

IN THE MATTER

The Treaty of Waitangi Act 1975

AND

the Hauraki Inquiry District

IN THE MATTER OF

A claim by Raumiria Te Mihiao
Katipa on behalf of Ngati
Horowhenua

OPENING SUBMISSIONS ON BEHALF OF CLAIMANTS

Dated *Friday 17th May 2002*

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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. **THE** WAI 808 claim is made by Raumiria Katipa, on behalf of Ngati Horowhenua, a hapu of Ngati Paoa. The WAI 808 claimants note that their Ngati Horowhenua tupuna had held interests throughout the lands of Ngati Paoa and Ngati Horowhenua is now effectively landless. The claim largely rests upon the WAI 100 evidence already before this Tribunal, much of which refers to Ngati Paoa.
2. **NGATI HOROWHENUA** witnesses have already presented evidence in the course of the WAI 100 claim (evidence of Turiakotahi Rawiri, #A66, evidence of Tomo Baggs, #A67 and evidence of Raumiria Katipa, #E7).
3. **THE** oral evidence will describe Ngati Horowhenua and show their place in the wider Hauraki region. Raumiria Katipa, the WAI 808 claimant, will describe Ngati Horowhenua and briefly touch upon the key aspects of the WAI 808 claim. The evidence of Marion Peeke will focus upon a particular grievance of a Ngati Horowhenua whanau relating to the incorrect recording of the name of their tupuna Tamehana Peeke.

SUMMARY OF CAUSES OF ACTION

4. **THE** allegations against the Crown are set out in the amended Statement of Claim filed on 1 May 2002 (#1.38(b)).

Loss of lands to 1865

5. **MUCH** of Ngati Paoa lands and in particular, those in which Ngati Horowhenua held interests, were alienated before 1865. Following a very general inquiry into Ngati Paoa lands, the Waitangi Tribunal in

the Waiheke Island Claim (WAI 10, 1987) noted that by 1865 there were only small amounts of land remaining for Ngati Paoa in Waiheke and to the south in the regions around Kaiaua (pp9&11). It is submitted that subsequent research demonstrates that this observation applies equally to the present inquiry. For example, Mr Monin, noted that by 1865 only 24% of Waiheke and no land on Ponui Island remained in Maori ownership (#C2, p9). Dr Anderson stated that after various transactions in the first years of contact Ngati Paoa holdings in the Tamaki isthmus were narrowed down to reserves at Maraetai (#A8, p45). The first three causes of action in the WAI 808 claim relate to this same land loss in the period to 1865.

6. **THE** first cause of action alleges a failure of the Crown to adequately protect Ngati Horowhenua land interests in the Crown's dealing with private pre-Treaty transactions. The pre-Treaty transactions, and their validation as permanent alienations through the Old Land Claims Commission, are described by Dr Anderson (#A8, pp46-72) and, specifically for Waiheke and islands in the Hauraki Gulf, by Mr Monin (#C2 and #C5).

7. **THE** key transactions affecting Ngati Horowhenua interests were those in Piako, South Auckland (Fairburn), and in Waiheke. Dr Anderson noted that the transactions in the Piako by Webster and Cormack, although not properly investigated as to their nature were nonetheless confirmed and grants of 17,299 acres were recommended for the two settlers (#A8, pp59-62). Anderson concluded:

"[...] there was ample evidence that the early transactions along the Waihou and Piako Rivers fell well short of standards of informed consent, yet the occurrence of a sale was not seriously questioned"

(p61)

8. **AT** Waiheke, Dr Anderson recorded that 6,987 acres were recommended for grants. The south Auckland Fairburn transaction falls outside the Tribunal's Hauraki Inquiry District, but has nevertheless been discussed by Dr Anderson (#A8, pp64-68). It is

submitted that in breach of its duty of active protection, the Crown failed to take appropriate steps to ascertain whether or not these transactions were in fact alienations in an English sense, when the evidence strongly suggests that they were not, but nonetheless treated them as sales.

