

# The Pouakani Report 1993

## Appendices

### 13 An Analysis of Stubbing's 1892 Plan and Subsequent Additions.

Today, once a survey plan is approved, it cannot be altered unless it is made very clear both that an alteration has been made and that the alteration has been approved by the chief surveyor. But Survey Office staff took a very different view last century. A survey plan was often used to record new survey information in much the same way as a DOSLI "Record Sheet" is now used. In 1891 the Native Land Court made title orders for various Pouakani blocks. Stubbing sent in his survey plan ML6406 etc of some of the blocks to the chief surveyor on 2 November 1892. The chief surveyor approved it on 21 March 1893 and Chief Judge Davy approved it on 25 March 1893. Since then a great deal has been added to it.

By 1899 the Crown had purchased the shares of many of the owners of five of these 1891 blocks: Pouakani A1, Pouakani A2, Pouakani A3, Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) blocks. In 1899 the court partitioned these blocks between the non sellers and the Crown. The court added up the shareholdings in each block of the owners who had sold, apportioned the area between the Crown and the non sellers on this basis and gave the Crown an additional area as payment of the non sellers' share of survey costs. The court made orders creating the new titles, Pouakani A1A, A2A, A3A, B9A and C1A blocks, which it vested in the Crown. The court also created as new titles the Pouakani A1B, A2B, A3B, B9B and C1B blocks, each of which it vested in the owners in the parent block who had not sold to the Crown. The blocks created by the 1899 orders now appear on Stubbing's plan ML6406 etc with separate approvals by the chief surveyor and Native Land Court judge.

Stubbing's plan ML6406 etc purports to be a plan prepared in 1892 for the purpose of completing by survey the parent titles created in 1891. Obviously, blocks created by the 1899 title orders did not appear on it when it was approved by the chief surveyor and the chief judge in 1893, because no one in 1892 could have known which owners were going to sell their shares to the Crown between 1893 and 1899.

The more difficult question is which boundaries of the 1891 title orders were shown on Stubbing's plan ML6406 etc, when it was sent to the chief surveyor in 1892, and when the chief surveyor and chief judge approved the plan in 1893. On 28 February 1893 W C Kensington of the Auckland Survey Office sent a tracing showing some of the 1891 blocks to the Native Land Purchase Office in Wellington. A copy of this tracing was produced in evidence (B7:267) but this copy did not show the initials "H.W." (or "H.M.") and the date "28/2/93" of the original in the National Archives. We think that Stubbing's sketch plan ([figure 1a](#) and [figure 1b](#)) is a reduced copy of the survey plan that Stubbing sent to the chief surveyor in 1892 and that the chief surveyor and chief judge approved in 1893.

They are now two very different plans. The differences on ML6406 etc are what we think were added later.

Stubbing's Plan ML6406 etc - Pouakani A Blocks:

On 11 August 1891 the court made orders on investigation of title creating title to the Pouakani A blocks. These blocks, with the plan numbers allocated to them, were:

Pou-a-kani A No 1 or Waiwherowhero Plan No. ML6490

Pou-a-kani A No 2 or Te Whanawhana Plan No. ML6491

Pou-a-kani A No 3 or Tomotomoariki Plan No. ML6492

Stubbing's 1892 sketch does not show the boundaries between these three lands. It shows their outer boundaries and it labels the whole area "Pouakani A Blk 10577.0.0" and has a note "Subdivided by Court into A1, A2 & A3 subdivisions not yet surveyed".

Stubbing's survey plan ML6406 etc now shows the boundaries of Pouakani A1A, A1B, A2A, A2B, A3A and A3B blocks that were created in 1899. The question is whether in 1893 it showed the boundaries between Pouakani A1, Pouakani A2 and Pouakani A3 which were created in 1891. Stubbing's survey plan ML6406 etc has "10577 acres Pouakani A Block" inscribed along the length of the area occupied by these blocks. Stubbing's survey plan ML6406 etc now shows the boundaries between Pouakani A1 (Waiwherowhero), Pouakani A2 (Te Whanawhana) and Pouakani A3 (Tomotomoariki). If it had shown these boundaries in 1893:

(a) It would have shown the blocks labelled as A No 1, A No 2 and A No 3. It now shows A No 1A, A No 2A and A No 3A. The final "A"s do not appear to have been added at a later date. However the position and appearance of these labels is such that we cannot be absolutely certain that they were not written on the plan until 1899.

