

RFS 3470099

5 November 2010

Francene Beckham Te Kooti Whenua Maori Registry Office 2<sup>nd</sup> Floor, Manaia House **WHANGAREI 1040** 

**Dear Francene** 

# **RE: KOPUAKAWAU – SURVEY REQUISITION**

Further to Judge Ambler's request for a preliminary report to be presented not less than 7 days before the Judicial conference, I attach a report outlining research undertaken that complements the research undertaken by Patterson Pitts.

If you require any further information please do not hesitate to contact me on our freephone number 0800 920 029 or on 09 4052750 (if using a cellphone).

Yours sincerely

Mark Lagerstedt
PROPERTY LEGALISATION OFFICER

Mark.lagerstedt@fndc.govt.nz

Encl - report

Private Bag 752, Memorial Ave Kaikohe 0440, New Zealand Freephone: 0800 920 029 Phone: (09) 405 2750 Fax: (09) 401 2137 Email: ask.us@fndc.govt.nz Website: www.fndc.govt.nz

Te Kaunihera o Tai Tokerau Ki Te Raki

Frontier of opportunity

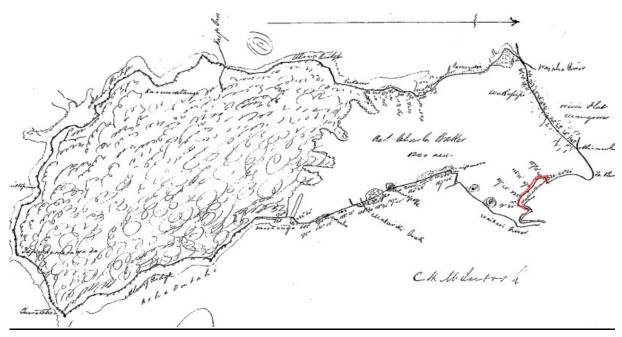


# Introduction

The intention of this report is to provide the Court with additional evidence to the Paterson Pitts report derived in the main from the chain of titles issued under the Land Transfer Act. The report also highlights a conflict within the Court records as to when the title (equitable interest) to Kopuakawau was issued, and postulates that Kopukawau was absorbed into CT NA750/184 Limited as to Parcels and Title by adverse occupation presumably because the Equitable Interest granted by the MLC was not exercised.

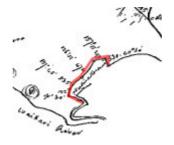
# Background

1 02.03.1858. Crown Grant 40E to Rev Charles Baker recorded on DI 1E.28.



### Figure 1 Crown Grant 40E

The plan of the Grant is shown above, with the lines around the 'Native Settlement' shown in red and enlarged below.



The Crown Grant notes the dimensions around the "Settlement" as follows

 $245 \,^{\circ}30$ ' three hundred and thirty one links (331)

- 157°15' two hundred and ninety three links (293)
- 126°15' four hundred and seventy two links (472)
- 137°45' five hundred and thirty five links (535)

The critical line with regard to the inclusion or exclusion of Kopuakawau from the Grant is the last dimension of 535 links. This distance corresponds to the sum of the Turuki Block (Line B-C, 296 links shown on ML 721 – fig 3 below) and 239 links (as shown on ML 9717, the plan defining Kopuakawau Block – fig 2 below).

This dimension confirms that Kopuakawau Block was excluded from the Crown Grant.

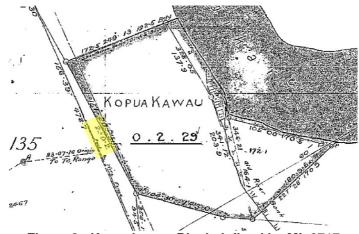


Figure 2 - Kopuakawau Block defined by ML 9717

2 <u>1867</u>. ML 721, being A and B Te Turuki Block abuts Bakers Grant and not Kopuakawau. Kopuakawau was not surveyed until 1915.

