



Te Papa: Naboth's Vineyard?

Towards Reconciliation in Tauranga Moana

Summary document

For *Te Kohinga*

by

Alistair Reese (BA; BA [hons]; MA [hons]; MPhil; PhD)

When our lives are attuned to good things,
when life is clear and the spirit flows strongly
all is possible.

Ngai Tamarāwaho prophecy

And He has given us the ministry of reconciliation...

Paul of Tarsus



Image : Te Papa Peninsula

Summary

The Te Papa discussion report has chronicled the encounter history and the various occupations of Te Papa. It described the migratory process into the area and acknowledged the various tribes who have exercised *mana whenua* on the land since 1000 AD. It is widely accepted that the *iwi* of Ngai Te Rangī, Ngāti Pukenga, Ngāti Ranginui and Waitaha (relationship with Mauao) are the *tangata whenua* of the wider region, while the *hapū* of Ngāti Tapu and Ngāti Tamarāwaho are acknowledged as being the *mana whenua* of Te Papa.

The report has also described the peninsula as a contested land, the site of various incursions by different groups who have sought to exercise their *rangatiratanga*. The groups include *ngā tauā* (war parties) from Te Arawa, Ngāpuhi and Ngāti Maru of Hauraki. These conflicts, especially the latter's attack on Otamataha had a significant impact upon Te Papa and the way it was occupied, especially in the 19th century. The contest for occupation and authority rights from these earlier days of habitation continues to influence present day inter-*iwi* and inter-*hapū* relationships. These are complex bonds and the report has acknowledged the ongoing need for reconciliation, especially among the wider tribal groups of Ngai Te Rangī, Ngāti Ranginui, Ngāti Pukenga and Ngati Maru. However, I have noted that those issues lie outside the parameters of this report. Nevertheless, the importance of these relationships should not be minimized in any longer term goal to reconcile Te Papa.

Because of Te Kohinga's present brief and for practical purposes, the report has mainly confined itself to the relationship between the Church Missionary Society (CMS), the Crown and *mana whenua*. However, the Tauranga Council received several Lots by way of Crown Grants, as "endowments in aid of the borough funds" and also for "recreation purposes."²³⁰

²³⁰ Note: See discussion on *Mana Whenua* on page 104.

The first transfers in Cliff Road and cnr Wharf and Willow Street taking place in 1885. Evelyn Stokes records that the original Town Hall was erected on Lot 45 on the cnr of Wharf and Willow Streets, a site that "had been 'Reserved for Native Purposes'." ²³¹ Other Lots were transferred at later dates. Thus, while the Council was not involved in the original alienation of Te Papa it has become "implicated" via its "inheritance" of these Lots from the Crown

Consequently, the report referenced the invasion from the north by Ngāpuhi and the attack on Otamataha by Ngāti Maru which preceded and perhaps "facilitated" the entrance of the Anglican mission agency CMS to the region. A war-weariness, spiritual curiosity and the quest for modernity led local Māori to invite Henry Williams, a frequent visitor to Tauranga, to establish a mission station. After a few attempts, a station was finally established in 1838 by Archdeacon Alfred Brown, who negotiated the purchase of Te Papa from various local leaders. The arrangement was controversial from the outset and several witnesses contested the purchase when they testified before the 1884 Commission of Inquiry. Their testimony was rejected by Commissioner Godfrey. In 2006, the Waitangi Tribunal opined that the Crown grant to CMS was an abrogation of its Treaty of Waitangi obligations. A position ultimately accepted by the Crown in its settlement with Ngai Te Rangī in December 2013.

CMS's motives for buying such a large parcel of land were several. These included their evangelistic ambitions and a humanitarian concern for Māori in the face of an increasing demand for land by the new settlers. Te Papa then, became not only the site of an influential mission station but also served as a landbank against the increasing tide of emigration from Europe. However, the CMS strategy ultimately proved futile. The demand for land plunged the *motu* into a period of warfare igniting in Waitara, Taranaki. It then spread to the Waikato and ultimately to the Bay of Plenty, as the Crown sought to satisfy its own military, land and fiscal strategies. Military occupation and legislation prepared the way for *raupatu* (confiscation) and a reconfigured land.

The assaults on *hapū* in Taranaki, Waikato and finally the occupation of Te Papa by Crown troops heralded a change in the relationship between CMS and the fledgling colonial Government. Initial vocal opposition to Crown policy in Taranaki transformed into support for their strategies against Kingitanga and a tacit but uncomfortable acceptance of the occupation of Te Papa. It became a dilemma of loyalties for the missionaries. Caught between "the devil and the deep blue sea", Brown in particular, sought to fulfil his pastoral duties to both Māori and the new troops. However, his allegiances to the Offices of the Governor and the Queen, appointments he interpreted as being divine, meant that his actions ultimately came down on the side of his countrymen. Actions that were interpreted by many, including his Māori parishioners, as a betrayal. This "betrayal" is epitomized for many by the hospitality he offered the night before the Battle of Pukehinahina to the English officers, at the now iconic Eucharist meal at his residence at the Elms.

²³¹ Evelyn Stokes, A History of Tauranga County, p.108.

The Government's desire to combat Kingitanga, establish a defensive line from Raglan to Tauranga and facilitate new settlements in the colony led to the battles of Gate Pā and Te Ranga. Battles, that not only resulted in the loss of life of the influential Māori leaders, Rawiri Puhirake Tuaia and Hēnare Taratoa but also the confiscation of thousands of acres of land. This confiscation initially included Te Papa, because of a Crown misunderstanding – they assumed the peninsula was owned by Ngai Te Rangī. However, while these raupautu claims over the peninsula were withdrawn, the pressure on Te Papa continued. The harbour and land remained firmly within Government sights and various representatives sought to entice CMS into parting with their titles.

This Crown pressure prompted William Williams and Alfred Brown to ascribe the epithet of Naboth's Vineyard to Te Papa - a biblical reference to the unjust seizing of land in the 8th century BC by the authorities of the day.²³² The pressure upon CMS to yield their control of Te Papa eventually succeeded. This despite their own Trust Deed declaring that the land is:

[a]cquired and is retained under a solemn Trust that it should be applied to the benefit of the Native race & Church & that it should never be bartered or sold for the mere purpose of raising money. The Natives who gave the land for the benefit of themselves & their posterity would have just ground of complaint against us if we sold that land for a Military Settlement.

Despite this seeming unequivocal declaration about the sanctity of the Trust, a decision in March 1866, to offer the Government's four-fifths of the Te Papa block without compensation, in return for a fifth of the surveyed sections was made at a meeting between Burrows, Brown, Bishop Williams and Sir William Martin. Even Frederick Whitaker, the Superintendent of Auckland, who once said, 'Any man who gets land out of the natives and cultivates it, is a public benefactor' and who oversaw the transaction was surprised by the "generosity" of the CMS proposal. Whitaker wrote to the CMS Land Committee Secretary Rev Burrows, 'I beg that you will state to the Board that in my opinion their offer is a very liberal one, and on the part of the Govt. I accept it'.²³³ The remainder one-fifth was kept by CMS but sold within a few years as surveyed sections. In January 1873, the central land board which comprised William Williams, Robert Maunsell, Archdeacon Brown, and Burrows agreed to sell 17 acres, which included the mission house, to Alfred Brown.

The "ownership" changes of the 1300 acre isthmus opened the way for the metamorphosis of Te Papa. In the first instance, it transformed from a land that provided political, economic and cultural sustenance to the *hapū* of Ngai Tamarāwaho and Ngāti Tapu into a CMS mission base. In this phase of transition the Māori imprint lessened while it became a nexus of modernity. By invitation, the CMS centre became an influential political and social centre that provided spiritual and technological inspiration to *tangata whenua* and in return various *rangatira* including Matiu Tahu and Wiremu Tarapipi Tamihana provided important protection and patronage to the new arrivals. After the land wars, as a result of the *raupatu* and the alienation of Te Papa, members of both *hapū* have suffered the ignominy of not only the loss of land, and the associated economic benefits but also the loss of *mana* as a result of the consequent diaspora.

²³² Note: The Naboth's Vineyard narrative is found in 1 Kings 21: 1 -29 and 2 Kings 9: 30 -37.

²³³ F. Whitaker to Rev R Burrows, 9 March, 1866, IA 15/10 National Archives.

The final alienations saw Te Papa under Government control develop into the fledgling provincial town of Tauranga. The surveyors' pegs were responsible not only for reshaping the landscape into sections, but also delineating the roads which provided access for the troops and the influx of new settlers. Te Papa was reshaped and renamed. Streets named after Monmouth Redoubt and General Cameron superseded the significant sites such as Otamataha and Pukehinahina. The names of Te Papa and rangatira such as Hēnare Wiremu Taratoa and Rāwiri Puhirake faded from view.

William Williams' and Alfred Brown's appellation of Te Papa as Naboth's Vineyard proved prescient. This was a warning ignored by many and forgotten by most. However, the recent Waitangi Tribunal hearings have seen many of those memories stirred as the stories were told and the calls for justice from *kuia* and *kaumatua* were aired. But, Te Papa was only peripheral to those claims and lay outside their main considerations of the Crown. Nevertheless, the loss that is Te Papa remains embedded within the consciousness of many. In January 2007, at a *hui* convened by Te Kohinga at Holy Trinity Church, to listen to local *kaumatua*, one Ngāti Ranginui spokesman declared, 'We are in danger of losing our footprint on the land'.²³⁴ Another *kaumatua*, Colin Bidois, responded to a question about his recollections of the deprivations suffered by his people: 'It is as though it was yesterday'²³⁵. It is the view of this author that the restoration of that lost "footprint" is a key, not only to the healing of memory and reconciliation but also to providing a healthy heart in the city.

²³⁴ Ngāti Ranginui *Kaumatua*, Huikākahu Kawe, January, 2007.

²³⁵ *ibid*, Pirirakau *kaumatua*, Colin Bidois.

Appendix 1:

Reconciliatory Ideas for Te Papa

The main goal of this analysis has been to provide some ideas towards Te Papa as a reconciled land. Reconciliation is about the healing of relationships. Because of its tumultuous encounter history, Te Papa is in need of reconciliation and healing. These encounters, between different *iwi* and *hapū*, new settlers and *mana whenua*, not to mention the relationship with creation itself, under pressure from the demands of a 21st century city, mean that the needs are great. The totality of the reconciliatory challenge is beyond a study such as this; therefore, as stated, the main emphasis of this report has been the relationship between the church, *mana whenua* and Civic Government (as representative of later settlers). Hopefully, this particular focus can result in some incremental reconciliatory movement.

