, could be vested in the Land Boards'.[149]

Thirdly, Alexander's report outlines proposals by the Crown in 1921-1922 to purchase SILNA land that had not been occupied, with compensation to be set as though the land had been taken under the Public Works Act. The Port Adventure Block on Rakiura/Stewart Island was considered as part of these proposals due to the value of its forest. Alexander states that, in the end, the Crown purchases did not go ahead because of insufficient finances being available.[150]

One year after deciding not to go ahead with that proposal, the Crown passed the Native Land Amendment and Native Land Claims Adjustment Act 1923. That Act included power for the Crown to take any unoccupied SILNA land, subject to the payment of compensation. However, Alexander states that never happened either, again due to financial constraints. Alexander states that Crown proposals to acquire unoccupied SILNA land were 'laid to rest' in 1929 when the Crown moved to offering financial help for SILNA landowners to develop their land.[151]

Finally, Alexander's report provides an overview of the history of the Port Adventure (Stewart Island) Reserve from 1898-1930 as illustration of his wider consideration of Crown policies and legislation concerning SILNA lands. This includes information on appeals by some SILNA landowners to sell their interests in the Port Adventure block to the Crown in 1924, given they could not occupy it. As discussed above, the Crown had shown interest in purchasing the block due to the value of its forest, but Alexander states the idea was again 'shelved', this time because the Crown considered acquisition too complex in this case.[152]

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[147] David Alexander, 'Summary of report of David Alexander', 21 March 2003 (Wai 785, #A54(a)), p 2.
[148] David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54).
[149] David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54), pp 120-121.
[150] David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54).
[151] David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54), p 128.
[152] David Alexander, 'Landless Natives Reserves in Nelson and Marlborough', August 1999 (Wai 785, #A54), p 410.

The Tribunal's *Waimumu Trust (SILNA) Report 2005* provides additional background information on the legislative changes that allowed SILNA land to be alienated and unoccupied SILNA land to be taken by the Crown. The Tribunal noted that the Native Land Amendment and Native Land Claims Adjustment Act 1923 allowed SILNA land to be alienated, but it was 'not clear on the evidence before the Tribunal when the SILNA lands could finally be alienated as if they were ordinary Maori land'.[153] The Tribunal described the 1923 Act as allowing SILNA land to be sold or exchanged freely to the Crown or to private owners, although the sale of SILNA land to private owners still required consent from the Governor. The 1923 Act also allowed the Crown to 'resume' (take) unoccupied land, with compensation given to owners under the Public Works Act 1908.[154]

In its report, the Tribunal covers SILNA land in Hokonui (Waimumu) alienated between 1923-2004. The Tribunal found that by the year 2004, nearly two-thirds of SILNA land in Hokonui had been permanently alienated 'either to the Crown for forestry and other purposes (TV transmitters, for example) or to private owners'.[155] It is unclear whether this is the land Ms Te Aika refers to in the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).

'Origins of Government Policy: South Island Landless Maori' by Cecilia Edwards (Wai 1090, #A10) provides further background information on the legislative changes that allowed SILNA land to be alienated, including through the Native Land Act 1909. It does not, however, provide specifics about how this was put into practice, so its use is similarly more contextual in providing additional background on powers and policies concerning the land alienation referred to in the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). Chapter 5 outlines the Government's SILNA land policy after 1906, including:

- Regulations in 1909 setting out the Governor's powers to lease SILNA land on behalf of owners; and
- The repeal of the South Island Landless Natives Act 1906 by the Native Land Act 1909, which allowed 'Maori [to] alienate or dispose of their interest in land the same way as Europeans' and allowed the Crown to sell SILNA land remaining in Crown control, so long as compensation was given to the beneficiaries.[156]

'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)' written by the Crown Law Office provides some additional general information on SILNA land alienation. The Crown Law Office outlines that by 2001: 'It is not known how much SILNA land has been alienated but it appears that 17-20 percent of land originally allocated [under the SILNA] in Southland has been alienated'.[157]

The *Ngai Tahu Ancillary Claims Report 1995* provides some further coverage of the alienation of SILNA land after it was allocated. In particular, the Tribunal's discussion of Claim 92 covers the Government's consideration of taking SILNA land in Rakiura that did not eventuate and the Department of Lands and Survey's role in strips of land becoming Māori reservations for common use by the public. It is unclear

[153] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 90.
[154] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005*, pp 23, 90.
[155] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 23, 29.
[156] Cecilia Edwards, 'Origins of Government Policy: South Island Landless Maori' (report for the Crown Law Office, Wellington, 2000), p 57.
[157] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001, Appendix II.

from the report whether this is the land Ms Te Aika refers to in her claim when she references 'Dept of Conservation and Lands and Survey acquisition of Marginal Strips adjoining SILNA estate lands'.[158]

As discussed earlier in this paper, Claim 92 concerns land in Port Adventure and Toitoi (Rakiura/Stewart Island) that was set aside under the South Island Landless Natives Act 1906 but never actually granted. In 1964, the Government considered 'resuming' (taking) SILNA land in Rakiura under section 110(6) of the Maori Purposes Act 1931 and compensating the intended owners, but that this did not eventuate.[159]

In the early 1980s, Rewi Fife, president of Rakiura Mori Land Incorporated, applied for Crown grants to issue the blocks to the intended owners. The Department of Lands and Survey (which considered the application) considered the allocated blocks to be Māori land and the unallocated blocks to be Crown Land as per section 110(9) of the Maori Purposes Act 1931.[160]

