NGĀ WHENUA I WAHO O TE RAINA RAUPATU
History of Whakatōhea lands outside the Eastern Bay of Plenty confiscation block

Section 1 - Introduction

1.1 The pattern of land alienation within the Whakatōhea area of interest
The 1927 Sim Commission defined the total area of the Whakatōhea rohe as 491,000 acres.[1] No indication is given of how that figure was arrived at. However, it appears to roughly accord with the area described by the map provided as Appendix C for the project brief for this report ('Whakatōhea area of interest and original Māori land blocks'). That area has been estimated by adding together the surveyed areas of each of the land blocks within it. Therefore, 491,000 acres is the base figure which will be used to calculate the pattern of tribal land alienation for this report.

Prior to 1865 a proportion of this area had already been alienated, especially to missionaries. Some of those early sales were later repudiated. The extent of these pre-1865 sales lies outside the scope of this report, but has been estimated for this report at 10,000 acres.

In 1865 the entire coastal territory of Whakatōhea, extending some 15km inland and including the vast majority of the high quality, low-lying and coastal land, was confiscated under the NZ Settlements Act 1863. The Sim Commission estimated the confiscated area at 173,000 acres, of which about 24,500 acres was later returned to Whakatōhea, according to calculations made for Project B of this report. Those figures suggest that at the end of the compensation process, the lands remaining in Whakatōhea hands amounted to a little over 300,000 acres.

The pattern of land alienation outside the confiscation area began around 1872 with the arrival in the district of the Native Land Court. Over the following two decades, almost all of the remaining Whakatōhea lands were surveyed, and their titles investigated by the Court. In several cases, as described in section 3 of this report, the Native Land Court awarded lands lying within the original Whakatōhea area of interest to iwi other than Whakatōhea.

The approximate area of land outside the confiscation area eventually awarded to Whakatōhea by the Native Land Court was:

- Whakapaupakihi block – 10,000 acres
- Oamaru block – 106,000 acres
- Tahora 2B block – 61,000 acres

Of that area, a portion was almost immediately claimed by the Crown in lieu of survey costs, and a further portion sold to the Crown. Purchases by the Crown of the remaining lands soon followed. By 1898 about 75,000 acres, or about 15% of its original tribal estate, remained in Whakatōhea hands.

Further sales followed in the early 20th century. The Stout-Ngata Commission stated that in 1908 the total area of land remaining in Whakatōhea ownership was 34,449

[1] *AJHR* 1928 G-7, p. 21

acres (although that figure does not accord with the calculations made for this report.) More than half of that area comprised the Opape Reserve, which the Commission acknowledged could 'at best, only be called second-class land'. Although Whakatōhea was willing to lease some of its remaining tribal estate, the iwi stipulated at that time that 'no part shall be sold'.[2]

However, the difficulty of supporting a growing number of descendants from a static or shrinking area of tribal land, the severe economic depression that began in the late 1920s, and the small and scattered nature of remaining land holdings forced further sales. By 1955 all of the Oamaru and Tahora lands had been acquired by the Crown.

In 2017, according to the 'Maori Land Online' website, the Whakatōhea lands remaining in Māori ownership comprised:

- Ōpape blocks -15,300 acres in almost 50 partitions. Most of that area comprised the amalgamated Ōpape 28 block
- Whakapaupakihi no.s 2, 5, 6 and 7 – 3104 acres
- Smaller areas of land in Waioeka, Waiotahi and Ōpōtiki – est. 1500 acres

The lands within the Whakatōhea area of interest which remain in Māori ownership therefore total approximately 20,000 acres, or about four percent of the original, pre-1840, tribal estate. It is important to note that the majority of that figure represents inland, broken country, unsuitable for farming.

Whakatōhea land alienation timeline (figures rounded for clarity)

Date	Area (acres)	Notes
Pre-1840	491,000	1927 Sim Commission estimate
1840-65	481,000	Old land sales and early alienations (est. 10,000 ac.)
1865	308,000	Confiscation (Sim. Commission est. 173,000 ac.)
1872	305,500	Awaawakino block (est. 2500 ac.) awarded to Ngai Tai
1873	285,500	Motu block interests (est. 20,000 ac.) awarded to Ngā Pōtiki
1876	310,000	Part confiscated land returned, incl. Ōpape reserve (24,500 ac.)
1881	303,000	Bulk of Whakapaupakihi (7000 ac.) sold to Crown
1884	304,000	Part Whakapaupakihi (1200 ac.) mistakenly included in Ngai Tai lands returned under S. P and C. Act 1883
1888	296,000	Lot 1, Oamaru block (8,000 ac.) awarded to Whakatāne and Aitanga-ā-Māhaki
1888-9	256,000	Tahora 2 interests (est. 40,000 ac.) awarded to Whakatane and Aitanga-ā-Māhaki
1889	226,000	Crown claims 28,825 ac. Oamaru block in lieu of survey fees
	211,000	Whitikau no. 3 (15,170 ac.) awarded to Ngai Tai
1896	164,000	Crown acquires majority of Oamaru block (47,000 ac.)
	108,000	Crown acquires Tahora 2B1 and 2B sec. 1 (56,000

[2] *AJHR* 1908 G-1M, p. 1

		ac.), incl lands claimed in lieu of survey charges
1897-8	75,000	Takaputahi (33,000 ac.) awarded to Nga Tai
1907	73,500	Crown acquires Tahora 2B2A (1614 ac.)
1914	72,500	Crown acquires part Tahora 2B2B2 (1112 ac.)
1920	70,500	Crown acquires balance Tahora 2B2B2 (2117 ac.)
1923	53,000	Crown acquires most Oamaru partitions (17,360 ac.)
1913-52	52,900	Whakapaupakihi lands claimed for public works
1955	21,800	Crown acquires Oamaru 2B5 (83 ac.)
1969	20,000	Crown acquires Tahora 2B2B1 (1562 ac.)
2017	20,000 (est.)	Incl. 3100 Takaputahi, 15,300 Ōpape

1.2 The costs to Whakatōhea of participation in Native Land Court processes
It is apparent from the above table that Whakatōhea was denied a great deal of its original area of interest through title investigations by the Native Land Court. The blocks ultimately awarded by the court to Whakatōhea comprised less than half of the total area claimed by the iwi.

The reasons for this pattern are not clearly apparent from the archival record, but some reasonable suppositions can be made. Of the land claimed by, but not awarded to, Whakatōhea, the majority was awarded to the neighbouring iwi of Ngai Tai. This iwi had a notable record of 'loyalty' during the New Zealand Wars. While judges and other officials of the Native Land Court made many impressive efforts to treat rival claimants on an equal basis, nevertheless it seems very possible that when deciding the rival claims of Whakatōhea and Ngai Tai, judges may have been swayed to favour the latter by the contrasting records of the two iwis' participation in the wars.

Furthermore, Ngai Tai, under its chief Wiremu Kingi, presented a notably unified case at title investigation hearings, in comparison with Whakatōhea which often contested land claims between several of its hapū or groups of hapū. Conflicting evidence by these rival hapū sometimes caused Native Land Court judges to favour the evidence of Ngai Tai even when they acknowledged that the Ngai Tai case was weaker than that of Whakatōhea in other respects. (See, for example, the summary of the Takaputahi block hearings in this report.)

Although the author of this report lacks detailed knowledge on this point, it seems possible that this differing approach to land claims may reflect a stronger emphasis on hapū autonomy by Whakatōhea, in comparison with Ngai Tai. This view is supported by the Crown's practice of returning confiscated land to hapū groups within Whakatōhea, but to Ngai Tai as a unified body. Evidently, from the Native Land Court's point of view, a united iwi under a single leader with a notable record of loyalty to the Crown was likely to prove easier to deal with than several contesting hapū, each with its own leaders, some of whom had recent records of 'rebellion'. However, allowing hapū a degree of autonomy in presenting their claims to land does not appear to be reasonable grounds to disadvantage them in the court.

Ngai Tai held a reputation by the early 20th century of selling large areas of its land to the Crown.[3] The Native Land Court and Crown land purchasing agents were nominally independent of each other, but the archival record contains several

[3] *AJHR* 1908 G-1M p. 2

instances when court decisions appeared to favour the Crown's plans to acquire lands. This suggests that an iwi such as Ngai Tai, known to be likely to offer its land to the Crown for purchase, may have been favoured over Whakatōhea when determining a contested title to those lands.

Finally, the Native Land Court process included a requirement to have land blocks surveyed prior to a title investigation hearing. In the case of several blocks awarded fully or partly to Whakatōhea, the cost of those surveys was so great that a large proportion of the land was immediately claimed by the Crown in lieu of paying the survey fees. The injustice of this situation was worsened by several factors. Two of the blocks awarded to Whakatōhea – Oamaru and Tahora – were surveyed by Charles Baker under circumstances which, at the time, aroused strong opposition from the iwi involved, and criticism from government officials such as the Surveyor-General. Nevertheless, the surveys were accepted by the court, and the large costs involved were ultimately met by the iwi through loss of their land. In addition, the areas of land claimed by the Crown in lieu of survey fees were selected by Crown officials themselves. In the case of the Oamaru block in particular, a series of adjoining areas was selected to give the greatest overall value. This is likely to have reduced the value of the remaining land, and therefore to have further burdened the iwi with the ultimate cost of the surveys.

1.2 Crown negotiations to purchase land in the Whakatōhea rohe

In several cases within the Whakatōhea area of interest, the Crown began negotiations for the purchase of lands before the Native Land Court had determined title to them. This occurred with the Whakapaupakihi and Tahora 2 blocks, for which advance payments and a Crown survey were made prior to their title investigations. In both cases, Crown officials seem to have been aware that several iwi claimed the lands in question, but they were nevertheless willing to progress negotiations with whichever of the rival claimants appeared most willing to part with the lands to the Crown. Boston and Oliver conclude, with regard to the Tahora 2 block, that 'In making its initial purchases the Crown undoubtedly acted in a disreputable manner by arranging the purchase of land without ascertaining the land's owners.'[4]

On several occasions the Crown used its monopoly powers when purchasing land in the Whakatōhea rohe. Shares in several partitions of the Tahora 2 block were purchased in the early 1890s in spite of restrictions on alienation placed on these blocks by the Native Land Court's 1889 title investigation hearing. According to Boston and Oliver, the Crown may have purchased these interests under a general right of pre-emption which prevented private purchases.[5]

By 1915 those restrictions on alienation had expired, and the Crown imposed a prohibition on alienation of the Tahora 2B2B(1) and 2B2B(2) blocks, preventing the owners from selling to private buyers, while the Crown continued to acquire the rights of minors through succession orders. Boston and Oliver state that due to this prohibition:

> Only the Crown could negotiate to purchase the land, which reduced the price the owners got for their shares. Owners not wishing to sell their shares were

[4] Boston and Oliver, p. 317
[5] Ibid, p. 128

> hindered in developing land in the block as their interests were undefined. This meant the land was economically useless and could only be sold if the owners agreed to the price offered by the Crown.[6]

When the owner of 2B2B(2) continued to refuse to sell her land to the Crown, the prohibition on private sales was renewed for several more years.

The authors of the 'Tahora' report state that by invoking its right of pre-emption when purchasing interests in the Tahora 2B2B blocks:

> the Crown was able to bide its time, and deny private interests and Māori a right to negotiate for any form of alienation in the blocks, all the time picking off individual interests in the land either through direct sale or taking advantage of succession cases... Ten years of Crown pre-emption denied Māori the ability to lease or find an alternative market for their land.[7]

As the above table indicates, by 1900 the Crown had acquired 110,000 acres from Whakatōhea, including part of Tahora 2B claimed in lieu of survey charges. Apart from the early land sales mentioned above, no private sales were found to have taken place in this period.

A further 22,000-odd acres were acquired from Whakatōhea by the Crown in the twentieth century, including lands taken for public works. In addition, much of the Whakapaupakihi lands were alienated by lease in this period.

[6] Boston and Oliver, p. 173
[7] Ibid, p. 317

Section 2 - Block history narratives

2.1 Whakapaupakihi block

2.1.1 Summary

The history of the Whakapaupakihi block is entwined with that of the adjacent Whitikau block. Correspondence between government officials indicates that the Whakapaupakihi block was part of a larger area of land, including Whitikau, which was offered to the Crown for sale from 1876. At that time neither of these blocks had had their titles investigated by the Native Land Court. The Crown, although eager to purchase in order to acquire land for resale to settlers, was cautious not to pre-empt the findings of the court. Crown officials also evidently hoped that purchasing Whakapaupakihi and adjacent blocks could resolve longstanding boundary disputes between Whakatōhea and Ngai Tai, who each claimed rights to these lands.

Both iwi negotiated jointly to sell these blocks to the Crown in 1879, and the blocks' boundaries were then surveyed together. At the time of their 1881 title investigation hearing, Whakapaupakihi and Whitikau were divided only by a government road, which was claimed by some Native Land Court witnesses to follow the line of a traditional tribal boundary. However, at this hearing both Whakatōhea and Ngai Tai claimed part of the other's lands. Most of Whakapaupakihi was awarded by the court to Whakatōhea. The larger part of the block, about 7000 acres, was then sold to the Crown and a 2000-acre reserve retained. A further 1200 acres was awarded in error to Ngai Tai along with the whole of the Whitikau block. That portion was recovered by Whakatōhea on appeal in 1884, and another three reserves created from it.

The owners of each of the four Whakapaupakihi reserves formed incorporations to manage them from about 1912. All four blocks were soon leased, through the Tairawhiti District Maori Land Board, to European farmers. By 1980 the lands were leased to the Mangatū Incorporation.

2.1.2 Whakatōhea offer block for sale – 1876

In March 1876 James Wilson, in his capacity as Land Purchase Commissioner for Poverty Bay, made a written agreement with Manihera Maiki and 17 others of Whakatōhea to purchase on behalf of the Crown, 'all the land in the district of Motu', ie. what later became the Whakapaupakihi and Whitikau blocks. The Native Land Court later found that this land had not been permanently occupied for more than 60 years before this date.[8] The agreed purchase price was one shilling per acre for the approximately 20,000-acre area, with the government meeting the costs of the boundary survey. The sellers confirmed that, 'we have this day received the sum of one hundred pounds from Mr Wilson…being the first installment, the balance of the money to be paid to us when we have handed this land over to the Government with a complete and legal title… when it has passed the [Native Land] Court.'[9]

This agreement was accompanied by a Treasury voucher for £100, paid to 'Manihera Maiki and others' as 'part purchase money advanced'.[10]

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[8] OMB no. 2, p. 159, 14 December 1881
[9] Manihera Maiki et. al, 7 March 1876, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[10] Treasury voucher no. 45388, 9 March 1876, ibid

Wilson was evidently willing to negotiate solely with Whakatōhea for the purchase of this large area of land, although it lay at the eastern edge of Whakatōhea's tribal territory and bordered land claimed by Ngai Tai. Several months after this advance payment was made, HE Brabant, the Resident Magistrate at Tauranga, advised the Native Department in Wellington that:

> Disputes have been going on for a long time between the Whakatohea and Ngaetai tribes about the blocks of land Whitikau and Whakapaupakihi… When I was at Ōpōtiki Te Awanui [Aporotanga] brought me a printed form of application [for survey] with which he had been supplied by Mr JA Wilson … As I knew that an ex parte [ie. one-sided] application would be resented by the Ngaetai, I called Wiremu Kingi's attention to Te Awanui's application, and arranged a meeting between some of the chiefs of the two tribes… after some discussion it was agreed that they should apply jointly for the survey of the whole block, and two chiefs on each side signed the document referred to.[11]

It is possible that the Whakatōhea leaders agreed to share their £100 advance payment with the Ngai Tai in acknowledgment of their joint interest in this land, but no documentation of such an arrangement has been found.

2.1.3 Whakatōhea and Ngai Tai offer block for sale - 1879

No further action appears to have been taken on this advance purchase for the next three years, when Wiremu Kingi (Ngaitai) and Te Awanui te Aporotanga (Ngātirua) wrote to Capt. G. Preece, Ōpōtiki's Resident Magistrate, saying 'We beg to offer for sale to the Government our block of land known as Whitikau at Waiaua. The boundary commences at Kaitaura thence by Motu River to Tanga Kakariki thence toward the sea coast to Whitikau and to the road at Ngatapua Kiwi from thence to Kaitaura the starting point.'[12]

Preece immediately sent a telegram to R Gill of the Native Land Purchase Department, advising that:

> A block has just been offered by Whakatohea and Ngaitai extending from Motu bridge to Whitikau…. it would be a good thing to conclude preliminaries at once and give them an advance on block. They wish it to be surveyed at once, both parties to conduct the survey… it will be valuable to the Government being on the Ormond Road… This block has been in dispute between these tribes for a long time.[13]

He also forwarded the letter from King and Te Aporotanga to the Native Department, adding that:

> The block in question is situated on the eastern side of the Opotiki and Ormond Road. It commences at the Motu Bridge and has about eight miles of frontage on the said road, a portion of the block is flat and covered with valuable timber. This land has been the subject of disputes between the Ngātitai and Whakatohea Tribes for many years but these differences have now been settled and both tribes join in offering it for sale.[14]

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[11] HE Brabant RM to Under-Secretary, Native Dept, 20 June 1876, MA-MLP1/71/m 1904/74 R23908735 Archives NZ Wgtn DB A11 (2 pages)
[12] W. Kingi and Te Awanui te Aporotanga to Capt. G. Preece, 31 July 1879, ibid DB A12 (2 pages)
[13] G Preece to R Gill, Native Land Purchase Dept, 31 July 1879, ibid DB A13 (2 pages)
[14] G. Preece to Under-Secretary, Native Land Purchase Dept, 1 August 1879, ibid DB A14 (2 pages)

Gill of the Native Land Purchase Department annotated this letter with a note to the Native Minister – 'Recc. this purchase be made, the price per acre not to exceed in the whole four shillings. An advance of £100 to be made on the signing of an agreement to sell by both tribes.'[15]

A month later Gill ordered that the Auckland district surveyor should be instructed to begin a survey of this land 'as early as possible.'[16] At the same time he sent G. Preece, Land Purchase Commissioner for Poverty Bay, a list of names of 'natives residing in Gisborne who claim to have an interest in the Whakapaupakihi block.'[17] Preece promptly responded by telegram:

> Recommend that advance be given before survey commences. Mr Wilson's deposit only given to small section [of owners]. Tribe [presumably either Ngai Tai or Aitanga-a-Māhaki] objected at time. They will now agree if I am authorised to pay advance before survey.[18]

Whether an advance on purchase was offered to another iwi at this time is not clear from the records, However, Heni Taua of Turanganui (Gisborne) wrote to Gill some weeks after this telegram asking for such an advance. She stated that the land in question 'is our property and we do not acknowledge Maiki's [Manihera's] claim to it.'[19]

Preece also advised Gill that 'it is probable that the boundaries of the Whakapaupakihi Block will not be the same as those named on the original agreement with Mr Wilson.'[20] This refers to the agreement made with Maiki and others of Whakatōhea in March 1876 (above) for 'land in the district of Motu'. Preece's message appears to be the first reference to confusion over the surveyed boundaries between the Whakapaupakihi and Whitikau blocks, which was to take several years to resolve.

Gill replied with a telegram to Preece confirming his authority to purchase the block, 'Price not to exceed four shillings per acre…. Have application for NL [Native Land] Court made out and sent to Chief Judge also communicate Mr Percy Smith [Chief Surveyor, Auckland] as to survey.'[21]

Two weeks later Gill again authorised Preece 'to negotiate for the purchase of this land. Ascertain price per acre, and forward an application to the Chief Surveyor, Auckland, to have the block surveyed at once, also notice to the Court for investigation of title etc.'[22]

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[15] Marginalia to above, ibid DB A15
[16] Marginalia - R. Gill, Native Land Purchase Dept, 2 Sept. 1879, to memo, GA Preece, 19 Aug. 1879, MA1 932 1907/647 R22402191, Archives NZ Wgtn DB A16
[17] R. Gill, NLP, to G. Preece, 2 Sept. 1879 - list of natives residing in Gisborne, ibid
[18] Teleg. G. Preece to R. Gill, 9 Sept. 1879, ibid
[19] Heni Taua, Turanganui to R. Gill, 29 Sept. 1879, ibid
[20] G Preece RM, Opotiki to Gill, NLP, 16 Sept. 1879, MA-MLP 15 1879/36 R23867804 Archives NZ Wgtn
[21] Gill to Preece, 18 September 1879, MA-MLP 1/71/m 1904/74 R23908735 Archives NZ Wgtn
[22] Gill to Preece, 30 Sept 1879, MA-MLP 15 1879/36 R23867804 Archives NZ Wgtn

On 6 October 1879 Te Awanui Aporotanga, Wiremu Kingi and others sent a letter to the Native Minister setting out the terms of their sale offer:

> We the undersigned hereby agree to sell to Queen Victoria a certain piece of land… commencing at the bridge across the Motu River at Kaitaura thence by the bed of the Motu River to Taangakakariki thence by a direct line to the junction of the Tahora at Whitikau thence by the bed of the Whitikau River on the Ngataretare side to the main road to Motu and thence by the Motu main road to Kaitaura, the commencement… The Government shall pay the costs of surveying the said block, that the price of the land shall be three shillings per acre. That one hundred pounds shall be paid as a deposit, and no more of the purchase money shall be paid until after the land has been passed through the Native Lands Court and then only to those who have proved their claims of ownership… We also agree to point out the boundaries of the said block and do all in our power to assist the surveyor and prevent trouble…. After the completion of the sale five acres in every hundred acres will be returned to the vendors… and will be secured to them by a Crown grant for their personal benefit but to be inalienable. The land to be so returned to be selected by the government.[23]

Gill added a note in reply to Preece, 'When carrying on the survey of the Block… see that the reserve is duly surveyed off so that when the court determines the title to the land, a separate order can be made for it.'[24]

On the same day the above letter was signed, an advance of £100 was paid, receipted by both Wiremu Kingi and Te Awanui Aporotanga as 'part payment purchase money Whitikau block'.[25] Whakapaupakihi was one of the blocks listed by the Crown in 1879 as 'Lands purchased or lease, or under negotiations', with this advance payment noted.[26]

At this point both iwi appeared willing to allow a future Native Land Court hearing to determine their relative interests, if any, in the Whakapaupakihi block. Their joint negotiations with the Crown in advance of such a hearing were presumably contingent on the outcome of that title investigation. For its part, the Crown appeared willing to deal with both iwi on equal terms, and to await the outcome of the Native Land Court's investigations before finally committing to a purchase of the land.