It has been proposed that reconciliation or *hohou rongō*²³⁶ is about the reconfiguration of relationships and as such is like a giant jigsaw puzzle. Drawing on this analogy, means that an important "piece of the puzzle" lies in understanding the backstory behind fissured relationships. In this instance the backstory of Te Papa is perhaps best encapsulated in the nomenclature of Naboth's Vineyard, a name attributed to the isthmus by the CMS missionaries. This terminology arose from their prophetic foresight about the prospective alienation and occupation of the land via unjust means. Ironically, the terminology fits not only the actions of the Crown, the Council, the military settlers, but also the actions of their own mission organisation.

The question then remains - if the description of Te Papa as Naboth's Vineyard is accurate, that is, a place of betrayed trust and a forfeited inheritance for the descendants of Ngai Tamarāwaho and Ngāti Tapu, what can now be done to ameliorate this? This difficult task is attempted in this final section which proposes some imaginative ideas that might contribute towards a reconciled future.

²³⁶There seems to be some regional dialectical difference re the use of this term. Some prefer the word *Houhanga Rongo*. The words used above, *houhou rongō* for reconciliation, is taken from *Towards Some Foundations of a Systematic Māori Theology: He tirohanga anganui ki ētahi kaupapa hōhonu mō te whakapono Māori*, A PhD thesis by Hokianga Catholic Priest, Henare Arekatera Tate, from Ngāti Tamatea and Ngāti Manawa of Te Iwi o Te Rarawa.

Te Papa and the 21st Century: 'Ideas' for Discussion

In September 2013, the Tauranga City Council's latest District Plan – The Tauranga City Plan, became operational. In mid-2016, the Council launched a consultation document to amend this Long Term Plan, proposing the idea of a "Civic Heart". From a reconciliatory perspective this Plan may be an opportunity gained or an opportunity lost.

Implicit within this concept, demonstrated by the use of the "heart" metaphor, is the idea that cities are "living beings" that need to reflect something of the lived lives of its inhabitants. This brings to mind the well-known *whakatauki* (proverb): *He aha te mea nui o te ao? He tangata, he tangata, he tangata. What is the most important thing in the world? It is people, it is people, it is people.*

Tauranga is Te Papa, or at least Te Papa is the physical heart of Tauranga. At the centre of the concept of a "Civic Heart" is identity. What the Tauranga City Council proposes is to construct a milieu that best reflects and nurtures identity. Identity forms out of the past and reaches into the aspirations of the future. It speaks of genealogy or *whakapapa*, it speaks of land and its inhabitants – and how they relate to each other and the places they occupy. Identity speaks of *kaitiakitanga* or stewardship, it speaks of rights and responsibilities, of *mana whenua* and *rangatiratanga*, as well as *manaakitanga* or hospitality. Above all, identity speaks of those whom we are in relation to, and where and among whom we dwell.

Reconciliation Background

The Government has made an apology to both Ngāti Ranginui and Ngai Te Rangi for the *raupatu*. Minimal land was returned as only that which is under Crown control can be included within the settlement process. Acknowledgement and apology to Ngāi Te Rangi and Ngā Potiki included reference to Te Papa:

The Crown also acknowledges that land on the Te Papa Peninsula which today constitutes the Tauranga central business district and was conveyed to the Crown by a private institution despite this institution previously insisting that it would always hold this land for the benefit of Māori.²³⁷

However, the acknowledgement and apology to Ngāti Ranginui [Ngāi Tamarāwaho] did not include any reference to Te Papa.

From the turn of the century, especially following the recommendations of the Waitangi Tribunal, the Tauranga City Council and the Bay of Plenty Regional Council have adopted a more consultative stance with *tangata whenua*. This process of change is ongoing as we learn what it means to outwork Article 2 of the Treaty of Waitangi in local affairs.

The church in Tauranga has also made some *ad hoc* apologies to certain Māori leaders re Te Papa but as yet no substantial and comprehensive response or attempts at restitution.²³⁸ Certain sections of the church have and continue to make a conscious effort to reorient their relationship with *tangata whenua* and seek to understand what a meaningful relationship might look like. In some respects this report represents one of those efforts. In the spirit of that endeavour and in response to the biblical and local calls for justice the following recommendations are proposed for discussion.

²³⁷ Ngai Te Rangi and Nga Potiki Deed of Settlement p.30. Note on p.13: "by June 1864, the Crown had selected land at Te Papa for a military township. The CMS opposed this saying that Māori had given the land to the Church to hold for the benefit of Māori. The Te Papa Peninsula was within the boundaries of the confiscation district, but the Crown came to accept that CMS land was not included in the terms of the 1867 proclamation. In 1867, faced with the possibility of having the whole block taken, the CMS negotiated an arrangement with the Crown whereby the Society handed over four-fifths of the land without payment. When acquiring the land the Crown made no provision to recognise that the CMS described as the 'solemn Trust' under which it held the land for the benefit of Ngāi Te Rangi and other Tauranga Māori."

²³⁸ For example, the late Monte Ohia Jnr of Ngāti Pukenga.

Recommendations

- It is our recommendation that the church in Tauranga Moana and the mission agencies with historical association to Te Papa, especially CMS, follow the Crown example and apologize for their role in the alienation of Te Papa. This apology is not only representative in the stead of their *spiritual ancestors* but also a *present* apology and acknowledgement that the church has been silent for generations re the historic injustices. It is also an acknowledgement that the majority of people within the church of Tauranga, i.e. Pākehā have benefited significantly from the colonisation of Te Papa. It is an acknowledgment that because of cultural preference, the church and its agencies have sometimes obfuscated the divine intention of the gospel to Māori.
- A Reconciliatory Statement from the Tauranga City Council is also seen as essential.
- These apologies need to be substantiated in some meaningful way. The following restitutive suggestions are ways that the acknowledgements of wrongdoing might be strengthened. In the light of the recent Supreme Court Whaka Tū decision, restitution may be required rather than a voluntary option.²³⁹

²³⁹ This case is discussed more fully on p. 118 of the Report.

Reconciliatory Restitution

Restitution might be advanced from an acknowledgement of the identity and *mana* of Ngai Tamarāwaho and Ngāti Tapu. This could be done in the following ways:

- A formal involvement by Ngai Tamarāwaho and Ngāti Tapu in the administration of the Elms.
- The return of some symbolic land to the two *hapū*. There remains in public ownership significant sections of land on Cliff Road that overlook the harbour – this is the site of Otamataha Pā. There is a small finger that connects The Elms and the Mission Cemetery and the Monmouth Redoubt with the downtown area of Tauranga Moana. It would be a significant reconciliatory gesture if this land was returned in some form to the two *hapū*.

Image: Map – Otamataha area



- We propose that on this site a building or *whareniui*, perhaps called the *Te Whare Houhou Rongo ki Tauranga Moana*, be constructed. Ngai Tamarāwaho and Ngāti Tapu would be the *kaitiaki* of this *whareniui*. However, with their agreement this redeemed land and building would be a “civic space” that was available to *Ngā Maata Waka*, *Tāngata Tiriti* and *Ngā Hau e Wha*, that is, all the citizens of Tauranga Moana. It would become the gateway to the City, a place of welcome and a centre for events. As well, this building together with the Elms, the Mission Cemetery, Otamataha Pā and Monmouth Redoubt, becomes a living museum space (literally and metaphorically) that not only records the past but points to the future for Tauranga – a safe and secure harbour and place. See the Tuhoe building *Te Kura Whare o Ngai Tūhoe ki Taneatua* below as an example.²⁴⁰



While these apologies and restitutions will never fully compensate for the loss, past and present, it is hoped that such a gesture will serve as a demonstration of the genuine repentance by the City and Christian mission.

It is also hoped that the move towards meaningful reconciliation will provoke others in Tauranga Moana to pursue constructive ways to heal the substantial rifts that exist not only between Māori and Pākehā, but also between Māori and Māori and the more recent multi-ethnic arrivals to the city.

²⁴⁰ http://arrowinternational.co.nz/portfolio_page/te-uru-taumatua accessed 8/09/2016

Possible Chronological Process

- Meet with Otamataha Trust leaders to present and discuss the draft Report, Summary and Reconciliation Proposals. Te Kohinga holds that any movement forward requires the affirmation and support of Ngai Tamarāwaho and Ngāti Tapu.
- Revise Report and Reconciliation Proposals after consultation with Otamataha Trust.
- Establish with advice, a strategy to implement agreed ideas within this *kōrero tūmanako* or hopeful dialogue.
- Engage with the various stakeholders, e.g. *Iwi* and *Hapū* of Tauranga Moana, Tauranga City Council, the Crown, the Anglican Church of Aotearoa, Bishop of Waiapu and CMS, the Elms Trust, Tauranga Ministers Association and City Philanthropists, Media and the wider Tauranga citizenry and others that will be discovered along the journey.
- Facilitate a strategy to develop a "land plan", purchase land and construct buildings.

Te Kohinga understands that this is an imaginative and far reaching plan that needs the breath of God and the cooperation of many to bring to pass.

Nō reira ko tēnei te wa...

Alistair Reese for Te Kohinga

'Huia mai kia kotahi he tikanga ma tatou ki runga ki te maungarongo. Join with us in unity around the goal of peace'.²⁴¹

²⁴¹ Letter to Wiremu Tarapipi Tamihana by several Chiefs taken prisoner at Rangiriri, 1863.

Appendix 2

The Crown, CMS and Tauranga City Council: A Matter of Trust

In this appended section, the Report, which again owes a great deal to the original research by Vincent O'Malley²⁴², deals with the alienation of Te Papa in the light of a recent Supreme Court decision for the Proprietors of Wakatū.²⁴³ The Court ruled that the Crown had breached its duty to the original customary owners of the land as trustee or otherwise as a fiduciary to reserve and hold one-tenth of the 151,000 acres purchased by the New Zealand Company in and around Nelson for their benefit. The Court held that the Crown had inherited fiduciary duties to reserve 15,100 acres for the benefit of the customary owners following the award to the New Zealand Company in 1845 by the Commissioner of Land, William Spain. Those entitled to the benefit of the reserves were *hapū* of Ngāti Rarua, Ngāti Tama, Te Atiawa and Ngāti Koata. The Report holds that the February 2017 Supreme Court decision may be relevant to the alienation of Te Papa. In the first instance, the gifting of four-fifths of Te Papa by CMS to the Crown in 1867 and secondly, the consequent endowment of some of this land to the Tauranga Borough Council.

