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DUPLICATE

Report No. 99-6

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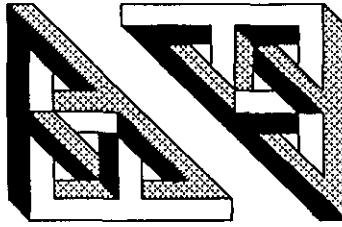
***NELSON NATIVE RESERVES:
A SUMMARY OF DEFICITS, THEFTS
AND LAND LOSSES 1841 – 1977***

Prepared for:

***Ngati Koata no Rangitoto ki Te Tonga Trust
Ngati Tama Manawhenua ki Te Tau Ihu Trust
Te Atiawa Manawhenua ki Te Tau Ihu Trust
Ngati Rarua Atiawa Iwi Trust
Wakatu Incorporation***

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This report,

Report No 99-6

***“Nelson Native Reserves
A Summary of Deficits, Thefts
and Land Losses, 1841 - 1977”***

replaces the following reports

which were lodged with the Waitangi Tribunal in 1992:

	Mitchell Research Report Number	Report Title	Registered by the Waitangi Tribunal as Document Number
1	Report No 7	<i>“Losses of Nelson Native Reserves Lands”</i>	# A10
2	Report No 7/REFS	References in support of Report No 7	”

**Report No 99-6/REFS is the companion volume to Report 99-6, containing
copies of reference materials cited in Report 99-6**

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Report 99-6, Chapter 1

Introduction

1.1 Researchers and Authors of this Report

Our names are Hilary Anne Mitchell and Maui John Mitchell. Our qualifications and experience are detailed in the curriculum vitae of "Mitchell Research" which has been submitted as part of Report 99-1/REFS.

1.2 The Clients

Our clients for whom this report has been compiled and presented are:

For Claim Wai-102:

Ngati Koata no Rangitoto ki Te Tonga Trust

Ngati Tama Manawhenua ki Te Tau Ihu Trust

Te Atiawa Manawhenua ki Te Tau Ihu Trust

For Claim Wai-56:

Wakatu Incorporation ("the Incorporation")

Ngati Rarua Atiawa Iwi Trust ("NRAIT").

The iwi noted and the Incorporation may be referred to in this report as "the Clients", "our Clients" or "Claimants".

1.3 Supporting Evidence

Report 99-6/REFS accompanies this report as a file of supporting evidence.

1.4 Conventions Adopted in this Report

Figures and tables are numbered in this report according to the number of the paragraph in which they first appear.

"Ordinary" brackets () enclose sources which have been referred to or are quoted in the text, but are not

reproduced in Report 99-6/REFS.

"Curly" brackets { } enclose authors' commentaries.

Units of Measurement: We have not attempted to calculate modern metric equivalents of the currency (pounds, shillings and pence), weight (tons, hundredweight, stones, pounds and ounces), length (miles, furlongs, yards, feet and inches), or land area (acres, roods and perches), except where it may be necessary.

1.5 Glossary of Maori Terms

A number of Maori words may be used in the text, tables and figures of the Mitchell Research reports. These are defined at first usage, but the following glossary summarises the usages of Maori words and phrases:

<i>ahi kaa (roa)</i>	long-time (permanent) residents	<i>tangata whenua</i>	people indigenous to area
<i>ariki (nui)</i>	paramount chief	<i>tangi</i>	cry, funeral
<i>hapu</i>	subtribal group	<i>taonga</i>	treasure
<i>iwi</i>	tribe	<i>taura here</i>	resident Maori with tribal origins in another district
<i>kaitiaki(tanga)</i>	caretaker (caretaking), steward (ship), guardian(ship)	<i>taua</i>	war party
<i>kaumatua</i>	elders	<i>tohunga tumutaueka</i>	warrior priest
<i>kuia</i>	elderly woman	<i>tuakana</i>	older (eldest) brother
<i>mana</i>	status, standing, dominion over	<i>tupuna</i>	ancestor
<i>manawhenua</i>	status over, control of, ownership of, land	<i>tuku</i>	gift
<i>manamoana</i>	status over, etc the sea	<i>tuku iho</i>	gift handed down (from ancestors)
<i>manuhiri</i>	visitors, strangers	<i>uri</i>	offspring, descendants
<i>nohoanga</i>	dwelling place, cultivation	<i>utu</i>	revenge, payment
<i>noho tuturu</i>	resident since ancestral times	<i>whakapapa</i>	family tree, genealogy
<i>papakainga</i>	home (personal, ancestral)	<i>whanau</i>	family, extended family
<i>rangatira</i>	chief	<i>whanaunga</i>	relatives
<i>rangatiratanga</i>	chieftainship, leadership	<i>whenua</i>	land
<i>rohe</i>	boundary		
<i>roopu</i>	group		
<i>takiwa</i>	district		

1.6 Place Names

Table 1.6 lists the alternative names, Maori and European, for different locations in Te Tau Ihu. Many Maori place names have fallen into disuse in the community at large, although Maori families of the districts may continue to use the original names. This is not a glossary of the thousands of Maori place names throughout the region, but is a listing of the names – Maori and European – which occur repeatedly in official records, diaries, journals and correspondence from colonial times. Many of the original European names have also been replaced from time to time.

TABLE 1.6: ALTERNATIVE NAMES OF PLACES IN TE TAU IHU			
Current Common Name		Other European	Other Maori
European Name	Maori Name	Names	Names
Astrolabe Roadstead	Whenuakura		
Auckland Point	Matangi Awhio		
Boulder Bank (Nelson)	Te Taero a Kupe		Te Tahuna a Te Maia
Cloudy Bay	Karauripe		
Collingwood	Aorere		
Croisilles Harbour	Whangarae	Croixelles	
Delaware Bay	Wakapuaka		
D'Urville Island	Rangitoto		
French Pass	Te Aumiti		
Golden Bay	Mohua	Mordenaers Bay (Tasman) Murderers' Bay Massacre Bay Coal Bay	Te Taitapu Te Tai a Aorere
Grassmere	Kapara Te Hau		
Haulashore Island	Manuka Island		
Havelock	Motueka (ki Hoiere)		
Maitai River	Maitai River		Mahitahi
Motueka (Tasman Bay)	Motueka (ki Whakatu)		
Nelson	Whakatu		Wakatu
North Island	Te Ika a Maui	New Ulster (north of Patea) New Munster (south of Patea and South Island)	Te Ahienomaui (The Smoke of Maui - Cook)
Pelorus Sound	Hoiere	Oyerre	
Queen Charlotte Sound	Totaranui		
Richardson Street (foot)	Te Punawai		
Russell Street (foot)	Poiwhai	Green Point	
South Island	Te Waka a Maui	Middle Island New Munster Mainland	Te Wahi Pounamu Te Wai Pounamu Te Waka a Aoraki
Tasman Bay		Blind Bay	
The Glen	Horoirangi	Glenduan	
Totaranui (Tasman Bay)	Totaranui (ki Te Matau)		
West Coast	Te Tai Poutini	Westland	
Westhaven	(West) Whanganui		Te Tai Tapu

1.7 Terms and Abbreviations

A number of terms and abbreviations may be used in the reports presented in support of WAI-56 and WAI-102. Again, while each is defined at first usage, the following is a glossary summarising the terms used:

