

The Pouakani Report 1993

7 The Rohe Potae

7.1 Introduction

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

Tawhiao called upon Ngatimaniapoto (through Wahanui) to know what he should do in his extremity. The reply was not long in coming, and under the circumstances was what was to have been expected. It was in effect - as reference to reports will show - "No, not yet; we will hold out still longer;" and when we consider now that Ngatimaniapoto, really the power and backbone of kingism, have during the last few years been apparently ignored by Europeans, while Tawhiao, who was only their head so long as they allowed him to be so, was being fêted and extolled wherever he travelled within European territory, it cannot be wondered at, that Wahanui having thus the whole power and responsibility thrown suddenly and openly upon him, should take advantage of the situation in which he found himself placed. Although his speeches in reply to the Hon. The Native Minister had at that time an appearance of defiance about them, his action during subsequent negotiations has shown that he is really actuated by a desire for the future welfare and well-being of his people and their lands. He, curiously enough, entirely ignores Tawhiao, as King, having any right or claim over the Ngatimaniapoto lands; neither do they (the Ngatimaniapoto) propose to do anything in the way of providing land out of their large store for Tawhiao and his people {FNREF:0-86472-117-XA:7:1}

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

It is an all absorbing topic with them just now, and they have requested that all surveys and public works be postponed in their district until they shall have come to a decision amongst themselves as to the way in

which they can best throw their lands open to the public with advantage to themselves. They have carefully noted the unsatisfactory way in which the Natives who are now attending the Cambridge Native Land Court are dispossessed of their lands, partly through expensive litigation, and partly through the unsatisfactory system of land purchase now in vogue. They propose, after due deliberation amongst themselves as to the best way in which to dispose of their land, to petition Parliament to have a new Land Act passed, which will embody as far as possible the scheme they have to propose. Should this be found practicable, and effect be given to it, there will then be no objection on their part to the throwing open of their country for settlement. In fact, when the proper time arrives, I shall not be at all surprised if they are then as anxious for public works to be carried on over their lands as they have previously been opposed to them - but they wish the new state of affairs to be put on a proper basis first, and the opening of the country to follow. The principal drawback in the matter is the great delay in getting them to come to any decision amongst themselves as to what they really do want. They have amongst themselves so many individual opinions and ideas, they are so jealous of one another, and of investing their chiefs with too much power and authority over the lands as a whole, and, last, but not least, there are so many Europeans who consider they have a mission to counsel and instruct them as to what is the best thing to be done, and how to do it, that really it is not to be wondered at that they are bewildered, and cannot make up their minds quickly as to how they will act. As soon however, as they have decided what to do, and their petition is signed, it is the intention of Wahanui, or some one else representing the tribe to convey it in person to Wellington, and endeavour to bring about the desired results. {FNREF:0-86472-117-XA:7:2}

On 26 June 1883, a petition of the Maniapoto, Raukawa, Tuwharetoa and Whanganui tribes was presented to the House of Representatives. The full text in English and Maori is reproduced in appendix 6. The principal complaint was the tendency of legislation enacted so far "to deprive us of the privileges secured to us by the second and third articles of the Treaty of Waitangi, which confirmed to us the exclusive and undisturbed possession of our lands." The operation of the Native Land Court, particularly the Cambridge court, and the activities of Pakeha land speculators (nga whenua horo, land swallows), lawyers and land purchase agents, all claiming to act in the interests of Maori, had served only to separate Maori from their land. In short, they wanted a better system of administering their lands:

What possible benefit would we derive from roads, railways, and Land Courts, if they become the means of depriving us of our lands? We can live as we are situated at present, without roads, railways, or Courts, but we could not live without our lands. {FNREF:0-86472-117-XA:7:3}

The petition was not intended to keep the lands "locked up from Europeans, or to prevent leasing, or roads being made therein", but a plea for a more equitable system

of land administration in which Maori had more control of their own affairs. Specific requests were made in the petition:

1. It is our wish that we may be relieved from the entanglements incidental to employing the Native Land Court to determine our titles to the land, also to prevent fraud, drunkenness, demoralization, and all other objectionable results attending sittings of the Land Court.
2. That Parliament will pass a law to secure our lands to us and our descendants for ever, making them absolutely inalienable by sale.
3. That we may ourselves be allowed to fix the boundaries of the four tribes before mentioned, the hapu boundaries in each tribe, and the proportionate claim of each individual within the boundaries set forth in this petition
{FNREF:0-86472-117-XA:7:4}

