THE

POUAKANI REPORT

1993

WAITANGI TRIBUNAL REPORT 1993
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WAI 33
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LEGISLATION DIRECT
The cover design by Cliff Whiting invokes the signing of the Treaty of Waitangi and the consequent interwoven development of Maori and Pakeha history in New Zealand as it continuously unfolds in a pattern not yet completely known.
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Abbreviations

AJHR Appendices to the Journals of the House of Representatives
DOC Department of Conservation
DOSLI Department of Survey and Land Information
L and S Department of Lands and Survey
MLC Maori Land Court
NLC Native Land Court
NZFS New Zealand Forest Service
NZPD New Zealand Parliamentary Debates

Metric Equivalents

In the text and maps illustrating this report we have retained the measures of distance, area and currency used in the nineteenth century. The following is a guide to metric equivalents.

Distance:

1 inch = 2.54 centimetres = 0.025 metres
1 foot = 12 inches = 0.305 metres
1 yard = 3 feet = 0.914 metres
1 metre = 4.971 links = 3.280 feet
1 link = 7.92 inches = 0.201 metres
100 links = 1 chain
1 chain = 22 yards = 20.117 metres
80 chains = 1 mile = 1.609 kilometres
1 kilometre = 0.621 miles

Area:

1 acre = 4046.86 square metres = 0.405 hectares
1 hectare = 2.471 acres
10 acres = 4 hectares (approx)
100 acres = 40.469 hectares
1 rood = 1011.7 square metres
4 roods = 1 acre
1 perch = 25.293 square metres
40 perches = 1 rood

Currency:

£1 (pound) = 20 shillings
1s (shilling) = 12 pence

Note: no attempt has been made to compare values of currency between the nineteenth century and the present.
E te Minita mo nga take Maori,
Tena Koe

We place before you the report of the Waitangi Tribunal on the Pouakani claim. This claim was lodged by John Hanita Paki on behalf of himself, the other trustees and the beneficial owners of the Titiraupenga and Pouakani B9B Trusts on lands lying between Pureora mountain and the Waikato river in the central North Island. For your convenience we have included at chapter 18 a summary of our findings and recommendations.

This claim arose out of a dispute over the unsurveyed boundaries of the Maori-owned Pouakani B9B block and adjacent Crown lands. In order to understand the nature of this dispute we had to delve deep into the records of the Native Land Court, the former Department of Lands and Survey and the Land Purchase Office. We found that the Crown acquired large areas of land in the Pouakani block in payment of survey and other costs charged against the land, in addition to the individual interests purchased by the Crown in the 1890s. But the owners of residual Maori lands did not always receive properly surveyed titles in return.

We also found that the Pouakani block and the adjacent Maraeroa block were part of a dispute among Ngati Maniapoto, Ngati Raukawa and Ngati Tuwharetoa following the initial investigation of title by the Native Land Court at Taupo in 1886. This dispute led to litigation in the Supreme Court, petitions to parliament and the appointment of the Taupouneiaatia Royal Commission in 1889. A new investigation of title of Pouakani and Maraeroa blocks under the special provisions of s29 of the Native Land Court Acts Amendment Act 1889 was completed in 1891. A number of surveyed boundaries of lands in this area had not been approved by the Native Land Court. Subsequent surveys and new boundaries created a great deal of confusion for Maori and Crown officials then and since. We have set out the transactions on Maraeroa and Pouakani blocks in somewhat laborious detail in order to clarify what happened and which of the boundaries had legal status.

The history of these lands that straddle the traditional border zone between the descendants of Tainui and Te Arawa waka is complex. We had to satisfy ourselves whether the transactions on Maraeroa and Pouakani blocks were typical or an aberration in the process of investigation of title by the Native Land Court and Crown purchase operations in the 1880s and 1890s. We had to put these transactions in a context of the aftermath of the wars of the 1860s, the R6be Potae established by the supporters of the Kingitanga, the government efforts through the 1870s to “open up” the King Country, and agreement in 1883 to establish major triangulation, survey the boundaries of the R6be Potae, and carry out reconnaissance surveys of possible routes for the North Island main trunk railway line.

In this report we have made some specific recommendations which deal with the interests of the trustees and beneficial owners of Titiraupenga and Pouakani B9B blocks, and the management of the adjacent Pureora Forest Park. We hope that in a spirit of goodwill these recommendations will provide
a framework for negotiations toward resolution of the specific grievances on Pouakani block.

We are aware that there are some broader tribal issues raised in this claim involving the Waikato river, indigenous forest resources and loss of lands generally in the Robe Potae. In 1884 Crown pre-emption was reimposed (having been waived in 1862) and maintained through the 1880s and 1890s in the Robe Potae, so that the Crown became the sole purchaser of Maori lands. The operation of the Native Land Court was imposed in the Robe Potae in spite of protests by tribal leaders. The Native Land Court was created by the New Zealand Parliament to transmute customary tenure of land into titles cognisable in British law. A communal form of tenure was thus translated into individualised disposable property rights. Titles to land were only granted after investigation by the Native Land Court, carried out in a formal sitting, often in a distant town. A government-approved survey plan was required before a title could be granted by the court. The cost of such surveys, as well as court fees, was charged to Maori owners of the land. When Maori owners could not pay, and interest accumulated on such debts, land was transferred to the Crown in payment, in addition to the individual interests purchased by the Crown.

We have commented on how the process of investigation of title by the Native Land Court, survey and Crown purchase of individual interests in Maori lands was inextricably interrelated. We found nothing illegal or fraudulent in the Crown transactions on Pouakani and Maraeroa blocks in terms of the legislation, Native Land Court procedures and administrative practice of the time. However, we do feel considerable concern about the way that the legislation and procedures of the Native Land Court and Crown officials were imposed at considerable cost to Maori. When the debts were called in, Maori paid in land. By charging the land with the full costs of survey, court fees and other costs of attending the Native Land Court, Maori owners paid for a large share of the costs of Pakeha settlement, but did not receive an appropriate share of the benefits of this settlement.

We are aware of a number of other claims lodged with the Waitangi Tribunal which deal with similar issues in the Robe Potae. These have been grouped together as Wai 48 etc, Whanganui ki Maniapoto/Robe Potae claims, and are currently being researched prior to hearing in 1993. We are also aware that some of these matters are being negotiated. We suggest that in the meantime government refrain from sale of any Crown or state-owned enterprise lands in the Robe Potae, in the interests of possible resolution of these claims and in the interests of protecting the tax payers against the costs of buying back appropriate lands at some future date. We are aware of a great deal of good will in the negotiation processes established by the government. We hope that this report will provide an understanding of the nature of the process of alienation of Maori lands to the Crown in the Robe Potae which began in the 1880s.

Finally, we acknowledge the wisdom and good humour of our kaumatua member of the tribunal, Turi Te Kani, who until his untimely death in June 1990 contributed to all our discussions and commented on several draft chapters of our report. His generous spirit has guided us in the completion of our task.
Takoto mai e pā i roto i te wharekino
Ka tōkia tō kiri e te anu mātao
E ngā hau tuku iho o runga o Maunganui
Tāria atu koe te rae ki Panepane
E tangi haere ana te tai o te ākau
Waiho kia tangi ana . . .
Ehara i te tangata he unuhanga taniwha
He toroa whakakopa mai ana iwi

Rest, our elder, in the house of sorrow.
You have been pierced by the cold of death.
By the winds released from Maunganui,
You are carried to the point of Panepane,
Where the sea weeps in sorrow on the shore.
Let it go on weeping . . .
This is not a man, this is a taniwha.
The albatross has flown from his people.
Chapter 1

The Claim and the Proceedings

1.1 Introduction

This claim was lodged with the Waitangi Tribunal on 27 March 1987 by John Hanita Paki on behalf of himself, the trustees and the beneficial owners of the lands in the Titiraupenga and Pouakani B9B Trusts. The lands of these two trusts are part of the original Pouakani block, and from this the claim became known as Pouakani, and we have titled our report the Pouakani report. The claim involved some changes in the boundaries of the Pouakani block, in particular a dispute over the survey of part of the boundary of Pouakani B9B block and an alleged loss of land to the Maraeroa block. These two large blocks north-west of Lake Taupo (map 1.1) comprise nearly 70,000 hectares, straddling the traditional boundary between lands settled by descendants of Tainui and Te Arawa canoes. The details of the claims can be found in appendix 2.

The Pouakani claim is not a tribal claim in the usual sense. The term “Pouakani people” was used in submissions to the tribunal but this is not a tribal or hapu name. Te Pou-a-kani was the name of one of the boundary posts on the aukati, the boundary of the Rohe Potae, the King Country, on the western boundary of the Pouakani block. We have interpreted the term Pouakani people to mean, depending on the context, the descendants of all the hapu — Ngati Wairangi, Ngati Moe, Ngati Korotuohu, Ngati Ha, Ngati Hinekahau and Ngati Rakau — who were listed as owners in the various subdivisions of the Pouakani block. By means of the wbakapapa (genealogies) given to us, the people of these hapu could relate to ancestral lines of Raukawa, Maniapoto, Tuwba-retoat and Te Arawa. In some contexts, the term Pouakani people appears to have been used to refer to either or both the beneficial owners of lands of the Titiraupenga and Pouakani B9B Trusts, and a larger group which includes all the descendants of owners of Pouakani B9 and C1 blocks, of which the trust lands Pouakani B9B and Pouakani C1B1 and C1B2 blocks, are parts. The trust lands involved are shown in map 1.2.

The Pouakani claim arose over a dispute in the early 1980s with the New Zealand Forest Service and later with the Department of Conservation over the boundaries between the Pouakani B9B block and the adjacent Pureora Forest Park. This dispute over the logging of indigenous forest led to proceedings in the High Court and the Maori Land Court. During these proceedings it was claimed that the western boundary of the Pouakani block, shown as Horaaruhe Pouakani block on William Cussen’s survey plan ML6036 in 1886, had been shifted in 1892 by another surveyor, Don Stubbing (map 1.2). The effect of this appeared to be that some 2000 hectares had been taken from the Pouakani block and given to the Maraeroa block. This action, it was claimed, deprived Pouakani owners of some land, and in turn affected the surveyed and unsurveyed boundaries of Pouakani B9B block. The boundaries between the Crown land in Pouakani B9A and Maori land in Pouakani B9B blocks had
Map 1.1
The Claim and Proceedings

not been surveyed. Furthermore, a registered surveyor, Mr J M Harris of Te Kuiti (who had been employed by the trusts following discussion with the New Zealand Forest Service in 1986), found that a survey would not "close" in a manner which would include the area described in the title orders issued by the Native Land Court in 1891 and 1899.

An amended statement of claim was submitted to the tribunal on 27 October 1987 which, in addition to the boundary problems already stated, raised questions about the operation of the Native Land Court and the way lands in the Pouakani block were allocated to Maori owners, the activities of Crown land purchase officers in the 1880s and 1890s, the agreements made to open up the King Country in 1883 (the Rohe Potae of which Pouakani block was a part), and the Crown acquisition of lands for payment of survey charges. These matters raised issues which affect Maori tribal interests beyond the immediate scope of Pouakani block owners or their descendants.

On 27 April 1989 an "Addendum" to the amended statement of claim was submitted which alleged that the "act of Crown in taking lands for survey costs was a breach of the principles of the Treaty". Additional claims were also made in respect of the Waikato river, the taking of lands under the Public Works Act for hydro-electric power purposes, the nature of water rights granted for power generation, and the ownership of the river, in particular the provision of s261 of the Coal Mines Act 1979 which vests the bed of a navigable river in the Crown.

1.2 The Claim Hearings

The first hearing of the Pouakani claim was held at Te Papa o te Aroha marae, Tokoroa, in the week 15-19 May 1989. At this hearing the claimants, including Mr Paki, put their case. The kaumatua were heard first, including Mr Tamati Wharehuia of the Tapuika tribe of Te Arawa, whose narrative of the journey of Tia to Titiraupenga is transcribed in appendix 4. Mr Waea Mauriohooho expressed the interests of the Tainui Trust Board in the Waikato river aspects of the Pouakani claim. Detailed evidence on surveys was presented for the claimants by their surveyor, Mr J M Harris. Other evidence for claimants included that of Mr Kevin Were, a farm management consultant of Te Kuiti, who had acted for the Titiraupenga Trust. Counsel for claimants was Mr Paul Heath of Hamilton, assisted by Mr Richard Boast of Wellington. A legal submission on s261 of the Coal Mines Act 1979, prepared and presented by Mr Graeme Austin of Wellington, has been reproduced as appendix 15 of this report. Research reports commissioned by the tribunal were also presented: Mr Paul Harman on historical background and Mr M Cox on survey aspects of the Pouakani claim. At this hearing a large amount of documentary evidence involving proceedings in the Native Land Court since 1886 concerning the Pouakani block, records of the Tauponuiatia Royal Commission 1889, plans and other government archival material from the Department of Survey and Land Information and National Archives were admitted to the record of documents (see appendix 17).

At the second hearing of the Pouakani claim, held in the conference room of the Timberlands hotel, Tokoroa in the week 21-23 August 1989, submissions from the Crown were presented to the tribunal. Crown counsel was Mr C T
As shown on ML 6036 in 1886, with approximate boundaries of the lands now owned by the Titirangi Trust and Pouakani B 9B Trust superimposed. The boundary surveyed by Stubbing's 1902 survey was the boundary approved in the Native Land Court.

Main sources: ML 20635 and NZMS 261 Sheet T12

Map 1.2
Evidence on behalf of the Crown was presented by Mr David Alexander in three reports:

(1) The Crown award of Pouakani No 1 block;
(2) The western and southern boundaries of Pouakani with Maraeroa and Tihoi blocks respectively;
(3) The partitions of Pouakani block.

Mr Tony Walzl presented a report on Crown purchases in Pouakani block 1885-1899 and Sister Josephine Barnao reported on the evidence on timber-cutting rights, which had been produced by the Maori Trustee. As a result of this last report the claims in respect of the Maori Trustee's administration of timber-cutting rights were withdrawn by counsel for claimants and are not commented on further in this report. Evidence on aspects of forests and wildlife in Pureora Forest Park was introduced by counsel for the Department of Conservation, Mr N Watson, and presented in reports prepared by Mr J Leatbwick, Ministry of Forestry, on the Waipapa, Pikiariki and Pureora mountain ecological areas, and Mr A J Saunders, Department of Conservation, on wild life and habitat values of Pureora Forest Park. Evidence prepared by Dr A S Edmonds, Department of Conservation, giving a national perspective on the three ecological areas was read by Mr Watson, in the absence of Dr Edmonds due to illness. Ms Hilary Talbot, counsel for the Electricity Corporation, a state-owned enterprise, introduced a submission on behalf of the corporation with respect to Whakamaru and Maraetai hydro schemes and the corporation's commitment to seek new water rights.

Because the matters in dispute were largely between Maori and the Crown, and the lands concerned were still in Crown or Maori ownership, private interests were not involved. Two state-owned enterprises were concerned, the Forestry Corporation and the Electricity Corporation, but no submission was made by the Forestry Corporation. Two parties were given the right to make a submission as having an interest greater than that of the public. The Maniapoto Maori Trust Board, through its spokesman, Reverend Rapata Emery, made a statement on the Maraeroa block and the ancestor Matakore. At the first hearing, Mr Rana Waitai, as deputy chairman of the Mangakino Incorporation, bad registered the interests of Ngati Kahungunu ki Pouakani, as owners of land in Pouakani block granted by the Crown in exchange for the Wairarapa lakes. During the second bearing some statements were made on behalf of Ngati Kahungunu ki Pouakani, but no evidence produced, and it was agreed that the Ngati Kahungunu ki Pouakani concerns be the subject of a separate claim (registered as Wai 85). This issue is explained briefly in chapter 17 of this report.

An additional issue in respect of the Crown acquisition of Waipapa No 5 block, as part of the "Waipapa Consolidation Scheme", was raised in papers provided by Mr Pius Hepi and produced for the tribunal by Crown counsel at the end of the first bearing. In a submission by Crown counsel during the second bearing the tribunal was informed that some research bad been carried out by the Department of Survey and Land Information. This research was produced for the information of the tribunal. The Waipapa block was derived from parts of Pouakani and Tihoi blocks and incorporated in a land development scheme. Waipapa No 5 block was formerly part of Tihoi block. No written statement of claim was produced with these documents. While it may be theoretically possible to make a verbal claim to the tribunal, we have not treated this material
as a claim because we think that, if there are matters relating to Waipapa lands that should be considered by the tribunal, then these matters should be the subject of a separate written claim to the tribunal. Without further information, we can make no specific comment on this "claim".

The third hearing of the Pouakani claim was held at Te Papa o te Aroha marae, Tokoroa, in the week 9-12 October 1989. More documents were entered into the record but the hearing was largely taken up with the closing submissions of counsel for claimants, Mr Heath and Mr Boast, and counsel for the Crown, Mr Young.

1.3 The Role of the Waitangi Tribunal

The jurisdiction of the Waitangi Tribunal to hear the claim of any Maori or group of Maori is set out in s6 of the Treaty of Waitangi Act 1975. Under sub-sections (3) and (5) of s6, the tribunal has the power to make recommendations as it thinks fit on any aspects of the claim which it considers to be well-founded, in a report to the Minister of Maori Affairs, other relevant ministers, the claimants, and other persons with an interest in the claim. The tribunal also has certain powers in respect of land transferred to state-owned enterprises under s8A of the Treaty of Waitangi Act, as amended by the Treaty of Waitangi (State Enterprises) Act 1988.

The Waitangi Tribunal is also deemed to be a commission of inquiry under the Commissions of Inquiry Act 1908. The hearing of the Pouakani claim had a superficial resemblance to the adversarial procedures in other courts. Both counsel for claimants and counsel for the Crown called evidence and made submissions and both counsel made final submissions. At the conclusion of formal hearings many may have assumed that the tribunal would immediately produce a report based on the large amount of evidence placed before it. However, like any commission of inquiry, the Waitangi Tribunal has an inquisitorial role. It is concerned with finding out what happened that led to the sense of grievance felt by claimants. It is not restricted to considering only the evidence placed before it.

In reviewing that evidence, the tribunal separated the various claims into issues which affected the particular claimant group (that is the Pouakani B9B and Titirangata Trusts and their beneficial owners), and the issues which had broader implications for the tribes of the Rohe Potae. In the first group we placed the matters related to the surveys and boundary dispute over Pouakani B9B block and adjacent Pureora Forest Park. However, this specific dispute could not be understood without a broad understanding of the processes and procedures of the Native Land Court, Crown land purchase and the survey requirements of the 1880s and 1890s when the transactions complained of on the Pouakani block occurred. Much of the evidence presented to us raised general questions about Crown practices and legislation which applied not only to the Pouakani block but to the many other blocks in the Rohe Potae.

We had to make certain whether the detailed evidence given to us of the transactions on Pouakani block was typical, or whether there were any unusual features, any act of omission or commission by the Crown, which would make this grievance specific to the Pouakani block. The tribunal therefore undertook further research, and this has taken us some time to complete.
The Claim and Proceedings

We have established that within the Rohe Potae (which we define as the area described in the schedule to the Native Land Alienation Restriction Act 1884), there is a large area of the central and western North Island in which the Crown right of pre-emption, agreed in the Treaty of Waitangi in article 2, and waived by the Crown in the Native Lands Act 1862, was reimposed by the Native Land Alienation Restriction Act 1884 and maintained by the North Island Main Trunk Railway Loan Application Act Amendment Act 1889, the Native Land Purchases Act 1892 and the Native Land Court Act 1894. It is well known that the several New Zealand governments of the 1870s and early 1880s entered into negotiations with the tribes living within the Rohe Potae for the purposes of allowing construction of the North Island main trunk railway and the “opening up” of the King Country for Pakeha settlement. An agreement was reached to allow surveys for a railway line, and for major triangulation of the King Country in the early 1880s. On 19 December 1883, an agreement for the survey of the boundary of the Rohe Potae (called the “Aotea Agreement” in submissions to us) was confirmed in a letter signed by Wahanui and others. The claimants stated that government had broken the “Aotea Agreement” by allowing subdivision and survey of the Pouakani block. The first Crown purchase of lands in Pouakani block in 1892 was funded under the provisions of the North Island Main Trunk Railway Loan Application Act 1886 and amendments.

In January 1886 the Taupo Native Land Court began bearings for investigation of title to lands in the Tauponuiatia block, part of the lands of Ngati Tuwharetoa, on the application of Te Heuheu and others. On 27 June 1886 the Native Land Court began bearings at Kihikihi, and later at Otorohanga, for the investigation of title in the Aotea (Robepotae) block, part of the lands of Ngati Maniapoto. It is well established that there was a dispute between Ngati Maniapoto and Ngati Tuwharetoa over the boundary between the Aotea and Tauponuiatia blocks, and over the inclusion of Maraeroa in Tauponuiatia. This dispute led to litigation in the Supreme Court, petitions to parliament, and the appointment in 1889 of a royal commission to investigate matters related to the Tauponuiatia block. The Tauponuiatia Royal Commission reported in August 1889. One outcome was s29 of the Native Land Court Acts Amendment Act 1889 by which the Native Land Court orders made in 1887 for lands in the Pouakani block (with the exception of Pouakani No 1 block awarded to the Crown) and the Maraeroa block were cancelled. The investigation of titles for Pouakani and Maraeroa blocks were beard anew in 1891 and new title orders were issued.

Large areas of Pouakani and Maraeroa blocks were acquired by the Crown during the 1890s and early 1900s by means of Crown purchase of individual interests in land through government land purchase officers. Surveys were required both for purposes of investigation of title by the Native Land Court and for defining areas which the Crown bad purchased. However, because the Crown was actively purchasing land, the Survey Office did not always commission surveys on the ground. The practice of “scaling and protracting” (a method of calculating lines and drawing them on a survey plan in the Survey Office) became acceptable in Crown land purchase procedures, on the grounds that it would save the owners money by not charging the lands for unnecessary surveys. If there was a possibility of the Crown acquiring more lands in a block, survey of those lands may not be required. The practice of charging Maori
owners for all costs of survey, was established in Maori land legislation since the original Native Lands Acts of 1862 and 1865 which established the Native Land Court. Legislation in 1878 enabled the court to award land to surveyors in payment of survey costs, and legislation in 1880 enabled the court to order the sale of part of the land for payment of survey costs. The Native Land Court Act 1886 gave the court power to charge the land with money owing to the Crown or a private surveyor for survey costs.

1.4 Summary

In short, the tribunal decided that in an administrative and political environment where the Crown was the sole purchaser, a good deal of explanation was needed in order for the intricacies of the interwoven operations of the Native Land Court, the surveys and definition of boundaries and Crown purchase to be fully understood. We also began to comprehend the complexities of tribal relationships on the border zones between major tribal areas of Tainui and Te Arawa, and among the tribes of Ngati Raukawa, Ngati Maniapoto and Ngati Tuwharetoa in particular. We have also tried to comprehend the nature of Maori complaints, beginning with the tribal petition to parliament in 1883:

We have carefully watched the tendency of the laws which you have enacted ... they all tend to deprive us of the privileges secured to us by the second and third articles of the Treaty of Waitangi, which confirmed to us the exclusive and undisturbed possession of our lands.1

During the period since the first hearing of the Pouakani claim in 1989, a number of other claims have been lodged with the Waitangi Tribunal which concern many other blocks in the Rohe Potae, the operation of the Native Land Court, Crown purchases, surveys and the acquisition of lands in payment of survey charges. These claims have been grouped together as Whanganui ki Maniapoto (Wai 48 etc). Without presuming on these claims which are currently being researched and are likely to begin hearing in 1993, we are conscious that the issues we are reporting on in the Pouakani and Maraeroa blocks are also relevant to the Whanganui ki Maniapoto claims.

We have also been made aware of the paucity of historical writing which addresses in detail the precise nature of the Native Land Court, Crown land purchase and survey procedures. We have discovered a wealth of archival information in the minute books and files of the Maori Land Court, in the original field books, survey plans and related files in the Department of Survey and Land Information, and in the land purchase files and other documents, including the minutes of evidence of the Tauponuiatia Royal Commission held in the National Archives. Sadly, some crucial documents have been lost, and we comment on these losses as appropriate in our report. However, in general, there is a wealth of other information which corroborates, and from which we have been able to reconstruct, the transactions on the Pouakani and Maraeroa blocks in the 1880s and 1890s.

On 16 April 1992 a preliminary draft of this report containing no findings or recommendations was released to counsel for claimants and the Crown to enable them to respond to material found since the hearings ended and make further submissions, if they wished, by 22 May 1992. The Crown responded indicating that no further submissions would be made. Mr Paki responded in a letter dated 23 April stating “I do not have the financial resources required
to present the requested submissions”. He requested funds to pay his “professional advisers” to prepare submissions and appear before the tribunal. Mr Paki also stated:

If funding is not approved I realise that our inability to produce a submission will substantially disadvantage our claim. The Crown clearly has the resources available to make indepth submissions from their viewpoint ....

Given the very substantial costs of the claim to date and the very important issues involved in the claim — issues that are of importance in a significant number of other claims — I hope that you are able to provide the funding support we require to address your request in an appropriate manner.

The Waitangi Tribunal was not able to provide the funds requested. Payment of counsel for claimants now comes under the provisions of the Legal Services Act 1991. Mr Paki instructed his counsel to return the draft copy of the Pouakani report to the tribunal office in Wellington. These matters were reported in the media.²

The Waitangi Tribunal has always been aware of the considerable costs involved for claimants to bring their grievances before it. When appropriate, the tribunal has made a recommendation to the Crown concerning costs, for example in the Ngai Tahu claim. We have considered the matter of claimants' costs in our recommendations in chapter 14. We are also aware that the Crown has also made an interim payment to the claimants reported in the media in September 1990 to cover existing debts.³ The tribunal was concerned that claimants felt they were unable to respond to the invitation to make further submissions. The tribunal decided in these special circumstances to offer to underwrite, subject to claimants applying for legal aid under the Legal Services Act 1991, the costs of a one-day hearing, to be restricted to submissions on the boundaries of Pouakani B9B, C1B1 and C1B2 blocks and the boundary between the Maraeroa and Pouakani blocks. Other issues such as matters related to the operation of the Native Land Court, lands taken in payment of survey and other costs, and the Waikato river, would not be heard, as these matters would be considered in other tribunal hearings. The Crown would also be given an opportunity to respond to any submissions made by claimants. This offer was declined by the claimants and the tribunal had no alternative but to complete this report without the benefit of submissions by claimants on any material found since the conclusion of hearings.

The Waitangi Tribunal is deemed to be a commission of inquiry under the 1908 Act. We agree with counsel for claimants who in his closing submissions summarised the obligations of the Waitangi Tribunal:

The Tribunal’s task is to enquire whether the claim is “well-founded”. Nothing is said in the Treaty of Waitangi Act about the standard or burden of proof cast upon the claimants. In its reports the Tribunal does not generally refer to burdens or standard of proof at all, and this is no doubt because of the Tribunal’s status as a commission of inquiry. Its task is inquisitional [sic] — to enquire into, and make recommendations. Concepts of standards and burdens of proof are inappropriate except to the extent that the Tribunal must find to its own satisfaction that a claim is “well-founded”.

³
We do not consider that the claimants are significantly disadvantaged by our proceeding to issue our report without benefit of claimants' submissions in this instance. The "new material" comprised mainly a review of relevant files in the National Archives, and the Taupo minute books of the Native Land Court before 1886, in order to fill in the gaps in the historical evidence placed before us. We felt we needed to establish a good understanding of the setting within which the transactions on Pouakani and Maraeroa blocks were enacted. We were concerned to find out whether these were typical or departed from what became normal operations of the Native Land Court, surveyors and land purchase officers in the Robe Potae in the 1880s and 1890s. One document of substance should be noted which was not before the parties at the hearings and which is reproduced as appendix 8 and discussed in chapter 10. No evidence was produced during hearings on the Tahorakarewarewa section of the disputed boundary between Aotea and Tauponuiatia blocks. The report of the Native Land Court in appendix 8 provided an explanation which we have checked against the evidence that was before us. On the substantial issues of survey, or lack of it, affecting the Pouakani B9 and C1 blocks and the boundary between the Pouakani and Maraeroa blocks, no new information has been found which alters what was placed in evidence before us. We have tried to reconstruct the transactions in detail. We have tried to let the documents speak for themselves. We have checked other sources to corroborate. The result is a lengthy, and at times laborious narrative. We have drawn maps to illustrate our narrative and acknowledge the contribution of Mr Max Oulton for his skilled cartographic work.

This report is not the end of the matter in understanding land transactions in the Rohe Potae. We agree with Mr Paki's comment that there are issues of importance in a significant number of other claims. These issues will be investigated by the tribunal which will be hearing a group of some 12 claims (Wai 48 etc) involving lands in the Rohe Potae. There will therefore be further opportunity for these issues to be canvassed by the tribunal with the benefit of submissions from representatives of all the tribes concerned.

We are also aware that there are applications before the Maori Land Court under s30(1)(a) and s452 of the Maori Affairs Act 1953. The two s30(1)(a) applications were adjourned on 9 June 1988. The s452 application was adjourned sine die. The material placed before the Maori Land Court during bearing of these applications was available to the tribunal. Because there were matters raised that were more appropriate for investigation by the Waitangi Tribunal, the s452 application was adjourned. On 30 August 1989 the deputy chief judge gave notice that the applications would be dismissed unless "a meritorious written objection" was received by 2 October 1989, but in dismissing the applications leave would be reserved for the applications "to be re-instated without further fee if the applicant considers that necessary". No objection was received and the s452 application was dismissed on 1 November 1989. The s30(1)(a) applications are still before the Maori Land Court. The way is still open for the claimants to make further submissions to the Maori Land Court which has jurisdiction to arbitrate on boundary disputes involving Maori land.

We hope that in a spirit of cooperation and partnership the parties may be able to negotiate agreement. We have framed our recommendations in the hope
that they will provide a framework for negotiation which will be reported back to the Maori Land Court in such a way that new titles can be surveyed, ordered and properly registered on the Pouakani B9B block. Other recommendations are of more general concern and may be taken up by the Crown agencies involved in consultation with tribal representatives. Our function is to produce a report and make recommendations as appropriate. It is the function of government representing the Crown as a Treaty partner to follow up those recommendations.

References
1 AJHR 1883 J-1
2 *New Zealand Herald* 4 and 18 May 1992
3 ibid 21 September 1990
4 Taupo minute book 65 p 11
5 C J 1987/42; Chief judge’s minute book 1988 p 78
6 Chief judge’s minute book 1989 pp 203 and 240
Chapter 2

Mana Whenua, Mana Tangata

2.1 Introduction

The Pouakani block straddles the traditional border zone between two major groups of tribes descended from the people of Tainui and Te Arawa waka (canoes). In the west are the Ngati Maniapoto and Ngati Raukawa tribes of Tainui and to the east the descendants of Tia and others of Te Arawa, and later migrants who now comprise the tribes collectively called Ngati Tuwharetoa. Before the arrival of Tainui and Te Arawa waka the land was already peopled, and the names Ngati Hotu, Ngati Ruakopiri and Ngati Kahupungapunga are mentioned as the original tangata whenua of the Taupo and upper Waikato district. However, none of these tribes have retained a separate identity, and the important descent lines are from Tainui and Te Arawa. The “boundaries” of these two waka have traditionally been expressed in very general terms as follows.

Tainui:

Mokau ki runga
Tamaki ki raro
Mangatoatoa ki waenganui
Pare Waikato
Pare Hauraki.

From Mokau in the south to Tamaki in the north, Mangatoatoa is at the centre. From the mouth of Waikato River in the west to all of Hauraki.

Te Arawa:

Mai Maketu ki Tongariro.

Maketu is the prow and Tongariro is the stern of the canoe Te Arawa.

During the hearings there were frequent references to “Pouakani people”, both in the context of the “owners” of the Pouakani block and in a more general sense. Pouakani is not a tribal name but was part of the name given to the block when first surveyed, Horaaruhe Pouakani. There was a kainga called Horaaruhe, a name probably associated with a fern ground (aruhe). Te Poua-kani was a boundary marker at the northern end of the block which came to be associated with the boundary of the Rohe Potae, King Country, in the 1880s.

The people who occupied the lands of Pouakani and adjacent blocks in the nineteenth century can trace descent from both Tainui and Te Arawa, but these tribal relationships are complex. The land (and its resources) was not “owned” by Maori in the sense that it was property, a disposable commodity that can be bought and sold. Maori people occupied land in extended kin groups, whanau and hapu, under a system of interlocking and overlapping rights of use (usufructuary rights). These rights, take, were derived as follows:
- Take whenua kite hou: a right of discovery, such as one related to journeys of occupants of an ancestral canoe.

- Take tupuna: an ancestral right derived from continuous occupation, particularly one which would be traced from an ancestral canoe.

- Take raupatu: a right obtained by conquest, with displacement or servitude of the original occupants, followed by occupation of the land by the conquering group.

- Take tuku: a right by virtue of a gift or exchange awarded in special circumstances such as a marriage or settlement of a dispute.

The principal sources of rights of occupation were based on take tupuna and take raupatu. However, these rights did not stand alone. An important related concept was ahi ka or ahi ka roa, the principle of keeping the fires burning on the land as a symbol of long-standing occupation. This did not necessarily mean continuous settlement, but it did mean continued use, such as seasonal visits for fishing or birding in which temporary encampments might be made. If occupation rights were not maintained, the fires grew cold and after three or more generations the fires may be regarded as being extinguished, ahi mataotao.

2.2 Take Whenua Kite Hou: Te Arawa

After the arrival of the canoe Te Arawa at Maketu in the Bay of Plenty, various members of the party set out to explore the new land. Parts of the land were already populated and they sought a place to settle permanently. Tia set out with his son Tapuika, and with Oro, Maka and others. They travelled inland, stopping at a village south of Rotorua in the area now known as Horohoro. Here Tia unintentionally touched the dead body of a chief during a tangihanga and was required to undergo the rituals of lifting the tapu he had incurred. Because of this incident the place became known as Te Horohoroinganui o Tia. Tamati Wharehuia in his evidence (appendix 4) provided another level of meaning of “Horohoronui o Tia”, a symbolic play on words indicating Te Arawa speeches of respect for their ancestor Tia.

Because the land around was already occupied, Tia and his party journeyed southward. When they reached the Waikato river they found the water very muddy. Tia studied it and concluded that someone had already reached the source of the river and had discoloured the water purposely to show those journeying to the interior that the district was already occupied. Disappointed, Tia continued his journey. The spot where he crossed the river he named Atiamuri (Tia who follows behind), signifying that he was not the first in the land. Tamati Wharehuia’s interpretation of the name Atiamuri is that it recalls Tia’s turning his mind back to the poroporoaki, the farewell speech of Atuamatua before the canoe Te Arawa left Hawaiki.

Near Atiamuri, Maka had sensed the presence of another person. Tia recited some prayers for their protection. The unknown person turned out to be Hatupatu, who was described as having reddish hair and body, a person described as urukehu. Maka wanted to kill Hatupatu but Tia said “No”, and reminded him of the poroporoaki of Atuamatua, “Go inland Tia, Oro and Maka. Do not stay on the coast where fighting may hreak out and you may be
killed. Go inland to settle so that when death comes it will he from natural causes". And so Hatupatu was spared and travelled with them on their journey.

Hatupatu appears to have been one of the tangata whenua adopted into Te Arawa. The names of his parents are unknown. It was Hatupatu who went on birding expeditions to Whakamaru, Maroa, Tutukau, Taura, Tuaropaki, Hurakia and Hauhangaroa. It was Hatupatu who stayed with the bird woman, Kurangaituku, also one of the tangata whenua, and stole her cloak of kaka feathers and other precious things. Kurangaituku chased after Hatupatu and he hid in the rock known as Te Kohatu o Hatupatu, which can still be seen on the roadside of state highway 1 at Atiamuri. Hatupatu escaped to Rotorua and became known later for his killing of Raumati who had burned the canoe Te Arawa at its resting place at Maketu. Hatupatu was able to take on this role because, as tangata whenua, he was not bound by the invocation of Atuamatua to the people of Te Arawa to avoid fighting and killing. By avenging the burning of Te Arawa, Hatupatu established his mana among the newcomers.

Tia and his party travelled on to Maroa, a name derived from Te Maroa-nui-Tia. At this place Tia ate some special dried food which had been brought from Hawaiki, and reserved for a rangatira. This is a reference to a ritual involving food which established a claim to the land there. The next place named by Tia was Aratiatia, a name often translated as "the stairway of Tia", the rapids on the Waikato river near Tauhara mountain. Because the northern shores of Lake Taupo were already occupied by Ngati Hotu, Tia and his people travelled on to a place called Paka on the eastern shore. This was known as Hamaria (Samaria) in missionary times and is now called Hallett's Bay. Here Tia constructed a tuahu, an altar, to signify his occupation of this land.

Meanwhile Ngatoroirangi, the tohunga of Te Arawa, travelled inland from Te Awa o te Atua to Tarawera and south across the Kaingaroa plains to the Taupo district. He climbed Tauhara mountain and claimed the district, and set up tuahu in various places. Travelling along the eastern shore of the lake he discovered Tia's tuahu and challenged him. Ngatoroirangi had built his tuahu nearby with old dried materials to convince Tia of his prior arrival. Tia realised he had been outwitted and he returned now to settle with his people on the lands northwest of the lake around Titirupenga. In some versions, Tia and his people travelled via Tokaanu around the lake to Titiruupenga. Tamati Wharehuiia maintained that it was Tia who outwitted Ngatoroirangi by building his tuahu of dried materials so that Ngatoroirangi would have to acknowledge his prior arrival.

The name Taupo-nui-a-Tia given to the lake and district is associated with the tuahu of Tia. One version of the story follows:

While Tia was at Hamaria, he noticed, standing some distance away a high rocky cliff which faced the lake. He observed the peculiar formation and colouring of the lava rock. It appeared to him to resemble the cloak that he wore about his shoulders. The cloak was called a taupo (a word that is now obsolete) and was made of closely woven material with an outer covering of flax leaves, coloured yellow and black. It was used as an outer garment to shed the rain. Tia went toward the cliff and under it made a post of sacrifice that he named Hikurangi. There he recited the incantations considered needful to propitiate the local deities. Rising up he removed his cloak and fastened it to the post and named the great cliffs Tauponui a Tia (the great cloak of Tia).
Another version of the origin of the name is that when Tia arrived at the northern end of the lake and saw one of the tuahu erected by Ngatoroirangi, he hurried on around the eastern shores of the lake. At one place the water squelched up from under his feet, and was named Te Waipahihi a Tia:

Ngatoroirangi watching him from his lookout on Tauhara endeavoured to turn him back by incantations, but Tia continued unperturbed. When he had gone a few miles, Ngatoroirangi again attempted to halt him, this time by throwing his spear Kuwha, from the top of the mountain. It, however, fell harmlessly into the lake by the shore at Wharewaka, and Tia's protectors shook off the effects of Ngatoroirangi's incantations.

Tia continued his journey, but by the time he reached Hamaria he began to feel Ngatoroirangi's supernatural influences. The latter chief by then had called the most powerful of his gods to his aid. As Tia walked beneath the coloured lava cliff that stands back from the lake shore at that place, the fury and might of Ngatoroirangi and his gods descended upon him. He was enveloped in darkness and not able to proceed. He knew he was defeated and so he turned back. He crossed the Waikato River by the present Taupo township and journeyed to Titiraupenga ....

The name Tauponui a Tia, according to this version, originated as the result of the blotting out of Tia's view of the surrounding country (the great envelopment of Tia by darkness).

There is no doubt that Tia and his people took possession of the lands around Titiraupenga, although Tapuika later returned to the Bay of Plenty to settle in the Te Puke district. The mana whenua, the ancestral status of the land northwest of Lake Taupo, was vested in Tia. Tia was buried on Titiraupenga and this is the principal reason why this is a maunga tapu, a sacred mountain.

In 1868 Poihipi Tukairangi, stating his claim to the Tatua block on the eastern boundary of Pouakani, set out the boundaries of the land under the mana of Tia:

I will describe the great boundary line which divides the Arawa lands from those of Ngatiraukawa. Tia, Oro and Maka, all these from the Arawa canoe, came to this part of the country and laid down the boundary. They commenced at Tauranga at Papamoa (Maungatawa) as soon as their canoe landed they came along the line I am about to describe to claim the land within it. They came from Papamoa to Mangorewa thence this [is] the forest line of Patetere to Whakamaru on the Waikato thence to Waipapa on the Waikato to Maraeroa thence to Pureora to Karangabape on Lake Taupo. Hence the proverb "Taupo nui a Tia." From Karangahape they laid the boundary to Titiraupenga, where afterwards they formed a settlement and where they lived and died. From Titiraupenga they went to Tuaropaki, Kiwitahi, Maroanui a Tia, te Tatua o Pariroro, Hauai, Totorewa on Waikato and so on towards Rotorua. One side [of] this line belonged to Tainui the other to the Arawa.

This “forest line” from Mangorewa, Patetere to Whakamaru appears to coincide with the Tainui boundary mapped by Pei Te Hurinui Jones (map 2.1). This boundary description also serves to connect the Tapuika section of Te Arawa in the Te Puke district, east of Papamoa, with the burial place of their ancestor Tia, father of Tapuika, at Titiraupenga.

Ngatoroirangi continued his journey south to Tokaanu and Rangipo and with his slave, Ngauruhoe, climbed Tongariro. He was near freezing to death in a snowstorm on the mountain and called on his sisters Kuiwai and Haungaroa.
in Hawaiki to bring him warmth. It is to them that the origin of the geothermal activity in the Rotorua Taupo district is attributed. One of the places that shows evidence of this journey is the hot springs in the Mokai area of the Pouakani block, which are still sometimes described as "the children of Kuwiwai and Haungaroa".

The tribes Ngati Hotu and Ngati Ruakopiri, whose origins are not known in detail, appear to be of Te Tini o Toi, the original tangata whenua of the Bay of Plenty, who had moved south along the Rangitaiki valley and took possession of lands around Lake Taupo. Ngati Hotu and Ngati Ruakopiri were in occupation of the northern and eastern shores of the lake at the time of the journeys of Tia and Ngatoroirangi. Within a generation, Kawhea, son of Kurapoto of Te Arawa, moved into Taupo with his people and occupied the northeastern shores, pushing Ngati Hotu southward. The descendants of Tia who had settled northwest of the lake in the Tihoi and Titirangi area became known as Ngati Ha.

Some of Ngati Hotu settled in west Taupo but following the killing of the chief Hakuhanui, a descendant of Tia, at Maraeroa, the combined forces of Ngati Ha and Ngati Kurapoto pushed Ngati Hotu and Ngati Ruakopiri out of this area. Another group from Te Arawa, Ngati Tama, also settled in west Taupo. Some time later the sons of Tuwharetoa took possession of the lands in a series of battles around the eastern and southern shores of the lake. Ngati Hotu were forced into the Tubua ranges and disappeared or were absorbed among the people of the Taumarunui district. Ngati Tama who were allied with Ngati Hotu are said to have been the ancestors who migrated to north Taranaki. Ngati Ruakopiri appear to have been absorbed too. Ngati Tahu traditions indicate that Tahu defeated them in the Kaingaroa plains and they were pushed south of Taumarua where they were presumably caught up in the subsequent struggle for occupation of lake-shore living places.

2.3 Take Whenua Kite Hou: Tainui

A number of place names of Tainui are associated with the journeys of the tohunga, Rakataura. While the canoe Tainui was sailed along the coast south from Manukau toward Mokau, Rakataura and his party made their way overland to Kawhia where they erected a tuahu named Ahurei and named the place called Maketu inside the entrance to Kawhia harbour. Rakataura had a disagreement with Hoturoa but the two were later reconciled and Tainui was brought from Mokau to a final resting place at Maketu. From this landing place, Tainui people explored the land around Kawhia and settled down.

Rakataura and his wife Kahukeke set out on a journey of exploration into the valley of the Waipa, naming landmarks as they went. The extinct volcano which forms the summit of the range they called Pirongia-te-aroaro-o-Kahu, and another place they named Mango-waero-te-aroaro-o-Kahu. Observing yet another volcanic cone they gave it the name Kakepuku-te-aroaro-o-Kahu, after which they journeyed southward to the source of the Waipa and named the range in that vicinity Rangitoto-o-Kahu. Then they turned in a north-easterly direction and went to Wharepuhunga-o-Kahu which they also named. At this place their son was born. They travelled on southward, but Kahukeke became ill. Because Rakataura offered up prayers and performed appropriate ceremonies which caused her to recover, this place was called Pureora-o-Kahu.
Mana Whenua, Mana Tangata

Te Arawa

Tia

Tapuika (his descend-
ants settled in the Te
Puke area Bay of Plenty)

Hoturoa Hotuope Hotumatapua

Apa Heiariki Ruaheli Tongaia Piringaringa Ruaheli Ruamotuwhakaariki

Motai Ue Raka Kakai Tawhao

Turongo = Mahinaarangi (f) (from Tai Rawhiti)

Turongoihi (f) = Raukawa

Rereahu = Hineaupounamu (f) Whakatere Takihiku Kurawari

Maniapoto Matakore (six others)

Ngatoroirangi of Te Arawa had already penetrated inland when he heard of the activities of Rakataura. Expecting that Rakataura would eventually take possession of the country to the south, Ngatoroirangi proceeded further and climbed the snow-covered heights of Tongariro thus exercising a prior claim. Meanwhile Rakataura and Kahukeke continued their explorations and climbed a mountain which they named Puke-o-Kahu. It was here that Kahukeke died. She had been ailing for some time and her death caused Rakataura to abandon his explorations in that direction.7 This journey of Rakataura and Kahukeke effectively established the extent of Tainui in the upper Waipa and Waikato valleys in the first few generations of settlement. A Maniapoto tradition associates this naming of places with a journey by Kahupeka, the grieving widow of Uenga, who travelled with her son along a similar route from Kawhia and settled near Puke-o-Kahu where she died.8

The connections between the descendants of Tia and the Tainui tribes Ngati Raukawa and Ngati Maniapoto are set out in the above whakapapa. The descendants of Rereahu and Hineaupounamu settled the lands in the southern portion of the Tainui region. Rereahu passed his mana on to his son Maniapoto who established his people in the Te Kuiti area. His younger brother Matakore had supported Maniapoto in repulsing the rival claims of their older half brother Te Ihingarangi, "with the result that when Maniapoto settled in the Manga-o-kewa valley, Matakore was left in undisputed possession of the upper Waipa Valley and adjacent Rangitoto ranges".9 This appears to have been a peaceful occupation. The hapu of Ngati Matakore have maintained their identity with the Pureora, Maraeroa and Rangitoto area on the western margins of the Pouakani block. The descendants of Raukawa occupied the Waikato valley between Maungatautari and Whakamaru and north to the Kaimai ranges.
2.4 Take Raupatu: Ngati Raukawa

It was on the basis of the exploits of Wairangi and his brothers, the sons of Takihiku, and Whaita, son of Kurawari, that Ngati Raukawa established claims in the Waikato valley between Whakamaru and Lake Taupo. The following area was described in the evidence of Ngati Raukawa kaumatua as Te Pae o Raukawa:

Ki te Wairere
Horohoro
Pohaturoa
Ko Ongaroto
Ko Whaita e
Nukuahau
Ki runga o Hurakia
Hauhangaroa
Titiraurupenga
Arohena
Wharepuhunga
Titiraurupenga
Whakamarumaru
Te Pae o Raukawa
Titiro atu ki te Kaokaoro o Patetere
Maungatautari
Ka titiro iho ki Wharepuhunga
Ko Hoturoa, Parawera
Ko te manawa ra o Ngati Raukawa

The district of Raukawa is from Te Wairere, to Horohoro and Pohaturoa.

At Ongaroto is the house of the ancestor Whaita.
From Nukuahau to Hurakia on the Hauhangaroa Range, From Titiraurupenga Mountain, the horizon is the boundary of the district of Raukawa,
To the mountain Wharepuhunga and the marae at Arohena,
To the ranges of Whakamaru.
The view extends to the region of Te Kaokaoro o Patetere,
To Maungatautari.
The view extends beyond Wharepuhunga to the ancestor Hoturoa, to the marae at Parawera.
Here stands the proud spirit of Ngati Raukawa.

Ngati Raukawa pushed up the Waikato valley from the Maungatautari area and displaced or absorbed the tribe called Ngati Kahupungapunga. John Grace suggested that Ngati Kahupungapunga had once occupied lands bordering Lake Taupo but had been dispossessed by Ngati Hotu and Ngati Ruakopiri who drove them north of Atiamuri where they remained undisturbed until destroyed by Ngati Raukawa. However, there is some doubt about the identity of Ngati Kahupungapunga as the following quotations indicate:

Of these people we have only a mere tradition of their former existence, for it is not known who they were, or when they came; we only know that about 300 years ago they occupied all the valley of the Waikato, from the Puniu river southwards to Te Whakamaru range on the borders of the Taupo country; viz. all the country subsequently occupied by Ngati Raukawa, for at that period the descendants of Hoturoa of the Tainui immigration were still in the Kawhia district, where they first landed, and
TRIBAL AREAS

- Tainui Boundary c.1800 as defined by Pei Te Hurinui Jones
- Divisions within Tainui as defined by Pei Te Hurinui Jones

Te Pae o Raukawa

Map 2.2
bad not crossed the Pirongia ranges which separated them from the Waikato country.

One of the most controversial points is just who those Ngati Kahupungapunga people were and where they came from. They are generally spoken of as being ... [people] who had been driven from the west coast area around Kawhia by those who arrived in the Tainui canoe, finally taking refuge in the Waikato River valley between Putaruru and Atiamuri. There is in fact considerable doubt about their origin, although their eventual fall is fairly well documented. It now seems likely they were actually of Arawa descent but had lost their identity because of their position in the tribal social scale.12

Kelly followed Gudgeon’s account and considered that Ngati Kahupungapunga were remnants of the tangata whenua either absorbed or forced out by Tainui immigrants.13 In any case, their final extinction as a tribal identity was the result of the campaigns of Wairangi and Whaita of Ngati Raukawa. There are several different versions of a story which involved a woman whose death had to be avenged. The fighting, in a series of battles in the valley of the Waikato, culminated in the siege of the pa called Pohaturoa, at Atiamuri, and the final destruction of Ngati Kahupungapunga at Ongaroto. Ngati Raukawa continued the fight into the Horoboro district but were repulsed by Te Arawa.

Hare Reweti Te Kume provided the most detailed account of the conquest of Wairangi in his evidence before the Native Land Court in April 1868 supporting Hitiri Te Paerata’s claim to the Tatua block on the eastern boundary of the Pouakani block. He acknowledged the occupation by Tia but considered the rights of the descendants of Tia and the tribes of Te Arawa to have been superseded by the conquest and occupation by Wairangi:

I am descended from Wairangi and Whaita. I am acquainted with the boundary described by Hitiri. There are two boundaries, the first by Tia, the last by Wairangi. The boundary laid down by Tia commenced at Te Totorewa, a pa on the Waikato, thence to Haui, te Tuahu, te Tuata, te Weta o te Ngako, Otuparahaki between Pahikowbango and Puketarata, Ohinekahua. The east side belonged to Tama, the ancestor of N’Tama and the west side to Tia and Reburebu. The children of Tama intermarried with those of Tia and the dividing boundary was done away with and they became one. Tia was the first occupant, afterwards came Kahupungapunga, and afterwards Ruakopiri. Then came the Tainui people, Wairangi, Opokoiti [sic] and Whaita. They came to Whakamaru and saw there were buahuas [preserved birds stored in the kainga visited] and plenty of food and desired to possess the land. At Pohaturoa they saw kouras [freshwater crayfish] and buahuas, at Tuata they saw plenty of kai [food]. The Ngatikahupungapunga and Ngatiruakopiri were at this time in possession, they belonged to the Arawa and were connected with Tia and Tama. They returned to Whakamaru leaving with the Ngatikahupungapunga and N’Ruakopiri a chiefness named Koroukore that they might be received again as friendly visitors. They then went back to Kawhia. The tribe bethought themselves that this woman was thus left would give them a footing as visitors (ka whakapahi) so they [Kahupungapunga] killed her and burnt the body. Her slave who had been left with her raked away the ashes [of her burnt house] and discovered the body and saw by the marks that she had been murdered. He went to Kawhia and conveyed the intelligence, a war party of 340 was collected the same day and started next morning. They came on to Rangitoto and took that place, then took possession of Arohena, then they came to Waikato to Panapana; there they were seen...
by the murderers, the Ngati Kahupungapunga, a battle was fought called Tauruanuku, the N'Kahupungapunga and N'Ruakopiri were beaten and chased as far as Matanuku and Kakapo (Ka patu a haeretia). The invading army now divided, one part went on to Kopuaroa and the other to Whakamaru killing the enemy. At Whakamaru they beat them again and the remnant fled to Pohaturoa. Some were attacked and defeated by the other part of the army at the Waimahana. The two divisions joined at Pohaturoa, the fugitives had all fled thither and there they made a stand. The pursuers crossed the stream to Pohaturoa, each party fought very valiantly, the Ngatiwairangi were several times repulsed but in the end they drove back the others and captured their great 'toa' [fighting chief] Hikaraupi. The great stones [at Ongaroto] on which the bodies were cooked can be seen still. The remnant of the two [Arawa] tribes fled to Tuata. On the following day the N'Wairangi attacked them and gained another victory. Those that escaped fled to Horoboro, Patetere and other places. Part of the Ngatiwairangi army returned and the other part under Rahurahu, Wairangi's son, went to Tutukau and attacked the Ngatitahu, as they were connected with Kahupungapunga. Rahurahu stayed. Wairangi returned to Kawhia hut shortly after came hack again and fought the remnant of N'Kahupungapunga at Horohoro and te Pana o Whaita whither they had fled. He wanted to exterminate them. The Ngatitama and Ngatimanawa at this time bad joined the Ngati Kahupungapunga. The remnants fled to Rotokakahi and Rauporoa where some were slaughtered by the Arawas as offerings to their gods when canoes were made and launched etc. The very few there still remained fled for shelter to Patetere and Whanganui. The Ngatiwairangi at this time took possession of the land described by Hitiri and occupied it.

Te Arawa versions of this campaign differ and this evidence was vigorously refuted by Poihipi Tukairangi and Ihakara Kahuao at this 1868 hearing. Each side contradicted the other as to who built various pa, where their dead were buried and where they had rights to snare birds, or gather food, or fish in the rivers. The issue was not whether these tohu, signs of occupation, existed or not, but a matter of mana. Was the mana of Tia through right of discovery and occupation to be maintained against the rights derived by conquest by the Ngati Raukawa descendants of Wairangi and Whaita who claimed the Waikato valley upstream to Atiamuri?

2.5 The Mana of Te Heuheu: Ngati Tuwharetoa

Tuwharetoa, son of Mawaketaupo, was an eighth generation descendant of Ngatoroirangi. He also had strong kin connections through his father with Mataatua lineages and through his mother with Te Timi o Toi. The lands of Mawaketaupo extended from Kawerau to Matata and Otamarakau on the Bay of Plenty coast. Tuwharetoa inherited leadership from his father. Some time after this, his tribal lands appeared to be threatened by the encroaching settlements of Maruiwi people. In spite of advice not to be hasty from the now elderly Tuwharetoa, the sons of Tuwharetoa provoked a fight on the Kaingaroa plains with disastrous results. Some of the Tuwharetoa survivors were given refuge by their Te Arawa relations, Ngati Kurapoto. However, an incident occurred in which Tuwharetoa ancestors were cursed by Ngati Kurapoto women, angry at the theft of food by the refugees. This sparked off retaliatory attacks on Ngati Kurapoto, hut in the process some Ngati Hotu villages were attacked as well. In due course a peace between the tribes was
Whakapapa a:

Raukawa = Turongoihi (f)

Rereahu  Whakatere  Takihiku = Maikukutea  Kurawari

Tamatehura  Upokoiti  Ngakohua  Pipito

Te Atainutai
Waitapu
Tamamutu

Parewhete = Wairangi = Puroku
(first wife)  (second wife)

Ngawhakapu  Hingaia (f)

Tinoriooro  Maikorehe  Hinearokura (f)  Rahurahu

Whakapapa b:

Tuwharetoa  =  Hinemotu (f)  Raukawa

Rakeihopukia  =  Hinemutu (f)  Takihiku

Taringa  =  Hinetuki (f)

Tutetawha  =  Hinemiti (f)  Upokoiti

Te Atainutai = Kahureremoa (f)

Te Rangiita  =  Waitapu (f)

Parekawa (f)  Tepiungatai (f)  Tamamutu  Meremere

Te Urukaihina (f)  Toreiti (f)  Manunui  Tutetawha
made. However, this did not last long and in time descendants of Tuwharetoa completely subdued Ngati Kurapoto and Ngati Hotu and the mana of Tuwharetoa was established in the Taupo district.

A direct descendant of Tuwharetoa was Te Rangiita who was known as a fighting chief of Ngati Tuwharetoa. His wife was Waitapu, daughter of Te Atainutai, a chief of Ngati Raukawa (see whakapapa a and h). Some time earlier, the Arawa tribe, Ngati Tama, were expelled from the Atiamuri area and settled at Waihaha on the western shores of lake Taupo. They became vassals of Ruawehea, an uncle of Te Rangiita. Ngati Tama sought the assistance of a chief of Ngati Raukawa, Poututerangi, who lived at Maraeroa. A scheme was prepared to kill Ruawehea when he arrived to collect tribute from Ngati Tama. Ruawehea and his party were killed, but the child Te Rangiita, who had stayed outside the pa, escaped. The brothers of Ruawehea, including Taringa, grandfather of Te Rangiita, organised an attack on Ngati Tama. In the process, Poututerangi, who happened to be visiting Waihaha, was also killed.

Ngati Raukawa, in turn, some years later organised a war party led by Te Atainutai to avenge the death of Poututerangi. They travelled from the north through the Pouakani and Tihoi areas to Waihaha then to Rangatira Point. In the subsequent fighting Te Rangiita wounded Te Atainutai in hand-to-hand combat. Ngati Raukawa retired temporarily and Te Atainutai asked for a formal meeting with Te Rangiita. The peace making was completed with the offer of Te Atainutai's daughter Waitapu as a wife for Te Rangiita. Ngati Raukawa returned to live in the Maungatautari area. Te Atainutai built a pa, known as Te Pa o Te Ata (near the present Mokai village on the Pouakani block), so that he could be near his daughter. Some years later Te Atainutai was killed by Ngati Kurapoto. This death was avenged by his grandson Tutetawha years later.

Te Rangiita and Waitapu had four daughters, the eldest being Parekawa. Te Rangiita wanted sons and the pair were estranged. Waitapu returned to Maungatautari but she was already pregnant, and it was there that a son,
Tamamutu, was born. The two were subsequently reconciled, three more sons were born, and the alliance between Ngati Raukawa and Ngati Tuwharetoa maintained (whakapapa b). Te Rangiita had assumed the role of paramount chief and his mana extended over the western, northern and eastern shores of Taupo Moana. Their children’s names are commemorated in the hapu Ngati Parekawa, Ngati Tamamutu, Ngati Manunui, Ngati Meremere, Ngati Tuutetawha. Of these, Parekawa assumed a significant role in west Taupo. She married Ngahiangi, a descendant of Wairangi (whakapapa a and c). Their first child was Te Kohera whose name was perpetuated in the hapu Ngati Te Kohera. Pakaketaiari, son of Te Kohera, is the name of the meeting house at Mokai.

By 1840, the region around Lake Taupo was peopled by a number of different hapu led by chiefs who operated independently of one another, but not in total isolation. There was a form of confederation of the various hapu whose lineages could be traced to Tuwharetoa:

It was the custom with Ngati Tuwharetoa, from the time of Turangi-tukua until the close of the nineteenth century, to select from a panel of high-born men the paramount chief and war-leader of the tribe. This rank was not necessarily a hereditary right. It was conferred by the tribe on the most suitable man, irrespective of seniority. The ariki of the tribe were the direct descendants of the senior male line from the tribal ancestor Tuwharetoa himself, and it was the senior ariki’s prerogative on behalf of the people to install the paramount chief. The rank of ariki could not be removed as was the case of the paramount chieftainship.

In 1840 the paramount chief was Te Heuheu Tukino (Mananui) who died in a landslide at Te Rapa, near the present Waitii village, in 1846. The mother of Mananui was Rangiaho who was of Ngati Matakore and Ngati Karewa tribes of Maniapoto. Te Heuheu Iwikau, brother of Mananui, succeeded him and led Ngati Tuwharetoa until his death in 1862. He was in turn succeeded by Te Heuheu Tukino Horonuku, son of Mananui, who served until 1888, and was succeeded by his son Te Heuheu Tukino Tureiti.

On 14 July 1891, Judge Puckey, sitting in the Native Land Court at Cambridge, made a statement acknowledging the mana of Te Heuheu, in a judgment on the names of people to be admitted as owners of the Pouakani block:

As regards the claim of Te Heuheu and others we have in the proceedings before the Taupo Court the fact that Te Heuheu asserted a claim before the Court ... The fact that N. Wairangi were under the protection of Te Heuheu during perhaps the most troublous period of the history of the Maoris and that being so they were not attacked by their powerful neighbours.

In a case like this the Court has to fancy itself as sitting shortly after 1840 to decide the ownership of the land. Sitting as we are half a century later and looking back at the past through a media more or less disturbing, it is at times difficult to see things as they really are (were?) — the Court bowever believes that if we were actually sitting in 1840, the claim of Te Heuheu would not for a moment be disputed.

The Pouakani block was included in the rohe of Te Heuheu, the land described as Tauponuiatia block before the court in 1886. In 1889 a royal commission investigated the Maniapoto and Raukawa objections to Te Heuheu’s boundary. In 1890 to 1891 there was a new hearing of Pouakani and Maraeroa blocks by the Native Land Court. A large amount of land was subsequently
acquired by the Crown. Underlying all these complex transactions is a persistent theme of the mana of chiefs, their rights of control over land and resources, including rights to bring lands before the Native Land Court for investigation of title. These issues were fought out in the Native Land Court, under new rules derived from laws passed in parliament, in Wellington.

A tribal boundary is often described by a series of land marks. It is not fixed as in a line surveyed on the ground. People living either side of a line drawn connecting those land marks will have lineages in common. The issue of mana here lies in the authority, power and prestige of chiefs to determine the fate of their lands against the power of the Native Land Court under legislation designed to translate Maori customary tenure into individual property rights in blocks with precise surveyed boundaries. The Pouakani block lies at the junction of the territory of Maniapoto and Raukawa tribes of Tainui on the one side, and Te Arawa and Tuwharetoa on the other. The Pouakani block straddled an important travel route between Waikato and Taupo. It had been fought over in the past. It was part of the refuge area following the disruption of the wars of the 1860s.

The tribunal, sitting a century after the 1889 royal commission on the Taupouiniatia block, has also tried to fancy itself as revisiting the events of the 1880s in order to understand. We have endeavoured to identify tribal relationships and set the scene. In the following chapters we provide a general historical overview and then focus on the specific transactions at issue on the Pouakani and Maraeroa blocks.

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Chapter 3

Perspectives of Land and People

3.1 Introduction

Some useful information about the nature of the physical environment and the people who occupied the land can be derived from the accounts of Pakeha travellers in the nineteenth century. From these descriptions we can put together a picture of the landscapes of the upper Waikato valley and Lake Taupo before the massive transformations of bush clearance, farm development and exotic forestry in the twentieth century. It was not an empty region. Although large areas appeared desolate, there were many clusters of kainga, small settlements of perhaps up to 20 or 30 people, scattered along the bush margins, by lake shore or river, and associated with areas of surface geothermal activity. Unlike the lowland forests of the North Island there were large expanses of fern, scrub and tussock on the volcanic plateau, and only scattered patches of bush around the shores of Lake Taupo. The ranges to the west of the lake were clothed with dense podocarp forest.

J C Bidwill described patterns of settlement around Taupo in the late 1830s:

I should think the population of the pas on the lake could not be less than 5000. The country around I do not think can be populous; it is too mountainous and bare of wood, and the Mowries [sic] only grow potatoes in land which is just cleared, and after about three crops abandon it, and clear another portion of forest.1

Bidwill pondered the cause of so little forest land around Taupo. He did not believe it was all the result of human activity. Potatoes had only been introduced less than fifty years earlier, and few other crops were grown:

Although I do not think the growth of potatoes sufficient to account for the absence of forest over a great part of the country — perhaps more than half — yet it is certain the wood had decreased, from some cause or other, within no great distance of time; as I constantly found logs and roots lying in the wet ground of barren moors, where they could not have been brought by any natural causes; and they were too distant from any place where they grow at present, as well as too useless, to have been conveyed there. The natives now yearly destroy large quantities of land, by their wasteful system of agriculture and in time there will be no timberland left: but this cause has not been long in operation, and is inadequate to the visible effects on the face of the country.

Wood is excessively scarce near Taupo [sic], except in places inaccessible, and land fit for the cultivation of potatoes equally so .... Were they to take half the care in the cultivation of the potato they do in that of the Kormera [Kumara] or sweet potato, they might grow it in hundreds of places which are now only covered with fern, and are in progress towards becoming barren; owing to the constant fires which the dry nature of that plant causes to spread in a most destructive manner. A person who paid attention to the subject might easily tell bow many years bad elapsed since the forest was cut down in any particular place by observing the

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height of the fern. In the first year, after its cultivation for potatoes has been discontinued, the fern springs up ten, or even thirteen feet in height, gradually dwindles down to six inches and at last vanishes altogether: it is then replaced by a short wiry grass, growing in small tufts, about a foot apart, with nothing between, and presenting the most desolate appearance.²

Frederick von Hochstetter, who travelled in the Taupo region in 1859, also commented on the “potatoe-fields and native huts” on the slopes of Tutukau:

It is an old Maori custom dating from the times of war to establish at remote and less accessible points, usually in large forests, stations and plantings, upon which the people might fall back in case of need.³

The geologist L I Grange also speculated on the reasons for so much land cleared of forest in the Taupo district.⁴ He noted the extensive patches of forest in the Mokai and Oruanui areas, “Totara logs strew the ground at many points in the open country, a fact suggesting that the forest was formerly more extensive”. Reports of “charred totara stumps at the base of Tauhara”, patches of “hummocky ground” and “abundant logs of charred wood” in pumice or ash deposits “remote from existing forest areas” all indicated more extensive forests in the past. He considered the effects of a volcanic eruption and ash shower:

The eruption of this ash probably destroyed much of the forest cover. The tendency of forest patches to occupy hill-tops and steep slopes from which ash would be quickly removed, and the occurrence of the chief areas of woodland west of Taupo, where the prevailing wind would reduce the amount of ash, support this hypothesis.⁵

Whatever the reasons — ash deposited from past volcanic eruptions, fires which raced out of control through the fern into forests, deliberate clearing of forest — all contributed to the destruction of forest cover around Lake Taupo.

The north Taupo environment provided a range of ecological situations including forest, fern, tussock, swamp, lake and river, all which provided a range of resources for successful Maori occupation of the region. In addition, in selected localities were the areas of surface geothermal activity which provided warmth in a harsh climate, heat for cooking and the therapeutic qualities of healing muds and hot pools. Such areas with a range of resources on the margins of the forest were centres of permanent settlement. The open tussock areas in between patches of bush were also important resources as hunting and foraging grounds, but not permanently occupied. Fern grounds were also significant but the use of fern root (aruhe) as food declined with the introduction of potatoes in the first decades of the nineteenth century.

H Meade described the area of Tutukau/Oruanui in 1864 as being “much richer and more wooded” than land he had crossed from the north on his way from Rotorua. The settlements, including Puna, Puke Tarata and Oruanui, were at the margins of the bush areas, and were probably typical:

Slept in a large whare at Puke Tarata — the Moories [sic] on one side and we on the other, with a blazing fire in the middle, but which went out and left us miserably cold ....