(b) It would have shown the areas 4037 acres, 3300 acres and 3240 acres of Pouakani A1, A2 and A3. These areas had been worked out by 13 September 1893 because that is the date of the first signature to a deed of sale of the Pouakani A blocks which has endorsed on it a diagram showing these separate areas for Pouakani A1, A2 and A3. Instead, Stubbing's survey plan ML6406 etc, shows a figure of 10577 acres which is the total of the areas of all three blocks.

(c) It would have shown the boundary between Pouakani A1 and Pouakani A2 with the distance of 17025 links that now appears on the diagrams that form part of the title orders for these blocks. Instead, only the figures 4925 and 12100 appear; 4925 links is the length of that part of the boundary that now forms the boundary between Pouakani A1B and Pouakani A2B; and 12100 is the length of that part of the boundary that now forms the boundary between Pouakani A1A and Pouakani A2A. (The figure of 4925 is followed by an abbreviation for "calculated" and the figure 12100 by an abbreviation for "scaled". The boundary between Pouakani A2A and Pouakani A3A which is the same boundary as the boundary between Pouakani A2 and Pouakani A3 has a distance also followed by an abbreviation for "scaled". Clearly, someone has worked out the approximate positions of boundaries to give the required areas for Pouakani A1, A2 and A3, drawn the lines and then measured them with a ruler to get the approximate distances of the boundaries. Pouakani A1B, A2B and A3B are simple four sided figures and the length of the boundaries required to enclose the areas that the court said that these blocks were to contain, has been calculated mathematically and the boundaries then drawn on the plan.

(d) It would have shown "A1", "A2" and "A3" in the title of the plan, and plan numbers close to the figure 6406 would have been allotted to them, and these numbers included in the composite number of the plan. But A1, A2 and A3 do not appear in the title to the plan. The plan numbers in the bottom right hand corner of the plan, which we assume to have been there since 1892, are:

6406  
-7  
8  
-10  
- 1  
-2  
-3

The ML plan numbers allocated to Pouakani A1A, A1B, A2A, A2B, A3A and A3B are 6490A, 6490B, 6491A, 6491B, 6492A and 6492B. Not only are these much later numbers, but they are printed within each of these blocks in a very different way from the way in which the other plan numbers are printed within the other blocks.

What is on the plan itself is sufficient evidence for us to conclude that, both when Stubbing's survey plan ML6406 etc reached the chief surveyor in 1892 and when it was approved in 1893, it simply showed, as Stubbing's sketch plan does, a single area for the Pouakani A blocks and a note "10577 acres Pouakani A Block".

Stubbing's plan ML6406 etc - Pouakani B7, B8, B11 and C3 boundaries:  
Stubbing's sketch shows the following boundaries as dotted lines with no figures showing their lengths:

- (a) the boundary between Pouakani C3 and Pouakani B8;
- (b) the boundary between Pouakani C3 and Pouakani B7;
- (c) part of the boundary between Pouakani B7 and Pouakani B8 (the other part of the boundary is a part of the Waiteti stream that was not surveyed in field book 722);

- (d) the boundary between Pouakani B7 and Pouakani B11.

Stubbing's survey plan ML6406 etc also shows these boundaries as dotted lines. Whereas on Stubbing's sketch plan the lines seem to have been intended as tentative boundaries, on Stubbing's survey plan ML6406 etc they have been taken as being final boundaries, and the following has been written onto Stubbing's survey plan ML6406 etc:

on boundary (a) above 26800 NLCT  
on boundary (b) above 67400 NLC  
on boundary (c) above 8400 NLCT  
on boundary (d) above 20160 NLCT order

The figure of 67400 is the total length of the boundary between Pouakani C3 and both Pouakani B7 and B9.

