

The Pouakani Report 1993

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.

Waitangi Tribunal, Department of Justice, Wellington.

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9.2 The Pieces in the Jigsaw Puzzle

When the Native Land Court investigated the title to Taupouuiaria 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 Taupouuiatia 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 Taupouuiatia 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 Taupouuiatia West.

The first board ([map 9.1](#)) has cut out of it the outline of the Taupouuiatia West block. The pieces comprise three parts of the Horaaruhe Pouakani area, Tihoi block, Maraeroa block and the balance of Taupouuiatia West made up of the 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 Taupouuiatia block, Taupouuiatia 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 Taupouuiatia West block: {FNREF:0-86472-117-XA:9:1}

Maraeroa	(estimated area 41,245 acres)
Pouakani	(estimated area 63,000 acres)
Pouakani No. 1 (Crown)	(estimated area 20,000 acres)
Pouakani No. 2	(estimated area 30,000 acres)
Kaiwha	(estimated area 7,200 acres)
Hapotea	(estimated area 3,000 acres)
Tihoi	(estimated area 90,140 acres)
Waihaha	(estimated area 58,500 acres)
Waihaha No. 1	(estimated area 18,076 acres)
Waihaha No. 2 (Crown)	(estimated area 11,824 acres)

Te Awaiti Waihaha	(estimated area 100 acres)
Hauhungaroa	(estimated area 58,200 acres)
Waituhi Kuratau	(estimated area 17,800 acres)
Waituhi Kuratau No 1	(estimated area 8,000 acres)

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 Maori 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 Hauhungararoa 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 Horaaruhe 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 Horaaruhe Pouakani (ML6077);
- (b) the part of Horaaruhe 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 Horaaruhe 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 Horaaruhe 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 Horaaruhe 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 Waituhi 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. {FNREF:0-86472-117-XA:9:2} 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 Horaaruhe Pouakani block, should again become uninvestigated Maori land ([map 9.2](#)).

In 1891 the Native Land Court heard applications for the investigation of title of Pouakani and Maraeroa blocks. [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 Tapuraroa, Tapararoa or Tapororoa) 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 Taupunuiatia 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, 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.

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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 Taupouiatia 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 had been vested in the Crown, and that it had 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'Hinekahu. The above areas leave about 95,000 acres for disposal amongst the parties before the Court". {FNREF:0-86472-117-XA:9:3} 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. {FNREF:0-86472-117-XA:9:4}

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 Otorohanga, G T Wilkinson, 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 {FNREF:0-86472-117-XA:9:5}

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 Horaaruhe 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 Horaaruhe 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 Paehua 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 Paehua's Taporaroa;

(b) the part of Horaaruhe Pouakani enclosed by a straight line from Te Paehua's Taporaroa to Pureora and then back to Te Paehua's Taporaroa along the angled line that Stubbing surveyed in 1892 on his plan ML6406 etc;

(c) the total of both areas.

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 Taupouuiatia 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 bushcovered 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 Taupouuiatia 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 Taupouuiatia 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". {FNREF:0-86472-117-XA:9:6} 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. {FNREF:0-86472-117-XA:9:7}

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 Stubbing 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.

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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 1886 when Te Heuheu conceded some areas of Taupouniatia 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 Taupouniatia block, as set out in the evidence of the surveyor, W Cussen, to the Taupouniatia Royal Commission in 1889, was based on Te Heuheu's statement to the Native Land Court at Taupo on 16 January 1886:

I commence at Ruapehu, thence northerly to Petania thence to Taringamotu stream thence up that stream to Oruaiwi thence along the eastern slope of Tuhua range to Pakahi [sic] thence to Tuhingamata thence to Maraeroa thence to Turiohinetu thence to Tomotomoariki thence to Pouakani thence by the Waipapa stream to the Waikato river.
(A5){FNREF:0-86472-117-XA:9:8}

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 Tauponuiatia 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". {FNREF:0-86472-117-XA:9:9} 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, whares, dead buried and pa's on this land. The ancestor is Karewa. {FNREF:0-86472-117-XA:9:10}

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

My tribe is N'Matakore, my hapus are N'Karewa, N'Poutu, N'Whakaterere, 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 Tuhingamata, thence to Tauwharepurakau, thence to Waeraroa [sic], thence to Tearatawhera, thence to Tahora Karewarewa, thence to Pureora, thence to Pukenui, thence to Koheta, thence to Papakaramu, thence to Koromatuaru, thence to stream called Hohahau, thence to Waipapa stream which it crosses, thence to Kopuru, thence 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. {FNREF:0-86472-117-XA:9:11}