The natives about here keep neither pigs, poultry nor livestock of any kind, and the difficulty of transport from the coast is so great, that with the exception of an occasional pigeon, he does not taste meat more than two or three times a year ....
Map 3.1
The pah [Oruanui] is strongly situated on the crest of a small hill, surrounded by a high stockade consisting of a double row of slab-stake fencing, with flanking angles; and lined with a chain of open and covered rifle pits.

There being no raupo to be had here or at Puke Tarata, the whares are built of wood, and roofed with the bark of the Totara tree. It is difficult to keep these wooden whares warm as we found to our cost last night.

At Puke Tarata and in the pah the inhabitants have consequently built most of their dwellings in the style of a "wharepuni"... the whole of the house below ground except the roof, and even that plastered over with earth to the thickness of a foot or more; and having no communication with the open air save through the narrow door, which fits quite closely. Hot, stifling and abominably unwholesome.

The hills surrounding Oruanui pah are covered with forest. There is plenty of open land in the valley which is watered by a small stream, but the natives plant all their potatoes in the woods where the soil is much richer.6

While Pakeha travellers may have seen the region north and west of Lake Taupo as wild, dreary, desolate waste land, to Maori every place had meaning. Some travellers noted this without comprehending the full significance:

When travelling with them, another interesting fact was that they seemed to take a pride in being able to define thoroughly all the natural features of their country. Each mountain and hill had its special name, and every valley and plain and river down to the smallest stream, each being called after some characteristic feature or legendary tale connected with it; whilst every tree, plant, bird, and insect was known by a designation which betokened either its appearance or habits.7

It was not only natural features but also practical knowledge of places where food, fibre and other resources were obtainable that were significant. There were also spiritual qualities of places that had special significance as wahi tapu (sacred places including burial grounds, urupa), places associated with past battles or other incidents involving important ancestors, or places where the mauri (life force or essence of a place and its people) were said to be preserved. Such things were not usually discussed in detail with Pakeha travellers, although occasionally some references to wahi tapu were made. Ensign Best recorded an incident near Maungatautari in 1841:

On the way we passed the graves of several chiefs who had fallen in battle; on one of these was a stone head which I alarmed the Maories [Maori] very much by touching; one of them declared that the Spirit would certainly rise in the night and avenge itself on me; he appeared to feel the danger I was in very much.8

Meade also commented on social aspects of Maori settlement patterns when he discovered "that my guide has a failing common amongst even the best of Maori warriors — a childish fear of darkness and solitude". He noted, "Though few in numbers, the Maoris are an eminently sociable and gregarious race. They are never found living alone". He contrasted the isolation of many European colonists, shepherds and trappers living in situations which a Maori would not tolerate, "their superstitious fears, barely scotched — not killed — by the teaching of the missionaries, would people each overhanging rock or lonely cave with some fresh horror to be feared, some malignant spirit of evil".9
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(taha wairua) of the land, the wahi tapu, the associations with ancestors, and the mauri, which underlie Maori attitudes to land and identity. Such spiritual dimensions and protective spirits are qualities to be respected and feared, because if the taha wairua is not acknowledged appropriately, things will not go well with traveller or local resident.

Meade noted a form of wahi tapu near Oruanui, pointed out by his guide, Poihipi, “a cairn of earth and stones which marks the death-place of his last and favourite wife, who died last year whilst on a journey with him to the coast”. Such monuments were not unusual, it seems:

We have at different times passed many of these monuments, often marking a battle-scene where some warrior chief had fallen in savage strife in the good old days of spear and mere [club].

Some of them were surmounted by a grim-looking head, carved out of wood or stone; others had merely a post and flax mat. They serve only however to “tapu” the actual death place of the deceased — the graves themselves are neatly fenced in on the top of a hill near a settlement.10

Urupa (burial grounds) were also wahi tapu. The influence of Christianity in the nineteenth century encouraged the fenced graveyards described by Meade. Traditionally, burials were made and after a year or so, the bones were exhumed (hahunga) and deposited in a safe place. Around Taupo, such repositories were usually in a cave, in a cliff or other secluded and inaccessible place, often deep in the forest.

In general, the favourite site for permanent settlement was one within easy reach of forest, water, cultivable land and geothermal heat. Some places had particular strategic significance or were refuges. J H Kerry-Nicholls noted a pa on the “Tihoi Plains” called Kahakaharoa on the Pikopiko stream: “At one time there had been a considerable native settlement here, but now the whole place was nearly abandoned”. He described it as “a very wild, dreary looking place, situated in a rock-bound inaccessible spot, right at the base of the Hurakia Mountains”. At Kahakaharoa he was told about “a tradition among all the tribes of the existence at one time of a gigantic lizard, which is said to have inhabited the caves and rocky places of the North Island”. However he could not determine whether “this was in fact a real or fabulous reptile”.11 A reptile like creature called ngarara is not an unusual tradition, and was often regarded as a protector of local settlements, or a particular wahi tapu.

3.2 Pakeha Descriptions of Pouakani Block

There are few Pakeha accounts of the Pouakani area in the nineteenth century. In April 1841 a party of travellers including Ernest Dieffenbach, the naturalist employed by the New Zealand Company, Ensign Best, a naval officer on leave from his ship, and two others, Mr Merrett and Captain Symonds, travelled through the area. Dieffenbach and Best left written accounts of their journey which provide the most detailed descriptions of the land and the people. From Maungatautari, the party travelled upstream, along the west bank of the Waikato river. Best described the view from a hill near Mangakino, and the route to Horaaruhe:

On attaining the top of the hill a thick mist prevented my seeing the Wai Kato which rolled betwixt precipitous cliffs perhaps two hundred feet high. I could hear the roaring of the waters but could not distinguish the rapids described by my friends. On the opposite side of the river a most
extraordinary scene presented itself: mass upon mass of Pumice stone and volcanic ashes lay piled in the utmost confusion a picture of Chaos and utter desolation not a tree or green thing was to be seen .... we stopped an hour to breakfast and then resumed our route through a country broken and fissured in every direction the soil was nothing but pumice stone and ashes on which nothing grew but some miserable Tufted grass crossed the Wai Papa [a tributary stream below Mangakino] over which there was a very romantic bridge suspended on ropes the road way was very narrow and made of a kind of long hasket woven out of brushtwood immediately under the bridge the river dashed down a precipice of thirty or forty feet. We now crossed two high and very steep ranges and these passed the scene changed into a succession of ravines, the largest of which appears to have been the ancient bed of the Wai Kato we walked until five and then halted. Weather threatening.

6th Under weigh soon after eight our road still lay through ravines of a similar nature to those we travelled through yesterday and the country was still dreary in the extreme. We crossed Monga Kino [Mangakino] a fine mountain stream taking us above our middles. All these rivers were evidently low and must be utterly impassable in a fresh. At twelve a party of Mauries [sic] met us with a present of Potatoes the finest I had ever seen in New Zealand these we stopped to roast and then walked until about five when we reached a frontier Pah called Oraruhe [Horaaruhe], here we were welcomed by shots and the Iremai [Haere mai]. I am not inclined to form a very good opinion of the Inhabitants who are the wildest Mauries I have yet seen but much allowance must be made. This is a frontier Pah.

7th A very fine day hut our Mauries would not stir .... Parties were continually going in and out one arrived from Roto Rua and Mukatoo [Maketu]. These people are at present allied and at feud with the people of Matta Matta [Ngati Haua of Matamata district] who are favoured by the Wai Katos .... this time rebuilding this Pah which is on the Frontier of the Taupo country. In a great war which raged some time it was abandoned and destroyed. Its position is very strong on the top of a steep hill with a swamp at the bottom but at the time we were at it was almost destitute of water. They are now stockading it with a double row of Palisading but on the whole it is a miserable place capable of holding perhaps two hundred of all sorts packed “a la mauri”. Most of the fighting men were absent having gone to Otaki ....

8th A threatening morning with a light rain falling .... We passed through a beautiful wood principally Totara and Kikatea [kahikatea] and in this were the potato grounds which produced the fine potatoes I have mentioned. The wood grows on the summit of a ridge of hills. After passing the wood we descended into the valleys [sic] or plains and were again in the region of scoriae and stunted grass about three miles walk brought us to the Pah which was even more strongly situated than that we had left. It was on the top of a very steep high conical hill defended on two sides by a very deep ravine.12

Most of this day was spent exploring the hot springs and cooking places at Ohineariki, one of several groups of geothermal features near Mokai. The 9th of May was a Sunday and Best expressed his frustrations in being unable to obtain more food or travel, being “thwarted by a gang of Psalm singing savages”. Missionary teaching had already made an impact:

10th. Dieff [Dieffenbach] went to visit some more mineral springs and we with much trouble got our party to start. About eleven we were under weigh our road was as dreary and barren as usual. No People no Birds
no Beasts utterly desolate. It rained heavily and we waded through swamps and creeks sometimes nearly up to our middles. Symonds & I contrived to get separated from the rest of the Party and lost our way we had much difficulty in regaining the track again.... About five we reached Tutuka Moana [Tutakamoana Pa] the strongest position I had yet seen the hill on which it was built rose abruptly with a rapid river running at its base and the path leading up it was in some places over the bare rock and so steep as to require the use of both hands & feet. Sometime ago the Natta Kahounuies [Ngati Kahungunu] attacked the Pah but could not take it. The inhabitants are Natta-Row-Kowas [Ngati Raukawa] at present there are few in the Pah all the fighting men having gone to Otake [Otaki].

Dieffenbach's account also began with a description of the view of the Waikato valley from a hill near Mangakino:

On ascending the hill which separated us from it [Waikato River], a novel scene opened before me. Looking to the eastward the land appeared as if the waves of the sea had suddenly become petrified: on the declivities of the low undulations the white and naked clays appeared; in other parts the hillocks were covered with a stunted fern and a coarse discoloured grass; and the brown tint which these imparted to the whole gave it a barren and desolate aspect. The river was not visible from the hill; and in order to see it I was obliged to descend into the deep channel which it had dug out of the soft tufaceous and leucitic lava. The banks which form its channel during freshes are about 150 yards distant from each other, but now the river was confined between banks of six feet high, and within much narrower limits, not being more than fifty yards broad. Its course was from S. by E. to N. by W. In some parts it was deep, and at others it formed rapids; the water was bluish and clear, and marked the near neighbourhood of the snows and glaciers of the Ruapahu [sic], in which it takes its rise.

We had a distant view of Horo Horo, a mountain in which the river Thames [Waihou] has its source; it bore S80°E. We also saw Titiraupena [sic] a pyramidal mountain, with naked black rocks heaped upon its pointed summit, and bearing S20°E.

On the 5th and 6th we passed through a country in the highest degree curious to the geologist. It was broken into a number of hillocks, most irregularly dispersed over the perfectly level surface of the original table-land. On the hillocks themselves most regular terraces were visible in some places, and it was plain that they could have only been produced by a gradual fall of the waters. All these hillocks consisted of tufa, or the before-mentioned lapilli of pumicestone, cemented together. Everywhere flowed little streamlets, and we passed two deep creeks, the Maunga Wio [Mangawhio] and the Waipapa tributaries of the river Waikato. The Waipapa presented a very wild scene. The river, here about forty yards broad, lost itself in successive falls in a deep fissure which it had corroded out of the soft rock. The country now became more desert; as the level land, consisting of the same materials as the hills, was as yet but little decomposed, and nourished only a stunted vegetation of grass and fern, and a plant of the family of the Compositae. Near the river-courses the soil was better, and bore a good many shrubs. Of animal life nothing was visible, with the exception of the Cigale Zelandica, which filled the air with its chirping note, and a brown ground-lark very common in New Zealand. We passed a number of deep holes in the ground, apparently produced by the water infiltrating into the porous substance, and carrying off a quantity of it by forming a subterraneous rivulet. Here and there I found pieces of obsidian, and
everything proved that we were fast approaching a great centre of volcanic action. We passed between two isolated and very remarkable hills: that to our left [right?] was called Titiraupena, and its top was shaped like a lofty cupola: that to our right [left?] was Wakakahu; it was rugged and broken. We were met here by many natives, who had already heard of our approach. We hailed their arrival with even greater delight than they did ours, as for the last two days we had been living on short rations: this they had foreseen, and accordingly brought us several hampers full of food. In the evening we reached their pa, which was called Ahirara [a separate kainga near Horaaruhe pa]. It was situated on the border of a splendid forest of totara, rimu, and matai. The country here became more hilly, the hills belonging to a range which rose into precipitous and fantastic crests, and which may be said to occupy the left shore of the Waikato after that river issues from the lake of Taupo. The pa was surrounded with high and rudely carved fences. It appears that the feeling of security which in the places near the coast has begun to exercise its influence has not yet extended so far inland. The natives have some Christian catechists amongst them, and are occasionally visited by the missionaries from Tauranga and Rotorua. Their number amounts to about 400.

Only three miles distant from this place is another pa, the road to it leading through the hilly forest. This pa stood on a pyramidal hill, which was naturally fortified by deep perpendicular chasms. It contained only a few houses, and had lately been established by a chief who was desirous of being at the head of a tribe. Here we stopped on the 8th, and were received with much kindness by the inmates, as they were relations of our guide: however, a slight disagreement arose on the following day, which was Sunday. They refused us food, saying they had become missionaries of late, and had been told it was the greatest sin to kill a pig or to cook on Sunday. That we demanded it on that day was not our fault, as we had solicited it the day before. Titipa started off to a neighbouring Heathen pa, although the rain fell in torrents, and came back in the afternoon with a pig.

Hochstetter visited the Taupo district in 1859, travelling from the upper Mokau and Ongarue valleys over the ranges to reach the shores of Lake Taupo about Kuratau:

The long-stretched wooded ridges of the Rangitoto and Tuhua mountains, rising to a height of 3000 feet above the level of the sea, shut out the horizon in a north westerly direction, and only one point attracts the attention by its rather singular form — I am speaking of the Titiraupenga mountain, from the summit of which a bare pyramid towers up resembling a ruined castle.

On his map “The Southern Part of the Province of Auckland” Hochstetter labelled the area between Titiraupenga and the Waikato river as “Volcanic Tableland 2000 ft. high consisting of trachytic rocks thickly covered with forests and unexplored”. This was the caption referred to by Kerry-Nicholls in his description of his journey from west Taupo to Maungatautari in 1883. On Hochstetter's map a track was marked with the inscription “Overland mail track” between this caption and the Waikato river, across the area of the Pouakani block. This was the route of the Maori track by which local Maori carried the mail between 1857 and 1863, when the service was stopped by war in the Waikato. By 1883 the area was still largely unknown to Pakeha and, Kerry-Nicholls claimed, to Maori also. But local Maori at Taupo may well have had other motives for telling him “that it was covered in dense hush, and
that it would be impossible to travel through it for any distance, and especially on account of the numerous rivers and creeks that would have to be crossed".17

Kerry-Nicholls described the landscape along his route north-west from the Waikaha area of Lake Taupo:

Journeying still further on, we crossed the Te Tihoi Plains, a fine tract of open country extending around the mountains of Titiraupenga as far north as the hanks of the Waikato River, and thence north-westerly to the Te Toto [Rangitoto] Ranges. This large area comprising nearly 1000 square miles, was the country described upon the maps as covered with dense bush; and where we had expected to travel through primeval forests we found magnificent open plains, clothed with a rich vegetation of native grasses, and composed of some of the best soil we had met with during our journey.

As we rode over these plains, the scenery was magnificent, as much by reason of the vast scope of country that stretched before us as by the variety of mountain scenery that surrounded the plains in every direction. To the north-east high, forest-clad mountains rose up one above the other in the direction of Ouranui [Oroeanui] and the valley of the Waikato, while to the west were rugged, forest-clad ranges, crowned by the towering form of Titiraupenga.

This magnificent mountain, which is one of the highest peaks in the northern portion of the King Country, rises to an altitude of some 4000 feet above the level of the sea. It assumes in general outline the formation of an extensive cone, with a broad base and long, sweeping sides, while its summit is surmounted by a gigantic pinnacle of rock, of a pointed form, and which serves with the great mountain as a conspicuous landmark all over the surrounding country. It is covered from base to summit with dense forests and its enormous gorges and deep ravines give rise to many streams and rivers.18

In one of the ravines flowed the Mangakowiriwiri, “a tremendous gorge of the mountain, flanked on either side by tall precipices of rock .... Looking down into the deep fissure we could just see the silver streak of water foaming nearly a hundred feet below”. The stream was crossed “by means of a very narrow and very primitive footway, which the natives told us was known as the ‘Bridge of God’”. Between the Mangakowiriwiri and Mangakino rivers was “open undulating country covered with a luxuriant growth of tussock and other native grasses”.19 The Mangakino was crossed by swimming horses across a ford, and the travellers continued on to cross the Waipapa river and Rangitoto ranges into the Waipa valley:

We gained the crossing place by a steep winding descent, the mountains with their rocky bluffs on the opposite side of the river being clothed with a dense vegetation of giant trees, while to the right of the track by which we had to descend was a small mountain forming a complete cone, and which was clothed from base to summit with a luxuriant growth of fern and tall manuka. The whole gorge through which the river wound had a very wild and beautiful appearance, while the water, like that of the Waikato, into which it fell after crossing the plains, was as clear as crystal. Beyond the Waipapa we passed through more open country until we neared the Te Toto [Rangitoto] ranges, when mountain, hill, and valley mingled together in a most picturesque way.

It took us several hours to traverse the Te Toto ranges, the track winding about in every direction with deep ravines on either side. Here the
vegetation was of the most luxuriant and varied order, but the enormous roots of the great trees made riding very difficult.\textsuperscript{20}

Lawrence Cussen, surveyor, described the land between Titiraupenga and the Waikato river in his evidence before the Native Land Court in 1891:

I am District Surveyor. I carried out the triangulation survey of Tauponui-a-Tia West ....

I know the land well. On the edge of the bush and mountain side there is a great deal of good land — but towards the Waikato river it is very poor pumice country — some good land at Waipapa — the hushes are good land — totara timber there — the land is not first class but it is good land for Taupo country.\textsuperscript{21}

From these descriptions we can compile a landscape with a backdrop of rugged forested ranges from Hurakia to Rangitoto, in which the volcanic cones of Pureora and Titiraupenga feature prominently. The land which slopes toward Lake Taupo and the Waikato river is undulating, but cut by deep gorges of streams tributary to the lake and Waikato river. Much of this is open tussock, fern or manuka, but the gorges are wooded. To the north of Lake Taupo are large patches of bush. The main settlement areas were on the shores of Lake Taupo, along the bush margins from Hurakia to Titiraupenga, and the bush areas of Mokai and Oruanui.

3.3 Maori Settlement on Pouakani Block

The Pouakani landscape viewed through Maori eyes in the evidence recorded in the minute books of the Native Land Court reveals a land known and named in considerable detail by its occupants (map 3.2). The following extract from the evidence of Waraki Kapu describing the kainga around Titiraupenga illustrates this:

Kaiwha: [named 15 adults] and many children

We have plantations and bird snaring places, Ruahinetapuwae is a tutu [bird snaring tree], Rakautahere (a tree with nooses) called Wairoto, other snaring places, Pungapunga, Te Waipapa, Te Punimatawhero, Karangaroa, Waituihi, Te Matau, Haru, Tawapiko, Pukekawa, Te Nihinhihi and Te Mahau.

Another kainga — Te Hapainga — This kainga is now deserted. Wakaipipi was an ancient kainga, also Whatapo, Te Werao, Pakaraka (last named where Ha himself lived). At this place Ha planted a Karaka tree which be brought from Kawhia.

Kainga's continued: Tomotomoariki (where Kerekeha and others live), Te Whata, Ahuatawa (plantation), Maropatate (a plantation), Tarekawa (plantation), Waiwbakauru (a plantation), Te Rangipinana (a karaka tree), Owairenga (a plantation), Te Rauwakatua, Waikotukuuku (a miro tree), Te Whanakeroa (bird snaring place). These are all the kaingas at the Titiraupenga end of the block.\textsuperscript{22}

The evidence given to the Native Land Court also suggests a good deal of mobility in settlement patterns. Te Waiti Hohaia commented "we had so many kaingas we travelled from place to place".\textsuperscript{23} The evidence of Werohia Te Hiko is indicative:

I lived at Waimahana first before Kaiwha, the former is a kainga mahinga kumara [a settlement for kumara cultivation]. My father and all Ngati Wairangi planted at the latter before Te Ariki [1851 or 1852]. After that fight all moved to Hapotea and Horaaruihe and Tahataharoa.
Maori Settlement on Pouakani Block

Kainga Hot Spring

Boundary of Pouakani Block

Bush

Swamp

Track

Stream

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Map 3.2
Kaiwha was deserted for a time, till after Hinana [1856] when Te Mete, Rangitohiri te Kawao and Paora went back there. There were two houses there then, a wharepunu [a substantial building for sleeping in, principal house] and a kauta [cooking shelter], the property of Te Mete and Te Kirimate.

I lived at Tahataharoa and Hapotea and Horaaruhe after Potatau was made king [1858]. I was at Orohena [Arohena] at the time of Orakau [1864] and after the fall of that pa returned to Hapotea etc. and was living there when Te Kooti came from Taupo, but was at Kaiwha when the fight took place at Tapapa [1870].

One wharepunu one kauta and one wharau [temporary shelter made of branches] were the only buildings at Kaiwha when Potatau was made King; these were the only houses till N'Apakura came [as refugees after Orakau, 1864].

The Waikato river was a food resource but this was not a place for permanent settlement. Werobia Te Hiko described the area between Maraemanuka and Waipapa streams. Along the river bank were:

- koura [fresh water crayfish] fisheries and duck snares .... The kainga mahinga manu [bird snaring camps] ... belonged to our matuas and tupunas [parents and ancestors] down to ourselves. No cultivations there along the river bank, the plantations were all near the bush away from the river.25

Although some claims were made that kumara had been grown at other places than Waimahana, Werobia Te Hiko denied this and said that potatoes were grown at Opahi and Maraemanuka. Perhaps the hot springs at Waimahana provided sufficient warmth, a local micro climate which allowed kumara growing here but not elsewhere. This site is now flooded by Whakamaru hydro lake. There were also "places along the river bank where pohue" was collected. This is a name given to several climbing plants and it is not clear which one is referred to here. "There were no tuturu kainga [permanent settlements] on the Waikato River ... the bouses were only temporary, used when fishing and catching birds".26

The importance of the settlements close to the bush is also borne out in the evidence of Eru Te Rangietu who described Ahirara as:

- a kainga [village] and mahinga [cultivation], crops of potatoes, corn and tobacco were bare planted. I think the fences are still standing. Bird snaring localities are bare. At Poroatemarama which is near Ahirara are the tutus [bird snaring trees] Te Kohi and Te Rimu belonging to Natana and Te Poutunoa respectively.27

This evidence also indicates how people of each kainga had their own places to go to obtain food. Important places, such as bird snaring trees, were given distinctive names. Hitiri Te Paerata described the kainga on the Pouakani block, beginning with the settlements below Titiraupeenga:

Owarenga was a kainga and cultivations ... the principal bouses were at Pukerimu a short distance from Owarenga the largest house was Taurangi ... Tia's grave is at Otuao near Pukerimu ....

Kaiwha was a large kainga ... Kaiwa Komako and Te Puna kaingas were near one another. There is one large wharepunu at Kaiwha besides many smaller ones ....
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Te Hapainga was an ancient kainga ... from this settlement people went to catch birds .... Whatapo was another settlement inhabited at the time of our ancestors. 28

He added:

Te Waimahana ... is situated on both banks of the Waikato River. I lived there and my father before me. The houses of this settlement were not wharepunis but wharetoetoe [ie not substantial buildings but thatched huts], it was merely a kainga for cultivation purposes .... The cemetery of this kainga is on the Whakamaru Block ... at this settlement crops of potatoes were planted and birds were snared ....

Horaaruhe was a kainga and a pa .... At this kainga were two large wharepunis one of which was called Wairangi .... In connection with this settlement were extensive plantations .... The bird snaring places of this kainga were at Waipapa. Ngawhakawhiwhiti, a Matai tree, was owned by Te Paerata Kaiawha. Ngamataiturua, two Matai trees, belonged to my father. Hamutira a waitahere manu (bird snaring water) belonged to my father. Te Waipopotea belonged to Paora Ngamotu. Since the Hinana feast [1856] no game has been snared at these places ....

There are two burial grounds in connection with this settlement [Waipapa] one at Kanohikorio and the other at the settlement itself. At this kainga was one large house, Kaingaroa, it is my house. There are extensive cultivations. Mine is the only large house of this settlement. 29

The northern margin of the Tuaropaki bush around the present Mokai village was a particularly attractive site. Sheltered from cold southerly winds by the forested slopes to the south, close to swamps which were a source of flax and raupo as well as water fowl, and with several hot springs nearby, this seems to have been an area for permanent settlement. Although several kainga were named in the evidence, the main settlement from the early 1840s was Hapotea. Kainga such as Mokaiteure, Tuhuatahi, Tururu, Te Pa o Te Ata and others were small outlying clusters of houses. The kainga were usually unfenced, although fences were constructed around the cultivations to keep out pigs and other livestock. There was a significant fortified site near Hapotea, Te Pa o Te Ata, which was periodically occupied. Hitiri Te Paerata stated in his evidence:

Te Pa o Te Ata belonged to Te Atainutai, he built it. It is the oldest pa in that part of the block. 30

Te Pa o Te Ata was the pa of N'Te Kohera and N'Parekawa .... 31

Te Pa o Te Ata is at Hapotea, in it were two large houses .... Formerly the place was wooded. N'Ha and N'Parewhete Wairangi felled it and planted crops. Hapotea was first occupied at the introduction of Christianity [early 1840s]. Tahataharoa was occupied at the same time .... There were two principal houses at Hapotea, three small houses and three kauta .... 32

The evidence given in the minute books in the investigation of the Pouakani block is at times contradictory. This is understandable because it has to be understood in the context of competing claims for ancestral rights to the land and its resources among several hapu whose mana was at stake. However, as the following extracts will indicate, it is clear that there was a lot of interaction between various kainga due to the kin linkages. There was considerable mobility among people moving from one kainga to another, and kainga were periodically abandoned and reconstructed. The evidence of the following people illustrates this.

41
Wereta Hoani:

It was when the Rev. Mr Whiteley and Takerei came to bring the Gospel that I saw the first clearing at Hapotea, this was before the death of Te Heuheu [1846] — that was the first clearing made there. There were some small clearings before that for crops to feed bird snares. There was a kainga at Hapotea before the first clearing I have spoken of was made. I did not see the clearings made which existed before the large clearing which I saw being made.

I saw one clearing being made at Te Wairoa before the death of Te Heuheu; there were some other clearings made since.33

Hitiri Te Paerata:

Te Paerata [Hitiri’s father] was the first to occupy Hapotea and make it a kainga, before the building of Wairangi [meeting house] at Horaaruhe. Other kaingas, Tahataharoa, Waitutu, and Matatu, were established also before the building of that whare.

When I say Te Paerata and others were first to occupy Hapotea, I mean that they reoccupied them, they had been old kaingas of the ancestors.34

Werohia Te Hiko:

Hapotea was a large kainga — whares there for various purposes. One was weather board outside and kakaho [thatched] overhead; it was not a whare puni, but a whare kopa [walled house, cf. house with dug out floor and roof to ground level, a wharepuni]. It was built as a whare karakia [church] ....35

Hitiri Te Paerata:

I saw the building of the pallisaded pa at Tahataharoa, it was only a break wind and to operate as a bar against pigs. I was young it was since Christianity. It was no pa at all, only a kainga and was not in a defensible position .... Hapotea was fenced in the same manner, no carvings.36

Poni Peita described bush clearing and settlement at Hapotea:

We were the first to occupy and made bush clearings, from these we moved to Hapotea proper and made a kainga there, this was the first settlement of Hapotea. Te Paerata objected to our first kainga (because it was close to the forest and he objected to women going and cooked food being taken into the bush, as it was tapu and it would not do for food or women to be in the forest in the winter time when birds were being snared etc.) and that is how it was we shifted to Hapotea.37

Te Rangikaripiripia described Hapotea: “At the time of Hinana [1856] there were three wharepunis, 3 kauta, one house with a chimney, one church and one pataka [food storehouse]”. He also stated that “Hapotea took its name from miro tahere”, a bird snaring tree which was a miro.38 Hitiri Te Paerata denied the statements of Te Rangikaripiripia and others:

As to Hapotea and the houses: There are two wharepunis, 3 kauta, one house with a chimney, one church and one pataka [food storehouse]. He also stated that “Hapotea took its name from miro tahere”, a bird snaring tree which was a miro.38 Hitiri Te Paerata denied the statements of Te Rangikaripiripia and others:

The owners: One wharepuni belonged to Te Paerata, Ngahiku, Ngakao, Te Awaiti and Wereta.

The second wharepuni to Te Hapimana, Rota, Te Oneroa, Te Awaiti, Karapehi, Poni and Matawai te Momo.

The wharau was Pita’s and Te Wharau’s, his father in law.
The house said to have been Poni's belonged to Poni and which is said by the other side to have been a church.

As to the small whares one belonged to Ngahiku and one to Rota.

The two kautas belonged to the owners of the wharepuni.

These wharepuni fronted on the same marae, the wharau (Pita's) stood upon a slight rise. The others all stood upon flat land — no hollow or anything of the sort. There is a gully runs round behind the whares.

There was never any pataka at Hapotea nor was there any whare with a chimney. There were no other wharau at Hapotea other than the ones I have mentioned. A plum tree there was planted by Poni.

The two wharepuni were built in the period between 1846 (death of Te Heuheu) and 1856 (Hinana), and remained through the 1860s. By 1884 when Hitiri Te Paerata had left Hapotea to live at Waipapa, the house had been removed, most of the timber being taken to Waipapa. Oriwia Ngakao claimed that "Hapotea became unoccupied at the time or shortly after the Orakau fight [1864]; the residents moved to Waipapa".

The various kainga and mahinga kai were connected by known tracks, and along these routes were named landmarks and other markers. Hitiri Paerata recorded that before 1860 a bridge over the Mangakino river was erected by Te Heuheu Iwikau, Te Paerata and Te Kohika. This was presumably for the mail route started in 1857:

Near this bridge is a holy stone named Poroporo a Raukawa. Another stone [is] named Putaohuatanga after Huatanga the ancestress.

On a ridge is a place called Whakatangihanga named after Moe because it was there he played his Pukaea (instrument).

The variations in the quality of the land were perceived in terms of potential for food resources. Hitiri Paerata commented, "Nothing will grow in the open country at Taupo (Wahi mania)". Werohia Te Hiko commented, "The soil of Pouakani [block] is uniformly of one kind, pumice gravel and rock (stones). The land immediately around the swamps is better". With its proximity to forests, swamps, cultivable land and geothermal resources, clearly the Mokai area was an attractive place in the relatively harsh climate and sterile pumice country north and west of Lake Taupo. The other significant group of settlements were those strung out along the bush margins of Titiraupenga.

There are other elements of the Maori landscape whose significance is less obvious to the visitor. There are rocks incised with spirals, bird forms, canoes and other motifs in places known to local people. One of these was recorded in detail by the (then) National Historic Places Trust before the Waikato river was flooded by the hydro lake behind the Waipapa dam. Te Rehina (wife of Te Kobika of Ngati Ha) explained in her evidence in the Pouakani block investigation that knowledge of some things about the landscape remain the property and heritage (taonga) of local people resident in that area:

In his time Ngawheo had the keeping of the mauri at Titiraupenga; Ngahiku had that of Tuaropaki. Te Arawaere was also one of the bolders of it. This mauri is at Te Tarata. Persons non resident of a district would have nothing to do with the mauri of that district, nor would they see it.

The mauri is the life force of a place which is imbued in a stone, rock or other feature which remains tapu because of the presence of the mauri.
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35 Waikato minute book 26 p 255
36 ibid pp 263-264
37 ibid p 265
38 ibid p 277
39 ibid pp 279-280
40 ibid p 250
41 ibid pp 42-43
42 ibid p 43
43 Waikato minute book 27 p 135
44 ibid p 145
46 Waikato minute book 26 p 134
Chapter 4

The Impact of the Pakeha

4.1 Introduction

Long before the arrival of Pakeha visitors the impact of introductions such as pigs, potatoes, muskets, gunpowder and other items of European technology was felt in Taupo. Pigs and potatoes, and later fruit and vegetable crops, were quickly absorbed into the local economy. The introduction of muskets and powder sparked off a series of raids by northern tribes from around the Bay of Islands which had a ripple effect on tribal alliances, rejuvenated old feuds and started some new ones (map 4.1). Nga Puhi raids into Hauraki and Waikato put pressure on the tribes of the region who retreated up the Waikato and Waipa valleys in the 1820s. Ngati Maru of Hauraki were expelled from the Maungatautari area in 1830, but before this their war parties had ranged widely in the Taupo district. In the early 1820s, a combined force of Waikato and Maniapoto tribes had expelled Ngati Toa, led by Te Rauparaha, from the Kawhia district. After about a year in north Taranaki, Ngati Toa and some local people migrated to Kapiti and settled in the Manawatu-Horowhenua district. Here they were joined by Ngati Raukawa who migrated south through the lands west of Lake Taupo. The Pouakani block straddled one of the important routes south from the Waikato via Maungatautari to Taupo and many war parties passed through. Ngati Tuwharetoa and Ngati Raukawa were also involved in a series of fights against Ngati Kahungunu of the Hawkes Bay district before 1840.

During the late 1830s several missionary travellers passed through the Taupo district. Both E Best and E Dieffenbach who visited in 1841 recorded that some local people at Mokai knew about Christianity and there were some conflicts in attitudes as a result. In 1843 Bishop Selwyn made his first visit to the Taupo region, which was regularly visited by various missionaries of the Church Missionary Society, in particular Archdeacon Brown from Tauranga, Thomas Chapman from Rotorua and Richard Taylor from Whanganui. It was not until 1855 that a permanent Church Missionary Society station was established at Pukawa by Thomas Samuel Grace. A Roman Catholic mission was established in 1850 by Fathers Lampila and Regnier. In the Mokai area the arrival of Christianity in the early 1840s was attributed to a visit by the Wesleyan minister John Whiteley (who was based at Kawhia), accompanied by Takerei of Ngati Maniapoto.

Maori people also travelled outside their home districts to Pakeha settlements. In a letter dated 28 July 1857, Thomas Grace commented on Maori-Pakeha contacts:

Owing to Taupo not being able to furnish any means by which the Maoris can procure [European] clothing, the consequence is that almost all the young and able-bodied men go off to the different towns to work, where they soon lose the simplicity of their Native character, while those who
TRIBAL MOVEMENTS 1820 - 40

Map 4.1

Zone of conflict

Ngapuhi

Marutuahu

Ngati Toa

Waikato

Ngati Haua

Ngati Raukawa

0 10 20 30 km

Pouakani 1993
return bring back with them a bad influence. There is not, perhaps, another body of Maoris in any part of the Island, that has so much intercourse with Europeans.3

4.2 The King Movement

Through the 1850s there was increasing Maori concern about the alienation of land and the effects of the advance of Pakeha settlement. Resistance to land sales was building up in Taranaki, Waikato and elsewhere. Discussion during a series of tribal gatherings, from 1853 on, led to the idea of some sort of great confederation of tribes to protect lands from further sales. There was also debate about who should lead such a confederation, and the form of Maori local government which should be set up. These ideas developed into what is known as the Kingitanga, or King Movement. There was widespread support for the concept throughout the central North Island from Taranaki to the East Coast.

In November 1856 a large gathering was called at Pukawa by Te Heuheu Iwikau, paramount chief of Ngati Tuwharetoa. Nearly every tribal group in the country was represented at this hui which was named Hinana. It was resolved that Taupo would be in the centre of a district extending to Waikato and Hauraki in the north, and Taranaki, Whanganui and Rangitikei in the south, in which no land sales would be allowed. There should be a king as supreme ruler over the confederation of tribes in this district. The issue was who should take this role. Tokena Kerehi in his evidence to the Native Land Court on the Pouakani block described the hui:

I was present at Hinana meeting, that was our meeting, all of Taupo. All the Taupo hapus, including N’Wairangi prepared food for it. The object of this meeting was to elect Potatau King. The Arawa wished Te Heuheu Iwikau to take that position, N’Tuwharetoa and N’Raukawa concurred. I have heard of a proverb concerning Te Heuheu Tukino uttered by Potatau when he went to Taupo, “Ko Tongariro te maunga, ko Taupo te moana, ko Te Heuheu te tangata” [Tongariro is the mountain, Taupo is the lake, Te Heuheu is the chief].

Te Heuheu was one who consented to the Pakeha coming to New Zealand, but be objected to land sales to Europeans. He said, Ko tetahi o ana peke ki Papakauri, tetahi o ana boha [sic, buha] ki Rangitoto, ko tana mahunga ki Kawerau, ko tana tinana ki Taupo, tetahi o ana ringa ki te Raeikohi, tetahi o ana ringa ki Otairi [one of his limbs is at Papakauri, bis thigh is at Rangitoto, his head is at Kawerau, his body is at Taupo, one arm embraces Raeikohi and the other Otairi]. This word of his had mana in preventing sales to Europeans.4

The image presented here is the likening of the body of Te Heuheu covering the Taupo lands of Tuwharetoa, legs planted in Maniapoto, head at Kawerau whence bis tupuna came, with one arm stretching toward Kohi Point, Whakatane, to represent his Mataatua connections and the other to upper Rangitikei, Hunterville area. Tokena Kerehi went on to comment on the mana of Te Heuheu Tukino Manuini, who had not signed the Treaty of Waitangi in 1840, although his younger brother Iwikau had done so:

I have heard of the Treaty of Waitangi. Te Heuheu Tukino met the Commissioners at Rotorua, but refused to sign it. He said to them, “I refuse, for I am the mana of my land.” All of N’Tuwharetoa and the Arawa agreed with Te Heuheu’s action. Hori Tupaea [a Tauranga chief]
said if Te Heuheu had signed, he could have done so too. This is a tohu [sign] of Te Heuheu’s mana.5

There was strong support for Te Heuheu Iwikau to become King. He had strongly supported earlier discussions about a confederation of tribes. This was a difficult situation, because Te Heuheu also realised it might not be in the best interests of Tuwharetoa to accept such a position. The missionary Thomas Grace, who attended the Hinana meeting near his mission station, reminded Te Heuheu that he had signed the Treaty of Waitangi and accepted the sovereignty of the Queen of England and could not go back on his word:

When all the visiting chiefs had spoken Te Heuheu Iwikau stood up. He raised himself to his full height and addressed the gathering. He politely refused to accept the kingship and replied with an exhortation to them to abide by the Treaty of Waitangi. Directing their attention to the flagstaff standing in the plaza he said: “Chiefs assembled, hearken! You see the flags on each arm flying side by side. The white is the Pakeha and the red is the Maori. The white ropes are the Pakeha and the black ropes are the Maori. Altogether they suspend the pole, and all is well. If any of the ropes break away, then the pole is weakened!”6

Thomas Grace was subsequently accused (by some fellow missionaries and government people) of supporting the King Movement, even that he had called the meeting at Pukawa in 1856. In repudiating this, Grace claimed:

I had nothing whatever to do, directly or indirectly, with the calling of the meeting. The moment I heard it was intended to discuss the propriety of making a Maori King, I sent them a printed copy of the Treaty of Waitangi in Maori, and used all my influence to crush their project.

At the time I thought I had succeeded, but I have since found my success was only in part. The King Movement is, however, perhaps less popular in Taupo than in some other districts. The object of the meeting held at Pukawa, November 1856, was as follows:

Some time before we came to Taupo a handsome ‘Pataka’ (viz a Maori store for food) had been burned. Sir George Grey when on a visit to Taupo saw the said pataka and told Te Heuheu (no doubt in a jocose way) that it was a sign of his ‘rangatiratanga’. Consequently, when the store house was burned, Te Heuheu at once built a much larger and finer one, and, having done so, called upon all the tribes far and near to collect food with which to fill the new and handsome ‘Pataka’.

Te Heuheu’s subjects responded liberally to his call and, when the store house was filled, a great meeting was held for the purpose of eating the food so collected. The Waikato Maoris and other tribes evidently considered it a fine opportunity to discuss their project of making a king. Such was the origin of this p e a t meeting ....

I have not been able to discover anything hostile to British rule in the minds of the Maoris who desire a King, but rather that, by having a King, they will be imitating us. They also appear to think that through the medium of a king they may be able to check the present lawless state of things and to promote peace. The idea of anything like a rebellion, so far as I have seen, does not seem to have entered their minds, and they are not able to understand why such a step should give offence to us.

I believe that many of the Chiefs have a sincere desire to promote peace, but alas! While we continue our present policy of urging them and tempting them to sell their lands there is little hope of peace. We are at the bottom of all their quarrelling and fighting ....
In this movement for a King one thing is most evident, namely this, that the Maoris feel their absolute need of protection.7

Other tribal meetings were held over the next two years culminating in the election of Potatau Te Wherowhero of Ngati Mahuta of Waikato as the first Maori King in 1858.

The refusal of Te Heuheu Iwikau to take on the leadership of the Kingitanga reinforced his status as paramount chief of Tuwharetoa. He remained sympathetic to the King Movement and participated in the ceremonial investiture of King Potatau in 1858, but he did not wish to place the mana of Tuwharetoa under that of Potatau.8 The mana of Te Heuheu remained independent of tribal alliances. Hochstetter described the impact of Te Heuheu in 1859:

Long ago I had heard of the great and mighty Te Heuheu, residing in Pukawa at Lake Taupo, His name is known wherever the Maori language is spoken; for he belongs to one of the oldest and most renowned noble families of the country; and is numbered among the heroes and demigods of his people. He had been pictured to me as a man of considerable talents, as the best and worst fellow at the same time; as proud, shrewd, generous; as a mysterious medley of modern civilization and ancient heathenism.9

Thomas Grace provided his assessment of Te Heuheu Iwikau in his annual report to the Church Missionary Society in 1862:

He was the sole remaining chief of the old school, who, with all their faults, were vastly superior to those so-called chiefs who have arisen through European influence. He had a very fierce temper when roused, and of late there have so many subjects to disturb him that at most meetings he has not been seen to advantage.

From the first day of our coming, to the time of his death, he was our friend and protector. He was perfectly honest in his intentions, and his angry words were soon forgotten. He was a most liberal man and kind to all European travellers, who ever found in him a bountiful host. He was opposed to the Taranaki war and frequently told me he would not go into it. He was anxious to avoid war, but considered, that if the Waikato were attacked by us, he would be compelled to help them. He was always against land selling from purely patriotic motives ... notwithstanding this he was fond of Europeans.10

### 4.3 War in the Waikato

Relationships between Pakeha settlers and the tribes of the Kingitanga federation became more strained. War erupted in Taranaki in 1860 over the government purchase of a block of land at Waitara. Te Heuheu Iwikau maintained a policy of neutrality in the Taranaki fighting in which Waikato and Maniapoto tribes participated. The whole concept of a separate system of Maori government in a district outside of the control of British colonial administrators and military was unacceptable to the majority of Pakeha. Tensions increased and conflict became inevitable. In July 1863 British imperial troops, led by General Duncan Cameron, crossed the Mangataviri stream, a tributary of the Waikato river and the northern boundary of the Kingitanga. The “Waikato Campaign” had begun (map 4.2). There was a series of fights as the troops progressed up the river, reaching Ngaruawahia in early December. Waikato tribes and their allies retreated to Maungataturi and the Waipa valley.
Map 4.2
In 1862 Te Heuheu Iwikau had died, to be succeeded by Te Heuheu Horonuku, his nephew and son of Te Heuheu Tukino Mananui who had been killed in the landslide of 1846. Horonuku later took the name Te Heuheu Tukino. In late 1863, Horonuku gathered a force of over 200 men to go to the assistance of Waikato, a change from the neutral policy hitherto maintained by Ngati Tuwharetoa under Iwikau. Another force, mainly from Ngati Te Kohera and Ngati Parekawa of the Tihoi-Pouakani area, led by Te Paerata and Te Kohika, joined with Ngati Maniapoto and others in the final stages of the Waikato war. The British troops had advanced up the Waipa river, by-passed the pa at Paterangi and attacked Rangiaohia. By the end of March 1864 the troops were in occupation of the Te Awamutu area, while Waikato, Maniapoto and their allies retreated south of the Puniu river to consider the situation. It was decided to build a pa at Orakau. The construction work was observed by the British and an attack begun. By the time Horonuku and his party arrived they could do nothing but look on during the three day battle (31 March-2 April 1864) that followed.

About 100 Ngati Te Kohera, Ngati Parekawa and other Tuwharetoa people, along with Ngati Raukawa, Ngati Maniapoto, Waikato and a contingent of 100 fighting men of Tuhoe from Te Urewera, and about 40 Ngati Kahungunu, participated in the siege of Orakau. Ngati Te Kohera and Ngati Parekawa and allied sections of Ngati Raukawa were led by Te Paerata, his sons Hone Teri and Hitiri Te Paerata, and by Henare Te Momo and Hauraki Tonganui. Other Ngati Tuwharetoa were led by Rawiri Te Rangihirawea, Nui and Rangitoheriri. Rewi Maniapoto, a principal chief of Ngati Maniapoto, led the Waikato Maniapoto contingent.1 1

All these people, including some women and children, were besieged in the hastily built fortifications at Orakau. By the second night water and provisions were running very low. Hitiri Te Paerata crept out through British lines to a spring in a gully east of the pa and returned with a calabash of water. There was discussion of retreat the next night under cover of darkness:

But the Paerata family and the Urewera chiefs were stubborn in their decision not to retreat, but to continue the battle, (“Kaore e pai kia haere engari me whawhai tonu”). “E pai ana” (“It is well — so be it”), said Rewi submitting to the general voice of the council.1 2

The next afternoon, a cease fire was called by General Duncan Cameron and the defenders were asked if they would surrender. The response from Rewi Maniapoto was that they would fight on in spite of the lack of water and limited supply of food and ammunition: “E hoa, ka whawhai tonu matou ki a koe, ake, ake, ake!” In a Tuwharetoa version of the battle it is said that these words were shouted by Hauraki Tonganui. In response to the suggestion that the women and children should be allowed to leave, Ahumai Te Paerata, sister of Hitiri, answered, “Ki te mate nga tane, me mate ano nga wahine me nga tamariki [if the men die, the women and children die also]”. The firing recommenced and the British troops advanced on the pa. The defenders formed themselves into a tight group with the women and children in the middle, broke through part of the earth works and rushed out. The firing continued as British troops rushed into the pa. The Maori survivors made their way through the swamp below, sheltered by scrub, and retreated south of the Puniu river.1 3
The large number of Maori dead, at least 160 people, were buried at Orakau. Heaviest casualties were suffered by Tuhoe and Ngati Te Kohera. Of the Paerata family, the father, Te Paerata, and his son Hone Teri were killed; Hitiri Te Paerata and Ahumai survived, although she was badly wounded. Her husband, Wereta, was also killed. The Raukawa and Tuwharetoa survivors, along with Tuhoe people, retreated up the Waikato valley towards Titiraupeanga. The Tuhoe people continued on via Te Ohaaki to Te Whaiti and their mountain homes in Te Urewera.

Following Orakau, there were battles at Gate Pa and Te Ranga in the Tauranga district. Large areas of land in the Waikato and Waipa valleys north of the Puniu river, and in Tauranga, were confiscated under the New Zealand Settlements Act 1863 (see map 4.2). Military settlements of four regiments of Waikato militia were established at Hamilton, Cambridge, Kihikihi, Alexandra (Pirongia) and Tauranga. There had been no fighting on Tuwharetoa lands hut west Taupo and the upper Waipa valley became refuge areas for dispossessed tribes. It was in the disruption and disillusionment that was the aftermath of this fighting in Taranaki and Waikato that a movement known as Pai Marire was carried in late 1864 into the Taupo district and elsewhere in the central North Island, Bay of Plenty and East Coast by emissaries of the Taranaki prophet Te Ua Haumene. This movement, more commonly known in Pakeha histories and contemporary reports as the “Hauhau rebellion”, was really pacifist in intent, as its name suggests, good and peaceful, pai marire. Unfortunately, it was badly misinterpreted by Pakeha civil and military authorities and there was more fighting, but none of this occurred in the Taupo district.

### After Orakau

During the 1860s the categories of “loyalist” and “rebel” were used by Pakeha reporters but this was not a simple matter of taking sides. Te Arawa saw their interests lay in some form of cooperation. Ngati Tuwharetoa had supported the concept of the Kingitanga hut had not participated in the fighting until the final stages at Orakau. The tribes fought to protect their land, but did not see themselves as “rebels” in the Pakeha sense. Few Pakeha saw the situation as the missionary Thomas Grace saw it, or were willing to acknowledge Maori attitudes. In 1858, Grace wrote from Pukawa to the Church Missionary Society in London, referring to the Constitution Act 1852:

> The constitution, which has been given to this country, has placed the Maoris in a far worse position than they were, seeing they have no share in any of the representation.

> Here in New Zealand we have about four-fifths of the population, British subjects and lords of the soil, and paying the greatest portion of the revenue, cut off from all share in the representation of the country, either in person or by proxy.

> Surely this is a strange state of things to exist. If a separate house were formed for Maori representatives, there is little doubt that, with a few official leaders appointed direct from home as protectors, the Maori chiefs would be found quite able to take their full share in the representation.
The Impact of the Pakeha

If we deny them the right of British subjects, and thereby ourselves break the Treaty of Waitangi, we should not be astonished if they seek protection for themselves [by setting up a Maori King].

Grace had seen that a confrontation between the Kingitanga and government was inevitable. When it did occur at Waitara in 1860 he commented in a letter to the Church Missionary Society in London:

The real cause of the war is, without doubt, the constant coercion that the Maoris have been subjected to in order to induce them to part with their lands. The Government professes not to buy lands, the ownership of which is in dispute, yet nearly all the wars and quarrels that of late years have taken place, have been on this very subject.

Hitiri Te Paerata in evidence given in 1890 described the relationship of the people led by his father, Te Paerata, to the Kingitanga, and the transition from "rebel" to government allegiance. This transition had been provoked by the requirement for Hitiri Te Paerata to appear in the Native Land Court and defend his rights:

When Potatau was made king, as a preparation for that event, Te Heuheu, Te Paerata, Te Kohika and Te Wharepapa ordered the planting of crops for food for the people whom they intended to assemble at Pukawa. The tribes of the above chiefs responded to the call. The meeting to discuss Potatau's kingship was held. All the tribes joined the King Movement, including Te Paerata who held, with his hapu an important position under Potatau (I tiro rato u hei kaiwhakahaere). Iharaira te Miri, son of Te Rangitoheriri, was the only person who proved loyal to the Government. All the rest followed Te Paerata and continued to do so, up to the time of the Waikato war and to Te Paerata's death. Te Paerata was killed in battle [at Orakau 1864], then N'Wairangi and all of us returned and lived at Te Whakamaru. I lived at Hapotea and afterwards at Te Papa, a pa in the woods, for fear of the Pakeha. Shortly after this all the Waikato tribes migrated to Taupo ....

After this I saw a Gazette containing a notification respecting Te Tatua Block, this was I think in 1868 or 1869. I then joined the Government .... When I transferred my allegiance to the Queen all my hapus followed my example.

In 1869 government troops came into the Taupo district in pursuit of Te Kooti Rikirangi. This mission-educated leader, prophet and founder of the Ringatu church, had been arrested on suspicion of sympathy with "Hauhau rebels" in the Gisborne district in 1866 and transported without trial, with other Maori prisoners to the Chatham Islands. Here he became a religious teacher and leader and evolved his form of worship, derived from Christian teachings and known as Wairua Tapu (Holy Spirit), which subsequently became the basis of Ringatu teachings. In July 1868 he and a group of followers captured a ship named Rileman, and now well armed, sailed back to Poverty Bay. There followed a series of raids on local settlers and then Te Kooti retreated into rugged bush country of the upper Waioeka river. He was sheltered by Tuhoe of Te Urewera.

During 1869 Te Kooti was pursued by government troops through Te Urewera. He came out of the bush to cross the southern Kaingaroa plains. On 7 June, he destroyed a small garrison at Opepe, and carried on to eastern and southern Taupo. He stayed some time at Tokaanu and then went on to Te Kuiti, returning to Tokaanu in September. By this stage, the troops had
reorganised and started in pursuit again. There were more skirmishes in the Rotoaira area in September and a fight at Te Porere pa on the lower slopes of Tongariro on 30 October. Te Kooti retreated into the west Taupo bush where he remained for several weeks. He then moved northward but his route is not clear. He was reported at Maraeroa. The troops pursued him across the Tihoi area and camped at Waimahana, the kainga on the Waikato river north of Mokai. A pa “called Tewe, apparently near Tihoi” (actually on Whakamaru block) was attacked by McDonnell’s troops. J Cowan states only that “Te Kooti now marched through the Tuhua Country, West Taupo, passing near Titiraupenga Mountain and via Mokai to the Waikato River”. He was pursued northward by Colonel McDonnell and his troops and another skirmish occurred at Tapapa. Te Kooti eluded his pursuers and after some time in the Mamaku bush, doubled back south of Rotorua and returned to Te Urewera.

There are several references in the Waikato minute books of the Pouakani block investigation of 1890-1891 to “Te Kooti’s meeting at Kaïwha”. Since this kainga was one of the refuge villages following Orakau, this was a likely venue for any hui called to assess the situation. Hitiri Te Paerata in his evidence stated:

> At the beginning of the Waikato War we were living at Hapotea and Tahataharoa. N’Wairangi were living at Te Whanake and Tewe on Whakamaru Block. Afterwards I left and lived at Te Papa. I was living there when Te Kooti came. I accompanied him to Te Kuiti. After this a Pakeha named Te Pakaranā (Buckland) came from Kaingaroa. Pita and others wanted to kill him, they seized his horses but I interfered and saved his life.

Hitiri Te Paerata later described Te Kooti’s movements in more detail:

> When he came he went to Tahataharoa, Horaaruhe and Te Whanake to collect all the people from those places to meet at Kaïwha, where Te Mete Pūrū and some of N’Apakura were. Just at that time the Government force were going in that direction from Oruanui. Riwai, Pita and N’-Apakura went swiftly, but Te Whiau lagged behind and was overtaken by the Government force. This was the day when Te Kooti got to Kaïwha, where he staid [sic] two days and went on to Te Kuiti.

Few Pakeha settlers had reached the Taupo district before 1870. The Grace family had abandoned their mission station at Pukawa in October 1863. When Meade visited in 1864 he found a government medical officer, Dr Hooper, at Oruanui who said he had not seen another European in the district for two years. The pursuit of Te Kooti in 1869 led to the establishment of an armed constabulary station at Taupo and construction of redoubts. In 1870 there were 30 men at Taupo, 180 at Opepe and 40 at Runanga on the Taupo-Napier route. The redoubt built at Taupo became known as Tapuaeharuru, (the name of Poihipi Tukairangi’s village on the opposite bank of the Waikato river) and was the base for military activities and Pakeha government in the region. The armed constabulary provided the focus for a small Pakeha settlement in the 1870s. Taupo was a strategic staging post on the mail route and road which was constructed in the 1870s from the Waikato via Atiamuri to Napier. The late 1860s also saw the arrival of government and private land purchase officers. On 28 October 1867 the first sitting of the Native Land Court was held at Oruanui, Taupo. Negotiations for sale of Ngati Tuwharetoa lands had already begun.
4.5 Public Works and "Pacification"

Major W G Mair, resident magistrate, reported on the Waikato-King Country region in 1872. He noted declining support for Tawhiao, the successor to King Potatau, and commented that Ngati Tuwharetoa "have turned roadmakers". Although Mair considered that the "Kingites" attitude was "gradually assuming a more friendly tone" since 1870, and he detected "a desire to come to terms with the Government", there was still opposition. Government policy was intended to encourage agriculture, trade and public works. Mair commented on the influences preventing a settlement with government:

Perhaps the most important of these is a feeling of national pride, to which may, in great measure, be attributed their opposition to the progress of Public Works.

He quoted one chief, on whom he had tried to impress "the mutual advantages" of such works, who had responded:

you need not tell me what I know quite well, but we oppose you in this direction because these things benefit you in a much greater degree than they do the Maori, and each mile of road or telegraph that you construct makes you so much stronger than us!26

In June 1869 Donald McLean had become Native Minister:

An important part of his diplomacy was a revitalised and extended Native Department. Vacancies were filled in important districts such as Taupo, upper Wanganui, the Bay of Plenty and Poverty Bay. The men appointed were instructed that their duties were of a political rather than a judicial nature. They were to confirm the friendly and wavering in allegiance, and to try to wean the Hauhaus and Kingites from their beliefs and assist them in assuming peaceful pursuits. Samuel Locke, appointed Resident Magistrate of Taupo, was to develop communication with the King tribes and learn their history and traditions. The Government was to be kept constantly informed of details of the political, social and economic position of the tribes.27

In a report to the Native Minister, dated 4 July 1872, Locke commented on the pacification role of public works programmes in the Taupo district:

The good feeling that has been established during the last two years in this district still continues. Public works are being carried on in different directions. The first work for the development of an inaccessible country, as this was two years back, was to open communication for dray traffic with the nearest sea ports; and this object has been systematically carried out — and I should point out, with regard to the Napier road, in the face of great engineering difficulties; a coach is now running twice a week between Napier and Taupo, excepting about five miles which will, however, in a short time, be available for coach traffic. A great portion of this road work has been performed by Native labour, under contract and invariably finished in a most satisfactory manner.

The dray road from Taupo to Tauranga is being rapidly pushed on, and the Ngatiraukawa Tribe, the principal owners of the land on the proposed line of road between Taupo and Cambridge have long withdrawn the aukati, and are now urging that the road be proceeded with .... The whole of the road work in this district has been done by Native labour. The policy the Government has pursued in employing the Maoris in these newly opened districts in public works has been the great means towards the peaceful settlement of the country. The Maoris in the interior are exceedingly poor, partly caused from the wars and excite-
moment of the past ten years, and the present chance of employment offered them habituates them to regular work, and supplies them with means to purchasing necessaries for cultivating their own land.28

Locke concluded his report on the Taupo and East Coast district with comments on the process of “civilising” Maori people:

The Maori is now in a transitory state, and is on his trial, whether he will ever realize [sic] the fact, that he must turn to work in earnest if he would raise himself to compete on fair terms with the European. Could the disposal of their land be so regulated that its alienation be continued over a lengthened period, it may be that the Maori would during the interval, acquire that discipline of the mind and habits of industry and obedience to the law that would reconcile him to that change that must sooner or later take place to fit him for a higher state of civilization.29

The impacts of the wars (and continuing conflict of loyalties), the procedures of the Native Land Court, and government public works schemes, were documented in some detail by Thomas Grace in his diaries of visits to the north Taupo district in the early 1870s. It was already obvious that local Maori rarely benefitted from public works schemes. In describing the people at Orakei Korako in 1870, Thomas Grace summed up the conflicts in loyalties:

A number of our old scholars [at Pukawa mission school] live here. They are now grown up and married. One of these Ripeka was very kind to us. I regret to say that the Native Teacher of this place accepted Government money and became an assessor [in Native Land Court]. He became indifferent and covetous. He has since been discarded by the Government, and, having lost his standing amongst his own people, has left the district. All the people here have been in the war — some on our side, some on the side of the King. For the most part they are very indifferent to religion.30

Thomas Grace also noted there were few people at Wairewarewa, south of Orakei Korako and that they were “suffering much from want of food, as there was little or no planting done last year”.31 Because of the disruptions of Native Land Court hearings and the arrival of Te Kooti pursued by the military, many kainga were short of food. Another factor was that able-bodied men were diverted to construction of the Taupo-Napier road and the route north of Taupo to Atiamuri. Oruanui was almost deserted for this reason. Grace also commented on the drunkenness among Taupo people. However, he was treated kindly by both “friendly” and “Hauhau” groups, while noting that people in one small kainga “had no food to give us but they pitched our tent and gathered fern for our beds”.32 Most of the villages were described as “Hauhau” around the southern and western shores of Lake Taupo.

The government policy of employing Maori labour on road construction encouraged many people to divert their activities to wage earning. This was disruptive of traditional life styles, including food production. On the road south of Atiamuri in 1871 Thomas Grace met a “road-making party” of about 40 people, “Hauhaus and Kingites though they have been, and still are in their hearts”, including the family of Hitiri Te Paerata:

I had a good deal of conversation with several of them. They complain that the Government work is very hard and that all the money [from wages] is consumed in food. Got up my horses and went on. In a short time I came to where they had cut the road along the side of a great hill for about a mile and a quarter. It is the greatest cutting I have seen in
this country. The European who had charge of the work told me the Maoris had done their work well and were underpaid.

This piece of work ought to silence the foolish talking of the many who say “The Maoris are lazy!” I know by experience that this accusation is false.33

Grace went on to Tapuaeharuru (Taupo), “Here too there were not many Maoris, most of them being on the roads”. Life in the road building camps did not encourage saving of any funds left over from purchase of food at high prices from European-owned stores. Grace visited another “road party” of Taupo people at Runanga, on the Napier-Taupo road:

Amongst this party were many whom I have not seen since before the war. They received me most kindly, especially one man and his wife who formerly lived with us at Pukawa. The poor woman, out of her small store of flour, which they buy at 6d a lb, made me some cakes for my tea while I hurried and pitched my tent. The young people of this party are, for the most part, greatly dissipated. Several young fellows returned drunk from the Canteen, about 3 miles off.34

At Haroto, nearer Napier, Grace again commented on Maori road construction: “I am astonished at the weariness of the work and the way in which they have executed it”. Again he was hospitably received by Taupo people who recognised him:

Many of the women had gone 35 miles over rough country to get potatoes. At the European post, which is at a short distance from the camp of the Natives, great dissipation has been going on. Some 150 people are here. The remuneration they get will not more than half feed them. Until the women come back they have no potatoes. All the food I have seen during the two days I have been here is bread and tea, for both morning and evening meal — and that is not half the quantity sufficient for men who are working hard!

One of my old boys, named Enoka, managed the commissariat of this large party. A European had set up a store in the Camp and had given the charge of it to this young man. The people were subdivided with small parties of from 10 to 20, and, to each of these parties Enoka served out rations of flour, sugar, and also kept all the rather intricate accounts both for the Europeans and the Natives. Every one seemed to have perfect confidence in him. I was quite surprised at the correctness and ability with which he kept the accounts. I watched them for a good part of Saturday while they were at work — and with much astonishment. How men could labour for any length of time on such food I do not know!35

Some of the food sold to Maori workers was unfit to eat. Grace recorded a woman trying to make bread for her children from “rotten flour, not fit for pigs.” When warned her children would become ill she replied, “What are we to do? They will not take it back, and they charge us £2 a bag for it!”.36

Ngati Tuwharetoa elders shared Grace’s concern about the effects of drunkenness in the road building camps, which, combined with malnutrition and poor housing, undoubtedly had impacts on the levels of health and immunity to infections:

The head men all spoke feelingly as to the state of things that now exists amongst them. They fully see the great evil of drunkenness. They all use the same arguments, and nearly the same words, namely, “It is you only, you Europeans, who bring the drink and all its consequences! Why bring...
it to tempt us and then find fault with us for using it? The Pakeha is worse than we are".37

Grace was also questioned closely about the purpose of building roads in the light of rumours “that when these roads are finished the Pakeha intends to send soldiers through the country to destroy all the Maoris, both Kingites and Friendlies”! Grace responded that he “did not believe a word of the report” and hoped privately that Maori fears were dispelled. He commented on other road parties in the course of this journey and the impact of road construction work on local people:

One party, I was glad to see, had sufficient food. They had planted a good many potatoes and were now enjoying them. I advised them to be careful and not neglect their food. One man said, “We have not been working on the roads, nor have we been amongst the Pakehas, yet we are better off than those who have been working for money!” This man spoke the truth. Such is the state of things at this moment that, if a Native will work for a month or two in a year, plant plenty of food and rear a few pigs to sell for blankets, he may smoke his pipe for the rest of the year and know, while so doing, that he and his wife and children are much better off than those Maoris who work on the roads in all weathers and during the whole year.38

From the government point of view McLean’s policy of diplomacy and public works was effective in reducing the chances of further warfare:

McLean and his officers took time over the work of diplomacy, never pressing the disaffected tribes too hard, but ensuring that every advantage was taken of their disenchantment with war, Hauhauism or the King movement. Over a period of twelve months Locke and McLean secured first the laying aside of arms by a majority of the Taupo and Ngatiraukawa people, then their acceptance of arbitration in disputes and finally their consent to admit roads and telegraphs. The effects of pacification were cumulative, success in one district encouraging Maori in others to resume friendly relations with Government and settlers. Between 1870-73 most of the leading “rebels” outside Ngatimaniapoto territory made their peace.39

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Chapter 5

The Native Land Court and Land Purchases 1867-1883

5.1 Introduction

In December 1866 Governor Grey paid a personal visit to Te Heuheu and was very hospitably received. Grey commented effusively on his vision of future harmony and prosperity in a report to the Colonial Office:

I consider the Native population to be now in a better state than I have ever previously known it .... I feel sure that the European population, finding from my journey that they can again safely traverse the interior of the country, will begin to spread into all parts of it, developing the great resources of valuable districts which are now but little known, and the advance of this Northern Island in wealth and population will consequently be very rapid.

In this advance in wealth and prosperity the Native population, who are extensive landholders, will largely share, and I feel quite satisfied that New Zealand, now ceasing to be any drain upon the resources of Great Britain, will be regarded as one of the most tranquil and valuable portions of the Empire.1

From the late 1860s the operations of the Native Land Court and land purchase agents, both Crown and private, reached into the Taupo district. However, while Pakeha settlement evolved slowly in the Taupo district, the “King Country” remained “closed” behind the aukati through the 1870s.

5.2 The Native Land Court

In the Native Lands Act 1862 parliament waived the Crown right of pre-emption in the Treaty of Waitangi and legislated for the establishment of courts for ascertaining and defining Maori rights to their lands. The rationale for this was set out in the preamble to the Act:

And whereas it would greatly promote the peaceful settlement of the Colony and the advancement and civilization of the Natives if their rights to land were ascertained defined and declared and if the ownership of such lands when so ascertained defined and declared were assimilated as nearly as possible to the ownership of land according to British law.

The Native Land Court did not come into operation until after the appointment of Chief Judge Fenton in January 1865 and the passing of the Native Lands Act 1865.

By the late 1860s the court, sitting in different towns, was hearing applications for investigation of title to blocks of land. Any Maori person(s) could lodge an application to claim title to tribal lands, and many were aided and abetted by would-be purchasers, both government and private. The court required a plan to identify the block under investigation and accepted evidence in court from
claimants listed in the application, and any counter claimants who also appeared in court. Because hearings often went on for several weeks, people had to stay in the town where the court was sitting.

A graphic description of the impact of Native Land Court sittings is provided in E Beer and A Gascoigne's account of Cambridge, derived from contemporary Waikato newspapers in the early 1880s. Auckland speculators provided the impetus for the land dealing which went on around the Cambridge court:

It was this new wealth, seeking investment south, which now lent such animation to the Waikato towns and crowded the shabby precincts of the Native Land Court at Cambridge. Money, then as now, was attracted to land as safe investment.

If there was anyone who stood apart, in that day, from the ranks of the avid speculators, the greed of traders or the clumsy efforts of well-intentioned administrators, there was indeed ample reason for the pained wonderment of such an observer.

The Treaty ... had guaranteed the natives possession of their lands under the Queen. This then was the sorry, if strictly legal aftermath. A European Court carefully taking down every name which might conceivably be involved in the ownership of each parcel of native land; the entire act, as we now see it, in one stroke, a violent disjointing of a whole people's conception of land tenure. A communal system, which based an ancient lifestyle, cut up neatly into the segments of a European economic individualism. Outside, the temporary shops of the traders were burdened with the cheap goods which were the inducement, in effect, to a simple people to barter a patrimony.

