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CLAIM
WAI 145

#18

McCLEVERTY

Report on the McCleverty Arrangements and McCleverty Reserves

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This research has been based on primary and secondary source material written in English and in particular, is based on the record of documents for Wai 145.

1.0 Background to 1847: How the Crown gained Title to Te Whanganui-a-Tara

1.1 It is argued that the agreement between Māori and the New Zealand Company over the transfer of title to the Wellington region is signified in three sets of documents. This agreement transferred title from Māori customary title to the creation of the Crown and the New Zealand Company's title. The three sets of documents are:

- the 1839 agreement between the New Zealand Company and Māori, which was accompanied by surveys and allocation of sections in 1840 and 1842;
- the 1844 releases which appear to have amounted to an agreement from the Crown to exclude certain Māori lands (pa, cultivations, sacred places, and company reserves) from any grant to the New Zealand Company in exchange for monetary compensation of £1500 and in exchange for Māori agreeing to release their interests in all other company claimed land;
- the 1847 McCleverty arrangements which exchanged certain lands occupied by Māori as pa and cultivations in 'exchange' for other land. This agreement led to the 1848 Port Nicholson Crown Grant.

1.2 In order to understand the context of the McCleverty arrangements, it is necessary to briefly trace the 1839 - 1847 history of these previous agreements (or previous negotiations leading to one agreement). Other reports for Wai 145 have covered these matters, in particular:

- Document A11 Evidence of Neville Gilmour
- Document C1 Report of Armstrong and Stirling
- Document E5 Report of Duncan Moore
- Dr Robyn Anderson and Keith Pickens, *Wellington District,* Waitangi Tribunal Rangahaua Whanui Series (working paper: first release) August 1996.

1.3 Other ancillary agreements were made between the Crown, the company and Māori between 1839 - 1847, however, these three agreements referred to above can stand alone as constituting the transfer of title to the region.

2.0 Background to the McCleverty Arrangements

2.1 Edward Gibbon Wakefield was the instigator of the formation of the New Zealand Company in 1839. As well as the company's settlement at Port Nicholson, he was also responsible for settlements at Wanganui, Nelson and New Plymouth. Wakefield believed that the problem with colonisation was the cheapness of land which meant that people laid claim to huge tracts of country making control by government impossible. Wakefield wanted land to be sold at a high enough price to allow for surveys and to fund immigration. The system of land tenure would then be self-supporting.

2.2 At Port Nicholson, the price of land per acre was to be £1. Land was to be sold in lots of 101 acres being 100 acres of rural land and 1 acre of urban land. 1100 lots of land were advertised for sale by auction in the prospectus published in 1839 (less the 110 lots reserved for Māori). A lottery system was used to determine land allocation so that whoever drew a number out of a hat first would get first choice of urban and rural acreage and whoever drew number 1100 would get last choice. This gave all purchasers an equal chance of getting the best and most valuable sites.

2.3 The New Zealand Company had to reconcile Māori interests in the area and Māori were included in the colonisation scheme. Any Māori ownership in the area would be purchased but any such purchase would not recognise the full value of these lands. This is because the main consideration given for the lands would be the company tenths native reserves: the company decreed that one-tenth of all lands sold to the company would be set aside as reserves to be held in trust for the chief families of the tribe.

2.4 The reserves were interspersed throughout Pakeha settlement areas in the hope that living amongst a 'civilised community' would benefit Māori. The monetary consideration paid for lands in Te Whanganui-a-Tara was low because the reserves would be the main form of payment for the land since once surrounded by settler sections their value would increase tremendously.

2.5 Days after the formation of the company, Colonel William Wakefield, brother of Edward, left England for New Zealand on a journey to purchase land. He negotiated several deeds with Māori, allegedly buying 20 million acres of land. The company claimed the land in the Cook Strait region, based on three deeds of sale. At Port Nicholson[1], the claim was based on signing a deed of sale with Te Ati Awa. The Port Nicholson deed was signed on 27 September 1839 and the sixteen Māori signatories were described as the sole owners of the land.[2] This deed conveyed to the company all the land from Sinclair Head to Cape Turakirae and inland to the Tararua Range. In consideration, the signatories received 120 muskets, munitions, utensils and clothing. The company promised to uphold the reserves in the sale:

> William Wakefield, on behalf of the New Zealand Land Company...does hereby covenant, promise, and agree to and with the said chiefs, that a portion of land ceded by then, equal to one-tenth part of the whole, will be reserved by the...New Zealand Land Company ... and held in trust for then for the future benefit of the said chiefs, their families, and heirs for ever.

2.6 There were serious questions regarding the validity of the sale. Of the sixteen signatories to the Port Nicholson deed, half were from Petone Pa.[3] Important chiefs from Te Aro, Pipitea and Kumototo did not take part in the proceedings. Richard Barrett was a whaler married to a Māori woman who acted as interpreter for Colonel Wakefield. Barrett informed Wakefield that not all owners in the harbour had been consulted and doubted the validity of the transaction. His concerns were ignored.[4]

2.7 The Port Nicholson deed of sale was only one of three deeds negotiated by the company. On 25 October 1839, Wakefield negotiated a deed with Te Rauparaha and ten other chiefs from Kapiti Island and Kapiti Coast. Te Rauparaha claimed ownership over the entire Cook Strait area, including te Whanganui-a-Tara. The deed purported to sell all land between the latitudes of 38 degrees south and 43 degrees south. This involved some

[1] Te-Whanganui-a-Tara is the Māori name for the harbour, now known as Wellington Harbour. For consistency, the name, Port Nichoson, is used in this report.
[2] Document A29, pp439-441
[3] Also known as Pito-one or Pitone.
[4] Anderson and Pickens, p20

20 million acres, or one third of the entire area of New Zealand. Payment for this land was in weapons, munitions, utensils and clothing. The company also promised to reserve a portion of the lands sold for the chiefs, their tribes and their families. No mention was made in this deed of any tenths reserves.[5]

2.8 The third deed of sale was made on 8 November 1839 in Queen Charlottes Sound. There were 30 signatories to this deed, mostly members of Ngati Te Whiti and Puketapu: both hapu of Te Atiawa. The deed covered the same amount of territory as the deed made at Kapiti and promised the signatories sufficient reserves.[6]

2.9 It was later found that all transactions were invalid and did not represent full sales, especially the claims to 20 million acres of territory. However, official inquiries into these purchases did not begun until two years after the purchases and by this time, major European colonisation of the area had occurred.

2.10 Surveyor Mein Smith was instructed to lay out the township in the Hutt Valley. However, because of flooding, the dense bush in the valley, lack of anchorage, and the river not being navigable, he decided to locate the township around Lambton Harbour. When the settlers moved to Lambton Harbour, this was strongly opposed by inhabitants of the various Pa within the proposed town of Wellington. Mein Smith completed his survey of the township by August 1839 and on 14 August 1839, company settlers selected their lots according to the order established by the lottery system. At the same time, Mein Smith selected the Māori urban tenths.[7] While some reserves included Māori pa and cultivations, others were of little use for cultivations or for any development. Petone, part of Pipitea Pa and possibly Te Aro Pa were reserved by Mein Smith, but other pa were not, leading to their extinguishment from maps.[8] Anderson and Pickens write that Māori company tenths native reserves:

> were chosen with little consideration for [Māori] cultivation and living requirements or for the complex social and economic ties that bound Māori

[5] Document A29, pp441-442
[6] Document A29, pp442-444
[7] Document C1, p52
[8] Anderson and Pickens, p24

to their land. In Wellington itself, 600 acres were in actual occupation by the Māori but only 100 acres were allocated to them, and these were well scattered about town. Of the nine pa in the Port Nicholson district, only three were reserved for Māori.[9]

2.11 In the balloting and allotment of the rural sections of 100 acres each, Māori received 4;200 acres being 42 sections of 100 acres, the selection first being made in October 1840.[10] An additional 500 acres was reserved 'by the desire of Mr Shortland for the especial use of the natives of Kaiwarawara'.[11] The prospectus of the company indicated that the share of country sections to be reserved was 11,000 acres.

2.12 As with the town sections, country reserves appear to have been allocated without regard to Māori requirements. Anderson and Pickens note that many sections:

> were located across country so hilly they were impossible to cultivate. Others were selected on bare coastal hills with poor soils. Pipitea missed out on country sections, as did Tiakiwai. Pito-one retained their gardens as well as their pa, but the lands of Kaiwharawhara, Ngauranga and Waiwhetu were taken.[12]

2.13 William Spain described the selection of native reserves as being 'selected in spots so distant from the pahs and where the ground is so hilly as to render them almost useless to the natives for the purposes of cultivation'.[13] Fitzgerald, assistant surveyor for the Government, estimated that only 1530 of the 4200 acres would be fit for cultivation with the rest of the land either too hilly, swampy or of poor soil. He also noted that the reserved acres included land which Māori 'would never think of cultivating, unless when in great want of land and no other was to be had'. Fitzgerald outlines the dissatisfaction of Māori with the reserves:

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[9] Anderson and Pickens, p24
[10] Jellicoe, p30. There is some dispute about the actual number of rural native reserves.
[11] Fitzgerald Report 13 May 1846, enclosed in Colonel Wakefield to the Secretary of the NZC, NZC 3/6 n.o.27 pp206-218
[12] Anderson and Pickens, p24
[13] Document A31, p116

I have several times pointed out to the natives some of these reserves when they had expressed themselves willing to take them and give up land they were cultivating on other sections, but as soon as they saw them, they said they were no good, and would not have them. [14]

2.14 Pyatt also notes that while Karori held many cultivations of the Māori people living in the harbour area, 'no native reserves were selected in that district'.[15] Anderson states that there was a further problem with the system of tenths reserves which was 'unintelligible to Māori because it entailed movement onto lands traditionally occupied by another whanau'.[16] George Clarke junior wrote to his father of the situation in Port Nicholson, noting:

> In the course of my visit to the different cultivations, I found the white settlers did just what they liked, pulled down fences and drove the cattle on the potatoes. This is the systematic robbery by which the company's settlers deprived the native of the plantations ... and it requires my very utmost energies to keep the Europeans in check and the natives from adopting violent measures in self-defence.[17]

2.15 While Māori of Lambton Harbour denied the sale, the first ships from England had already deposited hundreds of immigrants on the beaches of Petone and Wellington. These immigrants had paid for land to the New Zealand Company, land which had been promised.

2.16 An agreement between of Lord John Russell, as new Secretary of State for the Colonies and the New Zealand Company in November 1840 showed the willingness of the British Crown to sanction the reserve arrangements of the company. The Crown promised the company four acres of land for every pound the company had spent on colonisation and

[14] Fitzgerald Report 13 May 1846, pp206-218,
[15] Document A18, p9
[16] Anderson and Pickens, p24
[17] Miller, p68 citing G Clarke jnr, *Letters to his Father 1840-70*

that the company would receive a grant of all lands which had been validly purchased.[18] Governor Hobson proclaimed to the company that:

> no Crown Grant will be made of any lands ... which shall at the date hereof be in the actual occupation of the Aboriginal inhabitants by residence, cultivations, clearing or substantial enclosure, or which shall by them be held sacred, and which they shall be unwilling to alienate.[19]

2.17 Under article 13 of the agreement, it was:

> Understood that the company have entered into engagements for the reservation of certain lands for the benefit of the natives, it is agreed that, in respect of all the lands so to be granted to the company as aforesaid, reservations of such lands shall be made for the benefit of the natives by Her Majesty's Government, in fulfilment of and according to the tenor of such stipulations; the Government reserving to themselves, in respect of all other lands, to make such arrangements as to them shall seem just and expedient for the benefit of the natives.[20]

2.18 Anderson and Pickens write that from this point, 'it was considered that the "tenths" vested in the Crown which was to take control of their management at a very early stage in their history'.[21]

2.19 There are many issues regarding the company's purchases in the area. None of the transactions purporting the sale of Wellington had much validity and they did not represent full sales. Nevertheless, the Crown guaranteed the company that they would get a grant in the area, providing this arose from a valid claim, and also undertook the company's obligations to Māori in respect of the native reserves.

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[18] Document A28, p308. This award is sometimes called the 'Pennington Award', named after the company's chief accountant, James Pennington'

[19] Document A18, p5 citing Enclosure in Wakefield to the Secretary of the NZC, n.o. 67, 11 September 1841, NA Wellington

[20] Anderson and Pickens, pp22-23

[21] Anderson and Pickens, p23

2.20 The Land Claims Commission was set up to hear conflicting land claims in New Zealand - the Crown needed to establish bona fide owners of land purchased by Pakeha. Such was the enormity of the company's land claimed in the Cook Strait region that a separate commission was set up specifically to deal with the company's claim.[22] The commission was headed by William Spain, an English lawyer, and was subsequently referred to as the Spain Commission. Spain's directive was to focus on the prevention of future wrongs rather than redressing injustices of the past and on this basis, the Crown would then decide which claims to give Crown grants to.[23]

2.21 By August 1842, five months after the commission began, it was clear that only part of the company's claim to Port Nicholson would be upheld. Spain's final report in May (A 16)
1845 noted that the 1839 purchase was flawed in three ways:

- some Māori who had interest in the land had been excluded from the transaction;
- the translation of the purchase deed and the explanation of the reserves scheme was inadequate; and
- payment for the land had been irregular.

2.22 Despite the flawed nature of the company's purchase, any settlement would have to take account of the reality of the situation. Wakefield eventually offered to compensate Māori who missed out in the initial payment by the company for Port Nicholson lands.[24] Spain thought Wakefield's proposal was a good one and:

> an accession to Colonel Wakefield's proposition would have enabled me to settle a most difficult question upon quiet and equitable grounds, having always in view on the one hand, the carrying out strictly the agreement entered into between the Government at home and the New Zealand Company, and on the other hand, to do this in such a manner as strictly to fulfil every treaty made between the Crown and the aboriginal inhabitants, as

[22] Anderson and Pickens, p27
[23] Anderson and Pickens, p27
[24] Hobson to Wakefield, 5 September 1841, GBPP, vol 5, p105

well as every assurance of protection made to them by Governor Hobson as the representative of Her Majesty.[25]

2.23 Erhardt describes the conclusion of the Spain Commission in the following terms:

> Spain was forced to conclude that the New Zealand Company's claim to the harbour was very defective. However he decided that it would be too complicated to ascertain to whom the land belonged and too hard to move the settlers and restore the land to its owners. Therefor he decided that compensation should be paid to Māori for their land instead, and that Māori pa, burial grounds and cultivations should be exempted from the land sold, in addition to the 'tenths': to be set aside as reserves. He reasoned that most Māori were not claiming their land back, so much as wanting payment for it, which compensation would provide.[26]

2.24 Compensation was estimated by Clarke, Protector of Aborigines, to be around £1500, and this would need to be paid to those Māori who had not consented to the sale or received any payment from it. Spain noted that while Te Puni at Petone had sold land to the company, those Māori who lived in Lambton Harbour, where the township was relocated, had 'always denied the sale, offered every opposition to the settlers, and have firmly retained possession of their pahs from that time to the present.'[27] Spain also acknowledged that the longer the delay in settling the issue, the more likely that no resolution would occur because Māori were daily becoming more aware of:

> the value of the land at that time as selling in the market, as well as of the enormous rents paid for that let; which would naturally lead them to the conclusion, that it would be better for them not to sell but to let their land to the white people.

2.25 Anderson and Pickens wrote that the:

[25] Report of Commissioner Spain, 12 September 1843, 'Appendix to Report from Select Committee on New Zealand' appendix 9, GBPP, vol 2, p 295
[26] Document A41
[27] Document A31, p340

> fear of the consequences of increasing Māori knowledge of land values underlay Spain's reluctance to insist on a complete repurchase [of the Port Nicholson block]. He believed that Māori insistence on current market value for their lands would result in the collapse of the colony. In his opinion, any benefits to Māori from such a return of land would be far outweighed by the loss of the European presence amongst them.[28]

2.26 Spain specifically excluded pa, cultivations and burial grounds from any award to the company because 'the evidence tended to create an impression on my mind that the natives did not at the time of the sale intend to sell their pahs, cultivations and burying grounds.'[29] In March 1843 an impasse was reached between the Government and the company. Spain would issue a Crown grant to the company only where all pa, cultivations, sacred places and the company reserves were excluded, which Wakefield refused to accept.

2.27 The proposal for paying compensation to Māori was accepted by Shortland, the acting Governor. Shortland directed that the amount of compensation should be decided by Clarke and a company nominee. Spain advised Colonel Wakefield and Clarke to enter into 'arbitration for compensation'. The negotiations progressed over the next nine months.[30] It was also apparent that there was a wide gap between payment Māori were seeking and the amount that the Crown, through Clarke, was willing to pay. Clarke (directed by Shortland to decide the amount to be paid) decided on a figure of £1050 to be paid to the occupants of Te Aro, Pipitea, and Kumototo for their lands, with all pa, cultivations, burial grounds and the tenths reserves excluded from a grant to the company.

2.28 As had been the original intention of the reserve scheme, Clarke considered that any monetary payment would be incidental to the real consideration; the tenths reserves and

[28] Anderson and Pickens, p29
[29] Report of Commissioner Spain, GBPP, vol 2, p294
[30] Document A31, pp341-346

the creation of an endowment. While Clarke included the tenths reserves because of his belief that these reserves had never been alienated, Wakefield rejected this demand.[31]

2.29 It was not until a new Governor, Fitzroy, was appointed in January 1844 that an agreement was reached. Governor Fitzroy arrived in Wellington on 27 January, 1844 and faced the same problem which Shortland faced: since mid-1840, the Crown had guaranteed Māori that occupied lands would be excepted from any sale to settlers. However, the company has laid out Public reserves, Native Reserves and Town Belt over occupied lands. The Crown faced a scarcity of land.[32]

2.30 On 29 January 1844, Fitzroy held a conference to settle terms for further arbitration. While Wakefield may have compromised his position, he still tried to have pa, cultivations and urupa included within the flawed sale which Spain would now validate by way of Crown grant. Spain refused these saying:

> I could not, however, agree to their pahs, cultivations and burying-grounds being taken from them without their free consent, because it appeared clear, from the evidence, that they had never alienated them.[33]

2.31 While two sub-protectors of Aborigines were present at this conference, no Māori were invited to attend and no mention was made of a proposal made by Wi Tako to settle the dispute a few days earlier.[34] In addition, no mention seems to have been made of the Māori petitioners' refusal to sell any land to the company, or of their request to sell solely to the Crown.

2.32 At this conference, agreement was reached that the company would pay Māori financial compensation and that pa, burial grounds and land in cultivation would be excepted from any purchase of lands by the company.[35] The meaning of 'pa' and 'cultivation' was

[31] Anderson and Pickens, p29
[32] Document E5, p449
[33] Report of Commissioner Spain, GBPP, vol 2, p 296
[34] Document A32, p12
[35] Document E5, p465

discussed with Fitzroy providing a definition that Spain later used when negotiating the 1844 releases. That is:

> the limits of the pah to be the ground that is fenced in around the native houses, including the ground in cultivation or occupation around the adjoining houses without the fence.[36]

2.34 At the beginning of February, 1844, Clarke informed Wakefield that he had arrived at a figure of £1500 as compensation. Wakefield then indicated that the company would accept the £1500 figure (arrived at by Clarke) as compensation. The company provided a plan of all land surveyed and selected as native reserves, which amounted to 3510 acres of land including 110 acres of urban one-acre reserves.[37] Wakefield later paid this money to Clarke, although he noted that payment was not to be seen as binding the company to a particular settlement.[38]

2.35 It is unclear how Clarke came to settle on a figure of £1500, although (as noted above) he apparently saw the real payment for these lands as the creation of the reserves. No doubt Clarke also had in mind the instructions from Shortland - compensation was to be awarded on the premise that Māori would also receive a fifteenth of Crown land, a tenth of the Company's award, and that pa and cultivations would also be excluded from any sale.[39]

2.36 The first meeting with Māori to discuss compensation occurred on 23 February 1844 with the people of Te Aro pa. Te Aro lands were essential to the development of the settlement and thus a priority for officials was to get them to accept the compensation proposal. £300, as their part of the £1500 was offered to them. Indeed, Te Aro pa was described by Grey as being situated on 'one of the most valuable portions of the town of Wellington'.[40] For three days there was vehement opposition and it was not until it was

[36] Document A32, pp12-13
[37] Document A32, p49. It is not clear why this figure - 3510 - is so much less than the 4200 acres of rural native reserves plus the 110 acres of urban native reserves/
[38] Document E5, p474
[39] Document E5, p479
[40] Document A26, A3, p173

clear that the offer would not be raised that agreement was reached.[41] Māori present told Fitzroy that they could not live on that amount of money, and they could not live on the amount of land he proposed to reserve or leave to them. Their position seemed untenable - they would have to leave the region if he imposed the agreement upon them.[42] Governor Fitzroy and several of the Government officials present said how unfortunate this would be - especially for the bad light it would cast on their dealings. They remained firm, however, and pressed ahead with the 'agreement' as planned. Quoting Anderson and Pickens:

> Māori were reluctant to accept an offer which they considered to be trifling, but finally agreed under a combination of implicit and explicit threats on the part of officials, including Spain, Clarke and Fitzroy. Clarke told Māori that Te Aro was a conquered land, of 'small consequence to them', and that they had no alternative but to accept compensation because the lands had already been built upon and would not be returned. Fitzroy also pressured Te Aro occupants to accept £300 for a valuable area in the heart of the town by stressing the worthless nature of Māori land.[43]

2.37 Indeed the evidence from the minutes of the signings of the 1844 deeds of release suggest that the purchase arbitrations (which began in 1842) do not appear to show Māori as satisfied and willing participants. Māori appear to have been reluctant signatories Māori were told that whether they liked it or not, they would be bound by the decision of arbitration. Clarke told Māori that 'I conclude by telling you that if you do not like to take this I can give you nothing else' and Spain's comment 'the words of the Governor are sacred, and his decision which you will now hear is final'.[44] Moore states that Māori at Te Aro, Pipitea, Kumototo and Tiakiwai only signed the deeds of release

[41] Document A11, pp105-108

[42] Subsequent testimony does appear to confirm the inadequacy. In 1854, Land Commissioner McClean understood that 'it was found advisable by Sir George Grey, from the insufficiency of land in the occupation of the natives, to cause some of those reserves to be placed at their disposal, by which means he was enabled to continue their loyalty and attachment, and to afford them sufficient inducement to remain at Wellington as permanent and generally industrious settlers and labourers, instead of moving in a body as they contemplated to Taranaki.' Document A26, pD22

[43] Anderson and Pickens pp35-36

[44] Document E5, pp48,491

when, on the third day of negotiations, Governor Fitzroy announced that he was leaving and that the Queen would be made aware of how Māori had behaved.[45] Te Aro representatives finally signed a deed which provided for the payment of £300 as:

> a full satisfaction, an absolute surrender of all our title to our claims, in all our lands ... at Port Nicholson and in the neighbour hood of Port Nicholson ... and on the other had the pahs, the cultivations, the sacred places and the places reserved will remain alone for us.[46]

2.38 On Te Aro acceptance of £300, the smaller pa of Pipitea, Kumototo, and Tiakiwai also gave in. Ngati Toa received £300 from Clarke's allocation for Ngati Toa interests in the Hutt Valley. According to Tonk, 'Ngati Toa accepted Pakeha at the Port Nicholson settlement but had never acknowledged the alienation of the Hutt. Te Rauparaha and others had made statements in the April 1843 hearing that he claimed the valley and had not sold it to the New Zealand Company.'[47]

2.39 Ngati Rangatahi and Ngati Tama, both of whom claimed rights in the Hutt Valley were not given any compensation by the Spain Commission; Ngati Rangatahi had been present when the Petone deed had been signed and Ngati Tama had received part of the purchase goods.[48]

2.40 After attempting to resolve Hutt Valley issues (although Anderson makes the point that Ngati Rangatahi, in particular, would likely resist attempts to remove them from their lands given that they had not received any payment and had exercised cultivation and resource use rights for up to ten years), the Spain Commission returned to Wellington to try and settle further issues there.[49] The people of Waiwhetu were offered payment for there lands but they rejected the amount. However, Spain told them 'if you refuse, I shall offer you nothing further, but award the Land to the Europeans and hand the money over

[45] Document E5, p498
[46] Document A10(a)(ii)p2
[47] Anderson and Pickens, p36
[48] Anderson and Pickens, p37
[49] Anderson and Pickens, p38

to the Government to be laid out for your benefit'.[50] Thus, Waiwhetu Māori were put in little position but to accept £100 with the promise that reserves would be set aside as well.[51]

2.41 Kaiwharawhara Pa then accepted Spain's offer, as did Waiariki pa, Pukuao and Tikimaru. Like Waiwhetu, Oterango and Ohau were told that there lands would go to Europeans whether they agreed or not and they both reluctantly accepted £20 each.[52] People of Ohariu were absent at the time of the commission and therefore no negotiations could be held with them but in any case, Ohariu land was not required for European settlement.[53]

2.42 By April 1844 the Commission had completed most of its work. Spain's final deeds start with Te Aro, each deed following almost the exact wording of the first. These deeds have been referred to as 'deeds of release' or simply 'releases' because they released Māori claims to land claimed by settlers. Each states that receipt of the money is 'in full satisfaction of all claims'.

1844 Deeds of Release

> We have received on the 26th of the days of February in the year 1844 from the Directors of the New Zealand Company of New Zealand at London, the payment being made by William Wakefield the agent of the said Company _ ____Pounds Money, a full payment, a full satisfaction, an absolute surrender of all our title to all our claims, in all our lands, which are written in the Document affixed to this Viz., all the places at Port Nicholson and the neighbourhood of Port Nicholson and on the other hand the Pas, the cultivations, the sacred places, and places reserved will remain alone for us. And we consent ourselves to write our names in a Land conveying document hereafter if asked to write them to the Directors of the said Company of all

[50] Document E5, p506
[51] Document C1, p203
[52] Document C1, p203
[53] Tonk, Rosemarie 'A Difficult and Complicated Question' in Hamer and Nicholls (eds) *The Making of Wellington 1800-1914*, p57

our claims within the said lands. The only places left for us are those above mentioned.[54]

2.43 The deeds are signed and witnessed. A full list of dates and payment are as follows:

- Te Aro - 26 February, 1844 - £300
- Kumototo - 26 February, 1844 - £200
- Pipitea - 26 February 1844 - £200
- Tiakiwai - 26 February 1844 - £30
- Pakuao - 26 March 1844 - £10
- Kaiwarawara - 26 March 1844 - £40
- Waiwhetu - 15 March 1844 - £100
- Waiariki - 29 March 1844 - £20

  [This release is slightly different in the Māori version from the other deeds, but the translation is identical]
- Oterongo - 30 March 1844 - £20
- Ohaua - 30 March, 1844 - £20
- Te Ikamaru - 29 March, 1844 - £10[55]

2.44 Regarding the adequacy of the payment, Judge Arney, in R. v Fitzherbert in 1873 allowed that:

> it is possible that the original vendors to the Company would have demanded and obtained a higher price for their lands, had they not relied upon the covenant that one-tenth of those lands would be held and improved by their European purchasers for their benefit. In the arrangement with the Pa Taranaki Natives, it is shown that some of the natives still counted upon these lands as reserves in estimating the additional compensation which they should accept.[56]

[54] Document A10(a)(ii) p2
[55] Document A10(a)(ii) pp2 - 7, Waiariki deed, see Document A27, supplementary deeds.
[56] XXX R v. Fitzherbert

2.45 What is the status in law of the 1844 releases as they relate to the McCleverty arrangements? Authorities at the time (Spain, Fitzroy, McCleverty) did not call them deeds of release; Spain sees the releases as part of a single purchase, begun in 1839. Normally, a 'release' is not a full deed: it releases the vendor's interests, but does not vest them in another person. Here, Māori consent to sign a conveying document, which would seem to mean they were not technically conveying documents in themselves. If the releases are 'completions' of the 1839 deed, then this would suggest that each release would re-confirm all provisions of the original deed, including the 'tenths' provision, thereby confirming the claim to one-tenth of the total region.

2.46 Anderson and Pickens summarise the Port Nicholson grant:

> Spain had devoted many weeks to the investigation of the New Zealand Company's claim at Port Nicholson. In that time, he acted conscientiously, and genuinely endeavoured to withstand the pressures of the company and settlers to automatically endorse their claim. He and Clarke provided a forum for Māori complaint and made a genuine attempt to understand principles of Māori ownership. However, Spain did not question that Māori would benefit from the presence of Europeans and, although he acknowledged that the transaction had been neither fully understood nor endorsed, he did not seriously consider disallowing the purchase altogether. Instead, he attempted to find a compromise between Māori rights as owners and the needs of settlement, through the payment of compensation which would validate the transaction.

2.47 For their part, by 1845 the various Te Ati Awa and allied communities of the area accepted the presence of settlement, and that this would be to their ultimate benefit - a belief actively encouraged by Crown agents such as Fitzroy and Spain. They, too, were eager for the matter to be settled, but objected to the levels of payment being offered. Their expectations were not met. When some parties - the Te Aro, Waiwhetu, Oterango, and Ohaua groups - continued to refuse the proposed settlement, pressure was applied and their objections overridden. Māori were also promised repeatedly during

negotiations, that they were guaranteed the possession of their pa, cultivations and burial sites. Those assurances soon came under threat.[57]

2.48 On the face of it, it would seem that the land question had at least been resolved in the Port Nicholson area, regardless of the fairness of the outcome. Māori and the New Zealand Company had both submitted to binding arbitration. This arbitration had awarded Māori £1500 for their interests in the Port Nicholson area as well as their pa, cultivations, burial grounds and 'places reserved'. The company would later receive the offer of a Crown grant of land amounting to 71,900 acres.

2.49 In order to Crown grant other lands, these pa, cultivations and sacred places needed to be defined, because of their exclusion from any award to settlers. The 1844 deeds of release do not appear to have clarified exterior boundaries. Māori interest in 'all the places at Port Nicholson and in the neighbourhood of Port Nicholson' were released and the releases also pledged to Māori not only the partially surveyed 'places reserved' but also pa, cultivations and sacred places. However, these were not described or depicted on the plans accompanying the release or on Spain's award based on the releases - let alone surveyed. On 1 June 1845, Fitzgerald, the Land Claims Commissioner Surveyor, reported that he had completed a survey of 'all the Pahs and Potato Grounds (with a few exceptions) now under cultivation by the natives in the District.[58] He noted that:

2.50 The Old Cultivations which the natives had in use two or three years ago, but which they still claim as their own, and which they have a right to, I have not had time to do ... They are very numerous, and if left unsurveyed for another year or two will be very hard if not impossible to distinguish, and will be a most fertile source of dispute between the Natives and the White People.[59]

2.51 Fitzgerald continued with the survey and had his appointment extended. By December 1845, surveying of all the excepted land was still far from complete. Moore notes that despite being warned that if not surveyed soon, old cultivations would be difficult to

[57] Anderson and Pickens, p39
[58] Document E5, p547 citing Fitzgerald/Richmond, 1 June 1845.
[59] Document E5, p547 citing Fitzgerald/Richmond, 1 June 1845

ascertain, the surveyor Fitzgerald was given so much other Crown work that he felt he could spare, at most, one day a week for surveying cultivations.[60]

2.52 In July 1845, based on Spain's recommendations, Governor Fitzroy offered a Crown grant to the company of 71,900 acres at Port Nicholson (this included lands in the Hutt) - 'saving and excepting' pa, cultivations, sacred places and the tenths reserves. Despite this, there were some immediate problems relating to the land not granted. As stated above, Māori were not generally interested in the tenths reserves and some of these had been let to European settlers on long term leases. Māori did not want to move on to their tenths reserves and continued living on and cultivating sections which had been Crown granted and which had absentee European owners.

2.53 Further problems remained. The survey of boundaries had not been completed since the prerequisite of survey to grant, required under the Lands Claim Ordinances 1840 and 1841, had been dropped in the interests of speeding up the process.[61] Indeed in 1851, a New Zealand Company claims report by St. Hill, Fitzgerald, and .Bell to Governor Grey found that New Zealand Company registers, plans and other records were 'so incomplete and so incorrect that they were quite insufficient for the purpose of proving titles to land.'[62]

[60] Document E5, p554
[61] Tonk *The First New Zealand Land Commissions 1840-1845,* MA Thesis, University of Canterbury, 1986, pp78-81
[62] XXX Mulgan, p110 citing enclosure in Grey to Earl Grey, 21 Aug., 1851

3.0 A Change in Government Policy

3.1 On 30 April 1845, Governor Fitzroy was recalled and on 13 June 1845, Captain George Grey was appointed as Lieutenant Governor. Anderson and Pickens state:

> The alacrity and firmness with which Grey could institute his imperial policy reflected the Colonial Office's increasing commitment to colonisation and hardening attitude to the rights of the Māori. The tenor of Grey's own instructions, issued in two separate dispatches from the Colonial Office in June 1845, left him far less restricted than had been his predecessors. In the general instructions of 13 June, Stanley directed Grey to uphold the Treaty 'honourably and scrupulously'. Adams argues, however, that the Crown was unable to administer the policy to which it was publicly committed. Fitzroy's inability to control the situation in the north and increasingly vociferous demands from New Zealand Company settlers that the British law protect them and punish Māori 'outrages', resulted in the Colonial Office taking a harder line towards Māori. This was most clearly demonstrated in a requirement for their absolute subjection to the law. In 1844, Fitzroy had been told to practise caution and patience, particularly as lack of military backing 'might forbid interference in cases where otherwise it might be advisable'. In contrast, Grey 'would, of necessity, enforce that submission by the use of all the powers, civil and military' that were at his command.' His authority was substantially increased by the Colonial Office's commitment to sending sufficient troops to meet existing problems and a promise that they should be at Grey's disposal until peace was restored. [63]

3.2 The separate dispatch (referred to above) of 27 June 1845 to Governor Grey indicated that this hardening military stance occurred at the same time that traditional rights of possession were being accorded less respect. Earlier instructions had emphasised the importance of Māori retaining sufficient land for their needs and of the Crown acquiring

[63] Anderson and Pickens, p44 citing Wards, pp173, 257-258 Burns, p286 and Adams, p226

land for Māori endowment purposed. Lord Stanley now suggested that the boundaries to all the lands owned by Māori 'should be distinctly recognised and set forth under the sanction of the Sovereign authority, with a view of preventing future dissension between the Native Tribes, or between the Natives and British settlers'.[64] Land which had not been brought within the European title system within a few years would then be at the Crown's disposal as 'unoccupied' territory.

3.3 This policy was not put into effect, but the concept is perhaps an indication of the declining influence of humanitarianism and a move towards the principles on which the 1844 select committee recommendations rested. In 1846, Earl Grey, who was now Secretary of State for the Colonies, sent new instructions to Governor Grey, in which this more restrictive attitude was more firmly expressed. Earl Grey was of the view that:

3.4 From the moment that British dominion was proclaimed in New Zealand, all lands not actually occupied in the sense in which alone occupation can give right of possession, ought to have been considered as the property of the Crown in its capacity of trustee for the whole community.[65]

3.5 He recognised that a principle of Crown possession of 'unoccupied' lands would be difficult to enforce but directed Governor Grey to look upon this precept as the 'foundation of the policy' he was to pursue whenever possible.[66] The Crown's conception of 'unoccupied' lands was moving closer to the view which the company espoused earlier. The company's view was that only the lands in actual occupation by Māori were protected by the Treaty and any other lands were surplus lands which reverted to the sovereign - being the British Crown.[67] This is an important factor because most of the land awarded by McCleverty was land deemed to be surplus. The company's attitude to these lands can be seen in Wakefield's dairies and papers cited by Mulgan. Reference is made to 'wilderness land' which:

[64] Wards, p172 citing Stanley to Grey, separate instructions, 27 June 1845, G1/3
[65] Earl Grey to Governor Grey, 23 December 1846, GBPP, vol 5, pp68-69
[66] Anderson and Pickens, p45 citing Earl Grey to Governor Grey, 23 December 1846, GBPP, vol 5, pp68-69
[67] Mulgan, p115

was worth nothing to its owners, or nothing more than the trifles they could obtain for it, so the Company was not to take much account 'of the utter inadequacy of the purchase money according to English notions of the value of land.' This Māori land could become valuable only through a great deal of outlay of capital on emigration and settlement. The directors doubted whether the native owners had ever been entirely aware of the consequences resulting from, cession of the whole of tribal lands, and justice demanded that these should be explained, 'and they should be protected against the evils they are not capable of anticipating' - the danger of finding themselves landless in a society where land had become valuable. The directors then concluded with a statement which perhaps reflected general sentiment at the time. The directors thought that 'if the advantage of the natives alone were consulted, it would probably be better perhaps that they should remain forever the savages that they are.'[68]

3.6 Adams notes that Māori did regard the wastelands as belonging to them and would fight to prove it.[69] The scope of these waste, surplus, or wilderness land is outside the scope of this report, but as stated above, it is necessary to keep in mind that the majority of lands awarded by McCleverty were wastelands.

3.7 The general change in official government policy suggests that, by this time, disagreements between the company and the Crown were over only the means and not the ends, that is, both foresaw rapid colonisation funded by pre-emptive purchases from Māori, and subsequent on sale at higher prices to settlers.[70]

[68] Mulgan p63
[69] Adams pp188-189
[70] Adams, p188-189

4.0 The Company declines Fitzroy's Crown Grant

4.1 The company was dissatisfied with the grant of 71,900 acres which Fitzroy proposed. Pyatt argues that the company was dissatisfied with the grant not only because of the excluded land in the developed part of Wellington, but also because of the disallowance of the wider New Zealand Company claim.[71] In the case of the alleged sale by Ngati Toa of their lands at Porirua and all the lands in the upper South Island, the entire company claim was not accepted apart for 151,000 acres around Nelson.

4.2 The company protested that the extent of the tenths reserves it had created in 1839 and 1840 were fixed in the belief that all of the rest of the lands would then belong to the company. Because the company lands were being reduced, so too should the native reserves.[72] On 10 September 1846, Wakefield formally notified Grey that the company directors had refused to accept Fitzroy's grant and offered instead the company's alternative. The only land which should be excepted from any grant to the company would be: land which had been in continuous cultivation from before Pakeha settlement to the present; and land in cultivation at present which was not claimed by the company.[73] However, it would appear that because of Māori agricultural methods, no land would have been continuously cultivated for the entire seven years of European settlement. Secondly, Fitzroy's grant *only* related to land which was claimed by the company. Thus, this alternative offer by the company would apparently have included no excepted lands.

4.3 When Fitzroy offered the company a Crown grant, no grant was apparently offered for the land which the Crown agreed would remain with Māori in the 1844 deeds of release. This lack of an offer of a Crown grant meant that Māori land was not safe from encroachment - encroachment which did occur because this Māori land included one-

[71] Document A18, p10
[72] Document A24, pp292-3
[73] Wakefield to Directors, 10 September 1846, in Crown Law volume of CO 208 extracts, pp116-117

sixth to one-quarter of the township of Wellington, land which was most valuable to all parties.[74]

4.4 Had the company accepted the Crown grant offered to it then the whole land situation in the Port Nicholson district may have been resolved at that stage and no McCleverty arrangement would have been necessary. It is noteworthy that in 1844, Fitzroy overrode Māori complaints against the £1500 compensation with stern reminders that they had agreed to enter into binding negotiations, and so would have to abide by Spain's decision as the umpire. No such reminder appears to have been given to the Company even though they backed out of negotiations and refused to abide by Spain's decision or to accept Fitzroy's grant which arose from this decision.

4.5 The Crown grant and the release agreement fell down over the issue of the reservation of pa and cultivations. The reservation of these were crucial to Māori but the company was equally determined to ensure that the most valuable sites in the district would go to it.

4.6 Wakefield tried to persuade government that an award of company reserves only would be sufficient for Māori in Port Nicholson. Government and company surveyors had been trying to ascertain the extent of the company reserves, which were to be guaranteed for Māori under the 1844 release agreement. By April 1846 the surveyors reported only 1530 to 1980 acres of arable land in all of the company reserves.[75] Wakefield claimed that these reserves were:

> most ample, not only to supply the 500 natives residing in this District with convenient places of residence and land for tillage ... but to furnish a very considerable revenue for their physical and moral amelioration.[76]

4.7 Wakefield suggested that Māori should shift onto these company reserves from their existing pa sites: those at Waiwhetu pa could shift onto Hutt sections 16 and 20, those at Ngauranga could shift to native reserves at Kinapora 7, 8, and 9. Wakefield concluded

[74] Anderson and Pickens, p40.
[75] Willis report 4 April 1846, in Crown Law volume of CO 208 extracts, p193
[76] Wakefield to Richmond, 13 April 1846 in Crown Law volume of CO 208 extracts, p150

that no 'want of food could possibly arise ... from these natives being restricted to their [company] reserved property.[77]

4.8 Meanwhile the Crown did authorise the New Zealand Company to attempt to purchase land directly from Māori of the district, thus waiving the Crown's right of pre-emption. Lieutenant Governor Grey declared on 21 February 1846 that:

> In order to facilitate the acquisition of land by the New Zealand Company ... I will, in favour of the New Zealand Company, and of no other person or order of persons whatever, waive the right of pre-emption of Her Majesty, her heirs and successors, of all lands and rights belonging to the Natives within such portions of the Northern and Middle Islands as are commonly known as the Company's districts.[78]

[77] Crown Law volume of CO 208 extracts, p156
[78] Document A26, A3, p169

5.0 New Negotiations: Setting up the McCleverty Commission

5.1 Lord Stanley had learned through the company's reports that 'an arrangement with the natives in [Wellington] had been effected' and he sent initial instructions to Grey. These instructions included that Grey issue a grant to the company as soon as possible for land which Spain considered the company to be entitled to. Stanley then informed Grey that the £1500 paid to Māori was specifically for 'a tract comprising about 54,000 acres to 60,000 acres, excluding native pahs and cultivations'.[79] Stanley then offered the company the assistance of the Governor in aiding and co-operating with the company's agent 'in bringing to a prompt and satisfactory conclusion to the negotiations with the natives for the purchase or extinction of their rights'. With a view to facilitate this object, Lord Stanley offered (if the Company were to desire it) to:

> dispatch to New Zealand a properly qualified person, whose duty it would be to give his best assistance to the Company in their selection of land, to aid in surveying the exterior boundaries of such selections, and to judge of the reasonableness of the terms of any purchase which the Company might make from the natives, with reference to the Company's right to reimbursement in land in respect of money's paid for such purchase.[80]

5.2 The company accepted Stanley's offer and Lieutenant-Governor Grey was advised of the offer of assistance to the company in June 1845.