The lands intended to be included are shown in [map 7.1](#). The boundary shown as "surveyed" by L Cussen and others was not surveyed on the ground but is derived from a plan published by the Survey Office, Wellington in September 1884, titled "Sketch Map of the 'King Country' based upon Trigonometrical and Topographical Survey by L Cussen, F H Edgecumbe and W C C Spencer." {FNREF:0-86472-117-XA:7:5} A different line is shown on the Survey Office map of 1885 which accompanied the published reports on the decision made by Ngati Maniapoto in December 1883 to allow a survey of their boundaries. {FNREF:0-86472-117-XA:7:6}

Waitangi Tribunal, Department of Justice, Wellington.

The Pouakani Report 1993

7 The Rohe Potae

7.2 The King Country Survey

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

Meeting with Ngatimaniapoto just completed. Great deal of underhand opposition to Government surveyors undertaking survey of tribal claim, but Natives now all concur. Hope to commence next week. Triangulation will go on immediately. Have asked Humphries if he can spare a surveyor, to start from confiscation line, White Cliffs, to meet another who will commence in middle on upper branch, Wanganui, whilst Edgecumbe will start from Ruapehu. Final arrangement will be made after meeting you at Kawhia, for which place I start on Friday morning. {FNREF:0-86472-117-XA:7:7}

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

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

Kua whakaae matou ma to Kawanatanga e whakaoti pai nga ruritanga tika o te rohe porotaka o to matou poraka e taea ai te whakaputa mai te Karauna Karaati ki a matou me o matou iwi me o matou hapu hoki, mo te utu kua whakaritea mai nei e koe e kore e neke atu i te kotahi mano i te ono rau pauna £1,600 hei utunga ma matou. Na ko ta matou kupu tuturu tenei kua rawa tenei whakaritenga e whakarereketia e tetahi atu tikanga, e tetahi atu Kawanatanga ranei a muri ake nei.

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

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

We consent that the Government should make an accurate survey of the external boundary of our block in order that a Crown grant may issue to us, our tribes, and our hapus for the price as arranged by you, namely, that the cost to us should not exceed £1,600. Now, this is our

decided word: this agreement must not be altered by any other arrangement or by any future Government.

Wahanui
Taonui
Rewi Maniapoto
Ngahuru Te Rangikaiwhiria
Te Herekiekie
Te Pikikotuku

Awamutu, 19 Tihema, 1883

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

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

Na Te Mete, Tumuaki Kairuri

Awamutu, 19th December, 1883.

To Wahanui, to Taonui, to Rewi Maniapoto.

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

J.[sic] P.Smith (Te Mete), Chief Surveyor. {FNREF:0-86472-117-XA:7:8}

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

At present their minds are too much taken up with the much larger questions of their recent secession from the King party, and their present action in surveying the large block of land which they claim to own in their own right, and their determination to put it through the Court as soon as the surveys are completed. As this action of theirs has met with the disapproval not only of Tawhiao and his supporters, but also of certain other tribes who claim an ownership within the block, it requires all the care and attention that their leading men can give to the matter to enable them to bring about what they want, without incurring any serious difficulty between themselves and other tribes. {FNREF:0-86472-117-XA:7:9}

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

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

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

It was also decided that, in conjunction with this survey of the boundaries of the large block, the Government trig. survey was also to be carried on, as well as the prospecting surveys for the main trunk railway-line (which were already in progress), and within one month from that date all those surveys were in full swing. The Natives, however, made a proviso that no prospecting for gold should be allowed until the land had passed the Court. {FNREF:0-86472-117-XA:7:10}

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

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

The trig. survey has been the only one that has suffered in any way from Native obstruction, and that only to a slight extent; most of the destruction that has taken place having arisen either from a mistaken notion as to what the work meant or an idea, which is quite common amongst Natives, that to call attention to one's self by pulling down a trig. station, and thus causing temporary trouble, is a preliminary way of demonstrating their ownership of the land on which the station was erected, and thereby contributing a sort of prima facie case, to which they would not fail to make reference when the land came to be adjudicated upon by the Native Land Court. Such being the case, these slight delays, although vexatious, have been passed over without the law having been called in to punish offenders. All the stations that were pulled down ... have been re-erected, and action of that kind on the part of the Natives has now ceased. {FNREF:0-86472-117-XA:7:11}

