

## Memorandum re implications of 2013 census

Date: 2 October 2013

From: R P Boast, Professor, Law, VUW

1. My principal areas of expertise are in the fields of New Zealand legal history and in the law relating to Maori freehold land, the foreshore and seabed, and title to land and natural resources. I have published widely in these areas. I have also appeared on numerous occasions before the Waitangi Tribunal as counsel and as an expert witness, and I am also familiar with the operation of the current system relating to the negotiation and settlement of Maori historic claims. I was a member of the review panel appointed by the Hon. Christopher Finlayson in 2009 to review the operation of the Foreshore and Seabed Act 2004.
2. Most recently I have been working on a critical edition of selected judgments of the Native Land Court, which is currently in press. One of the biggest problems with Maori land is the fact that decisions of the Maori Land Court and Maori Appellate Court are not properly reported.
3. I expect the census to have implications for the law relating to, and the administration of Maori freehold land. This category of land makes up about 12% of the North Island. (There is very little Maori freehold land in the South Island, mainly for historical reasons.) Interests in Maori land are expanding at a very rapid rate, so much so that the whole system is in danger of breaking down. I am uncertain exactly what can be deduced from the census specifically about this issue as I am not really conversant with the full range of data that is collected, but it seems very likely that there will at least some data which will probably show only too clearly the level of seriousness of the current problems and the increasing unsuitability of what is now a very dated and paternalistic legislative framework.
4. The government is currently reviewing the existing legislative framework relating to Maori freehold land. But a pronounced weakness of the policy papers released so far is an absence of detailed statistical material relating to such key issues as the rate of increase in ownerships, the extent to which owners are not pursuing successions, and the extent to which the various types of corporate and trust structures provided for in the existing legislation are currently being used. I was the convenor of a panel which prepared a submission on this matter on behalf of the New Zealand Law Society, but there has been no response to date (in fact I have some serious concerns about the quality of policy-making in this very important area).
5. It would be this area that I think I would be most interested in working on and which I think I could contribute to most effectively. I have a thorough understanding of this subject, of the current legislation and caselaw, and also of the historical development of the system (which I explored in my book *Buying the Land, Selling the Land*, published in 2008).
6. It is possible that there may be something to be learned about the effectiveness of the operations of the Waitangi Tribunal as well, again depending on the data that is collected.
7. Another area of interest is the current negotiation and settlement system, the complexity and scale of which is, I think, poorly understood by those who are not involved in it. Quite

how the data will aid in understanding the effects to date of the current round of negotiations and settlements is something I am unsure of, but this may be possible to some extent.

I trust that the above is of some assistance. Please contact me if more detailed information is required.

Kindest regards

Richard Boast

Professor