The Tribunal found that during negotiations, the Department of Lands and Survey favoured retention of the 20-metre wide strip of coastline along both blocks and up the Toitoi River. The Tribunal also noted 'the possibility that the Local Government Act 1974 would apply to the blocks, a partition of which would require the setting aside of a 20-metre wide esplanade reserve'.[161] According to the Tribunal, section 345(3) of the Local Government Act 1974 required that 'any portion of road within 20 meters of the mean high-water mark which ceases to be a road shall automatically become a local purpose (esplanade) reserve under the Reserves Act 1977'.[162] However, the proposal was dismissed.[163]

Later, in 1983, the Department of Lands and Survey argued the land that had been allocated remained Crown land under section 110 of the Maori Purposes Act 1931 (as well as the unallocated land) because the land had not been surveyed and the section numbers 'had not been set down'.[164]

The following agreement was reached in 1987:

- the incorporation accepted, under protest, that the blocks were Crown land;
- the Crown would apply to the Maori Land Court to vest the full area of the blocks, including the residual Crown areas, in the society as trustees for the allocates under section 437 of the Maori Affairs Act 1953;
- a 20-metre wide strip along the coastline and the banks of the Toitoi River would become a Maori reservation under section 439 of the Maori Affairs Act 1953 for the common use and benefit of the public;
- the incorporation would consider the reservation of the Toitoi swamp for public use and benefit; and
- the Crown would arrange survey of the blocks and reservations[165]

[158] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[159] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 326-327.
[160] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 327-328.
[161] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 328.
[162] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 291.
[163] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 328.
[164] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 329.
[165] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), p 330.

The Tribunal found that, at the time of publishing, the land had not been surveyed and remained in Crown hands.[166]

Finally, the Tribunal's report *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008* provides further details of some SILNA land blocks alienated in Marlborough and how this process occurred which may provide useful. But again, is does not cover any examples of SILNA land alienated in Murihiku/Southland.[167]

5.2.3 Topic Two: Summary

In summary, there is substantial source material on Crown legislation and policies impacting SILNA land generally. There is less information on how those policies were implemented in practice for SILNA land. There is even less on alienated SILNA land in Murihiku/Southland, with the exception of some limited detail on Hokonui (Waimumu) and the Port Adventure (Stewart Island) Reserve.

Further information will be required to understand and investigate the claimants' grievances regarding SILNA land alienations after 1906 that have not already been reported on and settled, as identified in this paper. This includes the claimants' allegations relating to:

- The Department of Conservation and Lands and Survey acquiring 'Marginal Strips' adjoining SILNA estate lands;
- The Crown consulting with few owners who sold strips of land along the roadside, landlocking hundreds of acres of owners' land;
- Takings of SILNA land for reserves; and
- The role of 'The Maori Lands Act'.[168]

Sources that have not been reviewed for this paper but could provide more detailed information on relevant land blocks include documents filed on the Tribunal's Record of Inquiry for the Ngai Tahu Inquiry (Wai 27) in the Record of Documents A and AB series, and the Tribunal's Northern South Island Claims Inquiry (Wai 785) in the Record of Documents A series. This includes, but is not limited to:

- Research undertaken by Waitangi Tribunal staff on the Murihiku Ancillary claims, 1 November 1991 (Wai 27, #AB24) [primary sources only];
- Research undertaken by Waitangi Tribunal staff on the Rakiura Ancillary claims (Wai 27, #AB25) [primary sources only];
- Report by Hilary Anne Mitchell and Maui John Mitchell, *Land Purchases from iwi, Land Court Judgments Iwi Manawhenua*, March 1992 (Wai 785, #A10);
- Report by Miriam Clark, *Land Alienation of Ngati Tama Manawhenua Ki Te Tau Ihu 1855-1999*, September 1999 (Wai 785, #A49); and
- Revised report by Hilary Anne Mitchell and Maui John Mitchell, *Land Purchases, Court Judgments, Iwi Manawhenua*, 1999 (Wai 785, #A64).

Archival sources listed in the Appendix accompanying this paper may also assist

[166] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 326-335.
[167] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), vol II, pp 672, 1365.
[168] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.

5.3 Topic Three: Forestry policy relating to SILNA land and the economic consequences for SILNA owners

5.3.1 Topic Three: Overview

Existing sources provide good coverage of government indigenous forestry policies and related developments from the 1980s to the mid-2000s. This includes the following developments, which are discussed below:

- Public pressure to conserve indigenous forests in the 1980s;
- The export ban on woodchips in 1990, implemented under the Customs Act 1966 and, later, the Forests Amendment Act 1993;
- A 1999 High Court decision that the regulations were unlawful;
- Changes in government approaches to SILNA forestry policy from the year 2000;
- The Southland District Plan 2001 made under the Resource Management Act 1991; and
- The Forests Amendment Act 2004.

Some gaps remain in the coverage of this topic. In particular, there is limited existing coverage of policy developments after 2005 (when the *Waimumu Trust (SILNA) Report* was published) and details regarding the economic consequences of these policies for SILNA forest owners.

5.3.2 Topic Three: Existing relevant sources

The Tribunal's *Waimumu Trust (SILNA) Report 2005* provides a thorough overview of government SILNA forestry policies from the 1980s to the mid-2000s, and their impacts on SILNA forest owners in Waimumu that are likely to apply to other SILNA forest owners. The report also covers developments with negotiations and settlements between the Crown and some SILNA forest owners, beginning in the 1990s (discussed in section 5.4).

In the 1980s, the Government faced public pressure to conserve indigenous forests across the country and responded with efforts to regulate logging. According to the Tribunal, the Government 'develop[ed] the policy objective of maintaining or enhancing, in perpetuity, the existing area of indigenous forest through protection, sustainable management, or reforestation with indigenous species'.[169]

In March 1990 the Government introduced a ban on exporting indigenous forest produce (timber, logs, or woodchips) that was not certified as sustainable, implemented through July 1990 regulations under the Customs Act 1966. The Tribunal stated:

> The policy also provided incentives for private owners to conserve and protect their forests, which included:
>
> - the contestable forest heritage fund (later renamed the nature heritage fund), to encourage voluntary agreements with the Crown to protect forests; and
> - Nga Whenua Rahui, a contestable 'trust fund' to assist owners of Maori land to protect their indigenous forests.[170]

[169] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 31.
[170] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 31.