- 9.** **THE** second cause of action relates to the effect of the Crown purchase programme up to 1865 on Ngati Horowhenua. Relevant transactions to the WAI 808 claim were the purchases affecting Mahurangi, Kohimarama, and certain lands in Waiheke and the Hauraki gulf islands. Monin described transactions over 11,000 and 4,000 acres on Waiheke and Ponui islands respectively (#C2, p6; #C5, pp55-58). Monin suggested the Crown took advantage of rising debts among Ngati Paoa in its transactions for these lands (#C2, pp8-9). The Mahurangi and Kohimarama transactions are outside the Tribunal's Hauraki District Inquiry, but are nevertheless briefly described by Anderson (#A8, pp40-41) and Monin (#C5, pp56-57). Many of these lands had included cultivations supporting Ngati Paoa trade with Auckland.
- 10.** **IT** is submitted that the Crown failed in its duty of active protection to ensure that Ngati Paoa had sufficient lands for their present and future needs, and rather took advantage of the accumulated debts so that Ngati Paoa were forced to sell their productive lands to the Crown. In this way, Ngati Paoa, including Ngati Horowhenua, were unable to derive any long term advantage from trade with Auckland.
- 11.** **THE** third cause of action involves the Crown's waiver of pre-emption between 1844 and 1845. The majority of these private transactions were on Waiheke, but Ngati Paoa also participated in a transaction involving 300 acres at Kawarahi, near Mt Smart (#A8, p 43).

Raupatu

12. **THE** fourth cause of action focuses upon war and confiscation and it is submitted that these had arguably the biggest and most direct impact on Ngati Horowhenua despite the evidence of Dr Anderson that the majority of Ngati Paoa remained neutral (#A8, p111 supported by Dr Rigby, #T3, p53). The Tribunal has heard evidence on the "*Thames expedition*" where British warships bombarded settlements and carried out amphibious operations along the western coastline of the Firth of Thames (See Battersby, #02, pp29-30). Resident Magistrate Lawlor, summarised the effect of these engagements on tangata whenua:

"It is said that the natives are so driven from Pukorokoro that they have removed three or four times, but always find themselves followed by the troops. They are now supposed to be encamped a little to the southward of Maku Maku and are consequently living in a most wretched manner, this district being an immense swamp."

(Lawlor to Minister of War, 7 December 1863, BACL A 208/634; referred to in Anderson, WAI 686, #A8, p112).

13. **THESE** engagements directly affected Ngati Horowhenua. The conflict culminated with the established of a redoubt at Pukorokoro (Miranda).
14. **FOLLOWING** those hostilities the Crown confiscated lands in Hauraki. Dr Anderson has estimated that around 61,941 acres of land at Pukorokoro, and 51,111 acres at East Wairoa were taken from Hauraki tribes (Anderson, #A8, p116). Dr Belgrave estimated that Ngati Paoa could well have lost over 100,000 acres (WAI 686, #A40(a)), although the Waitangi Tribunal, in the Waiheke Report considered the true figure might be less than 50,000 acres (p10). The WAI 808 claimants assert that Ngati Horowhenua held interests, along with other hapu, in the confiscated lands despite that fact that on the whole their tupuna had been neutral during the wars. Whatever the actual extent of Ngati Paoa rights in the East Wairoa **and Pukorokoro** lands, the confiscation "*... cut into one of the last extensive tracts of territory held by Ngati Paoa.*" (#A8, p116).

- 15. IT** is submitted that the use in Hauraki of the New Zealand Settlements Act 1863 was itself a breach of the principles of the Treaty of Waitangi (see, for example, Dr Rigby, #T3, pp54-62). This submission will be expanded upon in the closing submissions for the WAI 100 claim. In addition, Dr Anderson has criticised the subsequent running of the Compensation Court as effectively creating compulsory purchases for many "loyal" Hauraki individuals (#A8, ppl22-126).

The Native Land Court

- 16. IN** the years following the wars and confiscation,

"[... Ngati Paoa were to find that even the remnants of their lands they were about to lose too - not through the machinations of another war, but rather through the mechanics of another new instrument - the Maori Land Court.

(Waiheke Island Report, pl0).