Little wonder then that the scene was animated, that the Maoris were there in hundreds, and Europeans, clutching documents, in scores. Or that as night fell in the town, on the days of session, there should be drunkenness on the unformed streets, brawls and a revelry of the hour....

It is recorded that at some of the Court sessions there would be up to 2000 Maoris encamped on the flats beyond the Karapiro bridge and at old native watering places on the opposite side of the town known as Moon's Creek. Such vacant sections as were not already offering sustenance to mobs of thin ulcerated horses, were also requisitioned. The streets abounded with hordes of mangy collarless dogs. Buildings for the accommodation of Maoris had been erected on land opposite the Duke of Cambridge hotel and behind the offices of [lawyers] Whitaker and Sheehan. Full of life and activity, the camps were always a source of wonderment to casual visitors who rode over from neighbouring towns ....

A correspondent, writing in February 1881 said: 'At present the town of Cambridge is all bustle, babble and excitement. The only thing I can compare it to is the diggings in the first flush of a gold discovery. Hotels, apartments "to let" are all chock full .... Our dusky friends show a little more wisdom in their generation as they have all come provided with tents which are scattered all over the township and its environs ....

'The hotel bar and bar parlours are a caution to look at. Day and night they are thronged with Maoris, male and female, young and old. What a glorious opportunity for some apostle of temperance to ply his profession.'

M P K Sorensen described the impact of the Cambridge Native Land Court and land purchase operations around the margins of the King Country:
The allegiance of many of the bordering tribes to the King party, with its strong anti-land-selling league, had prevented the successful conclusion of most European negotiations for almost ten years after the end of the wars. But, by 1880, concentrated individual dealings carried out by Government and private agents had broken down much of the opposition. Large blocks of land were being taken before the Court, sitting continuously at Cambridge. As several European parties had secured interests in single blocks, there was fierce competition to secure favourable decisions of the Court. Storekeepers at Cambridge, working in collaboration with purchase “rings,” used the Court sittings to “harvest” the money advanced by purchasers. Then the purchasers were in a good position to finalise transaction.

Where the competition was between the Government and private parties the results were just the same. Ten years of competition for the 250,000 acre Patetere block, at the head of the Thames Valley, was only resolved when the Government withdrew its interests in 1882 and virtually handed the block over to a private company. Court sittings for this land were held at Cambridge with the Maori claimants suffering from prolonged sittings and the demoralising atmosphere of the township.

The Patetere purchases extended south to include the Whakamaru block across the Waikato river from Pouakani block.

A title was eventually granted in the names of individual Maori, and each person was then free to dispose of his or her interest in a block of land individually. The chiefs and other leaders were given little special consideration. For example, the attitude of the Native Land Court toward Tawhiao and the King Movement was made clear on several occasions. In Cambridge, Judge Monro opened a court sitting on 27 May 1879 and, as the Waikato Times reporter put it, “The King and the law were brought face to face, and the issue was never doubtful”. Te Ngakau, on behalf of Tawhiao, objected to the court proceeding. Judge Monro, who “exhibited admirable composure and firmness” ruled:

We know no Rangatiras nor slaves in this Court. Men here are all alike. Natives put in their claims, and I am here to hear them, and decide. I cannot know you, Tutua [low-born person], more than any other man. The Court can take no cognizance of Tawhiao.

Te Ngakau was advised he would have to pursue his claim as an individual, along with all the other individual claimants. The court was then adjourned until 2 pm that afternoon:

The natives assembled, and Te Ngakau, starting up, addressed them, stating that the Court should be closed. All the claimants to the block under consideration strenuously objected and a fierce and hot discussion ensued. Matters looked very serious at one period. Time was passing rapidly, and, at 2 o’clock it was certain the Court would order Te Ngakau to leave if he persisted in “talking against time.” At about 12.15, Major and Mrs Wilson came to talk to Te Ngakau, and induced him to reconsider his position. After a great deal of talk, he agreed to urge his claims as an ordinary suitor, and abandon his obstructiveness. When the Court was opened, at 2 o’clock, he did not appear, and business proceeded as usual.

People in the Taupo district were required at various times to attend court sittings in Cambridge, Rotorua, Napier and Wanganui. Living away from home for long periods, reliance on overpriced food from local storekeepers,
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temptations of grog-sellers, and the inevitable consequences of indebtedness, the poor living conditions and vulnerability to infectious diseases, all contributed to massive social disruption of Maori communities of the central North Island. A member of parliament commented:

I believe we could not find a more ingenious method of destroying the whole Maori race than by these Courts. The Natives come from the villages of the interior, and have to hang about for months in our centres of population. ... They are brought in to contact with the lowest classes of society, and are exposed to temptation and the result is a great number of contract diseases and die .... Some little time ago I was taking a ride through the interior and I was perfectly astonished at hearing that a subject of conversation at each hapu I visited was the number of natives dying in consequence of attendance at the Native Land Court at Wanganui.6

The intention of parliament in setting up the Native Land Court had been to establish a structure to regulate land sales, to establish Maori titles in a form cognisable in British law before land was sold, and avoid the kind of disputes over land at Waitara which had led to the wars in Taranaki. Henry Sewell stated in parliament in 1870:

The object of the Native Lands Act [1865] was twofold: to bring the great bulk of the lands of the Northern Island which belonged to the natives ... within the reach of colonisation. The other great object was, the detribalisation of the natives — to destroy if it were possible, the principle of communism which ran through the whole of their institutions, upon which the social system was based, and which stood as a barrier in the way of all attempts to amalgamate the Native race into our own social and political system. It was hoped that by the individualisation of titles to land, giving them the same individual ownership which we ourselves possessed, their social status would become assimilated to our own.7

In 1877, Mr Whitaker, land speculator, lawyer and member of parliament stated it was:

absolutely essential, not only for the sake of ourselves, but for the benefit of the Natives, that the Native titles should be extinguished, the Native customs got rid of, and the Natives as far as possible placed in the same position as ourselves.8

In his analysis of the effects of the Native Lands Act 1865 and the large amount of legislation on Maori land over the next three decades, Ward took a different view:

The Maori people were consequently exposed to a thirty-year period during which a predatory horde of storekeepers, grog-sellers, surveyors, lawyers, land agents and money-lenders made advances to rival groups of Maori claimants to land, pressed the claim of their faction in the Courts and recouped the costs in land. Rightful Maori owners could not avoid litigation and expensive surveys if false claims were put forward, since [Chief Judge] Fenton, seeking to inflate the status of the Court, insisted that judgments be based only upon evidence presented before it.

The introduction of the new form of Native Land Court was also to have grievous effects on Maori society. It set up a body of self-proclaimed experts who had to try, and frequently failed, to interpret Maori custom .... The system invited not co-operation but contention between parties who — although the Court frequently divided the land — could win all, or lose all, on the Judge's nod. It ushered in an era of bitter contesting,
of lying and false evidence. The legalistic nature of the Court also instituted a costly and tedious paraphernalia of lawyers, agents, legal rules and precedents — a morass in which the Maori floundered for decades, frittering away their estates in ruinous expenses and still all too often not getting equitable awards.9

The Native Land Court first sat in the Taupo district at Oruanui in 1867. Over the next 15 years almost every block investigated was subject to some sort of negotiation outside the court for sale or lease. From a review of the Taupo minute books it appears that the Native Land Court sat in the Taupo district at the following times:

Table 5.1: Native Land Court sittings in Taupo district

<table>
<thead>
<tr>
<th>Date</th>
<th>Judge</th>
<th>Taupo Minute Book</th>
</tr>
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<tbody>
<tr>
<td>28 October 1867*</td>
<td>Monro</td>
<td>1/1-12</td>
</tr>
<tr>
<td>6-15 April 1868*</td>
<td>Monro</td>
<td>1/15-90</td>
</tr>
<tr>
<td>17-21 April 1868</td>
<td>Monro</td>
<td>1/91-127</td>
</tr>
<tr>
<td>5-6 March 1869*</td>
<td>White</td>
<td>1/128-136</td>
</tr>
<tr>
<td>8 March 1869*</td>
<td>Smith</td>
<td>1/137-214</td>
</tr>
<tr>
<td>28-30 March 1872*</td>
<td>Rogan</td>
<td>1/215-241</td>
</tr>
<tr>
<td>20-27 August 1877</td>
<td>Rogan</td>
<td>1/242-307; 2/1-10</td>
</tr>
<tr>
<td>1-11 December 1880</td>
<td>Symonds, O'Brien</td>
<td>2/10-51</td>
</tr>
<tr>
<td>30 March–20 May 1881</td>
<td>Maning</td>
<td>2/52-201</td>
</tr>
<tr>
<td>21 May–4 June 1881</td>
<td>Macdonald</td>
<td>2/202-247</td>
</tr>
<tr>
<td>1 December 1881 –</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31 January 1882</td>
<td>O'Brien, Williams</td>
<td>2/249-284; 3/1-68</td>
</tr>
<tr>
<td>9-13 December 1884</td>
<td>Macdonald</td>
<td>4/1-32</td>
</tr>
<tr>
<td>14 January 1886</td>
<td>Brookfield, Scannell</td>
<td>4/34 ff</td>
</tr>
</tbody>
</table>

The sittings marked with an asterisk were held at Oruanui, the rest were in the court house at Taupo town (Tapuaeharuru). The hearing beginning on 14 January 1886 was the investigation of title of Tauponuiatia block which is described in chapter 8. The minutes of rehearings of Tatua block, at Cambridge, in June 1882 and Rangipo Waiu block, at Upokongaro in the Whanganui district, in March to April 1882 are recorded in Taupo minute book 3.

In the first two decades of operation in the Taupo district, the Native Land Court was inextricably bound up with the process of purchase of Maori lands. The contests between rival factions in the court were further complicated by the conflicts in loyalties toward the King Movement, tribal and hapu allegiances, and a desire to avoid further trouble by co-operating as far as possible in a court system imposed by legislation. Many Taupo people also had land interests which required their attendance at other courts held in Cambridge, Rotorua, Napier and Whanganui district, and they were sometimes required to be in two places at once. Major Scannell, the resident magistrate who had arrived in Taupo in 1869 in charge of the armed constabulary station, reported in May 1883 that several large blocks in which local Maori had interests were before the Native Land Court in Cambridge.10 “Obstruction” to the
trigonometric survey of the Taupo district had ceased, and construction of a road from Tokaanu through Rangipo (the Desert Road) was proceeding “chiefly by Native labour”. He also reported that Tawhiao and his party had passed through on their way to the Whanganui district. On their return journey they stayed “a short time at Tapuaeharuru and Oruanui, but did not receive an enthusiastic reception”. Scannell also reported a lot of illness among children and old people which be described as “illnesses inherent to their mode of living”. Although more food crops had been planted than usual, in expectation of feeding crowds expected at the next hearing of the Native Land Court, Scannell commented that food was grown only for consumption, not for sale:

Any money they may become possessed of is got by the sale of land, and that, as soon as got, is in the greater number of cases squandered in drink. The Natives at the northern end of the lake are parting with their lands wholesale. It will, I think, be necessary to prevent by some means their being able to part with the whole, as, if it is left in their power to do so, they will certainly in time sell it all. They are getting into that stage that they must have money, and will not work for it whilst any land available for disposal is left. At present those on the eastern and southern shores are not selling so freely; they lease the greater part of the lands they wish to dispose of.11

5.3 Land Purchase

The government land purchase officers C O Davis and H Mitchell reported in July 1875 on their activities in the Taupo district:

where we were met by the chiefs Topia Turoa, Matuahu, Te Heuheu, and Paurini, accompanied by all the surrounding tribes. After a series of preliminary meetings were held at Tapuaeharuru, on the leases and purchases generally, local gatherings took place at Omatangi, Opepe, and Runanga, where we were offered some of the signatures of grantees of Runanga No. 2, and Tauhara middle. We arranged also a lease of Runanga No. 1, from certain counter claimants, and completed the title of the Taharua Block. Discussions relative to the Tatuia leases, east and west, Mohaka, Oruanui, and Parekarangi, we were unable to complete, being suddenly summoned by the Under-Secretary to meet Hon. Native Minister [Sir Donald MacLean] at Maketu ....

During our present visit to Taupo, meetings have been held at various places regarding the Mohaka Block of 47,000 acres, which was partly settled before Sir Donald MacLean at Napier, one of us being present, Te Tatua, Tauhara North, Parekarangi, and Oranui [sic = Oruanui]. The tone of feeling with regard to all of these places was in favour of Government, and although Henare Matua and other Hawke's Bay celebrities have their written epistles and oral messages to Taupo Natives, stirring them up to oppose any attempt on the part of Government to secure lands in this district by purchase or lease, the machinations of the Napier chiefs proved unsuccessful, and their gratuitous opinions treated with profound indifference.

We have felt it our duty to encourage, as much as possible, the desire of the Taupo tribes to educate their children, and we have impressed upon them the advisableness and necessity of setting aside for school purposes a portion of the money received from us for their lands.12

In August 1875 Davis and Mitchell organised:

A series of meetings with the chiefs Poihipi Tukairangi, Hobepa Tamamutu, Hitiri te Paerata, Takerei, Ruha te Parangetungetu, Te
Reweti Waikato, Te Papanui, Te Heu Heu, Hauraki, and others, regarding land claims on the west shores of Lake Taupo, Te Tauta on Waikato, Paeroa [Reporoa district], Kaingaroa, and other places; and we succeeded in obtaining the necessary signatures to complete the conveyance of Tauhara North....

In this month [September] likewise we completed and posted deeds of Tauhara Middle purchase, Tauhara North purchase, and Oruanui lease, accompanied by explanatory memoranda. Also in this month was held the great Taupo meeting relative to certain territory on the western shores of Lake Taupo, disputed on the one side by the Hau-Hau element, under the chiefs Hauraki, Te Tuhi, and others, and on the other by the friendly Natives under Te Heu Heu, Paurini, and Hohepa Tamamutu. Major Scannel [sic] was chosen president of the meeting, and the assessors...were Te Kepa te Rangipauhe and Arekatera te Puni. The evidence taken was most voluminous; the inquiry extended over fifteen days. The whole of the testimony adduced at this local Court was forwarded to the Hon. the Native Minister, for his information.13

This evidence has not been located but this report suggests that the rival factions among claimants in west Taupo lands were already well established.

Not all the Davis and Mitchell arrangements went smoothly:

In the month of March [1876], Petera te Rangihiroa and other members of the Ngatihineuru tribe entered into a compact with Hawke's Bay Natives to repudiate the leases previously agreed to by themselves and Government.

The dissentients were spoken to by another purchase officer and reminded of their "duty". Meanwhile, Davis and Mitchell instructed two surveyors "to complete as speedily as possible the necessary surveys" so that titles could be finalised in the Native Land Court.14

In their 1876 report Davis and Mitchell included a discussion of mana. Although they were explaining the "spirit of rivalry" among Te Arawa tribes, and the reasons for opposition to the Native Land Court and land purchase, the following remarks are indicative of how this issue was dealt with by these land purchase officers:

It has been our practice from the first to ignore the mana, because it professes to be perfectly distinct from the ownership of the soil, and moreover the assumed mana by these dominant tribes is repudiated by the genuine owners of the soil. It does seem strange indeed that in these times, when Manri rule is almost annihilated by European usages, that any chiefs or tribes in the Arawa country should be found to assert their mana and to base their pretensions on it, and this seems doubly strange when we take into consideration the fact that all the leading chiefs of the Arawa are receiving Government salaries, by which act they have to all intents and purposes virtually abandoned the Maori notions of authority. To retain their ancient rights of mana and to draw their Government salaries is perfectly incompatible, and to attempt usurpation by claiming to have mana now, when the great majority of the people repudiate their assumption, is equally absurd. We do not go into the basis of this mana, as to bow it comes to pass that one tribe should possess it and not another; but as far as we have been able to glean information, the mana question has arisen from the practice of the more powerful domineering over the weak; the power arising from birth, intellect, and other fortuitous circumstances. It will be seen by the above remarks that it would be quite out of place for us, as land agents, to recognise the mana.
of chiefs or tribes; and accordingly we have steadily adhered to our first
determination, namely, to treat only with the recognized owners of the
soil. The attitude assumed by us in this respect has induced the chiefs and
tribes claiming mana to deluge the Government with letters and
telegrams, in the hope that they would be able to extort money on the
ground of this Maori mana, forfeited long ago and fully ignored by all
parties. It may be remarked here that when Christianity was introduced
into New Zealand all Maori slaves were emancipated, and every indi-
vidual Maori was looked upon as the owner of his land, the chiefs
having been disrobed of their mana power .... But should the adherents
of this undefined Maori mana continue to exert their clamour, the matter
may readily enough be set at rest by a series of Native meetings, aided
by Government, as these simple tribunals would be the only effectual
mode of settling this purely Maori supremacy.15

In their report in April 1876 Davis and Mitchell reviewed the potential of the
Rotorua-Taupo district for pastoral farming, and attempts by potential run-
holders to gain access to these lands, many of whom were prepared to pay
higher than government rates:

The Arawa country, as a whole, has been cried down as a “desert of
pumice;” and those who profess to have great knowledge of soils, and
their adaptation to grasses, speak loudly against the run-holders for
taking up so dreary a country, and some of the local newspapers have
criticised the action of Government for “wasting,” as they say, “money
on such deserts”. It never has been proved, however, that these poor-
looking pumice soils will not grow grasses, for the simple reason that no
attempt has been made to try their capabilities. Some persons indeed, in
their fool-hardiness, ploughed up certain places at Taupo and scattered
grass seed, forgetting at the time that the plough-share should not have
touched the soil, as it did not require to be made more porous by
ploughing, but more compressed by rollers. One thing is certain that, in
many localities where no plough-share has been introduced, fine clover
and various other English grasses have embedded themselves in the
pumice soil, and on some of the despised runs sheep are thriving
remarkably well .... The late William Buckland [who had held a lease of
north Taupo land], whose practical knowledge in agricultural pursuits
was most extensive, often expressed his conviction that the very worst-
looking pumice land of Taupo would be productive of English grasses
some day, should the work be intrusted to competent and skillful per-
sons ....

From the year 1866 up to 1872, various private individuals from both
the North and Middle [South] Islands anxious to obtain runs in the
Arawa country, treated directly with the Natives, and paid large deposits
to the professed owners, contrary to law, so determined were they to gain
possession, if possible, of the lands in question, notwithstanding the
oft-repeated assertion that the whole of the country is a “silent, barren
desert.” In some instances sheep were placed on runs, but were driven
hither and thither by antagonistic Maori claimants; and when any
attempt was made to survey the lands, the surveyors were at once
expelled by the Natives ....

The acquisition of these lands by lease, politically considered, is, without
doubt, of paramount consequence, the country being intersected by
roads and telegraph lines, accessible by coach and horse, and forming
the area between the great centres of population in the North Island —
namely, Wellington, Auckland, and Napier. Not should the great im-
portance of establishing permanent peaceful relations with the large
Maori population of this district be overlooked, as it will tend materially
to intimidate the action of less friendly Maori communities, and raise the confidence of New Zealand colonists.16

At this stage Davis and Mitchell reported that they had arranged leases of four blocks in Taupo, a total of 40,000 acres, and two blocks making up 47,000 acres at Mohaka. The annual rentals on leases for the first seven years were one farthing per acre in the Taupo district. The Runanga No 1 and 2 blocks and Tatua block were under negotiation and already “applied for by run holders”. It was also claimed that local Maori owners of these lands “are exceedingly desirous to see them in the occupation of settlers”.

By the early 1870s land speculators had become interested in the north Taupo lands. The Crown had stepped in to regulate some of this activity and land purchase officers negotiated leaseholds of several large blocks in the Whakamaru-Tatua area. During the late 1870s and 1880s a number of blocks were investigated by the Native Land Court. By the end of 1883 the following private purchases were completed in the north-west Taupo district:17

<table>
<thead>
<tr>
<th>Date</th>
<th>Name of Purchaser</th>
<th>Block</th>
<th>Area (acres)</th>
<th>Total price</th>
<th>Price per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 June 1881</td>
<td>R Graham</td>
<td>Wairakei</td>
<td>4203</td>
<td>£750</td>
<td>3s 6.3/4d</td>
</tr>
<tr>
<td>3 July 1883</td>
<td>J Grice and W Moon</td>
<td>Whangamata No 1</td>
<td>6830</td>
<td>£1707</td>
<td>5s</td>
</tr>
<tr>
<td>29 December 1883</td>
<td>J Grice and W Moon</td>
<td>Tatua West</td>
<td>38620</td>
<td>£5500</td>
<td>2s10.1/4d</td>
</tr>
</tbody>
</table>

A substantial portion of the Whakamaru block, across the river from Pouakani, was purchased by the Patetere Syndicate in 1882, and then sold to the Thames Valley Land Company. The lands in Tatua West and Whangamata No 1 blocks, became known as “Grice’s Freehold”. W Moon was married to Karawhira Kapu, one of the subjects of investigation by the Taupouiatia Royal Commission in 1889, and a claimant for land on the Pouakani block. Grice was also connected with the Thames Valley Land Company.

5.4 The Tatua Block

The process of establishing a title to a block of land was long and tortuous, and complicated further when there were rival Crown and private purchase agents negotiating for the block. As an example, the transactions on Tatua block, on the eastern boundary of Pouakani block, will be outlined over the period from 1867, when it first came before the Native Land Court, until 1883, when title was established and Tatua West block was sold to Grice and Moon.

Te Tatua block was investigated by the Native Land Court at its first sitting in the Taupo district, at Oruanui on 28 October 1867. Hitiri Te Paerata and others claimed title on behalf of Ngati Raukawa. The evidence taken was contained in only ten pages of the minute book and an order for a certificate of title was made in ten names to be issued “if within nine (9) months the above-named persons shall furnish a proper survey thereof”.18 These names included Ihakara Kahuao for Ngati Rauhoto and representatives of Ngati
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Map 5.1
Tama, Ngati Ruiringarangi, Ngati Te Urunga and Ngati Pakau. The court did not sit again until 17 April 1868 at Oruanui, when more evidence on Tautau was heard. Ihakara Kahuao stated:

This is a block of land which we are anxious to lease. The owners of the land have agreed that it shall be heard as a whole, the outer boundary only being given. The tribes interested in the block are Ngatitama, Ngathinaure, Ngatiruingaarangi, Ngatirauhoto, Ngatiteurunga, Ngatikaretoto, Ngatitewhetu, Ngatipakau, Ngathingaawatea, Ngatikikopiri, Ngaaitutetawha, Ngaithinerau and Ngaatimoeti: The [principal] men of these tribes have consented to this arrangement.19

All these tribes were of Te Araawa and Tuwharetoa descent. Hitiri Te Paerata objected “on behalf of NgatitekHERA, Ngatiharangi, Ngatihinokino and Ngatiha” to the western portion of the block being included, claiming this from the Ngati Raukawa ancestors Wairangi, Upokoiti and Whaita.20 After hearing evidence on 18, 20 and 21 April, the court ordered in favour of the ten names produced by Ihakara Kahuao who “said that all persons interested had agreed among themselves as to the Grantees”.21

Te Tautau block was before the court again at Oruanui on 5 March 1869 when Judge White gave notice of a rehearing by Judge Smith. Meanwhile the hearing of Kaingaroa block proceeded, with the same groups of protagonists, led by Ihakara Kahuao and Hitiri Te Paerata. This block was also first heard on 28 October 1867. On 8 March 1869, Judge Smith arrived and began a rehearing of Te Tautau which continued through the following Monday 9 March to Saturday 13 March. Ihakara Kahuao voiced his objection to a rehearing which had been sought by Hitiri Te Paerata:

I object to the rehearing and decline to proceed with my claim. It has been twice adjudicated upon before. The first time the Certificate ordered by the Court was not issued because there were eleven names. This was not my fault. The second time my opponent Hitiri was heard and judgment given in my favour. I do not know why there should be a rehearing.22

The first hearing of Te Tautau had been under the Native Lands Act 1865 which restricted the number of owners in a block to ten or fewer. The court then explained that a rehearing must be ordered by government, by an order-in-council published in the New Zealand Gazette:

It was also explained that if the claimants wished to withdraw their claim they could do so, but the land would revert to its original position, all former proceedings of the Court being annulled by the order for rehearing. The Counter claimants might if they thought proper hand in an application for investigation of the title to the land owned by them.23

Poihipi Tukairangi supported Ihakara Kahuao’s comments but both agreed to proceed with the hearing:

This land has not been surveyed. (Mr. Heale put in a map of a trigonometrical survey of the district on which the land is situated showing the boundaries of the Tautau Block) Witness [Ihakara Kahuao] traced boundaries of claim as sketched in application.24

Ihakara Kahuao then proceeded to trace his ancestry from Te Araawa waka through Tia. Hitiri Te Paerata based his claims on the Ngati Raukawa ancestors, Wairangi and Whaita.
Judgment was given on 15 March 1869 that Ihakara Kahuao and his party were not entitled to the whole block exclusively, that Hitiri Te Paerata and his party had also established rights which pre-dated the arrival of Ngati Raukawa, that is from Ngati Kahupungapunga and Ngati Hotu. The block was divided into east and west. Tatua East was granted to Ihakara Kahuao and others. Tatua West was granted to:

Hitiri Te Paerata and his party ... on the condition that the names of Ihakara Kahuao and Irihei Rangimateni shall be included in the list of grantees, or that some other arrangement be made by which their interest shall be recognised and secured.25

On 16 March an order was made for Tatua East listing the names of Ihakara Kahuao and nine others, subject to their providing “a proper survey and certified plan” within 12 months. The court also “ordered that the Presiding Judge do report the opinion of the Court that it is proper to restrict the alienability of the land”. The fees ordered were six days for investigation of title £3, cost of certificate and Crown grant, £1 each, making a total of £5.26 For Tatua West block, Hitiri supplied a list of ten names but this was withdrawn because of “misunderstanding having occurred amongst the claimants”.27 No order was made for Tatua West.

Tatua East block came before the court again on 28 March 1872:

Ihakara Kahuao said, it was ordered at a former sitting of the Court that a Crown Grant would be issued for this land if we made a proper survey of it.

The Inspector of Surveys said be wished the natives to know that his parties of surveyors were not bound to survey their lands on their application but that if a party were in the district and the survey was not opposed, the survey would be made on their application, but this would not interfere in any way with the rights or privileges of the natives to employ any surveyor to do their work.28

The court ordered that the former order to issue a certificate of title be carried out when a satisfactory plan was produced.

The Tatua blocks did not come before the court again until 20 August 1877. The minute book entry is terse: Tatua West, “not surveyed, adjourned to a future sitting”.29 On 25 August, Hitiri Te Paerata produced a list of ten names for Tatua West. Te Hira objected to this list, firstly because he had not written it, and secondly he had received a letter stating:

that the Government had suspended the operation of the Native Land Court on this block. Mr C.O.Davis explained that the letter had been written at the time the proclamation to that effect had been in force and which has since been rescinded.30

Ihakara Kahuao also objected, accusing Hitiri Te Paerata of including names of people who did not truly represent the claimants. Because this inquiry began before the passing of the Native Lands Act 1873, which required all names be included in a title, the restriction to ten names appears to have continued:

The Court intimated that this list of names would be received but as no map was before the Court an order would not be made at this sitting, but when a plan was produced an order for the issue of a Memorial of Ownership would be made in favour of the persons named in Hitiri’s list and if made in any other place but Taupo it would be notified to Te Hira.
and Ihakara to give them an opportunity of protesting against the decision.

Hitiri requested that the survey of this land be instigated by the Court. The Court stated that the survey had been ordered by the Judges who heard the case.31

In June 1877, Henry Mitchell, the land purchase officer working with C O Davis, had reported that he had obtained "a general consent" for the survey of Te Tatu a and Te Hukui blocks which would be carried out as soon as the district surveyor, Captain Turner, who was based at Tauranga, could arrange for a surveyor:

The survey of Tatu a is very anxiously looked for by the section who were decided by the Court in 1869 as the owners (Hitiri Paerata, Te Papanui and party), and who, in 1874, leased the land to the Government. But there is also a considerable opposition to the survey from sections ignored by the Court and by us, the Government Land Purchase Agents. This opposition consists of a Hauhau section, who are supposed to uphold the King's policy of anti-leasing or selling land, and of a Queenite section, headed by old Poihipi Tukairangi, who professes to ignore the judgment of the Court, because no survey was permitted by the Natives within the twelve months allowed by the Court on issuing its interlocutory order. Claims have now been sent in to the Chief Judge, so that the interlocutory order of 1869 may be sustained, or else a fresh investigation take place. But before either of these courses can be taken the survey must be made. I intend meeting all the sections interested in the Tatu a, with the District Officer, and hope to clear away the opposition which has so long existed in a settlement of the disputes regarding the ownership of this tract of country.32

There was still no completed survey of the Tatu a blocks when Tatu a West came before the court again on 3 December 1880. An application for succession to interests in the block was dismissed: "Found to be not surveyed and no order was issued".33 On 4 December the application of Ihakara Kahuao and others received similar summary treatment:

An interlocutory Order made in 1868 to have survey sent in before expiration of 12 months, this has not been done and the Court stated that they had better send in a new application when the land has been surveyed. Dismissed.34

Another rehearing of the Tatu a block began in the Native Land Court at Cambridge before Chief Judge MacDonald and Judge Puckey on 1 June 1882, and continued until 29 June. This hearing was different in that the parties were represented by Pakeha lawyers, among them Mr Sheehan and Dr Buller. The case began with some confusion over the status of a plan produced by the surveyor Mr Gwynneth. The chief judge questioned why the plan had n o t been sent directly from the surveyor general. Gwynneth responded:

The S/G sent it to me as there was a lien on the land. The Court sent the plan to me saying I was to receive it as the lien had not been paid, it came to me with your sanction. I can produce the plan in a few minutes if wanted. I have taken this course because the Native Land Court will not register liens.35

The chief judge said he could wire the surveyor general to ask if a plan had been made. Hamiora Maungakahia then said:
The Maoris are not clear in this case as the Court usually produces its own map, this is a new departure to us, a surveyor producing a map of his own.36

There was a map hanging in the court room but this turned out to be Tatu East which caused further confusion. The court was adjourned while a telegram was sent to the surveyor general, and it was confirmed that Gwynneth’s plan was an approved one. When the court resumed at three o’clock in the afternoon, the chief judge restated the situation, noting, “There is a great deal of trouble in reference to liens”. Gwynneth refused to produce the plan until the lien was settled. The chief judge mentioned that was an issue to be sorted out with the surveyor general: “If the survey was made without the Surveyor General’s order then no lien can exist”. Gwynneth still refused, as he considered possession of the plan security for his lien. The lawyer, Sheehan, requested an adjournment after the court threatened to prevent Gwynneth from doing any further survey work for the court. An adjournment until next day was granted. Gwynneth did eventually produce the plan but only after he had received a guarantee that his lien of £279 4s 3d would be paid. The court remarked:

as it is the law that no surveyor can have a lien on what is clearly the property of the court, and in advising you to give up the plan I was doing you no injustice. I am glad you have acceded to my request. Anyone refusing to appear on a summons in future will be subpoenaed each day and fined £20 on each occasion till plan is produced. It is a general caution to others similarly situated. Mr Sheehan guarantees the account on behalf of his clients.37

There was some further discussion of the status of plans and then it was made clear that while the Tatu block had been in court three times before (the earlier application having been dismissed because the requirement for survey had not been complied with), “This will be heard as a new case”. The court then adjourned again.

The hearing of evidence began in earnest on 4 June and occupied 19 sitting days. On Thursday afternoon, 21 June, the minutes record:

A long discussion here ensued as to the desirability of the case proceeding, Dr. Buller contending that the first judgment given is the proper one, and if that former judgment be not confirmed (or equivalent) he intends at once applying to the Supreme Court etc. etc.38

The court was adjourned to the following Saturday 23 June:

Hipirini Te Whetu: Expressed an opinion that the Court and the legal fraternity have had all the say in the Tatu Court.

Aperahama Te Kume: We do not understand the action of the Court at the present time. When Tatu was 1st called the Court said the block would be taken as an entirely new case at which we were agreeably surprised. Suddenly there is a new departure. Where have these laws been hidden?

The 1st hearing took place under another Judge, and there has been a fresh Judge in each successive hearing. This present is the 4th adjudication. Which of all these will the Court adopt?

Chief Judge: The present position comes about thus. As you are aware the title of this land has been investigated previously. When this present one commenced, for some time afterwards, until I raised the question the other day, everyone was of opinion that all the previous judgments were
The Native Land Court & Land Purchases 1867-1883

LAND TENURE 1884

Source: AJHR, 1884, Sess. II, C1 and 16.

Map 5.2
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had, owing to investigations having gone on without a previous survey.
I have since thought those judgments were not bad (as regards survey).
The next question was the consequences etc. One gentleman says that
the first judgment is good only, another says 2nd alone is good ...
HIPIRINI can say that none of former judgments are good and yet another
party say that 1st and 2nd are bad, but 3rd good (in parts), so the different
grounds on which these opinions are based, I will not trouble you. Now
it would have been the duty of Court to say which of them was good,
but it so happens that all say (excepting AREKATIRA HIPIRINI) that if you
don't conduct present proceedings we shall take case to Supreme Court.
Therefore this Court replies if you can get the Supreme Court to relieve
this Court of present difficulties, I shall be very glad, but before that
event it would be necessary I should assume certain views on the matter,
so that it may be clear, and that brings me to the views on the question
which I have written down and which follow.

DR BULLER: Your Honour is aware I intend to move for a writ of Prohibi­
tion asking why your Honour should not give effect to the first judgment
(writ of mandamus).

CHIEF JUDGE: The Certificate in re TATUA EAST will be in favour of Judge
ROGAN's order of August 25th 1877.39

This last comment created further confusion because the TATUA EAST order was
made on 28 March 1872 by Judge ROGAN.40 The TATUA WEST block was before
Judge ROGAN on 25 August 1877 but no order was made on that date as no
survey had been done.41 The chief judge also noted that fees would "be returned
in case it is decided that this present sitting was not considered necessary".42

Court was adjourned until Monday morning 25 June, when HARE TEIMANA
began by asking for a further adjournment:

to enable him and others to make preparations for the forthcoming
Court at ROTORUA which is advertised for the 28th inst. we also wish to
give our attention to our plantations, as the season is getting late.43

The chief judge responded:

I will advise the presiding Judge of the Rotorua Court to postpone any
business for a week or two after the 28th instant to enable all interested
parties to have a little preliminary time.44

The court was then adjourned till 12.30 pm. The lawyers consulted variously
with their clients and each other and during the afternoon reported some
"arrangements" made. The court resumed again briefly on 26 June and
Sheehan reported arrangements were agreed on the southern part of the block.
On 29 June orders were made for WHANGAMATA No 1 (6830 acres) 6 owners,
WHANGAMATA No 2 (2300 acres) 243 owners; and WHANGAMATA No 3 (200 acres,
strictly inalienable) in the same 243 owners.45 On 3 July 1883 WHANGAMATA No
1 block was sold to GRICE and MOON. The TATUA WEST block was ordered
sometime later and sold on 29 December 1883 to GRICE and MOON. Exactly
what arrangements were made outside the court in Cambridge were not
recorded in the Taupo minute books.

We turn now from this illustrative case study of the TATUA block to the broader
perspective shown in map 5.2.

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40 Taupo minute book 1 p 217
41 ibid p 297
42 Taupo minute book 3 p 264
43 ibid p 264

79
44 ibid
45 ibid pp 267-270
The North Island Main Trunk Line

6.1 Introduction

During the late 1860s there was talk in government and settler circles of the benefits of a railway line through the centre of the North Island to connect Auckland and Wellington. The capital had been moved south from Auckland in 1865. By 1870 the concept of a North Island main trunk line was incorporated in Julius Vogel's vision of public works. A railway from Auckland to Wanganui via Taupo was envisaged, connecting with lines to New Plymouth and Napier and Wellington. During the early 1870s several small branch lines were constructed, mainly by private companies. A line south of Auckland to Drury was begun in the 1860s but serious construction work was not underway until 1874. By 1877 a railway line was complete from Auckland to Ngaruawahia, and by May 1880 was open as far as Te Awamutu. During 1877 attempts were made to divert the line to Pirongia (Alexandra) on the grounds that King Country Maori did their trade there. Te Awamutu owed its growth in the 1880s to the location of the railway line, while Pirongia remained a small "frontier" settlement.

The main obstacles to further progress of the main trunk line were seen as lack of finance, inadequate knowledge of the country to the south to establish the best route, and government failure to come to satisfactory terms with the Maori occupants of the King Country. Financial considerations were taken care of in the policy of immigration and loans for public works which Vogel vigorously pursued through the 1870s. There were already proposals for various alternative routes. A Waikato Times editorial summed up the settler concept of progress and development:

The truth is, the prosperity of the colony will continue to advance pari passu with the opening up of the country lands to profitable settlement. Without railways and without roads we cannot have profitable settlement. The Public Works scheme, so far as it has gone, has worked wonders in this respect. Railways have rendered land available for settlement, which, till they were constructed, were hopelessly shut out from a market, and the expenditure incurred upon them has given a real value to the lands of the colony, not a merely nominal value for sale as matter for future speculation, but value for present use, far greater than the cost of the works, and already bearing fruit in the over-flowing Treasury returns with which the Colonial Treasurer will shortly gladden the hearts of our legislators.

6.2 Proposed Routes in the 1870s

A review of options for extending a railway south from Auckland was contained in a report by the resident engineer, James Stewart, to the engineer-in-chief, Public Works Department dated 4 June 1872. He confirmed that the route from Mercer to Ngaruawahia should follow the right bank of the
Waikato river where it was subsequently built. From there several alternatives seemed possible:

From Ngaruawahia southwards, the route is necessarily determined in a great measure by the main question of the most suitable place at which to terminate. The frontier settlements are three in number, namely, Cambridge, Kihikihi, and Alexandra [Pirongia]. I understand by the term most suitable frontier, in the first place, the position most suitable for future extension into the interior, and in the second place, one that will serve well the wants of the present settlements by running the line to it.

I was very soon satisfied that if the line was taken to Alexandra, it could only be with the view of being hereafter extended over the frontier by way of Kihikihi and Orakau, as however inviting the valley of the Upper Waipa is for railway making — so far as excellence of soil, ease of construction, a certainty of carrying a great population in future, is concerned — the Rangitoto Ranges blending with those of the Upper Mokau, present a barrier against extension towards Taupo far too formidable to think of when easier routes are available. No doubt the immense district of good land lying between Alexandra and Kawhia will eventually want a railway, but it will be a branch and not the main trunk line of the Northern Island that will best serve it. If an available pass existed leading from the Upper Waipa Valley by the westward of the Rangitoto Range into the Taupo Plateau, it would be a question then between Alexandra and Kihikihi, requiring for its solution an examination of such pass, and in a general way the whole route lying through a country only recently allowed, in a passive sort of way, to be traversed by Europeans. But all whom I have consulted, and who have travelled the route, agree in declaring the country to be exceedingly mountainous and impracticable.

The route by Kihikihi means the old native track from Te Awamutu to Napier via Taupo, by which the overland mails were carried for many years, and it passes our frontier line at Orakau.

This track has not been lately used as a road to Taupo, but I am informed the country is good between the eastern side of Rangitoto and the Waikato; that the range of the mountain blends gradually with the central plateau, and presents no special difficulties. That the valley by Orakau to this plateau of Upper Waikato is generally favourable, is evident from the fact that hills of very moderate elevation on the banks of the river far above Maungatautari are visible at Alexandra. I examined the Native track beyond Orakau for some miles, and the country looks very favourable for the purpose in view.

The route to Taupo by Cambridge runs through the Maungatautari Gorge, keeping the proper right of the river; southward of the above range, by crossing the Waikato, the line might take the same country as by Orakau. I do not think the Cambridge route is likely to prove so easy in point of construction as that by Orakau, — speaking of extension to the interior, — and I believe it only remains to consider if questions of locality are likely to prove more favourable, and influence decision in favour of the former. And towards this, I am inclined to think that bad the question been between Cambridge and Alexandra alone, without reference to extension, the proximity of the latter to the large Native population, and its consequent strategical position, would, even if other things were not equal, point to it as the terminus of the railway. And it is clear that a line by Te Awamutu, Kihikihi, and Orakau, presents practically the same advantageous features, and on this head is preferable to a more easterly route.
The question of strictly local traffic is the only other point which presents itself in the comparison, and looking to the equally excellent quality of the land in all the frontier settlements, and the steady progress each is making in settled population, it is impossible to say that Cambridge in this respect possesses any advantages over a strictly central route. Considering, again, that Cambridge and Alexandra are each at the head of a navigable river, a central route between would afford more accommodation to the country than one alongside either river.

For the foregoing reasons, then, I believe some suitable position in the valley of the Mangahoi just below Kihikihi and about midway between Te Awamutu and Orakau, to be the most suitable place for a temporary terminus; the line to be hereafter extended across the frontier at Orakau.3

In 1873 the Engineer-in-Chief of the Public Works Department, John Carruthers, was directed to provide a report on alternative routes. His report, submitted on 30 June 1874 set out several options (map 6.1).4 Line A, the “Waikato Route” following the east-bank of the river to Taupo, had the “very great drawback” of having to cross the high elevation Rangipo area east of Ruapehu with steep gradients and risk of snowfalls blocking the line in winter. Carruthers commented on the alternative route west of Lake Taupo:

I had very little opportunity of forming an opinion as to the suitability of the country for making a railway through it; but I believe a shorter line (as shown dotted on the map) could be got by keeping to the west of Lake Taupo, which would have the advantage of easier gradients than the line we followed.5

All the alternatives to the Waikato route meant a line along the Waipa valley and into the King Country. Carruthers favoured the Mokau route to connect with an existing line to New Plymouth. He acknowledged some difficulties with the coastal route south of Mokau hut:

if the country on the West Coast were open for survey, a much better line would in all probability be found either by the Mokau River or by the level country supposed to exist between the Wanganui River and the Taranaki coast.6

No decision could be made on a route until more detailed surveys on the ground were made. It was rumoured that lands of better quality could be opened up in the King Country.7 An editorial in the New Zealand Herald 29 August 1879 expressed frustration:

Looking southward we are confronted by great difficulties. Beyond Te Awamutu lies a stretch of Maori territory reaching far into Wellington Province. Even if the Maoris were willing, Parliament would not consent to build a railway unless it was under some agreement by which the Crown was to acquire blocks of land.8

Kerry-Nicholls described the Pakeha attitudes to the King Country in the 1870s:

The New Zealand war concluded, or rather died out, in 1865, when the confiscated line was drawn, the military settlements formed, and the King natives isolated themselves from the Europeans. For ten years it may be said that no attempt was made to negotiate with them. They were not in a humour to be dealt with. About 1874 and 1875, however, it became evident that something would have to be done. The colony had greatly advanced in population, and a system of public works had been incorporated, which made it intolerable that large centres of population should be cut off from each other by vast spaces of country which
PROPOSED RAILWAY ROUTES 1874

Source: AJHR, 1874, E3

Map 6.1
Europeans were not allowed even to traverse. From time to time during the whole period the awkward position of affairs had been forced on public attention by outrages and breaches of the law occurring on the border, the perpetrators of which took secure refuge by fleeing to the protection of Tawhiao, who then — as now — defied the queen's authority within his dominions.9

Kerry-Nicholls went on to describe how Sir Donald McLean's "several important interviews with the Kingites ... bad considerable effect in promoting more friendly intercourse". Sir George Grey also attended "two large native meetings in the King Country in 1878 and opened up communication with the chiefs of the Kingites". Grey's offer to return some confiscated land west of the Waipa river was rejected by Tawhiao in April 1879 as being insufficient to meet Waikato grievances over confiscated lands.

An editorial in the Waikato Times set out a local settler perspective of the desirable route for the proposed railway:

Speaking generally, the opinion of people in this part of the colony inclines to favour the Mokau route, the reason being that a line taken thence would bring us directly into communication with Taranaki and the West Coast country, the produce of which would find an outlet through the port of Auckland. There are not, however, wanting advocates (indeed we are not sure that they are in the minority) of a line via Rotorua to join either the Napier system or that of Wanganui. The opponents to the first named of these routes urge, as against any advantage that might be derived from securing the trade of the West Coast, that the cost would be enormous — far exceeding the amount proposed to be raised by loan — and the greater bulk of the country through which it would pass is utterly valueless for the purposes of settlement. The first of these objections will not apply to the line eastward of Taupo, but the second will, and in a much higher degree. There is not, however, much to choose between broken barren country on the one hand, and a wide area of pumice on the other ... but looking at the matter from an Auckland standpoint, the traffic likely to be diverted hither is much greater via Mokau than by way of Taupo. Wanganui has set itself to untie the Gordian knot by proposing, by way of compromise ... this middle route.10

Without detailed exploration and survey, settlers could only speculate on the quality of land to be "opened up" by the proposed railway. The Waikato Times editorial supported the route up the Waipa valley through the Taumarunui and Waimarino districts to Wanganui, quoting a report by a Captain Blake:

The proposed line ... would make the most direct and nearest way from Wellington to Auckland and the Thames, presenting no serious engineering difficulties, would be easy of construction, and open up thoroughly good country of large and extensive area, fit for holdings of moderate acreage. It would form a work of great political importance, dealing with the most powerful tribes of the inland and King country .... Respecting the quality of land through which the railway would pass Capt. Blake describes the Puniu and Waipa Valleys and Upper Mokau country as good land principally of limestone formation. Between the Tangarakau and Ongaruhe the country is rich in coal, valuable timber forests, and good agricultural lands .... The Tubua country is as we all know, openly reported to be auriferous, though guarded as it is by the natives, it may be years before any reliable information concerning its wealth will be forthcoming.11

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Map 6.2
When Lawrence Cussen surveyed the Rohe Potae in 1884 he was more realistic about the quality of the country. He classified the land according to its potential for development and settlement (map 6.2):

The first-class land lies within the open country through which the Waipa and Mokau rivers with their tributaries flow. The area is about 390,000 acres, more than one half of which is good agricultural and the remainder good pastoral land.

The second-class is chiefly in the limestone country to the west of the Mokau and Mangapu rivers, and on the plateau which lies between the valleys of the Mokau and Ongarue. Its area is about 724,000 acres; the greater part of this is capable of being made good pastoral land, and here and there are small patches suitable for agricultural purposes.

The area of the land which I have called third-class is about 986,000 acres. It includes the high wooded ranges of Hurakia, Hauhangaroa, and Rangitoto, the rugged mountainous country on the West Coast between Kawhia Harbour and the Mokau River, and the pumice-plains in the valley of the Ongarue and on the west side of the Waikato River. Here and there throughout this large area might be found arable patches, and a great deal of it is capable of being converted into pastoral land; but in the present state of the farming industry throughout the country, and while better land can be had cheap in more accessible places, this will be valued more for its timber or the minerals it may possibly contain.

6.3 Railway Surveys

It is important to note that the railway surveys were separate from later land surveys, the major and minor triangulation of the King Country, and the dividing up of the land into blocks for the purpose of investigation by the Native Land Court. Pierre identified three stages in a survey for a railway line. The first is the “reconnaissance survey” for the best general route, which must be made over a considerable area. John Rochfort’s survey, for example, extended 20 miles (32 km) either side of the line eventually adopted. The second stage is the “preliminary survey” which reduces the area surveyed to “a band of routes giving detail to advance planning where the actual line shall be built”. The third stage is the “location survey” which uses data already gathered to determine on the ground the gradient and curvature of the rails:

Difficulties were encountered by the early railway surveyors because their reconnaissances were made before the areas to be penetrated by the railways were triangulated. Consequently prominent features of the terrain were not accurately mapped. It is to be kept in mind that there was no aerial survey possible at that time. Everything had to be done on the ground amid the forest trees.

The North Island Main Trunk Railway Loan Act 1882 had made provision for raising a loan of £1,000,000 to be spent on railway construction, including surveys and land acquisition. The preamble to the Act stated:

Whereas it is expedient that the construction of the Main Trunk Railway of the North Island should be proceeded with as soon as circumstances will permit: And whereas the obstacles in the way of carrying on the extension from Awamutu may be shortly removed, and it is expedient that money as required should be available for such construction....

In 1883 reconnaissance surveys were commissioned for four possible routes (map 6.3):
NORTH ISLAND MAIN TRUNK LINE
Routes Explored 1884
- Eastern Route (G.P. Williams)
- Central Route (J.Rochfort)
- Taranaki Routes (R.W.Holmes and M.Carkeek)
- Alternative Routes Explored by 1888
- - Railways Constructed by 1885

Source: AJHR 1884, Sess. L Ds: 1886, D1: 1885, D1

Map 6.3
Sketch Plan
of the
Eastern Route Railway Line
HASTINGS TO TE AWAMUTU
Explored by Mr. G.P. Williams, Minst:C.E.
Referred to in the Annual report of the
Engineer in Charge
NORTH ISLAND
for 1883-84

Sketch Plan of the
Central Route Railway Line
MARTON TO TE AWAMUTU
Explored by Mr. John Rochfort
Referred to in the Annual report of the
Engineer in Charge
NORTH ISLAND
for 1883-84

1. From Te Awamutu to Hastings via Taupo.
2. Two lines between Te Awamutu and Taranaki.
3. A central route from Te Awamutu to Marton or Fielding.

The survey parties carried a letter written in Maori on behalf of John Bryce, Native Minister, dated 15 September 1883, of which the following is the English version:

To the Chiefs of the Maori people
Friends, greeting to you where you are living on your lands. This is my word to you. Parliament and Government have agreed to make a railway through the country so that the fruits of the earth may pass to and fro. This will be of great advantage to both races, but especially to you whose lands will be particularly benefited. Therefore my earnest advice to you is to assist me in this great work. Men of knowledge are now searching out the country to find the most suitable line for a railway. The bearer of this letter Mr Williams is one of them. Let the chiefs of the people make his path smooth for him. If obstacles appear let them be quickly removed.15

The survey parties encountered some opposition but by November 1883 the upper Whanganui tribes had all agreed to allow the survey to proceed. Ngati Maniapoto had turned Rochfort's party back at Waimihia, early in December. Negotiations to allow the railway surveys to continue were included in discussions of land survey and investigation of title by the Native Land Court, as outlined in the next chapter. By 19 December 1883, agreement was reached with Ngati Maniapoto and the railway reconnaissance surveys were completed within the next few months.

The reports of all these reconnaissance surveys were placed before a parliamentary select committee of South Island members who reported in October 1884. The eastern route via Taupo was discarded as being too difficult (map 6.4). The central route (map 6.5) was chosen and parliament passed a Railways Authorization Act the same year which appropriated government funds for construction. On 15 April 1885 the first sod was ceremonially turned at the Te Awamutu railhead. At that time contracts were let for 15 miles (24 km) of construction south from Te Awamutu and 12 miles (19 km) north from Marton. The exact location of this central route was not yet finalised and representations were made from Taranaki interests to divert the line their way. Two further select committees considered these issues. One of these, the North Island Main Trunk Line Railway Committee reported to parliament in 1892:

Your Committee find that since 1884 the railway works have been extended from Te Awamutu southwards for a distance of about forty-eight miles, at a cost of £266,398, through land of inferior quality, which is still in the possession of the Natives, and upon which little or no settlement has taken place; and they desire to express their strong disapproval of any line or lines of railway being pushed forward through Native lands whilst the negotiations for purchase thereof are still pending ....

No consideration has been given to the route by way of Waitara to the Upper Mokau, or to that from Hastings by way of Taupo on the ground that both these routes have been previously condemned, either on the score of excessive cost, or of the poverty of the country to be traversed.16
The railway committee also noted "an easy route said to exist between Urenui and Taumarunui, which, if correct, would have much to commend it" as a link between Taranaki and the main trunk line. Among the recommendations of the committee were:

That further exploration and survey are necessary before the location of the North Island Trunk Railway can be determined.

That in the meantime no railway extension ... should be undertaken either at the northern or southern extremities of the two suggested routes until the land is first of all acquired from the Natives, and so far opened up by exploration and roads that judgement upon this question may be given with such a degree of certainty and force that it will be accepted as final.17

The final route of the North Island main trunk line was not resolved until 16 years later. By December 1903 the line reached south to Taumarunui and in 1908 the North Island main trunk line was officially opened.

The Taupo route had been rejected in 1884 on the grounds of the difficulty of making the connection over the eastern ranges from Hawkes Bay via the Mohaka valley to Taupo. Although the central route was chosen for the main trunk line, various alternative routes for branch lines were occasionally canvassed. During the 1880s an East Coast main trunk line was proposed to link Gisborne with Opotiki and the Bay of Plenty. Various options to connect this with the main trunk line included Rotorua, Tauranga and Taupo. In 1881 parliament passed the Thermal-Springs Districts Act 1881 which was intended to promote development of Rotorua as a tourist centre. A private company, the Thames Valley and Rotorua Railway Company, began construction of a line from Morrinsville to Lichfield, near Putaruru. In 1884, the government decided to buy the line and complete it to Rotorua, and after protracted negotiation a deed of purchase was signed on 15 May 1885. Because of the difficult terrain over the Mamaku plateau east of Putaruru, construction was not completed until 1894.

Whether it was still intended to construct a branch line to Taupo is not certain, but this may be the explanation of the Crown purchases of several Pouakani lands in 1892-93 under the North Island Main Trunk Railway Loan Application Act Amendment Act 1889. These blocks were Pouakani B7, B8, B10, B11, C3, D3 and D4 (deed nos 1809 and 1810) which were listed with a number of other blocks as coming under s5 of the 1889 Act.18 The purchase money was appropriated from the funds set aside under the North Island Main Trunk Railway Loan Act of 1886, which, in s4(4), allowed the funds to be raised by way of a loan for both construction costs and "the cost of acquiring Native or other Land". The Amendment Act of 1889 in s3(2) set aside the sum of £100,000 to "be applied in completing land purchases at present incomplete, and making further land purchases". This Amendment Act also retained the power of the governor to set aside at least five percent of such lands as educational endowments: "The remainder of such land so acquired or that may be acquired as aforesaid shall constitute an endowment for the purposes of the North Island Main Trunk Railway, and may from time to time be sold, leased, or otherwise alienated or disposed of" (s4(2)). The Crown had already re-established a right of pre-emption in west Taupo and the King Country in the Native Land Alienation Restriction Act 1884. The long title of this Act reads: "An Act temporarily to prevent Dealings in Native Land by Private Persons
The North Island Main Trunk Line

within a defined District of the North Island”. The definition included both the Aotearoa and Tauponuiatia sections of the Rohe Potae.

There were later attempts to revive a Taupo rail connection in the early twentieth century, but no connection with the North Island main trunk line was constructed. The Taupo Totara Timber Company did construct a logging railway from Putaruru to its mill established in 1900 at Mokai on the eastern part of the Pouakani block. The company negotiated separate arrangements with Maori owners of land involved in its operations. The Crown was not directly involved. However in the 1880s, a potential rail route to Taupo lay across the Pouakani block and was an important factor in Crown transactions on this block through the 1890s.

References
1. R S Fletcher Single Track, The Construction of the North Island Main Trunk Railway (Auckland 1978) p 68
2. Waikato Times 6 June 1878
3. AJHR 1872 D-5 pp 5-6
4. AJHR 1874 E-3 pp 58-60
5. ibid p 59
6. ibid
8. quoted in Fletcher 1978 p 107
10. Waikato Times 7 November 1882
11. ibid
12. AJHR 1885 C-1A p 21
14. ibid
15. National Archives MA Special Series 13/43
16. AJHR 1892 I-9 p 2
17. ibid
18. New Zealand Gazette 1894 pp 170-171
Chapter 7

The Rohe Potae

7.1 Introduction

During the 1870s there had been various attempts to persuade the Maori King Tawhiao and his supporters to allow European settlement and development in the King Country. Tawhiao and his Waikato people were living on Maniapoto lands and seeking the return of their Waikato confiscated lands. This matter is the subject of separate claims to the Waitangi Tribunal. Following a meeting with Tawhiao at Whatiwhatihoe in May 1882, the Native Minister, the Honourable John Bryce, shifted his attention toward negotiating directly with Ngati Maniapoto. Wahanui became the leading negotiator. The government native agent, G T Wilkinson who was based at Alexandra (Pirongia), described this change of tactics:

Tawhiao called upon Ngatimaniapoto (through Wahanui) to know what he should do in his extremity. The reply was not long in coming, and under the circumstances was what was to have been expected. It was in effect — as reference to reports will show — "No, not yet; we will hold out still longer;" and when we consider now that Ngatimaniapoto, really the power and backbone of kingism, have during the last few years been apparently ignored by Europeans, while Tawhiao, who was only their bead so long as they allowed him to be so, was being feted and extolled wherever he travelled within European territory, it cannot be wondered at, that Wahanui having thus the whole power and responsibility thrown suddenly and openly upon him, should take advantage of the situation in which he found himself placed. Although his speeches in reply to the Hon. The Native Minister had at that time an appearance of defiance about them, his action during subsequent negotiations has shown that he is really actuated by a desire for the future welfare and well-being of his people and their lands. He, curiously enough, entirely ignores Tawhiao, as King, having any right or claim over the Ngatimaniapoto lands; neither do they (the Ngatimaniapoto) propose to do anything in the way of providing land out of their large store for Tawhiao and his people ....

The government's principal object was to clear the way for the construction of the North Island main trunk line through Ngati Maniapoto territory. Bryce carefully explained that the railway surveys and the major triangulation surveys would not have any effect on their ownership of tribal lands or their right to decide on future management of land. In June 1883, Wilkinson commented on the continuing discussion about land among Ngati Maniapoto:

It is an all absorbing topic with them just now, and they have requested that all surveys and public works be postponed in their district until they shall have come to a decision amongst themselves as to the way in which they can best throw their lands open to the public with advantage to themselves. They have carefully noted the unsatisfactory way in which the Natives who are now attending the Cambridge Native Land Court are dispossessed of their lands, partly through expensive litigation, and
partly through the unsatisfactory system of land purchase now in vogue. They propose, after due deliberation amongst themselves as to the best way in which to dispose of their land, to petition Parliament to have a new Land Act passed, which will embody as far as possible the scheme they have to propose. Should this be found practicable, and effect be given to it, there will then be no objection on their part to the throwing open of their country for settlement. In fact, when the proper time arrives, I shall not be at all surprised if they are then as anxious for public works to be carried on over their lands as they have previously been opposed to them — but they wish the new state of affairs to be put on a proper basis first, and the opening of the country to follow. The principal drawback in the matter is the great delay in getting them to come to any decision among themselves as to what they really do want. They have amongst themselves so many individual opinions and ideas, they are so jealous of one another, and of investing their chiefs with too much power and authority over the lands as a whole, and, last, but not least, there are so many Europeans who consider they have a mission to counsel and instruct them as to what is the best thing to be done, and how to do it, that really it is not to be wondered at that they are bewildered, and cannot make up their minds quickly as to how they will act. As soon however, as they have decided what to do, and their petition is signed, it is the intention of Wahanui, or some one else representing the tribe to convey it in person to Wellington, and endeavour to bring about the desired results.2

On 26 June 1863, a petition of the Maniapoto, Raukawa, Tuwharetoa and Whanganui tribes was presented to the House of Representatives. The full text in English and Maori is reproduced in appendix 6. The principal complaint was the tendency of legislation enacted so far “to deprive us of the privileges secured to us by the second and third articles of the Treaty of Waitangi, which confirmed to us the exclusive and undisturbed possession of our lands.” The operation of the Native Land Court, particularly the Cambridge court, and the activities of Pakeha land speculators (nga whenua horo, land swallowsers), lawyers and land purchase agents, all claiming to act in the interests of Maori, had served only to separate Maori from their land. In short, they wanted a better system of administering their lands:

What possible benefit would we derive from roads, railways, and Land Courts, if they become the means of depriving us of our lands? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands.3

The petition was not intended to keep the lands “locked up from Europeans, or to prevent leasing, or roads being made therein”, but a plea for a more equitable system of land administration in which Maori had more control of their own affairs. Specific requests were made in the petition:

1. It is our wish that we may be relieved from the entanglements incidental to employing the Native Land Court to determine our titles to the land, also to prevent fraud, drunkenness, demoralization, and all other objectionable results attending sittings of the Land Court.

2. That Parliament will pass a law to secure our lands to us and our descendants for ever, making them absolutely inalienable by sale.

3. That we may ourselves be allowed to fix the boundaries of the four tribes before mentioned, the hapu boundaries in each tribe, and the proportionate claim of each individual within the boundaries set forth in this petition ....4
Northern Boundary in 1883 Petition (AJHR 1883, J1)
Boundary Surveyed by L. Cussen et al. (AJHR 1884, Sess. II, C1) and Native Lands Alienation Restriction Act 1884
Confiscation Boundary
Boundary in Survey Office Map 1885 (AJHR 1885, G9)
The lands intended to be included are shown in map 7.1. The boundary shown as "surveyed" by L Cussen and others was not surveyed on the ground but is derived from a plan published by the Survey Office, Wellington in September 1884, titled "Sketch Map of the 'King Country' based upon Trigonometrical and Topographical Survey by L Cussen, F H Edgecumbe and W C C Spencer." A different line is shown on the Survey Office map of 1885 which accompanied the published reports on the decision made by Ngati Maniapoto in December 1883 to allow a survey of their boundaries.

7.2 The King Country Survey

On 19 December 1883, the assistant surveyor general, Auckland, S Percy Smith, wrote from Kihikihi to the surveyor general, J McKerrow, in Wellington:

Meeting with Ngati Maniapoto just completed. Great deal of underhand opposition to Government surveyors undertaking survey of tribal claim, but Natives now all concur. Hope to commence next week. Triangulation will go on immediately. Have asked Humphries if he can spare a surveyor, to start from confiscation line, White Cliffs, to meet another who will commence in middle on upper branch, Wanganui, whilst Edgecumbe will start from Ruapehu. Final arrangement will be made after meeting you at Kawhia, for which place I start on Friday morning.

Letters were exchanged between Ngati Maniapoto leaders and the assistant surveyor general. These are reproduced in full as follows:

Kihikihi, 19th Tihema 1883.
Ki a Te Mete Tumuaki Kai-Ruri.

Kua whakaae matou ma to Kawanatanga e whakaoti pai nga rutitanga tikia o te robe porotaka o to matou poraka e taea ai te whakaputa mai te Karauna Karaati kia matou me o matou iwi me o matou hapu hoki, mo te utu kua whakariea mai nei e koe e kore e neke atu i te kohai mano i te ono rau pauna £1,600 hei utunga ma matou. Na ko ta matou kupu tautu tenei kaua rawa tenei whakaritenga e whakarereketia e tetahi atu tikanga, e tetahi atu Kawanatanga ranci a muri ake nei.

Wahanui
Taonui
Rewi Maniapoto
Ngahuru Te Rangikaiwhiria [sic]
Te Herekiekie
Te Pikikotuku

Kihikihi, 19th December 1883.
To Mr Smith, Chief Surveyor.

We consent that the Government should make an accurate survey of the external boundary of our block in order that a Crown grant may issue to us, our tribes, and our hapus for the price as arranged by you, namely, that the cost to us should not exceed £1,600. Now, this is our decided word: this agreement must not be altered by any other arrangement or by any future Government.

Wahanui
Taonui
Rewi Maniapoto
Ngahuru Te Rangikaiwhiria
Te Herekiekie
Te Pikikotuku
Awamutu, 19 Tihema, 1883

Ki a Wahanui, ki a Taonui, ki a Rewi Maniapoto.

Tena Koutou. Kua tae mai ta koutou pukapuka o tenei ra nei a whakahua ana i nga korero i whakataktoriora nei e tatou i te aroaro o te iwi. Tenei taku kupu whakahoki i tia koutou pukapuka, e whakaae ana te Kawanatanga ma nga kai ruri a te Kawanatanga e ruri i nga raina o te rohe potae o tia koutou porakoa kia o tia taea ai te puta o te Karauna Karaati ki a koutou ki o koutou iwi hoki, a e whakaae ana hoki kia kaua te moni ruri mo tenei mahi e neke ake i te kotahi mano i te ono rau pauna, ko te moni e whakahoki mai e koutou ki a te Kawanatanga kia kaua e neke ake i tenet £1,600 e whakaaetia ana tenei kupu he kupu tuturu kahore he tikanga ke atu a te Kawanatanga a tetahi atu Kawanatanga ki muri ake nei, ko nga kupu o tenei pukapuka e whai tikanga ana ki te rohe Porotaka anake.

Na Te Mete, Tumua Kairuri

Awamutu, 19th December, 1883.

To Wahanui, to Taonui, to Rewi Maniapoto.

Greeting to you all. Your letter of this day's date has been received, in which you state the arrangements made by us in the presence of the people. This is my word in reply to your letter: The Government consent that the Government surveyors should make an accurate survey of the lines of the external boundary of your block, in order that a Crown grant may issue to you and your tribes; it is also agreed that the survey shall not exceed £1,600; the amount for you to refund the Government will not exceed £1,600. And it is agreed to as a definite word that neither the Government nor any other Government can make any other arrangement in the future. The terms of this document apply to the external boundaries only.

J. P. Smith (Te Mete), Chief Surveyor.

Wilkinson commented on the impact of the December 1883 decision by Ngati Maniapoto to apply for a survey:

At present their minds are too much taken up with the much larger questions of their recent secession from the King party, and their present action in surveying the large block of land which they claim to own in their own right, and their determination to put it through the Court as soon as the surveys are completed. As this action of theirs has met with the disapproval not only of Tawhiao and his supporters, but also of certain other tribes who claim an ownership within the block, it requires all the care and attention that their leading men can give to the matter to enable them to bring about what they want, without incurring any serious difficulty between themselves and other tribes.

In the same report Wilkinson reviewed the events of the past year, including an account of the meetings which led up to the decision to request a survey. The Ngati Hikairo tribe, who claimed ownership of land north of Kawhia harbour inland to Pirongia mountain, had already made a separate application to the Native Land Court for survey and investigation of title. The lands south of the Mokau river to Parininihi (White Cliffs), on the northern boundary of the Taranaki confiscated lands, had already been investigated by the Native Land Court sitting at Waitara in 1882, and awarded to a section of Ngati Maniapoto living at Mokau. The Ngati Maniapoto leaders, Wahanui, Taonui
and Rewi Maniapoto, had been considering whether to make further application to the court:

At a large public meeting which the Hon. Native Minister subsequently had with them in November last (1883), at which nearly all the Ngatimaniapoto chiefs and representative men were present, it was unanimously agreed that they also should send in an application to the Court for the investigation of their claim to the large area of country extending from Aotea (Harbour), on the West Coast, to Maungatautari (nearly) on the East; thence to Lake Taupo; thence to the summit of Ruapehu Mountain; thence to the sea, coming out on the West Coast at a creek known as Waipingao; and thence along the coastline to the point of commencement at Aotea. The area of this block is something like 3,500,000 acres, the whole of which it is proposed to put through the Native Land Court as soon as the survey of same is complete. This large block, however, does not wholly belong to Ngatimaniapoto. They admit that the Whanganui, Ngatiraukawa and Ngatituwharetoa have claims to portions of it and representatives from each of these tribes were present at the meeting and signed the application to Court as representing their people ....

Subsequently another meeting was held by these Natives with Mr Percy Smith, Assistant Surveyor-General, at which it was agreed that the survey should be proceeded with at once by the Government, with the sanction of all the tribes represented by the applicants, and that the cost of such a survey — unless opposed and consequently prolonged by Native obstruction — should not exceed £1,600. (I might here mention that previous to this some of the Natives had commenced negotiations with private parties for this survey, which, had they been completed, would have cost them more than £20,000).