The Government then initiated discussions with Māori indigenous forest owners, through the Cabinet Committee on Treaty of Waitangi Issues, about possible compensation, with negotiations underway by June 1990.[171]

As outlined earlier in this paper, the Government proposed the Forests Amendment Bill in 1992, which would require all privately-owned indigenous forests to be milled sustainably. The Government agreed to exclude forests on SILNA land from the Bill and continue negotiating with Maori landowners in order 'to reach an agreement to protect most of the land covered by the [Forests] Act'. The Forests Amendment Act 1993 passed with sustainability exemptions for four categories of forest, including forests on SILNA land. The Tribunal notes that although SILNA landowners were now exempt from sustainability provisions in the Forests Amendment Act 1993, they were still subject to the export ban under the Customs Act 1966 and other restraints under the Resource Management Act 1991.[172]

The Tribunal covers a 1999 High Court decision that the export ban on indigenous forest produce was unlawful. In 1997, Alan Johnston Sawmilling Ltd filed a judicial review of the 1990 regulation banning the export of indigenous forest produce from forests on SILNA land. Alan Johnston Sawmilling Ltd had been declined a number of export permits and, as a result, had a stockpile of woodchips from SILNA forests in the Rowallan Alton district. Following the High Court ruling, the Government announced a policy to negotiate with groups of SILNA landowners with the intent of 'bringing their forests under the sustainable management regime of the 1993 [Forests Amendment] Act voluntarily rather than legislating them under it compulsorily'. The Government allocated nearly $20 million for this and, in the meantime, also offered a voluntary moratorium.[173]

The Tribunal noted that SILNA land policy was 'extensively revised' after the change of government in 1999. Firstly, the government no longer considered the provision of SILNA land to the original owners as 'compensatory' and therefore a special category of Māori land. Secondly, government policy changed from a focus on negotiating with owners to achieve 'sustainable forestry management', to encouraging sustainability through providing grants 'to develop sustainable development plans and streamline consent processes'.[174]

As set out in the 2001 Crown Law Office report, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)','the Southland District Council proposed a district plan in 1994 under the Resource Management Act 1991 to restrict the logging of indigenous forests in Southland by making it a 'controlled activity' that required resource consent.[175] The Māori Trustee, on behalf of many SILNA landowners, appealed the rule to the Planning Tribunal (which later became the Environment Court). The Crown argued that SILNA land was never granted as 'compensation' and therefore the Government did not owe SILNA

[171] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 31.
[172] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 34, 309-310.
[173] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 38.
[174] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 39, 76.
[175] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001; Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005).

landowners further compensation for their economic losses. The Court accepted the Crown's argument and upheld the Southland district plan, which came into force in 2001.[176]

The Tribunal's *Waimumu Trust (SILNA) Report 2005* records further changes in government SILNA forestry policy occurred with the Forests Amendment Act 2004. The Act:

- Banned the export of indigenous forest woodchips and logs (while allowing the export of indigenous timber and 'finished products');
- Removed the exemption of indigenous forests on SILNA land from the export ban and prohibited compensation for owners; and
- Allowed SILNA landowners to sell unsustainably harvested indigenous forest produce in the domestic market (so long as it was also allowed under the Resource Management Act 1991).[177]

In place of negotiating with owners on compensation payments, the new policy implemented conservation covenants with the Nature Heritage Fund, where owners could receive a grant based on the conservation value of the land, as opposed to the timber (or lost opportunity) value acknowledged in the Waitutu and Rakiura settlements. $16.1 million was set aside for conservation covenants. According to the Tribunal, the conservation value 'is much lower than the timber value and is limited to a share of a fixed sum which [would run] out in 2009'. Payments under the conservation covenants would be exempt from income tax. The Government also extended the voluntary moratorium until 2005.[178]

The Government identified forests on SILNA land in Waitutu, Tautuku-Waikawa, and West Rowallan as priorities for conservation covenants and began discussions with the owners. (The Tautuku and Waikawa blocks are specifically mentioned in the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).) The Tribunal noted that trustees and owners expressed dissatisfaction with the funding limitations of the policy and the consultation leading up to the policy announcement. The Tribunal stated that these owners 'have not been quick to take up this option'. At the time of writing (2005) , five sections had been 'secured', including four sections in the Rowallan block and one in the Hokonui block. In 2003, the Government also announced that a 'second phase' of conservation covenants would go ahead for 'other SILNA forests of lower conservation value'.[179] In summary, the commercial opportunities available to indigenous forest owners in Murihiku/Southland at the time the *Waimumu Trust (SILNA) Report 2005* was written were:

- Sustainable logging under the Resource Management Act 1991; or
- Payment for a conservation covenant from the Nature Heritage Fund.

The Crown Law Office report of 2001 on the history of the Government's SILNA land policy provides further details on indigenous forestry policy and the consequences for SILNA forest owners. This includes SILNA forests being 'accorded a special status' when the export ban on indigenous woodchip was approved in June 1990. The Crown Law Office stated:

> - From 1990 to 1995 SILNA forests were exempt on a case by case basis from the Customs Act regulation banning the export of indigenous woodchips.

[176] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 44-45.
[177] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 42, 76.
[178] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 42-43, 99.
[179] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 43.