"Compendium" unless otherwise stated refers to Alexander Mackay's 1873 publication, <i>"A Compendium of Official Documents Relative to the Native Affairs of the South Island"</i> .	NAHB Nelson Area Health Board
AGM Annual General Meeting	NAT LIB National Library, Wellington
AJHR Appendices to the Journals of the House of Representatives	NCC Nelson City Council
APL Auckland Public Library	NHB Nelson Hospital Board
ATL Alexander Turnbull Library (in National Library, Wellington)	NLC Native Land Court
DBF Document Bank Folder	NMB Minute Book of the Nelson Native (Maori) Land Court
DED Department of Education	NMCHE Nelson Marlborough Crown Health Enterprise
DOC Department of Conservation	NPL Nelson Public Library
DOSLI Department of Survey and Land Information (now LINZ)	NPML Nelson Provincial Museum Library
DSIR Department of Scientific and Industrial Research	NT Native Trustee
DVAL Department of Valuation	OMB Minute Book of the Otaki Native (Maori) Land Court
GBCC Golden Bay County Council	PP Parliamentary Papers
LINZ Land Information New Zealand	PT Public Trustee
JPS Journal of the Polynesian Society	PTDA District Agent of the Public Trustee
MAC Maori Appellate Court	PWA Public Works Act
MACMB Minute Book of the Maori Appellate Court	PWD Public Works Department
MAF Ministry of Agriculture and Fisheries	SGM Special General Meeting
MBC Motueka Borough Council	SIMB Minute Book of the South Island Native (Maori) Land Court
MDC Marlborough District Council	TDC Tasman District Council
MED Ministry of Education	TRANZ Transactions of the New Zealand Institute
MFISH Ministry of Fisheries	UV Unimproved Valuation
MLC Maori Land Court	UZ Underlying Zoning
MOW Ministry of Works	VNZ Valuation New Zealand
MOWD Ministry of Works and Development	VPHR Votes and Proceedings of the House of Representatives
MT Maori Trustee	VPLC Votes and Proceedings of the Legislative Council
MTDO District Office(r) of the Maori Trustee	VPNPC Votes and Proceedings of the Nelson Provincial Council
NA,A National Archives, Auckland	WCC Waimea County Council
NA,CH National Archives, Christchurch	WMB Minute Book of the Wellington Native (Maori) Land Court
NA,W National Archives, Wellington	

1.8 The Scope of this Report

This report is a summary of land deficits, land thefts, land losses, and grievances arising, specifically related to the Nelson Native Tenth's Reserves and Motueka Occupation Reserves. Figures 99-6/1.8A¹ and 99-6/1.8B² indicate the geographic districts of interest to this report.

The authors have collated within this report the Claims issues raised in a number of other Mitchell Research reports.

This report is a cumulative chronological analysis, beginning with breaches of the terms and conditions of the New Zealand Company's purchases in 1839,³ 1841⁴ and 1844,⁵ through to the alienations following the freeholding provisions of the Maori Affairs Amendment Act 1967. The analyses cumulate over the succession of crucial events, policies and practices which created the land deficits and caused the associated grievances.

The presentation of materials in this report is mainly through tables and spreadsheets, graphs, maps and plans, many of which are reproduced for Overhead Projector and/or "Power Point" display to the Tribunal.

1.9 Not Covered in this Report

This report does not address Claims issues pertaining to the Original Native Title blocks such as Rangitoto, Wakapuaka or Te Tai Tapu; the separate Mitchell Research Report Nos 13A ("*Te Tai Tapu*") and 13B ("*Wakapuaka*") are "self-contained" and issues raised in connection with those lands are addressed within those reports. Ngati Koata will be presenting their own separate Claims reports regarding Rangitoto. Figure 99-6/1.8A⁶ "highlights" in green the excluded Original Native Title blocks referred to.

With regard to Whakarewa, sections of this report will address the grievances relating to the land lost from the Nelson Tenth's Reserves portfolio and the Motueka Occupation Reserves as a result of that theft. However there are a number of residual Claims issues regarding alienations and perpetual leasing of the Whakarewa lands which affect the beneficiaries of the Ngati Rarua Atiawa Iwi Trust.

¹ Figure 99-6/1.8A: Map of Purchase Areas and Excluded Original Native Title Districts. Copied as Report 99-6/REFS p1

² Figure 99-6/1.8B: Map of New Zealand Company Nelson Settlement Purchase Areas. Copied as Report 99-6/REFS p2

³ This refers to William Wakefield's original purchases from the Cook Strait chiefs in late 1839.

⁴ This refers to Arthur Wakefield's presents to local chiefs in late 1841 and 1842.

⁵ This refers to William Wakefield's final purchase payment of £800 to local chiefs, offered at Commissioner Spain's Nelson Hearings, and ratified by Spain.

⁶ Op. cit. Copied as Report 99-6/REFS p1

These concerns are raised in Mitchell Research 13C ("*Whakarewa*"), and are not duplicated here.

1.10 The Layout of this Report

The materials submitted in the companion document, Report 99-6/REFS, do not include the primary and secondary archival materials pertaining to the issues raised here. We believe that separately and jointly the Mitchell Research reports drawn on, and their accompanying "REFS" files, have provided adequate documentary coverage and evidential support of the cases being made here; this evidence does not require further repetition in this report. However, readers are provided with references to the relevant sections of the other Mitchell Research reports in which the historical and other evidence is detailed.

Report 99-6/REFS, the companion document accompanying this report, mainly includes copies of tables, graphs, figures, maps, plans and other materials cited in the text of this report.

Table 99-6/1.10⁷ reproduces the summary spreadsheet presented in a number of Mitchell Research Reports; it is used again here for reference as it provides an analysis of adjustments to the Tenth Reserves, section-by-section, through subdivisions, exchanges and transfers, Governors' Decrees and Public Works Act alienations, acquisitions for streets and roads, erosion and accretion, re-surveys, freeholding by lessees etc.

⁷

Table 99-6/1.10: "*Summary of Land Reconciliations*". Copied as Report 99-6/REFS pp3-16

Report 99-6, Chapter 2

An Overview

2.1 Origins

A number of contracts entered into between the Agents of the New Zealand Company and the chiefs set out the principles from which could be derived the acreages to which the manawhenua iwi of Nelson were entitled. These principles were

- defined in the New Zealand Company's Articles as one-tenth of the land to be purchased from the chiefs and tribes
- defined in the Company's original Deeds of Purchase of 1839
- stipulated in practice in the 1841 Prospectus for the Nelson Settlement, and
- confirmed, but modified in extent by the judgements of Land Commissioner William Spain in 1845.

Relevant Mitchell Research References:

- Report No 99-2: Chapter 7, 8 (pp1-90).
Report No 99-3: Chapters 4, 5.
Report No 99-4: Chapter 2, 4 (pp20-32).

Almost from the outset the acreages contracted to be reserved for the Natives, and the acreages that were actually reserved under the New Zealand Company's Tenths Reserves scheme, were reduced by successive actions or inactions of Company agents and/or Crown officers.

During the first 12 years of the Settlement these acreages were reduced to a fraction (less than 30%) of the original entitlements, either

- through failures to allocate certain Reserves as defined in the contracts or Awards, or
- by whittling away at the Native Reserves which had actually been set aside.

Several sections of Reports No 99-3 and No 99-4 outline the events or policies which have diminished the acreage of the actual and intended Native Reserves. This report summarises the effects of these events and policies and lists the grievances arising from them on behalf of the Claimants of WAI-56 and WAI-102.