5.3 Grey's position was that Fitzroy's grant should be annulled because of the fact that internal boundaries had not been defined so that it was not possible to know what lands would be excluded from the grant until cultivation, pa and urupa boundaries were determined.[81] Unlike the company, Grey argued that the reserves were 'in some respects insufficient for [Māori] present wants, and ill-adapted for their existing notions'. He conceded that the Crown would also be required to grant to Māori, 'in addition to any

[79] Document A32, pp62-63
[80] Hope to Ingestre, 7 August 1845, 'Copy of Letter from Lord Ingestre to Lord Stanley on the 24th day of July and the Reply', GBPP, vol 4,p 5
[81] Grey to McCleverty, 14 September 1846, and encl, GBPP, vol5, p62

reserves made for them by the New Zealand Company, their cultivations, as well as convenient blocks of land for the purpose of future cultivation in such localities as they may select themselves'.[82]

5.4 It is probable that Grey was influenced by his many discussions with Wakefield.[83] Wakefield made it known to Grey that securing a Crown grant was a matter of urgency for the company - the company's settlers still had no secure title to the region after seven years. Little settler land in the region was under cultivation or being developed and loans remained difficult as long as the company's purchase remained unsecured by grant.[84] No doubt the insecurity of title did effect the development of the Port Nicholson district, however, it must also be remembered that Māori cultivations were also not based on secure title to land and that these cultivations were usually gardens of a few acres completely surrounded by settler claims to 100 acre blocks.[85]

5.5 Lord Stanley was replaced by Gladstone, but before being replaced he dispatched Major William Anson McCleverty as the special commissioner for the New Zealand Company problem. [86] It seems that the initial appointment of McCleverty apparently had little to do with sorting out the problem of lands for Māori in the Port Nicholson region. Toward the end of 1845, the Colonial Office suggested that a senior military officer should be appointed to assist in an accelerated survey and settlement of land in the Southern Districts.[87] Lord Stanley agreed to this and McCleverty was chose for this job. Pyatt states:

5.6 Stanley then informed Governor Grey of the decision, and instructed that the mode and extent of McCleverty's services should rest entirely with the New Zealand Company. Grey was to give what assistance he could. Right from the start McCleverty was faced

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[82] Grey to McCleverty, 14 September 1846, and encl, GBPP, vol 5, p62
[83] Wakefield mentioned numerous discussions with Grey in Wakefield to NZC Directors, 10 September 1846, in Crown Law Volume of C0 208 extracts p110
[84] Miller, John *Early Victorian New Zealand*, Oxford, 1958 p173
[85] Document A26, pD11
[86] Document A18, p11
[87] Memo of Hope, 12 September 1845, WO 1/434, p121, National Archives, Wellington

with the difficult task of pleasing three masters: the military, George Grey, and the New Zealand Company - and in that order - counter to the instructions of Stanley.[88]

5.7 Grey informed Wakefield of McCleverty's appointment in June 1846 and Wakefield was told that McCleverty's first task would be to bring about 'the speedy selection of lands to be chose by the New Zealand Company' at Port Nicholson. Wakefield reported this to his directors by telling them that McCleverty has been appointed to 'facilitate the speedy acquisition of the lands excepted from the grant of the Port Nicholson Block', being those lands awarded to Māori in the 1844 releases.[89]

5.8 McCleverty arrived in New Zealand in 1846 on the ship, the Agincourt. His orders from the Colonial Office were to assist the New Zealand Company in the selection of land and the fixing of exterior boundaries. McCleverty is recorded in the Gazette of 1846 as Superintendent of the Southern District; in 1847 as the deputy-assistant quartermaster-general in New Zealand, and in 1848 as commander of the forces in New Zealand. He was also appointed as a member of the executive council of New Munster and was in charge at Wellington in 1848 when the earthquake of that year struck.[90]

5.9 Regarding McCleverty himself, Governor Grey claimed that he was merely a prop of the [New Munster Executive] Council while McLintock claims that Grey found McCleverty 'too independent to play the sycophant'. Godley describes him as 'the only [member of the New Munster Executive] to gain public respect for his integrity of character'. While these few, seemingly contradictory statements reveal little about his ability for the job, it seems that he must have found some favour. He was promoted to a Colonel in 1854, leaving New Zealand three years later and eventually being promoted to general in 1876.[91]

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[88] Document A18, p11 citing Stanley to Grey, 18 December 1845, G1/15
[89] Wakefield to Directors 18 July 1846, in Crown Law volume of CO 208 extracts, p85
[90] Scholefield, G.H.(ed), *A Dictionary of New Zealand Biography Volume II*, Wellington, Department of Internal Affairs, 1940, pp4-5, citing Godley, 1906, p64
[91] Scholefield, p5

6.0 Renegotiating: Governor Grey begins the Process

6.1 By the time McCleverty arrived, Grey had already settled some claims involving Māori cultivations himself. In exchange for Māori abandoning their cultivations on settler land Grey granted them a mix of other settler sections which they wished to retain, and which were purchased from the settlers, portions of the little Government land that was available.[92]

6.2 Governor Grey's inability to get McCleverty's military seniors to agree to a reduction in his duties earlier on meant that Grey himself conducted agreements over Porirua and Wairau lands. Grey argued that in was imperative to have Porirua in settler hands, in order to safeguard Wellington from attacks from 'evil disposed natives'.[93] The Wairau plain needed to be bought not only to provide land for settlers, but also as a morale booster for those who remembered the Wairau massacre.[94]

6.3 The New Zealand Company claimed 27,000 acres of land at Porirua. Grey arrived at Porirua on 16 February 1847 and on 1 April 1847 signed a deed with Ngati Toa chiefs for the sale of all this land except for 1600 acres on Paremata Harbour which was to be reserved for the tribe. £2000 was paid for this land. The 1600 acres excepted from sale was good quality land, right on the harbour and including Taupo pa. Grey was very satisfied with the deal noting that it 'will help the natives' advancement in civilisation' and will 'give the Government almost unlimited control over a powerful and hitherto treacherous and dangerous tribe'.[95] Grey sent a surveyor, C W Ligar, to the Wairau plain to investigate lands there. Ligar reported that nobody lived on the plain because of the Wairau incident - the site of the massacre was considered tapu. Ligar assessed 368,000 acres available in total, made up of 80,000 acres of agricultural land, 48,000 acres of grazing land and 240,000 acres of hill country. On the same date as the land in Porirua, Grey bought all the lands at Wairau for the sum of £3000. He then set aside a large

[92] Document C1
[93] Document A18, p16 citing Grey to Earl Grey, 26 March 1847
[94] Document A18, p16 citing Grey to Earl Grey, 26 March 1847
[95] Grey to Earl Grey, 26 March 1847, G30/12, 47/28

reserve of 117,248 acres although, as Pyatt points out, Ligar's description of this land and its lack of use suggests that it was not valued highly by Ngati Toa.[96]

[96] Document A18, pp17-18

7.0 Grey's Instructions to McCleverty

7.1 Grey's Instructions to McCleverty were given in September 1846. It appears that these instructions were determined by the way in which Grey saw the Port Nicholson situation, and thus Grey had a large influence over the whole exchange process. Grey's influence in the colony as a whole at the time is intimated in the Cambridge history of New Zealand which noted that by 'pensions and gifts and the spell of his magnetic personality, he acquired among chiefs an influence which no white man had previously obtained'.[97]

7.2 Grey wrote to Gladstone in 1846 describing his instructions to McCleverty which would 'relieve the Company from the difficulties arising from the loose exceptions which have been made in their grants of all Native pas and cultivations'.[98]

7.3 Grey began his instructions to McCleverty as such:

> The question of the cultivated lands reserved to the Natives of Port Nicholson and its vicinity is one of some difficulty.
> The Government were pledged by an arrangement concluded with the Natives by Governor Fitzroy to secure them all the pas, burial-places, and grounds actually in cultivation by the Natives; the limits of the pas to be the grounds fenced in around the Native houses or huts, without the fence, and the cultivations being those tracts of land which are now used by the Natives for vegetable productions, or which had been so used by any aboriginal natives of New Zealand since the establishment of the colony.[99]

7.4 He went on to describe the exceptions existing under the 1844 release agreement as 'very vague' and claimed that the inability to distinguish between cultivations pre and post 1840 was the justification for not proceeding with the 1844 release agreement. Grey told McCleverty that:

Claimed reason for not proceeding with 1844 agreement

[97] XXX *Cambridge History,* p87
[98] Document A26, A3, p169
[99] Document A26, A3 p169

it became almost impossible to tell what lands were included in this [1844 release] agreement. The government have made an attempt to remedy this evil by directing that a survey should be made by Government officers of all portions of land which they regarded as being secured to the Natives by Governor Fitzroy's arrangement. This survey is now probably very nearly completed; the amount of land included in it is estimated at about three hundred and eighty acres, and in this quantity are, I believe, included all lands claimed by the Natives.[100]

7.5 Grey's justification for not proceeding with the 1844 release agreement would seem to be contradicted by his opinion that surveyors very nearly completed the survey, estimating 'all lands' claimed by Māori. Indeed, it is not clear from earlier surveyors reports whether the ambiguities in the definitions of cultivations made that much difference to any award of land under the 1844 releases. Assistant Surveyor Fitzgerald's 1845 report on Karori cultivations suggest that this lack of clarity would have affected only 100 acres out of the 2500 acres in that district.[101] McCleverty would later determine that Fitzroy would have awarded Māori only 639 acres cultivations compared to the 71,900 acres offered to the company. Thus, this land would have amounted to less than 1% of the total land awarded to the company, suggesting that the vague definitions of these areas were not a major issue. As Anderson and Pickens note, the real issue was not the lack of definition of Māori land, but the fact that this land was often the most desirable and valuable land in the district.[102]

7.6 Grey explained to McCleverty that there were evils peculiar to Port Nicholson and which Grey directed McCleverty to solve. First amongst these was that Māori were cultivating lands allotted in absentia to Europeans, and Māori had continued to clear new cultivations on lands which the company had sold to absentee European landlords. In addition, trustees of the company reserves, which were reserved for Māori, had 'let some of the best reserves on very long leases to Europeans' prohibiting the simple

[100] Document A26, A3 p170
[101] Document A40, pp27-32
[102] Anderson and Pickens, p48

solution of moving the Māori onto the lands reserved for them. 'The Government found it impossible to put the natives in possession of their reserves, without which they had no means of subsistence, unless they got rid of the tenants to whom they had been leased, by paying them enormous sums as compensation; and the natives, having no other land to go upon, sturdily retained possession of the spots they had occupied.'[103]

7.7 Grey told McCleverty of how he had attempted to resolve the situation:

> I have purchased, at the expense of the Government, lands for them in spots selected by themselves and of such extent and quality as to render them good and obedient citizens, by giving them a valuable and permanent interest in the prosperity of the country, and, having made over these lands to them, I required them to surrender to Europeans the properties to which they were justly entitled. I proposed in the same manner, in dealing with the question of the other Native cultivations required by Europeans, to inquire in all instances whether the Natives had sufficient lands for their wants, exclusive of those required by the Europeans. If they had, I would encourage them to sell to the Europeans at a moderate price those portions of their cultivations which interfered with the operations of the European settler, and I believe the Natives would in almost every instance gladly accede to an arrangement of the kind. If the Natives had not sufficient lands for their wants, exclusive of that portion of their cultivations which may be required by the settler, I would recommend that the settler or the Company should be required to pay to the Government such sum as Colonel McCleverty may think proper, and that he should thereupon recommend the Government to purchase for the Natives some portions of land selected by themselves, which should be given to them in lieu of those cultivations required by Europeans.[104]

7.8 Interestingly, Spain and Governor Shortland had refused to include any occupied lands - including cultivations - in the 1843 negotiations which led to the 1844 releases. Fitzroy had advised Wakefield in 1844 that such a course of action would have contravened

[103] Document A26, A3 p170
[104] Document A26, pA170

Lord Stanley's views.[105] In instructing McCleverty to renegotiate regarding Māori cultivations, Grey adopted a course of action which was avoided by his predecessors.

7.9 He further advised that 'it would be essential that every exchange of this kind should be one which is rather advantageous to the natives than otherwise, not only for the purpose of securing their immediate and cheerful acquiescence in the exchange, but with a view to securing their comfort, their attachment to the form of government under which they live.'[106]

7.10 For any renegotiation agreement, McCleverty would first have to adequately define Māori lands. Grey firstly directed McCleverty to settle 'at once ... what lands are included in Governor Fitzroy's arrangement' so as to ascertain 'exactly what lands the natives are entitled to'.[107] He said that these lands should at once be surveyed and defined and once this had been done, 'no fresh claims should ever hereafter be entertained.' Grey advised McCleverty that such an arrangement 'can only be carried out by the immediate expenditure for the purchase of the requisite lands, on the part of the Government.[108]

7.11 Grey then explained to McCleverty how the government would fund the purchase of other lands for Māori:

> If such an expenditure were never to be refunded, I should feel justified in incurring it. A settlement of this vexatious question ... will save a large military ... expenditure, and will extensively promote internal production and commerce - but the fact is, that besides producing these advantages, the expense incurred may very soon be refunded to the Government from the sale of some of the native reserves. It may be said, in fact, that the Native reserves are at present in a great measure unavailable to the Native population, either from their being leased to Europeans, from their ineligible position, or from the soil not being adapted to the mode of husbandry at

[105] Document A10(a) (vi) p17
[106] Document A26, pA170
[107] Document A26, pA170
[108] Document A26, ppA170-1

present pursued by the Natives. In lieu, therefore, of these at present unavailable reserves, the Government is about to put them in possession of lands for reserves, which will consequently not be needed for the future wants of the native population, and will therefore ultimately form a source from whence the Government may reimburse itself for the expenditure at present incurred.[109]

7.12 It would appear by this statement that Grey planned to fund the purchase of land for Māori from the sale of the company tenths native reserves. Finally, Grey advised McCleverty that:

> It would be better in the first instance only to deal with those cases in which lands under cultivation by Natives, or claimed by them under Governor Fitzroy's agreement, are required by European settlers. By thus dealing with individual cases upon their own merits, and only taking cases from time to time as the Europeans required the land, there will be much less probability of creating any combination amongst the Natives or extortionate demands from them.[110]

7.13 Thus, a summary of Grey's instructions are as follows:

- Complete the survey of the exterior boundary of New Zealand Company lands in the Wellington region.
- Māori were to be removed from cultivations which were not excepted from Fitzroy's proposed grant to the company and were therefore the 'bona fide property of settlers'.
- Encourage Māori to sell their cultivations which were excepted from Fitzroy's grant 'at a moderate price' to settlers where:
  - this land was surplus to Māori owners' requirements; and where
  - these cultivations interfered with the claims of settlers.
- Establish which lands would be excluded from the Crown grant to the company, being pa, cultivations and sacred places. Where settlers claimed land which were pa,

[109] Document A26, pA170
[110] Document A26, pA171

cultivations and sacred places, and where Māori had insufficient lands elsewhere, McCleverty was told to persuade Māori to move to sections which they, Māori, would select and which the Government would purchase and recover compensation for this from the company.

8.0 McCleverty's Other Duties: Constraints on the renegotiations

8.1 Grey tried to get McCleverty's military duties reduced so he could concentrate on resolving the lands issue. Wearing two hats may have created conflict of interest for McCleverty. He was instructed, on the one hand, to be impartial and fair in assessing equal exchanges of land for the Māori. Yet on the other, he was required to quell Māori 'rebellions'. Both exercises often involved the same group of Māori. Pyatt argues that 'it is hard to see how McCleverty could have approached his Commission work with an unbiased eye'.[111]

8.2 Lieutenant Colonel McCleverty's military and civilian duties clashed at Porirua. There, McCleverty was required to act impartially in assessing exchanges of land with regard to the same Māori whose 'rebellions' he, McCleverty, had been required to quell.[112] While McCleverty tried to balance the requirements of his civil and military masters, it seems that the military master won out. Towards the end of 1846 General O'Connell in Sydney removed all officers senior to McCleverty in an attempt to combine the duties of Deputy Quarter-Master General and Officer Commanding Troops in New Zealand. This immediately put pressure on McCleverty's time, and lead to an increasingly heated exchange of letters between George Grey and O'Connell in late 1846 and early 1847. Grey claimed O'Connell was obstructing the wishes of the Colonial Office in giving McCleverty extra duties. O'Connell claimed he should be able to do both.[113]

8.3 As well as his military duties, McCleverty faced other impediments to his tasks set out by Grey. Firstly, there was the need to satisfy all parties; Māori, settler, British Government, Colonial Government. Māori had been guaranteed their lands and refused to move off these lands unless the compensation was beneficial. Settlers had paid for lands to which they felt they were entitled. In addition, there was a lack of available land for purchase, in order that it be exchanged and there was a lack of money to purchase any available land. Finally, there was a need to ensure Māori were satisfied with any

[111] Document A18, p14
[112] Document A18, p14
[113] Document A18, p13 citing Grey to O'Connell, 4 December 1845, O'Connell to Grey 12 Jan 1847, and Grey to O'Connell, 27 January 1847 enclosed in G30/12, 1847/14

settlement at Wellington. Any migration by Te Ati Awa and other tribes to the Taranaki would simply exacerbate the land troubles there.

8.4 At the same time the British Government was determined that any solution must not 'allow any more loss of Crown Lands to the natives'.[114] Earl Grey firmly believed that 'all lands not actually occupied ... ought to be considered as the property of the Crown', although he recognised that the Crown could no longer assert rights over waste lands 'which particular tribes have been taught to see as their own'. He found it 'expedient to admit these pretensions'[115]

8.5 McCleverty faced further difficulties in implementing and acting on Grey's instructions. In theory, the aim of exchanging Māori cultivations on lands claimed by Europeans for cultivation land elsewhere sounded feasible. In practice, this was more difficult to achieve: sufficient land of good quality was simply not available. Pyatt sums up the problem:

> Most quality land which would also give good access to markets was part of the New Zealand Company grant in Wellington and so was already allocated to either settlers, absentee owners or as Native Reserves. The settlers were not willing to sell, the agents in New Zealand of absentee owners were often not able to sell, and many of the Reserves, as previously noted, were legally leased long-term to settlers who could not easily be moved.[116]

8.6 McCleverty was also required to ensure the preservation and civilisation of the native race. The original intent of the native reserves was to have them intermingled with settler sections, the aim being that the civilising influence of the British settler would rub off on the Māori. This was not state policy, nevertheless, Pyatt argues that McCleverty was 'constrained in his exchanges by the need to maintain some proximity between the two racial groups'. The government was concerned about the need to ensure Māori were self sufficient. It was considered of utmost importance that Māori did not end up as a

[114] Earl Grey to Grey 23 December 1846, GBPP 1847 5 IUP pp 624-523
[115] Earl Grey to Grey 23 December 1846, GBPP 1847
[116] Document A18, p15

burden on the State. Because of the various hindrances on the Commission, Pyatt asserts that 'it would be fair to conclude that [McCleverty] faced an impossible task and that someone had to lose out by his decisions'.[117]

[117] Document A18, p15

9.0 McCleverty's View of his Task and Assessment of Māori Needs

9.1 Grey's settlement of Ngati Toa lands was quite different to the problems which McCleverty was to face in the Hutt Valley and Wellington areas. Spain had disallowed the New Zealand Company's purchase of Ngati Toa lands at Wairau and Porirua and thus these areas had to be purchased by Grey, for the first time. Despite its flaws, the Spain Commission upheld the New Zealand Company purchase of lands in the Hutt and Wellington. This required an exchange of land where Māori cultivations were on settler sections.[118]

9.2 Because of his other duties, McCleverty does not seem to have proceeded quickly in renegotiating with Māori in Port Nicholson after his arrival there. His first few weeks were spent on military duties.[119] It wasn't until December of 1846 that McCleverty wrote to Wakefield about encouraging Māori's 'willing removal from land required by the settlers', and suggested using 'unsurveyed land within the Port Nicholson grant' to facilitate this.[120] He then appeared to have been further tied up in his military requirements and does not appear to have begun his work in earnest until the beginning of 1847.[121]

9.3 The function of the 1844 releases (and hence, the 1839 deed) in the McCleverty Commission seemed plain to McCleverty. He repeatedly expressed the assumption that the Native Title to the region was already extinguished by the time his deliberations began. In his deliberations, he treated Europeans' sections as belonging to them.[122] He regarded maintaining the exceptions and reserves (Pa, cultivations, reserves and burial grounds) of 'Captain Fitzroy's arrangement of 29 January, 1844' a matter of 'acting in good faith'. And he was 'guided by the grant to the New Zealand Company' in treating the Town Belt at that point as 'waste [land] and belonging to the Crown.'[123]

[118] Document A18, p18
[119] Document A40, pp97-106
[120] Wakefield to McCleverty 18 December 1846, in Crown Law volume of CO 208 extracts, pp407-408
[121] Document A33, p21
[122] Document A26, pD12
[123] Document A26, pD12

9.4 McCleverty described the task he faced in a memorandum to Grey as 'the removal of natives from the country sections belonging to Europeans' which is perhaps a statement which would exactly match the New Zealand Company's preferred outcome.[124] It does appear that many Pakeha at the time, including government officials, saw McCleverty's commission solely as a way of facilitating Māori removal from Port Nicholson. A company settler, Hart, wrote to Superintendent Richmond in March of 1847 to confirm that 'an arrangement has been made for the Maories [sic] to locate upon the Native Reserves and quit the sections they occupy in the neighbourhood of the town claimed by land purchasers under the New Zealand Company'. Richmond responded in the affirmative, noting that McCleverty was 'endeavouring to make arrangements so that all the sections belonging to settlers in this District may be freed from Native Cultivation.'[125]

9.5 Of course, McCleverty's statement in a memo to Grey, and statements of other officials, does not prove that the government saw the removal of Māori from their cultivations as their prime goal. Nevertheless, these statements do reveal something of the expectations of Pakeha in the region at that time.

9.6 In his initial report to Grey of April 1847 which was then forwarded to Earl Grey, McCleverty supplied a table showing a population census of each pa. He initially estimated that 2 acres of land would be necessary for each Māori in the district. At that time 633 Māori were involved. He noted that in the long run, greater amounts of land would be necessary because of the 'imperfect mode of agriculture' of the Māori which mean that Māori 'wear out their land in three or four years, and sometimes less, and are then obliged to seek for and clear land elsewhere: hence many of their cultivations are now worn out and unfit for their uses, but they are unwilling to relinquish them without having others; and I should fear the same results for a few years, unless lands more than sufficient for their present use were procured.[126]

[124] Document A33, p28.
[125] Document A40, pp131-132
[126] Document A26, pDII

9.7 McCleverty established that there were 639 acres of Māori cultivation of which 528 acres were on lands which had been sold to Pakeha.[127] McCleverty's extended Report on Cultivations was presented to Governor Grey on 8 April, 1847. After initial investigations, but prior to completing the deeds, McCleverty reported that:

> The Natives have at present about 528 acres cleared on sections of European settlers, and which either now are and were under cultivation, or were so in the interval between the settlement of the colony and Captain Fitzroy's arrangement, according to the statement of the Aborigines. To induce them willingly to relinquish these cultivations, to the greater portion of which they now lay a just claim, it will be necessary to obtain for them an equivalent in land, not in equal quantity, but in blocks of land which would contain a number of acres at least equal in quantity and quality to what they relinquish, and in situations equally easy of access from their places of abode. All of this is most difficult to attain. ...
>
> [Due to the region's hilliness, Māori methods of husbandry, and increased distances from markets,] generally speaking, at the very least, to compensate for the 580 acres now under cultivation by the Natives on settlers' sections, twelve sections of a hundred acres would be required in exchange. ...
>
> Some portions of the Town Belt, in patches amounting in all to about sixty-two acres, are under cultivation by Natives of the Pipitea, Kumototo, and Te Aro Pas, in which they have been guaranteed by Captain Fitzroy's arrangement; and, with the great difficulty to obtain land in good situations, I would respectfully suggest that [150 acres] more of the Town Belt should be so relinquished to them ... I merely recommend an extension of the occupancy which they hold under Captain Fitzroy's arrangement of the 29th January, 1844, and in the belief that the Town Belt is to be considered as waste land and belonging to the Crown.[128]

[127] Document A26, pD10
[128] Document A26, ppD10-12

9.8 It would appear that McCleverty's assessment of the lands which Māori already cultivated in the District was different than assessments of Surveyor Fitzgerald three years earlier. It would seem that this estimate of 639 acres under cultivation of which 528 were on settler sections may have been an understatement. For example, McCleverty's report shows 89 acres 2 roods 38 perches of Māori cultivations in the Karori district, all of it on settler sections - Māori being awarded company reserves in that district. Forms C and D which accompanied McCleverty's final report show that about half of this 89 acres belonged to Te Aro with the balance to Pipitea and Kumototo. However, Fitzgerald's 1845 report on cultivations in the Karori district shows 132 acres 1 rood 34 perches of native cultivations in this district. Indeed Fitzgerald noted that Te Aro's main cultivation area was in this district and this cultivation alone comprised 101 acres.[129]

9.9 Akin to this is Form C attached to McCleverty's final report which shows a total of 233 acres 3 roods 8 perches of Māori cultivations in Ohariu and Makara. Again, Fitzgerald in 1843 appeared to outline almost 1400 acres of land in this area as Māori cultivations. While McCleverty awarded 1400 acres in his exchanges to Ohariu and Makara, by claiming that Māori only had approximately 233 acres of land in the district, his 'exchanges' then appear to be especially generous.

9.10 It may be that McCleverty's 1847 assessment of Māori land in cultivation was less than was being cultivated when Fitzgerald made his survey. However, there is no other evidence which suggests that this was the case.

9.11 In McCleverty's assessment of total area of 639 acres of land being in Māori cultivations, no cultivations were included for the unsurveyed lands of Wainuiomata. Yet in a document from McCleverty to Eyre in November 1847, McCleverty himself noted that that part of the value of those unsurveyed lands were because the contained 'extensive cultivations and other vegetable productions'. He included no cultivation land in the unsurveyed Korokoro block yet his report to Eyre states that this area contained 'one or more cultivations of more than 20 acres'.[130]

[129] A40, pp27-32
[130] Crown Law volume of CO 208 extracts, p266 McCleverty to Eyre 26 November 1847

9.12 Thus, it is possible that McCleverty's assessment of actual amount of land in cultivation may have excluded some cultivated land. If this is the case, this would have reduced the amount of land Māori would appear to be 'exchanging' thereby making the Crown's exchanges of land seem more generous than they may have actually been.

9.13 There also appears to be a contradiction regarding the assessment of cultivations. McCleverty claimed to have identified and calculated all Māori cultivations in arriving at his figure of 639 acres under cultivation. Yet one of the reasons given for renegotiating the 1844 release agreement was that pa and cultivations were vague and ill-defined, and thus it was not possible to implement the 1845 Fitzroy grant. This reasoning was also given in McCleverty's final report. Yet if the cultivations had been able to be defined enough to exchange for other lands in 1847, then one wonders what was so different in 1844-45 that they were too vague to be excepted from Fitzroy's grant to the company?

9.14 In October 1847, Lieutenant-Governor Eyre wrote that 'many of the Native Reserves and cultivations are not defined at all, whilst others are very imperfectly done ... I am afraid that whenever the survey comes to be verified ... very few will fit into their supposed places'.[131] In fact, McCleverty noted in his initial report that to assess exactly what lands were under cultivation, or had been since 1840 was 'a task, nearly amounting to an impossibility, to ascertain what was not included in the above arrangement, and is now in cultivation, if such do exist, of which I have little doubt, for the parties from whom evidence can be obtained are so self interested on one side or the other, that the evidence would be most contradictory'.[132]

9.15 However, Anderson and Pickens state:

> Although much blame for the confusion and for the tension between Māori and Pakeha was laid on the lack of boundary definition [of cultivations, urupa, and pa sites], the real crux of the issue lay in the fact that the

[131] Eyre to Grey, NM 4/1/47/59, p72
[132] GBPP 1847 (892) pp29-32

> cultivations were on the most desirable land in the area. This was in contrast to the reserves, which were largely unsuited to Māori needs. It was estimated by surveyors that less than half of the 4200 country acres so designated were of useable land and McCleverty calculated that at least 1200 acres would have to be offered to the Māori to win their agreement to surrender the lands under cultivation. Since the Government did not own sufficient land suitable for this purpose in the Port Nicholson area, he proposed that land be awarded from existing company, Government and public reserves.[133]

9.16 McCleverty then turned his attention to the existing company tenths native reserves describing these as consisting of '3800 acres and a block of 500 acres [and] have an average proportion of 1530 acres of cultivatable land ... this quantity is insufficient for the wants of those in the immediate neighbourhood of Wellington ... many of these reserves are at too great a distance'.[134]

9.17 McCleverty pointed out that Māori cultivated land only on hilly land facing east and therefore, parts of sections would hold little value to them. He stated that the land under cultivations was therefore 'composed of good land, suitable, from aspect, etc, for their wants, and chosen on that account.' He stated that to compensate for the land now under cultivation on settler sections, at least 12 settler sections of 100 acres each would be required.[135]

9.18 McCleverty then outlined a further difficulty and that was:

> to obtain blocks of land in suitable situations within a reasonable distance of the town. The Natives naturally complain that, if they give up their cultivations in the immediate vicinity of the town for others situated at a greater distance, the expense of time and labour to reach the port with their produce will be greater. At a cursory glance at the map it will be seen that the land within a reasonable distance of the town is altogether in the hands of

[133] Anderson and Pickens, p48 citing Document C1, pp259-263
[134] Document A26, pD12
[135] Document A26, pD12

> Europeans, rendering it nearly impossible to put the Natives in possession of land without a purchase from the white people near the town or public roads, or on the very few Native reserves which may be equally well situated.[136]

9.19 McCleverty also noted that the 'Natives resident at Port Nicholson are all of the Ngatiawa Tribe, with a small exception of the Ngatiruanui, amalgamated with the former at Te Aro' and that if they 'do not obtain land in the immediate vicinity of Port Nicholson ... they will migrate to Taranaki, thus increasing the difficulty attached to the settlement of New Plymouth'.[137]

[136] Document A26, pD12
[137] Document A26, pD10

10.0 The McCleverty Arrangements and the Crown grant to the Company

10.1 McCleverty filed his Final Report with Lieutenant Governor Eyre on 20 November, 1847. McCleverty's Final Report refers first to a direction from Lieutenant Governor Eyre of 21 October, 1847, that:

> 'the object [of the New Zealand Company] would, I apprehend, be better attained by stating what are the portions of the area comprised within the whole block *claimed by the Company* which cannot be granted, but must remain excepted or reserved either for the Natives, or for public purposes,....It will be necessary that an accurate list of all lands which, for any of the reasons I have stated, cannot be included in the grant should be drawn up and recorded.' [McCleverty's emphasis]

10.2 McCleverty's final report presented the awards as a series of commercial exchanges. The report begins with a description of the four forms, A - D accompanying the report. Forms A and B described land 'excepted and reserved' by McCleverty, i.e. land which would not be included in any grant to the New Zealand Company. Apart from minor exceptions, the land described in A and B were the lands that were then drawn up and excluded from the 1848 Crown Grant to the company. Forms C and D 'serve to elucidate the cause of lands, in unsurveyed Districts and on the Town Belt, being extended in quantity to the Natives, beyond what they originally possessed'[138]

10.3 McCleverty emphasised the fact that he saw the arrangements as exchanges: Māori cultivations on settler sections were being swapped for native reserves and unsurveyed lands:

> The Natives are now put in possession of certain tracts of lands which the Government had at disposal, either by purchase, or by a proprietary title to

[138] Document A26, pD13

the waste lands, or through the means of the Native Reserves; the Natives relinquishing their cultivations, and in one case a small Pah on settlers country sections.[139]

10.4 He then noted that the exchanges had been 'much in favour of the Natives' so as to get their agreement to 'relinquish the cultivations on settlers' sections, which, in quantity so much preponderated over those on Native Reserves and on unsurveyed land'.[140] However, McCleverty later stated in his report that the lands:

> now relinquished by the native are the very best selected on account of soil, aspect, and vicinity to their homes and are therefore scattered over a large extent of country. The land they received in exchange has not these advantages, and it was therefore necessary to obviate some difficulty arising from this, by reserving for them large blocks.'[141]

10.5 The body of the final report describes the arrangements which McCleverty had been making. McCleverty noted that if Māori cultivations and gardens only had been assigned to Māori by Captain Fitzroy's arrangements, then Māori would have had no fuel other than that which they purchased from Europeans, and McCleverty viewed that such a situation could not have been the purpose of Fitzroy's agreement. Therefore the exchanges had to award Māori land which 'as far as practicable, and in convenient localities of their own selection, reserved for their future wants, facilities for obtaining firewood and their future attention to cattle'.[142]

10.6 All the principal Te Atiawa settlements in the region appear to have participated in the exchanges. Each McCleverty deeds for each hapu followed the same format and like Spain's 1844 release agreement, the Te Aro transaction was the first to have been signed, (although McCleverty concluded an agreement with Kumototo in February 1847):

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[139] Crown Law Volume of CO 208 extracts, pp271-272
[140] Crown Law Volume of CO 208 extracts, p267
[141] Crown Law Volume of CO 208 extracts, p269
[142] Crown Law Volume of CO 208 extracts, pp267-268

> We the undersigned Landowners and Chiefs residing at and belonging to ___ _____ of the _____ tribes agree on the _____ to give up to Her Majesty's Government, All those cultivations which we have hitherto had on Sections in the _ districts or elsewhere belonging to European settlers, on our receiving from the Lieutenant Governor ... (and) which we have seen and accepted as shown ... on Plans ... which accompany this, containing in all ___ acres, _____roods, and _____ perches and the boundaries of which are therein described.[143]

10.7 They are then signed, witnessed and registered. Some of the deeds contain additions, such as 'They are also guaranteed in their pa, situated at ...'. Te Aro, Waiwhetu, Pipitea and Kaiwharawhara were all guaranteed their pa in addition to the main McCleverty deed. These additions are noteworthy, as some were later judged to be held under a different tenure from the land under the main body of the deeds. It seems that generally, these additional 'guaranteed' lands were brought under the Native Lands Act while the 'exchanged' lands were treated as Māori freehold land.[144]

10.8 According to the deeds then, Māori gave up cultivations on sections belonging to Europeans which they had been promised in the 1844 releases or earlier and in return received deeds to lands which were depicted in the plans attached to the deeds of exchange. Some of this land depicted on the plans had already selected by the company as native reserves, some lands were marked as town belt, some lands were settler sections, and large areas of unsurveyed outlying lands were included.. Spain's releases in 1844 shows that many of the lands awarded in McCleverty's deeds had already been promised to Māori as pa, cultivations, sacred areas and places reserved.[145]

[143] Document A10(a)(iii) pp1-3.
[144] Document A10(a)(iii) pp5,8,23,24
[145] Document A10(a)(ii) pp2-7

11.0 Tables of Land Awarded

11.1 Kumototo

Pa	Population 1847 (1844)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Kumototo	23 (30)	Played a minor role	Yes / £200	23 September 1847		53a 2r 37p	Cultivations on sections belonging to settlers in Karori, Ohiro and upper Kaiwharawhara

Kumototo	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Town Acre 487	1 acre	Yes	Extended from the Terrace to Lambton Quay, approximately where Woodward Street is today	Crown grant issued to Wi Tako in 1853	Land was leased for use as police barracks for a number of years. The section was subdivided and sold. 15.3 perches remained in Māori ownership until 1953 when it was sold by the Māori Trustee, on behalf of the owners
Part of the Town Belt	52 acres	No	The land was partly cultivations of Kumototo.		The entire block was purchased by the Crown in 1852.

11.2 Te Aro

Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Te Aro	186 (128)	No	Yes / £300	22 March 1847 7 October 1847	In English	526a 1r 31p (+ Te Aro Pa) 50a	'All those cultivations which we have hitherto had on Sections in the Karori, Ohiro, and Kai Wara districts or elsewhere belonging to European settlers'

Te Aro	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Te Aro Pa	2 acres 1r 11p	No	Waterfront Site, canoe landing place, one of the most valuable portions of the Township	In 1866 the pa was surveyed into 28 Lots and grants were issued that year. Grants were issued to individual Māori occupiers	First alienations took place in 1873, by 1882 14 lots were sold, most of the remainder were leased.
Polhill Gully (Town	89 acres 3r 5p	The Town sections	This land was close to town, being both sides of Te Aro	Two Certificates of Title for town sections 24, 25; and	Four sections were sold. Part of the Town

sections 1 - 16, 18, 20, 22, 24, 25, 26, 27, 28, 37, 41, 43, 45, 49, part of the Town Belt).	> area	were all native reserves. 1e 10 ms.	Street right up to the hillside. Cultivated before the time of the NZ Company settlement, some of the favourite cultivation sites in the Township were found on all sections. NB: While Town section 19 was not included in the McCleverty deed, it was later awarded to Wi Tako.	town sections 19, 27, 28 were issued on 15 September 1882, both to Wi Tako Ngatata A CT was issued for the rest of the block on 1 December 1887 in favour of the 'aboriginal natives'.	Belt lands were purchased by businessmen who then on-sold the land to the Crown for great profits
Kinapora Section 8 and Part Section 7	151 acres 2p	Yes	Both sections were in the Porirua District, on the Porirua Road. The creation of the Porirua Road in 1847 made the sections accessible for the first time. Surveyor Fitzgerald described both sections as being very good land with nearly all of it available for cultivation.	CTs were issued for block subdivisions when the land was sold, no parent CT was ever issued.	Small parts of both blocks were taken under the Public Works Act for road and railway purposes. CTs for subdivisions show that after restrictions on alienation were removed in 1907, the subdivisions were sold.
Ohariu Section 91	139 acres 2r 26p	Yes	This section was on the Ohariu Road. Fitzgerald describes the section as being very bad, of poor quality unsuitable for agricultural purposes because of the hilly and stony ground.	Native Land Court issued an Order in favour of seven Mäori in 1888. Separate CTs were issued in favour of these seven in 1902	The block was sold when the European lessee of the land applied to the Native Land Board for a meeting of owners. Under half of the owners attended the meeting which voted to sell the land in 1916.
Ohariu Section 15 and part Town Belt	114 acres 31 acres	Section 15 was a native reserve	Fitzgerald estimated that section 15 contained only (30) acres of cultivatable land with the rest being too hilly or stony. The town belt land was the site of old cultivations so it is assumed it was good land. This land was later subdivided by the European purchaser and became the suburb of Vogeltown.	Crown grant was issued to Wi Tako and Hemi Parae on 1 July 1874, 16 days before the block was sold.	Section had been leased to John Wright since 1859 and he exercised his purchasing clause in his lease to buy the section in 1874. £700 was paid for all 145a 2r.
Part Ohiro Section 26	50 acres (the total block was 100a)	Yes	This land is situated in present day Island Bay. The land was awarded subsequent to the main Te Aro deed and only because Te Aro stated that no kumara plantations could be made in their other McCleverty lands. Thus, this land must have been suitable for cultivation.	Crown grant was awarded to George Hunter (son of the first Mayor of Wellington) in 1864. No Crown grant was issued to Mäori.	The reverse of the McCleverty deed for this 50a section states that this section was sold by Mäori to George Hunter with the full concurrence of Mantell on 25 March 1863.

= 577 · 3r. 4p

Compare area 526a 1r. 31p [Deed A10(a) or 3
+ Pa 50
576 1r. 31p.

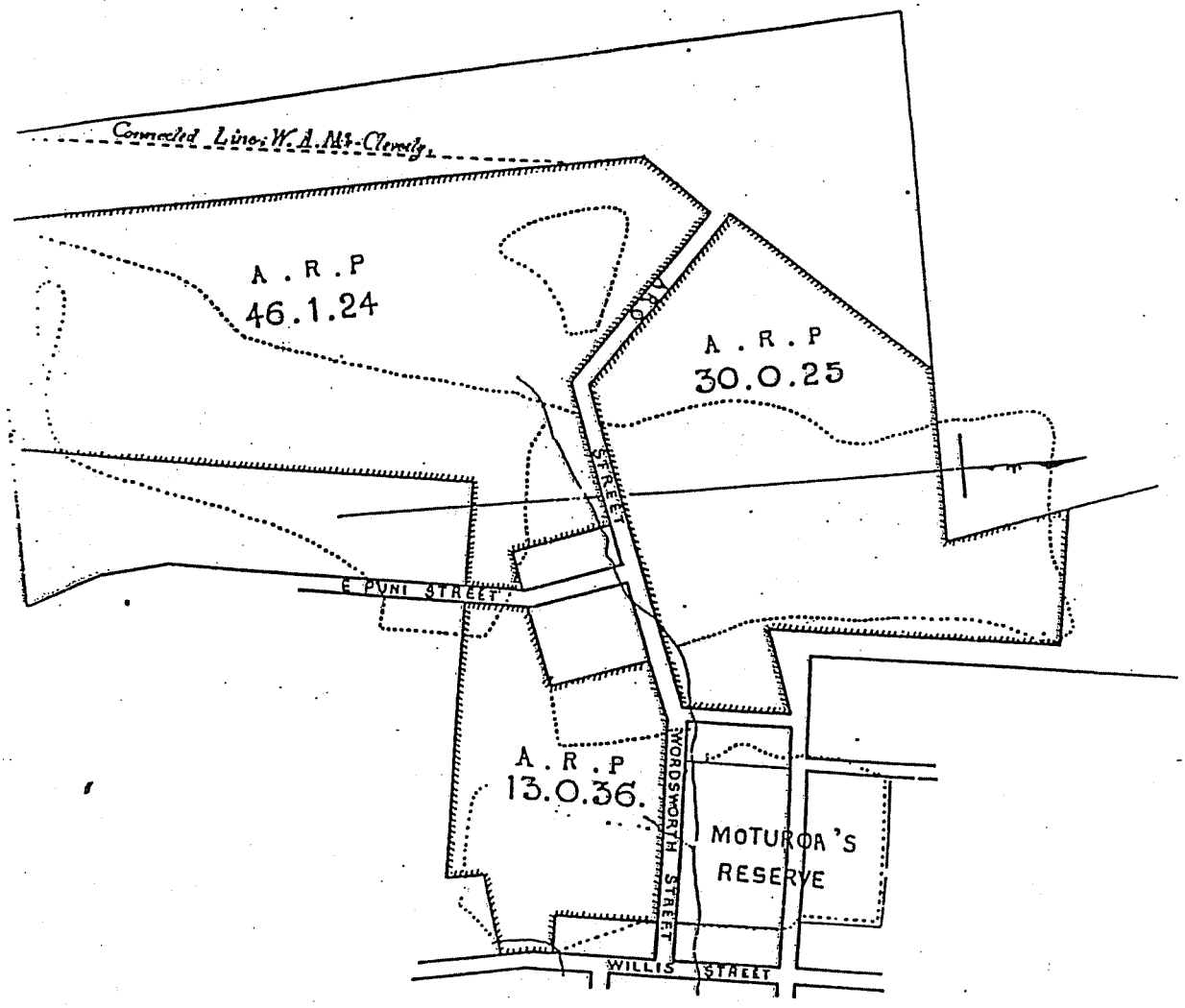
WELLINGTON DISTRICT

[COL. M.ᶜ CLEVERTY'S DEED]

N°1

22 Mar-1847

LANDS GUARANTEED TO TE ARO NATIVES

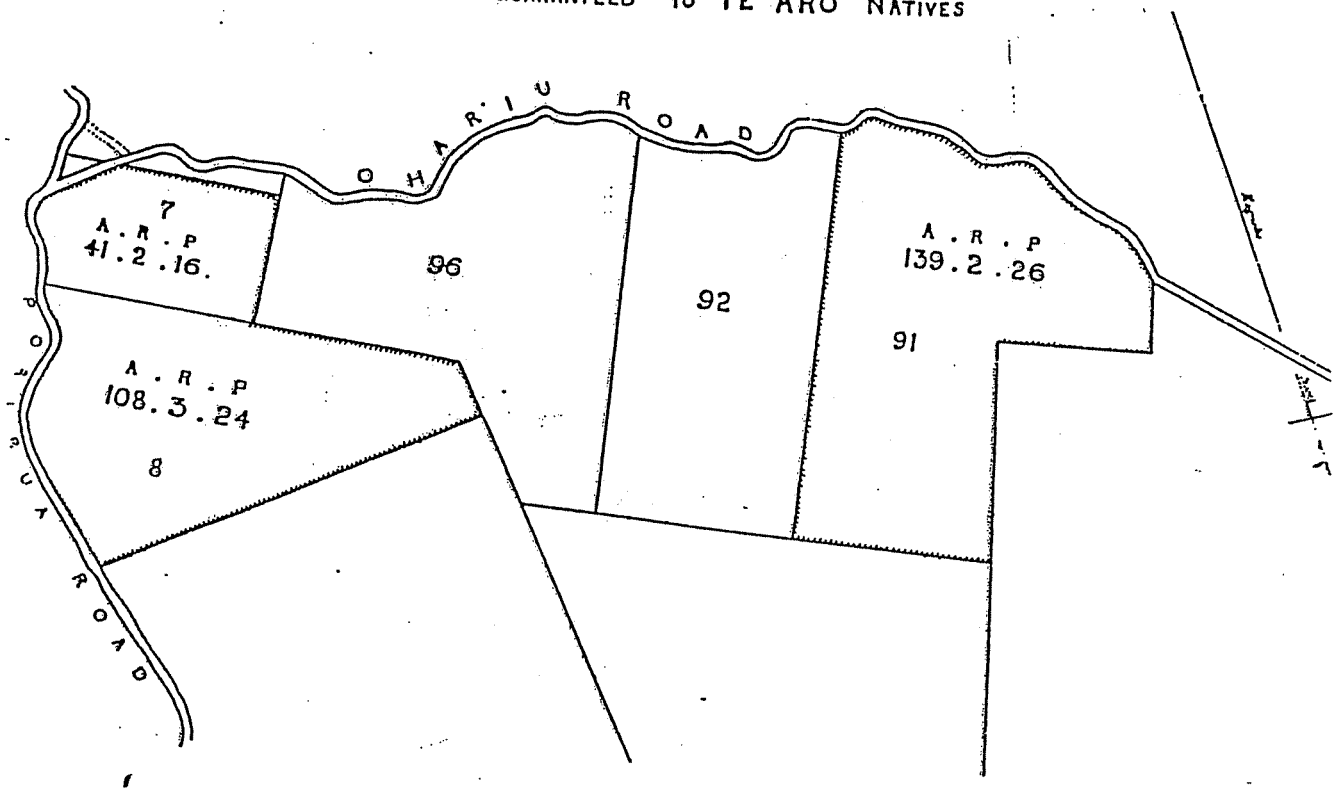


COL. McCLEVERTY'S DEED

N°2

22 Mar - 1847

LANDS GUARANTEED TO TE ARO NATIVES

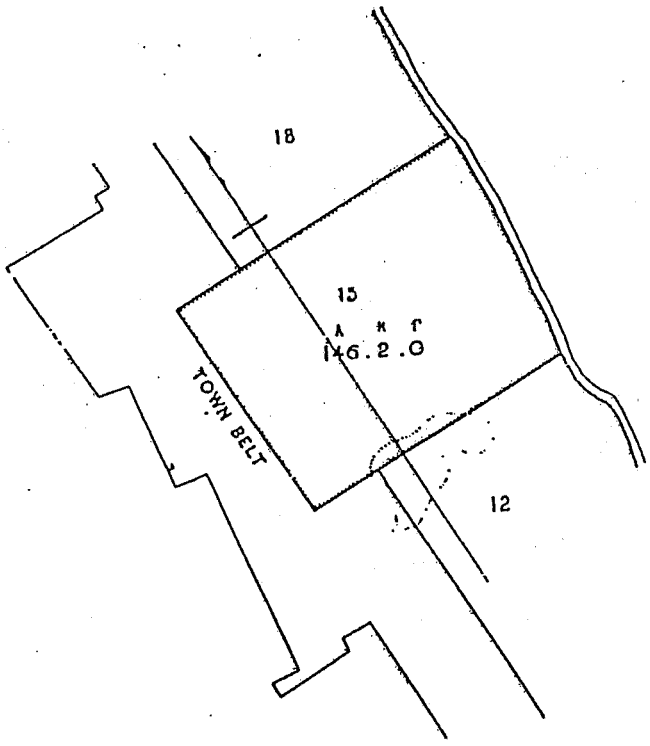


COL. Mc CLEVERTY'S DEED

N°3

22 Mar- 1847

LANDS GUARANTEED TO TE ARO NATIVES

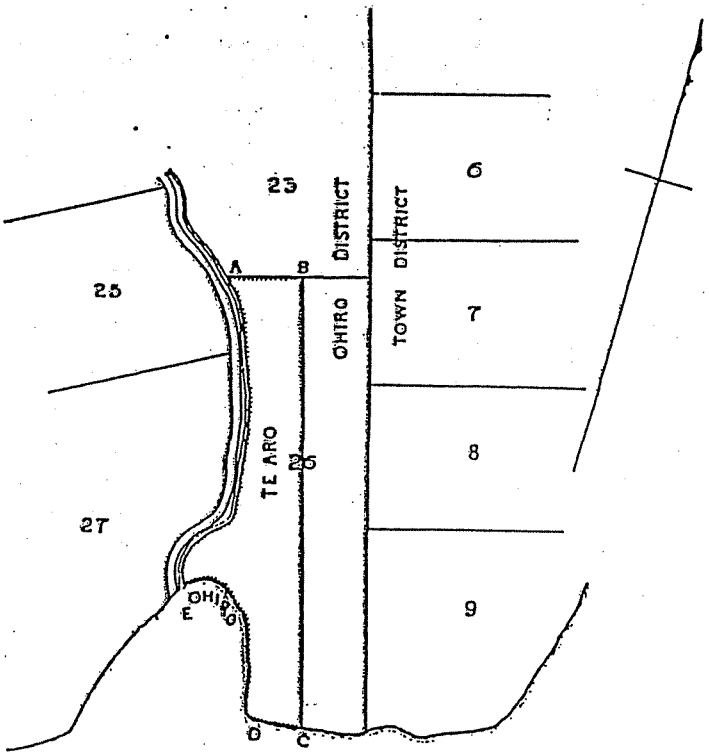


COL. M^{c}CLEVERTY'S DEED

N^{o}4

7 Oct - 1847

LANDS GUARANTEED TO TE ARO NATIVES



11.3 Waiwhetu

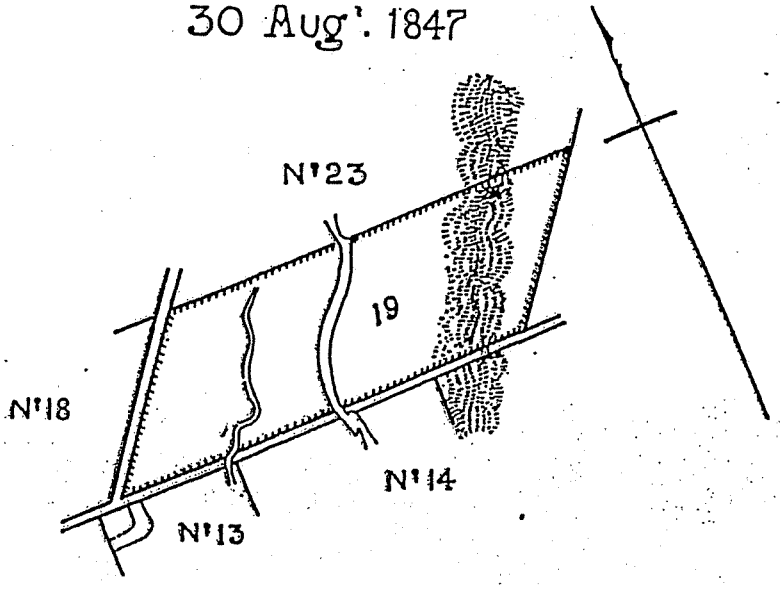
Pa	Population 1847	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Waiwhetu	48 (59)	No	Yes / £100	30 August 1847	In Mäori	246 acres (+ Waiwhetu Pa)	'all those cultivations which we have hitherto had on sections in the Harbour and Hutt Districts or elsewhere belonging to European settlers'

Waiwhetu	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How/ When Alienated
Waiwhetu Pa	3 acres 2r 39p				
Hutt Section 19	106 acres	No. Purchased for Mäori by Grey on 12 March 1847 for £350	Fitzgerald described it as one of the best sections in the Hutt	In 1882, CTs were issued as subdivision had taken place by this date	Most of the land was taken by government proclamation in 1942 - 45. At the time this land was described as 'practically the last land in the Hutt Valley remaining' for Mäori and the land was taken despite opposition.
Hutt Sections 57 and 58 (part)	125 acres 15 acres 140 106 246	Yes	Half of section 57 was good quality with the other half being hilly and of little value. Section 58 was described as an excellent section.	In 1888, section 57 was partitioned by the Native Land Court into ten subdivisions.	Part of section 57 was taken for railway purposes in 1874, the remainder of the section was transferred to a Mr Giesen in 1914 and 1918. Part of section 58 was taken for housing purposes in 1952 and the remainder of this section was taken for river protection purposes in 1963.