- Since 1993 SILNA forests have been exempted from the export and milling controls, and the requirement for sustainable management, introduced into the Forests Act 1949 by an amendment in 1993.[180]

As discussed above, the Tribunal noted in its *Waimumu Trust (SILNA) Report 2005* that SILNA landowners were still subject to the export ban under the Customs Act 1966 and other restraints under the Resource Management Act 1991.[181]

Jim McAloon's 2001 report on the Crown's historical research (Wai 1090, #A4) discusses the Crown's argument that the granting of SILNA land was a 'charitable measure' and separate from Ngāi Tahu's broader claims, thus justifying the Crown's position that forest on SILNA land should be treated the same as forest on any other private land:

> The Crown Law position, in essence, is that because Ngai Tahu insisted that the South Island Landless Natives Act 1906 and the allocations under that Act were no settlement of Ngai Tahu claims, the land allocated under that Act has no special status and native forest on that land should be subject to the same regulatory regime as that on other privately-owned land.[182]

McAloon also considerd whether SILNA landowners expected to benefit financially from the timber on their land. He argues the Gilfedder and Haszard Commission demonstrated that the owners of SILNA land did indeed expect to be able to log the forests and receive the profits. He states:

> It seemed clear that, whatever the modern view of the desirability of logging timber such as that found on the Landless Natives blocks, there was a clear expectation that the grantees of these lands should derive financial benefit from the timber on the lands. It seems, in fact, that the recommendation of the Gilfedder-Haszard Commission directly disproves the Crown's attempt to deny the proposition that "one of the arguments for special treatment of the SILNA forests is that these land were intended to form an 'economic base', and therefore any limitation on logging would conflict with this founding principle.["] What is clear from the Gilfedder-Haszard Commission is that the Ngai Tahu owners of the Landless Natives blocks expected to derive economic benefit from the land, and this was clearly expected to include logging.[183]

As discussed above in section 3.2, the Tribunal's *Ngai Tahu Ancillary Claims Report 1995* also provides information on forestry policy developments impacting SILNA owners in Wairaurahiri that are likely applicable to other SILNA forest owners. This is mostly covered in the discussion for Claim 89, which includes the Resource Management Act 1991, the Forests Amendment Act 1993, and the impacts

[180] Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office], p 3.
[181] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 34, 309-310.
[182] Jim McAloon, 'Report on Crown Historical Research on the South Island Landless Natives Act 1906', (report for Te Puni Kōkiri/Ministry of Māori Development and Rau Murihiku Whenua Māori, 2001) (Wai 1090, #A4), p 35.
[183] Jim McAloon, 'Report on Crown Historical Research on the South Island Landless Natives Act 1906', (report for Te Puni Kōkiri/Ministry of Māori Development and Rau Murihiku Whenua Māori, 2001) (Wai 1090, #A4), p 35 citing Report by Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001.

forestry policy on SILNA landowners. The Tribunal found the Crown had an obligation to compensate SILNA owners for lost milling opportunities.[184]

5.3.3 Topic Three: Summary

In summary, existing sources provide useful coverage of government indigenous forestry policies and their impacts on SILNA forest owners that are likely relevant to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). However, there are some gaps in the coverage of allegations raised in the claim, including:

- Information on any relevant Crown indigenous forestry policy developments after the *Waimumu Trust (SILNA) Report* was published in 2005;
- The economic and other consequences of Crown indigenous forestry policies for SILNA owners;
- The 'management of the lands by the Ministry of Conservation during its tenure of lease of Tautuku Waikawa Lands Trust lands';
- The 'management of the conservation estate adjacent and its impact on SILNA lands';
- The role of the 'Local Government Act'; and
- The Crown 'deny[ing] the owners a number of opportunities in the minerals or natural medicines industries'.[185]

It is likely that further information will be needed to clarify and demonstrate the alleged grievances on these issues.

It is important to note again in this context that the Tribunal, in the *Waimumu Trust (SILNA) Report 2005*, did not uphold the narrower claim issues heard under urgency that the Waimumu Trust had faced significant loss as a direct result of government policy because it was not presented with any credible valuations of the economic loss faced by the Waimumu Trust.[186] Since that time, it is possible that further information on any losses may have become available, but this was not investigated in the preparation of this paper.

The Tribunal, in that inquiry, noted further research would be necessary for any general inquiry into claims relating to SILNA land and that with the urgency focus it did not have the resources to undertake research or even examine all of the documents supplied to the Tribunal during the inquiry (Wai 1090). In its *Waimumu Trust (SILNA) Report 2005*, the Tribunal stated:

> The Tribunal's limited resources preclude the completion of original research and a line-by-line analysis of all the documents supplied. Those steps would of course be essential to the preparation of an accurate and complete picture appropriate for an inquiry into a general SILNA claim.[187]

Sources that have not been reviewed for this paper but may provide useful are located on the Tribunal's Record of Inquiry for the Ngai Tahu Inquiry (Wai 27) in the Record of Documents AB series,

[184] Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report 1995* (Wellington: Brookers, 1995), pp 309-310.
[185] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), pp 1-2.
[186] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), pp 6, 81.
[187] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 78.

and as discussed above, potentially all documents on the Record of Inquiry for the Waimumu Trust (SILNA) Inquiry. This includes, but is not limited to:

- Research undertaken by Waitangi Tribunal staff on the Murihiku Ancillary claims, 1 November 1991 (Wai 27, #AB24) [primary sources only];
- Research undertaken by Waitangi Tribunal staff on the Rakiura Ancillary claims (Wai 27, #AB25) [primary sources only];
- Report by Doug McPhail, 'Constraints and Opportunities for South Island Landless Natives Act (SILNA) 1906 Indigenous Forest Utilisation', August 2002 (Wai 1090, #A3); and
- Briefing paper for the Local Government and Environment Select Committee on the Economic Values of SILNA Forests (Wai 1090, #A30).

Archival sources listed in the Appendix accompanying this paper may also assist. Some sources that may provide information on the allegation concerning minerals are listed in the Appendix under the Ministry of Economic Development, Head Office (AATJ) files.