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

It is, I think, almost impossible to over-estimate the value of the results brought about by these meetings, when we take into consideration the fact that only a short time ago these Natives who are now agreeable to surveys, by whatever name or in whatever shape or form, and who are now anxious to substitute their rude and undefined Native title for that of a legal one, issued under the authority of the Crown, are the self same Natives who for the last twenty-five years have not only been bitterly opposed to anything of the sort, but have also during that time resolutely closed their country against all progress and civilization. I think it must undoubtedly be a matter for congratulation to everyone

when we consider that not only have the feelings of the Natives of that large district changed from those of sullenness and distrust to those of friendliness towards us as a race, but also because a large area of country which has been locked up for such a number of years will now be thrown open for settlement. {FNREF:0-86472-117-XA:7:12}

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

I think it is a pity that Europeans should attempt just yet to prospect for gold in those districts [Tuhua ranges]. In the first place they are breaking the law by going there for that purpose, and in the second place the Natives do not want them there, and would rather they would keep away until matters that are of more importance to them are settled. Not only that, but the very fact of their going there in the surreptitious way in which they are doing is really delaying the opening-up of the country, and making the Natives suspicious, as they think we want to take an advantage of them. I think we cannot be too careful of the way in which we treat the Natives just now. They are at present all-absorbed with this new policy, which they have lately started, of surveying and putting their lands through the Court. The whole thing is quite a new experience to them, and their opinions as to the probable result are very diversified, some seeing in it elements of downfall for the Maori people, whilst others again claim that it will be for their benefit. Time will show which of these opinions is correct; but I think that we, as Europeans, ought not to lose sight of the fact that as it is mostly through our exhortations, and the pressure that we are bringing to bear upon them, that this result is being brought about, so shall we be to a great extent responsible if, by bad management, bad laws, a bad example, the Natives as a race are allowed to suffer by what is now being done through our agency and at our express desire. That we as Europeans will benefit by having so much new country thrown open, and our public works allowed to proceed without hindrance, there can be, I think, no doubt; whether or not the Natives will equally benefit remains yet to be seen. Similar cases in former times have shown us that, where we have been gainers, they have been losers: where we have benefitted and advanced in the social scale, they have suffered and degenerated; what has resulted in success to us, has brought ruin on them. This surely ought not to be the case; and, with this new country, and, to a great extent, new people that are about to be given into our hands to manage and manipulate (so to speak), it behoves us, I think, to take special care that not only we, but they also, shall be benefitted by the change. {FNREF:0-86472-117-XA:7:13}

During 1885, Wilkinson made arrangements with the Kawhia Native Committee, chaired by John Ormsby, to allow prospecting on certain conditions. Twelve "bona fide and qualified prospectors" were recruited with the assistance of the warden of the Thames gold field, and sent, in six parties of two each, to explore the King Country for mineral resources in January 1886:

I regret, however, to have to say that all efforts so far to find payable gold have proved unsuccessful. Some of the parties, after working two or three months without success, have given it up and returned to their homes Some of the other parties were a little more successful, as in one or two cases they did get the "colour" here and there, but nothing to warrant their remaining in the district. There are, however, a party of Wanganui prospectors who have been prospecting in the Tuhua district for some months, and they say the prospects they have met with are such as to warrant their continuing the search. {FNREF:0-86472-117-XA:7:14}

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

At the Native meeting held at Kihikihi in December last ... arrangements were completed for the survey of the external boundaries of the Aotea block, comprising the greater part of the so-called King Country, and early in January Mr F.H.Edgecumbe and Mr W.C.Spencer proceeded to undertake the work. The former started from the Whanganui River near the 39th parallel, and ran the line south-easterly till he connected on to surveys lying immediately at the west base of Ruapehu; whilst the latter starting from the same place on the Whanganui, worked westwards until he effected a junction with the confiscation line east of the White Cliffs, which had been defined by Mr Skeet, of the Taranaki staff. Mr Edgecumbe had a good deal of trouble with some of the Natives on more than one occasion, but effected the purpose for which he was sent. {FNREF:0-86472-117-XA:7:15}

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

On the completion of this, and Mr Skeet's work at Mokau, a plan can be made to enable the Court to deal with this large block which is roughly estimated to contain 3,200,000 acres. {FNREF:0-86472-117-XA:7:16}

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

The bush work was very heavy and expensive. Seven stations were cleared by the Natives by contract at reasonable prices, which was a great advantage in expediting the work, and in preventing opposition from other Natives who might endeavour to stop Europeans. {FNREF:0-86472-117-XA:7:17}