WELLINGTON DISTRICT

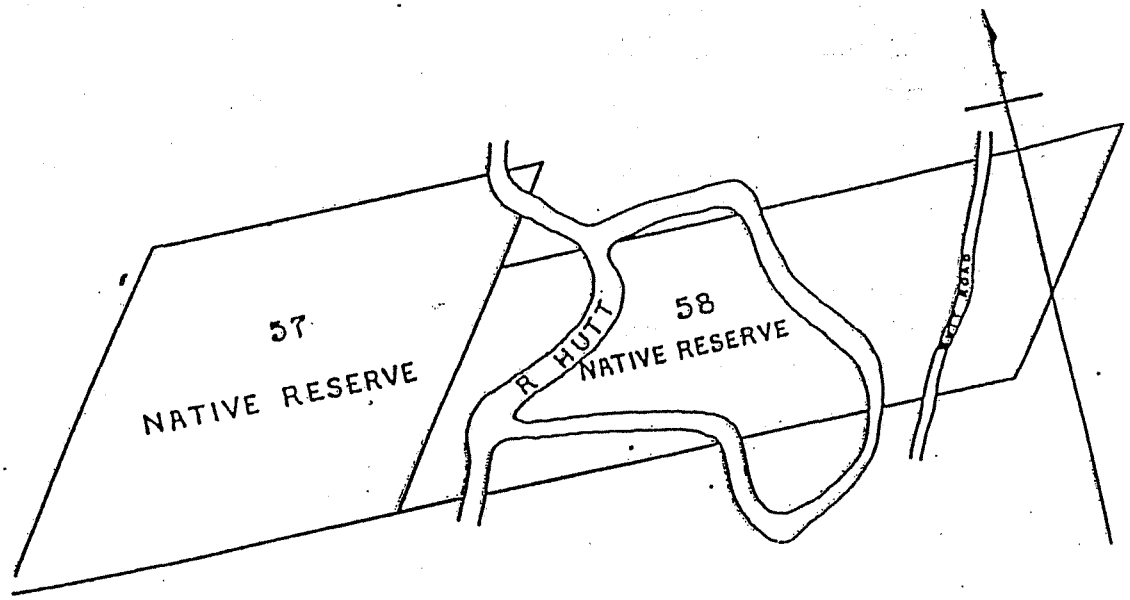
WAIWHETU - SECTION Nº 19

30 Aug'. 1847



LOWER HUTT

SECTIONS Nos. 57 AND 58



11.4 Ngauranga

Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded or Certificate of Title first issued	What Was Given Up in Exchange for the Land Awarded
Ngauranga	32 (48)	Yes. Te Wharepouri was one of the major advocates of this sale.	No. Payment was offered to Ngauranga but was refused.	4 October 1847	In Mäori	212a (although the translation of the deed shows the total area awarded as 215a)	'all those cultivations which have hitherto had on Sections belonging to European Settlers in the Harbour District or elsewhere excepting those cultivations included within the boundaries namely one hundred and ten acres and thereabouts ... which we absolutely decline to give up...'

Ngauranga	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Harbour Section 6	112 acres	Yes	Harbour section, Fitzgerald stated that only 50 acres was available for cultivation. Railway reclamations in 1882 effectively landlocked this section.	A CT was issued to three Mäori owners of the block in 1886.	The land had been leased to Europeans since 1853. 8.5 acres were taken by proclamation for railway purposes, the remainder of the section was sold by 1906.
Part of Harbour Sections 7, 8 and 9	110 acres	No. However, Spain's investigations retained the 110a of cultivations for Mäori and compensated the European settlers	All three sections had cultivations on them and included the site of Ngauranga Pa. The sections were among the first to be selected by NZ Company settlers suggesting they were valuable, being on the Harbour and including the mouth of the Ngauranga River. Railway reclamations in 1882 landlocked these sections, which had formerly been used as canoe landing sites.	McCleverty's original deed for these acres was re-registered on 22 March 1867. CTs for section 8 and 9 in 1886	The land was leased in 1853 and 1864. Restrictions on alienation were removed from sections 8 and 9 in 1898 and from section 7 in 1906. The land was then subdivided with the new CTs showing that Europeans owned most of the subdivisions. Green notes that most of these sections had been alienated by 1915.

WELLINGTON DISTRICT

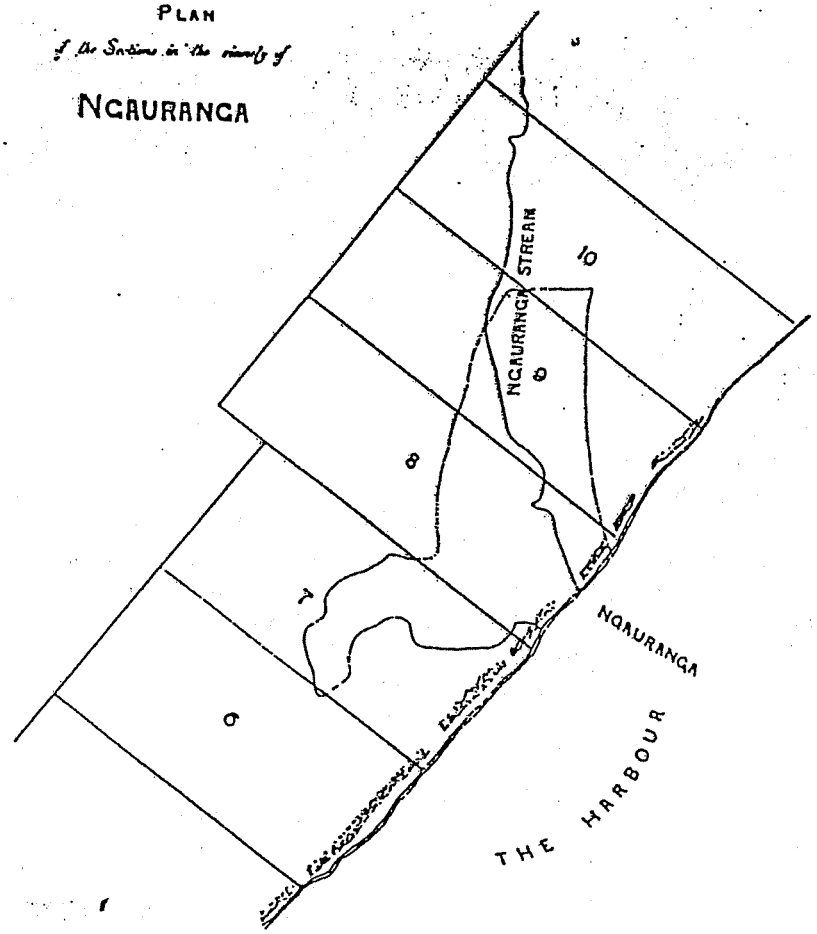
[COL. M:CLEVERTY'S DEED]

4 Oct:r 1847

PLAN

of the Sections in the vicinity of

NGAURANGA



11.5 Petone

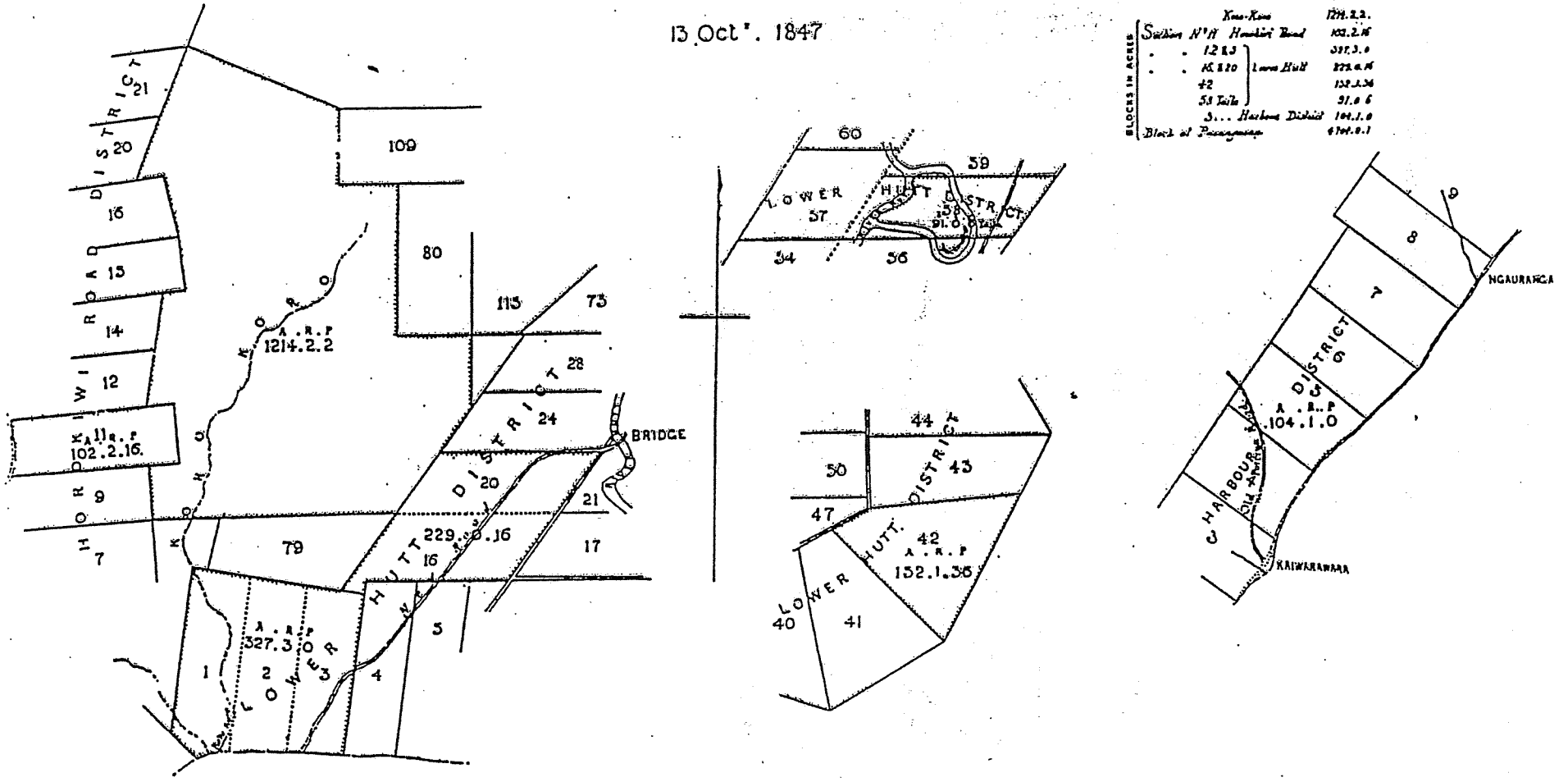
Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Petone	136 (97)	Yes, Te Puni was the major advocate of that sale.	Yes. No compensation paid, possibly because Te Puni admitted sale to the NZ Company.	13 October 1847	In Mäori	6926a 37p	'all our cultivations lying between the lands of the Europeans either in Wellington or the Hutt or on the Horokiwi Road'

Petone	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Hutt section 58	91 acres 6p	Yes	Fitzgerald described the section as excellent, one of the best of the native reserves. The section was leased to a settler, however, who subleased the section to other settlers. Compensation was paid to them so they would vacate the land.	Subdivisions of the section were first made in 1882 and CTs were issued for these subdivisions.	All but two of the sections were in Mäori ownership until the 1940s when at least half the block was taken by proclamation for housing purposes between 1942-52.
Hutt section 11	102 acres 2r	Yes	Located on the Horokiwi Road District, the section was described as having tolerably fair soil although it was very hilly.	In 1888 the Native Land Court assessed ownership and awarded the section to 16 Mäori owners. It seems that a full CT was not issued for the section until 1988.	In 1953, this section was sold by the Mäori Trustee (on behalf of the Mäori owners) under part XVIII of the Mäori Land Act 1931 for £412.
Heretaunga sections 1, 2 and 3	327 acres 2r	Yes	Fitzgerald described the sections as having little value except for 30 acres of this total area. While the sections were flat, they were covered with gravel. All sections were on the waterfront although this land was subject to flooding.	See document	Parts of all three sections were taken under the Public Works Act for railway purposes, this amounted to some 25 acres between 1873 - 1882. The balance of the land was sold in a series of transactions between 1896-7. 3 hectares of sections 1 and 2 are still in Mäori ownership and were declared to be Mäori freehold land in 1989.
Lower Hutt sections 16 and 20.	229 acres 16p	Yes	Fitzgerald describes both sections as being of 'middling quality' with about 50 acres of cultivatable land in each section with the rest of the land being either too hilly or too swampy.	Crown grants for section 20 were issued in 1870 in favour of 5 Mäori.	Most of section 20 was alienated in the later part of the 19th century and most of section 16 appears to have been alienated by 1933.

Hutt section 42	152 acres 36p	Yes	Described by McCleverty as poor, being very hilly with poor soil.		
Harbour section 5	104 acres	Yes	Situated at Ngauranga, next to the sections awarded to that Pa. Fitzgerald noted in was mainly steep ground with some old cultivations on the hill tops, however, not more than 50 acres of the land was useful.	Crown grant issued in 1870 to 10 Mäori owners.	The section had been leased since 1853. In 1894m restriction on alienation was lifted and certificate of title issued the same year to a Mr Thompson.
Korokoro (Maungaraki) Block	1214 acres 2r 2p	No.	The block contained at least one cultivation on it, and possibly others.	The Block was surveyed in 1890 and CTs issued to ten Mäori owners.	11 acres of the block was sold in 1884. Between 1904 - 1911 500 acres of the block was taken by proclamation. More of the block was taken by proclamation in the 1950s and 1960s. It is unclear whether some of the block still remains in Mäori ownership.
Wainuiomata (Parangarahu) Block	4704 acres 2r 1p	No	The block was used as a fishing station and Mäori had eel-ponds, vegetable production and extensive cultivation on this block although McCleverty stated that there was little land available for cultivation as the terrain was very hilly.	In 1912, the block went before the Native Land Court for determination of title and CTs were issued for subdivisions in 1913.	The land was initially used by Mäori as a sheep run, later leased to settlers who used it for the same purpose. The Crown purchased 69 acres of the block for a lighthouse, in 1931 a further 27 acres was taken by proclamation for lighthouse purposes. After CTs were issued, a number of subdivisions were sold. It is unclear if any land still remains in Mäori ownership.

PITONE N°1 BLOCK

13 Oct°. 1847



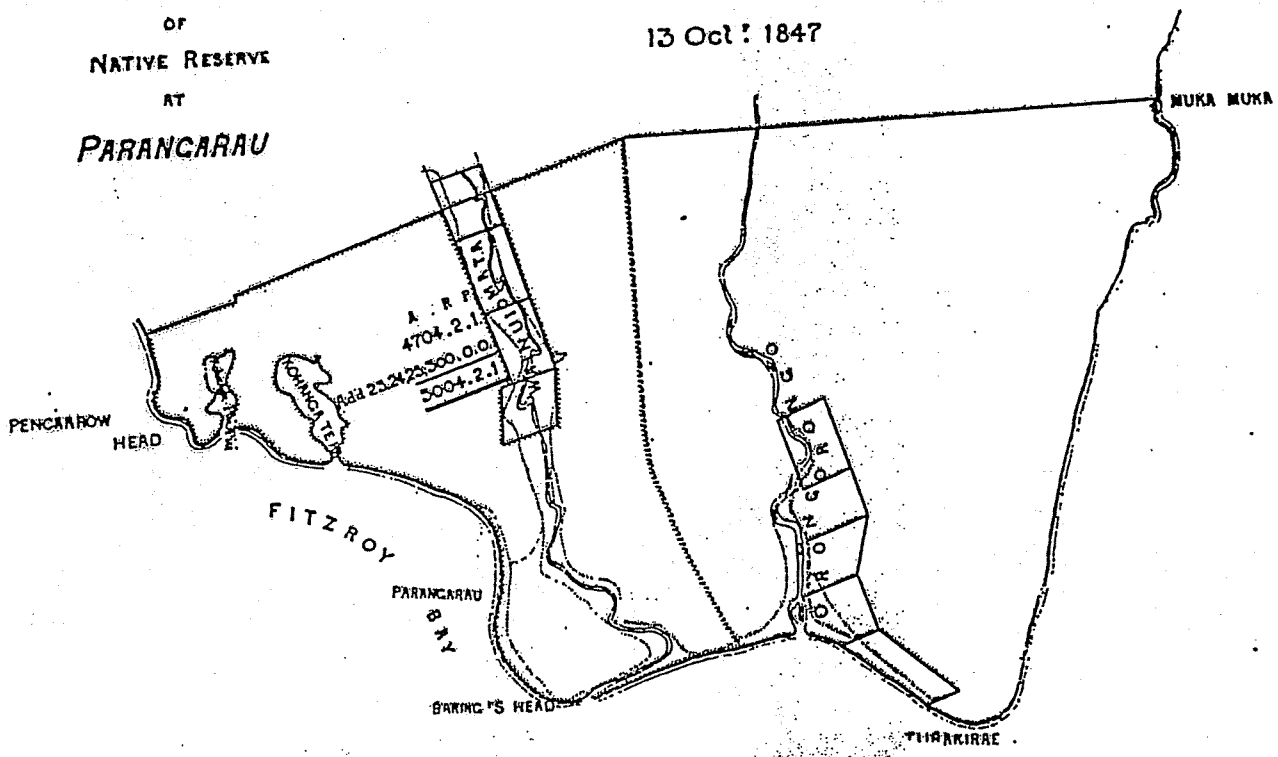
BLOCKS IN ACRES			
	Xmas-Xmas		1214.2.2.
	Section N°1 Hamblet Road		102.2.16
	" " 12 R.S	Lower Hutt	327.3.0
	" " 15 R.S.20		229.3.16
	±2		152.1.36
	53 Tails		91.0.6
	3... Harbour District		104.1.0
	Block at Ngauranga		6 Tot. 0.1

WELLINGTON DISTRICT

PITONE N°2 BLOCK

13 Oct.r 1847

PLAN
OF
NATIVE RESERVE
AT
PARANGARAU



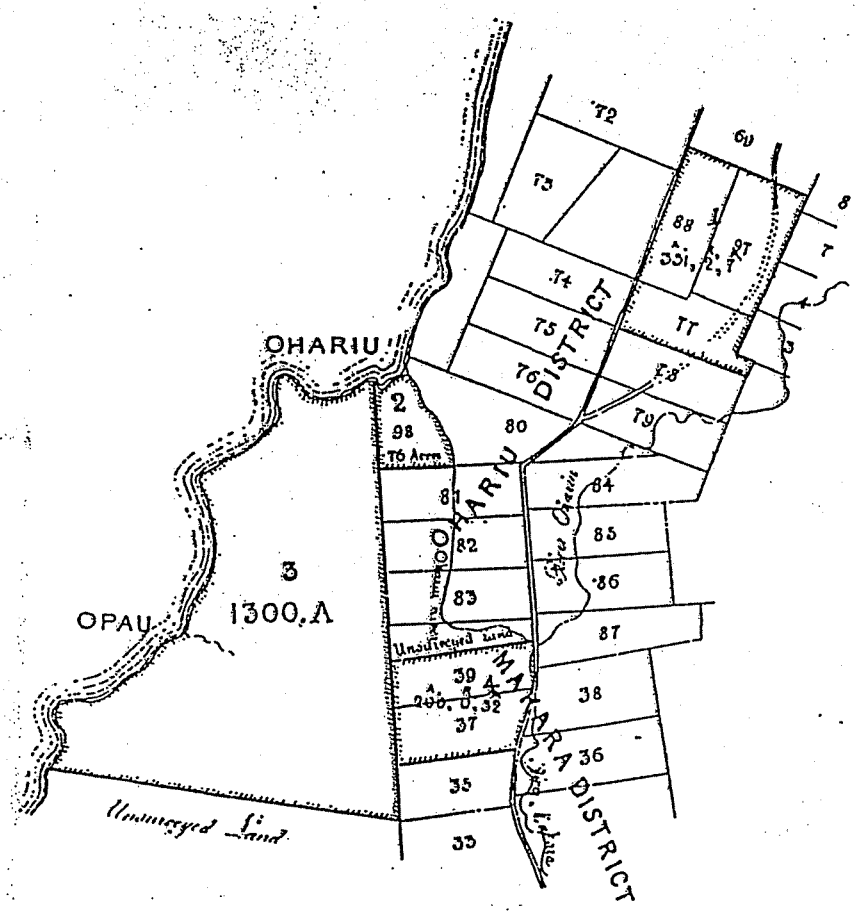
11.6 Ohariu and Makara

Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Ohariu and Makara	119 at Ohariu, 5 at Makara.(200 at Ohariu / 20 at Makara)	No	No, but £10 was awarded to Ohariu even though they did not participate in the negotiations. Makara participated and received £20.	18 October 1847	In Mäori	2202a 24p	'all cultivations we have hitherto had on sections in the Ohariu and Makara districts belonging to European settlers'

Ohariu and Makara	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Ohariu Section 98	131a 2r 9p	Yes	This section contained the pa and was the rivermouth section. However, it was described as being stony and unsuitable for agriculture.		Unclear exactly when the section was sold. Half of the section was sold by 1867, the remainder was possibly sold prior to this date.
Ohariu Sections 77, 88 and 97	351a 2r 7p	Yes	Fitzgerald noted that about 150 acres of these sections were fit for cultivation, however, he described the sections as poor and hilly.	CT was issued in 1882.	The sections appear to have been sold in 1859, yet leases from Mäori to settlers continued. Restriction on alienation was removed in 1908 and the sections were sold in 1912.
Opau Block	1300 acres	No	McCleverty described it as having little suitable land although some of it was under cultivation.	In 1889 the block was divided among 23 Mäori owners by the Native Land Court. Crown grants were not issued until the early 1890s.	Most of the land was sold in stages between 1874 - 1894. By 1913 only two of the 23 subdivisions remained in Mäori ownership.
Makara sections 37 and 39	200 acres 32p	Yes	Fitzgerald describes both blocks as being of poor quality.		By 1925 all of this land had been alienated from Mäori ownership.
Unsurveyed block between sections 88 and 75	131 acres 2r 16p	No	Fitzgerald noted little suitable land available for cultivation.		Land appears to have been sold by 1853

WELLINGTON DISTRICT

OHARIU RESERVES



The four Reserves are marked thus.....

11.8 Kaiwharawhara

Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Kai - wharawhara	44 (60)	No	Yes / £40	Undated	In Mäori	440a (+ pa at Kaiwhara whara and Tiakiwai)	'these lands [the 440 acres] are given in lieu of lands on settler sections'

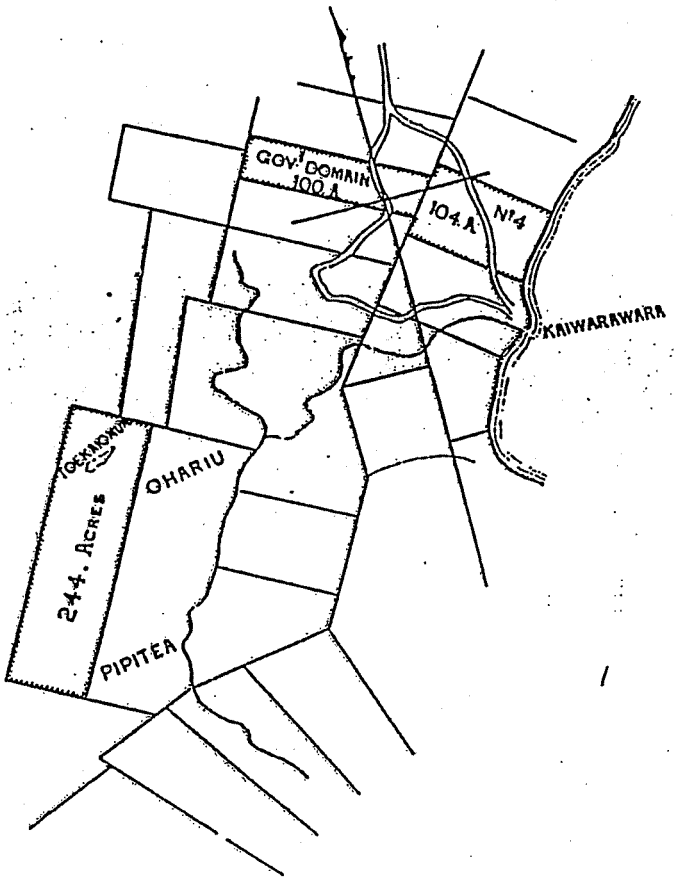
Kaiwhara-whara	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Kaiwhara-whara Pa	2r 19p	No	Situated on Harbour Section 3, the first section selected by settlers and therefore, one of the best.		
Pa on Native reserve 659, 660	2 acres 3r 19p	Yes	Both sections were on the harbour.	Crown grants were issued to the Mäori owners of both sections In 1868	Both sections were sold by 1877.
Kaiwharaw hara Block	244 acres	Yes	Part of the Otari Native Reserve, an area of 500 acres awarded to Mäori. Some of this block was cultivated land.	The block was subdivided in 1898.	First transfer of title from Mäori ownership occurred in 1877, further parts of the block were sold after subdivision. 4.2416 hectares remains in Mäori ownership.
Harbour Section 4	104 acres ? evid.	No. Crown agents purchased this section for Mäori for £350.	Adjacent to Harbour section 3, the first country section awarded so it is likely that it was of reasonable quality.	Certificate of Title was issued to 14 Mäori owners of the block in 1889.	Most of the section appears to have been alienated by 1894.
Kaiwharaw hara District Government Domain	100 acres	No.		Certificate of Title was issued to Mäori in 1889.	The whole of the block is shown as having been transferred to European ownership in May 1890.

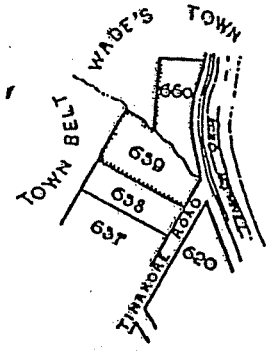
Never purchased from Maori

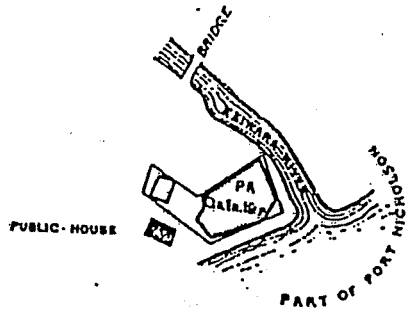
WELLINGTON DISTRICT

[COL. M^{c} CLEVERTY'S DEED]

KAIWHARAWHARA







11.9 Pipitea

Pa	Population 1847 (1842)	Signatory to the NZ Company Purchase?	Signatory to the 1844 releases? Payment Received?	Date of McCleverty Award	Original Deed	Total Land Awarded	What Was Given Up in Exchange for the Land Awarded
Pipitea	116 (134)	No	Yes / £200	1 November 1847	English	7436a Also Porutu's reserve (1 chain) and Moturoa's reserve (seven town acres)	'all those cultivations which we have hitherto had on sections on the Karori, Kai Warra Warra, Harbour, and Lower Hutt or other District belonging to European Settlers'

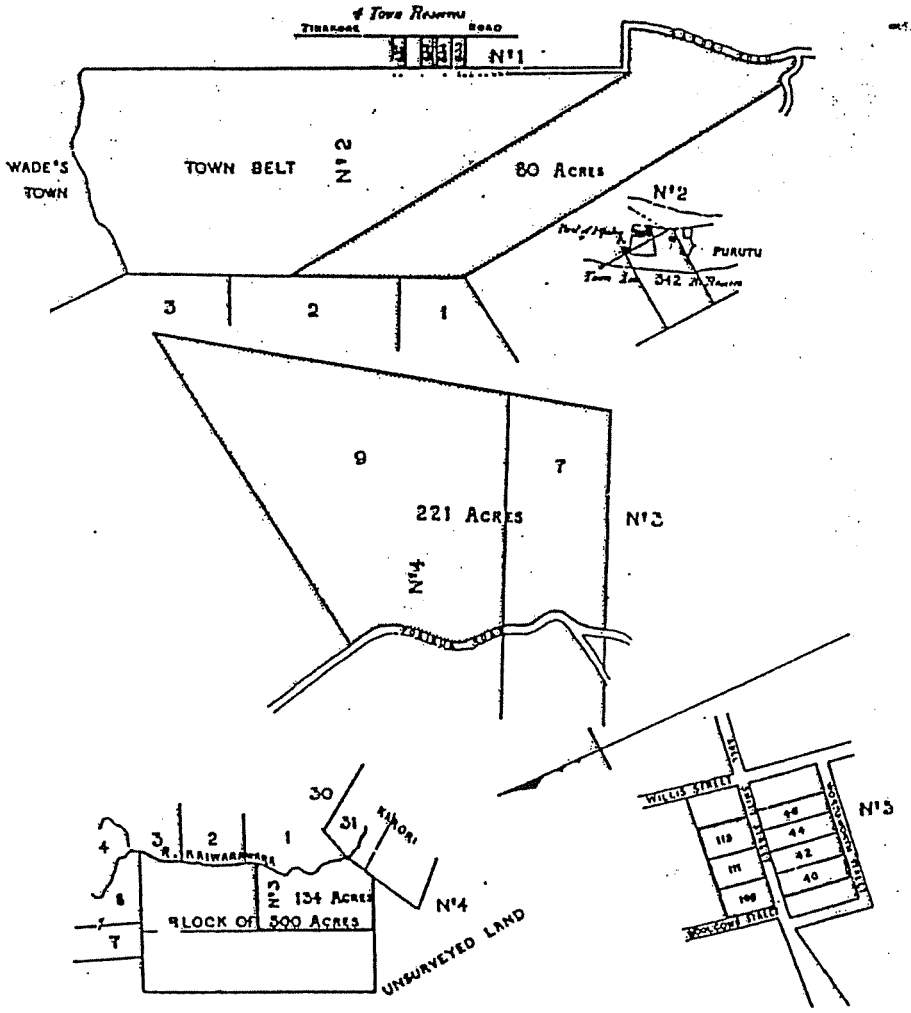
Pipitea	Area	Company Native Tenths Reserve?	Site Description	Crown Grant Awarded or Certificate of Title first issued	How Alienated
Pipitea Pa		Part of the pa was awarded as native reserves, most of the pa was not.	Situated on Thorndon Quay	The pa was subdivided and Crown grants issued in 1867 - 68.	Between 1873 and 1881 most of the pa subdivisions were sold. None of the land now remains in Mäori ownership.
Town sections 633, 634, 635, 637 (some confusion as to whether section 635 or 636 was actually granted, however, officials treated 635 as the McCleverty section)	4 acres	Yes.		Sections 633 and 634 were awarded to Anne Kerr (who seems to have been a half caste) and two others as successors to Henare and Mary Porutu. Section 635 was granted to Wiremu Pakau and others in 1870. Two CTs were issued for two subdivisions of section 637 in 1882.	Sections 633 and 634 were sold in 1925. Section 635 was sold in 1889. Subdivision A of section 637 was sold in 1892, the other subdivision is not in Mäori ownership.
Porutu's Reserve	1 chain (although McCleverty's plan shows almost half an acre reserved for Porutu)	Yes	Part of section 542, situated on Thorndon Quay.		Sold in the 1890s, soon after title was issued.
Moturoa's Reserve Town sections 40, 42, 44, 46, 109, 111, 113	7 acres	Yes	Situated at the upper west end of Willis Street, on Abel Smith Street.	Crown grant awarded to Moturoa in 1865.	All seven sections were sold by Moturoa for £1000 total in 1866, ten weeks after the issue of the Crown grant.
Part of Kaiwharawhara Block	134 acres	Yes	Part of Otari Native reserve. Fitzgerald stated that Pipitea had	Block was partitioned into five strips of 30 acres each.	One subdivision was sold to a European. The remainder became part of the Otari native bush reserve and the land was taken by

			some 80 acres of cultivations on this section.		proclamation.
Kinapora section 9 and part section 7	221 acres	Yes	Both sections were of good quality and had previously been used by Pipitea for cultivations.		
Part of the Town Belt — Maori land	80 acres	No	Contained cultivations so it is assumed it was of good quality.	Crown grants were issued in 1873.	Land was sold between 1877 - 1894.
Orongorongo Block — whose land ? — Maori	6990 acres	No	McCleverty notes that while the block is large it possess little land available for cultivation with most of the block being very rugged terrain.		Unknown but most of the block now belongs to a seafood company.

PIPITEA - N.1

[COL. M'CLEVERTY'S DEED]

1 NOV. 1847



PIPITEA - N°2

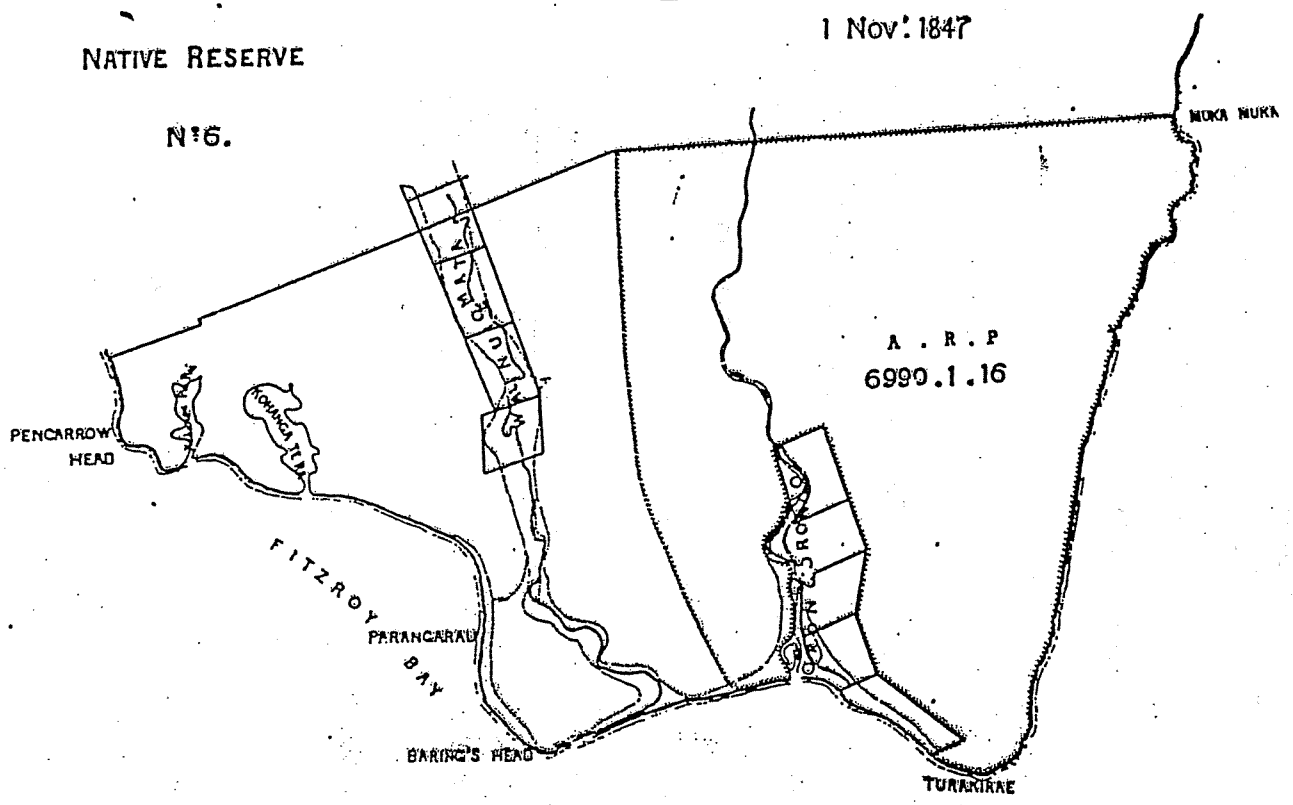
[COL. M°CLEVERTY'S DEED]

1 Nov°. 1847

ORONGORONGO

NATIVE RESERVE

N°6.



12.0 Summary of the Deeds and Land Awarded

12.1 The lands relinquished by Māori in McCleverty's Awards were described as 'their very best [land], selected on account of soil aspect and vicinity to their homes, whilst the lands they receive...have not these advantages'.[146] Lands in exchange of these 'very best' lands were to be selected by Māori themselves:

> but whether this ...directive was carried out is obscured by the lack of minutes or reports on the negotiations. There are indications, however, that this was not the case. McCleverty and Grey rejected the Māori request that they should be given lands within company subsidiaries larger than the 100 acres that were supposed to comprise the country sections. And although Māori expressed a wish to stay near the town, most of the land allocated to them were in outlying areas.[147]

12.2 Within Wellington township, Māori retained only three pa, 105 acres of the surveyed land that had been sold, and 219 acres of the town belt. Some valuable land was retained at Waiwhetu and the Hutt (some 100 acres of flat land and 200 acres of steep bush area). Relatively large acreages were awarded outside Port Nicholson. Much of this land lay in the Orongorongos and was unsuitable for cultivation, but was intended to serve as a hunting and gathering area.[148]

12.3 As Anderson and Pickens note, 'areas awarded by McCleverty did come under hapu control, but country lands reserved to Māori were often poorly located, unsuited to pastoral activity, and unable to realise high rents'.[149]

12.4 Of the total land granted to Māori in the McCleverty Awards, the largest portion came from outlying unsurveyed lands, some 14,390 acres out of a total of 137,000 acres of unsurveyed lands.

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[146] Eyre to Wakefield, 25 November 1847, New Munster (NM) series 5/1/69, p 118, NA Wellington
[147] Anderson and Pickens, p49 citing document A44, p61.
[148] Document C1, pp268-270

12.5 These outlying blocks consist of four different blocks:

- Orongorongo 6990 acres
- Maungaraki (Te Korokoro) 1214 acres
- Parangarahu (Wainuiomata) 4704 acres
- Opau (Ohariu) ~~1300~~ 1431 acres

14340

12.6 These blocks make up fully 3/4 of the lands awarded by McCleverty. McCleverty described them as 'all on unsurveyed land, and may appear large in extent, but in reality they possess little land available for cultivation, particularly those at Orongorongo and Parangarahu'.[150]

12.7 A Royal Commission of 11 May 1878 directed the Commissioner of Native Reserves to examine Māori claims to the 'tenths' and to the McCleverty reserves. That commission heard 110 cases and reported on 60 by 1879 and 'in nearly all the claimants are recommended for Crown grants'. Heaphy noted that 'during the inquiry it appeared from the evidence that the Te Aro Natives, amongst whom were several old and infirm persons, had not much land fit for cultivation'. Yet at this time, many of Te Aro's reserves at Polhill Gully were all being leased.[151]

12.8 Lieutenant-Governor Eyre congratulated McCleverty on the arrangements 'which by your exertions you have brought this most difficult question' and noted that this was the same way the New Zealand Company's principal agent viewed the arrangements.[152]

12.9 On 2 December, having checked that Mr Wakefield would accept a Crown Grant issuing from the Report, Eyre responded to McCleverty's Report. Eyre undertook, after a last check of the accuracy of the copies of the plans to be attached, to refer the Crown solicitor to McCleverty to draw up the Crown Grant.

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[149] Anderson and Pickens, p51
[150] Document A26, pD13
[151] Document A24, p128
[152] Document A26, pD14

12.10 Once McCleverty had completed his plans and schedules, these were forwarded to Governor Grey who signed the Port Nicholson Crown Grant on 27 January 1848.

12.11 Unlike Fitzroy's grant of 71,900 acres, Governor Grey granted the entire Port Nicholson District to the Company, an area of some 209,000 acres which was outlined on the plan attached to the Grant. This area granted included all of the Port Nicholson district:

> excepting and always reserved out of this present Grant the reserves and exceptions, all of which reserves and exceptions with their boundaries and abuttals are particularly delineated and described in the said plan and in the plan of the Town of Wellington and in the schedules of the said plans attached hereto[153]

12.12 Two plans were attached to the Grant, called Plan A and Plan B. Plan A shows the entire Port Nicholson District and includes country districts including the Hutt, Porirua, and the West Coast of the District. These country districts are divided into blocks of approximately 100 acres each. Plan B focuses on the township of Wellington. Each plan shows a schedule of reserved and excepted lands.

12.13 The two plans and the schedules accompanying them show 4310 acres of company tenths native reserves and 14,679 acres of other excepted land from a grant to the company, these being the lands of McCleverty's exchange. Also shown were some defence reserves and some individual European claims. The rest of the district, some 209,000 acres, was awarded to the company.

12.14 It is interesting to note that the plans show all native reserves, whether company tenths native reserves or McCleverty reserves, coloured yellow, apparently not making a distinction between them. All other excepted areas were coloured dark green.

12.15 A number of sections were taken out of the company tenths native reserves (that is, the reserves apparently already awarded to Māori in the 1844 releases viz. pa, cultivations, burial grounds and the 'places reserved') and awarded to individual hapu. According to

Jellicoe, 44 town sections and 2868 country acres were awarded this way. The remaining sections given to hapu came from unsurveyed, outlying land and from the town belt.[154] These unassigned reserves which were not awarded to hapu in McCleverty's exchanges are then called the company tenths native reserves.

12.16 The plans of the Township shows that of 110 acres of company tenths, only 45 acres 2 roods 37 perches were assigned to hapu by McCleverty, with a further 2 acres 27 perches granted to Wi Tako and Ihaia Porutu personally. Most of these township tenths, 62 acres 14 perches, were not assigned. These are then called company tenths native reserves.

12.17 On the basis of the McCleverty arrangements, the port Nicholson deed is dated 27 January 1848 and grants to the company 209,247 acres 'excepting and always reserving out of the aforesaid grant the reserves and exceptions, all of which reserves and exceptions with their boundaries and abuttals are particularly delineated and described in the said plan, and in the plan of the town of Wellington, and in the schedules of the said plans attached thereto.'[155]

12.18 The plans accompanying the 1847 McCleverty arrangements depict reserves boundaries quite well, as this was one of the principal objects of these arrangements. However, most of the internal reserve boundaries were not defined and the nature of the land, ie. whether the reserves were to be leased so as to provide funds to benefit Māori, or whether they were to be used by Māori for their own cultivations, was left in doubt.[156] Nevertheless, the fact that reserves were defined is a key difference in the 1847 arrangement. The 1839 'sale' left the reserve areas completely undefined, reserves were largely unsurveyed in the 1844 releases. Only with the 1847 exchanges and the 1848 Crown grant were most of the boundaries defined and surveyed.