5.4 Topic Four: Crown negotiations and the Ngāi Tahu Settlement

5.4.1 Topic Four: Overview

This final topic covers a range of allegations raised in the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163) that relate to Crown negotiations with representatives of SILNA owners and the Ngāi Tahu settlement. Much of this has been discussed in Section 3, which outlines the initial Crown negotiations with representatives of SILNA owners following the Government's indigenous forestry policy announcement in 1990, representation issues among SILNA indigenous forest owners during these negotiations, and the Ngāi Tahu settlement in 1997.

There is some limited coverage of further allegations that appear to be raised in the Claim (Wai 2163) concerning Te Runanga o Ngai Tahu Act 1996 and negotiations with representatives of Te Runanga o Ngai Tahu. Clarification from the claimants during the inquiry process should help to assess whether the sources discussed here are relevant to the Claim (Wai 2163).

5.4.2 Topic Four: Existing relevant sources

As covered in Section 3, the *Waimumu Trust (SILNA) Report 2005* provides an overview of discussions held between the Crown and representatives of SILNA owners, following the Government's announcement it would ban the export of unsustainable indigenous forest in March 1990.[188] Following the announcement, SILNA landowners in Southland established Rau Murihiku Whenua Maori to oppose the policy.[189] The report does not provide further details on how Rau Murihiku Whenua Maori was established or the extent to which it represented SILNA owners. However, correspondence to the Waitangi Tribunal suggests there were ongoing concerns about its mandate to represent owners, and that the Crown was aware of this (see Section 3.1.2).

[188] Waitangi Tribunal, Waimumu Trust (SILNA) Report 2005 (Wellington: Legislation Direct, 2005); Crown Law Office, 'A Review of Origins and History of Government Policy Regarding the Lands Reserved under the South Island Landless Natives Act 1906 (SILNA)', April 2001 [provided by the Crown Law Office].
[189] Waitangi Tribunal, *Waimumu Trust (SILNA) Report 2005* (Wellington: Legislation Direct, 2005), p 31.

The *Waimumu Trust (SILNA) Report 2005* also covers Crown discussions with Te Runaka o Ngai Tahu, the Tautuku Waikawa Lands Trust, Rakiura Maori Land Trust, and the Waimumu Trust, which may be relevant to the Claim (Wai 2163).

The *Ngai Tahu Report 1991* covers historical background that may provide context for the negotiations and settlements referred to in to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163). This includes early Ngāi Tahu claims, efforts to get redress from the Crown, and Crown responses. In particular, the report covers the series of Royal commissions, commissions of inquiry and parliamentary inquiries between the 1870s and the 1920s that heard Ngāi Tahu claims, including:

- The Middle Island Native Affairs Committee of 1872;
- Chief Judge Fenton's 1876 inquiry;
- The Smith-Nairn Royal commission in 1879-81;
- The Native Affairs Committee of 1882;
- A parliamentary select committee of 1884;
- The Mackay Royal commission in 1887;
- The three Joint Committees on the Middle Island Native Claims of 1888, 1889, and 1890;
- The Mackay Royal commission of 1890-1891; and
- The Native Land Claims Commission of 1921.

The report also covers the Ngaitahu Claim Settlement Act 1944 and the adjustment made under the Maori Purposes Amendment Act 1973, which provided an annual payment to Ngāi Tahu.[190]

As discussed earlier in Section 3.3, the Northern South Island Claims/Te Tau Ihu o Te Waka a Maui Inquiry (Wai 785) addressed grievances concerning the Crown's treatment of Te Tau Ihu iwi during its negotiations and settlement with Ngāi Tahu. The Tribunal found that the Crown had breached the Treaty of Waitangi by dealing only with Ngāi Tahu within the Ngāi Tahu takiwa.[191] The preliminary and final reports cover information that is potentially relevant to the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163).

The Tribunal covers background information on the Te Runanga o Ngai Tahu Act 1996 in its preliminary report, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007*. After reporting its findings in 1991 for the Ngāi Tahu Claim (Wai 27), the Ngāi Tahu Tribunal recommended the Government pass legislation to 'enable the establishment of a tribal structure to negotiate a settlement'.[192] The Government then passed the Te Runanga o Ngai Tahu Act 1996. The Act established Te Rūnanga o Ngāi Tahu (the tribal council of Ngāi Tahu) as a body corporate and as the representatives of Ngāi Tahu Whānui. The Act also defined the

[190] Waitangi Tribunal, *Ngai Tahu Report 1991*, 3 vols (Wellington: Brooker and Friend Ltd, 1991), vol 3, p 1025.
[191] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007), p 181; Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008), vol III, p 1358.
[192] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngai Tahu Takiwa 2007* (Wellington: Legislation Direct, 2007), p 197.

Ngāi Tahu Whānui takiwa as 'all the area of Te Waipounamu south of the northernmost boundaries' as described in a 12 November 1990 decision of the Maori Appellate Court.[193]

The Tribunal's final report, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, also covers consultation requirements under the Resource Management Act 1991 and the Local Government Act 2002 that may be relevant to this claim (Wai 2163).[194]

5.4.3 Topic Four: Summary

Together, the above sources provide contextual information regarding negotiations that took place between the Crown and representatives of SILNA owners, as well as background on the Ngāi Tahu negotiations and settlement. This includes the establishment of Te Runanga o Ngai Tahu as the representative of Ngai Tahu Whanui under the Te Runanga o Ngai Tahu Act 1996.