Despite this provisional agreement between the two iwi, on 16 October 1879, ten days after the advance payment to both of them, a further advance payment, this time of £200, was made to Whakatōhea alone on the 'land known as the Whakapaupakihi block.' The Treasury voucher records that the money was paid to 'Te Awanui, Ranapia and others'.[27]

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[23] Te Awanui Aporotanga and others to Native Minister, 6 Oct. 1879, MA-MLP 1/71/m 1904/74 R23908735 Archives NZ Wgtn DB A23 (3 pages)
[24] R. Gill to Preece – Marginalia in reply to above, 27 Oct. 1879 ibid DB A24
[25] Treasury voucher no. 42808, ibid DB A25
[26] *AJHR* 1879, C-4, p. 12
[27] Treasury voucher no. 42809, 16 Oct. 1879, MA-MLP 1/71/m 1904/74 R23908735 Archives NZ Wgtn

This money was explicitly represented as paid to each of the hapu of Whakatōhea, in varying amounts as follows:

- Ngāti Ngahere (represented by Maiki Manihera) £35
- Ngāti Kahu (Rawiri Makawe) £35
- Ngāti Patu (Te Hau Takuru, Piahana Tiwai) £40
- Ngai Tama (Ranapia Te Waihuku, Paora Taia) £60
- Ngāti Rua (Te Awanui te Aporotanga) £30

Other members of each of these hapu all signed this deed of agreement to sell.[28]

No information has been found indicating the basis on which these varying amounts were calculated. They may have represented each of the above hapūs' relative interests in the land, the number of members of each hapū, or some other disparity.

In December 1879 Preece reported on his efforts to complete this contested sale, and gave his justification for making the two advance payments to Whakatōhea:

> I held a meeting of the different hapus of the Whakatohea tribe interested in the Whakapaupakihi block…. there was a strong feeling amongst the Ngatirua and Ngaitama hapus against the frontage to the Motu Road being included, indeed they wished to cut off two-thirds of the block, leaving only a portion which they admitted was owned by Maiki. They stated when Maiki obtained the hundred pounds advance that a further sum of two hundred pounds was arranged to be given to the other hapus interested…. Judge Wilson… informed me that there was an understanding to that effect. I therefore… paid two hundred pounds…. I secured the block at two shillings and sixpence per acre, an inalienable reserve of three percent of the whole block for those that prove their titles in the Native Land Court.[29]

2.1.5 Boundary survey, 1880

In March 1880 Chief Surveyor S. Percy Smith reported that, 'Mr Simpson is surveying Whitikau block.' Since this survey required Simpson to traverse the common boundary between the Whitikau and Whakapaupakihi blocks, Smith recommended that the latter block 'can be more economically surveyed at the present time than at any other time. The two blocks have a common boundary on the Motu Road.' Gill approved this suggestion.[30] He later noted that the Whakapaupakihi boundary survey, which the Crown had earlier agreed to pay for, cost £275 10/5.[31]

At a subsequent Native Land Court hearing, Wiremu Kingi said 'I allowed the survey to be made… leaving it to the Court to define our separate interests… We purposely left a portion of Whitikau out when Whakapaupakihi was surveyed… making the western boundary of this block the boundary of Whakapaupakihi… until we saw how the investigation of this block would go.'[32]

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[28] Names of natives and tribes who have signed the deed of agreement to sell Whakapaupakihi to government, 16 Oct. 1879, ibid.
[29] G.Preece to R. Gill, Native Land Purchase Dept, 13 Dec. 1879, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[30] Memorandum, S. Percy Smith, Chief Surveyor, Auckland to R. Gill, 10 March 1880, ibid
[31] Memo, Gill, 24 March 1880, marginalia to Capt. Mair, NLP memo, 12 Nov. 1881, ibid
[32] OMB no. 2, p. 80, 1 December 1881

The following map shows the boundary of the 7,000-acre Whakapaupakihi no. 1 block, which Whakatōhea had agreed to sell to the government, and a 2000-acre reserve to the south of this, later called Whakapaupakihi no. 2. DB A – map1

At a later Native Land Court hearing, in 1895, the Whakatōhea witness Paora Taia recalled that, 'I asked at what part of the block the reserve was to be located. Certain persons came forward - Rawiri Tuahine, Manihera Maiki, and others and said make the reserve on a good part of the block. So it was arranged it should be made at Whakapaupakihi (River) as being good land, and the rest of the land which was inferior should be set aside for sale.'[33]

2.1.6 Native Land Court title investigation, 1881-82

Simpson's survey of the Whakapaupakihi boundaries rendered a title investigation hearing into the block possible. That hearing opened at Ōpōtiki in November 1881 under Judge Symonds, with Akuhata Tupaea as Native Assessor. This hearing considered applications under the Native Land Court Act 1880 to investigate claims to Whakapaupakihi no. 1 and no. 2 by Te Awanui Aporotanga and others of Whakatōhea, and Whakapaupakihi no. 2 by Rina Parewhai and others.

The same hearing also heard an application to investigate the Whitikau block. Whakatōhea, represented by Te Awanui Aporotanga, claimed part of this block. Ngai Tai, represented by Wiremu Kingi Tutahuarangi, challenged this claim.[34] The court heard the Whitikau case first but judgment was reserved until after the hearing of Whakapaupakihi, when judgment in both blocks was given at the same time.[35]

Judge Symonds gave his judgment after two weeks of hearings, describing the case as 'very intricate'. He said that he and the Native Assessor had independently reached their own conclusions, then compared them and found they agreed. Although:

> The evidence on the Whakatohea side is most meagre and contradictory… all the witnesses testify that Itanga-a-Mahaki have no land on the north of the Motu River, also that the boundary between them and the Whakatohea is the Motu River. As regards the claim of Ngaitai… William King's land and that of his ancestors is in Whitikau… the land belonged to Pananehu formerly who were conquered by Ngaitai and their land occupied by them.[36]

The judge awarded Whitikau and part of Whakapaupakihi (from Kaitaua to Omokoroa no. 1) to Ngai Tai, and the rest of Whakapaupakihi to Whakatōhea. He added that as those two iwi 'have been on bad terms for generations, we trust that this decision of the Court will tend to mitigate their mutual animosity.'[37]

Several days after the court judgment Whakatōhea handed in a list of owners' names for Whakapaupakihi no. 1 (6,960 acres), and for the 2000-acre reserve (Whakapaupakihi no. 2). There were no objectors to either list, and the court ordered certificates of title to be issued accordingly.

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[33] OMB no. 11, pp. 101-102, 22 Dec. 1884
[34] *NZG* 1881 no. 97, p. 1498
[35] OMB no. 11 p. 104, 25 September 1895
[36] OMB no. 2, p. 159, 14 December 1881
[37] OMB no. 2, p. 159-160, 14 December 1881

The certificate of title for Whakapaupakihi no. 1 was issued in the names of Tiere Maki, Te Tawhiro Te Oke, Taipua Hapimana, Whaiao Wi Hura, Rawiri Tuahine, Paora Taia, Matiu Ngahoro, Tairua Apanui and Warana Mokomoko.[38] That for Whakapaupakihi no. 2 was issued in the names of Tiwai Piahana and several hundred others. Whakapaupakihi no. 2 was declared inalienable, 'except by consent of the Governor, by sale or mortgage, or by lease of longer than 21 years.'[39]

2.1.7 Sale of Whakapaupakihi no. 1 to Crown, Dec. 1881

On 26 December 1881 Tieri Maki and the other signatories to the certificate of title for Whakapaupakihi no. 1 signed a document conveying 'part of Whakapaupakihi block' to the Crown and acknowledging receipt of £875.[40] That sum presumably included the £300 already paid in advances, since it closely approximates the total sale price agreed to with Preece in December 1879 - 2/6 per acre for 6910 acres. The names on the title deed (Deed no. 1346) were the same as those on the certificate of title, with the addition of Matiu Ranapia, Hoera Tere and Ropata Koroiti.[41]

The boundaries of the block were described on the title deed as:

> Commencing on the South East at the Motu Bridge on the Ōpōtiki Ormond Road near Kaituna thence by a straight line westerly to Taumata-Karetu trig station thence by a straight line south-westerly past Kaimatatangi to a point on the western boundary marked 'A' thence by a right-angled straight line south-easterly to a point on the Motu River marked 'B' thence following down said river in a north-easterly direction to the Motu Bridge aforesaid, the starting point.[42]

At a later Native Land Court hearing, in 1895, Paora Taia recalled that:

> A committee of twelve persons was appointed to receive the money [for Whakapaupakihi no. 1.] These persons also were to make provision for a reserve, such reserve to be for the children, but the committee failed to prepare a list of the children to enable the court to award the land to them. This was owing to their hurry to take the money for the land sold. They got the money and went to drink it and did not come back. I was one of the Committee and got drunk. I think everybody got drunk but I was too drunk to know if any remained sober.
>
> The money was distributed among the hapus who owned the land and then the hapus who owned the land had consideration for the other hapus of Whakatōhea who had no right and made them presents of part of the money.[43]

Whakapaupakihi no. 1 was proclaimed 'waste land of the Crown' (ie. available for sale to private purchasers) under the Government Native Land Purchases Act 1877 and Amendment Act 1878, from March 1882.[44]

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[38] OMB no. 2 p. 165, 16 December 1881
[39] OMB no. 2 pp, 166-171, 16 December 1881
[40] General Lands Office form, 21 Nov. 1882 – 'Conveyance to Crown on 26 Dec. 1881', MA1 932 1907/647 R22402191, Archives NZ Wgtn
[41] Whakapaupakihi no. 1 title deed no. 1346, ABWN W5279 8102 Box 207 R23281017 Archives NZ Wgtn DB A41
[42] Ibid
[43] OMB no. 11, P. 101, 25 September 1895
[44] *NZG* no. 30, 30 March 1882 p. 500

It is evident that some of those who held interests in Whakapaupakihi no. 1 immediately objected to the sale of this land to the Crown. Just four days after the sale, Henerieta Te Haeata and others wrote to Wiremu Pere, who was then a prominent figure in addressing East Coast land confiscation issues. Haeata and the other signatories sought 'some plan or rectification of our land which was sold by Te Whakatohea. We object to that sale.'[45] The wording of this letter suggests that Haeata, and perhaps also her fellow signatories, did not then regard themselves as members of Whakatōhea, but perhaps as members of Aitanga-a-Māhaki, Pere's own iwi. However, the official record does not clarify this point.

Wi Pere responded by advising R. Gill that Haeata and others wished to see 'their portion of the Whakapaupakihi block… be divided off from the purchase as they do not wish to sell for the reason that they have no other land.'[46] Gill replied that since the land in question had already passed through the Native Land Court, Wi Pere's only possible course of action was to make an application to the court's Chief Judge.[47]

This disagreement among owners of the Whakapaupakihi lands can be attributed to the Crown's practice of negotiating to purchase lands before their titles had been fully investigated, and before relative interest in the lands had been awarded.

2.1.8 Native Land Court rehearing, 1882

An application by Mereana Paraone and others to rehear the title investigation into Whakapaupakihi was accepted in July 1882.[48] That rehearing took place in September 1882 under Judges Loughlin O'Brien and Edward Puckey, with Hori Ngaitai as Native Assessor. At the start of the case the court heard that the name of one owner, Nihoniho Te Whawhatu, had been incorrectly omitted from the certificate of title to Whakapaupakihi no. 2. A new certificate was issued with her name added.[49]

The court's judgment, issued under the Native Land Court Act 1880, states that the applicants 'have not made out such a case as calls on the others to answer.'[50] The judges found that the hapū to which Mereana Paraoane and the applicants belonged 'is not of Whakatohea of their own admission' but instead that they shared descent from the ancestor Takorokahu. Their hapū, Ngaitakorokahu, is today considered part of Te Aitanga-a-Māhaki. The applicants alleged that the 12 names handed in for the certificate of title to Whakapaupakihi no. 1 omitted other names which should have been included on this title. The judges declined to rule on this point since, 'Over that part the Crown has no jurisdiction as it has been proclaimed Waste Lands of the Crown… as regards No. 2 containing 2000 acres, judgement... was not objected to by these applicants.'.[51]

2.1.9 Objections to Whitikau-Whakapaupakihi boundary, 1882-3

[45] Henerieta Te Haeata and others to Wi Pere, 30 Dec. 1881, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[46] Wi Pere to R. Gill, Native Land Purchase Dept, 7 January 1882, ibid
[47] R. Gill, NLP memo, 8 March 1882, ibid
[48] *NZG* 22 July 1882, p. 996
[49] OMB no. 2, 18 Sept. 1882, p. 176
[50] Ibid, p. 180
[51] OMB 18 September 1882, pp. 180-181; list of names on CT for Whakapaupakihi no. 2 DB A51 a-g

The government's expectation that the Native Land Court's judgment on the Whakapaupakihi and Whitikau blocks would end the longstanding disputes between Whakatōhea and Ngai Tai was not fulfilled, primarily due to an apparent error in the original boundary survey. According to a later parliamentary enquiry, 'The map on which the investigation of this title took place showed an overlap of 3490 acres, the property of Ngaitai… and Certificate of Title (excluding it from Whakapaupakihi and including it in Whitikau) was ordered to issue.' This 'overlap' was mistakenly included by Judge Symonds in the Whitikau no. 1 block sold to the Crown.[52]

Three months after Judge Symonds awarded the 10,960-acre Whitikau no. 1 block to Ngai Tai, their leading chief Wiremu Kingi offered it for sale to the Crown by telegram on 15 March 1882.[53] The Native Land Purchase Office instructed Gilbert Mair 'to complete the purchase… as soon as possible.'[54] However, Te Awanui Aporotanga of Whakatōhea wrote to Native Minister Bryce to say that he had applied for a rehearing of the Whitikau no. 1 decision and 'threatened trouble' if the block was sold before that rehearing took place.[55] Brabant agreed that the purchase of Whitikau no. 1 should not be completed while this rehearing was still awaited.[56]

In September 1882 Awanui Te Aporotanga, Hira te Popo and 16 other chiefs of Whakatōhea wrote to the Native Land Purchase Office to advise that they were preparing a petition to Parliament 'praying for a rehearing of the Whitikau and Whakapaupakihi Blocks.' Since a rehearing into Whakapauapakihi had already taken place in 1882, no further rehearing could be granted except through special legislation. The Whakatōhea chiefs therefore planned to ask Parliament to insert a clause in the Special Powers and Contracts Bill giving the Chief Judge of the NLC power to cause a rehearing of these blocks, as it had recently done in the case of a Hokianga land block. 'We therefore request you to retain the moneys now in your possession and not to pay any of it to Wiremu Kingi Tutahuarangi or others on those two blocks, until Parliament has decided on our petition.'[57]

The following month Gill informed the Native Minister that the Chief Judge had refused seven applications to rehear the Whitikau no. 1 judgment.[58] However, he, Gill, had recently met with 'the principal Whakatohea natives… they say an injustice has been done them and they intend to petition Parliament.' Under those uncertain circumstances, Gill had instructed Brabant not to pay Ngai Tai the balance of the purchase money for Whitikau no. 1.[59]

The petition itself (undated) was signed by Hira Te Popo and 350 others. It said 'Your humble petitioners have suffered greatly owing to the actions taken by the court with reference to these blocks of land [Whitikau and Whakapaupakihi]: perhaps it was owing to the Judge having been mistaken at that time.' They asked the House to

[52] Land purchase officer to chairman, Native Affairs Committee, 31 August 1904, MA-MLP1/71/m 1904/74 R23908735 Archives NZ Wgtn
[53] W. Kingi to R. Gill, 15 March 1882, ibid
[54] R. Gill to H. Brabant, marginalia to above, ibid
[55] TW Lewis, Auckland, to Native Dept, Wellington, 15 March 1882, ibid
[56] HE Brabant to R. Gill, 8 June 1882, ibid
[57] Ranapia Waihuka and others to R. Gill, 27 September 1882, ibid
[58] Those refused applications are listed in *Te Kahiti* 26 September 1882, pp. 171-172
[59] R. Gill to Hon. J. Bryce, 11 October 1882, MA-MLP1/71/m 1904/74 R23908735 Archives NZ Wgtn

'insert a clause in the Special Powers and Contracts Act' as in the earlier Hokianga case.[60]

In its report on this petition, the Native Committee found that an application for rehearing the Whakapaupakihi no. 1 judgment was eventually granted but that 'the Government, seeming to have been ignorant of the grant of rehearing, and acting upon the original refusal, bought a portion of the land and proclaimed it Waste Lands of the Crown. When the rehearing came before the Court, it held that it had no jurisdiction over that portion of the land… nothing can be done in the matter without special legislation.'[61]

The Special Powers and Contracts Act 1883 came into force from September 1883. It empowered the Governor to issue Crown grants and titles to lands specifically listed in the Act, 'for the purpose of rectifying certain procedures under the Native Lands Acts, and to more satisfactorily determine the titles, according to Native customs and usages'. The Whakapaupakihi no. 1 block is one of the blocks so listed.[62]

In October 1884 Te Awanui Aporotanga and others wrote to Wi Pere, who had became Member for Eastern Maori that year, demanding to know, 'Why have the government treated us so harshly in connection with these two matters, the confiscated boundary line and the Whitikau block which was wrongly awarded by the Govt?… exert yourself to prevent the money being paid for Whitikau block and have the confiscated boundary adjusted.'[63]

2.1.10 Special Powers and Contracts Act rehearing, 1884

The case of the 'overlapping' lands was finally heard under the Special Powers and Contracts Act 1883 at a Native Land Court hearing in Ōpōtiki on 19 December 1884, under Judge WG Mair, with Ereatara Rangihoro as Native Assessor.

Before the hearing formally began, Wi Pere MP advised the court that 'we came to an arrangement yesterday. I have consulted with some of the Court officials to have 1200 acres returned to us, from the portion previously bought by the Crown and that request has been acceded to, and I also informed the applicants and others of the result, to which they are all agreeable.'[64]

Accordingly, under the Native Land Court Act 1880, the Court issued new certificates of title for:

- Whakapaupakihi no. 1 (200 acres), awarded to Manihera Maiki and 35 others
- Whakapaupakihi no. 3 (200 acres), awarded to Te Arama Werepita and 81 others
- Whakapaupakihi no. 4 (800 acres), awarded to Heneriata Haeata and 50 others (CT 48/106).[65]

[60] Petition of Hira Te Popo and others, ibid
[61] R. Trimble, report of Native Affairs Ctee 7 August 1883, ibid; *AJHR* 1883, 1-2, p. 14
[62] Special Powers and Contracts Act 1883, s.4; *NZG* no. 100, 27 Sept. 1883, p. 1357
[63] Te Awanui Aporotanga and others to Wi Pere, 25 October 1884, MA-MLP1/71/m 1904/74 R23908735 Archives NZ Wgtn
[64] OMB no. 2, p. 286, 19 December 1884
[65] ABWN W5279 8102 Box 207 Archives NZ Wgtn ; The list of owners on the CT for Whakapaupakihi no. 4 is included in the document bank for this report – DB A65.

Each of these blocks, together with the existing 2000-acre Whakapaupakihi no. 2, was made inalienable.

The owners of two of these blocks were mostly minors. Under the Maori Real Estate Management Acts 1867 and 1877, trustees were appointed for them as follows:

- Whakapaupakihi no. 1 - Manihera Maiki and Kani Pere
- Whakapaupakihi no. 2 - Heneriata Hariata, Mini Tamaipaoa and Wiremu Pere[66]

At the same court sitting, chief land purchase officer R. Gill applied under the Native Land Amendment Act 1877 to determine the Crown interest in Whakapaupakihi. He asked for the original certificate of title for the 6960-acre Whakapaupakihi block to be cancelled since it had been sold to the Crown. A new order for a 5710-acre block was made to the Crown.[67] This order excluded a 1250-acre portion of the 'overlapping' lands which were the subject of Whakatōhea's appeal. The new 5710-acre Whakapaupakihi block was proclaimed 'waste lands of the Crown' under s. 28, Land Act 1877 Amendment Act 1879.[68]

In 1886 the four new blocks, Whakapaupakihi no.s 1-4, totaling 3200 acres, were listed as 'Land held as inalienable'.[69] The following plan shows the four new Whakapaupakihi blocks together with the larger block sold to the Crown in 1881.

2.1.11 Application for relative interests, 1895

In 1895 Heremia Hoera and others of Ngāti Rua applied to determine their relative interests in Whakapaupakihi no. 2.[70] At a September 1895 Native Land Court hearing in Ōpōtiki under Judge Scannell, Hoera claimed for the 130 Ngāti Rua owners in the block who, he said, were entitled to 1500 out of the 2000 acres, with the remaining 500 acres belonging to the other 440 owners on the title deed. Paora Te Pakihi responded that the block had been awarded to all of Whakatōhea and that each owner should therefore hold an equal share.