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

He has covered the country west of the lake, and the downs on the west of Waikato River, comprising an area of nearly 500,000 acres, with a minor triangulation of four to six mile sides. {FNREF:0-86472-117-XA:7:18}

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

It was not to be expected that such a work as the triangulation of the King country would be carried on without meeting some opposition from the Natives, and, although the delays from this cause were considerable, and cost £250 or more, they were not so serious as might be expected considering the magnitude of the work, and certainly not more than I have met with in triangulating Native country for years past. The obstructionists might be divided into three classes: Those who obstructed to show their claim to the land and to protest against any one else authorizing the survey over it, and who were jealous of the chiefs: these were not many and gave us but little trouble. Secondly, the remnants of Tawhiao's followers, who opposed us to show their loyalty to the cause of the King: their opposition was feeble and half-hearted, and was only by way of a protest against the work; they would order us back and threaten to destroy the trig. stations; they did pull down two stations, but on our replacing them they have not again been disturbed. The third class were the most numerous, the most troublesome and difficult to deal with: they are those who, from various causes, are distrustful of the objects of the trig. survey, and the ultimate intentions of the Government with regard to their land, or who desire to have their land surveyed otherwise. The chief actors are men who mix a good deal with Europeans attending Land Courts, &c. and who are land-sellers. On beginning the trig. work I got letters from Rewi Maniapoto, Wahanui, Taonui, and Hitere [sic] te Paerata to their people. The first case of obstruction occurred at Kakapuku [sic], close to Kihikihi, where the trig. station was destroyed by Pahe and his people, a small hapu of the Ngatimaniapoto's called Ngatingawairoa. Their object was partly to assert their claim to the land and partly to uphold Tawhiao's authority. This station was twice pulled down by the same hapu, though not by the same men; but finally they gave way and allowed the station to remain there. I saw that we would probably meet with frequent interruptions in this neighbourhood and in the Wharepapa district, where it was said the Ngatihauas and Ngatiraukaua [sic] would show determined opposition. There was also a rumour that twenty armed men of the Ngatiraukaua were waiting at the Rangitoto Ranges to stop us. In consequence of these rumours, and in order to avoid the probability of having recourse to law to punish the obstructionists, which, by rendering the action of the chiefs unpopular, might weaken their influence and lead to further delays, I took the

liberty of suggesting that we should begin the work at Taupo, and by working northwards, have the greater part of the country surveyed when we reached the part where the opposition was strongest. We therefore removed to Taupo, with your concurrence, arriving there on the 21st March. I met Te Heuheu, Matuahu, and about thirty others - Ngatituwharetoas - at Waihi on my arrival; they refused to allow the work to go on because they said they had not been communicated with by the Government beforehand. Unfortunately they had not received the letters which the Hon. Mr. Bryce had written to them, and which were lying at the post office at Tapuaeharuru under cover to me. Neither had your letter to Te Heuheu and the others come to hand. However, when Te Heuheu and his people received these letters they were quite satisfied and allowed us to go on with the survey. There were a few other men in the South Taupo districts who were objecting but Te Heuheu and Matuahu used their influence with these and they waived their objections. On reaching the Tuhua district we were met with a more serious and troublesome opposition. The Natives said they were told Government would take large areas of land from them to pay for the trig. survey; that the maps would be used to investigate the titles to the land; taxation would follow, and Government would "lock up" their lands until they could secure it all for themselves; that the big chiefs were managing everything. A Committee was formed in Tuhua to manage local matters. They decided to prevent us from putting any more stations on their land; they would allow none of their people to accompany me or assist in any way, and no information such as names of rivers, hills, &c. was to be afforded us. Kingi te Herekeikei [sic] of the Ngatituwharetoas, was with the Tuhua Natives, and advised this course. He and Te Hiahia who was chairman of the Committee, had just returned from Kihikihi. I wrote to Wahanui and Taonui, informing them of the state of affairs. Wahanui came himself to Tuhua and met the Natives. He succeeded in arranging matters, and the work was allowed to go on again, after a fortnight's delay. The next place we met with any serious obstruction was at Wharepuhanga [sic], in the Wharepapa district about thirty miles from Kihikihi. I sent a party to put up a station there, and they were met by sixteen of the Ngatiraukautau, who were camped on the ground to obstruct the survey; they ordered my party off at once. I then went on to Wharepuhanga with sixteen men, including five Natives who were interested in the land. We were accompanied by Te Paihua and Kapu te Kohika, from Taupo. I met the Natives at Wharepuhanga on the 3rd of June. They said they were sent there by Whiti Patato to stop us; if we refused to go off they were to tear up our tents and bring us off the ground. I refused to leave and after some talking they asked me to wait for two days to give them time to telegraph to the Government. I consented to do so, lest there might be trouble between my party and the Natives. The Maoris who were with me were prepared to resist if the obstructionists attempted to take our tents. The Natives informed me that Rewi and Hitire had written to the tribes telling them to stop the survey. I got two of these letters, which I forwarded to you. I met the Ngatiraukautau subsequently at Kihikihi: Rewi and Hitire were present. Rewi denied