NLC, NLCT and NLCT were abbreviations for Native Land Court. So someone has taken a ruler, measured the boundaries on Stubbing's plan ML 6406 etc, drawn the diagrams for the Native Land Court orders and then treated these diagrams that form

part of the signed sealed orders of the Native Land Court creating title to the blocks as authority for inserting the distances in Stubbing's plan ML6406 etc.

Stubbing's Plan ML6406 etc - Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha):

Stubbing's sketch shows "Pouakani C No 1 Kaiwha Blk" and "Pouakani B No 9 Pureora Blk" and shows the outer boundaries of their combined areas but does not show the boundary between them. Instead there is written across their combined area "total area 17900.0.0". Stubbing's survey plan ML6406 etc has "Pouakani C No 1 Kaiwha Block" and "Pouakani B No 9 Pureora Block" but it does not show the areas of 7,900 acres and 10,000 acres respectively that appear in the orders on investigation of title.

Instead it has figures "17900.0.0". The words "total area" now appear before these figures but in a style of printing that does not appear anywhere else on the plan and which suggests that these words may have been added later.

Figure 2 shows the boundaries of Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) as they appear on the diagrams attached to the signed sealed orders on investigation of title made on 11 August 1891. The order on investigation of title for Pouakani B9 (Pureora) shows both in the body of the order and on the diagram annexed to the order that Pouakani B9 (Pureora) contained an area of 10,000 acres and was "delineated in the certified map numbered 6408". The order on investigation of title for Pou-a-kani C1 (Kaiwha) shows both in the body of the order and on the diagram annexed to the order that Pouakani C1 (Kaiwha) contained an area of 7,900 acres and was "delineated in the certified map numbered 6412". Both diagrams show the boundary between them as two lines of 12,500 links and 21,650 links. Stubbing's survey plan ML6406 etc now shows Pouakani B9 (Pureora) divided into Pouakani B9A and Pouakani B9B. It also now shows Pouakani C1 (Kaiwha) divided into Pouakani C1A and Pouakani C1B.

If in 1893 Stubbing's survey plan ML6406 etc had shown the boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora):

(a) It would have shown the distances of the two parts of the boundary between them as 12500 and 21650. "12500 scld" does appear on Stubbing's survey plan ML6406 etc because the whole length of this boundary is now part of the boundary between Pouakani C1A and Pouakani B9A. But the northern end of the 21650 link line now forms part of the Pouakani C1A and Pouakani B9A boundary and the rest of the 21650 link line is the boundary between Pouakani C1B and Pouakani B9B. The figure 21650 does not appear on this line, as it would have if the boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) had been drawn on the plan first. Instead "4800 scld" and "16850 scld" are shown. If the boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) had already been drawn on the plan when the divisions into Pouakani C1A, C1B, B9A and B9B were drawn on, then the figure 21650 could have been rubbed out. But it would have been much easier to have simply put brackets around it to show that it was a total distance.

(b) "Total area 17900" would not have appeared on the plan.

(c) It would have shown "C1" in the heading.

(d) It would have shown separate areas of 7,900 acres and 10,000 acres for Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora).

Some of the matters listed are not inconsistent with the boundaries having been drawn in at some time between the forwarding of the plan to the chief surveyor and its approval by the chief surveyor and the chief judge. But the fact that Stubbing's survey plan ML6406 etc does not show separate areas for Pouakani A1, Pouakani A2, Pouakani A3, Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) would seem to be conclusive proof that these were not shown as separate blocks when the plan was submitted and that the boundaries between them were not drawn in until the Pouakani A1A, A1B, A2A, A2B, A3A, A3B, C1A, C1B, B9A and B9B subdivisions were drawn on Stubbing's survey plan ML6406 etc after 1899.

The evidence of the deeds of sale of the Pouakani A blocks, Pouakani B9 (Pureora), Pouakani C1 (Kaiwha):

The diagrams drawn on the deeds of sale of interests in the Pouakani A blocks (both given the same number as deed no 3245), Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) provide further evidence that not all the boundaries of Pouakani A1, A2, A3, Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) were shown on Stubbing's survey plan ML6406 etc when it was approved by the chief surveyor on 21 March 1893 and by Chief Judge Davy on 25 March 1893. The dates of the first signatures on these deeds are:

Pouakani A blocks 13 September 1893

Pouakani B9 (Pureora) 8 August 1893

Pouakani C1 (Kaiwha) 14 September 1893

[Figure 3](#) shows the diagram on the deeds of sale of the Pouakani A blocks. The boundaries between Pouakani A1, A2 and A3 shown on the diagram on the deed of sale are quite different from the boundaries shown on Stubbing's plan ML6406 etc which are straight lines. [Figure 3](#) shows that the boundaries on the diagram on the deeds of sale were mostly streams, and two lines.