The judge declined Ngāti Rua's application, pointing out that at the original 1881-82 title investigation hearing:

> when the award of the court was made in favour of the Whakatohea all the members of that tribe were put into the list of owners, without a single dissenting voice being raised. When it was arranged that the bulk of the block was to be sold, representatives of each of the hapus were appointed to complete the sale, and receive and distribute the purchase money, and all the hapus participated in the distribution. It is evident that at that time it was felt by all the owners that the land was the common property of the tribe and that it was dealt with as such. The conditions of ownership have not changed since then. The change is in the people themselves and in their feeling towards each

[66] *NZG* 1885 no. 26
[67] OMB no. 2, p. 295-298, 20 December 1884
[68] *NZG* 1885 no. 49, 20 Aug. 1885, p. 971
[69] 'Land held by the Maoris as inalienable', *AJHR* 1886, G-15, p. 16
[70] *NZG* 1895 no. 57, p. 1183

> other… judgment of the court is that the shares for the Whakatohea proper, who are in the list of owners, will be equal.[71]

2.1.12 Claim for sole ownership of Whakapaupakihi no. 4, 1905-1914

Six years after this judgment was delivered, in December 1905, William Wright (also known as Wiremu Haeata), the grandson of Heneriata Haeata (who had objected to the sale of much of Whakapaupakihi in December 1881), wrote to the Native Minister. Wright gave a somewhat confused account of the earlier sale to the Crown, and objected to the number of other people now claiming interests in Whakapaupakihi no. 4 block:

> Whakapau. no. 4… was sold to the government by the Opotiki natives. A grandmother of mine had a share in the said block. She didn't sell this share, she applied to the Government to give her some of this land for her share. The Government gave her c. 1000 acres. But when she got this land all her [whanaungas?] who sold their shares wanted to get in this land and so they did. What I want you to do is try and have all these other [sic] put out of it. There's any amount of her own tamarikis and mokopunas to live and work on the land.[72]

In this letter, Mr Wright did not give his grandmother's name, and the Native Minister, Hon. J. Carroll, replied that he was unable to act on his complaint:

> All inquiries so far indicate that there are no grounds for the statement that Whakapaupakihi no. 4 block was set aside for your grandmother whose interests if any, in the land are impossible to trace in the absence of any information as to the name she appears under in the title.[73]

The following year Mr Wright again wrote to the Native Department, indicating that he and several others had been cultivating his grandmother's lands, and wished to obtain rights to the improvements they had made. 'The land is still in its natural state… there are 8 of us depending on this land to make a living… this is the fourth winter I put in up here. We got over 200 acres fell [sic] and grassed. We now wish to acquire other shares.'[74] This final statement suggests that Mr Wright no longer believed that he and his fellow occupants, through Heneriata Haeata, were legally entitled to the whole of the block, but rather, that they wished to acquire a larger interest in it.

The Department's Under-Secretary replied that, 'There is no workable method of dealing with the land (I believe there are a large number of owners) unless the owners will place it in the hands of the Waiariki District Maori Land Board for administration.'[75] That response refers to the then newly-enacted 1905 Maori Land Settlement Act. This Act established six Maori Land Councils (later Maori Land Boards) throughout the country to ensure that 'Māori were not rendered landless, to encourage and assist Māori to develop their lands, to facilitate (through leasing rather

[71] OMB no. 11, pp. 112-113, 26 September 1895
[72] Mr W. Wright to Mr Carroll, Native Minister, 8 December 1905, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[73] Hon. J. Carroll to W. Wright, 27 June 1906, ibid
[74] W. Wright to U-S, Native Dept, 30 July 1906, ibid
[75] U-S, Native Affairs Dept to W. Wright, 9 August 1906, ibid

than sale) the settlement and utilisation of such lands as Māori did not require, and to give Maori a voice in the administration of lands remaining in Māori ownership.'[76]

By 1906 the 21-year restrictions on alienation placed on the certificates of title for the Whakapaupakihi no.s 1- 4 blocks had recently expired. This meant that the owners could, in theory, agree to alienate part or all of these blocks. However, for all the owners to reach such an agreement was very difficult. By placing the blocks under the administration of the local Maori Land Board, a section of the owners could agree to alienate, with the approval of the Board.

Mr Wright clearly wished to see Whakapaupakihi no. 4 administered under the new Act and asked the Waiariki District Maori Land Board to assume authority for the block at the following sitting of the Native Land Court.[77] All four of the Whakapaupakihi blocks came under the authority of the Act by 1907.

Ōpōtiki, where most of the Whakapaupakihi owners lived, lay within the region of the Waiariki District Maori Land Board, but most of the lands themselves lay within the adjacent Tairawhiti District Maori Land Board's region. This division between two Boards created severe difficulties for the landowners.

In 1906 Rewita Niwa, Te Warana Mokomoko and others applied to partition the Whakapaupakihi no. 2 block.[78] That application was set down for hearing at a Native Land Court sitting at Whakatāne from 15 October 1907.[79] At that hearing, under Judge Mair, Paora Taia told the court, 'I wish the land partitioned. Some of the owners wish to incorporate with a view to leasing. Rewita, myself and others wish to cut our part out as we wish to keep it for a kainga.'[80] This proposal was the subject of 'a long wrangle in court,' which ended when the contesting owners announced that they had failed to reach agreement. As a result, the court declined to partition the block.[81]

William Wright's grandmother, Heneriata Haeata, was apparently not willing to drop her earlier objection to the sale of the bulk of the Whakapaupakihi lands to the Crown, since she felt this sale had deprived her and her family of their interests. In a 1907 petition to the government, she stated that when the sale took place in November 1881, the Crown had 'promised to have a separate and defined portion awarded to her.' She apparently regarded the 800-acre Whakapaupakihi no. 4 block as this separate portion, and that she was therefore the sole rightful owner in that block. Her petition stated that 'On a search of the title I was surprised and much grieved to learn that many other natives have been included in the list of owners for this block.' She therefore sought special legislation 'for remedying the wrong.'[82]

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[76] T. Hearn, *Social and economic change in Northland c.1900 to c.1945: The role of the Crown and the place of Maori* Crown Forestry Rental Trust 2006, p. 176
[77] W. Wright to Judge Herries, WDMLB, 4 Oct. 1907, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[78] *NZG* 1906 no. 67, p. 2147
[79] *NZG* 1907 no. 85, p. 2933
[80] Opotiki MB no. 18, p. 87, 4 December 1907
[81] Opotiki MB no. 18, p. 123,
[82] Petition no. 827 of Heneriata Haeata, 30 October 1907, *AJHR* 1908, C-1 p. 10

A Native Land Court investigation into this petition found that Mrs Haeata was 'an owner in 5 shares out of a total of 73 shares in Whakapaupakihi no. 4 containing 800 acres' and that her petition should therefore not be granted.[83]

However, the following year, in September 1908, the government's Native Affairs Committee recommended that the petition 'be referred to the Government for favourable consideration' so that 'the present documents of title to Whakapaupakihi no. 4 be cancelled and legislation passed remedying the wrong suffered by the petitioner so that she might be the sole owner of this block.'[84] No further information on this recommendation has been located in the archives, so it has not been possible to determine the grounds for this finding. Nevertheless, it appears to represent an erroneous reading of the records.

Heneriata Haeata (also known as Heneriata Tuhua) died at Ōpōtiki on 10 March 1910, before the above recommendation had been considered by Cabinet. The same year the Native Land Claims Adjustment Act 1910 was passed. Section 28 empowered the Native Land Court or a Maori Land Board to enquire into any matters listed in the Third Schedule of the Act, and make recommendations on them to Parliament. The Third Schedule includes Heneriata Haeata's 1907 petition regarding the Whakapaupakihi no. 4 block.[85]

William Wright and the successors to Heneriata Haeata's interests in Whakapaupakihi no. 4 appear to have decided after her death not to proceed with this petition. In a letter dated in April 1910, they agreed to 'abandon all benefits derivable under s. 28 of the Native Land Adjustments Act 1910 in consequence of a petition'.[86]

Four years later the Chief Judge recommended that the 1907 partition be abandoned in accordance with the wishes of Heneriata Haeata's descendants.[87] The Native Department approved this recommendation the following month.[88] By that time Whakapaupakihi no. 4 had been leased to a European farmer. It seems possible that the decision by Wright and others to abandon their quest for further rights to this block was taken as part of a wider decision to lease the land.

2.1.13 Forming block management bodies, 1909-1912

In 1909 representatives of Whakapaupakihi no. 2 and no. 4 each applied to form a body corporate for those blocks under ss. 122-124 Native Land Court Act 1894. Te Pirini Tautini and others applied for the 2000-acre no. 2 block, and Hemi Te Mataiho and others for the 800-acre no. 4 block.[89]

Their applications were heard on 7 April 1909 at a Native Land Court sitting in Gisborne under Judge R. Jones.[90] Paora Te Pakihi told the court that 'we have come

[83] Registrar, NLC Auckland to U-S, Native Dept, 31 Oct. 1907, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[84] Report, chair, Native Affairs Committee, 10 Sept. 1908, ibid.
[85] Native Land Claims Adjustment Act 1910, s. 28; Third Schedule, no. 6
[86] Te Tapeha Heneriata and others to Registrar, Native Land Court, Auckland, 13 April 1910, MA1 932 1907/647 R22402191, Archives NZ Wgtn
[87] Chief Judge, Native Land Court to Native Minister, 6 July 1914, ibid
[88] U-S, Native Dept, to Chief Judge, Native Land Court, 7 Aug. 1914, ibid
[89] *NZG* 1909 no. 15, p. 596
[90] *NZG* 1909 no. 36, p 1207

to an arrangement.' He said the five hapū which collectively owned the Whakapaupakihi no. 2 block had agreed to elect a committee to represent their interests. The members of this committee were Te Ua Tawhito, Te Amoamo Te Raki, Rota Ranapia, Nohoketa Raiti, Rangi Haerepo, Hoera Hinepou and Mitai Hotua.[91] The applications were granted and committees appointed on 31 August 1909.[92]

Later in 1909 the Whakapaupakihi no. 4 body corporate committee comprised Heneriata Haeata (who had petitioned several years earlier for ownership of the entire block), Heremia Hoera, Mitai Hoera and Mikaere Eria.[93] After the death of Mrs Haeata the following year the committee comprised Te Ua Tawhito, Te Amoamo Te Riaki, Rota Ranapia, Nohokete Raiti, Rangi Haerepo, Karera Hinepau and Mitai Hoera.[94] The block was then leased for 42 years from 22 February 1910 to Wiremu Haeata of Motu, farmer. This is almost certainly the same person as Heneriata Haeata's grandson William Wright, above. On 31 July 1911 this lease was transferred to Bridget Quirk, wife of Thomas Quirk of Pahiatua, farmer. On 1 July 1934 it was again transferred to James Quirk of Motuhora, farmer.[95]

A court order vesting No. 2 block in its owners as a body corporate under s. 122 Native Land Court Act 1894 was issued on 22 January 1912. The block was then leased to Ann Quirk, widow, for 50 years from 1 August 1912. That lease was transferred to Thomas Quirk of Puha, farmer, on 26 January 1914. It was amended to include a right to quarry stone on 8 May 1916. The lease was transferred to Kathleen Quirk, widow, on 23 March 1933, and to JJ Quirk, farmer, for 25 years for £196 4/10 p.a from 21 July 1934.[96]

At another Native Land Court hearing in Ōpōtiki in August 1909, the owners of the Whakapaupakihi no. 1 and no. 3 blocks also applied to form a body corporate and appoint a committee for each of them. These applications were also made under ss. 122-124 of the Native Land Court Act 1894.[97]

2.1.14 Alienations by lease, 1912-1915

In 1912 the owners of Whakapaupakihi no.s 1 and 3 blocks proposed to lease the lands through the Tairawhiti District Maori Land Board, as their agents, to Thomas Quirk. A meeting of owners was called under pt. 18 NLA 1909.[98] The meeting agreed to lease these blocks to Quirk for 25 years at 2s per acre from 1 August 1912, with right of renewal for a further 25 years, plus timber-cutting rights at £6 per acre.[99] Quirk, in turn, sub-leased a small part of no. 3 block to AW Harris of Matawai, baker, for 22 years from 1 August 1915. The lease for both blocks was transferred to Katherine Quirk of Ormond, widow, on 23 March 1933. It was then transferred to JJ Quirk of Motuhora, sheepfarmer, on 21 July 1934. The rental was then £38 18/- p.a.

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[91] OMB no. 18, p. 265-269, 31 Aug. 1909
[92] *NZG* 1909 no. 37, p. 1257
[93] *NZG* 1909 no. 64, p. 2060
[94] *NZG* 1910 no. 20, p. 762
[95] BAJJ A76 5015 Box 74 - Tentative development scheme Whakapaupakihi blocks 1, 2, 3 and 4, 1955-1956, R328353 Archives NZ Auck. DB A6
[96] Ibid
[97] *NZG* 1909 no. 61, p. 1918
[98] *NZG* 1912 no. 64, p. 2364-2365
[99] *NZG* 1912, no. 73, p. 2770

This lease was renewed under s. 290 Native Land Act 1931 for 25 years from 1 August 1937 at a rent of £34 12/- p.a.[100]

It is apparent that these lease agreements through the Maori Land Board proved highly problematic for the block owners. The leasing was managed by the Tairawhiti Maori Land Board, based in Gisborne, although most of the landowners lived in Ōpōtiki, within the Waiariki Maori Land Board district. As a result, communication between the Boards over these leases was poor, documentation went missing and there were long delays in paying the rentals due to the owners.

In April 1912, even before the Whakapaupakihi leases were confirmed, Thomas Quirk wrote to the Native Minister to complain of 'great delay by the Tairawhiti (Gisborne) Native Land Board in paying over rents to natives.' These delays concerned rents due on blocks in Motu, but had implications for the leases he was then negotiating for Whakapaupakihi no.s 2 and 4. 'Failure of Natives to get their rent has been detrimental to my interests in making further deals with them.'[101]

The Tairawhiti MLB clerk explained to the Native Minister that these delays in payment were due to 'the Board being short-handed', and to the large number of owners and the difficulty of contacting them. 'There are 549 names in the title and an additional 225 have been included by succession to deceased owners.'[102]

However, two years later the Native Minister told the Native Department that, 'It is alleged that several owners in Opotiki for Whakapaupakihi blocks 2, 3 and 4 have never received any rents.'[103] In January 1915 Henry Elliott, a spokesperson for the Whakapaupakihi owners, told the Minister that:

> The bulk of the owners have never received any money at all, although the rents have been in hand nearly three years. … The Clerk of the Tairawhiti Board was in Opotiki for a day in August 1912 and paid out about one half of the money to some of the larger shareholders, but since then no serious attempt has been made to pay out… There must now be well over £1000 in the hands of the Board belonging to the Natives… Would Europeans in a similar case quietly acquiesce?[104]

A note to the above letter adds that 'The whole difficulty seems to have arisen owing to the fact that the lands were in Tairawhiti Maori Land Board District while the owners lived in Waiariki Land District.'[105]

In February 1915 the Tairawhiti Board president advised the Native Department that, 'Arrangements made to pay these rents. Annual rentals are very small – no. 1 £24, no. 2 £150, no. 3 £24, no. 4 £78. Numbers of owners are – no. 1, 80; no. 2, 670; no. 3,

[100] BAJJ A76 5015 Box 74 - Tentative development scheme Whakapaupakihi blocks 1, 2, 3 and 4 1955-1956, R328353 Archives NZ Auck
[101] Thomas Quirk to Native Minister, 10 April 1912, MA1 1073 1912/1199 Archives NZ Wgtn DB A101 (2 pages)
[102] Clerk, TDMLB, to U-S, Native Dept, 20 April 1912, ibid DB A102
[103] Native Minister to U-S, Native Dept, 3 November 1914, ibid DB A103
[104] Henry Elliott to Native Minister, 14 January 1915, ibid DB A104
[105] Marginalia to ibid, 15 February 1915 DB A105

130; no. 4, 90.'[106] Those figures equate to an annual rental income to each owner of 17/- for Whakapaupakihi no. 4 (about $100 per head in present-day terms), and from 3/- to 6/- (approx. $15-$30 per head) for the other three blocks.

During the years that they were obliged to wait for the rentals due to them, the Whakapaupakihi owners were not passive. In June 1912 Te Warana Mokomoko wrote to Native Minister McDonald on behalf of 'the whole of the Whakatohea tribe' to request him to:

> cancel the Whakapaupakihi No. 2 lease, on the ground that our Whakatohea tribe have not yet received the £500 [agreed upon?] It is going on for two years since it should have been paid over to us... We entreat of you to inform us whether it is the intention of the government to pay us for the area for the railway line, over the potato, kumara and corn plantations…. We hold that blood paid for blood; that the cost to Govt for paying its troops has been reimbursed by the fruits (hua) of the land, during the past 30 years or more.[107]

Judge Browne, president of the Waiariki District Maori Land Board, showed little sympathy for Mokomoko's concerns. 'Whakapaupakihi No. 2 is in the Tairawhiti District. I believe the Tairawhiti Board has entered into some arrangement for the sale of the timber growing on it but I know nothing about the matter… Whakatohea were in rebellion at the time of the war and had the greater part of their lands confiscated.'[108]

The Native Department then replied to Mokomoko to assure him that 'Rents are now in the hands of the Tairawhiti Board but owing to the large number of names on title, some delay in payment could not be prevented. Regarding taking of lands for the railway, this is a matter for the Public Works Department.'[109]

2.1.16 Alienations for public works, 1913-1952

Mokomoko's reference to compulsory takings of Whakapaupakihi no. 2 land for railway purposes is apparently the first such taking of land from any of these blocks for public works. The amount of land taken was 6 acres 1r 1p, claimed under proclamation on 13 March 1913.[110] In response to the owners' request for compensation for the land, the Public Works Department suggested that an old road line, closed by notification in *NZG* 4 July 1912, 'should be accepted by the owners in lieu of paying compensation.' A Native Land Court sitting at Ōpōtiki on 29 Oct. 1913 awarded no compensation for the land taken but vested the closed road in the owners under s. 86, Public Works Act 1908 – 4 acres 0r 5p to the owners of Whakapaupakihi no. 1 (188 acres), and 6 acres 3r 15p to the owners of Whakapaupakihi no. 3 (186

[106] Registrar, Tairawhiti District Maori Land Board, to Under-Secretary, Native Dept, 3 February 1915, ibid DB A106
[107] Te Warana Mokomoko to Native Minister McDonald, 8 June 1912 (official translation of Maori original), MA1 1078 1912/2129 R22404370 Archives NZ Wgtn DB A107 (2 pages)
[108] Judge Browne, Waiariki District Maori Land Board, to Under-Secretary, Native Dept, 22 July 1912, MA1 1078 1912/2129 R22404370 Archives NZ Wgtn DB A108
[109] Under-Secretary, Native Dept, to Te Warana Mokomoko, 17 August 1912, ibid DB A109 (2 pages)
[110] *NZG* no. 21 p. 813

acres).[111] The Minister of Public Works made an order to this effect on 10 June 1914.[112]

- Further compulsory takings under s. 188, Public Works Act 1908 took place in 1916, when three pieces of Whakapaupakihi no. 2 totaling about 24 acres were taken for the Gisborne-Rotorua railway (Proclamation no. 274).[113]
- Two small pieces were taken from Whakapaupakihi no. 1 under s. 29 and s. 188 Public Works Act 1908 on 21 Sept. 1917 for the same purpose (Plan PWD no. 42825, 42826).[114]
- In 1919 (Proclamation 320), five acres was taken from Whakapaupakihi no. 3 for a school under the Public Works Act 1908 and Education Act 1914 (plan PWD no. 44624).[115]
- In 1937 approx. six acres was taken from Whakapaupakihi no. 3, and 31 acres 2r 2p from Whakapaupakihi no. 2 under the Public Works Act 1928 for a quarry (PWD plan no. 94766; Proclamation 744.)[116]
- On 29 May 1939, under Proclamation 803, 51 acres 3r 15.1p was taken from Whakapaupakihi No. 4 for an aerodrome (the Motuhora Emergency Landing Ground).[117]
- In 1940-41, several small pieces of land (less than one acre each) were taken for access to the above aerodrome.[118]
- In 1952 1 acre 3r 26.4p was taken from Whakapaupakihi no. 1 for the Gisborne-Rotorua railway (plan L.O no. 11646; proclamation 1220).[119]

2.1.17 Land development, 1955-1980

In 1955-56, as the leases on the Whakapaupakihi lands were due to expire, the land came under consideration for a Maori Affairs Department development scheme. At that time the four blocks were owned by:

- No. 1 - Te Akau Parsons plus 291 others
- No. 2 - Louis Agassiz plus 3086 others
- No. 3 - Ani Whakaruru (Agassiz) plus 359 others
- No. 4 - Ani Mikaere plus 279 others.[120]

The local office of the Maori Affairs Dept reported that the land was 'eminently suitable for settlement as sheep farms.' The Department felt that the Whakapaupakihi blocks should be run by an incorporation but was unclear whether the Whakatohea Trust Board, formed ten years earlier to receive and disburse the government's £20,000 compensation payment, 'has the legal powers to acquire the further land on

[111] J. Mackenzie, U-S, Dept of Lands and Survey, to Commissioner of Crown Lands, Napier, 4 July 1914, BANF A1272 5694 Box 114 - survey of native lands - Whakapaupakihi block R21489729 Archives NZ Auck. DB A
[112] FT O'Neill, U-S, Dept of Lands and Survey, to Chief Surveyor, Napier, 1 Sept. 1913, ibid
[113] *NZG* 1916, p. 557
[114] *NZG* 1917, p. 3671
[115] *NZG* 1919, p. 211
[116] *NZG* 1937 p. 1554
[117] BAJJ A76 5015 Box 74 - Tentative development scheme Whakapaupakihi blocks 1, 2, 3 and 4 1955-1956 R328353 Archives NZ Auck.
[118] Ibid
[119] *NZG* 1952, p. 1280
[120] BAJJ A76 5015 Box 74 - Tentative development scheme Whakapaupakihi blocks 1, 2, 3 and 4 1955-1956 R328353 Archives NZ Auck.

lease and whether it is in a position to raise the necessary finance to commence farming and also whether the Whakapaupakihi owners desire such a course.'[121]

The Maori Affairs field officer reported in 1956 on the status of each of the Whakapaupakihi blocks:

- No. 1 - 175 acres, CV £4,275, rent £34 12/- p.a., lease expires 1962. Has woolshed and yards etc
- No. 2 - 1,962 acres, CV £6,460, rent 2/- per acre p.a., lease has 7 years to run
- No. 3 - 179 acres, CV £ 4,205 (incl. dwelling, stables and other outbuildings), rent £38 18/- per acre p.a., lease expires 1958
- No. 4 - 736 acres, CV £5920, rent £94 1/8, lease expired last year. Being grazed by Mr Nikora, one of the committee of management, but no agreement on tenure.