- 17. THE** fifth cause of action identifies the effects of the Native Land Court process upon Ngati Horowhenua. This submission will not seek to rehearse the numerous submissions and evidence already put to the Tribunal on the Native Land Court and its overall effect on Hauraki. A brief overview of the Court's impact upon Ngati Horowhenua will instead be provided. As noted above, by 1865 Ngati Paoa lands were largely limited to small pockets in Waiheke and from the Kaiaua region to the south. The remaining lands were largely lost within a relatively short period following the introduction of the Native Land Court. Dr Anderson and Mr Alexander describe how the debts of Ngati Paoa, necessarily including Ngati Horowhenua, caused largely by survey and court costs, led to the loss of numerous blocks south of Kaiaua and in the Hauraki Plains region including Piako, Te Hoe o Tainui, Maukoro, Paetoke, Takapua, Takapau-Rerekau, Te Rangatahae, and Te Whanake (Anderson, #E2, pp41-43, 79-90; #A9, pp67-74; Alexander, #E3, pp73-75). Dr Anderson noted then the "shattering impact of the Native Land Court and free market purchase

of Maori land holding" was demonstrated in the western Firth of Thames (#A8, ppl74 & 183). By 1877 most the blocks in this region, for which Ngati Paoa held interests, had been sold to private purchasers. To the north, in Waiheke, the *"introduction of the Native Land Court quickly resulted in the loss of most of the land still remaining to Ngati Paoa"* (Anderson, #E2, p20). Of some 6,500 acres investigated by the Court investigated between 1865 and 1869, 4,621 acres were alienated by 1877 (Anderson, #A8, p183; #E2, p20; Monin, #C5, pp 64-68).

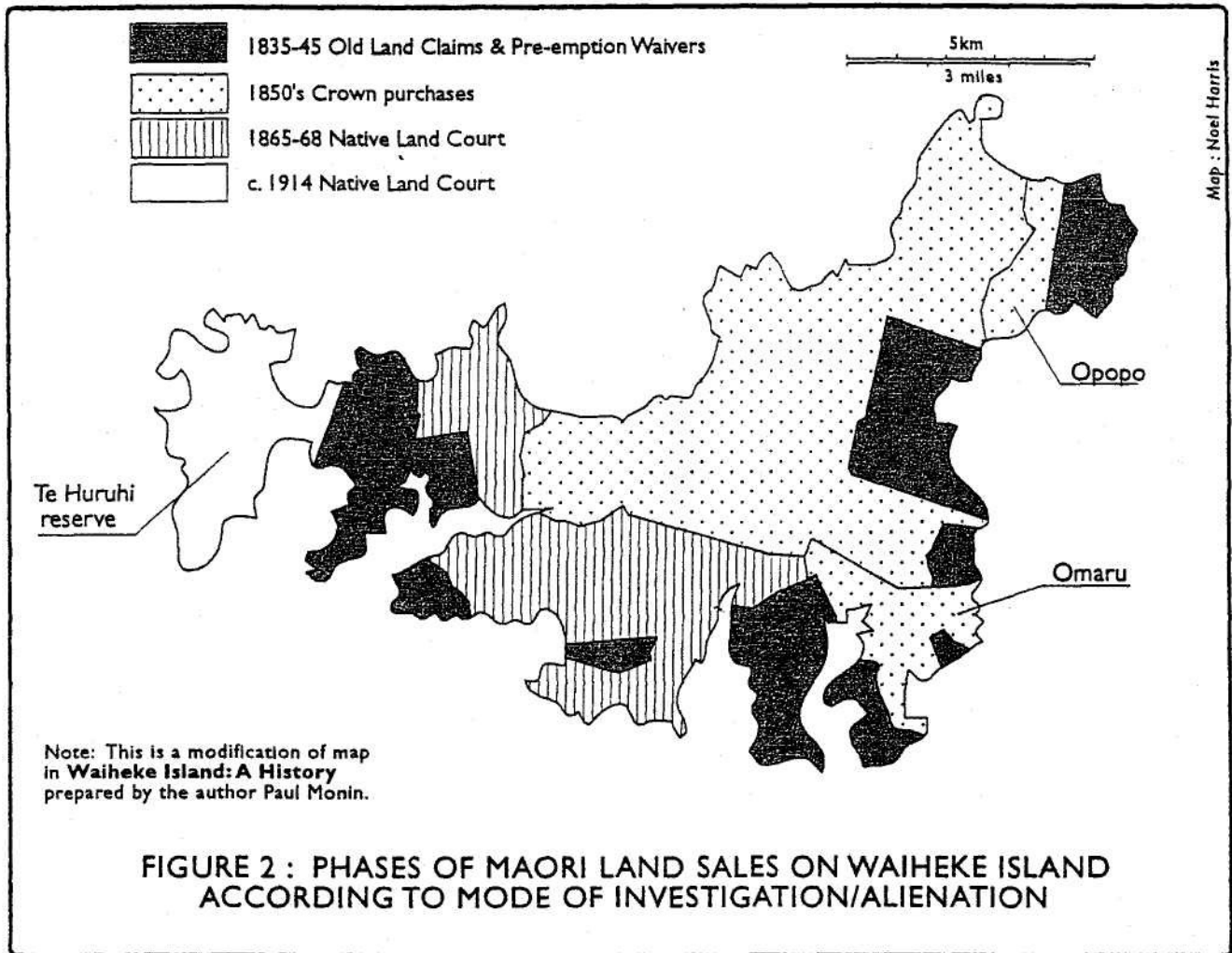
Failure to Provide a proper Mechanism for the Correction of Names