The following discussion charts the relationship of CMS and the Crown to Te Papa and to the *hapū* of Ngai Tamarawāho and Ngāti Tapu, from whom the mission agency originally 'purchased' the land. Much of this relationship has been traversed in the main body of the Report, but given the relevance of the Supreme Court decision needs to be reiterated in greater detail. The second section considers the relationship of the Tauranga Borough to this block. It will be seen that for a variety of reasons CMS held the land 'in trust' for local Māori. It will also show that when the Crown acquired it from the Society they were aware of that trustee relationship – a trust, the Report concludes should have been upheld by the Crown. Finally, Historical Ownership Reports are presented to demonstrate that the new township of Tauranga 'inherited' from the Crown, several sections of a subdivided Te Papa. It is proposed that the Borough's 'inheritance' also included a fiduciary duty of care to *mana whenua*. In other words, the declared trusteeship of CMS to local *hapū* passed to the consequent owners of the land, in this instance the Crown and then the Borough of Tauranga.²⁴⁴

²⁴² See Vincent O'Malley *The Te Papa Block: A History of CMS and Crown Dealings, 1838 – 1867*, Crown Forestry Rental Trust, November 1996.

²⁴³ *Proprietors of Wakatū v Attorney-General* (2017) NZSC, 28 February 2017.

²⁴⁴ This idea was first suggested to me by Graeme Elvin, of Mackenzie Elvin Solicitors of Tauranga, and member of Te Kohinga

Part1: Te Papa, CMS and the Crown

As stated previously, the motivation for CMS to purchase a quantity of land that exceeded their immediate mission requirements was essentially a pastoral one. Brown particularly, was concerned with the increased demand for land by the growing number of new immigrants from Europe and the detrimental effect that this demand would have upon the well-being of local Māori. This perspective is evidenced from Brown's Journal and the correspondence between various CMS members. I shall reiterate some of these excerpts. According to Vincent O'Malley, Te Papa was always considered by Brown as 'having been purchased, "for the benefit of the Tauranga natives"'.²⁴⁵ As O'Malley has noted:

Brown's 1838 purchase at Te Papa had been motivated largely by a desire to take advantage of a favourable opportunity to acquire land the CMS was already occupying, at the same time ensuring local Maori of the missionaries' commitment to remaining at Tauranga for the foreseeable future. But his subsequent purchase of the rest of the Te Papa peninsula covered far more land than the CMS would ever require for its own purposes and was prompted largely by concern that the land might otherwise fall victim to 'unrestrained and unamenable colonization'.²⁴⁶

Further in Brown's Journal: 'Rode over the land adjoining our Station for which we are in treaty with the Natives. It contains about 1000 acres, and being a peninsula on which emigrants would be likely to settle in the event of this country becoming colonized, it is of great importance that we should possess it.'²⁴⁷ Pressure from the New Zealand Company to purchase large tracts of land prompted Brown and CMS to negotiate with local Māori for other properties. In 1839, Brown wrote to William Williams:

[w]e have every reason to be under apprehension for the natives, that is, lest they be bought out, and the only plan which presents itself is that of buying on the behalf of CMS all the land that we consider necessary for the natives & then leave the rest for the natives to dispose of as they please...I would recommend you to make another effort about land at Tauranga explaining to the natives what the pakehas are doing up here & what we propose to do. With regard to expense I do not imagine the Society will hesitate. Land however bought for the natives ought to be purchased at a cheap rate.²⁴⁸

Further: **The tide of emigration is setting in upon us with springtide violence, and it will be well if the poor natives are not borne away in its resistless course. The New Zealand Land Company are**

purchasing, not by acres, but by degrees of latitude.....Much, however, of the threatened evil may yet, under God's blessing, be averted if the powers vested by the British Government in Captain Hobson (whose arrival in the Bay of Islands is, I understand, daily expected) are full and comprehensive. True, a large portion of New Zealand has been sold, but it does not, I conceive, necessarily follow that because individual chiefs have, for a mere peppercorn consideration, parted with their patrimonial possessions, that therefore New Zealand as an independent nation has ceded its sovereign rights. England is, by profession, the guardian of this people.²⁴⁹

²⁴⁵ Vincent O'Malley, *CMS*, p. 13.

²⁴⁶ Brown's Journal, 3 November 1839.

²⁴⁷ *Ibid*, 3 January, 1839.

²⁴⁸ Williams to Brown, 11 November, 1839, Brown Papers, f.50 ATL. Earlier on 10 October 1839, Williams had urged Brown that 'land should be secured for natives by purchase on the behalf of the Society'.

²⁴⁹ Brown, cited in Gifford and Williams, pp.198-199.

Although the 1000 acre sale deed was signed by twenty-eight 'chiefs of Tauranga' including some who had signed the early deed (Tamakaipi, Matiu Tahu and Kape) the CMS land 'purchase' was contested from the outset by several local Māori. Dissatisfaction with the deal was communicated verbally to Brown and also to the Auckland Superintendent Frederick Whitaker. Local opposition was reiterated by several witnesses to Commissioner Godfrey on 2 July 1844 at the post-Waitangi Treaty inquiry. Despite the representations by local Māori including Raniera and Hahaia against the transaction, Godfrey upheld the Society's claim to the Te Papa block and a grant was awarded.

Despite this controversy it is clear that CMS maintained a clear commitment to Māori, re land. In 1855 Henry Venn, the London based Secretary of CMS Parent Committee reminded its New Zealand missionaries:

That the land held by the Society in New Zealand was acquired by the Committee solely for the purposes of the Mission, and the possession of it intended to promote through the Mission, the spiritual welfare of the Natives.... And to other objects of permanent benefit to the Natives, to the extent to which the land so held by the Society shall be of value to effectuate some or all of the objects above referred to, in whole or in part.²⁵⁰

In 1856, CMS changed the governance of its various land holdings, including Te Papa. In Bishop William Williams' view, the new Land Board provided a safer structure to ensure the aims of the Society were adhered to. He stated, '[I am] glad that the Land Board will be in our hands, and that there will be no possibility of the estate at Tauranga being diverted from its legitimate uses.'²⁵¹ The new land committee was overseen by the Secretary, Reverend Burrows based in Auckland and as well comprised the CMS missionaries, William Williams, Robert Burrows, George Kissling (d. 1865), Alfred Brown and Robert Maunsell with Sir William Martin, the Chief Justice, acting as an advisor. It is apparent that Burrows sometimes adopted a 'pragmatic' approach to administering the land with a view to gaining some economic return for the Society – a perspective which sometimes placed him in direct conflict with other members of the committee. However, that is not to say that the Secretary operated in ignorance of the core ethos iterated by the parent body as the following quotes show.

There has recently appeared in one of the Local News Papers some remarks reflecting on the Agents of the Society for allowing lands to lie waste, and keeping eligible sites for Settlements shut up, which would, if in the hands of the Government or Private individuals, become productive. Without attaching any importance to these remarks, I would simply state that we have never had any direct official enquiry about, or any proposition from the Government with reference to selling or otherwise giving up any of the Society's properties...We are well aware that the present Government would readily exchange "Land Scrip" [sic] for some of the most valuable properties of the Society, but no friend of the Society & Native Church in this country would recommend such an exchange.²⁵²

However, he suggested that if the Parent Committee was to continue to 'adhere to their former Resolution not to alienate any of their lands', then in his view the trustees should be given the right to lease their properties for a maximum of thirty-nine years. The Te Papa block, according to Burrow's valuation was worth £2, making it one of the Society's most valuable properties. In 1860, acting unilaterally Burrows leased a significant portion of the Tauranga land to Samuel Ludbrook Clarke.

This lease arrangement led to some terse correspondence between Burrows, Brown and Williams with the latter two in disagreement with Burrows' utilization of the land. Despite withholding their signatures, by

²⁵⁰ Venn cited in O'Malley, *CMS*, p. 47.

²⁵¹ Williams to Brown, cited in O'Malley, *CMS*, p.51.

²⁵² Burrows to Secretaries of the CMS, 25 November 1859, C.N./015, ATL [docs., pp.204 -89] cited in O'Malley, *CMS*, p.49.

November 1860, the lease to Clarke of a large portion of the Te Papa block was a *fait accompli*, with Burrows receiving a necessary signature from another Auckland based Land Board member, George Kissling. However, despite being censured by the Parent Committee over his decision re the leasing of Te Papa, Burrows it seems, continued to administer the land in a manner that placed in him at odds particularly with Williams and Brown. As shall be shown the Land Secretary was to play a central role in the alienation of the land to the Crown.

Tauranga Tensions 1860

On a national level the wars of the 1860 marked a turning point in the relationship between the CMS missionaries and Māori. The once cooperative and perhaps symbiotic relationship deteriorated with serious consequences for the missionaries' activities in the Tauranga region. According to Brown, they found themselves, 'between the devil and the deep blue sea – in time the Government would require more land...to steer clear of giving offence "to the powers that be" and at the same time to sustain our character as Guardians of the Natives will require much of the "wisdom which cometh from above"'.²⁵³

In January 1864, Colonel Carey and several hundred troops arrived at Te Papa and occupied strategic areas of the peninsula. With the troops in possession of much of the Society's property, Secretary Burrows sought to lease the remaining land to the Government at £200 per annum (excluding the 800 acres already leased to Clarke).