The boundaries of Pouakani A1 and A2 are described in the Native Land Court minutes of 11 August 1891 at 27 Waikato Minute Book 177, 178 and 180. The minutes are difficult to follow because they refer to place names some of which do not appear on any of the maps available to the tribunal. What is clear is that by 11 August 1891 it had already been decided that N'Rakau and N'Hinekahu were entitled to a block of land. The minutes at page 180 refer to "Pouakani A as originally laid off". On 11 August 1891 the court was told that N'Rakau and N'Hinekahu had decided to divide their block into three pieces. The court then made orders creating Pouakani A1 and Pouakani A2 and described the boundaries. No areas were given. It is clear from the minutes that what N'Rakau and N'Hinekahu had decided was, not how many acres should go into each division, but where the boundaries between the divisions should run. And they used streams as their boundaries. The diagram on the deeds ([figure 3](#)) seems to show the boundaries set out in the minute book on 11 August 1891. It shows areas for each of Pouakani A1, A2 and A3 followed by the word "Approx". The diagram shows the exterior boundaries of Pouakani A1, A2, and A3 as surveyed by Stubbing in 1892.

Why were the boundaries shown on the diagram on the deeds of sale of the Pouakani A blocks not drawn on Stubbing's plan ML6406 etc? The answer seems clear. They were not drawn because the position of the streams had not been located by survey. And it never became necessary to fix the positions of the streams by survey. By 1899 the Crown had purchased the shares of most of the owners. The court partitioned out areas for the non sellers calculated on the basis of the areas shown on the diagram on the deeds of sale. Pouakani A1B and Pouakani A3B, awarded to non sellers, are each clearly within the boundaries of the former Pouakani A1 and Pouakani A3. But Pouakani A2B is clearly within the boundary of the former Pouakani A1. It is unfortunate that the 1899 minutes are no longer available. Once the court had created Pouakani A1B, A2B and A3B and vested these in the non sellers and vested Pouakani A1A, A2A and A3A in the Crown, it did not matter where the boundaries between these three Crown lands went, so someone simply drew two straight lines on Stubbing's survey plan ML6406 etc to enclose the areas shown on the diagrams on the deeds of sale.

Figures [4](#), and [5](#) show the boundaries of the diagrams on the deeds of sale of Pouakani B9 (Pureora) deed no 3247, and Pouakani C1 (Kaiwha), deed no 3248. [Figure 2](#) shows the diagrams prepared from Stubbing's survey plan ML6406 etc that form part of the orders of the Native Land Court that created the titles to Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha). On both diagrams the boundary between them is in two parts. The northern part is shown as 10,000 links on the 1893 deeds of sale, but is shown as 12500 links on Stubbing's survey plan ML6406 etc and on the title diagrams. The southern part of the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) shown on the diagram on the 1893 deeds of sale is shown as 25,000 links, but as 21,650 links on the diagrams prepared from Stubbing's survey plan ML6406 etc and which form part of orders of the Native Land Court creating the titles to these lands.

The boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) runs north from a point on the boundary between Horaaruhe Pouakani and Tihoi blocks. This boundary with the Tihoi block was surveyed by W Cussen in 1886. Page 16 of field book 722 records the survey of a line from peg 8 east to peg 8A. This line is 17840.6 links long and is at a bearing of  $61^{\circ}02'36''$ . The boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) starts at a point on this line. The diagram on the deeds of sale and the diagrams in the title orders give different starting points for this boundary. The diagrams on the deeds of sale give it as 9440 links to the east of peg 8, leaving the remaining 8400 links to form part of the southern boundary of Pouakani C1 (Kaiwha). But the boundaries on the diagrams in the 1891 title orders of the Native Land Court start the boundary between Pouakani C1 (Kaiwha) and Pouakani B9 (Pureora) at a point 7840 links east of Cussen's peg 8, leaving the remaining 10,000 links to form part of the southern boundary of Pouakani C1 (Kaiwha).

