

Te Roroa Claim

Appendix 04 Agreed Statement on Manuwhetai

and Whangaiariki

4.1 JOINT MEMORANDUM BY COUNSEL FOR THE CLAIMANTS AND THE CROWN IN RELATION TO AN AGREED STATEMENT OF FACTS WITH RESPECT TO THE LANDS KNOWN AS MANUWHETAI AND WHANGAIARIKI

Appendix 4

Agreed Statement on Manuwhetai and Whangaiariki

JOINT MEMORANDUM BY COUNSEL FOR THE CLAIMANTS AND THE CROWN IN RELATION TO AN AGREED STATEMENT OF FACTS WITH RESPECT TO THE LANDS KNOWN AS MANUWHETAI AND WHANGAIARIKI

1. Attached hereto is an Agreed Statement of Facts as to the question of whether the areas known as Manuwhetai and Whangaiariki should have been reserved from the 1876 sale of the Maunganui Block.
2. This Agreed Statement of Facts follows the presentation of claimant and Crown evidence with respect to that matter.
3. As a result of the presentation of this evidence, the Crown and Te Roroa are now able to agree as to certain historical facts surrounding the 1876 sale of the Maunganui Block and the question of whether the lands known as Manuwhetai and Whangaiariki should have been reserved from sale. The Crown and Te Roroa are agreed also as to certain inferences of fact which may reasonably be drawn from the primary historical evidence which the parties accept as proved. These points of agreement are set out at paragraphs (9) to (19) of the memorandum.
4. The Crown accepts the evidence of Te Roroa kaumatua as to the spiritual, cultural and economic significance of Manuwhetai and Whangaiariki to the extent set out in paragraphs (3) to (8) of the memorandum.
5. It is to be noted that the Agreed Statement of Facts relates only to:
 - the issue of the reservation of Manuwhetai and Whangaiariki
 - the historical period up to and including the date of the sale of the Waipoua I and Maunganui Blocks.

In particular the Agreed Statement of Facts does not relate to:

- (a) any issue in relation to the Maunganui Bluff itself and the related question of the Papaki Reserve
- (b) the question of other wahitapu in the Maunganui area
- (c) matters relating to the Taharoa Reserve in the Maunganui Block
- (d) the acts or omissions of the Crown in relation to protests by Te Roroa with respect to Manuwhetai and Whangaiariki which occurred after 1876
- (e) the question of adequacy of consideration paid to each of Parore Te Awha and Tiopira Kinaki in the sale of the Maunganui and Waipoua I Blocks.

These are matters which, it is the view of counsel, should be dealt with by way of the normal Tribunal process of findings and recommendations.

6. It is intended that the Agreed Statement of Facts should be presented to the Tribunal as the factual basis upon which the Crown and Te Roroa are agreed. We understand from the Judge's directions in Chambers that the Tribunal will then issue a memorandum to the parties giving further directions as to mediation.

DATED this 15th day of May 1990

J.V. Williams S.E. Kenderdine
Counsel for the Claimants Counsel for the Crown

AGREED STATEMENT OF FACTS

THE LAND

(1) The lands the subject of this Agreed Statement of Facts are those commonly known as Manuwhetai and Whangaiariki.

(2) The legal description of the respective lands are as follows:

Manuwhetai That parcel of land contained in CT 1893/57 being Section 19 Block XII Waipoua Survey District containing 110 acres 1 rood 12 perches more or less

Whangaiariki That parcel of land contained in CT 13C/709 being part Section 64 Block 1 Kaiwi Survey District containing 22 acres 1 rood 28 perches more or less

THE SPIRITUAL, CULTURAL AND ECONOMIC SIGNIFICANCE OF MANUWHETA I AND WHANGAIARIKI

(3) The lands known as Manuwhetai and Whangaiariki are wahitapu of great spiritual significance to the Te Roroa people.

(4) They contain urupa in which were interred at the time of the Waipoua I/Maunganui sale, the ancestors of Te Roroa.

- (5) They contain ancient Pa and habitation sites of the Tupuna of Te Roroa.
- (6) They include areas in which the famous taua of Taoho was trained and drilled.
- (7) They contained areas of garden for the cultivation of Te Roroa.
- (8) They provided access to the significant coastal fishery at the Maunganui Bluff for Te Roroa.

THE RESERVATION OF WHANGAIARIKI AND MANUWHETAI

- (9) The rangatira Tiopira Kinaki, Parore Te Awha and Te Rore Taoho all had legitimate interests in the Waipoua I and Maunganui Blocks at the time of investigation into title in February 1876.
- (10) The interests of the rangatira Te Rore Taoho were centred in and around the areas known as Manuwhetai and Whangaiariki.
- (11) It is likely that land purchase officer Brissenden agreed with the rangatira concerned that Manuwhetai and Whangaiariki, being areas within the direct influence of Te Rore Taoho, should be excluded from the sale.
- (12) It is likely that Te Rore Taoho took no further part in the Native Land Court Inquiry and the sale of the Maunganui and Waipoua I because he believed that the areas in respect of which he claimed a direct interest had been excluded from the sale.
- (13) A dispute developed between Parore Te Awha and Tiopira Kinaki over boundaries between the land claimed by each.
- (14) The disagreement also concerned the general area within which Manuwhetai and Whangaiariki are situated.
- (15) The survey of the Blocks by Messrs. H. & D. Wilson was halted in February/March 1875 as a result of the disagreement. The area which remained unsurveyed as a consequence contained Manuwhetai and Whangaiariki.
- (16) Chief Surveyor S.P. Smith subsequently agreed that the uncompleted portion of the survey, being an area of straight coastline, could, for the purposes of the Native Land Court inquiry into title, be completed by way of a simple sketched line.
- (17) Chief Surveyor S.P. Smith agreed to arrange for surveyors to return to complete any internal surveys at a later date.
- (18) This was done with respect to Manuwhetai and Whangaiariki by F.P. Smith in September 1875. Smith completed a plan (ML3297/8) of the reserves and forwarded this to the Inspector of Surveys of Auckland on September 15.
- (19) Through a combination of factors, the agreement to reserve Manuwhetai and Whangaiariki from sale was never given positive effect to in the formal order of the

Court as to title dated 3 February 1876 or in the Deed of Sale dated 8 February 1876. These factors included

- The belief of Te Rore Taoho that Manuwhetai and Whangaiariki had been excluded from the deliberations of the Court and the sale negotiations with the Crown.
- His subsequent non-appearance in Court.
- All of the parties were preoccupied with the more immediate dispute between Parore Te Awha and Tiopira Kinaki as to entitlements and later as to the consideration each received.
- The fact that Brissenden who had negotiated the sale, and who was likely to have agreed to the reservation of Manuwhetai and Whangaiariki, was replaced by Preece in March/April 1875.
- The pressure under which Native Land Purchase Officers generally were put to purchase land.
- A likely clerical error which lead to the maps ML3297/8 not being despatched from Auckland to Kaihu so as to be before the Native Land Court when it sat in Kaihu on 27 January 1876.

(20) The Crown and the claimants are therefore agreed that the lands known as Manuwhetai and Whangaiariki were intended by all parties to be reserved from sale. By a combination of factors including human error, that intention was not given effect to.

DATED this 15th day of May 1990.

J.V. Williams S.E. Kenderdine
Counsel for the Claimants Counsel for the Crown

Waitangi Tribunal, Department of Justice, Wellington.