The military presence at Tauranga, and the by then obvious ambition of the Crown to create a military township at Tauranga caused great concern to Brown and Williams. It was at this juncture that the two began referring to the land as 'Naboth's Vineyard', signalling their view that Te Papa was to become a place of betrayal.²⁵⁴ In April 1864, Brown wrote to Burrows, reacting to the military presence, 'I shall not at present take up the trouble of supposing that the Government will possess Te Papa to the exclusion of the Mission station. Their Bill is not yet law, and there may be more obstacles than they anticipate to their occupancy of Naboth's vineyard'.²⁵⁵ A month later, in a letter of complaint to Brown, Williams wrote, 'It is quite possible, that Te Papa may cease to be a missionary station, and it is indeed probable because it happens to be the Naboth's vineyard'.²⁵⁶ Prior to the battles, on 18 April 1864, Williams wrote to Burrows, re the proposed lease to the Crown - a missive which highlights the division within the Land Committee:

The Government was already in possession, and was likely to continue so according to their will, but respect to the arrangement made with them, I do not consider that the proper course has been taken....I am not finding fault with the actual arrangement made; I am not acquainted with the nature of it. But inasmuch as the Tauranga property has been placed by the Society in the hands of a Committee, an unauthorized act of one individual of the Committee I hold to be illegal. You were no more competent to act individually than either Archdeacon Brown, Mr Baker or myself. The Society has looked to you as its general agent in other matters, but for this property there is a specific provision. Neither can it be urged that this was a case of sudden emergency. It was known long before that the Government was contemplating the occupation of Te Papa. There was time to have ascertained the opinion of each member of Te Papa. There was time therefore to have ascertained the opinion of each member of the Committee...I feel obliged therefore to enter my protest against the step which has been taken. As the matter now stands, I recommend first, that you should inform the Government that no arrangement can be legally made without the concurrence of the majority of the Land Committee; and secondly, that you should inform the members of the Committee, respecting the nature of the arrangement proposed, in order that they may express their opinion upon the same.²⁵⁷

In July 1864, the CMS Land Committee convened a meeting in Auckland that included Sir William Martin and William Swainson, the former Attorney General. Swainson recommended that if the Government desired the

²⁵³ Cited in Noeline Edwards, *Archdeacon Brown*, MA Thesis, 1950, p.110.

²⁵⁴ See p. 81 of the Report for an explanation re the metaphorical use of the biblical motif of Naboth's Vineyard.

²⁵⁵ Cited in Gifford and Williams, *A Centennial History of Tauranga*, pp. 254-255.

²⁵⁶ Williams to Brown, 17 May 1864, cited in O'Malley, p.62.

²⁵⁷ Williams to Burrows, 17 May 1864, cited in O'Malley, p.63

land, CMS should sell the block at market value, 'so that there may be a sufficient sum realized which may be of benefit to the native church, and thus the natives will be satisfied with the result'.

However, immediately prior to Governor Grey's visit to Tauranga, to arrange the post-battle settlements, Bishop Williams wrote:

As your Excellency is about to proceed to Tauranga I wish to say a few words about Te Papa. Archdeacon Brown, I believe, is opposed to the alienation of that land from its original object, but I am of the opinion that if there is a township there, however limited in extent, Te Papa will be no place for native settlements. The agents of the Church Missionary Society in this matter are a Land Board, and so far as there may be power on the part of the Church Missionary Society to assent or dissent, no act of its agents can be valid unless a majority of this Board sanction it. Your excellency may however be assured that if there appears to be an absolute necessity to take Te Papa for the public service, no factious opposition will be offered by the Board. At the same time it will be obvious to your Excellency that there is a serious objection to making use of land given by the natives for missionary purposes, for sites of English settlements, inasmuch as it will have the effect of preventing natives in future from parting with their lands for such objects, and that it is deserving of serious consideration whether land should be taken for those purposes unless it is rendered absolutely necessary by a regard for the community.²⁵⁸

However, this albeit reticent willingness of Williams to cooperate with the Government's settlement ambitions was not accepted, at least in the short term, by the Parent Committee in London as will be seen below.

Neither in the short-term was it accepted by Brown. He objected to the work of Government surveyors who had already commenced work on the Te Papa block. He wrote to Grey:

Her Majesty's Troops took military poss. of this Mission Station in Jany. last, and lately it has been surveyed for the purposes as I am informed of placing it permany [sic. permanently] a large body of the Waikato Mily. Settlers. The exigencies of the public service may be pleaded for the first step but it will hardly be advanced for the latter. The properties of the C.M.S. at this place are under the direction and management of a Land Board appointed by the Socy. As a member of that Board I desire to record my protest against locating the Mily. Settlers on the Mission Station until the permis. of the Socy. has been obtained. I believe that the proposed movement wd. be a heavy blow & discouragement to our Missy. Work in this District, nor can I imagine that the C.M.S. will consent to it unless compelled to do so by law.²⁵⁹

On 6 August 1864, Governor Grey announced to assembled Māori at the so called 'Pacification Hui' that the Crown would confiscate not more than one fourth of their lands under the auspices of the New Zealand Settlements Act of 1863. Although the fate of the Society's Te Papa block looked uncertain it looked increasingly likely that the Government would require it all for their planned urban settlement. What remained to be determined was the mode of acquisition.

Burrows informed the Secretaries of CMS on 8 August that: 'No formal application has as yet been made for any of the Society's lands at Tauranga, although a Township has been laid out and some temporary Buildings erected. It was doubtless the intention of the Local Government to have taken what land they required under the powers given them by the "New Zealand Settlements Act" had they not received a check from the Home Government'.²⁶⁰

²⁵⁸ Cited in Gifford and Williams, pp. 256-57

²⁵⁹ Brown to Grey, 5 August 1864, Brown Papers, cited in O'Malley, CMS, p.66.

²⁶⁰ Ibid, p.67, Burrows to Secretaries, CMS 8 August 1864. Note: Does the presumptuous surveying of CMS land indicate a breach of "tust" by the Crown?

Burrows' pragmatic approach to the land continued to be at odds with the view of Alfred Brown. He held that as a point of principle that if the Government desired the land they should confiscate it but that the Society should not agree to sell.²⁶¹ Meanwhile the Parent Committee in England continued to express its dissatisfaction with Burrows' position and voiced its opposition to the possible alienation of Te Papa as the following correspondence demonstrates. In October 1864, Williams wrote to Brown: 'You mention that Mr. Fox (Colonial Secretary) told you that he understood CMS were anxious to sell their properties. I had conversations with Mr Burrows on this subject & I gathered in the first place that they have the strongest objection; & that if any land is required by the Govt. they sanction exchange only'.²⁶² Writing again to Brown in November, Williams stated that Burrows had 'had a rap on the knuckles from Mr Venn'. It was 'satisfactory', Williams considered, 'that the Society have expressed their opinion so decidedly'. He accordingly wrote to Burrows (relayed in a letter to Brown):

As it appears that the Society will not sanction the alienation of any of their land, I recommend that you, as Secretary of the Land Committee, in connexion with the Diocese, write to the Officer of the Government, to state the determination of the Society. Further that no arrangement should be made to let any portion of the Papa land to the Government, at the expiration of the present year; inasmuch as the inconveniences will only increase to the Missionary Station, by any further transaction....It will then remain for the Government to shew that they have power to take, and are determined to take the land: but this power I believe they have not.²⁶³

Henry Venn, the Parent Society lay Secretary, in a letter to Brown reiterated the Society's strong stand against parting with the land:

We were greatly astonished by your information that the Governor and Mr. Fox had heard that the Society were 'anxious' to part with their land. The Comm. has always held the very contrary. They regard themselves as Trustees of the land for the benefit of the natives & have invariably refused to alienate any part of it, except by the exchange of small portions in one of two cases to make a plot more compact....You will see from this how heartily the Comm. concurs in the stand you have made & in the letters which you & the Bp. of Waiapu have written to Sir George Grey. And we shall present a formal protest to the Secretary of State against any alienation of the Tauranga property.²⁶⁴

He reiterated the same point to the Bishop of Waiapu.

With respect to the land of the Socy. I cannot account for the mistake to which Archbn. Brown adverts, through which Sir G. Grey & Mr. Fox had been led to believe that the Society was "anxious" to part with its land for valuable consideration. The Society has never deviated from its public professions that it holds the land given to the Socy. by the Natives as a Trust for their benefit, & it will continue to hold it for better or for worse, until such time as it may be best appropriated to the management & benefit of the Native Church...We have written to Archd. Brown & to Mr. Burrows to protest against its being taken from us, even by process of law, & we present a formal protest to the same effect to the Secretary of State.²⁶⁵

Williams heartened by the response of the Parent Committee informed Brown that Burrows had written to the Government informing them of the CMS position.

The Society speaks decidedly, and I do not suppose that under the present aspect of affairs the Government will attempt to take it. Your protest against the occupation of the land I think was

²⁶¹ Note: It is unclear as to why Brown believed the Crown could legally confiscate land that was owned by CMS. It was not a view shared by Williams. The New Zealand Settlement Act enabled the Crown to confiscate land owned by 'rebellious Māori' not compliant settlers! Section II of New Zealand Settlements Act, 1863: *Whenever the Governor in Council shall be satisfied that any Native Tribe or Section of a Tribe or any considerable number thereof has since the first day of January 1863 been engaged in rebellion against Her Majesty's authority it shall be lawful for the Governor in Council to declare that the District within which any land being the property or in the possession of such Tribe or Section or considerable number thereof shall be situate shall be a District within the provisions of this Act and the boundaries of such District in like manner to define and vary as he shall think fit.*

²⁶² Williams to Brown, 17 October 1864 cited in O'Malley, *CMS*, p. 70.

²⁶³ Ibid, [this quote is cited from a letter written to Burrows], p.71.

²⁶⁴ Venn to Brown, 25 November 1864, Brown papers cited in O'Malley, p.72.

²⁶⁵ Ibid, Venn to Williams, 26 November, 1864.

good, though it would have had little weight if the former ministers [Whitaker/Fox] had been able to carry out their wishes. I wrote to Mr. Burrows some little time back recommending him to send at once to the new Government the Society's intentions on the subject, and he tells me he has done so.²⁶⁶

Brown continued to believe that the Government would be unwilling to confiscate Te Papa, and remained cynical as to its reasons for wanting to acquire the land. The Crown rhetoric re Te Papa was that it might be required for the 'public interest'. To Brown, their argument was flawed and served the interest of a 'small band of unscup[ulous] land jobbers "the public"'.²⁶⁷

Williams in his ongoing correspondence to Brown over the issue, opined:

I gather that Mr. Burrows has communicated the decision of the Society against parting with the land, but that he can get no satisfactory answer from the Govt to them. They seem to wish to be gaining time: I am urging him to follow up in the same course. I think that without waiting for the Land Committee or the answer of the Government, it will be well for you to present a protest against the erection of any building beyond what is merely temporary, assigning as the reason that the ground was purchased by the Society for a specific object, & that they positively refuse their sanction to the alienation of it.²⁶⁸

However, Burrows informed Venn that the Society could not afford to assume that ministers would hesitate to confiscate the land if all other options were denied them. He informed Venn that Te Papa continued to be occupied by troops and added that:

I have been informed by the present Attorney General (Mr. Sewell) that the Govt will require at least a portion of the land at Tauranga for public purposes, but that they would prefer coming to an arrangement with the Trustees for the purchase of what they require rather than take it under the authority of the 'NZ Settlements Act'. I could only refer him to a recent Letter of mine to the Govt in which I informed them that the Society on principle declined selling or exchanging any of their lands unless the law obliged them. Mr Sewell expressed his regret that no door was open for an amicable arrangement without having recourse to the mode prescribed in the above named Act, as he saw that the Society would not only suffer in a pecuniary point of view, but would be regarded as wishing to hinder the progress of the Colony by locking up land required for Settlement &c.