18. **THE** seventh and final cause of action relates to the Crown's failure to properly protect Ngati Horowhenua's customs relating to the naming of individuals. The evidence of Marion Peeke demonstrates the effect of the, presumably not uncommon, problem of the misrecording of names during the land court process. However the error occurred, the evidence shows that the present statutory mechanism for rectifying errors in the recording of names is costly and difficult to use and a recommendation for a modified system to provide greater flexibility is sought.

DATED at Auckland this 17th day of May 2002



L G Powell/D G S Wilson
Counsel for WAI 808



HWC 070-H07 Wai 808-Counsel Opening
On behalf of Ngati Porohenua

Wai 96 #A5(a)
Wai 406-B5(a)⁰⁰²
Wai 686 #A40(a)

NGATIPAOA

An investigation of their land loss
due to the New Zealand Settlements Act
1863

OFFICIAL

Michael Belgrave

Waitangi Tribunal Research Unit
11 April 1987

SUMMARY

1. Ngati Paoa lost a considerable area of land as a consequence of confiscations made under the New Zealand Settlement Act, 1863. A conservative estimate of this loss would be in the tens of thousands of acres, but the total figure could well be over 100,000 acres.
2. Most, if not all, of the confiscated land known as the East Wairoa Block, consisting of around 54,000 acres, originally belonged to Ngai Tai (Ngatitai) and Ngati Paoa.
3. Part of the Pokeno Block of 19,000 acres may also have been confiscated from Ngai Tai and Ngati Paoa.
4. On behalf of the claimants, Mrs Hariata Gordon maintains that Ngati Tai (Ngai Tai) were in fact a hapu of Ngati Paoa. Although there is evidence to support this from the primary sources surveyed, this connection would need to be further demonstrated by the respective kaumatua. Even if Ngai Tai are regarded as a separate tribal entity then a large part of the East Wairoa Block must be regarded as a confiscation from Ngati Paoa.
5. A long strip of land along the Eastern boundary of the Central Waikato confiscation was also land owned by Ngati Paoa. Much of this land was disputed by Waikato Tribes, making it impossible to estimate the total area. However, the amount of Ngati Paoa territory was considerable and certainly included the triangular corridor that joins the Central Waikato block with the Hauraki Gulf.
6. Ngati Paoa were not judged to have played a significant part in the Waikato campaign, and under the Act were entitled to have large areas of land returned as compensation, irrespective of whether the Proclamations under the Act were just or unjust, legal or illegal. It has been impossible, in the time available, to rule out the possibility that compensation in land or money was paid to Ngati Paoa: however, it appears that very little, if any compensation was awarded.
7. It may be impossible to do more than estimate the total area of Ngati Paoa land confiscated. Boundaries between iwi and hapu within confiscated blocks were never accurately determined. A more detailed examination of Crown purchases in, the South Auckland area and of Maori Land Court awards east of the Wairoa "river and in the Hauraki plains could lead to a more accurate estimate of Ngati Paoa's confiscated lands, when combined with the existing oral tradition.

NGATI PAOA

An investigation of their land loss
due to the New Zealand Settlements Act
1863

1. Method.

The research for this paper was carried out between 6 April 1987 and 10 April 1987. Research was based on an examination of papers printed in the Appendix to the Journal of the House of Representatives (AJHR) 1863 to 1870; Turton's Maori Deeds; the New Zealand Settlements Act 1863; Proclamations and Notices published in the New Zealand Gazette 1863-1868; maps held by the Department of Survey and Land Information, Hamilton; a variety of secondary sources and an interview with the Hariata Gordon in Auckland, 9 April 1987.