The field officer advised that 'Block 2 would make a sheep and cattle farm on its own and Blocks 1 and 3 plus a small area from Block 4 would make a second sheep farm. The balance of Block 4 would make a third farm.'[122]

The Maori Affairs Rotorua district officer advised his Gisborne counterpart that, 'There are some 45 young men suitably equipped to control their own farms. There is no land to place them on in Opotiki… this land is suitable for immediate placement for some of these boys.'[123]

The Department's Rotorua district field supervisor advised that the Whakapaupakihi blocks were currently carrying 1800 ewes, 1200 hoggets and 400 cattle. 'There is sufficient area to warrant placing all these blocks under development as one scheme… This could be used a source of revenue for the Māori owners for all time, unless at a later stage settlement in small farms becomes advisable.'[124] He later confirmed that he was referring only to sheep-farming operations. 'I would not recommend settlement of Maoris here in dairy farms.'[125]

As at 24 October 1952, the members of the Committee of Management for Whakapaupakihi no. 4 were Nui Mitai, Rawiri Mihaere, Waea Te Hau, Pango Kohi and Rau Tawhara. The secretary was Mr W. Nikora. They had let grazing rights on the block to Mr DA Richardson of Motu from 9 July 1953. The owners met at Te Rere Pa, Ōpōtiki on 18 September 1956 to consider options for the future use of the block:

- either lease to Colin Isabeth of Gisborne for 21 years, or
- that the land be vested in the Whakatohea Trust Board under s. 213 and 214 1953 Maori Land Act, or acquired by the Board for farming by owners or leased to the Board for 50 years.[126]

[121] McIntyre, Rotorua District Officer, Maori Affairs to Secretary, Maori Affairs, Wgtn, 30 August 1955, ibid
[122] Report, field officer, Maori Affairs, 16 Feb. 1956, ibid
[123] McIntyre, District Officer Rotorua to District Officer, Gisborne, 16 Feb. 1956, ibid
[124] District Field Supervisor to District Officer, 24 April 1956, ibid.
[125] Ibid, 27 April 1956
[126] District Officer, Rotorua to District Officer, Gisborne, 1 May 1956, ibid

The Maori Affairs District Field Supervisor reported that nearly 100 people attended this meeting. 'After considerable discussion, the owners passed a resolution to lease the land for 21 years to Colin Isabeth for £400 p.a. Many others wished to lease the land to the Whakatohea Trust Board.'[127]

Following the expiration of this lease, the Whakapaupakihi blocks were leased to the Mangatū Incorporation for sheep grazing. Some trustees again proposed that the Whakatohea Maori Trust Board should take over the lease, but the Board recommended that due to the remoteness of the land from Ōpōtiki, and the heavy capital investment required to maintain income, the lease to the Mangatū Incorporation should be renewed.[128]

2.1.18 Whakapaupakihi lands in Māori ownership, 2017

According to the Maori Land Court's 'Maori Land Online' website, the following Whakapaupakihi blocks remain in Māori ownership at the time of writing:

- Whakapaupakihi no. 2 794.1634 ha. Ahu Whenua Trust
- Whakapaupakihi no. 5 (formerly no. 1) 70.9062 ha. Ahu Whenua Trust
- Whakapaupakihi no. 6 (formerly no. 3) 71.52 ha. Ahu Whenua Trust
- Whakapaupakihi no.7 (formerly No. 4) 319.5 ha. Ahu Whenua Trust

Total (rounded) – 1256 ha. / 3104 acres

2.1.19 Whakapaupakihi alienation timeline

Date	*Area (acres)*	*Notes*
Pre-1880	20,000 approx.	Includes Ngai Tai interests
1880	11,000	Boundary survey
1881-82	8,960	NLC awards Whakatōhea interests
1882	2000	Majority of block sold to Crown
1884	3200	Portion mistakenly included in Ngai Tai lands returned under S. P and C. Act 1883
1913-52	96 approx.	Lands claimed for public works
2017	3104	

[127] File note, 20 September 1956, ibid.
[128] R. Walker *Opotiki Mai Rawhiti* Penguin: Auckland, 2007, p. 206

2.2 Oamaru

2.2.1 Summary

The mountainous Oamaru lands, which adjoin the Motu block and the Waioeka River, were surveyed and considered for sale to the Crown jointly with the larger Tahora block. The histories of the two blocks are therefore entwined. The Tahora block is the subject of a detailed and comprehensive research 2002 report which is readily available online, and the survey of Tahora is addressed at length in Binney's *Encircled Lands*.[129] Accordingly, this narrative will only summarise the relevant information from those sources.

2.2.2 CA Baker's negotiations to survey block, 1885-87

In early 1885 the 28-year-old surveyor Charles Alma Baker arrived in the Bay of Plenty seeking opportunities for work. The previous year he had married the youngest daughter of Sir Frederick Whitaker, a former premier and attorney-general with extensive interests in lands acquired from Māori. These included large holdings in the Waikato which had become unsalable due to economic depression, and had 'brought [Whitaker] to the brink of poverty'.[130]

Baker evidently made contact with Tauha (also known as Tauwha) Nikora of the Ngāti Patu hapū of Whakatōhea, who was about his own age and soon became a prominent and often controversial figure in Native Land Court hearings and Crown purchases of Whakatōhea lands. Baker also began an affair with Tauha Nikora's sister Maria Nikora, who held interests in both the Oamaru and Tahora No. 2 blocks. The couple had a child, Pita Heretaunga Baker, in May 1889.

In February 1885 assistant Surveyor-General Percy Smith received an application from Tauha Nikora for the survey of the Oamaru block. Nikora estimated the size of the block at 15,000 acres and asked the government to advance £312 to Baker to undertake the survey. He later claimed that, 'This land does not belong to a hapu of the Whakatohea but to a few individuals belonging to the Whakatohea tribe... The hapu nor tribe have no interest in it.'

That information was either inaccurate or deliberately misleading. The following month Whakatōhea met as an iwi to discuss the survey of land blocks within their tribal territory. They resolved to apply for survey of various blocks including Oamaru and 'Te Tahora'. Chiefs of each of the Whakatōhea hapū signed the survey application, including Tiwai Piahana and Te Hautakuru for Ngāti Patu. The iwi stipulated that the only surveyor they wished to conduct the work was John Balneavis, whose mother was Meri Makarina Hineahua of Whakatōhea.[131] Boston and Oliver state that this stipulation was 'undoubtedly a reference to the proposed survey of the

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[129] P. Boston and S. Oliver, 'Tahora'. Waitangi Tribunal 2002; https://forms.justice.govt.nz/search/Documents/WT/wt.../Wai%20894%2C%20A022.pdf*; J. Binney, Encircled Lands – Te Urewera 1820-1921, Bridget Williams Books 2009, pp. 294-308*

[130] R. C. J. Stone. 'Whitaker, Frederick', first published in the *Dictionary of New Zealand Biography*, vol. 1, 1990. *Te Ara - the Encyclopedia of New Zealand*, https://teara.govt.nz/en/biographies/1w17/whitaker-frederick (accessed 12 October 2017)

[131] Ranginui J. Walker. 'Balneavis, Henare Te Raumoa Huatahi', first published in the *Dictionary of New Zealand Biography*, vol. 4, 1998. *Te Ara - the Encyclopedia of New Zealand*, https://teara.govt.nz/en/biographies/4b4/balneavis-henare-te-raumoa-huatahi (accessed 12 October 2017)

Oamaru block by Charles Alma Baker.'[132]

However, Nikora's application did not immediately proceed since Baker, unlike a government surveyor, could not carry out the survey in return for a Crown grant of part of the land, but had to be paid a fee, and the applicants lacked the necessary funds. By 1886 Crown officials were also concerned at apparent irregularities in the survey application. Although Nikora had described the area of the Oamaru block as 15,000 acres, the actual area was evidently over 75,000.

From early 1887 Baker energetically lobbied government officials in Auckland and Wellington for funding for his survey. He proposed that both the Oamaru and Tahora blocks could be surveyed together, at a considerable saving to the Crown, and advised that he had arranged to select the best parts of the block at a low rate if the Crown funded his work. Three men who claimed interests in the Oamaru lands - Tauha Nikora, Hautakauru Tairua and Apanui Patangata – signed an agreement with Baker to carry out the survey at a rate of 5d per acre.[133] By the time of the block's first title investigation hearing three years later, that agreement could no longer be found.[134]

In May 1887 the Native Department advised the Native Minister that 'Mr Baker's survey [of Oamaru] might be paid by the Govt especially as I understand the pick of the land can be taken at 1/- per acre in payment, such being the arrangement with the natives'.

E. Charles, the Crown's district surveyor, gave evidence in 1890 that the assistant Surveyor-General then came to an arrangement with Baker to survey the Oamaru block for 3d per acre, or almost $400,000 in present-day terms. Although this was a little over half the rate previously agreed with Nikora and the other applicants, Charles acknowledged that it was nevertheless a large sum for a single survey. He claimed that the amount was justified in this case 'on account of the great difficulty of getting men and provisions onto the block and also because some triangulation work would be required, and also because the Natives had previously agreed to this [higher] price.' In addition to the boundary survey of the entire block, subdivisional surveys of the internal boundaries between the areas awarded to each hapū would be charged at a rate of £12 per mile. Mr Charles considered this 'a fair price because the country is so rough and difficult to travel over.'[135]

2.2.3 Survey of Oamaru block, 1887

Accordingly Baker, accompanied by Nikora, carried out the Oamaru survey during mid-1887. (Baker appears to have surveyed the Tahora block, without government authorization, at the same time.) Hautakauru Tairua later told the Native Land Court that, 'The survey of this block was… a matter of discussion with Whakatohea for three years before it was undertaken. During that time they objected to the work being done. Their objection was based on the injunctions of Te Kooti.'[136] That statement is disproved by Whakatōhea's 1885 application to the Crown to survey Oamaru and

[132] Boston and Oliver, p. 25
[133] This figure equates to over $600,000 in present-day terms, according to the Reserve Bank's inflation calculator.
[134] OMB no. 6, 22 May 1890, p. 25
[135] OMB no. 6, 22 May 1890, p. 27-29
[136] OMB no. 6, 16 August 1888, p. 282

other blocks on condition that the survey was not carried out by Baker.

The Oamaru block survey plan (no. 6095) was submitted to the Survey Department's Auckland office on 2 July 1887.[137] *[Plan to be located and copied and copied for reproduction in this report.]* The plan was not initially accepted by the Survey Department and Baker was required to return to the area in late 1887 to carry out further measurements.

2.2.4 Native Land Court title investigation, 1888

The following year, in August 1888, the Native Land Court held a title investigation hearing into the Oamaru block at Ōpōtiki, under Judge Scannell. The Native Assessor was Karaka Tarawhiti. Each of the hapū of Whakatōhea was represented at this hearing, which was conducted under the Native Land Court Act 1886.[138]

The applicant in this case, Tauwha Nikora, claimed the entire Oamaru block for Ngāti Patu on grounds of ancestry and conquest.[139]

The first hapū to present their case in opposition to Nikora was Ngāti Ira, represented by Paora Te Pakihi. He claimed a portion of the land through conquest over the Whakatāne people (related to Tūhoe). His witness Mini Tamaipaora confirmed that 'No canoes were ever built on this land by any hapus but ours, nor did they occupy any houses or live there.'[140]

Manihera Maiki then conducted Ngāti Ngāhere's case. He also claimed part of the land by ancestry. 'It was in consequence of the death of Rangituawa who was killed in the bush that the hapu called N' Ngahere derives their name. They were formerly named N' Kahu.'[141]

Ranapia Te Waihapu gave further evidence for Ngāti Ngāhere. He explained that 'N' Ngahere is the name by which the N' Ruamoko were formerly known but N' Patu was the previous name by which N' Ruamoko were known.' Rewita Niwa conducted the case for Ngai Tama.[142]

Paku Eruera conducted the case for Ngāti Rua, and Heremia Hoera Poaka for Ngai Tāmoko. Te Ua Tawhito then claimed part of the block for Ngāti Rangi, and Heremia Hoera Poaka admitted the validity of his claim on behalf of Ngāti Rua.[143]

Netana Rangiihu and Eru Tamaikowha claimed part of the Oamaru block on behalf of Whakatāne. Tamaikowha pointed to a stream within the block called Te Ū where he said, his people had 'killed several of the Whakatohea… but did not cook them. We were beaten on the other side of the same stream, killed and eaten…. Tho' we were beaten we continued to occupy the land in search of game until my father's time.'[144]

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[137] OMB no. 6, 21 May 1890, p. 22
[138] R. Boast, *The Native Land Court* vol. 2, p. 329
[139] OMB no. 6 3-4 August 1888, pp. 225-226
[140] Ibid, 6 August 1888, pp. 231-233
[141] Ibid, 7 August 1888, pp. 240-241
[142] Ibid, 8-9 August 1888, pp. 245-249
[143] Ibid, 10-14 August 1888, pp. 252-272
[144] Ibid, 15 August 1888, pp. 274-279

After three weeks of evidence, Judge Scannell asked a supposedly independent witness to appear in the hope of clarifying the rival claims to the lands. Tiwai Piahana, an elderly chief of Ngāti Patu, gave evidence of his hapū's rights to the Oamaru lands, but Judge Scannell found that his evidence supported the earlier discredited and withdrawn evidence of Tauwha Nikora of Ngāti Patu. Judge Scannell concluded that Piahana had been coached in his evidence by Nikora and could therefore not be regarded as a reliable witness.[145]

In his judgement on this case, Judge Scannell gave examples of Nikora's evidence in which historical figures who had lived four or more generations apart were nevertheless described as contemporaries. On the other hand, he said, 'it appears that other hapu, Ngati Rua, Ngati Ngahere, Ngaitama and Ngati Ira, each gives an intelligible account as to how it obtained and occupied the portion of this large block claimed by it, each points out its marks of ownership and where its boundaries are.' The judge therefore rejected Nikora's claim for the entire block. He said he considered Ngāti Patu 'a section of Ngati Ngahere and as such should share in the Ngati Ngahere section of this block.'[146]

The judge also found that the Whakatāne people had never been expelled from the part of the block they claimed to have occupied, and therefore awarded it to them, adding that 'The remnants of conquered tribes are not infrequently found living in remote parts of their old possessions in a state of independence. Such would seem to be the case in this instance.'[147]

He awarded the remaining five portions of the block to Ngāti Ira, Ngaitama, Ngātirangi and Ngāti Ngāhere, and a portion jointly to Ngai Tāmoko, Ngāti Rua and Ngāti Rakautahi (which he recognized as a 'sub-hapu' of Ngāti Rua).[148]

Over the following days lists of names were handed in for each of these subdivisions, as follows:

- Lot 1 - Whakatane, by Netana Rangiihu
- Lot 2 – N' Ira by Paora te Pakihi[149]
- Lot 3 - N' Patu by Tauwha Nikora and Tiwai Piahana[150]
- Lot 4 - Ngaetama by Rewita Niwa
- Lot 5 - N' Ngahere by Te Ua Tawhito
- Lot 6 - Ngatirangi by Te Ua Tawhito[151]
- Lot 7 - Ngaitamoko by Heremia Hoera Poaka

The court then ordered certificates of title to be issued for these Oamaru blocks.

[145] Ibid, 27 August 1888, p. 356
[146] Ibid, pp. 356-358
[147] Ibid, p. 359
[148] Ibid, pp. 360-261
[149] Ibid, 29 August 1888, p. 365
[150] Ibid, 28-29 Aug. 1888, p. 363-364
[151] Ibid, p. 367

Several applications were made in the following months to rehear this title investigation decision. On 7 March 1889, the Chief Judge announced that all these applications had been dismissed.[152]

2.2.5 Determining survey costs, 1889-90

There remained the important issue of the cost of surveying the block boundaries. This was considered at a new hearing at Ōpōtiki in April 1889 under Judge Laughlin O'Brien, with Nikorima Poutotara as Native Assessor.[153] On behalf of the Crown, Mr Bush asked for 'an area… taken out of each portion', as payment for the survey costs.[154]

The Ngai Tama leader Rewita Niwa objected to this claim, and asked that the land taken for the survey should be paid for at the rate of 2/6 per acre. The hapū spokespeople for each of the other subdivisions supported this statement. After further discussion they agreed to accept a Crown offer of 1/3 per acre.[155]

Mr Bush then applied for title deeds in favour of the Crown for the following new blocks, which he claimed in lieu of the survey fees:

- 1A – 1532 acres, title deed 1773
- 2A – 7816 acres, title deed 1774
- 3A – 1980 acres, title deed 1775
- 4A – 5099 acres, title deed 1776
- 5A – 10,784 acres, title deed 1777
- 6A – 720 acres, title deed 1778
- 7A – 2426 acres, title deed 1779

The aggregate area of these blocks, 30,357 acres, was about 30% of the total area of the original Oamaru block.

The court accordingly issued the deeds under the Native Land Court Act 1886 Amendment Act 1888. Blocks no. 2A-5A were made as one adjoining block, and all seven blocks were proclaimed freehold Crown land under s. 247 of the Land Act 1885.[156]

Several of the Oamaru owners objected to this arrangement. On behalf of the Whakatāne owners of Oamaru no. 1, Eru Tamaikowha said, 'I was not party to this cutting off for the Crown and I should like the matter to stand over until I have communicated with Govt. I look upon this survey as a murder and I look upon the result of the proceedings of this Court in the same way.'

Paora Te Pakihi, on behalf of the Ngāti Ira owners of Oamaru no. 2, said, 'I consented if the Govt allowed us the rate of 2/6 per acre. I was not here when the matter [of reducing the rate to 1/3 per acre] was discussed and I don't agree.'

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[152] OMB no. 5, 16 March 1889, p. 153; *NZG* 1889 no. 8 p. 194
[153] OMB no. 6, 12 April 1889, p. 11
[154] Ibid
[155] Ibid, 12 April 1889, pp. 12-13
[156] Ibid, pp. 13-15; *NZG* 1892 no. 72, p. 1275

Te Ua Tawhito, on behalf of Ngāti Ngahere (Oamaru no. 5) and Ngāti Rangi (Oamaru no. 6) said, 'I also protest against the arrangement made and the acreage cut off for the Govt. to defray the cost of survey.'

All three objectors were told that nothing could be done at that hearing, and that they must apply for a rehearing to have their objections considered.[157] That rehearing was held in May 1890 at Gisborne's Theatre Royal under judges G. Barton (presiding) and S. von Sturmer, with Tuta Tāmati as Native Assessor.

The solicitor for the Oamaru owners, Mr Day, said that on 15 October 1888 the Surveyor-General had submitted an invoice to the Native Office for £1306 for survey charges for the block. That charge was excessive, claimed Mr Day and he also alleged that there were irregularities in how the survey was carried out. According to the Crown's own survey regulations, a survey of any block larger than 25,000 acres could only be carried out by agreement between the native owners and the surveyor, and no such agreement was included in the survey file. He said his clients would accept the current survey charge as long as the price of the land taken by the Crown was returned from 1/3 to 2/6 per acre.[158]

In response, Mr Bush claimed on behalf of the Crown that the survey charges were reasonable, and that a legal agreement to survey had been made but had since apparently been lost.[159]

In its judgement, the court found that five of the seven hapū had agreed to pay the Crown's survey charge, that the charge was not excessive under the circumstances, and that the price offered by the Crown for the land taken for the survey was reasonable.[160] It therefore upheld the earlier court's ruling regarding the takings for the survey charges.

Several years later (the petition is undated but was probably sent in 1893), a petition was sent to the Speaker of the House signed by Rewita Niwa and 49 others, on behalf of the 'Whakatohea (and a small section of the Urewera) Tribes, living in the neighbourhood of Opotiki' regarding:

> the great injustice being done to us, the owners of the Oamaru block… A request was made by some of the Whakatohea tribe to have a survey made of a small piece of land called Oamaru, on the Northwest corner of this block. The Surveyor named Baker made a compact with two of our people to extend the boundaries taking in all our country against the will of the tribe… We urged upon Mr Bush, RM at Opotiki, to stop this surveyor's evil work but no notice was taken of our request; we wanted the land surveyed, if done at a reasonable figure but not by this surveyor who, we heard, had friends in high places and from the way he acted, could do what he liked, without interference by the Government.
>
> Since we took the oath of allegiance to the Queen, we have used our best endeavours to uphold the Queen's Authority. Thus we did not interfere with the survey. The block was adjudicated upon by Judge Wilson (who spoke

[157] OMB no. 6, 13 April 1889, p. 18
[158] Ibid, 21 May 1890, pp. 22-23
[159] Ibid, 22 May 1890, pp. 24-29
[160] Ibid, pp. 33-34

> strongly against the surveyor's underhand work); some short time afterwards Mr Bush RM was requested by the Government to confer with the conductors of the several hapu cases for the price of the survey – 1/3 (one shilling and threepence) was the price per acre offered upon the whole block, as basis to fix the price of survey upon; but we would not agree to so small a figure per acre, and left his presence without coming to any mutual agreement.
> We next received intimation from the Native Land [Purchase] department that everything was fixed, relative to the price per acre… (which was not the truth). We sent a deputation to the Chief Judge (at more expense to the Tribe) to protest, who told them that everything was settled and that he could do nothing in the matter.
> So the deputation returned with heavy hearts. Some time afterwards a surveyor was sent down to cut out the pieces in payment for the survey (one third of the whole block).
> The price per acre for the survey was 5d… not such a heavy charge if the block had required to be surveyed all around, but in this case there was only one side to survey; the other three sides had already been done in the surveying of the confiscation line, and other blocks again…
> Altogether a great injustice has been done to us, and we now humbly request that some restitution may be made to us, either in the shape of cash or returning to us some of the 30,000-odd acres taken in payment for the survey. We have already lost all our ancestral lands on the front, it having been confiscated for our having taken part in the rebellion, but this second confiscation of the last of our birthright has broken our hearts. We have lost so much that we cannot afford to send a deputation to give evidence on our behalf. We therefore request that the Hon. Mr Carroll and Mr Wi Pere MHRs (who know all particulars relative to this unfair transaction) may be allowed to give evidence before the Native Affairs committee on our behalf.'[161]

No reply or other response to this petition has been located.

2.2.6 Alienation by sale, 1893-1896

Once the survey costs were formally discharged, each hapū was legally entitled to sell all or part of its share of the overall Oamaru block to the Crown. Ranginui Walker suggests that the inadequate tribal income generated by the Ōpape Reserve was the main motive for deciding to offer the Oamaru lands for sale.[162] R. Gill of the Native Land Purchase Department appears to have spent several years contacting individual owners, or groups of owners, and arranging to buy their interests in the Oamaru B blocks.