Burrows had also conferred with Sir William Martin:

[a]nd he thinks it most undesirable that the Society should by refusing to negotiate with them drive the Government to take possession of such of their lands as may be deemed by the 'Governor in Council' necessary for the good of the Colony at large. Sir William's view of the case is this, that upon the Government making application for the property we should stipulate that certain reserves be made as permanent endowments for the Native Church to be vested in the Society's Trustees. The Bishop of New Zealand [Selwyn] is of the same opinion. Sir William remarked that if the Government had to apply to the General Assembly for a special Act to take these and other lands (which he thought not at all improbable, if the Society refused to negotiate with them) that then the feeling in the Assembly would be against the Society, and we should be left to the mercy of the 'Compensation Courts'.²⁶⁹

Burrows further added that both he and Bishop Selwyn were of the same mind and remarked:

In your Letter of May 26 1864 par.6 you remark that "Arch. Brown has written entreating the Society not to part with any portion of that land (Tauranga) unless the law compels the Society to yield it up". The Comm. will see that others who are able to take a comprehensive view of the whole are of opinion that when it becomes clear that we must part with it we should then enter into negotiations with the Government and do the best for the interests of the Society.

²⁶⁶ Ibid, p. 73, Williams to Brown, 20 December 1864.

²⁶⁷ Brown to Selwyn, 27 January 1865, cited in O'Malley, *CMS*, p. 74.

²⁶⁸ Ibid, Williams to Brown, 11 February 1865, p.74.

²⁶⁹ Ibid, Burrows to Secretaries, *CMS* in Burrows to Williams, 28 July, 1865, p.76.

In response to Burrows letter to the Parent Committee, Henry Venn informed William Williams that:

We have received pressing letters from Mr Burrows, reporting his interviews with Bp. Selwyn & Sir W. Martin, representing the danger of the local government taking the land at Tauranga under the Confiscation Act unless we agree to receive a fair price for it & advising us therefore to negotiate with the local government for such a fair price. Our Committee have resolved that while upholding the principle of retaining their land as a sacred trust for the native race they will nevertheless, if the Bp. of Waiapu & Archdn. Brown think it expedient, yield in this instance to the pressure of Government. The matter is therefore virtually left to the decision of the Archdn. & yourself. If you see no reason to alter your judgement, we must still resist the Government & take our chance.²⁷⁰

On 27 June 1865 an Order in Council was published in the *New Zealand Gazette* declaring 'all the lands of the tribe "Ngaiterangi" (the collective name given by the Crown to Tauranga Māori) were subject to confiscation under the provisions of the New Zealand Settlements Act. This included Te Papa, despite the block being owned by CMS rather than "Ngaiterangi".²⁷¹

On 28 July 1865, Burrows wrote to Bishop Williams citing a letter he had received from Venn in May in which the Secretary had stated that:

[the] Committee will not persist in their refusal, provided the Bp. of Waiapu & Archdn. Brown concur in the sale of the land. If they do not concur, or if the land is taken by force from the Society, the Committee will be consoled under so great a loss by the conviction that they have stood out only for maintaining a sacred Trust on behalf of the Native race.²⁷²

In August, Burrows communicated CMS's willingness to negotiate with the Government to Attorney General Henry Sewell.

Some six or eight months ago I had the honour of an interview with you respecting the Church Missionary Society property at Tauranga, when you informed me that the Government would probably require a portion of it Public purposes; but that they would rather negotiate for what they might require take it under 'The New Zealand Settlements Act'. The only reply I could then make was that the Society in London declined parting with any of their lands, either by way of sale or exchange, unless the law obliged them. By the last mail we received the authority of the Parent Committee to enter into negotiations with the Government, if we thought it desirable to do so, for such portions of the Tauranga property as they may deem it necessary they should have with a view to the peaceable settlement of that District. Having consulted with other Trustees of the said property I have now to inform you that should it be considered important by the Government that they should permanently occupy 'Te Papa' we are prepared to act upon the authority given us by the Society.²⁷³

By this time public opinion was forming against CMS's policy of retaining the lands. The drive for habitable land to settle ensured that various newspapers joined the public relations battle on behalf of development.

Nevertheless, the Parent Committee held firm and in September 1865 Henry Venn reiterated his understanding of the nature of the trust the land of Te Papa was held under:

That land was acquired & is retained under a solemn Trust that it should be applied to the benefit of the Native race & Church & that it should never be bartered or sold for the mere purpose of raising money. The Natives who gave the land for the benefit of themselves & their posterity would have just ground of complaint against us if we sold that land for a Military Settlement. We have therefore declined all offers. If the Government need the land for public purposes they may take it from us, but we shall then claim compensation'.²⁷⁴

²⁷⁰ Ibid, Venn to Williams, 26 May 1865, p.77.

²⁷¹ See further discussion in Vincent O'Malley's "The Aftermath of the Tauranga Raupatu, 1864 -1981", pp.11-16.

²⁷² Ibid, Burrows to Williams, 28 July 1865, p.78.

²⁷³ Ibid, Burrows to Attorney General, 21 August 1865, p. 79.

²⁷⁴ Ibid, Venn to Rev. S. Comperts 1 September 1865, CMS Home Letterbook 1864-66, p.81.

However, this principle of upholding a 'solemn Trust' was soon to be eroded as the Government continued to pursue its plan to establish a settlement in Tauranga. On February 1866, Hugh Carleton the Auckland Provincial Secretary, wrote to Burrows to inform him that the Provincial Government had accepted the proposals of the General Government for the transfer of confiscated lands in the province to its administration and that the Superintendent, Frederick Whitaker was:

[n]ow prepared to negotiate with the Trustees of the Church Missionary Society's lands for the arrangement of their claims. I shall be glad therefore if you will inform me what lands the Trustees hold with the confiscated blocks, what portions if any, in each case they desire to have returned to them, and what in compensation they ask for that which the Government will retain. If the Trustees could make it convenient to carry on the negotiations personally in Auckland, I feel sure it would much facilitate a settlement...²⁷⁵

Burrows responded without reference to the fact that Te Papa although technically within the boundaries of confiscation lay 'outside' the definition of land subject to this confiscation. On March 1866, he replied: 'In reply to your letter of Feby 5 I have the honour to state that the Land Board of the Church Missionary Society for the Diocese of Waiapu have duly considered the several subjects upon which you asked for information, as far as they relate to the Tauranga property, and they submit for your Honour's consideration the following reply:

1. If the quantity of land which the Society hold at Tauranga by Crown Grant is 1333 acres.
2. If the Government require the above named property for the purpose of forming a Township, we propose:-
 - a) To hold permanently the Dwelling House & Outhouses now in the occupation of Archdeacon Brown together with 5 acres of land immediately adjoining the Buildings, and the remainder of the Glebe, being 5 acres to be held by way of lease from the Government at a nominal rent for 14 years.
 - b) The Govt to take at a valuation the Buildings at present rented to the General Govt to be paid for either in cash, or in land as may be hereafter agreed upon between the Govt & the Trustees.
 - c) The Society to retain One fifth of the whole 1333 acres, this quantity to be fairly distributed in Town and Suburban Sections, as the case may be, over the whole block. The Trustees giving over to the Government the remaining Four Fifths without compensation.
 - d) The Govt to take upon themselves the responsibility and the cost of making their own arrangement with the Society's Tenant Mr.S.L. Clarke.²⁷⁶

The decision by the CMS Land Board was made at a meeting in Auckland between Rev Burrows, Bishop William Williams and Archdeacon Alfred Brown and Sir William Martin. This meeting was followed up by a consultation with Whitaker a few days later. Their proposal to gift without compensation four-fifths of the Te Papa Block without payments in return for one-fifth of the surveyed sections was eventually signed off by Burrows, Brown and Williams.²⁷⁷

²⁷⁵ Ibid, H. Carleton to Burrows, 5 February 1866, p. 82.

²⁷⁶ Ibid, 5 March 1866, [docs, p.270] pp.83-84.

²⁷⁷ See torn deed following.

On 9 March Whitaker replied to the Society his acceptance.

I beg that you will state to the Board that in my opinion their offer is a very liberal one, and on the part of the Govt. I accept it subject to an explanation in reference to the paragraph marked D which states that the Govt. shall take upon themselves the responsibility and cost of making their own arrangements with the Society's Tenant Mr. S.L. Clarke. I will undertake to make arrangements with the Tenant, but it must be understood that I am not limited as to time. Mr. Clarke's views are so extravagant that I can have little hope of coming to reasonable terms with him, and I propose at present to allow him to continue in the occupation of the land leased to him so long as this shall continue of course the Society will be entitled to a proportionate amount of Mr. Clarke's rent.²⁷⁸

In April, Burrows informed the Parent Committee in London of the decision, seeking to justify the reason for the 'liberal offer', i.e. that it might eventuate into a substantial endowment for the native church.

'We have at length come to a definite arrangement with the Local Government in reference to the Society's property at Tauranga.

- a. Archd. Brown keeps permanently his House & Glebe.
- b. We also hold the Buildings formerly occupied by Messrs. Baker and Clarke, and the School respectively together with a certain quantity of land around them.
- c. The Government undertake to settle with Mr. Clarke, our Tenant, who has a lease for 30 years of 800 acres of the land, and upon which he has made large improvements, 5 years of which only have expired. This settlement will cost the Government from £7000 to £9000.
- d. The Government undertake to lay out the whole land 1333 acres in Town and suburban allotments and the Society will then have the selection of every fifth section, the Government selecting four, and so continuing until the whole block is taken up.

Prospectively the Society has here a very large endowment for the Native Church. The future only will show whether it will be required for such a purpose. We have done what we deemed best for the interests of the Society and the Natives. Sir William Martin and others were consulted before we came to a decision, and approved of what we did'.²⁷⁹

Henry Venn later informed Williams Williams that the Parent Society approved of the Land Committee's decision. 'We have heard from Mr. Burrows that an arrangement has been made by Government for laying out Tauranga in town lots, of which the CMS is to have a fifth, of its own property. This however I presume will be a good bargain for us, & give us an abundant endowment fund, it will relieve us also of the management of that portion, which we must sell. I trust that the produce of the sale of the land will always be invested...'²⁸⁰

The first auctions for the Te Papa sections was held after some delay on 10 September and according to Jenks, a keen demand for the sections pushed the prices well above the expected value.²⁸¹ Contrary to the intentions of the act, several of the Crown grants issued with respect to the Te Papa block were made pursuant to the New Zealand Settlements Act.²⁸² The administration of the confiscated lands in the Auckland Province had returned to the Central Government and accordingly Whitaker, the Auckland Superintendent recommending to the Colonial Secretary. 'In order to completed this arrangement, and grant valid Titles to the Church Missionary

²⁷⁸ Ibid, Whitaker to Burrows, 9 March 1866, [docs p.271], p.85.