2. Ngati Paoa in Auckland ani Hauraki 1840 to 1860.

Although badly disrupted by the Ngapuhi invasions of the 1820s, Ngati Paoa were well placed to benefit from the boom in Maori agriculture that occurred between the mid 1840s and the late 1850s. With large stretches of fertile land on Waiheke and other Hauraki islands, and with extensive cultivations on the mainland around the Wairoa river, there was ample opportunity to exploit the expanding domestic and export market centred on the port of Auckland. From further afield Ngati Paoa could bring produce from the Hauraki plains and from both sides of the Coromandel Peninsula. Their strategic position on the eastern sea approaches to Auckland meant the produce of all Hauraki, Coromandel, Bay of Plenty and East Coast tribes passed through Ngati Paoa territory. At the height of the boom, during the harvest season of 1855, some 241 Ngati Paoa canoes were recorded as arriving at Commercial and Mechanics Bays over a three month period. These canoes carried 1194 passengers, and supplied the city with a considerable quantity of produce - including 2660 kits of peaches, 668 kits of potatoes, 186 tons of wood, and over 11 tons of fish. (1) Although some of this may have been wrongly attributed to Ngati Paoa, their agricultural and commercial success showed how considerably the tribe had adapted to the economic opportunities accompanying the first years of colonisation. Charles Heaphy's 1860 map of the route from Auckland to the Waikato shows the extent of cultivation on the southern shore of Waiheke and across to the mainland from Maraetai to Taupo (See appendix A).

Economic success in a cash market was a sign of adaptability but it also produced a dependence on a capitalist economy dangerously prone to cycles of boom and bust. In 1856 the steam ran out of the Victorian gold rush, and with it went the export market for agricultural produce. At the same time, successful produce trading had disguised the serious undermining of Ngati Paoa's economic position caused by land sales. While

being close to Auckland was good for trade, it brought with it mounting pressure to sell land. Ngati Paoa were signing away parts of their land well before the Treaty of Waitangi, and with the capital located in Auckland the Pakeha demand for land led to numerous sales in the period up to 1860. With a number of other tribes, Ngati Paoa claimed land sold to William Fairburn, between the Tamaki Estuary and the Wairoa river. Fairburn returned a third of the purchase to be divided among the Hauraki tribes. In 1854 Ngai Tai relinquished their claim to this land in return for £500 and a large block of land east of the Wairoa river mouth at Umupuia. (2) This settlement, with its cultivations can be seen on Heaphy's 1860 map (Appendix A). Little over a month after this sale, Ngai Tai parted with the Hunua Block, bordering the Wairoa sale to the South. The sale was worth a further £900, but the block was 15,000 acres. Then in 1858 10,900 acres were sold on Waiheke for £800.(3) By 1860 Pakeha farms were pushing Maori settlements and cultivations as far as the Wairoa River in the east and the Mangatawhiri in the south. The Heaphy map illustrates this frontier graphically. Ngati Paoa were also alienating land at the other end of their territory with sales in the Hauraki plains, around the Piako river.(4)

Dependence on an Auckland market for the sale of produce and the serious consequences of land sales placed Ngati Paoa in a precarious position to deal with the disruptions caused by war and confiscation. As a result, in the last decades of the nineteenth century the tribe was ill-prepared for the dispiriting and demoralizing rituals associated with the Native Land Court and the inevitable sales of land that followed its deliberations.

3. The Invasion of the Waikato.

When the Government attempted to destroy the independence of the King Movement by military force, Ngati Paoa were caught between the two forces. General Cameron's invasion was preceded by two Proclamations, the first calling on all Maori living north of the Mangatawhiri Stream to accept an Oath of Allegiance, or to withdraw beyond the river, the aukati line that divided the Queen's territory from that of the King. The second Proclamation claimed that it was necessary to establish military posts in the Waikato to preserve law and order and that any Maori -. resisting this action would have his lands confiscated. Although the second of these Proclamations was date 11 July 1863, it was not actually issued until 14 July 1863. John Gorst came across the bearer of the proclamation on his way South as late as 15 July. By that time Cameron had already crossed the Mangatawhiri Stream. For many Maori who were either wavering in their support for the King, or who still remained with the 'Queen's Party', the crossing of the Mangatawhiri confirmed the suspicion that the Government was determined to strip all Maori communities of their land, regardless of the promises of the Treaty of Waitangi. Tribes like Ngati Tai and Ngati Paoa were much closer to Auckland and more immediately threatened by the steadily increasing military forces at Cameron's disposal, than the much more separatist and militant Ngati Maniapoto. In the increasingly polarized climate that accompanied Grey's determination to drive potential 'rebels' away from Auckland, neutrality was almost impossible, despite being essential to continued survival.