In May 1893 he received an impatient letter from Piahana Tiwai, the elderly chief of Ngāti Patu, asking:

> Where is the letter that I gave you at the time that you and Mr Williamson, interpreter, came to Whakatane? Did you throw it in the water [i whiua ranei e korua ki the wai], or what did you do with it?... I hope that you will reply to

[161] Petition, undated, (official translation) MA-MLP1 51 1898/206 R23907545 Archives NZ Wgtn DB A9
[162] R. Walker, *Opotiki Mai Tawhiti*, p. 139

> that letter which was to the effect that I wished to sell Oamaru no. 3 to the Government. There is not anyone else can say anything about it.[163]

Gill annotated this letter with a request to the Auckland Survey Dept office for a sketch of the block boundaries, showing adjoining blocks. Surveyor-General S. Percy Smith supplied this sketch on 8 June 1893, adding that 'If you can get no. 3 at the same price as the other block or even at a little above that price, I consider it advisable to secure it. It connects two parts of the Crown estate.' P. Sheridan of the NLP Dept replied that '1/- an acre was the price paid for other portion of No. 3. Can we give a little more for this?' Smith replied, 'Yes – I think it is worth 2/-'.[164]

Also in May 1893, Gill sent a telegram to Sheridan saying, 'Am having the seven Oamaru blocks on one deed prepared and will commence the purchase as soon as received. You have papers on this. Price authorised two shillings per acre.'[165] Sheridan annotated this telegram with the comment, 'The authority only covered [block] no. 3 but I suppose we had better go on for the lot.'[166]

Two years later several landowners contacted the government to ask for payments for their interests in the Oamaru blocks, indicating that the money was needed urgently. Mieke sent a telegram to Premier Richard Seddon saying 'Send Gill quickly with payment for Oamaru block. Cannot wait much longer our cultivations require attention'. On the same day Paora Tepakehe wrote that 'We have been waiting long time in Opotiki for payment for Oamaru block. Send money soon as we wish to return to our homes to plant maize crops'.[167]

In a memo to his Wellington colleague P. Sheridan in September 1895, Gill informed him that 'from the 3rd to the 19th [Sept.] I paid at Opotiki £3860.9.0. I promised to return the 1st or 2nd week in December. Further payments will then be made to about £1000.'[168]

In January 1896 Gill wrote from Tauranga to Sheridan advising that 'the area of the Oamaru block purchased is over 50,000 acres'. He asked him to apply for a sitting of the Native Land Court at Ōpōtiki no later than mid-March 'to determine Her Majesty's interest in this land'.[169]

2.2.7 Partition hearing, 1896

A Native Land Court hearing was held in Ōpōtiki in May 1896, under Judge AW Wilson (formerly the Crown's Bay of Plenty land purchase commissioner) and Native Assessor Karaka Kereru Tarawhiti, to subdivide the blocks for this purpose.[170]

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[163] Piahana Tiwai to 'Friend', (apparently Gill, Native Land Purchase Dept), 2 May 1893, MA-MLP1 51 1898/206 R23907543 Archives NZ Wgtn, DB A163
[164] Memos, Native Land Purchase Dept, June 1893, ibid, DB A164
[165] Teleg. R. Gill to P. Sheridan, 14 May 1893, ibid
[166] Marginalia to ibid, 15 May 1895
[167] Mieke and Paora Te Pakehe to Seddon, 23 September 1895, MA-MLP1 1895/392 R23905265 Archives NZ Wgtn DB A10
[168] NLP memo, marginalia, Gill to Sheridan, 23 Sept. 1895, ibid
[169] R. Gill to P. Sheridan, 6 January 1896, MA-MLP1 51 1898/206 R23907543 Archives NZ Wgtn DB A11
[170] OMB 14, 7 May 1896, p. 135

During this hearing the Whakatōhea chief Te Awanui te Aporotanga 'who had been constantly impeding the court for several days in a half-drunken state, was brought from the lockup where he had been confined and cautioned by the Judge.'[171]

The Crown's representative, R. Gill, revealed that his office had by then purchased the interests of some of the owners of each of the blocks (and all of the shares in the case of the Oamaru no. 6 block), but that the remaining owners declined to sell their shares. Gill therefore applied to the court to partition those blocks into two parts – one for the sellers, which would then become the property of the Crown, and the other for those who declined to sell their interests. He further asked that where possible, the portion sold to the Crown should adjoin the Oamaru lands already acquired by the Crown in lieu of the survey charges.[172]

Block	*total area*	*owners*	*shares*	*shares sold to Crown*	*equiv. area remaining area*	
No. 1	6272 ac.	172	172	40	1458 ac.	4814 ac.
No. 2	21,729 ac.	194	229	180	7,079 ac.	4,650 ac.
No. 3	2,550 ac.	75	75	52 14/15	1789 ac.	751 ac.
No. 4	12,080 ac.	215	239	201 1/10	10,164 ac.	1916 ac.
No. 5	25,780 ac.	102	132	116 23/72	22,717 ac.	3,063 ac.
No. 6	2,544 ac.	13	13	13	(no partition required)	
No. 7	4630 ac.	210	190	122 ½	2985 ac.	1645 ac.[173]

Total – 75,585 acres

The court granted all these partition applications. The blocks retained by the owners were mostly named Oamaru 2B, 3B etc, and those acquired by the Crown named Oamaru 2C, 3C etc.[174] For some reason the portion of the Oamaru 1 block retained by the owners was named 1C, and the Crown portion 1B. The no. 6 block was not partitioned since the Crown had already bought all its shares at the time of this hearing.

During this hearing Gill claimed that the Oamaru no. 1 block was still subject to a Crown survey lien (ie debt) of £103. Rewita Niwa challenged this claim, saying that 'all subdivisions in Oamaru had paid in land for the original survey of the block.' The judge upheld this objection, and the claim for a survey lien was dismissed.[175]

Many of the sellers of these lands appear to have experienced immediate remorse at doing so. The day after this Native Land Court hearing, Te Awanui Aporotanga, Rewita Niwa and other Whakatōhea leaders sent a telegram to a Crown official named McKenzie, saying, 'We, those that sold Oamaru Block now asking you if you

[171] Ibid, p. 138
[172] Ibid, p. 135-136
[173] Ibid, p. 135-158
[174] Ibid, p. 158
[175] Ibid, p. 150

kindly give us back some parts of these numbers –Oamaru no. 2, no. 3, no. 4, no. 7.'[176]

Gill annotated this request with a message to Sheridan – 'Requests for Govt to return some part of the Oamaru lands awarded to Crown under sec. 78 of NLC Act 1894. I cannot recommend the application. The Natives have plenty of other land to cultivate and reside on.'[177]

The following day these Whakatōhea leaders made the same request to the Crown Commissioner, 'in reference to Oamaru blocks no.s one to seven which have been sold to the Crown. No reserves were made for us. Therefore we ask you to return to us a portion out of each sub-division.'[178] No reply or other response to this letter has been located.

Two months later, in July 1896, each of the Crown's partitions of the above blocks was declared Crown land under s. 250, Native Land Act 1892.[179]

2.2.8 Alienation by sale, 1908-1955

The Oamaru lands now remaining in Māori ownership totaled 16,389 acres. This was about 20% of the lands remaining after the Crown acquired the seven Oamaru A blocks in payment for the survey charges, or about 10% of the original 106,000-acre block. In both cases, the Crown was able to choose the location of the portions it acquired.

The rapidly diminishing acreage of lands held by the Whakatōhea appears to have influenced later Crown purchase decisions. In 1898 Matiu Naohanga wrote to the Native Minister asking, 'to open the purchases of Oamaru no. 2, 3, 4 and 5 blocks. Some of the owners in these blocks wish to sell.'[180] The Minister's representative replied that 'the Maoris should not sell any more of their land.' ('Me mutu me mutu te mahi a nga Maori ki te hoko i o ratou nei whenua.')[181]

As the Whakatōhea chiefs had pointed out immediately following the 1896 Native Land Court hearing, no specific reserves had been created within the Oamaru lands they retained. However, all of those lands were apparently subject to restrictions on alienation under s. 117 Native Land Court Act 1894. That section states that, in most circumstances, only the Crown or its agents could 'acquire any estate or interest in any land owned or held by a Native or Natives'.[182] This prevented the owners from selling to private individuals except with the approval of the Native Minister. And as the above letter indicates, by 1898 the Crown itself no longer showed the same enthusiasm for acquiring Māori lands in the Bay of Plenty, perhaps because it had by then already acquired as much land as it could readily manage.

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[176] Te Awanui Aporotanga + 12 to Mr McKenzie, 8 May 1896, MA-MLP1 1898/206 R23907545 Archives NZ Wgtn

[177] Marginalia to ibid - Gill to Sheridan, 28 May 1896. Underlining in original.

[178] Te Awanui Aporotanga, Rewita Niwa and 12 others to Crown Commissioner, 9 May 1896, ibid DB A178

[179] *NZG* 1896, p. 1075-76. Plan no. 6095 Auckland, deed no. 1985 Auckland

[180] Matiu Naohanga to Native Minister, 12 September 1898, MA-MLP1 51 1898/206 R23907543 Archives NZ Wgtn DB A180

[181] P. Sheridan to Hiria Hekara, 14 October 1898, ibid DB A181

[182] S. 117, Native Land Court Act 1894

In 1900 the Maori Lands Administration Act was passed, creating six Maori Land Councils with the aim of preventing landlessness among Māori, and assisting them to develop their remaining lands. The Councils, whose first members were predominantly Māori, were empowered to administer areas of Māori land on behalf of the owners, who could transfer to the Councils the authority to lease, partition, raise finance for and develop their lands. In 1905 these Councils were replaced by Land Boards, which were no longer required to have a majority of Māori members. They also had greater powers to lease lands to private individuals.[183]

For the next 30 years Oamaru landowners wishing to lease their lands required the approval of the Waiariki District Maori Land Board, which set limits on the term of the lease and the amount of rent. If the owners, or a majority of more than ten owners, agreed, then their lands could be leased (or, from 1907, sold) by the Land Board on their behalf.[184] In each case, the rental or sale income was returned to the landowners after costs were deducted.

However, as the result of a report by the 1908 Native Land Commission, the 4650-acre Oamaru 2B block was declared subject to Pt II of Native Land Settlement Act 1907.[185] Under that Act, certain lands could be declared 'for occupation by Maoris' and could then not be sold, leased or mortgaged except by permission of the Governor.[186]

During his investigations for the Stout-Ngata Commission into the utilisation of native lands, Hon. Apirana Ngata visited the Ōpōtiki district. Several landowners, including shareholders in the Oamaru B blocks, approached him about selling their interests. In June 1910 the District Surveyor Andrew Wilson advocated accepting these offers, on the grounds that:

> these lands are a hindrance to settlement and the progress of the District in their present state. Crown lands and Crown tenants are situated to the south of them. Roads have to be constructed through them to open up the land under settlement, while the native land produces no rates, is unoccupied and is increasing in value. There is, therefore, a continuous agitation on the part of the settlers for the Crown to acquire these waste Native lands and settle them…. The long strip of Native land in… Waioeka N. holds the key to roading all the Crown lands surrounding it, as the road would have to be taken up the Waiotahi Stream. The same argument has been applied over and over again to the Native land along the confiscation boundary.[187]

In August 1910 district valuer W. Wallis described the Oamaru 2 B block as:

> chiefly broken bush country with small flats along river. Lower slopes very fair quality but runs to a high altitude towards centre of block and ridges – rather poor. Altitude from 250 to 2500 feet above sea level. Two watersheds.

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[183] D. Loveridge, *Maori Land Councils and Maori Land Boards: A historical overview 1900 to 1952*, Wellington: Waitangi Tribunal, 1996
[184] Section 20, Maori Land Settlement Act 1905
[185] Under-Sec. Native Dept to Native Minister, 4 June 1910, ibid.
[186] Pt II, Native Land Settlement Act 1907
[187] A. Wilson, district surveyor to Chief Surveyor, Auckland, 2 June 1910, MA-MLP1 51 1898/206 R23907543 Archives NZ Wgtn

> General aspect NW and SE. Waiweka [sic] Valley Road (formed) runs along western boundary. Tutaetoka Road on E. boundary, partly formed at present, but main outlet for Crown leasehold sections further back.
> Average value 15/- an acre.
> If offered as Crown land may be expected to realise from 15/- to 25/- an acre (about half each).
> Adjoining Crown lands opened in 1906 at from 17/- to £1 an acre.[188]

He valued the block at £3485, or 15/- an acre.[189]

In September 1910 Native Minister James Carroll made a formal offer to the Waiariki District Maori Land Board to purchase the entire block at this valuation, under Pt 18 Native Land Act 1909.[190]

The Board's president, Judge Browne, replied in November 1910. Regarding the Oamaru 2B block, he said:

> As regards some of the subdivisions, the owners are anxious to occupy and are not prepared to sell. As to others, the owners are ready to sell but not at the price offered. The Board would point out that the Tahora 2B sec. 2B block, which is adjoining, appears to have been valued at 25/- per acre, while this is valued at only 15/- per acre. Both blocks are of the same quality, but Oamaru 2B has this advantage - that it is roaded and the Board does not think that there should be this discrepancy in the consideration offered.[191]

In 1912, after several of the Oamaru blocks had been acquired by the Crown, a new valuation reported that 'About two-thirds of the Oamaru Blk is very poor and rough. The front [ie southern] portions of each block might be disposed of at about 20/- to 27/6 when surveyed and roaded, the back portions at present have no access (in addition to being poor). These blocks in my opinion should be opened up at a price not exceeding 17/6 per acre when surveyed and roaded.'[192]

The Valuer-General issued a new valuation for the seven 2B blocks of £2350.[193] The district valuer then issued a further report on the individual valuations for each of the partitions:

> Were the block cut up as shown on the plan it would not in my opinion be worth the amount I have put on it as the lines run right across the steep ridges rendering the properties most difficult to work…. About 2/3 of the total area is very rough and poor, and without the front or Waioeka end is hardly worth taking up… I will assess the values of the subdivisions (which are more or less speculative) as follows:
>
> 2B1 £415
> 2B2 £415

[188] W. Wallis, Crown valuation report, Oamaru 2B block 24 August 1910, ibid.
[189] Cert. copy of entry in valuation roll, Oamaru 2B, August 1910, ibid.
[190] Offer by the Crown to purchase Native Land, 28 September 1910, ibid
[191] Judge Browne, President, Waiariki District Maori Land Board to Native Minister J. Carroll, 21 November 1910, BAJJ 11195 Box 14, Rotorua alienation files Oamaru 2B1 1910-1913, R7292377 Archives NZ Auck.
[192] J. Burch, district valuer, to Native Dept, 22 Oct. 1912, MA-MLP1 86 1910/16/3 R23909144 Archives NZ Wgtn
[193] Valuer-General to U-S, Native Dept, 28 October 1912, ibid.

2B3 £700
2B4 £340
2B5 £260
2B6 £150
2B7 £70[194]

The Valuer-General forwarded this report to the Native Department, adding that 'the estimate of value can only be regarded as purely speculative.'[195] Despite this caveat, all but one of the above blocks was purchased by the Crown at the above figures in the following years.

In 1914 the secretary of the Waioeka Settlers Association urged the Minister for Native Lands [sic] 'that the block of Native land Oamaru no. 2, situated between the settled portion of this District and Opotiki, might be thrown open for settlement as speedily as possible…. A dray road is now being formed through this block with money raised upon the security of our thirds as a Government subsidy.'[196] (The meaning of this last expression is unclear to the writer of this report.)

The Native Department Under-Secretary informed the Native Minister that Oamaru 2B1, 2B3 and 2B7 had already been purchased by the Crown (see details below) and that offers had been made to the owners of the other four 2B blocks, but 'the owners are very scattered and it has been very difficult to bring them together to complete the sale to the Crown. The Native Land Purchase Officer will be instructed to use every endeavour to obtain transfers of individual interests as soon as possible.'[197]

Native Minister W. Herries replied to Mr Richards of the Waioeka Settlers Association (see above) with this information, adding that 'this Government has been alive to the necessity of purchasing the above block and has been successful in acquiring half of it.'[198]

In July 1914 W. Bowler, the Native Land Purchase Officer, described the difficulties he faced in securing owners' signatures to purchase the remaining Oamaru 2B blocks. One owner, he said, 'is living in Java, two or three in the Wairarapa District, and the others are scattered between Whakatane and Cape Runaway.'[199] Three years later he was able to advise the Native Department that to date he had purchased 474 acres out of 664 in 2B2, 284 of 664 in 2B4, 142 of 668 in 2B5 and 190 of 337 in 2B6. 'In many cases it depends largely on private financial reasons whether a Native will sell or not.'[200]

Mr Bowler had not acquired any further shares in the above blocks by October 1918, and the Native Department considered further partitioning the 2B6 block to divide the sellers' interests from the non-sellers', so that the former could be acquired by the

[194] J. Burch. District valuer, to Auckland Valuation office, 9 December 1912, ibid.
[195] Valuer-General to U-S, Native Dept, 18 December 1912, ibid.
[196] W. Richards, hon. sec., Waioeka Settlers Assn, to Minister for Native Lands, 18 May 1914, ibid. DB A196
[197] U-S, Native Dept to Native Minister, 16 June 1914, ibid DB A197
[198] Native Minister to W. Richards, sec., Waioeka Settlers Assn, 22 June 1914, ibid DB A198
[199] W. Bowler, Land Purchase Officer, to U-S, Native Dept, 3 July 1914, ibid. DB A199 (two pages)
[200] Ibid, 27 January 1917 DB A200

Crown.[201] However, all interests in this block were eventually acquired by 1930 (see details below).

The first application to the Waiariki Board for a sale of the Oamaru lands appears to have been made in 1908, when Mere Hira Te Popo applied to sell her shares in Oamaru 2B block to private buyers for £1 per acre. To facilitate that sale, at a Native Land Court hearing on 28 August 1909 the 2B block was further partitioned into seven subdivisions, for one of which Mrs Te Popo was the sole shareholder:

- 2B1 664a 1r 5p Mere Hira Te Popo, sole owner
- 2B2 664a 1r 5p Te Kotipeke Rawiri and 6 others
- 2B3 1399a 3r Akuhata Taraiwha and 28 others
- 2B4 664a 1r 5p Kora Rangiihu and 5 others
- 2B5 688 a 1p Makae Karatiana and 6 others
- 2B6 337a 2r 14p Ihipera Kiritoia and 6 others
- 2B7 189a 3r 7p Hema Tairua and 13 others.[202]

The remaining six subdivisions of the 2B block were sold to the Crown over the following 50 years, as follows:

2B3 - Owners Akuhata Taraiwha and 26 others. Application for meeting of owners at Ōpōtiki on 19 June 1913 to consider Crown offer to purchase for £700.[203] Five owners present, representing 3 1/4 shares in total. Motion to sell to Crown carried unanimously and approved by Board. Payment not made until early 1914 despite requests from several owners.[204] Proclaimed Crown land under s. 368 NLA 1909 on 5 March 1915.[205]

2B7 – Owners Hema Tairua and 12 others. Owners summoned to consider Crown purchase offer on 19 June 1913.[206] Six owners present – motion to sell carried unanimously. Purchase money sent to Board to distribute to Native owners on 8 March 1915.[207] Proclaimed Crown land under S. 368 of Native Land Act 1909, 17 March 1915.[208]

2B1 - sole owner Mere Hira Te Popo. Sold for £415 on 29 September 1913.[209] Proclaimed Crown land under s. 374, Native Land Act 1909 on 28 November 1913.[210] Proclamation amending area from 664 acres to 659 acres under s. 14 Native Land Amendment Act 1914.[211]

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[201] U-S, Lands and Survey Dept, to U-S, Native Dept, 5 October 1918, ibid. DB A201
[202] BAJJ 11195 Box 14 Rotorua alienation files Oamaru 2B1 1910-1913, R7292377Archives NZ Auckland
[203] *NZG* 22 May 1913
[204] BAJJ 11195 Box 14 Rotorua alienation files Oamaru 2B3, R7292377Archives NZ Auck.
[205] *NZG* 11 March 1915, p. 821
[206] *NZG* 22 May 1913
[207] BAJJ 11195 Box 14 Rotorua alienation files Oamaru 2B7, R729238, Archives NZ Auck.
[208] *NZG* 1915, p. 948
[209] Memorandum of transfer, Title deed 4078 Auckland, Oamaru 2B1, BAJJ 11195 Box 14, Rotorua alienation files Oamaru 2B1 1910-1913, R7292377 Archives NZ Auck.
[210] *NZG* 1913, p. 3578
[211] *NZG* no. 36 23 May 1929, p. 1443

2B4 – owners Kora Rangiihu and five others. In April 1910 Kora Rangiihu wrote to James Carroll, Native Minister, saying 'we desire to sell to Crown our interest, 700 acres, of part Oamaru 2B… We require the money for working our land known as Te Tahora no. 2A of 1470 acres.'[212] This offer was apparently not pursued at that time, and in 1913 Rangiihu again wrote to the Minister, offering the lands of all the shareholders for sale at £1 per acre.[213]
Sold for £340 on 23 January 1915.[214] Proclaimed Crown land under s. 14, Native Land Amendment Act 1914 on 14 May 1921.[215]
In 1921 the Native Department's native land purchase officer advised the Department's under-secretary that he had purchased this block at the 1915 valuation of £340, and later learned that a 1920 valuation valued the block at £498. Three of the seven shares were purchased after that date, and the officer asked 'whether it was thought necessary to pay the difference between the old and new valuation.'[216] This represents an under-payment to the owners of about £78, or about $7,500 in present-day values. He was informed that 'the matter had better be left as it is.'[217]

2B6 – owners Ahipera Kiritoia and 8 others. Sold for £150 on 30 April 1930.[218] R. Gill told Under-Secretary, Native Dept. 'I am pleased to say I was successful in getting all the signatures after much delay.'[219] Proclaimed Crown land under s. 14, Native Land Amendment Act 1914, 31 Jan. 1928.[220]

2B2 – owners Mini Tamaipaoa and 16 others. Sold for £415.[221] Proclaimed Crown land under s. 14, Native Land Amendment Act 1914 on 15 May 1930.[222] Amended proclamation 24 June 1930.[223]

