

1932.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS
ADJUSTMENT ACT, 1930.

REPORT AND RECOMMENDATION ON PETITION No. 82 OF 1930, OF MATENE NAERA AND
42 OTHERS IN CONNECTION WITH THEIR SACRED BURIAL-PLACES ON THE WAIRAU NORTH
AND WAIMAMAKU BLOCKS.

*Presented to Parliament in pursuance of the Provisions of Section 34 of the Native Land Amendment
and Native Land Claims Adjustment Act, 1930.*

Native Department, Wellington, 2nd November, 1932.

Petition No. 82 of 1930.—Maori Burial-places on Waimamaku No. 2.

PURSUANT to section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1930, I herewith transmit the report of the Court herein.

I have ascertained from the records that this matter has been the subject of various petitions and has also been referred to a Royal Commission (see 1907, C.-18, p. 5). The matter came up in 1887, when the land was being prepared for settlement. It would appear that the question then raised referred to a much larger matter, and concerned a suggested reserve of some 2,400 acres, which included the principal burial-caves. It was said the reserve was shown on all plans, except the formally approved plan. It is, however, quite clear that no reserve of any kind was made on the deed, which has a specially prepared plan 24 in. by 21 in. attached to the conveyance and signed by all the vendors in the presence of the Resident Magistrate as the plan of the land conveyed to the Crown. In 1891 instructions were given to cut out the burial reserves, provided they did not exceed 2 or 3 acres each, but the Natives refused to point out the cemeteries, unless the line of the suggested reserve was followed, which would take 1,000 or 1,200 acres out of the block, and nothing further was done. It is quite possible that the rest of the reserve (if there was one) might be the northern portion of the adjoining Wairau Block, which was expressly excepted on the sale of the latter block to the Crown. It is quite possible that the Natives are referring to negotiations with Mr. Nelson, which were delayed on account of disputes and finally carried out by Captain Preece, in whose handwriting the deed is. That the dispute was really about the large reserve will be seen from Petitions No. 515/1894, No. 495/1907, No. 135/1910, and No. 206/1925. Unfortunately, the most of the land has been disposed of, and cannot now be recovered. It might be possible to have a part of Section 15, Block XIII, Waoku Survey District, with burial-caves on, reserved. No doubt the licensee would require compensation, and the Natives probably would be averse to paying it. Even if the Government paid this for them they would not be satisfied, but would look upon it as an admission which would entitle them to compensation for the larger reserve that they allege they have been deprived of.

It is not a case in which I could, at the present stage, recommend legislation.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

The Native Land Court of New Zealand, Tokerau District.—In the matter of the Wairau North and Waimamaku Blocks; and in the matter of section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1930, and an inquiry into the allegations in Petition No. 82 of 1930, of Matene Naera and others, respecting burial-places on the said blocks.

UPON inquiry at sittings of the Native Land Court at Opononi on the 28th January and 4th July, 1932, before Frank Oswald Victor Acheson, Esquire, Judge, the Court reports as follows:—

(1) On the 10th October, 1870, the Native Land Court (Judge Maning) investigated the title to the Wairau Block (adjoining the Waimamaku (No. 2) Block) and signed an endorsement on plan 2012 as produced at the investigation. The eastern boundary of the Wairau Block as shown on the plan agrees with the western boundary of the Waimamaku Block as shown in the conveyance to the Crown.

(2) On the 19th June, 1875, the Native Land Court (Judge Munro) investigated the title to the Waimamaku (No. 2) Block (the land covered by later conveyance to the Crown), and issued a memorial of ownership in the names of Heta te Haara, Ngakuru Pana, Hone Mohi Tawhai, Te Whata, and Hetoro Waipapa. It is clear from Northern Minute-book 2/224, date 19th June, 1875, that the above five chiefs were nominated on behalf of their tribes.

(3) The plan before the Court on investigation of Waimamaku No. 2 was No. 3268, and was endorsed by Judge Munro to show that it was produced on investigation, 19th June, 1875. It is important to note that this plan shows the Waimamaku Block as running right to the sea-coast, but excluding the "Wairau Wahitapu Reserve." It is clear that the Natives at the investigation did not have the Wairau plan (2012) before them. Plan 3268 shows another reserve alongside the Waimamaku

River as *outside* the Waimamaku Block, and it is in this latter reserve that nearly all the urupas (the subject of this inquiry) are located. It is clear to the Court that the Natives themselves believed the urupas to be excluded from the Waimamaku No. 2 Block.

(4) Another plan (3278) of the Waimamaku No. 2 Block, dated 14th July, 1875, but quite unsigned (except as to an attached "compilation"), again shows the Waimamaku No. 2 Block as running right to the sea-coast, but excluding the areas where the urupas are located. Upon this plan has been superimposed a conflicting boundary agreeing with the eastern boundary of the Wairau Block as shown on plan 2012 above mentioned (clause (1)). There is a note attached to plan 3278, signed by W. Bridson, 22nd July, 1875, saying, "Memorial ordered, but could not be inscribed on Court rolls because of imperfect plans." On the same plan 3278 there are markings in indelible pencil purporting to show that the eastern boundary of the Wairau Block—*i.e.*, the disputed boundary—was "altered by the Court," and that the portion of Waimamaku No. 2 next to the sea-coast was "exchanged" for the area where the urupas are. Unfortunately, many old Court records of the period in question were burnt in a fire years ago, and the Court is unable now to trace any Court proceedings relating to the alleged "exchange." Possibly the "exchange" was agreed to after the investigation of the Wairau Block, but prior to the investigation of the Waimamaku Block. Plan 3278 is not endorsed by any Judge as produced to the Court.