2.2 Types of Adverse Influence on Maori Land Holdings in Nelson:

In essence the land entitlements of the manawhenua iwi of Nelson Province were diminished by a number of distinct influences. The following list sets out the most important types of action (or inaction) which eroded the Maori Reserves land acreages; at times more than one of the influences listed might have been applied simultaneously:

- Occupation lands in both Nelson Town and Motueka were not excluded from the pools of surveyed sections which were then thrown open, in 1842, for selection by settlers, the Company and the Native Reserves Trust
- The correct 10% to be set aside as Tenths Reserves, as originally contracted by the Company and subsequently modified by Commissioner Spain, has never been properly applied, with a consequent loss of ten Nelson Town Tenths Reserves sections (10 acres) and ten Suburban Tenths Reserves sections (500 acres) and a total loss of Rural Tenths Reserves sections (9,490 acres – after Spain, by arithmetic).
- Spain's attempt at restoration of occupation lands as Occupation Reserves resulted in
 - I. failure to recognise the occupation lands in Motueka as Original Native Title.
 - II. 8 wrongly-designated Suburban Tenths Reserves in Motueka were re-designated as Occupation Reserves (again wrongly - should have been Original Native Title), and the Tenths Reserves acreages thereby lost (400 acres) were not replaced.
 - III. 8 wrongly-designated New Zealand Company Suburban Sections in Motueka were re-designated as Occupation Reserves (wrongly - should have been designated Original Native Title) and exchanged for Suburban Tenths Reserves (mainly in Riwaka), thereby diminishing the acreage of the Tenths estate by a further 400 acres.
- Following the principles underlying the Spain Awards, there was a failure to recognise as Occupation Reserves at least 8 one-acre sections of occupation lands around the harbour of Nelson Town. As a result these remained as Tenths Reserves which was inappropriate, then and subsequently.
- The re-modelling of the Nelson Settlement in 1847 saw the loss of 47 acres of Nelson Town Sections.
- Further adjustments of 6 Motueka Tenths Reserves as Occupation Reserves by the Board of Management in 1849 resulted in a loss of 300 acres to the Tenths Reserves portfolio.
- Governor Grey's "gift" of land to the Bishop of New Zealand for an industrial school at Motueka

(Whakarewa) in 1853 took 488 acres 3r 13p from Motueka Occupation Reserves and 429 acres 0r 32p from the Tenth's Reserves estate.

- Further adjustments by James Mackay Jr during 1862 which re-designated 12 Motueka Tenth's Reserves sections as Occupation Reserves, saw a further loss of 600 acres from the Tenth's Reserves estate.
- A land exchange authorised by James Mackay Jr in 1863 resulted in the loss of 150 acres from the Tenth's Reserves estate.
- Alienations by Governor's Decree or Public Works Act throughout the whole period from 1842 to 1977 for utilities and facilities for public uses (schools, cemeteries, toilets, horticultural research, food processing, Police etc), saw 64 acres disappear from the Motueka Occupation Reserves and the Tenth's Reserves estate.
- 27 acres of Tenth's Reserves and Motueka Occupation Reserves was alienated for streets, roads and road-widening.
- Alienations by freeholding to lessees via the Maori Affairs Amendment Act 1967 saw 1,308 acres of the Motueka Occupation Reserves and the Tenth's Reserves portfolio sold to lessees.

This report shows the specific and cumulative effects of these actions on the Tenth's Reserves estate and the Motueka Occupation Reserves.

Report 99-6, Chapter 3

The Tenths Reserves: Tables Showing Land Deficits, Thefts and Losses

3.1 Promised Distributions of New Zealand Company Sections

The New Zealand Company's own documentation regarding its Native Reserves policy (Edward Gibbon Wakefield's theories, Directors' evidence and submissions to Parliamentary Committees, the Company's Articles, Prospectuses, Deeds of Purchase from Chiefs etc), supported by the precedent of the Wellington Settlement, stated that one-tenth of all the land purchased for the Nelson Settlement would be reserved for the benefit of the vendor chiefs as the true payment for the land.

The Nelson Settlement was planned to comprise 221,100 acres of arable, cultivable land. One-tenth of that acreage, 22,110 acres, would be set aside as Native Reserves, made up from one-tenth of each of the 3 land categories – Town, Suburban or Accommodation, and Rural. Table 3.1 sets out the acreages which could be expected to be set aside as Tenths Reserves from any reasonable interpretation of the contractual promises and precedents.

Relevant Mitchell Research References:

- Report No 99-2: Chapters 7, 8 (pp1-90).
- Report No 99-3: Chapters 3, 5.
- Report No 99-4: Chapter 2.

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Implied Totals: Company's Obligation
<i>To Company and Settlers/Investors</i>	220	19,500	18,500	198,950
<i>To Tenths Reserves</i>	110	9,500	16,500	22,110
<i>Totals</i>	1,100	19,000	195,000	221,100

3.2 Actual Distributions of Nelson Town Sections, April 1842

Despite the contractual agreement to reserve one-tenth of the land area in each land category in the settlement (Town, Suburban or Accommodation, Rural), and despite the Wellington precedent where one-tenth of the Town sections were actually reserved as Native Tenths Reserves, when the Nelson Town sections were ready for selection in April 1842, only one-eleventh of the 1,100 acres was reserved as Native Tenths Reserves. Figure 99-6/3.2⁸ shows the completed survey of Nelson Town, based on the survey maps prepared by New Zealand Company surveyors, 1842, and the Town Tenths Reserves sections selected by Henry Thompson.

Table 3.2 sets out the actual acreage selected by Henry Thompson for the Native Tenths Reserves portfolio, being 100 Town sections. Claimants assert, therefore, that from the outset the Company created a deficit – of ten acres, as shown in Table 3.2.

Relevant Mitchell Research References:
 Report No 99-2: Chapter 8 (pp27-31).
 Report No 99-3: Chapter 6.
 Report No 99-4: Chapter 2, 4 (pp20-29).

Table 3.2: April 1842; Allocations of Nelson Town Sections (acres)					
Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Promised per Company's Contractual Obligations:					
To Settlers and Investors	990	49,500	148,500		198,990
To Tenths Reserves	110	5,500	16,500		22,110
Total Contract Acreages	1,100	55,000	165,000		221,100
Actual Allocations:					
To Settlers and Investors	1,000			1,000	
To Tenths Reserves	100			100	
Totals Allocated	1,100			1,100	
Deficits, Thefts, Losses:					
Tenths Reserves	10			10	
Cumulated Loss of Tenths Reserves	10			10	

⁸ Figure 99-6/3.2: Map of Nelson Town Sections, 1842. Copied as Report 99-6/REFS p17

3.3 Actual Allocation of Motueka, Moutere, Riwaka and Marahau Suburban Sections, August 1842

Similarly, when the Suburban or Accommodation sections in Motueka were ready for selection in August 1842, instead of the one-tenth promised only one-eleventh was selected as Native Tenths Reserves. That one-eleventh amounted to 100 Suburban sections of 50 acres each, not 110 sections which would be expected from the contractual agreements. The difference is a deficit of 10 sections, amounting to 500 acres. Figure 99-6/3.3⁹ shows the Tenths Reserves as selected by Henry Thompson, August 1842.

Table 3.3 details the land allocations following the allocation of the Suburban sections.

Relevant Mitchell Research References:
 Report No 99-2: Chapter 8 (pp31-35).
 Report No 99-3: Chapter 7
 Report No 99-4: Chapter 2 (p20).
 Report No 99-5: Chapter 2.

Table 3.3: August 1842: Allocations of Suburban Sections (acres)					
Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Promised per Company's Contractual Obligations:					
To Settlers and Investors	990	10,500	148,500		198,990
To Tenths Reserves	110	5,500	16,500		23,110
Total Contractual Allocations	1,100	16,000	165,000		222,100
Actual Allocations:					
To Settlers and Investors	1,000	50,000		51,000	
To Tenths Reserves	100	5,000		5,100	
Totals Allocated	1,100	55,000		56,100	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500		510	
Estimated Loss of Tenths Reserves	10	500		510	

This Action

⁹ Figure 99-6/3.3: Plan of Suburban Tenths Reserves Sections, Motueka and Districts, August 1842. Copied as Report 99-6/REFS p18

3.4 Implied Distribution, had Sufficient Rural Land Been Available

Towards the end of 1842 when the New Zealand Company started to look for the rural lands to fulfil its commitments to settlers, investors and the Native Tenth's Reserves, it became apparent that there was insufficient cultivable, arable land available in the Nelson districts (Nelson, Motueka and environs, and Golden Bay). As a result rural lands were not allocated as planned. If the area of land necessary for the planned settlement had been available, one-tenth of the rural land area would have been 16,500 acres. If the New Zealand Company had continued to allocate one-eleventh of the land area instead of one-tenth, it is likely that the Tenth's Reserves estate would have received 15,000 acres rather than the 16,500 acres which would represent a true tenth.