Stubbing's plan ML6406 etc was approved on behalf of the chief surveyor and by Chief Judge Davy in March 1893. The first sellers signed the first deed of sale of interests in Pouakani B9 (Pureora) on a 8 August 1893 and the first deed of sale of interests in Pouakani C1 (Kaiwha) on 14 September 1893. It might be argued that the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) could have been drawn on Stubbing's plan ML6406 etc before it was approved in March 1893, and that the deeds show different diagrams because they were prepared prior to the

boundary being drawn on Stubbing's plan ML6406. The dates of the first signatures, 8 August 1893 and 14 September 1893 are not evidence as to the dates of preparation of the deeds.

In the case of the two deeds of sale of interests in the Pouakani A blocks (both comprising deed no 3245), the two deeds were clearly prepared at the same time. The first signature on one is dated 13 September 1893 and the first signature on the other is dated 16 September 1893. The diagrams on both are identical and the description of boundaries on both is written by the same person. On the deed first signed on 13 September 1893, George T Wilkinson, J P, and W H Grace, licensed interpreter, witnessed the first 19 signatures between 13 September 1893 and 19 October 1893. George Kelly, licensed interpreter, witnessed the first four signatures on the other deed, two on 16 September 1893 and two on 5 October 1893. The next 16 signatures on that deed are witnessed by Gilbert Mair, licensed interpreter, between 13 October 1893 and 12 February 1894 (in the last date he has actually written 1893 but this is clearly a slip of the pen). There are 86 signatures on one deed and 73 on the other. It is clear therefore that the two deeds were prepared at the same time and given to different people to obtain signatures.

The first signatures on the second deeds for the sale of interests in Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) are 19 July 1894 and 19 May 1894 respectively and the 1894 deeds seem to have been prepared some time after the first deeds were prepared. There are differences between the diagrams and hand writing on the four deeds. The diagrams on the 1894 deeds of sales were clearly prepared by the same person. There are stylistic differences between the diagrams on the first (1893) deeds and the diagrams on the second (1894) deeds. They clearly seem to have been drawn by a different draughtsman. The measurements on the boundaries in the diagrams are the same in the first and second deeds for each block.

The written descriptions of the boundaries in the two 1893 Deeds seem to have been written by the same person, but there are sufficient differences to suggest that this might have been done at different times. The description of boundaries in the two 1894 deeds are clearly written by two different people, neither of whom is the same person as the person who wrote the descriptions in the 1893 deeds. The wording of the descriptions of Pouakani B9 (Pureora) in 1893 and 1894 deeds is identical. The wording of the descriptions of the boundaries of Pouakani C1 (Kaiwha) in the 1893 and 1894 deeds is also identical. But there are differences in the wording of the description of boundaries of the two different blocks. The description of the boundaries of Pouakani B9 (Pureora) in both the 1893 and 1894 deeds ends with the words "Be all the above linkages more or less". The description of the boundaries of Pouakani C1 (Kaiwha) in both the 1893 and 1894 deeds ends with the words "Be the aforesaid linkages either more or less". Obviously, in the case of each block, the people who wrote the descriptions in the second deed had the first deed, or a copy, in front of them when they did so.

The most likely explanation for the second copies of the two deeds is that in 1894 it was decided to prepare another copy of each deed so that one could be held in a central place for any owner who came in and wanted to sign and another could be taken around to get signatures. What is clear is that the 1893 and 1894 deeds were not prepared at the same time, that the 1894 deeds were prepared after the 1893 deeds,

and that the diagrams on the 1894 deeds were almost certainly prepared in the office of the chief surveyor at Auckland. If the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) that now appears on Stubbing's plan ML6406 etc had been on the plan in March 1893 when it was approved on behalf of the chief surveyor and by the chief judge, it is most unlikely that a different diagram would have been drawn on the 1894 deeds of sale of interests on Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha).

The evidence of the dates of approvals and preparation of court order diagrams on Stubbing's plan ML6406 etc.

