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Estimating returns on the Mangatū land accruing to Ngā Ariki Kaiputahi – 2018 update

for Crown Forestry Rental Trust

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Infometrics

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Authorship

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1. EXECUTIVE SUMMARY

In 2012, we estimated the total value of the lost opportunities suffered by Ngā Ariki Kaipūtahi in relation to the deprivation of a land base from 1881. This estimation was done in two separate pieces as follows.

To estimate historic lost opportunities, we used dividends paid by Mangatu Blocks Incorporation as a proxy for potential returns on the Ngā Ariki Kaipūtahi land between 1950 and 2011. Prior to 1950, we modelled a relationship between export prices and Mangatu Blocks Incorporation dividends and used historical export price data to estimate the potential returns.

To estimate future lost opportunities, we took the current value of the Mangatū land as an indication of the present value of the revenue stream that could be generated by the land going forward.

We have updated these estimates based on additional dividends paid over the last six years and a more recent valuation of the land. We have also considered comments regarding pre-1950 returns made by the Tribunal following the previous hearings in 2012.

Our work finds that the value of lost opportunities suffered by Ngā Ariki Kaipūtahi from 1950 onwards ranges between $6.7m and $156.5m, dependent on the proportion of the land ownership that should rightfully have been awarded to the iwi in 1881. The top end of this range increases to as much as $229.3m when possible returns on the land for the 1881-1949 period are considered.

In addition to this work, we have also calculated compensation payable under clause 3(c) of Schedule 1 of the Crown Forest Acts 1989. Using this methodology, our estimate of appropriate compensation is $130.3m. Of this total compensation, $59.0m relates to the area of land within the Mangatū No 1 Block, with $71.3m associated with land within the Mangatū No 2 Block.

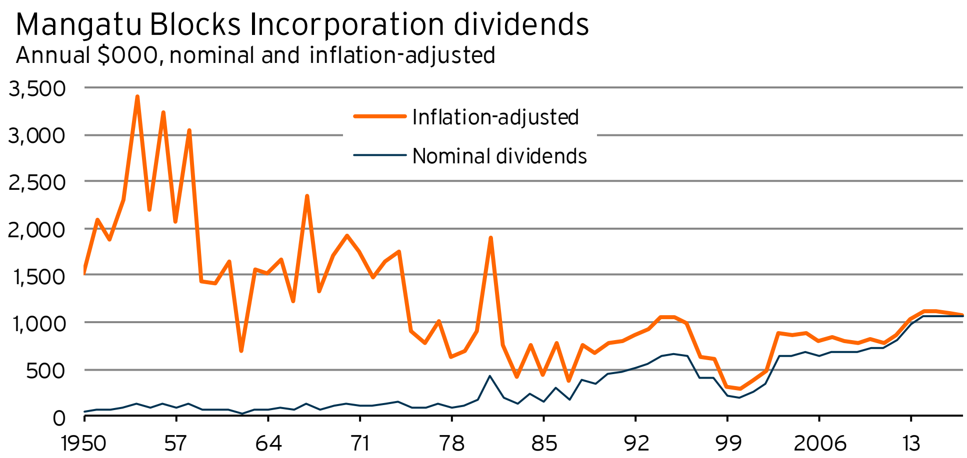
2. UPDATES OF PREVIOUS ESTIMATES

Estimating returns 1950-2017

Infometrics has been provided with data on the dividends paid by Mangatu Blocks Incorporation between 1950 and 2017. These dividends are derived from the revenue and net profit generated by Mangatu Blocks Incorporation through its various land holdings and business interests. These dividends provide a proxy on the possible returns that could realistically have been generated by Ngā Ariki Kaipūtahi had they retained a substantial share of ownership of the land between 1950 and 2017.

As in our 2012 report, we have converted the dividends of previous years into the equivalent value in today's dollars. The results are shown in Graph 1.

Graph 1



Determining the extent of the lost opportunities suffered by Ngā Ariki Kaipūtahi depends on what proportion of the land ownership should rightfully have been awarded to the iwi when the Native Land Court made its judgment in 1881. Table 1 allows for various ownership percentages of the land between 10% and 100%. We have also made an allowance for the ownership stake awarded to Ngā Ariki Kaipūtahi of 6,000 shares in the Mangatū land blocks.[1]

Table 1

Value of historic lost opportunities suffered by Ngā Ariki Kaipūtahi
1950-2017, assuming various levels of ownership, March 2018 $m

Percentage ownership	10%	20%	40%	60%	80%	100%
Given above ownership level	8.2	16.3	32.6	48.9	65.2	81.5
Less 6% shareholding	3.3	11.4	27.7	44.0	60.3	76.6

[1] Our previous report made an allowance for a 4% shareholding by Ngā Ariki Kaipūtahi. However, subsequent investigation showed that the iwi has had a 6% shareholding, apart from a brief period between about 1917 and 1923, when their shareholding was 4%.

Assuming a 100% ownership for the land and making an allowance for the 6% shareholding in the Mangatū land blocks, the lost opportunities suffered by Ngā Ariki Kaipūtahi for the 1950-2017 period would be equal to $76.6m in today's dollars.