²⁷⁹ Ibid, Burrows to Venn, 4 April 1866, [docs, p.227], p.86.

²⁸⁰ Ibid, Venn to Williams 2 July 1866, [docs pp199-200], p.87. Note: to follow the trail of these sales and the "investments" might be seminal to this case.

²⁸¹ Jenks H.J., *Forgotten men: The Survey of Tauranga and District 1864 – 1869*, Tauranga Historical Society, p.24.

²⁸² Jenks, p. 22.

Society, and purchasers at Te Papa, it is necessary, that the land be proclaimed under the New Zealand Settlement[s] Act.²⁸³

The anomaly of confiscating land under 'private' ownership became an issue and was discussed extensively between various Crown officials who pointed out the difficulty in proclaiming the Te Papa block subject to the Settlements Act. In January 1867, Whitaker expanded upon his position. 'The papers in reference to the Mission property have been referred to me to take action on with a view to place the Government in a position to make grants to purchasers.

Mr. Gisborne points out a difficulty in making the Mission land a district under the 2nd Section of the New Zealand Settlements Act 1863.

I did not propose to make a new district under that Section, but under the power given to vary the Boundaries of that already made, and to declare that they should include the Mission land in question. My proposal was made to obviate a difficulty in obtaining a valid conveyance from the Grantees. They hold in capacity of Trustees without any power of disposing of the land, and it is therefore *ultra vires*²⁸⁴ for them to do so. As however it is considered that this is the best way and is recommended by Mr. Hart I will propose to them to execute a conveyance which it is probable I think they will do, although without the concurrence of the *cestui que trust*²⁸⁵ – the Church Missionary Society – which it is not possible to get, although the arrangement is made by their direction – it would clearly involve a breach of Trust.²⁸⁶

The Colonial Secretary responded to Whitaker on June 1867.

The Government is advised by the Law Office that land to be included in any District under 'The New Zealand Settlements Act 1863', either originally or by variation of boundaries should be land not already granted to Europeans, and that he does not think that the spirit of the Act, and hardly the letter of it, would justify the proposed variation of the District already proclaimed under it at Tauranga. The Law Office thinks that the most satisfactory course will be to get a conveyance or surrender, as proposed, executed containing Recitals showing a reason in policy, and consideration in advantage to the other lands of the Mission by the transaction, and that afterwards an Act of the Assembly should be passed to validated the surrender.²⁸⁷

A background issue that caused contention between CMS and the Crown was the latter's proposal to deduct land for reserves and roads from the 1333 acres. This move resulted in 310 acres being removed from total amount. This would have had the impact of reducing the the Society's entitlement from 266 to 210 acres. However, after some further negotiations on 7 September 1867, a deed of conveyance was formerly executed by the Trustees of the Church Missionary Society to the Crown for the 1333 acres, less 247 acres in 42 blocks to be retained by the Society. In a further irony, the witnesses to Archdeacon Brown's signature were Lt Col Philip Harrington of the 1st Waikato Regiment and Henry Hunter, Acting Adj. also of 1st Waikato Regiment. The land retained by the Society was held under the original Crown grant issued in 1852.

Burrows informed Henry Venn of the development. 'We have now I hope after very much trouble and some business of an unpleasant nature, conveyed under legal advice the portions of the property we agreed to give

²⁸³ Whitaker to Colonial Secretary, 23 November 1866, [docs, p.312]

²⁸⁴ Definition of *ultra vires*: beyond one's legal power or authority.

²⁸⁵ Definition of *cestui que trust*: the beneficiary of a trust.

²⁸⁶ Ibid, 12 January 1867, [docs pp. 279 -81].

²⁸⁷ Colonial Secretary to Agent for the General Government – Auckland (Whitaker), 23 January 1867, Colonial Secretary's outward letterbook, IA 4/18, NA.

up to the Government retaining the remainder and holding it under our original "Crown Grant".²⁸⁸ Much of the CMS land, acquired from Māori and held in 'sacred' and 'solemn' trust', was sold by the early 1870s but in 1876 they issued a decree halting the sale of further land. To what purpose the monies CMS received from the Crown by the sale of one fifth of the Te Papa land has yet to be researched.

In summary, to cite O'Malley again:

Brown and the Society's perception of the original transaction by which Te Papa had been acquired, though not in accord with how the Maori vendors probably viewed the dealings, was certainly complementary in the sense that considered the two purchases to be simply straightforward commercial conveyances of permanent and exclusive rights over the land. Thus the transfer of four-fifths of the land from the Society to the Crown in September 1867, though only consented to under some element of duress, may be seen to have indeed violated the original transaction whereby CMS acquired rights to the land.²⁸⁹

In 2004, the Waitangi Tribunal Report 2004 made some summary conclusions about the Te Papa block. Among these conclusions, they stated that, 'The awarding of a Crown grant to the CMS for the Te Papa blocks following an investigation in 1844 was in breach of the principle of active participation. This was because the Crown failed to ascertain and acknowledge the conditional nature of the original transaction and wrongly granted title to the CMS.' Also, 'In its acquisition of the CMS blocks in 1867, the Crown further breached the principles of the Treaty. While Māori were not, legally, the beneficial owners of the CMS land at Te Papa, the Crown, was aware that the CMS had always maintained that it held the land for the benefit of M. The Crown disregarded this trusteeship role when it acquired the blocks from the Society and so failed both to act in good faith towards Māori and to protect their interests.'

²⁸⁸ Burrows to Venn, 17 February 1868 [docs pp.229 -30].

²⁸⁹ O'Malley, *CMS*, p. 4.

Conclusion

The aim of this first section has been to draw attention to the possibility that the Crown and CMS had a fiduciary duty of care on behalf of Ngai Tamarāwaho and Ngāti Tapu with regard to the Te Papa block. This proposal is in light of a February 2017 Supreme Court decision. Here the Judges held that the Crown owed fiduciary duties to the customary owners following the award to the New Zealand Company in 1845 by the Commissioner of Land, William Spain. In that case when the NZ Company purchased the land, they committed to set aside a tenth as reserves for *iwi*. The Court ruled that the Crown inherited these commitments from the vendor.

It is outside the scope of this report to explore all the legal intricacies that pertain to the similarities between the Tauranga and Nelson purchases as any legal challenge turns on the particular facts and circumstances. However, it has been shown that according to the CMS's documents they saw themselves as the Trustees of the land on behalf of Māori. CMS's admission that Te Papa was as 'Naboth's Vineyard' signalled their own crisis of conscience about the possibility of a betrayal of this 'trust', either by their own mission or the Crown. Ultimately, the Society against its early protestations and proclamations of responsibility to 'the Natives', acquiesced to the considerable pressure from the Crown. For its part, the Government, led by Frederick Whitaker, exhorted CMS to do its 'national duty' to release land for settlement and proposed the unlawful utilization of the New Zealand Settlements Act to achieve their means. As has been shown, the Crown was aware of the CMS's trusteeship and in turn should have been cognizant of their own responsibilities towards a duty of care. The ramifications of the Whakatū – *Attorney General*, 2017 Supreme Court decision are these: similarly to the Crown/NZ Company transaction, because in 1867 the Crown was aware of the commitment made by CMS to *mana whenua* in Tauranga, it very likely inherited the same 'trust' obligations when by coercion it was gifted the land by the mission Society.

Extrapolating from this into the present, it is not unreasonable to suggest that the current representatives of CMS and the Crown have a moral responsibility, not only to acknowledge that because of the betrayal of trust by their predecessors that Te Papa is indeed 'Naboth's Vineyard', but perhaps also a legal responsibility of restitution towards the descendants of Ngai Tamarāwaho and Ngāti Tapu for this betrayal. Of course, the latter judgement is ultimately in the domain of the Courts.

Part 2: Te Papa and Tauranga City Council

In this section, the Report briefly considers the relationship of Tauranga City Council to two areas of land. The first, Lot 45 - the contested site of the former Town Hall and secondly a block of land on Cliff Road, the ancient site of the Otamataha Pa.

The report includes for consideration [below], *Historical Ownership Reports* which demonstrate that the Borough of Tauranga received the former Ngāti Tapu, Ngai Tamarāwaho/CMS lands as endowments from the Crown for a variety of purposes. It is possible that along with the Crown, the Council inherited a similar fiduciary duty, both moral and legal. The report has not explored whether the Borough was aware of CMS's or the Crown's obligations.

However, in our view the present Council needs to give careful consideration as to the way in which it currently disposes or utilizes these parcels of land.

Historical Ownership Report ²⁹⁰

Wharf Street and Willow Street, Tauranga City
Allotment 45 Section 1 Town of Tauranga - SA57 A/877

Acquisition History:

Allotment 45 Section 1 Town of Tauranga

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

In NZG 1885 p 792-793 and NZG 1885 p 1018-1019 Her Majesty the Queen vested this land as reserve in the Borough of Tauranga as endowment in aid of the borough funds.

In 1886 SA43/48 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga as endowment in aid of the borough funds.

NZG 1930 p 3619 changed the purpose of the reserve to a site for a town hall and other municipal buildings. In 1957 SA1405/93 issued to the Mayor Councillors and Citizens of the Borough of Tauranga for the purpose of a town hall and other municipal buildings.

H388508 (NZG 1982 p 191) classified as a Local Purpose (municipal buildings) Reserve subject to the Reserves Act 1977.

In 1995 SA57A/877 issued to the Mayor Councillors and Citizens of the Borough of Tauranga for a Local Purpose (municipal buildings) Reserve subject to the Reserves Act 1977.

John Neal

For **GRAYSON NEAL LIMITED**

²⁹⁰ Grayson Neal *Historical Ownership Report* for Alistair Reese, 17 January 2017.