Relevant Mitchell Research References:

- Report No 99-2: Chapter 8 (pp47-64, 93-98).
- Report No 99-3: Chapter 7, 9.
- Report No 99-4: Chapter 2.

Table 3.4: Implied Allocations of Rural Sections (acres)					
Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Promised per Company's Contractual Obligations:					
To Settlers and Investors	990	49,500	148,500		198,990
To Tenth's Reserves	10	5,500	16,500		22,110
Total Contractual Allocations	1,000	55,000	165,000		221,100
Actual Allocations:					
To Settlers and Investors	1,000	50,000	0	51,000	
To Tenth's Reserves	100	5,000	0	5,100	
Totals Allocated	1,100	55,000	0	56,100	
Deficits, Thefts, Losses:					
Tenth's Reserves	10	500	16,500	17,010	
Cumulative Loss of Tenth's Reserves	10	500	16,500	17,010	

3.5 1844 – 1845: Implications from the Principles Underlying the Spain Awards

In 1844-45 Commissioner William Spain examined the claims of the New Zealand Company (and other Europeans) to land purchases in the Nelson area prior to 1840. Spain decreed that

- the New Zealand Company was entitled to 151,000 acres in the Nelson districts (Nelson, Motueka, Golden Bay)
- the Tenths Reserves must consist of a true tenth of the acreage awarded; i.e. 15,100 acres
- Maori occupation lands, cultivations and urupa were to be set aside for the perpetual use of Maori (Occupation Reserves) and were to be set aside from the 151,000 acres awarded to the Company and surveyed for settlement
- sixteen 50-acre sections in Te Maatu (the Big Wood) in Motueka should be re-designated as Occupation Reserves.

Figure 99-6/3.5¹⁰ is a copy of the plan of Motueka drawn by (or for) William Spain, showing Te Maatu in relation to the boundaries of the Suburban sections.

The Claimants in WAI-56 and WAI-102 accept Spain's reduction of the settlement to 151,000 acres and the subsequent acreage of 15,100 acres for the Tenths Reserves. They believe the Te Maatu lands should have been restored to Original Native Title (i.e. excluded from the sales to the New Zealand Company) as requested by the Motueka chiefs in 1841. Claimants do not accept the losses to the Tenths Reserves estate as a result of the re-designation of the Te Maatu sections. Table 3.5 sets out the acreages which could be expected from reasonable interpretations of the terms and conditions of the Spain Awards. Researchers have used "X", "Y" and "Z" to indicate that at the time of Spain's Awards the acreages of occupation lands within the different land categories and districts of the settlement were not known until surveyed and set aside, or created by re-designations of already-selected sections.

Relevant Mitchell Research References:

- Report No 99-2: Chapter 8 (pp43-46, 64-78).
- Report No 99-3: Chapter 10
- Report No 99-4: Chapter 3 (p14 – in chronology).

Table 3.5: 1844 - 1845; An Implied Allocation According to the Principles Underlying the Spain Awards (acres)

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres) (By Arithmetic)	Implied Totals: Company's Obligation
<i>To Company and Settlers/Investors</i>	990 - X	49,500 - Y	85,410 - Z	135,900 - X - Y - Z
<i>To Tenth's Reserves</i>	110	5,500	9,490	15,100
<i>To Occupation Reserves</i>	X	Y	Z	X + Y + Z
<i>Totals</i>	1,100	55,000	94,900	151,000

3.6 1844 – 1845: Situation Following Spain, Prior to His Awards of Occupation Reserves to Motueka Maori

Although Spain decreed that the Native Tenth's Reserves were to be a true tenth of the total acreage awarded to the New Zealand Company i.e. 15,100 acres, no Rural Tenth's Reserves were ever allocated. Neither the 10 Town sections nor the 10 Suburban sections required to bring the Tenth's Reserves estate in those land categories up to a true tenth were allocated either. Table 3.6 shows the existing deficits of 10 Town sections (10 acres) and 10 Suburban sections (500 acres) as well as the 9,490 acres owing in Rural Tenth's.

Relevant Mitchell Research References:
 Report No 99-2: Chapter 8 (pp64-78).
 Report No 99-3: Chapter 10.

Table 3.6: 1844 – 1845; Actual Allocations Following Spain Awards, Prior to Adjustments of Motueka Occupation Reserves (acres)

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
<i>Calculated from Principles Underlying the Spain Awards:</i>					
To Settlers and Investors	1,000	50,000	0	51,000	151,000
To Tenth's Reserve	100	5,000	9,490	5,100	15,100
To Occupation Reserves	X	Y	Z	X+Y+Z	X+Y+Z
Total Contract Acreages	1,100	55,000	9,490	56,100	151,000
Actual Allocations:					
To Settlers and Investors	1,000	50,000	0	51,000	
To Tenth's Reserves	100	5,000	0	5,100	
Totals Allocated	1,100	55,000	0	56,100	
Deficits, Thefts, Losses:					
Tenth's Reserves	10	500	9,490	10,000	
Cumulative Loss of Tenth's Reserves	10	500	9,490	10,000	
Occupation Reserves	X	Y	Z	X+Y+Z	

3.7 1844 – 1845: Effect of Neglecting to Adjust for Occupation Reserves in Nelson Town

As noted above, neither the Company officials nor the Government-appointed Trustees of the Native Reserves moved to implement the requirement of Spain's Award that habitations, cultivations, urupa etc be set aside as Occupation Reserves. Claimants assert that at least 8 of the Nelson Town Tenth Reserves sections fell within Spain's criteria and therefore should have been re-designated as Occupation Reserves; these are Section 5 ("Punawai"), Section 50 ("Poiwhai"), Sections 62-66 ("Matangi Awhio") and Section 1099 ("Manuka Island"); the acreage thereby removed from the Tenth Reserves portfolio should have been replaced from the pool of unallocated New Zealand Company sections.

This was not done, and so a deficit in the Occupation Reserves to which Nelson Maori were entitled was incurred, as noted in Table 3.7.

Figure 99-6/3.2¹¹ shows in green "highlight" the 8 sections in Nelson town claimed as Occupation Reserves.

Relevant Mitchell Research References: Report No 99-2: Chapter 8 (pp64-78). Report No 99-3: Chapter 10.
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¹¹ Figure 99-6/3.2: *Op. cit.* Copied as Report 99-6/REFS p17

Table 3.7: Effect of Neglecting to Adjust for Occupation Reserves in Nelson Town (acres)

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,000	50,000	94,900	145,900	
To Tenths Reserves	100	5,000	0	5,100	
To Occupation Reserves	0	0	0	0	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500	9,490	10,000	
Cumulated Loss of Tenths Reserves	10	500	9,490	10,000	
Occupation Reserves	8	?	?	8	

This Inaction

3.8 1844 - 1845: Land Holdings After Spain's Transfers of Motueka Tenth's Reserves to Occupation Reserves

Spain attempted to redress the injustice of the New Zealand Company's failure to except Te Maatu from the land purchase as requested by the Motueka chiefs, and to implement his own judgment concerning Occupation Reserves, by re-designating 8 Native Tenth's Reserves sections (400 acres) in Te Maatu as Occupation Reserves. These sections were transferred to the ownership of resident Maori in Motueka (mostly Ngati Rarua and Te Atiawa, with some Ngati Tama). These sections, lost from the Tenth's Reserves estate owned by all Ngati Koata, Ngati Rarua, Ngati Tama and Te Atiawa of Nelson Province, were not replaced, thereby creating a further deficit of 400 acres in the Suburban Tenth's Reserves estate.

Figure 99-6/3.8¹² shows the Motueka Suburban sections transferred from the Tenth's Reserves estate to Occupation Reserves; all are in or near Te Maatu.

