

The Pouakani Report 1993

Appendices

8 Report of Native Land Court on Petition No. 109/1931 of Pepene Eketone and others re Tahorakarewarewa Block

There was a long delay in bringing on this inquiry due mainly to the death of Pepene Eketone the only person amongst the natives who claimed to have any knowledge of the subject.

Inquiry was eventually held at Te Kuiti on 28th May last [1935]. Mr Taite te Tomo M.P. stated he represented the natives generally. He made a statement as to happenings before the Native Affairs Committee which I did not consider came within the scope of my inquiry.

Mr Phillips solicitor appeared for claimants of N'Matakore hapu and Mr Elliott native agent for N'Rereahu hapu, both hapus being of N'Maniapoto tribe. Mr Darby for the Lands Department.

No evidence was called for the natives and Mr Phillips in his opening address stated frankly that they relied on the plans and other records produced by the Crown.

A short adjournment was taken to enable inspection of plans &c. by the parties.

On resuming Mr Phillips stated that he referred to report of Taupouniatia Commission in 1889. To plan 6498D approved 7th February 1899. This plan Mr Phillips stated shows the land claimed by the petitioners as the uninvestigated native land referred to in the Petition. The area is 1538 acres and is described as "Punakerikeri Block". This plan however shows on its face that it was not prepared till 1899 and it is stated on it that "it is portion of Maraeroa A Block already adjudicated upon and orders made".

Plan marked A attached hereto shows Punakerikeri Block on reduced scale. Plan 6077 shows the same area and boundaries but marked on this plan as "C".

Plans 6076 of Tihoi Block and 6078 of Waihaha Block were referred to as showing that the area was not included in either of those blocks which adjoin it in the east and south east respectively. On north west it is of course bounded by portion of Maraeroa A.

Mr Phillips submitted that the records showed that the area was part of Maraeroa and if so the natives denied having sold it to the Crown.

Mr Elliott did not address stating that if the land were found to be native land he would then claim for his section.

Mr Darby for Lands Department produced the plans referred to and directed the Courts attention to proceedings before the Taupouiatia Commission and in the Native Land Court on investigation of title of Maraeroa in 1891.

The history of the matter as I gather it from the records may be said to have begun with the report of the Taupouiatia Royal Commission in 1889 fixing a boundary between Ngatimaniapoto and Ngatituwharetoa tribes (Parliamentary paper G.7/1889). This report was given statutory effect by Section 29 of The Native Land Courts Amendment Act 1889 (No. 32). This section enacts that "the western boundary of the land known as Taupouiatia is hereby declared to be and shall be deemed to have been the line defined as such western boundary in the said report (of the Commission) and shown in the map numbered 180 deposited in the office of the Surveyor General at Wellington".

The Commission's finding was:

We find that the portion of the boundary line between the N'Maniapoto and N'Tuwharetoa 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 along the northeastern 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.

I have inspected a certified copy of Plan 180 supplied to me by Survey Office, I attach a sun print of it.

The boundary given in the report and especially the reference to Tahorakarewarewa appear somewhat ambiguous. It was however admitted by Mr Darby that the area now in question is situated on the eastern slope of the Hurakia Range.

I now come to the investigation of title of Maraeroa in 1891. The minutes are in Waikato Minute Book 28. The plan before the Court was No. 6077 already referred to. The boundary claimed by Te Paehua Matekau on behalf of N'Maniapoto included the area of 1538 acres marked "C" on the plan as already mentioned.

Pepene Eketone himself was the conductor for N'Maniapoto. On p. 29 of Minute Book 28 the Court stated, in answer to Pepene that "the part of Maraeroa Block marked "C" 1538 acres would be included in the present investigation."

It does not appear that any question arose as to the boundary from Weraroa to Tahorakarewarewa or as to the 1538 acres marked "C". Te Heuheu was present but did not set up that this area belonged to Tuwharetoa. The claimants however admitted Te Heuheu and his sisters into their list.

Papanui Tamahiki set up a claim under Tuwharetoa and Tia but it referred to the southern part i.e. the boundary from Weraroa to Pakihi.

Hence it may be fairly said that N'Tuwharetoa as such did not claim this area marked C.