It was also decided that, in conjunction with this survey of the boundaries of the large block, the Government trig. survey was also to be carried on, as well as the prospecting surveys for the main trunk railway-line (which were already in progress), and within one month from that date all those surveys were in full swing. The Natives, however, made a proviso that no prospecting for gold should be allowed until the land had passed the Court.10

Wilkinson reported in May 1884 on “public works” under way in the King Country, the railway survey to explore suitable routes, the trigonometrical survey and construction of a road from Kawhia to the Waipa valley:

The first of these works has been in progress for some months past; different parties of surveyors have been engaged all of whom have been working in different localities. They have all been able to carry on their work not only without any obstruction by Natives, but in some cases with their cooperation. The Kawhia Alexandra [Pirongia] Road has been commenced during the past year ....

The trig. survey has been the only one that has suffered in any way from Native obstruction, and that only to a slight extent; most of the destruction that has taken place having arisen either from a mistaken notion as to what the work meant or an idea, which is quite common amongst Natives, that to call attention to one’s self by pulling down a trig. station, and thus causing temporary trouble, is a preliminary way of demonstrating their ownership of the land on which the station was erected, and thereby contributing a sort of prima facie case, to which they would not fail to make reference when the land came to be adjudicated upon by the Native Land Court. Such being the case, these slight delays, although vexatious, have been passed over without the law having been called in
to punish offenders. All the stations that were pulled down ... have been
re-erected, and action of that kind on the part of the Natives has now
cessated.11

In his 1884 report, the government native agent summed up the government
perspective on the meetings which led to the decision to allow survey, construc-
tion of the railway line, and eventual "opening up" of the King Country:

It is, I think, almost impossible to over-estimate the value of the results
brought about by these meetings, when we take into consideration the
fact that only a short time ago these Natives who are now agreeable to
surveys, by whatever name or in whatever shape or form, and who are
now anxious to substitute their rude and undefined Native title for that
of a legal one, issued under the authority of the Crown, are the self same
Natives who for the last twenty-five years have not only been bitterly
opposed to anything of the sort, but have also during that time resolutely
closed their country against all progress and civilization. I think it must
undoubtedly be a matter for congratulation to everyone when we con-
sider that not only have the feelings of the Natives of that large district
changed from those of sullenness and distrust to those of friendliness
towards us as a race, but also because a large area of country which has
been locked up for such a number of years will now be thrown open for
settlement.12

Wilkinson also noted that the agreement was fragile and should not be allowed
to be upset by unruly Europeans. He also expressed the hope that Maori would
benefit from the progress of settlement, but ventured some misgivings based
on past experience:

I think it is a pity that Europeans should attempt just yet to prospect for
gold in those districts [Tuhua ranges]. In the first place they are breaking
the law by going there for that purpose, and in the second place the
Natives do not want them there, and would rather they would keep away
until matters that are of more importance to them are settled. Not only
that, but the very fact of their going there in the surreptitious way in
which they are doing is really delaying the opening-up of the country,
and making the Natives suspicious, as they think we want to take an
advantage of them. I think we cannot be too careful of the way in which
we treat the Natives just now. They are at present all-absorbed with this
new policy, which they have lately started, of surveying and putting their
lands through the Court. The whole thing is quite a new experience to
them, and their opinions as to the probable result are very diversified,
some seeing in it elements of downfall for the Maori people, whilst others
again claim that it will be for their benefit. Time will show which of these
opinions is correct; but I think that we, as Europeans, ought not to lose
sight of the fact that as it is mostly through our exhortations, and the
pressure that we are bringing to bear upon them, that this result is being
brought about, so shall we be to a great extent responsible if, by bad
management, bad laws, a bad example, the Natives as a race are allowed
to suffer by what is now being done through our agency and at our
express desire. That we as Europeans will benefit by having so much new
country thrown open, and our public works allowed to proceed without
hindrance, there can be, I think, no doubt; whether or not the Natives
will equally benefit remains yet to be seen. Similar cases in former times
have shown us that, where we have been gainers, they have been losers:
where we have benefitted and advanced in the social scale, they have
suffered and degenerated; what has resulted in success to us, has brought
ruin on them. This surely ought not to be the case; and, with this new
country, and, to a great extent, new people that are about to be given
into our hands to manage and manipulate (so to speak), it behoves us, I
think, to take special care that not only we, but they also, shall be
benefitted by the change.\textsuperscript{13}

During 1885, Wilkinson made arrangements with the Kawhia Native Commit-
tee, chaired by John Ormsby, to allow prospecting on certain conditions.
Twelve “bona fide and qualified prospectors” were recruited with the assis-
tance of the warden of the Thames goldfield, and sent, in six parties of two
each, to explore the King Country for mineral resources in January 1886:

I regret, however, to have to say that all efforts so far to find payable
gold have proved unsuccessful. Some of the parties, after working two
or three months without success, bave given it up and returned to their
homes .... Some of the other parties were a little more successful, as in
one or two cases they did get the “colour” here and there, but nothing to
warrant their remaining in the district. There are, however, a party of
Wanganui prospectors who have been prospecting in the Tuhua district
for some months, and they say the prospects they have met with are such
as to warrant their continuing the search.\textsuperscript{14}

Horace Baker, chief surveyor, Auckland, reported on the progress of the King
Country survey in 1884:

At the Native meeting held at Kihikihi in December last ... arrangements
were completed for the survey of the external boundaries of the Aotea
block, comprising the greater part of the so-called King Country, and
early in January Mr F.H. Edgcumbe and Mr W.C. Spencer proceeded to
undertake the work. The former started from the Whanganui River
near the 39th parallel, and ran the line south-easterly till he connected
on to surveys lying immediately at the west base of Ruapehu; whilst the
latter starting from the same place on the Whanganui, worked westwards
until he effected a junction with the confiscation line east of the White
Cliffs, which had been defined by Mr Skeet, of the Taranaki staff. Mr
Edgcumbe bad a good deal of trouble with some of the Natives on more
than one occasion, but effected the purpose for which he was sent.\textsuperscript{15}

Meanwhile, Lawrence Cussen was completing the triangulation of the King
Country and Spencer moved north to survey the boundaries north of Kawhia
to Pirongia and the Waikato confiscation line:

On the completion of this, and Mr Skeet’s work at Mokau, a plan can
be made to enable the Court to deal with this large block which is roughly
estimated to contain 3,200,000 acres.\textsuperscript{16}

Lawrence Cussen began his triangulation of the Aotea block in December
1883, setting up 43 trigonometrical stations, of which 17 were in the bush:

The bush work was very heavy and expensive. Seven stations were
cleared by the Natives by contract at reasonable prices, which was a great
advantage in expediting the work, and in preventing opposition from
other Natives who might endeavour to stop Europeans.\textsuperscript{17}

At the beginning of April 1884, William Cussen began work on triangulation
west of Lake Taupo:

He has covered the country west of the lake, and the downs on the west
of Waikato River, comprising an area of nearly 500,000 acres, with a
minor triangulation of four to six mile sides.\textsuperscript{18}

It is clear from these reports that what the Survey Office thought had been
agreed on 19 December 1883 was not universally accepted among the tribes.
The surveys described the boundary of the Aotea block, often referred to as
the tribal lands of Ngati Maniapoto. The triangulation work proceeded over
the whole of the Rohe Potae. Lawrence Cussen reported on some of the difficulties he encountered, under the heading of "Native Opposition" in his 1884 report:

It was not to be expected that such a work as the triangulation of the King country would be carried on without meeting some opposition from the Natives, and, although the delays from this cause were considerable, and cost £250 or more, they were not so serious as might be expected considering the magnitude of the work, and certainly not more than I have met with in triangulating Native country for years past. The obstructionists might be divided into three classes: Those who obstructed to show their claim to the land and to protest against any one else authorizing the survey over it, and who were jealous of the chiefs: these were not many and gave us but little trouble. Secondly, the remnants of Tawhiao’s followers, who opposed us to show their loyalty to the cause of the King: their opposition was feeble and half-hearted, and was only by way of a protest against the work; they would order us back and threaten to destroy the trig. stations; they did pull down two stations, but on our replacing them they have not again been disturbed. The third class were the most numerous, the most troublesome and difficult to deal with: they are those who, from various causes, are distrustful of the objects of the trig. survey, and the ultimate intentions of the Government with regard to their land, or who desire to have their land surveyed otherwise. The chief actors are men who mix a good deal with Europeans attending Land Courts, &c. and who are land-sellers. On beginning the trig. work I got letters from Rewi Maniapoto, Wahanui, Taonui, and Hitere [sic] te Paerata to their people. The first case of obstruction occurred at Kakapuku [sic], close to Kihikihi, where the trig. station was destroyed by Pahe and his people, a small hapu of the Ngatimaniapoto’s called Ngatingawairoa. Their object was partly to assert their claim to the land and partly to uphold Tawhiao’s authority. This station was twice pulled down by the same hapu, though not by the same men; but finally they gave way and allowed the station to remain there. I saw that we would probably meet with frequent interruptions in this neighbourhood and in the Wharepapa district, where it was said the Ngatihauas and Ngatiraukaua [sic] would show determined opposition. There was also a rumour that twenty armed men of the Ngatiraukaua were waiting at the Rangitoto Ranges to stop us. In consequence of these rumours, and in order to avoid the probability of having recourse to law to punish the obstructionists, which, by rendering the action of the chiefs unpopular, might weaken their influence and lead to further delays, I took the liberty of suggesting that we should begin the work at Taupo, and by working northwards, have the greater part of the country surveyed when we reached the part where the opposition was strongest. We therefore removed to Taupo, with your concurrence, arriving there on the 21st March. I met Te Heuheu, Matauhu, and about thirty others — Ngatituwharetoas — at Waahi on my arrival; they refused to allow the work to go on because they said they had not been communicated with by the Government beforehand. Unfortunately they had not received the letters which the Hon. Mr. Bryce had written to them, and which were lying at the post office at Tapuaeharuru under cover to me. Neither had your letter to Te Heuheu and the others come to hand. However, when Te Heuheu and his people received these letters they were quite satisfied and allowed us to go on with the survey. There were a few other men in the South Taupo districts who were objecting but Te Heuheu and Matauhu used their influence with these and they waived their objections. On reaching the Tuhua district we were met with a more serious and troublesome opposition. The Natives said they were told Govern-
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ment would take large areas of land from them to pay for the trig, survey; that the maps would be used to investigate the titles to the land; taxation would follow, and Government would "lock up" their lands until they could secure it all for themselves; that the big chiefs were managing everything. A Committee was formed in Tuhua to manage local matters. They decided to prevent us from putting any more stations on their land; they would allow none of their people to accompany me or assist in any way, and no information such as names of rivers, hills, &c. was to be afforded us. Kingi te Herekeikei [sic] of the Ngatiwharetoa, was with the Tuhua Natives, and advised this course. He and Te Hiaha who was chairman of the Committee, had just returned from Kihikihi. I wrote to Wahanui and Taonui, informing them of the state of affairs. Wahanui came himself to Tuhua and met the Natives. He succeeded in arranging matters, and the work was allowed to go on again, after a fortnight's delay. The next place we met with any serious obstruction was at Wharepuhanga [sic], in the Wharepapa district about thirty miles from Kihikihi. I sent a party to put up a station there, and they were met by sixteen of the Ngatiraukaua, who were camped on the ground to obstruct the survey; they ordered my party off at once. I then went on to Wharepuhanga with sixteen men, including five Natives who were interested in the land. We were accompanied by Te Paihua and Kapu te Kohika, from Taupo. I met the Natives at Wharepuhanga on the 3rd of June. They said they were sent there by Whiti Patato to stop us; if we refused to go off they were to tear up our tents and bring us off the ground. I refused to leave and after some talking they asked me to wait for two days to give them time to telegraph to the Government. I consented to do so, lest there might be trouble between my party and the Natives. The Maoris who were with me were prepared to resist if the obstructionists attempted to take our tents. The Natives informed me that Rewi and Hitire had written to the tribes telling them to stop the survey. I got two of these letters, which I forwarded to you. I met the Ngatiraukaua subsequently at Kihikihi: Rewi and Hitire were present. Rewi denied all knowledge of the letter bearing his name, and stated at the meeting that "the survey was his work: he had given his consent to Mr Bryce, and be would see that the work went on." Hitire admitted having signed Rewi's name without his knowledge, and that he had got the letter written entirely on his own responsibility, his reason being that, "as the Government intended to lock up their land under the pre-emption right, he wished all surveys to cease until the intentions of the Government were made known to the Maoris." He used Rewi's name to secure the cooperation of his people in stopping us. The result of the meeting was that the opposition was removed and the survey is now going on again, some of those who obstructed assisting in the work. Wahanui and Taonui have consistently helped on the work throughout. Taonui himself accompanied me to Te Kuiti, and there appointed men to take us over the Tuhua country. He told me to send for him at any time he could be of service to us. I might also mention that Mr Robert Ormsby, brother to Mr John Ormsby, of the Native Committee, who was attached to my survey party, has rendered me a good deal of assistance with the Natives.19

7.3 The "Aotea Agreement"

We have outlined events and quoted at length from reports of negotiations between representatives of the government and Ngati Maniapoto and other tribes leading to the decision of 19 December 1883 to allow a survey of the boundaries of the Robe Potae. During submissions to the tribunal there were frequent references to the "Aotea Agreement". We understood this term to
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refer to the exchange of letters on 19 December 1883 which was an agreement “that the Government surveyors should make an accurate [sic] survey of the lines of the extended boundary of your block, in order that a Crown grant may issue to you and your tribes”.20 This could be interpreted as a single Crown grant but, equally, it is implied that more than one tribe was involved and it could be inferred that each tribe would get its own Crown grant. The language is equally vague in both Maori and English versions of the letter from S P Smith, assistant surveyor general. There is no mention of the Native Land Court in the letters, but it would be well known that a Crown grant would only be issued after the title was investigated by the Native Land Court.

In January 1884, Hitiri Paerata, Makereti Kerehi (Grace) and Rangituatea wrote to Mr Bryce, Native Minister, on behalf of “Ngati te Kohera Hapu o Ngati Raukawa” asking whether:

we can apply to the Chief Judge of the Native Land Court to define the boundary between us and the Ngatimaniapoto. Our lands extend from Te Wharepuhunga to Titirauapenga, thence to Hurakia, Tuhua and Taupo.21

In June 1884, government native agent G T Wilkinson commented on the recent “obstruction” of surveys, stating that the cause appeared to be:

jealousy and fear of Wahanui getting more right to their lands than he is entitled to through having the name of putting these surveys through the country. I also think that having in a Maori way shown their ownership by obstructions, they will now desist and Mr Cussen could go on with his work.22

In a letter dated 26 May 1885 Te Papanui Tamihiki and Maika Te Keepa wrote to the Native Minister, Mr Ballance, withdrawing the lands of their hapu, including Pouakani, from the Rohe Potae: “We say that our district is for us alone to administer. We do not approve of any one man administering our land”.23

Wahanui, it seems, did not seek personal control over these other tribal lands. He simply tried to define a boundary of territory within which the Native Land Court would not operate, as this letter to Bryce, written in Wellington and dated 26 September 1884, made clear:

I am anxious to be quite clear as to your views. In order that there may be no misapprehension in the future will you please write to me before I leave here informing me of your intentions in the matter of the request I made to you that the Native Land Court should not deal with any lands within the exterior boundary of the territory owned by me and my four tribes so that we may have time to frame a law satisfactory to both races and to secure the repeal of the bad laws that are now in force.24

Wahanui and other leaders sought arrangements for dealing with their lands which gave them more control of the process. But tribal leaders were suspicious of “Wahanui’s line”. Te Heuheu and 21 others signed a letter to the Prime Minister dated 15 September 1884:

He kupu atu tenei na matou kia koe mo te Rohe Potae a Wahanui e takoto nei i runga o matou whenua i o tenei iwi o Ngati Tuwharetoa. Kanre matou e pai ki taana Robe Potae, no Ngati Maniapoto ke hoki ia me hokiutu taana rohe ki runga ki ona wahi.

We address you with reference to Wahanui’s external boundary which has been carried over the land belonging to us the Ngatituwharetoa tribe.
We object to his external boundary line for he is a Ngatimaniapoto and his boundary line should be taken back into his own land.\(^{25}\)

The Whanganui tribes had written a letter in a similar vein in April 1884, informing Mr Bryce, the Native Minister:

that we repudiate the tribal boundary made by Wahanui and Manga [Rewi Maniapoto] which runs through our tribal lands. We have a large area of land within that boundary, and as we were not informed that Wahanui and Manga intended to survey the exterior boundary, we the hapus of Whanganui interested in lands within those boundaries withdraw our lands from the survey made by Wahanui and Manga so that they may remain under the same authority and management as other Whanganui lands.\(^{26}\)

The letter was signed by Toakohuru Tawhirimatea and 101 others.

We make no further comment on these letters. We quote them to indicate that as early as January 1884 there were varying interpretations of the so-called “Aotea Agreement”. These are matters which will be before the tribunal investigating other claims in the Rohe Potae (Wai 48 etc). We also note here that the National Archives file containing these letters and other correspondence 1883-1885 relating to the opening up of the King Country was not presented in evidence at the Pouakani hearings. However, Lands and Survey file 2413, from which we quote extensively in later chapters, deals with surveys of Tauponuiatia block from 1887 on, and these papers were produced in the evidence of Mr Alexander and Mr Cox.

What was actually surveyed for the above-mentioned £1600 agreed in December 1883 was the Aotea block (map 7.2). Although the term Rohe Potae was used to describe all the lands of the “King Country” including west Taupo, the Aotea block survey was intended to encompass Ngati Maniapoto lands only. Papers in Lands and Survey file 2413 indicate that of the £1600 agreed for payment of the survey, £554 was allocated proportionally as charges on adjacent blocks east of a boundary from the Whanganui river upstream of Taumarunui to Pouakani block, in the lands which became known as Tauponuiatia block. This is explained further in chapter 12.

Wahanui outlined the “compact” that he and other Ngati Maniapoto leaders had made with the previous Native Minister, the Honourable John Bryce, in 1882, in a speech during a hui at Kihikihi on 4 February 1885, attended by the then current Native Minister, the Honourable John Ballance:

I am going to speak upon the matters about which I was sent by the people to Wellington. One was one of the policies which we, the Manris, had initiated, and which referred to the people and the land. It was fully understood that there was nobody who would interfere or complain of what was done within the boundaries of the land that we had marked out. After we had arranged this policy — when it was settled that we were to hold on to the land, and that we were to preserve the land and the people, and to keep the tikanga — this was universally agreed to by the majority of the people at that time. After we had got this policy finally settled, then we were to fight with, or negotiate with, the Government with regard to matters within the district. After that the fighting took place .... The policy was then broken up, and the men divided, and the land was separated .... but we do not charge the Europeans with bringing this about. The Europeans assisted the Maoris, but the Maoris themselves were to blame. Everybody was more or less wounded (tainted) with the system up to the time of Mr Bryce. When Mr Bryce took office he
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CONFISCATED LAND
AOTEA BLOCK (ML 5851/1-4)
MOKAU-MOHAKATINO BLOCK
MAIN TRUNK RAILWAY
ROHE POTAE 1884

CROWN PURCHASES
1. Taumatamaire Block
2. Awakino Block
3. Mokau Block
4. Rauroa Block
5. Harihari Block

Map 7.2
made a compact with me, which was signed, that a search for the railway was to be made, and, if a suitable line were found, he was to return and let me know. There were five of the Ngatimaniapoto present when this contract was made, but they are not here now. I spoke to the five who were there, and I said, "How shall we do in the absence of the majority of the people?" They said, "It cannot be helped, we must act for them as they are not here." They said, "We will agree to what Mr Bryce asks." It was then agreed, on the understanding that it was only to be an investigation to find out the best route for the railway, and after it was found they were to return and let the Maoris know before doing anything else. I then said to Mr Bryce, "What you wish for has been agreed to; now I want you to agree to my request." Mr Bryce asked me, "What do you want?" I then said, "I am going to send a petition to the House, and I want you and your Cabinet to back it up." I went on with the petition at once, but you know yourselves what it is. We were not consulted with regard to the erection of trig. stations; the consequence of this was that the Maoris got unsettled seeing what was being done, as one brother could not advise the other or tell the other anything about it, and I was sent to Wellington by the people. When I got to Wellington I spoke to Mr Ballance, and he will remember what I said to him: (1.) With regard to the external boundary-line; (2.) To leave us to sanction the making of the railway line; (3.) That the gold should not be worked by Europeans without our authority; (4.) With regard to giving power to the Maori Committees to conduct matters for the Maori people; (5.) That no liquor licenses should be granted within certain boundaries; (6.) That the Native Land Court should not try any of our lands without our first sanctioning it, and that the Europeans should refrain from interfering with the Maniri lands, but leave the Natives to manage them themselves.

There are many aspects of government negotiations with Ngati Maniapoto and the nature of the "Maniapoto compact" with the Crown which are beyond the scope of this report. The issue relevant to the Pouakani claim is the matter of survey of the Aotea block, and in particular the boundary between Aotea and Tauponuiatia West block, a subdivision of Tauponuiatia lands of Ngati Tuwharetoa. This will be addressed in following chapters.

7.4 Ngati Maniapoto and the Native Land Court

Before December 1883 portions of the Rohe Potae had been either alienated directly to the Crown, or dealt with by the Native Land Court (map 7.2). During the period 1854-1857 Sir Donald McLean had negotiated the purchase of several blocks north of the Mokau river. These four blocks, usually referred to as the Awakino purchases, were surveyed by E S Brookes, F Duthee and W H Skinner 1883-1884. Skinner had previously done a survey of Mokau Mohakatino block in 1879-1880. The Native Land Court, sitting at Waitara in June 1882, investigated the titles to the Mohakatino Parininihi and Mokau Mohakatino blocks on the coast between the Mokau river and the Taranaki confiscation boundary at Parininihi, and two other blocks inland of the confiscation line. In 1878 Joshua Jones had negotiated a 56 year lease of the Mokau Mohakatino block, which was confirmed by the Waitara court, including rights to mine coal. There was a good deal of subsequent controversy over this lease which need not concern us here. The point is that some Ngati Maniapoto had already indicated willingness to have their lands investigated by the Native Land Court.
The first case heard by Chief Judge Fenton and Judge Monro in the Waitara court in June 1882 was the Mohakatino Parininihi block. The following extracts from the minutes of this investigation indicate the way in which the court dealt with this first Ngati Maniapoto application:

The Court stated that this was the first Court held at Waitara and as most present would not be acquainted with the mode of procedures it must be understood that the whole conduct of the case must be left for the kai-whakahaere. Witnesses must not interfere. Everyone would have an opportunity of appearing, but if anyone wasted the time of the Court frivolously, he would be liable to pay costs. The better the behaviour of the natives the better the Court would get on.\(^{31}\)

Wetere Te Rerenga appeared for the claimants who were all Ngati Maniapoto resident at Mokau, and 15 people were named as being present in court. Mr Richmond, a New Plymouth lawyer, appeared for the counter-claimants, Ngati Tama, and stated “some of his clients were with Te Whiti [at Parihaka] and some lived on the land claimed. Poutama a block to be heard at New Plymouth was part of Mohakatino Block”. Wetere wanted his claims on Mokau Mohakatino block to be heard first “but wished the Court adjourned till Monday pending the arrival of Tawhiao’s people”. There were no objections:

Wetere said these [lands] all belong to Ngatimaniapoto. Their hapus in the first claim [Mohakatino-Parininihi] are Waikorara, Rakei, Ngatihinerua and Ngatitu. They all have a claim over the whole block. The land we claim lies between the river and the confiscation line. We claim through ancestry and by conquest from Ngati Tama. I know nothing about counter claimants. I have never disputed with Govt, about this land. Mr Grace will appear for us the Ngatimaniapoto, by permission of the Court.\(^{32}\)

This permission was deferred until the next sitting on 6 June when W H Grace “handed in Statutory Decl.” and was allowed to appear:

Mr Booth R.M. of Whanganui said he appeared on behalf of the Govt and was simply to watch the case. He was not aware that Govt had any claim over the block.

Mr Richmond appeared for the Ngatitama and gave as his credentials an appointment by Mr Brown who held power of attorney from the natives. Credentials accepted.

Adjournment agreed to not because of the non-arrival of the King natives, but because this was the first Court held at Waitara and the natives were not acquainted with the mode of procedure. But this adjournment must not be made a precedent.\(^{33}\)

When the court resumed, W H Grace as kaiwhakahaere, the conductor of the case for Ngati Maniapoto, pointed out the boundaries of the land and called his first witness, Taniora Wharau, who claimed on the basis of conquest and occupation, “The land formerly belonged to Ngatitama; we conquered them six generations ago. N’tama fled to Kapiti, Poneke, Arapawa, Chatham Is”. Some had returned, “about 4 years ago; we said come and live under the mana of Ngatimaniapoto ... they came to join the King Movement”. Richmond’s clients claimed by ancestry, and said Ngatimaniapoto did not occupy following conquest. Secondly:

Te Wherowhero [the first Maori King] ceded his rights to H.M. [the Queen] during the Waikato War; 3rd my clients came hack to the land
in 1848 by invitation of Ngatimaniapoto, it being understood that they were resuming possession of their ancestral lands. Richmond also referred to the New Zealand Company who gave Te Wherowhero £400 to waive his rights by conquest when land was purchased for their settlement at New Plymouth.

There was a great deal of other evidence given, including that of Rewi Maniapoto. The judgment on the Mohakatino Parininihi block given on 20 June 1882 distinguished the rights of Rewi Maniapoto and the northern section of Ngati Maniapoto from those of the Mokau section in relation to Ngati Tama claims that Rewi had invited them to return:

However, there was one great flaw in the proceedings. The land was not Rewi's to give. After the conquest, Waikato and Northern section of Ngatimaniapoto returned home and took no steps to occupy the vacated country. Takerei and his people took possession and retained it, and the land became theirs as already decided. That Rewi would have an inferior interest as a chief of the tribe assisting in the conquest is doubtless true; but it is an interest altogether of a secondary character, and by no means enabling him to dispose of the land without the consent of the resident possessors, much less in opposition to their wishes.

On this basis the block was awarded to the southern hapu of Ngati Maniapoto of the lower Mokau on the basis of occupation in 1840. Chief Judge Fenton had already disposed of any right of Tawhiao to allocate land in his interlocutory judgement on 15 June 1882. In respect of “desultory attempts at cultivation and occupation” by Ngati Tama from 1848 onwards:

Whether they were made under the auspices of Tawhiao, chief of Ngatimahuta, who is sometimes called the Maori King, does not appear; and if it were shown that they were made under such sanction, that authority would be of no avail in this Court; for we do not recognise in Tawhiao or any other man the right to dispose of another man's property.

By the 1880s it was the well-established practice of the Native Land Court in investigation of title to include only those individuals who could demonstrate actual occupation of the land in 1840, at the time the Treaty of Waitangi was signed and British law was extended over New Zealand. The effect of the process of individualising Maori title to land, which began with the Native Lands Acts 1862 and 1865, was to undermine the power of chiefs and tribal organisation generally. While Wahanui and other leaders may have hoped to achieve some unity and order in the process of allowing European penetration of the King Country, there does not seem to be any evidence that government saw the exchange of letters on 19 December 1883 as anything more than success in persuading Ngati Maniapoto to allow a boundary survey which would be the first stage in the inexorable process of translating the “Native title” into one recognised in British law through the due procedures of the Native Land Court. The “Aotearoa Agreement” must be seen in the total context of negotiations, beginning with agreements to allow railway surveys and major triangulation, the 1883 petition, agreement to a boundary survey and ultimately the Native Land Court, subdivision, survey and land purchase. On 22 June 1886 the Native Land Court began the investigation of the title to the “Rohepotae Block”, meaning the Aotearoa block. The plan ML5851/1-4 was produced before the court in Otorohanga on 28 July 1886 (appendix 12).
7.5 Legislation for the Rohe Potae

Government followed up the 1883 petition with some legislation intended to meet the requests of the four tribes. The Native Committees Act 1883 was passed on 8 September 1883, and provided for election of committees in "Native districts" proclaimed for the purpose of the Act. Much of the Act deals with procedures for election and running meetings. Under s11:

The Committee may sit as a Court of arbitration and make awards in any case of dispute between Natives usually resident in the district, where the cause of dispute has arisen within the district and the matter does not exceed twenty pounds in value.

In s14 the committees were given power to investigate matters relating to title to the land and report to the Native Land Court:

In any of the following cases:

(1.) Where it is desired to ascertain the names of the owners of any block of land being or to be passed through the Native Land Court; or

(2.) Where it is desired to ascertain the successors of any deceased Native owner; or

(3.) Where disputes have arisen as to the location of the boundary between lands claimed by Natives,

the Committee may make such inquiries as it shall think fit, and may report their decision thereon, certified in writing in the Maori language under the hand of the Chairman of the Committee, to the Chief Judge of the said Court for the information of the Court.

Among Ngati Maniapoto the Kawhia Native Committee, chaired by John Ormsby, was very active from 1884 onwards. However, it is also fair comment that this Act did not provide any real measure of self determination for the tribes:

But whereas the Maori sought local committees at hapu level, and ... eagerly set them up in anticipation, Bryce had in mind only seven or eight committees for the whole North Island. All the Bay of Plenty and Rotorua tribes were, for instance, to be included in one district. Consequently committee activity throughout most of the 1880s consisted largely of squabbling between tribal groups for control of the committee elections and requests for more committees representative of smaller units. Probably the most active committee was the Kawhia committee, representing many of the Ngatimaniapoto and chaired by the extremely able part-Maori John Ormsby, which assisted in negotiating terms for the opening of the King Country with Bryce's successor. Other committees, such as that on the East Coast, investigated and secured agreement about title to a number of blocks; but the Land Court Judges, instructed only that the Committees' reports on land claims 'should be taken for what they are worth' and highly jealous of their own authority, in fact took little notice of them and this side of the Committees' work lapsed.

Other measures which partly met tribal concerns were contained in the Native Land Laws Amendment Act 1883 which made land dealings prior to Native Land Court award of title void, illegal and punishable by fine up to £500. For a time the appearance of lawyers in the Native Land Court was also outlawed. The prohibition on sale of liquor was also imposed within the Rohe Potae by proclamation of a "Kawhia Licensing Area" on 10 December 1884. In 1887 the upper Whanganui area was also gazetted, and various other boundary changes were gazetted in 1892 and 1894. This aspect of a "Maniapoto pact"
was reviewed by Dr A H McLintock. 40 Although the liquor issue is part of the context of Ngati Maniapoto transactions with government, it is not part of the context of this report, and needs no further comment.

The legislation which does need to be considered in more depth is the Native Land Alienation Restriction Act 1884 (passed on 10 November) which effectively reimposed a Crown right of pre-emption on the lands of the Rohe Potae. The long title made the purpose of this Act clear: “An Act temporarily to prevent Dealings in Native Land by Private Persons within a defined District of the North Island”. The prohibition on private dealing was set out clearly:

3. After the coming into operation of this Act, no person shall, either by himself or his agent, directly or indirectly, negotiate for, purchase or acquire, or contract or agree to purchase or acquire, from any Native, or from any person on behalf of any such Native, any Native land within the territory described in the Schedule to this Act.

Any person committing a breach of this provision shall be liable to a penalty of not less than one hundred pounds and not exceeding five hundred pounds, which may be recovered in a summary way, before any two or more Justices of the Peace, and shall also be liable to imprisonment for any term not exceeding twelve months.

4. No Native shall, after the coming into operation of this Act, except as is hereinafter mentioned, contract or agree with any person or persons, directly or indirectly, for the sale or purchase or acquisition in any manner howsoever of any estate, right, title, or interest of any kind in any Native land within the territory aforesaid, or make, sign, or execute any instrument for effecting any such sale or purchase or acquisition, or under or by virtue of which the same is or could be carried out.

Sections 5 and 6 provided that any existing contracts etc were void and moneys paid not recoverable, and gave power to trust commissioners to endorse deeds to that effect under the Native Lands Frauds Prevention Act 1881, while §7 stated:

Nothing in this Act contained shall be held to preclude the Governor from negotiating with the Native owners of any land within the territory aforesaid for the purchase or other acquisition by Her Majesty of any such land they may wish to dispose of, upon such terms and conditions as may be agreed upon between the Governor and such owners.

The Schedule in the Act described the area shown in map 7.1. We comment further on this legislation in chapter 13.

References
1 AJHR 1883 G-1
2 ibid
3 AJHR 1883 J-1
4 ibid
5 AJHR 1884 Sess II C-1
6 AJHR 1885 G-9
7 ibid
8 ibid
9 AJHR 1884 Sess II G-1
10 ibid
The R obe P otae

11 ibid
12 ibid
13 ibid
14 AJHR 1886 G-1
15 AJHR 1884 Sess II C-1
16 ibid
17 ibid
18 ibid
19 ibid
20 AJHR 1885 G-9 p 2
21 National Archives MA 13/93
22 ibid
23 ibid
24 ibid
25 ibid
26 ibid
27 AJHR 1885 G-1 p 13
28 H Turton Maori Deeds and Plans of Land Purchases in the North Island (Wellington 1877-78) deed nos 452, 453, 454 and 455
29 W H Skinner Reminiscences of a Taranaki Surveyor (New Plymouth 1946)
30 Mokau Waitara minute books 1 and 2
31 Mokau Waitara minute book 1 p 1
32 ibid p 2
33 ibid pp 2-3
34 ibid pp 3-4
35 ibid pp 72-73
36 ibid pp 50-51
37 N Smith Native Custom and Law Affecting Maori Land (Wellington 1942) pp 48-62; N Smith The Maori People and Us (Wellington 1948) p 94
38 A Ward A Show of Justice (Auckland 1978) p 290
39 New Zealand Gazette 1884 p 1685
40 AJHR 1953 H-25
Chapter 8

Ngati Tuwharetoa and the Rohe Potae

8.1 Introduction

Lawrence Grace, a member of the House of Representatives, wrote to the Native Minister, the Honourable John Ballance on 6 January 1886. This was in order to follow up conversations "in connection with the settlement of the Taupo Country". Grace listed several issues of public interest:

1st. The acquirement on behalf of the Crown of lands in the interior of the North Island, as near as possible to the Main Trunk Line of Railway now in the course of construction by the Government.

2nd. That the Ruapehu, Ngauruhoe and Tongariro mountains and the principal thermal springs in the Taupo Country be made inalienable reserves.

3rd. That every endeavour should be made to settle the Native tribes of Taupo permanently on portions of their tribal lands which can only be done by passing their lands through the Court and individualising their titles thereto as thoroughly as possible.

4th. That a Land Court be ordered to sit at Taupo to enable the Natives to give effect to these objects. (A28)1

Grace went on to report that he had discussed the matter with Tuwharetoa leaders, suggesting to them that in order to avoid long delays and heavy expenses they should submit their application for investigation of title by the Native Land Court as one large block:

during which, as the investigation progressed, the establishment of titles, the apportionment of reserves, and cessions of land to the Crown could all be satisfactorily decided and settled once and for all, and thus enabling them to turn their attention to the improvement of their own social welfare and condition.

Subsequently, with the object of following up the course above sketched out, the Natives of Taupo had meetings, and on the 31st of October last as you are aware, in the presence of one of your land purchase officers and in the presence of Major Scannell R.M. Taupo, they signed and sent in to the Native Land Court a claim for those of their lands which they claim under their great ancestor Tuwharetoa, containing about two and a half millions of acres, more or less, in the centre of the North Island called "Taupo-nui-a-Tia Block".2

Grace also commented on the need to avoid the unnecessary delays and difficult negotiations which often result from competition between private agents and government land purchase officers, and to avoid land speculation:

I would suggest that the purchase of lands within the tribal boundary be entrusted to reliable and experienced persons or agents, who, under control of the Land Purchase Department, would undertake to acquire the land at a commission which would include any payments found necessary to meet the cases referred to. These agents would also —

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having the confidence of the Natives generally — be able to advise and
guide them in the direction most beneficial to the tribal interests and that o f
the general public.3

8.2 The Tauponuiatia Block

On 14 January 1886, the Native Land Court began sitting at Taupo for th e
investigation of title to lands in the Tauponuiatia block described in th e
application of Te Heuheu Tukino Horonuku and others, dated 31 October
1885. Major Scannell, Taupo resident magistrate, was the judge, and Colonel
Brookfield was also present as judge for the first three weeks of hearing. Th e
assessor was Nikorima Poutotara, the court clerk was A H H Lyon, and th e
court interpreter was John E Grace, the twin brother of Lawrence Grace.
Before the court was a large plan titled “Map of Taupo-nui-a-Tia Block, Applican ts Te Heuheu Tukino, Matuahu Te Wharerangi, Kingi Te Herekiekie, Paurini Kamaro and others”. This plan is ML5995D, a large roll
plan (also carrying the roll plan number B53), which is held in the Department of Survey and Land Information, Hamilton. The plan has the signature of S Percy Smith assistant surveyor general “[?]1.86” which follows a note “Ap­proved as a sketch map only.” There is also an exhibit note, “Produced at a sitting of the Native Land Court held at Tapuaeharuru [Taupo] on fourteenth day of January 1886” and signed “FMP Brookfield Judge.” A further note on
the plan reads:

Red lines show the claim as gazetted for Court at Taupo on 14th Jan.
1886, lines in purple denote blocks passed the Court [illegible] surveyed
but not passed Court. Yellow shows lands not adjudicated upon, [signed]

One of the signatories of the letter of 19 December 1883 agreeing to survey of
the Rohe Potae was Te Herekiekie, but it has not been established with
certainty whether this was the same person as Kingi Te Herekiekie, one of th e
applicants listed on the plan ML5995D.

Proceedings began with an application for adjournment by Te Heuheu, sup­ported by others, so that further discussion could occur among the different hapu. Discussions were still going on the next day and court was adjourned.

On 16 January Te Heuheu began by outlining the boundary of his claim, listing
places along it and referring to the plan:

Some parts of red boundary I am leaving out, the names go right round
on this plan. I am claiming this portion but some parts have gone through
the Court. I am claiming within the yellow line, the land lying to
westward between yellow and red line, I don’t now claim. I claim those
parts belonging to Ngatituwaharetoa.4

The lines referred to are shown on map 8.1, which has been compiled from
ML5995D, the plan that was before the court, and ML5995B, another DOSLI
plan, undated but compiled later, which is a cadastral record of the blocks
adjudicated on by the Taupo court 1886-1887.

The nature of the discussion during the adjournment was obviously not
recorded in the Native Land Court minute book. However, William Henry
Grace (a brother of John and Lawrence Grace), who was present at the
meetings, provided an account in his evidence given in 1889 to the
Tauponuiatia Royal Commission. Among Ngati Maniapoto present on 14
January 1886 were Rewi Maniapoto, Aporo Taratutu, Pineaha Tawhaki, Te


Ngati Tuwharetoa and the Rohe Potae

Map 8.1

Tauponuiatia Block

Lands adjudicated upon by NLCP (Judges Scannell and Brookfield 1886-87) ML 5995B Cadastral Record

Tauponuiatia West Block

Land claimed by Topia Tuaroa for Whanganui tribes

Land Sold by 1883

Private Purchase

Crown Purchase

Rohe Potae boundary

Lands adjudicated upon by Te Heuheu and others on ML 5995D

Boundary adjustment (Yellow Line) agreed by Te Heuheu in Court 1886 (ML 5995D)

WT/18
Hihi, Te Rangianini, Tupu Kaheke, Hone Kutu and others. Whanganui representatives were Ihimaera Tuao and Te Pikikotuku, the latter being one of the signatories to the survey agreement of 19 December 1883:

A general talk took place. The Maniapoto urged Te Heuheu to withdraw the case so as to have a Rohepotae for the whole of the people and allow Wanganui to finish his negotiations.

The Tuwharetoa would not agree. The Maniapoto then asked for the boundary to be moved so as to include only the Tuwharetoa lands. They said they would consider this request.

Then the Tuwharetoa met by themselves and appointed a Committee to arrange matters. Te Heuheu, Patena Kerehi, Keeks Puataata, Waka Tamaira, Te Roera Matenga, Papanui, Te Takiwa (until Hitiri should arrive), Hira Matini, Aperahama te Kume were members.

On the 15th Tuwharetoa asked for a further adjournment which was granted.

The Committee were busy discussing the alteration of the Western boundary and the result was the yellow boundary which was colored [sic] on the boundary by Mr Mitchell or Mr Pollen. I am not quite sure who did it. Names were also at that time written in along the boundary. I was present at that meeting. (A5)

W H Grace then described how all this was reported to the Native Land Court. Te Heuheu gave evidence that "the yellow line was now his boundary but he did not abandon his claims outside the line". The map was displayed in court and place names on the boundary discussed. The Maniapoto and Whanganui representatives withdrew their objections, "But Te Rangianini still objected on behalf of Ngati Matakore" to the boundary north of Pureora. Te Heuheu had included Ngati Matakore in his list of hapu. There were also Maniapoto objections to the boundary south of Waimihia and Ketemaringi:

The same day [18th January] Taonui arrived and on the 19th before the Court opened a meeting was held by the natives on the open ground in front of the hotel, to greet Taonui who asked Te Heuheu to stop the Court. "Let us all be one people." That Maniapoto were trying to get laws passed to save the people and the land. Te Heuheu refused saying Taonui had not consulted him when he made his Rohepotae and as to laws to save the land and the people — "Your boundary splits me in two." Te Heuheu spoke with feeling. "What about the half of me that is left outside? Who is to save that part. No, I prefer my people to die together as a whole. If you object to my Court going on, state your objection to the Court. We will meet there". (A5)

Te Heuheu was referring to an image he had used that his body represented the lands of Tuwharetoa and their other tribal relationships, with his head at Kawerau, and the trunk of his body centered on Taupo and limbs stretched toward Whakatane, Rangitoto and the upper Whanganui and Rangitikei areas. The line of the Rohe Potae drawn up by Ngati Maniapoto was literally cutting the robe, the tribal district, of Ngati Tuwharetoa in two parts. Te Heuheu was asserting his right to have all his territory heard in the Native Land Court as a whole block — Tauponuiatia. It was a matter of mana, the mana of Te Heuheu and Ngati Tuwharetoa.

W H Grace, recently appointed a government land purchase officer, reported on 9 April 1886 to the Native Minister on the attitude of Tuwharetoa leaders during the Taupo court hearings in 1886:
I think it my duty to draw to your attention the very great assistance rendered by some of the Taupo chiefs, to whose support the success of the Court's operations has been largely due. This is especially the case regarding Te Heuheu Tukino, who throughout, gave his firm support and countenance to the proceedings, notwithstanding, that the utmost pressure was brought to bear on him from Tawhiao, and the King party generally, including Te Kere and some Ngati Maniapoto chiefs, who urged that the Court should be closed, and postponement of operations to some distant period.

The Taupo-nui-atia block from its extensive area, and its geographical position in the centre of the Island, surrounded on all sides by tribes encroaching on its boundaries, was naturally one which would present the greatest difficulty, in the adjudication of the title. Had it not been for the presence and great influence of Te Heuheu Tukino exerted continually in favour of the Court, Tawhiao and other chiefs would in all probability have succeeded in the object of obstructing the operations of the Court. In addition to Te Heuheu's acknowledged rank and influence amongst the chiefs of the North Island, his claims as an extensive land owner are recognised throughout the Maniapoto country extending to Kawhia, and therefore his action regarding the Tuwharetoa boundary is of the greatest political significance, throughout the whole of the King Country and deserves a corresponding recognition by the Government. (A28)6

Henry Mitchell, reporting to the Native Minister from Taupo on 15 May 1886, also commented on efforts to ensure “the amicable settlement of the external boundary claimed by Tuwharetoa”. He and J E Grace had been commissioned to assist the Land Purchase Department in land acquisition within Tauponuiatia block:

This boundary as gazetted had we found caused considerable surprise and consternation in what is known as the “King Country” — and to the great Tribes whose land claims adjoin or were included therein. Letters and communications of a very urgent character came from Tawhiao and other chiefs of the old King party appealing to Te Heuheu to “close the doors of the coming Court” and prevent such a disastrous blow to their aims as the bringing [of] the Tuwharetoa country, hitherto regarded as their territory under the jurisdiction and operation of their law. To all these communications Te Heuheu gave one reply — that the Court must open and proceed with the adjudication of the lands on the date fixed.

Mitchell also reported that representatives of Whanganui, Ngati Maniapoto, Ngati Raukawa, Te Arawa and Ngati Kahungunu tribes arrived at the opening of the court hearing of Tauponuiatia. Te Heuheu applied for an adjournment so that discussions could take place among all the tribes concerned:

A committee of 35 of the leading men of Tuwharetoa, including Te Heuheu, was formed and many conferences with the representatives of the tribes mentioned ensued — resulting in the Boundary as gazetted being altered so as to exclude considerable areas of land on the southern and western sides of the Block to which Te Heuheu himself was the principal claimant but who agreed to defer the adjudication thereof to some future Court. (A28)7

8.3 The Tauponuiatia West Block

Henry Mitchell remarked on the smooth operation of the court hearings as a result of the consultations and discussions outside the court:
numerous subdivisions which were made under voluntary arrangements amongst the owners themselves — thereby relieving the Court of an immense amount of trouble and tedious work and removing all anxiety as to possible applications for Rehearings in respect of the cases so arranged.

The western boundary, however, in Mitchell’s view, was a more complicated issue that was not so amenable to voluntary arrangements:

Much time was occupied and many conferences held with the various sections claiming the large subdivision called Tauponuiatia West, on the western side of Lake Taupo, with a view of arriving at an amicable adjustment of hapu claims, but no common agreement could be arrived at, and the case was taken into Court — resulting in Hitiri te Paerata’s party, after lengthened evidence was given by them, in agreeing to the 18 Hapus admitted by Te Heuheu (who is the claimant in this case) in his “prima facie” statement. The lists of names were then called for by the Court, but the 18 hapus now declared to be the owners would not agree to one certificate for the whole, and some asked that the Court would subdivide further — others continued to look for a common understanding being arrived at amongst themselves, as to the boundaries of the hapus, who had now merged into five groups and who applied for five subdivisions of the Block to be made. (A28)³

At the time of writing (May 1886) Mitchell and W Cussen had begun a survey of the Tauponuiatia West block and the five subdivisions at the request of a group of owners. The Maraeroa block, which had been awarded separately to Te Paehua and Ngati Karewa, was also to be surveyed at the same time. The bearing continued and Ngati Maniapoto continued to dispute the line claimed by Te Heuheu as the boundary between Tauponuiatia and the rest of the Rohe Potae. We address the specific issues relating to the location of this boundary in chapter 10. Two surveyors who were in partnership, William Cussen and H M Mitchell, surveyed the boundaries and the subdivisions of Tauponuiatia West (map 8.2), and prepared various plans which they sent to the Chief Surveyor at Auckland in September and December 1886.

On 24 September 1887 the Native Land Court made orders determining the ownership of various subdivisions of the Tauponuiatia block and for the issue of Native Land Court titles to these subdivisions when the blocks had been defined by survey. In 1886 and 1887 the court had made 138 interlocutory orders determining ownership of lands in Tauponuiatia block. The first of these interlocutory orders was made on 2 February 1886 and the last on 24 September 1887. The court also made 25 orders vesting lands in the Crown. Finally on 24 September 1887 it issued its judgment on the Tauponuiatia block.⁹ This judgment was written in the minute book twice. This century the minutes of the Maori Land Court are written by the judge. There are remarks in the law reports that show that last century the minutes were written by a clerk while the judge kept his own personal notes which did not form part of the record.¹⁰

We can only make guesses as to why the clerk wrote the Tauponuiatia judgment into the minute book twice. The judgment in Taupo minute book 9 at pages 302-308 reads:

The investigation into the title to this large area of land comprising upwards of a million acres was opened on the 14 day of January 1886 and adjourned from time to time until the present occasion when the Court is prepared to give expression to the decision arrived at.
Map 8.2
The large area now being dealt with is made up of numerous lesser areas, each known to the Natives interested and to the Court by distinctive names, a circumstance greatly facilitating the expression of the Court's conclusions in the present judgment.

In the first place as to those pieces of Tauponuiatia known by the names of... the Court declines in the present case to decide who are the owners, leaving those lands to be dealt with hereafter when any Natives claiming ownership may make the requisite applications.

As to the residue of Tauponuiatia, the Court has arrived at a conclusion as to who are entitled to the land but instead of ordering one Certificate for the whole area, the Court has in exercise of its authority thought it well to make numerous divisions of the block and to deal with each of the parts into which the gross area is divided as the subject of a separate certificate or Order.

The parts of Tauponuiatia which the Court is about to deal with being so much of the block as it has not excluded from its present decision are one hundred and sixty three in number and this decision will now deal seriatim with each of such parts.

First as to the area known as Mangatainoko the persons entitled to be placed on the Register as owners are those so found in an interlocutory announcement made by the Court on the 2nd day of February 1886 in which are recorded in the list now before us marked No. 1 and so as to the other areas into which Tauponuiatia has been divided, each of those areas the Court will now make mention of and in conjunction with each name will set out the date of the interlocutory announcement enumerating the names of the owners, and the number by which such announcement is distinguished.

The judgment then lists the names of 138 blocks, the date of the interlocutory order in respect of each block and the number allocated to it, starting with "Mangatainoko 2nd February 1886 No. 1", and including:

- Maraeora 17th February 1887 No. 60
- Kaiwha 23rd March 1887 No. 64
- Tihoi 30th April 1887 No. 75
- Hapotea 3rd June 1887 No. 110
- Pouakani 14th June 1887 No. 118
- Pouakani No. 2 19th September 1887 No. 132

The judgment goes on:

During the course of the investigation, the Court has been moved on behalf of the Native Minister to enquire into claims on the part of Her Majesty to several parcels of land set out as Nos. 139 to 163 in the Schedule A to the present Judgment, and more particularly set out in the various Orders in favour of Her Majesty.

In as much as there has not during the present proceedings been placed before the Court any sufficient plan of Tauponuiatia the Court has now to require a survey to be made and a sufficient plan and description to be deposited in Court. Such surveys and plans will of course comprise each of the several parts into which in our decision Tauponuiatia has been separately dealt with. Those surveys having been effected and the resulting plans considered and approved certificates giving effect to the present Judgment will issue in due course.
Then follow the names and numbers of 25 blocks (Nos 139 to 163) awarded to the Crown including Pouakani No 1 (No 156).

One of William Cussen’s plans is numbered ML6036, 6076, 6078, 6079. We refer to it as Cussen’s composite plan ML6036 etc. It was entitled “Plan of Taupo Nui Atia West”. Shown on the plan were Horaaruhe Pouakani, Maraeroa, Tīhoi and other subdivisions of Tauponuiatia West. This composite plan, which also has H M Mitchell’s signature, was sent to the chief surveyor on 29 December 1886. On the same date Cussen sent to the chief surveyor plan ML6076 showing the Tīhoi subdivision of Tauponuiatia West and plan ML6077 showing the Maraeroa subdivision of Tauponuiatia West. Cussen’s plan ML6036 showing the Horaaruhe Pouakani subdivision of Tauponuiatia West was signed by Henry Mitchell and was sent to the chief surveyor on 29 September 1886. An explanation of the plan numbering system and a list of plans is included in appendix 12.

Cussen’s composite plan ML6036 etc has on it an exhibit note, “Produced at a sitting of the Native Land Court held at Tapuaharuru on the 2nd February 1887, D. Scannell Judge N.L.Court”. There are no exhibit notes on the other plans to show that they were before the court in 1887 but the plans have deteriorated and parts are now missing. Although the court had these plans before it, it did not approve any of the Cussen and Mitchell survey plans. Instead, it said in its judgment quoted above that it did not have a sufficient plan and that it required a survey to be made before certificates of title could be issued.

The court thus did not approve any of the survey plans for subdivision of Tauponuiatia West block then in existence. Cussen’s plans do not therefore define any of the boundaries of the lands in respect of which the court made its orders of 24 September 1887. But neither Cussen nor the court were at fault. The court sitting had started on 14 January 1886. Cussen sent his plans to the chief surveyor at the end of 1886. The court made interlocutory orders in February, March and April 1886 and January, February, March, April, May, June and September 1887. At least one of Cussen’s field books has survived, but some were destroyed.11 Cussen’s field book No 722 is held in the Hamilton Department of Survey and Land Information office and it shows that the field work, from which the western and southern boundaries of Horaaruhe Pouakani shown on his plan ML6036 were prepared, was carried out from May to August 1886. Cussen’s plans were a starting point. During the course of the hearing the court found that the land should be divided in ways that differed in some respects from the divisions shown on Cussen’s plans.

The exhibit note on Cussen’s composite plan ML6306 etc mentioned above shows that this plan was produced before the Native Land Court at Tapuaharuru on 2 February 1887. This plan shows Horaaruhe Pouakani with the same areas of 122,350 acres and the same boundaries as shown on Cussen’s plan ML6036 which shows only Horaaruhe Pouakani. Cussen’s composite plan ML6306 etc has on it a note, “Approved under Sec. 31 of the N.L. Court Act 1884 for Tīhoi Waihaha and Hauhungaroa Blocks February 6th 1892 D Scannell Judge NLC”, and “Approved as to Waihaha No. 1 D Scannell Judge NLC 30 [?] 1892”. The boundaries of Horaaruhe Pouakani as shown on Cussen’s composite plan ML6036 etc were not approved by a judge of the Native Land Court except to the extent where, as in the case of the Tīhoi block,
another block has a common boundary with the Horaaruhe Pouakani shown on Cussen's composite plan ML6306 etc. The plan showing the Pouakani-Tihoi boundary was approved in 1892 by the Native Land Court, thus fixing only that part of the Pouakani block's southern boundary. The eastern boundary was already fixed when the boundary of Tauta West block was approved by a judge of the Native Land Court.

Even if one of Cussen's plans had defined the precise boundaries for some of the 138 blocks in respect of which the court made orders on 24 September 1887, it is unlikely that the court would have made separate and different orders in respect of those blocks. For example, the signed sealed order of 24 September 1887 for Maraeroa gives the estimated area as 41,245 acres. This is the area shown on Cussen's plan ML6077/1-2 but this plan was not approved by the court. The court was dealing with "upwards of a million acres", and was proceeding in stages. It started by determining the hapu entitled to each of the various lands, then made interlocutory orders determining the name of each block and the names of the owners of each of the blocks. The next step was to determine the areas and boundaries. Even if an adequate plan was already in existence for some blocks it would have been more convenient to leave that plan until the next stage in the proceedings.

8.4 The Tauponuiatia Royal Commission 1889

There were several applications to the chief judge of the Native Land Court for rehearing claims to ownership of Tauponuiatia block. This was the only form of appeal against a decision of the Native Land Court at this time. At a sitting of the Native Land Court in Otorohanga on 18 January 1888, Chief Judge Macdonald heard the applications, but proceedings were not recorded in detail in the minute book which stated only, "The remainder of time of the sitting was occupied in enquiring into the applications for rehearing of Tauponuiatia" . All the applications for a rehearing of Tauponuiatia (except one related to Waihi No 1 block at the southern end of Lake Taupo) were dismissed, and notification was issued on 13 February 1888. Several petitions were also sent to government and on 9 August 1888 the Native Affairs Committee of the House of Representatives considered the following:

Petition No. 204: Taonui Hikaka and 128 others

Petition No. 260: Te Papanui Tamahiki and 96 others

Petition No. 416: Hitiri Te Paerata and 110 others

The minutes of the committee hearing indicate that the principal grievance was that Ngati Raukawa and Ngati Maniapoto interests had been left out of titles awarded in Tauponuiatia block, and there was considerable suspicion about the role of the three Grace brothers in the Native Land Court bearings and subsequent land purchases. On 17 August 1888 the petitions committee reported "That, as the matter is now under investigation by the Supreme Court, the Committee has no recommendation to make". We understand that the records of these proceedings in the Supreme Court have since been destroyed. There is however a report in the New Zealand Law Reports of two motions for prohibition asking the court to restrain Chief Judge Macdonald and Judge Scannell from signing or issuing any orders or certificates of title to any person of any portion of the block of land called Tauponuiatia. The judgment in Hikaka v Macdonald was given on 22 August 1889.
There were two legal points on which counsel for Taonui Hikaka and Hitiri Te Paerata argued in the Supreme Court for a restraint on the Native Land Court issuing any orders or certificates in Tauponuiatia block. The first was that the court sitting lapsed because it had not been properly adjourned by Judge Scannell on 30 September 1886 in the absence of an assessor. This was dismissed. The second point concerned the procedure for division and sub-division of lands set out in the Native Land Court Act 1880, at the time of investigation of title and then later, once lists of names of owners had been ordered by the court. The Supreme Court ruled that there were “no grounds whatsoever for saying the [Native Land] Court has no jurisdiction to divide an entire block at the time of investigation,” and dismissed this argument too. The significance of this decision was that the Native Land Court could subdivide a block of land. The Supreme Court did not accept the argument that when a large area of land came before the Native Land Court as an application for investigation of title, the boundaries of the area had first to be fixed by survey before separate titles could be issued by the court for parts of the land. The Native Land Court Act 1880 at s24 stated:

> On every such investigation [of title] it shall be lawful for the Court to decide that the title of the applicant or any other natives to the land or any part thereof, according to Native custom or usage, has been proved, or to dismiss the case, or to make any other order or give such a judgment as the court may think fit.

At s34 provision was made for subdivision of blocks:

> The Court may, if it thinks fit, order one or more divisions to be made in such manner as the Court thinks fit, and in such cases shall place separately on the register the names of the owners of each division and issue certificates accordingly.

A similar provision was made in s21 of the Native Land Court Act 1886.

This was not the end of the matter. On 9 July 1889, the government appointed a royal commission to enquire into the boundary between Ngati Maniapoto and Tuwharetoa and into other matters relating to the Tauponuiatia block. A very large quantity of historical material has been presented to us but there is nothing in it to show what happened to change the government attitude after August 1888 when the petitions committee gave its “no recommendation”. The Tauponuiatia Royal Commission reported on 17 August 1889, while the decision by the Supreme Court on *Hikaka v MacDonald* was given on 22 August 1889.

The matters to be inquired into by the Tauponuiatia Royal Commission were set out as follows:

1. Whether the boundary of the said block of land called Tauponuiatia, as delineated on the said plan [Plan GM 180], and thereon coloured red, is the correct boundary thereof or whether the said boundary is correctly delineated by the line coloured yellow on the said plan, or whether the correct boundary would be properly defined by an intermediate line between the said lines coloured red and yellow.

2. Whether the Native chief Hitiri Paerata has suffered any injustice in consequence of his claim to a block of land known as Pouakani having, in consequence of some misapprehension, been unsatisfactorily dealt with; and whether he or his people have any just cause of complaint in relation thereto.
3. Whether Karawhirha Kapu was induced by a Land Purchase Commissioner in the employ of the Government to forego large claims to land of her own and of her relations in consequence of promises made to her by the said Commissioner, which have not been fulfilled or carried out.

Provided that the title of the Crown to the lands awarded to Her Majesty for the cost of survey of the said block of land called Tauponuiatia, or any part thereof, shall not be brought into question.17

This last statement meant that the title to the 20,000 acres of Pouakani No 1 (being already vested in the Crown for survey costs) would still be valid. The titles in the balance of the Horaaruhe Pouakani block and the whole Maraeroa block would be subject to inquiry.

A paper titled “Re Maraeroa and Hurakia, Remarks re the case of the N’Maniapoto”, comprising seven loose leaf pages, is with the minute books of evidence of the Tauponuiatia Royal Commission.(A5)18 The following excerpts outline the Maniapoto version of the “opening up” of the King Country:

It is within the knowledge of the Commissioners and the people generally of this island

That the land in question for many years past has virtually been separate from and outside the control of the Government ....

And it is well known that several different Ministries in years gone past tried in many ways to bring this land and its people under the rule of the Government but tried in vain.

In the year 1882 the N’Maniapoto decided to introduce a rule for this land which was agreed to by the N’Raukawa, Whanganui and Tuwharetoa people and decided to draw a boundary round the block of land to be called the Rohe Potae of the aforesaid tribes.

The boundary was made public and carved posts put in many parts of the boundary. All the persons of these tribes were desirous of sharing in the new departure.

It was also desired that some official acts should be passed by Parliament for the Rohe Potae.

In the year 1883 they drew up a petition to Parliament setting forth what they wanted for the block, many of things specified in the petition were discussed (some of them being brought into force).

By reason of this petition the Government were induced to legislate specially for these tribes ....

A large meeting was held at Kihikihi between us and the Government [represented by the Honourable J. Bryce, Native Minister]. Resolutions were drawn up concerning the land and declaring it one block ....

After this another meeting was held at Kihikihi and resolutions re the land were made. Mr Bryce and Mr Percy Smith [assistant surveyor general] were the representatives of the Government by whom these propositions were made and which were agreed to by the five tribes as follows.

1. A survey of the Rohe Potae to be made by the five tribes.

2. The survey to be carried out by Government surveyors, the title to be investigated and the Crown Grant to be awarded to the owners.

3. All minor subdivision surveys within the Block to be stopped, and the trig survey to be conducted in such manner as not to affect the title to the land.
4. That only one application for investigation of the title to the land be made, the said application to be heard in full at one Court.

This agreement was made by us and the Government in good faith and in weight and authority was equal to a treaty ....

N'Maniapoto placed full confidence in this agreement and had faith that it would not be broken by Government.

Had this agreement been carried out and not abandoned no trouble would have come to N'Maniapoto.

We say that this agreement has been broken by the Government from the fact of their having agreed that a Court should be held for the purpose of ascertaining the title to a part of the Rohe Potae, in that part called Tauponuiatia.

John Ormsby, Chairman of the Kawhia Native Committee, set out the claims for Ngati Maniapoto, stating that, “In 1882, Maniapoto decided to make arrangements for the Rohe Potae”, the King Country, which included the territory of five tribes — Ngati Maniapoto, Ngati Tuwharetoa, Ngati Raukawa, Whanganui and Ngati Hikairo, the latter belonging to the Kawhia district. There were many meetings and people were sent to mark out the boundaries of the Rohe Potae. A petition was sent to parliament and the establishment of a Native Committee in 1883 was seen as a granting of their requests:

In November that year [1883], Mr Bryce came to Kihikihi .... The result of the meeting was that our requests were agreed to. He said what he had done in the Parliament. We expressed our pleasure. He then said we should apply for the title to be investigated by the N.L. Court, and for each tribe to send in a separate application, each application to be for the whole block. Unless each tribe did this, he could not stop the minor surveys. We discussed this and finally agreed to send in one application for the whole block ....

Another meeting was held at Kihikihi. Mr Bryce and Mr Percy Smith were present. It was decided that Rohepotae should be surveyed at a cost not exceeding £1600 and should then be heard by the Court, and that the minor surveys should be stopped in the meantime, and no claims for these smaller parts were to be recognised. Mr Bryce agreed that the block should be investigated as a whole. That the trig surveys had nothing to do with the title to the land. These proposals were all agreed to and the survey proceeded. All the five tribes agreed to these proposals.

Maniapoto put great faith in this arrangement and did not think of things outside of the agreement.

I consider that the sitting of the Court at Taupo to deal with Tauponuiatia — a portion of the Rohepotae block — was a violation of this agreement ....

I attended the Taupo Court after the first judgement had been given. I was sent to say that trouble would accrue to the Maniapoto, because Taonui had been detained at Cambridge and the case was going on in his absence.

I asked the Court to give the Maniapoto an opportunity of setting forth their claims, but the Court refused as the case was closed and the matter settled.

A meeting was held at Taupo outside the Court and I was informed that Te Heuheu had altered his boundary to the top of the Hurakia range. I
stated in Court that it had been agreed to outside the Court that the Hurakia range should be the boundary. (A5)

When cross-examined, Ormsby conceded that although some Taupo people had attended the meetings in November-December 1883, not all Tuwharetoa leaders had been there, and certainly not Te Heuheu.

Taonui followed with his evidence, corroborating Ormsby's statements about the arrangements made with government:

We placed great confidence in those arrangements made with the Government.

The gazette for the Taupo Court reached me at Otorobanga. I called a meeting, which decided I should go to Taupo, but I was summoned to go to Cambridge. The Taupo Court was to sit on Jan 14 and I had to attend at Cambridge [Court] on Jan 11. I went to Cambridge with Hitiri, Temi Wata, Kapu, Ngakuru and Mr Moon. We sent a telegram to the Court at Taupo asking it to leave the Western part of the land till we could reach Taupo. The case at Cambridge was called on Jan 11 and adjourned to the 15th when it was adjourned further to the Supreme Court in April.

We left for Taupo on Jan 16 but the Court there had opened on Jan 14. We reached Taupo on the 18th. Tawhaki told me that the Tauponuiatia case had been closed. On Jan 19 we had a meeting with Te Heuheu and others outside the Court. I said let the whole of Rohepotae, including Tauponuiatia, be investigated at the same time, but Te Heuheu would not consent, tho' I said a great deal to him at that meeting. On Jan 22 I appeared in Court and asked that Maraeroa, Tuhua and Hurakia might be excluded from the investigation. The Court said I was too late. (A5)

There is some discrepancy between the dates here and the date in the Taupo Minute Book which indicates that Taonui appeared on 24 January, but this does not detract from the account.

The royal commission, having been appointed on 9 July 1889, completed its report on 17 August 1889. A full transcript of the report is in appendix 7. In the introduction the commission noted that all hearings had been held over 19 days at Kihikihi, "being the most convenient place for all parties concerned", and "attended by a large number of the Ngatimaniapoto Tribe, and by several of the principal chiefs of the Ngatituwharetoa, from Taupo". Copies of the minutes of evidence and exhibits of the royal commission were available to this tribunal. (AS) The commission also noted:

Much of the Native evidence given on both sides has been very conflicting, and often at variance with what had been previously sworn before the Native Land Court; and we have found it very difficult to determine which is the most reliable. We had the records of the Native Land Court before us, to which access was given to all interested parties, who freely made use of them, and we permitted the utmost latitude in the examination and cross-examination of witnesses, and refused no evidence that was tendered to us.

The principal matter at issue was the location of the western boundary of the Tauponuiatia block where it was alleged to have encroached on Ngati Maniapoto lands, and this was described as "Issue No. 1" in the commission report. This matter is investigated in detail (including an analysis of plan GM 180 which was before the commission) in chapter 10. The second and third issues are interrelated, involving the claims of Hitiri Te Paerata about the role
of the Grace brothers in the Native Land Court hearings and transactions involving alleged purchase agreements on the Pouakani block. These matters are addressed in chapter 11 of this report, titled “Crown Purchases”. On one aspect of the second issue, Hitiri Te Paerata’s claim that because he had arrived late for the Taupo court he had not been able to present a case for Raukawa interests in Tauponuiatia, the commission concluded that Ngati Wairangi and other hapu who were in actual occupation on Pouakani block had been included; Hitiri Te Paerata had not therefore been disadvantaged.

The 1889 royal commission on the Tauponuiatia block reported that meetings in 1882 and 1883 of Ngatimaniapoto, Ngati Tuwharetoa:

Whanganui, Ngatihikairo, and Ngatiraukawa tribes were held, at which it was ultimately resolved to fix the outside boundary, or Rohepotae, of the King-country, to include all the lands of four of the tribes, and a large part of those of the fifth, Ngatituwharetoa ... 21

The royal commission was told that after this had been settled Mr Bryce, then Native Minister, agreed that if they wished it, the block should be surveyed and investigated by the Native Land Court as a whole. But it seems that the tribes did not ever fully agree. A single claim to the Native Land Court by the five tribes for the investigation of title to the Rohe Potae as one block was never lodged. Ngati Tuwharetoa leaders were not all represented at these meetings. No evidence was presented to this tribunal, or to the Tauponuiatia Royal Commission in 1889, that Ngati Tuwharetoa intended to join with Ngati Maniapoto. Instead, on 31 October 1885, Te Heuheu and other Ngati Tuwharetoa leaders sent an application to the Native Land Court for investigation of title to the whole Tuwharetoa tribal area, including the part of their land within the Rohe Potae, as well as all their other lands outside the Rohe Potae. The whole area included in the claim was named the Tauponuiatia block.