There is less information on how these developments relate to the claimants' grievances as set out in the statement of claim and amendments. It is likely that further information and clarification will be necessary for inquiry into the allegations regarding:

- The mandates of Rau Murihiku Whenua Maori and Te Runanga o Ngai Tahu to negotiate with the Crown on behalf of SILNA owners, including the impact of the Te Runanga o Ngai Tahu Act 1996 on SILNA owners;
- Crown negotiations with representatives of Te Runanga o Ngai Tahu on issues that impact SILNA land rather than with 'the lawful representatives of the owners';
- The inclusion of SILNA land in the Ngai Tahu Settlement Act 1998 without agreement from owners or the lawful representatives of owners; and
- Crown failures to recognise the legal representatives of the SILNA estate.

Sources that have not been reviewed for this paper but may provide useful include documents filed on the Record of Inquiry for the Northern South Island Claims Inquiry (Wai 785) in the Record of Documents. This includes, but is not limited to:

- Copy of submission to the Maori Appellate Court re Ngai Tahu claim and tribal boundaries (Wai 785, #A3);
- Ngai Tahu (Casebook), 28 September 2000 (index and tabs 1 – 50) (Wai 785, #B1);
- "We Say That We Have Authority" Ngati Toa's Right to Customary Rights in relation to Ngai Tahu Takiwa, Bryan Gilling report (Wai 785, #P29) and supplementary papers (Wai 785, #P29(a)); and
- Report: Historical report on the Ngai Tahu Takiwa, "particularly as regards the Northern Ngai Tahu boundary question" By Harry Evison, 14 July 2003 (Wai 785, #Q3), replacement report (Wai 785, #Q3(a)), summary of evidence (Wai 785, #Q3(b)), and supporting documents (Wai 785, #Q3(c) and Wai 785, #Q3(d)).

Archival sources that may assist are listed in the Appendix to this paper.

[193] Te Runanga o Ngai Tahu Act 1996, ss 5, 6, 15.
[194] Waitangi Tribunal, *Te Tau Ihu o Te Waka a Maui: Report on Northern South Island Claims 2008*, 3 vols. (Wellington: Legislation Direct, 2008).

6 Overall summary of existing evidential coverage and potential gaps in evidential coverage

In summary, existing sources provide:

- Topic One: Substantial coverage of the historical background to the South Island Landless Natives Act 1906 and SILNA forests from their allocation and after the land was allocated;
- Topic Two: Limited coverage of SILNA land alienation after 1906 for the land area in this claim;
- Topic Three: Substantial coverage of Crown indigenous forestry policy relating to SILNA land, with gaps in:
    - Coverage of Crown indigenous forestry policy relating to SILNA land after 2005 (when the Tribunal published its *Waimumu Trust (SILNA) Report*); and
    - Economic consequences for SILNA owners;
- Topic Four: Limited coverage of Crown negotiations with SILNA owners, including during the Ngāi Tahu settlement process, although clarification from the claimants will assist in determining whether allegations relating to this topic are covered in existing sources.

The following further information will therefore likely be needed for inquiry into the SILNA Estate and Crown Forests Amendment Act 1992 (Te Aika) Claim (Wai 2163):

Topic Two: Alleged SILNA land alienations after 1906:

- Information on any SILNA land alienations within the remaining Southland SILNA areas still subject to this claim from 1906 to the present that have not already been reported on by the Tribunal and are settled
- Information on other allegations raised in the claim, including:
    - Any policies that have alienated Māori from SILNA land;
    - The Department of Conservation and Lands and Survey allegedly acquiring 'Marginal Strips' adjoining SILNA estate lands;[195]
    - The Crown allegedly consulting with few owners who sold strips of land along the roadside, landlocking SILNA owners' land;
    - Alleged takings of SILNA land for reserves; and
    - 'The Maori Lands Act';[196]

Topic Three: Forestry policy relating to SILNA land and the economic consequences for SILNA landowners:

- Any relevant Crown indigenous forestry policy developments after 2005;
- Economic and other consequences of Crown indigenous forestry policies for SILNA landowners;
- Information on other allegations raised in the claim, including:
    - The 'management of the lands by the Ministry of Conservation during its tenure of lease of Tautuku Waikawa Lands Trust lands';[197]

[195] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 3.
[196] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.
[197] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.

- The 'management if the conservation estate adjacent and its impact on SILNA lands';[198] and
- The Crown 'deny[ing] the owners a number of opportunities in the minerals or natural medicines industries';[199]

Topic Four: Crown negotiations and the Ngāi Tahu settlement:

- Information on Crown negotiations with SILNA owners and the Ngāi Tahu settlement process, including information on allegations raised in the claim regarding:
  - The mandates of Rau Murihiku Whenua Maori and Te Runanga o Ngai Tahu to negotiate with the Crown on behalf of SILNA owners, including the impact of the Te Runanga o Ngai Tahu Act 1996 on SILNA owners;
  - Crown negotiations with representatives of Te Runanga o Ngai Tahu on issues that impact SILNA land rather than with 'the lawful representatives of the owners';
  - The inclusion of SILNA land in the Ngai Tahu Settlement Act 1998 without agreement from owners or the lawful representatives of owners; and
  - Crown failures to recognise the legal representatives of the SILNA estate.

[198] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 1.
[199] Mahara Moruka Te Aikaa and Hirini Matunga, statement of claim received 13 August 2008 (Wai 2163, #1.1.1), p 2.