Evidence of Robert Cashel surveyor on p. 103 Minute Book 35 [sic, should be Waikato MB 28] states that he cut the line from Pureora along the ridge to Weraroa. That is along the east [sic] and south east [sic] boundaries of the area "C".

He "then proceeded to cut a line towards Ketemaringi but found that was not the watershed because it was intersected by a stream. Maoris said it was Maramataha, it runs parallel with the ridge. I went back to Weraroa and started again on the proper ridge which is not intersected by a stream I continued the survey to Pakihi. *I followed the instructions in the Gazette in pursuance of the decision of the Commissioners which was that the line should follow the watershed.*"

This evidence does not appear to have been challenged except by Te Papanui as to the part I have already referred to.

The Court in its judgment (Minute Book 35 [sic = 28] pp. 113/116 rejected the claim by Te Papanui and held that the true boundary was the line surveyed by Mr Cashel. The Court awarded the land "to the several hapus named in the prima facie case" (claimants case).

On pp. 164/5 of Minute Book 35 [sic = 28] are the Court orders for:
Maraeroa A

in favour of Te Paehua Matekau and others to include portion marked "C" 1538 acres, also part of portion (sic) of Maraeroa included in Pouakani shown in pencil on plan.

Maraeroa B

in favour of Hoani Takerei and others.

Maraeroa C or Pukemako

in favour of Waretini Ringitanga and others.

The allegation in the Petition that this area was not investigated at the investigation of title of Maraeroa Block is therefore incorrect. It has been investigated and awarded to N'Maniapoto people. These orders were not cancelled by the Taupouuiatia Commission as they were made some two years after that Commission had made its report.

The diagram originally attached to the Court order and the order itself showed the area of Maraeroa A as 18938 acres. The Chief Judge subsequently on the 16th October 1911 purporting to act under Section 27 of The Native Land Act 1909 amended the order by reducing the area of Maraeroa A to 16687 acres with a fresh diagram. The difference went into Maraeroa C. It does not affect the present inquiry, the alteration being entirely on the western boundary of Maraeroa A. I attach copies of these two diagrams marked B and C. I do not enter upon the question of the jurisdiction of the Chief Judge.

I now come to the allegation that the 1538 acres have not been sold to the Crown.

On 13th March 1901 (Otorohanga Minute Book 40 p.2) application was made to the Court (Judge Mair) to define the interest of the Crown in Maraeroa A. The area

acquired by the Crown was stated as 176* shares representing 12199 acs. 0 rds. 18ps. plus 865 as. 2rds. 06ps. for Survey liens-Total 13064 acs. 2 rds. 26ps. Te Paehua on behalf of the non-sellers agreed to give up to the Crown the southern end of the block "by a line from East to West parallel to the north boundary leaving 13065 acres on the South of the line". This of course included the 1538 acres in the Crown award. Mr G.T.Wilkinson represented the Crown on these proceedings. I have inspected the Deed of Sale to the Crown which shows that the purchase was effected in 1896.

The diagram or plan on the Deed of Sale is a copy of the original diagram showing 18938 acres attached to the Court order for Maraeroa A.

The Crown award was named Maraeroa A Section 2 containing 13065 acres and it was proclaimed Crown Land on 29th August 1901. When the alteration was made in the western boundary by the Chief Judge in 1911 as already referred to, the order for Maraeroa A Section 2 was amended by reducing the area to 11603 acres and a fresh diagram attached showing that area. Copy of this diagram attached marked D.

This area of 11603 acres which includes the 1538 acres claimed by the natives has beyond all doubt become Crown Land.

I report accordingly.

A statement was made to me at the close of the inquiry that if it was found that the land was Crown land a claim would be made on behalf of N'Tuwharetoa that the true owners had not sold to the Crown. I declined to enter into any such question as it was entirely outside the scope of the inquiry I was directed to make but I have dealt with the boundary at greater length than I considered necessary to report as to the claims and allegations of the Petition into which I had to inquire.

Dated this 5th day of July 1935.

[Judge MacCormick]

Source: National Archives Le1/1962/12 (No. 8).

Waitangi Tribunal, Department of Justice, Wellington.