<p>Relevant Mitchell Research References: Report No 99-2: Chapter 8 (pp64-78). Report No 99-3: Chapter 10.</p>

¹²

Figure 99-6/3.8: Plan of Motueka Suburban Sections. Copied as Report 99-6/REFS p20

Table 3.8: Land Holdings (acres) After Spain's Transfers of Motueka Tenths Reserves to Occupation Reserves

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,000	50,000	94,900	145,900	
To Tenths Reserves	100	4,600	0	4,700	
To Occupation Reserves	0	400	0	400	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500 400	9,490	10,000 400	
Cumulated Loss of Tenths Reserves	10	900	9,490	10,400	
Occupation Reserves	8	?	?	8	



3.9 Land Holdings After Spain's Transfers of "European" Sections to Motueka Occupation Reserves, and Exchange for Tenths Reserves

At the same time Spain ordered that 8 Suburban sections (400 acres) held by the New Zealand Company in Te Maatu be re-designated Occupation Reserves for the resident Maori in Motueka (i.e. Ngati Rarua, Te Atiawa and some Ngati Tama). Unfortunately the Company's land loss was then replaced by the transfer of 8 Native Tenths Reserves sections (400 acres) to the New Zealand Company. This created a further loss to the Tenths Reserves estate of 400 acres, and redressed one injustice by creating another.

Figure 99-6/3.8¹³ shows the 8 "European" sections which were re-designated as Native Occupation Reserves; all are in or near Te Maatu. Figure 99-6/3.8 also shows the 8 Tenths Reserves sections given up in exchange.

<p>Relevant Mitchell Research References: Report No 99-2: Chapter 8 (pp64-78). Report No 99-3: Chapter 10.</p>

Table 3.9: Land Holdings (acres) After Spain's Transfers of "European" Sections to Occupation Reserves and Exchanges of Tenths Reserves

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,000	50,000	94,900	145,900	
To Tenths Reserves	100	4,200	0	4,300	
To Occupation Reserves	0	800	0	800	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500 400 400	9,490	10,000 400 400	
Cumulated Loss of Tenths Reserves	10	1,300	9,490	10,800	
Occupation Reserves	8	?	?	8	

3.10 1847 – 1848: Situation After Re-Modelling of the Nelson Settlement

During 1847 and 1848, petitions and submissions from a Nelson Landpurchasers and Agents Committee were endorsed by William Wakefield and Governor Grey, and then ratified by Earl Grey, Secretary of State for the Colonies, leading to a withdrawal of a number of Nelson Town sections from the Tenths Reserves estate. The new formula approved by the Greys was that the Native Reserves Trust would be reduced to one-tenth of the allotments actually on-sold to settlers and investors, instead of one-tenth of the land purchased from the resident chiefs by the Company as decreed by Spain. Fortunately Earl Grey approved the reduction only in the case of the Nelson Town Tenths Reserves, which were reduced to 53 sections (53 acres) from 100. At the same time Governor Grey indicated that he would make good the continuing deficit in the Rural Tenths Reserves (9,490 acres) by allocating reserves at the time of the impending Wairau "purchase"; this was an inappropriate promise which was not fulfilled.

Figure 99-6/3.2¹⁴ details the situation following the re-modelling of the Nelson Town Tenths Reserves; the sections "highlighted" in blue are those ordered to be relinquished by the Tenths Reserves Trust.

Relevant Mitchell Research References:

- Report No 99-2: Chapter 8 (pp89-93).
- Report No 99-3: Chapter 12.
- Report No 99-4: Chapter 4 (pp32-33).

¹⁴ Figure 99-6/3.2. *Op. cit.* Copied as Report 99-6/REFS p17

**Table 3.10: 1847-1848; Land Holdings (acres)
After Re-Modelling of the Nelson Settlement**

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenths Reserves	53	4,200	0	4,253	
To Occupation Reserves	0	800	0	800	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10 47	500 400 400	9,490	10,000 400 400 47	
Cumulated Loss of Tenths Reserves	57	1,300	9,490	10,847	
Occupation Reserves	8	?	?	8	

3.11 1849: Situation After Board of Management Transfers Further Motueka Tenth's Reserves to Occupation Reserves

In early 1849, because numbers of Motueka Maori had continued to occupy several sections in Te Maatu, 5 of which had been chosen by European settlers, and another which had not been sold, but was selected and retained by the Company itself, the Board of Management of the Native Reserves recommended that these sections be obtained and re-designated by the same form of exchange as adopted by Spain – with the same result. The Board of Management was authorised to relinquish 6 of its Suburban Tenth's Reserves sections (300 acres) which were transferred to the affected European parties. The sections received in exchange were not retained within the Tenth's Reserves Trust but were re-designated as Occupation Reserves and vested in the Native occupiers. Table 3.11 displays the nett effect of the transfers involved and the consequences for land holdings in the Tenth's Reserves and Occupation Reserves portfolios.

Figure 99-6/3.8¹⁵ shows the "European" sections re-designated as Occupation Reserves, and the Tenth's Reserves sections given up in exchange.

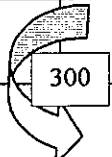
Relevant Mitchell Research References:

Report No 99-3: Chapter 16.

Report No 99-4: Chapter 4 (pp36-38).

Table 3.11: 1849; Land Holdings (acres) after Board of Management Transfers of Motueka Tenth's Reserves to Occupation Reserves

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenth's Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenth's Reserves	53	3,900	0	3,953	
To Occupation Reserves	0	1,100	0	1,100	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenth's Reserves	10	500	9,490	10,000	
		400		400	
	47	400		400	
		300		300	
Cumulated Loss of Tenth's Reserves	57	1,600	9,490	11,147	
Occupation Reserves	8	?	?	8	



This Action

3.12 1853: Situation After Governor Grey's Thefts for Whakarewa

In 1853 Governor Grey relinquished (without any request from the Church)-429 acres of Motueka Tenths Reserves and 489 acres of Motueka Occupation Reserves to the Bishop of New Zealand, to provide both freehold land for the development of school buildings and other facilities for the educational programme, and a pool of leased properties to provide income support for the school. Table 3.12 illustrates the transfers of land holdings authorised by Grey.

No map has been prepared because the transfers involved several dozen lots, many of which were small part-sections.

Relevant Mitchell Research References:

- Report No 99-2: Chapter 8 (pp78-108).
- Report No 99-3: Chapter 14.
- Report No 99-4: Chapter 4 (pp39-41).
- Report No 99-5: Chapter 3 (pp20-21), & Chapter 5 (pp42-51).

**Table 3.12: 1853; Land Holdings (acres)
After Governor Grey's Thefts for Whakarewa**

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenths Reserves	53	3,471	0	3,524	
To Occupation Reserves	0	611	0	611	
To the Whakarewa School Trust		918		918	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500	9,490	10,000	
		400		400	
		400		400	
	47	300		47	
		429		300	
			This Action	429	
Cumulated Loss of Tenths Reserves	57	2,029	9,490	11,576	
Cumulated Loss of Occupation Reserves	8	489		497	
			This Action		

3.13 1862: Situation After James Mackay Jr's Transfers of Motueka and Marahau Tenth's Reserves to Occupation Reserves

Despite the adjustments by William Spain in 1845 and the Board of Management in 1849 to provide Motueka Maori with Occupation Reserves, there still remained several other Suburban Tenth's Reserves sections which were occupied by resident Ngati Rarua and Te Atiawa. Four of these sections (200 acres) were near Motueka Township and another 4 (also 200 acres) were at Marahau. James Mackay Jr, the Assistant Native Secretary at the time, recommended that the Tenth's Reserves Trust relinquish these sections for re-vesting in the individual owners concerned. At the same time Mackay also made a conciliatory gesture towards the Ngapiko family (Ngati Rarua/Ngati Tama) who had been evicted from their homes and cultivations at Whakarewa following Grey's Grants 9 years earlier. Mackay was authorised to relinquish 4 Suburban Tenth's Reserves sections at Puketutu (near the mouth of the Moutere Inlet) for re-designation as Occupation Reserves in favour of this family. The net result of these concurrent transfers was the loss from the Tenth's Reserves estate of 12 Suburban sections - 600 acres.