12.19 A Crown grant for 209,372 acres of Port Nicholson lands was issued to the company in 1848. While the total area awarded to Māori under McCleverty's awards was 18,926 a

[153] Document A10(a) pp, Document A26, pD14
[154] Document A24, p69
[155] Document A24, p69
[156] Eyre/Grey 15 October 1847 NM 4/1/47/59, p72, National Archives, Wellington

3r 31p, there is some inconsistency in the figures quoted by different sources. Anderson and Pickens note:

A 24 p 69 ✓

> MacKay in his memorandum on the tenths gives the acreage granted as 209,247 to the New Zealand Company]. Heaphy's estimate of reserved area was 18,226 acres in the original arbitration, which was later enlarged by [subsequent] Government purchase [in the later 1840s and 1850s] to 19,591 acres.[157]

[157] Anderson and Pickens, p50

13.0 Impact of the 1847 arrangements on population and society

13.1 While an estimated 600 to 700 Māori still lived within the township area in 1846, because settlers had been given title to Māori cultivations, Māori population plummeted so that by 1857 only 63 Māori were recorded as still living within the township.[158]

13.2 Declining population is also evident in the Wellington district as a whole with the Māori population some 22 percent fewer by the end of the 1850s than in 1840 when there were approximately 800 Māori in resident in the Port Nicholson harbour area.[159] Part of the reason for the decline can be traced to northwards migrations; 200 Ngati Tama left in the mid-1840s and almost 600 Te Ati Awa went with Wiremu Kingi to Taranaki, where reserves had been purchased for them by Grey (it must be noted that many of these people were Te Ati Awa from Waikanae, people from Ohariu, Ohaua, and Oterongo). It was reported in 1855 that the Māori who lived at Waiariki, Ohaua and Te Ika-a-maru 'disposed of all the land reserved for them by Colonel McCleverty in 1847, to the Government and also moved northward.'[160]

13.3 The Wesleyan Circuit Report in 1853 stated that the 'Native congregation is not so good now as it used to be, accounted for to some extent by numerous deaths and migrations.' It was noted that most were living at the Hutt, 'for purpose of raising food, which many of them do on land which they rent from Europeans.'[161] The Wesleyan ministers stationed around Te Aro saw a problem with the inadequacy of Māori reserve land. In 1849, Rev. Aldred wrote that 'the Natives have generally speaking, left town through scarcity of land.' Rev. James Watkins, in 1851, wrote that 'some of our Natives have to go fifteen miles to cultivate potatoes on land rented from the white men'. And, 'some of the Māori are saving money to buy back some of the land of which a few years ago they were the unquestioned masters...I don't think they got sixpence an acre,...what must they give to get it back, at least two pounds.'

13.4 Quoting Anderson and Pickens:

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[158] Watson and Patterson, p541

[159] Anderson and Pickens, p51 citing Hamer and Nicholls

[160] Document A39, p111-112

[161] John Roberts, *The Wesleyan Mission at Te Aro, 1839-1877*, citing Methodist Archives: Aldred to W.M.S., 8/1/1853; Watkins to W.M.S., 14/8/1851 (both Archives Auckland); and the Report of the Southern District Meeting, 12/10/1853 (Archives Christchurch).

From the late 1840s, Māori production declined while that of Europeans increased for most crops. This inversion coincided closely with the reallocation of Port Nicholson and Hutt reserves in the McCleverty exchanges. Crop acreage dropped by 74 percent as Māori gave up cultivation lands claimed by settlers.[162]

[162] Anderson and Pickens, p50 citing M K Watson and B R Patterson, 'The Growth and Subordination of the Māori Economy in the Wellington Region of New Zealand, 1840-52', *Pacific Viewpoint,* vol 26, no 3, 1985, p525

14.0 Status of the 1847 McCleverty Arrangements and the issue of an 'exchange' of land

14.1 Why are the Crown grants which arose from the McCleverty Commission variously referred to as 'exchanges' or 'awards'? Governor Grey, Lieutenant Governor Eyre and Lieutenant Colonel McCleverty all described the 1847 McCleverty arrangement variously as 'exchanges' or 'compensation'. Later commentators have described the arrangements as 'awards' because awards of grants of land arose out of these arrangements. However, does McCleverty's arrangements represent a commercial exchange?

14.2 The question of exactly what Māori were granted by the McCleverty arrangements will depend on the status of previous arrangements and promises made by the Crown to Māori. Māori were pledged their pa, cultivations and sacred places in the 1844 releases, pledges which were repeated by the Crown, beginning in November 1840. The question of what Māori were granted also depends on what Māori gave up in the exchanges. Can McCleverty's deeds be seen as merely an 'adjustment' of an existing agreement? What Māori had agreed in the 1839 and 1844 agreements was the extinguishment of their absolute title to the region in return for certain goods and moneys, and conditional upon the reservation of certain agreed-upon areas of land.

14.3 In the 1844 releases, Māori were awarded pa, cultivations, sacred places, places reserved and a monetary payment in exchange for absolutely surrendering 'all our title to all our lands, which are written in the Document affixed to this Viz., All the places at port Nicholson and in the neighbourhood of Port Nicholson in New Zealand' although (as noted above) questions have been raised about whether Māori only agreed to this under duress. In the 1847 McCleverty arrangements, the deeds show Māori as giving up only 'All these cultivations which we have hitherto had on Sections ... belonging to European settlers' in exchange for receiving certain lands from the Lieutenant Governor.

14.4 The reading of the 1844 release deeds and the 1847 McCleverty deeds seems to suggest that the lands promised in the 1844 deeds were unaffected by the 1847 McCleverty

deeds except for cultivations on sections belonging to Europeans. Cultivations on sections not belonging to Europeans, pa, sacred areas and the reserves would appear to still have been promised to Māori.

14.5 It is apparent from McCleverty's exchanges that company tenths native reserves were seen as being exchanged by the Crown. If the status of the reserves is unchanged by the McCleverty arrangements (in that they were promised to Māori already and nowhere in the McCleverty deeds do Māori agree to giving these up) then any grant by McCleverty of these reserves would appear to be simply a grant of lands which Māori *already* had a right to own. By receiving this land in 'exchange' for other land, were Māori simply receiving land to which they were already promised, or which they already considered to belong to them? Some of these reserves contained cultivations as well and thus may have been doubly secured to Māori.

14.6 Anderson and Pickens also appear to view the arrangements McCleverty made as an exchange, stating that 'on the whole, Māori gave up small but good sites near the harbour and settlement for larger, outlying blocks.'[163] However, as Green has noted:

14.7 At a superficial level, the McCleverty Awards to Māori appear to be generous. Māori were granted title to 2797 of the 4100 of urban and rural Native Reserves. However, the effect of this was to give to Māori what they already owned. These reserves had been awarded first by the New Zealand Company as part of the original settlement, and this award was then confirmed by the Spain Commission. Rather than being a generous award of land, the McCleverty Awards served merely to specify which hapu would be granted title to which reserves. This was a fundamental difference between the McCleverty reserves and the unassigned Company reserves which were to be held in trust, for Māori, by the Crown.[164]

14.8 It is interesting to note that in December 1846, Wakefield signalled his agreement to McCleverty that McCleverty would select land for Māori out of unsurveyed land within

[163] Anderson and Pickens, p48
[164] T P Green *Summary Document of Waitangi Claim Wai #145 The Wellington Tenths* May 1996, p92

the Port Nicholson block.[165] Yet no unsurveyed land was claimed by the company (who claimed land surveyed and sold to settlers only). In his April 1847 report, it appears that McCleverty had firmly come to the conclusion that the land not mentioned in Fitzroy's grant to the company in 1845 (71,900) 'includes the Town Belt and other unsurveyed lands as waste and pertaining to the Crown'.[166] Thus, because McCleverty saw these lands as belonging to the Crown, a grant of any part of them to Māori would have been an exchange of land.

14.9 Of the total land granted to Māori in the McCleverty Awards, the largest portion came from outlying unsurveyed lands. The status of these lands, so-called waste or surplus lands is beyond the scope of this report. However, it is not clear what the status of this land was at the time of the McCleverty exchanges, and whether it had ever been legitimately purchased from Māori. Green argues that it remained 'Māori land by customary title and [native title] was not extinguished upon the arrival of the New Zealand Company, nor the arrival of the British Government.'[167] Green goes on to argue that:

> No purchase price was paid to Māori for these 14,390 acres, nor did Māori assent to these lands being given up. This the indefensible result of the McCleverty Awards was to strip Māori of ownership of 122,610 acres of unsurveyed land, land which Māori did not sell and for which neither the Crown nor the New Zealand Company paid.[168]

14.10 It would appear that because McCleverty and his superiors were willing to renegotiate the 1844 releases, (the reason for the McCleverty exchanges) the 'fact' of Crown ownership of surplus lands cannot be concluded by way of these releases. Thus, it is possible that the Crown did not validly own these surplus lands, Māori appear to have relinquished them only in the 1844 release agreement and then only under what appears to be duress.

[165] Wakefield to McCleverty 18 December 1846, Crown Law volume of CO 208 extracts CO 208, p407
[166] Document A26, pD13
[167] ibid, p93
[168] ibid

15.0 The McCleverty Arrangements as part of the Extinguishment of Native Title to Port Nicholson

15.1 Anderson and Pickens note that the McCleverty arrangement:

> was intended both to satisfy the terms of the November 1840 agreement and to complete the settlement between the company and Te Ati Awa initiated in 1839 and extended by Spain's 1844 recommendations. In Governor Grey's words the awards were devised 'to extinguish absolutely the native title to the tract purchased, but to reserve an adequate portion for the future wants of the natives'.[169]

15.2 The agreement between Māori and the New Zealand Company for transfer of title to the Wellington region seems to have ended with the McCleverty exchanges, the last of the three main agreements for title transfer. First was the 1839 'sale', second was the 1844 releases, and finally there was the 1847 McCleverty exchanges. The McCleverty exchanges seems to be the final stage in transfer as they seem to have signalled agreement, which resulted in the issue of a Crown grant for the region in 1848.

15.3 Does this agreement revoke or rescind any terms of the 1839 or 1844 agreements, or are these two agreements part of a single, slowly developing agreement? The 1839 agreement can be summarised as an agreement whereby Māori received certain goods and 'a tenth part of the whole' of the land of Wellington to be held 'in trust by the Company for the future benefit of the said chiefs, their families and heirs' in exchange for the New Zealand Company receiving ownership of the region.[170] The 1844 releases can be summarised as an agreement whereby Māori released their rights to 'all their claims' in exchange for receiving payment of £1500 in total and for including pa, cultivations and sacred places in addition to 'places reserved' which would 'remain alone' for Māori.[171]

[169] Anderson and Pickens citing Governor Grey to Earl Grey, 15 May 1848, BPP, vol 6, p25
[170] Document A10(a), (I) pp1-2
[171] Document A10(a), (ii) pp1-7

15.4 Soon after McCleverty's deeds were executed, various new interpretations of the status of the 1839 and 1844 Reserves emerged. It was held that the 1847 Deeds removed the Reserve status from all the 1844 Reserve Sections mentioned in them. The 1847 Deeds simply vested a freehold title in the individual former Reserve beneficiaries. (see Attorney General Mr. Whitaker's decision on this, 1859). They thereby converted over half of the area Reserved by the Releases into semi-individual freeholds. However, because the McCleverty exchanges were ostensibly about the reservation of pa and cultivations (which the company refused to accept but which were crucial to Māori's acquiescence in the 1844 releases) the exchanges represented a profound adjustment of the terms under which Māori would give up customary title to the region.

16.0 Māori view of Awards

16.1 Unfortunately, McCleverty recorded no minutes of his meetings with the various hapu between 1846 and 1847. There also appear to be no detailed records of the cultivations which McCleverty 'exchanged' for other lands. Thus, it is difficult to assess McCleverty's version of the success of the arrangements, as noted in his final report.

16.2 McCleverty's view of the arrangements as an exchange of land is later used as justification by Governor Eyre for the government later awarding company reserves (not McCleverty reserves) to the church, schools and for the hospital (see documents A11, C1 and E12 for a more detailed discussion of this).

16.3 What then motivated Māori to agree to the McCleverty exchanges? By November 1847, Māori appear to have relinquished claim to 460 acres of cultivations in lands claimed by settlers: only 107 acres of cultivations on settler claimed land remained for them.[172]

16.4 One possibility is that the offer of registered deeds of reserve lands to the Māori of Wellington region in 1847 was the first time Māori were offered full written deeds to any land in Wellington. Māori may have been feeling vulnerable to encroachment, ready to grasp at those first virtual 'titles' that Kawharu calls 'tribal and sub-tribal charters, proof of a historic, unified existence and entitlement'.[173]

16.5 Anderson and Pickens note that the lack of any Crown grant to Māori meant that there was no security of title to Māori lands, meaning they were not safe from encroachment. Wi Tako wrote to Eyre in 1848 expressing anxiety over Hutt cultivations and a comment was made regarding Ngauranga cultivations that Māori were 'anxious that the boundary lines should be surveyed and cut'.[174] The 1846 Constitution Act gave a broader definition of Crown lands and empowered Provincial Governors to make grants out of such lands. Chapter 13 of the Instructions called for

[172] Eyre to Wakefield, 25 November 1847, NM 5/1/169 p115-118
[173] Kawharu, Ian, *Māori Land Tenure: Studies of a Changing Institution,* p. 296.

compulsory registration of all Māori interests in land. Land not registered by a certain date would be investigated by a Land Court, and unless occupied it would revert to the Crown as waste.[175] In December 1847 Governor Grey wrote:

> The general line of policy I have endeavoured to adopt in reference to the subject of legislation for the mixed races inhabiting this country has been to convince the natives that their traditional customs had, in reference to their own present state, and that of the country generally, become obsolete and useless ... With this view I felt that is would, perhaps be better not to require our Courts in any way to recognise the barbarous customs of the native race, as I feared that, if they were required to do so, a mixed class of laws might grow into existence, which, ultimately becoming mixed up with the tenure of property, the customs of trade, and the prejudices of the people, might be found difficult to dispense with or abolish[176]

16.6 In 1848, Governor Grey summarised steps he had taken to implement the 1846 Constitution:

> What has ... been done was to extinguish absolutely the native title to the tract purchased, but to reserve an adequate portion for the future wants of the natives in that district, and they have been furnished with plans of these reserves and with certified statements that they were reserved for their use - which documents are somewhat in the nature of a Crown title to the lands specified in them, are much esteemed by the natives, and accustom them to hold land under the Crown which is an extremely desirable object to attain

16.7 Grey concluded his memo by focusing on Port Nicholson stating that Māori in the district were aware:

> that the real payment which they receive for their waste lands is not the sum given to them by the government, but the security which is afforded that

[174] Document A40, pp167-171
[175] 1846 Royal Instructions Chapter 13 Clause 9
[176] Document A33, p49

themselves and their children shall for ever occupy the reserves assured to them, to which a great value is given by the vicinity of a dense European population.[177]

16.8 Another possibility is that Māori were not aware of exactly what they were giving up, or believed that they were giving up nothing. The deeds themselves state that all Māori were giving up were their cultivations on sections belonging to Europeans. Grey planned to sell company tenths native reserves in order to reimburse the Crown for lands which the Crown would have to buy for Māori in the McCleverty arrangements. Grey also instructed McCleverty to deal with individual cases on their own merits rather than dealing with all Māori at once because 'there will be much less probability of creating any combination amongst the natives, or extortionate demands from them'.[178] Because each hapu's arrangement was made separately, it may be that Māori never knew exactly what McCleverty's balance was (i.e. which lands were being exchanged for which other lands) or at least, what other hapu were exchanging.

16.9 There is a possibility, raised in Document E5, *The origins of the Crown's Demesne*, that Māori were influenced in agreeing to the exchanges because of the promise of a hospital. This would have been an important issue at a time of high mortality among Māori because of introduced diseases.[179] Furthermore, Fitzgerald states in that Māori in the region 'suffered severely, in conjunction with the white population, from the effects of the epidemic so prevalent here'.[180]

16.10 It would appear that the McCleverty exchanges, with the promise of certificates which Grey claimed were 'much esteemed by the natives' and 'extremely desirable to attain', offered security and the guarantee of property. Indeed, Māori interests to all the land included as Māori owned in the McCleverty exchanges had been made secure by the 1847 McCleverty deeds which were then registered at the Crown's Land Office.

16.11 A straight forward reading of the deeds also shows that the only lands Māori were clearly relinquishing in the deeds were cultivations on sections claimed by settlers.

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[177] Grey to Earl Grey 15 May 1848, NZC 1/7 pp398-401
[178] Document A26, pA171
[179] Document A33, p130
[180] Document A33, p52

While these amounted to over 400 acres of cultivations, Māori were getting security of title to the other lands specified.

17.0 Crown Grants to Māori

17.1 While the company received its grant from the Crown in 1848, Crown grants were not issued to the Māori owners of McCleverty reserves at that time. An examination of the individual reserves shows that Crown grants were often only issued upon the sale or lease of the reserves to Europeans.

17.2 A Board of Inquiry into Native Affairs reported to House of Representatives in 1856, C H Ligar was the chairman. This inquiry examined the question of whether to issue Crown grants to Māori and their evidence was summarised as such: 'the issue of Crown grants on any extended scale is very desirable; but the difficulties attending are so great as to render such issue impossible'. The report later says, on the question of Crown grants, that:

> Many [Māori] are beginning to see that without such a security their further progress in civilisation is impossible ...
> Independent, therefore, of its being used as a means of inducing them to part with their surplus lands, it is called for as necessary to promote their individual interests and whatever tends in their case to this result must be of general advantage. As long as they hold their lands as they do at present they have no incentive worthy of the name, to improve their social condition, or to add permanent improvements to their land.[181]

17.3 By 1862, Domett wrote to Commissioner St. Hill about the government's desire to appoint a full-time commissioner of native reserves. He went on to say that:

> 'his Excellency is now anxious in all cases when it is desirable that the Natives should retain possession or occupation of their lands to have their titles reduced as speedily as possible to Crown Grants.
> With this view the Government proposes to add the name of Mr. George F. Swainson to the Commission for the management of Native Reserves in the Wellington and probably other) Districts.'[182]

[181] 9 July 1856 Le 1/1856/66, National Archives, Wellington
[182] MA 4/5 pp211-212, National Archives, Wellington

17.4 Swainson raised the issue in 1866 questioning whether the issuing of grants 'in their present form (without any restriction clause as to sale)-for these reserves [will] prove a benefit to the Natives? I am afraid not; the latter is or will be the greater evil. Far better trust the judgement and discretion of a Commissioner, who ought to know the nature of every reserve in his district, to recommend a sale, than to put an uncontrolled power into the Natives' hands. Vide the late case of Ropiha Moturoa.'

17.5 Two years after Swainson's appointment, Halse, as acting Native Secretary, directed him that 'no Crown Grants are to be issued to avowed Kingites'.[183]

[183] MA 4/6 p 441, National Archives, Wellington

18.0 Policy Regarding the Sale of McCleverty Reserves

18.1 Quoting Anderson and Pickens:

> Adams comments that, despite promises that Māori would be protected in their occupied and cultivated areas, the general thrust of official effort had been to remove Māori from the settlement. That trend continued after McCleverty's exchanges. Earl Grey, for example, in 1849 instructed Governor Grey, to offer every assistance to efforts to remove Te Aro Pa but Hamer comments that it was also 'assumed by the colonisers of Wellington...that, because towns were an advanced, distinctly European type of community, indigenous peoples did not belong to them'.[citing Hamer, p229] The efforts of officials such as Swainson and Rolleston protected town Māori during the 1860s, but the few who remained were exposed to these pressures in the following decade.[184]

18.2 Requests to sell McCleverty reserves first occurred almost immediately after the signing of the deeds. On 6 October 1848, Colonial Secretary Dommett sent a memo to Board of Management regarding government policy towards alienation. He noted that:

> Frequent application having been made by natives to be allowed to let or sell lands which have been set apart for them, and are in their possession, on the ground that some of these are not required for their own use, and that others are not suitable, whilst by parting with them they may obtain the means of buying lands better adapted to their wants, I am instructed by His Excellency the Lieutenant Governor to inform you, that the Government are willing to acceded to their wishes and allow of their either letting or selling lands which are in their possession, subject to the following conditions:
>
> > First - that the government is satisfied that the land proposed to be parted with is not necessary for themselves.

[184] Anderson and Pickens, p51

Secondly - that the arrangements or terms to be made are such as meet the approval of the government

Thirdly - that all money received for lands sold shall be paid to the government and be reinvested in such lands elsewhere, as the natives may desire to have, instead of those sold.

Fourthly - That leases be made for short period only and due security given for punctual payment of the rents, which may be received by the natives themselves.[185]

The Government being anxious to facilitate exchanges of land, or other arrangements with regard to land, likely to be really advantageous to the natives, His Excellency will feel obliged by your undertaking the general superintendance and direction of any such transaction, upon the principles laid down in the foregoing conditions.

The Lieutenant Governor would suggest that where natives wish to sell or let their lands, they should communicate with the native secretary, whose duty it would be to ascertain what lands they wish to part with - upon what terms and the names of the parties desirous of taking them, also the locality, quantity, and cost of the lands, if any, they wish to purchase elsewhere. These particulars should then be laid before the Board in writing; and they can then advise whether the application should be sanctioned and if so, whether the terms of the proposed arrangement are considered equitable and just. This, having been decided, it would probably be better to give Public notice in the Gazette, especially in case of sale, that the lands were open for disposal, or it might even be more desirable to permit them to be sold by Public Auction, taking the offer already made, if approved by the Board, as the minimum or upset price. His Excellency however desires me to add, that, perhaps the Board will be good enough to consider the whole questions, and make such suggestions as they think would form useful regulations.[186]

[185] Document A26, pD14
[186] Document A26, pD14

18.3 In 1854, a Land Purchase Department was set up with McLean as Principal Land Purchase Officer. The Native Secretary was an official within the department until 1856 when the two offices were merged and held by McLean until 1861, when he resigned from his position of native Secretary.[187]

18.4 On 29 July 1854, Chief Land Commissioner McLean reported to the Colonial Secretary, on request of J.E. Fitzgerald: 'In general there has been a distinct understanding that they should not at any time be called upon to alienate lands so reserved, it being considered essential for their own maintenance and welfare to retain them.'[188]

18.5 On 25 January 1860, T H Smith wrote to the Commissioner of Native Reserves in Wellington referring to a letter from Mohi Ngaponga to Governor, wanting to sell some of his lands in Wellington. The Governor reply is as follows:

> Your letter of the 14th of October, respecting land given you by Col McCleverty, and which you propose to sell to the pakehas has been seen by the Governor. His Excellency has directed me to explain to you the law in reference to this subject. Listen- the law does not permit Europeans to purchase or lease native lands from the Māori proprietors whether reserves or other. Native Reserves can be leased by the commissioners of native reserves when ceded to the Crown for the purpose of being administered under the Native Reserves Act, with respect to such reserves as have been set apart for the benefit of the Maories [sic] out of territory previously acquired by the crown the commissioners alone can deal with them, they having been appointed by the governor for the purpose and the proceeds of such lands are appointed under the direction of the governor for the benefit of the persons on whose account they were so set apart.[189]

18.6 By the passage of the 1862 Native Land Act, the Crown's right of pre-emption was waived. This Act did not come into operation until December 1864 and was repealed the

[187] p 106 of National Archives MA Series Index, Vol IV
[188] Document A26, pD22
[189] Grey / Ngaponga, 25 January 1860, MA 4/4 p 272, National Archives, Wellington

following year but the Native Land Act of that year confirmed the waiver of the Crown's pre-emption. The need then for a Native Land Purchase Department was considerably reduced and in fact in 1865 the Land Purchase Office was abolished and the Government land purchases were made by independent agents employed more or less on an ad hoc basis for particular purposes by the Native Department. [190]

18.7 As Heaphy noted in 1873, Māori found it hard to understand the idea of compulsory land surrender for the purposes of public works. When this did occur, as with the case of Hutt sections 1,2,3,16 and 20, Heaphy saw it as desirable that the payments for compulsorily acquired land should be invested in the purchase of other land. However, he noted that he had no power to order this and the money had to be given to the Māori owners without any restrictions.[191]

[190] New Zealand Gazette 1865 pp68,127
[191] Document A24, p58

19.0 Management of Native Reserves

19.1 After the 1848 Crown Grant to the New Zealand Company, attempts were made to distinguish between the two types of native reserves: company tenths native reserves which had not been assigned in 1847 and the McCleverty reserves which were assigned to hapu in 1847. 'According to McCleverty, only reserves which were not occupied by natives, but reserved for their use, [went] to the native trustees as native reserves proper.[192]

19.2 In June 1848, Colonial Secretary Dommett wrote to McCleverty regarding the administration of native reserves. Dommett authorised him to collect 'monies which may become due from the occupation of the Native Reserves, of which you will be apprised from time to time by the Board recently appointed to manage them. At the same time, I am to request that you will keep the accounts connected with this fund embracing the receipts and such charges as may be specially drawn against it under a distinct heading to be called the Native Reserve Fund.'[193]

19.3 Lands Commissioner McLean wrote of the Wellington reserves in 1854 that:

> the Natives have retained generally, where practicable, large reserves for themselves, within well-defined natural boundaries, such as rivers, &c., which has greatly contributed to a good understanding between themselves and the European settlers'.[194]

19.4 On 12 April 1858, Treasury gazetted the appointment of Commissioners of Native Reserves under Native Reserves Act 1856. For Wellington, H. St. Hill, S. Carkeek, R.R. Strang, Rev. T. B. Hutton, Tamehana Te Rauparaha, Matini Te Whiwhi, and Rawiri Puaha were appointed. Wellington was the only Province with Māori Commissioners.[195]

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[192] Document A37, pp41-42.
[193] NM 10/9/119, Dommett to McCleverty, St. Hill and Attorney General, 18/6/48, National Archives, Wellington
[194] Document A26, pD22
[195] Document A26, pD29

19.5 On 6 June 1859, the Commissioners met with Māori, regarding a complaint on the administration of the lease of town acre 635, a McCleverty reserve. On the 23 June, they submitted the dispute to the Attorney General W. Swainson, specifically asking whether their Commission under the 1856 Act extended to 'those reserves which were given to certain native tribes by Colonel McCleverty, acting on behalf of the Governor of New Zealand, in consideration of their having ceded to her Majesty's Government numerous cultivated grounds ... and of which reserves plans were handed over to the Natives at the time that the several negotiations took place.'[196]

19.6 Assistant Native Secretary T. H. Smith then wrote to the Commissioners on 24 September 1858 informing them that he was directed by the Governor:

> to inform you that the Attorney General, upon the facts of the case as stated by yourselves, is of opinion that the lands given to the Natives in exchange for their cultivations by Colonel McCleverty, acting on behalf of the Government, are not Native Reserves within the meaning of the New Zealand Native Reserves Act, 1856.[197]

19.7 On 7 April 1862, W Fox wrote to all native reserves commissioners 'with the view of putting the native reserves of the colony on a better footing' it was asked for number of reserves, present occupation, current accounts, rents unpaid, and any liabilities which had arisen under 1856 Act. Fox noted that 'in making the Return it is necessary to distinguish between the three classes of reserves which come under the operation of the Native Reserves Act 1856'. The three classes were:

- Reserves included in purchased blocks (and set aside for native purposes - the native title being extinct) [McCleverty reserves]
- Reserves formally submitted to the Commissioner by the natives [McCleverty reserves which Māori assigned to the Native Reserve Commissioner for administration]

[196] Document A26, pD33
[197] Document A26, pD33

- Reserves over which the native title has not been extinguished [company tenths native reserves].[198]

19.8 Domett wrote to Commissioner St. Hill on 11 October 1862, acknowledging the Commissioners' contribution but he released them from their duties as reserves commissioners, the reason being that the government decided it required the full-time attention of a paid official. Dommett advised that 'the Government proposes to add the name of Mr. George F. Swainson to the Commission for the management of Native Reserves in the Wellington (and probably other) Districts.'[199] He continued with appreciation of past assistance and proposed 'to entrust to the officer to whom I have alluded, the more active share of the duties to be performed'.

19.9 Thus, Commissioner Swainson was employed to undertake this task. Dommett outlined Swainson's tasks:

> The duties required will be mainly these - the survey of native reserves, lands of half-castes and other lands, roads etc of which surveys may be required by Government; the preparation of Crown Grants Leases and other documents in connection with these lands which may require plans to be placed thereon, and to assist in the work of enquiring into and individualising native title.
>
> As the services required are chiefly in connection with the lands of natives and half castes, the government proposes to appoint you a commissioner of native reserves under the statutes on that subject of 1856 and 1862.
>
> In the discharge of this part of your duty you will be required to report as soon as practicable upon the best mode of dealing with the reserves set apart for the native by the New Zealand Company and Colonel McCleverty in Wellington and its neighbourhood with a view to rendering these lands of most practical advantage to the natives for whom they were reserved. ... In the conduct of your business and particularly until you shall receive instruction from the Native Minister Mr Bell, you will take instructions from the Hon Mr Mantell, who you are aware is a member of the general

[198] MA 4/4 pp 563-4, National Archives, Wellington
[199] MA 4/5 pp211-212, National Archives, Wellington

executive. And I must impress upon you the wish of government that you shall give your whole attention towards forwarding the views and interests respecting the lands of those natives who are the avowed friends of the government and loyal subjects of the Queen.

19.10 An undated draft report, probably from around 1870 and written in Heaphy's handwriting shows two classes of native reserves. Firstly, the reserves vested in the government (company tenths native reserves) for which rents are orderly and which 'produce a revenue shown in the Commissioner's account and which constitutes a trust fund'. The second type of reserves (the McCleverty reserves) were:

> left to the management of the natives. The leases of these are faulty, the division of the rents is disputed and irregular causing an enormous amount of work. They take up nine tenths of the Commissioner's time, and the monies derived cannot be shown in any accounts as they do not pass through his hands.[200]

19.11 On 21 May 1866, Swainson reported on Wellington native reserves, giving a history of their administration. The classes of reserves were:

- New Zealand Company tenths native reserves being both town acre reserves and country sections;
- Colonel McCleverty's reserves, 'taken from those general ones made by the New Zealand Company, and with additional country lands (unselected at that time by Europeans) given to Natives as compensation for surrounding various cultivations on selected lands';
- McCleverty Reserves brought under the [1856] Act by assent of Natives;
- Reserves in Wairarapa and on the West Coast."

19.12 Swainson noted that the native reserve commissioners managed the town and country New Zealand company reserves, but the town and country McCleverty reserves were 'let

[200] MA-MT 1/1A/12, National Archives, Wellington

by the Natives independently of the Commissioner, in accordance with the opinion and instructions of the Attorney-General [Whitaker].'

19.13 The country McCleverty reserves brought in at least £558 10s annually - 'but this is probably 2 or 300 pounds below the actual rentals'. Swainson reported rents from 4 properties totalling 750 acres and £88 per year under 'the late Commissioners at the time of their resignation'. However, 350 acres had been sold, 'products of [another 200] paid over to Hemi Parai', and the remaining 400 acres now brought in only £20 per year. Regarding McCleverty lands, Swainson noted that 'very frequently disputes arise as to the division of rents received [on McCleverty lands] when Mr. Baker or myself is usually called upon to act as arbitrator, and the money is "impounded" until the dispute is fairly settled'.

19.14 The 1871 return on native reserves shows that while relatively few had been sold (seven acres of town sections awarded to Moturoa, 50 acres of Ohiro section 26, and the unsurveyed block, Opau, at Cape Terawiti), the vast majority of the land awarded by McCleverty was leased to Europeans.[201] In 1872 Heaphy reported that:

> the Natives of the Wellington District are fast getting the reserves awarded to them by Colonel McCleverty surveyed into individual estates, in order to simplify the division of rents, and in some cases with a view to obtaining Crown grants for the respective pieces. This work is to the Natives a very expensive process, and I would respectfully suggest to the consideration of the Government whether, in the case of these inalienable reserves, it would not be just and wise to remit the payment of Crown grant and registration fees.[202]

19.15 Heaphy helped the Māori owners rent their McCleverty lands out, and prepared 189 plans of Native Reserves for the use of District Officers under the 1873 Native Reserve

[201] Document A24, p52
[202] Document A24, p56

Act.[203] At the end of the decade, all rents on Reserves vested in the Commissioner were paid to the Public Trustee.

19.16 Heaphy's 1877 Commissioner's report shows that more land had been sold; parts of the Otari reserve, reserves at Ohariu, Petone, town belt lands, Hutt lands and pa lots both at Te Aro and Pipitea. In addition, many of the reserves were leased. Leases were either arranged by Māori themselves (lands at Te Aro and Pipitea pa, the town belt, and the Hutt sections) or arranged by the Native Commissioner (lands at Ohariu and Makara).[204]

19.17 MacKay received suggestions that the reserves 'management should be placed in [the Māori's] own hands', but he did not consider any Māori competent to the task. He recommended placing reserves under 'individual trustees', who would manage them subject to regulations by the Governor in Council. He argued the honesty and efficiency of such a trustee arrangement.[205]

19.18 Trust Commissioners were appointed under the Native Land Frauds Prevention Act, 1870 and functioned in the Department until 1894. Their job was to consider applications for authority to alienate land either by sale or lease for a longer period than 21 years. After 1894, confirmations of alienation were made by the Native Land Court until 1900, when Māori Land Councils were set up to protect Māori both from impoverishing themselves and from being defrauded by European purchasers.[206]

19.19 Section 5 of the Native Land Act 1888 led to many of the restrictions on alienability on McCleverty reserves being lifted. This section states that:

> Existing restrictions on alienation may be removed or declared void by the Governor on application by a majority in number of the Native owners. Provided that this shall not affect the validity or invalidity of acts done before the passing of this Act.

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[203] Document A24, p97
[204] Document A24, p112
[205] 1876 AJHR G-3A, p. 2.
[206] Archives, MA series 19 cover sheet

19.20 The AJHRs for 1890 and 1891 show that many restrictions on alienation were lifted in terms of this section. Such lands included those at Polhill Gully, part of the townbelt, part of the section 20 at the Hutt, part of Pipitea pa, town section 635, part of Hutt section 2, part of Harbour District sections 8 and 9, and lands at Terawhiti.[207]

[207] Document A24, pp212-222

20.0 The McCleverty Arrangements: Awards to Each Pa

20.1 The following sections attempt outline each pa's McCleverty deed and award of land. Blocks are investigated and a history of each block is traced. Most blocks reveal little other than a description of the land and alienation. It has not been possible to determine absolutely what land still remains in Māori hands. Unlike the company tenths reserves, the McCleverty reserves were issued to the Māori owners and subdivided. Some of it became general freehold land which may have still been owned by descendants of the original McCleverty grantees.

20.2 The order of the each pa's exchange is the same order in which McCleverty made his arrangements, beginning with Kumototo and ending with Pipitea.

21.0 Kumototo

21.1.1 The first deed was made with Te Aro. As Stirling and Armstrong have noted, McCleverty also concluded an arrangement with Kumototo Pa in February 1847 although the arrangement was not signed until 23 September 1847.[208]

21.1.2 Kumototo played a minor role in the alleged sale of Port Nicholson to the New Zealand Company and important chiefs from this pa did not participate in the alleged sale at all.[209] Like most other pa, Kumototo had agreed in the 1844 release agreement to relinquish all claims to settler sections in exchange for their pa, cultivations and sacred places. Their 1844 agreement was signed on 26 February 1844, for which they received £200.

Spain's Release Agreement with Kumototo

Signatories:

Wiremu Tako

Ko Rakau

Witnesses:

William Spain, Commissioner

George Clarke Jun., Protector

Thomas Forsaith, Protector & Interpreter

Samuel Ironside, Minister of the Pa, Te Aro

Arthur T. Holroyd, Barrister

Thomas Fitzgerald, Asst Surveyor, attached to Commissioner.[210]

21.2 McCleverty's deed and award to Kumototo is recorded as being signed on 23 September 1847, although it was in fact the first to have been negotiated. Unlike all the other McCleverty deeds, this one is not recorded in Grey's memorandum to Earl

[208] Document C1, p258
[209] Anderson and Pickens, pp19-20
[210] Document A10(a) p3

Grey. According to McCleverty, just 23 people were living at Kumototo pa in 1847. Spain recorded 30 inhabitants in 1844, this had decreased to just 14 by 1857.[211]

21.3 Kumototo's McCleverty deed is recorded in the District Lands Register.[212] In the deed, Kumototo agreed to give up cultivations in Karori, Ohiro, and upper 'Kaiwarrawarra'. In exchange they received two areas of land:

- The Town Belt area below the botanical gardens. This total area amounts to amounts to 52 acres 2 roods 37 perches.
- Wellington Town Acre 487, which included Kumototo pa.

21.4 Town Acre 487

21.4.1 Town acre 487 was already promised to Māori in the 1844 release agreement as a Native Reserve.[213] While the award of the town belt area originated with this McCleverty's deed, cultivations had also been promised to Māori by Spain and the Town Belt contained cultivations.[214]

21.4..2 This town section was approximately one acre in size and extended from the Terrace to Lambton Quay, approximately where Woodward Street is today. Kumototo pa stood on part of this acre. On 6 November 1847, a Mr Grimstone wrote to Crown Solicitor Wakefield on behalf of Eyre regarding this section:

> I am directed by His Excellency the Lieutenant Governor to transmit the accompanying plan of the site of the armed Police Barracks at Kumototo, and to request that you will prepare a lease of the whole, together with the building upon it, from the Native Chief 'E Tako to H.M. Colonial government for a term of three years, at a rental of Thirty pounds per annum.

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[211] Watson and Patterson 'The growth and Subordination of the Māori Economy in the Wellington Region of New Zealand, 1840 - 1852' *Pacific Viewpoint* 26 (3, 1985)
[212] A10(a)(iii) p28 DLR 1 D 30612
[213] Document A24 pp279-280
[214] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218

> The lease should expressly covenant that as the building is only of wood and consequently of a temporary character, besides having been some time erected, the Government will not be liable for dilapidations or repairs, caused by decay or defects of the woodwork, or arising from any imperfection in the building. It must also be understood that the government are to have full power to make such alterations or rearrangement of the interior as they may wish.[215]

21.4.1 Apparently, this arrangement had begun in August 1846 when Grey's Armed Police took occupancy of barracks on Town Acre 487, with rents promised to Wi Tako. By 1848 a three year lease to the Armed Police had been finalised.[216] On 26 January, 1852 Colonial Secretary Dommett wrote to the Native Secretary advising him that:

> Wiremu Tako, of Ngauranga, being desirous of obtaining a Crown Grant for his land at Kumototo, I am directed by the Governor-in-Chief to obtain from you a certificate that Tako and his younger brother Wi Tako Poko, are the only Natives entitled to possession of the land in question. The land is registered as a reserve set apart for the Natives of Kumototo. It will be necessary to certify that no other Natives, having any claim to be included among those for whom the land was reserved, exist, or that, if existing, they acknowledge the title of Wi Tako and his brother.[217]

21.4.2 In 1853 Wi Tako then received a Crown grant for this town acre and received rent on it for a number of years.[218] In 1852, 6.75 perches of this land was granted to the 'Independents' a congregation who had built their church on this land. Consent was obtained from the 'chiefs' of Kumototo for this grant.[219] Green notes that while their are 'an immense number of leases, mortgages and assignment of leases for this section'.[220] 15.8 perches of this town acre still remained in Māori

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[215] NM 10/8, p9 Grimstone to Crown Solicitor Wakefield, 6 November 1847, National Archives, Wellington (not copied) Document A40 pp145-147
[216] Document A40, pp145-147, pp185-187
[217] Document A26, pD22
[218] AJHR 1865 E-7 (not copied)
[219] 4 D 75.
[220] Document E12, p51

ownership until 1953 when the land was alienated by the Māori Trustee, acting on behalf of the Māori owners, to a private company.[221]

21.5 Approximately 52 acres of the Town Belt

21.5.1 The Town Belt land was treated by the Crown as Crown land and its 'exchange' to Kumototo was seen as an act of generosity on the Crown's behalf. The land was subsequently used as cultivation land - some 62 acres of Māori cultivations were already situated on this land prior to this and these were guaranteed by Fitzroy.[222]

21.5.2 There was some resentment to the idea of 'giving away' any of the town belt lands, since these had been a key part of the New Zealand Company scheme. Shortly after McCleverty made his final awards, the New Zealand Company Secretary wrote to Earl Grey on 29 February, 1848 saying that:

> at the time of writing the dispatch of 21 April, 1847, to which your Lordship refers, Governor Grey was not aware, either that the Company possessed a Private Estate of 1,738 Acres in the Settlement of Wellington, or that this could be rendered available for the satisfaction of the Claims to which the Town Belt was proposed to be applied. Such claims appear, from Colonel McCleverty's Report enclosed by Governor Grey, to amount in all to no more than 212 acres; for which quantity it can scarcely be necessary to disappoint what your Lordship most correctly designates as the 'just and reasonable expectation' of the settlers.[223]

It is not clear exactly what the company's private estate was. Nevertheless, such comments indicate dissatisfaction on behalf of settlers of the Crown 'giving up' part of the town belt to Māori, in spite of te fact that more than 1300 acres of town belt remained for public purposes.[224]

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[221] Document E12, pp51-52
[222] Document A26, pD12
[223] *Adjustment of land questions of the New Zealand Company, 1848* Stewart and Murray Old Bailey, London, 1848, pp 67 - 68
[224] Document A26, D13

21.5.3 In October 1852, the entire town belt area awarded to Kumototo was purchased by the government:

> We the undersigned having accepted the sum of 160 pounds sterling, the receipt whereof is hereby acknowledged in payment for the block of land containing fifty-two acres, three roods and thirty perches, the boundaries of which are described in the within deed, reconvey the same to the Governor-in-Chief upon behalf of Her Majesty Queen Victoria and renounce all rights and title and interest in the same forever.
>
> signed: Wiremu Tako for himself and for Tamaiti
> Paratene
> Paora Hukiki for himself and Raniera
>
> Signed in my presence, having been previously translated this 11/10/52
> H.T. Kemp Native Secretary
> S.E. Grimstone, Chief Clerk Colonial Secretary's Office.[225]

21.5.4 A memorandum states that the 'reconveyance is endorsed on an instrument purporting to be a duplicate original of Instrument No. 98 Recorded in 1 Vol Deeds Folio 306' and signed by John E Smith. Registration of the deed occurred in February 1853[226]

21.5.5 While Māori sold this land on 11 October, on 27 October Governor Grey issued a Crown Grant to the Superintendent of the Wesleyan Missions, Reverend James Watkin for the establishment of a school. The Crown also purchased a one rood access strip out of part of section 457, from George Greathead for this school.[227]

21.5.6 No school was forthcoming, apparently due to 'difficulty of obtaining a suitable master, lack of necessary funds, disastrous effects of Māori King movement and war on existing native schools, transfer of governing power in Wesleyan Church

[225] 2 Deed 157 and 1 Deed 306.
[226] Document A24 p34

from London to these colonies, and the probability of the estate being sold to the Provincial Government.'[228]

21.5.7 In 1865, Reverend Watkin arranged with William Featherston for the sale of 70 acres including the 52 acre 2 rood 37 perches of ex-McCleverty reserve to the Provincial Government. The price agreed upon was £50 per acre, a sixteen-fold increase in thirteen years.[229] £1150 pounds was paid at once, and the transaction completed in 1872. The delay was because Governor Grey's initial grant had inadvertently endowed Reverend Watkin personally. Trying to correct matters, Reverend Watkin transferred the ownership to the Methodist Conference, which violated the terms of the initial grant. The whole issue came to the attention of the 1869 Commission on Religious, Charitable and Educational Endowments, which found 'no school ever erected...The proceeds [of the sale to the Province] let out at interest - to be used for educational purposes. £286 has been expended in purchase of 258 acres 3 roods of land at Manawatu.' After special legislation properly vested the endowment, the sale was completed. [230]

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[227] 1879 AJHR H-1 p60, testimony of Alexander Reid to the Royal Commission on Educational Trusts (not copied)
[228] 1879 AJHR H-1 p60, testimony of Alexander Reid to the Royal Commission on Educational Trusts (not copied)
[229] Document A24, p34
[230] 1870 AJHR A-3, p.88

22.0 Te Aro

22.1 The chiefs of Te Aro did not participate in the 1839 New Zealand Company sale and strongly denied that they had ever sold the site of the proposed township.[231] Nevertheless, Te Aro lands were some of the most valuable in Wellington. This is indicated by the fact that the site of the pa, sections 215 and 216, were the first and second town acres selected in the 1839 New Zealand Company ballot.

22.2 The lands were seen as essential to the development of the township. Thus, reaching agreement with Te Aro was a priority for Spain in the 1844 release agreements and £300, as their part of the £1500, was offered to Te Aro Māori. As discussed previously, there was opposition to this offer and considerable pressure put on Te Aro to accept this figure.[232]

Spain's Release Agreement with Te Aro, 26 February 1844

Signatories:

(* = by mark)

*Te Awitu

*Mohi Ngaponga

*Hemi Parai

*Puihi

*Te Teira

*Pukahu

Pomare

'on behalf of the rest of the natives of Te Aro', George Clarke Junior

Witnesses:

William Spain, Commissioner

George Clarke Jun., Protector

[231] Anderson and Pickens, p19

[232] Anderson and Pickens, pp35-36

Thomas Forsaith, Protector and Interpreter

Samuel Ironside, Minister of the Pa, Te Aro

Arthur T. Holroyd, Barrister

Thomas Fitzgerald, Assistant Surveyor[233]

22.4 The exception of Te Aro lands from Fitzroy's grant to the New Zealand Company was probably a major factor for the collapse of that agreement.[234] When the time came for McCleverty to try to negotiate an agreement, McCleverty wrote to Grey on 17 February 1847 informing him that from a conversation McCleverty had had with Wakefield, he:

> understood that Colonel Wakefield would not advise the acceptance of a grant unless the natives at Te Aro are either obliged, or their acquiescence is purchased, to relinquish their pa at the head of the bay, which occupies the site of the intended Customs house, and two town sections purchased by settlers.[235]

22.5.1 McCleverty's Deed with Te Aro was made on 22 March 1847. McCleverty counted 186 people as living at the pa in his census, the largest of any pa.[236] This compares to 128 people recorded as living in the pa in 1842.[237] The original of the deed is in English and as the first recorded deed, it sets the form which the others follow:

> We the undersigned Land owners and Chiefs residing at and belonging to Te Aro in Wellington of the Ngatiawa and Ngatirunui tribes agree ... to give up to Her Majesty's Government All those cultivations which we have hitherto had on Sections in the Karori, Ohiro, and Kai Wara districts or elsewhere belonging to European settlers, on our receiving...land...as shown...on [the] Plans...which accompany this, containing in all 526 A. 1 R. 31 P. Also 2 horses, 2 carts with harness, and 2 steel mills.[238]

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[233] Document A10(a)(ii) p2
[234] Anderson and Pickens, p48
[235] A26, pD8
[236] Document A26, pD10
[237] Document A29, p494
[238] Document A10(a)(iii) pp2-5

22.5.2 Three distinct areas of land are then described:

No. 1 Plan shows the cultivations in and about Polhill's Gully, which were guaranteed by Governor Fitzroy principally on the Native Town Reserves, and the Town Belt, the whole contained in one Block and bounded (streets intersecting) as delineated, containing 89 acres 3 roods 5 perches.

