

The area known as Wharewaka forms portion of the land comprised in deed 1272 of 10th August, 1875, by which the Native owners "conveyed to Her Majesty all that block or parcel of land containing 11,060 acres and known or called Tauhara Middle excepting" reserve for Native occupation at Waipahihi Stream (at mouth of Lake) area, say fifty to one hundred acres, *also a small landing reserve at Wharewaka of say, under ten (10) acres*, and another occupation reserve at Patuiwi as sketched on plan and tinted yellow.

The confirmatory deed in respect of Tauhara Middle No. 1 contains a schedule of the boundaries, but excepting "*the Reserves at Waipahihi, Patuiwi, and Wharewaka as surveyed.*"

Wharewaka was surveyed in April, 1878 (see plan 4214, red).

On 24th April, 1877, Mr. H. W. Mitchell, the officer conducting the purchase of Tauhara Middle No. 1, reported to the Hon. J. D. Ormond on the position of Native land purchases in Taupo District. On the margin of the report is a note by Mr. R. J. Gill, Under-Secretary, as follows, *inter alia* "Mr. Mitchell should see that the reserves promised in these blocks are duly made."

About this period, 8th May, 1877, the question of the status of the *landing reserve* at Taupo was raised, and Mr. Mitchell referred the matter to Mr. Locke who conducted the purchase. Mr. Locke advised by wire that it was a public landing reserve.

Mitchell, reporting to the Under-Secretary of Tauhara Middle lease, mentioned the difficulties arising over reserves, and throws some light on the policy of the Government: "The agents therefore informed the Natives that these proposals could not be entertained, and meeting after meeting was held with the grantees, and those outside the grant, with the object of arriving at some conclusion *which would satisfy the majority of the Natives concerned and yet better protect the interests of the public*, but the only decision agreed to was that the proposed reserves should be roughly surveyed and sketched on a plan for reference to the Government."

Captain Turner was therefore asked to do this work when in the neighbourhood.

Although this memo refers to Tauhara lease—that is, the balance of Tauhara Middle after cutting out Tauhara Middle No. 1—Turner surveyed Wharewaka in April, 1878 (see plan 4214), Patuiwi in April, 1878 (see plan 4215), and Waipahihi the same month (see plan 4216).

A further extract reads: "It was agreed by the agents that sufficient provision be made within the block for Native cultivation and residence."

This appears to be the principle laid down in these purchases—landing reserves were apparently not treated as reserves for Natives alone, but for the public.

Crown grant certificate of titles under the fourth section of the Native Land Purchase Act, 1878, as from the 28th March, 1872, were issued for Patuiwi on the 3rd November, 1881, and for Waipahihi on 3rd March, 1881, the grantees being Paora Hapimana Huriwaka Hamuera Takurua, Te Poihipi Tukairangi, Maniapoto te Hina, Ihakara Kahua, and Popoki te Kurapae, corresponding to the original grantees of Tauhara Middle.

On 11th June, 1881, a request was received from Poihipi te Kume to issue a grant for Patuiwi, but no mention is made of Wharewaka.

At the proceedings of the Court at Taupo on the 9th December, 1880, when the application by the Crown for definition of its interest in Tauhara Middle No. 1 was dealt with, evidence given by Maihi Maniapoto states, *inter alia*, "Waipahihi is a reserve in the sold part at Tapuaharuru containing 146 acres, at Wharewaka 6 acres 1 rood 20 perches, at Wharepatuiwi 75 acres. The sale of the pieces mentioned by me, with the exception of the reserves, has been completed." The original plans of survey were apparently produced. The order made, as the outcome of the proceedings, declared Tauhara Middle No. 1 to be the property of Her Majesty, and contained no reference to reserves.

However, the following minute is endorsed on the order:—

"The order is subject to an agreement to return by Crown grant to the Native owners the Patuiwi and Waipahihi Reserves, containing respectively 75 acres and 146 acres, as shown on plan marked "A" and attached.

"(Sgd.) R. J. GILL, Under-Secretary."

The minute of Mr. Gill, in view of his previous direction that Mr. Mitchell should see "that the reserves promised in these blocks are duly made," rather indicates that those in authority did not contemplate the return of the landing reserve to the Natives.

The Crown's title to Tauhara Middle was completed by Proclamation in *New Zealand Gazette*, 1881, page 752, and by issue of certificate of title, Volume 46, folio 110, Auckland Reg. District, on 28th September, 1883.

The Tauhara Middle Block next came before the Native Land Court 29th May, 1886, when Judge Scannell made orders for further subdivision, including the reserves at Patuiwi, Waipahihi, and Wharewaka.

The question of the validity of the orders as affecting the reserves was raised by Mr. Sheridan, of the Native Department Office in Wellington, and appended hereto are copies of the original memoranda relative thereto. It would appear that the Court had no jurisdiction in respect of two of the reserves—Waipahihi and Patuiwi—as these had already been dealt with and titles issued in pursuance of the fourth section of the Government Native Land Purchase Amendment Act, 1878, while Wharewaka formed part of the area proclaimed Crown land on 16th June, 1881. In the absence of any authority conferring jurisdiction on the Court, the Court clearly could not make any order in favour of the Natives over Crown land.

Mr. Sheridan, in his memo to Judge Scannell, stated that it was then (1881) decided not to grant Wharewaka, but simply to reserve it under the provisions of the Land Act.

There is a note to the effect that "Major Scannell took a note of this with a view to revising his judgment."

Deed 4964,
19/7/79.
App. B.
Plan 4214
(red). App. D.
Extracts D2
and 3.

App. E.
21/3/78.

E 2. 1/3/79.

Waipahihi
C.T., 24/204.
Patuiwi C.T.,
24/205.

Taupo M.B.,
2/47-48.
Date
9/12/1880.

Extract
N.Z. Gazette,
1881, p. 752.
App. F.

Taupo M.B.,
6/73-81.
29/5/1886.

App. G.
29/9/05.