all knowledge of the letter bearing his name, and stated at the meeting that "the survey was his work: he had given his consent to Mr Bryce, and he would see that the work went on." Hitire admitted having signed Rewi's name without his knowledge, and that he had got the letter written entirely on his own responsibility, his reason being that, "as the Government intended to lock up their land under the pre-emption right, he wished all surveys to cease until the intentions of the Government were made known to the Maoris." He used Rewi's name to secure the cooperation of his people in stopping us. The result of the meeting was that the opposition was removed and the survey is now going on again, some of those who obstructed assisting in the work. Wahanui and Taonui have consistently helped on the work throughout. Taonui himself accompanied me to Te Kuiti, and there appointed men to take us over the Tuhua country. He told me to send for him at any time he could be of service to us. I might also mention that Mr Robert Ormsby, brother to Mr John Ormsby, of the Native Committee, who was attached to my survey party, has rendered me a good deal of assistance with the Natives. {FNREF:0-86472-117-XA:7:19}

Waitangi Tribunal, Department of Justice, Wellington.

The Pouakani Report 1993

7 The Rohe Potae

7.3 The "Aotea Agreement"

We have outlined events and quoted at length from reports of negotiations between representatives of the government and Ngati Maniapoto and other tribes leading to the decision of 19 December 1883 to allow a survey of the boundaries of the Rohe Potae. During submissions to the tribunal there were frequent references to the "Aotea Agreement". We understood this term to refer to the exchange of letters on 19 December 1883 which was an agreement "that the Government surveyors should make an accurate [sic] survey of the lines of the extended boundary of your block, in order that a Crown grant may issue to you and your tribes". {FNREF:0-86472-117-XA:7:20} This could be interpreted as a single Crown grant but, equally, it is implied that more than one tribe was involved and it could be inferred that each tribe would get its own Crown grant. The language is equally vague in both Maori and English versions of the letter from S P Smith, assistant surveyor general. There is no mention of the Native Land Court in the letters, but it would be well known that a Crown grant would only be issued after the title was investigated by the Native Land Court.

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

we can apply to the Chief Judge of the Native Land Court to define the boundary between us and the Ngatimaniapoto. Our lands extend from Te Wharepuhunga to Titiraupenga, thence to Hurakia, Tuhua and Taupo. {FNREF:0-86472-117-XA:7:21}

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

jealousy and fear of Wahanui getting more right to their lands than he is entitled to through having the name of putting these surveys through the country. I also think that having in a Maori way shown their ownership by obstructions, they will now desist and Mr Cussen could go on with his work. {FNREF:0-86472-117-XA:7:22}

In a letter dated 26 May 1885 Te Papanui Tamihiki and Maika Te Keepa wrote to the Native Minister, Mr Ballance, withdrawing the lands of their hapu, including Pouakani, from the Rohe Potae: "We say that our district is for us alone to administer. We do not approve of any one man administering our land". {FNREF:0-86472-117-XA:7:23}

Wahanui, it seems, did not seek personal control over these other tribal lands. He simply tried to define a boundary of territory within which the Native Land Court

would not operate, as this letter to Bryce, written in Wellington and dated 26 September 1884, made clear:

I am anxious to be quite clear as to your views. In order that there may be no misapprehension in the future will you please write to me before I leave here informing me of your intentions in the matter of the request I made to you that the Native Land Court should not deal with any lands within the exterior boundary of the territory owned by me and my four tribes so that we may have time to frame a law satisfactory to both races and to secure the repeal of the bad laws that are now in force. {FNREF:0-86472-117-XA:7:24}

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

He kupu atu tenei na matou kia koe mote Rohe Potae a Wahanui e takoto nei i runga i o matou whenua i o tenei iwi o Ngati Tuwharetoa.

Kaore matou e pai ki taana Rohe Potae, no Ngati Maniapoto ke hoki ia me hokiatu taana rohe ki runga ki ona wahi.