This 89 acre section included the following town acres: 1-16, 18, 20, 22, 24, 25, 26, 27, 28, 37, 39, 41, 43, 45, 49, as well as cultivations around Polhill Gully and part of the Town Belt.

Plan 2 shows the second area of land reserved, being part of Kinapora section 7 and all of section 8, amounting to 151 acres 0 roods 2 perches. Native Reserve section 91 is reserved on Plan 2, being an area of 139 acres 2 roods 26 perches.

Plan 3 shows the remained of the land reserved for Te Aro, Ohiro section 15, an area of 114 acres 2 roods 0 perches, and 32 acres of adjacent town belt land.[239]

22.5.6 Also reserved in McCleverty's arrangement with Te Aro is Te Aro pa which 'is also guaranteed to them vide map attached containing 2 acres 1 rood 11 perches', this land was not included in the total acreage described above.[240]

Signatories to McCleverty's Te Aro deed:[241]

Pakuahi Ngaponga Hemi Parai Wi Kingi te Awitu te Ngohi	also, for Ngati Kura 'e noho ana ki te Aro': Tamati Wiremu Ngapaka Te Teira

[239] Document A10(a)(iii) p5
[240] Document A10(a)(iii) p5
[241] Document A10(a)(iii) p5

Horomona Te Raro	Rawiri Ta Rao
Riwai Te Tawero	Te Wunu Ohiro
Herekana Mahoe	Ihaia Aarutu
Raniera Tora	Hori Pipi
Te Wehi	
Paora Tuwhare	**witnesses:**
Pumipi Haukoteri	Ka Timote Te heuheu
Te Manihera Paura	Hemi Tahana Niwa
Rewira Te Mataku	H. Tacy Kemp.
te Retimana Pukahu	
Humene	**Europeans signed:**
Ngaparu Te Raro	
Paihika Te Ngo	McCleverty
	M. Richmond
	H. Tacy Kemp

22.5.7 A further deed was signed by McCleverty and Te Aro, awarding the pa a further 50 acres of land for kūmera cultivation on 7 October 1847. This deed was granted because Te Aro Māori informed McCleverty that they had no suitable ground for kumara plantation.[242] Thus, the total grant to Te Aro was 576 acres. Of this land, some 300 acres was estimated by surveyors to be cultivatable with the company's surveyor claiming that land not fit for this purpose would be suitable for grazing.[243]

22.6 Te Aro Pa

22.6.1 As noted, this Pa was sited on town acres 214, 215, 216. While Anderson and Pickens note the pa was reserved as a company reserve in 1839, it appears that these sections were actually assigned to company settlers as none of them are shown as being native reserves.[244] The pa was situated on an extremely attractive 'investment' site and was situated in 'one of the most valuable portions of the Town of

[242] Document A24, p294
[243] Document C1, p273.
[244] Anderson and Pickens, p24, Document A24, p280, Document A26, pD8

Wellington.[245] Section 215 was the first town acre selected - by Duncan Dunbar & Sons, London. Section 216 was the second acre selected, by Colonel Robert Torrens. Section 214 was the ninth acre selected, by Thomas Eyre.

22.6.2 Te Aro pa did not appear to be particularly secure as the company, and the settler claimants of these sections pushed for possession of it. Throughout the 1840's, Dunbar & Sons' agent in New Zealand pressed the company to remove the Natives from what they saw as their section. All three investors of the three sections pressed their claims. For Section 214, Thomas Eyre's agent, Mr Vincent claimed special compensation for this section after it was assigned to Māori. He received £1000 compensation from the government. Duncan Dunbar and Sons and Torrens both received £470 compensation for their sections.[246]

22.6.3 The pa was reserved by Spain in the 1844 release agreement and there appears to be no differences in the pa areas between Spain and McCleverty plans. Considerable pressure was put on the government not to award the pa because of its valuable site. McCleverty advised Grey that from a conversation McCleverty had had with Wakefield, 'Colonel Wakefield would not advise the acceptance of a grant unless the Natives at Te Aro are either obliged, or their acquiescence purchased, to relinquish their pa at the head of the bay, which occupied the site of the intended Customhouse, and two town sections purchased by settlers.'[247] However, as Grey noted in April 1847, the inhabitants of the pa 'will naturally feel the greatest reluctance to quit a place which they have inhabited for years, which is well suited to their wants and with the value of which they are well acquainted'.[248]

However, because McCleverty guaranteed the pa, rather than it forming part of the exchange, it was later seen as being held under different tenure. On 2 May 1865, George F. Swainson, Surveyor for the Native Department, wrote to Native Minister Mantell saying:

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[245] Document A26, pA3
[246] LS-W 65/12 1851 Register of Wellington Town Acre Sections, Claim #832/Report #721, Claim 1343/Report 1151, National Archives, Wellington (not copied)
[247] Document A26, pD8
[248] Document A26, pA173

> The case stands thus: Te Aro and Pipitea Pas are guaranteed to the respective tribes by Colonel McCleverty not as under the general arrangement of an exchange for other lands. I think that impartial men of both tribes consider that these pas are held by them under a sort of supervision of the Government - i.e. that in cases of dispute the Government have a perfect right of interference.[249]

22.6.4 It seems that government officials viewed the fact that the pa was 'guaranteed' rather than exchanged by McCleverty gave the government some right of administration over this land. In this same letter, Swainson requested a call to Wellington Māori for claims under the Intestate Native Succession Act, followed by a survey so that 'the very irregular shape of the claims should be adjusted and made as rectangular as possible'. This would then be followed by Crown grants for the owners of Te Aro and Pipitea pas.[250]

22.6.5 However, if the pa sites were not McCleverty reserves, then were they native reserves like the company tenths. As Swainson noted:

> the Attorney General has, I think, decided on a former occasion that the title has not been extinguished in the tenths of land set aside by the New Zealand Company for the Natives, as such are excluded in the grant from the Crown'.[251]

Mantell replied that the 'simplest and fairest way of settling this would be by the Native Land Act, if it can legally be applied to them. Can it?'[252] The matter appeared to have been settled because Crown grants were issued for the pa.

22.6.6 By 28 June 1866, Swainson surveyed the Te Aro Pa Reserve into 28 Lots. On 22 November 1866, Crown Grants to those lots were issued to the individual Māori

[249] Document A26, p D46-7.
[250] Document A26, p D46-7
[251] Document A26, p D47-8
[252] Document A26, p D48

occupiers, as shown in the June 1866 Plan and the Deeds Index. Crown grant 5535 & 5538 covered the whole pa.

22.6.7 In 1873, a number of lots at Te Aro pa had begun to be sold to the Provincial Council. It was in 1873 that the first reclamations around Te Aro seem to have begun, possibly contributing to the sale of these pa lots, which at that time were on the harbour. Additionally, in 1874, one of Te Aro's most notable chiefs, Mohi Ngaponga died. He willed his property, to his wife Hera, Wi Tako, Hori Kerei and Ihaka te Rou. Probate was taken out by Wi Tako and Ihaka te Rou, who subsequently acted as agents for the estate, leasing Mohi's Lot 11 Section 214 at Te Aro Pa in 1 November 1881 for 63 years, a very long and possibly illegal lease.[253] Another factor for the sale of these sections may have been the Mayor's slum clearing of the pa in 1874.[254]

22.6.8 The leases and sales are outlined below and it can be seen that there was a generally favourable policy of approving sales of leases, with a number of comments decrying the pa's state and its 'immorality'.

22.6.9 Te Aro pa lots 1, 2 and 7 were sold in 1873 by Hemi Parae for £270, lot 8 was sold by Hemi Parae and Hori Ngapaka for £70. The purchaser in both instances was the superintendent of Wellington.[255] Lots 15 and 16 are also shown as sold in that year with three further lots; 16 17 and 28, sold in 1874. Heaphy reported that these lands were 'not under my control' because they were McCleverty reserves.[256] Te Aro pa Lot 13 and part of Lot 12 were leased by Te Weira to Walter Helyer and three Māori on 7 December 1877. Heaphy wrote to Clarke advising approval of the lease, stating:

> I know of no reason why the governor's consent should not be given to this lease and purchasing clause. The pas in the Town form an exception to the rule

[253] Bell Gully Izard to A Mackay, NLC Greytown, 1888/466 in Aotea District, Old File on Wellington Te Aro Block, Correspondence 1866 -1908, National Archives, Wellington (not copied)
[254] Document E7, p247, Document B4, p53
[255] Document A24, p58
[256] Document A24, p94

> of conserving for the natives the reserves in this district. The Te Aro pa is a perfect centre of immorality, and the sooner it is out of the hands of the native the better, for the sake of the natives and Europeans. I attach a copy of the only restriction there is in the grants. you will observe that while the grant of No 12 is to three natives, Tiake (?) Te Weira is the only lessor to Helyer. This will require enquiry when the case comes before me as Frauds Commissioner. One of the grantees I believe is dead, but has left a will. I do not see any reason for withholding His Excellency's consent to the lease.

Consent for the lease was recommended on 25 March 1878.[257]

22.6.10 In September 1878, another Te Aro Pa Lot came to the attention of the Native under-secretary. Buller wrote to Native under-secretary Clarke on 21 September requiring consent to a sale of 21 perches by Waka Houtipu (who was the sole grantee of these perches) to William Beck. Currently the land was 'leased to McClelland for 75 pounds / year, and Waka Houtipu has found a purchaser, subject to the existing lease, for 700 pounds. Waka has other lands and is no longer resident here.' Clarke wrote to Heaphy for comment and Heaphy replied:

> The Te Aro pa has for a long time been a nest of immorality; it is desirable that it should fall into European hands. I know of no objection. While making the above statement I wish it to be understood that I am very much averse to any of the other Te Aro sections not in the pa being sold, as the aggregate rentals form at present but a poor subsistence for the several natives, who have scarcely any cultivation land.[258]

22.6.11 However, Clarke later wrote to the Native Minister on 12 October advising that there 'is a strong protest against Waka Houtipi selling this section. The writer a woman states that there are others interested although they allowed Waka's name

[257] NO 77/4852 7/12/77, Heaphy/ Clarke 11/12/77, National Archives, Wellington
[258] NO 78/3743 25/9/78, Heaphy/Clarke 7/10/78 National Archives, Wellington

only to appear in the Crown Grant. I think the matter should be inquired into by Major Heaphy.'[259] It is unclear whether the sale went ahead.

22.6.12 In 1880, an application for assent to lease with purchasing clause was made on Te Aro Pa Lot 18. Rental was put at £30 per annum with a purchase price of £630. Assistant Native Secretary Lewis referred the matter to the Native Minister who replied that he 'thought a lease of this kind is objectionable but please refer it to Major Heaphy for an expression of his opinion'. Heaphy wrote to Lewis saying:

> I have tried without much success to find out the feeling of the natives on this matter - they seem to be indifferent to the transaction. I think it is possible for us, in 1880, to form a just idea of the value of a Town Reserve in 1895, or five years later, so as to come to an intelligent opinion respecting the amount of a purchasing clause of that date. I regret that I cannot recommend the proposal.'[260]

Thus, this proposal was declined.

22.6.13 Te Aro Pa Lot 27 was already leased when Thomas Midd, the present leasee wanted a 42 year lease so that he could build a better dwelling house. It appears that he built a house for Urimate, a Te Aro inhabitant, on this land in order to get approval for the long lease. MacKay recommended consent to this lease 'as the terms are exceedingly favourable to the lessors, being at the rate of 1360 pounds per annum per acre.' However, this lease required approval by the Governor in Council. In August 1882 Wi Tako wrote to Bryce asking to hurry things along and complained of the inconvenience:

> I have no complaint against Mr. Mackay for I do not consider that he is to blame, but it is owing to his having too much to do - Friend, Mr Bryce, do you appoint someone to assist Mr Mackay so that our matters may be attended to, persons have to wait and wait and wait until they are

[259] NO 78/3743 Clarke to Nat Min 12/10/78, National Archives, Wellington
[260] NO 80/1142 8/4/80, Heaphy/Lewis 9/8/80, National Archives, Wellington

tired of waiting. Do not unnecessarily find fault with Mr Mackay, we Maoris approve of him, the only fault is the delay in our business.[261]

Consent was then granted for this lease.

22.6.14 Te Aro Pa lot 10 was sold by Teira Whatakore to a Mr and Mrs Simeon in 1876. Mackay recommended approval as terms were good: 'the vendor and his wife retain a home during their lifetime as well as an annual payment of 25 pounds, and the land at their death will ultimately become the property of the nearest of Kin to Mrs Simeon [who was Māori]'. Then, in 27 January 1882, Luke and Sons foundry sought approval to buy out the Simeon's fee simple in possession - retaining the annuity aspects of the earlier agreement. The land had been on-leased several times, and the current lessee was also being bought out at a price of £4,400 per acre. MacKay recommended approval of these leases. However Buller and Gully wrote to the Assistant Law Officer of the Crown on 3 April 1882 noticing that the consent in 1876 was required by the original Crown grant to Teira Whatakore to be from Governor in council, but was only obtained from Governor.[262]

22.6.15 Te Aro pa Lot 4, consisting of 21 perches was sent to Heaphy asking for approval of a sale by Waaka Houtipu to Mr and Mrs Simeon. Heaphy wrote in December 1879 that 'The Te Aro pa has for a long time been a nest of immorality, and the sooner the natives are bought out of it the better. The land is not necessary for their use and they have cultivations land in the suburbs. I think the terms are fair and that His Excellency may properly be advised to consent to the alienation.' Thus consent was granted, however, this deal appears to have fallen through.[263]

A new sale of this lot was proposed to Isaac Plimmer and William Jackson. for £350 in August 1881. Consent was recommended for the sale by MacKay who stated in 1873 'I find that the Provincial Government acquired 9 sections at Te Aro from the

[261] NO 82/454 15/2/82, NO 82/2449 11/8/82, NO 82/2660, 4/9/82, All in NO 82/2696, National Archives, Wellington

[262] NO 76/5887 12/12/76, NO 82/235 14/2/82, NO 82/2547, National Archives, Wellington

[263] NO 79/3251 13/8/79, NO 79/3593 30/12/79, NO 80/1112, 30/3/80. All in NO 81/4185, National Archives, Wellington

Natives comprising 2 roods and 20 perches at prices varying from £600 to £1345 pounds per acre.' He noted that this price, around £2,800 per acre, represented a substantial increase and therefore a good deal.[264]

22.6.16 By 1882, 14 of the 28 pa lots had been sold.[265] It is apparent from Heaphy's comments that he saw the removal of Māori from this area as desirable and the Mayor's attempts at slum clearing suggest that many others concurred with Heaphy's view. It is also apparent that efforts to get Māori out of Te Aro pa had been going on since the foundation of the Port Nicholson settlement with pressure from the settlers, the company, and the Crown. Even once the pa was awarded by McCleverty in 1847, both settlers and the Crown wanted the pa removed. The directors of the New Zealand Company wrote to William Fox to ask him to acquire the pa saying it:

> occurred to them that, with the co-operation of the Government and the Trustees of Native reserves, those Reserves may supply a ready mode of effecting an equitable arrangement, which, by removing the present occupants of Te Aro to a less crowded locality, may at the same time contribute materially to the permanent improvement of the town.[266]

22.6.17 Lieutenant Governor Eyre replied that 'the Local Government are prepared to co-operate with the agent of the NZ Company in endeavouring to obtain possession of Te Aro Pah for that Body upon reasonable and just conditions'.[267] Later alienations are unrecorded but it seems that the block is no longer in Māori ownership. If the McCleverty awards were supposed to provide long term livelihood for Port Nicholson Māori then the object of trying to remove Māori from their pa would seem to contradict McCleverty's intentions, especially as a central pa was necessary for the carrying on of trade and commerce.

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[264] NO 81/3016 29/8/81, 81/3702 20/10/81, 81/4092, 81/4185, National Archives, Wellington
[265] Document E8, p430
[266] cited in Document E13, p87
[267] Document A40, p247

22.7 Polhill Gully

22.7.1 The area known as Polhill Gully comprised 89 acres 3 roods 5 perches and is described in Plan 1 of McCleverty's Deeds. It includes 31 town sections; 1-16, 18, 20, 22, 24, 25, 26, 27, 28, 37, 41, 43, 45, 49 as well as Town Belt additions - Block XV, XVa and XVb of the Polhill Gully Native Reserve. The town acres were all company tenths native reserves.[268]

22.7.2 These lands had a number of old cultivations from before the time of New Zealand Company settlement. In his deliberations, reports and awards, McCleverty respected these original cultivation reserves. Most were on unsurveyed land, or Native Reserve sections selected for Māori by Mein-Smith in 1840. McCleverty tried not to authorise any 'encroachments', (expansions of cultivation beyond the area recognised and reserved in 1844), but he reckoned such were minimal by early 1847, anyway.[269] As some of the favourite cultivation sites in Wellington, it can be assumed that this land was of good quality and highly desirable for Te Aro.

22.7.3 In the case of Polhill Gully there can be little doubt about this: McCleverty's deed refers to the area as 'the Cultivations in and about Polhill's Gully, which were guaranteed by Governor Fitzroy principally on Native Town Reserves, and the Town Belt.'[270] Indeed, McCleverty's plan accompanying this deed does not even show the old 1840 Mein-Smith 'Native Town Reserve' boundaries. It shows the awarded area, divided by Aro and E Puni Streets into three irregular blocks (46a 1r 24p, 30a 0r 25p, and 13a 0r 36p), and in curved dotted lines are shown the areas actually under cultivation.[271] McCleverty was completing Fitzroy's reservation of cultivations here. Thus this area appeared to have already been promised to Māori in the 1844 release agreements.

22.7.4 In his 1867 Report to the Legislative Council, Swainson showed these sections selected by Mein-Smith, but 'secured to Te Aro Natives under Colonel

[268] Document A24, p279-280
[269] Document A26, pD12
[270] Document A10(a)(iii), pp1-5.
[271] Document A10(a)(iii), p2.

McCleverty's deed of final arrangement' and that the sections 'appear to have been at the time of their selection as native reserves, in the occupation of Te Aro natives.[272] In that year all these blocks were described as being occupied by Europeans, on lease from Te Aro Māori. They were still shown as leased in 1872, with Māori receiving the rents themselves.[273]

22.7.5 In 1873, Heaphy showed that sections 13, 14, 15, 18, 20, 22, 23, 27, 28, 37, 39, 45, 49 and 41.5 acres of Town Belt all as of that year brought under his control voluntarily by the owners. Heaphy's records show that in 1873, Te Aro owners were leasing the three big town belt blocks, XV, XVa and XVb and all but seven of the town sections to two Europeans. [274]

22.7.6 It is interesting to note that this land was now being leased. When it was reserved to Māori, first as company tenths, then by Spain in 1844 and later by McCleverty in 1847 it was described as Te Aro's 'favourite garden grounds' and almost wholly occupied and cultivated.[275] The reason for the leasing would appear to be the rapidly declining population, with the total Māori population in the region being just 161 according to the 1871 census. Wesleyan missionary accounts at Te Aro show a picture of a declining population, as early as 1849 Reverend Aldred wrote that the 'Natives have generally speaking, left town through scarcity of land.'[276]

22.7.7 While McCleverty reserves were not reserves under the meaning of the 1856 Native Reserve Act (this Act was specifically for the company tenths reserves), under this Act, Māori could voluntarily place their reserves under administrative control of the Governor. Indeed, Māori agreed to bring their Polhill Gully lands under this Act.[277] Te Aro Māori agreed to this at a meeting in May 1873 whereby it was agreed that the Native Reserves Commissioner could let unused Polhill Gully land.[278] Commissioner Heaphy appeared to have regularly consulted with Te Aro Māori

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[272] Document A25, p6
[273] Document A24, pp 37, 50
[274] Document A24, p59
[275] Document A27, p98 *New Zealand Gazette and Spectator* 4 October 1843.
[276] Document E8, pp426-427
[277] Document A24, p59
[278] Document A36, p164

about the leases and gained Te Aro's consent for the lease of even small parts of the reserve.[279] However, a difference of opinion arose between Heaphy and Te Aro Māori over a lease of 8 acres of the reserve to a Doctor Johnston in 1873. Te Aro wanted to lease these acres, which included a purchasing option on three of these acres, something which Heaphy objected to. Wi Tako, Henare Pumipi and 12 others then wrote to Heaphy saying the had 'resumed control of ... Polhill Gully in order to let in to Dr. Johnston' and a lease with him was signed five days later. Once the lease was signed, however, Te Aro agreed that the land should return to be administered by Heaphy, which subsequently occurred.[280] What this appears to show is while Māori were willing for land to be administered, they saw themselves as having the final say and could therefore immediately revoke any rights of administration that they had previously assigned.

22.7.8 On 1 December 1887, a Certificate of Title was issued in the name of the Te Aro Māori for the three large blocks and most of the town sections. The title included the note that the sections were inalienable by sale or mortgage or by lease beyond 21 years.[281]

22.7.9 Certificates of title for the five remaining sections not included in the main certificate of title for this land (sections 19, 24, 25 27 and 28) were granted five years earlier in 1882 in the sole name of Wiremu Tako Ngatata. Sections 24 and 25 were sold in 1884 with the Governor's consent which was required in order to sell these sections.[282]

22.7.10 The restriction on alienation was lifted on all sections in 1889, sections 1, 3, 5 and 15 were sold soon after.[283] In 1891, the Crown acquired part of Block XVa as well as other town sections which made up the Polhill Gully Reserve from a group of businessmen who then on-sold this land to the Crown. However, there were questions raised about the sale, and a Commission of Inquiry was set up which

[279] Document A36, p175 and 178
[280] Document A26, pp172-178
[281] Certificate of Title 46/124, Document E12, appendix 4
[282] Certificate of Title 31/130, Document E12, appendix 6
[283] Document E12, pp4-5

reported back to the House of Representatives in 1892. The Inquiry was concerned about whether the Crown was defrauded in the purchase of this land, the land having been purchased from Te Aro by Messrs Atkinson and Kirk. In giving evidence to the Commission, Te Whero, the owner of part of Block XVa stated that he was told that the purchase was being made on behalf of the Crown, when this was in fact false. He went on to give evidence that the vendors were told by Aitkinson and Kirk that 'as the [rifle] range was required by the Crown, if we did not come to terms the land would simply be taken away from us'. The land was bought by these men for £25 per acre and then on-sold to the government by them for £81 per acre. Thus the middlemen brought the land, using threat of government acquisition, for a vastly reduced price and sold it to the government for a very tidy profit.[284]

22.7.11 It appears that the land was unsuitable for a rifle range because of its proximity to housing and the land was transferred from the Defence Department and gazetted as Crown land in 1949, subject to the land Act 1948. In 1954 the land was vested in the Wellington City Council as a reserve and subsequently became 'Polhill Gully Recreation Reserve' in 1989.[285]

22.7.12 The sale of Block XVa suggest that the Māori owners were victims of a fraud by these businessmen, fraud which also involved the Crown being defrauded. There are questions as to whether the government made proper inquiries with regard to the lifting of the restriction on alienation for this section and whether such a transaction should have not been picked up by the Frauds Prevention Commissioner.

22.7.13 Town Section 19

22.7.13.1 Town Section 19, being 1 acre, was not included in the original McCleverty deed granting the Polhill Gully reserve. However, it was included on the Certificate of Title 31/131 and is surrounded by other town sections which were awarded. This section was Crown granted to Wi Tako solely and was part of the land which Te Aro Māori wished to lease to Dr Johnston (see above). In 1875, Māori agreed to sell

[284] AJHR 1892, H-7, p13 - 16
[285] Document E12, pp8-9

this section to Dr. Johnston for £100 and consent was given for this.[286] Nevertheless, it appears that this sale did not go ahead because it was subsequently leased to Johnston by Te Aro Māori in 1877. Alienation by way of sale finally occurred in 1893.[287]

22.8 Kinapora Section 8 and Part Section 7

22.8.1 Both of these sections were company tenths native reserves. The parts awarded to Te Aro included all of section 8 and part of 7, the balance of section7 being awarded to Pipitea Māori. The area awarded to Te Aro was 151 acres 2 perches. It is shown in McCleverty's plan, with section 8 comprising 108 acres 3 roods 24 perches and section 7 comprising 41 acres 2 roods 16 perches.[288] As native reserves, both sections were promised to Māori under Spain's 1844 releases. Fitzgerald described both sections as being very good land, which had been leased to settlers.[289]

McCleverty noted in 1847 that the completion of the road towards Porirua would put Kinapora native reserve sections 7, 8 and 9, previously inaccessible, at the disposal of the government to award to Māori. The total of these three blocks (the other part of section 7 and section 9 were awarded to Pipitea) was 300 acres 'nearly the whole of which is available for Native cultivation'.[290] The road to Porirua divided the three sections into two equal portions, with one side of the block awarded to Te Aro, and the other side awarded to Pipitea.

22.8.2 In 1876 both sections were leased from Te Aro Māori to Robert Bould for 21 years.[291] However, the land was leased before this, possibly on an informal basis - it is shown as leased to Bould for £100 per annum in 1867.[292] In 1873, Te Aro

[286] MA 2/1 p 403 Polhill Gully 5 July 1875, National Archives, Wellington
[287] 7342 Deed 854
[288] Document A10(a)(iii) p3
[289] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[290] Document A26, pD10
[291] 40 D 933
[292] Document A24, p38

assented to the Governor administering these sections (like the assent given for Polhill Gully, see above) and the land was described as already leased.[293]

22.8.3 Green stated that the sections are an anomaly in that 'no single parent Certificate of Title [was] issued for either' section'. He suggests that the reason for this was that the sections were sold off on a piecemeal basis, which resulted in a 'haphazard' alienation of these sections.[294] Thus, Certificates of Title appear to have been issued only when the land was sold. While most of the sections appear to have been alienated by sale, part of both sections were taken by the Government.

22.8.4 Section 7

22.8.4.2 By proclamation 22 and 26, under the Public Works Act 1876, with plan WD 22 deposited 29 June 1881, part of section 7 was taken for railway. This amounted to a few acres, in a strip on the Southwest end of the section, but it cut off about a seventh of the section from the rest. In 1884, Proclamation and plan 40 took part of section 7 for a road.

22.8.4.3 On 31 January 1907, Order in Council 221 removed restrictions against section 3 of subdivision 23 of Kinapora Section 7, apparently to enable the land to be sold at auction under the Māori Land Laws Amendment Act 1903, which enabled auctions by people without an auctioneer's license. This land comprised 1a 3r 6p. Orders in Council removing restrictions on alienation for part of this section were made in 1907.[295] A number of Certificates of Title were later issued, all showing the land alienated after this date.[296]

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[293] Document A24, p59
[294] Document E12, pp10-11
[295] Order in Council No 230 removing restrictions against sec. 1 of subdivision 23, enacted 14 March, 1907
Order in Council No 231 removing restrictions against sec 2 of subdivision 23, enacted 14 march , 1907
[296] The following Certificates of Title were issues for Section 7:
Certificate of Title 57/142 for Lot 16
Certificate of Title 57/143 for Lot 18
Certificate of Title 57/144 for Lot 21
Certificate of Title 58/270 for Lot 7
Certificate of Title 91/175 for Lot 5
Certificate of Title 105/116 for Lot 6
Certificate of Title 157/187 for Section 3 of Subdivision 23
Certificate of Title 157/188 for Section 4 of Subdivision 23

22.8.4.4 On 12 December 1949, Proclamation 4124 took part of this land for housing purposes. Proclamation 5590 took part of the land in Proclamation 26 for an access way on 6 August 1956. In July 1975, Proclamation No 122601 pursuant to section 221 of the Public Works Act 1928, took 1158 square metres for a street.

22.8.5 Section 8

22.8.5.1 Section 8 had various mortgages, leases and assignments on it up until 29 June 1881 when part of it was taken under the Public Works Act 1876. While this amounted to only a few acres, like section 7, it cut off about the southern fourth of the section. In 1884, Proclamation and plan 40 took part of section 8 for a road. On 1 May 1906, Proclamation 422 took part of section 8 for a recreation ground. Like section 7, a number of Certificates of Title were issued and alienation followed soon after.[297]

22.8.5.2 An Order in Council vesting the lease of this section in Public Trustee was made on 24 February 1891.[298] Order in Council 221 removed restrictions against section 3 of subdivision 23 of Kinapora 8, this was enacted on 31 January 1907. This was followed two years later by Orders in Council 230 and 231 dated 14 May 1909 and

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Certificate of Title 190/101 for Section 1 of Subdivision 23
Certificate of Title 190/100 for Section 2 of Subdivision 23
[297] Certificate of Title 57/140 for Lot 7
Certificate of Title 57/141 for Lot 13
Certificate of Title 57/142 for Lot 16
Certificate of Title 57/144 for Lot 21
Certificate of Title 58/273 for Lot 25
Certificate of Title 58/274 for Lot 12
Certificate of Title 59/278 for Lot 17
Certificate of Title 59/279 for Lot 11
Certificate of Title 63/197 for Lot 27
Certificate of Title 63/198 for Lot 3
Certificate of Title 64/26 for Lot 22
Certificate of Title 64/27 for Lot 28
Certificate of Title 64/237 for Lot 5
Certificate of Title 65/297 for Lot 1
Certificate of Title 70/59 for Lot 14
Certificate of Title 81/23 for Lot 26
Certificate of Title 84/266 for Lot 6
Certificate of Title 84/267 for Lot 24
Certificate of Title 115/264 for Lot 2
[298] 111 D 154

16 January 1909 respectively, removing restrictions on sale on other subdivisions of this section.

22.9 Ohariu Section 91

22.9.1 This section was formerly a company tenths native reserve and therefore reserved under the 1844 release agreement. Fitzgerald's report on cultivations shows this section to be 'very bad', of poor quality unsuitable for agricultural purposes being hilly and stony ground.[299] In 1871, it was noted that the block was 'scarcely fit for cultivation, should be sold and other land bought.[300]

22.9.1.5 McCleverty's deed to Te Aro states that 'No. 91 Section Ohariu District now containing 139A. 2R. 26P. or thereabouts which may be increased into the unsurveyed Land to the North'.[301] The plan is attached to the deed shows a large unsurveyed block.[302] No increase of the section occurred, however.

22.9.2 Reference to this section is shown in the 1867 Reserve Commissioner's return on native reserves, which shows this section as not leased at this time.[303] About this time, Swainson compiled a list entitled 'Te Aro Natives who claim interest [by way of McCleverty's deeds] in Sec. 91 - Ohariu.' The compilation of this list was occasioned by Rolleston's objection to Swainson's attempt to bring the section under Swainson's administrative control with only seven of the owners' signed consents:

NAME	RESIDENCE
Hemi Parai & Te Munu	blank
Mohi Ngaponga	blank
Ehaka te Otipu	blank
Teoti Kesei Epiha	blank
Te Teira te Whatakore	Wellington

[299] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[300] Document A24, p51
[301] Document A10(a)(iii), p5
[302] Document A10(a)(iii), p3
[303] A24, p38

Hakaraia te Poho		Wellington
Ko Tiaki te Wera		Ohiro
Ki Piri te Niho		Wellington
Himona te Mounga (?)		Wellington
Hami te Turitaia(?)		Wellington
Rapana te Ohiro		Wellington
Erueti te Manukapanganui (?)	Wellington	
Karana te Toko		Wellington
Marangai te Ngohi (?)		Wellington
Pumipi		Waikanae
Te Ritiu		Hutt
Taare Tahua		Waikanae
Ihikirena (?)		Wellington
Henare Pumipi		Waikanae
Te Henara Piongatohemia (?)		Whanganui
Wi Turaki		Te Aro Wellington
Hori Ruatuna		Wellington
Hone te Puta		Wellington
Te Keene		Waikanae
Hori Ngapaka		Rangitikei
Hori Pipi		Taranaki
Heta Manuroua		Upper Hutt

The list shows that in 1867, most of the owners of this block were shown as being resident in Wellington. This compares with an 1857 population estimate by Fenton showing only 63 Māori living in Wellington at that time.[304]

22.9.3 The Native Reserve Commissioner's Report of 1873 showed the section still unlet, but now voluntarily placed with Commissioner Heaphy for administration, like Te Aro's Polhill Gully sections and Kinapora sections.

22.9.4 On March 21, 1888, the Native Land Court issued an Order on Investigation of Title in favour of:

Te Pukahu

[304] Watson and Patterson 'The growth and Subordination of the Mäori Economy in the Wellington Region of New Zealand, 1840 - 1852' *Pacific Viewpoint* 26 (3, 1985)

Riwai te Tawhero

Raweni to Rau

Hakopa Toka

Rawiri te Mataku

Arama Karaka

Ihaia Purutu[305]

22.9.5 It is unclear why the Order was only issued to these 7 owners when Swainson's list of Māori with an interest in the section show 27 owners. These 7 owners were entitled to exactly 17 acres, except Ihaia Purutu who held 10 acres 3 roods 10 perches. The court ordered that title be restricted against alienation. The plan showed the entire section, exclusive of around 7 acres of road winding through the middle, to include only 112 acres 3 roods 10 perches.[306] The Certificate of Title also shows the area as this new figure. Apart from the 7 acres of road, it is unclear what happened to the other approximately 30 acres of this part section.

22.9.6 The first certificate of title for this section wasn't issued until 1902, although it shows Māori ownership of the section at 21 March 1881 when it was 'acquired by the said natives' by an order of the Native Land Court.[307] The title was issued in favour of the 7 people described above. A few people appealed for the succession orders to be re-issued in their favour. Most persistent of these was Hera te Koroiti, of Waitara, an appeal known as 'Pare Pounamu's appeal against the MLC succession order of 19 April, 1906' annulled by the Appellate Court on 8 August, 1907.[308]

22.9.7 The Native Land Board sold this block under authority of Part XVIII, Section 341 of the Native Land Act, 1909, 'Powers of Assembled Owners'. Under this provision, the lessee desiring to purchase, Henry Hume, applied successfully to the board on 26 August 1915 to summon a meeting of owners. Attached to the

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[305] Māori Provisional Register 4 / 37

[306] Wellington District Plan 1719

[307] Certificate of Title 168 Document E12, Appendix 35.

[308] Māori Land Court Wellington No.140, Ohariu Correspondence 1894-1906, Sarah Marsh to Chief Judge's Office, 24 August, 1907 National Archives, Wellington (not copied)

application was a list of the 41 successors, their respective shares and addresses. On 14 October 1915, the Board gazetted their intention to consider the proposed sale at their meeting on 27 October 1915.

22.9.8 The gazetted intention failed to provide the required fortnight's notice, though. On February 24, 1916, the registrar gazetted a new meeting date, 16 March, 1916. On the 2 March, notices were sent to the owners. The meeting was held in New Plymouth. A representative of the Board attended, along with ten owners, plus three owners represented by proxies (the authorisations for which witnessed by the lessee/purchaser). The list of owners and who attended the meeting appears as follows:

No	Name	Sex	Area	Attended	Address
1	Kuraheke Punipi	M	4 1 00	N	C/o Kirk & Wilson, Solicitors, Wgtn.
2	Mere Makerangi	F	4 1 00	prox	C/o Kirk & Wilson, Solicitors, Wgtn.
3	Te Hori Raumati	M	8 2 00	N	Parihaka
4	Parete Teira	-	17 0 00	N	Waitara
5	Te Hore Toroa	M	17 0 00	N	Parihaka
6	Hana te Wera	F	17 0 00	prox	Paraparaumu
7	Oriwia Kitakita	F	7 3 00	N	Motueka
8	Pohe Ihaka	F	2 3 11	Y	New Plymouth
9	Te Kekeu	M	2 0 23	Y	New Plymouth
10	Te Karira Heta	M	2 0 23	Y	(Dead)
11	Peti Ruri	F	2 2 32.5	Y	New Plymouth
12	TaotoaM		2 2 32.5	Y	Aonui, Taranaki
13	Waru te Pu	M	3 26	Y	Rahotu
14	Kiriwera Takuta	M	3 24.25	Y	Rahotu
15	haeretuterangi Ihaka	F	1 8.29	N	Waitara
16	Hiki Ihaka (minor)	F	1 8.25	N	Featherston
17	Reihana Ihaka	M	1 8.25	N	Featherston
18	Matekitewru	F	4 1 00	N	Rahotu, Taranaki
19	Whakaruruatua	M	1 16.66	Y	Manaia

20	Tonga Awhikau	M		1	16.66	N	Manaia
21	Kareti-			1	16.66	N	Manaia
22	Morehu	M		1	0 10	prox	Motupipi
23	Te Haumaringaringa		F	1	0 10	N	Parihaka, Pungarehu
24	Rauhuihui	M		1	0 10	Y	Parihaka, Pungarehu
25	Epiha Eriki	M		2	33.33	N	Wairoa, H.B.
26	EruEriki	M		2	33.33	N	Wairoa, H.B.
27	Watene Eriki	M		2	33.33	N	Wairoa, H.B.
28	Peti Eriki	F		2	33.33	N	Wairoa, H.B.
29	Reka Eriki	M		2	33.33	N	Wairoa, H.B.
30	Moana Eriki	F		2	33.33	N	Wairoa, H.B.
31	Te Oti F			4	1 00	N	Wairoa, H.B.
32	Tonga O'Carroll	M		1	8.86	N	New Plymouth
33	Mata Hiwi	M		1	8.86	N	New Plymouth
34	Ramari	F		1	8.86	N	New Plymouth
35	Te Ari M			1	8.86	N	New Plymouth
36	Pare F			1	8.86	N	New Plymouth
37	Ruawhiti	M		1	8.86	N	New Plymouth
38	Nika M			1	8.86	N	New Plymouth
39	Pumipi Rakeimoko	M		3	24.17	N	(dead)
40	Te Onehahau Cunningham	M		3	24.17	Y	Rahotu
41	Patu Buck	M		3	24.17	prox	c/o W. Buck, surveyor, Lower Hutt
TOTAL				112	5 10		

22.9.9 This owners' list shows, among other things, that none of the 41 owners are shown as living in Wellington, although three of them used Wellington businesses as their service address. It indicates a shift in population out of the Port Nicholson area, in comparison to the earlier list of owners drawn up by Heaphy for the same section.

22.9.10 Only nine owners were present at the meeting and, together with four proxy votes, they voted unanimously to sell to Henry Hume for £827 pounds, the government valuation of the land. Thus, it would appear that the decision to sell Section 91 to Henry Hume did not include 28 owners who held over half the total shares in this land. The resolution was confirmed by the Ikaroa Māori Land Board on 23 March and transfer of the land was effected on 29 March, and registered on 17 April, 1916 'subject to the restrictions imposed by Part XIII of the Land Act 1908 and Section 74 of the Native Land Amendment Act, 1913.'[309]

22.9.11 The payout file indicates that Te Hori Raumati (Te Hori Toroa), received £186 18/ 6d of the initial payouts, which totalled £675 7/ 9d by 30 September 1916, with £151 12/ 3d remaining plus interest. Two other title holders, Hana Te Wera (Hana Te Awhitu) and Pare Te Teira, apparently received £124 12/ 4d each. A year later, about £148 remained unpaid to about 18 owners remaining from the time of sale. When the Native Land Court file closed at 31 March 1920, there remained £144 still unpaid to a vastly changed list of successors to those who had sold four years earlier. The pool of beneficiaries had already increased to 27, entitled to between 6/ 11d and £36 2/ 5d each - about £5 per person.[310] It is unclear whether this money was ever paid out but it appears that it was not. However, this completed the alienation from Māori control of this section.

22.10 Ohiro Section 15 and part Town Belt

22.10.1 Ohiro section 15 was a company tenths native reserve section consisting of about 114 acres promised to Māori by Spain in the 1844 release agreement.[311] It was awarded to Te Aro Māori along with about 31 acres of town belt land. Together, these lands are also known as Omaromo. Fitzgerald estimated that section 15 contained only 30 acres of even vaguely cultivatable land, the rest being too hilly or

[309] Aotea District Mäori Land Court Old Correspondence file SF 191, Ohariu 91, National Archives, Wellington (not copied)

[310] Aotea District Mäori Land Court, bound with Old Correspondence SF 131 National Archives, Wellington (not copied)

[311] Document A24, p283

stony.[312] The town belt land was the site of old cultivations so it can be assumed that it was good cultivatable land.

22.10.2 The original McCleverty plan at Heaphy House, CLO #137 shows that the cultivations are not, in fact, on section 15 but on section 12. If McCleverty was looking to award Te Aro their cultivations here, it is probable that section 12 should have been awarded instead.

22.10.3 On 25 March 1859, the entire area, 145 acres 2 roods was leased by Mohi Ngaponga and 24 others to John Wright of Goathurst, Ohiro for 14 years 'yielding and paying yearly and every year during the said term the rent or sum of thirty pounds sterling free and clear from all taxes rates and deductions whatsoever by three equal payments' in July, November and March each year. Wright agreed not to 'assign underlet or otherwise part with the estate or interest therein nor enter into any agreement so to do with any person ... whatsoever without the consent in writing previously had and obtained of [lessor]'.[313] In 1867 and 1871, this section is still shown as being leased to Mr Wright for £30 per annum.[314]

22.10.4 On 10 June 1872, the entire block was again leased by Hemi Parai and others to Wright for 21 years at £50 a year with a purchasing option for £700. However, consent was not granted for this lease because it was decided that title must pass through the Native Land Court first.[315] The lease must have gone ahead, however, because Wright secured a mortgage on the land in 1873 to James Kelham.[316] Allowing a lease on McCleverty reserves with a purchasing option would seem to greatly increase the likelihood of sale and indeed, this occurred.

22.10.5 Wright exercised his purchasing clause in his lease and deposited the sum of £700 in the bank for the freehold of this land. The question of actual ownership still had

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[312] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[313] 4 Deed 458
[314] Document A24, pp37,50
[315] MA-W 2/1 pp17, 66 2 May 1873, National Archives, Wellington (not copied)
[316] 36 Deed 822. LT Grant Reg. Book Vol 3 fol 242

to be determined by the Native Land Court and upon the decision of the court in favour of Wi Tako and Hemi Parae, a Crown Grant was issued to them on 1 July 1874.[317] A restriction on alienation is recorded on the Certificate of Title.[318] 16 days after the grant, they sold the entire block to Wright, a sheep farmer. On 17 July 1874 Wright swore that he had been:

> for a long time tenant of Omaroro [and] there was a purchasing clause in my lease by which I might become the owner of the land at any time for 700 pounds. The native land court has determined the title to vest in Wi Tako Ngatata and Hemi Parai, of Te Aro, I now put in a conveyance under the Land Transfer Act, for Omaroro and tender to Hemi Parai and Wi Tako Ngatata a cheque for 700 pounds, which money is lying in the Bank of New Zealand, here, to the credit of A de B. Brandon and Charles Heaphy, Esq, for whenever the Native Land Court may have adjudicated the land. There is no other consideration for this land but cash. [319]

22.10.6 Sworn testimony then followed from Wi Tako and Hemi Parae requesting confirmation of the sale for which consent was duly granted on 17 July 1874. Green notes that from 1877 on, the land was heavily subdivided.[320] Wright subdivided this section to create the new suburb of Vogeltown. Thus, this section was no longer in Māori ownership and the money was then handed over to Wi Tako and Hemi Parae.

22.11 Part Ohiro Section 26

22.11.1 The entire 100 acre block was a company tenths reserve, promised to Māori in the 1844 release agreement.[321] The first Te Aro deed, dated 22 March 1847 did not include this section and on 7 October, a further deed was signed with Te Aro Māori. This was McCleverty's deed No. 7 and it assigned only half of the block, 50 acres to them:

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[317] Document A24, p90
[318] Certificate of Title 3/242 Document E12 appendix 37
[319] MA-W 2/1 pp274-5, National Archives, Wellington (not copied)
[320] Document E12, p15
[321] Document A24, p283

> The Natives of Te Aro having represented that within the limits of the lands assigned to them by the deed, no kumara plantations can be made, and that they have those plantations on sections 8 & 9 in the Town District to a limited extent; which sections are leased by Messrs. Bethune and Hunter.
>
> To these plantations they nave no legal right but His Excellency the Lt. Governor has approved that for the purpose of cultivating that vegetable production one half of section 26 Ohiro District & which adjoins 8 & 9 Town District shall be assigned to them from March 1848.
>
> The portion thus given to the natives of No 26 Ohiro district is 50 acres, included within the boundary A, B, C D, E.[322]

22.11.2 This deed is signed by McCleverty, however, there are no Māori signatories on this document, in contrast to all other McCleverty deeds, raising issues about the document's legal status.