(5) The Court is unable to discover why the Wairau Wahitapu Reserve was excluded from the Wairau investigation of title unless at the time of exclusion it was known to be within the Waimamaku No. 2 Block boundary. Nor can the Court understand the reason for plan 3268 showing another reserve where the urupas are, unless such a reserve had already been approved by the Court and the Natives and excluded from the Waimamaku No. 2 Block.

(6) On the 10th January, 1876—*i.e.*, just a brief time after the investigation of 19th June, 1875—the five Natives mentioned in clause (2) above signed a conveyance to Her Majesty the Queen for the 27,200 acres in Waimamaku No. 2, the price being £1,203 6s. 6d. The western boundary of the area sold is merely described as being the Wairau Block. The plan on the conveyance agrees with the western boundary of the Wairau Block appearing on plan 2012, and therefore included the area of the urupas now the subject of inquiry.

(7) It is quite clear to the Native Land Court holding this present inquiry that the five chiefs who signed the conveyance to Her Majesty the Queen on the 10th January, 1876, thought they were selling the land shown in plan 3268 used on investigation proceedings six months or so previously. The sketch endorsed on the conveyance itself, and the description in the conveyance, would in the opinion of the Court have been quite insufficient to warn the Native vendors that the conveyance included their well-known urupas. It is perfectly clear to the Court also that under no circumstances would five such prominent chiefs have sold to the Crown, for a mere pittance (less than 1s. per acre), the burial-places of their ancestors. The Court is satisfied also that the urupas in question were purposely cut out as a reserve before the negotiations with the Crown took place, and that the vendors understood the reserve had been cut out before they signed the conveyance to the Queen.

(8) Giving evidence in the present inquiry, the representative of the Natives alleged that his elders at the time of the sale pointed out the places to be included in the sale to the Crown before the conveyance was signed. He alleged also that the area reserved belonged to the Wairau Block rather than to the Waimamaku Block. On behalf of the Natives he claimed the land as well as the burial-places in the said reserves. The area of the land claimed is approximately 1,472 acres.

(9) The burial-places in question were known by the following names:—

(a) Otururu or Te Moho: Close to the Waimamaku Stream.

(b) Kohikohi, Te Reapouto, and Te Akaterere: These were burial-caves in the bush, and the whole area was known as "Kaharau" (the old name for the Wairau Block) because of the carved images or burial-chests deposited in the caves. These carvings are now in the War Memorial Museum at Auckland.

(c) Te Taraire was a burial-place, about 60 acres in extent, on the north side of the Waimamaku Stream. It is outside the reserve mentioned above, and was apparently included in the Waimamaku sale by mistake. It was a burial-ground where the dead were placed on trees.

(10) Alienations in the area affected by the petition are as follows:—

(a) Part Section 3, Block XIII, Waoku Survey District: 94 acres. Sold to A. J. T. Bracy, of Waimamaku, farmer. Certificate of title 239/53, dated 28th June, 1915. This section includes the Otururu or Te Moho urupa.

(b) Section 9, Block XIII, Waoku Survey District: 179 acres. Sold to R. J. Beattie, of Waimamaku, farmer. Certificate of title 264/124. One or more of the burial-caves (Kohikohi or one of the others) is on this area.

(c) Section 15, Block XIII, Waoku Survey District: 140 acres. Held under occupation-with-right-of-purchase license, dated 15th April, 1904, by James Morrell, of Waimamaku, storekeeper. One or more of the burial-caves is on this area. Freehold is Crown land.

(d) Sections 16 and 95, Block IX, Waoku Survey District: 43 acres. Sold to E. R. Lowe, of Waimamaku, farmer. Certificate of title 602/224 is dated 17th May, 1930. Land is subject to mortgage to the Bank of New South Wales. The Te Taraire burial-ground is apparently located on this area, and appears to be in a different place from the public cemetery, which is on section 16A, Block IX, Waoku Survey District (1 acre 2 roods).

Accompanying sketch-plan shows the approximate location of the various urupas as fixed by the Natives of the district.

(11) The Court holding this inquiry is of the opinion that the Native vendors, when signing the conveyance to the Crown on the 10th January, 1876, thought the 1,472-acre reserve (including the urupas) was excluded from the sale. The fact that the old records have been destroyed by fire makes it impossible for the Court to come to a more definite finding on this point.

(12) The Court is sure that the urupas in question were not intended to be sold to the Crown on the sale of the Waimamaku No. 2 Block. If included in the sale the inclusion would be due to a mistake in the Court plans for which the Native vendors were not to blame.

