

18. The Court is of opinion that the Wharewaka Reserve should have been returned to the Natives by the Crown in the same way as Waipahihi and Patuiwi were returned. The reasons for this opinion are as follows:—

- (a) The basis of the transaction between the Crown and the Natives and the crux of the whole position is the deed of 10th August, 1875, as confirmed by the deed of 19th April, 1879.

In this deed Wharewaka is called a “landing reserve” both in the body of the deed and in the plan thereon, whilst in the confirmatory deed Wharewaka is excepted as a reserve. See paragraphs 4 and 6, *supra*.

- (b) The correspondence mentioned in paragraph 10 took place prior to the confirmatory deed of 19th April, 1879, and it is submitted is of no value in deciding the rights of the Natives under the deeds of 1875 and 1879, which contain definite provisions as to certain reserves.

These deeds actually exclude Wharewaka as a reserve.

- (c) As pointed out in paragraph 7 (d) above, the Court in 1880 could either have excluded the reserves mentioned in the deeds from the Crown title or could have included them and left the Crown to grant them back to the owners, pursuant to section 4 of the Government Native Land Purchases Act Amendment Act, 1879.

The provisions of this section, set out in Appendix C (page 6), should be read.

- (d) The three reserves—viz., Waipahihi, Patuiwi, and Wharewaka—having been included in the Crown title, the onus was placed on the Crown in regard to revesting them in the Native owners.

The Crown issued grants for Waipahihi and Patuiwi, but not for Wharewaka.

- (e) The alleged reason given by the Crown why Wharewaka was not Crown-granted back is that it was a public landing reserve.

- (f) The onus is on the Crown to prove this.

It seeks to discharge this onus by the statement of Mr. Sheridan made after the deeds were signed. For the Crown to succeed, this statement must be taken to override the plain provision in the deeds of 10th August, 1875, and 19th April, 1879, excluding Wharewaka from the sale to the Crown.

- (g) It is abundantly proved by the evidence that Wharewaka was a place used by the Natives for fishing for kokopu. As to this see—

(1) Evidence of Wi Maihi Maniapoto, given at Taupo on 15th May, 1886, Taupo Minute Book 6/31. Appendix F 1, at page 8.

(2) Evidence of Waaka te Arakai, Paora Tauhau, and others, given at this inquiry. Appendix, page 13.

- (h) The meaning of the word “Wharewaka” is “Canoe house”. See evidence of Paora Tauhau, who says, “We used to turn our canoes upside down and use them for shelter, at night. Canoe used as a whare—hence the name ‘Wharewaka’, meaning ‘Canoe house’.” Appendix, page 13.

- (i) Attention is drawn to the fact that when the deeds were signed (1875–1879) there was no road on the eastern side of Lake Taupo and no thought of a road.

There was no need for a public landing reserve at Wharewaka. The Crown, through its purchase under the deeds mentioned, owned a considerable part of the shores of the lake on that side, and it was shown by the evidence at this inquiry that Wharewaka was not in any way required in the military operations of that time. On these points see pages 13 and 14 of Appendix.

- (j) There is another point: That if Wharewaka was reserved as a “public landing reserve” it would not have been the irregular shape it is and the boundaries would not have been left to be shown by Ngamotu Wiremu. See evidence on page 14 and plan on page 7 of Appendix (attached only to original copy of this report).

19. There is still some rankling in the minds of the Natives over the Tauhara Middle transactions. They sold some 11,594 acres for £1,150, or about 2s. per acre, but when surveys and other charges were deducted the net amount received by them was only about 5d. per acre. See Appendix, page 14.

20. The Crown asks that in the event of the report being favourable to the petitioners the Crown should retain possession of Wharewaka and that the Native owners should be compensated in money.

21. Attention is drawn to section 14, subsection (3), of the Native Land Amendment and Native Land Claims Adjustment Act, 1926, by which there is reserved to the public a right-of-way over a strip of land *not exceeding* 1 chain in width around the margin of Lake Taupo. A copy of this provision is set out on page 21 of the Appendix. This chain reserve, so far as Wharewaka is concerned, would cover 2 acres 2 roods 38 perches and materially affects its value for subdivisional purposes. See minutes of this inquiry at page 14 and plan on page 7 of Appendix (attached only to original copy of this report).

As witness the hand of the Judge and the Seal of the Court.

[J.S.]

H. F. AYSON, Judge.