22.11.3 On the reverse side of the original of this deed is written 'This half section was sold by the natives interested therein to Mr. G. Hunter with the full concurrence of Hon. Mr. Mantell'. It was apparently written by George Swainson as Commissioner of Native Reserves dated 26 March 1863.[323]

22.11.4 The deeds index for the eastern half of section 26, the half section awarded to Te Aro shows a Crown Grant given to George Hunter for this half section. Thus it would appear that the land was sold before a Crown grant was given to Te Aro for the section.[324] The deeds index then shows Hunter mortgaging the section in 1864.[325] Hunter, son of the first mayor of Wellington, mortgaged not only this section but also the other half of Ohiro 26, plus all of Terawiti District south of a line drawn from NW corner of Ohiro 22 to the SE corner of Makara District, for a

[322] Document A10(a)(iii)
[323] Document A10(a)(iii)
[324] 3 G 67 and 3 G 68

total of £1000. The mortgagee was 'The Land on Deferred Payments Society', of which Hunter, Lipman Levy, and Henry Russell Kane were trustees. C.B. Borlase was their solicitor.[326]

22.11.5 In 1878 George Hunter Jr's Happy Valley Station, including the 50 acres of McCleverty Ohiro 26 was sold to Jacob Joseph and J.E.Wright for £18,400. Joseph's group re-surveyed and subdivided 200 of the 300 reserve acres, making what is today central Island Bay. Lots 1 to 582 were offered for sale by Mr. J. H. Bethune in 1879. The place became a holiday resort, in 1895 it was described as 'a summer holiday resort for city residents, and the houses are mostly unoccupied in the winter'.[327]

22.11.6 The western half of section 26 - that not granted by McCleverty - also came to be owned by George Hunter who purchased it under the authority of Grey in 1861.

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[325] 12 Deed 350

[326] George Hunter (1821-1880) seems to have been a friend of Grey's, who offered him a seat on Legislative Council, which Hunter at first refused, but accepted in 1848, until 1852. He was a member of the Provincial Council from 1857 to its abolition.

[327] Louis Ward, *Early Wellington*, p 235, citing *New Zealand Encyclopedia* of 1895, vol 1, p 799.

23.0 Waiwhetu

23.1 Waiwhetu did not participate in the sale to the New Zealand Company. When reserves were allocated by ballot, it appears that Waiwhetu received none of their cultivations in the allocation of rural reserves.[328]

23.2 Waiwhetu participated in the 1844 release agreement, but their participation seems reluctant. They were offered payment for their lands but rejected the amount on offer (£100). However, Spain told them 'if you refuse, I shall offer you nothing further, but award the Land to the Europeans and hand the money over to the Government to be laid out for your benefit'.[329] Thus, Waiwhetu Māori were put in little position but to accept £100 with the promise that reserves would be set aside as well.[330]

Spain's 1844 release agreement, 15 March 1844

Signatories:

Wiremu Kingi Puhakawe

Te Kepa Papawero

Te Waitapu

Rihia Patu Ngaro

George Clarke

No witnesses are recorded for this release.[331]

23.4.1 McCleverty's census shows 48 Māori living at this pa in contrast to Halswell's 1842 census showing 59 inhabitants.[332] McCleverty's Deed and award to Waiwhetu is dated on 30 August, 1847. Waiwhetu gave up their 'cultivations ... in Harbour and Hutt Districts' in exchange for the following land received, all of which were

[328] Anderson and Pickens, p24
[329] Document E5, p506
[330] Document C1, p203, Tonk 'Land Commission' p237.
[331] Document A10(a)(ii) p5
[332] Document A29, p494, Document A26, pD10

reserved for them in the 1844 release agreement, being native reserves and cultivations.[333]

- Plan 1 awarded the Hutt section 19, an area of 106 acres.
- Plan 2 awarded part of sections 57 and 58, an area of 140 acres.

23.4.2 Like Te Aro, the deed says that 'the natives of Waiwhetu are also guaranteed their pa, a plan of which 'is annexed coloured red containing 3 acres 2 roods 39 perches'.

23.4.3 Thirteen days later, an addition was made to Waiwhetu's award stating that 'In addition, E Puni relinquishes any claim to a portion of Native Reserve, No. 20 Lower Hutt district near the bridge to the Waiwhetu natives as shown in the plan and deed of No. 1 Pitone'.

Waiwhetu McCleverty deed signatories:

Te Rihia, who signed on behalf of: Tawai
Hakopa Hamuera
Wiriki Te Arena
Karipa Tanga
Howaia Puru Hare
Wena Henere
Hohepa Rihia
Te Kepa

The following signed by marks:

Nga Kirikiri
Te Returu
Tereturuturu te Aongo
Te Hapimana Matahiwi
Horopaera
Nga Henga
Manihera

[333] as shown in Spain's 1844 Enclosure 12 Plan, Document A10(a)(ii)

Rihia signed for:

Te Hotene

Hore Wiremu

Rameka

Witnesses:

McCleverty

FitzGerald, Surveyor

S. M. Scroggs, Assistant Surveyor

W. Duncan

23.5 Waiwhetu Pa

23.5.1 As noted, the pa area of 3 acres 2 roods and 39 perches was reserved by Spain in 1844, as well as by McCleverty. In 1848 the Executive Council began extending the road to Waiwhetu pa.[334]

23.6 Hutt Section 19

23.6.1 This section, 106 acres, was not a native reserve having been selected for a company settler. Fitzgerald described section 19 as 'one of the best sections in the Hutt'.[335]

23.6.2 On 12 March, 1847, Lieutenant Governor Grey purchased section 19 from Joseph Rodgers Templeman, merchant, of London, for £350. Templeman was signed for by his attorney, Kenneth Bethune. Templeman got the section from Arthur Willis by transfer, registered in New Zealand Company books, 29 May 1843. Willis' claim originated in a land order number 23 from London in 1839. Willis' and Templeman's estates were certified to Grey by William Wakefield in a 'certificate of selection' dated 5 March 1847.[336]

23.6.3 When Grey purchased the land, the file reference shows it as being 'purchased for the Natives - copy of deed of agreement signed by Colonel McCleverty and the

[334] NM 10/9/140 pp175, 207, 238 National Archives, Wellington
[335] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[336] 1 Deed 22

natives of Waiwetu 30 August 1847, Registered in the Registration Office Wellington - Vol 3'.[337]

23.6.4 In August 1847, Grey 'surrendered' the Government's ownership of the section to the Waiwhetu Māori. It was the purchase of this section, along with town belt and other lands which Lieutenant-Governor Eyre used as justification in 1848 for the taking of most of the company tenths native reserves near Pipitea, Tiakiwai, Raurimu, for the hospital and college endowments. These takings were seen as compensation to the Crown for this (and other similar) surrender of Crown land.[338]

23.6.5 On 5 July 1864, Swainson reported that this section had been occupied by Te Amua, and subdivided amongst themselves. As nearly all the original signatories had died though, Swainson was unable to put to rest continuous succession disputes at Waiwhetu about this section. He requested permission to bring the disputes under the Intestate Natives Succession Act, for which he had already received the Waiwhetu's consent. He also requested that 'with the consent of the Natives lawfully entitled to any portion of the said section, a re-adjustment of the division thereof may be made in order to facilitate the issue of Crown grants'.[339] In 1867, the block was shown to be partly leased to Europeans (for an unknown sum) and partly occupied by Waiwhetu Māori.

23.6.6 In 1882, a number of certificates of title were issued as the block was then subdivided.[340]

23.6.7 On 9 July 1942 and 13 August 1942 the Crown took land comprising 98 acres 1 rood 16.25 perches which belonged to and was occupied by the Waiwhetu Māori people. By a proclamation dated 28 June 1943 the land was set aside for housing purposes. At that time at least 15 houses were on the land which was being used by the owners for gardens and to run house cows and horses. In the first section to be subdivided in 1882 (Lot 9), it is shown on the Certificate of Title that almost all of

[337] LS-W 65/1 Registry No 317. National Archives, Wellington
[338] Document A24, pp303-4
[339] Document A26, p D44.

that lot was taken by proclamations issued in 1943 and 1945 for housing purposes.[341] Proclamation 3303, dated 10 February 1943 also took for housing purposes the following subdivisions: 4, 12 ,16 ,22A ,22B ,22C1 ,22C2 ,22C3 , and 22C4. Proclamation 3557 dated 21 May 1945 took the Te Awa Mutu stream bed, also for housing purposes.

23.6.8 The story of these takings is documented in a report by Elena Michaels, document H2 of the Wai 145 record of documents. She cites Māori Affairs documents, including one dated 10 June 1941 where it was expressed that Hapi Love 'pointed out that the Waiwhetu land had always been looked upon as a reserve for the Maoris and was practically the last land in the Hutt Valley remaining to them. He made a plea that the Government would not deal too harshly with his people.'[342]

23.6.9 The Registrar of the Native Land Court asked for a list of owners to be drawn up so that it could be determined which owners were refusing to sell their land 'without good reason'. In those cases without good reason the 'land could be taken'.[343] The compulsory taking was objected to but without success, and the Māori owners were left with a very small amount of land - the only piece of land remaining in the ownership of the tribe today appears to be a small burial plot at Seaview. Compensation of £101,590 was set by the Native Land Court and accepted by the owners, but only after they had lost their appeal against the compulsory acquisition.[344]

23.6.10 Part of the land was used for housing but other parts were sold and some 47 acres, having been used as a military vehicle park (for American forces in World War II), was finally vested in the Lower Hutt City Council. Michaels points out that:

> Section 19 covered approximately 106 acres. The decision to use 41 acres as a recreation reserve left a mere 65 acres for housing. The

[340] Document E12, Appendix 116 shows one of these certificates of title for a subdivision.
[341] Certificate of Title 30/29 Document E12, appendix 116
[342] Document H2, p24.
[343] Document H2, p25

addition of children's play areas and shops, churches and so on further reduced the amount of the land that was to be used for the strict purpose for which it was taken.[345]

23.6.11 The land set aside for the vehicle part and later the recreation reserve now forms Te Whiti Park immediately across the stream from the present Waiwhetu Marae. Once it was decided that the land would not be used for housing, the land was vested in the Lower Hutt City Council. In addition, two large lots of section 19, totalling almost 1 1/2 acres, were sold to churches.[346]

23.6.12 The Government re-housed the dispossessed owners in a group of State rental houses in Puketapu Grove that have been available exclusively to the former owners and their descendants. A total of 23 houses surrounded the meeting house in this area and were rented to the Waiwhetu people. It appears that the compulsory acquisition and re-housing is similar to what happened at Orakei in Auckland. A memorandum from the Right Honourable Peter Fraser, at the time Prime Minister and Native Minister, is as follows:

> I am anxious that in the negotiations every consideration be given to any reasonable request from the owners for providing them with homes on the section near Orakei on the lines of the Waiwhetu scheme.
>
> ... It would seem reasonable, however, to seek to settle the issue by transferring the 23 houses and 5 acres [surrounding the meeting house] at no cost to a trust board to be established to represent the Waiwhetu people. Although less generous than the Orakei settlement, this proposal would be acceptable to the Waiwhetu people.[347]

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[344] *Memorandum For Cabinet Economic Committee: Waiwhetu Mäori Land Claim,* Office of the Minister of Mäori Affairs, (no date, 1979?), p.1.
[345] Document H2, p35
[346] Document H2, p35
[347] *Memorandum For Cabinet Economic Committee: Waiwhetu Mäori Land Claim,* Office of the Minister of Mäori Affairs, (no date, 1979?),

23.6.13 The acquisition of this land seemed to be at odds with the owners' wishes. When the land was used for purposes other than what was gazetted and then vested in the Hutt Council, it was not offered to the Māori owners in the first instance, although the government did re-house the owners.

23.7 Hutt sections 57 and 58 (part)

23.7.1 These sections were both company tenths native reserves.[348] McCleverty awarded 'nearly the whole' of section 57 to Māori, the portion awarded being 125 acres. Part of section 58 was also awarded, being 15 acres of this land. Fitzgerald records that section 58 was an excellent section as was half of section 57. The remainder of section 57, however, was described as hilly and of little value.[349]

In 1867 they were both shown to be partly occupied by Māori and partly leased to Europeans for unknown amounts. In 1871, the return on reserves shows that the block had been leased from Waiwhetu Māori to R Johnson for £30 per annum for 14 years from 1856 with Johnson having the power of renewal.[350]

23.7.2 Section 57

23.7.2.1 In 1874, 3 acres 2 roods 22 perches of this section were taken for railway purposes.

23.7.2.2 In 1888, the Native Land Court ordered the partition of the rest of the section into ten subdivisions of different acreage, which were shared out amongst different Māori owners. As Green notes:

> in 1914, subdivision 10 was transferred to E. W. Giesen. In 1918, all of the remaining 9 subdivisions were transferred to E.W. Giesen, either by the Māori owners, or by the Ikaroa District Māori Land Board.[351]

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[348] Document A24, p283
[349] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[350] Document A24, p51
[351] Document E12, p69 citing Māori Provisional Register 6/391-399

That ended Māori ownership of this section.

23.7.3 Section 58

23.7.3.1 In 1952, 1 acre of these 15 acres was taken under the Public Works Act 1928 for housing purposes. In 1979 this land was vested in the Lower Hutt City Council for recreation purposes, having apparently not been used for housing.[352]

23.7.3.2 Of the remaining 14 acres, 13 acres 2 roods 28 perches were taken in 1963 under the Public Works Act 1928 for river protection purposes and vested in the Hutt River Board from 22 April 1963. It appears that the lands were still in Māori ownership until this time.

23.7.3.3 It is unclear what the ownership situation is with the remaining ~ quarter of an acre. However, the Crown acquisition in 1963 meant that the vast majority of the section was alienated from Māori ownership and control.

24.0 Ngauranga

24.1 Ngauranga was the chief pa of Te Wharepouri, one of the 'chief protagonists' of the land sale to the New Zealand Company.[353] Nevertheless, many of Ngauranga's cultivations were not awarded as company tenths reserves to the pa.

24.2 No mention is made of Ngauranga pa in the 1844 releases agreement, except that payment was offered and refused, possibly because Te Wharepouri admitted sale to the company and therefore did not require any compensation.

24.3 McCleverty's census shows 34 people as residing at Ngauranga. compared with 48 shown by Halswell as living there in 1842.[354] The deed with Ngauranga is signed on 4 October 1847 and the original is in Māori. The deed is slightly different in

[352] J. G. Bentinck Stokes, Office Solicitor to Secretary for Māori Affairs, *Waiwhetu Lands Acquired by Crown*, 21 December, 1979, Appendix p.3.
[353] Anderson and Pickens, p24.
[354] Document A29, p494, Document A26, pD10

wording from the other deeds and states that the Landholders and Chiefs belonging to Ngauranga pa:

> Give up ... cultivations ... in Harbour District ... excepting those cultivations included within the boundaries namely one hundred and ten acres and thereabouts be it more or less as shown in the accompanying plan on sections "7"(seven) "8" (eight) and "9" (nine) which we absolutely decline to give up being the ground on which our pah and our immediate cultivations are situated and which were in cultivation at the time of Captain Fitzroy's arrangement. But we surrender all our lands elsewhere on settlers' sections excepting the above 110 acres ... on our receiving Reserve No. "6" section Harbour District.[355]

24.4 As can be seen from the wording of the deed, the award specifically included the pa and cultivations 'at the time of Captain Fitzroy's arrangement'. In his 8 April, 1847 Report on Cultivations, McCleverty spells out that 'Captain Fitzroy's arrangement' refers to those arrangements made at Major Richmond's house on 29 January 1844, which gave a very narrow definition of cultivations.

24.5 Harbour District Section 6, a company tenths native reserve, was already reserved for Ngauranga. However, the award of 110 acres of cultivations on Harbour District sections 7, 8 and 9 originates in the McCleverty deed with McCleverty noting in his final report that Ngauranga Māori 'positively refused to give up on any account the cultivations and gardens around the Port, amounting to 109 1/2 acres on sections 7, 8 and 9'.[356]

24.6 McCleverty's Ngauranga deed then goes on to state that 'Te Manihera will also will be guaranteed for this year only in a cultivation on Section No. "7" between the above named block and the road, it does not exceed two acres to which he agrees.'

[355] Document A10(a)(iii) p10
[356] Document A26, pD13

24.7 The total award to Ngauranga is described on the McCleverty deed as being 225 acres - 112 acres of company tenths native reserve 6, and 110 acres of cultivations (on sections 7, 8 and 9). Clearly this does not equal 225 acres and it is unclear if this is a mistake on the deed or if there is another three acres reserved. The deed makes no mention of any other land being reserved apart from Te Manihera's two acres described in the above paragraph. However, the Māori original of this deed describes the total award by McCleverty as '222 o nga ekara' so the description on the English translation of the deed may be an error.

Signatories to the McCleverty Deed, 4 October 1847 Ngauranga block:

signed:	
Te Manihera	**signed:**
Te Watene	Haimona
Waitara	Mohi
Tamati	Matiaha
Rakautara	Kipara
Pirika	Tiaki
Te Oti	(rep. by his son Hoani Ropata Tiaki)
Te Rangi	Pitamaui
Te Karawa	Te Awarua
Rawiri	Reuera
Wiremu Wero	Hemiona
Timoti	Te Rai
	Wiremu Kingi
	Witnesses:
	McCleverty
	John E. Smith, Clerk to McCleverty
	W. Duncan, Interpreter

24.8 Sections 6, 7, 8 and 9, fronted onto the harbour and were used by Ngauranga as canoe landing sites.[357] Reclamations for Railway purposes in 1882 effectively landlocked these sections and their use as traditional wharves were lost, although it is not clear whether they were being used for such purposes at the time of the reclamations.[358]

24.9 Harbour Section 6

24.9.1 As noted, this section was already a company tenths reserve and has a total area of 112 acres. Fitzgerald noted that only 50 acres of this section was available for cultivation.[359] The deeds index shows that the award of this section by McCleverty to be the first entry, dated 4 October 1847.

24.9.2 The deeds index then shows that the section was leased on 18 March 1853, again in April 1864 and again 2 March 1888.[360]

24.9.3 On 28 August, 1886, a certificate of title was issued under the Native Reserves Empowering Act 1886 to three Māori owners of the block: Taare Waitara who received 56/106 share; and Mohi Puketapu and Matone Tauwhare both received 25/106 shares.[361] The certificates included a restriction against alienation. By this time, the section contained only 106 acres as land had already been taken by way of proclamation for Railway purposes.

24.9.4 On 6 June 1907 about 2.5 acres more of the block was taken for the Wellington - Napier Railway.[362]

24.9.5 The restrictions on alienation were removed in steps around 1905 - 1906, and the certificate of title shows the whole section was sold by 1906.[363]

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[357] Spain's Final report, GBPP 1846 (203) p7
[358] Document A44, p87
[359] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[360] 2 Deed 159, 19 Deed 125.
[361] Certificate of Title 43/137, Document E12, Appendix 92
[362] Proclamation 473
[363] Certificate of Title 43/137, Document E12, Appendix 92

24.9.6 Manihere Puketapu and Rota te Paki (as Trustee of Rina te Paki, Wiriwiri te Paki, Raiwa and Rota te Paki) sold 25 acres of the section for £750 pounds to John Craig McKerrow on 9 June 1905. On 8 May, Ripeka Matene (Love), the wife of Wi Hapi Love, sold another 25 acres to the same person for the same consideration. The Transfers had appended certificates of title dated 1 July 1905, under section 23 of the Māori Land Administration Act and it Amendments. This was done in the absence of a Papakainga Certificate - certifying that the five people interested in the sale had other lands for their support.[364]

24.10 Part of Harbour Sections 7, 8 and 9

24.10.1 These sections were not company tenths native reserves but were cultivations of Ngauranga and also included the site of their pa. Daniels states that:

> There were formerly large gardens in the stream valley and on the surrounding hills. One of these near Raumati Terrace, Khandallah was being cultivated when the first settlers arrived ... The stream at Ngauranga was named Waitohi after a prominent Ngati Awa woman [the stream has its mouth on section 8].[365]

24.10.2 Because the land was not awarded as native reserve, it was selected by settlers in the New Zealand Company ballot. The sections were valuable because they were among the first selected. The rivermouth section, Harbour Section 8, was the ninth selected in Wellington. However, the absentee owner Thomas Eyre, was not allowed to keep this section. Spain's investigations on the company's land dealings retained 110 acres of Māori cultivations for them, including this section. Eyre was compensated for giving up this section with Government scrip for £1000, a seemingly generous offer given that only £100 was paid for the section. This large return for his £100 investment seems to have been made because not only was his Country Section on Māori land but his Town Acre too was in the middle of Te Aro Pa.[366] R. H. Pike of Moscow Road, Bayswater, London was balloted Harbour

[364] Transfer 53931 and 53930
[365] John Daniels, 'Māori Occupation in the Onslow District,' *Onslow Historian,* Vol 1 no 2, May 1971, p 4-5.
[366] Julie Bremner, 'Ngauranga - The Maoris and the Road,' *Onslow Historian*, Vol 10 No 4, 1980, p 3.

section 7 and he received £150 government scrip as compensation for the part of that section which Māori refused to give up for him. It is unclear what compensation was offered to the settler on section 9.

24.10.3 The part of these three section under cultivation, being the 110 acres, came to be known as the Ngauranga reserve. For reasons unknown, McCleverty's original deed for the area awarded as Māori land was re-registered on 22 March 1867.[367]

24.10.4 Sections 7, 8, and 9 were leased in 1853 and 1864 (see Petone's award of Harbour section 5). Turton records the request for a lease of an unknown portion 'of the native reserve at Ngauranga for twenty-one years at a rental of £30 per annum' from Mr Wallace. The lease was approved by Dommett.[368] Green notes a number of leases are recorded for both sections 8 and 9.[369]

24.10.5 Heaphy reported in 1874 that sections 8 and 9 had already come before the Native Land Court and title to them determined. Certificates of Title for the Ngauranga reserve were issued in 1886, awarding the sections as follows:

- Part Section 7, being 22 acres 16 perches was awarded to Taare Waitara.
- Part Sections 8 and 9, being 43 acres was awarded to Manihera Matangi and Taare Waitara.
- Part Sections 8 and 9, being 31 acres 3 roods 16 perches was awarded to Taare Waitara and Ruakere Moelau (1/3 share each) and Josephine Love and Hone Taramena (1/6 share each).[370]

All these certificates included restrictions on alienation.

24.10.6 In 1886, 3 roods 10 perches were taken from Section 8 for Defence Works.[371] The defence works were either never built, or defunct by 1942, as the defence land was

[367] 14 Deed 184
[368] Document A26, pD20
[369] Document E12, p48
[370] Certificates of Title 42/269, 42/267, 42/268, Document A24, p85
[371] Proclamation 84 under Public Works Act 1882 Amendment Act 1885, NZ Gazette 1886 p400.

proclaimed part of a 3 acre 7.4 perches piece of Crown Land. The conversion was enabled by the Public Works Act, 1928.[372] The remainder of the land contained in one of the Certificates of Title for section 8 was then cancelled and replaced a new Certificate.[373] Green also notes that there is 'an entry recording the conveyance of a small part of the section (19 perches) to the Crown in 1877 for £20 to be used for the Ngauranga railway station'.[374]

24.10.7 An Order of Council removing the restriction on alienating sections 8 and 9 was registered 1 August 1898.[375] In 1906, an Order in Council removed the restriction on alienation on section 7.[376] After this date the land was subdivided and new certificates of title were issued, showing Europeans as new owners of the sections. Green notes that by 1915, most of the land on these sections had been alienated from Māori ownership.[377]

25.0 Petone (Pitone or Pito-one)

25.1 The chief of Petone pa was Te Puni. Te Wharepouri also stayed there before moving to Ngauranga. Both chiefs were major protagonists in the land sale to the New Zealand Company. Wakefield was taken to Petone pa by his interpreter, Barrett: Barrett's wife was from the hapu who lived here. Of the 16 signatories to the Port Nicholson deed of sale to the company in 1839, fully half were from Petone pa.[378]

25.2 Te Puni seemed to have had good relations with government officials and in April 1845 Te Puni offered Richmond assistance in any fighting (against Ngati Rangatahi) to help resolve the dispute in the Hutt Valley.[379]

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[372] Proclamation 3268, including plan and attached memo PW 23/255 Assistant Under-Secretary Hutching to the District Land Registrar stamped 3 September 1942
[373] Certificate of Title 42/267 was replaced by Certificate of Title 49/223
[374] Document E12, p48 citing 46 Deed 918
[375] Certificate of Title 42/268
[376] Certificate of Title 42/269, Document E12, Appendix 93
[377] Document E12, p49
[378] Anderson and Pickens, p19
[379] Wards, Ian *The Shadow of te Land* Wellington 1968 p232 citing Richmond to Fitzroy, 4 April 1845. NM 10/2, pp66-70

25.3 No compensation was given to Petone in Spain's 1844 release agreement, possibly because Te Puni had always admitted the sale to the New Zealand Company.

25.4 McCleverty's census shows that 136 persons were living at this pa compared to 97 living there in 1842.[380] McCleverty's deed and award to Petone is dated 13 October 1847 and the original of the deed is in Māori. It contains the standard wording of the Te Aro deed except it states that the people and chiefs living at Pitone consent to 'give up altogether our cultivations lying between the lands of the Europeans either in Wellington or the Hutt or on the Horokiwi Road'.[381]

25.5 The following areas had already been reserved prior to the McCleverty deed, as either native reserves or cultivations. These sections were then awarded by McCleverty in the 1847 exchange:

•	Taita section 58	91	0	6
•	Heretaunga sections 1,2,3,	327	3	0
•	Heretaunga sections 16,20 (20 shared w Waiwhetu)	229	0	16
•	Heretaunga section 42 (Waiwerowero)	152	0	36
•	Horokiwi road section 11	102	2	16
•	Harbour section 5	104	0	0

25.6 The following reserves originate in McCleverty's 1847 deed:

•	Korokoro block	1214	2	0
•	Parangirau/Pencarrow block	4704	2	1

25.7 The total award to Petone was 6926 acres 0 roods 37 perches. These figures come from McCleverty's deed, however, it would appear on adding up these separate areas that they add up to some 2 acres less than the total figure shown in the McCleverty deed.[382]

[380] Document A29, p494 Document A26, pD10
[381] Document A10(a)(iii) pp15-16
[382] Document A10(a)(iii) p15

Signatories to the McCleverty deed, 13 October, 1847, Petone Block:

Signed:	
Te Puni	
E. Paki taura	
Hohua te Atua	Tuari
Paruku Pani	Aperahama
Hakopa Rerewa	Hone te Meke
Haimona	Patara te Tapetu
Waitaratioro	Wiremu Patene
Panapa Pitione	Hohua Parete
Manihera te Toru	Kopu
Napaki	Henere Te Ware
Wirihana Puremu	Watene
	Mohi Taiata
	Witnesses:
	McCleverty
	S.M.Scroggs, Assistant Surveyor
	W.Duncan, interpreter

25.8 Hutt Section 58

25.8.1 This section, being 91 acres 6 perches, was already a native reserve before McCleverty's assignment to Petone.[383] Fitzgerald considered it to be an excellent section and one of the best of the native reserves.[384]

25.8.2 Yet while this section was native reserve, on 24 August, 1847, McCleverty requested Eyre's sanction for the purchase of Hutt section 58, 'which had, at the

[383] Document A24, p283
[384] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218

first formation of this settlement, been allotted as a Native Reserves and afterwards let on lease for a long period to Mr Hughes' by those who had the administration of the Native Reserves. The sum assessed by Mr. Fitzgerald the government surveyor on No 58 (buildings included) as £80, to which His Excellency Governor Grey gave his sanction verbally, but 'during my absence at Wanganui on Military duty ... I did not address a written application to him'. Eyre agreed to this on the 30 August 1847. [385]

25.8.3 However, there was a dispute over the amount of compensation. An 1847 map of the section shows it as leased by St. Hill to T.J.Hughes. Hughes sublet it to Bryce, a carpenter, and Fairweather. They felled and cleared the section, their work was valued at £80, according to Park and Fitzgerald, the Wellington and Government surveyors, respectively. Bryce and Fairweather, meanwhile, valued their labour at £210. The issue arose because Hughes 'is now obliged to surrender possession of the whole to the Petone Natives, under a decision made by Colonel McCleverty in his Official Capacity as Land Commissioner, together with all buildings and improvements as they now stand.' This was signed by Hughes on 21 January 1848. [386]

25.8.4 Green notes that the first award entry on the deeds index for this section shows the section as being surrendered, which 'suggests that the section was originally held by a settler'.[387] In fact, most of the McCleverty granted land was surrendered by the Crown, so it could be then awarded to Māori.

25.8.5 Subdivisions of this section are first made in 1882. These subdivisions contained restrictions prohibiting alienation.[388] It appears that the first sale of land took place in 1884, a sale was from Charles Wallace to a neighbouring owner, Tare Waitara.[389] The subdivision to be sold contained 10 acres 1 rood for a price of 10/ an acre - an seemingly cheap price per acre on what was a very good section. Consent was

[385] McCleverty to Eyre, 24 August, 1847, NM 47/565, NM 10/7, p142
[386] NM8/9, 48/61, National Archives, Wellington
[387] Document E12, p27
[388] See Certificate of Title 30/43 in Document E12, Appendix 58 which shows one of these subdivisions with the restriction on alienation.

granted for this sale with Heaphy sending Lewis a memo on 5 May 1884 saying that:

> the vendor has sufficient land remaining for his own use, being the sole owner of Section 1 Block 3 containing 100 acres, awarded him by Sir W. Fox as successor to Hemi Parai. The land at the Hutt is of no use to him, and he wants to sell it for the purpose of raising funds to stock his section at Taranaki. One of the chief features in favour of the proposed transaction is that he is selling to a native, the owner of the adjacent lands, who wishes to acquire it to increase his property.[390]

25.8.6 Michaels report on Waiwhetu Lands (Document H2) states that all but two of the subdivisions of this section were in Māori ownership until the 1940s. On 16 January 1941 the Director of the Housing Corporation wrote to the Minister of Housing saying:

> Hutt section 58 has been divided into several lots by Native Land Court partition, and with a few exceptions is still owned by the Natives, of whom there is a large number, living in various parts of the country. The majority of the land is occupied by market gardeners and other farmers, and as far as can be ascertained none of the registered proprietors lives on the property.
>
> One or two of the Natives have been approached by the Department to purchase their interests, but in my opinion the whole of the Native-owned land should be acquired by Proclamation, as it would be a protracted, if not practically an impossible task, owing to the large number of owners involved and their widely divergent places of residence, to obtain all the necessary consents for the purchase of the land.

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[389] Certificate of Title 31/220

[390] NO 84/1220 14/4/84 Bundled NO 84/2220. National Archives, Wellington (not copied)

> The matter has been discussed with officers of the Māori Land Court, who agree that to take the land by Proclamation would be the most sensible and expeditious method of acquiring the property.[391]

25.8.7 In a time of war, such a method may have been expeditious, however, this memo suggests that the proclamation was a way of avoiding the 'impossible' task of purchasing the entire block by voluntary sale. The owners were compensated for this acquisition.[392]

25.8.8 Michaels raises an interesting issue regarding the compensation given. It seems that Crown ask the valuers to assess the value of the section on the basis of each individual lot, rather than the section as a whole, which led to a decreased value being placed on the land and in the case of two subdivisions which had suffered from flooding, lead to no value placed on them at all.

25.8.9 3 acres of subdivision 3 of this block were taken for unspecified public works in April 1942 - unspecified because of war time secrecy. Over 43 acres of other subdivisions of this section were taken in August the same year, again for unspecified 'public works' The purpose of the taking - housing purposes - was declared and gazetted in 1945.[393]

25.8.8 A further part of this section, a little over 3 acres, was taken in 1952, again for housing purposes under the Public Works Act 1928.[394]

25.9 Hutt Section 11 (Horokiwi Road)

25.9.1 This 102 acres 2 rood section was company tenths native reserve and described by Surveyor Fitzgerald as having tolerably fair soil although it was very hilly. He noted that 70 acres of this section would 'do very well' for Petone's purposes.[395]

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[391] Document H2, p17 citing MZ 29/7/1/1
[392] Document H2, p21
[393] New Zealand Gazette 1942, pp1150,1986, New Zealand Gazette 1945, p1551
[394] New Zealand Gazette 1952, p1442
[395] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218

25.9.2 The deeds index records only the original transfer of this section. On 11 April 1888, the Native Land Court assessed ownership of it, awarding the section to the following:

NAME	SHARES
Hori Henare te Puni	1
Wiremu Henare te Puni	1
Ngapaki te Puni	2
Henare te Puni	4
Apiaka Renata	2
Pakitaura	4
Heni Wairaweke	2
Harata Huru	2
Paruku	2
Eraatuha	2
Matene Tauwhare	2
Mawene Hohua	2
Eruera Hohua	2
Arapere	2
Patarate Tapatu	2
Rahiri Pane	2
Total	**34 shares**

25.9.3 No certificate of title was issued, apparently because a more recent survey of the section was required. Green states that a full Certificate of Title for the section was not issued until 1988.[396]

25.9.4 The section was transferred to the Public Trustee to administer the section on behalf of the Māori owners in 1925. In 1952, a meeting of the owners was held at Wellington on 3 September to discuss the sale of this section and this meeting authorised sale of the section. It was sold by the Māori Trustee under Part XVIII of

the Māori Land Act 1931, on behalf of owners to Alfred H. Topi for £412 in 1953. It had also been re-surveyed. The memorandum of Transfer states that the land was 'Māori Freehold' under the Māori Land Act 1931 with more than five owners.[397] The land is currently owned by a descendant of Alfred Topi.[398]

25.10 Heretaunga Sections 1,2,3

25.10.1 These sections, comprising 327 acres 2 roods were all former company tenths native reserves. Fitzgerald described them as having little value except for 30 acres at the back of these sections which adjoined Hutt section 79.[399]

25.10.2 In the 1867 return on reserves they are all shown as being in the 'hands of Natives' although this does not make it clear whether they were occupied or not. In 1871, these sections are described as still 'chiefly occupied by Natives'.[400] According to Green, the deeds index records various leases and mortgages for these sections. The Wellington to Masterton railroad was surveyed around 1873 and it cut through this award of land. Heaphy reported that the railroad would affect:

> a number of Native Reserves, chiefly those awarded by Colonel McCleverty. Some difficulty was experienced in causing the native owners to comprehend a measure of compulsory land surrender for purposes of public works.'[401]

This is an interesting comment given that a number of the McCleverty reserves were subject to some compulsory Crown acquisitions. Perhaps Māori had trouble comprehending compulsory surrender of their land because of the way the McCleverty awards were presented to them - with restrictions on alienations only able to be overturned by application for this to be removed.

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[396] Document E12, p37
[397] Provisional Register (Māori) 5/145; Transfer 363068
[398] Certificate of Title 28D/668 Document E12, Appendix 75
[399] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[400] Document A24, pp39, 51
[401] Document A24, p58

25.10.3 In 1873, £55 an acre 'was agreed to between the valuers and the owners, as the rate to be paid for land in Sections Nos. 1, 2, 3, 16, and 20, Pitoni.' The area required was 11 acres 1 rood 39 perches, and the total payment was £632 3s 2d. It was thought desirable that this money should be invested in the purchase of other land for the benefit of the Natives, as the government, in the case of a McCleverty reserve, had no controlling power, the money was given without restriction to Petone Māori. However, if the owners of the land had themselves applied for the land to be sold then the government would have had the power to decline the application, or to consent to it only if the money was being used for the purchase of land elsewhere. The government did not have this power to do so where the land was compulsorily acquired.[402]

25.10.4 £30 2s went to each surviving McCleverty signatory, and on 12 February 1873, the Native Land Court determined the twenty-three successors to the deceased awardees. Eight others were awarded earlier.[403]

25.10.5 8 acres 2 roods 0 perches of Hutt section No 1 was leased from Matene Tawhare, Ngapake te Pune and Te Manihera to John Walland for 21 years from 1 January 1873 with water rights 'for mill purposes' for £50 pounds a year with a stipulation that the 'wheat of the lessors, not being more than 400 bushels in each year shall be ground at the said mill by lessee at not exceeding 6d a bushel.' Consent was given for this lease.[404]

25.10.6 On 22 August 1876, Heaphy purchased 6 acres 2 roods 20 perches of Hutt sections 1, 2 and 3 which the Crown required for the workshops of the Wellington and Masterton Railway and a road. Heaphy noted that the 'negotiation was very protracted; eventually the sum of £662 10s was accepted'. [405] This land was taken under the Public Works Act. In 1882, 33 perches of section 2 were taken for a road under the Public Works Act.

[402] Document A24, p58
[403] Document A36, pp30-1
[404] MA-W 2/1, p153 , 13/10/73, p 295 13/8/74 National Archives Wellington (not copied)

25.10.7 There may have been some benefit for Petone Māori in having a rail link through their lands. However, as Ward has stated, taking part of the reserves for railroad purposes may have seriously affected these sections, determining their fate as industrial localities rather than the possibility of being, for example, a prime residential zone.[406]

25.10.8 Subdivisions for all three sections seem to have began around 1882, as Green notes, there is then a long list of certificate of title references. He notes that land was alienated to private European owners in 1885.[407]

25.10.9 Between 1896 and 1897 some 114 acres of the land was sold, in a series of sales negotiated by L.M. Grace. 89 acres 1 rood 17 perches of section 1 of subdivision S of Sections 1 and 2 sold for £454.11.1 pounds on 18 September 1897. 23 acres 0 roods 4 perches of subdivision P of Section 2 was sold for £115 7 shillings on 7 July 1896 and 1 acre 2 roods 4 perches of Section 4 of Subdivision S of Section 2 sold for £8 pounds 13s 6 on 15 February 1897.[408]

25.10.10 In 1936 and 1943, part of section 3 were taken for roading purposes.[409]

25.10.11 In 1944, an Order in Council reserved part of section 3 for a burial ground 'for the common use of the Natives of the Hutt Valley'. Thus some of this land has remained in Māori control. In 1984 an order was made in favour of Makere Rangiatea Ralph Love and 12 others for ownership of subdivision 13 of section 3. Just over 3 hectares of sections 1 and 2 were declared to be Māori freehold land under the Māori Affairs Act 1953, the declaration being made in 1989.[410] Nonetheless, this represents a small portion of the original 327 acres granted by McCleverty.

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[405] 42 Deeds 98, 43 Deeds 403, Document A24, p111
[406] Document A44, p71
[407] Document E12, p31
[408] A.J.H.R. 1897 G-3, p.5.
[409] New Zealand Gazette 1936, p2250, 1943 pp1092-3
[410] 3(1) Deeds 9, 37 Deeds 166

25.11 Lower Hutt Sections 16 and 20

25.11.1 These sections are also know as Te Momi or Te Mome. Fitzgerald described them as being of 'middling quality' with about 50 acres of cultivatable land in each section, the rest of the land being either too hilly or too swampy.[411] In area, they total 229 acres 16 perches. While section 16 was awarded to Petone Māori outright, McCleverty's award of section 20 shows that it was to be shared with Māori of Waiwhetu.[412]

25.11.2 Separate Crown grants were issued for section 20 in 1870 in favour of the following owners: Ropiha, Ruhia Ihaia Porutu, Karena te Wiwia, Karipa Tawake and Huhana te Mui.[413]

25.11.3 On 5 August 1873, Ihaia Porutu Ngamatemate, Hamuera Te Whewhea [te Wiwia?], Rawari Ropiha, Huihaua Karepa Temaki [Karipa Tawake?] and Mihi Puketapu leased 12 acres 16 perches in the five subdivisions of the five Crown grants from to William Fitzherbert for 2/ an acre. Ihaia Porutu Ngamate stated that 'We all have plenty of land at Waiutu for cultivation and rents from Taita and other places'. There was some dispute over this lease because Karepa Puketapu stated 'I have not heard of any promise of renewal to any white man.' The lease went ahead.[414]

25.11.4 In 1878, consent was sought by solicitors Moorehouse and Edwards for the conveyance of Lot No 5 of section 20 being an area of 11 acres 2 roods 8 perches. The conveyance was from Karipa Tawaki and Mere Pawa, who had Crown grants to them on 29 August 1870, to James and Henry Barber,. The matter was referred to Heaphy who sent a memo to Lewis on 15 April 1879:

> I see no objection to Karepa Tawaki selling his share in pursuance of the agreement which he executed in 1876. But Mere Pawa has very little land, with

[411] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[412] Document A10(a)(iii), pp12-15
[413] Document E12, p35
[414] MA-W 2/1 p 177 Te Momi, National Archives, Wellington

a son in the prime of life and a grand daughter entering womanhood. For Mere's lands ought to be preserved [sic] she, herself, tells me that she does not wish to sell her interest in this land, but only to let it. The last paragraph of Messrs Moorhouse and Edwards letter of 13 December attached, implies that this arrangement was in substance approved by me as Trust Commissioner in 1876. This is partly erroneous, in as much as that Mere Pawa was not, then, known in the matter - Karepa only agreeing to sell. [415]

Consent was denied for this sale.

25.11.5 On 23 September 1882, Messrs Chapman and Fitzgerald wrote to the Native Minister asking for consent to a sale by Mere Pawa to Henry Barber solely. They claimed that Karipa had died with a will agreeing to the sale and noted that 'Mere Parata is very old and the purchase money is of more use to her now than the land'. Lewis referred the matter to Mackay, who took over because Heaphy had died. Mackay recommended against consent which was denied because the sale was objectionable as being the 'thin edge of the wedge':

> At present the section (no. 20) of which this forms part is held by the natives intact under titles issued by the Native Land Court with the usual restrictions, as prescribed by Clause 13 of the Native Land Act 1867, and it would be very unwise in their interests to sanction anything that would alter the present position - if a sale is sanctioned it should only be amongst themselves, as they have no land outside their reserves. They might be allowed to grant long leases on satisfactory terms, but if the land is sold it simply means that the proceeds are frittered away and no one is bettered by it. The price offered appears to be an adequate one, but that is nothing to the purpose in this instance.
>
> Karipa's devisees will not be much enriched by the real property left them, so as to make it a matter of small concern about divesting themselves of his share of the section [known] as Te Momi, and Mere Parata is only possessed of about 4

[415] KN&D 78/4983 , Bundled with N/O 82/3189, National Archives, Wellington

> acres besides her share in the said section. All circumstances considered, I beg to submit that the proposed sale should not be sanctioned.[416]

Lewis then wrote to the Native Minister on 5 October 1882 to recommend against the sale and on 7 October, Chapman and Fitzgerald withdrew their request. Two days later Enoka Taitea wrote to the Native Minister saying:

> Friend, this is to inform you that prior to the sale he [Karipa] had willed all his property to me, that is the reason for my writing to you because I do not wish that land sold to Mr. Barber.

Enoka was advised that consent had not been given in any case.[417] Thus, government officials did look at long term needs and were willing, at times, to refuse consent where they believed that the retention of land more valuable than the purchase monies.

25.11.6 On 8 June 1883, solicitors Buller and Gully wrote to Lewis asking for consent for a conveyance of 6 acres 20 perches from Ihaia Porutu to his wife, as Ihaia was 'in a precarious state of health'. Buller and Gully later requested all speed in this matter saying as 'as Ihaia is in a very critical condition indeed'. Consent was forwarded on 28 June 1883.[418]

25.11.7 Michaels states that most of section 20 was alienated in the later part of the nineteenth, or the early part of the twentieth centuries. Green notes that certificates of title for subdivision 1 and 2A of section 16 shows that these lots had already been alienated by 1915.[419]

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[416] NO 82/2898, National Archives, Wellington
[417] Bundled NO 82/3189, National Archives, Wellington
[418] NO 83/1615, Bundled as 83/1911.
[419] Document H2, p15; Document E12, p34.

25.11.8 An Order in Council in 1933 set apart 1 acre 1 rood 25 perches of section 16 as a native reserve. The order was revoked in 1971 and a smaller area of 26.8 perches was reserved. [420]

25.11.9 In 1943, a number of subdivisions of section 16 had land taken under the Public Works Act 1928 for roading purposes. A rough estimate from the Gazette notice shows this comprised over two acres.[421]

25.11.10 2 roods 26 perches of section 16 were taken in 1954 under the Public Works Act 1928 for 'better utilisation'.[422]

25.11.12 It appears that most of the land in these sections had been alienated by 1933, and the creation of a reserve may have reflected Ngata's concern at the diminishing amount of Māori land.[423] The willingness of Lewis and MacKay to withhold consent for a sale of this section by Mere Pawa closely follows what McCleverty had in mind in the creation of the reserves. Withholding consent would put them in conflict with the owners who, in times of financial need, were willing to sell land. However, one can only speculate how this may have been seen by Petone Māori given that so much of their land was taken by compulsory acquisition.

25.12 Harbour Section 5

25.12.1 This section is situated adjacent Harbour Section 6, awarded to Ngauranga along with part of sections 7, 8 and 9. Section 5, an area of 104 acres, was mainly on steep ground, old cultivations existed on the hill tops but it was estimated that not more than 50 acres of land was useful. This section had already been reserved as a company tenths native reserve.

25.12.2 Here Te Puni, Ngapaki, Hakopa (Rerewa), Hereta (Pakewa), Harawira, Aperahama, Eratuha, and Ngataierua leased all of section 5 to Augustus S. Braithwaite,

[420] New Zealand Gazette 1933, p1406, New Zealand Gazette 1971, p19
[421] New Zealand Gazette 1943, p1092
[422] New Zealand Gazette 1954, p365
[423] Document E12, p34.