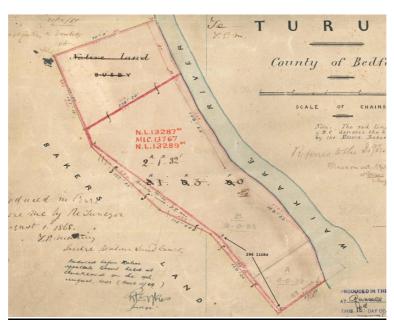


Figure 3 - Te Turuki Block

3 <u>1887</u>. Plan of OLC 135 confirms the Crown Grant by **excluding** Kopuakawau Block and Turuki Native Reserve from Bakers Grant.



Figure 4 - OLC 135 in vicinity of Te Turuki

4 <u>22.08.1904</u> Order of Investigation of Title for Kopuakawau Block as noted on ML 9717. This is in conflict with current Maori Land Court records which state the title was ordered on that date

	Ko
TENDORSED ON COURT ORGEN STATES	Surveye
frie DFTBMEN,	B
4/315 TELD BOOK	
RECEIVED 24 Att 15 12 Att	
(Buts) and S. 2614115. Bated	st OTa her hiv
N.L.C. File 600 Reference Plans. O.L.C. (35 721, Cal. Book 2	

Figure 5 - MLC Orders on ML 9717

# **Block Details**

This data was last updated on 01.11.2010 - Version 2.06

Block Name:	Kopuakawau
Title Order:	Other
Date of Order:	22 AUGUST 1904
Area:	0.2756
CT:	-
Minute Book	
Ref:	-
Total Shares:	2
Memorials:	Click to view
Land	
Administrator:	
Owners:	Click to view

Disclaimer: Although Māori Land Online is updated regularly, the Ministry of Justice cannot guarantee the accuracy of the information provided. To ensure greater accuracy the information needs to be checked against the records held by the Māori Land Court. The accuracy of the Māori Land Court record, is itself, not accompanied by a state guarantee, as are titles registered under the Land Transfer Act. The MLOL is not a legal document but a summary of data.

Figure 6 - Current MLC Block details

5 <u>19.04.1915</u>. ML 9717 defines Kopuakawau abutting Te Turiki (ML 721) to the north, OLC 135 to the south and west and Waikare River to the east. The surveyor's field note of the site shows a Hawthorne hedge and ditch along the boundary with Te Turiki, with no occupation on any other new boundary. The only other evidence of occupation on Kopuakawau is an old fence running through the western side of the block.

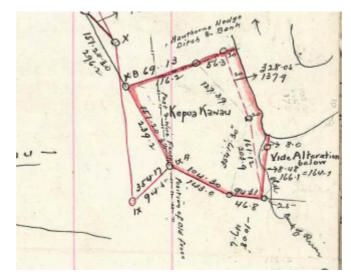
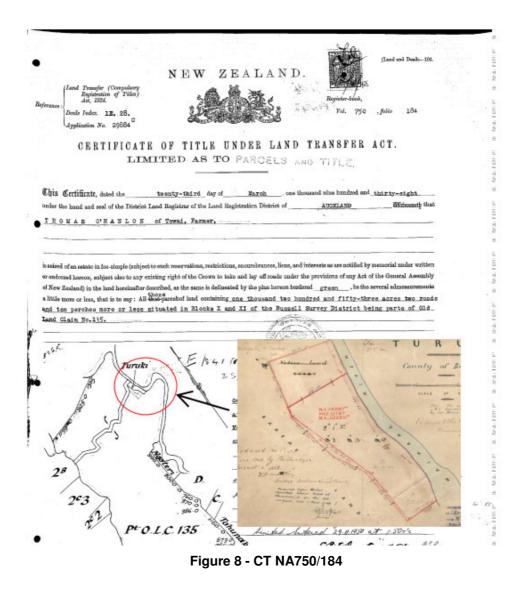


Figure 7 - Occupation on Kopuakawau Block - 1916

- 6 <u>21.08.1916</u> Order of Investigation of Title for Kopuakawau Block endorsed on Court Order. This is in conflict with current Maori Land Court records which state the title was ordered on 22.08.04 – see fig 5 above
- 7 <u>23.03.1938</u>. CT NA750/184 Limited as to Parcels and Title issued under Land Transfer (Compulsory Registrations of Titles Act 1924) to Thomas O'Hanlon. (1253a 2r 10p) Application # 29884. The diagram of the title appears to be based on ML 721 in 2 above, which **includes** Kopuakawau within the title.