Table 3.13 illustrates the nett transfer (600 acres) and the consequences for the Tenth's Reserves and Occupation Reserves portfolios.

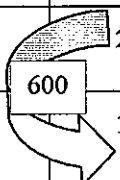
Figure 99-6/3.8¹⁶ shows the 8 Tenth's Reserves re-designated as Occupation Reserves in Motueka, but not the Marahau transfers; the latter involved all 4 Tenth's Reserves which Henry Thompson had selected at Marahau.

Relevant Mitchell Research References:

Report No 99-3: Chapter 16.
Report No 99-5: Chapter 3 (p18).

Table 3.13: 1862; Land Holdings (acres) after James Mackay Jr's Transfers of Motueka and Marahau Tenths Reserves to Occupation Reserves

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenths Reserves	53	2,871	0	2,924	
To Occupation Reserves	0	1,211	0	1,211	
To Whakarewa School Trust		918		918	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500	9,490	10,000	
		400		400	
		400		400	
	47	300		47	
		429		300	
		600		429	
				600	
Cumulated Loss of Tenths Reserves	57	2,629	9,490	12,176	
Cumulated Loss of Occupation Reserves	8	489	?	497	



3.14 1863: Situation After James Mackay Jr's Exchange of Motueka Tenth's Reserves for "European" Lands in Golden Bay

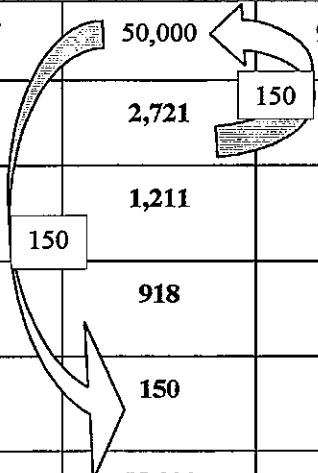
In 1864 James Mackay Jr (by this time Commissioner of Nelson Native Reserves) was authorised to conclude an exchange of lands between the Native Reserves Trust and a European settler, Edwin Fearon. Mr Fearon owned 150 acres at Motupipi in Golden Bay, but wished to move to Motueka. Mackay agreed to exchange 3 Suburban Tenth's Reserves sections in Motueka – Sections 139, 140 and 141 – for Mr Fearon's block at Motupipi. However the Motupipi land was not retained in the Tenth's Reserves portfolio but was re-designated as Occupation Reserves vested in individual Golden Bay Maori. Again, the nett result was a loss to the Tenth's Reserves, as set out in Table 3.14.

Figure 99-6/3.8¹⁷ shows the three Tenth's Reserves sections in Motueka given up in exchange to Mr Fearon.

<p>Relevant Mitchell Research References: Report No 99-3: Chapter 16.</p>
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Table 3.14: 1863; Land Holdings (acres) After James Mackay Jr's Exchange of Motueka Tenth's Reserves for "European" Lands in Golden Bay

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
<i>Calculated from Principles Underlying the Spain Awards:</i>					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenth's Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenth's Reserves	53	2,721	0	2,774	
To Occupation Reserves	0	1,211	0	1,211	
To Whakarewa School Trust		918		918	
To Golden Bay Occupation Reserves		150		150	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenth's Reserves	10	500	9,490	10,000	
		400		400	
		400		400	
	47	300		47	
		429		429	
		600		600	
		150		150	
Cumulated Loss of Tenth's Reserves	57	2,779	9,490	12,326	
Cumulated Loss of Occupation Reserves	8	489	?	497	



This Action

3.15 A Summary of Tenths Reserves Deficits and Grievances

The cumulated deficits in the Tenths Reserves estate up to 1864, as revealed in the foregoing analyses, are:

Nelson Town Sections:	57 acres
Suburban Sections	2,779 acres
Rural Sections	9,490 acres
Total Tenths Reserves Lost	----- 12,326 acres

This Summary shows that instead of the 15,100 acre Tenths Reserves estate determined by Commissioner Spain in 1844 - 1845, by 1864 the chiefs of Ngati Koata, Ngati Rarua, Ngati Tama and Te Atiawa of Nelson province who sold the land for the settlement, were to receive the benefits from an estate totalling only 2,774 acres. 12,326 acres (81.63%) had been denied them or had been removed from the estate through a succession of non-allocations, thefts, exchanges and re-designations.

As the Tenths Reserves were to constitute the true payment for the land sold for the settlement, the Claimants believe the Nelson settlement was established by fraud, and that the Government of New Zealand did nothing to ensure that the terms of the purchase were met, nor to protect the integrity of the Reserves estate.

3.16 A Summary of Occupation Reserves Deficits and Grievances

The analysis up to the mid-1860s shows deficits in the Occupation Reserves estates as follows:

Nelson Town Sections:	8 acres
Suburban Sections:	489 acres

Claimants in WAI-56 and WAI-102 seek redress for the 8 acres deficit in the Nelson Town sections.

However, the deficit in the Motueka Occupation Reserves is another matter. The "deficit" of 489 acres identified in these analyses arises from the Spain-awarded Occupation Reserves that had their origins

in Tenth's Reserves which had been wrongly caught up in the Company's ballot allocation procedures of 1842. Having had 800 acres re-vested in their ownership as Occupation Reserves by Spain's transfers in 1844-45, Ngati Rarua and Te Atiawa ki Motueka then suffered in 1853 the indignity of seeing 489 of those acres forcibly removed from their ownership by Governor Grey's largesse to the Anglican Church. Worse, some of the owners who were in actual occupation were themselves forcibly evicted from their homes and farms to make way for the Church's educational programme, or to allow for entry onto their lands by European lessees whose rents would support the new school.

From the viewpoint of the descendants of the Ngati Rarua and Te Atiawa ki Motueka who were treated so unjustly, the so-called "deficit" identified here may take on an entirely different perspective. It is likely that they regard all of the Te Maatu sections, or indeed even the larger Motueka, Riwaka and neighbouring districts, as Occupation Reserves, or even Original Native Title (in the same way that Te Tai Tapu, Wakapuaka and Rangitoto remained in Original Native Title through their being excluded from the land purchases at the request of their chiefs).

From such a perspective, therefore, all of their Motueka lands which had been alienated by the New Zealand Company's faulty survey and selection procedures would be regarded by the resident chiefs as deficits from their Original Native Title estates. From such a perspective it would be immaterial whether the alienation was to settlers or to the Native Tenth's Reserves Trust. From such a perspective, the 489 acres "deficit" identified in these analyses would seem to be an irrelevancy compared with the greater sense of loss they must feel.

It is not a primary concern of the Claimants in WAI-56 and WAI-102 to seek redress for the land deficits and thefts in the Motueka Occupation Reserves portfolio; this is more properly a matter for the respective iwi Claimants to address in their own research reports.

Mitchell Research Report 9E deals with a number of issues relating to those Occupation Reserves which were brought under the aegis of the Native Reserves Act 1856 (and its successors) and placed under the administration and management of the same trustees who were dealing with the Tenth's Reserves.

Report 99-6, Chapter 4

Other Alienations

4.1 Alienations Through Governors' Decrees and the Public Works Act

During the history of the Nelson Native Reserves, up until the time of the establishment of Wakatu Incorporation, at least 57 acres 3 roods 5.3 perches¹⁸ was alienated from the Trust for public purposes through Governors' Decrees (in the early days) or later via the Public Works Act. Sometimes compensation was paid, sometimes not. At least 50 acres 2 roods 20.7 perches¹⁹ of this land was taken from Occupation Reserves in Motueka. The rest, 7 acres 2 roods 2.7 perches, was taken in Nelson from the Tenths Reserves estate.

Table 4.1 figures these alienations into the analyses of land losses.