After Stubbing's plan ML6406 etc was approved on behalf of the chief surveyor and by Chief Judge Davy in March 1893 many notes were written on it. Three categories of notes record the history of the alterations made to the plan after March 1893. These three categories are:

- (a) approvals on behalf of the chief surveyor;
- (b) approvals by a judge of the Native Land Court; and
- (c) memoranda by draughtsmen that title diagrams had been prepared for the Native Land Court orders.

These notes are scattered all around Stubbing's plan ML6406 etc. Most are signed by W C Kensington. When he signed on behalf of the chief surveyor he signed his full name. When he signed in his capacity as chief draughtsman he often used only his initials. It seems clear however that "W C K" and "W C Kensington" are the same person.

19 April 1893 - Diagrams prepared to complete Crown's title to Pouakani B7, B9, B11 & C3:

Court order diagrams were very quickly drawn for Pouakani B7, B9, B11 and C3 in order to complete the Crown's title to these lands. The last signature on the deed of sale of these blocks and Pouakani B10 and D4 to the Crown is dated 12 March 1892. In 1893 Stubbing's plan ML6406 etc was approved on behalf of the chief surveyor on 21 March and by Chief Judge Davy on 25 March. By 19 April 1893 diagrams had been drawn on the orders of the Native Land Court creating title to Pouakani B7, B8, B11 and C3. On that date W C Kensington, the Chief Draughtsman, signed a certificate that read "Placed on Orders of the Court as for B7, B9, B11 and C3". Figures [8](#), [9](#), [10](#) and [11](#) are copies of the diagrams that form part of the title orders creating Pouakani B7, B9, B11 and C3. Endorsed on the diagrams was a box enclosed in double lines with provision for the scale of the diagram, and the names of the chief surveyor, surveyor and draughtsman to be entered. The box seems to have been put on by a rubber stamp and the right hand end of the bottom lines is slightly distorted. In the case of Pouakani B7, B8, B11 and C3 the scale is 160 chains to an inch, the chief surveyor is G Mueller, the surveyor is D Stubbing and the draughtsman is E Morrow.

Stubbing's plan ML6406 etc also surveyed Pouakani C2. In fact, of all the blocks shown on Stubbing's plan ML6406 etc, Pouakani C2 is the only block with boundaries shown on the plan as having been completely defined by survey when Stubbing sent it to the chief surveyor on 2 November 1892. But the deed of sale of

Pouakani C2 to the Crown was not signed until 6 December 1897 and 12 March 1898. A diagram for the title order (on investigation of title made on 11 August 1891) for Pouakani C2, was not prepared until 29 May 1900, seven years after the diagrams were prepared for the title orders for Pouakani B7, B9, B11 and C3 sold to the Crown in 1892 ([figure 12](#)).

21 July 1899 - Stubbing's plan ML6406 etc produced in the Native Land Court at Kihikihi:

Nothing was added to Stubbing's plan between 19 April 1893 and 21 July 1899. An exhibit note signed by Judge Edger shows that on 21 July 1899 Stubbing's plan ML6406 etc was produced at the Native Land Court at Kihikihi on the definition of the interests of the Crown in Pouakani B9 (Pureora), Pouakani C1 (Kaiwha) and the Pouakani A1, A2 and A3 blocks. The deed of sale of Pouakani C2 to the Crown was signed on 6 December 1897 and 12 March 1898. On 27 June 1898 the court made an order vesting Pouakani C2 in the Crown. On 21 July 1899 the court made orders creating Pouakani A1A, A2A and A3A and vesting these blocks in the Crown. On 24 July 1899 the court made an order creating Pouakani B9A and vesting this block in the Crown. On 26 July 1899 the court made an order creating Pouakani C1A and vesting this block in the Crown.