8 <u>08.06.1943</u>. Order of Exchange 12542 by Maori Land Court. ML 13287 shows 3 roods and 30 perches taken from OLC 135 in exchange for Turuki A Block.

## Comment

This Order of Exchange by MLC effectively creates an "island" of Kopuakawau surrounded by land owned by Thomas O'Hanlon.

9 <u>16.10.1950</u>. Application by Thomas O Hanlon to remove Limitations as to Title from CT NA750/184. Declaration by applicant, Thomas O Hanlon, attesting in 3 below that he is the occupier of all of the title except for land transferred by Order of Exchange 12542 to Tokerau District Maori Land Court on or about 8 June 1943, highlighted in red on ML 13287 below.

IN THE MATTER of "The Land Transfer (Compulsory Registration of Titles) Act 1924"

### AND

IN THE MATTER of ALL THAT parcel of land situate in the RUSSELL SURVEY DISTRICT containing 1253 scres 2/ roods 10 perches more or less being parts of 0.L.C. No. 35 situate in Blocks X and XI said District and being the whole of the land in Gertificate of Title VOLUME 750 POLIO 184 Auckland Hegistry.

I THOMAS O'HANLON of Waihaha in the Bay of Islands and Dominion of New Zealand Farmer do solemnly and sincerely declare as follows:-

1. THAT I am the registered proprietor of the land described above.

2. THAT on or about the 8th day of June 1943 by Order of Exchange made by the Tokerau District Maori Land Court 0 acres 3 roods 30 perches of the land above described was transferred to the said Board and the said transfer will be registered in due course.

3. THAT except as hereinbefore mentioned no person has acquired a title to or any essement over the above described land or any part thereof by adverse occupation or otherwise and that I am the occupier thereof.

<u>4. THAT</u> save and except Deed of Mortgage Registered No. 411204 to the Bank of New South Wales there are no subsisting interests in the above described land created by unregistered instruments or otherwise.

AND I make this solemn declaration conscientiously believing the same to be true by virtue of the provisions of "The Justices of the Peace Act 1927".



DECLARED at Cawel this 10% 1950. Before ne;

A Solicitor of the Supreme Court of New Zealand.

10

Figure 9 - Attestation by owner to bring land under LT Act

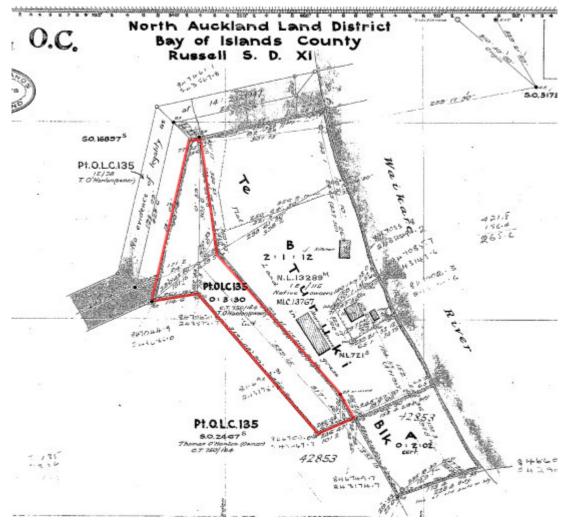


Figure 10 - Order of Exchange 12542

# Comment

- (i) If there was an error in the land record it occurred on the issue of CT NA750/184 Ltd under the Land Transfer (Compulsory Registrations of Titles Act 1924), which included Kopuakawau Block in the title.
- (ii) Notwithstanding (i) above, it could be argued that Kopuakawau Block was not and had not been occupied by its owners for some considerable time when the land was brought under the Land Transfer Act, and the absorption of Kopuakawau into the title could have been through *adverse occupation*.
- 11 <u>31.01.1951</u>. Limitations as to title removed from CT NA750/184, leaving parcel limitations only.
- 12 <u>03.04.1952</u>. CT NA1029/257 issued to Thomas O'Hanlon for Turuki A Block, being the subject of the Order of Exchange 12542. Pt OLC 135 is noted as abutting this title, confirming the **inclusion** of Kopuakawau in CT NA750/184 Ltd.