<p>Relevant Mitchell Research References: Report No 9C: Chapter 7.</p>

¹⁸ Or as much as 60 acres 2 roods 27.3 perches depending on the outcome of negotiations over the land area for a sewage facility in Motueka which is not clear from the records available to the researchers.

¹⁹ Ditto. As much as 53 acres 2 roods 2.7 perches could have been taken in this way from Motueka Occupation Reserves.

Table 4.1: Alienations Via Governors' Decrees and the Public Works Act

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
Calculated from Principles Underlying the Spain Awards:					
To Settlers and Investors	982	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenths Reserves	45.9	2,721	0	2,766.9	
To Occupation Reserves	0	1,160.4	0	1,160.4	
To Whakarewa School Trust	7.1	918	50.6	918	
To Golden Bay Occupation Reserves		150		150	
To Public Works	7.1	50.6		57.7	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Tenths Reserves	10	500	9,490	10,000	
		400		400	
		400		400	
	47	300		47	
		429		300	
		600		429	
	7.1	150		600	
				150	
				7.1	
Cumulated Loss of Tenths Reserves	64.1	2,779	9,490	12,333.1	
Cumulated Loss of Occupation Reserves	8	489	2	547.6	
		50.6			

4.2 Alienations for Streets and Roads

During that same period 26 acres 3 roods and 30.5 perches was taken for streets, roads and street-widening. 15 acres 0 roods 18.1 perches of this land came from Occupation Reserves in Motueka. A total of 11 acres 3 roods 12.4 perches came from Tenths Reserves; just on 2 acres was taken from Nelson Town Tenths Reserves, three Moutere Tenths Reserves sections were particularly hard hit, losing 7 acres, 2 roods 33 perches to the development of through roads, and the remainder was taken from Motueka Tenths Reserves sections.

Table 4.2 summarises these alienations.

Relevant Mitchell Research References:

Report No 9A: Chapter 9

See also Spreadsheet, Table 99-6/1.10. Copied as Report 99-6/REFS pp

4.3 Alienations by Freeholding to Lessees under the Maori Affairs Amendment Act 1967

Between 1970 and 1974 the Maori Trustee alienated 1,307 acres 3 roods and 5.8 perches by freeholding to lessees as allowed under provisions of the Maori Affairs Amendment Act 1967. Of this land 179 acres 0 roods 29.9 perches came from lands designated as Occupation Reserves in Motueka and Marahau. The rest, 1,128 acres 2 roods 15.9 perches came from the Tenths Reserves estate, as follows:

Nelson Town Sections:	14 acres 0 roods 4.1perches
Motueka Suburban Sections:	638 acres 0 roods 30 perches
Moutere Suburban Sections:	544 acres 3 roods 38.6 perches

Table 4.3 sets out the transfers involved. See also the reconciliations on Table 99-6/1.10²⁰ for section-by-section details of these alienations.

Relevant Mitchell Research References:
Report No 99-4: Chapter 7 (pp97-98).
Report No 99-5: Chapter 6.
Report No 9C: Chapter 6.

²⁰ Table 99-6/1.10. *Op. cit.* Copied as Report 99-6/REFS pp3-16

Table 4.3: Land Holdings (acres) Following Alienations Through Freeholding to Lessees per the Maori Affairs Amendment Act 1967

Allocations	Nelson Town Sections (1 acre)	Suburban Sections (50 acres)	Rural Sections (150 acres)	Total Area	Implied Totals
<i>Calculated from Principles Underlying the Spain Awards:</i>					
To Settlers and Investors	990 - X	49,500 - Y	85,410 - Z		135,892 - Y - Z
To Tenths Reserves	110	5,500	9,490		15,100
To Occupation Reserves	8	Y	Z		8 + Y + Z
Total Contract Acreages	1,100	55,000	94,900		151,000
Actual Allocations:					
To Settlers and Investors	1,047	50,000	94,900	145,947	
To Tenths Reserves	29.9	1,596.5	0	1,626.4	
To Occupation Reserves	0	966.1	0	966.1	
To Whakarewa School Trust		918		918	
To Golden Bay Occupation Reserves	14	1114.6	179.2	150	
To Public Works	7.1	50.6		57.7	
To Streets & Roads	2	25		27	
To Freeholding	14	1,293.8		1,307.8	
Totals Allocated	1,100	55,000	94,900	151,000	
Deficits, Thefts, Losses:					
Native Tenths Reserves	10	500	9,490	10,000	
		400		400	
		400		400	
	47			47	
		300		300	
		429		429	
		600		600	
		150		150	
		7.1		7.1	
		2.0	9.9	11.8	
	14	1,114.6	1,128.6		
Cumulated Loss of Tenths Reserves	80.1	3,903.5	9,490	13,473.5	
Cumulated Loss of Occupation Reserves	8		?	8	
		489		489	
		50.6		50.6	
		15.1		15.1	
	179.2		741.9		

Report 99-6, Chapter 5

Conclusions and Grievances

5.1 Conclusions

The series of tables in Chapters 3 and 4 shows that instead of the 15,100 acres of Native Tenth's Reserves which should have been allocated by the New Zealand Company and protected by the Government-appointed Trustees of the Reserves, by 1977 when Wakatu Incorporation was formed to administer the lands on behalf of the descendants of the Maori vendors, only 1,620 acres (10.8%) of the Tenth's Reserves estate remained. Instead of 10% of the lands of the Nelson Settlement being reserved for manawhenua Maori, by 1977 only about 1.07% of the acreage "purchased" for the settlement as ratified by Spain remained as Tenth's Reserves. The inescapable conclusions are that

- the land purchased for the Nelson Settlement was not paid for as agreed at the time of purchase
- the intention for the Reserves to provide a resource to allow the Maori vendors to grow rich as the settlement grew rich was thwarted and subverted by the actions and inactions of the New Zealand Company, the Government and the Government-appointed Trustees of the Nelson Native Reserves
- the Maori vendors and their descendants were prevented from participating in the new society established by European settlement by
 - their lack of capital through the failure to disburse the income from the Tenth's Reserves
 - their lack of potential income through the land deficits in the Tenth's Reserves estate, and the restrictions placed on the possible income from the Reserves as a result of Government legislation
 - Motueka Maori's lack of anywhere to live and work because of the failure to except Te Maatu, their rich horticultural land, from the purchase as requested by the chiefs
- As a result of these effects of Government action and inaction Maori were alienated from the new society and the benefits it offered, marginalised by poverty and being forced to live at locations distant from the centres of population, prevented from developing their entrepreneurial talents, and pitied and despised by many Europeans.

5.2 Grievances

5.2.1 Failure to Honour the Purchase Agreement

The descendants of the vendors of the land for the Nelson Settlement (the Claimants) assert that

- the New Zealand Company failed to honour its contract with the chiefs to reserve one-tenth of the land purchased for the settlement as Native Reserves for the benefit of the vendors
- in failing to honour this contract the New Zealand Company defaulted on what was described as the true payment for the land purchased for the Nelson settlement
- in failing to honour the purchase agreement and pay for the land used for the Nelson Settlement as arranged, the New Zealand Company breached Article II of the Treaty of Waitangi
- the Crown also breached Article II of the Treaty of Waitangi through the failure of its appointed agents to ensure that the purchase agreement with the Ngati Koata, Ngati Rarua, Ngati Tama and Te Atiawa chiefs of Nelson Province was honoured
- when the Crown assumed the responsibilities and liabilities of the New Zealand Company in 1850 the Crown made no attempt to redress the injustice of the New Zealand Company's failure to allocate a true tenth of the land "purchased" for the Nelson Settlement as Native Reserves
- nor did the Crown make any attempt to allocate the promised Rural Tenths Reserves
- as a result of these inactions on the part of the Crown the Nelson Native Tenths Reserves suffered a deficit of 10,000 acres.