Engineer, on 18 March 1853. The term was for 21 years from 25 March 1853 for £15 a year. The lessee covenanted to keep the section in good grass. This lease was made in conjunction with the lease of Harbour District sections 6 and 7 from Ngauranga Māori.[424]

25.12.3 In April 1864, the section was again leased, by Te Puni, Ngapaki, Aperahama, and Patara Hakopi to a Mr James Hall for £20 a year. The other terms of the lease appear to be the same as Braithwaite's and again, the lease was made in conjunction with the Ngauranga sections.[425]

25.12.4 The Crown Grant to the Māori owners for this section was issued in 1870. Grantees 'under the Native Lands Acts' were: Makareta, Ngapaki, Aperahama Huhana, Pataia Hakopa, Homana Te Puni, Hana te Puni, Ngapaki te Puni, Matiri Matene, Eparaima Matene, and Tura Kopeka.[426]

25.12.5 A lease from Makarita Ngapoki and others to Hall was made in 1872, increasing the amount that Hall was paying to £25 a year, the term of the lease still being 21 years. The lease was for a total area of 106 acres but it is not clear whether this includes all of section 5, or part of that section and part of sections 7, 8 and 9. This lease was consented to - Taniora Anaru swore: 'The lessors have plenty of land outside, at Taita, Petoni and Wainuiomata to cultivate.'[427]

25.12.6 An Order in Council was issued removing the restriction on the alienation of this section on 14 May 1894. There followed the issue of the certificate of title for the section in the same year. However, this certificate was issued in favour of a Wellington solicitor, John Thompson. It would appear that the order in council removing the restriction on alienation was made so that the land could be sold to Thompson. The entire section was awarded to him.[428]

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[424] 2 Deeds 157
[425] 19 Deeds 123
[426] 7 G 54
[427] MA-W 2/1, p16, p78, National Archives, Wellington
[428] Certificate of Title 76/72, Document E12, Appendix 76

25.13 Korokoro (Maungaraki) Block

25.13.1 In area, this block is 1214 acres 2 roods 2 perches and is described as 'Maungaraki' in the native index. The award of this block to Petone originated with McCleverty's deed. However, Fitzgerald noted that it contained at least one good cultivation ground on it and Turton shows a number of cultivations on this block and thus part may have been promised to Māori as cultivations in the 1844 release agreement.[429] While McCleverty included no cultivations on this block is his initial report outlining Māori cultivations, his report to Eyre states that the block contained 'one or more cultivations of more than 20 acres' and his final report stated that the block was near Petone pa and had 'one or more cultivations in the centre of it, and of irregular shape'.[430]

25.13.2 The Native Minister received a request in 1884 asking for his consent to the sale of 11 acres of this block to the Woollen Manufacturing Company. The request was sent from: Matene Tauwhere, Henere te Puni, Heana te Puni, Ngapaki te Puni, Apihaka (her mark), Mari Heia Matengi, and Taate Wai Tara.. The request noted that the lessors had agreed 'not to lease another piece of land having a frontage to the Korokoro Stream to anyone else for fear that the water should be polluted'.[431] The Woollen Manufacturing Company would also have an option to lease the adjacent 11 acres for 42 years. MacKay recommended consent for this transaction noting the good price as well as:

> the future benefits they will derive by the establishment of the manufacturing in their neighbourhood, as it will undoubtedly, if successful, enhance the value of the remainder of their property - by attracting population to the place. They have plenty of other lands, and in fact do not use the portion proposed to be sold, excepting a very small corner of it, at the most perhaps an acre in extent.[432]

[429] Document A26, D12
[430] McCleverty to Eyre 26 November 1847 Crown Law volume of CO 208 extracts, p266
[431] NO 84/858, National Archives, Wellington
[432] NO 84/925, 84/1607, 84/1850 3 June 1884, National Archives, Wellington

25.13.3 The land had already been subdivided into 10 sections by 1890 when a survey of the block was carried out and a plan of the block drawn up. Ten Māori owners are listed on the plan of the block.[433] Certificates of title were also issue in 1890. Green notes that part of the block was alienated in 1894 to William Fitzherbert.[434]

Between 1904 and 1911, over 500 acres of this block was taken by proclamation:
195 acres 3 roods 20 perches were taken (part of subdivision 3) for the purposes of waterworks under the Public Works Act 1894; 87 acres 3 roods of subdivision 4, 119 acres of subdivision 7, 10 acres of subdivision 8a and 53 acres 1 rood of subdivision 8b were taken for waterworks under the Public Works Act 1908 and the Municipal Corporations Act 1908 in 1911;
49 acres were taken from subdivision 8a under the Public reserves and Domains Act for the Maungaraki domain in 1911;[435]

25.13.4 In the 1950s, a further 70 acres appear to have been taken by proclamation:

In the 1957, a gazette notice was issued for the intention of taking 13 acres 20.8 perches from subdivision 9 under the Public Works Act 1928 for unspecified purposes.

In 1959, 58 acres 1 rood 22 perches was taken for housing purposes under the Public Works Act 1928.[436]

25.13.5 The government signalled its intention to take a further 80 acres of land for housing purposes in 1963 from subdivision 3 of the block.[437]

25.13.6 Well over half of this block was taken by way of proclamations, however, as Green has noted, it is unclear whether this land was still in Māori hands when it was alienated in this way.[438]

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[433] WD 994, Document E12, app 77
[434] Document E12, p40
[435] New Zealand Gazette 1904 p1479, New Zealand Gazette 1911, p704, New Zealand Gazette 1911, p3015
[436] New Zealand Gazette 1957, p791, New Zealand Gazette 1959, p1266
[437] Document E12, p41

25.14 Wainuiomata (Parangarahu) Block

25.14.1 The award of this block to Petone Māori originated with McCleverty's deed. It was the largest block awarded to Petone, being an area of 4704 acres 2 roods 1 perch and is also known as Parangarahu. While McCleverty stated that this block had little land available for cultivation, the terrain was very hilly and the flat land in the Wainuiomata Valley was not awarded to Māori, he also said that on this block 'the natives have eel-ponds, extensive cultivations, and other vegetable productions' and it was also used as a fishing station.[439]

25.14.2 By 1867, the block was described in area as being about 5004 acres and was occupied by Petone Māori as a sheep run. By 1871, Māori leased the land and the leasee used the block as a sheep run, with Petone Māori receiving the rent.[440] Green states that the block was divided into 9 subdivisions of unequal size by the Māori owners and each subdivision was recorded on the Māori provisional register until a Certificate of Title was issued.[441]

25.14.3 It appear that the whole of the Parangarahu Block, less a small amount sold to the Crown for a lighthouse (see next paragraph) was leased around 1880 by Henare Te Puni and Ngapaki Te Puni for a terms of 21 years to William Alfred Blundell. The rent was £112 pounds in the first year and £150 pound every year thereafter.[442]

25.14.4 The first alienation took place in 1873, when 69 acres was purchased by the Crown for the purposes of a lighthouse. This would appear to be a very large purchase of land for the purposes of a lighthouse. The sale was from Henare te Puni and 4 others and the price paid by the Crown was £138 - £100 for actual payment, £35 back rent (the lighthouse having already been built) , past claim for firewood cutting, and for cattle trespass. In order to receive consent for the sale, Te Puni swore that 'We have

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[438] Document E12, p42
[439] Document A26, pD13
[440] Document A24, p52
[441] Document E12, p43
[442] MA-W 2/1, p376, National Archives, Wellington

abundance of cultivation land elsewhere. This is not cultivation land.' Consent was then given.[443]

25.14.5 In 1931, 27 acres 3 roods 10 perches of the block was taken by proclamation under the Public Works Act 1908 for lighthouse purposes. A further 42 acres were taken for lighthouse purposes under the same Act in 1939.[444]

25.14.6 Other land was taken by proclamation for differing purposes. Approximately one acre of the block was taken for defence purposes in 1938. 25 acres were taken for a sewer outfall in 1964.[445]

25.14.7 In the 1980s, large amounts of land were set aside as conservation or recreation reserves, or for wildlife management - 362.532 hectares, approximately 894 acres, were taken for the creation of the Parangarahu recreation reserve.[446]

25.14.8 In 1912, the block appears to have gone to the Native Land Court for determination of title as partitioning of the section took place in that year and certificates of title appear for most of the subdivisions were issued in 1913. Green states that the deeds index and Māori provisional register show the following sales of land soon after the partition:[447]

- All of the subdivision 3B1 was alienated by the ten Māori owners of the subdivision to farmers in 1914, a total area of 97 acres 3 roods 39 perches.
- The partition order for Subdivision 3B2 was issued in favour of 1 owner and the block was sold to farmers in 1914, total area of 195 acres 3 roods 39 perches.
- The 12 Māori owners of subdivision 4 sold this lot, being 458 acres 13 perches to farmers in 1914.

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[443] Document A24, p84
[444] New Zealand Gazette 1931, p2853, New Zealand Gazette 1939, p2
[445] New Zealand Gazette 1938, p2140. New Zealand Gazette 1964, p1588
[446] New Zealand Gazette 1995, p324
[447] Document E12, pp43-44

- 3 owners were named for subdivision 9 in the partition order and the entire lot of 731 acres 2 roods 164 perches was sold to farmers in 1914.

26.0 Ohariu and Makara

26.1.1 Ohariu was also known as Te Ikamaru or Te Ikamara and Makara as Ohaua. McCleverty's census in 1847 shows 119 people as living at Ohariu and just 5 as living at Makara. A visit to Ohariu pa from the Deputy Inspector of Police in 1846 stated that he estimated the pa was able to hold up to 400 people although he also came to a figure of 120 people living there at that time. Many of these people were from the Hutt Valley and had been removed from those lands and settled at Ohariu.[448]

26.2 Ohariu Māori were absent at the time of the Spain Commission and therefore no negotiations could be held with them leading up to the 1844 release agreement but in any case, Ohariu land was not required for European settlement.[449] Ohariu were awarded £10 in the 1844 release agreement, despite their lack of participation in the negotiations.

26.3 Like Te Aro, Makara initially refused to negotiate at the time of the 1844 releases and it appears that only under pressure did they accept the £20 offered to them.

Signatories to the Spain releases:

Aperahama Taupo

Mone

Petuha Kamaru

Hekaraia Te Parua

George Clarke

Witnesses:

William Spain

George Clarke

Thomas Forsaith

[448] Julie Bremner, *Onslow Historian* Vol 9 No 3 1979, p 5, citing Archives NM 46/354).

[449] Tonk, Rosemarie 'A Difficult and Complicated Question' in *The Making of Wellington 1800 - 1914* p57

26.4 Ohariu Bay was the usual starting and finishing point for canoe journeys across Cook Strait. A small Te Atiawa village called Te Arei was on the flat just behind the present day settlement of Makara.. This village and several surrounding cultivations are recorded on early maps of the district.[450] Form C of McCleverty's initial report on cultivations shows a total of 233 acres 3 roods 8 perches of Māori cultivations in Ohariu and Makara, almost a third of his total cultivations recorded for the whole of the Port Nicholson district. Yet Fitzgerald's report seems to indicate a much higher of figure under cultivation in the area - perhaps as many as 1400 acres.[451]

26.5 A note on the deeds register states that 'there are no cultivations at Te-Ika-maru [Ohariu] all those at Ohaua are included in the block at Ohaua Pah - Mr. Scroggs on the part of the Government and Mr. Park on the part of the New Zealand Company surveyed these in the presence of Mr. Deighton, Governor Interpreter'.[452]

26.6.1 McCleverty's Deed with Ohariu and Makara was made on 18 October 1847. The original is in Māori and it contains the standard wording of the Te Aro deed. The Landowners and Chiefs agreed to give up their cultivations in Ohariu and Makara Districts and in exchange received 2282 acres 24 perches of land.[453]

26.6.2 All of the following areas were formerly company tenths native reserves.[454]

- Ohariu 88, 97
- Ohariu Section 98 (with pa) (131 acres 2 roods 9 perches)
- Makara Sections 37 & 39 (200 acres 0 roods 32 perches)
- Part of Kaiwharawhara block (shared with Pipitea and Taringa Kuri's tribe) (167 acres 1 rood)

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[450] John Daniels, 'Mäori Occupation in the Onslow District', Onslow Historian, Vol 1 no 2, May 1971, p 6-7
[451] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218 reprint of 1845 Report.
[452] 1 Deeds 451
[453] Document A10(a)(iii), pp16-18
[454] Document A24, p283

26.6.3 The following sections originate with the McCleverty award, although they may have comprised cultivations at the time of European settlement:

- Unsurveyed (cultivations) between Ohariu Sections 88 and 75 (131 acres 2 roods 16 perches)
- Unsurveyed block 'comprising nineteen native gardens' to SW of Ohariu S. 98 (approximately 1300 acres)
- Ohariu section 77

26.6.3 In addition, the McCleverty deed for Ohariu and Makara states that 'Ko te Pohe is also guaranteed a house and Taro garden about 3/4 mile from Ohariu on the coast northerly opposite to Section 74'.[455]

Signatories, 18 October 1847, Ohariu & Makara

Turton Deed No. 9	
Ngapapa	**Witnesses:**
Te Pohe	McCleverty
Tihoira	Scroggs
Tapoto	Duncan

26.7 Ohariu Section 98

26.7.1 Section 98 is an area of 131 acres 2 roods 9 perches and includes the site of Ohariu pa. The northern part of the section, 55 acres, was sold in December 1855 and registered in 1856:

> We have received on this day on the thirty first (31st) of the days of December, in the year of our Lord one thousand eight hundred and fifty five (1855) one hundred pounds in money, paid to us by Donald Maclean Government Commissioner for the Purchase of Lands in New Zealand, for three pieces of

[455] Document A10(a)(iii), p18

our land at Ohariu, the description of which is shown on this deed. [the three pieces of land are 55 acres of this section, part of the unsurveyed block between 88 & 73, and Part of Kaiwharawhara block]

Those are the places which the Government set apart for us some time ago, but which we have sold for the said sum of one hundred pounds (100) and we hereby convey the said land to Victoria the Queen of England or to the Kings and Queens who may succeed her for ever and ever.

And having sold those lands on this thirty first (31) day of December, one thousand eight hundred and fifty five (1855), we hereunto attach our names and marks and signatures.

Signed:

Te Kepa Ngapapa

Ngataura

Wiremu Hiri Karamu

Taringa Kuri te Kaiaia

Inia Te Tua[456]

26.7.2 In 1860, this part of 98 was renamed 'Lot IX' and sold by James Barnes in a parcel with section 99 (total 375 acres), an adjacent strip along the West Coast to William Simpson for £300 pounds.[457]

26.7.3 Swainson's 1867 Report shows that half of section 98 'was sold by the Natives to Government in January, 1856. The remainder still forms part of the Ohariu Reserves.'[458]

The Deeds Index shows that on 1 September 1860 this remainder 76 acres was included in a lease of the entire Opau block plus Makara 37 and 39 to W. B. Rhodes. Many of the same signatories as on this deed of sale.[459]

[456] 2 Deeds 524
[457] 5 Deeds 427
[458] Document A24, p38
[459] 6 Deeds 6

26.7.4 Turton, however, records the remaining 76 acres of section as sold in 1859. These acres were sold in the conveyance by Ngatitama of four Native Reserves, under the New Zealand Native Reserves Act 1856, clause XIV:

> Know all men by these Presents that we The Chiefs and people of the Ngatitama Tribe in pursuance of the 'New Zealand Native Reserves Act 1856' Do hereby release and convey to Her Majesty ... all those pieces or parcels of Land described in the Schedule hereunder written ... subject to the provisions and for the ends, intents, and purposes of the said 'New Zealand Native Reserves Act 1856'.[460]

Signatories to this conveyance are:

(signed) (* = by mark)

Aperahama te Pohe	*Te Harahira
*Tapoto	Wiremu Tamihana
Inia te Tua	Hori Pakihi (signed by Heremaia for him)
Heremaia Pati	
Ko Rota Wananga	*Taringa Kuri

26.7.5 As well as the remainder 76 acres of section 98, the following sections were sold in this transaction:

- 351 acres 2 roods 7 perches of Ohariu Sections 77, 88 and 97
- 1300 acres of the Opau block
- 200 acres 0 roods 32 perches of Makara Sections 37 and 39.[461]

This conveyance was endorsed by the statement that the 'correct motive on which we have consented to make over these our lands to Her Majesty...are - in order that

[460] Document A27, p110
[461] Document A27, pp110-1

they may be sold to the Europeans and the payment handed over to us, so that our troubles may be ended.'[462]

Because leases of all sections continues from different Māori, it may be that this sale sold the interests of the signatory parties only.

26.7.6 Inia te Tua is listed is the only signatory listed as having sold both parts of section 98. Tapoto is the only person selling the remainder 76 acres of section 98 who appears on McCleverty's deed.

26.8 Ohariu Sections 77, 88 and 97

26.8.1 These sections total 351 acres 2 roods 7 perches. The three sections adjoin each other. Fitzgerald noted that about 150 acres of the section were fit for cultivation, with cultivations already in existence. However, he described these sections as poor and hilly.[463]

26.8.2 All three sections are recorded as having been sold with part of section 98 about December 1858, see above, para. 26.7.5. The 1867 return on reserves shows the three blocks as being an area of 300 acres only, showing the blocks leased to John Chapman for an unknown sum.

26.8.3 The sections later show up in the removal of restriction on alienation files. On 26 February 1877, Pauira te Ranikatatu of Pipitea wrote to Mr Clarke about 'Ohariu Kumuhore' saying:

> Friend this is an application of mine to you respecting a piece of land at Ohariu called Kumuhore which we wish to dispose of to the government. This is an old wish to which I have only now given my consent to its being given to the Government, that land has been surveyed, there are 364 acres in the piece all of

[462] Document A27, p111
[463] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218

which is fenced in, it is all clear and, there is no bush on it, it has also been adjudicated on by the Native Land Court here in Wellington.[464]

26.8.4 Upon inquiry made by the government subsequent to this proposal to sell:

> it appeared that a Neta te Wheoro (residing at Wanganui) objected to the proposed sale. She stated that the land was not subdivided and that therefore Pauira had no right to insist on selling against her wish.'[465]

26.8.5 Clarke then informed Pauira on 5 April 1879 that the 'land is still lying as a whole it has not yet been subdivided to each and every person. Your word was not clear' and thus consent for the sale was denied.

26.8.6 In 1882, a certificate of title was issued for the sections, together described as section 77. The certificate recorded restriction on alienation.[466]

26.8.7 On 20 August 1884, Pauira again requested approval for sale saying 'I have much land in other places'. Barton was requested to report, but he said the whole situation was too vague to allow of a report, let alone an approval to alienate.[467]

26.8.8 Removal of the restriction on alienation was made in 1908 and the section was sold in 1912, the block now no longer in Māori ownership.[468]

26.9 Unsurveyed Opau Block

26.9.1 McCleverty calls this block the Ohariu block. He describes the unsurveyed block as having little suitable land although some of it was already under cultivation.[469] In 1877, Heaphy described (at least) part of the land as poor and precipitous.[470] The section is recorded as having been sold around December 1859, as described above.

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[464] NO 1878/975 Ohariu Kumuhore, National Archives, Wellington
[465] Barton to Ballance NO 86/3134, National Archives, Wellington
[466] Certificate of Title 30/63, Document E12, Appendix 102
[467] NO 84/2842 20 September 1884, Bundled NO 86/3134. National Archives, Wellington
[468] Document E12, p53
[469] Document A26, pD13
[470] Document A24, p111

This section was described in area as 1300 acres and is also listed as being 'block 113'.

26.9.2 In 1860, it was leased along with the remainder 76 acres of section 98 and sections 37 and 39, a total of 1575 acres, to William B. Rhodes for fourteen years for £40 pounds per annum. The lease was signed and the rent was payable to Inia Wi Tamehana, Inia te Tua, Harawira, Aperahama te Pohi, E Rota Wauanga, Heremaia Tatu, Hori Tatu, Parata te Kiore, Harawira tu Tauria, and Aperahama te Pohe.[471] However, the 1867 return on reserves shows that 1,394 acres of land in the Ohariu District was leased to a James Barnes for £40 per annum. It was then subdivided that same year into 23 subdivisions and allocated after arbitration in March 1867.[472]

26.9.3 A Native Land Court survey plan of 3 December, 1889, shows the block divided according to the Native Land Court determination of title for this block:

Lot	Acreage*	Owner
1	47 1 7	Wiremu Pakata
2	44 3 27	Aperahama Te Pohe
3	59 0 0	Harawira Tutawhia
4	47 3 29	Wi Tamihana
5	68 1 3	Paratene te Wheore
6	51 0 18	Karana
7	60 0 0	Manuhera Te Ringatura
8	60 0 0	Wikitoa Te Ringakuri
9	60 0 0	Hera Te Whakahira
10	60 0 0	Hene & Mara te Ataahua
11	53 0 18	Tuia Te Tua
12	65 1 17	Parata Te Kiore
13	59 1 16	Teretia
14	56 0 16	Wiari Te Rua

[471] Turton
[472] Document A26, p51

15	60 0 0	Te Nau
16	56 2 03	Rei Te Wharau
17	60 0 0	Kepa Ngapapa
18	76 1 21	Henare Te Aonga
19	77 0 31	Reta Whananga
20	60 0 0	Taitaha te Rena
21	60 0 0	Tiopira te Mira
22	60 0 0	Wirape Mahi
23	60 0 0	Timoti te Rangipokohuru

* - not counting acreage of roads comprised in sections[473]

26.9.4 In 1894, Henry and Robert Cook, sought to purchase part of the 1372 acre block. A valuation of the entire block was given £1,544 pounds, with £626 of improvements.[474]

26.9.5 By that stage, in fact, Robert, Henry and William Cook purchased Lots 1 - 5 and part Lots 6-8 of Opau, as well as other parts of the block. In 1874, they bought lot 1 from Harata Pakata (Upper Hutt) and Lot 5 from Paratene te Wheoro (Ohariu Valley), for £25 5/ and £30 respectively. Both Pakata's and Te Wheoro's titles are described as originating as awards made by the 'Ohariu Reserves Investigation Court'. In 1877, Heaphy reported that lot 16 (60 acres) were sold to Robert Cook for £30 and lot 10 (60 acres) was sold to Cook for £55. In 1878 the Cooks' bought Lots 2, 3 and 4 from Aperahama te Pohe (Parihaka), Hararia Tutawhia and Wi Tamehana (Urenui). Attached to Tutawhia's deed are papers for removing restrictions on alienation, executed under Trust Commissioner Heaphy .[475]

Lot 12 (66 acres) had been sold by Wiremu Parata Kiore to the Crown in 1874 for £33, native interpreter Carroll certified that Te Kiore fully understood the deed.[476]

[473] Native Land Court survey plan 984A (not copied)
[474] Native Land Court, Wellington Correspondence 7 November, 1894, 141/2,, National Archives, Wellington
[475] Certificate of Title 135/149, Document E12, p57
[476] Document A27, p122

26.9.6 In 1878, Moorhouse and Edwards required consent to sales by Wi Tamehana, Inia te Ina and Harawira Tutawhia to the Cooks. Clarke sent a memo to Heaphy stating 'Do you consider the prices proposed to be paid sufficient? It strikes me that land at Ohariu ought to fetch a much higher price.' Heahpy replied:

> I think that No 4, of 49a 2r 0p, sold by Wi Tamehana is at too low a rate, being only about 7/s an acre. All the Opau land sold by the Ngatitama of Taranaki to Cook Brothers is very poor, being steep hills bounding the coast of Cape Terawhiti. Ten shillings an acre is what has usually been given, and I think that is enough. I do not, however, approve of 7/s an acre.

Moorehouse and Edwards amended the conveyance to 10 shillings an acre and consent was approved.[477]

26.9.7 Heaphy's report on the sale of 1, 5 and 7 recommends consent to the sale. Regarding Lot 1, the sale from the widow of Wi Pakata to Cook, she advised on having other land at Whanganui, Rangitekei and Taupo.[478] Approval was given for Opau Lot 3 with Wi Tako swearing that Paretawhera had the right to sell and that 'They have land at Taranaki and some at Kaiwharawhara to cultivate and subsist. This is only pasturage land.'[479]

26.9.8 Crown Grants were issued rather late to the Māori owners in the early 1890s under the Native Reserve Titles Grant Empowering Act. Certificate of Title 135/149 was later issued to Robert C. Cook for the entire parcel in 1905, an area of 322 acres, being all of lots 1 - 5 and part of lots 6 - 8.[480]

26.9.9 Of the rest of Block 113, Lots 9-23 and part 6 - 8, in 1894, the Trustee of Lot 21, Tahana Kawhe, wrote to the Native Land Court Judge, Mackay, for consent to a conveyance on 18 October, of this Lot to Henry Cook under the Māori Real Estate

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[477] NO 78/64, 10 January 1878, 78/887, 21 March 1878, Bundled NO 78/1616, National Archives, Wellington
[478] MA-W 2/1 p350, p354, p357, p412, National Archives, Wellington
[479] MA-W 2/1 p350, p369,, National Archives, Wellington
[480] MLC Wn 141 Opau Applications 1874-1918, National Archives, Wellington

Management Act 1888.[481] Tahana wrote on behalf of Tiopira te Mira's successors, Tahana Kawhe and five others.

Raumoa Pamariki applied to stop this conveyance on grounds of being of closer descent from Tiopira.[482]

For some reason, Tahana Kawhe - instead of the Court - notified Raumoa of a succession hearing to be held on 15 August, 1895. As the notice 'was sent by Tahana Kawhe and not by Judge Mackay himself [Raumoa] did not consider [her]self bound to come.' Then, although Raumoa assured the Court she would come to a hearing on 15 August, she did not attend and wrote abandoning her claim altogether on the 19 August.[483]

The last obstacle removed, title was issued to the Cooks.

26.9.10 A large number of the other lots seem to have been sold in the late 1870s. Part of An application to sell Lot 8 and Lot 17 was made by Raniero ta Ringakuri and Wi Kepa and another to the Cooks. In seeking consent for the sale, Heaphy advised Clarke that:

> The owners have long since left the district, and settled at Taranaki, where they have, I believe, sufficient land for their purposes of cultivation. Under the circumstances, and as the land is poor and broken, I think they might be allowed to sell. While advising this, I would draw attention to the position of the resident natives of this district, who have no more cultivation land than is necessary for them, and who ought not, say in the case of the Te Aro and Pipitea Pa lands and town acres fit for cultivation, be allowed to sell.[484]

Consent was granted for the sale.

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[481] MLC Wn Old Correspondence 7 November 1894, 141/2,, National Archives, Wellington
[482] MLC Wn Old Correspondence 4 June 1895, 141/2, National Archives, Wellington
[483] MLC Wn Old Correspondence. 9 August, 1895, National Archives, Wellington
[484] 10 August 1877 Bundled in NO 78/1616, National Archives, Wellington

26.9.11 Consent was granted for the sale of Opau Lots 8 and 17 to the Cooks in August 1877.[485] Opau lot 13 was sold in 1878 from Te Retiu to the Cooks for a price of 10 shillings an acre.[486] Lot 18 was sold by Miriama and Pirihira to the Cooks in 1878. [487] Opau Lot 22 was sold by Wi Hapi Mati to the Cooks in 1879.[488]

26.9.12 In 1879 an application was made for Opau Lot 21, an area of about 60 acres, to be sold Tiopira Te Mira to John W Wilkinson. Heaphy wrote to Lewis saying:

> This is part of the Messrs Cook's run, near Cape Terawhiti and is poor land, unfit for use by the natives, who have other land for their subsistence at Taranaki. I know of no reason for the Governor's consent not being given.

Tiopira died during the transaction, and consent was then re-obtained.[489]

26.9.12 Further sales occurred, Opau 6 and 23 were sold from Karatene to Cook for £31 15 shillings. The deed for this sale contained 'a guarantee to hold purchaser secure against counter claims on part of other natives.'[490]

26.9.13 Opau Lot 14 was sold by Ruta Wirepo, mother of Mi Arei te Rua deceased. She stated that she had land in Wanganui. The father of the deceased swore 'I have plenty of land at Wairarapa with my nephew Karauti for cultivation, also some at Upper Hutt'.[491]

26.9.14 Opau 18 was sold by Pirihira te Aonga, son of Henare Te Aonga deceased. Pirihira swore that he and his sister 'Miriama at Taranaki are the only children of Henare ... I have land at Wanganui to live on, plenty of it.' Winoka te Aonga, Henare's older

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[485] NO 77/3186, 27 July 1877 National Archives, Wellington
[486] NO 78/1910, NO 78/1927, NO 78/2188, bundled 79/1062, National Archives, Wellington
[487] MA-W 2/1 p351, National Archives, Wellington
[488] NO 79/1062 NO 79/1062, Bundled 79/1062, National Archives, Wellington
[489] 79/3511, bundled 79/5526, National Archives, Wellington
[490] MA-W 2/1 p 306, p357, National Archives, Wellington
[491] MA-W 2/1, p350, p365, p419, National Archives, Wellington

brother challenged Pirihira's right to talk on this. Consent was granted on the condition that some of the money was sent to Miriama in Taranaki.[492]

26.9.15 Brief notes are shown for Opau Lots 12 and 15, both sales to Cook, before consent was granted.[493]

26.9.16 These sales indicate that most of the block had block had been sold by the 1890s, mainly to the Cook brothers. The following subdivisions of the block were not recorded above as having been sold: Part of Lot 7, Lots 9, 10, 11, 16, 19, 20.

26.9.17 Certificate of Title for part of the unsurveyed Opau block, being Lots 6-8 and 11-23 was issued in 1913 to Henry Cook.[494] As the block was in 23 subdivisions, this means that only Lots 9 and 10 are shown as not having been sold by this date.[495]

26.10 Makara Sections 37 & 39

26.10.1 These two sections, an area of 200 acres 0 roods 32 perches, are adjacent to the unsurveyed Opau block. Fitzgerald's report shows them as being poor quality.[496]

26.10.2 Both blocks are shown as having been sold along with part of Section 98 (see above) December, 1859. The 1867 return on reserves shows these sections as leased to James Booth for £30 per annum by Ngatitama, in 1871 the blocks are shown as let to James Barnes. The two blocks are described in both 1867 and 1871 as having a total area of 229 acres.[497]

26.10.3 Certificate of Title for 58 acres of section 37 was issued in 1882 to two Māori, Te Wheoro and another, residing at Wanganui. It was reported in 1875 that Pirinara

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[492] MA-W 2/1, p351, p426
[493] MA-W 2/1, p354, p425
[494] Certificate of Title 135/149 Document E12, Appendix 105
[495] WD 98a, Document E12, Appendix 104
[496] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[497] Document A24, p38

Tutawhia received an inalienable grant for 60 acres of section 39. Restriction on inalienability was lifted in 1889 and the land was sold to Robert Cook, solely.[498]

26.10.4 Under authority of Part XVIII, Sec 341 of the Native Land Act, 1909, 'Powers of Assembled Owners,' the Ikaroa Māori Land Board gazetted their intention to consider the sale of these sections at their meeting on 27 October, 1915 (along with 114 other alienations at various stages of progress).[499] It appears that no sale eventuated from this meeting.

26.10.5 The next alienation for the section is not shown until 1917, when 60 acres of section 39 was sold by Tutawhia to Walter Cook. The certificate of title was issued to Tutawhia solely in 1910.[500]

26.10.6 The balance of the unsold land, being 103 acres 2 roods 6 perches, was sold in 1925 by the 39 Māori owners listed on the certificate of title to Edward and William Jervis. Thus the land was fully alienated from Māori ownership.[501]

26.11 Unsurveyed Block between sections 88 and 75

26.11.1 This section comprised 131 acres 2 roods 16 perches and Fitzgerald noted little suitable land for cultivation. The land became known as lots X, XI and XII Ohariu District.

26.11.2 Green notes that the fact that this land was awarded by McCleverty is not mentioned anywhere on the deeds index for these lots. He notes that:

> The first entry under lot X is for a Crown Grant to a C. Cull in 1857. Notice of a marriage settlement between a Matilda Bowler and a John Hays in 1856 is the first entry with regard to lots XI and XII.[502]

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[498] Document A24, p91, Certificate of Title 30/61 Document E12, Appendix 107
[499] Aotea District MLC Old Correspondence File SF 131, Ohariu section 91, National Archives, Wellington
[500] Certificate of Title 191/274, Document E12, Appendix 108
[501] Certificates of Title 324/92, 329/73, Appendices 109, 110
[502] Document E12, p54

26.11.3 A memo from MacKay to Lewis in 1888 states that is was reported in 1855 that the Māori who lived at Waiariki, Ohaua [Makara] and Te Ika-a-maru [Ohariu] 'disposed of all the land reserved for them by Colonel McCleverty in 1847, to the Government and also moved northward.'[503] There appears to be no other reference to this and possibly MacKay refers this lot?

26.11.4 Another purchase is recorded to have occurred on 18 July 1853 when Chief Land Purchase Commissioner McLean purchased land at Ohaua, Oterongo, Ikamaru and Karori for the Crown[504]:

> Listen all people, We the undersigned hereby agree on this day on the eighteenth of the days of July in the year of our Lord 1853, to sell and for ever give up all our land which has been reserved for us at Ohaoa, at Oterongo, at the Ikamaru and at Karori, with all our cultivations within the said lands to Victoria the Queen of England or to the Kings or Queens who may succeed her for ever and ever.
>
> And the Queen of England on her part agrees to pay us in pounds of money 75 pounds for all the said land and the said sum of 75 pounds has been paid into our hands this day by Mr. McLean.
>
> Now we have assuredly bid farewell to these lands for ever and ever.[505]

26.11.5 Signatories to this deed were Horomaia Tahurangi, Te Teira, Te Manihere, Wetuku Tuhurangi, Te Aria te Pohi, Kereopa Tehaukaruia, Ko Okaua, Tamati Taka (his mark), Ripeka Taka, Heri (?) Te Puhi, Karepa te Ohetu, Anama e Tamarua, Pari Tamaru, Wiremu Aue. Witnessing this document were: McCleverty, Native Secretary Kemp, George Rich, Ki te Puhi, Piri Kawau (Native Clerk) and Edmund Tuke, a settler of Ahuriri

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[503] Document A39, p111-112
[504] 2 Deeds 193 In Turton Deeds, Supplementary Deed 201, p414 (no plan).
[505] Document A27, p414

26.11.6 Because no plan is attached to this Deed, it is not clear exactly what land was surrendered, although the statement that 'we sell and forever give up all our land which has been reserved for us at Ohaoa, at Oterongo, at the Ikamaru and at Karori, with all our cultivations' suggests that it was *all* the McCleverty lands.

26.11.7 The fact that later sales of the other Ohariu and Makara lands possibly indicates that this 1853 sale refers, at least in part, to the lands of this unsurveyed block. This would explain why no Crown grant is listed as having ever been granted to Māori for this block - the first alienation must have occurred prior to the record of the first entry in the deeds' index.

27.0 Kaiwharawhara

27.1 There is no record of Kaiwharawhara participating in the New Zealand Company purchase in 1839. There cultivations were not awarded to them in the ballot and section allocation. McCleverty's deed shows 44 people as living at Kaiwharawhara, compared to Halswell's estimate of 60 inhabitants in 1842.[506]

27.2 Daniels states that Kaiwharawhara was:

> probably the most important settlement in the Onslow District. It was the site of a large and important pa of the Ngati Tama, an ally of the Ngati Awa. The Ngati Tama, who came from Wanganui, were led by the chief Taringa Kuri ... The site was ideal for settlement; it was close to the sea and to a good stream of fresh water, and had a good area of flat land. In the 1840's Māori gardens were dotted around in the bush on the hills above Kaiwharawhara. The Māori path to Porirua climbed steeply over Paerau hill and on through present day Khandallah. The beginning of this path became the first settlers' Bridle Track and is still known by this name. The pa itself at Kaiwharawhara was on the tongue of land on the south side of the mouth of the stream. The site is now occupied by O'Brien's Freightways.[507]

27.3 Kaiwharawhara participated in Spain 1844 release agreement. They received £40 on signing their release agreement on 26 March 1844.

Signatories:

Noa Wakakeko

Aperahama Rawi

Taringa Kuri

George Clarke.[508]

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[506] Document A29, p494, Document A26, pD10

[507] John Daniels, Mäori Occupation in the Onslow District, *The Onslow Historian*, Vol 1 No 2, May 1971, p 6.

[508] Document A10(a)(ii) p5

27.4.1 McCleverty's Deed and award to Kaiwharawhara is undated but it depicts three blocks: the northern half of the Kaiwharawhara block, 244 acres; Harbour District section 4, 104 acres; and the Government Domain adjacent to section 4, 100 acres.

27.4.2 The original of this deed is in Māori. It is a unique deed, unlike the others. In its entirety (in English) the deed states:

> Plans of the lands allotted to the Kaiwharawhara Natives including the Section No. 4 purchased on their account, the three blocks are within the red boundaries, and contain about four hundred and forty acres, these lands are given in lieu of lands on settlers' sections. They are also guaranteed in their pahs at Kaiwharawhara and Tiakawi.
>
> The plans of the pahs and reserves at Kaiwara-wara and Tiakawi guaranteed to the natives are annexed. [509]

27.4.3 The original deed shows that on a separate, smaller sheet, there is a further award:

> The Natives of the Ngatitama tribe residing at Kaiwara-Tiakiwi and Ohariu are guaranteed in a Pah on Native Reserves 659, 660 in the Town of Wellington. The plan is annexed, as the residence of those formerly living at Tiakiwi on the Beach of Thorndon flat.[510]

27.4.4 The plan of sections 659 and 660 is on the reverse of the original, along with note:

> 'Plan of Kaiwharawhara pah and adjoining portion containing as follows and guaranteed to the Natives.
>
> Pah: 0a 1r 19p
>
> detached portion: 0a 0r 9p
>
> Total 1r 28p

[509] Document A10(a)(iii) p24

[510] Original of this deed is at Heaphy house. Document A10(a)(ii) p24

(pa and adjoining area to southwest of mouth of Kaiwarra River depicted).

To the natives of Tiakiwai are guaranteed two native reserves in the Town marked as 659 & 660 respectively, containing in the whole two acres or thereabouts.

27.5 Kaiwharawhara and Tiakiwai Pa

27.5.1 Kaiwharawhara Pa appears to be located on Harbour Section 3. This section was probably the best of the country sections, having been the first selected - by George Hunter for Duncan Dunbar Ltd. (absentee owner).

27.5.2 While McCleverty's deed with the Māori at Kaiwharawhara 'guaranteed [them] in their pahs at Kaiwharawhara and Tiakiwai', in another memo on the same deed is the statement that:

> the Natives of the Ngatitama tribe residing at Kaiwara-Tiakiwi and Ohariu are guaranteed in a Pah on Native Reserves 659 and 660 ... as the residence of those formerly living at Tiakiwai on the Beach of Thorndon flat.[511]

27.5.3 A letter from Charles Sharp, agent of Duncan Dunbar & Sons, London, to Attorney General Wakefield, dated August 22 1849 sought an application 'for possession of the acre in the township of Wellington known as No 1 order of choice, as also that the Natives may be removed from section No 3 at Kaiwarra, being part of the same order.'[512]

27.5.4 The Pa at Kaiwharawhara is an area of 2 roods 19 perches. Hori Paengahuru and others claimed succession to the pa in 1868. Swainson surveyed it at 2 roods 19

[511] Document A10(a)(iii) p24

[512] LS-W 64-29: Correspondence to New Zealand Company principal agent taken over by Bell in 1850. National Archives, Wellington

perches - compared with only 1 rood 20 perches in the 1889 survey. Apparently some of the pa had been deducted for the Wellington and Masterton railway, laid at the waterside edge of the pa.[513] Equally interesting, the pah was landlocked by the 1848 and 1853 earthquakes, but the added lands went to the Crown with Chief surveyor Jackson noting that:

> The original boundaries of the pa extended only to the high water mark prior to the earthquakes and I therefore think that the land lying between the old and new high-water marks should belong to the Crown.[514]

In the 1871 return of native reserves, Kaiwharawhara pa was shown as let to B. Ling for £30 per annum.[515]

27.6.1 Town section 659 and 660 were company tenths native reserves.[516] They were reserved by Spain's 1844 release agreement and again by McCleverty. Section 659 is described as 1 acre 3 roods and section 660 as 1 acre 19 perches.

27.6.2 In 1867, the sections were still owned by 'native owners', and 'leased by Ngatitama natives to C. Cottle and others'. There was a dispute as to who was entitled to the proceeds, though. The sections were surveyed in July and August, and the claims of Wiremu Tamihana and Raniora te Pika heard 30 August 1867.[517]

27.6.3 The two acres of land went before the Native Land Court following an application by Wi Tamihana to succeed to guaranteed lands owned by Wi Te Keri. The court decided that by way of the McCleverty Deed, section 659 was to Wi Te Keri , who 'died without having made a valid disposal of his interest in the said land or any part thereof.' The certificate of title was ordered in favour of seven owners for section 659 and for six owners of 660.[518]

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[513] ML Plan WD 1197 (not copied)
[514] ML Plan WD 126 memo
[515] Document A24, p51
[516] Document A24, pp279-280
[517] Document A24, p37. The Native Land Court dates are from MLC Plans 345, 3137 and SO 10813.
[518] Wairarapa Minute Book 1, 2 September 1967 pp 49-51(not copied)

27.6.4 The decision of the land court judge included the decision that 'the lands referred to in the preceding orders are not Native Reserves within the meaning of the Native Lands Act 1866, guaranteed to aboriginal natives by Colonel McCleverty'. Thus the land were viewed to be held under a different tenure than other McCleverty reserves.

27.6.5 Wi Tamihana, one of the awardees, consented to losing a corner of section 659 to the intersection of the Hutt and Tinakore Roads, which had cut across 6 perches of the section. 13 perches of section 660 were lost in similar manner.

27.6.4 Crown Grants were issued on 27 June 1868 to the Māori owners of both sections.[519]

27.6.5 On 8 August 1872, T.E. Young, licensed interpreter, submitted a sale in May 1872 from Wiremu Kepa, Wi Tamihana Ngakoro, Paiuru te Rangikatata, Erehapetu Maoro and Hariwira Tuwhia to Charles Cottle for £250, the valuation of the land. Payment was made to the owners; 1 in Wellington, 1 in Whanganui, and 2 at New Plymouth. A note on the file from Young states:

> It had been the wish of the natives for a long time to sell this land owing to so many being interested and such a small amount of rent being available to divide amongst them. No illegal consideration entered into the bargain. The natives have informed me that they have sufficient land elsewhere for their respective wants.[520]

The government approved the sale and it went ahead.[521]

27.6.6 On 3 January 1873, a Mr Stowe wrote to Native Reserves Commissioner Heaphy calling Heaphy's attention to a 'renewed effort that is being made towards inducing the Government to take action - in the matter of a supposed road-way over the

[519] Crown Lands Office record No 1598.
[520] Archives MA-W 2/1, Page 2-3, National Archives, Wellington
[521] 23 Deeds 894

above section [660] - in a direction prejudicial to the interests of the Native owners[522]

27.6.7 Whether because of the roadway or because of other reasons, in 1877, a request for the removal of restriction on alienation to H Halse and W Humphreys was made. Approval was granted because the entire section was then transferred by sale to these two men in the same year for £150.[523].

27.7 Kaiwharawhara Block

27.7.1 This section of 244 acres is part of the Otari Native Reserve, an area of 500 acres awarded to Pipitea, Kaiwharawhara and Ohariu Māori. The land of this block was company tenths native reserve.[524] Part of the block was already in cultivation. McCleverty's deed and plan shows this as the northwestern 244 acres of the block.

27.7.2 The 1871 return of native reserves shows the block as leased by Ngatitama Māori to J. Norris for £25 per annum.[525] The first record in the deeds index of this section is for a conveyance from Māori owners to a Mr Kilimister for part of the block in 1877. Heaphy reported that he purchased 50 acres of this block from Raniera Pokowaenga 'and others of the Ngatitama, at Taranaki' for £150. He purchased the land because of a request to do so from the Public Petitions Committee of the House of Representatives 'on the petition of J and R Kilmister' who:

had by mistake built a house on and improved about 50 acres of the reserve, believing it to be their own land. The sum, which was a reasonable one, was supplied by Mr J Kilmister, to whom a conveyance of the fee-simple of the land has been made by the Natives.[526]

[522] MA-MT 1/1A/150, National Archives, Wellington
[523] 99 Deeds 427, NO 86/4197 NO 86/3227, National Archives, Wellington
[524] Document A24, p283
[525] Document A24, p51
[526] Document A24, p111

Further parts of the block were transferred to Kilmister in 1898 upon subdivision of the section.[527]

27.7.3 Certificate of Title 19C/1300 shows that 4.2416 hectares of land still remains in Māori ownership. This land is described as Otari A No. 5 and the certificate records 22 owners of the block.[528]

27.8.1 Harbour Section 4

27.8.2 Fitzgerald's 1846 report does not record the quality of this section. However, it is next to Harbour section No. 3, the first country section to be selected so it is assumed that it too was a valuable section. It was not awarded as a company tenths native reserve and instead was allocated to a settler, Abraham Offen of Hutton in the County of Essex. In area it is 104 acres.

27.8.3 On 16 October 1846, the Trustees of the McDonald Estate notified Superintendent Richmond that Joseph Cloverdale (via agent Mr. Wicksteed) had leased this section to Mr McDonald for 14 years from 4 December, 1841:

> On the recent sale of such section to the Government for the purpose of locating certain Maoris thereon no communication has been made to the tenants nor has their consent been obtained.[529]

27.8.4 This letter was acknowledged, then referred to Mr Clifford with notice to Mr Hart. On 25 November, 1847 by 1 D 266, the Crown Solicitor, Daniel Wakefield and Colonial Secretary Clerk, John Telford, purchased Harbour District s 4 from Joseph Cloverdale (who had acquired it from Hutton) at a price of £350. [530]

27.8.6 Section 4 is shown as being leased to J Hall and others by the Māori owners in 1871. Certificate of Title was issued to 14 Māori owners of the block in 1889,

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[527] 28 Deed 218, Document E12, Appendix 111
[528] Certificate of Title 19C/1300 (not copied)
[529] LS-W 65/1, National Archives, Wellington
[530] LS-W 65/1, National Archives, Wellington

however, this certificate does not show a restriction of alienation. Most of the section appears to have been alienated in 1894.[531]

27.7 Kaiwharawhara District Government Domain

27.7.1 According to Pyatt, this land had previously been ear-marked for the Governor's country residence.[532] In area it is 100 acres.

27.7.2 Certificate of Title was issue to Māori in 1889. As Green notes:

> Although it is not clear why, the land recorded on the Certificate is shown to only include 72 acres 1 rood 23 acres [sic]. Some land was taken for a road and for railway purposes, but this does not seem to account for the approximately 30 acre difference.[533]

It may be that the land was already subdivided although the certificate of title appears to refer to the entire block.