On 27 June 1886 the Native Land Court sitting at Kihikihi began the investigation of title of the “Rohepotae Block”, that is the Ngati Maniapoto lands in Aotea block. On 28 July 1886 the plan of the Aotea block ML5851/1-4 (held in the Hamilton DOSLI office) approved as a sketch plan by assistant surveyor general S Percy Smith, on 17 July 1886, was produced in the Native Land Court at Otorohanga. On that day the court had resumed hearing the Rohepotae case, having adjourned from Kihikihi. This and other plans in the ML5851 series have dates of survey in 1884, and ML5851/5 gives the date of instructions for survey as December 1883 (see appendix 12 for details of these plans).

Although Wahanui was probably seen by government as the chief negotiator for the railway, he knew he could not speak for other tribes and made this clear on several occasions. During January and February 1885 the Native Minister, the Honourable John Ballance, held a series of meetings in the Waikato-King Country districts to discuss the railway line and related land matters, including putting land through the Native Land Court. On 5 February, the second day of a gathering at Kihikihi, Wahanui of Ngati Maniapoto spoke:

When I was in Wellington, Mr Ballance asked me to give up a road for the railway-line to be made. I replied to Mr Ballance and said, “I will not discuss the matter now; it is left for the whole of the people to settle and everything in connection with it is to be settled by the people themselves.” I have come to the people who are on one side. I have not been able to see all the people; only the ones that I have seen are in the house at the
present time — that is, Ngatimaniapoto and Ngatiraukawa. There are some from Whanganui here present. Those who are not present are Ngatitawharetoa [sic]. I do not wish you to consider that what I am now saying is in the light of keeping back the railway-line, but what I am anxious for is that I should be able to see those people who are absent, after I have seen you, after this meeting. After those people have been seen by me then the final settlement will take place. Although they may not pay any attention to what I say, still the fact of my having seen them will be sufficient, in accordance with the statement that I have already made, that the matter will be left for the people to settle because the timber country through which the line passes, and other things in connection with the line, are all in the vicinity of the land owned by these people. I want to discuss with them the matters that were gone into yesterday.22

Wahanui had a vision of maintaining in the Rohe Potae a region where Maori could retain control of their own lands and resources, allowing at the same time the railway construction and controlled European settlement. The government appears to have had a different agenda, which was to throw open the King Country for settlement, “progress”, development and “civilization”, and the break up of tribal organisation.

8.5 Section 29 Native Land Court Acts Amendment Act 1889

The outcome of the report of the Tauponuiatia Royal Commission was that enough evidence had been given, and in particular, doubt shown over the western boundary of Tauponuiatia West block, that the government considered a reinvestigation of Pouakani and Maraeroa blocks by the Native Land Court was required. The enabling legislation was s29 of the Native Land Court Acts Amendment Act 1889:

Whereas, at a sitting at Taupo, the Native Land Court, on the twenty-fourth day of September, one thousand eight hundred and eighty-seven, gave its decision on an investigation of the title to the block of land known as Tauponuiatia, in the Taupo District, in the Provincial District of Auckland, and a question arose as to the western boundary of the said block: And whereas the Honourable Theodore Minet Haultain and Hanita te Aweawe were, on the ninth day of July, one thousand eight hundred and eighty-nine, appointed to be a Royal Commission, to inquire, among other things, as to the correct boundary thereof: And whereas the said Commission, on the seventeenth day of August, one thousand eight hundred and eighty nine, reported thereon, which report has been presented to both Houses of the General Assembly during the present session, and marked G.-7:

And whereas it is expedient that effect should be given to such report in respect of the matters hereinbefore mentioned, and that further investigation should be made with regard to the blocks of land known as Maraeroa and Horaaruhe-Pouakani:

Be it enacted as follows: The western boundary of the land known as Tauponuiatia is hereby declared to be, and shall be deemed to have been, the line defined as such western boundary in the said report, and shown in the map numbered one hundred and eighty, and deposited in the office of the Surveyor-General in Wellington.

The lands excluded from the Tauponuiatia Block by the alteration of the boundary and the subdivisions of the Horaaruhe-Pouakani Block, known as Pouakani, containing by estimation sixty-three thousand acres, more or less; Pouakani number two, containing by estimation
Ngati Tuwharetoa and the Rohe Potae

thirty thousand acres, more or less: Kaiwha, containing by estimation seven thousand two hundred acres, more or less; and Hapotea, containing by estimation two thousand five hundred acres, more or less, are hereby declared to be Native land within the meaning of "The Native Land Court Act, 1886", and its amendments.

The Court may, by order, direct that the cost of surveying the boundary adopted by the Court in its decision of the twenty-fourth day of September, one thousand eight hundred and eighty-seven, before mentioned, and also the boundary described in the said report, shall be a charge upon the estates and interests of the persons who may be declared to be the owners of the said Maraeroa Block, in manner provided in Part VII of "The Native Land Act, 1886".

Nothing in this section shall affect any interest acquired by the Crown, or any order made in its favour.

Section 29 of the 1889 Act meant that the lands excluded from the Tauponuiatia block by the alteration of the boundary, and the subdivisions of the Horaaruhe Pouakani block known as Pouakani, Pouakani No 2, Kaiwba and Hapotea, were declared to be native land within the meaning of the Native Land Court Act 1886. This Act defined native land as "land in the colony owned by Natives under their customs or usages". Native land was therefore land the title to which had not been investigated by the Native Land Court. The effect of s29 of the 1889 Act was to cancel the orders made on the 1886-1887 investigation of title and return the Pouakani and Maraeroa blocks to the status of uninvestigated land. This enactment affected all of the western boundary of Tauponuiatia West block including the Maraeroa block, all but Pouakani No 1 of the Horaaruhe Pouakani block, and those parts of the Tihoi and Waihaha No 1 subdivisions of Tauponuiatia West that the new boundary fixed by the royal commission had excluded from Tauponuiatia West (map 8.3). A large area of Waihaha block had also been sold to defray survey costs in the same manner as Pouakani No 1 and shows up as a blank area on the map.

The one part of Horaaruhe Pouakani not put back to the status of uninvestigated Native land was Pouakani No 1 of 20,000 acres which the court had determined to be Crown land, by order on 24 September 1887. The minutes of the court on 19 September 1887 record, "this Block to be called Pouakani No. 1 and to be awarded to the Crown for payment of survey and other costs". 23 Section 29 of the 1889 Act said that nothing in that section was to affect any interest acquired by the Crown or any order made in its favour. This meant that the order vesting Pouakani No 1 block in the Crown was unaffected when Maraeroa and the other subdivisions of Horaaruhe Pouakani were put back into the melting pot. Pouakani No 1 was surveyed by William Cussen in 1890 and shown on plan ML6036A (not to be confused with Cussen's plan ML6036, or Cussen's composite plan ML6036 etc) which he forwarded to the chief surveyor at Auckland on 27 January 1891. It was approved by the chief surveyor on 22 January 1892 and by Judge Scannell on 3 June 1892.

In 1891 the Native Land Court began a new investigation of title for Pouakani and Maraeroa blocks, and many of the same arguments were rehearsed again. In the next section of our report we focus specifically on these two blocks, the issue of the western boundary with the Aotea block, Crown purchase and survey charges.
Map 8.3

Lands Passed the Land Court

- "Used"
- "Not Used"
- Under Negotiation

Lands not Passed the Land Court

- "Used"
- "Not Used"
- Land Leased

Boundary of Rcheptoe (Cussen 1884)
Boundary between Actea and Tauponuiatia Blocks 1886
Land Sold - Pouakani Block

(Source: AJHR, 1891, Sees II, G10)
References

1 National Archives MA-MLP 97/181
2 ibid
3 ibid
4 Taupo minute book 4 p 38
5 ibid
6 National Archives MA MLP 1877/211
7 National Archives MA MLP 86/190
8 ibid
9 Taupo minute book 9 pp 274-281
10 12 NZLR 163, 14 NZLR 75 and 79
11 Lands and Survey file 2413
12 Otorohanga minute book 6 p 21
13 New Zealand Gazette 1888 p 292
14 AJHR 1888 I-3D
15 AJHR 1888 I-3
16 Hikaka v Macdonald (1889) 7 NZLR 642
17 AJHR 1889 G-7
18 National Archives MA 71/1
19 National Archives MA 71/1; AJHR 1889 G-7 and G-7A
20 AJHR 1889 G-7
21 ibid
22 AJHR 1885 G-1 p 21
23 Taupo minute book 9 p 262
Chapter 9

Transactions on the Maraeroa and Pouakani Blocks

9.1 Introduction

In this and following chapters we turn our attention more specifically to the transactions involving the Maraeroa and Pouakani blocks. In this chapter we first summarise the pieces of the jigsaw puzzle of the various blocks before and after the enactment of s29 of the Native Land Court Acts Amendment Act 1889, survey difficulties in bush-covered hill country, and the dispute over the Maraeroa block and the Maniapoto-Tuwharetoa boundary which led to the Tauponuiatia Royal Commission in 1889. In chapter 10 we describe the surveys which established the boundary outlined by the Tauponuiatia Royal Commission. In chapters 11 and 12 we focus on Crown purchases and survey charges respectively on Maraeroa and Pouakani blocks.

In following through this complex narrative, reference will be made to: appendix 5, a chronology of events; appendix 12, which lists by number the many Department of Survey and Land Information plans referred to; and appendix 13, an analysis of Stubbing's 1892 plan ML6406 etc. A summary of relevant legislation is contained in appendix 10 and survey regulations in appendix 11.

9.2 The Pieces in the Jigsaw Puzzle

When the Native Land Court investigated the title to Tauponuiatia West block in 1886-1887, it made separate orders in respect of the several subdivisions. With the exception of the Pouakani No 1 subdivision, Horaaruhe Pouakani block was resubdivided in a new way, after the titles were reinvestigated by the Native Land Court in 1891 (following the report of the Tauponuiatia Royal Commission and legislation in 1889 as outlined in chapter 8 above). The Maraeroa block was given a different shape in 1891 and two new blocks, Ketemaringi and Hurakia, were created on the western boundary of the former Tauponuiatia West block. The 1891 subdivisions were further subdivided in later years. A major issue in this claim is in respect of an area of the 1887 Horaaruhe Pouakani block on its western boundary, which the registered surveyor acting for the claimants calculated to contain 4,831 acres, and which in 1891 became part of two subdivisions of the adjoining Maraeroa block. Other subdivisions of both Pouakani and Maraeroa have undergone changes in boundary, area and shape. In order to minimise the confusion of this tangle of dates, shapes and boundaries, we set out the shapes in the form of a jigsaw puzzle in maps 9.1, 9.2 and 9.3 where the various pieces fit into a board cut out in the shape of the original Tauponuiatia West.

The first board (map 9.1) has cut out of it the outline of the Tauponuiatia West block. The pieces comprise three parts of the Horaaruhe Pouakani area, Tihoi block, Maraeroa block and the balance of Tauponuiatia West made up of the
SUBDIVISIONS OF TAUPONUIATIA WEST BLOCK 1887

HORAAUHE POUAKANI
Total 123,000 acres

POUAKANI No 2
BLOCK
30,000 acres

POUAKANI No 1
BLOCK
20,000 acres
(CROWN)

EASTERN PART OF
POUAKANI
Total Area of both parts
63,000 acres

HAPOTEA BLOCK
3,000 acres

WESTERN
PART OF
POUAKANI
Total Area of
both parts
63,000 acres

KAIHEA BLOCK
7,300 acres

MARAEROA BLOCK
41,245 acres

TIHOI BLOCK

TUHUA HURAKIA
WAIIHAHA BLOCK

BALANCE OF
TAUPONUIATIA
WEST BLOCK

LAKE
TAUPO

HAUHUNGA ROA KARANGAHAPE
WAITUHI BLOCK

Source: ML 6036 etc., ML 6038A and ML 5955B

Map 9.1
Transactions on the Maraeroa & Pouakani Blocks

two large areas, Tuhua Hurakia Waihaha and Hauhungaroa Karangahape Waituhi, that were originally shown on the survey plan that was called Cussen's plan ML 6036 etc. Although used to describe an area of the large Tauponuiatia block, Tauponuiatia West block on the plan was never given formal existence by a Native Land Court title order (see appendix 12).

The Native Land Court started hearing Tuwharetoa's claim on 14 January 1886. During the hearing it made interlocutory orders in respect of various lands. On 24 September 1887 the court made final orders under the Native Land Court Act 1880 in respect of the 14 subdivisions of Tauponuiatia West block:

<table>
<thead>
<tr>
<th>Name</th>
<th>Estimated Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maraeroa</td>
<td>(estimated area 41,245 acres)</td>
</tr>
<tr>
<td>Pouakani</td>
<td>(estimated area 63,000 acres)</td>
</tr>
<tr>
<td>Pouakani No. 1 (Crown)</td>
<td>(estimated area 20,000 acres)</td>
</tr>
<tr>
<td>Pouakani No. 2</td>
<td>(estimated area 30,000 acres)</td>
</tr>
<tr>
<td>Kaiwha</td>
<td>(estimated area 7,200 acres)</td>
</tr>
<tr>
<td>Hapotea</td>
<td>(estimated area 3,000 acres)</td>
</tr>
<tr>
<td>Tihoi</td>
<td>(estimated area 90,140 acres)</td>
</tr>
<tr>
<td>Waihaha</td>
<td>(estimated area 58,500 acres)</td>
</tr>
<tr>
<td>Waihaha No. 1</td>
<td>(estimated area 18,076 acres)</td>
</tr>
<tr>
<td>Waihaha No. 2 (Crown)</td>
<td>(estimated area 11,824 acres)</td>
</tr>
<tr>
<td>Te Awaiti Waihaha</td>
<td>(estimated area 100 acres)</td>
</tr>
<tr>
<td>Hauhungaroa</td>
<td>(estimated area 58,200 acres)</td>
</tr>
<tr>
<td>Waituhi Kuratau</td>
<td>(estimated area 17,800 acres)</td>
</tr>
<tr>
<td>Waituhi Kuratau No 1</td>
<td>(estimated area 8,000 acres)</td>
</tr>
</tbody>
</table>

With the exception of Pouakani No 1, which we deal with in the next paragraph, each of these orders listed the names of the people found by the court to be entitled to the land, the name of the land, and the estimated area. The orders also directed that a certificate of title of the owners “be issued in pursuance of the Act, when a plan of the said area has been finally settled by the court”.

On 24 September 1887 the court also made an order vesting in the Crown for survey and other expenses an area of 20,000 acres which the court called Pouakani No 1 block. People familiar with the twentieth century methods of partition of land by the Manri Land Court would expect Pouakani No 1 and Pouakani No 2 to be the parts into which an earlier Pouakani block had been divided. It is therefore confusing to find that the court made three orders dated the same day, creating title to three separate areas which it labelled Pouakani, Pouakani No 1, and Pouakani No 2.

The boundaries of Tauponuiatia West subdivisions shown in map 9.1 are derived from ML6036A, Pouakani No 1 block surveyed in 1890-91, and a composite plan ML6036, 6076, 6078, 6079, now held in the Department of Survey and Land Information office in Hamilton and sent to the Chief Surveyor at Auckland on 29 December 1886 by the surveyors H Mitchell and W Cussen. We refer to this composite plan as Cussen’s plan ML6036 etc. It originally showed the Horaaruhe Pouakani block, the Tihoi block, the Tuhua Hurakia Waihaha block, the Hauhungaroa Karangahape Waituhi block, and the Maraeroa block. Other information was drawn on it later. Cussen's plan ML6036 is a different plan which shows only Horaaruhe Pouakani. It is,
however, the same Horaaaruhe Pouakani as is shown on Cussen's plan ML6036 etc. Appendix 12 contains an explanation of the Department of Survey and Land Information plan numbering system and of the abbreviations used.

The pieces that fitted into Tauponuiatia West in 1887 were:

(a) the Maraeroa block on the southwest boundary of Horaaaruhe Pouakani (ML6077);

(b) the part of Horaaaruhe Pouakani which the court in 1887 named Pouakani No 1 and vested in the Crown for survey and other costs and which cut the balance of Horaaaruhe Pouakani into two severances. Pouakani No 1 was later defined by survey on plan ML6036A, which is a different plan from both Cussen's plan ML6036 and Cussen's composite plan ML6036 etc;

(c) the western severance of the balance of Horaaaruhe Pouakani with dotted lines drawn on it showing the approximate boundaries of Kaiwha and Pouakani No 2 and the western part of the balance of the Pouakani block;

(d) the eastern severance of the balance of Horaaaruhe Pouakani with not even dotted lines but simply the names of “Hapotea” and “Eastern part of the block”;

(e) the Tihoi block (ML6076);

(f) the balance of the Tauponuiatia West block. The subdivisions of the Tuhua Hurakia Waihaha block are shown on Cussen's plan ML6036 etc. The “Tuhua Hurakia Waihaha subdn.” of 78,500 acres and the “Hauhungaroa Karangahape Waituhu subdn.” of 84,000 acres.

The 1889 royal commission was appointed to enquire into matters relating to the Tauponuiatia block. The instructions to the commission referred to the Native Land Court decision of 24 September 1887 on the investigation of title of the Tauponuiatia block, and said that a question had arisen as to the western boundary of the block. The commission's report set out what the commission found should be the boundary between the Ngati Maniapoto and Ngati Tuwharetoa tribes. Section 29 of the Native Land Court Acts Amendment Act 1889 enacted that the western boundary of Tauponuiatia should be the line found by the commission. Section 29 also enacted that the status of the area so excluded from Tauponuiatia, ie the Maraeroa block as well as the Pouakani, Pouakani No 2, Kaiwha and Hapotea subdivisions of Horaaaruhe Pouakani block, should again become uninvestigated Manri land (map 9.2).

In 1891 the Native Land Court heard applications for the investigation of title of Pouakani and Maraeroa blocks. Map 9.3 shows the new pieces to go into the board, in the areas labelled “Native Land” in map 9.2, which were created by title orders of the Native Land Court in 1891:

• the first piece represents an area of land, the outer boundary of which was defined by survey in 1892, comprising Pouakani B7, B8, B11 and Pouakani C3. Dotted lines on this piece show the approximate positions of the boundaries between them;

• within the first piece is a hole where the second piece fits. The second piece is Pouakani C2 which was also surveyed in 1892;
the third piece is the Pouakani A blocks. Dotted lines on this piece show the approximate boundaries drawn (we think) in 1899 for the separate titles created in 1891 (see appendix 13);

the fourth piece is Maraeroa A section 1 created in 1891. The fifth, sixth, seventh and eighth pieces are the Maraeroa A, Maraeroa B section 1, and Maraeroa C (Pukemako) blocks, not all as they were created in 1891 but some as they were amended in 1911. We explain this in chapter 11 under the heading Maraeroa C block. A dotted line has been drawn across the fourth and fifth pieces (Maraeroa A section 1 and Maraeroa A). This line runs from the original Taporaroa (sometimes spelled Tapurararoa, Tapararoa or Taporaroa) in the north to Pureora mountain in the south. This line was the southwest boundary of the Horaaruhe Pouakani block in 1887. The parts of Maraeroa A section 1 and Maraeroa A to the east of this dotted line were parts of the Horaaruhe Pouakani block shown on the 1886 plan, and not part of the Maraeroa block shown on the 1886 plan. But in 1891 the Native Land Court included this part of Horaaruhe Pouakani in the court's new Maraeroa subdivisions;

the ninth and tenth pieces are the Ketemaringi and Hurakia blocks, created in 1891, and are areas excluded from the Tauponuiatia block by s29 of the Native Land Court Acts Amendment Act 1889. Part of the old Maraeroa block was included in the new Ketemaringi block. The rest of Ketemaringi and the new Hurakia block were part of the area marked Tuhua Hurakia Waihaha subdivision on Cussen's 1886 composite plan ML6036 etc and which the court in 1887 divided into Waihaha, Waihaha No 1, Waihaha No 2 and Te Awaiti Waihaha;

the eleventh piece brings us to the heart of that part of the Pouakani claim that is dealt with in chapter 14. It shows the 17,900 acres which is the combined area of the Pouakani B9 (Pureora) and the Pouakani C1 (Kaiwha) blocks created in 1891. No boundary line between these two blocks is shown because we believe, for reasons that we set out in appendix 13, that this was how the two blocks appeared on the survey plan that was sent to the chief surveyor in Auckland in 1892;

the twelfth and last piece is blank and fits into the eastern severance of Horaaruhe Pouakani. It is blank because what happened with this part from 1891 is not relevant to the specific boundary problems investigated in this chapter and chapter 14 of this report.

Boundaries in map 9.3 are based on Stubbing's 1892 plan ML6406 etc and specific areas of each of these pieces have not been given because much of this claim is bound up with the discrepancies in area of blocks, length and bearings of survey lines, lines that were not surveyed but "calculated" or "scaled and protracted", and in relating these to the written descriptions of boundaries set out in minute books of the Native Land Court and instructions given to surveyors. There are some actions for which records are lacking such as a Native Land Court minute book lost many years ago, government files destroyed in the Hope Gibbons fire in 1952, and surveyors' field books that were never deposited. Nevertheless, a large amount of evidence has survived in court orders which confirm transactions recorded in the lost minute book,
SUBDIVISIONS OF POUAKANI AND MARAEROA BLOCKS 1891
(but in the case of the 5th, 6th and 7th pieces as amended ab initio in 1911)

Sources: ML 6401, ML 6406, ML 7201, ML 7720, ML 6499A, ML 9000, ML 6500A, ML 12200, ML 6000 & ML 6000A

Map 9.3
other copies of instructions and related papers in other files in National Archives, and most importantly the survey information and exhibit notes on the many old survey plans housed in the Hamilton office of the Department of Survey and Land Information.

9.3 Survey Problems

When all the boundaries of an area of land were defined by survey there were various ways in which, towards the end of last century, the area of that land could be found. The first was by calculation. If the boundaries were four straight lines this was relatively easy. But it was quite impractical for many of the awkward shapes of areas shown on the plans. Another method was by placing on the survey plan a transparent overlay ruled in one acre squares at the same scale as the scale of the survey plan. The number of complete squares within the boundaries were counted and, where a boundary line passed through squares, an estimate was made of how much of each square was within the boundary. A third method was to use the “computing scale” which was used with a transparent overlay, ruled in lines instead of squares. The scale was used to measure the distance from the boundary between each of the parallel lines. It was not as quick or as accurate as the fourth method which was by the use of an instrument called a planimeter. This was in use by 1886 because rule 12 of the Survey Regulations 1886 listed the instruments to be provided to a surveyor, including a planimeter (see appendix 11).

The records of the subdivisions of Tauponuiaitia West block that have survived show, without explanation, differences of hundreds of acres between the areas given at different times for the same land. The areas given in s29 of the Native Land Court Acts Amendment Act 1889 for the subdivisions of the Horaaruhe Pouakani block that it converted back to uninvestigated customary land, add up to 102,700 acres if the area of Hapotea is taken at 2,500 acres as stated in s29, and not at 3,000 acres as shown in the Native Land Court minutes and signed sealed order. The blocks listed in s29, together with Pouakani No 1 of 20,000 acres, make up the whole of the Horaaruhe Pouakani shown on Cussen's plan ML6306, but instead of showing an area of 122,700 acres, the actual area shown on Cussen's plan ML6306 is 122,350 acres. On 4 August 1891 the Native Land Court referred to the Horaaruhe Pouakani block as containing 122,250 acres, of which 20,000 bad been vested in the Crown, and that it bad decided that about 2,250 acres was part of the Maraeroa block. The court then went on to say, “About 5,000 acres belongs to N’Rakau and N’Hinekahau. The above areas leave about 95,000 acres for disposal amongst the parties before the Court”.

The court made these calculations on the basis that Horaaruhe Pouakani contained 122,250 acres. But Cussen's plan ML6306 showed that it contained 122,350 acres. And at the start of the hearing on 9 December 1890 the court had recorded both the number of Cussen's plan and the area of 122,350 acres shown on it.

Clearly, the court was dealing with very approximate figures. This is illustrated by the court's figure of 2,250 acres for the area of Horaaruhe Pouakani included in Maraeroa in 1891. The claimants' surveyor, Mr Harris, calculated the area shifted from Horaaruhe Pouakani to Maraeroa to contain 4,831 acres. A letter that the assistant surveyor general at Auckland wrote on 28 September 1893 to the native land purchase officer at Otorobanga, G T Wilkinson,
Transactions on the Maraeroa & Pouakani Blocks

regarding the proportional allocation of survey liens on the Maraeroa block, shows what was happening:

In reply to your minute of 21st inst. re division of liens on the Maraeroa subdivisions, this can only be done in a very approximate manner as none of the subdivision lines have been surveyed and excepting in the cases of Maraeroa A Sec. 1 and B Sec. 1 for 4,000 ac. each none of the areas are fixed, therefore the division of the lien can only be made on the lines drawn or description given at the Native Land Court, which may, as marked on the maps, be changed out of position and may make the subdivisions hundreds of acres out in area. This shows itself in the case of Maraeroa Sec. 1. The amount of lien I gave you in my letter dated 17 July last was £19.16.6. The computation was based on the total area of the block being 41,245 acres, but since then Mr Stubbing’s survey of Pouakani has come in, and shows an alteration of the eastern boundary of Maraeroa block, increasing the area from 41,245 acres to 52,800 acres, and thus reducing the amount of lien on A Sec. 1 to £15.9.9 instead of £19.16.6. These sort of errors cannot be avoided, owing to want of properly fixed boundaries generally, and in trying to proportion lands on sketch maps or with unsurveyed boundaries, must always happen....

An increase in the area of Maraeroa block from 41,245 acres to 52,800 acres is an increase of 11,555 acres. It should not be thought that the assistant surveyor general’s figure of 11,555 acres is for the same area that the court in 1891 thought contained 2,250 acres and the claimants' surveyor, Mr Harris, says contains 4,831 acres. The assistant surveyor general’s 11,555 acres included the land to the west of the watershed of the Hurakia range that was excluded from Tauponuiatia West. It also included in Maraeroa block a triangular area of 1,538 acres marked C on plan ML6077/3, variously called the Tahorakarewarewa block and the Punakerikeri block, which was to the east of the watershed of the Hurakia range. That is, it included all the land in the fourth to tenth pieces inclusive in map 9.3. The plan ML6077/3 which appears to show all that land, except the part of Horaruruhe Pouakani that went into Maraeroa, gives a total area of 47,975 acres. Deducting this from the assistant surveyor general’s figure of 52,800 leaves a difference of 4,825 acres. This area of 4,825 acres is very close to the figure of 4,831 acres calculated by Mr Harris.

The position is further complicated by the fact that it is possible to see three different areas in the part of Horaruruhe Pouakani that went into Maraeroa. The 1886 boundary was a straight line from Pureora to the original Taporaroa. Stubbing’s plan ML6406 etc started at “Te Pahua’s Taporaroa.” This is obviously intended to mean Te Paebua Matekau, the principal claimant on Maraeroa block. Instead of running in a straight line to Pureora, it veered to the east, with an angle in the line to Pureora. So the three possible areas are:

(a) the triangle from the original Taporaroa to Pureora and back to Te Paebua’s Taporaroa;
(b) the part of Horaruruhe Pouakani enclosed by a straight line from Te Paebua’s Taporaroa to Pureora and then back to Te Paebua’s Taporaroa along the angled line that Stubbing surveyed in 1892 on his plan ML6406 etc;
(c) the total of both areas.

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It is possible that when the court used the figure of 2250 acres in 1886 it was referring to (b) and not to (c). We address this issue in more detail in chapter 10 (see map 10.2).

The survey of lands was an integral part of the process of creating a title following investigation by the Native Land Court (the legislative provisions for survey are reviewed in chapter 12). The surveyors W Cussen and H Mitchell did some surveys in 1886, but in 1889 the titles and relevant surveys on Maraeroa and Pouakani blocks were cancelled by s29 Native Land Court Acts Amendment Act. The subdivisions in 1891 were different. Meanwhile, government land purchase officers, including H Mitchell and W H Grace, and later G T Wilkinson, were making arrangements outside the court with Maori owners and the Survey Office for payment of survey costs in land. We deal with Crown purchases and survey liens in chapters 11 and 12. However, it has to be borne in mind that issue of titles by the Native Land Court was closely tied up with survey. In Tauponuiatia in the late 1880s and 1890s, the Crown was actively purchasing individual Maori interests in land, and survey costs were charged against the land as liens and also paid for in land. Sending a surveyor out to cut, measure and peg boundaries was expensive, especially in bush-covered hill country. If the Crown was the owner of the land on one side of a boundary and expected to become the owner of the land on the other side, this money would almost certainly have been wasted. The surveyed boundary would only be of use in the future if the Crown used it for a later dealing with the land. But the Crown almost always cut up land in a different way from the way it had been cut up when purchased.

Correspondence in the Department of Lands and Survey file 2413 dealing with Tauponuiatia block illustrates the official attitude towards surveys. On 2 March 1887 the assistant surveyor general at Auckland wrote to the surveyor general in Wellington about some other subdivisions of the Tauponuiatia block. He said that W H Grace, the land purchase officer at Taupo, had written requesting that surveys be made of those blocks in order that the Crown might complete its title to them. Mr Grace was quoted as saying "the shares are being purchased at a price which provides that government bear the cost of survey, charging the non-sellers with their proportion of the same". The surveyor general replied in a memorandum dated 5 April 1887:

> It is represented that generally the plans on which the lands passed through the Court will be quite sufficient for the completion of titles. No doubt it will be necessary to cut out the interests of non-sellers and then the original and division surveys found to be necessary could be made at the same time. The Land Purchase Department is still engaged in purchasing but if you think that the sketch plans are not sufficient for the completion of titles to the Crown, arrangements might be made for such surveys as you may consider necessary.

We quoted above from the letter that the assistant surveyor general at Auckland wrote on 28 September 1893 to G T Wilkinson, who was then the native land purchase officer at Otorohanga, regarding the subdivision of liens on the Maraeroa block. On 6 November 1893 surveyor D Stubbing wrote to the chief surveyor at Auckland regarding the survey of the Maraeroa subdivisions:

> Have just been to Otorohanga to see the parties interested in these blocks about payment for survey. No arrangement can be made with them for payment of all subdivisions but a guarantee for payment of part will be
made if you will pass a plan with some of the lines calculated. Mr Wilkinson is now buying in Maraeroa A and Maraeroa A Sec. 1 (having been supplied with the area from your office). These areas being computed by using calculated lines.

Mr Wilkinson will buy in Maraeroa B Sec. 1 and Ketemaringa [sic] as soon as he can get the area. My friends are not willing to guarantee the payment for the complete survey of these two blocks, but will pay for traverse of stream called Ongarue N.W. boundary of Maraeroa B Sec. 1 and for picking up point (mentioned in N.L. Court) S.E. corner of Ketemaringa subdivision of Maraeroa block, if you will accept the other boundaries of these two blocks as calculated lines?

The chief surveyor replied on 10 November 1893:

In answer to your letter re survey of subdivisions I beg to inform you that as the govt, purchasing Maraeroa A Sec. 1, Maraeroa A, Maraeroa B Sec. 1 and Ketemaringi, only the boundaries coloured red on the enclosed tracing need be surveyed.

On 13 September 1895 the surveyor general in Wellington wrote to the chief surveyor at Auckland:

Will you be good enough to state what remains to be done to complete the survey of Maraeroa B, Section 1 block so that the deeds can be prepared. If the land is bought by the Crown, of course we can do with less survey. The late survey by Mr Stuhhing ought to have supplied sufficient data.

W C Kensington replied for the chief surveyor on 28 October 1895 saying:

I enclose a tracing of Maraeroa B and C which completes “Maraeroa B” for land purchase purposes. The boundaries of ‘C’ have been laid off upon the block sheet and can be reproduced upon the ground at any time if considered necessary.

As we explain in chapter 11, the boundaries of Maraeroa C, not having been marked out accurately on the ground, created another set of problems which led to a new set of boundaries in 1911.

9.4 The Maniapoto-Tuwharetoa Boundary

Tribal “boundaries” were traditionally expressed by the recital of a series of landmarks, mountains, rivers, lakes and so on. Sometimes no specific boundary was expressed, but a region implied, for example:

Ko Tongariro te maunga,
Ko Taupo te moana,
Ko Te Heuheu te tangata.

This tribal pepeha of Ngati Tuwharetoa described the sacred mountain Tongariro, climbed by the ancestor Ngatoroirangi. It referred to the great lake Taupo, large enough to be described as a sea. And finally it is a statement of the mana of the ariki line, the paramount chiefs of the Te Heuheu family. By implication the rohe, tribal territory, under the mana and rangatiratanga of Te Heuheu was the region surrounding Lake Taupo and Tongariro. No specific statement of boundary was needed.

When the Native Land Court began its investigation of title, it required, however, not only a plan of the land, but that boundaries be expressed in such terms that a surveyor could measure accurate lines on the ground and draw them on a survey plan. The surveyors were called kairuri, men who used rulers,
the measurers of the land. This requirement to draw lines on a map was the source of most of the litigation which was fought out in the courts and on the marae. The court procedure identified the principal claimant(s) of a block (usually the first to get an application in to the court for an investigation of title) and relegated all others to the status of counter claimants. This in itself was, for many people, an affront to personal and tribal mana. When the boundary was one between major tribal groups, then the stakes in this litigation were even higher. In the case of the Maniapoto-Tuwharetoa "boundary", some of the argument had been settled outside the court in January 1856 when Te Heuheu conceded some areas of Taupounuiatia block to other tribes, including Ngati Maniapoto. However Te Heuheu did not concede the Maraeroa block, and this land became the focus of contention.

The western boundary of Taupounuiatia block, as set out in the evidence of the surveyor, W Cussen, to the Taupounuiatia Royal Commission in 1889, was based on Te Heuheu's statement to the Native Land Court at Taupo on 16 January 1856:

I commence at Ruapehu, thence northerly to Petania thence to Taringamotu stream thence up that stream to Oruaivi thence along the eastern slope of Tuhua range to Pakahi [sic] thence to Tubingamata thence to Maraeroa thence to Turihinetu thence to Tomotoaureiki thence to Pouakani thence by the Waipapa stream to the Waikato river. (A5)8

It is not clear whether Maraeroa is intended here as a specific place, a settlement or a larger area; perhaps it refers to the open area of "Maraeroa Plains" as labelled on contemporary maps. Whatever was intended, from the Maniapoto perspective the inclusion of Maraeroa in the Taupounuiatia block investigation of title meant that the Native Land Court would hear it at Taupo and the principal claimant was Te Heuheu of Ngati Tuwharetoa.

The hearing of claims to Maraeroa block began in the Native Land Court at Taupo on 24 March 1886. Proceedings opened with an application for an adjournment by Taonui of Ngati Maniapoto "because he objects generally to the Rohepotae [being heard in Taupo] and also states that if awarded by this court to anybody he will apply for a rehearing".9 The court proceeded to hear the evidence of Te Heuheu, the principal claimant:

I know this block and the boundaries are correct as shown upon the plan. I claim through ancestry, occupation and mana, have permanently occupied from my ancestors. N'Karewa is the only hapu that has a claim in this block. They have cultivations, wares, dead buried and pa's on this land. The ancestor is Karewa.10

Several counter claimants appeared on behalf of Ngati Matakore, Ngati Poutu, Ngati Whakatere, Ngati Pikiahu and Ngati Karewa. Te Paehua gave his evidence first:

My tribe is N'Matakore, my bapu are N'Karewa, N'Poutu, N'-Whakatere, N'Pikiahu. I claim this block on behalf of hapus mentioned above. I claim through ancestry and occupation — my occupation has been from time of my ancestors to present time. I have dead buried in this block. I know portion of my land included in Rohepotae boundary — it commences at Tubingamata, thence to Tauwharepurakau, thence to Waeraroa[sic], thence to Tearatawbera, thence to Tahora Karewarewa, thence to Pureora, thence to Pukenui, thence to Koheta, thence to Papakaramu, thence to Koromatuarua, thence to stream called Hobahau, thence to Waipapa stream which it crosses, thence to Kopuru,
hence to Taporaroa, then strikes and goes by Rohe Potae [boundary ie Aotea block] to starting point. The land to North east of block belongs to Hitiri Te Paerata and his friends. I have houses on this land now standing.\textsuperscript{11}

This description of the boundary makes it clear that one of the boundary points between Pureora and Taporaroa was the junction of the Ohahau (Hohahau) and Waipapa streams, a point that was not located by survey until Stubbing surveyed the boundary between Maraeroa and Pouakani blocks in 1892. Te Paehua also explained that the relationship of the descendants of Raukawa was different from that suggested by Te Heuheu:

I object to what Te Heuheu said, Tia and Tuwharetoa have no interest in this block.

I know Te Heuheu’s ancestral claim — his ancestral claim is not derived through Tia and Tuwharetoa — his ancestors to this land are Karewa and Matakore.

Karewa is not descended from Tia or Tuwharetoa. Karewa is descended from Raukawa. Raukawa has no connection with Tuwharetoa.\textsuperscript{12}

Te Paehua then explained that Ngati Karewa was only a small section of the people who had rights, and Karewa was of a much later generation than the other ancestors named. The section of whakapapa derived from Te Paehua’s evidence illustrates the relationship between the ancestors Matakore, Whakatere, Poutu, Pikiahu and Karewa. Te Heuheu was a direct descendant of Karewa through his grandmother Rangiaho:

\begin{center}
\begin{tikzpicture}
  \node {Kahu (Ue)};
  \node [below] {Raka} child {\node [left] {Kakati} child {\node [left] {Tawhao} child {\node [left] {Turongo} child {\node [left] {Raukawa}}} child {\node [right] {Karewa}}} child {\node [right] {Karewa}}};
  \node [right] {Kurawere} child {\node [right] {Takihiku} child {\node [right] {Totorewa}}};
  \node [left] {Rereahu} child {\node [left] {Maniapoto} child {\node [left] {Matakore}}} child {\node [right] {Poutu} child {\node [right] {Pikiahu}} child {\node [right] {Raikauri} child {\node [right] {Karewa}}}};
\end{tikzpicture}
\end{center}

I and Te Heuheu are called N’Karewa but not through Tuwharetoa. N’Matakore claims over the whole block — they claim in common, there is no division on the land or boundary. Matakore is not descended through Karewa. Matakore and Karewa were cousins. They are descended from a common ancestor. Karewa’s land extended over part that has been adjudicated (adjoining block). Karewa was the only one that came over the ridge and so had land the others had not. N’Matakore have rights on that portion of their own .... We have lived on this land in common for a long time back ....
Karewa derived right to land through his ancestor Kahu. Matakore also got his right from Kahu. All the hapus get their right from Kahu. They all had equal rights in this block.

Raukawa subdivided his land. Rereahu and Whakatere remained on block and his other children went elsewhere. Maniapoto was elder brother of Matakore he went away and his land on this block became Matakore's. Whakatere's share descended to Poutu and Pikiahu. N'Poutu are descended from another branch of Poutu, not through Raikauri. N'Whakatere are in the same position.

All the counter claimants were in general agreement over the hapu and the descent lines of Te Heuheu from Karewa and Raukawa, as having mana on Maraeroa block, not Tia and Tuwharetoa, as given by Te Paehua.

Te Heuheu responded to claims of the ancestor Matakore and other descendants of Raukawa:

> I claim through ancestry and occupation. Karewa is my ancestor to this land through whom I occupy. Karewa is descended through both Raukawa and Tuwharetoa... Karewa began occupation and has continued it to this day. Raukawa as ancestor to this land of Karewa I object to the ancestor should be Tuwharetoa. Raukawa's land to my knowledge is to the westward of this where I also have a claim. Raukawa came from Kahungunu.

The last comment is a reference to Mahinaarangi, the wife of Turongo and mother of Raukawa, whose marriage linked Tainui with Tai Rawhiti tribes of the East Coast. Te Heuheu cited a whakapapa which indicated that Poutu, grandfather of Karewa, had married a woman called Hinekekehu who was a direct descendant of Tuwharetoa. Her father was Tupoto whom Te Heuheu claimed was responsible for establishing the boundary between the descendants of Raukawa and Tuwharetoa. Te Heuheu acknowledged the rights of Te Paehua and others in Maraeroa but insisted that the ancestral mana was with Tuwharetoa. Moreover, Ngati Raukawa had lived in Tuwharetoa lands only under the protection of Te Heuheu Mananui (who was killed in 1846), after most of the tribe had migrated to Kapiti in the 1820s. Those who remained had lived at Waahi, Te Heuheu's kainga at the southern end of Lake Taupo, and had then returned to live on the Wharepuhunga block to the north of Pouakani block.

The Maraeroa judgment was given on 26 March 1886:

> The claim in this case is on the part of N'Karewa by ancestry occupation and mana — the ancestry through Tuwharetoa and Tia.

> The Counter Claims are on behalf of N'Matakore, N'Whakatere, N'-Poutu and N'Pikiahu. It appears to the Court from the evidence adduced during the hearing of this case and also in the previous case of Tauponuiatia West, that the claims through ancestry on the part of the Counter Claimants is not sustained. Hitiri Te Paeraata in the Tauponuiatia West case states that Raukawa could confer no right as an ancestor to this land, and that Tia and Tuwharetoa are the only ancestors — the same statement was made in the same case by Tiniwaata — these witnesses are confessedly on the side of the Counter Claimants — and these statements corroborate the evidence of the Claimant Te Heuheu but while the Court is of opinion that the Hapu counter claiming cannot sustain their rights as Hapus, it cannot ignore the fact that they have intermarried with N'Karewa, and that some members of those hapus have probably acquired rights through permissive occupation. The
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Judgement of the Court is that Maraeroa as shown on the plan be awarded to N’Karewa as descended through Tuwharetoa represented by Te Paehua together with such other persons as may have acquired rights either as being the descendants of intermarriages between N’Karewa and the other hapus respectively or by permissive occupation.16

After this judgment was given the court adjourned until 2.30pm in the afternoon. There was some discussion of lists of names to be handed in. Hitiri Te Paerata asked for this to be postponed until after he had returned from Auckland where he was required to attend the Supreme Court:

Court stated that if this Court had finished its business it would not wait here on their convenience .... Taonui got up to discuss the Judgment of Maraeroa. Court informed him the Judgment was given and would not be discussed.

Taonui then got up and took all his people out of Court, and on being told to return and explain his conduct to Court he refused — policeman was sent to bring him back and he was obstructed in execution of his duty. Taonui after some little time appeared before Court.

Court fined him 40/- (fine paid)

Court adjourned ....17

Taonui’s anger is understandable. Maniapoto and Raukawa claims were ignored in this judgment and the mana given to Te Heuheu and the ancestors Tia and Tuwharetoa.

In March 1886 Judge W G Mair was in Pirongia (Alexandra) to begin work on the investigation of title in the Aotea (Rohepotae) block. On 6 March, before the hearing of Maraeroa began, he wrote to his brother Gilbert that:

Maniapoto are all raruraru [angry and upset] about some line Tuwharetoa are said to be cutting North of Hurakia and are not ready to do anything in connection with the Rohepotae.18

The argument over Maraeroa effectively delayed the investigation of the Aotea (Rohepotae) block by the Native Land Court until 29 June 1886.

The survey of the boundary between the Aotea block and Tauponuiatia block remained a bone of contention among Ngati Maniapoto. On 18 November 1887, Judge Mair sent a telegram to the surveyor general advising of Taonui’s objection in the Otorohanga court to any survey in the Tuhua Hurakia Maraeroa area until his application for rehearing was heard. On 21 November, the government native agent, G T Wilkinson, also sent a telegram to the surveyor general advising that Ngati Maniapoto objection was not confined to the Maraeroa block but included all the boundary lands from the Whanganui river to Maraeroa:

If the survey is persisted in just now it is likely to bring about the stoppage of the Court at present sitting in Otorohanga. Unless there is some particular reason why the Taupo Survey should be made at once, I would suggest for your consideration that they be postponed until result of Ngatimaniapoto application for rehearing is known, because if application is granted, and they are successful in proving their case, the Survey lines may eventually have to run in a different place to that fixed by the Taupo Court.19

There were several other telegrams and letters from Maori on this file protesting about the surveys in the Tuhua district and warning that the surveyors would be stopped. The assistant surveyor general, Auckland, S Percy Smith
insisted that surveys that were following orders of the court should be proceeded with, but on 15 December he wrote to Taonui indicating that his application for rehearing would not be prejudiced. On 16 December, Smith advised the Under-Secretary, Land Purchase Department in Wellington:

Re Maori obstruction at Tuhua, I am anxious to avoid this if possible, as if carried out it will be difficult to deal with. I think it probable that if an assurance were given that a completion of survey would not militate against rehearing it might get over the difficulty.20

On 23 December, the Under-Secretary for Native Affairs, T W Lewis, advised Smith:

Natives can be assured that the survey cannot in any way prejudice any claim they might have to rehearing wch. will be decided by the Chief Judge upon its merits and with which decision the Govt. can of course not interfere.21

In the Kahiti for 22 December 1887, notice of application for rehearing of Tauponuiatia was advertised to be heard in the Cambridge land court on 18 January 1888. W Cussen's survey had been delayed three weeks, but on 25 January 1888 he reported that the survey was nearly complete from Ruapehu to the Taringamotu river. On 6 February Cussen reported "that another stoppage has been made by the natives to the survey of the Rohepotae near Petania". The court had heard the application for rehearing, but by the end of February still no decision had been advised and Smith considered there was not sufficient reason to stop surveys proceeding. Further "obstruction" at Tokaanu in March led to requests from W H Grace and W Cussen for an assurance that government would pay for surveys. Smith advised the Under-Secretary, Land Purchase Department, "I am not in a position to tell them this will be granted, and I question if it would be advisable in view of its being a precedent".22

In April 1888 the survey in the Tokaanu area was still not underway. Cussen's instruments had been taken and returned, but he was still not able to proceed. On 30 March Cussen had reported that he had completed the Rohe Potae survey from Ruapehu to Oruawi and had begun work in the Rotoaira area. He also had to do some “correction by triangulation”. Because of “the detention of the survey by the natives” he had made “two trips to Tuhua and to Otorohanga at great loss of time and expense”. He commented that the local people were “in an unsettled state among themselves and I have endeavoured for the last month to settle matters; I have thought it advisable to leave for a time”. He also asked for payment, “as owing to the break up of my [survey] parties, I am under considerable pecuniary outlay”.23

Smith commented to Lewis on the further delay:

The object of these people is I believe to force a rehearing, or prevent the completion of the orders already made. As I believe Govt have now got their titles so far advanced that there is no such great urgency to complete the “rohe potae”. I think it would be better to delay this survey for a time, and not to allow any other surveys to go on in that part until these obstructionists come to their senses, or their probable advisers tire of the delay.24

Lewis concurred and advised the Native Minister on 7 April:

it would be better to allow the surveys to rest for the present. The opposition to the survey is extremely foolish on their part and contrary
to the interests of all the Natives of the district. The Govt titles cannot I think be prejudiced by delay and as the land will not probably be required for settlement purposes for some time, the expense of survey might as well be postponed. Under the circumstances I do not think the surveyor has any claim against the Crown for detention.25

The survey was stopped for the time being and Cussen received no payment for the additional expenses he had incurred. The concern of government officials appears to have been more for the status of land purchases rather than any interest in understanding the nature of Maori grievances or Mr Cussen's own difficulties as the man caught in the middle of a situation not of his making. Cussen wrote again in August seeking payment. On 21 September 1888 payment was finally authorised for the Rotoaira survey but “the claim for eighty-six pounds eight shillings on account of detentions cannot be entertained”. In August 1889 Cussen tried again to get some compensation for his additional expenses of March to April 1888:

I would beg you kindly to bring to the Surveyor General's notice that the Govt were most anxious at the time that these surveys should be finished, and with respect to the part [Ruapehu] to Oruaiwi considerable expense was incurred by me placing my [survey] party on the ground and supplying it there, owing to the rough and inaccessible nature of the country, and had I withdrawn it through native opposition it would only have encouraged the natives in their resistance to the survey and my sticking to the ground and eventually bringing the work to a satisfactory conclusion should not, I venture to urge, be the cause of my suffering heavy pecuniary loss.... I received no instructions to cease endeavouring to carry out the work until 11th April 1888.26

Cussen was finally paid the £86.8.0 claimed on 3 October 1889.

That some arbitrary decisions were being made by Crown officials can be inferred from the following extract of a letter from the chief surveyor, S Percy Smith to the Under-Secretary, Land Purchase Department, 6 March 1888, regarding Waihaha No 1 block, a proposed Crown purchase for survey costs:

I enclose herewith the tracing asked for, as for a deed. I send this with some hesitation because, in adjusting the boundary between this block and Maraeroa, the Court abandoned the surveyed boundary and cut off a corner from Waihaha and added it to Maraeroa. It is shown on the plans but has not been marked on the ground and it is quite probable the Maoris may object to the line when they see it on the ground. If Govt, purchases Maraeroa as well, the objection will not have the same force. If you can postpone the execution of the deed till survey has been made I think it would be advisable, at the same time, the cutting off of this corner [ie the survey] would be a very expensive undertaking and probably would nearly equal the value of the land.

9.5 The Tauponuiatia Royal Commission Recommendation

The Tauponuiatia Royal Commission investigated the boundary issue in 1889. Early in the hearing there was discussion whether the maps before the commission were the same as those before the Native Land Court at Taupo, and whether the court was right to proceed to a hearing with only a sketch map. The commissioner, T W Haultain said, “we assume the N.L. Court was right in investigating the block on a sketch map ... We simply have to decide between the red line and the yellow”. Herein lies the beginning of confusion because the red and yellow lines on plan GM180, which was before the royal commission,
are not in the same location as the red and yellow lines on the plan ML5995D which was before the Native Land Court in 1886. There is a dashed line in blue pencil on ML5995D, unlabelled, which appears to follow approximately the yellow line on GM180. Maps 9.4 and 9.5 indicate the location of the boundaries and places named on both plans. What was described as the yellow line on plan ML5955D, the boundary which Te Heuheu agreed to under pressure from Ngati Maniapoto in 1886, became the red line on plan GM180. This cartographic colour change may have contributed to some of the confusion about apparent inconsistencies in evidence on the boundary issue before the commission. It is important to note that plan GM180 was not a plan showing approved surveyed boundaries.

The Tauponuiatia Royal Commission was asked to address the question:

Whether the boundary of the said block of land called Tauponuiatia, as delineated on the said plan [GM180], and thereon coloured red, is the correct boundary thereof, or whether the said boundary is correctly delineated by the line coloured yellow on the said plan, or whether the correct boundary would be properly defined by an intermediate line between the said lines coloured red and yellow.27

Plan GM180 was drawn before the commission began hearing. It is referred to in the terms of reference and in the report, and subsequently in s29 of the Native Land Court Acts Amendment Act 1889. The original plan GM180 could not be found in the records of the Department of Survey and Land Information and it was assumed that it had been destroyed. The tribunal had before it a copy, held in the Hamilton office of the Department of Survey and Land Information, which appears to have been made in 1933 for the purpose of investigating petition no 109/1931 concerning Tahorakarewarewa, which we discuss in chapter 10. We accepted this 1933 copy of plan GM180 as a true representation of the plan before the Tauponuiatia Royal Commission in 1889.

In its report on the matter of the boundary the commission stated: “This is a question respecting the proper position of the boundary dividing the lands of the Ngatimaniapoto and Tuwharetoa tribes”. Taonui gave the Maniapoto boundary in his evidence before the Tauponuiatia Royal Commission in 1889:

The Hurakia range is the boundary between Tuwharetoa and Maniapoto. I will give the whole boundary. It begins at Tapararoa a settlement of the Matakore and Karewa, thence to Owhahau stream, thence to Pureora thence to Ongaruhe stream. Pureora a trig station. Ongaruhe stream is between Tahorakarewarewa and Pureora, thence to Weraroa the commencement of the Hurakia range, thence to Tuhingamata, thence to Te Hapua, Tahuhuroa, Pakihi, a small flat clearing inside the bush. All these points are on the Hurakia range thence to Te Paeotatahi, Kaiwhatu, Ngapuketurua, a hill or mountain, then to Wahakawa stream, thence down that stream into the Pungapunga stream and down that stream to Maniaiti. (A5)

This boundary corresponds with that given by Te Paehua to the Native Land Court in 1886. However, on plan GM180 two place names appeared twice, but in different places on the red and yellow lines. These were Pakihi, at the
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southern end of the Hurakia range, and Taporaroa, at the northern end of the boundary between Maraeroa and Pouakani blocks.

In its report the Tauponuiatia Royal Commission reviewed events since 1882 up to the Taupo court hearing of Tauponuiatia block in 1886 (the full text of the report is in appendix 7). The report does not distinguish the nature of Taonui's objections, interpreting it all as an attempt on his part to stop the Native Land Court sitting:

He had a meeting with Te Heuheu before the opening of the Court on the 19th [January 1886] and endeavoured to induce him to stop the hearing of the case, but Te Heuheu refused to consent to this, and Tannui, whose principal object was to prevent the Court sitting at all, appears to have taken but little interest in the boundary line. Imagining that the boundary line had been settled, he made no objection, as he might have done, to its adoption before the 22nd January, when, there being no opposition, the Court gave judgment for the red line [on GM180] as delineated on the map referred to in the Commission and attached to this report, which line was subsequently surveyed by Mr Cussen.28

The report then referred to Taonui's further objection at the investigation of Maraeroa block by the Taupo court in March 1886. As we have seen, Tannui's walking out of the court came after the Maraeroa block had been awarded to Ngati Karewa by ancestry from Tia and Tuwharetoa. This was a further development of the Ngati Maniapoto grievance. It had begun when Maniapoto leaders failed to stop the Taupo court proceeding with hearing Tauponuiatia block. But Te Heuheu had made concessions on the western boundary of Tauponuiatia in meetings with Ngati Maniapoto leaders, and Te Heuheu had also acknowledged that Te Paehua was a principal claimant on Maraeroa block with him. However, it was adding insult to injury that Maraeroa should not only be heard in Taupo as part of the Tauponuiatia investigation, but that it should be awarded in the name of Tia and Tuwharetoa while the Maniapoto ancestors were ignored. Preparations were already being made early in March 1886 for a separate court to begin hearings on the investigation of the Aotea (Rohepotae) block.

Major Scannell, who was judge in the Taupo court, gave evidence to the Tauponuiatia Royal Commission stating that Judge Brookfield explained the altered line to Taonui at the Taupo court on 19 January 1886. Perhaps both Judges Scannell and Brookfield were also confused by the vague lines on the plan (MLS99SD) before them. The commission report stated:

Taonui and other witnesses on his side assert that they were told by the Court that the red line [on GM180], or altered boundary, ran along the summit of the Hurakia Range. Major Scannell said that the range was not mentioned until the hearing of Maraeroa; but he himself was mistaken as to the position of that range, which was very faintly delineated on the Court map, and imagined that a part of it formed the northern portion of the western boundary of Maraeroa; and it was only when he saw Mr Cussen's surveyed map, which was before the Commission, that he became aware of its true direction.29

The survey plans by W Cussen and H M Mitchell of the various subdivisions of Tauponuiatia West block were not sent into the Survey Office in Auckland until 29 December 1886. The large plan of the whole block and subdivisions, ML6036 etc, was approved by the assistant surveyor general on 15 January 1887 and was produced at the Taupo court sitting on 2 February 1887. By this
PART OF SKETCH PLAN OF TAUPONUIATIA BLOCK (ML 5995D) BEFORE NATIVE LAND COURT 1886

Source: ML 5995D

Map 9.4
time, judgment had already been given on Maraeroa block. The Hurakia range is not labelled at all on ML5995D, and few landmarks in this region are given precise location.

The commission went on to comment on other evidence presented, noting that the recital of tribal history and genealogies “mainly proved that those residing there [between the red and yellow lines on GM180] belonged to both sections — in fact were a mixed race who could give no exclusive rights to either party”. The commission also commented that:

if Taonui had at any time between the 19th and 22nd of January, 1886, when judgment was given, brought forward his objections to it, as he might have done, he would probably have obtained at least a partial adoption of his boundary, for there can be no doubt that a mountain-ridge is a proper and natural division between two tribes. He lost this opportunity, for he was stubborn, and chiefly anxious to stop the sitting of the Court; but taking into consideration that he understood no partial hearing of the original Rohepotae Block would be allowed, and that the map on which the altered boundary was shown to him was indistinct as to the position of the range, also that it was his first appearance at a Native Land Court, and that he was ignorant of its rules and customs,—

We find that the portion of the boundary-line between the Ngatimaniapoto and Ngatituwharetoa Tribes which is in dispute should be the red line from its junction with the Pungapunga Stream to Pakihi, which is the commencement of the range, and from thence along the Hurakia Range or watershed to Pureora, and from thence to Tapororoa [sic], along the north-eastern boundary of the Maraeroa Block. This line would not include the settlement of Tahorakarewarewa, which Taonui claims, but which is on the eastern slope, about two miles from the ridge and about ten miles from Lake Taupo.30

At this point, the tribunal feels urged to comment that if the Taupo court had had before it a properly surveyed plan, with clearly marked boundaries and landmarks whose location had been agreed in consultation and discussion among the various parties concerned, then a lot of trouble would have been averted.

References
1 Taupo minute book 9 pp 309-314
2 AJHR 1889 G-7
3 Waikato minute book 27 pp 167-168
4 ibid p 28
5 Lands and Survey file 2413
6 ibid
7 ibid
8 Taupo minute book 4 p 38
9 Taupo minute book 5 p 58
10 ibid pp 58-59
11 ibid pp 59-60
12 ibid p 60
13 ibid pp 61-63
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14 ibid p 62
15 ibid p 72
16 ibid pp 82-83
17 ibid p 81
19 Lands and Survey file 2413; punctuation added
20 ibid
21 ibid
22 ibid
23 ibid
24 ibid
25 ibid
26 ibid
27 AJHR 1889 G-7
28 ibid
29 ibid
30 ibid
Chapter 10

The Survey of the Tauponuiatia Royal Commission Boundary

10.1 Introduction

The relevant part of s29 of the Native Land Court Acts Amendment Act 1889 which affected the western boundary of Tauponuiatia West block is:

Be it enacted as follows: The western boundary of the land known as Tauponuiatia is hereby declared to be, and shall be deemed to have been, the line defined as such western boundary in the said report [AJHR 1889,G-7], and shown in the map numbered one hundred and eighty, and deposited in the office of the Surveyor-General in Wellington.

The problem is that the plan GM180 does not show precisely the boundary described by the Tauponuiatia Royal Commission. What GM180 does show is two boundary lines, a red line, described as “Rohe Potae of Tuwharetoa,” and a yellow line which was the “Rohe Potae of Maniapoto”. We address this boundary issue in three parts, the first describing the efforts made by the Survey Office to have the new boundary of Tauponuiatia West defined along the watershed of the Hurakia range. Secondly, we address the issue of Tahorakarewarewa, stated by the commission to be east of the watershed but actually located on the yellow line on plan GM180. Thirdly, we address the boundary between the Maraeroa and Pouakani blocks which, on plan GM180, is represented as a straight line between Pureora and Taporaroa, but when surveyed on the ground by D Stubbing in 1892, was presented as two straight lines with the angle based at the junction of the Ohahau stream and the Waipapa river, and a small dog leg at the Pureora end.

10.2 The Boundary from Pakihi to Weraroa

On 4 October 1889, S Percy Smith, now surveyor general in Wellington, wrote to the Auckland chief surveyor, on the survey in Tauponuiatia West block “required to complete arrangements with the Natives”. Part of the triangulation work contracted to W Cussen and H M Mitchell was incomplete, “but the cost of it was deducted from the purchase money”, leaving a sum of £490.12s.6d to complete this survey:

Please therefore instruct these gentlemen to continue the work on the same scale and on same conditions, to extend over the Waihaha and adjacent country in a manner most suitable for further subdivision of that block and for the connecting of the boundary line of the Govt purchase [Waihaha] Nos. 1 and 2. The money must not be exceeded as the Land Purchase [Department] arrangements are concluded on that basis.

The Govt interests in Waihaha require defining on the ground: Nos. 1 and 2 contain 30,000 acres ... This area must be cut off as shown by line A-B to contain exact area, the division between 1 and 2 does not of course

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require defining — and if the line A-B is cut at each end say for 40 chains
I think this will suffice — excepting where it may be necessary to extend
it to connect with Awaiti [a native reserve of 100 acres], which, if within
the Crown boundaries will also have to be surveyed.

Next the boundary line as lately decided by the Royal Commission,
starting from “Pakihi which is the commencement of the range, and from
thence along the Hurakia Range or watershed to Pureora”, should be
actually defined on the ground from Pakihi to the point where it inter­
sects the Waiaha Nos. 1 and 2 boundary (and also that of Maraeroa)
— and, I may say, that the further position of this boundary up to
Pureora will have to be defined also, but the cost of doing will have to
be made a separate charge against Maraeroa and Tihoi.1

The letter had a sketch in the margin which is reproduced as the inset to map
10.1. The Auckland Survey Office was also asked to negotiate a price with
Cussen and Mitchell for consideration. It seems that areas and boundaries were
negotiable on Waiaha block as well, because Smith concluded his letter with the
comment:

In dealing with Nos. 1 and 2 Waitaha eventually for title purposes, No.
2 will remain at the exact area of 11924 acres or what ever is mentioned
in the [Native Land Court] order. No. 1 will suffer by alteration of
boundary.2

Cussen was predictably concerned at the limitation of funds for surveys and
responded on 23 October 1889. The original price agreed with Maori owners
was two pence per acre “for the external boundary survey” and one and a half
pence per acre “for the triangulation”. Because Cussen broke his leg, the
triangulation:

was stopped, after it had been completed over the Pou-a-Kani block
only, and when I was in a state to resume, the shortness of funds at
Government disposal interfered.

The amount of money left, which you mention as £490.12.6, would be
very inadequate to finish the whole work satisfactorily, and this is, I
presume, only the 1½d. charged to the Tuhua-Hurakia-Waihaha block
alone. The others, viz. Maraeroa, Tihoj and Hauhungaroa are still
chargeable for triangulation with this 1½d, which according to our
agreement with the natives should be also available for that work. It
would be unfair to us, the surveyors, on the one side, if we are not allowed
the 1½d. per acre for the triangulation based on the area of the whole
of Taupo Nui Atia West as in the terms of our agreement; and on the
other side unfair to the natives as a whole to charge only two blocks, viz.
Pou-a-Kani and Waiaha, with work which is necessary and ad­
vantageous to the rest.3

Cussen enclosed a memo from W H Grace which summarised the situation to
date:

The surveys of Horaaruhe Pouakani and Tuhua Hurakia Waihaha
Blocks have been paid for by the natives in the shape of land, namely
20,000 acres cut off Horaaruhe Pouakani block vested in the name of the
Crown and called Pouakani No. 1 to pay for the said Horaaruhe
Pouakani block. And 11,000 acres cut off Tuhua Hurakia Waihaha
block also vested in the name of the Crown to pay for the survey costs
of the said Tuhua Hurakia Waihaha block. The pieces cut off and vested
in the name of the Crown in both these blocks cover the costs of the
surveys of the external boundaries and also the costs of the minor
triangulation. The minor triangulation of Horaaruhe Pouakani has been
Survey of Tauponuiatia Royal Commission Boundary

MARAEROA BLOCK
Boundary Changes

- 1887 boundary (Cussen)
- 1890 boundary (Cashel)
- 1892 boundary (Stubbing)
- 1895 Maraeroa Block

POUAKANI BLOCK

Tahorakarewarewa

Turi o Hinetu

Parakir

Pukemako

Tapararoa on
Cussen Plan

Te Paehua's
Tapararoa

KETEMARINGI BLOCK

Wearoa

WAIHAHA No 2 BLK

HURAKIA BLOCK

Turangamata

Pakiti

The Surveyor General's Sketch
4 October 1889
(L & S File 2413)

Map 10.1
completed and paid for by the Govt hut not so in the case of Tuhua Hurakia Waihaha Block and the Govt have in hand a considerable sum for this work.

The costs of surveying the Tihoi, Maraeroa and Hauhungaroa blocks have not yet been paid for by the natives nor have they made any provision for payment of same in the shape of land. The Govt have paid the surveyors, viz. yourself [W. Cussen] and Mitchell 2d per acre for the survey of the external boundaries of these blocks but not for the minor triangulation that work not having yet been done.

The arrangement made with yourself and Mitchell for the survey of Taupo West Blocks, was, 2d per acre for survey of external boundaries of blocks and one penny half penny for minor triangulation. The completion of the minor triangulation work to the best of my recollection was stopped owing to the shortness of funds at the time.4

There must have been further negotiation on the new survey required by the Tauponuiatia Royal Commission decision. On 18 November 1889 Cussen produced the following quotation for the work:

<table>
<thead>
<tr>
<th>Description</th>
<th>Distance</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pakihi to Weraroa</td>
<td>9 miles</td>
<td>£15</td>
<td>£135.0.0</td>
</tr>
<tr>
<td>Maraeroa portion</td>
<td>6 do.</td>
<td>do.</td>
<td>90.0.0</td>
</tr>
<tr>
<td>mile at each end A.B.</td>
<td>do.</td>
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<td>[Waihaha block]</td>
<td>1 do.</td>
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<td>15.0.0</td>
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<td>Round Awaiti Sub.</td>
<td>1 [mile]</td>
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Cussen also commented on the rate of £15 per mile, to justify a higher figure than that previously authorised by the chief surveyor:

I would beg to point out that though £14 per mile was the rate allowed for the Whakapapa River traverse, yet a river traverse is easier of execution than the cutting of straight lines in a mountainous and heavily hushed country, and stores were more easily conveyed there than they can be to a party on the Hurakia Range at an altitude varying from 3000 to 4000 ft, as in this case all provisions will have to be swagged in.5

On 3 January 1890 Cussen and Mitchell were authorised by W C Kensington, on behalf of the chief surveyor, Auckland, “at your earliest convenience” to carry out:

1st. The survey of the amended boundary of the Tauponuiatia Block from Pakihi to Weraroa.
2nd. Setting in one half mile at each end of the eastern boundary of 11,000 acres of Crown land at Waihaha.
3rd. Surveying and locating the 100 acres at Awaiti.

The whole must be done according to the Survey Regulations and on satisfactory completion being approved you will be paid the sum of one hundred and seventy four pounds (£174) to cover all costs whatsoever. Should the 100 acres at Awaiti prove to be outside on the Native Land a deduction of £24 will be made.6

Cussen organised the survey immediately to take advantage of summer weather. During February local people stopped another surveyor, Mr Clayton, from completing the survey at Rotoaira that Cussen had not finished in March 1888. On 1 April 1890 Cussen reported by telegram “My survey is completed
and information ready for inspection”. There is no report on file of any obstruction of the new boundary surveys although rumours that Papanui had stopped the survey had reached the Auckland Survey Office. Cussen sent another telegram on 1 May:

Tauponuiatia boundary finished from Pureora to Tuhingamata. Natives report they have stopped survey I have heard nothing about it from my party at work there.

On 3 April 1891 there was still a balance of £45.15.3 owing to Cussen and Mitchell, being the balance owing on the original Tauponuiatia survey. The surveyor general, Percy Smith, gave the excuse that the western boundary of “Maraeroa block had not been cut, but was a calculated line”. Cussen responded on 15 May that he had now cut the line and offered an explanation:

that the line you refer to was not cut at the time I sent in the plan owing to some trouble with the Natives about the boundary.

After the Commissioners held the enquiry at Kihikihi and decided that some of the boundary of Tauponuiatia West block bad to be altered I was authorised to survey the amended boundary and while doing so I also cut that Western portion of Maraeroa block which Mr Smith refers to. The lines are all now cut and marked on the ground in accordance with the Survey Regulations.