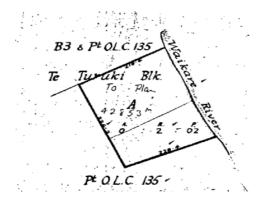


Figure 11 - Diagram of CT NA1029/257

13 <u>19.10.1954</u>. Order in 6 above entered onto CT NA750/184, transfer of residue title to Louis Clarence Goodhue, cancellation of CT NA750/184, and CT NA1123/115 Limited as Parcels issued to Louis Clarence Goodhue. The title diagram below of CT NA1123/115 Limited clearly **includes** Kapuakawau Block in the title.

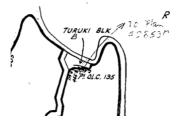


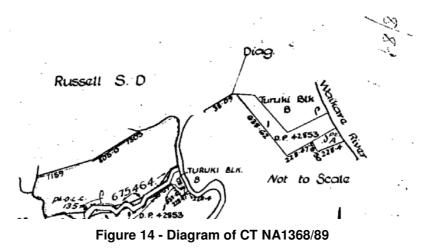
Figure 12 - Diagram of CT 1123/115

14 <u>17.08.1956</u>. Lot 1 DP 42853 taken out of CT NA1123/115 Ltd and CT NA1029/257 and CT NA1360/55 issued to multiple owners. Land in CT determined to be Maori Freehold land 4.9.1995.

	District Assistant Land Registrar.
X1 Russell S.D.	1 mines
EQUIVALENT METRIC AREA IS 4679 mm 4679 mb	X.17335 Gevent effecting the part Old Land Claim 135 herein by C. R. Lovatt & Son Listed entered 29/11/1950 at 1.50 of CALCAL AND
	C.890637.1 Court Order that the within land shall become Maori Preshold land 4.9.1995 at 3.01 of comparing the within D568513.1 Court Order vesting the within
/ - 0 - 25	land in Hohepa Hemi Reti, Hau Tautari Hereora, Manu Reti, Tony George, Robert Wilcox, Daniel Tangiroa George, Stephen Wikaire, Graham Thompson George, Dinah
417.06	Awihongi, Tony Whao Keti, Karen HerDert, Inuwhakamana Reti-Corkery, Kiri Pakiri Cherrington and Christopher Hepi as Trustees - SEE OVER -
	¢

Figure 13 - Diagram of CT NA1360/55

15 <u>21.03.1957</u>. CT NA1368/89 Ltd issued to Louis Clarence Goodhue. The title diagram below clearly includes Kapuakawau Block in the new title. Note - the vinculum below suggests that Turuki B and Pt Turuki A are linked, whereas Pt Turuki A is in fact Pt CT NA1029/257.



- 16 <u>11.08.1966</u>. Transfer of CT 1368/89 Ltd to Cuthbert Eves.
- 17 <u>29.03.1979</u>. CT NA1368/89 Ltd cancelled and CT 46A/755 Ltd issued to Cuthbert Eves. The title diagram below clearly includes Kapuakawau Block in the new title.

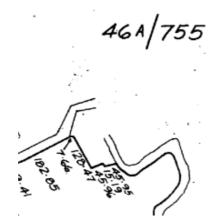


Figure 15 - Diagram of CT 46A/755

18 <u>04.06.1985</u>. Lot 9 DP 102868 vested in Bay of Islands County Council as a Local Purpose Reserve subject to reserves Act 1977.

### Conclusion

The evidence of the chain of titles would indicate that Kopuakawau Block was initially excluded from the Crown Grant, but later absorbed into the title issued from that Crown Grant, presumably by adverse occupation. If that is the case then subsequent titles issued are correct and the status quo should remain.