Estimating returns 1881-1949

In its report following the 2012 hearings, the Waitangi Tribunal stated that our previous report overstated the losses suffered by Ngā Ariki Kaipūtahi because we "failed to take into account the financial state of the incorporation that caused it to be placed under the administration of the East Coast Commissioner." We accept that the financial problems prior to 1950 make it difficult to determine an appropriate estimate of losses suffered by Ngā Ariki Kaipūtahi during this period, particularly given that the causes of these financial problems are not well documented.

Nevertheless, we also note that business failures or insolvencies are often caused by cash-flow problems rather than an inherent unprofitability of the business itself. Issues such as the availability of finance, delays in payments received from debtors, or investment in equipment or hiring of new staff that fails to generate a return as quickly as expected can all result in a business becoming insolvent. These issues can be caused by a range of causes, ranging from external macroeconomic and financial market conditions to internal factors such as poor governance or management decision-making.

The range of possible returns prior to 1950 is thus very wide. At one extreme lies the assumption that the land was never profitable on a sustained basis due to external market conditions, and the lost opportunities suffered by Ngā Ariki Kaipūtahi during this period were zero. At the other extreme is the assumption that the land was profitable but that poor governance and management unduly undermined the incorporation's financial state. The latter assumption underpinned our estimates of the possible returns on the Mangatū lands between 1881 and 1949 contained in our previous report.

We have updated our estimates for the possible 1881-1949 returns into today's dollars, as shown in Table 2. These figures should be viewed as a theoretical maximum value of lost opportunities suffered by Ngā Ariki Kaipūtahi during this period.

Table 2

Value of historic lost opportunities suffered by Ngā Ariki Kaipūtahi
1881-1949, assuming various levels of ownership, March 2018 $m

Percentage ownership	10%	20%	40%	60%	80%	100%
Given above ownership level	7.7	15.5	30.9	46.4	61.8	77.3
Less 6% shareholding[1]	3.3	11.0	26.4	41.9	57.4	72.8

1: Apart from 1917-23, when Ngā Ariki Kaipūtahi had a 4% shareholding

We stand by our previous view that the lost opportunities suffered by Ngā Ariki Kaipūtahi between 1881 and 1949 are unlikely to have been zero. We refer to our previous report, where we noted the £100,000 payment that was made in 1951 to owners whose land was sold to enable the trust to retain blocks such as Mangatū. This payment indicates that the lands had ultimately been quite profitable despite their many ups and downs. The £100,000 payment is equivalent to $6.6m in today's prices.

Land values

As stated in our previous report, the potential future income that Ngā Ariki Kaipūtahi could earn can be proxied by the current land value. The 2011 Annual Report[2] presented by Mangatu Blocks Incorporation provided a fair value of Māori Freehold Land of $84.875m. Table 3 shows the lost opportunities suffered by Ngā Ariki Kaipūtahi assuming various ownership percentages between 10% and 100%.

Table 3

Value of future lost opportunities suffered by Ngā Ariki Kaipūtahi
Assuming various levels of ownership, March 2018 $m

Percentage ownership	10%	20%	40%	60%	80%	100%
Given above ownership level	8.5	17.0	34.0	50.9	67.9	84.9
Less 6% shareholding	3.4	11.9	28.9	45.8	62.8	79.8

Total lost opportunities

Taking the results in Table 1, Table 2, and Table 3 provides an indication of the total value of the lost opportunities suffered by Ngā Ariki Kaipūtahi. These results are presented in Table 4. Unlike the previous tables, we have only shown the value of lost opportunities allowing for the 6% shareholding maintained by Ngā Ariki Kaipūtahi.

Table 4

Value of total lost opportunities suffered by Ngā Ariki Kaipūtahi
Assuming various levels of ownership less current 6% shareholding,[1] March 2018 $m

Percentage ownership	10%	20%	40%	60%	80%	100%
From 1950 onwards	6.7	23.3	56.6	89.9	123.1	156.4
Theoretical maximum 1881-1949	3.3	11.0	26.4	41.9	57.4	72.8
Maximum 1881 onwards	9.9	34.3	83.0	131.8	180.5	229.3

1: Apart from 1917-23, when Ngā Ariki Kaipūtahi had a 4% shareholding

In Table 4, we have separately identified the possible lost opportunities for the pre-1950 period. This presentation allows us to highlight that, if we adopt an ownership percentage of 100%, for example, for Ngā Ariki Kaipūtahi, the minimum lost opportunities suffered by the iwi would be equivalent to $156.4m. This minimum figure implicitly assumes the value of lost opportunities prior to 1950 was zero.

However, as previously stated, we do not believe an assumption of zero is appropriate. It is possible that the lost opportunities for the 1881-1949 period, with a 100% shareholding, could have been as high as $72.8m. The addition of this amount to the $156.4m calculated above gives a total value of lost opportunities that could be as high as $229.3m.

[2] To be updated with the figure from the 2017 Report when available.