We address you with reference to Wahanui's external boundary which has been carried over the land belonging to us the Ngatituwharetoa tribe.

We object to his external boundary line for he is a Ngatimaniapoto and his boundary line should be taken back in to his own land. {FNREF:0-86472-117-XA:7:25}

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

that we repudiate the tribal boundary made by Wahanui and Manga [Rewi Maniapoto] which runs through our tribal lands. We have a large area of land within that boundary, and as we were not informed that Wahanui and Manga intended to survey the exterior boundary, we the hapus of Whanganui interested in lands within those boundaries withdraw our lands from the survey made by Wahanui and Manga so that they may remain under the same authority and management as other Whanganui lands. {FNREF:0-86472-117-XA:7:26}

The letter was signed by Toakohuru Tawhirimatea and 101 others.

We make no further comment on these letters. We quote them to indicate that as early as January 1884 there were varying interpretations of the so-called "Aotea Agreement". These are matters which will be before the tribunal investigating other claims in the Rohe Potae (Wai 48 etc). We also note here that the National Archives file containing these letters and other correspondence 1883-1885 relating to the

opening up of the King Country was not presented in evidence at the Pouakani hearings. However, Lands and Survey file 2413, from which we quote extensively in later chapters, deals with surveys of Taupouiatia block from 1887 on, and these papers were produced in the evidence of Mr Alexander and Mr Cox.

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

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

I am going to speak upon the matters about which I was sent by the people to Wellington. One was one of the policies which we, the Maoris, had initiated, and which referred to the people and the land. It was fully understood that there was nobody who would interfere or complain of what was done within the boundaries of the land that we had marked out. After we had arranged this policy - when it was settled that we were to hold on to the land, and that we were to preserve the land and the people, and to keep the tikanga - this was universally agreed to by the majority of the people at that time. After we had got this policy finally settled, then we were to fight with, or negotiate with, the Government with regard to matters within the district. After that the fighting took place The policy was then broken up, and the men divided, and the land was separated but we do not charge the Europeans with bringing this about. The Europeans assisted the Maoris, but the Maoris themselves were to blame. Everybody was more or less wounded (tainted) with the system up to the time of Mr Bryce. When Mr Bryce took office he made a compact with me, which was signed, that a search for the railway was to be made, and, if a suitable line were found, he was to return and let me know. There were five of the Ngatimaniapoto present when this contract was made, but they are not here now. I spoke to the five who were there, and I said, "How shall we do in the absence of the majority of the people?" They said, "It cannot be helped, we must act for them as they are not here." They said, "We will agree to what Mr Bryce asks." It was then agreed, on the understanding that it was only to be an investigation to find out the best route for the railway, and after it was found they were to return and let the Maoris know before doing anything else. I then said to Mr Bryce, "What you wish for has been agreed to; now I want you to agree to my request." Mr Bryce asked me, "What do you want?" I then said, "I am going to send a petition to the House, and I want you and your Cabinet to back it up." I went on with the petition at once, but you

know yourselves what it is. We were not consulted with regard to the erection of trig. stations; the consequence of this was that the Maoris got unsettled seeing what was being done, as one brother could not advise the other or tell the other anything about it, and I was sent to Wellington by the people. When I got to Wellington I spoke to Mr Ballance, and he will remember what I said to him: (1.) With regard to the external boundary-line; (2.) To leave us to sanction the making of the railway line; (3.) That the gold should not be worked by Europeans without our authority; (4.) With regard to giving power to the Maori Committees to conduct matters for the Maori people; (5.) That no liquor licenses should be granted within certain boundaries; (6.) That the Native Land Court should not try any of our lands without our first sanctioning it, and that the Europeans should refrain from interfering with the Maori lands, but leave the Natives to manage them themselves. {FNREF:0-86472-117-XA:7:27}

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

Waitangi Tribunal, Department of Justice, Wellington.

The Pouakani Report 1993

7 The Rohe Potae

7.4 Ngati Maniapoto and the Native Land Court

Before December 1883 portions of the Rohe Potae had been either alienated directly to the Crown, or dealt with by the Native Land Court ([map 7.2](#)).