Robert Cashel, who was employed by Cussen, described his survey of the line from Pureora to Pakihi in his evidence to the Native Land Court during investigation of title of Maraeroa block on 17 September 1891:

I am a surveyor — not licensed — of Kuiti. I have no ancestral claim to this land. I cut a survey line on this block from Pureora along the ridge to Weraroa. I then proceeded to cut a line towards Ketemaringi, but I found that that was not the watershed, because it was intersected by a stream, the Maoris I had with me informed me it was Maramataha, it was parallel with the ridge. I went back to Weraroa and started again, on the proper ridge which is not intersected by any stream. I continued the survey to Pakihi.

I found an open space in the bush about 25 to 30 acres, it was swampy, about a mile from Pakihi. The range does not stop at Pakihi. I saw no evidence of kaingas at Pakihi or anywhere thereabouts. Pakihi is about 3000 feet above the level of the sea.

The line from Pakihi to Ketemaringi has never been cut. Those streams are merely sketched in. I don’t know whether there is any other stream besides Maramataha.

My native staff were Hohepa, Tamihana, Paora and others, they were quite new to the place.

I was instructed by Mr Cussen to cut the line. I followed the instructions in the Gazette in pursuance of the decision of the Commissioners which was that the line should follow watersbed.

Cashel stated that he had received a letter from Te Papanui objecting to the line from Weraroa to Tauwharepurakau and wanting him to cut a line from Weraroa to Ketemaringi. He described “a ridge part of the way from Ketemaringi to Pakihi very like the one I surveyed”, but be could see Ketemaringi from Pakihi. Cashel noted:

Hohepa and Tamihana belong to the Taupo natives, they did not know much about the land. I believe we were the first people ever there since the days of the old men.
I saw a line running along the ridge presumably cut by the natives, it goes along the open space at Maniaiti, called by some of the party Pakihiiti. Cashel's field book has not survived, and no record of it can be found in the Department of Survey and Land Information's Hamilton office. On Lands and Survey file 2413 is a request dated 9 August 1902 to the Auckland Survey Office for William Cussen's original field book for Waituhi Kuratau block. Mr Donahoo, who was surveying in the area, reported that there appeared to be a discrepancy between surveys done in 1886 and 1896, as it seemed a peg had been wrongly replaced in 1896. The only way to check this out was by consulting the original field book. The request was passed on to Mr James Simms, surveyor of Otorohanga, for information, noting that field books deposited in the Survey Office were not originals. A telegram sent back on 20 August 1902 stated “Lawrence Cussen destroyed all William Cussen’s original field books”. This was probably the fate of Cashel's field book, since he was employed by W Cussen. However, the evidence on several Department of Survey and Land Information plans indicates that the survey of the watersbed of the Hurakia range was completed from Pakihi to Pureora.

10.3 Tahorakarewarewa

In the amended statement of claim dated 23 October 1987 (appendix 2), “The Tribunal is asked to inquire into the western boundary from Taparora [sic] to Tahorakarewarewa to Weraroa and thence to the Pungapunga Stream including the lands investigated by the Royal Commission of 1889”. The Tauponuiatia Royal Commission had specifically excluded “the settlement of Tahorakarewarewa, which Taonui claims,” from Maniapoto lands. It was “about two miles from the ridge” east of the Maniapoto Tuwharetoa boundary along the watersbed of the Hurakia range. In 1891 the Native Land Court included Tahorakarewarewa in Maraeroa block. The claimants did not pursue this aspect of the claim in bearings and no specific evidence was presented to us. However, in order to provide a complete explanation the tribunal did pursue its own investigations in the Department of Survey and Land Information Hamilton office and the National Archives.

The land described as Tahorakarewarewa is a triangular area of some 1538 acres, bounded to the east by Tihoi block, to the south by Waihaha No 2 block, and to the north and west by Maraeroa A block, and shown on ML6498D, a compiled plan held in the Department of Survey and Land Information office in Hamilton. All the boundaries were surveyed and the plan was signed for the chief surveyor by W Kensington on 7 February 1899. The land is described on this plan as “Punakerikeri Block Being portion of the Maraeroa A Block Already adjudicated upon (Orders made)”. No other exhibit notes or approvals appear on the plan.

The Department of Survey and Land Information file 20/346 in Hamilton included a copy of petition no 109/1931 by Pepene Eketone and others on the subject of Tahorakarewarewa, claiming it as uninvestigated Maori land, not part of Maraeroa block, having been excluded by the findings of the Tauponuiatia Royal Commission in 1889. We followed up this petition with a request to the National Archives for any relevant papers and a report on the petition. Eventually a report was located, but only after some searching. We quote an extract from the letter to the tribunal dated 31 May 1991 from D W
Hodder, assistant director, National Archives, which illustrates some of the difficulties in tracing the records:

The papers we hold for the Native Affairs Committee, 1932-33 (Le 1/1932/10) do not contain the petition from Pepene Eketone (109/1931), although the minute book refers to it twice: on 10 November 1932 the Committee resolved to ask the Forestry Department how they became vested with the title, and on 9 February 1933 the Committee resolved to refer the petition to Government for enquiry.

However, a further search of our holdings of Parliamentary papers has yielded the original petition of Pepene Eketone. The petitions from 1931 considered in 1932/33 were usually filed back in the year of presentation. However, in the 1931 sequence of petitions to the Native Affairs Committee (Le 1/1931/11), instead of 109/1031 is a note indicating that Pepene Eketone's petition was "extracted temporarily in connection with no. 8 of 1962: Te Rehe Amohanga & 12 others". Pepene Eketone's petition remains in the envelope with that 1962 petition, together with petition 1935/58 (Huru Paora & 38 others of Mokai): our reference is Le 1/1962/12 (no.8). To this 1935 petition is attached a copy of the report dated 5 July 1935 from the Judge of the Native Land Court for the Waikato Maniapoto District to the Chief Judge of the Native Land Court in Wellington. This is the report arising from the Court hearing on 28 May 1935; it does not appear on Pepene Eketone's petition file.

Unfortunately, we have been unable to locate the Departmental file on this matter. A search of the contemporary indexes and registers for the Native Department shows that the petition was received from the Clerk, Native Affairs Committee, House of Representatives on 24 August 1931. The file reference was 1931/399, subsequently reclassified as N.D. 5/13/79. (Both these numbers are evident on the petition files of Pepene Eketone and Huru Paora.) As we would expect, no papers were retained in the 1931 numerical sequence. But a search through the lists itemising files transferred from the Department of Maori Affairs has failed to show file 5/13/79, although we hold many others from the 5/13 ... series ....

The Regional Archivist in Auckland has also made a search of files transferred to our repository there from the Hamilton district office of Maori Affairs, but has turned up nothing relevant.

From the papers that have been located it seems that petition no 103/1931 was heard by the Native Affairs Committee of the House of Representatives and referred to government for inquiry on 9 February 1933. However, the land had been proclaimed Crown land on 22 August 1901 and in 1920 vested in the Forestry Department as a provisional state forest.12 The Under-Secretary for the Native Department wrote to the Native Affairs Committee on 6 November 1931 with a comment on petition no 109/1931:

This arises out of a long standing grievance over boundaries and in 1889 formed the subject of a Royal Commission. I enclose a copy of the report, the matter affecting the boundary being comprised in Issue No. 1. As a result of the findings of the Commission, section 29 of the Native Land Court Amendment Act, 1889, was passed excluding certain land from the Tauponuiatia Block and authorising the Court to investigate the title of the excluded portion. Just about Tahora Karewarewa there was a contest about the boundaries between the two tribes Ngati-Maniapoto and Ngati-Tuwharetoa and it is possible the land referred to in the petition is covered by the section of the Act referred to.13

The petition was referred to the Native Land Court for inquiry, and submissions on it were heard there on 28 May 1935.14 A report was issued by Judge
MacCormick on 5 July 1935. The court acknowledged that the land concerned was the Punakerikeri block on plan ML6498D, and that it was east of the line set by the Tauponuiatia Royal Commission. We reproduce Judge MacCormick's report in full as appendix 8. The court concluded that the land had indeed been sold to the Crown. The entry of 12 December 1891 in the Native Land Court minute book is clear that the land called Tahorakarewarewa or Punakerikeri block was included in the order for Maraeroa A block:

Order 20/- pd. Order in favour of Te Paehua Matekau and others. To include portion marked C 1538 acres, also part of portion of Maraeroa included in Pouakani, shown in pencil on the plan.

In setting out the boundaries of the Maraeroa block for the rehearing by the Native Land Court in 1891, Te Paehua stated in opening the case on 24 August, that Tahorakarewarewa was part of a line from Weraroa to Tahorakarewarewa to Pureora. The plan before the court was ML6077/3, which was compiled in 1891. It was based on the Cussen and Mitchell plan ML6077 which was submitted with other plans of Tauponuiatia West and its subdivisions on 29 December 1886, but had never been approved by the Survey Office or the Native Land Court. The watershed of the Hurakia range is shown. The triangular block "C 1538 acres" referred to above is clearly shown on ML6077/3. In accepting the watershed as the boundary, a small portion of the Tahi block was also added to Maraeroa, but this does not seem to have been an issue in the 1891 bearing of Maraeroa. It seems that the court chose to include this triangular block of 1538 acres, Punakerikeri block, in Maraeroa in the absence of any objection. There is nothing in the minutes to explain why the name Punakerikeri was given, or why a separate compiled plan, ML6498D, was prepared. This area was included in the Crown purchase of Maraeroa A2 block in 1901.

In petition no 58/1935 of 1935, Huru Paora and 38 others sought that "the report of a special commission set up to define the boundaries of the Tauponuiatia block be given effect to". On 7 May 1936 the Cabinet Petitions Committee referred this petition to government for inquiry. On 3 May 1937 the following memorandum was sent by the Under-Secretary, Native Department, to the Under-Secretary for Lands:

A petition (No. 58/1935 of Huru Paora and others) in which the petitioners claimed that the land in question was wrongfully awarded by the Court to Ngati Maniapoto is under consideration. Judge MacCormick in his report on petition No. 109/1931 dealt with this aspect of the matter, and if I remember aright, the Rt. Hon. Native Minister directed that no action should be taken with regard to Petition No. 58/1935. All petitions referred to the Government are, however, required to be considered by the Cabinet Petitions Committee, and while it is not very likely that the Minister's decision will be departed from, it might be as well for you to defer any dealings with the land which might be contemplated until such time as the matter has finally been disposed of.

The members of the Cabinet Petitions Committee had Judge MacCormick's report before them when they considered petition no 58/1935 in May 1936, but still resolved to refer the matter to government for inquiry. Nothing more seems to have been done, probably because Judge MacCormick's report indicated that the 1583 acres had been included in the 1891 investigation of title of
Maraeroa block, and also included in the Native Land Court order for Maraeroa A block. The plans on deed no 3308 (two deeds) for the sale of Maraeroa A2 block are identical to the plan on the title order (see chapter 11).

10.4 The Boundary from Pureora to Taporaroa

The rehearing of the Horaaruhe Pouakani claims before the Native Land Court started on 9 December 1890. There were several claims but the court decided to hear claim no 15 by Werohia Te Hiko and others first, probably because that was the first application received by the registrar. Werohia Te Hiko’s claim was conducted by Pepene Eketone whom we presume to be the same person as the Pepene Eketone who petitioned parliament in 1931 and died in 1935. The hearing proceeded from 9 to 17 December, was adjourned to 4 February 1891, and judgement was given on 7 May 1891. Cussen’s plan of Horaaruhe Pouakani, ML6036, was before the court.

The boundary of Pouakani block was described by Werohia Te Hiko on 9 December 1890:

\[ \text{Pohuehue, Kaeaearua, Okurarenga, Te Kuriatinongahuru, Oputanga, Te Waipohatu, Te Tikiwhenua, Te Puauowaipapa ki Waikato, following Waikato river to Te Tatua boundary thence to Pohuehue, the commencement.} \]

Oriwia Ngakao (sister of Hitiri Te Paerata) stated on 9 December 1890, “I am acquainted with the land included in Werohia’s boundaries. I do not understand plans”. Hitiri Te Paerata followed on 11 December 1890, “I am well acquainted with the block but don’t know much about plans”. Under cross examination Hitiri Te Paerata described the boundary of Pouakani, including “the Trig Station at Pureora, thence northerly, Ohahau, Taporaroa”.

Ngakuru Te Rangikaiwhiria on 9 February 1891 stated:

Werohia’s boundary from Pureora to Tapuraroa [sic] I object to, it should go from Pureora to Koromatuarua, Ohahau, Te Kopure, thence to Tapuraroa marked (A No. 1 on plan in pencil) the Taporaroa as shown on the plan is wrong. The land between my boundary and Werohia’s is properly part of Maraeroa and is the property of N’Karewa.

When cross-examined by Te Rangikaripiripia the following day, Ngakuru responded:

I was at Taupo Court when that boundary was discussed. Te Heuheu the elder was the claimant in Maraeroa case. Te Paehua’s boundary was from Tapuraroa [sic] to Pureora. The mistake of the boundary was not known till the survey was made. Te Paehua said in Court that he had bird snaring places along the line.

Pepene Eketone had been conducting the case for Ngati Wairangi, but on 5 March 1891 because he bad an interest in “the matter of Taporaroa boundary he could not appear in this particular question, he had arranged for Hone Patene to conduct”.

Te Paehua Matekau then began his evidence:

I live at Manganrongo [on Maraeroa block], I belong to N’Raukawa and belong to N’Rereahu and N’Whakatere. I know the Poukani block. I have a claim to it, boundary to which I have a right viz. Taporaroa (Taporaroa proper is a miro tree) Te Kopure (a plantation) Waipapa junction of Ohahau, Te Whanga (a miro), Koromatuarua (a hill on the road to Te Hapainga) Te Waimanu (waitahere) [bird snaring trough]
Pouakani 1993

Papakaramu (where tuis were speared) Oweta (bird snaring place), Te Pukenui, thence Pureora (places pointed out on the plan by witness). The area comprised in the difference of my line and that shown on the plan is properly a part of Maraeroa block.27

Te Paehua went on to mention several bird snaring places and kainga mahiinga manu, temporary camps used when bird snaring, “I have no other kainga on this piece, the principal occupation of which was bird catching; in ancient times rats were snared”28 He then explained the survey problem of this boundary:

The boundary I have just given I deposed to at Taupo [court hearing in 1886]. When N’Wairangi were conducting the survey I objected. I interviewed Hapeta and Mr Cussen the surveyor. I objected in Court at Taupo to the boundary as given by N’Wairangi. Taporaroa as shown on the plan is properly Paekaeka ....

I ask the Court to cut this piece off from Pouakani and to make an order in favour of self and the hapus I have mentioned, and N’Maniapoto, N’Matakore, and N’Whakatu [sic = Whakatere?].29

When the court asked for objections to Te Paehua’s request, Te Rangikaripiripia stated that Ngati Wairangi and Ngati Ha also claimed that part:

Pepene said owing to a sketch plan being produced before the Court at Taupo the confusion arose.

Arekatera and Hipirini said they had no opposition to offer to the application by Te Paehua ....

Mr Barton said he had no fresh evidence to adduce to rebut that of Te Paehua ....30

There was some further questioning of Te Paehua, mainly elaborating on the activities of the Maniapoto ancestors already named, but nothing to upset the boundary described.

Te Rangikaripiripia objected to Pepene Eketone continuing to conduct the Ngati Wairangi case, describing him as “a co-claimant with Te Paehua”. However, after some discussion outside the court, it was decided to retain the services of Pepene Eketone. Te Rangikaripiripia then proceeded to give his evidence, beginning with “the boundaries of territory owned by Moe”, including “Pureora, thence northwards, Te Waipohatu, Te Ti, Te Maire, Te Tikiwhenua, Waipapa upper part, Te Karamuramu, Taporaroa”.31 He continued his evidence with descriptions of kainga and bird-snaring places, various hapu and genealogical references, and spoke against Te Paehua’s claim:

I heard the boundary given by Te Paehua. I deny that boundary. The proper one is that shown on the plan. Te Paehua occupied up to that line only and no further. The food about there are eels only. On the N’-Wairangi side of the boundary are eels, duck and koura, the limit of their occupation was the boundary on plan ....

Taporaroa was a man and not a miro tree as stated by Te Paehua, he belonged to N’Rere and N’Tunoho, he was killed by N’Wairangi because he was in the habit of taking more than his share of game etc. (He kaikino i nga kai) and because of kanga [curse] ....

Taporaroa to Pureora is the boundary of N’Wairangi ....32

On 18 March 1891 Werohia Te Hiko was called to give further evidence in response to counter claimants’ evidence:

I heard the boundary given by Te Paehua. I object to it strongly, it is wrong, his eel fisheries and mahingas are outside the block ....
I have not seen Taporaroa, but the other places, Tikiwhenua, Te Ti etc. I have been at. Taporaroa is near Waipapa [river]. Tikiwhenua is out in the fern. Taporaroa is a fern ridge. I have not seen the surveyed line, but I have heard and believe it follows the above names.33

The evidence was completed and final addresses to the court were given on 23 April 1891. Arekatara requested “that the Assessor should visit the various localities on the land in dispute”.34 This was agreed but we have no record of his route except that court had to be adjourned on 1 May, and again on 4 May, because the assessor and his party were detained at Waotu by “the inclemency of the weather”.35

The judgment on Pouakani block was given on 7 May 1891, in respect of hapu, and comment made by the court on the various claims put forward:

Te Paehua ... set up a case for a small strip from Taporaroa to Pureroa. Taporaroa as he showed was really some distance to the North West [sic] of where it appears on the plan, this piece he claimed as part of Maraeroa. He named several spots which had been bird catching places belonging to his people and said he had whares on part of it, also cultivations and traced what he said was the correct boundary.

Pepene [Eketone] had intimated at the opening that this case would be set up.36

In concluding a lengthy judgment, it was stated:

That Te Paehua (on behalf of N'Maniapoto) has proved his right to the part claimed by him.

The Court therefore awards the land before the Court to N'Moe, N'-Wairangi, N'Korotuobu, N'Rakau, N'Hinekahu and to N'Ha; and to N'Maniapoto as represented by Te Paehua in respect of Taporaroa to Pureora.37

The investigation of title to the Maraeroa block by the Native Land Court began on 24 August 1891, after the Pouakani block investigation. The area was described as 47,975 acres and the plan ML6077/3 was before the court. Te Paehua Matekau described the boundaries of the “Maraeroa Hurakia block” as follows:

Beginning at Taporaroa — Te Turiohinetu, Pukemako, Ketemaringi, Pakihi, thence Easterly Tuhiingamata, Weraroa, Tahorakaparewarewa, Pureora, thence northerly to Taporaroa the commencement.38

Te Paehua claimed the land on the basis of ancestry, mana and continuous occupation:

We inherit this land from Kahu who came to New Zealand in Tainui canoe. The ancestors, descendants of Kahu, whom we claim directly from are Rereahu, Whakatere, Maniapoto, Matakore, (Punga, Tipi) Tamaio the tupuna of Tipi and Punga.

The following hapus are the owners under the above ancestor viz. N'Maniapoto, N'Matakore, N'Poutu, N'Karewa, N'Hinemata, N'Tarapikau, N'Rereahu, N'Whakatere, N'Punga, N'Tipi, N'Toreihu, N'Parekaihina, N'Huru, N'Ruahine, N'Pehi.

The divisions of the block. A boundary runs from between Tauwharepurakau, Tuhiingamata, thence Westerly to Ketemaringi where it strikes the external boundary. This portion is called Hurakia. The hapus who own it are N'Huru, N'Parekaihina, N'Toreihu, N'Ruahine, N'Pehi, N'Hinemata, N'Rereahu and others.
Another division commences from Raketi, Kokakotaia, thence following stream (Ongarue) to Mairerepi on Western boundary. This portion is called Ketemaringi, owners are N’Punga, N’Tipi, descendants of Tamaio.

The rest of the block we will call Maraeroa, the rest of the hapus, viz. N’Matakore, N’Whakatere, N’Poutu, N’Karewa, N’Tarapikau, N’Maniapoto, N’Rereahu. There were several counter claimants but of these Te Paehua was prepared to include “Te Heuheu, his sisters and their children, also Ngakuru and his family”. An attempt was made by Te Papanui Tamahiki to claim Hurakia on the basis of ancestry and occupation by descendants of Tuwharetoa and Tia, but the Taupouinuiatia Royal Commission had established the boundary as the watershed of the Hurakia range. A claim was made by Karawhira Kapu and others of ancestry and occupation by descendants of Ha but this too was dismissed by the court. Other counter claimants were also dismissed in the judgment. The court pondered Papanui’s claim in Hurakia, but accepted Cashel’s survey line along the ridge of the Hurakia range as the eastern boundary of Hurakia block, it being the watershed:

In considering the evidence before the Court there is one fact remarkable, which is this, the names of the spots along what is the admitted boundary between the Taupo people and the N’Maniapoto are the same, but the location is different. Papanui locates them on what he said was the boundary laid down by Tia which is a line direct from Ketemaringi to Pakihi — the claimants locate them on what they say is the watershed of the Hurakia range between Weraroa and Pakihi — and in fact the question at issue between the claimant and Papanui is simply as to which of these lines is the true boundary.

The question has given the Court a great deal of anxiety, but after weighing the evidence carefully it has come to the decision that the true boundary is the line surveyed by Mr Cashel and the decision is therefore adverse to the case set up by Papanui. This judgment on 22 September was followed by taking more evidence for the purpose of determining which individuals would be named in the titles. All the hapu listed by Te Paehua were admitted, with the addition of the families of Te Heuheu Tureiti and Ngakuru Te Rangikaiwhiria. On 5 October the court was adjourned to 16 October at Tokaanu. However, Judge Puckey was prevented by illness from travelling to Tokaanu, and the court was further adjourned by the chief judge to Kihikihi on 26 November 1891. The arguments before the court continued on into December. On 12 December several orders were made for subdivisions of Maraeroa, which are discussed in chapter 11.

In 1891, the Maraeroa block was clearly awarded to Ngati Maniapoto, and the Te Heuheu family admitted through Maniapoto ancestral lines. W H Grace gave his interpretation of the 1886 Maraeroa judgment in his evidence to the Taupouinuiatia Royal Commission in 1889:

The judgment was virtually against Te Heuheu and the Tuwharetoa, for it awarded the land to Karewa, as represented by Te Paehua, and in those of Matakore and Rereahu who could show occupation. From that day Te Heuheu lost control of the block and could not band in list of names. This was then Te Paehua’s privilege ....

On 14 Feb. 1887 the names for Maraeroa were handed in. The Court said Te Paehua was the man to band in the list of names .... of Karewa
for Maraeroa. Te Heuheu and some of his near relatives, who were of Karewa were included, but most of the names belonged to Te Paehua’s section. Te Paehua being the person to prepare the list, had the power to put in those whom he thought right.\(^42\)

It might have been expected that, having awarded the block to Te Paehua, his boundary would have been accepted in 1886. It was the same then as the boundary he described in 1891. However, the descriptions in the minute book and surveyors’ instructions for the boundary between Pureora and Taporaroa were not very specific. On 12 March 1886, the Native Land Court, in a judgement on Tauponuiatia West block, stated:

The boundary line between Tauponuiatia West and Maraeroa Pureora Blocks to be a line commencing at Ketemaringi thence to Tauwharepurakau thence to Weraroa thence to Tahora Karewarewa thence in a straight line to Taporaroa.\(^43\)

Cussen’s instructions for the boundaries of Maraeroa block, signed by Judge Scannell on 21 May 1886 and submitted in evidence to the Tauponuiatia Royal Commission in 1889, were:

Commencing at Taporaroa thence to Tikiwbenua thence to Waipuna thence to Te Ti thence to Pureora, thence in a straight line to Tahora Karewarewa thence to Weraroa thence to Ketemaringa [sic] thence to the trig station at Pukemako thence to Turiohinetu thence to Parakiri thence to the commencing point at Taporaroa.\(^44\)

There is no reference in Taupo minute book six around the date of 21 May 1886, so presumably this instruction was given in chambers. On the same sheet of paper Cussen also received instructions for the survey of Tauponuiatia West block, and this document was produced as an exhibit to support his evidence to the Tauponuiatia Royal Commission in 1889.

Cussen described how he did the survey of Maraeroa block in his evidence to the commission:

I was employed by the Court to survey Tauponuiatia West. I never surveyed any part of the Robepotae block previously. The Judge at Taupo gave me instructions ....

I also got a tracing of the Court plan. The yellow line was shown on it. I made the tracing myself. All the names now on the map were I believe there then. I then began the survey. I bad 4 parties out, stationed one at Tahorakarewarewa. Another party was at Oruaiwi. I myself began at the Waikato river and worked up to Pouakani thence to Turiohinetu thence to Taporaroa. I don’t know which Taporaroa is the correct one. The natives pointed out two places.

Hapeta of Tuwharetoa was one who was sent to point out the boundaries. No one belonging to the Maniapoto was with me.

I myself surveyed as far as Pureora. This was not on the back line. On the back line I went as far as Turiohinetu.

We had finished the line from the Waikato to Taporaroa, when Te Paehua came and stopped us and said the right Taporaroa was a mile back. We bad come too far. Taporaroa was a name pointed out to me by the natives.

Turiohinetu is a small hill. There is no settlement there. Te Paehua was with me when we got to Turiohinetu. He went with us from Taporaroa. I don’t know for whom Te Paehua was acting. I went no further than Turiohinetu. From there to Pukemako the line was not cut. Nor to
Ketemaringi. These two places are trig stations. From Ketemaringi we cut the line for about a mile. Redmond surveyed from Ketemaringi to Pakihi and beyond.\(^45\) It is obvious from this statement that W Cussen, the surveyor, was not clear which Taporaroa was correct. The court accepted Te Paehua’s Taporaroa in 1891 and that subsequently became the northern point on the boundary between the Pouakani and Maraeroa blocks. Te Paehua’s Taporaroa was shown clearly on the plan GM180 as “Te Pahua’s [sic] Taporaroa”.

The tribunal heard a submission from the Maniapoto Maori Trust Board, presented by Reverend Ropata Emery, who produced a copy of a letter dated 16 August 1989 sent by the board to counsel for claimants, setting out the “stance and response” of Ngati Maniapoto to this claim. The Maniapoto Maori Trust Board was established by statute (The Maniapoto Maori Trust Board Act 1988) as a board under the Maori Trust Boards Act 1955, and the beneficiaries are members of the Maniapoto tribe and their descendants. The board had consulted with the Maraeroa Incorporation and with their kaumatua, a group called collectively Te Mauri o Maniapoto. Following lengthy discussions at a hui called by kaumatua, the following resolutions were passed:

A. The Maraeroa block and the Pouakani block are parts of the same land interests of the Matakore hapu.

B. That the descendants of Rereahu and Hineaupounamu, namely Matakore, the second child, and others were firmly established as the true Owners of the Maraeroa block.

We interpret this as an affirmation by Ngati Maniapoto that the mana of Maraeroa block remains with Matakore.

We are very much aware that if one group makes a claim to land, the implication is that another group may lose a portion of lands awarded to them. It is immaterial that the lands in question all became Crown lands. The issue is one of mana, and these issues now are just as relevant as they were in the 1880s when Taonui Hikaka walked out of the court in Taupo and began a process of re-investigation that established the ancestral title of Matakore in Maraeroa block. We find that there is no dispute that the mana of Maraeroa lands is with Matakore and Ngati Maniapoto.

We turn now to the precise location of the boundary between Maraeroa block and Pouakani block (map 10.2). At the hearing of Mr Paki’s claim the tribunal was told that Mr Harris, a registered surveyor acting for the claimants, estimated that this “small strip from Taporaroa to Pureora” contained 4831 acres. On 4 August 1891 the court recorded that it believed that this area, which Mr Harris calculated to contain 4831 acres, contained only 2250 acres.\(^46\) In December 1891 during the Maraeroa block hearing Cussen’s plan ML6077/3 was before the court and the line from Te Paehua’s Taporaroa to Pureora was drawn on it. Ninety seven years later another judge of the Manri Land Court said on 9 June 1988 of the court’s 1891 award in favour of Te Paehua that:

unfortunately within two years of [the Native Land Court Acts Amendment Act 1889] the Maori Land Court in its wisdom purported to overturn the legislation and determined that the western boundary was in a different place; this decision resulted in some 6500 acres moving from the former Tauponuiatia West to Ngati-Maniapoto (4831 acres from...
THE POUAKANI - MARAEROA BOUNDARY

Map 10.2
Pouakani and 1500 from the Tihoi subdivisions of Tauponuiatia West block).

It is significant and it is recorded, that the Crown in the 1890s was making a determined effort to achieve ownership of the various subdivisions of Tauponuiatia West. It appears from the evidence before me that the Maori Land Court of that era was not adverse to ensuring that it succeeded and an examination today of how the Court collaborated in ensuring the Crown achieved its object — even to the extent of overturning a clear legislated boundary convinces me that many of the Crown’s acquisitions in this area are properly before the Waitangi Tribunal ....

I am firmly of the view that the boundary between Pouakani Block and Maraeroa Block has since 1889 been that legislated consequent upon the Royal Commission reporting. I am of the view that any attempt by the Maori Land Court to ‘correct’ such boundary was and always has been a nullity. I adopt this view primarily because Section 29 of the Native Land Court Acts Amendment Act 1889 defined the boundary as a matter of law and there was no savings clause or any other provision allowing the Maori Land Court or any other body to depart from that boundary.

I cannot accept that the Maori Land Court could proceed to ignore and overturn the legislated boundary; the orders made by the Court doing that were made per incuriam.

This tribunal has investigated the issue with more information and time than was available to the court in 1988. This tribunal does not accept that the Native Land Court in 1891 ignored a boundary apparently fixed by statute. The Tauponuiatia Royal Commission was asked to determine whether the boundary of Tauponuiatia block was on the red line or yellow line on plan GM180, or an intermediate line. The Royal Commission reported that the boundary line between Ngati Maniapoto and Tuwharetoa “should be the red line ... along the watershed of the Hurakia range north to Pureora”. From Pureora the line was to run “to Tapororoa [sic], along the north-eastern boundary of the Maraeroa block”. As map 10.2 shows, on plan GM180 there are two lines from Pureora, Cussen’s 1887 line and the 1889 yellow line. From a twentieth century viewpoint, the Tauponuiatia Royal Commission appears to have failed to fulfil this part of its function. Taking the statute, the report and the map, where does the boundary between Ngati Maniapoto and Tuwharetoa run from Pureora northward? Is it Cussen’s 1887 line from Pureora to Te Paehua’s Taporaroa, or is it the yellow line from Pureora to Koeta to “Te Paehua’s Taporaroa”?

When the claimants’ surveyor, Mr Harris, looked at this boundary it would have been obvious to him that:

1. The Tauponuiatia Royal Commission was required to say whether the boundary was the red line, the yellow line or somewhere in between. It said that the red line was the boundary north to Pakihi. The yellow line was not mentioned in the commission’s description of the boundary. Therefore the yellow line from Pureora to “Te Paehua’s Taporaroa” could not be the boundary. That left only the line from Pureora to the western Taporaroa.

2. The commission report said Pureora to Taporaroa. If the commission had meant from Pureora to Te Paehua’s Taporaroa shown on plan GM180, why did it not say from Pureora to Te Paehua’s Taporaroa?

3. The commission report said “along the north-eastern boundary of the Maraeroa block”. A Maraeroa block had existed since 24 September 1887

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Table 10.1: Place Names on the Line from Taporaroa to Pureora

<table>
<thead>
<tr>
<th>Place names on the line from Taporaroa to Pureora</th>
</tr>
</thead>
<tbody>
<tr>
<td>GM180 (Yellowline)</td>
</tr>
<tr>
<td>---------------------</td>
</tr>
<tr>
<td>Taporaroa</td>
</tr>
<tr>
<td>Ohahau</td>
</tr>
<tr>
<td>Te Whanga</td>
</tr>
<tr>
<td>Waimanu Papakaramu</td>
</tr>
<tr>
<td>Koeta</td>
</tr>
<tr>
<td>Pureora</td>
</tr>
</tbody>
</table>
when the Native Land Court had made an order for the issue of a certificate of title in respect of a Maraeroa block estimated to contain 41,245 acres. There was also a survey plan, Cussen's plan ML6036 etc, which showed a Maraeroa block of 41,245 acres.

But if the commission did intend to fix the line surveyed by Cussen as the boundary, it did not give any reason. The commission knew that there was a dispute, because it had heard evidence about the two Taporaroas, and about places between them and Pureora. Herein lies the answer.

Both W H Grace and Cussen, in evidence to the Tauponuiatia Royal Commission, said that objections could be made when the plans were deposited for inspection. The commission's minutes of 1 August 1889 record W H Grace's evidence at page 84 as:

Is it not the custom for the Court to instruct the Survey office concerning the boundary? Yes, as much information as possible is obtained from the minutes. This, & the sketch plan before the Court, constitute the information supplied to the surveyor, as a guide in executing the actual survey.

Then 'Maniapoto will have an opportunity of objecting? Yes, they can see the plan when deposited, & can object if the survey does not properly pass through the places named.

The complete plan of Tauponuiatia has not yet been completed.

And on the same day, at page 93, Cussen said “The map of Tauponuiatia has not yet been completed. I suppose it will be deposited for inspection. If any faults are found, objection can be made”.

The order that Judge Scannell signed and sealed, dated 24 September 1887, determined the ownership of a Maraeroa block estimated to contain 41,245 acres, and ordered that a certificate of title of the owners be issued, “when a plan of the said area has been finally settled by the Court”. The order was headed “Native Land Court Act, 1880”. That Act had been repealed by the Native Land Court Act 1886, but s115 of the 1886 Act enabled existing proceedings, at the discretion of the judge, to be continued under either the repealed legislation or the new legislation. The heading to the order showed that Judge Scannell had elected to continue under the old legislation. Under s25, s26 and s33 of the 1880 Act, as amended by s2 of the Native Land Acts Amendment Act 1882, if, when the court had determined ownership, it was satisfied that “a sufficient plan and description” were in the “possession of the Court”, and there was no application for a rehearing, “As soon as the time for an application for rehearing” had expired “the Court shall then issue a certificate of title”. If the court had accepted the Maraeroa block, as surveyed by Cussen, then the order of 24 September 1887 for the issue of a certificate of title in respect of Maraeroa would have been in form 4 in the 1880 Rules of the Native Land Court, and would have ended with the words, “and that a certificate of their title be issued in pursuance of the Act”.

By signing the order in the form that he did sign it, Judge Scannell caused the provisions of s28 to s33 of the Native Land Court Act 1880 to apply to Maraeroa block. These sections required the court to give notice in such a way as was “best adapted to attract the attention of all persons whom it may concern” that there was a plan available for inspection. People were entitled to object to the plan, as the royal commission was told by W H Grace and Cussen in 1889. If there were objections, the court was required to consider
such objections. A notice did appear in the 1891 *New Zealand Gazette* at pages 713 and 714, of the time and place where the plan of Tauponuiatia could be inspected.

In 1889, the stage reached in fixing the boundary between Maraeroa and Pouakani blocks was clear. There was a block called Maraeroa which would have a boundary, just as there was a Hurakia range which would have a watershed. A surveyed boundary of the Maraeroa block had not yet been fixed by the Native Land Court just as the watershed of the Hurakia range had still to be fixed by survey. The line found by the 1889 royal commission ran along the watershed of the range and then along the boundary of the Maraeroa block. If in 1889 the royal commission had stated the obvious and said that the boundary had yet to be determined by the Native Land Court, it would have saved an immense amount of time, expense and agonizing in the twentieth century. As we explain in chapter 14 and appendix 14, the claimants and their professional advisers found that boundaries to their land, which were supposed to have been surveyed, had not in fact been defined by survey. They set out to find where the boundaries should be and their investigations inevitably led them back to where, on the face of the old records, they genuinely believed that they had found that 4831 acres had been taken from the original owners of the Horaaruhe Pouakani block.

The boundary between Maraeroa and Pouakani blocks was surveyed in 1892 by D Stubbing and appeared on his plan ML6406 etc. Instructions for survey were issued on 26 January 1892, after the 1891 court hearings of Pouakani and Maraeroa blocks, and the plan was sent to the chief surveyor, Auckland, for approval on 2 November 1892. There are several approvals noted on the plan for later subdivisions up to 1925 but the relevant ones for our purposes are the approval on 21 March 1893 by W C Kensington for the chief surveyor, and on 25 March 1893 by G B Davy, chief judge of the Native Land Court. As we have indicated in appendix 13, Stubbing’s plan has had many additions, but it is certain that the boundary between Maraeroa and Pouakani blocks was shown as it was drawn in 1892. It is also consistent with Stubbing’s entries in field book 722, the same field book that W Cussen used in 1886, which is held in the Department of Survey and Land Information office in Hamilton. Unfortunately, not all of the records of this survey, including the surveyor’s report, have survived. The Lands and Survey Head Office file index register for file 15587, folios 1-5, indicates that an application to survey several subdivisions of Pouakani block was made in December 1891 and D Stuhbing was authorised to undertake the survey in January 1892 (B4:60).

Without a copy of Stuhbing’s instructions which would have listed place names along the line, we have analysed the places given on plan GM180 and other plans, and by Te Paeua and Taonui in court. Stuhbing included very few place names on his plan, only Taporaroa and Pureora, and at the angle where the lines from each join in the junction of the Ohahau stream with the Waipapa river. This place, with some variation in spelling (Owhahau, Hohahau) is mentioned regularly in boundary descriptions from 1886 to 1891. There seems to have been little dispute about it in 1891, and it was included on the line between Pureora and Te Paeua’s Taporaroa shown on plan GM180. If on the ground the three points, Taporaroa, the junction of the Ohahau and Waipapa streams, and Pureora, are to be connected as a boundary, it becomes
mathematically impossible to locate them on a straight line. The stream junction was located accurately for the first time on a plan by Stubbing in 1892. To add to the confusion the Ohahau stream has become Omahau on the Department of Survey and Land Information topographic map.\(^4\) We think this is an error and suggest that this name be corrected when a new edition of this sheet is printed.

We conclude that the boundary between Maraeroa and Pouakani blocks as shown on Stubbing's 1892 plan, ML6406 etc, is a correct representation on the ground of the boundary described by Te Paehua before the Native Land Court in 1886, by Taonui before the Tauponuiatia Royal Commission in 1889, and as shown on plan GM180. To conclude otherwise would create another injustice. The boundary has been consistently described, and there has been no reported dispute over the boundary as such. The great dispute over Maraeroa block was caused by the failure of the Native Land Court in 1886 to acknowledge the Maniapoto ancestral claims. The result of this failure was that the court included Maraeroa in the Tauponuiatia block claimed by Ngati Tuwharetoa. This was finally acknowledged in the 1891 court hearings, after considerable litigation and a royal commission. The Native Land Court at Taupo in 1886 did not have a sufficient plan, the surveyors Cussen and Mitchell were given inadequate instructions and the surveyed line went to the wrong place and had to be done again in 1892, all at considerable cost to Maori owners from Maniapoto and Tuwharetoa, as it was paid for in land. We address that issue in chapter 12. We make the point at this stage that issues of tribal mana are much more complex than a dispute over a line drawn on a map or surveyed on the ground. This aspect of the claim goes to the heart of the issue of the impact of the Native Land Court operations and procedures on tribal rangatiratanga.

References

1 Lands and Survey file 2413
2 ibid
3 ibid
4 ibid
5 ibid
6 ibid
7 ibid
8 ibid
9 Waikato minute book 28 pp 103-104
10 ibid p 104
11 AJHR 1889 G-7
12 The land was proclaimed Crown land on 22 August in the New Zealand Gazette 1901 p 1749; in the New Zealand Gazette 1920 p 2108 it was vested in the Forestry Department
13 National Archives (Wellington) Le1/1962/12 No 8
14 Otorohanga minute book 70 pp 177-180
15 National Archives (Wellington) Le1/1962/12 No 8
16 Waikato minute book 28 p 164
17 ibid p 35
Survey of Tauponuiatia Royal Commission Boundary

18 Deed no 3308
19 AJHR 1936 I-3
20 Waikato minute book 26 p 28
21 ibid p 31
22 ibid p 37
23 ibid p 54
24 ibid p 70
25 ibid p 74
26 ibid p 141
27 ibid
28 ibid p 142
29 ibid
30 ibid
31 ibid p 147
32 ibid p 154
33 ibid p 178
34 ibid p 193
35 ibid p 194
36 ibid pp 202-203
37 ibid p 209
38 Waikato minute book 28 p 35
39 ibid pp 35-36
40 ibid p 39
41 ibid p 116
42 National Archives (Wellington) MA 71/1; see also A5
43 Taupo minute book 4 p 354
44 National Archives (Wellington) MA 71/1; see also A5
45 ibid
46 Waikato minute book 27 p 167
47 Taupo minute book 65 pp 2, 6
48 National Archives MA 71/1
49 NZMS 260 Sheet T17

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Chapter 11

Crown Purchases in Pouakani and Maraeroa Blocks

11.1 Introduction

Under the Native Land Alienation Restriction Act 1884 the Crown right of pre-emption was reimposed in the whole area of the Rohe Potae. The government had moved to keep out private land speculators, and embarked on a policy of control of land purchase to “open up” the King Country for farm settlement. Profit from the sale of Crown lands acquired from Maori would offset the high costs of construction of the North Island main trunk line and the costs of servicing the loan of £1,000,000 raised under the provisions of the North Island Main Trunk Railway Loan Act 1882. By the end of 1883 agreements were reached to allow surveys of railway routes, and major triangulation. The surveyors were also asked to report on the quality of land and prospects for settlement.

Lawrence Cussen described the lands north west of Lake Taupo in 1884:

Around the west side of Lake Taupo there are large flat table-lands divided by steep ravines, which are cut into deep beds of pumice-sand. Some of these ravines are wide and flat at the bottom, where the land is fairly good and the Natives have cultivated ....

Along the edges of the bush on the eastern slopes of the Hauhangaroa and Hurakia Ranges the land is fairly good, and there are many patches and clearings where the Natives have cultivated. In these old cultivations clover and English grasses seem to grow very well.

The shores of the western bay of Lake Taupo are formed chiefly of steep bluff cliffs ... On the north side of the lake the land is of better quality: although pumice appears freely on the surface, yet the soil is not bad, as is shown by the heavy growth of fern and scrub which is to be found in many places. Near the old settlement of Waipapa there is a fine piece of forest country, covering about thirteen thousand acres. A large portion of the timber is totara. The soil is good volcanic loam, and in the bush and on the edges of it there is a considerable quantity of good arable land.

West of the Waikato River ... is a broken tract of open country containing about a hundred thousand acres. It is intersected by deep gullies and ravines. The land is for the most part poor: bare rocks and land slips are visible all over it. This country might be utilized as a large cattle run. Towards the bush the soil is better, and in several places there were formerly Native cultivations; but the arable land is very limited.

The high wooded country comprising the Rangitoto, Ranginui and Wharepuhanga [sic] Ranges includes an area of over eighty thousand acres, and stands over 2,500 feet above the sea. It is much broken and cut by deep ravines. The timber on the ranges is of mixed quality, containing little that would be useful for building or milling purposes, and it would be very difficult of access. Quartz containing gold is said to
have been found on the Rangitoto Ranges, and the character of the formation would give rise to the hope that the country is gold-bearing.¹

Later investigations indicated little prospect of gold, although there was continuing optimism about the potential of ore-bearing quartz deposits in the Tuhua ranges further south. The possible discovery of another goldfield was probably in the minds of government land purchase officers in their efforts to obtain lands in what was otherwise rugged inaccessible hill country.

On 12 March 1887 the inspector of surveys, Mr Williams, wrote to the assistant surveyor general, Auckland, reporting on “lands recently surveyed in the Taupo West District” with prospects for Crown purchase:

The Horaparabe [sic] Pou-a-Kani block is partly forest and partly open land. The southern portion which it is proposed should be acquired by Government contains some open land of very fair quality especially along the margins of the forest.

The forest itself is not at a great elevation except near the Pureora mountain and even there, the ascent is gradual. It contains a fair proportion of useful timber, such as Totara, Red Pine etc. The soil is good and would be suitable for occupation in sections of moderate size.

The vegetation on Maraeroa plains is principally tussock grass, ... inferior quality but these plains are not extensive.

The Native tracks from Waikato towards Tuhua converge at the Waitaramoa settlement, and as it is obvious that an important main road following the general direction of this track will be required to give access to the Tuhua country from the North, the present would seem a good opportunity for acquiring rights along what will probably be an important highway in the near future ....

The Tihoi block contains a considerable quantity of very fair open land. It is not so well watered as could be desired but I recommend its purchase because it contains patches of forest which will be of great value to settlers in a country which is otherwise very sparsely wooded, and also because the Lake frontage includes some good landing places ....

The western portion of the Tuhua-Hurakia-Waihaha block contains some excellent forest lands ....

The main track to Taupo and Waikato goes through the block, keeping generally within a short distance of the edge of the forest ....

In suggesting which portions of these blocks should be acquired I am assuming that the best parts of the forest land would be available for ordinary settlement, and that the open land would be dealt with in larger areas for grazing runs. I have also given due consideration to the importance of acquiring land adjacent to what must some day be important main roads, and to securing some of the few landing places which are to be found on the west side of Taupo Lake.

Speaking generally I may say I was favourably impressed with the capabilities of the country for settlement, and I am of opinion that when it comes to be better known and is opened up by one or two roads it will be an important district.²

By the 1880s there was an established steamer service on Lake Taupo between Taupo township and Tokaanu. A road connection between Tokaanu and the main trunk line following the Petania track was proposed. A road from the Waikato river following approximately the north-west boundary of Pouakani block to the “Maraeroa Plains” and south to the Tuhua district following an
established Maori track was also envisaged. Until the roads in West Taupo were constructed, settlers would be serviced by steamer from landing places on the western lake shore. Although it was to be several decades before any settlement did occur, it is important to view the landscape as it was perceived in the 1880s to understand the pattern of Crown purchase operations in the 1880s and 1890s in west Taupo.

In 1892, when the first sales occurred on the Pouakani block, the main trunk line construction was being pushed south of Te Kuiti (map 11.1). Between Te Kuiti and Lake Taupo there was a large area of “Native Land” in which the Land Purchase Department had officers working to persuade Maori people to have their lands “put through” the Native Land Court, arrange for lands to be surveyed, and surveys paid for by transfer of land to the Crown in many cases. We consider this matter of payment for surveys in land in chapter 12. The process began with applications to the Native Land Court for investigation of title. In his 1887 report the government land purchase officer, G T Wilkinson, described the process:

The Native Land Court, which opened at Kihikihi on the 29th June of last year [1886], and afterwards adjourned to Otorohanga (where the Natives had erected a large wooden building for the purpose of a Courthouse), marked a new era in the history of the King-country, as it dealt with 1,636,000 acres of Native Land which, previous to that, had not been dealt with by any Native Land Court or European tribunal. Although this was the first time that most of the Natives had ever been in a Land Court, much less taken part in its proceedings, they behaved themselves with the utmost propriety and decorum, and it is worthy of remark that, notwithstanding that the Court sat continuously through four months of a most boisterous and inclement winter, and that nine-tenths of the Natives attending Court were living in tents the whole of the time, there was not a single case of death or severe illness amongst them. One cause of the absence of sickness can, I think, be accounted for by the fact that the sale of intoxicating drinks is prohibited in the King Country. There was not a drunken Native to be seen during the whole time that the Court was sitting. Before the Court adjourned, at the end of November, the title to the large area of land brought before it was decided, that is, it was found out to which of the large number of tribes who claimed it, it belonged. Each tribe found to have ownership, sent in, as is the usual custom, a list of the names of its people who were entitled to be entered on the Court books as owners. The total number of names in the combined lists amounts to 4,369, and possibly some others may yet be added. The next work that the Court will be asked to do when it reassembles will be to subdivide each tribe’s and, where possible, each sub tribe’s or hapu’s portion, as until that is done the land cannot be satisfactorily dealt with for the purposes of European settlement.3

The Native Land Court process was inexorable. We can speculate on the longer term social and economic effects of the disruption caused by attendance at land court sittings. We can begin to comprehend the implications of the combined pressures of the Native Land Court procedures and the activities of government land purchase officers in the following extract from a letter sent by Otorohanga storekeeper, J W Ellis, to the Native Minister, Hon R Seddon, in December 1893. He wanted to know whether the Native Land Purchase and Acquisition Act 1893 would apply in the King Country:

My reasons for asking is that I have been asked by many owners in several blocks of land here to endeavour to get their land valued under
Map 11.1
this Act, with a view to its sale to the Government ... there does not seem to be any clause enabling the natives to take the initiative, but I presume a letter signed by all or nearly all the owners asking that their block should be proclaimed would receive attention from you and that early steps would be taken to value the block ... if successfully carried out it will give such an impetus to land purchase here that you will be troubled to provide sufficient funds to purchase the blocks that will be offered to you. Provided of course if you provide a Judge to carry on the work of the Court here .... (B7:513-514)

Ellis received an official response that any approach by Maori owners to a land purchase officer would receive consideration. What is more revealing is a note for the minister on the same file written by Mr Sheridan, head of the Land Purchase Department:

The writer is a storekeeper at Otorohanga who interferes a good deal in the affairs of the Land Purchase Department and of course causes trouble in one way or another. The Natives and Surveyors of the District are all largely in his debt. This will explain why he is so anxious on the question of price.

In an earlier letter (26 September 1889) written to Hon E Mitchelson, Minister for Native Affairs, Ellis had commented on land purchase prospects in the King Country:

Many of the natives here are naturally of a careful and cautious nature, and the great bulk have at present not many wants, not having had in the past the handling of much money, but this will soon be got over. Another reason why you will not get so large a proportion is that the blocks as a rule are small and the same people are owners in large numbers of them and they are likely only to sell their shares singly as they require money, that is they are hardly likely to sell a second share while they have any of the proceeds of the first sale in hand. Another reason is that they are all ambitious to become flock owners and while the desire to get money to buy sheep will lead them to sell parts, it will also make them very tenacious of the open country suitable for sheep.

After reviewing several blocks in the northern King Country which would be suitable for sale (including one good prospect “very clean of kaingas the only one of any importance being one occupied by Waikatos who are not owners”) Ellis commented on blocks to the east of Otorohanga, including Wharepuhunga, adjacent to Pouakani block:

some 120,000 acres with some 900 owners; this would all come into the railway at some point and contains a lot of good land while parts are poor and other parts very broken.

The rest of the blocks are not far enough forward for purchase. Mr Cussen wires me that he has been promised the Rangitoto Tuhua survey so that large blocks will soon be in a better state [for Court titles and possible purchase] than at present ....

Of course they nearly all talk as if they never intended to sell their lands but this is all nonsense. Wahanui has always of late expressed his intention to sell parts of his and his example will help matters much. (B7:550-554)

From the mid 1880s Crown land purchases were being arranged throughout Taupounuiatia block and from 1890 onwards in Aotea block as well. The land purchase officers and surveyors were agents employed to carry out government policy of land acquisition, seen in the depressed times of the 1880s as a means
to improve the national economy by encouraging land development and settlement. Between 1892 and 1908 most of the lands in Maraeroa and Pouakani blocks were sold (map 11.2). But the Crown transactions on these blocks were part of a process of land acquisition carried out in the whole of the Rohe Potae.

11.2 Subdivision and Crown Purchase of Pouakani Block

On 24 September 1887 the Native Land Court at Taupo made orders in respect of the Horaaruhe Pouakani subdivision of Tauponuiatia West block. At no stage was there a court order for a separate Horaaruhe Pouakani block. The several blocks were (see map 9.1):

<table>
<thead>
<tr>
<th>Block</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pouakani No 1</td>
<td>20,000</td>
</tr>
<tr>
<td>Pouakani No 2</td>
<td>30,000</td>
</tr>
<tr>
<td>Kaiwba</td>
<td>7200</td>
</tr>
<tr>
<td>Hapotea</td>
<td>3000</td>
</tr>
<tr>
<td>Pouakani</td>
<td>63,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>126,000</strong></td>
</tr>
</tbody>
</table>

These areas were only approximate. In s29 of the Native Land Court Acts Amendment Act 1889, Hapotea is listed as being only 2500 acres. In any case, this Act cancelled all the court orders of 1887, with the exception of Pouakani No 1 block which was transferred to the Crown in payment of survey charges. This transaction is examined in chapter 12. The boundaries of Pouakani No 1 remained, as described by the court in 1887, and were surveyed in 1890.6

On 11 August 1891 following a rehearing of the Pouakani block the Native Land Court made a number of new orders for subdivisions of Pouakani block which were not the same as the 1887 subdivisions. On 7 May 1891, the court had awarded land to several hapu: Ngati Moe, Ngati Wairangi, Ngati Korotuohu, Ngati Rakau, Ngati Hinekahu, Ngati Ha, and “Ngati Maniapoto as represented by Te Paehua in respect of Taporaroa to Pureora”.7 This latter was the area that was added to Maraeroa block. Ngati Rakau and Ngati Hinekahu were awarded the Pouakani A block.

The application for hearing was in the name of Werohia Te Hiko and others who thus became the principal claimants, represented in court by Pepene Eketone, “There were several other applications before the court, but this appears to have been the earliest in matter of date”.8 There appears to have been general agreement over the boundaries of the Pouakani A block awarded to Ngati Rakau and Ngati Hinekahu. However, there was a good deal of disagreement over the balance of the land. The principal parties were: firstly, Ngati Ha, referred to as “Karawhira’s people”, who were first represented in court by A Patene, and then when he became ill, by William Moon, husband of Karawhira Kapu; the second group, Ngati Wairangi (including Ngati Moe and Ngati Korotuohu), were represented in court by Pepene Eketone; and, thirdly “Hitiri’s people” represented by Hiuriri Te Paerata. Hiuriri bad originally claimed ancestral rights under Tia and Tuwrbaretoa, but in the previous judgment on hapu on 7 May 1891, the court bad ruled “That Te Kohera, Parekawa and Parewheote have no right, but that Hiuriri as a descendant of Wairangi has an undoubted right with his nearest of kin”.9 Both Hiuriri Te Paerata and Karawhira Kapu were counter claimants, neither of whom had been admitted by Pepene Eketone on behalf of the people be represented. On
Crown Purchases in Pouakani & Maraeroa Blocks

Crown Acquisitions 1887 - 1908

Pouakani Block
1887
1892
1899

Maraeroa Block
1895
1896 - 1908
Surveyed Boundaries in 1892

Surveyed Boundaries

Map 11.2
7 May 1891 the court had ruled that Karawhira Kapu’s people, “in addition to the rights admitted also have rights under Ha”. Mr L M Grace was also in court to look after the interests of the Te Heuheu family.

On 4 August 1891, judgment was given by the Native Land Court on the subdivisions of Pouakani block. The court resolved the contradictory and conflicting claims as follows:

After carefully considering the whole evidence the Court awards as follows.

1) 100 acres shall be laid off at Waipapa to include the settlement and burial grounds, the persons to be named in the order to be selected by Werohia and failing this by the Court.

2) Reserves to be laid off to include the hot springs to be vested in such persons as may be decided on out of the three cases before the Court.

3) Tuaropaki bush to be divided, 3/4 for N’Wairangi represented by Pepene, 1/8 for Hitiri and others and 1/8 for Karawhira and others.

4) 3,000 acres as shown on plan within Tirohanga at the south portion of the block including 1/8 of bush for Hitiri and others, if any of Werohia’s dead are included if possible each wahi tapu will form a separate order and be vested in such manner as she may indicate to the Court.

5) In addition to the above the Court awards Hitiri 3,000 acres as shown on the plan.

6) As to Waraki and others [Ngati Ha] in addition to the portion of Tuaropaki forest and an interest in the hot springs the Court awards 7,200 acres at Kaiwha, also 13,000 acres beside it adjoining the Government block [Pouakani No 1] on the west side towards Whatapo.

7) The whole of the residue is awarded to N’Wairangi as represented by Pepene.

The final awards of 11 August 1891 are set out in map 11.3 A and the table, compiled from the court minutes of this date and the court orders which were made out following survey at some later date (see appendix 13). In general the blocks awarded were:

- Pouakani A blocks: Ngati Rakau and Ngati Hinekahu
- Pouakani B blocks: Ngati Wairangi
- Pouakani C blocks: Ngati Ha “Karawhira’s people”
- Pouakani D blocks: “Hitiri’s people” and Te Heuheu family

The blocks fall into three different categories. First there were six small areas of wahi tapu, B1, B2, B3, B4 and CIA and D1, vested in one, two or three individuals. The two areas of ten acres each were the hot springs of Ohineariki, CD1, and Parakiri, CD2. These latter were awarded to the owners of D2, “Hitiri’s people”, and C1 “Karawhira’s people”, as places which were used by all. Curiously, there was no separate order made for the extensive area of hot springs at Tuhuatahi, although they were referred to several times in evidence. In this category too could be included the 100 acres of B5 which included the Waipapa kainga, the principal settlement on the Pouakani block in the 1890s. All the orders for these blocks described the interests of individual owners in the attached schedule as “Inalienable”. For some reason, presumably for lack of a surveyed plan, orders for B1, B2, B3, B4 and CIA were not signed in 1891.
Crown Purchases in Pouakani & Maraeroa Blocks

**POUAKANI BLOCK**

A. Native Land Court Title Orders 1891

Not mapped:
- B1 2 roods
- B2
- B3
- B4
- C1 1 acre
- D1

B. Partitions 1899 for sale to Crown

Land remaining in Maori ownership

Map 11.3
Orders for B2, B3 and B4 were signed by Judge Hingston on 19 November 1987. The one acre wahi tapu at Kaiwha described as C1A in 1891 should not be confused with the larger Pouakani C1A block acquired by the Crown in 1899.

### Table 11.1 Pouakani block: Native Land Court orders 1891

<table>
<thead>
<tr>
<th>Block No</th>
<th>Area in acres</th>
<th>Number of owners</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>in the:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Court Order</td>
<td>Adult</td>
<td>Minor</td>
</tr>
<tr>
<td>A:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A1</td>
<td>10,577</td>
<td>36</td>
<td>23</td>
</tr>
<tr>
<td>A2</td>
<td>—</td>
<td>56</td>
<td>32</td>
</tr>
<tr>
<td>A3</td>
<td>—</td>
<td>37</td>
<td>23</td>
</tr>
<tr>
<td>B:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1</td>
<td>2 roods</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td>B2</td>
<td>2 roods</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td>B3</td>
<td>2 roods</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td>B4</td>
<td>2 roods</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>B5</td>
<td>100</td>
<td>36</td>
<td>—</td>
</tr>
<tr>
<td>B6</td>
<td>25,000</td>
<td>150</td>
<td>87</td>
</tr>
<tr>
<td>B7</td>
<td>10,000</td>
<td>2</td>
<td>—</td>
</tr>
<tr>
<td>B8</td>
<td>7,000</td>
<td>6</td>
<td>—</td>
</tr>
<tr>
<td>B9</td>
<td>10,000</td>
<td>67</td>
<td>47</td>
</tr>
<tr>
<td>B10</td>
<td>8,000</td>
<td>20</td>
<td>—</td>
</tr>
<tr>
<td>B11</td>
<td>2,700</td>
<td>3</td>
<td>—</td>
</tr>
<tr>
<td>C:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C1</td>
<td>7,950</td>
<td>39</td>
<td>27</td>
</tr>
<tr>
<td>C1A</td>
<td>1</td>
<td>3</td>
<td>—</td>
</tr>
<tr>
<td>C2</td>
<td>250</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>C3</td>
<td>12,000</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>C4</td>
<td>250</td>
<td>8</td>
<td>—</td>
</tr>
<tr>
<td>CD1</td>
<td>10</td>
<td>Owners of C1 and D2</td>
<td></td>
</tr>
<tr>
<td>CD2</td>
<td>10</td>
<td>Owners of C1 and D2</td>
<td></td>
</tr>
<tr>
<td>D:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D1</td>
<td>1</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>D2</td>
<td>3,000</td>
<td>82</td>
<td>38</td>
</tr>
<tr>
<td>D3</td>
<td>1,000</td>
<td>1</td>
<td>—</td>
</tr>
<tr>
<td>D4</td>
<td>3,000</td>
<td>1</td>
<td>—</td>
</tr>
</tbody>
</table>

In the second category are the blocks of land where a large number of owners, including children, were listed. At the same time, the court ordered the appointment of trustees for all these "minors" under the Maori Real Estate Management Act 1888. The blocks involved were Pouakani A1, A2, A3, B6, B9, C1 and D2.

In the third category are lands which were vested in a small number of owners, apparently with a view to subsequent sale. These included B7 (Weraroa) 7050 acres vested in two sisters, Makereti Hinewai, wife of W H Grace, a land purchase officer, and Manawa Hinewai, "To pay off all the liabilities of N Wairangi". B8 (Hikurangi) vested in six owners; B10 (Motuoata) 20
Crown Purchases in Pouakani & Maraeroa Blocks

owners; B11 (Kumara) 3 owners; C3 vested in Karawhira Kapu, the wife of William Moon. All these blocks comprised the lands in the first sale in 1892 (map 11.2). The D3 and D4 blocks were vested in Te Kahui Te Heuheu, wife of L M Grace, and were also sold in 1892.

All the 1891 orders were made under “The Native Land Act 1886 and its Amendments”. A number of blocks (A3, B6, C1, D2) on the list included a provision in the order as being “Inalienable except by lease for 21 years”. Substantial parts of all these blocks were subsequently sold to the Crown. Section 13 of the Native Land Court Act 1886 Amendment Act 1888 provided that:

The Court, on making an order under sections twenty, twenty-one... is hereby empowered and directed to ascertain as to each owner whether he has a sufficiency of inalienable land for his support, and shall, out of the land the subject of any such order, declare to be inalienable so much and such parts as shall be necessary for the support of any owner not shown to be possessed of such sufficiency, and such part or share shall be inalienable accordingly.

Section 6 of the 1888 Act provided a procedure for the court to annul or vary restrictions on alienation on application by a majority of owners.

Section 14 of the Native Land Purchases Act 1892 enabled the governor to remove such restrictions on alienation:

Restrictions on alienation of any Native land imposed before or after the passing of this Act by any Crown grant, order of the Native Land Court, or other instrument of title heretofore or hereafter to be issued may, for the purposes of a sale to Her Majesty only, at any time may be wholly or partially removed or declared void by the Governor; and the provisions of “The Native Land Act, 1888,” or of any other Act in force for the time being as to the removal of restrictions, shall not apply in such cases: Provided that any such removal or avoidance shall only operate in favour of the Crown.

We have not found any record of the removal of restrictions on any Pouakani blocks under s6 of the 1888 Act or s14 of the 1892 Act. If the governor did exercise this jurisdiction this was not advertised in the New Zealand Gazette. We are uncertain of the status of the inalienable wahi tapu, Pouakani D1 (Kanohikorio), which was within the area of B6A sold to the Crown. It was reduced from 1 acre (40,469m²) to 1 rood 12.58 perches (1330m²) by an order of the Maori Land Court under s60 of the Maori Affairs Act 1953, dated 29 April 1982. All the other wahi tapu are on lands which are still in Maori ownership and these are the responsibility of the trustees of those lands.

When the first subdivision of Horaaruhe Pouakani block was made in 1887, it seems that, in addition to the transfer of Pouakani No 1 block to the Crown for survey and other costs, there was some agreement to sell a further 30,000 acres to the west of Pouakani No 1 block. On 19 September 1887 the Native Land Court defined Pouakani No 2 block to be “awarded to the people, names for which will be handed in — Objectors challenged. None appeared”. The same day the court ordered that Pouakani No 2 block be vested in eight individuals, all women, one of whom was Makereti Hinewai, wife of the government land purchase officer W H Grace. In his evidence to the Tauponuiatia Royal Commission in 1889, Grace outlined these arrangements:
When the 20,000 acres [Pouakani No 1 block] were awarded to the Crown, a further area of 30,000 acres was separately awarded to 8 persons for convenience of future sale to the Crown. Makereti te Hinewai, my wife, is one of the owners of Pouakani. She is one of the eight owners of the 30,000 acres arranged for sale. All the eight people are women. The natives would not put in any men.

Following the rebearing of Pouakani block by the Native Land Court in 1891 these purchase proposals were followed up by deeds of sale for lands transferred to the Crown in March 1892. On 10 March, Pouakani D3 block, 1000 acres, was sold by Te Kahui Te Heuheu for £125 (deed no 1810). On 12 March, the whole of the Pouakani B7, B8, B10, B11, C3 and D4 blocks were sold for £5,250 (deed no 1809). In the deed the estimated area was given as 42,000 acres, but the total of these block areas given in the Native Land Court orders comes to 41,970 acres. The price paid was two shillings and sixpence per acre, and these purchases were funded by provision for construction of the railway.

The following blocks in Tauponuiatia West were acquired out of appropriations under s4(5) of the North Island Main Trunk Railway Loan Application Act 1886 and amendments.

<table>
<thead>
<tr>
<th>Block</th>
<th>Area in Acres</th>
<th>Expenditure in £.s.d.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pouakani No.1</td>
<td>20,000</td>
<td>£2,112.14.1</td>
</tr>
<tr>
<td>B7</td>
<td>10,000</td>
<td></td>
</tr>
<tr>
<td>B8</td>
<td>7,000</td>
<td></td>
</tr>
<tr>
<td>B10</td>
<td>8,000</td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>2,000</td>
<td>£5,518.7.0</td>
</tr>
<tr>
<td>C3</td>
<td>12,000</td>
<td></td>
</tr>
<tr>
<td>D3</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>D4</td>
<td>3,000</td>
<td></td>
</tr>
<tr>
<td>Waihaha No 1</td>
<td>16,430</td>
<td>£1,643.5.0</td>
</tr>
<tr>
<td>Waihaha No 2</td>
<td>11,824</td>
<td>£749.7.6</td>
</tr>
</tbody>
</table>

The expenditure figures quoted here for the Pouakani blocks differ from those quoted in the deeds but we assume other Crown costs were included to represent the cost to the Crown rather than what was paid to owners. The areas quoted in this report to parliament are based on the 1891 court minutes, not the title orders.