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AAMK Department of Maori Affairs, Head Office; ACIH Department of Maori Affairs [record group]; BBHT Ministry of Maori Development Gisborne Office; CAUV Te Puni Kokiri, Southern Regional Office, Christchurch

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ACIH 16036 MA1/1121 1914/994 [1] Received: 3rd April 1914. - From: Cabinet. - Subject: Part One. Royal Commission to be appointed to inquire into position of lands for landless Natives in South Island and Waikato. To consist of Judge of Native Land Court and an Officer of Lands Department, 1914-1926

ACIH 16036 MA1/1122 1914/994 [3] Subject: Part Three. Royal Commission to be appointed to inquire into position of lands for landless Natives in South Island and Waikato. To consist of Judge of Native Land Court and an Officer of Lands Department, no date

ACIH 16036 MA1/1155 1916/2413 Received: 1st July 1916. - From: Native Affairs Committee, House of Representatives. - Subject: Petition No. [Number] 154/16 James R.F. Green and 23 others. That provision be made for individualising lands granted to landless Natives in South Island, 1916

ACIH 16036 MA1/1255 1921/9 Received: - From: Native Department. - Subject: Landless Natives Lands (south Island). Investigation by Informal Committee. Ministers papers, 1921-1929

ACIH 16036 MA1/1256 1921/9 Part 3. Received: - From: Native Department. - Subject: Landless Natives Lands (South Island). Investigation by Informal Committee, 1929

ACIH 16036 MA1/1256 1921/10 Received: 6th January 1921. - From: Under Secretary, Native Department, Wellington. - Subject: South Island Landless Natives Grants. Payment of compensation in lieu of grants of land, 1920-1930

ACIH 16036 MA1/1340 1924/274 Received: 2nd September 1924. - From: Under Secretary for Lands, Wellington. - Subject: South Island Landless Natives. Port Adventure and Toitoi Blocks. For reference to Court under section 6/1922, 1924-1929

ACIH 16036 MAW2459/32 5/13/56 South Island Landless Natives - Land claim by Albert Spencer Acker (Armstrong) on behalf of Estate of George Cutherbert Spencer Acker (Armstrong), 1928-1934

ACIH 16036 MAW2459/53 5/17/2 [1] South Island Landless Maori Grants -Consents to Sales of Timber and Land (Section 110/1931), 1948-1954

ACIH 16036 MAW2459/54 5/17/2 [2] South Island Landless Maori Grants -Consents to Sales of Timber and Land, 1954-1958

ACIH 16036 MAW2459/54 5/17/2 [3] South Island Landless Maori Grants -Consents to Sales of Timber and Land, 1958-1965

ACIH 16036 MAW2459/55 5/17/3 [4] South Island Landless Maori Grants -Crown Purchases of Land, 1953-1958

ACIH 16036 MAW2459/55 5/17/3 [5] South Island Landless Maori Grants -Crown Purchases of Land, 1958-1962

ACIH 16036 MAW2459/55 5/17/3 [6] South Island Landless Maori Grants -Crown Purchases of Land, 1962-1964

ACIH 16046 MA13/1/1c Parliamentary Papers, Special File No.90 - Native Department and Land Courts - Landless Families Ngai Tahu Tribe -West Coast Settlement Reserve Act - Kaikahu No.3 Block - Survey in Urewera District Reserve - Grants from Queen Victoria, 1907-1908

ACIH 16088 MA81/1 Minute Book of Proceedings and Evidence - 7 July - 22 August, 1914

BBHT 4940/233/c 14/16/135 Maori Land Development - Waikawa Trust, 1984-1985

CAUV CH460/Box8 4/9/92 Development - Development Scheme, Rowallan / Alton Maori Corporation, 1983-1984

AANS Department of Conservation, Head Office; DAFU Department of Conservation, Southland Conservancy Office

AANS 828 W5491/889 9/7/276 Acquisition of Private Lands - Ptoposed lease of Waitutu Blocks from Waitutu Incorporation - Waitutu S.F. [State Forest] 19 - Southland Conservancy, 1976-1978

AANS 828 W5942/505 36/7/19/1 [New Zealand Forest Service] - Waitutu Incorporation Land - Southland Conservancy - Plans for Wood Utilisation, 1981-1983

AANS 828 W5942/506 36/7/19/1A [1] [New Zealand Forest Service - Forest Operations And Management] - Waitutu Incorporation Land - Southland Conservancy - Officials Committee Investigation May-June 1984 - [Confidential], 1984

AANS 828 W5942/506 36/7/19/1A [2] [New Zealand Forest Service - Forest Operations And Management] - Waitutu Incorporation Land - Southland Conservancy - Officials Committee Investigation May-June 1984 - [Confidential], 1984

AANS 828 W5942/506 36/7/19/1A [3] [New Zealand Forest Service - Forest Operations And Management] - Waitutu Incorporation Land - Southland Conservancy - Officials Committee Investigation May-June 1984 - [Confidential], 1984-1985

AANS 6095 W5491/332 4/705 Scenic Reserves - Urging Reservation for Scenic Purposes - Bush Land On Waikawa - Catlins Road - Sec [Section] 25 Blk [Block] IV Tautuku S.D. [Survey District] Scenic Reserve - Otago Land District, 1934-1936

AANS 25344 W5883/97 R21-110 [1] Advocacy Issues - Forest Amendment Act – General, 1994-1996

AANS 25344 W5883/97 R21-111 [1] Advocacy Issues - Forest Amendment Act - Plans And Permits, 1994-1996

AANS 25344 W5883/97 R21-111 [2] Advocacy Issues - Forest Amendment Act - Plans and Permits, 1999-2002

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DAFU D323/20/h 24/3 Maori Liaison - Tautuku-Waikawa Lease (Duplicate), 1989

DAFU D323/25/l ADM 20/7 [Administration] - Legal Matters - Rakiura Maori Land Claims, 1988

DAFU D323/25/m ADM 20/7 Administration - Legal Matters - Rakiura Maori Land Claims, 1987-1991

DAFU D324/137/l 20/55 [Maori Land & Survey Liens] - Rowallan-Alton Incorporation, 1981-1982

DAFU 18836 D311/239/f 20/55 Rowallan-Alton Incorporation, 1982-1983

DAFU 19842 D523/23/d NHF 001 [1] Nature Heritage Fund – Policy, 1990-1995

DAFU 19842 D562/1/i ACT 031 Acts & Legislation - South Island Landless Natives Act 1906, 1994-1997