2B5 – On 7 May 1913, the owners were summoned to a meeting under Pt 18, Native Land Act 1909 to consider an offer to purchase at the above Government valuation.[224] Two of those who attended were not prepared to sell to the Crown but no decision was made as no quorum was present. The Land Board president advised that 'the owners are so scattered – some being away amongst Ngapuhi, some at Gisborne, some at Wairarapa, and some at Mercury Bay, Taihape and other places – that it is

[212] K. Rangiihu to Native Minister, 17 April 1910, MA-MLP1 86 1910/16/3 R23909144 Archives NZ Wgtn
[213] K. Rangiihu to Native Minister, 5 February 1913, ibid.
[214] Title deed 4586 Auckland, Oamaru 2B4, BAJJ 11195 Box 14, Rotorua alienation files Oamaru 2B1 1910-1913, R7292377 Archives NZ Auck.
[215] *NZG* no. 14, 19 May 1921, p. 1178
[216] Native land purchase officer to U-S, Native Dept, 2 May 1921, MA-MLP1 86 1910/16/3 R23909144 Archives NZ Wgtn DB A216
[217] U-S, Native Dept to land purchase officer, 9 May 1921, ibid. DB A217
[218] Title deed 4681 Auckland, Oamaru 2B6, BAJJ 11195 Box 14, Rotorua alienation files Oamaru 2B1 1910-1913, R7292377 Archives NZ Auck.
[219] R. Gill to U-S. Native Dept, 30 April 1930, MA-MLP1 83 1910/16, R23909104 Archives NZ Wgtn DB A15
[220] *NZG* 1928 no. 9, p. 348
[221] Title deed 4759 Auckland, Oamaru 2B2, BAJJ 11195 Box 14, Rotorua alienation files Oamaru 2B1 1910-1913, R7292377 Archives NZ Auck.
[222] *NZG* no. 35, p. 1622
[223] *NZG* 1930, p. 2022
[224] Application to summon meeting of owners, 7 May 1913, MA-MLP1 1910/16/3 R23909144

next to impossible to get a quorum together at Opotiki. Under the circumstances the Board does not propose to do anything further in the matter.'[225]
By 1927 the Crown had purchased most of the shares for 15/- per acre, representing 601 acres, to incorporate the land in a scenic and water reservation with adjoining Crown land. The unsold portion was owned by five members of the Petley family, the children of Mere Petera, representing 83 acres. In 1943 the Crown offered those remaining shareholders £10 for each of their shares, 'which is considerably in excess of the Government valuation.'[226] That offer was not concluded before some of the shareholders died, and their successors inherited their interests.
On 19 Jan. 1955, under s. 307 Maori Affairs Act 1953, the owners were summoned to discuss the Crown's offer to purchase the interests of those who had not yet sold to the Crown, for £100. Those 15 owners were all described as Pākehā, and as members of the Petley family. The Chief Surveyor, Auckland, noted that most were elderly and living in Whangamata. He therefore recommended meeting at Whangamata to discuss the Crown offer and said most shareholders could vote on it by proxy.[227] No record of the outcome of this meeting has been located, but the owners evidently voted to accept the Crown's purchase offer.
The block was proclaimed Crown land on 18 Oct. 1958 under s. 265 Maori Affairs Act 1953.[228] Survey plan 1913/435.[229]

The five other Oamaru B blocks were sold to the Crown between 1911 and 1923, as follows:

3B – owners Arihia Nikorima and 45 others. Application to summon meeting of owners under Pt. 18, NLA 1909 on 16 November 1910, to consider offer by Crown to purchase for £370 under s. 355 Native Land Act 1909.[230] 'Resolution carried by majority of owners present. There were some dissentients but the interest they had was small and the Board taking into consideration the location and inaccessibility of the block, its poor quality and the difficulty of dealing with it, considered that it would be for the benefit of the owners that they should sell, and confirmed the resolution.'[231] Proclaimed Crown land under s. 368 NLA 1909 on 6 March 1911.[232]

4B – owners Arapere Pere and 47 others. In 1911 the Crown offered to purchase for £695. Land described as 'rough, of poor quality, has no road access and is so situated that it is almost impossible for the Board to deal with it in any way to give it access. Surrounding country being Crown land, the Board decided, taking all circumstances into consideration, that it would be for the benefit of the Native owners that the land

[225] Judge Browne, president, WDMLB to U-S, Native Dept, 3 September 1913, ibid
[226] Under-Sec. Maori Affairs Dept, to Mr. G. Petley, Thames, 7 January 1943, ibid
[227] Dept of Lands and Survey to Secretary, Maori Affairs Dept, 16 Dec 1955, MA-MLP1 83 1910/16, R23909104 Archives NZ Wgtn
[228] *NZG* 1958, p. 1409
[229] AFIH A1688 23369 Box 126 - Crown acquisitions, Bay of Plenty, R21369259 Archives NZ Auckland DB A16
[230] *NZG* 27 Oct. 1910
[231] BAJJ 11195 Box 14 Rotorua alienation files Oamaru 2B1 1910-1911 R7292377 Archives NZ Auck.
[232] *NZG* 9 March 1911

should be sold to the Crown.' The owners resolved unanimously to accept.[233] Proclaimed Crown land under s. 368 Native Land Act 1909 on 6 March 1911.[234]

7B - owners Ani Putake and 107 others. Crown offered to purchase for £625 on 8 November 1913. Owners summoned to discuss this offer on 14 March 1914.[235] Fourteen owners present incl. Tuahuru who said the price offered was too low as there was timber on the land. After considerable discussion, Heremia Hoera said they had all agreed to sell, and this motion was carried unanimously. The Board confirmed this resolution on 30 March 1914.[236] Proclaimed Crown land under s. 368 Native Land Act 1909 on 5 June 1914.[237]

5B – owners Ani Mihaere plus 24. Offer by Crown to purchase under s. 355 Native Land Act 1909, on 8 November 1913. Two meetings of owners were called, in March and May 1914. On both occasions no owners appeared. The Native Department advised the Waiariki Land Board that 'The purchase of this land is a matter of importance to the Crown and it is not desired that there should be any further delay in holding the meeting of owners.' A third meeting was called for 26 October 1917.[238] Five owners were present - Rangireremoana Ngamoko, Tanati Ngaikiha, Karena Waeka, Te Hautuku Ngamoko and Matiu Pahu (aka Matiu Ngahona). A resolution to sell to the Crown for £2250 was carried unanimously. The Board confirmed the resolution 14 November 1917.[239] Proclaimed Crown land under S. 368, Native Land Act 1909, on 6 November 1917.[240]

1C – Owners Apikaera Teihana and 138 others. This 4814-acre block was valued at £3000 in March 1916.[241] The Crown formally offered to purchase at this price under s. 355 NLA 1909 on 1 May 1916.[242] At a meeting at Whakatāne on 16 February 1917, the owners resolved to sell for 17/6 per acre, although the Crown's offer was the equivalent of 12/6 per acre.[243] The Native Department declined to accept the revised offer.[244] The owners were summoned to a further meeting to consider the Crown purchase at Whakatāne on 8 November 1919.[245] This time they resolved to sell the land at £1 per acre, an even greater difference from the Crown's offer of 12/6.[246] At yet another meeting on 17 April 1923, the owners, represented by Hurinui Apanui,

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[233] President, WDMLB to U-S, Native Dept, 21 November 1910, MA-MLP1 86 1910/16/3 R 23909144 Archives NZ Wgtn; Certificate of Title Deed 4155, 5 April 1917, BAJJ 11195 Box 2 Rotorua Alienation files Oamaru 4B R7292465 Archives NZ Auck. DB A17
[234] *NZG* 1911, p. 880
[235] *NZG* 5 Feb. 1914
[236] Certificate of Title Deed, 4059, 3 April 1917, Auckland, BAJJ 11195 Box 18 Rotorua alienation files Oamaru 7B R7292423 Archives NZ Auckland DB A18
[237] *NZG* 1914, p. 2434
[238] *NZG* 4 Oct. 1917
[239] BAJJ 11195 Box 18 Rotorua alienation files Oamaru 5B 1913-1917, R7292424 Archives NZ Auck. DB A19
[240] *NZG* 1917, p. 4344
[241] Valuer-General to U-S, Native Dept, 28 March 1916, MA-MLP1 86/a 1910/16/2 R23909143 Archives NZ Wgtn DB A20
[242] Offer by the Crown to purchase native land, 1 May 1916, ibid.
[243] Confirmation of resolution passed by assembled owners, 16 Feb. 1917, ibid.
[244] U-S, Native Dept to WDMLB, 2 April 1917, ibid.
[245] *NZG* 9 October 1919
[246] WDMLB to U-S Native Dept, 27 Nov. 1919, ibid

revised their sale offer to 15/- per acre.[247] The WDMLB confirmed this resolution under s. 25 Native Land Amendment and Native Land Claims Adjustment Act 1922, and the Native Land Purchase Dept accepted the owners' offer.[248] The sum of £3610 10/- was paid in December 1923. This amount included lands in the Urewera, where most of the owners of Oamaru 1C were living, to the value of £521 for the interests of six of the shareholders.[249]
The Oamaru 1C block was proclaimed Crown land under s. 368 NLA 1909 on 11 February 1924.[250]

Accordingly, the final 83 acres of the original 106,000-acre Oamaru block passed into Crown ownership in 1955, when the interests of the descendants of Mere Petere, the last shareholders in the 2B5 block, were acquired.

2.2.9 Oamaru block alienation timeline

Date	*Area (acres)*	*Notes*
1886-87	106,000	Block surveyed by C. Baker
1888	98,196	NLC awards block to Whakatōhea apart from Lot 1 (7804 acres) awarded to Whakatāne - Eru Tamaikowha
1889	69,371	Crown claims 28,825 ac. In lieu of survey fees
1896	17,443	Crown acquires 51,928 ac. And block partitioned
1923	83	Crown acquires 17,360 ac.
1955	0	Crown acquires 2B5

[247] Native Land Purchase officer to U-S, Native Dept, 14 May 1923, ibid.
[248] Confirmation of resolution passed by assembled owners, 2 August 1923, ibid.
[249] Treasury voucher (not numbered); WDMLB to U-S, Native Dept 2 April 1924, ibid.
[250] *NZG* no. 9, 14 February 1924

2.3 Tahora 2 block

2.3.1 Summary

As noted in the narrative of the Oamaru block in this report, the Tahora block is one of the few in which Whakatōhea held an interest for which research already exists. The report 'Tahora' by Peter Boston and Stephen Oliver, produced for the Waitangi Tribunal's Urewera enquiry in 2002, is readily available online. Judith Binney's *Encircled Lands* deals in detail with the survey of Tahora and its consequences for the landowners.[251] This narrative will therefore only summarise the relevant sections from those sources, and add findings from research specific to Whakatōhea.

Various parts of the Tahora block were claimed by several iwi, as it served as a buffer zone between their territories. In 1879 Whakatōhea and other iwi approached the Crown about selling their interests, but no purchase resulted immediately, due to the lack of a survey plan. The block was surveyed illegally and covertly, together with the adjacent Oamaru block, in 1886-87 by Charles Baker, assisted by Tauha Nikora and several others of Ngāti Patu. Whakatōhea, Tūhoe and other iwi with claims to the lands objected to the survey, without success.

In 1889 the Native Land Court investigated Nikora's claim to the entire block, on the basis of the illegal survey and despite further strong protests from iwi. Nikora's claim for Ngāti Patu was rejected by the court, which awarded portions of the land to hapū of Tūhoe, Te Aitanga-ā-Māhaki, Ngāti Kahungungu and the Whakatōhea hapū of Ngāti Ira, which was awarded the 62,000-acre Tahora 2B portion. More than 14,000 acres of that area were immediately claimed by the Crown in payment of survey fees.

Further Crown purchases of individual interests meant that only the approx. 5,000-acre 2B2 block remained in Māori ownership by 1896. The Crown purchased individual interests in this block during the early 20th century. In 1907 it applied for a Native Land Court hearing to determine the extent of its interests. The hearing found that the Crown owned about one-third of the block, which was therefore partitioned off to become 2B2A. The remainder, of about 3229 acres, became Tahora 2B2B.

The Crown failed to acquire further interests in 2B2B, and in 1912 again applied to partition the block. It was divided into two equal areas of 1570 acres each – 2B2B1 owned by Mere Hira Te Popo, and 2B2B2, awarded to seven other owners.

All the shares in 2B2B2 were acquired by the Crown by 1920, but Mere Te Popo refused to sell any part of 2B2B1. Instead, she and later owners attempted to use the block for grazing and milling. In 1962 part of the block was leased, but a few years later the leaseholder was adjudged bankrupt. The Maori Trustee therefore applied for a vesting order, which resulted in the sale of the final Māori-owned portion of the Tahora 2B block to the Crown in 1967, regardless of the owners' wishes. It became part of the Waioeka Scenic Reserve in 1970.

2.3.2 Offers to sell to the Crown, 1879-1885

[251] P. Boston and S. Oliver, 'Tahora'. Waitangi Tribunal 2002, https://forms.justice.govt.nz/search/Documents/WT/wt.../Wai%20894%2C%20A022.pdf*; J. Binney, Encircled Lands – Te Urewera 1820-1921, Bridget Williams Books 2009, pp. 294-309*

The Tahora block (known after its 1889 Native Land Court title investigation hearing as Tahora no. 2), extended from the confiscation line at Ōpōtiki to the Ruakituri River near Lake Waikaremoana. Traditional rights to part or all of this very large (approx. 213,000-acre) area were claimed by several tribes, as it formed what Boston and Oliver call a 'borderland' between their respective territories. Those tribes are Whakatōhea to the north, Ngāti Kahungungu to the south, Te Aitanga-a-Māhaki to the east and Tūhoe (also referred to in official documents as Te Urewera or Uriwera) to the west.[252] Several of those iwi approached the Crown about selling their interests from the 1870s.

In June 1879 Wi Pere and other members of Te Aitanga-a-Māhaki requested the Crown to survey lands within Tahora that they termed Te Houpapa. However, after objections from other iwi, the Native Land Purchase Department cancelled the Houpapa survey.[253]

Also in June 1879, the Crown received a proposal from Rakuraku Rehua of Tūhoe and Hira Te Popo of the Ngāti Ira hapū of Whakatōhea to sell a portion of Tahora termed Te Wera. The Native Land Purchase Department described the land as 'very rough country' but agreed to advance £100 and offered a price of between 2/6 and 3/- per acre. George Preece, Resident Magistrate at Ōpōtiki, conducted negotiations on behalf of the Crown, and on 25 June 1879 both Tūhoe and Whakatōhea agreed to accept 2/6 an acre for these lands.[254]

The cancellation of the Houpapa survey (which included the Te Wera lands) meant that this purchase could not be concluded immediately. The Crown was aware that other iwi also claimed interests in the Tahora lands, although R. Gill of the Native Land Purchase Dept believed that these various iwi interests could be decided by the Native Land Court once the purchase was concluded. According to Boston and Oliver:

> This amounts to Crown manipulation, as the Crown was purchasing land with the agreement of some owners and in the knowledge that the other owners would have to present their claim to the Native Land Court, at their own expense and without receiving any payment.[255]

2.3.3 Boundary survey, 1887

Six years later, in 1885, Whakatōhea met at Whitikau marae, Ōpōtiki, to discuss the surveying of much of their tribal territory. They then wrote to S. Percy-Smith, the assistant Surveyor-General, requesting a survey of the boundaries of their territory, which they described as:

> commencing at Oruakani thence west along line of Waimana block, thence to Te Teko, thence in a southerly direction to Parawheki, Orupe, to Whakahu, to Kuinga, to Uape, to Te Rere, to Okehu, thence easterly to Tapui o Awatope to Kekahau thence south to Whakapirau to Koaunui, thence easterly to Tirohangarua thence south to Pohikura, thence easterly to Rangitetaitaia falling into the Kiririmu to Kahunui, to Houhere to Tuhingamata to Manukaitauru, to Rautara stream to Rapoto to Parengeora to Toikura to Te

[252] Boston and Oliver, p. 23
[253] Ibid, pp. 13-15, 16
[254] Ibid, p. 16
[255] Ibid, p. 24

> Koronga to Puhinui Station thence turns along the line of the Motu block to Motuhora to Whakapaupakihi Stream to Hakatamauru along the Motu River to Kaitaura Bridge to Tangakakariki to Peketutu thence north to Makomako to Ngauputangata to Maraetaha near Torere to Oroi to Kotukutuku to Te Rangi thence along the line of Opape thence along the confiscation line until it meets again at commencing point at Oruakani.
> Blocks inside Rohe Potae are as follows: Kaiakatea, Kaharoa, Te Wera, Te Waiiti, Whitikau, Takataputahi, Te Taharoa, Oamaru, Pokaikiri.[256]

The letter was signed by 'Awanui and others of N' Rua, Ranapia Waihuku of Ngai Tama, Hira Te Popo and others of N' Ira, Wiremu Rangihaerepo of Upokorehe, Piahana Tiwai and Hautakauru and others of N' Patu, Paora Te Ua and others of N' Ngahere.'[257] They specified that they wished this survey to be carried out by the surveyor John Balneavis, who was related to the Whakatōhea.[258] This stipulation was evidently a result of their concern at the actions of another surveyor, Charles Baker, who proposed to survey these two blocks with the support of Tauha Nikora and several others of Ngāti Patu (see Oamaru block history narrative in this report.)

Nikora claimed that the Tahora block, 'does not belong to a hapu of the Whakatohea but to a few individuals belonging to the Whakatōhea tribe... The hapu nor tribe have no interest in it.'[259] Crown officials must have known from their earlier dealings with Rakuraku and Te Popo for the same lands that this statement was not accurate. Despite this competing survey application from the whole of Whakatōhea, the Surveyor-General found no objections to Baker's proposed survey and recommended that the government should authorise it.[260]

As a private surveyor, Baker was required to be paid a fee by the landowners, and could not carry out the work in return for a grant of the land in question. That requirement delayed progress on the survey for the following two years.[261]

In early 1887 Baker lobbied Crown officials in both Auckland and Wellington to fund the Oamaru survey. He proposed that both Oamaru and Tahora could be surveyed at the same time, at a substantial saving to the Crown. Boston and Oliver suggest that he either deliberately or inadvertently misled some of these officials into confusing the survey of Oamaru (which they were willing to approve) with the survey of Tahora (which they expected would be delayed until the several iwi claiming interests in it were all in support.)[262] This confusion was compounded in April 1887 when Tauha Nikora, his sister Maria Nikora and others applied to the government for a survey of 'Oamaru o te Tahora'. Some Crown officials apparently thought this referred to the Oamaru block while others were aware that it described an adjacent area claimed by several iwi.[263]

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[256] OMB 5, 2 March 1889 pp 226-227. Many of the above placenames are hard to read in the minutes and may therefore have been transcribed incorrectly. Corrections are welcomed by the report author.
[257] Ibid, p. 228
[258] Boston and Oliver, p. 25
[259] Quoted in ibid, p. 29
[260] Ibid, p. 30
[261] Ibid, pp. 28-29
[262] Ibid, pp. 30-31
[263] Ibid, pp. 31-32

Baker also referred to a written agreement with Tauha Nikora, Hautakauru Tairua and Apanui Patangata to carry out the survey at a rate of 5d per acre.[264] By the time of the Tahora block's first title investigation hearing three years later, that agreement could no longer be found.[265] The Crown's district surveyor gave evidence in 1890 that the assistant Surveyor-General eventually came to an arrangement with Baker to survey the Oamaru block for 3d per acre.[266] Baker then proceeded to Ōpōtiki to carry out this work. He later claimed that he believed he had Crown authority to survey both Oamaru and Tahora, although no Crown officials supported this claim.