Through the 1890s, government land purchase officers, principally G T Wilkinson and his assistant W H Grace, continued buying up individual interests in Pouakani blocks. In 1899 the Crown applied to the Native Land Court to have the Crown interests defined and partitioned out. This was the basis for the next phase of subdivision of Pouakani blocks shown in map 11.3B. The price per acre was still two shillings and sixpence. On 27 June 1898 (for Pouakani C2 block), and on 24 July 1899 the Native Land Court made orders on presentation of signed deeds, vesting the following blocks in the Crown:
Crown Purchases in Pouakani & Maraeroa Blocks

Table 11.3

<table>
<thead>
<tr>
<th>Pouakani Block No</th>
<th>Area in acres</th>
<th>Deed No</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1A</td>
<td>3,643</td>
<td></td>
</tr>
<tr>
<td>A2A</td>
<td>2,950</td>
<td>3245</td>
</tr>
<tr>
<td>A3A</td>
<td>2,830</td>
<td></td>
</tr>
<tr>
<td>B6A</td>
<td>16,699</td>
<td>3246</td>
</tr>
<tr>
<td>B9A</td>
<td>7,340</td>
<td>3247</td>
</tr>
<tr>
<td>C1A</td>
<td>4,046</td>
<td>3248</td>
</tr>
<tr>
<td>C2</td>
<td>250</td>
<td>3249</td>
</tr>
<tr>
<td>D2A</td>
<td>675</td>
<td>3250</td>
</tr>
<tr>
<td>Total</td>
<td>38,433</td>
<td></td>
</tr>
</tbody>
</table>

The process of investigation of title by the Native Land Court resulted in the issue of a court order for a title to a defined block of land in the names of a list of individual owners. The process of Crown purchase required that a government officer purchase from each individual on the list, his or her interests in the block. Each individual seller was required to sign or place a mark on a deed of sale, which was usually witnessed by a government officer, or a justice of the peace, and countersigned by a licensed interpreter whose task it was to explain the transaction in the Maori language and ensure that the person selling understood. Adults who had been appointed trustees by the Native Land Court signed on behalf of owners who were minors, so sometimes an individual signed more than once. The deed was also required to carry a description of the land and the nature of the transaction in the Maori language, signed by a licensed interpreter. When there was a large number of owners, obtaining all the signatures was a lengthy process. In the 1892 purchases, only a relatively small number of signatures were needed. On deed no 1809 the following dates of signatures for each block were recorded:

Table 11.4

<table>
<thead>
<tr>
<th>Block</th>
<th>Total No of Owners</th>
<th>Dates of signatures</th>
<th>Area on NLC Orders (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7</td>
<td>2 (Makereti and Manawa Hinewai)</td>
<td>4 March 1892, 5 March 1892</td>
<td>7050</td>
</tr>
<tr>
<td>B8</td>
<td>6 (Werohia Te Hiko and others)</td>
<td>4 March 1892</td>
<td>4,800</td>
</tr>
<tr>
<td>B10</td>
<td>20 (Werohia Te Hiko and others)</td>
<td>4 March 1892, 7 March 1892 (12), 8 March 1892 (3), 9 March 1892 (3), 12 March 1892 (1)</td>
<td>9,600</td>
</tr>
<tr>
<td>B11</td>
<td>3 (Hapeta Te Paku, Hinekiri Patupo and Rangikataua)</td>
<td>4 March 1892</td>
<td>2,570</td>
</tr>
<tr>
<td>C3</td>
<td>1 (Karawhira Kapu)</td>
<td>7 March 1892</td>
<td>12,000</td>
</tr>
<tr>
<td>D4</td>
<td>1 (Te Kahui Te Heuheu)</td>
<td>10 March 1892</td>
<td>3,000</td>
</tr>
</tbody>
</table>
For some reason a separate deed no 1810 was prepared for the sale of Pouakani D3 block by the sole owner who signed on 10 March 1892. In both these deeds the signatures were witnessed by W H Grace, licensed interpreter, and W J Butler, justice of the peace.

Deed no 1809 included a plan showing the six blocks but these were not yet surveyed. On 26 January 1892 the chief surveyor issued an authority to D Stubbing to survey these subdivisions of Pouakani block ordered by the Native Land Court on 11 August 1891. The total area shown on the deed plan was in two parts "containing together by estimation 42,000 acres or thereabouts". Stubbing did not begin his field work until April 1892, and worked through the next few months into September. Exhibit notes on Cussen's plan ML6036A of Pouakani No 1 block indicate approval by the chief surveyor on 22 January 1892 and by Judge Scannell in the Native Land Court on 3 June 1892. This plan was advertised for inspection in July and a note on the plan indicated "No objections received". Stubbing submitted his survey plan of Pouakani subdivisions, ML6406 etc, to the chief surveyor on 2 November 1892.

Because the plans on deed 1809 were drawn before survey there are some discrepancies in boundaries and areas. The total area of the six blocks sold on 12 March 1892, based on the Native Land Court minutes, comes to a total of 42,700 acres, 3680 acres more than the sum of areas shown on the title orders:

Table 11.5

<table>
<thead>
<tr>
<th>Block</th>
<th>Area In Acres:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NLC Minutes</td>
</tr>
<tr>
<td>B7</td>
<td>10,000</td>
</tr>
<tr>
<td>B8</td>
<td>7000</td>
</tr>
<tr>
<td>B10</td>
<td>8000</td>
</tr>
<tr>
<td>B11</td>
<td>2700</td>
</tr>
<tr>
<td>C3</td>
<td>12,000</td>
</tr>
<tr>
<td>D4</td>
<td>3000</td>
</tr>
<tr>
<td>Total</td>
<td>42,700</td>
</tr>
</tbody>
</table>

There have been obvious adjustments to areas on B7, B8, B10 and B11 blocks. The title orders were drawn up after survey and after the land had been sold to the Crown.

Stubbing surveyed only the outer boundary of this purchase in 1892, not the divisions within it as the land bad already been acquired by the Crown on 12 March 1892. The divisions were only drawn in on Stubbing's plan, not surveyed on the ground (see appendix 13 for a detailed analysis of Stubbing's plan ML6406 etc, the title orders and deed plans). A note on Stubbing's plan ML6406 etc indicates that title diagrams for Pouakani B7, B8, B11 and C3 were prepared from this plan on 19 April 1893. The orders made by Judge Puckey on 11 August 1891 (as recorded in the Waikato minute books 27 and 28) were signed and sealed by Chief Judge Davy sometime after 19 April 1893 on behalf of Judge Puckey who had by then retired. On 13 September 1893 the Auckland district land registrar, issued a certificate of title for Pouakani B7, B8, B10, B11, C3, D3 and D4 blocks in the name of Queen Victoria. The total area was described on this title as 40,020 acres, but this also included the 1000 acres of Pouakani D3 on a separate deed no 1810. We cannot explain the
differences between the areas in the minutes and in the orders of the Native Land Court. Unfortunately, the correspondence file for Stubbing's survey in 1892 has been lost and it is not possible to reconstruct events any further.

Through 1893 to 1899 the Crown continued to purchase individual interests in other Pouakani blocks. For example the deeds for purchases in the western part of Pouakani block are summarised:

<table>
<thead>
<tr>
<th>Deed No</th>
<th>Block No</th>
<th>No of signatures</th>
<th>First</th>
<th>Last</th>
</tr>
</thead>
<tbody>
<tr>
<td>3245</td>
<td>A1,A2,A3</td>
<td>159</td>
<td>13 Sept 1893</td>
<td>20 July 1899</td>
</tr>
<tr>
<td>3247</td>
<td>B9</td>
<td>79</td>
<td>8 August 1893</td>
<td>20 July 1899</td>
</tr>
<tr>
<td>3248</td>
<td>C1</td>
<td>30</td>
<td>14 Sept 1893</td>
<td>1 Dec 1898</td>
</tr>
</tbody>
</table>

Each signature was witnessed by two people, one a licensed interpreter, but there was a number of different people playing this role, and the locations were more wide-ranging. For example, signatures of owners on these deeds were witnessed in Rotorua, Wairoa, Kihikihi, Taupo, Napier, Palmerston North, Foxton, Shannon and Wellington. Many were witnessed by the local “Postmaster”, justice of the peace, or clerk of court. The names of licensed interpreters included Gilbert Mair, G M Park, G H Dansey, W H Grace, L M Grace, G T Wilkinson and others. Sometimes Wilkinson and L M Grace signed in their capacity as justice of the peace, while someone else was the licensed interpreter. For each block, two deeds were prepared (both given the same deed number) possibly one later than the other (see appendix 13) so that one could be taken away for signatures, and the other kept in an accessible place. The original deeds are held in the Department of Survey and Land Information and were available to us for perusal.

11.3 Subdivision and Crown Purchase of Maraeroa Block

One of the subdivisions of Taupoumatia West block in 1886 was the Maraeroa block. Negotiations for purchase had already begun. On 11 May 1887, the assistant surveyor general, Auckland wrote to the Under-Secretary, Government Land Purchase Department, Wellington, on the subject of the Maraeroa block:

You will remember when I furnished you with a map of the Taupo West Block shewing the blocks which — after consultation with Mr Williams [inspector of surveys] — I considered most advisable for Govt. to acquire, that the northern part of the Maraeroa was there indicated as the best part to acquire if only part of it should be purchased.

When I was at Taupo lately, Mr W. H. Grace [land purchase officer] told me he thought he could secure the whole without much trouble. I write now to make it quite clear that the division was made on the map on the supposition that only part would be purchased, and not because I thought the southern part was not an advantageous block. From what I hear of the Block it would be advisable to secure the whole of it, if it falls in with the policy you are pursuing in the purchases.

As we have explained, the subdivisions and boundaries of the Maraeroa block were cancelled by s29 of the Native Land Court Acts Amendment Act 1889 and Maraeroa block was beard anew by the Native Land Court in 1891. It is
clear that the Crown intended to acquire the whole block, along with the Pouakani blocks to the north as part of a policy of acquiring the forest lands along the access route to the “Tuhua country”.

Te Paehua’s statement in the Native Land Court on 9 December 1891 provides an indication of how names of owners were selected — and omitted — in Maraeroa block:

Those whom I consider have a right have subscribed toward the expenses of this case. M Hinewai subscribed but hers was through love [aroha]. Manawa and Rauangi did also but their money was returned. Manawa’s money was not returned.

M Hinewai and Manawa’s subscription was made at one time and Rauangi’s at another. Rauangi asked for her money when her name was struck out ....

Any one cannot have a right through ancestry alone, a person put in under such circumstances would be admitted through love. Te Heuheu was put in through love ....

Our evidence at Otorohanga (Vol XVII p. 244) in Rangitoto Tuhua block is correct. That evidence kept out the Heuheu family ....

I in conjunction with Rangianiani [sic], Te Rauroha and Erihapeti Wahanui set up counter claims at the first bearing of Maraeroa.21

Te Paehua was pushing the point that he and Ngati Maniapoto hapu were principal claimants in Maraeroa whereas at the Taupo hearing Te Heuheu was the claimant, hence the strenuous arguments against descendants of Tia and Tuwharetoa being admitted anywhere on the block as having any mana or ancestral rights of occupation. Te Heuheu was admitted as a descendant of Karewa, but had not exercised any ancestral occupation rights. Te Paehua, in spite of his earlier comments, admitted that, “Some of the persons named in my list have right only by descent — five or six of them — no occupation”.22

This would include Te Heuheu and his family.

On 12 December 1891 the Native Land Court made the following orders:

Maraeroa A Order in favour of Te Paehua Matekau and others. To include portion marked C 1538 acres, also part of portion of Maraeroa included in Pouakani, shown in pencil on plan [ML6077/3].

Maraeroa B Order in favour of Hoani Takerei and others.

Maraeroa C or Pukemako Order in favour of Waretini Ringitanga and others.

Maraeroa A Sect. 1 (4000 acres) Order in favour of Te Kahui te Heuheu (f), Te Paehua Matekau (m), Monika Te Paehua (f), Hurihia Wahanui (f), Ngakuru te Rangikaiwhiria (m), Wineti Paranihi (m), Paranhi te Tau (m), Makereti Hinewai (f), Rihi te Huanga (f), Ngahiraka te Rangianini (f) to include part of Maraeroa included in Pouakani — see plan [ML6077/3].

Hurakia (6512 acres) Order in favour of Taiki te Rawhiti te Kuri and others.

Maraeroa B Sect. 1 (4000 acres) Order in favour of Tannui Hikaka (m)

Ketemaringi Order in favour of Rauroha te Ngare and others.23

The court had thus ordered subdivisions but the minutes did not specify areas in all cases, and none of the subdivisions was surveyed. In 1891 a sketch plan, probably prepared by the surveyor D Stubbing, accompanied Taonui’s ap-
Crown Purchases in Pouakani & Maraeroa Blocks

Application for survey (map 11.4 A). There is some discrepancy in areas as shown in the following table. The area for Maraeroa A on the 1891 sketch plan, 13,800 acres, appears to be an error. On the 1894 sketch plan (map 11.4 B) it is given as 18,502 acres. The areas quoted on deeds of sale are different again:

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>NLC Orders</th>
<th>1891 Sketch Plan</th>
<th>Sale Deeds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maraeroa A</td>
<td>4,000</td>
<td>13,800 est.</td>
<td>18,938</td>
</tr>
<tr>
<td>Maraeroa A1</td>
<td>4,000</td>
<td>4,000 est.</td>
<td>4,000</td>
</tr>
<tr>
<td>Maraeroa B</td>
<td>4,000</td>
<td>11,800 est.</td>
<td>12,652</td>
</tr>
<tr>
<td>Maraeroa B1</td>
<td>4,000</td>
<td>4,000</td>
<td>3,995</td>
</tr>
<tr>
<td>Maraeroa C</td>
<td>2,140</td>
<td>4,000</td>
<td>N A</td>
</tr>
<tr>
<td>Ketemaringi</td>
<td>8,080</td>
<td>2,140 est.</td>
<td>N A</td>
</tr>
<tr>
<td>Hurakia</td>
<td>6,512</td>
<td>8,080 est.</td>
<td>N A</td>
</tr>
</tbody>
</table>

It seems that prior to the court orders there had been some agreement that the Maraeroa A section 1 and B section 1 blocks would be sold to the Crown to defray costs, including survey charges. In 1892, Stubbing completed his Pouakani survey (ML6406 etc) and the change in the boundary between Te Paehua's Taporaroa and Pureora meant that the boundaries of Maraeroa A and A section 1 blocks were modified. This is shown in a comparison with the sketch plan of 1894 (map 11.4 B). The boundary between the Maraeroa A and B blocks remained the same, but the shape of Maraeroa B section 1 was considerably modified in 1894 and again in 1895, with consequences for the area and shape of Ketemaringi. The pattern appears to have been definition of the A1 and B1 blocks for purposes of sale, after which other subdivisions would fall into place.

The problem with Maraeroa B1 arose because the Ongarue river and its tributary, the Kokakotaia, were used as boundaries but had not been accurately located and surveyed on the ground. On 3 May 1895, Stubbing sent to the chief surveyor, Auckland:

plan field book, triangulation and traverse sheet of Maraeroa subdivisions B Sec. 1 and Ketemaringi. You will observe that the Kokakotaia Stream junctions with the Ongaruhe [sic] outside the block [to the west] instead of inside as shown by the [Native Land] Court plans.

Stubbing then calculated a line from Weraroa to the point where the Ongarue river crossed the western boundary south of Pukemako. It should be noted that this point on the 1894 sketch plan is further south than where it was drawn on the 1891 sketch.

The Maraeroa A1 and B1 blocks were sold in 1895 and over the next few years the Crown continued buying individual interests in both Maraeroa A and B blocks. In 1901, on Crown applications to the Native Land Court, the Crown interests were partitioned out, and again in 1908 (map 11.5 A and B). These transactions are listed in chronological order.
SUBDIVISION OF MARAEROA BLOCK

A : 1891

POUAKANI BLOCK

Stubbing's Survey 1892

C : 1894

POUAKANI
BLOCK

Taporaroa

4,000 ac

A1

11,800 ac

B

11,800 ac

B1

est. 13,800 ac

Ketemaringi

Kotokobie

Sim

Pureora

[Pukerekere]

'C* 1,538 ac

Pakiti

HURAKIA BLOCK

est. 5,250 ac

Pukemako

Ketemaringi

Kotokobie

Sim

Thiingamata

HURAKIA BLOCK

est. 5,250 ac

Pukemako

Ongarue

River

Tahoraka

newarewa

Taporaroa

Pureora

[Turio Hineto]

Source : L and S File 2413

Map 11.4

198
Table 11.8

<table>
<thead>
<tr>
<th>Block Deed No</th>
<th>Date of Deed</th>
<th>Area (acres)</th>
<th>Date of Signatures: First</th>
<th>Date of Signatures: Last</th>
<th>No of Signatures</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 1894</td>
<td>23.4.1895</td>
<td>4000</td>
<td>2.8.1893</td>
<td>23.4.1895</td>
<td>10</td>
<td>£600.0.0</td>
</tr>
<tr>
<td>B1 1915</td>
<td>17.6.1895</td>
<td>3995</td>
<td>17.6.1895</td>
<td>—</td>
<td>1</td>
<td>£501.12.4</td>
</tr>
<tr>
<td>B2 3309</td>
<td>16.3.1901</td>
<td>8176</td>
<td>28.9.1896</td>
<td>5.9.1900</td>
<td>102</td>
<td>£3435.15.2</td>
</tr>
<tr>
<td>A2 3308</td>
<td>25.3.1901</td>
<td>13065</td>
<td>21.6.1895</td>
<td>6.9.1900</td>
<td>180</td>
<td>£4997.1.10</td>
</tr>
<tr>
<td>A3A 3843</td>
<td>21.4.1908</td>
<td>3282</td>
<td>9.9.1907</td>
<td>1.11.1907</td>
<td>41</td>
<td>£4404.15.0</td>
</tr>
<tr>
<td>B3A 3844</td>
<td>22.10.1908</td>
<td>1043</td>
<td>n.d.</td>
<td>n.d.</td>
<td>27</td>
<td>£1678.10.0</td>
</tr>
</tbody>
</table>

The process of subdivision was totally governed by Crown purchase of individual interests, and Crown applications to the Native Land Court to cut out the Crown interests. Unfortunately, from the Crown point of view, the boundary between the Maraeroa B and C blocks had not been surveyed on the ground. The adjustment of the Maraeroa C boundary made in 1911 (map 11.5 C) meant an increase in the area from 2140 acres to 13,727 acres, at the expense of the Crown purchases in A2, B1 and B2 blocks, and adjustment of the remaining Maori-owned B3 block.

11.4 Maraeroa C Block

The problems over the boundary of the Maraeroa C block (Pukemako) began when the surveyor, P Ward, was authorised to survey an area of 2140 acres described in the plan drawn on the Native Land Court order and on survey plan ML6496. As explained above in chapter 9.3, the boundaries for some Maraeroa subdivisions had not been surveyed on the ground, but were calculated in the Survey Office. The following account and quotations are derived from unnumbered files held in the Department of Survey and Land Information office, Hamilton, and produced for the tribunal as A29 in the record of documents. Ward's survey authority for Maraeroa was dated 29 August 1905.

On 11 October 1906 he reported to the chief surveyor, Auckland, that he had been stopped by Maori owners who objected to the boundaries, preferring the boundaries described in the Native Land Court minute book. In the circumstances, Ward did not wish to proceed with his survey, and applied to the Native Land Court to have the boundary lines between Maraeroa B and C blocks reallocated. The chief surveyor directed that a "capable officer" attend the court "to prevent encroachment on Crown's interest". This officer was R Ballantyne.

The Crown found itself in the embarrassing position of having to admit that Crown purchases included land which should be in the Maori-owned portion of Maraeroa block. On 9 December 1907 Ballantyne reported to the chief surveyor, Auckland on the court bearing which be had been instructed to attend:

Mr Earl, Solicitor for Mr Ward and the Native Owners, also appeared and contended that the plan endorsed on the Court orders did not agree with the boundaries given in Minute Book of Waikato No. 28 page 118, which were the boundaries given by the Natives at the hearing of the Court when the land was adjudicated, that the lines on the eastern boundary had been scaled and protracted on the plan, and that on Mr. Ward pointing out to the natives approximately on the ground where...
those boundaries would go the natives objected and stated that their boundaries were outside the boundaries so pointed out and, consequently, overlapped the portions bought by the Crown. As these were facts I could not offer any objection so I pointed out to the Court that the Crown had purchased in good faith and the consequences were serious as the land was leased. Also that a survey was necessary before the natives statements could be relied on as to boundaries.

Mr Grace was unavoidably detained at Kihikihi and only arrived at the close of the case and had no suggestion to offer.

The description of the boundary referred to was recorded on 28 September 1891 during the investigation of title of Maraeroa block by Judge Puckey:

As to a small division of Maraeroa proper, Pepene gave the boundaries viz. Ngaherenga a hill top on the road on the West boundary, thence south to the source of the Paruho stream thence by that stream to the Ongarue stream, thence by that stream to the Western boundary thence north to the commencement.

This part belonged to N'Rerereahu

List handed in — read and passed.25

Judge Gilfedder recommended to the chief judge following the 1907 hearing that the survey should adhere to this description. The problem appears to have arisen over confusion of the names Ngahuinga and Ngaherenga. Ward's sketch illustrating this was produced in court and clarified this issue.

Chief Judge Palmer, in a memorandum to the Under-Secretary of Native Affairs, dated 6 February 1908, had made it clear that the Crown had an obligation to sort out the problem:

The Survey Department never surveyed the land but simply protracted lines at a guess and put a plan on the Court Order and the then Chief Judge taking it for granted as correct approved of the plan. The Survey Office said they did this because they were urged to complete the title by the purchase department. I have looked up the Minute Book of the hearing and that shows the boundaries to be ancestral boundaries and it is of course obvious to you that protracted lines are not ancestral boundaries, besides the evidence then given shows clearly different boundaries to those protracted lines. When the accurate boundaries are ascertained I think there will be over 2,000 acres short in this block "C". Unfortunately the Government rushed in when the Chief Judge signed the plan as correct and purchased most of the interests of the owners in the adjoining block along the protracted lines and this raises the difficulty as to whether I have the right to amend without the consent of the Crown. If I do not amend them no doubt as the owners of "C" have a legitimate claim they will petition Parliament, and I think the easiest way will be to obviate trouble and for the Crown to consent to the amendment.

On 18 February 1908 the Under-Secretary for Lands, W Kensington, advised the Native Affairs Department, in response to their memorandum and the reports of Judges Gilfedder and Palmer, that:

The whole difficulty arose through the purchase in "B" block being carried out on what was well known by those concerned to be a sketch plan and of course only approximate. In preparing the plan as it at present stands, the Department did so for the then Native Land Purchase Department as near as it could from the data available, and we had nothing further to do with the matter. It is, however, recognised that the owners of "C" are entitled to have their block laid out on the proper
boundaries as defined by the Court and to this the Department readily agrees. The lands included in the Crown Award and which belong to "C" will require to be resumed from the present tenant, but this will not be done until the exact boundaries are known.

On 18 February 1908 Kensington also wrote to the chief surveyor, Auckland:

The question of the proper boundaries of the [Maraeroa C] block was recently enquired into by Judge Gilfedder and further reported on by Chief Judge Palmer. From the report it is evident that the correct boundaries as laid down by the Native Land Court, on partition, encroach on the Crown Award in "B" block adjoining. After considering the whole matter, it has been decided and the Chief Judge has been advised, that the survey of the boundaries must be allowed to proceed in terms of the original partition even although it encroaches on our award. The original plans were only drawn from sketch plans in Court for the convenience of the Native Land Purchase Department to get to work. It is estimated that about 2000 acres will be affected and it will be necessary to give the lessee of the Crown Land (Pastoral Run) notice of resumption of that part at least. No action need be taken, however, in this direction until survey has been completed and passed. Please see that the plan when received from the Surveyor Mr P. Ward, is properly examined and that it coincides in all respects with the Order of the Court.

In March 1908 the new survey of Maraeroa C began and on 30 June Ward's plan, ML7478, which gave a total area for Maraeroa C of 13,727 acres, was received in the Survey Office, Auckland. A tracing was sent to Wellington, on 1 October, indicating that 11,260 acres of Crown land was included in the Maori-owned Maraeroa C block. On 20 March 1909, Ward's plan was approved by the chief surveyor. On 3 August 1909 Ward wrote to the Commissioner of Crown Lands, Auckland, stating he had applied to the Chief Judge of the Native Land Court for approval of his plan, and requested that any Crown objections be notified to the court. A court hearing was scheduled for 1 March 1910. On 15 February 1910 Kensington wrote to the chief surveyor, Auckland, setting out how the Crown should state its case:

the whole matter is so very clear as far as the Crown is concerned, and to state the facts should they resolve themselves into this: the Land Purchase Officer, Mr Sheridan, in his anxiety to purchase this area, purchased it upon a plan purporting to carry out an order of the Native Land Court, which has since been found not to have carried out the order of that Court. As the Crown was (to put it gently) foolish enough to purchase on such sketch map, I am afraid the Crown will have to bear the consequences. At the same time I agree with you that the Crown should make the best fight it can to retain the interests purchased. I do not see the use, and the Minister agrees with me, of employing a Solicitor in this case, as it would practically mean throwing away a good deal of money in Solicitor's costs, beyond that which has already gone; and I therefore think the best way will be for Mr Pollen, Chief Draughtsman, to go to the Court together with Mr Ballantyne (as they know the whole facts of the case) and Mr Pollen will be able to advise the Court on matters of compromise, as he is thoroughly conversant in all Native Land Court matters.

The court sat at Kihikihi on 1 March 1910 and Judge Browne's report recommended that the plan showing the boundary as described by Maori owners from Ngaherenga be accepted. On 8 July 1910 a "compiled plan 7728 red" was approved by the chief surveyor, and approved by Judge Browne on 15 February 1911. Ward's plan ML7478 was also approved on 25 February
Crown Purchases in Pouakani & Maraeroa Blocks

The plan on the Native Land Court order for Maraeroa C or Pukemako was cancelled by Chief Judge Palmer on 16 October 1911, under the provisions of s27 of the Native Lands Act 1909, and a new one substituted showing the total area of 13,727 acres as shown on the plan ML7728, instead of ML6496. The orders for other Maraeroa blocks affected were also amended accordingly.

This does not appear to have been the end of the matter as far as local people were concerned. Perhaps these transactions were not adequately communicated back to the people. Perhaps the events of 1907-1911 became distorted in the telling because of a lack of information about the outcome. Whatever the reason, in 1932 a petition on behalf of Ngati Rereahu from Raraka Te Ringitanga and others was presented to parliament, claiming the Maraeroa C boundary should be at Ngaherenga, that the court had heard the case in 1907, "For some unknown reason no adjustments were made". The whole issue was inquired into again in 1940 by Judge Beechey following the receipt of a petition by Pouaka Wehi and others (see appendix 9). However, as the error had been rectified by Ward's survey and new title orders issued by the Native Land Court in 1911, no further action was taken on these petitions following the inquiry.

References

1 AJHR 1885 C-IA pp 23-24
2 Lands and Survey file 2413
3 AJHR 1887 Sess II G-I
4 National Archives (Wellington) J1 1894/140
5 National Archives (Wellington) MA MLP1 1889/332
6 ML6036A
7 Waikato minute book 26 p 209
8 ibid p 195
9 ibid p 208
10 ibid pp 208-209
11 Waikato minute book 27 p 171
12 ibid pp 177-184; Waikato minute book 28 pp 1-27 and pp 32-34
13 Waikato minute book 28 p 20
14 ibid p 10
15 Taupo minute book 9 p 262
16 ibid p 263
17 National Archives (Wellington) MA 71/1; see also B7:443, 446.
18 AJHR 1892 G-4
19 CT67/276
20 Lands and Survey file 2413
21 Waikato minute book 28 pp 155-156
22 ibid p 156
23 ibid pp 164-165
24 Lands and Survey file 2413
25 Waikato minute book 28 p 118
26 Petition no 232/32
27 Petition no 73/1940; AJHR 1942 G-6C

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Chapter 12

Survey Charges

12.1 Introduction

The Crown policy of charging the costs of survey against the land began with the establishment of a Native Land Court to investigate ownership of Maori land and issue certificates of title in a form that could be recognised in British law. Section 13 of the Native Lands Act 1862 stated:

Provided always that no such Certificate shall be issued until a survey of the Lands to be therein described shall have been made by a Surveyor licensed by the Governor and the boundaries of such Lands distinctly marked out on the ground and every Certificate shall have written or endorsed thereon or annexed thereto an accurate plan of the Lands therein described and shall particularly set forth the metes and bounds of such Lands.

A requirement for survey before a title order is issued by the Maori Land Court has remained in various forms, in all succeeding legislation relating to Maori land, supported by survey regulations and Maori Land Court rules. The costs of such surveys were borne by Maori owners as provided in s28 of the Native Lands Act 1862:

The Governor may at the request of the Native Proprietors cause Maps and Surveys to be made of any Native lands and may defray the costs thereof and charge the same against any Fund specially appropriated to Native Purposes such costs to be repaid by the Native proprietors in such manner as the Governor may direct.

The Native Lands Act 1865, at s68, made provision for the court to grant survey liens. Where a survey had not been paid for, a surveyor could apply to the court, and:

it shall be lawful for the Court to order that the Crown Grant issuable in pursuance of such certificate shall be delivered into the possession of such surveyor who shall have a lien thereon and may detain the same until his lawful charges as aforesaid shall have been paid.

There was also provision, at s69 and s70, for the Native Land Court to inquire into any dispute between a surveyor and Maori owners over costs, or quality of work, and decide on remuneration, and apportion costs. The Native Lands Act 1866 provided at s14 for fees of up to 6 pence per acre to be charged for “examining and recording surveys”. The Native Lands Act 1867 at s6 and s27 made further provision for inspection and certification of plans by a government-appointed inspector of surveys.

The Native Land Act 1873 at s69 retained this provision for the government to undertake surveys:

The Governor may, at the request of the Native claimants or owners, cause maps and surveys to be made of any Native lands, and may defray the costs thereof out of and charge the same against any fund specially
appropriated to Native purposes, such costs to be repaid in manner hereinafter provided. Such surveys shall be made under the immediate control of the Inspector of Surveys by surveyors to be from time to time authorized in writing by him for the purpose.

Section 70 made provision for preparation and publication of Survey Regulations in the *New Zealand Gazette*. Section 73 provided for payment of survey costs in land:

If the [Native Land] Court shall see fit, it may, on the application of the Inspector of Surveys, order that a defined portion, to be ascertained and agreed upon between the Inspector and the Native owners of any land so surveyed as aforesaid, shall be transferred by the Native owners to Her Majesty in satisfaction of any advances as aforesaid made for such owners either in respect of the same or any other land, and may include in the amount of money so to be satisfied all fees payable under this Act in respect of the same land or any other land owned by the same persons or tribe.

In the Native Land Court Act 1880 at s39:

Surveys required by the Court shall be made by surveyors employed for that purpose by the Surveyor-General, and no survey shall be accepted or acted on by the Court unless it is made by a surveyor so employed, and certified as correct by the Surveyor-General or a surveyor authorized by him in that behalf.

This Act, in following sections, repeated provisions in the 1873 Act as to costs of surveys being paid for by transfer of land to the Crown or by sale of land, as ordered by the Native Land Court. In ss81-86 of the Native Land Court Act 1886 the court was given power to make an order charging the land with payment of survey costs. Such a charge had the effect of a mortgage of the land in favour of the surveyor and interest was payable at five percent per annum. In s66 of the Native Land Court Act 1894 interest payments were limited to five years from the date of the court order granting a survey lien. In s67 of the Native Land Laws Amendment Act 1895, the five year interest period began on the date of approval of the survey by the chief surveyor. Further detailed requirements for surveys were set out in the General Rules of the Native Land Court 1880, which in rule 43 were to be made "in strict accordance with the New Zealand system of survey".1 Rules 63 to 72 of the 1890 Native Land Court Rules dealt with surveys.2

The survey regulations pursuant to the Land Act 1885, under which the Tauponuiatia West surveys were carried out, were made in 1886 and were published in the *New Zealand Gazette*.3 These regulations remained in force until superseded by the survey regulations published in the *New Zealand Gazette* 1897.4 Relevant sections of these regulations are reproduced in appendix 11. There were also provisions in the Native Land Court Act 1886 ss79-90 dealing with surveys of Maori land generally, including charges which have the effect of mortgages. Sections 10 and 11 of the Native Land Court Acts Amendment Act 1889 made further provision for apportionment of survey charges and amendment of court orders in the course of survey.

We have used the terms “lien” and “charge” interchangeably in referring to “debts” or money owing for survey of Maori land, but some definition is required. A “debt” is an obligation on one person to pay another. A “lien” is a right which one person has to retain the property of another or to have a
charge over it until the debt owing by the other is paid. A “charge” is an encumbrance on the land which charges the land with payment of the debt. It is like a mortgage over the land which secures the debt by giving priority over the owner(s) interest in the land. In this chapter, the charging of survey costs, survey liens, and payments in land are investigated in relation to transactions on the Maraeroa and Pouakani blocks. These transactions, usually arranged by officers of the Government Land Purchase Department and the Survey Office, and confirmed by the Native Land Court, were carried out in the context of a long-established Crown policy of charging survey costs against the land.

12.2 Crown Acquisition of Pouakani No 1 Block

Sometime in March 1886 an agreement was made between two private surveyors, William Cussen and Henry Mitchell, and representatives of Maori owners of Tauponuiatia West block on a survey of boundaries and subdivisions. The text of this agreement is not known. However, there are frequent references to it in Lands and Survey file 2413 which begins in January 1887, at folio 86. This would suggest that the first volume of this file has been lost. However, the survey issues are well documented in the rest of this file. At this stage, minor triangulation bad not been completed over the whole of Tauponuiatia West block, only over most of the northern portion including Horaaruhe Pouakani block. In December 1886 the plan produced by Cussen and Mitchell, ML6036 etc, bad been lodged in the Auckland Survey Office.

From correspondence in Lands and Survey file 2413 it appears that the agreement on costs of survey set the charges at three and a half pence per acre, being two pence for survey and one and a half pence for minor triangulation. This rate was approved by the assistant surveyor general, Auckland, for all the Tauponuiatia West subdivisions and Maraeroa block. A proportion of the cost of the survey of the Aotea block, £554 of the total £1600 agreed in December 1883, was also debited to blocks in Tauponuiatia, but it is not clear how this was calculated. Survey costs for the blocks in Tauponuiatia West were calculated in 1887:

<table>
<thead>
<tr>
<th>Block</th>
<th>Cost</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maraeroa</td>
<td>£626.9.2</td>
<td>41,245</td>
</tr>
<tr>
<td>Tihoi</td>
<td>£1369.4.2</td>
<td>90,140</td>
</tr>
<tr>
<td>Tubua Hurakia Waihaha</td>
<td>£1192.8.0</td>
<td>78,500</td>
</tr>
<tr>
<td>Hauhungaroa Karangahape</td>
<td>£1275.18.11</td>
<td>84,000</td>
</tr>
<tr>
<td>Pouakani</td>
<td>£1836.0.9</td>
<td>122,350</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£6300.1.0</strong></td>
<td><strong>416,235</strong></td>
</tr>
</tbody>
</table>

In January 1887 the survey costs on Pouakani block of 122,350 acres were calculated as follows:

- Cost of survey at 2d per acre: £1019.11.8
- Cost of triangulation: 732.5.0
- Proportion of original Aotea charge: 74.4.1
- **Total**: £1826.0.9

In Lands and Survey file 2413 the total is listed as £1836.0.9. This appears to be an error in addition which is repeated in at least one other schedule and in correspondence on this file quoted below. It was this figure that T W Lewis, Under-Secretary for the Native Department, was given when he was in Taupo...
in September 1887 to attend the sitting of the Native Land Court. Lewis and W H Grace, government land purchase officer, began negotiations with owners of Tauponuiatia West subdivisions over payment of survey charges. On 19 September 1887 Grace sent a telegram to the assistant surveyor general, Auckland:

Re costs survey Horaaruhe [Pouakani] block please wire bow amount £1836 made up as it appears to exceed threepence halfpenny per acre the natives object.  

The response from S Percy Smith was:

Re Horaaruhe, of course it exceeds 3½ pence because there is a proportionate part of the original Aotea block included amounting to £74.1.1 [sic].  

On 22 September 1887 Lewis telegraphed Smith:

I am informed that the Tauponuiatia blocks in no way profit by the Aotea survey with which they are some of them charged; and if the statements made to me are correct there seems to be no shadow of equitable reason for charging any part of that survey to these blocks. Application is made to me to remit the amount in Waihaha Tuhua, forty seven pounds, and the request seems only reasonable, as I am to do that. Wahanui's line is not only discarded but has not the slightest relation to any of these blocks as surveyed and passed the court. (punctuation added)  

The assistant surveyor general, S Percy Smith, responded to Lewis on the same day with his explanation of the “Aotea Agreement”:

The agreement made in December 1883 at Kihikihi between Hon. Mr Bryce and Maoris as to survey of Block known as Aotea was to the effect that a plan of whole claim (which included Tauponuiatia) was to be made at a cost not exceeding £1600. This was done and the proportional charge against every division within original boundaries has been made in accordance with usual custom. It is true that the present divisions of Taupo are not benefitted by the Aotea arrangement but I cannot take responsibility of altering the usual custom. I advise get Minister's authority to alter, but Wahanui and Co. will strongly object.  

The Pouakani block was before the Native Land Court on 19 September 1887:

Pouakani block

Hapeta te Paku and others through Rangikarapiripia [sic] apply that a division of the above Block be made to comprise 50,000 acres, portion of said 50,000 acres to consist of 2 [blank] acres and called Pouakani No. [blank] and the balance consisting of [blank] acres to be called Pouakani No. 2.

Pouakani No. 1. area 20,000 acres

To be cut off to the N.W. of a straight line drawn from the mouth of the Mangakowhiwhiri stream, to the survey peg on the S. Boundary of the Block on Kopaki stream, following the Boundary of the Kaiwha Block to Mangatahai [sic] thence by a swinging line to the Waikato River to include 20,000 Acres — this Block to be called Pouakani No. 1 and to be awarded to the Crown for payment of survey and other costs.... Objectors challenged — None appeared ... Court ordered Pouakani No. 1 should vest in Her Majesty in a state of Freehold (area 20,000 acres).  

There is no information in the court minutes how agreement was reached on the location of this block to be awarded to the Crown. Presumably this was
Survey Charges

discussed in negotiations but neither Lewis nor Grace recorded any conversa-
tion on this aspect. Grace did explain the "other costs" in a memorandum to
Mr Sheridan of the Native Land Purchase Department, on 26 September 1887:

The Block of 20,000 acres called Pouakani No 1 was valued at 2/- per
acre making £2000 and from this the costs of the survey of Pouakani
Block 113,150 acres @ 3 pence ½ penny per acre making £1650 was
deducted and the balance of £350.0.0 paid to the representative owners
17 in all, as shown by the voucher attached. (B5:14)

A note written at the bottom of the memorandum stated, "No deed was signed
in this transaction". The copy of the voucher that Grace sent with his
memorandum showed that the receipt for £350 was signed by W H Grace, the
names of the 17 owners listed and signed by Henry Mitchell, licensed inter-
preter, with a statement:

Signed by the above seventeen persons after I had explained to them in
the Maori Language the contents of this voucher and they appearing to
clearly understand the meaning and purport of the same.

In his evidence to the Tauponuiatia Royal Commission in 1889, Te Rangi-
kariripiripia indicated that the £350 had been paid, that £100 had been paid to
W H Grace in part payment of debts of Ngati Wairangi amounting to between
£500 and £600.

W H Grace provided a retrospective view of the transaction in his report sent
to both S Percy Smith and T W Lewis, dated 14 November 1887:

Horaaruhe Pouakani block. 122350 acres

This block when being passed through the court was reduced to 113,150
acres and called Pouakani Block, owing to two blocks being cut off called
Kaiwha 7200 acres and Hapotea 2000 acres. The proportion of survey
at three pence half penny chargeable against Pouakani Block, viz. £1650,
has been paid by an area of 20000 acres being cut off vested in the Crown
and called Pouakani No. 1. The said charge of three pence half penny
per acre also covers minor triangulation. The Under Sec. Native Dept,
[T W Lewis] in this case also thought it proper to remit the charge of
£74.4.1 proportion of original Aotea survey. Kaiwha and Hapotea
blocks bear their own proportion of survey the same to be arranged for
hereafter.

There is no record in this file of subsequent charging of survey costs for Kaiwha
and Hapotea blocks. They were never surveyed and, following the
Tauponuiatia Royal Commission 1889 and subsequent legislation, these
blocks ceased to exist. Pouakani block was subdivided differently by the Native
Land Court following rehearing in 1890-1891. The survey of Pouakani No 1
block was authorised on 15 August 1890 and the plan, ML6036A, was lodged
with the survey office on 27 January 1891, but not approved by a judge of the
Native Land Court until 3 June 1892. In any case, part of the agreement to vest
Pouakani No 1 in the Crown was that government bear the costs of this survey.

In summary, the Pouakani No 1 block (20,000 acres) was awarded to the
Crown in 1887 to cover costs of the Cussen and Mitchell surveys, at 3½ pence
per acre, plus "other costs" which appear to have been debts incurred by
owners as a result of the Native Land Court hearing of the Pouakani investiga-
tion of title in Taupo 1886-87. It did not include a share of the £1600 for the
Aotea block survey.
12.3 Tuwharetoa Negotiations on Survey Charges

Through the 1890s the imposition of survey charges remained an issue of considerable concern among leaders of Ngati Tuwharetoa. In January 1894 a number of Crown applications for survey liens on lands in Tauponuiatia block were advertised in the Gazette for hearing by the Native Land Court. W C Kensington of the Auckland Survey Office was sent to Taupo in February to represent the Crown. The following account is from his report to the chief surveyor dated 3 March 1894:

I proceeded to Taupo upon Friday 16th Feby. and immediately upon arrival I saw Judge Scannell who informed me that the Natives were very dissatisfied with the liens as Gazetted, and would do no business until a full explanation was given them; that he should adjourn the Court until matters were arranged. Shortly after a deputation of the principal Chiefs of Tuwharetoa, headed by young Te Heu Heu, asked me to fix a time for meeting all the Natives at the Court House. I agreed for shortly after 8 a.m. on Monday 19th and accordingly met between 300 and 400 of them with Mr Puckey as interpreter (Messrs Grace and Mitchell being also present). The meeting occupied two hours and all the Chief speakers ventilated their grievances.

1st. They strongly objected to the £554 being charged over their lands, being the Ngatimaniapoto proportion of claim overlapping upon them. They pointed out (and I think justly) that their Tauponuiatia Rohe Potae was before the Court first, that their boundary had been adopted and that the “Aotea” people did not get an award over their lands. That before the Ngatimaniapotos brought their claim before the Court, they sent representatives to confer with the Tuwharetoa tribe and agreed to the boundary claimed by these latter people, and had therefore no excuse for the overlapping area. To this I replied, pointing out that the Ngatimaniapoto had paid £1000 as their share, and that the £554 must be also repaid, as Government had disbursed it. They agreed to this but said that Ngatimaniapoto had agreed to pay the whole £1600 and actually had the money collected at the time to pay the whole amount, and they moreover said that government should charge “Rangitoto Tuhua” [block] with the amount i.e. the £554. I replied that they had better lay their grievance before the Government and that as most of the cases were to be adjourned to Tokaanu in November, the matter could then be settled — to this they agreed.

2nd. Their second grievance was that their own Rohe Potae survey and subsequent charges should not be charged by an uniform acreage rate over all the blocks — but that the blocks most benefitted should be charged a much larger share, and the others very little. In this I quite concurred — and agreed to ask the Judge to adjourn all cases covered by their request and to re-adjust and bring before the Court in November. This undertaking on my part for the government gave very great satisfaction.

3rd. They complained that liens had been advertised for a number of cases where government had accepted land in full payment, and that the Court Minutes bore this statement out. I replied that this was the case, and that I would go through the Minutes and in cases confirmed by such Minutes I would ask the Judge to strike the liens out. This also gave great satisfaction and removed a great deal of suspicion from the native mind as to the fairness of the government.

4th. They then asked me what I was going to do as to “Tihoi”, “Maraeroa” and “Hauhungaroa” blocks on which the court had given
Survey Charges

a lien to Messrs Mitchell and Cussen of 1 1/2 [pence] an acre and they asked I adjourn these cases. I replied, refusing to adjourn them, and said I should press for a lien of 2d. an acre over each block, as the amount had been paid by government, and it was the fault of the Native Lands Court in granting the private lien first when the government liens had been lodged before, but omitted to be Gazetted. After long discussion they agreed not to oppose the application but asked me to bring under the notice of the Govt. their request, that government would pay off Messrs Mitchell and Cussen, and then that the Native owners would cut off land out of each of the blocks mentioned and cause the blocks to be vested in a few names, so that they could at once be conveyed to the government.

I may say I strongly urge this course, because as the matter now stands, the liens already granted have been assigned to Mr Ellis, storekeeper at Otorohanga, and having the precedence over government, might be foreclosed upon to the detriment of the Crown claims. These liens I obtained in court the next day i.e. upon Tihoi £745.3.0, Maraeroa including Ketemaringi £246.3.4 and upon Hauhungaroa £700. I would point out that it is most advisable to settle this matter and come to a decision by the time the court sits again about November.

The court struck out the following liens as having been satisfied by land having been cut off and conveyed to the Crown. Horaaruhe Pouakani, Waihaha to Nos. 1 and 2 etc. Taurewa, Taharakuri, Rangatira, Pahikohuru and Te Whahan, all the other cases for which Crown ask for liens are adjourned until next November in order that there may be a re-distribution of liens etc. and also that the government may decide as to the £554 disputed by Tuwharetoa.

Judge Scannell fully concurred in the wisdom of adjourning these cases, and said that the Natives were very pleased at the way in which government had met them. At his request, and also at the request of the Natives I spent another afternoon explaining survey matters generally to a large audience at the Courthouse, and disabusing the minds of various speakers of errors into which they had fallen; many of them through wrong advice given by other Natives etc.

I must say I found the Taupo Natives most anxious to meet the government in every way, and I think that after the November sitting it would be wise to authorise some Officer to be present and to agree on governments behalf as to what land shall be conveyed to the Crown in satisfaction of its claims.

I will conclude by pointing out that I promised the Chiefs of Tuwharetoa that I would ask you to send a copy of this report to the Surveyor General for the information of the government.16

This report has been quoted in full because it sets out clearly the principal concerns of Tuwharetoa leaders about survey charges and illustrates the way the Crown went about ensuring that the liens were paid, usually in land. In spite of the promises to take the grievances to government, there was no real change in the system. In August 1894 a revised list of survey liens was prepared, and it included the £554 disputed by Tuwharetoa, but apportioned out over all the blocks in Tauponuiatia. It is difficult to justify this action, especially for blocks which did not adjoin the Aotea block boundary. We do not know whether the matter was ever taken to the relevant minister. The Tuwharetoa plea to allocate survey liens on the basis of benefit to the block was also ignored.
In the Tauponuiatia West subdivisions a flat rate of 3½ pence per acre was maintained (2 pence for survey and 1½ pence for minor triangulation) to pay for Cussen and Mitchell’s surveys. On Pouakani block this was paid for by the 20,000 acres of Pouakani No 1 block. When new surveys were done by Stubbing in 1892, these too were paid for by the imposition of further survey liens. However, what was done in respect of Pouakani block was not unusual or atypical. Correspondence and schedules of survey liens in Lands and Survey file 2413 indicate some arbitrary shifting of numbers as liens were recalculated following the revision of boundaries and areas as a result of rebearing the Pouakani and Maraeroa blocks by the Native Land Court in 1891. Surveys were incomplete and many areas were still only estimated. The list of Tauponuiatia West block subdivisions in table 12.1 was extracted from a schedule of government liens, dated 16 December 1891, and sent to the registrar of the Native Land Court. The same figures appeared in the January 1894 *Gazette* notice of applications by the chief surveyor for survey liens to be heard by the Native Land Court at Taupo.

Table 12.1

<table>
<thead>
<tr>
<th>Block</th>
<th>Area in acres</th>
<th>Lien</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horaaruhe Pouakani</td>
<td>122,350</td>
<td>£606. 8.1</td>
</tr>
<tr>
<td>Tihoi</td>
<td>89,922</td>
<td>445.13. 9</td>
</tr>
<tr>
<td>Waihaha</td>
<td>43,646</td>
<td>216. 6. 6</td>
</tr>
<tr>
<td>Waihaha No. 1</td>
<td>16,430</td>
<td>81. 8. 8</td>
</tr>
<tr>
<td>Waihaha No. 2</td>
<td>11,824</td>
<td>58.12. 1</td>
</tr>
<tr>
<td>Te Awaiti Waihaha</td>
<td>100</td>
<td>9.10</td>
</tr>
<tr>
<td>Native Land orig. pt. of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waihaha</td>
<td>6,500</td>
<td>32. 4. 4</td>
</tr>
<tr>
<td>Maraeroa now NL</td>
<td>41,245</td>
<td>204. 8. 6</td>
</tr>
<tr>
<td>Hauhungaroa</td>
<td>84,000</td>
<td>416. 6. 8</td>
</tr>
</tbody>
</table>

On 22 October 1891, the applications for liens by surveyors Cussen and Mitchell were advertised in the *Kahiti* for the following blocks:

- Maraeroa £257.15. 7
- Hauhungaroa £525. 0. 0
- Tihoi     £563. 7. 8

The December 1891 figures do not tally with a response to a request by L M Grace, dated 26 September 1891, on behalf of Te Heuheu and others for information on survey charges on Maraeroa Hurakia:

- Maraeroa 41,245 acres Government £368.13. 4
  Cussen and Mitchell £257.15. 7
- Hurakia part of Waihaha 6,330 acres Government trig. £39.11. 3
  Government £ 56.11. 0

It seems that on Maraeroa block the Cussen and Mitchell liens and the government liens are two separate amounts. On 26 October 1891, S Percy Smith, surveyor general wrote to the chief surveyor, Auckland, noting the Cussen and Mitchell applications in the *Kahiti*, and reminding him “that there are liens due to the Gov’t over all these [Tauponuiatia] blocks, being portion of the original outside boundary of the main block, and please see that these...
The following calculations are filed with this memorandum:

- Tauponuiatia (West) £3468.12.6
- Tauponuiatia (West) Trig (Horaaruhe) 732.5.0
- Tauponuiatia 887.4.8
- Tauponuiatia (W) Trig (Waihaha) 490.12.6
- Prop. pt. of Aotea cost 554.9.5

Total £6133.4.1

£6133.4.1 to be divided into area of Tauponuiatia Subdivisions as ordered by court and subdivns, for which fresh claims are to be sent in—

- area of subdn. as ordered by N.L. Court 1,101,264 [acres]
- not passed Court 136,168
- Total area 1,237,432

Cost per acre to be charged = 1.1895 a penny

On the basis of 1.1895 pence per acre, liens on all the blocks in Tauponuiatia investigated by the Native Land Court to date were calculated and listed. Then there is another memorandum to a Mr Johnston in the Auckland Survey Office and signed by WCK, presumably Kensington:

It appears to me that the only way to get the "Tauponuiatia" liens right is to cancel all existing liens and to send in fresh ones in accordance with attached schedule. This would involve a fresh entry for every block mentioned.

It was on this basis that the liens listed above from the 16 December 1891 schedule were recalculated, and previous figures superseded. It was this set of figures to which the Tuwharetoa leaders were objecting in March 1894 when they were advertised for hearing in the Native Land Court at Taupo.

On 28 August 1894, the chief surveyor, Auckland, sent to the registrar of the Native Land Court “a complete revised list of liens against the Tauponuiatia Subdivisions” and asked that the list of 16 December 1891 be cancelled and the new list substituted: “I have to request, as laid down in the Native Lands [sic] Court Act 1886, that the Court may make orders in the favour of the Surveyor General as may be deemed necessary for the security of the above mentioned liens”.

The following entries include the subdivisions of Tauponuiatia West block:

- Horaaruhe Pouakani 122,350 ac[res] £1019.11.8 @2d per acre (Mitchell & Cussen)
  725.5.0 Trig (" ")
  54.16.4 Pro. pt. £554.9.5 Aotea block
  £1806.13.0 Has been written off by Crown Purchase

- Tihoi orig. a.c. 90,140 £749.7.0 @ 2d per acre — M & C.
  less 218 40.5.10 pro.pt. [Aotea block]
  added to Maraeroa 89,922 acres £789.12.10
Waihaha

78,500 ac.
Includes Nos. 1 and 2, Te Awaiti Waihaha, Hurakia, & pt. of Ketemaringa = 900 ac. approx.

£654.3.4 @ 2d per acre — M & C
490.12.6 Trig
35.3.6 pro. pt [Aotea block]
26.13.9 Survey of Awaiti & Waihaha & 1 mile direction lines
£1216.13.1 Written off by [Crown] Awards etc.

Te Awaiti Waihaha 100 ac. Included in Waihaha

Maraeroa

41,245 ac
plus 218 [Tihoi]
41463

Includes A Sec 1, A, B Sec 1., B, C and pt. Ketemaringi not surveyed
area now is 52,800 ac which includes Hurakia

£345.10.6 @ 2d. per acre — M & C
18.11.7 pro. pt. [Aotea block]
119.5.0 boundary by Commission
108.1.3 [Not identified Stubbing Survey?]
£591.8.4

Hauhungaroa

84,000 ac

Includes Waituhi Kuratau and Waituhi Kuratau No. 1 not surveyed

£700.0.0 @ 2d per acre — M & C
37.12.9 pro. pt. [Aotea block]
15.10.7 Traverse of Taringamutu Stream by W.C., the stream is not the boundary now
£753.3.4

Hurakia

5740 ac
not yet surveyed
N. bdy. to be cut

£108.11.3 boundary by Commission

Taramoa to Pakihi for pro. pt. & cost at 2d per acre see Waihaha Block

2.11.3 pro. of £554.9.5 Aotea Block

2.11.3

182.14.11 Cost of survey
£185.5.2

It is not clear bow this last total was reached. In 1891 the Hurakia lien on 6330 acres was £39.11.3 for triangulation and £15.11.9 for survey, a total of £55.3.0. However, some of the Hurakia survey charges were covered by the vesting of Waihaha Nos 1 and 2 blocks in the Crown.

There is one curious feature of the entry for “Horaaruhe Pouakani” in the inclusion of £54.16.4 as a proportional part of the £554.9.5 cost of the Aotea survey charged to Tauponuiatia blocks. In W H Grace’s report of 14 November 1887 it was expressly stated that Lewis “thought it proper to remit the charge of £74.4.1 proportion of original Aotea Survey”. T W Lewis died suddenly in December 1891 and the following year the Native Department which he had beaded was dismantled. Land purchase operations were incorporated in the Department of Crown Lands and the Native Land Court was moved to the Department of Justice. The Pouakani No 1 block had been transferred to the Crown in 1887, valued at £2000 being 2 shillings per acre, survey charges assessed at £1650 and the balance of £350 paid to representative owners. Without further information we are tempted to suspect that the 1894 figures
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represent a bit of "creative" accounting in the Survey Office. In any case, the Pouakani owners were not prejudiced because the larger sum of £1806.13.0 was "written off by Crown purchase". Or does this larger sum also include survey charges deducted from the Crown purchases of Pouakani blocks in 1892? We can not be certain from the information available to us.

We have not done any detailed investigation of the other Tauponuiatia West subdivisions. We have reviewed them only to indicate something of the inexorable process of charging for surveys, calculated and recalculated in the Survey Office, and in due course granted as survey liens charged against the land by the Native Land Court, with apparently little consultation or participation by owners in the process. We can only speculate on the frustration that tribal leaders felt at so much land slipping from their grasp to pay for surveys that in some blocks put boundaries in the wrong place and had caused so much dissension already. In some cases, survey liens were granted to the Crown and land acquired but, as we shall explain in respect of Pouakani subdivisions, because the surveys were incomplete, Maori owners did not get a proper title to their land. When survey charges were not paid, interest was added at the rate of five percent per annum for five years from the time the survey was approved by the chief surveyor, so adding further to debt. We have found no explanation of how the figure of £554.9.5, the proportional part of the Aotea block survey cost charged to Tauponuiatia, was arrived at. Nor can we, like T W Lewis who objected in 1887, see any reason why, in addition to Tauponuiatia West subdivisions, blocks such as Tutukau East and West or the Rangatira blocks, none of which adjoin the Aotea block, were charged. Even Pukawa No 1 block, 4 acres 1 rood 6 perches, was charged one half penny, as its "proportional part" in the 1894 list. There are many issues in respect of survey charges in the Ribe Potae which require further explanation. We have had to restrict our investigation to Pouakani and Maraeroa blocks.

12.4 Survey Liens on Pouakani Block 1899

As we have seen, the cost of surveys by Cussen and Mitchell were paid by cutting out Pouakani No 1 block and vesting the 20,000 acres in the Crown. Stubbings new survey in 1892 was also paid for in land. On 30 July 1894 the chief surveyor at Auckland, Gerhard Mueller, signed a certificate which reads:

I, the undersigned, hereby certify, within the terms of section 81 of "The Native Land Court Act, 1886," that the sum of £180.9.3 is now owing by the Natives to The Surveyor General, a certified surveyor, for the plan numbered 6490, 6408, 6412 and 6413 of the said land, or [and] for the survey on which the plan was founded.

The form apportioned the £180.9.3 as follows:

- Pouakani A1, A2 and A3 containing 10,577 acres 59.11.1
- Pouakani B9 and C1 containing 17,900 acres 112.3.2
- Pouakani C2 containing 250 acres 8.15.0

Total £180.9.3

The full title of Stubbings survey plan is ML6406, 6407, 6408, 6410, 6411, 6412 and 6413, which we have referred to as ML6406 etc in this report. A separate plan number was assigned to each block on the plan that was in separate ownership:

6408 is the number assigned to Pouakani B9 (Pureora)
6412 is the number assigned to Pouakani C1 (Kaiwha)
6413 is the number assigned to Pouakani C2.

The number “6490” does not appear in the title of Stubbing’s plan ML6406 etc but lines have been drawn on the plan subdividing the Pouakani A area into Pouakani A1A, A1B, A2A, A2B, A3A and A3B, and the number 6490 has been written on the area occupied on the plan by Pouakani A No 1A. This is at the edge of a crease where the plan has disintegrated and is not now possible to say whether or not the figures “6490” were followed by the letter “A”. “6490B” has been written on Pouakani A1B, 6491A on A2A, 6419B on A2B and 6492A on A3A. The Hamilton office of the Department of Survey and Land Information has no record of separate plans numbered 6490 or 6490A, 6490B, 6491A, 6491B, 6492A or 6492B so that there is apparently no other plan defining the Pouakani A subdivisions by survey.

On 24 April 1895 the Native Land Court sitting at Otorohanga made an order:

In the matter of “The Native Land Court Act, 1894”, and of an application by the Commissioner of Crown Lands under Section 65 of the Act, in respect of the cost of survey of Pouakani A, A No 1, A No 2, A No 3 ... [and charging] all that parcel of land containing 10,577 acres ... by way of mortgage and the same is hereby charged with the payment to the said Surveyor General ... of the said sum of £59.11.1, together with a further sum of [blank] for interest thereon.

Clearly in the case of Pouakani B9 (Pureora), Pouakani C1 (Kaiwha) and Pouakani C2, Gerhard Mueller’s certificate is in respect of the surveys carried out by Stubbing’s plan ML6406 etc. In the absence of any other survey plan for the Pouakani A subdivisions these charges must also be for the surveys of the Pouakani A subdivisions by Stubbing’s plan ML6406 etc. But it seems that the only block all the boundaries of which were actually surveyed by Stubbing’s survey plan ML6406 etc was Pouakani C2. Stubbing had surveyed some but not all of the boundaries of each of the other nine blocks (see appendix 13 for an analysis of Stubbing’s plan ML6406 etc).

On 27 June 1898 the Native Land Court made an order determining that the Crown had acquired the 250 acres of Pouakani C2, and presumably the survey lien of £8.15.0 would have been deducted from the purchase money. We cannot explain why the Native Land Court saw fit to make an order dated 8 March 1899 charging a lien of £8.15.0 on Pouakani C2 block when it was already Crown land. This left the Pouakani A1, A2 and A3 area in the north of the Pouakani block and the Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) area in the south as the only areas in the western severance of the Hora-aruhe Pouakani block not yet completely owned by the Crown. On 20 August 1898 the chief surveyor filed an application for a charging order over Pouakani B9 (Pureora) for the costs of survey. On 8 March 1899 the Native Land Court made orders charging Pouakani B9 (Pureora) with £62.13.2 and Pouakani C1 (Kaiwha) with £49.10.0 for the costs of survey. These amounts add up to the £112.3.2 for Pouakani B9 and C1 of 17,900 acres in Gerhard Mueller’s certificate of 30 July 1894. Both orders provided for interest at five percent per annum up to five years from 1 February 1897.

In July 1899 the Native Land Court sat at Kihikihi. The applications heard included applications to the court to ascertain what interests, if any, the Crown had acquired in Pouakani A1, A2, A3, Pouakani C1 (Kaiwha) and Pouakani
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B9 (Pureora). The minute book of the hearing has disappeared and the suggestion has been made that no such court sitting took place. But signed sealed orders of the court made at this sitting have survived, as have instructions to the surveyor. Exhibit notes on the deeds of sale and on Stubbing’s plan ML6406 etc record that these were produced at a sitting of the court at Kihikihi in June 1899. The sitting is also recorded in an old index of minute books in the Maori Land Court office at Hamilton. We accept this evidence that such a sitting did in fact take place. It is regretted that the minute book which might have contained other relevant information has been lost. However, we note that the information on signed sealed orders of the court supersedes anything contained in the minutes of a court sitting.

On 21 July 1899 the court divided:

Pouakani A into Pouakani A1A of 3,643 acres which it vested in the Crown and Pouakani A1B of 394 acres which it vested in the 2 adults and 3 children who had not sold their shares to the Crown;

Pouakani A2 into Pouakani A2A of 2950 acres which it vested in the Crown and Pouakani A2B of 350 acres which it vested in the 7 adults and 4 children who had not sold their shares to the Crown;

Pouakani A3 into Pouakani A3A of 2,830 acres which it vested in the Crown and Pouakani A3B of 410 acres which it vested in the 5 adults and 3 children who had not sold their shares to the Crown.

A notice dated 14 September 1899 of release of the lien for the cost of survey of Pouakani A1, A2 and A3 shows that £69.9.8 had been paid made up of £59.11.1 plus £9.18.7 for interest. A note at the bottom of this notice indicated that the “proportion due on land purchased by the Crown” was £61.9.10 and the amount “paid for in land by the natives” was £7.19.10 a total of £69.9.8. “The nonsellers gave 63 acres to pay their proportion of the above lien”. The deed of sale of Pouakani A1, A2 and A3 gives the area as 10,577 acres and the price as £1322.2.6. This is 2/6 per acre. But 63 acres at 2/6 is £7.17.6 not £7.19.10. Land purchase officer Wilkinson did separate calculations for each block to the nearest acre. The owners lost 3d on one block and gained 11d and 1s.8d in the other two which accounts for the difference of 2s.4d (see table 12.2). Interest was charged at a standard rate of five percent per annum for five years, following approval of a plan by the chief surveyor.

On 24 July 1899 the Native Land Court divided Pouakani B9 (Pureora) into Pouakani B9A of 7,340 acres which it vested in the Crown and Pouakani B9B of 2,660 acres which it vested in the 24 adults and 8 children who had not sold their shares to the Crown. On 26 July 1899 the Native Land Court divided Pouakani C1 (Kaiwha) into Pouakani C1A of 4,046 acres which it vested in the Crown and Pouakani C1B of 3,854 acres which it vested in the 19 adults and 18 children who had not sold their shares to the Crown. The non-sellers contributed 343 acres as their share of the survey liens on these two blocks.

Several notes endorsed on Stubbing’s plan ML6406 etc indicate various approvals. On 10 November 1899 W C Kensington on behalf of the chief surveyor approved the plan as to Pouakani A1A, Pouakani A2A, Pouakani A3A, Pouakani B9A and Pouakani C1A blocks. Also on 10 November 1899 diagrams for title orders were drawn from Stubbing’s plan ML6406 etc for Pouakani A1A, Pouakani A2A, Pouakani A3A, Pouakani B9A and Pouakani
<table>
<thead>
<tr>
<th>Block No</th>
<th>Area Purchased (acres)</th>
<th>Survey Lien</th>
<th>Interest on Lien</th>
<th>Total Lien</th>
<th>Non-seller Share of Lien £/acre</th>
<th>Total Area Acquired (acres)</th>
<th>Block Awarded to Crown</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>4037</td>
<td>3621</td>
<td>£22.14.7</td>
<td>£3.15.10</td>
<td>£26.10.5</td>
<td>£2.14.9/22</td>
<td>3643</td>
</tr>
<tr>
<td>A2</td>
<td>3300</td>
<td>2931</td>
<td>£18.11.8</td>
<td>£3.111</td>
<td>£21.13.7</td>
<td>£2.8.5/19</td>
<td>2950</td>
</tr>
<tr>
<td>A3</td>
<td>3240</td>
<td>2808</td>
<td>£18.4.10</td>
<td>£3.0.10</td>
<td>£21.5.8</td>
<td>£2.16.8/22</td>
<td>2830</td>
</tr>
<tr>
<td>Total A</td>
<td>10577</td>
<td>9360</td>
<td>£59.11.1</td>
<td>£9.18.7</td>
<td>£69.9.8</td>
<td>£7.19.10/63</td>
<td>9423</td>
</tr>
<tr>
<td>B6</td>
<td>25749(NLC)</td>
<td>No Survey Lien</td>
<td>16919(NLC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>25179(w)</td>
<td>16699(w)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B9</td>
<td>10000</td>
<td>7200</td>
<td>£62.13.2</td>
<td></td>
<td>£62.13.2</td>
<td>£17.11.0/140</td>
<td>7340</td>
</tr>
<tr>
<td>C1</td>
<td>7900</td>
<td>3843</td>
<td>£49.10.0</td>
<td></td>
<td>£49.10.0</td>
<td>£25.8.4/203</td>
<td>4046</td>
</tr>
<tr>
<td>Total B9/C1</td>
<td>17900</td>
<td>11043</td>
<td>£112.3.2</td>
<td></td>
<td>£112.3.2</td>
<td>£42.19.4/343</td>
<td>11386</td>
</tr>
<tr>
<td>C2</td>
<td>250</td>
<td>250</td>
<td>£8.15.0</td>
<td></td>
<td>£8.15.0</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>D2</td>
<td>3000</td>
<td>675</td>
<td>No Survey Lien</td>
<td></td>
<td></td>
<td></td>
<td>675</td>
</tr>
</tbody>
</table>

Survey Charges

C1A which the court had earlier vested in the Crown for the shares that the Crown had purchased from owners. On 1 December 1899 Judge Edger, who had presided at the court sittings earlier in the year (on 21, 24 and 26 July when the orders were made creating Pouakani A1A, A2A, A3A, B9A and C1A blocks), approved Stubbings's plan ML6406 etc as to these blocks. On 29 May 1900 diagrams for title orders were drawn from ML6406 etc for Pouakani A1, Pouakani A1B, Pouakani A2, Pouakani A2B, Pouakani A3, Pouakani A3B, Pouakani B9, Pouakani B9B, Pouakani C1, Pouakani C1B and Pouakani C2.

Orders of the Native Land Court creating title to Pouakani B9 (Pureora), Pouakani B9B, Pouakani C1 (Kaiwha) and Pouakani C1B have diagrams attached to them and are signed and (with the exception of Pouakani C1B) sealed. The Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) orders were signed by Chief Judge Davy on behalf of Edward Walter Puckey Esquire, retired judge, and plan numbers 6408 and 6412 respectively were quoted in the body of these orders. The orders in respect of Pouakani B9B and Pouakani C1B were signed by Judge Edger. Presumably both judges signed these orders after the diagrams were prepared on 29 May 1900. We have not seen a copy of the Pouakani C1B order with a seal on it. The copy of the Pouakani B9B order that we have seen is sealed with the seal of "The Maori Land Court of New Zealand" indicating that it was sealed after the name of the Native Land Court was changed to Maori Land Court pursuant to s4(2) of the Maori Purposes Act 1947.

Although boundary lines had been drawn on Stubbings's survey plan ML6406 etc, and the orders were now signed and sealed, the only boundaries that had been pegged on the ground were the outer boundaries of Pouakani A block and the 17,900 acre area occupied by the Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha). The subdivisions of Pouakani A block were never surveyed on the ground but were drawn in after the plan was submitted. Another note on Stubbings's plan ML6406 etc shows that on 22 June 1900 it was approved as to Pouakani A1B, A2B, A3B, B9B and C1B by W C Kensington on behalf of the chief surveyor. There is no further approval on the plan by a judge of the Maori Land Court but presumably Judge Edger approved Stubbings's plan ML6406 etc as to Pouakani B9B and C1B by implication when he signed the title orders creating those blocks with, annexed to those orders, the diagrams prepared on 29 May 1900 from Stubbings's plan ML6406 etc. We investigate the matter of survey of Pouakani B9 (Pureora) and C1 (Kaiwha) blocks in chapter 14.

At the beginning of this century, of the 55,147 acres in the Pouakani block west of Pouakani No 1 shown on Stubbings's plan ML6406 etc, only the 7668 acres of Pouakani A1B, A2B, A3B, B9B and C1B remained as Maori land. Proclamations published in the New Zealand Gazette declared that Pouakani A2B and Pouakani A3B had been purchased by the Crown and that Pouakani A1B was Crown land. On 11 March 1926 the Native Land Court partitioned Pouakani C1B into Pouakani C1B1 and Pouakani C1B2.