During the period 1854-1857 Sir Donald McLean had negotiated the purchase of several blocks north of the Mokau river. {FNREF:0-86472-117-XA:7:28} These four blocks, usually referred to as the Awakino purchases, were surveyed by E S Brookes, F Duthee and W H Skinner 1883-1884. {FNREF:0-86472-117-XA:7:29} Skinner had previously done a survey of Mokau Mohakatino block in 1879-1880. The Native Land Court, sitting at Waitara in June 1882, investigated the titles to the Mohakatino Parininihi and Mokau Mohakatino blocks on the coast between the Mokau river and the Taranaki confiscation boundary at Parininihi, and two other blocks inland of the confiscation line. {FNREF:0-86472-117-XA:7:30} In 1878 Joshua Jones had negotiated a 56 year lease of the Mokau Mohakatino block, which was confirmed by the Waitara court, including rights to mine coal. There was a good deal of subsequent controversy over this lease which need not concern us here. The point is that some Ngati Maniapoto had already indicated willingness to have their lands investigated by the Native Land Court.

The first case heard by Chief Judge Fenton and Judge Monro in the Waitara court in June 1882 was the Mohakatino Parininihi block. The following extracts from the minutes of this investigation indicate the way in which the court dealt with this first Ngati Maniapoto application:

The Court stated that this was the first Court held at Waitara and as most present would not be acquainted with the mode of procedures it must be understood that the whole conduct of the case must be left for the kai- whakahaere. Witnesses must not interfere. Everyone would have an opportunity of appearing, but if anyone wasted the time of the Court frivolously, he would be liable to pay costs. The better the behaviour of the natives the better the Court would get on. {FNREF:0-86472-117-XA:7:31}

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

Wetere said these [lands] all belong to Ngatimaniapoto. Their hapus in the first claim [Mohakatino-Parininihi] are Waikorara, Rakei, Ngatihinerua and Ngatitu. They all have a claim over the whole block. The land we claim lies between the river and the confiscation line. We claim through ancestry and by conquest from Ngati Tama. I know nothing about counter claimants. I have never disputed with Govt. about this land. Mr Grace will appear for us the Ngatimaniapoto, by permission of the Court. {FNREF:0-86472-117-XA:7:32}

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

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

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

Adjournment agreed to not because of the non-arrival of the King natives, but because this was the first Court held at Waitara and the natives were not acquainted with the mode of procedure. But this adjournment must not be made a precedent. {FNREF:0-86472-117-XA:7:33}

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

Te Wherowhero [the first Maori King] ceded his rights to H.M. [the Queen] during the Waikato War; 3rd my clients came back to the land in 1848 by invitation of Ngatimaniapoto, it being understood that they were resuming possession of their ancestral lands. {FNREF:0-86472-117-XA:7:34}

Richmond also referred to the New Zealand Company who gave Te Wherowhero "£400 to waive his rights by conquest" when land was purchased for their settlement at New Plymouth.

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

However, there was one great flaw in the proceedings. The land was not Rewi's to give. After the conquest, Waikato and Northern section of Ngatimaniapoto returned home and took no steps to occupy the vacated country. Takerei and his people took possession and retained it, and the land became theirs as already decided. That Rewi would have an inferior interest as a chief of the tribe assisting in the conquest is doubtless true; but it is an interest altogether of a secondary character, and by no means enabling him to dispose of the land without the consent of the resident possessors, much less in opposition to their wishes. {FNREF:0-86472-117-XA:7:35}

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

Whether they were made under the auspices of Tawhiao, chief of Ngatimahuta, who is sometimes called the Maori King, does not appear; and if it were shown that they were made under such sanction, that authority would be of no avail in this Court; for we do not recognise in Tawhiao or any other man the right to dispose of another man's property. {FNREF:0-86472-117-XA:7:36}

By the 1880s it was the well-established practice of the Native Land Court in investigation of title to include only those individuals who could demonstrate actual occupation of the land in 1840, at the time the Treaty of Waitangi was signed and British law was extended over New Zealand. {FNREF:0-86472-117-XA:7:37} The effect of the process of individualising Maori title to land, which began with the Native Lands Acts 1862 and 1865, was to undermine the power of chiefs and tribal organisation generally. While Wahanui and other leaders may have hoped to achieve some unity and order in the process of allowing European penetration of the King Country, there does not seem to be any evidence that government saw the exchange of letters on 19 December 1883 as anything more than success in persuading Ngati Maniapoto to allow a boundary survey which would be the first stage in the inexorable process of translating the "Native title" into one recognised in British law through the due procedures of the Native Land Court. The "Aotea Agreement" must be seen in the total context of negotiations, beginning with agreements to allow railway surveys and major triangulation, the 1883 petition, agreement to a boundary survey and ultimately the Native Land Court, subdivision, survey and land purchase. On 22 June 1886 the Native Land Court began the investigation of the title to the "Rohepotae Block", meaning the Aotea block. The plan ML5851/1-4 was produced before the court in Otorohanga on 28 July 1886 (appendix 12).