10 November 1899 - diagrams drawn to complete Crown title to Pouakani A1A, A2A, A3A, B9A, C1A and C2:

On 10 November 1899 the chief draughtsman, W C Kensington initialled a note on Stubbing's plan ML6406 etc that read "entd on Court Order Forms as for A No 1a, A No 2a, A No 3a, B No 9a and C No 1a & C No 2". Figures [13](#), [14](#), [15](#), [16](#), [17](#) and [18](#) are copies of the diagrams prepared on or just before 10 November 1899. In the case of Pouakani C2 the diagram was not attached to the order on investigation of title made on 11 August 1891 that created the title to Pouakani C2, but to the order of 27 June 1898 vesting Pouakani C2 in the Crown. The box on these diagrams shows that the scale is 80 chains to an inch, except for Pouakani C2 where it is 20 chains to an inch, the chief surveyor is G Mueller, the surveyor is D Stubbing and the draughtsman is P S Sherratt. The same rubber stamp has been used as appears on the diagrams prepared on or before 19 April 1893.

1 December 1899 - judge approves plan in respect of "A" blocks vested in Crown:

On 10 November 1899, the same date as the date on which, as chief draughtsman, W C Kensington initialled the note that diagrams had been prepared for Pouakani A1A, A2A, A3A, B9A, C1A and C2, W C Kensington, on behalf of the chief surveyor, approved Stubbing's plan ML6406 etc as to the Pouakani A1A, A2A, A3A, Pouakani B9A and Pouakani C1A blocks now shown on it. Judge Edger approved the plan in respect of the same blocks on 1 December 1899.

29 May 1900 - diagrams drawn for "B" blocks vested in non-sellers and for 1891 orders creating Pouakani A1, A2 and A3, Pouakani B9 (Pureora), Pouakani C1 (Kaiwha) and Pouakani C2:

There was a delay of some six months before the diagrams were drawn on or shortly before 29 May 1900 for the "B" blocks, Pouakani A1B, A2B, A3B, B9B and C1B blocks, that were vested in the non selling Maori owners. The note also records the drawing of diagrams for the parent titles Pouakani A1, Pouakani A2, Pouakani A3, Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) created by orders on investigation of title made on 11 August 1891. The note also records the preparation of a diagram for the order on investigation of title in respect of Pouakani C2 made on the same date. Figures [19](#), [20](#), [21](#), [22](#), [23](#), [24](#), [25](#), [26](#), [27](#), [28](#) and [29](#) are copies of these diagrams. These diagrams show that the chief surveyor now has a new rubber stamp showing a box enclosed by only a single line instead of a double line. The scales this time are 20, 80 and 160 chains to an inch, the chief surveyor is Gerhard Mueller, a line has been drawn through the place where the name of the surveyor who prepared the plan would have been written and the draughtsman is Edgar J Clarke. It is clear from the diagrams themselves, and from the notes on Stubbing's plan ML6406 etc, that the diagrams required to complete the orders on investigation of title made on 11 August 1891, creating Pouakani A1, Pouakani A2, Pouakani A3, Pouakani B9 (Pureora), Pouakani C1 (Kaiwha) and Pouakani C2, were not prepared until the diagrams for the title orders made in July 1899, creating Pouakani A1B, A2B, A3B, B9B and C1B were prepared, on or shortly before 29 May 1900, and over six months after diagrams were prepared on 10 November 1899 for the lands that the Crown had acquired.

On 26 June 1900, W C Kensington on behalf of the chief surveyor approved Stubbing's plan ML6406 etc as to Pouakani A1B, A2B, A3B, B9B and C1B. Judge Edger, on 29 June 1900, approved the plan as to these divisions. Since Pouakani B9A and Pouakani B9B comprise the whole of the parent Pouakani B9 (Pureora), and Pouakani C1A and Pouakani C1B comprise the whole of the parent Pouakani C1 (Kaiwha), Judge Edger's approvals on 1 December 1899 and 29 June 1900 also approved, by implication, the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) that had been drawn on Stubbing's plan ML6406 etc.

When was the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) drawn on Stubbing's plan ML 6406 etc?