5.2.2 Failure to Protect the Integrity of the Tenths Reserves Estate

As well as these major failures of the Crown which resulted in a deficit of 10,000 acres in the Nelson Native Tenths Reserves estate the Claimants assert that the Crown failed to protect the integrity of the Tenths Reserves estate, and acted in a manner detrimental to the intended inalienable status of the Tenths Reserves by

- allowing the injustice of the failure to except Te Maatu from sale to be partially redressed by land transfers made at the expense of the Tenths Reserves estate

- allowing the injustice of the failure to reserve other occupation sites in the general Motueka area to be redressed at the expense of the Tenth's Reserves estate
- allowing Tenth's Reserves land to be exchanged for land in Golden Bay and then allowing the Golden Bay land acquired in exchange to be designated as Occupation Reserves for specific Golden Bay Maori
- condoning and supporting the taking of 47 acres of Nelson Town Tenth's Reserves sections for the Re-modelling Scheme
- actively relinquishing 918 acres from the Tenth's Reserves and Motueka Occupation Reserves to the Bishop of New Zealand for Whakarewa
- allowing and sometimes encouraging the taking of Tenth's Reserves and Motueka Occupation Reserves land for public purposes through Governors' Decrees and the Public Works Act
- allowing the taking of land for streets, roads and street-widening, sometimes for good reasons and to the ultimate benefit of the Tenth's Reserves estate and Motueka Occupation Reserves, but on other occasions because the Public Trustee or the Maori Trustee appeared to be more willing to yield land for the purpose than European owners on the other side of the road
- legislating to allow the Maori Trustee to purchase "uneconomic interests" of particular individual owners of the Tenth's Reserves, thus alienating land from the Tenth's Reserves estate into the hands of a Crown agency. (Fortunately the Maori Trustee concentrated on purchasing North Island "uneconomic interests" first, and most of the Nelson Tenth's Reserves beneficial owners escaped unscathed)
- legislating to facilitate freeholding to lessees of their leasehold Tenth's Reserves and Motueka Occupation Reserves sections.

This combination of Crown actions saw a further 3,476 acres lost from the Tenth's Reserves, and 733.9 acres from the Motueka Occupation Reserves.

5.2.3 The Effects of the Crown's Failure in Relation to the Nelson Tenth's Reserves

The Claimants assert that the Crown's failure to ensure that the purchase agreement was honoured and the Crown's failure to protect the integrity of the Tenth's Reserves estate have resulted in:

- a significant loss in the potential income from the Tenth's Reserves estate which has resulted in:
 - inadequate returns to the beneficial owners
 - poverty
 - poor education
 - poor health
 - unemployment
 - low socio-economic status
 - low self-esteem
 - involvement in crime
 - welfare dependency

- a lack of land for the Maori beneficial owners to live on, cultivate and develop which has resulted in:
 - disruption to the traditional communal lifestyle
 - loss of mana
 - loss of dignity
 - loss of Te Reo, tikanga, whanau and hapu structures
 - pressure to move out of the Nelson district to find work which has damaged the relationship with turangawaewae

- a loss of trust in Europeans and in Governments on the part of the Maori vendors and their descendants which has resulted in:
 - negative attitudes towards education, health, the law, and the electoral system
 - a simmering resentment which blights Maori ability to move forward in society
 - a feeling of victimisation and powerlessness which has serious detrimental effects on self-image, self-esteem, ability to plan for the future, optimism and entrepreneurial urges

- the creation of a Maori underclass despised by their European fellow citizens because of Maori
 - patterns of welfare dependency
 - inability to participate in New Zealand society because of poor education, low self-esteem, feelings of powerlessness, and lack of trust
 - poor family support systems which are the consequence of the loss of Te Reo, tikanga, whanau and hapu structures, and a lack of confidence in Governments and the future
 - loss of mana, loss of dignity, loss of identity and loss of traditions.

5.2.4 Other Grievances

Other grievances concerning the legislation governing the Native Reserves, the administration of the Native Reserves, and specific issues relating to leasing, valuations, alienations, benefits to owners and the Motueka Occupation Reserves are recorded in the individual Mitchell Research reports dedicated to those topics viz:

- Report 99-4: *"Legislative and Administrative Influences on the Nelson Native Reserves"*
- Report 9A: *"Valuation Issues"*
- Report 9B: *"Leasing Issues"*
- Report 9C: *"Extinctions of Native Reserve Land Titles"*
- Report 9D: *"Benefits to Owners and the South Island Tenths Benefit Fund"*
- Report 9E: *"The Motueka Occupation Reserves"*.

5.3 A Comment on the Way in which the Chiefs of Ngati Koata, Ngati Rarua, Ngati Tama and Te Atiawa of Nelson Province were Deprived of the Native Tenth Reserves Promised to Them as Payment for the Land "Purchased" for the Nelson Settlement

This whole series of incidents which led to such a devastating loss of land and income to the vendor chiefs and their families, and which was responsible for such damaging and longlasting effects, may appear to be nothing more than a series of unfortunate and careless mistakes.

However, an examination of the incidents and the processes by which the land was withheld or alienated leads to a number of unpleasant conclusions:

1. There may have been no serious intention at all on the part of the New Zealand Company to allocate the full Tenth Reserves estate as promised in evidence given to secure a charter from the British Government, and in agreements made with the vendor chiefs. Certainly, in April 1842, only 2 months after the first settlers arrived in Nelson, only one-eleventh of the Nelson Town sections were allocated as Tenth Reserves, not one-tenth as promised. The same "mistake" was made when the Suburban sections were balloted in August 1842.
2. The Governors and Governments of New Zealand, who represented the Crown, appeared to take no interest at all in ensuring that the purchase agreement was honoured, and that Maori interests were protected, despite the very recent commitment made in the Treaty of Waitangi. Ironically, the newly formed Nelson Provincial Council, a body strongly focussed on settler interests and development of the Province, was the only official body to register a complaint about the theft of land for Whakarewa in 1853, in part because Grey's awards were stated by Councillors to be a breach of the contracts with Maori upon which the Nelson Settlement had been founded.
3. Commissioner Spain's findings concerning the true tenth and the status of Occupation Reserves were simply ignored by both the New Zealand Company and the Government: no attempt was made to redress the injustices already incurred; further injustices were created by the failure to allocate the Rural Tenth, and by using Tenth Reserves to attempt to resolve difficulties over occupation lands in Motueka.

4. The overriding impression throughout the sorry saga of the Tenth's Reserves is that
 - Maori people's interests were unimportant
 - settlers' and lessees' interests were paramount
 - the Tenth's Reserves were a useful resource for a wide range of purposes valuable to the European settlement
 - any clash between Maori interests and European interests was simply a "no contest"
 - no one, least of all the Government-appointed Trustees of the Native Reserves, was absolutely prepared to defend the integrity of the Tenth's Reserves estate and the interests of the beneficial owners against the pressures of settler/lessee interests
 - some of the Government-appointed Trustees of the Native Reserves were proactive in the development and implementation of policies and practices which actively worked against the interests of the Maori beneficial owners

5. The Maori beneficial owners would have no idea of how much land was disappearing from the Tenth's Reserves estate because
 - the beneficial owners were not identified for the first 50 years of the Reserves history
 - the beneficial owners were not consulted about the alienation of land from the Tenth's Reserves
 - there was no requirement for the Government-appointed Trustees of the Tenth's Reserves to be accountable to, or even report to, the beneficial owners
 - no income from rents was distributed to the beneficial owners of the Tenth's Reserves for the first 55 years of the reserves history, so that there would be no indication of land loss through a drop in income from rentals.

It is hard to escape the conclusion that there was a tacit conspiracy between the New Zealand Company and its agents and the Government and its agents and appointees, to overlook both the breaches of the purchase agreements with the chiefs, and the continuous erosion of the allocated

Tenths Reserves estate and Motueka Occupation Reserves. The corresponding increase in the land available for European purchase and settlement evident in the preceding tables almost certainly demonstrates the motivation for such a conspiracy.