12.5 Survey Liens on Maraeroa and Tihoi Blocks

In 1887 the survey costs on Maraeroa block, 41,245 acres, were assessed at £626.9.2. However, following the investigation by the Taupouuiatia Royal Commission in 1889, new boundaries were made and new blocks created, as outlined in earlier sections. In trying to analyse how survey costs were assessed,
The situation on Maraeroa block appeared even more confused than Pouakani block, following the rebearing in 1891. We follow through the survey history as recorded on Lands and Survey file 2413. On 15 January 1892 the Survey Office in Auckland received a request from Hopa Te Rangianini, Rauroha Te Ngare and Tauhoro Tana, dated 19 December 1891, for Don Stubbing to survey Maraeroa block. The subdivisions listed were Hurakia block, Ketemaringi block, Maraeroa C (Pukemako) block, Maraeroa A, Maraeroa A Section 1 (4000 acres), Maraeroa B, Maraeroa B Section 1 (4000 acres). Another application dated 15 December 1891, signed by Taonui Hikaka and three others, was stamped as received in the Survey Office on 18 January 1892. Survey authorisation appears to have been granted to Stubbing soon after but no correspondence on this is recorded on the file.

On 6 January 1893 Stubbing applied for six months' extension of time to survey the "Maraeroa Subdivisions". He also stated that he had been "informed by some of the owners that the Land Purchase Department will pay for survey". When informed he would have to have a new authorisation issued, Stubbing responded he was not sure he could complete the survey in six months, "as so much depends upon the Native Land Purchase Department paying for it. Areas have been marked out by the Natives in court for sale to the government but when they will purchase I am unable to say".

On 13 July 1893, G T Wilkinson, land purchase officer, advised the Survey Office, Auckland, that he had been instructed to purchase Maraeroa A section 1 block (4000 acres) and requested information on survey liens and any other charges to be deducted from the purchase money. The chief surveyor responded that the total government lien on the Maraeroa block was £204.8.6 for 41,245 acres and the proportion due on Maraeroa A section 1 would be £19.16.6. In addition, "Messrs Mitchell and Cussen hold a private lien against the same block of £257.15.6 and the proportion due to them will be £25.0.0". Wilkinson also noted:

Mr D. Stubbing is authorised to make the subdivision but the plans are not yet sent in, the estimated cost over Maraeroa A Section 1 is about £22, and as he was not able to come to terms with the natives, probably the whole thing has lapsed.23

In September 1893, the chief surveyor wrote to Wilkinson, pointing out that the figures he provided on survey liens in July would have to be recalculated, because none of the subdivisions had been surveyed, and, with the exception of Maraeroa A section 1 and Maraeroa B section 1 blocks of 4000 acres each, none of the areas had been fixed by the Native Land Court. The figures were further complicated by the additional area resulting from Stubbing's 1892 survey of the Pouakani boundary, giving a new estimate of 52,800 acres in Maraeroa, including Hurakia and Ketemaringi blocks. A summary of the liens as calculated by the chief surveyor in October 1893 appears in table 12.3.

On 6 November 1893 Stubbing wrote again to the chief surveyor, Auckland, about the survey of the Maraeroa subdivisions:

Have just been to Otorohanga to see the parties interested in these blocks about payment for survey. No arrangement can be made with them for payment of all subdivisions, but a guarantee for payment of part will be made if you will pass a plan with some of the lines calculated. Mr Wilkinson is now buying in Maraeroa A and Maraeroa A Sec. 1 (having
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been supplied with the area from your Office) these areas being computed by using calculated lines.

Mr Wilkinson will buy in Maraeroa B Sec. 1 and Ketemaringi as soon as he can get the areas. My friends are not willing to guarantee the payment for the complete survey of these two blocks but will pay for traverse of Stream called Ongarue N.W. boundary of Maraeroa B Sec. 1, and for picking up point (mentioned in N.L. Court) S.E. corner of Ketemaringi subdivision of Maraeroa block, if you will accept the other boundaries of these two blocks as calculated lines.

The chief surveyor accepted that not all boundaries needed to be surveyed because of government purchases and commented, “I have no doubt but that survey of portions purchased by govt. will be paid for by govt. when the lands have been acquired”.

<table>
<thead>
<tr>
<th>Block</th>
<th>Area in acres</th>
<th>Gov’t lien</th>
<th>Cussen lien</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maraeroa A</td>
<td>14800</td>
<td>57.6.0</td>
<td>72.5.1</td>
<td>129.11.1</td>
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<tr>
<td>Maraeroa A Sec 1</td>
<td>4000</td>
<td>15.9.9</td>
<td>19.10.7</td>
<td>35.0.4</td>
</tr>
<tr>
<td>Maraeroa B</td>
<td>12800</td>
<td>49.11.2</td>
<td>62.9.10</td>
<td>112.1.0</td>
</tr>
<tr>
<td>Maraeroa B Sec 1</td>
<td>4000</td>
<td>15.9.9</td>
<td>19.10.7</td>
<td>35.0.4</td>
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<tr>
<td>Maraeroa C</td>
<td>2608</td>
<td>10.1.11</td>
<td>12.14.8</td>
<td>22.16.7</td>
</tr>
<tr>
<td>Hurakia</td>
<td>6512</td>
<td>25.4.3</td>
<td>31.15.10</td>
<td>57.0.1</td>
</tr>
<tr>
<td>Ketemaringi</td>
<td>8080</td>
<td>31.5.8</td>
<td>39.9.0</td>
<td>70.14.8</td>
</tr>
<tr>
<td>Total</td>
<td>52800</td>
<td>£204.8.4</td>
<td>£257.15.7</td>
<td>£462.4.1</td>
</tr>
</tbody>
</table>

There the matter rested until a telegram was sent to land purchase officer Wilkinson by the chief surveyor on 18 January 1894, “re Maraeroa B the information on maps is so vague that it is not safe to put plan on Deed”. There was more correspondence during May-June between Stubbing and the Survey Office. Stubbing noted an error in Cussen’s previous survey which meant that the Maraeroa boundary survey did not close (which added to his costs). He was still concerned whether government would guarantee payment. The storekeeper Ellis also enquired and it seems he had a pecuniary interest in the matter because the Mitchell and Cussen liens had been assigned to him, presumably to pay debts at his store. Stubbing explained in a letter to the chief surveyor on 13 June 1894:

Re Survey of Maraeroa Subdivisions in King Country — This authority has lapsed and am getting owners to send in fresh application, as per instructions from your office. Before authority bad lapsed I tried the Native Land Purchase Department to see if they would guarantee payment of survey hut without success. I next asked Mr J.W. Ellis to guarantee payment, but he could not see his way clear to do so at that time, although I had warned him about the approach of winter. Just as my authority has lapsed and the winter has commenced, Mr Ellis guarantees payment of survey. I have refused to do it in the winter — knowing the locality — (having done the Pou-a-Kani, the adjoining block in a winter) and the risk there is of not being able to do rough bush country well unless one has decent weather to do it in. Mr Ellis still urges me to start the survey or give it to somebody without an authority (R. Cashell) to do for me. Have refused to do this, and he now informs me that the owner of one section in the block (4000 acres) is about to apply to you requesting that my authority be cancelled ... I expect my fresh application to reach
you soon. It is my intention to commence the survey as soon as possible
in the Spring.

I asked you to protect me in this matter, as also for the interest of having
good work done (which is almost impossible to do in winter, so near
Taupo).

The error of 1°32' which I found in old work in closing on Pureora-Poua-Kani survey caused me great loss and it is to protect myself from such
losses, and prevent the possibility of being sent over work a second time,
that I refuse to commence it now.25

A letter was sent in by Taonui on 26 June asking for the survey to proceed at
once, and the chief surveyor responded that Stubbing would do the survey but
be would be unlikely to start before September.

In the revised calculation of liens in August 1894, Maraeroa block (including
subdivisions A, A Sec 1, B, B Sec 1, C and "pt. Ketemaringi") was listed as
41,245 acres. The only addition was 218 acres from Tihoi block as a result of
Cashel's survey of Hurakia watershed boundary to Pureora, giving a total of
41,463 acres and a survey lien of £591.8.4. Hurakia block was listed separately
as having an area of 5740 acres, but this only adds to a total of 47,203, not
52,800. We assume the difference is the part of Ketemaringi not listed and the
additional area between Pureora and Te Paehua's Taporaroa of Stubbing's
1892 Pouakani survey. With all these changes it is difficult to calculate exactly
what was being charged on the basis of documents available to us. A much
more detailed accounting would be needed.

We can conclude that on Maraeroa block, unlike Pouakani No 1 block, there
was no specific area of land cut out to defray survey and other costs. However,
it is clear that it was intended by owners and land purchase officers that the
two 4000-acre blocks, Maraeroa A section 1 and B section 1, would be cut out
for sale to the Crown to cover costs. In subsequent sales it can be assumed that
survey charges were deducted from the price paid. On Maraeroa block, the
Crown later paid the price of inadequate survey by having to return some land
to Maori owners in Maraeroa C block in 1911. It seems too that some survey
charges in the Hurakia and Ketemaringi blocks were covered by the transfer
to the Crown of Waihaha Nos 1 and 2 blocks. We have not investigated this
transaction, but it appears to have been arranged on the same basis and about
the same time as the transfer of Pouakani No 1 block to the Crown.

For the purposes of comparison we did investigate the survey liens on Tihoi
block listed in the register of "Land Taken in lieu of Crown Survey Liens" held
in the Department of Survey and Land Information office in Hamilton. This
register was begun in 1911 and does not include earlier acquisitions for survey
charges. The Tihoi block was awarded to the bapu Ngati Parekawa, Ngati Te
Kohera, Ngati Wairangi Parewhete and Ngati Rawharetua by the Native Land
Court in 1887.26 On 30 April 1887 the court ordered that the list of names
handed in to the court would be included in the title for Tihoi block "of 90140
acres on properly certified plan being deposited in Native Land Court Of
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TIHOI BLOCK 1913

- Crown Land taken for Survey Liens
- Partitions 1902
- Partitions of No 3 Block 1908
- Partitions in 1913

TIHOI BLOCK 1914

- Crown Interests consolidated in Tihoi 3A Block

Source: DOSLI Register of Land Taken for Crown Survey Liens

Map 12.1
Tihoi certificate of title has the same date as the court order, 24 September 1887, the plan on the certificate of title was actually drawn and the title issued some time after 1890. The boundaries of Tihoi block were approved by the Native Land Court on plan ML6036 etc on 6 February 1892 and noted on ML6076/5 on 24 August 1892.

Unlike the Pouakani and Maraeroa blocks, Tihoi was not subdivided immediately on investigation of title. On 11 October 1890 William Moon wrote to the Auckland Survey Office enquiring about the amounts of survey charges on Haubungaroa and Tihoi blocks, stating "owners are anxious to cut off 20,000 or 30,000 acres in each block and convey same to Gov't". It is not clear what role Moon was playing, but he was the husband of Karawhira Kapu whose "agreement" with W H Grace on Pouakani block had been investigated by the Tauponuiatia Royal Commission. A reply was sent from the Survey Office stating that the survey liens were £750.18.11 on Haubungaroa Karangahape block and £805.16.8 on Tihoi block. In 1894 the lien on 89,922 acres of Tihoi was recalculated at £789.12.10.

On 23 September 1902, Tihoi was partitioned into nos 1, 2, 2A, 3, 4A, 4B and 4C blocks. On 29 June 1908 Tihoi No 3, a large block of 79,459 acres, was partitioned into 18 blocks (map 12.1 A). In 1913 various areas were cut out of all these blocks in satisfaction of Crown survey liens. Since the 1890s the Crown had purchased some individual interests from owners in most of the Tihoi blocks. In 1914 the Native Land Court cancelled all the partition orders in Tihoi No 3 except No 3C which was a native reserve. The block was then partitioned into 3A and 3B, and 3A was awarded to the Crown as a consolidated area of 7988 acres in satisfaction of survey charges. The Maori-owned 3B block contained 71,471 acres. After this there seems to have been some private sales mainly of timber cutting rights. The Crown, through the Native Land Purchase Board, was endeavouring to acquire more land in 1919. A meeting of owners of Tihoi 3B subdivisions was held at Mokai on 9 December 1919 to consider a Crown purchase offer but the owners refused to discuss it. On 6 June 1920 another meeting of owners was held at Mokai, but the owners turned down the Crown offer. The Native Land Purchase Office recommended that the Crown purchase individual interests of owners who wished to sell. Another meeting at Mokai was held on 18 August 1921. The owners of Tihoi 3B3 resolved to sell but all other offers were either rejected or lapsed for want of a quorum. Meanwhile the government land purchase officer was busy buying up individual interests.

Through the 1930s private timber interests negotiated cutting rights in the bush but there seem to have been few private sales of land. The Crown continued purchasing individual interests. In December 1945 the Minister for Maori Affairs applied to the Maori Land Court for a partition of Crown interests. The application was heard at Taupo on 19 March 1946 and new partition orders made. We have not investigated all the details of transactions on Tihoi block. We simply include this as an example of how boundaries and shapes of blocks were changed and how survey charges were paid in land. In the 1950s and 1960s there were further changes as these lands were included in land development schemes. The result is a confused and changing patchwork of blocks and it is not surprising that Maori today have difficulty finding out how the Crown acquired specific pieces of land.
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References

1 *New Zealand Gazette* 1880 p 1705
2 ibid 1890 p 311
3 ibid 1886 pp 634-640
4 ibid 1897 pp 223-233
5 Lands and Survey file 2413
6 ibid
7 ibid
8 ibid
9 Taupo minute book 9 pp 262-263
10 National Archives (Wellington) NLP 92/43
11 ibid folio 611
12 ibid
13 National Archives (Wellington) MA 71/1; A5(ii):46-74
14 Lands and Survey file 2413
15 *New Zealand Gazette* 1894 pp 37-39
16 Lands and Survey file 2413
17 ibid
18 ibid
19 ibid
20 Alan Ward *A Show of Justice* (Auckland 1973) p 302
21 National Archives (Wellington) MA MLP 6/4
22 *New Zealand Gazette* 1919 p 970, 1921 pp 2141-2142 and 1971, p 2052 respectively
23 Lands and Survey file 2413
24 ibid
25 ibid
26 Taupo minute book 7 p 78
27 Taupo minute book 8 p 182
28 Lands and Survey file 2413
29 ibid
Chapter 13

Commission on Native Land Laws 1891

13.1 Introduction

The Commission on Native Land Laws 1891 stated in its report that it considered the process of individualisation of title (which effectively began with the Native Land Act 1873), to be the source of the problems in Maori land legislation. The commission criticised the failure of the concept of tribal title which was possible under the Native Lands Act 1865 (which established the machinery of the Native Land Court) but in practice, the "10-owner system" was applied. The commission noted with approval that in 1868 Chief Judge Fenton had ruled in the Kaitorete case, "The Court cannot recognise individual ownership of Native Land. The strength of the tribe, before the arrival of British Government, was required to maintain the title of a tribe, and the land belonged to the tribe". The commission also considered that the intentions of Sir Donald McLean in the administration of the Native Land Act 1873 had not been to allow individual interests to be transferred:

While believing that the disposal of tribal title would be fettered by internal disputes, he was convinced that hapus or families would deal with their lands freely. His idea was to compel division of tribal estates into hapu or family holdings, and then push on to individual titles .... Districts were to be created; District Officers were to be appointed, whose duty it was to ascertain the tribal and hapu boundaries, being assisted by the Maori chiefs, and to report to the Native Land Court. It was the duty of the Court to see that reserves of at least 50 acres were made for each man, woman, and child of the Maori race in the district, which reserves should be strictly inalienable. He contemplated a Domesday Book of the New Zealand Native estates being compiled whilst yet the old chiefs remained who could bear testimony to their ancestral rights.

All this was vain. The tendency in the Act to individualise Native tenure was too strong to admit of any prudential check. Neither Parliament, nor Government, nor even the Court itself, paid attention to the above mentioned principles of the Act. No District Officers were appointed; no reports were made; no Domesday Book, founded upon evidence fast dying out, was prepared; no reserves were set aside; no division of tribes into hapus before dealing was attended to; the desire to purchase Native estates overruled all other considerations ....

Having thus adopted a principle and a system so strongly condemned by all competent authorities, it is not surprising that evil effects followed. Thus the Legislature, by the Act of 1873 and all the amendments, repeals, and alterations thereto ... has ... for many years striven to establish, contrary to Native custom, a system of individual title to tribal lands ....

For a quarter of a century the Native-land law and the Native Land Courts have drifted from bad to worse. The old public and tribal method of purchase was finally discarded for private and individual dealings. Secrecy, which is ever a badge of fraud, was observed. All the power of
the natural leaders of the Maori people was undermined. A slave or child was in reality placed on an equality with the noblest rangatira (chief) or the boldest warrior of a tribe. An easy entrance into the title of every block could be found for some paltry bribe. The charmed circle once broken, the European gradually pushed the Maori out and took possession. Sometimes the means used were fair, sometimes they were not.

The alienation of Native land under this law took its very worst form and its most disastrous tendency. It was obtained from a helpless people ... like a flock of sheep without a shepherd, a watch-dog, or leader ... suddenly possessed of a title to land which was a marketable commodity. The right to occupy and cultivate possessed by their fathers became in their hands an estate which could be sold. The strength which lies in union was taken from them. The authority of their natural rulers was destroyed. They were surrounded by temptations. Eager for money wherewith to buy clothes, food, and rum, they welcomed the paid agents, who plied them always with cash and often with spirits. Such alienations were generally against the public interest, so far as regards settlement of the people upon lands. In most of the leases and purchases effected the land was obtained in large areas by capitalists. The possession of wealth, or that credit which obtained it from financial institutions, was absolutely necessary to provide for Native agents, interpreters, and lawyers, as well as to distribute money broadcast among the Native proprietary. Not only was this contrary to public policy, it was very often done in defiance of the law.

Not that the men whose names were used and money expended were always to be personally blamed. Often ignorant of the means employed, they simply entered into the purchase of Native lands from a natural desire to become owners of beautiful or fertile estates. To their agents was committed the task, always disagreeable and sometimes disgraceful, of completing the title. It was, and is, the result of the bad system which Parliament determined to enforce, that it exercised a baneful influence on all those who had anything to do with it. Other mistakes in legislation have produced disasters, but it is difficult to find a parallel to the evil consequences which have resulted in New Zealand as the fruit of a mistaken system.1

The commission also noted that continued "free-trade in Native lands" would mean Maori becoming landless in a few years. Individualisation of title also prevented productive Maori land development, as all owners had equal rights and therefore the leadership role of chiefs was curtailed. Nor could individuals safely develop land in multiple ownership. This was a theme taken up by Commissioner James Carroll in a separate note to the report. He took a positive view of Maori potential for economic development:

A strong desire exists among them to become useful settlers, and contribute to the productive wealth of the country. I believe they are capable of doing so if unimpeded by obstructive legislation. Too long it has been the fashion to regard the Native race as one rapidly becoming extinct. This idea has permitted the sentimental nonsense to be indulged in that the duty of the Legislature was, as some one has expressed it, "to smooth down their dying-pillow" ....

But is it not a somewhat melancholy reflection that, during all the years the New Zealand Parliament has been legislating upon Native-land matters, no single bona fide attempt has been made to induce the Natives to become thoroughly useful settlers in the true sense of the word? No attempt has been made to educate them in acquiring industrial knowledge or direct their attention to industrial pursuits. Whatever
progress they have achieved in that direction is owing entirely to their own innate wisdom and energy. In that respect they are essentially self-taught, and have had to rely entirely upon their own powers of observation. Parliament will add one more to its many blunders in administering Native affairs if, in its shortsightedness, it omits to devise means for encouraging and assisting the Natives to become useful settlers.  

The commission in its main report also strongly criticised the negative impacts of the operation of the Native Land Court and complexities of land legislation:

The Natives, being compelled to enter the arena of the Court and contest the title to land, which they could with ease have settled in their own runangas, learned to look upon our method of getting land as merely another form of their old wars. Formerly they fought with guns, and spears, and clubs; now, to accomplish the same end, the defeat of opponents and the conquering of territory, they learned to fight with the brain and tongue ....

The pernicious consequences of Native-land legislation have not been confined to the Natives, nor to the Europeans more immediately concerned in dealing with them for land. The disputes thence arising have compelled the attention of the public at large, they have filled the Courts of the colony with litigation, they have flooded Parliament with petitions, given rise to continual debates of very great bitterness, engrossed the time of Committees, and, while entailing very heavy annual expenses upon the colony, have invariably produced an uneasy public feeling.

In one year — 1888 — there were eight Acts passed, and in 1889 nine, especially dealing with Maori lands and Courts, besides others partially touching them; and, again, others were introduced but thrown out or abandoned. There were in ten years, from 1880 to 1890, more than a thousand Native petitions presented for consideration to the House of Representatives.

The commission reviewed numerous complaints about the operation of the Native Land Court, commenting on "the confusion both in law and practice" which created "a state of confusion and anarchy in Native-land titles". The main points of complaint about the court were listed:

(a) Delay.

(b) Expenses, fees, and duties.

(c) Enforced attendance of claimants at distant places, inducing poverty, demoralisation, concerted perjury, injustice, false claims, uncertainty, and ruinous loss.

(d) Rehearings, and applications for prohibition to Supreme Court.

(e) Political, Government, and other interested influence, which is brought to bear upon decisions and proceedings.

(f) The itinerant nature and non-local residence of the Judges.

(g) Excessive cost of surveys, especially for subdivisions.

(h) Insecurity of title after adjudication.

Many of the abuses referred to by the commission involved private purchases by land speculators. But the system of purchase was similar, whether it was Crown or private. Many of the "Native Agents" worked for both private and government interests, sometimes at the same time.
13.2 **Submissions of Maniapoto and Tuwharetoa Leaders**

In the Rohe Potae the Crown right of pre-emption was reimposed in the Native Land Alienation Restriction Act 1884, but this did not prevent the same problems created by the process of individualisation of title through the Native Land Court or the debts resulting from survey charges and other costs. This was made very clear in submissions by leaders of Ngati Maniapoto and Ngati Tuwharetoa.

The native land commissioners met with Ngati Maniapoto at Otorohanga on 15 April 1891. After a long explanation by the chairman, W L Rees, of the terms of reference of the commission, and an address in Maori (not recorded) by Mr Carroll, Taonui expressed his pleasure that the commissioners had come to the King Country:

> What has been stated is very good. The first thing that I wish to say to you is with regard to the land that is subject to restrictions placed upon it by the Government. It is, that the Ngatimaniapoto wish the restrictions removed from that land. The reason why we wish this done is, because what we desire to do with the land we cannot do while the Government impose restrictions upon it. Should the restrictions be taken off, I am not one who is in favour of land-selling, but I am in favour of leasing the land. If the restrictions of the Government are removed, I should be in favour of leasing; but I ought to have in my own hands the making of the arrangements with respect to the leasing of my land — that is, the land of which I am the owner. I should have the fixing of the conditions for leasing that land .... The question of surveys has not been clearly laid down yet. I think that the two years at present allowed the Natives for paying for the surveys should be extended beyond that period. The third subject ... was that consent should not be given to individual sales, but that the hapu or the tribe should consent.4

The commissioners questioned Taonui and others on what system should be in place if the restrictions on dealing only with the Crown should be lifted. The Ngati Maniapoto response was to request removal of restrictions and they would deal with the lands themselves. The message was a clear one of wanting control of their lands. The commissioners did not think parliament would agree unless an alternative proposal was offered. A suggestion of a government officer to receive rents and otherwise assist in land transactions was turned down. Whitinui summed up the problem:

> If the restriction imposed by the Government had been against selling, but had allowed leasing, we would never have applied as we do now for the removal of the restriction. Our hardship, as the Commissioners are already aware, is that we cannot lease or sell, except we sell to the Government. Now, under the plan which has been adopted by the Government no benefit whatever results to us, although we put our lands through the Court. The only person who comes out right is the person who sells his share. To a man like myself, who does not sell, it is simply a waste of time attending the Court, for no benefit results. That is the reason why we request urgently that the restriction may be removed, so that we, the owners of the land, may be enabled to make terms with the lessee, whether it be the Government or any one else.5

Whitinui also commented “that when we made our application to the Native Minister to remove the restriction be replied, ‘It is you who asked that the restriction should be imposed’”. The original request in the 1883 petition was
for Ngati Maniapoto to arrange matters concerning their lands themselves, and not to have the Native Land Court in the Rohe Potae. This 1891 appeal to the commissioners to remove restrictions was similar, to allow Ngati Maniapoto to control land transactions themselves, to allow leasing of some land to European settlers, and to manage their lands and living places in their own way.

A similar message of self-determination had been conveyed to the commissioners when they met with Ngati Tuwharetoa leaders in Cambridge on 25 March 1891. The commission did not visit the Taupo district. Tureiti Te Heuheu spoke first, on the matter of a committee suggested by the commissioners to manage Maori lands:

I approve of it in the sense that it would be better if it were a tribal Committee, not merely small hapu Committees. For instance, there should be a Committee, say, for the Ngatituwharetoa, a Committee for the Ngatiraukawa, and a Committee for the Ngatimaniapoto. The Committees, of course, would manage all matters connected with the land belonging to the tribe, and other matters affecting the Maoris. But the Committee, to be effective, would require the support of the Government .... but with regard to such matters as the Committee could not settle or decide they should have the opportunity of referring these to the Native Land Court, or to any other tribunal that the Government might appoint. As for the Commissioner who has been spoken about, I myself regard him with a certain amount of suspicion. My fears are in the direction of costs, meaning thereby that perhaps the Natives would be saddled with more expense on that account than they could control or reckon for. That is why I think it would be better for the Committee to entirely manage matters, and only to refer those things to the law which they were unable themselves to settle .... We take, for instance, a block of land with a hundred owners in it. For the sake of argument we will say that this block has been subdivided, and that perhaps each man's share would come to, say, two acres. Perhaps the cost of subdivision very nearly exhausts the value of each share. In the case of such blocks I would be in favour of leaving them entirely to the Maoris to manage .... I am quite sure that the Native Committee, composed of able men, would never have any difficulty in arriving at the proportionate shares in the block .... I will now refer to the question of surveys, for there are some surveys in the Taupo district, for instance, through which the Natives there have suffered a good deal; and this remark applies to other parts of the Island besides Taupo. These difficulties arise mainly from the fact of the Crown being the only purchaser within the district referred to. Owing to that restriction on purchase which the Crown has imposed, the Natives are deprived of any other means of saving money to pay for the incidental expenses of land-dealings. There is no doubt that the system of the Government keeping up the fees to pay for the surveys has been the cause of a great deal of hardship to the Natives. If the land is not very good land there is nothing to stop the Government fixing the price of any sum they like — say 1s or 1s 6d an acre. That, of course, comes about through the market being restricted to only one purchaser, and that one the Government themselves. No matter how hard the Natives fight for a larger price, they are unable to alter the Government's intention. But, on the other hand, if the public market were open to the Natives there is no doubt that they would obtain competitive prices for their land, and thus would very often get more than the Government chose to offer. If the market were open to them in that way, I am quite sure the Maoris would not suffer as they do at present, but would obtain a better price, and therefore less land would go to pay for the survey. Now, there are
some blocks in Tauponuiatia West that were surveyed in 1886, but up to the present we have been unable to cut off any portion of this land to pay for these surveys, owing to the difficulty I have just mentioned. Therefore, for four and a half years these surveys have remained unpaid, and of course interest has accumulated. I have heard that a fixed rate of interest is chargeable on the costs of these surveys from that time until now. Then, as these restrictions on the land are the cause of the surveys not being paid, they have at the same time had the effect of increasing the amount of the expense with which the Natives are saddled. Now, the owners of those blocks have long wished to have the matter settled — that is to say, to have portions cut off to pay for the subdivision — but they have been unable to do so owing to the restricted market; and the owners have repeatedly requested the Government to settle this matter, but up to date nothing has been done. This delay, of course has raised the amount of interest they will have to pay ... the delay in that payment has not been their fault, but that it is rather the fault of the Government and the laws. 6

All the other 11 speakers supported Te Heuheu's remarks. Among them, Tokena Kerehi stated:

I want the Government to allow us to lease our lands, because if we are not allowed to lease how can we pay the expenses incidental to subdividing the land and the surveys? It is because these sources of revenue are closed to us that we are compelled to cut off portions of the land, and give them to the Government. Some blocks contain, say, 40,000 acres, and we have to cut off as much as 20,000 acres to pay the expenses of the surveys.7

Tokena Kerehi went on to describe the government laws as "murdering the Maoris" and asked the commissioners "to use their influence to stop this kohuru (murdering)"). He complained about the low prices government offered them for land when private purchasers offered more. Waraki Kapu complained about "the delay on the part of Government in opening the [Native Land] Court" which had prevented him getting his father's "will proved". He also raised the issue of subdivisions of Tauponuiatia West stating he believed "that adjudication was wrong" on Hauhungaroa and Waihaha blocks. With respect to Pouakani, which was then before the court:

the 20,000 acres cut off by the Government ... for survey-charges, I say that was wrong and should not have been done. These 20,000 acres ought to be held in suspense [ie until the court rehearing was complete].

Regarding Te Hoi [Tihoi block] I have the same complaint to make.8

Ngakuru Te Rangikaiwhiria supported previous speakers and commented on the concept of a Maori committee, "I agree that if it were given full mana (authority) by the Government it would be able to work out much benefit to the Maoris". Te Rangikaripiripia said, "I stand up to support the Committee's idea, provided the Government will allow the Ngatiwharetoa to have such a Committee, and will recognise it". Hitiri Te Paerata stated, "The Ngatiwharetoa have been praying the Government for a long time to give them a Committee, but without success". He then asked for "a separate and independent Committee, not one mixed up with another tribe. And let it be clothed with the same power as that which the Land Court possesses". Wiari Ngatai explained that in 1889 Ngati Tuwharetoa had unanimously decided at a tribal but that all the hapu should appoint a committee. He sought government recognition of a Tuwharetoa committee to manage their tribal affairs.
He also complained about the variation in survey charges, seeking a standard rate of one farthing per acre:

The prices now charged by surveyors are very heavy. I do not know whether the Government sanction those charges or not, or whether the surveyors make them up themselves. At any rate, the effect is that large areas of Maori land pass from them in payment of survey charges.9

The remaining speakers, Hemopo Hikarahui, Takiwa Te Momo, Te Roera Herua, Hauraki Tonganui and Wereta Hoani, echoed the theme of Tuwharetoa wanting to manage their own affairs by means of a committee with real authority recognised by government, negotiate their own land transactions, and curb the loss of land by survey charges and other debts. Hemopo Hikarahui also raised the issue of taxes, objecting to these as discouraging productive activities which “supply the people with wealth and food”. What these leaders of Ngati Tuwharetoa were seeking was a programme for tribal economic development, which included European settlement on leasehold lands, but most importantly, recognised tribal rangatiratanga, or authority to control their own affairs.

The complaints of Ngati Tuwharetoa were also separately corroborated in the evidence to the commission given on 11 March 1891 by L M Grace:

Mr Rees] In relation to the Native-land laws, can you give any idea as to whether there is any certainty in their operation at the present time — whether Natives or Europeans generally are acquainted with these Native-land laws? — I may say that only a very few people thoroughly understand them. I think that the Maoris [in Taupo district] know this one fact: that they are barred from any dealings except with the Crown. Beyond that I do not think they know very much about the subject.

The prevailing impression, then, in the Maori mind is that they are shut out from any dealings except with the Crown? — Yes.

Do they consider that fair, or are they pleased with it? — No; they do not consider it fair. They consider it hard in this particular direction, for instance: It has been necessary in the King-country and in the Taupo country to have surveys made for their hapu subdivisions extending down to the Waimarino country — that is on the Rangitikei side — and the result has been in most instances that they have had to give land for these costs. They have not been in a position to try and get a better price, being restricted to the Government one. This proves that these laws have not affected the Maoris beneficially. In many instances the Maoris have given away larger areas of land than would have been the case had the market been open to them, and in every case I think they would have obtained a better price than that allowed by the Crown.

Then you consider the operation of these laws to be oppressive to the Natives? — Yes, I think so. In fact, I have heard them complain in some instances. I might add that had the [Native Land] Administration Act been worked, which it never was, it would have tended to prevent this system of which I have spoken — paying for surveys with land — particularly in the year 1888, and in 1889 perhaps. The Act was passed in 1886, and I think it was in 1887 or 1888 that it was repealed. It never had an opportunity of being worked. It would have afforded a better opportunity to the Natives of getting fairer prices for their land.10

The commission noted in its report some modifications of the laws in 1883 and 1884. These measures followed the petition of the Maniapoto, Raukawa,
Tuwareteoa and Whanganui tribes presented to parliament on 26 June 1883.11
There had been numerous other petitions and complaints in the early 1880s:

In 1883 and 1884 Parliament seemed doubtful of the individual and free-trade policy. By "The Native Committees Act, 1883," Maori Committees were formed which could make inquiries as to owners, successors to owners, and boundaries of lands, and report; but the report was not binding. By "The Native Land Laws Amendment Act, 1883," counsel, solicitors, and all agents were banished from the Court; and by "The Native Land Alienation Restriction Act, 1884," the centre of the North Island — the so-called King-country — was absolutely shut up from purchase or lease save by or on behalf of the Crown. Fine and imprisonment were the penalties for the infringement of the provisions of this Act.

The Native Committees Act is a hollow shell, the object of which is difficult to see. It mocked and still mocks the Natives with a semblance of authority. They wish it to be turned into a living Act, giving them power to do something for themselves.12

This theme of Crown failure to allow Maori to manage their own affairs was repeated in the commission's comments on later legislation:

"The Native Land Administration Act, 1886," is the one effort made by the Legislature to stay the individual dealing with Native Lands. That Act was misunderstood because no action was taken to clearly explain its object to the Natives, so as to counteract other influences that militated against its favourable reception by them. No lands were brought under its jurisdiction. In consequence of this, after two years of quiescence, it was repealed.

The Native Land Administration Act of 1886 was inoperative owing to two reasons, the first being that the total control of their lands was taken away from the Maoris and placed in the hands of persons not in any way responsible to them; the second, that the Act was made optional and not imperative. The Natives objected to being totally deprived of all authority and management of their ancestral lands, and therefore they refused to bring those lands under the Administration Act.

The Native Land Act of 1888, Section 4, repealed "The Administration Act, 1886," and revived free trade in individual interests in Native lands.13

In 1907 the Stout-Ngata Commission had the following comments to make on legislation governing "Native Lands in the Rohe Potae (King Country) District" and the impact of Crown pre-emptive provisions:

"The Native Land Alienation Restriction Act, 1884", was repealed by "The Native Land Alienation Administration Act, 1888". The latter Act gave the Natives power to dispose of or alienate their lands as they might think fit. The Ngati Maniapoto and kindred tribes could not, however, avail themselves of the liberty thus accorded by Parliament, seeing that as yet they had no titles to alienate. It seemed that this general removal of restrictions endangered the railway-construction policy of the colony, for in 1889, by section 5 of "The North Island Main Trunk Railway Loan Application Act Amendment Act, 1889", the King-country lands were again placed under restriction, saving the rights of the Crown, for a term of two years until January, 1892, extended to January, 1894, by the Amendment Act of 1892. "The Native Land Purchases Act, 1892" and "The Native Land Court Act, 1894", continued the restrictions against private dealings until "The Maori Lands Administration Act, 1900", provided a system of leasing, on terms and conditions, however, that rendered it extremely difficult to obtain the leasehold of Native lands in
the district under consideration. Broadly speaking, it may be said that from 1884, when Parliament first legislated directly in respect of the Rohe-Potae lands, until 1900, these lands were absolutely restricted, except as against the Crown: the owners could not sell, lease or otherwise render their lands available for settlement, except by selling to the Crown practically on the latter’s own terms.14

It is relevant to note that throughout this period, the government land purchase officers were actively buying up individual interests in lands in the Taupo district and in 1890 a similar process was begun in Ngati Maniapoto lands. Because of the legislative restrictions, only Crown purchases were allowed, and the Crown could therefore set the price. This, as we have seen, was considered unjust by leaders of Ngati Maniapoto and Ngati Tuwharetoa, because, it was believed, better prices could be obtained on the open market. This issue is difficult to prove one way or the other, as the 1880s was a time of national recession, which combined with a general slowing down of European settlement and land development. Many of the blocks in West Taupo and the King Country remained undeveloped until the mid twentieth century. Whether development would have occurred earlier with private purchase is impossible to say. There was no attempt by the Crown to encourage Maori to develop productive farms on their lands in the Rohe Potae.

13.3 Crown Pre-emption in the Rohe Potae

The central issue raised by the Native Land Alienation Restriction Act 1884 is the reimposition of the Crown right of pre-emption of article 2 of the Treaty of Waitangi. The Commission on Native Land Laws 1891 commented, “The opinions of some of the most experienced witnesses are identical on the point that the abandonment of the Crown’s pre-emptive right was a grave and serious error”.15 The commission noted the failure of attempts in the 1840s to relegate Maori land rights to only those areas which were actually cultivated and regard the remainder as “waste” lands of the Crown:

The right of Parliament to legislate for the lands of the Natives cannot be doubted. By the Treaty of Waitangi the Natives were guaranteed the full possession of all their rights in the soil of New Zealand ....

The Constitution Act of 1852 followed the Treaty of Waitangi, and tacitly acknowledged the rights of the Maoris in all their territories, while it set out the pre-emptive right of the Crown. This right, abandoned by the [Native Lands] Act of 1862, was partially resumed by Parliament in 1884. So far as the King-country is concerned, the pre-emptive right of the Crown was reasserted by the Restriction Act of 1884, and still prevails.

There are four parties to be considered — the Natives, the Crown, the Parliament, and the people. So far as the Natives are concerned, it is clear that the rights assured to them are contained in the Treaty of Waitangi and the Constitution Act. In both these the pre-emptive right of the Crown to purchase the lands of the Maori is absolute. The Natives can in no sense claim the abandonment by Parliament of this right as abrogating the provisions of the Treaty and the Constitution. The same power which enacted the abandonment can again place pre-emption upon the statute-book. The question is beyond dispute. In the King-country it has already been done.

The Crown, believing that it was consenting to legislation for the benefit of the colony, waived its right. If the Parliament of the colony, seeing
that the new system has broken down, legislates upon the old lines, and
returns to the pre-emptive right, the Crown can undoubtedly consent.
The Maoris have no claim to bar the Crown from purchase. Parliament
may prohibit private subjects from purchase; but the Maori, in the
presence of the Treaty of Waitangi and Constitution Act, cannot
prohibit the Crown. Free use and enjoyment of their lands, only control-
led by just laws — this the Natives can indeed claim. The right to sell to
whom they please is contrary to the treaty by which New Zealand became
part of the Empire. The right to lease still under wise laws they may urge
as proper. Upon this middle ground between occupation and sale Par-
lament may well act.

In the interest of the Natives, of the Crown, and of the whole people, for
the fulfilment of the Treaty and the Constitution [Act], the right of
purchase should still be vested in the Crown, and in the Crown only.

In the case of Wi Parata v. the Bishop of Wellington, N.Z. Jur., N.S. 3
S.C. 72, it was decided by the Supreme Court that all Maori lands were
waste lands of the Crown, subject to the rights of the Natives. That
judgement is clear, but the facts and the law warrant even a broader
utterance. By the law of nations, English occupation vested the ultimate
title to all lands in the Crown. The Maoris at the moment of annexation
became tenants; but they did not hold the highest form of tenancy —
that of a simple fee. The Maori title is that of occupation, but occupation
by an indefeasible right.

Parliament can legislate regarding the future administration of the Maori
lands and the resumption by the Crown of the pre-emptive right, Parlia-
ment has both claimed and exercised extensive powers. It has confiscated
Native lands. It has vested them in trust. It has prescribed ways and
methods of alienation. It has appointed Commissioners, created Courts,
and decided titles. There are no limits to its jurisdiction. In truth the
Maoris were never the owners of the legal estate since the Treaty of
Waitangi: they were the beneficiaries and could not deal with their lands
without the consent of the Crown and Parliament.16

This is the nub of the problem. What is the nature of Maori rangatiratanga
purported to be guaranteed in article 2 of the Treaty of Waitangi, "the full
exclusive and undisturbed possession of their Lands and Estates Forests
Fisheries and other properties"? What is the nature of the Crown obligation,
and that of parliament which passed legislation creating agencies and institu-
tions such as the Native Land Court, the Land Purchase Office and other
administrative structures, the regulations governing survey, and provisions for
costs to be charged upon the land, and so on? Article 1 of the Treaty sets out
this obligation as the assumption by "Her Majesty the Queen of England
absolutely and without reservation all the rights and powers of Sovereignty,"
described in the Maori version of the Treaty as "te Kawanatanga katoa o o
ratou wenua".

It is not surprising that the Maori member of the Commission on Native Land
Laws, James Carroll, dissented from the passage in the report quoted above.
His comments, influenced by the impact of the resumption of Crown pre-emp-
tion in the Rohe Potae, reveal a Maori perspective on the relationship between
the Crown, Maori and Maori lands:

Upon the question of the Crown resuming the right of pre-emption over
lands owned by the Maoris ... I cannot help feeling that such a step would
be unwise and impolitic, while the legality itself of such a proceeding is.
I believe, open to grave doubt. The Crown bases its title to land in New

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Zealand not on the right of discovery or conquest, but on the Treaty of Waitangi. By that treaty the exclusive right of pre-emption over such lands as the Native proprietors might be disposed to alienate was yielded to Her Majesty from the period of signing the Treaty of Waitangi until the sanction of Her Majesty was obtained to "The Native Lands Act, 1862": over twenty years that right remained in full force. Thus it will be seen that ample opportunity was afforded for testing the efficacy, wisdom and justice of the prerogative so assured. In some vague way the Europeans have always regarded themselves as having an undefined reversionary interest in Maori lands; the Natives, on the other hand, have always failed to cordially acquiesce in the administration of their territorial estates by the various Governments that have from time to time controlled the destinies of New Zealand. And so, for the long stretch of time the Government retained the right of pre-emption over the Native lands, the period was one fraught with many acts of injustice to the Natives. They called to mind the words used to them by Captain Hobson when the Treaty was signed — that the two races had become united under one sovereign; but, in strange contradiction to this harmonious union, they saw millions of acres of their land passing from them ....

Parliament at length was no longer able to conceal from itself that great wrongs upon the Native race were being perpetrated. It saw, as it expressed itself in the preamble to the Act passed at the time, that it would greatly promote the peaceful settlement of the colony and advancement of the civilisation of the Natives if their rights to land were ascertained, and defined, and declared, and if the ownership of such lands when so defined and declared was assimilated as nearly as possible to the ownership according to British law. With a view to giving effect to the foregoing objects Her Majesty waived in favour of the Natives so much of the Treaty of Waitangi as reserved to Her the right of pre-emption over their lands.

I entirely fail to understand how, as set forth in the preamble to the Act of 1862, the Government of New Zealand, having renounced the right of pre-emption over Native lands, can again acquire that prerogative without the assent of the Natives. Upon equitable grounds alone the Parliament should not attempt to regain the prerogative it abandoned about thirty years ago. Such a proceeding on the part of the Legislature would in my opinion intensify the mistrust the Native population too long have had in Colonial Governments.

Evidence adduced before the Commission proved conclusively that, where the Government interposed with its pre-emptive right, as was the case in the King-country, the Natives could not obtain a fair price for their land. The Government offered 3s an acre: at the same time private purchasers were in constant communication with the owners, and willing to pay them £1 an acre.

Need one wonder that a deadlock in Native-land transactions in that part of the country occurred. The inevitable result arising from such a condition of things is that, if the Natives cannot sell to the purchaser prepared to give them a larger sum than the Government, they will not
sell at all; and it will be observed that not even the Treaty of Waitangi itself, or any law passed by Parliament, assumed the power of compelling the Natives to alienate their land.18

13.4 The Impact of the Native Land Court

Many Maori in the 1880s and 1890s argued that the government land legislation compelled them to alienate lands in order to settle their mounting debts. The government did this by passing laws that: required title to lands to be investigated by a Native Land Court; that charged considerable fees; that forced other expenses on them by hearing cases in distant towns; that required surveys, the cost of which was charged on their lands; and that charged interest on unpaid survey liens. The land legislation of the 1870s and 1880s set up a system which was imposed on Maori with little consultation and no general consent. Carroll quoted a comment by Mr Alfred Domett:

In governing masses of men we must look upon a wrong really felt as a real wrong. It mattered not that on abstract principles of justice or theories it ought not to be considered a wrong — if it was really felt by them, then it must be treated as a real wrong. And this was the case with the Maoris, and their feelings about the Crown’s right of pre-emption.19

Carroll also criticised government administration of Maori affairs, and the “utmost suspicion” of Maori toward the “Native Office” operations:

Scarcely is there a portion of the North Island where the Natives have any experience of the Native Office but they remember it with feelings of regret. Everywhere one hears complaints of its deceitful practices, over-reaching, unfulfilled promises, and treachery; in all of which the Natives are, of course, the helpless victims ....

Partly in despair and partly in hope they have now sought a way out of the difficulty. The mysteries of the Native Office they cannot penetrate; the policy of past Governments they have learned to mistrust: their only hope and outlook is centred in the prospect of the Legislature granting them the power they ask for to control their own affairs. After all, what they ask for is only a species of local self-government, exercised in a manifold degree by their European neighbours.20

The whole process of Native Land Court determination of Maori titles, survey and Crown land purchase was inextricably intertwined. The evidence of Thomas William Lewis to the 1891 commission made this clear. Lewis had joined the Native Department as private secretary to Sir Donald McLean, when McLean became Native Minister in 1869. In 1879 Lewis was appointed Under-Secretary of the Native Department, and remained in that post until his death in December 1891. In 1885, responsibility for the Land Purchase Department had been added to his duties:

I would premise my statement by saying that the position I have occupied enables me to look at the matter from several different standpoints. For example, the Natives, when they have complaints to make in connection with the Native Land Court, or, indeed, in respect of other matters, generally do so through the Native Office. All the petitions to Parliament relating to Native affairs I have to report upon, and many of these petitions also relate to Native Land Court questions. Then, my official connection with the Native Land Court, and my intimacy with the Judges, enable me likewise to look at the matter from their point of view. There is, moreover, what may be called the Government point of view, which is distinct from both of those, and in regard to which also my
departmental position compels me to look at these questions from. Another point of view which assists me in arriving at conclusions on this matter has been that of land-purchaser, and in that position I may be said to take the view of the general public on the question — in this way: It is my duty as officer in charge of the Land Purchase Department to purchase land from the Natives, and the first question that arises in connection with such purchases is as to the certainty of the title ....

In the first place, my opinion is that the whole object of appointing a Court for the ascertainment of Native title was to enable alienation for settlement. Unless this object is attained the Court serves no good purpose, and the Natives would be better without it, as, in my opinion, fairer Native occupation would be had under the Maoris' own customs and usages without any intervention whatever from outside. Therefore, in speaking of the Native Land Court, this test to it must, I consider, be applied — viz., that there should be a final and definite ascertainment of the Native title in such a way as to enable either the Government or private individuals to purchase Native land ....

Bearing in mind that the foundation of all settlement in the country is the ascertainment of title, in my opinion the Natives should not be allowed to keep their lands out of Court. In large districts — as, for instance, the Wanganui district — it is a long time since the Natives have brought before the Court any cases for original investigation of title. And I think that, if applications for hearing of blocks required for settlement are not sent in, the Court should, on application of the Governor, ascertain the ownership of any such lands after due notification. And if the Natives refused to attend the Court to give evidence as to the ownership the Court should give its decision upon such evidence as it could obtain, and award the land to the Natives whom it could best ascertain were the owners, and especially it should declare the relative interests of each. All surveys of Native lands for purposes of first investigation, and such subsequent partitions as may be approved by the Native Minister, should be paid for by the Crown out of funds provided for the purchase of Native lands. I suggest that because I would give the Natives every possible facility for bringing their lands into the Court, so that Natives without means should not be debarred from bringing land into the Court. The surveys and any other incidental expenses should therefore be paid for by the Crown, and the amount should form a lien upon the land, to be recovered on the application of the Crown. The Court should award land to cover all these costs, on the valuation of, say, the Surveyor-General. The Crown should also take precedence of all suitors before the Native Land Court ....

The object of the Native Land Court is to ascertain the Native titles for the purposes of settlement. It is a duty of the Government to provide land for settlement. It acts in the interest of the whole of the people of the country, Natives and Europeans together. Consequently, for the purpose of acquiring land for settlement, the Crown should take precedence of all suitors. The Constitution Act 1852 which granted a “Representative Constitution to the Colony of New Zealand” had made provision at s71 for “Native districts”, and was used as the basis for pleas by Tawhiao and others to allow Maori to control their own affairs within the Rohe Potae:

And whereas it may be expedient that the laws, customs, and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves, in all their relations to and dealings with each other, and that particular districts
should be set apart within which such laws, customs, or usages should be so observed ....

This provision remained in the New Zealand Constitution Act 1852 for over a century until the remnants of that United Kingdom statute were declared by the New Zealand Parliament in the Constitution Act 1986 to cease to have effect in New Zealand. But s71 was never used for the King Country or anywhere else in New Zealand, and was repealed in the Constitution Act 1986. Section 73 of the Constitution Act 1852 confirmed the Crown right of pre-emption, and was repealed by s4 of the Native Land Act 1873.

The waiving of the Crown right of pre-emption in the Native Lands Act 1862 which established the Native Land Court, and its operation under the Native Lands Act 1865, were imposed by a parliament which had no Maori representation. The concept of four Manri seats was not introduced until 1867. We are not aware of any evidence of consultation, still less of Maori consent, to the imposition of the institution called the Native Land Court. There were numerous complaints about its operation. It served the purposes of the parliament of the day to provide a court to control the process of land alienation. In the same way, one can view the reimposition of the Crown right of pre-emption in the Rohe Potae as also serving the purposes of the parliament of the day. In a separate posthumous report (edited by Judge Alexander Mackay), one of the members of the Commission on Native Land Laws 1891, Thomas Mackay, stated:

Lands in the King-country should be restricted, as they will be very much enhanced in value by the Central Railway, and Government should have some benefit from the construction of the line.22

The Crown right of pre-emption in the Rohe Potae was confirmed in the Native Land Court Act 1894. The system of Crown purchase of individual interests in land by government land purchase officers continued with little modification. The machinery of the Native Land Court rolled inexorably through the Rohe Potae in the 1890s as, block by block, the titles were investigated, lists of owners compiled, surveys authorised and some of them done, Court orders issued, individual interests purchased, Crown interests partitioned out, and other lands acquired by the Crown in payment of survey and other costs. What we have outlined in detail of transactions on Maraeroa and Pouakani blocks seems to have been repeated on many other blocks throughout the Rohe Potae.

We have quoted at length from the report of the Commission on Native Land Laws because the problems for Maori people created by complex land legislation, the machinery of the Native Land Court, the Crown role as sole purchaser and controller of land transactions, including requirements for survey, were clearly identified in 1891. Parliament saw its role as promoting settlement and economic development of the nation. There was scant attention given to a Maori role in this development, or the desire of Maori to manage their own affairs, control their own resources, or in other words, assert their rangatiratanga.

13.5 Findings and Recommendations

The Commission on Native Land Laws 1891 set out very clearly the grievances created by the operation of the Native Land Court, the requirements for survey, and the high costs involved. The only way for Maori to establish title
to lands in the Rohe Potae was to embark on this costly process, or be caught up in it by other kin who had lodged an application in the Native Land Court for investigation of title. Wahanui and others tried to keep the Native Land Court out of the Rohe Potae, to establish “Native Committees” which would undertake the task of identifying lands to be made available for Pakeha settlement. Under the Native Land Alienation Restriction Act 1884 a Crown right of pre-emption was reimposed on the Rohe Potae. Maniapoto and Tuwharetoa leaders argued that this undermined their power to negotiate a price on the open market. The native committees set up by statute in 1883 were given no real authority.

The role of the government land purchase officers requires scrutiny. It seems that there was a good deal of negotiating outside the Native Land Court which was not recorded in the minute books. But the court had the jurisdiction to accept agreed arrangements. The Native Land Court Act 1880, at s56:

> It shall be lawful for the Court, in carrying into effect this Act, to record in its proceedings any arrangements voluntarily come to amongst the Natives themselves, and to give effect to such arrangements in the determination of any case between the same parties.

In the Native Land Court Act 1886 this provision was strengthened at s59:

> It shall be lawful for the Court, in any proceeding under this Act, to give effect to any arrangement voluntarily come to by the Natives or by the Natives and Europeans concerned therein, and to decide such proceedings in accordance with such arrangement.

> Such decision shall be as effectual and binding as if arrived at on evidence taken.

The role of the court was to ensure that there was agreement. If objections were called for in court, and there was none, then the court could and usually did confirm the agreed arrangement. The Native Land Court did not, in the early decades of its existence, exercise an inquisitorial role to any degree. It decided on the basis of evidence presented in court including a statement of an agreed arrangement made outside the court.

The correspondence of land purchase officers with their superiors in Wellington was often full and frank. The actions of W H Grace were called into account by the Tauponuiatia Royal Commission. That commission found nothing that required further investigation and only queried, “Whether Mr Grace, a Government officer, should have mixed himself up in any way with matters in dispute between the Natives themselves may be a question for the Government to determine”. There was no further investigation, and Grace was subsequently re-employed to assist another purchase officer, G T Wilkinson. No evidence was presented to us which suggested Grace acted illegally or fraudulently. Other contemporary sources suggest that the land purchase methods employed by Grace were regarded as normal practice for the time.

We have reviewed a large number of contemporary documents, and traced the transactions on the Maraeroa and Pouakani blocks in detail through the period from the early 1880s to early 1900s. No evidence has been found to suggest that the actions of the Native Land Court, government land purchase officers or other officials were illegal, fraudulent or unacceptable in terms of contemporary practice and procedures. We noted the failure of the Survey Office in Auckland to comply fully with the survey regulations in allowing the addition
of survey data on existing plans, failing to produce separate plans for each block, and using the system of “scaling and protracting” to calculate boundary lines on a plan. In mitigation, we accept (but do not condone) that the practice became general, as a means of saving the unnecessary expense to Maori owners of a survey on the ground which might not be needed if and when the Crown purchased the land. In the next chapter we deal specifically with this problem on Pouakani B9B block.

In reaching the conclusion that we find nothing illegal or unacceptable in terms of late nineteenth century practice in these transactions, we are still left with the broader problem of a form of administration of Maori lands which was imposed on the tribes by the Crown. There is plenty of evidence that tribal leaders wanted to avoid the worst problems of land dealings by keeping out the Native Land Court and administering their own lands in the Rohe Potae. There is also plenty of evidence that government intentions were that Crown sovereignty would be imposed on the Rohe Potae, that existing institutions would be extended into the region, and lands opened up for settlement. The Crown also sought to protect its investment in the North Island main trunk line by preserving a right of pre-emption in the hope of paying off its substantial debts by the sale of land. There was nothing new in this policy. In his instructions to Hobson in 1839, Lord Normanby stated:

> it will be your duty to obtain, by fair and equal contracts with the Natives the cession to the Crown of such waste lands as may be progressively required for the occupation of settlers resorting to New Zealand .... The resales of the first purchases that may be made will provide the funds necessary for future acquisitions, and beyond the original investment of a comparatively small sum of money, no other resource would be necessary for this purpose. I thus assume that the price to be paid to the natives by the local Government will bear an exceedingly small proportion to the price for which the same lands will be resold by the Government to the settlers; nor is there any real injustice in this inequality. To the natives, or their chiefs, much of the land of the country is of no actual use, and in their bands it possesses scarcely any exchangeable value. Much of it must long remain useless, even in the hands of the British Government also, but its value in exchange will be first created, and then progressively increased by the introduction of capital and of settlers from this country. In the benefits of that increase the natives themselves will gradually participate.24

The problem with this argument is that Maori today feel they have not fully participated in the benefits from the introduction of capital and settlers. We repeat the comments of James Carroll quoted above, that in all the legislation on Maori land up to 1891, not a single attempt had been made by government to encourage Maori to become “useful settlers”.

There are many issues raised in this report which relate to Crown transactions in the whole of the Rohe Potae. We are aware that proceedings have begun for the Waitangi Tribunal to hear some 12 other claims involving lands, the Native Land Court, surveys, Crown purchase and railways in the Rohe Potae.25 We have reviewed enough historical evidence to suggest that the transactions on Maraeora and Pouakani blocks were not atypical, that there was a great deal of mistrust of the operations of the Native Land Court and government purchase officers. There were disputes between tribal leaders over issues of mana whenua, and dissension created by the system of allocation of individual interests in land.
Some of this dissension was expressed in disputes over survey of boundaries. Some of these survey lines have stood the test of time. Indeed, the system of survey using co-ordinates based on major and minor triangulation established in the Department of Lands and Survey by the late 1870s was among the best in the world. It was a good deal more accurate than the "metes and bounds" system of boundary descriptions by landmarks and compass directions still in use in Britain. Given the conditions in which New Zealand surveyors worked, their achievements were commendable. However, we also recognise that some of these boundary disputes need not have occurred. If the survey of the land had not been so closely tied to the operation of the Native Land Court, then perhaps the court at Taupo in 1886 could have had a properly surveyed plan before it, and the tribes could have resolved their differences in talking through to reach a consensus. Sufficient time and opportunity was not allowed and the first determination of the western boundary of Tauponuiatia block by the Native Land Court was unacceptable to the tribes concerned. The surveyors were given instructions that turned out to be wrong when the whole matter was investigated by the Tauponuiatia Royal Commission in 1889. Not only did Maori have to pay for a survey that had to be done again, and paid for again, but they also had to pay for the costs of the original Native Land Court hearings, proceedings in the Supreme Court, petitions to parliament, appearance at the Tauponuiatia Royal Commission in 1889, and finally, rehearing of Pouakani and Maraeroa blocks investigation of title by the Native Land Court in 1890-91. The wider issues will need to be considered by the tribunal when hearing Rohe Potae claims.

We have a particular concern about the way large areas of land were acquired by the Crown in payment of survey costs, including minor triangulation. The Pouakani No 1 block of 20,000 acres was only one of many blocks acquired to pay off survey liens. Provision for charging unpaid survey costs against the land was well established in Maori land legislation by the 1880s. We accept the need for survey, in order to establish identifiable boundaries for the purposes of issuing a title which could be registered under the Torrens system. We question why Maori were required to pay so substantially for the whole cost of surveys, whether they sold land or not. Some of the boundaries surveyed were not needed. Some were in the wrong place. All had to be paid for. It is accepted that if land is to be sold, then a surveyed boundary is required and the cost deducted from the proceeds of sale. If the Crown had accepted Maori proposals to work out the areas to be sold and administer their lands themselves, then there would not have been a need for so many surveys of subdivisions. The practice of charging interest compounded the problem, especially when the Crown as sole purchaser delayed some transactions when finances were short. This important issue will need to be investigated further in hearing of the Rohe Potae claims.

We conclude that, in paying for surveys in land, Maori in the Rohe Potae carried a disproportionate amount of the cost of Pakeha settlement in the Rohe Potae. Just how much cost was carried requires a more detailed accounting than we have been able to undertake for this report. Maori were also forced into the position of having to pay other costs in the process of establishing a title to their own lands, and to engage in expensive litigation when disputes occurred. In article 2 of the Treaty of Waitangi the Crown confirmed and guaranteed:
the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess as long as it is their wish and desire to retain the same in their possession ....

By imposing requirements of survey, fees for investigation of title in the Native Land Court, and other costs such as food and accommodation away from home during hearings, many Maori were forced into debt. Maori were satisfied with their established forms of tenure of land. There is nothing in the Treaty which required the transmuting of this tenure into one cognisable in British law. Why could the law not recognise Maori custom and usage? That there had to be a fair system of establishing ownership when a sale was contemplated is accepted. The legislation under which the Native Land Court operated went much further than that and required that all Maori land be passed through the court, with all the attendant costs of that process. When the debts were called in, Maori paid in land.

We consider that there is a prima facie case based on the evidence reviewed so far to suggest that the Crown acquired large areas of land in payment of survey costs and other charges in the Rohe Potae. We consider that redress for Maori may well be negotiated in the form of the return of Crown lands to the tribes concerned. We are also aware that large areas of Crown lands have been transferred to state-owned enterprises, in particular Forestry Corporation and Land Corporation. An interim report of the Waitangi Tribunal in respect of the land at Kaimaumau, part of the Muriwhenua lands claim, dated 30 October 1991, is relevant:

We are of opinion that the resumption scheme represented in the Treaty of Waitangi (State Enterprises) Act 1988 does not provide a complete discharge of the Crown’s Treaty obligations, nor does it cover all situations. This might be assumed from the manner in which the settlement itself was effected, and in particular the enactment of the resumption clauses in the 1988 Act without relieving the Crown from the general provision in section 9 to act consistently with the Treaty in the disposal of land assets. There is further support for the view that the scheme is not comprehensive, from previous cases. The Court of Appeal saw the need for a further protective arrangement on the sale of surplus Crown land in Taihu Maori Trust Board v Attorney-General (1989) 2 NZLR 513 (Coal Sales). Richardson J questioned the efficacy of buy-back arrangements in Runanga o Muriwhenua v Attorney-General (No 2) (Fish Quota Sales) CA 110/90, 28.6.90, though there with reference to fishing ITQ. The Waitangi Tribunal on the Ngai Tahu claim urged that surplus Crown land be not sold in the South Island pending its final report and recommendations resulting in an early-warning system being introduced (Ngai Tahu Report (1991) 4 WTR 693). In NZ Maori Council v Attorney-General (Airwaves Sale) Wellington CP 942/88, 3.5.91, McGechan J considered specifically that the State enterprise claw-hack scheme in particular "does not foreclose other protective approaches where warranted". Finally the Government itself has entertained alternative schemes for the alienation of Crown assets, first by a reservation of land and capital in the Crown Forest Assets Act 1989 and secondly by a consultative process in a settlement with the National Maori Congress of October 1991. While only the comments of McGechan J refer specifically to the State Enterprise claw-hack scheme, each case illustrates the need for alternative arrangements to accommodate the claim resolution process within the Crown’s assets sale programme as new situations present themselves.
In the particular case of land sales through state enterprises, a distinction must be made between claims awaiting hearing with which the 1988 action and settlement was concerned, and those substantially heard and researched. There must come a point at which the Crown should ask whether it is sufficient or appropriate to rely upon the claw-back provisions or whether, having regard to the state of any inquiry, it would be proper to proceed at all. In all fairness the Crown should consider not only the Maori party, but would-be purchasers whose own plans may thus be set aside, and also the general tax-paying public, since the compensation paid to purchasers will likely exceed the price they originally paid.

Accordingly in our view the 1988 settlement serves to justify alienations in many, perhaps most cases where claims have yet to be heard, but not in all cases, and most especially, not in those situations where a prima facie case is apparent. We think it incumbent on the Crown not to rely upon the letter of the 1988 settlement, but to consider constantly the propriety of decisions having regard to its overall obligations, recognised in the Court of Appeal, to seek the fair and just settlement of valid claims.

In two other recent reports of the Waitangi Tribunal on the matter of disposal of Crown assets, the need for prior consultation with iwi was addressed. In the case of the Auckland Hospital Endowments claim it was recommended that the Minister of Health, through the appropriate agency:

consult with an appropriate national Maori organisation for a general policy concerning the disposal of Health Board properties when Maori have or may claim a particular interest ...

It was also recommended that the Minister of Health provide funding “for the early research of prospective Maori claims to hospital lands” in consultation with the Waitangi Tribunal. In this case, the sale of the property was effected but the funds from sale were to be held in an Auckland Area Health Board Trust fund “until either the claim is determined or agreement reached with local iwi”.

In the second case, the Interim Report on Sylvia Park and Auckland Crown Asset Disposals, a sale of Crown property was negotiated through the Department of Survey and Land Information. The Waitangi Tribunal recommended the holding of the proceeds of the sale “in a separate interest bearing trust pending determination of the claims in respect of that particular property, or a prior resolution of the asset sales question”. The tribunal also recommended that government negotiate with local tribal representatives “for a separate settlement and arrangement for the disposal of Crown or State Enterprise assets in Auckland”. The tribunal in this report emphasised the obligations of the Crown when disposing of assets to take into account possible resolution of Maori claims:

There are earlier opinions of this Tribunal that the duty on the Crown, in the Treaty of Waitangi, to protect Maori in the ownership of their lands, becomes in our time a duty to restore Maori to ownership where practicable, where past wrongful dispossessions are established, and not to alienate lands so as to prejudice Maori claims to them. That principle is nothing novel. It is a fraud by any fair law to so dispose of assets as to defeat a creditor’s right of recovery. That principle has general application. It is not a principle peculiar to the State Enterprise circumstance. It follows in our view that the Crown ought not to dispose of properties without first being satisfied either that there are no claims to them, or
that the claimants consent, or in the further alternative, that a scheme protective of the claimants' interests is first in place.\textsuperscript{33}

We conclude that in the Rohe Potae in the 1880s and 1890s there was an intricate interrelationship between the operations of the Native Land Court in determining titles, and the activities of government land purchase officers and surveyors commissioned by the surveyor general. However, in this Pouakani claim we have heard from one small group of claimants in respect of their grievances on Pouakani block and the boundary with Maraeroa block. They raised these general issues but at the hearings counsel for both the claimants and the Crown were primarily concerned with what had happened within and on the boundaries of Pouakani block. It was not until after the hearings had ended when we reviewed the evidence and did further research that it became obvious that what had happened on Pouakani had also happened throughout the Rohe Potae. The claimants' real grievance was not just what the apparatus of Native land laws, Native Land Court, government land purchase officers and survey had done on Pouakani, but the system itself. We have not had the benefit of submissions from tribal representatives elsewhere in the Rohe Potae. We consider that these broader issues should be investigated further by the tribunal bearing other claims in the Rohe Potae so that other claimants' views may be aired before framing firm recommendations.\textsuperscript{34} We consider that there is sufficient evidence to suggest that there may well be a basis for redress, but that such matters should be addressed on an iwi and/or hapu basis.

Accordingly, we recommend that no Crown land or land of state-owned enterprises, such as Land Corporation or Forestry Corporation in the Rohe Potae be transferred to a third party without either investigation by the Waitangi Tribunal, or the agreement of the tribal authorities within whose territories such lands may lie. We do not consider in the case of the Rohe Potae lands that the memorial provided for in the amendments to the State-Owned Enterprises Act 1986 made by the Treaty of Waitangi (State Enterprises) Act 1988 is adequate protection. We are mindful of the considerable cost to the tax payer that may be incurred if such lands are alienated, but on subsequent investigation the Waitangi Tribunal sees fit to recommend Crown resumption of title.

References

1 AJHR 1891 Session II G-1
2 ibid
3 ibid
4 ibid
5 ibid
6 ibid
7 ibid
8 ibid
9 ibid
10 ibid
11 AJHR 1883 J-1; see appendix 6
12 AJHR 1891 Session II G-1
13 ibid
14 AJHR 1907 G-1B
15 AJHR 1891 Session II G-1
16 ibid
17 ibid
18 ibid
19 ibid
20 ibid
21 ibid
22 AJHR 1891 Session II G-1A
23 AJHR 1889 G-7
24 In McNab 1908 vol 1 p 734
25 Wai 48 etc
26 ibid
27 ibid
29 Wai 261 Interim Report of the Waitangi Tribunal to the Ministers of Maori Affairs, Health and Justice 6 December 1991 p 6
30 Wai 276, 72 and 121 Interim Report on Sylvia Park and Auckland Crown Asset Disposals 22 April 1992
31 ibid p 4
32 ibid
33 ibid p 3
34 Wai 48 etc

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