AATJ Ministry of Economic Development, Head Office

AATJ 6092 W4993/44 33350 [1] Application Exploration Licence - Situated Various Blocks Waikawa, Otara, Toetoes, Mokoreta and Tautuku Survey Districts - South Western Minerals NL [No Liability], 1986-1988

AATJ 6092 W4993/44 33350-1 [1] Objections to Application Exploration Licence - Situated Various Blocks Waikawa, Otara, Toetoes, Mokoreta and Tautuku Survey Districts - South Western Minerals NL [No Liability]+G4027, 1986-1988

AATJ 6092 W5152/78 33359 [1] Application Exploration Licence. Situated Block IV Toetoes, Block VI Otara, Block XVI Waikawa, Block XII, X, IX, XIV, XIII Tautuku, Block XI Woodland Survey Districts - South Western Minerals NL, 1986-1989

AATJ 6092 W5152/49 33502 [1] Application for Exploration Licence. Area Situated in Toetoes, Otara, Waikawa, Tautuku, Rimu and Woodland Survey Districts - Carbine Gold NL, 1988-1989

AAUM Ministry for the Environment, Head Office

AAUM 26374 W6012/9 WAI 27 [3] Maruwhenua, Waitangi tribunal cases, Ngai Tahu – Settlement, 1997

AAUM 26374 W6012/9 WAI 27 [4] Maruwhenua, Waitangi tribunal cases, Ngai Tahu – Settlement, 1997

AAUM 26374 W6012/9 WAI 27 [5] Maruwhenua, Waitangi tribunal cases, Ngai Tahu – Settlement, 1994-1997

AAUM 26374 W6012/9 WAI 27 [6] Maruwhenua, Waitangi tribunal cases, Ngai Tahu – Settlement, 1991-1997

AAUM 26374 W6012/10 WAI 27 [8] Maruwhenua, Waitangi tribunal cases, Ngai Tahu – Settlement, 1990-1998

ABGX Office of the Clerk of the House of Representatives; ABRC Parliamentary Counsel Office

ABGX 16127 W5188/88 [MA 2/5/?] [1] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - Ngai Tahu Takiwa / Claim Settlement Area Definition, 1997

ABGX 16127 W5188/20 MA 2/5/1 [1] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - General [Administration], 1998

ABGX 16127 W5188/20 MA 2/5/1 [2] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - Bill as introduced, 1997-1998

ABGX 16127 W5188/20 MA 2/5/1 [3] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - Administration - Bill as reported [back], 1997-1998

ABGX 16127 W5188/20 MA 2/5/2 [1] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

ABGX 16127 W5188/20 MA 2/5/2 [2] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

ABGX 16127 W5188/20 MA 2/5/2 [3] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

ABGX 16127 W5188/20 MA 2/5/2 [4] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

ABGX 16127 W5188/86 MA 2/5/2 [5] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

ABGX 16127 W5188/86 MA 2/5/2 [6] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Submissions, 1998

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ABGX 16127 W5188/86 MA 2/5/4 [3] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - Advisors Reports, 1998

ABGX 16127 W5188/87 MA 2/5/4 [4] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill - Advisors Reports, 1998

ABGX 16127 W5188/88 MA 2/5/5 [1] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Correspondence, 1998

ABGX 16127 W5188/88 MA 2/5/5 [2] Maori Affairs Committee - Ngai Tahu Claims Settlement Bill – Correspondence, 1998

ABGX 16127 W5189/18 MA 2/1/1 Maori Affairs Committee - Te Runanga o Ngai Tahu Bill - General Administration, 1993-1995

ABGX 16127 W5189/18 MA 2/1/2 Maori Affairs Committee - Te Runanga o Ngai Tahu Bill - Submissions 1 – 28, 1993-1994

ABGX 16127 W5189/18 MA 2/1/2 Maori Affairs Committee - Te Runanga o Ngai Tahu Bill - Submissions 29 – 59, 1993-1994

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ACCD Ministry for Primary Industries, National Office

ACCQ 21680/45 MG/04/02 Management Planning & Reporting. Indigenous Forestry Unit. SILNA [South Island Landless Natives Act], 1997-2003

ACCQ 21680 W5616/193 LEG/V15/2 [1] Ministry of Forestry [MOF] Legislation: Indigenous Forestry Provisions [IFP] Forest Amendment Act 1993, 1990-1993

ACCQ 21680 W5616/213 LEG/20/8 [1] Indigenous Forestry Issues: South Island Landless Natives Act 1906, 1994-1995

ACCQ 23983/173 53/3 Ministerial Briefings [Ministry of Forestry - SILMA [South Island Landless Maoris Act] Lands, Te Awahohonu Forest, Purchase Agreement, Tussock Moth, etc, 1996

ACCQ 23983/173 53/5 Ministerial Briefings [Ministry of Forestry - Tussock Moth, Sale of Crown's Interest in the Te Awahohonu Forest Lease, Purchase Agreement, SILMA [South Island Landless Maoris Act] Recommendations, Departmental Forecast Report, Sustainable Forest Management Plans, etc, 1996

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ACCQ 23983/174 53/8 Ministerial Briefings [Ministry of Forestry - Intergovernmental Panel on Forests, International Meetings, Tussock Moth, SILMA [South Island Landless Maoris Act], Sustainable Indigenous Forest Management under the Forests Amendment Act, 1933, etc, 1996

ADSQ New Zealand Forest Service [record group]

ADSQ 17639 F1/250 8/0 South Island Landless Native Reserves, 1921-1924

ADSQ 17639 F1/250 8/0 [1] South Island Landless Native Reserves, 1925-1937