Baker, accompanied by Nikora, appears to have surveyed both blocks during mid-1887. He submitted the Oamaru block survey plan to the Survey Department's Auckland office on 2 July 1887, but was required to return to the area to carry out further work before it could be accepted and authorised.[267]

He arranged with Nikora and the other survey applicants to make a formal application for the Tahora survey, which was lodged in the Native Land Court in January 1888.[268] This application was largely retrospective, since by that time most of Tahora had already been surveyed without authorisation. The Surveyor-General was reluctant to approve this application, saying that he had received strong objections from the Urewera people who believed their land had been surveyed 'by stealth'. He indicated that he was only prepare to authorise a survey of Tahora if Baker gained the consent of all interested Māori, and if he then re-surveyed the boundaries of the block. According to Boston and Oliver, 'There is no evidence that Baker took either of these actions.'[269]

Tauha Nikora later gave two contradictory accounts of his actions when accompanying Baker on the survey of these two blocks. In 1888 he claimed that he had only been responsible for the Oamaru survey and that Te Hautakuru had 'managed' the survey of Tahora. He also said that 'great is the wrong-doing of Mr Baker' in extending his Oamaru survey into the Tahora lands. The following year Nikora gave evidence in the Native Land Court that he had actively assisted Baker to cut the survey lines in Tahora. He said that he had spent seven months working on the survey and acknowledged that prior to this he had never been on Tahora No.2, although he claimed right of ownership to the entire vast block in the Native Land Court.[270]

The boundaries which he and Te Hautakuru surveyed, and which they later claimed exclusive rights to in the Native Land Court, exceeded the rohe pōtae claimed by Whakatōhea in 1885. A letter with a description of the 1885 rohe pōtae was read to the 1889 title investigation hearing. Te Hautakuru was one of the signatories to that letter, and Wi Pere of Te Aitanga-a-Māhaki asked Nikora to explain this contradiction. Nikora replied that the rohe pōtae had been defined without his

[264] This figure equates to over $600,000 in present-day terms, according to the Reserve Bank's inflation calculator.
[265] OMB no. 6, 22 May 1890, p. 25
[266] Ibid, p. 27-29
[267] Ibid, 21 May 1890, p. 22
[268] Boston and Oliver, p. 34
[269] Ibid, p. 35
[270] Ibid, pp. 35-36

involvement, and suggested that Te Hautakuru's signature on the letter had been forged.[271]

When Baker deposited his survey plan of Tahora at the Auckland survey office, assistant Surveyor-General S. Percy-Smith refused to accept it as it had been carried out illegally. In March 1888 the Surveyor-General confirmed that 'Mr Baker had no right to undertake the survey without first obtaining permission to do so, and as he was warned by the Survey Department, he did the work at his own risk and must now take the consequences.'[272] Representatives of Te Aitanga-a-Māhaki and Tūhoe also objected to the survey, claiming it had been made without their knowledge or consent.[273]

2.3.4 Native Land Court title investigation, 1888-89

In spite of these strong objections from both official and unofficial sources, the Native Land Court prepared to hold a title investigation hearing into Tahora based on Baker's unauthorised survey of the block. In August 1888 Rakuraku Rehua of Tūhoe asked Judge Wilson not to proceed with this hearing because the survey had been surreptitiously carried out and crossed the boundaries of several iwi who had not consented to it. The judge agreed that 'An infraction of the law has taken place. The land in question belongs to several tribes & no single man ought to have made the application for survey.' He suggested that Baker should suffer some official sanction such as cancellation of his licence. Nevertheless, the Native Department decided that Baker had adequately accounted for his actions.[274]

In the following month the Surveyor-General certified the plan of the Tahora survey. Although he acknowledged that it breached several of the regulations that government surveyors were bound to follow, he had the power to over-ride those regulations at his discretion, and appears to have done so in this case. As a result, the Native Land Court now held authority to investigate title to the block, and denied any responsibility for the legality of the survey. In effect, according to Boston and Oliver, 'part of the government attempted to wash its hands of the matter.'[275]

The title investigation hearing began in Ōpōtiki on 11 December 1888 under Judge Loughlin O'Brien, despite objections beforehand from Gisborne Māori that they had other Native Land Court hearings to attend at that time, and from Tūhoe who wished the hearing to be cancelled. At the hearing, Paora Pakihi of Ngāti Ira 'noted that the Gisborne people had a right to control their own land, and spoke strongly against the survey, asking the Court to condemn it.' Judge O'Brien would agree only to delay the title investigation until after hearing the Whitikau no 3 block.[276]

Whakatōhea and Tūhoe then met at Ohiwa to discuss their opposition to the survey and the hearing resulting from it. Hira Te Popo described the survey as an act of 'grabbing'. Again the hearing proceeded despite these objections from the two united

[271] OMB no. 5, 2 March 1889, p. 228
[272] J. McKerrow, Surveyor-General, quoted in Boston and Oliver, pp. 34, 38
[273] Ibid, pp. 37-38
[274] Ibid, p. 41
[275] Ibid, pp. 42-43
[276] Ibid, pp. 45-46

iwi.[277] According to historian Dr Judith Binney, O'Brien's decision to proceed with the hearing may reflect a 'crucial shift in policy' by Native Department officials who 'wanted to get access to the land'. The government probably saw opening the Tahora block as a way of gaining access to the Urewera, which was then closed to government influence. Boston and Oliver conclude that 'The decision to hear the application for the title to Tahora No.2 block can therefore be seen as a government, or Crown, decision.'[278]

In his history of the Native Land Court, Richard Boast confirms that:

> The Court process did sometimes allow applications by individuals to force unwilling groups into Court to defend their interests - Tahora is an example of that. Although the Court roundly rejected Tauha Nikora's very doubtful claim [to the title for the whole block], the traditional owners… were forced into court to protect themselves and ended up burdened by ruinous survey costs…The net result was partition and Crown purchasing… The government's approval of Charles Alma Baker's survey, notwithstanding the objection of Wi Pere and other prominent Māori leaders, looks very suspicious. It can be said that the Tahora case, even if not planned by the government, certainly suited it.[279]

The Native Land Court's investigation of title to the Tahora No.2 block took place in 1889 at Ōpōtiki before Judge Loughlin O'Brien and Native Assessor Nikorima Poutotara. The whole block of 213,350 acres was claimed by Tauhu Nikora and Te Hautakuru of the Ngāti Patu hapu of Whakatōhea. Under cross-examination, Nikora admitted that the surveyor Charles Baker had lent him the court fees for this hearing.[280]

These two claimants were opposed by Eru Tamaikoha on behalf of the Whakatāne section of Tūhoe, and of Upokorehe; by Paora Pakihi for the Ngāti Ira hapū of Whakatōhea; by Wiremu Pere for the Whānau-ā-Kai, Ngāti Hine, Ngāti Rua and Ngāti Maru hapū of Te Aitanga-ā-Māhaki; and by Ngāti Hingaanga, a hapū of Ngāti Kahungunu, again represented by Wi Pere.[281]

Nikora and Te Hautakuru initially claimed the block by descent from the ancestors Tarawa and Ruamoko. After Eru Tamaikoha, one of the counter-claimants, had given evidence, they added Kahuki as the ancestor they claimed the northwest part of the block under. Nikora asserted that Kahuki had gained the leadership of the Whakatāne people living in that part of the block and his mana over that land had been inherited by the claimants.[282] He claimed that Ngāti Ira had only gone on to the Tahora block when they had retreated to remote country during the Hauhau disturbances of the late 1860s.[283]

Paora Te Pakihi made a counter-claim for Ngāti Ira for the northern part of the Tahora

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[277] Ibid, p. 47
[278] Ibid, p. 49-50
[279] R. Boast, *The Native Land Court vol. 2 1888-1909* Thompson Reuters / Law Foundation 2015 p. 232
[280] OMB no. 5, 21 March 1889, p. 203
[281] OMB no. 4, 19-20 Feb. 1889, pp. 305-311
[282] OMB no. 5, 27 March 1889, p. 264
[283] OMB no. 4, 20 March 1889, p. 193

No.2 block through ancestry and conquest. One of his witnesses, Mini Tamaipaoa, claimed through the original habitation of his ancestor Tamatea and continuous occupation since, until his mother's time when Ngāti Ira moved to the coast. He denied that Ngāti Patu ever held any part of Tahora No.2 and also denied Nikora's claim that Whakatōhea territory extended to the southern end of the block. He acknowledged the occupation of that end by Ngāti Kahungunu and Te Whānau-ā-Kai, a hapū of Te Aitanga-ā-Māhaki.[284]

The leaders of the four counter-claimant tribes arranged their claims outside the court to avoid conflict with each other. After hearing their evidence Judge O'Brien dismissed the claimants' case, saying that Nikora and Te Hautakuru 'have completely failed to establish any rights to any part of this land'.[285] In his judgement, he referred to the 1885 'resolution of the Whakatohea people at the Whitikau whare in Opotiki - when they defined their lands for survey, their claim did not include the southern portion of this block.'[286] The claimants were therefore excluded from any share of Tahora No. 2 and O'Brien thought they had no right to have brought their case. Their hapū, Ngāti Patu, was also excluded from any share of the block.[287]

O'Brien awarded a portion to be called 2AE in the northwest to Tamaikoha and the descendants of Tūhoe he wished to include. 2AD was awarded to Ngai Turanga and 2A to Te Upokorehe and Te Whakatāne.

The north and part of the centre, a portion of about 61,000 acres called Tahora 2B, was awarded to 'the Ngāti Ira descendants of Kotikoti Manutahi and Kaiwhanaunga.' Judge O'Brien described this portion as:

> beginning at the confiscation line at 7, Te Ahikumara, near trig Pukenui o Raho, then along the confiscation line east to the Waioeka River, then up that river to the peg of Oamaru Block, where its SW boundary joins the Waioeka River, then by a straight line west by south to the junction of the Rauotehuia and Kahunui Stream to its junction with Tataweka Stream marked 32 on plan, then by a straight line due west to 57 marked on plan on boundary line of block, then up along the boundary line north to Kaharoa trig, thence along eastern boundary line of piece A to the commencing point on confiscation line.[288]

Most of the centre and part of the south of the block, called 2C, was awarded to the four hapū of Te Aitanga-ā-Māhaki. Under an agreement made between Tamaikoha and Wi Pere, Tūhoe who could show a claim in this portion were to be included in Wi Pere's name list. This agreement broke down when Netana Te Rangiihu claimed Te Wera, part of the 2C portion. A new agreement was then made by which part of Te Wera became Tahora 2G. O'Brien awarded this to the Tūhoe hapū Ngā Maihi and Ngai Tamaroki.

The southwest of the block, known as Te Papuni or 2F, was awarded to the Ngāti Hingaanga hapu of Ngāti Kahungunu.

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[284] OMB no. 5, 21 Feb. 1889, pp. 327-330
[285] Ibid, 25 March 1889 p. 301
[286] Ibid, p. 299
[287] Ibid, 4 April 1889, pp. 299-300
[288] Ibid, 25 March 1889 p. 305

After this judgment was issued Paora Te Pakihi, on behalf of Ngāti Ira, asked the court for a subdivision of the Tahora 2B portion awarded to his hapū into two smaller portions, the northern to be called Tahora 2B no. 1, and the southern Tahora 2B section 1. He handed in lists of owners' names for both blocks and said all shares were to be equal.[289] Heremia Te Hoera objected to the omission of his name from this list and asked why, when he and others had been included in the list of names for the Oamaru block, they were not now included in this list also. Te Pakihi replied that 'There was a great deal of unpleasant feeling among the natives at that time,' almost certainly a reference to Baker's contentious survey of the Oamaru block. He added, 'In making out this list we have among ourselves unanimously agreed that only those of the tribe who are actually in occupation should go in, and no people who have lived away from the tribe.' Hoera then withdrew his claim to be included and the original lists of names were passed.[290]

The Ngāti Ira subdivisions were made as follows:

- Tahora 2B sec. 1 46,904 acres 79 owners restricted from alienation
- Tahora 2B no.1 13,902 acres 13 owners no restrictions

2.3.5 Determining survey charges, 1889-91

Following the title investigation, the court determined the survey lien owing on the block. On 12 April 1889 Baker applied for survey costs of £1887 7/11.[291] As they had done in the past, the landowners objected to this charge, and to the survey, with what Boston and Oliver describe as 'remarkable unanimity'. Wi Pere described the survey as 'clandestine'. He claimed that after being stopped from surveying at Waimana, Baker had gone to Gisborne, brought back some young men of Ngai Tai on the pretence that he was taking them to school in Auckland, and re-entered the southern boundaries of the block after nightfall to continue the survey.[292]

Judge O'Brien responded that as the survey had been authorised by the Surveyor-General, his court had no authority to question it and any remedy would need to be sought elsewhere. He ordered the full fee to be paid to Baker, spread pro rata over each of the Tahora divisions. All the owners objected to this decision and indicated that they would apply for a rehearing of the survey costs.[293]

The following year the Chief Judge of the Native Land Court responded to an application from Wi Pere and others for this rehearing. He found that the assistant Surveyor General had given Baker verbal permission to extend the Oamaru survey into Tahora No. 2 block, and therefore absolved Baker of wrongdoing, instead placing all blame for the survey's irregularities on Nikora and Te Hautakuru. The Chief Judge conceded that the Māori owners of the land had not been able to negotiate the cost of the survey but he considered they had benefited by it. Accordingly, he upheld Judge O'Brien's decision to impose a survey charge on the owners, but agreed to a rehearing

[289] Ibid, 9 April 1889, pp. 325-326
[290] Ibid, 10 April 1889 pp. 321-327
[291] Boston and Oliver, p. 81. The survey fee would be approx. $374,000 in present-day terms, according to the Reserve Bank's online inflation calculator.
[292] Boston and Oliver, pp 81-82; Binney, p. 305
[293] Boston and Oliver, pp. 83-84

on the amount of that charge.[294]

That rehearing took place in 1891 under Judge Scannell. Baker was represented in court by his brother-in-law. He agreed to accept £1600 towards the survey costs which, with interest, amounted to about £2000. The court made an order accordingly.[295]

2.3.6 Alienation by sale, 1893-1920

From 1893 the Native Land Purchase Officer at Gisborne, John Brooking, began acquiring individual interests in the remaining Tahora subdivisions. According to Boston and Oliver, these purchases were 'probably made under the Government Native Land Purchase Act 1877, which refers to the purchase of Native land or any estate or interest therein.'[296]

In October 1893 Brooking reported purchases in most of the subdivisions, including 2B, at two shillings an acre. 'These actions represented a widespread and concerted effort on the part of the Crown to acquire the land.' A variety of techniques were used to achieve this. In March 1894 Brooking wrote to the Whakatōhea chief Paora te Pahiki, offering to pay any Māori who helped to persuade other Māori to part with their land within Tahora 2B. The Crown also acquired shares by organising succession hearings and buying the interests of minors.[297]

Boston and Oliver point out that these purchases occurred despite the restrictions on alienation placed on blocks such as 2B2 by the Native Land Court's 1889 title investigation hearing. Until these restrictions expired, they required an Order in Council or other procedures for their removal. No such procedures could be found in the official records. The Crown may therefore have purchased these interests under a general right of pre-emption which prevented private purchases.[298]

In April 1896 the *Poverty Bay Herald* reported that:

> Richard Gill, senior Land Purchase Officer for the East Coast and Bay of Plenty, has been in this district several weeks arranging with the natives for completion of Crown titles in a number of blocks, the shares in which have been acquired from time to time by the local officers of the Department…. in Tahora itself – one block alone – 131,694 acres had been allocated to the Crown. This, Mr Carroll remarked, was the inauguration of a new policy in dealing with the natives. Those matters were settled amicably outside the Court, which was a far more satisfactory manner than fighting for the various interests in the Court, as had been done in the past. The old system only embittered the natives. Under the present method friendly relations were established between the Crown officers and the natives, and a great deal of expense had been saved.[299]

[294] Ibid, pp. 92-94
[295] Ibid, p. 120
[296] Ibid, p. 125
[297] Ibid, p. 126
[298] Ibid, p. 128
[299] *Poverty Bay Herald* 21 April 1896 p. 3

Also in April 1896, a Native Land Court hearing in Gisborne heard an application by the Crown to determine the interests it now held in Tahora. The judge at this hearing was W. Gudgeon and the Native Assessor was Pirini Mataiawhea. The judge determined that the Crown had purchased 124,403 acres, or 58 percent, of the original block. A further 1000 acres was claimed in return for the £100 advance paid to Wi Pere in 1879. (A similar advance paid at that time to Hira Te Popo and Rakuraku was apparently disregarded.) The remainder of Baker's survey fee was repaid to the Crown by a grant of a further 6281 acres of land.[300]

Those takings included the entire 13,902-acre 2B no.1 block awarded to Ngāti Ira in 1889. This block was owned by only 13 shareholders, including Hira Te Popo and Kurei and Mini Tamaipaoa, and there were no restrictions placed on its alienation. It was therefore relatively straightforward for the Crown to alienate this part of the overall block in satisfaction of the survey lien.[301] The 1896 hearing also determined that 89% of the larger 2B sec. 1 block had been bought by the Crown at two shillings an acre.[302] Binney insists that 'The vast transfer of Tahora land to the Crown was the direct consequence of Baker's illicit survey.'[303]

Tahora 2B sec. 1 (42,061 acres) and 2B1 (13,902 acres) were proclaimed Crown lands under s. 250, Land Act 1892 on 7 July 1896.[304]

The remaining area of approximately 5000 acres became Tahora 2B2. This subdivision was described on the title deed as:

> All that portion of 2B northeast of a line commencing at the peg on Confiscation boundary nearest to the trig station Pukenui o Raho and thence by a swinging line to such a point on the Waioeka River as shall enclose the balance of the block after deducting therefrom 42,088 acres awarded to the Crown. Orders in favour of non-sellers as per list passed by the Court.[305]

The programme of purchasing individual interests in the Tahora 2B2 block continued. In December 1907 the Crown applied to the Opotiki Native Land Court for the definition of its interests within the 2B2 block. The judge was W. G. Mair and the Native Assessor Wiremu Kingi te Wharepurangi. Under the Native Land Court Act 1894, an area of 1614 acres, or about one-third of the area of this block, was awarded to the Crown at a cost of £800, which became Tahora No. 2B2A. The remainder, estimated at 3229 acres, became Tahora No. 2B2B.[306]

The 2B2A block was proclaimed Crown land under s. 250, Land Act 1892 on 4 July 1908.[307]

In 1910, at the suggestion of the Native Land Purchase Board, the Tahora 2B2B block was vested in the Waiariki District Maori Land Board 'for the purpose of effecting a

[300] Boston and Oliver, pp. 131-137
[301] Binney, p. 308-309
[302] Boston and Oliver, p. 132
[303] Binney, p. 309
[304] *NZG* 1896 p. 1075; Title deed 1984, Auckland, dated 10 April 1896; Map 931
[305] Quoted in Boston and Oliver, p. 140
[306] ABWN W5279 8102 Box 310 R23440808 Archives NZ Wgtn DB A306
[307] *NZG* 1908, p. 1815; Map 6103, deed 3675 Auckland

sale to the Crown at government valuation'.[308] Under the Native Land Act 1909, Māori land considered by the Native Minister to not be required by the owners, or unsuitable for them, could be vested in Maori Land Boards and leased for up to 50 years.

In August 1910 the Valuation Department supplied the Native Land Purchase Board with a valuation of 2B2B. The report observed that the block was 'Broken bush country of fair quality', ranging in altitude 'from 250 to 2000 feet above sea level'. Access to 2B2B was limited to the fordable passages of the Waioeka River, but nonetheless the valuer considered that the land might realise up to £1 5/- per acre if offered as Crown land. The Valuation Roll gave 2B2B a capital value of £4235 for an area stated as 4843 acres. Based on that valuation, the Crown made an offer to purchase 2B2B under s. 335 of the Native Land Court Act 1909.[309]

In November 1910 the president of the Waiariki District Maori Land Board advised the Native Department that a meeting of the Tahora 2B2B owners had been called to discuss a Crown offer to purchase their interests. No decision was made as only three owners were present.[310] Negotiations stalled shortly after this decision. It seems likely that the delay was partly a result of the Crown focusing its attention on other adjacent blocks.

In 1912, as the Crown offer to purchase 2B2B had still not been approved by the owners, the Crown applied for yet another partition to divide the interests of willing sellers from those of non-sellers. In September 1912 Judge J. A. Browne ordered the block partitioned into 2B2B1, comprising 1570 acres, in favour of Mere Hira Te Popo, and 2B2B2, also 1570 acres, awarded to seven other owners.[311]

In March 1913 the Crown again made an offer to purchase 2B2B for £2000, despite the fact that the land was now partitioned into two sections. The owners declined the offer. In September 1913 the Waiariki District Maori Land Board called a further meeting of owners to discuss the Crown purchase offer, and again no quorum was present. Its president reported that 'The owners are so scattered that it is next to impossible to get a quorum…. Those who did attend the meetings are quite prepared to sell to the Crown.'[312]

The Lands and Survey Department considered that as 2B2B adjoined large areas of Crown land, the Native Land Purchase Board should take measures to acquire it, and in 1914 the Crown began a more concerted attempt to do so. By July 1914 it had acquired 1112 acres of 2B2B2, leaving just over 500 acres still in Māori ownership. No interests had been acquired in 2B2B1 and the Native Department reported that its sole owner, Mere Hira Te Popo, 'has definitely refused to sell the land for £800 [the current government valuation]. She states that she has cleared a portion of the block and intends to occupy it herself.' The Department's Under-Secretary suggested

[308] Quoted in Boston and Oliver, p. 172
[309] Ibid, pp. 228-229
[310] Judge Browne, president, Waiariki District Maori Land Board to U-S Native Dept, 21 Nov. 1910, ABWN W5279 8102 Box 310 R23440808 Archives NZ Wgtn
[311] Boston and Oliver, p. 227
[312] Judge Browne, president, Waiariki District Maori Land Board to U-S, Native Dept, 3 Sept. 1913, ABWN W5279 8102 Box 310 R23440808 Archives NZ Wgtn

offering a higher price for this block but this suggestion was not approved.[313] This is a somewhat surprising decision since in 1913 the district valuer estimated the value of the adjoining 2B2B2 block, of identical area, at £2000, saying:

> There is a small area of flat land on the bank of the river which is of good quality, the balance comprises some very rough birch ridges at the back end which improve in quality and are a little easier in the front or Waioeka. This country is not fit for subdivision into small areas.[314]

In June 1915 the Crown arranged for a prohibition of alienation on 2B2B1 and 2B2B2. This prevented the owners from selling to private buyers, while the Crown continued to acquire the rights of minors through succession orders. Boston and Oliver state that due to this prohibition:

> Only the Crown could negotiate to purchase the land, which reduced the price the owners got for their shares. Owners not wishing to sell their shares were hindered in developing land in the block as their interests were undefined. This meant the land was economically useless and could only be sold if the owners agreed to the price offered by the Crown.[315]

In May 1917, the Native Department Under-Secretary was advised that Mere Hira Te Popo still refused to sell her sole interest in 2B2B1. The prohibition was therefore renewed in 1917 and 1918.

The Crown finally acquired all shares in Tahora No. 2B2B in 1920, when the block was purchased for a total cost of £800, together with Oamaru 2B, 3B and 4B. It was proclaimed Crown land on 16 July 1920, under s. 14, Native Land Amendment Act 1914.[316] In 1924 the block was gazetted as part of Provisional State Forest no. 40.[317]

From this point, the Crown appears to have suspended its efforts to acquire Mere Te Popo's interest in the adjoining 2B2B1 block, although it maintained the prohibition on alienation into the 1930s.[318]

2.3.7 Alienation of Tahora 2B2B1, 1948-1969

In late 1948 the Ōpōtiki Sawmilling Company requested timber-cutting rights in the 2B2B blocks. A report for the Commissioner of Crown Lands recommended that no milling rights should be granted as the disturbance to forest cover would aggravate flooding in the Waioeka River. Instead, the Commissioner recommended that the land should be proclaimed permanent state forest, primarily for conservation reasons.[319] On 14 July 1949 the 1614-acre 2B2B2 block was proclaimed as 'set apart for permanent state forest' under s. 18 Forests Act 1921-22.[320] It was then described by the Director of Forestry as 'steep and badly broken. Soil subject to erosion. Timber

[313] U-S, Native Dept to U-S L&S Dept, 31 July 1914, ibid
[314] J. Birch, district valuer, to Auckland Valuation Office, 9 Dec. 1912, ibid.
[315] Boston and Oliver, p. 173
[316] *NZG* 1920, p. 2192
[317] Boston and Oliver, p. 232
[318] *AJHR* 1927 G-9 p. 10; 1925 G-9 p. 11
[319] Boston and Oliver, p. 234
[320] *NZG* no. 42, 14 July 1949, p. 1478

sparse and milling not recommended.'[321]

In 1953 an error was discovered in the estimated, but not surveyed, area of the parent block, 2B2B. Although this 3229-acre block had supposedly been partitioned in two blocks of equal area in 1912, the Crown-owned 2B2B2 was found to contain 1614 acres 2 roods, while 2B2B1 measured 1562 acres 1 rood, a loss of 52 acres 1 rood. The chief surveyor at Gisborne explained to the Maori Land Court that the discrepancy was noticed when the former block was proclaimed permanent state forest, and 'it was considered that the subdividing plan should adhere to that area.' He later explained that any adjustment to the stated boundaries would cost more than the value of the land concerned. The Maori Affairs Department did not agree and asked the Gisborne chief surveyor to make alterations to the plan of 2B2B2 and return it to the Court for approval.[322] No information has been found indicating that this action was taken.