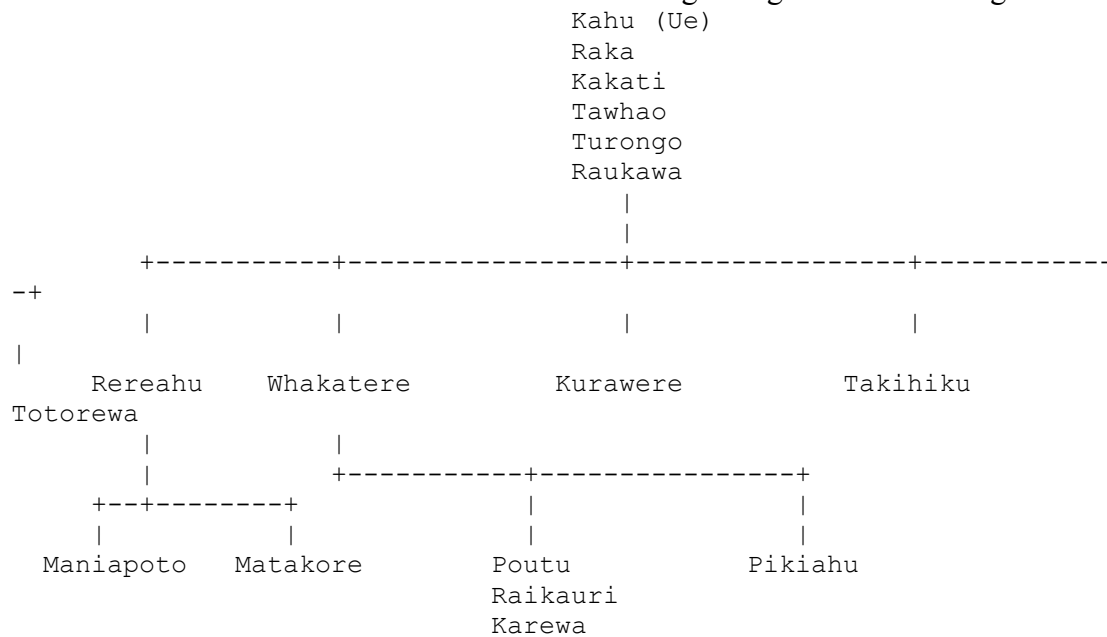
This description of the boundary makes it clear that one of the boundary points between Pureora and Taporaroa was the junction of the Ohahau (Hohahau) and Waipapa streams, a point that was not located by survey until Stubbing surveyed the boundary between Maraeroa and Pouakani blocks in 1892. Te Paehua 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. {FNREF:0-86472-117-XA:9:12}

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:



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. {FNREF:0-86472-117-XA:9:13}

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. {FNREF:0-86472-117-XA:9:14}

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. {FNREF:0-86472-117-XA:9:15}

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 Waihi, 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'Pikiahū. 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 Paerata 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 Hapus 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

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. {FNREF:0-86472-117-XA:9:16}

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 {FNREF:0-86472-117-XA:9:17}

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. {FNREF:0-86472-117-XA:9:18}

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. {FNREF:0-86472-117-XA:9:19}

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. {FNREF:0-86472-117-XA:9:20}

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. {FNREF:0-86472-117-XA:9:21}

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 UnderSecretary, 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". {FNREF:0-86472-117-XA:9:22}

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 Oruaiwi 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". {FNREF:0-86472-117-XA:9:23}

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. {FNREF:0-86472-117-XA:9:24}

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. {FNREF:0-86472-117-XA:9:25}

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. {FNREF:0-86472-117-XA:9:26}

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.

Waitangi Tribunal, Department of Justice, Wellington.

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9 Transactions on the Maraeroa and Pouakani Blocks

9.5 The Taupouuiatia Royal Commission Recommendation

The Taupouuiatia 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 GM 180, 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 Taupouuiatia Royal Commission was asked to address the question:

Whether the boundary of the said block of land called Taupouuiatia, 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. {FNREF:0-86472-117-XA:9:27}

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 Taupouuiatia Royal Commission in 1889. Late in 1992 the original plan GM180 was located in the National Archives. Comparison of the two plans confirmed that the 1933 copy was accurate in respect of place names and boundary details. The original also carried a

note indicating it had been drawn in April 1889, before the Tauponuiatia Royal Commission was appointed (see appendix 12e for details of both plans).

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 Taporaroa a settlement of the Matakore and Karewa, thence to Owahau 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, Ngapuketuru, 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 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 Taonui, 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. {FNREF:0-86472-117-XA:9:28}

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, Taonui'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 (ML5995D) 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. {FNREF:0-86472-117-XA:9:29}

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 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,-

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.
{FNREF:0-86472-117-XA:9:30}

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
14. *ibid* p 62
15. *ibid* p 72
16. *ibid* pp 82-83
17. *ibid* p 81
18. quoted in A R Parsonson "Te Whenua Te Utu" PhD Thesis
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*