Historical Ownership Report²⁹¹

Cliff Road, Tauranga

- Part Allotment 298 Section 1 Town of Tauranga - 78236
- Stopped Road on SO 32328
- Part Allotment 297 Section 1 Town of Tauranga - 78236
- Part Allotment 296 Section 1 Town of Tauranga - 78236

1605419

Part Allotment 247 Section 1 Town of Tauranga now Section 3 Survey Office Plan 59188 - SA906/8

Acquisition History:

Part Allotment 298 Section 1 Town of Tauranga

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

In 1906 SA132/108 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga.

In 1943 (1<28368) Section 99 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1922 vested in Council in Trust as a reserve for purpose of public recreation.

In 1948 SA906/8 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga *for* purpose of public recreation.

H388512 (NZG 1982 p 189) classified as a Reserve for recreation purposes subject to the subject to the Reserves Act 1977.

In 2003 78236 issued to the Tauranga District Council for Reserve for recreation purposes.

Stopped Road on SO 32328 (two areas)

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

This land was formerly Crown Grant Road shown on SO 441 /B 1. The road was stopped as from 12/08/1944 as shown on SO 32328.

²⁹¹ Grayson Neal *Historical Ownership Report* for Alistair Reese, 17 January 2017.

Part Allotment 297 Section 1 Town of Tauranga

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

In NZG 1885 p 792-793 and NZG 1885 p 1018-1019 Her Majesty the Queen vested this land as reserve in the Borough of Tauranga as endowment in aid of the borough funds.

In 1886 SA43/45 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga.

In 1943 (K28368) Section 99 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1922 vested in Council in Trust as a reserve for purpose of public recreation. H388512 (NZG 1982 p 189) classified as a Reserve for recreation purposes subject to the subject to the Reserves Act 1977.

In 2003 78236 issued to the Tauranga District Council for Reserve for recreation purposes.

Part Allotment 296 Section 1 Town of Tauranga

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

In 1923 SA376/72 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga in trust for town improvement and public recreation purposes.

In 1943 (K28368) Section 99 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1922 vested in Council in Trust as a reserve for purpose of public recreation.

H388512 (NZG 1982 p 189) classified as a Reserve for recreation purposes subject to the subject to the Reserves Act 1977.

In 2003 78236 issued to the Tauranga District Council for Reserve for recreation purposes

Part Allotment 247 Section 1 Town of Tauranga now Section 3 Survey Office Plan 59188

This land was formerly crown land held in NZG 1865 p 187 pursuant to the New Zealand Settlements Act 1863.

In 1906 SA 132/108 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga.

In 1943 (K28368) Section 99 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1922 vested in Council in Trust as a reserve for purpose of public recreation.

In 1948 SA906/8 issued to the Mayor Councillors and Burgesses of the Borough of Tauranga for purpose of public recreation.

H368592 (NZG 1981 p 2586) classified as a Reserve for recreation purposes subject to the subject to the Reserves Act 1977. .

B239398.2 (NZG 1994 p 3024) Part Allotment 24 7 Section 1 Town of Tauranga renamed as Section 3

Survey Office Plan 59188 and change of classification to a Historic Reserve (to be known as Part Monmouth Redoubt Historic Reserve) subject to the Reserves Act 1977.

John Neal

For **GRAYSON NEAL LIMITED**

Appendix 3:²⁹²

The Use of *Tangata Whenua* and *Mana Whenua*

The terms *tangata whenua* and *mana whenua* have been used throughout this report. Therefore some explanation and analysis of their use is necessary. The following is an explanation of their meaning and the discussion re their use in legislation via an adaption of a paper by Catherine Iorns Magallenes. Although it traverses the use of the terms in legislation, the discussion is applicable for our purposes also.

In this report, the term *tangata whenua* is used to refer to particular *hapū* or *iwi* who have traditional ties to an area. For example, in the instance of Tauranga Moana, Ngāi Te Rangī, Ngāti Ranginui, Ngāti Pūkenaga and Waitaha. *Mana whenua* refers to those *hapū* who have ancestral and moral rights within a particular geographical location. These rights are not exclusive rights or rights without definition. They are rights consistent with the covenantal aims of the Treaty of Waitangi/*Te Tiriti o Waitangi*, especially Article 2. In particular, these rights apply to the prerogative of *hapū* to have a significant leadership role in shaping the identity of a place by the application of *te reo Māori me ona tikanga*. While sometimes contested, the *mana whenua* of an area are usually endorsed by regional *tangata whenua*. This is the case with Te Papa: Ngāi Tamarāwaho and Ngāti Tapu and their joint body, the Otamataha Trust are acknowledged in this way.

The following is a discussion of some issues arising from the use of these terms. *Tangata whenua* is now one of the most commonly used Māori terms in legislation. The term appears in 38 current statutes, 17 of these are claims settlement Acts. There appear to be two different types of uses: one general, with a wide reference, and one specific, referring to a particular group of Māori.

A. General.

Here it appears to be referring to Māori as "*tangata whenua*" as a synonym for Māori.

B. Within Land and Resource Management.

The more common use of the term is in the context of land and resource management and related issues. Here, the term does not refer to the interests of Māori generally, but to an identifiable and particular subset of Māori: those with traditional or customary authority over a particular geographical area.²⁹³ For example, they are used within the RMA and the Fisheries Act 1996.

In these Acts, *tangata whenua*, in relation to a particular area, means the *iwi*, or *hapū* that holds *mana whenua* over that area. *Mana whenua* which means customary authority exercised by an *iwi* or *hapū* in an identified area.

²⁹² Note: Adapted from Catherine Iorns Magallenes, 'The Use of Tangata Whenua and Mana Whenua in New Zealand Legislation: Attempts at Cultural Recognition'.

²⁹³ This is discussed in more detail in relation to '*mana whenua*', including how the reference to 'authority' over an area as opposed to a wider relationship with it is considered too limiting and inaccurate.

There is discussion over the meaning of *tangata whenua* in the Report of the Waitangi Tribunal on Rekohu.²⁹⁴ The Tribunal notes that 'tangata whenua is not customarily used to describe political power' and thus cannot be defined 'by asking who has the customary authority in a place'.²⁹⁵ It thus rejects the approach adopted in the RMA, which defines "*tangata whenua*" by reference to "*mana whenua*". This discussion thus also forms part of the discussion of *mana whenua* below.

Mana Whenua

Mana whenua is a contested term. The Waitangi Tribunal disapproves of the term generally. In their view:

The term 'mana whenua' appears to have come from a 19th century Māori endeavour to conceptualize Māori authority in terms of the English concepts of *imperium* and *dominion*. It links mana or authority with ownership of the whenua (soil). But the linking of mana with land does not fit comfortably with Māori concepts. Recent research tends to agree that the term "mana whenua" itself does not appear in the early records about customary rights to land.... These opinions confirm that the term "mana" was personal and was used in regard to the influence authority of chiefs. Other opinions compiled in the Appendix consider that mana whenua was a 19th century invention. Crown counsel likewise challenged – we think correctly – its use to describe the general authority of a particular group over any area of land. We are inclined to think that the term "mana whenua" is an unhelpful 19th century innovation that does violence to cultural integrity. However, subject to such arrangements as may have been settled by the people themselves, our main concern is with the use of the words "mana whenua" to imply that only one group can speak for all in a given area when in fact there are several distinct communities of interest, or to assume that one group has a priority of interest in all topics for consideration. Some matters may be rightly within the purview of one group but not another.²⁹⁶

According to Catherine Iorns Magallanes, 'Justice Durie, has commented extrajudicially that one way in which the term was used historically, not only implied exclusivity, but it also applied exclusivity in a negative way – that is, the term was used in order to assert control to the exclusion of others, often at the beginning of a war or a dispute over the resource in question. It is thus not a term to be used in a peaceful context such as legislation.'²⁹⁷ However, the term continues to be used in legislation.²⁹⁸ The 2010 amendment to the legislation establishing the Auckland Council used the term. They established an advisory board to the Council with the following purpose. To assist the Auckland Council to make decisions, perform functions and exercise powers by –

- (a) Promoting cultural, economic, environmental, and social issues of significance for –
 - (i) *Mana whenua* groups; and
 - (ii) *Mataawaka* of Tamaki Makaurau; and
- (b) Ensuring that the Council acts in accordance with statutory provisions referring to the Treaty of Waitangi.

²⁹⁴ Waitangi Tribunal, Rekohu: *A Report on Moriori and Ngati Mutunga Claims in the Chatham Islands*, Wai 64, 2001.

²⁹⁵ *ibid*, p.26.

²⁹⁶ *ibid*, pp. 28-29.

²⁹⁷ Meeting with Edward Durie, members of the Law Commission, members of Te Puni Kōkiri and of Ross Philipson Consulting (31 May 2005) cited in Magallanes, p.267.

²⁹⁸ It has been used in claims settlement legislation since the criticism. See the Ngaa Rauru Claims Settlement Act 2005, the Ngati Awa Claims Act 20015, the Ngati Mutunga Claims Settlement Act 2006 and the Central North Island Forests Land Collective Act 2008.

In their definition – *mana whenua* group means an *iwi* or *hapū* that –

- (a) Exercises historical and continuing *mana whenua* in an area wholly or partly located in Auckland; and
- (b) Is 1 or more of the following in Auckland:
 - (i) A mandated *iwi* organisation under the Māori Fisheries Act 2004;
 - (ii) A body that has been the subject of a settlement of Treaty of Waitangi claims;
 - (iii) A body that has been confirmed by the Crown as holding a mandate for the purposes of negotiating Treaty of Waitangi Claims and that is currently negotiating with the Crown over the claims.

According to Magallenes, the Auckland Council Act contains the first legislative use of *mataawaka* and it is not a term that is in common normal usage. The Royal Commission on Auckland Governance uses the term “*mana whenua*” in their report. The Commission distinguished between two different “broad categories” of Auckland Māori. One category is *mana whenua Māori* and the other is *non-mana whenua*, *taura here* or urban Māori. In the Commission’s view the difference between the two categories is the location of ancestral ties: “*mana whenua*” are ‘local Māori with ancestral ties to the region’, or ‘Māori who have ancestral rights to occupy the Auckland region or part of it; namely their tribal *rohe* fall within the Auckland region’.²⁹⁹ In contrast, the “*non-mana whenua*” category is for ‘Māori who may live in a certain area but have ancestral ties to another region.’ The Commission explicitly considered whether the term “*tangata whenua*” can be used in a broader sense to mean all Māori, on the basis that at a national level, Māori are the *tangata whenua* of New Zealand.