In February 1954 the Lands and Survey Department was advised that logging was taking place on the sole remaining area of Tahora 2B in Māori ownership, the 2B2B1 block. The owners had apparently arranged privately with the Opotiki Sawmilling Company to mill the timber. The Department was concerned that this would destroy the scenic value of that part of the Waioeka gorge and believed that the company was gaining illegal access to the block through the Crown-owned 2B2B2. The Commissioner of Crown Lands, Gisborne, proposed that the Crown acquire the block and declare it a scenic reserve, but this proposal was considered too costly at that time.[323]

Several years later, in March 1962, at an Ōpōtiki hearing under Judge Sheehan, the Maori Land Court was asked to approve a lease of 2B2B1 to a Mr J. Dolman, who had already been tenanting the land on an unapproved lease for two years. Ati Rakuraku, one of the owners, told the court he had no other lands. The court approved a lease of the 1570-acre 2B2B1 block for 21 years, with right of renewal for a further 21, at $44 a year, under Pt. 23, Maori Affairs Act 1953.[324]

This lease agreement revealed that survey charges were owing on the block, dating from the 1907 partition of the 2B2 parent block. The sum, including accrued interest, amounted to £18 15/-. When the Crown purchased 2B2B2 it apparently made no attempt to pay its share of these charges, and the full cost therefore fell on the six owners of the remaining section. The lien was paid on 25 March 1963. According to Boston and Oliver, 'the Native Land Court, in approving the alienation of the [2B2B2] block, allowed an injustice to the owners of 2B2B(1).'[325]

A Maori Affairs inspection report in December 1966 found that the 2B2B1 block 'is 14 miles south of Opotiki up Waioeka Valley. The only access is by fording the river. The land is mostly very steep and covered in heavy bush. About 50-60 acres are

[321] Dir. of Forestry to U-S Dept L&S, 11 March 1949 ABWN W5021 6095 Box 301 R3948344 Archives NZ Auck. DB A22
[322] Boston and Oliver, p. 238
[323] Ibid, pp. 234-235
[324] OMB vol. 37 pp. 180-181
[325] Boston and Oliver, pp. 239-240

cleared as grazing for dry stock. It is hard to see it ever developed as a farming proposition.'[326]

Within a few years of taking up his lease Mr Dolman fell into arrears with the rent and the Maori Trustee issued a summons against him in 1967.[327] The following year he was adjudged bankrupt. At that time the block's owners were Ati Wi Rakuraku, Mrs Remana Paul, Mrs Teri Hira Te Popo, Millie Paul, Bella Paul and Marahana Paul. The Maori Trustee advised them there was no possibility of recovering the arrears of rent, and applied to the Waiariki District Maori Land Court for a vesting order for the land under s. 438, Maori Affairs Act 1953, saying 'it would be in the interest of the owners to have the said lands leased and rent producing or otherwise put to economic use by sale, disposal or otherwise.'[328]

The vesting order was granted on 19 February 1969. Several months later the Maori Trustee called for tenders for the purchase of the block. The Gisborne District forest ranger inspected the area and reported that all accessible millable timber had been extracted some years earlier, and that the remaining trees were uneconomic to log.[329] The Director-General of Lands noted that 'The area is clearly visible from the Waioeka Gorge Scenic Highway and this Department is interested in acquiring it for scenic purposes.'

A valuation report described the block as:

> Approx. 35 acres undulating to easy hill at river, balance steep, broken hill. About half of the 35 acres has reverted to fern, but balance in native grasses provides poor grazing. Fenced from river by 20 chains v. poor fencing, while surrounding steep hill, still in bush, provides natural boundary. Only access is across river and may be impassable for several weeks after heavy rain. Balance all steep, hard, inaccessible hills in bush, which could be used as a hunting reserve or longterm timber proposition.

The government valuation was $1200, including $600 for improvements such as clearing and fencing. The Commissioner of Crown Lands, Gisborne, was instructed to submit a tender for $1200, or $10 above the highest tender to a limit of $1500. The District Maori Land Board described this as 'a fair offer,' since the land was in a Catchment Board area and there was little public demand for it. Only two other tenders were received, both for $1000. The Board therefore approved the sale at $1200 on 30 July 1969.[330]

Tahora 2B2B1 was proclaimed Crown Land under s. 265, Maori Affairs Act 1963 on

[326] Maori Affairs field officer, property inspection report, 8 December 1966, BBLA A1260 4945 Box 1327 Tahora 2B21 land alienation 1962-1969 R19905022, Archives NZ Auck. DB A23
[327] Boston and Oliver, p. 235
[328] BBLA A1260 4945 Box 1327 Tahora 2B21 land alienation 1962-1969, R19905022, Archives NZ Auck.
[329] District Forest Ranger, Gisborne to Commissioner of Crown Lands, 27 June 1969, BAFK 1466 Box 214 Tahora 2B2B1 R1855193 Archives NZ Auck. DB A24
[330] AAMK W3074 869 Box 50/e Tahora 2B2B1 tenders for purchase, R11835417, Archives NZ Wgtn DB A330

21 January 1970.[331] It then became part of the Waioeka Gorge Scenic Reserve.

2.3.8 Tahora alienation timeline

Date	*Area (acres)*	*Notes*
1886-87	213,350	Boundary survey (includes other iwi interests)
1888-89	60,806	NLC awards Tahora 2B to Ngāti Ira
1896	4843	Crown acquires 2B1 and 2B sec. 1, incl lands claimed in lieu of survey charges
1907	3229	Crown acquires 2B2A
1914	2117	Crown acquires part 2B2B2
1920	1562	Crown acquires balance 2B2B2
1969	0	Crown acquires 2B2B1

[331] *NZG* 29 Jan. 1970, no. 4, p. 97; Plan 4833

Section 3 - blocks claimed by Whakatōhea but not awarded to them

Summary

3.1 Motu block

By October 1873 Crown Agent JA Wilson had negotiated a 50-year lease on the large Motu block, which extended from Poverty Bay to the Bay of Plenty. It was hoped that the land would become available to 'many hundred families of agricultural settlers.'[332]

In December 1873 a title investigation into the Motu lands was held at Maketū under Judge Rogan. Whakatōhea, Te Aitanga-ā-Māhaki, Ngā Pōtiki (a hapū of Ngāti Awa), 'Te Urewera' [ie Tūhoe] and Ngāti Kahungunu all claimed interests in the block. It was awarded to 12 owners of Ngā Pōtiki under an interlocutory (preliminary) order.[333]

Several days later a lease for almost 70,000 acres of the Motu lands was signed between the Crown and Wi Kingi and others.[334]

The title investigation case was reheard in October 1874, again by Judge Rogan, with Enoka Te Whanake as Native Assessor.[335] This hearing upheld the earlier interlocutory order.[336] A certificate of title to the 68,482-acre Motu block was awarded to Wi Kingi and others.[337]

The following year most of the land was sold to the Crown, apart from 4000 acres retained as three hapū reserves.

[332] *Auckland Star*, 22 October 1873, p. 2
[333] Maketu MB No. 2, 10 December 1873, pp. 54-59
[334] Lease agreement, Motu block, ABWN W5279 8102 Box 179 R12154196 Archives NZ Wgtn
[335] Gisborne MB no. 1, 23 Oct. 1874 p. 258-9
[336] K. Rose, *Te Aitanga-ā-Māhaki Land and Autonomy 1873-1890*. Wai 814, A017. Wellington: Te Aitanga-ā-Māhaki Claims Committee, 1999 p. 53
[337] Certificate of title – Motu, ABWN W5278 8910 Box 37, R25306846 Archives NZ Wgtn DB A337

3.2 Waimana block

A title investigation hearing into the 10,491-acre Waimana block was held at Ōpōtiki in June 1878 under Judge Halse. The competing claimants to the lands were Tūhoe (represented primarily by Eru Tamaikowha of Ngāti Tama), the Tūhoe hapū of Ngai Turanga and Ngāti Raka, and Whakatōhea.[338] Title was awarded to Tūhoe.

This judgement was appealed, and in March 1880 the investigation was reheard under Judge Henry Monro, with Hone Peti as Native Assessor. The claimants were the same four iwi as at the original hearing.

The Whakatōhea claimants included a number of members of Upokorehe (and also of Ngāti Raumoa, which some stated was the same hapū) who claimed an interest by virtue of descent and occupation. They included Mohi Tai, Rawiri Makawe, Heremaia Te Marama, Joseph Kennedy, Piahana Tiwai, and Aperahama Makau, and claimed uninterrupted occupation from the time of their ancestor Raumoa.

Tūhoe responded that Raumoa's descendants had been driven off by them. 'They are there now only by permission and matrimonial relationship with Tuhoe.'[339] In his judgement, Judge Monroe found that many eminent Tūhoe were buried on the Waimana block, but few Upokorehe. Both iwi had applied for a survey of block and both negotiated with Europeans to lease it. He concluded that 'The traditional rights of the descendants of Raumoa are long extinguished and Urewera are the undisputed and paramount owners, for at least the last 50 years.'[340]

Accordingly, Judge Monro reaffirmed his earlier judgement in favour of Tūhoe, 'and of those of mixed blood who are admitted as having rights along with them.'[341]

In October 1881 the Waimana block was reported as due to be subdivided at the next Ōpōtiki sitting of the Native Land Court.[342]

Solicitor J. Tole, who had represented Whakatōhea at the title investigation hearings, asked Judge Symonds to either decline to subdivide or postpone the hearing. He pointed out that in making his 1880 judgement, Judge Monro had prefaced his decision by saying 'that he had scarcely felt such anxiety, owing to the difficulty of awarding justice to all concerned.' This suggested, said Mr Tole, that the rights of Whakatōhea were being overridden, and that if the block was subdivided for sale, 'a source of lasting dissatisfaction will be created.'[343] No reply to this letter has been located, and no steps were taken to delay or halt the subdivision process.

[338] *Bay of Plenty Times* 19 June 1878, p. 3
[339] OMB No. 1 18 March 1880, p. 401
[340] Ibid, p. 402
[341] Ibid, p. 403
[342] *NZG* 23 Oct. 1881
[343] J. Tole, Auckland to Judge Symonds, NLC Opotiki, 12 Nov. 1881, OMB no. 2, p. 157

3.3 Whitikau No. 1 and No. 3 blocks

As the above narrative of the Tahora block indicates, its history is entwined with that of the adjoining Whitikau block. Rights to both blocks were traditionally disputed between Whakatōhea and Ngai Tai.

Between 1876 and 1879 the leading chiefs of those iwi, Awanui Te Aporotanga and Wiremu Kingi respectively, made joint offers to sell the land to the Crown, prior to its title investigation by the Native Land Court. In 1880 the block was surveyed. The Whakapaupakihi block was surveyed at same time.

Whitikau first came before the Native Land Court in November-December 1881. Prior to the hearing, Gilbert Mair advised the government that it should be advertised as investigating the Crown's claim to ownership of the land. Brabant agreed that 'gazetting the claims of the Crown for hearing greatly strengthens the hands of the Government agent when the case comes before the Court.'[344]

The Whitikau case was heard by Judge Symonds, with Akuhata Tupaea as Native Assessor. The Whakapaupakihi case was heard at the same hearing, and judgement in both was given at the same time. Judge Symonds told the court 'that these two cases had been very intricate ones'. He said the Native and Assessor had written a report on his assessment the evidence before he and the judge had discussed their opinions, and found that they had independently reached the same conclusions.[345]

Those conclusions included the finding that:

> the land belonged to Panenehu formerly, who were conquered by Ngaitai and their land occupied by them…. As to the boundaries of Whitikau, the evidence proves that a part of this block runs into Whakapaupakihi, from Kaitawa to Taumatakaretu thence to Omokoroa no. 1.[346]

(For the outcome of this portion of the Whitikau block, see the block history narrative for Whakapaupakihi, above.)

The judge found that 'the evidence on the Whakatohea side has been most **…** contradictory.'[347] He decided that:

> Whitikau belongs to Ngaitai taking in that part of Whakapaupakihi as described by William King, and the remainder of the block to Whakatōhea. We therefore so adjudge it to them. As those people have been on bad terms for generations we trust that this decision of the Court will tend to mitigate their mutual animosity.[348]

Awanui Aporotanga immediately announced that he would apply for a rehearing. When several applications for this rehearing were declined by the Court, he, Hira Te Popo, Ranapia Waihuka and others of Whakatōhea sent several petitions to the

[344] Capt. G. Mair to HE Brabant, 26 June 1882; Marginalia - Brabant, 3 July 1882, MA-MLP1 12 188/246, R23871336 Archives NZ Wgtn DB A344
[345] OMB no. 2 14 Dec. 1881, p. 158
[346] Ibid, p. 159
[347] Ibid
[348] Ibid, p. 160

government asking for a further hearing under the Special Powers and Contracts Act 1883 (see Whakapaupakihi block narrative history.)

By the end of 1884, the 10,960-acre Whitikau no. 1 block had been sold to the Crown by Ngai Tai for £1644 or 3/- an acre.[349] In response to further objections from Whakatōhea, Land Purchase Agent R. Gill acknowledged that 'The Ngaitai and Whakatohea are neighbouring tribes and frequently found by the NLC to be joint owners for the land', but that nevertheless, the sale of Whitikau no. 1 should be considered finalised.[350]

Several years later, in 1889, the 15,170-acre Whitikau no. 3 block came before the Native Land Court for title investigation, under Judge Scannell, with Karaka Tarawhiti as Native Assessor. Again, the rival claimants were Ngai Tai and Whakatōhea. Te Awanui Aporotanga of Whakatōhea claimed to be admitted together with Ngāti Tai, as joint owners of the block. Other Whakatōhea claimants claimed the entire block for their iwi.[351]

Judge Scannell found the evidence presented to him very contradictory, but concluded that, as with Whitikau no. 1, the land had been formerly owned and occupied by Pananehu. Ngai Tai claimed to have conquered this ancient iwi in a series of battles and to have built a number of pā on the block, including one called Whāriki. Whakatōhea disputed the existence of this pā, and asked the Native Asessor to inspect the site. He did so and reported that 'in his opinion no fortified pa or pa of any size existed there.'[352]

Despite this evident weakness of the Ngai Tai case, Judge Scannell found that the statements of the Whakatōhea witnesses were 'inconsistent with each other and they have failed to establish their respective cases to our satisfaction.'[353] He therefore awarded the Whitikau no. 3 block to Ngai Tai.

An appeal against this decision was heard in 1895 by Judges Scannell and Gudgeon, with IH Edwards as Native Assessor. As at the earlier hearing, there was a single claim by Ngai Tai and several competing claims by elements of Whakatōhea, including one by Pananehu and Ngāti Rua jointly, and another by Pananehu alone.[354]

As before, the judges found the evidence presented to them conflicting and unsatisfactory:

> The only decision the court can come to on the evidence before it is that the former court having made an award in favour of Ngaitai, this court cannot find anything in the Whakatohea evidence to justify reversing that decision, and making an award in their favour.
>
> The Ngaitai evidence is itself open to grave doubt, and standing alone we would think be scarcely sufficient to establish their claim as owners of

[349] Handwritten note - R. Gill to Native Minister, 12 Nov. 1884, MA-MLP1 71/m, R23908735 Archives NZ Wgtn
[350] Note - Gill to Ballance, 23 Jan 1885, ibid
[351] OMB no. 3, p. 402
[352] OMB no. 4, 15 Feb. 1889, p. 296
[353] Ibid, p. 299
[354] OMB no. 9, 19 July 1895, p. 298-302

> Whitikau. It is quite clear that Whitikau never formed a part of their tribal estate in Tai's day, as they allege at this court, but as the award of the former court is in their favour, and Whakatohea have appealed against that award, Whakatohea must show that their claim is superior to that of Ngaitai - this they failed to do.[355]

The court therefore reaffirmed the earlier order in favour of Ngai Tai.

[355] OMB no. 10, 28 August 1895, pp. 312-313

3.4 Takaputahi block

In December 1895 a title investigation hearing into the 32,857-acre Takaputahi block was held at Ōpōtiki, under Judge Scannell, with IH Edwards as Native Assessor. Those who claimed interests in the land were Whakatōhea generally; its hapū of Ngāti Rua, Ngai Tama, Te Upokorehe, Nga Tāmoko and Ngāti Patu; plus Ngāti Porou, Whānau-ā-Apanui and Ngā Pōtiki.[356]

In giving his judgment, Judge Scannell acknowledged that the Native Assessor disagreed with it. However, he noted that under s. 19 of the Native Land Court Act 1894, under which this hearing was conducted, the concurrence of the Native Assessor was not required.[357]

An important issue for this and earlier hearings over lands disputed with neighbouring iwi was an agreement made at Gisborne in 1879 between Wiremu Kingi for Ngai Tai and Tatana Ngatawa for Whānau-ā-Apanui, regarding their tribal boundary. Awanui Te Aporotanga was also expected to attend this meeting on behalf of Whakatōhea but failed to appear, so he and his people were obliged to accept the agreement made by the other iwi. This stated that 'Wiremu Kingi [of Ngai Tai] was to have the 'conduct' of the land on this [western] side of the Motu River from Te Paku to Kaituna'. Judge Scannell found that this document 'appears an admission on the part of Tatana Ngatawa that Wiremu Kingi had at least some claim to the lands in that part, and Takaputahi lies between these points.' The judge acknowledged, however, that the agreement was vague, that it had not earlier been put forward as evidence, and that '"Conduct" of the land may mean anything.'[358]

The judge described the Ngai Tai evidence regarding Takaputahi as:

> contradictory, inconsistent, improbable and moreover disproved by the test of occupation…. The Whakatohea evidence it is true is contradictory, and standing by itself would never sustain a claim but I am taking it in conjunction with that given by Ngaitai and by Wh. Apanui and think that on the whole evidence so given, the conclusion I have come to is correct.
>
> The claim by Ngaitai is therefore dismissed and the land in dispute is hereby awarded to the Whakatohea and Wh. Apanui respectively, the dividing line between them to be that given by Wh. Apanui which as it deprives them of a small part and gives it to Whakatohea, I take to be the true one.
>
> This boundary runs in a straight line from Kapuarangi trig station to Tipi o Houmea thence to Taratahurahura thence to Ngatakapau and thence to Peketutu. That part of the block lying west of the line, to be called Takaputahi no. 1, is hereby awarded to Whakatohea and that part east of the line to be called Takaputahi no. 2 to Wh. Apanui.[359]

Ngai Tai appealed against this decision on several grounds:

- that Whakatōhea lands lie exclusively to the west of Waiaua
- that Whakatōhea did not live at Waiaua; and that therefore they could not prove their right to Takaputahi

[356] OMB no. 11, 11 October 1895, pp. 238-240
[357] OMB no. 12, 18 November 1895, p. 175
[358] Ibid, p. 192
[359] Ibid, p. 193-4

- that since Whitikau no. 3 has been awarded to Ngai Tai, it cannot be that Whakatōhea own any part of Takaputahi adjoining it to the east; but it must be held that the Whakatōhea lands all lie to the west of Whitikau no. 3. It cannot be that Whakatōhea own an isolated block surrounded on all sides by land belonging to other tribes.[360]

This appeal was heard in 1897-98 by Judges Edger and Johnson, with Native Assessor Hemi Erueti. The judges' decision overturned the earlier finding and awarded the entire 32,857-acre block to Ngai Tai. They based this decision primarily on the Whitikau no. 3 rehearing, which awarded that land to Ngai Tai:

> It is true that the rehearing decision was based rather on the weakness of the Whakatohea appeal, than upon the strength of the Ngaitai defence – but that decision having been given we think, absolutely binding on any subsequent Court, so far as ownership of that block can have any influence upon the title to adjoining lands; and we think it must be held to have had an important influence upon the title to Takaputahi.
>
> The lands of Whakatohea lie generally to the west of the Ngaitai lands – and there must somewhere be a tribal boundary between them, running from a point on the coast to some point inland. The lands west of the Whitikau blocks have been awarded to Ngaitai; and we think the fact is conclusive to exclude Whakatohea from any land east of them.
>
> Whakatohea have not proved any occupation of the Takaputahi block that would tend to throw doubt on the accuracy of this conclusion. Almost the sole support of their claim lies in their evidence about the ancestral boundary between them and Whanau a Apanui – this boundary being supported by both Whanau a Apanui and Whakatohea witnesses. But we look upon alleged ancestral boundaries with suspicion, unless they are strongly supported by other evidence.[361]

In March 1912, the Ngai Tai owners agreed to sell the 12,518-acre leased portion of Takaputahi to the Crown for 25/- an acre and the remaining 20,339 acres for one pound an acre.[362]

The following year William Paikea wrote to the Native Minister on behalf of Whakatohea asking for a reserve from this area of about 8,000 acres 'for the rising generation… All of the old people who caused the ruin to this land are now dead, and we, your petitioners, belong to the younger generation.'[363] The Native Department responded that 'the whole of Takaputahi was purchased by the Crown and has been declared Crown land.'[364] No such reserve was created.

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[360] OMB no. 16, 26 January 1898, pp. 42-44
[361] Ibid
[362] MA-MLP1 101/d 1911/55 R23909315 Archives NZ Wgtn DB A; *NZG* 18 April 1912
[363] Wm Paikea, Secretary for Whakatohea to Native Minister, 11 Jan. 1913, ibid DB A363
[364] Marginalia to above, W. Pitt for U-S, 14 Feb. 1913, ibid