3. COMPENSATION UNDER CLAUSE 3(c)

The Crown Forest Assets Act 1989 specifies how compensation payable to Māori is to be calculated to whom ownership of the land concerned is transferred. In clause 3(c) of Schedule 1, the Act specifies compensation of "the net proceeds received by the Crown from the transfer of Crown forestry assets to which the land to be returned relates, plus a return on those proceeds for the period between transfer and the return of the land to Māori ownership."

Regarding the Ngā Ariki Kaipūtahi claim, the key variables in calculating compensation under clause 3(c) are as follows.

The Ngā Ariki Kaipūtahi claim, Wai 507, was filed on 11 March 1995.

The gross proceeds from the sale of Crown forestry assets, including the Mangatū Crown Forest Licence (CFL), to ITT Rayonier of $366,000,000.[3] The total sale area is 97,453ha, implying gross proceeds of $3,755.66/ha.

Total sales costs across all Crown forestry assets in 1990 and 1992 are specified by Michael Marren in his evidence dated 25 May 2012 as being $8,340,432. The sales areas total 344,159ha.

Pro rating this total sales cost to the land area relating to the Mangatū CFL implies a sales cost associated with the ITT Rayonier transaction of $2,361,699. This figure equates to a cost of $24.23/ha.

Thus the net proceeds to the Crown from the sales of the Mangatū CFL, is $3,731.42/ha. This figure aligns with that quoted by Mr Marren.

Estimates provided by Mark Morice to Richard Meade advise that the stocked area of land relating to the claim by Te Atianga a Māhaki is 6,391ha. It is assumed that Ngā Ariki Kaipūtahi's claim covers the same parts of the Mangatū CFL.

Clause 5(a) in Schedule 1 of the Act specifies that, for compensation purposes, the real value of the sale proceeds is to be maintained between the date of transfer and four years after the transfer occurred or, if the claim was filed after the transfer occurred, four years after the claim was filed. Given the date of filing of Ngā Ariki Kaipūtahi's claim, this period extends between 15 May 1992 and 11 March 1999.

Between the June 1992 and March 1999 quarters, the Consumers Price Index, as published by Statistics NZ, rose from 606.4 to 677.3. This increase, of 11.7%, implies that the real value of the net sale proceeds rose from $3,731.42/ha to $4,168.13/ha during this period.

Clause 5(b) in Schedule 1 of the Act specifies that, for any subsequent period, the return on the sale proceeds is "equivalent to the return on 1 year New Zealand Government stock measured on a rolling annual basis, plus an additional margin of 4% per annum." Data is available from the Reserve Bank of New Zealand,[4] although for some months in 2009-2013 and 2015-2016, there was no suitable benchmark and so no rates are reported. For these months, a one-year rate was interpolated using yields on 90-day bank bills and two-year government bonds.

For the period from 11 March 1999 to 31 March 1999, the return is calculated based on the one-year bond rate averaged over the 12 months to March 1998 plus the

[3] http://www.treasury.govt.nz/government/assets/saleshistory.
[4] https://www.rbnz.govt.nz/statistics/b2.

additional margin of 4%, adjusting for the fact that this period represents only 20 days out of the 365 days in a year. Thereafter, the returns are calculated based on the one-year bond rate averaged over each prior 12-month period[5] plus the additional margin of 4% per annum.

These returns imply that the net sales proceeds would have increased from $4,168.13/ha on 11 March 1999 to $20,394.48/ha by 31 March 2018. Utilising Mr Morice's estimate of a stocked area of 6,391ha, this estimate equates to compensation under clause 3(c) of $130.3m as at 31 March 2018.

The stocked area of the claimed land within the Mangatū No 1 Block is estimated by Mr Morice to be 2,893ha. This area represents 45.3% of the total estimated stocked area of claimed land across the Mangatū No 1 and No 2 Blocks. As such, we estimate that the compensation payable under Schedule 1 for land within the No 1 Block is $59.0m, while the remainder of $71.3m represents compensation for land within the No 2 Block.

Our total calculated compensation of $130.3m is higher than the figure provided by Mr Meade, primarily due to an additional three quarters of compensation (from June 2017 to March 2018) able to be included. Our interpretation of the "rolling annual" interest rate as specified in Schedule 1 also results in a slightly different final figure.

We note that our compensation figure of $130.3m is likely to be substantially higher than figures calculated under clauses 3(a) or 3(b). The higher clause 3(c) figure largely reflects the relatively high sale price for the land in 1992, compared to its current estimated value. However, the method of calculating compensation under clause 3(c) is sound from a theoretical economic perspective, representing the returns that a claimant could have generated over subsequent years with the proceeds from the sale. The "risk premium" of four percentage points over and above the one-year government bond rate is effectively an allowance for investment in a commercial venture where there was more volatility in year-to-year returns than an investment in government bonds, but where the average return over time is also likely to be higher.

[5] We have used the average one-year bond rate for the 12-month period for the previous year because this rate effectively proxies the return available to the investor **as at the date of reinvestment** at the end of March each year. The Act does not clearly define what period the "rolling annual basis" for the one-year government bond rate is supposed to cover.