The use of Māori words in legislation or in wider usage without definition, raises various issues, but these issues are not insurmountable. However, there will be drawbacks to the inclusion of definitions of Māori terms. As Joan Metge notes in relation to difficulties in interpreting Māori words in legislation: ‘Attempts to get around the problem by defining the Māori word in the Interpretation section of a Bill are resented by Māori because they pre-empt the authority of Māori *pukenga* and ‘fix’ a meaning that may be wrong or in the process of change’.³⁰⁰

If a definition is included, it needs to be accurate and adequately convey the Māori concept. In summary, Magallenes suggests that there are three ways to use terms such as *mana whenua*. The first is to achieve accuracy in definition, where a definition is appropriate. Sometimes it is not appropriate, and to overcome this a solution is to educate those who have to apply and determine the meanings of the legislation in Māori culture, customs and values. The more difficult solution – is that of requiring greater cultural ownership of the process by Māori. She cites Justice Durie, with regard to the use of Māori terms in legislation: ‘As a Māori I love it; but as a Judge I don’t’.³⁰¹

²⁹⁹ Peter Salmon, Margaret Bazley and David Shand, *Report of the Royal Commission on Auckland Governance* (2009).

³⁰⁰ Joan Metge, “Commentary on Judge Durie’s Custom Law” (paper prepared for the Law Commission’s Customary Law Guidelines Project, 1996). Metge provides an example: “For example, the common practice of translating “kaumatua” by the English “elder” has misled Pakeha into taking advanced age as the defining feature of this role, whereas to Maori the exercise of leadership functions is as if not more important”. Metge elaborates further; “the concept kaumatua has five components, age plus social seniority plus life experience plus wisdom gained from reflecting thereon plus current occupancy of a position as leader to a group. Of these, age is perhaps the *least essential*. True, the word “elder” as used in English also has implications of experience and wisdom, but because of its form it is associated first and foremost with advanced age”.

³⁰¹ Edward Durie as above.

Selected Bibliography

Brown, Alfred, *Journal*

Carleton, Hugh, *Life of Henry Williams*, 1948

Edwards, Noelene, *Archdeacon Brown*, University of Auckland, MA Thesis, 1950

Gifford, W.H., and H.B. Williams, *A Centennial History of Tauranga*, 1940,

Orange, Claudia, *The Treaty of Waitangi*, 1987

Nicholas, Patrick, *The Treaty of Te Papa* [Tauranga, 1864], 1999

O'Malley, Vincent, *Waitangi Tribunal Report*, 'The Te Papa Block: A history of Church Missionary Society and Crown dealings, 1838-1867', 1994

Reese, Alistair, *Tauranga and the Mount – "Where Sunshine Spends the Winter"*, BA Dissertation, University of Waikato, 2004

Reese, Alistair, *Te Papa: CMS's Naboth's Vineyard?* Massey University, BA [Hons] Dissertation, 2005

Stafford, D.M., *A History of The Arawa People*, 1986

Stokes, Evelyn, *A History of Tauranga County*, 1980

Stokes, Evelyn, *Māori Manuscripts in the Papers of Alfred Nesbit Brown Missionary at Tauranga*, 1984

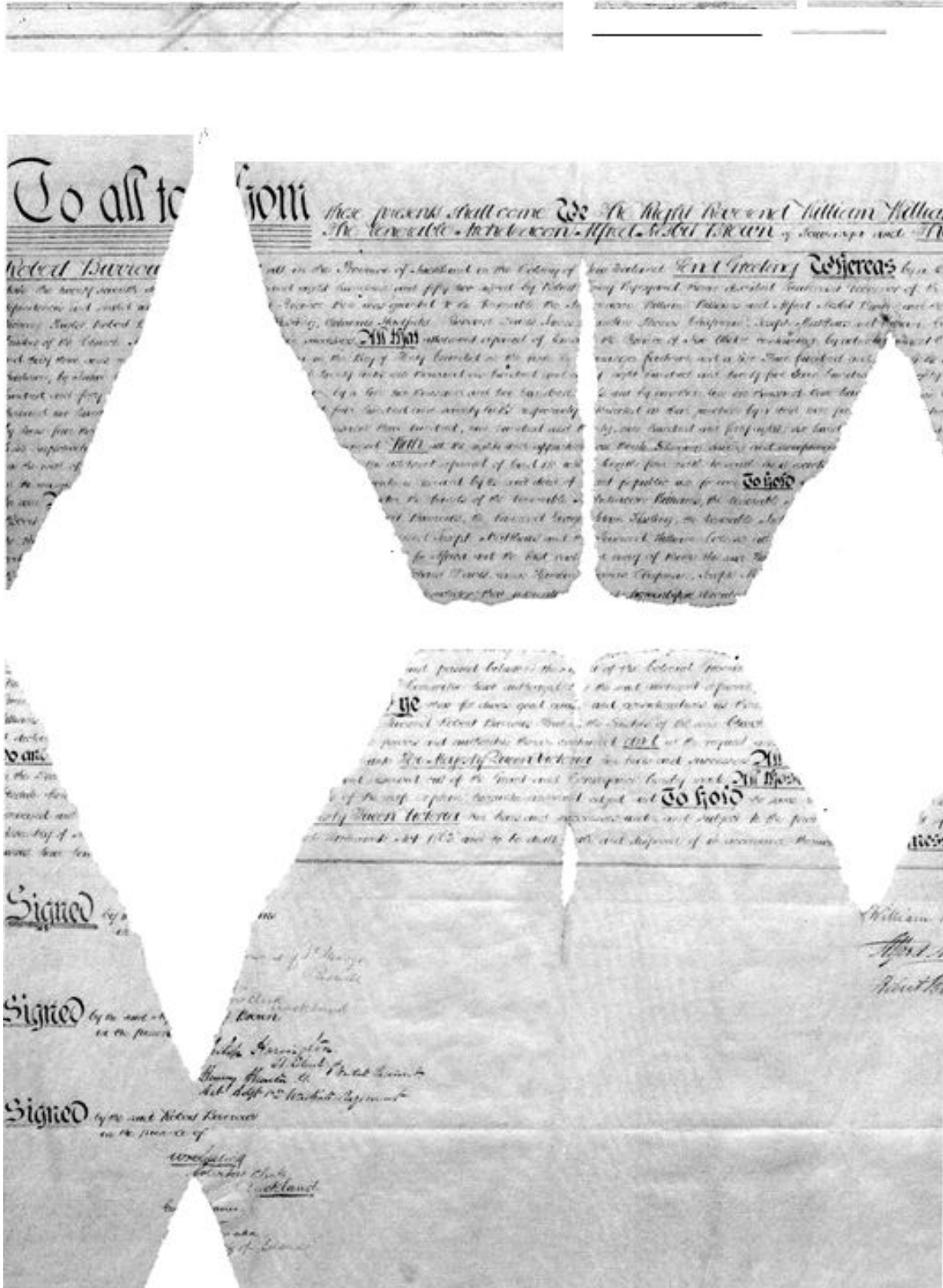
Tate, Henare, *Towards Some Foundations of a Systematic Māori Theology*, University of Auckland, PhD thesis, 2010

Waitangi Tribunal Report: *Te Raupatu o Tauranga Moana*, Wai 215, 2005

Ward, Ian, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832 – 1853*, Wellington, 1968

Supporting Documents

Rat-eaten Te Papa Conveyance Document: CMS to Crown. Signed by William Williams, Alfred Brown and Robert Burrows



Letter from CMS Land Secretary Burrows to Frederick Whitaker, Superintendent of Auckland Province

Supporting Documents to the Report of (wa1215) **SIS**

Vincent O'Malley,

Re Te Papa Block: A History of the CMS and Crown Deals, 1838-1867

Nov. 1996

MS 542

O 663/66

Handwritten signature/initials

Auckland
March 5th 1866.

Sir,

In reply to your letter of the 5th February I have the honor to state that the Land Board of the Church Missionary Society for this Diocese of Waiaapu have duly considered the several subjects upon which you asked information, as far as they relate to the Tauranga property, and they submit for your Honor's consideration the following reply.

1. The quantity of land which the Society hold at Tauranga by Crown Grant is 1333 acres.

1333 acres

2. If the Government require the above named property for the purpose of forming a Township, we propose

(a) To hold permanently the Dwelling House, and out houses now in the occupation of the Rev^d Mr. Decker together with Five Acres of land

5 acres held by

immediately adjoining the Building, His Honor the Superintendent and

Auckland

and the remainder of the Glebe being
Five acres to be held by the way of
lease from the Government for fourteen
years, at a nominal rent

5 acres

(b) The Government to take at
a valuation the Buildings at present
rented to the General Government, to
be paid for either in Cash, or in land
as may hereafter be agreed upon be-
tween the Government and the Trustees.

(c) The Society to retain one fifth
of the whole 1333 acres, this quantity to
be fairly distributed in Town and Sub-
urban sections (as the case may be)
over the whole block. The Trustees
giving over to the Government the
remaining four fifths without compensation

$\frac{1}{5}$

(d) The Government to take upon
themselves the responsibility, and cost
of making their own arrangements with
the Society's Tenant, Mr S. L. Clarke.

$\frac{4}{5}$

I have the honor, to be.

Sir

Your very obedient Servant

Robert Pirrrows

of the Board

Refund for Mr. Clarke
to be paid to the
Society by the
Govt. 2.1.67

Refd. 3/1/67

to be paid to the
Society by the
Govt. 2.1.67

Enclosure
A. 66/4
John P. P.

Letter of thanks to Rev. Burrows from Frederick Whitaker, Superintendent of Auckland Province, to CMS

60/4

Superintendents office
Auckland March 7 1866

Sir

I have the honor to acknowledge the receipt of your letter of the 5th inst submitting for my consideration the views of the Land Board of the Church Missionary Society for the Diocese of Waiaapu in reference to the land at Tauranga

I beg that you will state to the Board that in my opinion their offer is a very liberal one, and on the part of the Govt I accept it subject to an explanation in reference to the paragraph marked D which states that the Govt shall take upon themselves the responsibility and cost of making their own arrangements with the Societys Tenant Mr S L Clarke

I will undertake to make arrangements with the Tenant, but it must be understood that I am not limited as to time. Mr Clarks views are so extravagant that I can have little hope of coming to reasonable terms with him, and I propose at present to allow him to continue in the occupation of the land leased to him as long as this shall continue of course the Society will be entitled to a proportionate part of Mr Clarks rent

I have the honor to be
Sir

Your Obedient Servant
Fredk Whitaker
Superintendent

Rev R Burrows
Secretary
Church Missⁿ Society