Waitangi Tribunal, Department of Justice, Wellington.

The Pouakani Report 1993

7 The Rohe Potae

7.5 Legislation for the Rohe Potae

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

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

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

In any of the following cases:

- (1.) Where it is desired to ascertain the names of the owners of any block of land being or to be passed through the Native Land Court; or
- (2.) Where it is desired to ascertain the successors of any deceased Native owner; or
- (3.) Where disputes have arisen as to the location of the boundary between lands claimed by Natives,

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

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

But whereas the Maori sought local committees at hapu level, and ... eagerly set them up in anticipation, Bryce had in mind only seven or eight committees for the whole North Island. All the Bay of Plenty and Rotorua tribes were, for instance, to be included in one district. Consequently committee activity throughout most of the 1880s consisted largely of squabbling between tribal groups for control of the committee elections and requests for more committees representative

of smaller units. Probably the most active committee was the Kawhia committee, representing many of the Ngatimaniapoto and chaired by the extremely able part-Maori John Ormsby, which assisted in negotiating terms for the opening of the King Country with Bryce's successor. Other committees, such as that on the East Coast, investigated and secured agreement about title to a number of blocks; but the Land Court Judges, instructed only that the Committees' reports on land claims 'should be taken for what they are worth' and highly jealous of their own authority, in fact took little notice of them and this side of the Committees' work lapsed. {FNREF:0-86472-117-XA:7:38}

Other measures which partly met tribal concerns were contained in the Native Land Laws Amendment Act 1883 which made land dealings prior to Native Land Court award of title void, illegal and punishable by fine up to £500. For a time the appearance of lawyers in the Native Land Court was also outlawed. The prohibition on sale of liquor was also imposed within the Rohe Potae by proclamation of a "Kawhia Licensing Area" on 10 December 1884. {FNREF:0-86472-117-XA:7:39} In 1887 the upper Whanganui area was also gazetted, and various other boundary changes were gazetted in 1892 and 1894. This aspect of a "Maniapoto pact" was reviewed by Dr A H McLintock. {FNREF:0-86472-117-XA:7:40} Although the liquor issue is part of the context of Ngati Maniapoto transactions with government, it is not part of the context of this report, and needs no further comment.

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

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

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

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

Sections 5 and 6 provided that any existing contracts etc were void and moneys paid not recoverable, and gave power to trust commissioners to endorse deeds to that effect under the Native Lands Frauds Prevention Act 1881, while s7 stated:

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

The Schedule in the Act described the area shown in [map 7.1](#). We comment further on this legislation in chapter 13.

References

1. AJHR 1883 G-1
2. *ibid*
3. AJHR 1883 J-1
4. *ibid*
5. AJHR 1884 Sess II C-1
6. AJHR 1885 G-9
7. *ibid*
8. *ibid*
9. AJHR 1884 Sess II G-1
10. *ibid*
11. *ibid*
12. *ibid*
13. *ibid*
14. AJHR 1886 G-1
15. AJHR 1884 Sess II C-1
16. *ibid*
17. *ibid*
18. *ibid*
19. *ibid*
20. AJHR 1885 G-9 p 2
21. National Archives MA 13/93
22. *ibid*
23. *ibid*
24. *ibid*
25. *ibid*
26. *ibid*
27. AJHR 1885 G-1 p 13
28. H Turton *Maori Deeds and Plans of Land Purchases in the North Island* (Wellington 1877-78) deed nos 452, 453, 454 and 455
29. W H Skinner *Reminiscences of a Taranaki Surveyor* (New Plymouth 1946)
30. Mokau Waitara minute books 1 and 2
31. Mokau Waitara minute book 1 p 1
32. *ibid* p 2
33. *ibid* pp 2-3

34. *ibid* pp 3-4
35. *ibid* pp 72-73
36. *ibid* pp 50-51
37. N Smith *Native Custom and Law Affecting Maori Land* (Wellington 1942) pp 48-62; N Smith *The Maori People and Us* (Wellington 1948) p 94
38. A Ward *A Show of Justice* (Auckland 1978) p 290
39. *New Zealand Gazette* 1884 p 1685
40. AJHR 1953 H-25

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