27.7.3 The transfer of the whole of the block listed on the certificate of title occurred on 6 May 1890 when it was sold to James Nairn, a Kaiwharawhara farmer.[534]

[531] Certificate of Title 53/242 Document E12, Appendix 114
[532] Document A18, p29
[533] Document E12, p64
[534] Certificate of Title 53/283 Document E12, Appendix 115

28.0 Pipitea

28.1 Pipitea did not participate in the 1839 sale to the New Zealand Company.[535] Part of their pa was awarded to them as company tenths native reserves. Pipitea lands were some of the earliest to be settled by Pakeha in Wellington and were the subject of land claims purchases by non-New Zealand Company purchasers, notably Robert Tod and Richard Davies.[536] McCleverty's census shows 116 people as living at Pipitea, compared to Halswell's figure of 134 living at the pa five years earlier.[537]

28.2.1 Pipitea participated in Spain's 1844 release agreement. They received £200 on 26 February 1844.

Signatories to the Spain Releases:

Te Ropiha Moturoa
Wairarapa
Ingo
Kereopa Warepouri
Koriki
Kaea
Horomona
Paramena Hikoikoi
George Clarke Jun.

28.3.1 McCleverty's Deed with Pipitea is dated 1 November 1847. The original is in Māori with the standard wording of the Te Aro deed. Pipitea Māori gave up 'cultivations ... on the Karori, Kaiwharawhara, Harbour, and Lower Hutt or other District' and they received 7436 acres as marked on McCleverty's plans 1 and 2.[538] McCleverty noted that Pipitea had cultivations on the Hutt in partnership with Waiwhetu as well more cultivations at Te Aro, in partnership with Te Aro pa.[539]

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[535] Anderson and Pickens, p19
[536] Document A11
[537] Document A29. p494 Document A26, pD10
[538] Document A10(a)(iii) pp22, 24
[539] Document A26, pD12

28.3.2 The following areas had already been reserved by Spain's 1844 release agreement as company tenths native reserves:

- Town sections 633, 634, 635, and 637 — 4 acres
- Part of the Kaiwharawhara block — 134 acres
- Kinapora 9 and part 7 (on Porirua road) — 221 acres
- 'Moturoa's reserve' at Abel Smith St. — 7 acres

28.3.3 McCleverty's deed also reserved 'a small portion of Native Reserve 543 on the beach belonging to Porutu and his family as per plan annexed No. 7, containing one chain.'[540]

However, this small portion is described on the plan attached to the deed as containing approximately one acre, although the area shown is certainly much smaller than this.

28.3.4 The following reserves originate in this 1847 deed:

- Town belt land in Tinakore range — 80
- Orongorongo block — 6,990

Thus, a total of 7,436 acres of land were awarded to Pipitea Māori.

Signatories to the McCleverty deed:

Pipitea Block signed:	
Moturoa	
Wairarapa	
Parata kohemi	and signed by Ho te huru:
Tamati	Pipi
Karoriki	Pure Tona

[540] Document A10(a)(iii) p24

Maka	Ra-wi-ri
Kereopa	Te Kuru
Hohepa	for themselves on behalf of Mangatuka &
Terei	Tepene his son:
Hare	Porutu
Henare	Te Wiremu
Kuaha	Hirini
Kohipa	E. Ingo
Panapa	Ihakara
arahine	Ihaia
Te Patuiuri	Pakau
Heremia	per Ihaia & Pakau:
Pihuka	Hemi
Wiputkaha	Hakopa
Hohua	Piripi
	Wi Rangiawhia
	Hone Wetere

28.12 Pipitea Pa

28.12.1

Pipitea pa was mostly on company tenths native reserves. It was granted by Spain in 1844 and again by McCleverty in the award to Pipitea which states that 'the plan of the Pa will hereafter be annexed: it is guaranteed to them and is a Native or Public Reserve'.[541] Interestingly, the English deed of the McCleverty deed and award does not record any mention of the pa.

In 1851, Colonial Secretary Dommett wrote that applications had been made to lease or convey land at Pipitea pa which was not possible because the whole of the land was owned in common. The pa owners were advised that if the land was

[541] Document A10(a)(iii) p22

divided into individual properties in a way so that 'no future difficulties respecting the ownership of the several portions will arise' then individual grants would be issued with the power to lease these subdivisions. Crown grants were then requested for tow parts of Pipitea: by Parata for lease to Rev. Duncan, and for Heberly to his wife and children.[542]

28.12.2 The pa was subdivided and Crown grants made in 1867 - 68. Restrictions on alienation were removed around 1873 and a number of Pipitea pa lots were sold. Pipitea Pa Lot 10 was sold from Tamati te Matohe and another to James Stewart in May 1873 for £120.[543] Pipitea Pa Lot 8 was sold from Ani Parata Nguru to Charles Hewitt in September 1873 for £120. £70 was paid for this and it was noted that Ani Parata had other lands.[544] Pipitea pa lot 11, an area of 19 perches sold in July 1874 for £115. In applying for consent to sale it was noted by one of the sellers, Wi Otaki, that '£90 will be invested for their permanent benefit out of the proceeds.'[545] Pipitea pa lot 11 was sold by Wi Otaki and another to James Barry on 21 January 1875.[546] Pipitea pa lot 23, an area of 30 perches was sold by Ramiri Ropiha, Huhana te Autoroa, Mere Pararaki, and Meriana Kanamo to William Ebden for £30 pounds, consent for the sale was granted in October 1875.[547] Lots 15 and 16 of the pa were sold in July 1875.[548] Lot 2, an area of 20 perches was sold by Ramiri Ropiha.[549] Pipitea pa lot 4, 12 perches, was sold by Hare Parata and others to Robert Cleland.[550] Referring to the sale of lot 23, Heaphy stated:

> For sanitary and other reasons, it was desirable that these Pa lands in the town should cease to be Native property. The propriety of investing the proceeds off the sales was urged on the vendors, and in some instances, successfully.[551]

[542] Document A26, pD17
[543] MA-W 2/1 p129, National Archives, Wellington
[544] MA-W 2/1 p137, National Archives, Wellington
[545] MA-W 2/1 p289, National Archives, Wellington
[546] MA-W 2/1 pp453, 476, National Archives, Wellington
[547] MA-W 2/1 pp427,494,496, National Archives, Wellington
[548] MA-W 2/1 p432, National Archives, Wellington
[549] NO 80/1140, 80/3271, National Archives, Wellington
[550] NO 86/3672, Bundled NO 86/3227, Bundled to 86/4091, National Archives, Wellington
[551] Document A24, p97

While some of the pa lots were sold, many of the others were leased for terms of 21 years.

28.12.3 On 8 February 1881, consent was sought for the sale of Pipitea lot 1, no acreage is given but the consent sought to purchase 5/4 of the lot for £400. Heaphy recommended that consent not be granted, partly because the price was below the market value and also because:

> But apart from these considerations there are others which render it inadvisable to consent to a sale. The land was granted to Kereopa Wharepouri and Mere Ruhu, both of whom are dead. The children of Mere succeed to both grantees. Of these children only one is of age - Tawhiri - and he is a political prisoner at Otago. Henare Pitt, who is the trustee for the children, now wants to sell the land of the three minors. It would be prudent, I think, not to allow a sale until the youngest child is of age, and then only on the merits of the offer, and with the understanding that the money shall be permanently invested for the good of the children and their heirs.[552]

28.12.4 Mere Parata applied for consent to sell lot 3 of Pipitea pa Lot 3. Lewis forwarded the request to Heaphy who sent it onto Native Land Court Judge Halse to check succession. Heaphy wrote to the Native Minister in March 1879 saying:

> I think it is desirable to get the natives out of the Town, and these have cultivation land at the Hutt, but they have not much, it would therefore be advisable before promising the Governors consent to remove restrictions on alienability to provide that the purchase money should be invested for the benefit of the grantees. Note: No's 4 and 9 are also granted to the same persons, these are let. None of these lands are under my control as Commissioner.[553]

[552] NO 81/382, bundled NO 31/382, National Archives, Wellington
[553] NO 79/970, bundled NO79/1207, National Archives, Wellington

Because succession had not been applied for, for this section, Mere Porata was told that a succession order would have to occur in the first instance.

28.11.7 Consent was sought for the sale of Pipitea pa lot 9 by Hare Parata and another to Mr Rolfe. £200 pounds purchase money was held in trust by Heaphy. A further £100 would be payable upon Native Land Court proof of title of third grantee. [554] Buller wrote to Bryce asking for consent to the sale and Heaphy sent a memo in February 1880 saying:

> It is desirable for moral and sanitary reasons to let the Maoris leave the pas in the Town. These people have country land sufficient for their requirements. I have, therefore, expressed my willingness to recommend that this sale should be permitted, but on condition that the 200 pounds now paid should be invested on mortgage for vendors benefit. 200 pounds has been placed in my hands for the purpose. I respectfully recommend that the sale be permitted.[555]

28.11.8 Lewis replied to this, concurring with Heaphy 'but considering the situation the price appears to me to be low - being less than 5/10/ per foot.' He referred the matter again to Heaphy. Heaphy responded, explaining the difficulty of valuing due to area being mostly leasehold church and native property.[556]

Lewis recommended that Dr Buller be advised not to give consent at the price. Then, Mere Pawa wrote on 21 May 1880, complaining that 'Major Heaphy would not allow us to [take the money ourselves], and insisted upon taking it himself.' However, Mere Pawa was advised that consent for the sale was denied being of the low price. The price was finally put at £7 per square foot and consent was given to the sale in February 1881.[557] 81/3029

28.11.9 Meanwhile, Mere Pawa and Ana had chafed at Major Heaphy's attempt to invest the purchase money for her. She requested it again, and 'on being refused she

[554] NO 80/640, National Archives, Wellington
[555] NO 80/744, National Archives, Wellington
[556] NO 80/1141, National Archives, Wellington

complained to the Hon Mr. Bryce who said that if the sale was permitted he could see no advantage in interfering with the money ... I am informed that part of the money is in the Savings Bank but that most of it has been spent'.

Mere and Ana continued to petition even MacKay, but the invested sum (£148) remained invested.[558]

28.4. Town Sections 633, 634, 635 (636), 637

28.4.1 All these sections were on Tinakori Road, and they ran up to the Town Belt. All were formerly company tenths. They contained some old cultivations of Pipitea. In 1867, Swainson shows these sections as having been allocated by McCleverty along with town section 635. However, section 635 was never deeded by McCleverty.[559] In 1859 Robert Strang and S Carkeek, native reserve commissioners, wrote about a complaint on section 635, which later led to the opinion from the attorney-general that McCleverty reserves were not reserves within the meaning of the Native Reserves Act, 1856.[560] They described the land granted by McCleverty as sections 633, 634, *635,* and 637. It seems that there was some confusion over exactly which town acre - 635 or 636 - was awarded by McCleverty. However, government officials seemed to treat section 635 as the McCleverty section as later returns on reserves show section 635 as included with 633, 635 and 637.

28.4.2 Sections 633, 634, 635 and 637 are all shown in 1867 as leased by Pipitea Māori to Europeans for an unknown rental, the Native Commissioner's report of 1871 shows that the are partly occupied by Māori as well as being partly leased to Europeans, with Māori receiving the rents themselves. In 1882, sections 633 and 634, 2 acres 1 rood 24 perches, were recorded as having been leased to a Mr Logan: 'He is now

[557] NO 81/505, National Archives, Wellington
[558] NO 81/3030, 82/2490, Bundled 82/2490, National Archives, Wellington
[559] Document A24, p37 'Return of all lands vested in the Governor' shows section 635 as leased by Pipitea Māori.

obtaining a fresh lease for 42 years, at an annual rental of 200 pounds. The Commissioner of Native Reserves recommends it for approval, and states that the native owners are agreeable.'[561] Consent was approved and issued on 22 December 1882.

28.4.3 On 28 January 1859, the Commissioners of Native Reserves leased half of Town Acre 635 to John Moore for 14 years at £7 pounds per year, with a covenant to erect a £150 house.[562]

Te Rira Porutu, Ihaia Porutu, and 7 others complained:

> Mr Hill has already leased one of our sections there, and receives the rent. (W. Buller noted here that the rents were appropriated towards the maintenance of Wellington Hospital.) No portion of it has ever been given to us. Governor Grey told us that after nine years we should resume possession of it. At the expiration of that period we went to Mr St. Hill, and he refused to give it up to us. Hence we discover that your custom is to give and afterwards to take away.[563]

28.4.5 The Commissioners reported only that the Māori resented being neither informed nor consulted, and objected to 'some of the terms' of the lease. The Commissioners met with the aggrieved Māori on 6 June. On 23 June, they submitted the dispute to the Attorney General W. Swainson, specifically asking whether their Commission under the 1856 Act extended to:

> those reserves which were given to certain native tribes by Colonel McCleverty, acting on behalf of the Governor of New Zealand, in consideration of their having ceded to her Majesty's Government numerous cultivated grounds

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[560] Document A26, pD33
[561] NO 1882/2333 , National Archives, Wellington
Endorsement issued 22/12/82 82/3816 but deed was lost by Buller and Gully and so consent was re-issued 86/4118 21/12/86
[562] Document A26, pD33
[563] Document A26, pD33

... and of which reserves plans were handed over to the Natives at the time that the several negotiations took place.[564]

28.4.6 On 24 September, Assistant Native Secretary T. H. Smith wrote to the Commissioners, through the Native Secretary's Office, that:

> the Attorney General, upon the facts of the case as stated by yourselves, is of opinion that the lands given to the Natives in exchange for their cultivations by Colonel McCleverty, acting on behalf of the Government, are not native reserves within the meaning of the New Zealand Native Reserves Act, 1856.[565]

28.4.7 The 1867 Return of Reserves shows these four acres still owned by Pipitea Māori, leased by them under unknown terms.[566]

28.4.8 In 1922, the Native Land Court determined that Anne Kerr and 2 others were the successors to Henare Porutu and Mary Porutu to sections 634 and 633.[567]

28.4.9 The sections were then mortgaged to a Mr Read. The deed for the sections states that Anne Kerr may alienate the lands because she is 'deemed to be a European for the purposed of the Native Land Act 1909'. It is not clear what happened to the rights of the two other successors to the Porutu's share of these sections.[568]

28.4.10 In 1925, the sections were subdivided and sold off, the Public Trustee is shown as the vendor of these sections.[569]

28.4.11 Town acre 635 was Crown granted to Wiremu Pakau and others in 1870, with the grant being re-issued for reasons unclear in 1872.[570] The owners then sold the section to E Brown in 1889 for £1000. Consent was sought for the sale and granted,

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[564] Document A26, pD33
[565] Document A26, pD34
[566] AJHR A-17
[567] 246 Deeds 77
[568] 246 Deeds 77
[569] Document E12, p39
[570] 7 G 130, 9G 98

noting that the owners of the section 'have sufficient land left for them for their occupation and support'.[571]

28.4.12 Green records that town acre 637 had a certificate of title issued for it in 1882, whereupon it was subdivided into two parts. Subdivison A was sold to John Thompson in 1892 by Hape Puketapu.[572] It is not known when the rest of the section was alienated, although it is not in Māori ownership.

28.5 Porutu's Reserve

28.5.1 The McCleverty deed shows a very small award to Porutu: 'To Porutu and his family as per plan annexed No. 7, containing one chain. --- signed McCleverty.'

28.5.2 McCleverty's registered plan number 7 appears to show almost half an acre of land as reserved for Porutu, whereas the deed records only 1 chain to be awarded to Porutu. In addition, the plan shows the reserve as extending onto part of section 543 (a company tenths native reserve) whereas the deed records the reserve as being only on section 542.[573]

28.5.3 26.1 perches of section 542, in two subdivisions A and B, had titles issued on the 18 May and 23 May 1899, respectively. Subdivision A (11.5p) was owned by Henare Pite Porutu; Subdivision B (15.6p) by Harena Pite Porutu, under a Native Land Court Order of the 25 January, 1894. Subdivision A was issued a new title 99/163. Harena sold Subdivision B to Sarah Keal on the same day as her title was issued. Sarah Keal sold part of Subdivision B again two years later.[574]

28.6 Moturoa's Reserve: Town sections 40, 42, 44, 46, 109, 111, 113

28.6.1 These sections are described on the McCleverty deed as being seven town native reserves 'in Polhill's Gully each containing one acre (seven acres).

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[571] 99 Deeds 627
[572] Document E12, p20
[573] Document F1. appendices of maps
[574] Certificate of Title 33/239), Certificate of Title 39/528, new Certificate of Title 113/272, balance of section new Certificate of Title 113/275

28.6.2 Te Atiawa were deeply involved in both the Hauhau and Kingite movements. Ropiha Moturoa and Wi Tako Ngatata were both prominent Kingite leaders. [575] In a meeting at Waikanae 3 June 1864, Colonial Secretary William Fox told Wi Tako Ngatata,

> You are liable, as well as the rest, to have all your lands taken from you. But if you are prepared today to make your submission - to give up Kingism forever and sign the declaration of allegiance - the Government will not touch any of your lands or punish you in any way.

28.6.3 On 17 October 1864 Commissioner Swainson was instructed by Acting Native Secretary Halse not to issue Crown Grants to 'avowed Kingites'. [576]

28.6.4 On 9 January 1865, Ropiha Moturoa wrote to Swainson that he had given his land at Te Aro to Mohi Ngaponga and his wife Hera and children. 'The reason I have given it is because I do not know the difficulties of this world.' The land was fenced, and he requested a Crown grant for it, for Mohi's interests: 'you give him the Crown grant'.

28.6.5 On 11 February 1865, Swainson wrote a memo: 'Moturoa is a very strong Kingite, and has for the last three years left Pipitea, and resides at Waikanae. His object in giving it to Mohi appears to be an underhanded transaction, in order that he may reap the benefit of a Crown title. This he acknowledges by saying he 'does not know the troubles of this world'. His title is perfectly clear to the land, if not vitiated by his adherence to Kingism. I do not see how any such mode of gift or transfer can be acquiesced in by the Government; but on his taking the oath of allegiance, and submitting to the Queen's authority, I should recommend that he should receive a grant for the same, when he will be at liberty to dispose of it as he thinks fit.'

[575] AJHR 1861 E-1D pp 3-5, Document A27 p186.

[576] Document E8, pp4437-438

28.6.6 It is not know if Moturoa renounced the Kingite movement, but after being told by Swainson that he would have to give up his land if he didn't renounce the movement, Wi Tako stated:

> It was I who commenced Kingism here...From the first time my Kingism was clear and good, but Waikato put it wrong and now it is crushed and dead. My advice was always put aside, and their plan took a different shape from mine.[577]

Accordingly, he renounced Kingism, and the Crown refrained from seizing his lands.

28.6.7 It is likely that Moturoa renounced Kingism as well. The sections were awarded to Moturoa on 17 October 1865 and a Crown grant for all seven sections conveys these to him.[578]

28.6.8 On 3 January 1866, Moturoa sold all these section to a Mr John Martin for £1000 and thus they were alienated from Māori ownership.[579]

28.7 Part of the block at Kaiwharawhara

28.7.1 The part of this 500 acre block awarded to Pipitea (other parts of it were awarded to Kaiwharawhara and Ohariu) was on the southwestern corner of the block and consisted of 134 acres. According to Fitzgerald, Pipitea cultivated some 80 acres on this land.[580] In the 1867 Return of all lands vested in the Governor by virtue of the Native Reserves Act 1856, this block is shown as partially occupied by Pipitea.[581] In 1875, Commissioner Heaphy reported that he let all 134 acres to a Mr Samuel Woodward for 14 years at £28 per annum for the first 7 years and £25 per annum

[577] Document E8, pp437-438
[578] 3 G 190
[579] 11 Deeds 805
[580] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[581] Document A24, p38

for the remainder of the lease. Heaphy reported that this was the first time the land had been leased.[582]

28.7.2 These 134 acres were partitioned into five strips of roughly 30 acres each. Subdivision 1 was sold to Harry Pitt. The other four subdivisions became part of the Otari native bush reserve and the land for this was taken by proclamation under the Public Works Act 1905 and the Scenery Preservation Act 1903.[583] The land was permanently reserved for scenic proposed in the same year and the entire reserve was transferred to the Wellington City Council in 1917.[584]

28.8 Kinapora section 9 and part section 7

28.8.1 These sections were awarded to Pipitea by McCleverty although both were former company tenths native reserves. They were situated on the old Porirua road and total 221 acres. Te Aro were awarded the balance of section 7 not awarded to Pipitea as well as the neighbouring section 8. Fitzgerald described all these sections as being of very good quality having previously been used for cultivation by Pipitea.[585]

28.8.2 All 221 acres were leased in 1855 by Ihaia Porutu and others to a Mr Simm.[586] They were still shown as leased, for an unknown sum, in 1867.[587]

28.8.3 According to Green, the land was then subdivided and certificates of title issued for the subdivisions. A sample certificate of title, for Subdivision 4 of section 9 (an area of 22 acres) shows the restriction on alienation of this section as having been lifted in 1898, with that subdivision sold that same year.[588] It is likely that the rest of the subdivisions follow a similar patter: issuing of title showing inalienability, removal of restriction on alienation and subsequent sale.

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[582] Document A24, p85
[583] NZ Gazette, 1906, p794
[584] Certificate of Title 255/167 Document E12, Appendix 48
[585] Fitzgerald Report 13/5/1867 enclosed in Colonel Wakefield to the Secretary of the New Zealand Company, NZC 3/6 n.o.27 pp206-218
[586] 2 Deeds 638
[587] Document A24, p38
[588] Certificate of Title 91/174, Document E12, pp23-24

28.9 Part of the Town Belt

28.9.1 80 acres of the town belt were awarded by McCleverty to Pipitea Māori. It is known that the town belt contained Māori cultivations although it is not known if they were on these lands awarded. The 80 acres of the town belt were in the Tinakori range, towards Wadestown made up of Orangikaupapa, Tinakore South and Tinakore North.

28.9.2 On 2 February 1863, Mantell sent a memo to Swainson requested that he ascertain the owners, and:

> further, to obtain if possible their consent to recovering it to the Government for public purposes for a moderate payment. As it is understood that they have ceased to occupy it and at some trifling rental to Mr. O'Neill - it is improbable that they will throw many obstacles in the way of a change of ownership so important to the Public of this City.

28.9.3 On 10 February, Swainson completed Mantell's request. He had also secured the consent of 'some of the leading men to the sale'. He suggested a general meeting would have to be held, though, 'whenever the sum proposed to be paid or offered for the Reserve is fixed upon.'[589]

28.9.4 On 17 February 1863, a meeting was held:

> Much was said both for and against the sale, and on various grounds. Eventually they agreed to part with it for the sum of five pounds per acre (400 pounds) ... The natives were informed that their terms would be submitted to the Honourable Mr. Mantell, but they must have no expectation of that sum being paid.[590]

28.9.5 The next day, Mr. Mantell reported the results, consented to the asking price, 'in order that no time may be lost here taking the necessary steps for the conveyance

[589] Loose sheets in front of MA 17/1. National Archives, Wellington
[590] Loose sheets in front of MA 17/1. National Archives, Wellington

with the sanction of the Governor in Council which, I am assured by the Hon. Native Minister will not be withheld.' He enclosed a copy of William O'Neil's existing lease of the section.[591]

28.9.6 However, nothing there is nothing further from this file on the proposed sale. It appears the sale did not go ahead because in 1867, 97 acres of part of the town belt awarded to 'Pipitea Natives' are shown as still being leased to Mr O'Neill for a total rental of £15. In 1871, this is shown as being leased to a Mr Rainnie with a note that the block 'was set forth as being 80 acres in Mr. Commissioner Swainson's Register of Native Reserves 1867'. [592]

28.9.7 On 17 May 1873, Wi Hapi wished to lease 28 acres of the town belt land for which Heaphy consented. Wi Hapi stated: 'We have plenty of other land for cultivation.'[593] A further 28 acres were leased the same year and leasee. Ihaia Ngamate stated that 'We have other lands and rents to subsist on'.[594]

28.9.8 The Orangikaupapa block was subdivided into 14 lots. The block had been through the Native Land Court in 1871 and 1873.[595] In 1873, the Orangikaupapa Lots were all given on long term leases:

- Orangikaupapa lease from Enoka Hohepa and Aterata Pakai to William O'Neil for 21 years at 15 shillings a year from 17 February 1873. Enoka stated: 'We have cultivation land at Waikanae and Town land unlet at Wellington'. Consent for the lease was given.[596]

- Orangikaupapa lease from Ropiha Moturoa and Ramari Hinekarori to T.W. Neil and another for 21 years at 20 shillings a year from 17 February 1873. Neil swore: 'Moturoa and his wife Hine Karori have several other

[591] Loose sheets in front of MA 17/1. National Archives, Wellington
[592] Document A24, pp37, 50
[593] MA-W 2/1 pp74-5, National Archives, Wellington
[594] MA-W 2/1, p81, National Archives, Wellington
[595] Māori Land Court Plan WD 375, Document E12, Appendix 41
[596] MA-W 2/1 p28, National Archives, Wellington

sections of land beside this'. Rupia swore: 'I have cultivation land at Heretaunga and Waiwhetu'. Consent was granted for the lease.[597]

- Orangikaupapa No 3 lease was leased on 17 May 1873 from Mohi Puketapu who swore that 'We have other lands plenty'[sic]. Consent was given.[598]

- Orangikaupapa lease to 'Rainie' - Hare Parata, the leasee, complained of survey bills and legal fees he did not know source of. He stated that his 'permanent home was at Waiwhetu and when I came into town and required money I went to Rainie and got an advance'. Parata also claimed that Rainie had skipped on his lease (of all of Orangikaupapa block) after only 1 year without paying even that year's rent of £60.[599]

28.9.9 The first sale of the block appears to have been lots 8 and 9, both 3 acres, and both sold for £100 each to E H Hunt by 1877.[600] Another unspecified 3 acre lot of Orangikaupapa was sold in 1878. John Knowles forwarded a conveyance from Karena Waitere to J. Burne on behalf of trustees of Congregational Church, seeking to build a Sunday School on the section. Heaphy recommended consent to the sale as the 'land is required for of a public body for Educational Purposes'.[601]

28.9.10 An application was made for the sale of 2 acres 3 roods 5 perches of Orangikaupapa No 7 in 1883. Buckley, Stafford and Fitzherbert wrote to the Colonial Secretary asking for consent to the sale by Enoka Hohepa to Richard Duignan, who had leased the property since 1875. Duigan had first entered into an agreement to purchase the property in 1878 for £325 with 'Enoka thereby undertaking to get all other necessary parties to join in and complete title. However, through the great delay in getting the land through the Native Land Court and in obtaining a succession order to Aterata Pikai, Enoka has been unable to carry out his contract

[597] MA-W 2/1 p31, National Archives, Wellington
[598] MA-W 2/1 p75, National Archives, Wellington
[599] MA-W 2.1 pp84-86, National Archives, Wellington
[600] Document A24, p112
[601] NO 78/2515, bundled 78/2663, National Archives, Wellington

for sale although he had been paid a considerable amount of the purchase money - until quite recently'.[602] Consent was denied since the conveyance was already dated and completed before consent obtained, and because all the owners had not agreed to the sale.

28.9.11 Buckley, Stafford and Fitzherbert tried to obtain consent to the sale again, after writing that they had obtained other owners' agreement for the sale. Consents were then granted.[603] The owners of the sections were Enoka Hohepa, Tare Ruka and Raima Hohepa. The price was deemed sufficient and it was noted that 'in 1876, Lots 8 and 9 containing 3 acres each, sold for £100, and in 1878 Lot 12 containing 3 acres sold for £150. Improvements had already been made by tenant/proposed purchaser and it was noted that the owners had sufficient other lands.[604]

28.9.12 While the Orangikaupapa block was subdivided, Crown grants were issued for the whole of Tinakore North and Tinakore South in 1873, in favour of four Māori owners.[605]

28.9.13 Green records that 28 acres of Tinakore North was sold in 1894. He also notes that while Orangikaupapa Lot 2 was sold by 1888, the Certificate of Title does not record the restriction on alienation as having been removed.[606]

28.10 Orongorongo block

28.10.1 This large block of land made up over a third of the total land awarded in the McCleverty deeds and awards. It is outlying unsurveyed land on the eastern hills of the harbour. Its award to Pipitea originates with the McCleverty award. In total area, it is 6990 acres. Fitzgerald does not describe the block in his 1846 report. In his final report, McCleverty noted that while the block 'may appear very large in extent, but in reality they [this block and others] possess little land available for cultivation' there was little land in this block available for cultivation - most of the block is very

[602] NO 83/2596, National Archives, Wellington
[603] NO 84/859, National Archives, Wellington
[604] NO 84/1066, Bundled 84/2132., National Archives, Wellington
[605] Crown Grants 5987 and 5988
[606] Document E12, p21

rugged terrain.[607] The only use to Māori McCleverty described this block as having was as a fishing station.[608]

28.10.2 The deeds index shows that the entire block was leased to C E Luxford for 14 years in 1858. However, while the plan for the lease shows the entire block as being leased to Luxford, the block is described in area as only 3840 acres. It is not clear why there is this discrepancy. The block was then leased to a Mr Riddiford in 1860 for a four year term and the block is then described as being 6990 acres.[609] The block (6990 acres) was still shown as being leased in the 1867 and 1871 returns on reserves, it was used by the leasee as a sheep run and Pipitea Māori received the rental themselves.[610]

28.10.3 Deeds of sale conveyed at least part of these lands to the Crown, as early as 1853:

> We have this day received at the hands of Mr McLean, the sum of thirty pounds Stirling as payment for our land at Orongorongo, and in token of our having received this money on this the twentieth day of August 1853 we have hereunto signed our names on this the ninth day of January, 1854.

The deed is signed by Te Rei Pukekura, Witnessed by Manihera, Wairarapa.

28.10.4 Another deed conveying part of the block is signed on 8 November 1873. By way of this deed, the Pipitea owners agreed, on receiving £100 to make a conveyance of this land to the Queen, to sell 594 acres of Orongorongo, being sections 1, 2, 4, 4, and 5. Receipt of £100 is shown, as is the statement of interpreter, Thomas Young that the translation of the deed was fully understood.[611] The nineteen people shown as signatories to the deed then state that the each received £4 3 shillings and

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[607] Document A26, pD13
[608] Document A26, pD13
[609] 3 D 264, 14 D 642
[610] Document A24, p52
[611] Document A27, p120

promised that they would make good the claims of any other persons who could prove an interest to the block, thus limiting the purchaser's liability.[612]

28.10.5 Certificates of Title in 1909 show the at least some subdivisions were still in Māori ownership. Subdivision 3, an area of 517 acres was awarded to 5 Māori in 1909, and sold later that same year.[613]

28.10.6 Certificate of Title 42B/598 shows that approximately 1745 hectares (4347 acres) of the block is now owned by a seafood company.[614] It is unknown what the status is of the rest of the block.

[612] Document A27, p121
[613] Certificate of Title 191/125 Document E12, Appendix 51
[614] Document E12, appendix 52

29.0 Conclusion and General Observation on the Actual McCleverty Awards

29.1 The McCleverty arrangements arose from the failure of the New Zealand Company's purchase of Te Whanganui-a-Tara in 1839. Two major agreements after this date appear to have completed the flawed company purchase. These are the 1844 release agreement and the 1847 McCleverty arrangements.

29.2 The 1844 release agreement amounted to an agreement between the Crown to exclude certain Māori lands (pa, cultivations, sacred places, and company reserves) from any grant to the New Zealand Company in exchange for monetary compensation of £1500 and in exchange for Māori agreeing to release their interests in all other settler claimed land. Māori were told that they had to accept the outcome of Spain's arbitration leading to the 1844 release agreement. A number of the pa did this only under pressure, possibly amounting to duress. Release agreements were made with all pa in the Port Nicholson region except for Ohariu.

29.3 The promise by the Crown in 1844 to exclude certain lands from being granted to the company follows on from other promises made by the Crown to Māori about their cultivations, their pa and the native reserves - most notably the November 1840 agreement of Governor Shortland.

29.4 On the basis of the 1844 release agreement, the company was offered a Crown grant of 71,900 acres being all the lands claimed by company settlers, less the lands excluded for Māori and less the unsurveyed lands. The company refused to accept this grant giving as its primary reason that cultivation areas awarded to Māori were ill defined. It is likely that the real reason behind the company refusing to accept this Crown grant is that the company was not granted some of the most valuable parts of the district, which were instead awarded to Māori. In 1847 McCleverty assessed Māori cultivations to be 528 acres (a figure which appears too low) on lands claimed by settlers. Even if this assessment is doubled, ill defined cultivations would still only

amount to little over 1% of the total land being awarded to the company by the Crown (71,900 acres) - a seemingly trivial amount of land on which to reject Fitzroy's entire grant. Cultivation vagueness seems to have hid the real issue: Māori cultivations were on some of the most valuable lands in the district, lands which both the company and Māori coveted.

29.5 After the company's rejection of the 1845 Crown grant, Lieutenant Colonel McCleverty was sent to New Zealand to try and resolve issues at Port Nicholson. He immediately faced a problem of trying to balance the interests of the Crown, the company, settlers and Māori. In addition, McCleverty had a number of military duties which often took precedence over the Port Nicholson land issue and he did not start his investigations into this issue until the beginning of 1847.

29.6 McCleverty's aim in making the arrangement and Grey's instructions to McCleverty indicate that the Crown wanted to create an agreement which would be fair to Māori. McCleverty regarded maintaining the exceptions and reserves which Fitzroy had made (the 1844 release agreement guaranteeing to Māori their pa, cultivations, sacred areas and the reserves) as a matter of good faith. He received his instructions from Grey who advised him that the exchanges should favour Māori. Grey instructed McCleverty that land awarded should be selected by Māori themselves.

29.7 As per Grey's instructions, McCleverty's first task was to assess the acres of Māori cultivations and to define these areas. By April 1847, McCleverty stated that he was able to estimate the number of Māori cultivations: 639 acres in total of which 528 were on settler lands. McCleverty's assessment of cultivations appears to have been lower than the true number of cultivations. It appears that McCleverty did not include all cultivations in his assessment. His estimate seems to have underestimated cultivations at Karori, at Ohariu and excluded those cultivations in some of the blocks which were unsurveyed lands, notably the Korokoro, Ohariu, Wainuiomata and Orongorongo blocks. This would have the effect of making any exchange of land (which is how McCleverty, Grey and other officials saw the McCleverty arrangements) as seeming more generous than they may have been. Thus McCleverty's claim that Māori exchanged 639 acres of cultivations for the lands for

the ~ 19,000 acres which he awarded seems generous. If the figure of 639 acres is an underestimation then the award does not seem so generous.

29.8 Questions need to be asked as to whether it was possible to accurately assess cultivations. If the vagueness of the cultivations was the reason given for the company not accepting the Fitzroy grant in 1845, one wonders how McCleverty could arrive at such a precise figure of land under cultivation in 1847. In fact, McCleverty himself described the task of ascertaining all cultivations since 1840 as a task 'amounting to an impossibility'.

29.9 The McCleverty agreements were all signed between March and November 1847. Each pa agreed to give up 'cultivations on sections belonging to settlers' in exchange for certain lands which McCleverty awarded. From Grey and McCleverty's perspective, the basis of the McCleverty arrangements appear to have been to renegotiate the Spain releases and the Fitzroy grant. Yet the McCleverty deeds do not mention the Spain release agreements, nor do the deeds require Māori to give up what they were awarded in the Spain releases apart from cultivations on sections belonging to settlers. It would therefore appear that cultivations on sections *not* belonging to settlers, pa, burial grounds and the company tenths native reserves still remained for the Māori signatories of the McCleverty arrangements.

29.10 The total land awarded from the McCleverty arrangements was almost 19,000 acres. (There is some discrepancy between various figures as to the exact amount. A summing up of the tables on pages 55 - 66 gives a figure of 18,974 acres, not including the pa sites which perhaps contribute a further 10 acres) This land was unevenly distributed among the 7 pa participating in McCleverty's arrangements: three quarters of this land was granted to Pipitea and Petone Pa. 15,355 acres of the total land awarded came from unsurveyed lands awarded mainly to Pipitea, Petone and Ohariu.[615] Māori were awarded approximately 3169 acres of company tenths native reserves. In addition, the Crown purchased all of one country section belonging to a settler (Hutt section 19 - awarded to Waiwhetu) and part of three more sections belonging to settlers (part of Harbour sections 7, 8 and 9 - awarded to Ngauranga).

Apart from smaller sections on which pa were sited, these were the only sections which the Crown appear to have purchased for Māori, a total of some 226 acres. The balance of the land awarded - 224 acres - came from the town belt.

29.11 While Grey's instructions to McCleverty state that the lands awarded to them should have been selected by Māori themselves, this did not always happen. Māori had a preference for being close to the township of Wellington, however, the great majority of land awarded by McCleverty was a long distance from the township.[616] McCleverty noted that many of the company tenths native reserves were at 'too great a distance' for Māori wants. Yet (apart from the unsurveyed lands) the lands awarded by McCleverty were almost all company tenths native reserves. Most of the other lands awarded, being unsurveyed outlying lands, were even further from the township.

29.12 McCleverty also noted that Māori informed him that any surrendering of land must give them cultivations in the immediate vicinity of the township. McCleverty described this as nearly impossible 'without a purchase from the white people near the town or public roads' which happened with only four sections: Hutt section 19 was purchased, and Ngauranga were awarded their cultivations on Harbour sections 7, 8 and 9. None of these lands were in the vicinity of the town.

29.13 McCleverty noted that inducing Māori to leave their sections would be most difficult because it would require obtaining a number of acres equal in quantity and quality to what they already had. McCleverty noted that about 1200 acres of land would have to be offered to Māori to induce them to surrender existing lands. Officials all noted that this would prove to be difficult - the Crown possessed very little land in the region. McCleverty's solution: to use the town belt, existing company tenths native reserves and surplus lands that presupposed Crown ownership of these lands.

29.14 McCleverty certainly awarded land far in excess of the 1200 acres he thought was necessary for the total Māori population. However, McCleverty does not seem to have

[615] Document A10(a)(ii) pp2-7
[616] Document B4, pp37-38 Note that there are discrepancies as to the exact amount of land awarded in the McCleverty arrangements

considered *why* Māori should only be awarded such a small amount of their rohe, especially given the fact that most Māori in the region had always denied any sale. McCleverty was faced with the reality of the situation: some 6 - 7,000 Pakeha settlers (the largest Pakeha population in New Zealand in the 1840s) were competing with some 600 Māori for land in the harbour region.

29.15 While the Crown was under considerable pressure from the large settler population, it resisted pressure from settlers and the company to award certain lands. Te Aro pa, probably the most valuable portion of land in the whole Port Nicholson district was awarded to Māori, having been purchased from settlers. This was done in the face of threats from the company that it would accept no grant which excluded this pa. Similarly, when Ngauranga would not give up their cultivations on settlers sections on Harbour sections 7, 8 and 9 (sections belonging to settlers), these were awarded to Māori. While many settlers wished to see Māori moved out of the township, the Crown awarded *some* cultivation land (in the town belt and on tenths reserves) which were close to town, perhaps in the hope that Māori would be able to stay in the township.

29.16 The McCleverty arrangements were thought of as generous at the time. This supposed generosity was later used as justification for the appropriation of some of the company tenths native reserves (the balance of these reserves, not awarded by McCleverty) in the 1850s. Yet exactly how generous were these arrangements?

29.17 The majority of the lands awarded were unsurveyed lands, also referred to as wastelands or surplus lands. The unsurveyed lands make up the bulk of the lands awarded by McCleverty - three quarters of the total land awarded. The Crown claimed ownership of these 'waste' lands because the Crown was the Sovereign. If the Crown claimed ownership on the basis that these lands were waste and of little value to Māori (as Grey and McCleverty both claimed), then what value would they have been to Māori as awards given by McCleverty? Certainly, most of the unsurveyed land awarded was described by McCleverty and surveyor Fitzgerald as unsuitable for cultivation. Yet some of the unsurveyed lands are described as having eel ponds and extensive cultivations on them. Were these lands really wastelands and if so, what

value would they have been to Māori as McCleverty reserves? If these lands were not waste then on what basis could the Crown claim ownership and what payment did Māori receive to give up lands which had some value to them? McCleverty noted that the lands the Māori already had (prior to the arrangements) were 'the very best' lands on account of their soil, aspect and vicinity. While the lands he awarded did not have these advantages, McCleverty states that this was rectified by awarding Māori large blocks. McCleverty does not explain how the increased size of the blocks awarded would make up for the loss of very good lands.

29.18 Most of the rest of the land awarded by McCleverty were already company tenths native reserves. It is not clear how the Crown could then use these native reserves, already promised, and then give them again to Māori in the 1847 McCleverty arrangements. This can be seen as giving to Māori what they had already been promised. Possibly the Crown viewed these reserves as the Crown's to redistribute to Māori. Yet after the signing of the deeds of release in 1844, which awarded Māori the tenths reserves, there is no indication that these reserves were later relinquished by Māori. Certainly the McCleverty deeds refer only to Māori agreeing to give up cultivations on sections belonging to European settlers, not to any other lands, be they the native reserves, pa, cultivations on lands *not* owned by settlers, or burial places.

29.19 Some land was granted to Māori in 1847 from the Town Belt. However, much of this land was in cultivation - was this land therefore already granted to Māori by way of the 1844 release agreement? If so, was the Crown giving Māori anything new in the granting of the Town Belt, or simply awarding what had already been promised if these Town Belt lands were cultivations?

29.20 Perhaps the issue of exactly what Māori received from the McCleverty arrangements beyond what they were already promised is the most important issue regarding these arrangements.

29.21 After the McCleverty deeds were finalised, the New Zealand Company was granted 209,247 acres by Governor Grey in the Crown grant dated of January 1848. This grant far exceeded that offered to the company by Fitzroy.

29.22 Immediately after 1847, the Māori population in the Wellington township area declined considerably. Many Māori moved out to the Hutt, others moved away from the area entirely. In 1849, missionaries stated that Māori had left the township because of the lack of land with the observation being made that some Māori had their cultivations many miles from where they lived. Similarly, crop acreage also recorded a dramatic decline after 1847. While the intent of the Crown may not have been to see Māori population and cultivations decline, this seems to have been a result of the McCleverty arrangements.

29.23 Applications to sell the lands awarded by McCleverty began almost immediately after their award. Colonial Secretary Dommett reported in 1848 that frequent applications were made to sell or lease the McCleverty lands on the grounds that the lands were not required by Māori or that they were not suitable. This raises issues as to whether the McCleverty arrangements were truly advantageous to Māori when less than a year after the final award, Māori were indicating a desire to part with these lands. The Crown put in place procedures to ensure that Māori would not be left without land, most notably by requiring any money received from the sale of McCleverty reserves to be reinvested in lands elsewhere. However, this policy was not consistently applied.

29.24 The McCleverty reserves were, in effect, a substitute for pa, cultivations and reserves in the Port Nicholson district. They provided long term subsistence for Māori of the region. McCleverty calculated the total land required by Māori as being land for cultivation not only for that generation but for future generations, intending that Māori in the region would make a move towards pastoral farming some time in the future.[617] Thus it would seem that McCleverty did not intend for them to be alienated. Where McCleverty reserves were sold, it appears that policy was that compensation was meant to provide for the purchase of land elsewhere. Similarly, Grey viewed the arrangements that McCleverty would make as providing a 'valuable and permanent interest' for Māori.

[617] Document H2, p13

29.25 Throughout the 1850s, government policy appeared to be one of trying to restrict the sale or long term leases of McCleverty lands. However, disputes about the status of McCleverty lands - whether they were reserves under the Native Reserve Act 1856 - led to a change of policy giving Māori more control over what they could do with these lands.

29.26 After the ruling of the Attorney General that the lands were not native reserves, the Crown had limited power over the management of these lands. Crown officials tried to get Māori to put their lands in the administration of the government with some success. Returns on reserves from 1867 and 1871 show that most McCleverty lands were being leased, either by the government of behalf of Māori, or by Māori themselves. Few sections appear to have been used for the purpose which Grey and McCleverty foresaw: for the long term needs of Māori by providing land on which to settle.

29.27 Crown grants for Māori land were issued in a somewhat piecemeal manner. Generally, grants were issued shortly before alienation took place, although in some cases grants were issued well before any alienation. Restrictions were imposed preventing the lands from being alienated without the approval of the governor.

29.28 It appears that many restrictions on alienation were removed on the prompting of the Māori owners themselves. At times, Crown officials refused to consent to the sale of lands, concerned about the rapid pace of alienation. In certain circumstances, however, the Crown endorsed the removal of restrictions and actively supported the sale of certain sections, particularly with regard to Te Aro and Pipitea pa. The passing of the Native Reserves Act 1888 made it much easier for Māori to sell their McCleverty reserves because the consent of a majority of owners only was required, rather than unanimous consent, and much of the McCleverty land was sold after this date.

29.29 Whether to consent to sale of lands put the Crown in a difficult position. By consenting to sale, the Crown was facilitating the loss of Māori owned land in the region, land that was meant to be a permanent endowment. By refusing consent, the

Crown was preventing Māori from practising self-management of their lands and hindering their right to use the land in the way they wanted.

29.30 Some of the lands were taken by government proclamation. Officials noted that Māori had difficulty in understanding the concept of compulsory acquisition by the Crown and in many cases, Māori actively opposed these takings. This is especially true with lands at Waiwhetu and Petone. In addition, the use of some of the land taken for compulsory acquisition (for example, railway workshops on Hutt sections 1, 2 and 3 may have, as Ward states 'seriously affected the locality, laying the basis of its development as an industrial zone rather than, say, a prime residential zone'[618]) may have limited the development potential of the land which remained in Māori ownership.

29.31 Little McCleverty land still remains in Māori ownership (the exact amount is unclear). Crown attempts to ensure that land remained in Māori ownership were tempered by Crown moves to acquire land by compulsory acquisition. Rather than providing Māori a permanent and valuable interest in the prosperity of the country, the lands provided them with an asset which has been progressively reduced.

[618] Document A44, p71