It seems to us to be clear from the records that the boundary line between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) that now appears on Stubbing's plan ML6406 etc had not been drawn on that plan in March 1893 when it was approved on behalf of the chief surveyor and by Chief Judge Davy. This conclusion is based on:

- (a) the evidence on the plan itself that the divisions between the Pouakani A blocks were not on the plan then;
- (b) the evidence on the plan itself that the dimensions of the internal boundaries of the Pouakani B7, B9, B11 and C3 area were added later;
- (c) the evidence on the plan itself that the division between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) was not on the plan then;
- (d) the evidence of the diagram on the deeds of sale of the Pouakani A blocks which shows that the divisions between Pouakani A1, A2 and A3 were not drawn on

Stubbing's plan ML 6406 etc until after Pouakani A1, A2 and A3 had been subdivided into Pouakani A1A, A1B, A2A, A2B, A3A and A3B in 1899;

(e) the evidence of the diagrams on the deeds of sale of Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) which show a different boundary between these two blocks from that shown on Stubbing's plan ML6406 etc, and which also show that, in contrast to the two deeds of sale of interests in the Pouakani A blocks, the two deeds in respect of each block were prepared on different dates and that the later deed for each block must have been prepared well after Stubbing's plan ML6406 etc had been approved on behalf of the chief surveyor and by Chief Judge Davy.

If the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) did not appear on Stubbing's plan ML6406 etc in March 1893 when that plan was approved by the chief surveyor and Chief Judge Davy, when was this boundary drawn on the plan?

The orders creating the titles to Pouakani B9A and Pouakani B9B were made on 24 July 1899 and the orders creating title to Pouakani C1A and Pouakani C1B were made on 26 July 1899. We think that the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) was drawn on Stubbing's plan ML6406 etc at the same time as the boundary between Pouakani B9A and Pouakani B9B, and the boundary between Pouakani C1A and Pouakani C1B. Judge Edger's instructions to the chief surveyor said that the western end of the boundary between Pouakani C1A and Pouakani C1B starts from the boundary between Pouakani B9B (Pureora) and Pouakani C1 (Kaiwha) ([figure 2](#)) had ever appeared on Stubbing's plan ML6406 etc in that form "21650" would have been written on Stubbing's plan ML6406 etc on the 21650 link leg of the boundary between them. The figures "21650" do not appear on that boundary on Stubbing's plan ML6406 etc. It could have been rubbed out when the subdivisions into Pouakani B9A and Pouakani B9B and Pouakani C1A and Pouakani C1B were drawn on the plan, but we have no evidence that it was ever written there.

If Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha), that appear on the diagrams now forming part of the orders of 11 August 1891 creating these titles, had ever appeared on Stubbing's plan ML 6406 etc in that form, their respective areas of 10,000 acres and 7,900 acres would have been written on Stubbing's plan ML6406 etc. These areas of 10,000 and 7,900 acres do not appear on Stubbing's plan ML6406 etc. Again, these areas could have been rubbed out. But the inscriptions "Total Area 17900.0.0", "Pouakani B No 9 Pureora Block" and "Pouakani C No 1 Kaiwha Block" remain on the plan. If anything was going to be rubbed out as being obsolete, it would have been "Total area 17900.0.0".

The title orders creating Pouakani B9A, Pouakani B9B, Pouakani C1A and Pouakani C1B were made on 24 and 26 July 1899 respectively. An exhibit note on Stubbing's plan ML6406 etc signed by Judge Edger and dated 21 July 1899 shows that it was "Produced at N.L.Court, Kihikihi upon def.[inition] of Crown interest in C No 1, B No 9 and A Nos 1, 2 & 3". The description of the boundaries of Pouakani B9A and B9B signed by Judge Edger was written before the description of the boundaries of Pouakani C1A and Pouakani C1B was written because the definition of a boundary of Pouakani C1A and Pouakani C1B says that the boundary between Pouakani C1A and Pouakani C1B is to start "from the end of the South East boundary of B No 9A". It is

probable that the boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) had been drawn on the plan in pencil. The date of the next note on Stubbing's plan ML6406 etc is 10 November 1899. This is the date of a note by the Chief Draughtsman W C Kensington that read "entd on Court Order Forms as for A No 1a, A No 2a, A No 3a, B No 9a and C No 1a & C No 2". The boundary between Pouakani B9 (Pureora) and Pouakani C1 (Kaiwha) must therefore have been drawn in on Stubbing's plan ML6406 etc between 24 July 1899 and 10 November 1899.

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*Waitangi Tribunal, Department of Justice, Wellington.*