4. The majority of Ngati Paoa remain neutral.

For Ngati Paoa the choice was difficult. In 1862 a Government report noted five of eight major chiefs as retaining their loyalty to the Crown: Hawa Tipa, Hoera Wharepunga, Patene Puhata, Te Kapara, Te Rauroha. Only Te Hiwi Nui, Te Totereua and Peneamene were considered lost to the Queen and loyal to the King movement. Hostilities appeared more and more inevitable from 1861 to 1863, with the conflict over the political autonomy of the Waikato taking on many of the characteristics of a race war. With settler abuse indiscriminately leveled at Maori followers of both King and Queen, many loyalists could only conclude that the war would not be between the Government and the King, but between Maori and Pakeha. Maori trust in the Government was almost completely expended by official attempts to undermine the Kingitanga.

Despite all this, only a minority of Ngati Paoa joined the Waikato tribes in resisting the invasion. An 1870 map, prepared to show the level of involvement in the war estimated that less than one third of those communities in Ngati Paoa territory on the west shore of the Hauraki Gulf were active participants against the Crown. (See appendix C) James Belich, in his recently published history of the wars, does not challenge these 1870 conclusions. Belich's argument that the King received much wider support than has usually been accepted, with fifteen of the twenty-six major North Island actively engaged against the Government, tends to further emphasize the lack of involvement of Ngati Paoa as a whole. (5)

However much sympathy Ngati Paoa may have had with the King Movement through shared Tainui origins they were too close to Auckland, were too dependent on the Auckland economy, and had already lost too much of their lands through Crown purchases to have been drawn into the fray against the Government.

5. Minority involvement in the war.

While many of their kin remained neutral those Ngati Paoa that did take up arms played an important role in the first stages of the campaign. Belich argues that Cameron's inability to move south between the battle of Koheroa on 17 July 1863 and the battle of Rangiriri at the end of October was due to an effective guerilla campaign waged against his supply lines by Maori forces, of which Ngati Paoa played an important part. Although at the time, the battle at Koheroa was claimed as a clear British victory Belich claims that Cameron was worried by the ability of a small number of defenders to effectively resist British regulars. When a Ngati Paoa taua attacked a supply train at Martin's Farm, Drury, the insecurity of Cameron's line of advance was further underlined. The large expanse of difficult bush country in the Hunua and Pokeno ranges allowed ample cover for small bands of Maori to harass contingents of troops. When the set piece battle finally occurred at Rangiriri in November an undetermined number of Ngati Paoa were present.

Ngati Paoa's lack of commitment to the defense of the King Movement's autonomy did not prevent the Government from waging war against the Ngati Paoa settlement of Pukorokoro, on the western shore of the Hauraki Gulf.

An expedition of 900 men left Auckland 16 November 1863 to erect a line of defenses from the sea to Queen's redoubt, near Pokeno. The force was under the protection of HMS Esk and HMS Miranda. While Maori forces were still positioned at Paparata, Cameron's troops faced a serious threat from behind their lines, and guerilla forces could enter the safety of the Wairoa and Hunua ranges, and further threaten the supply route to the Waikato. The Miranda and the gunboat Sandfly shelled three Ngati Paoa villages while searching for a place to land the force. (6)

6. The New Zealand Settlements Act.

The invasion of the Waikato was accompanied by far reaching legislation to allow for the confiscation of Maori land. The New Zealand Settlements Act, 1863, gave to the Government power to confiscate any lands from areas where Maori were judged to be in rebellion. Confiscation was allowed not just from the tribes of 'rebels' or from those giving any assistance to 'rebels', but from all Maoris. The government justified such a dramatic measure as the only way to finally ensure the Queen's dominion, and it succeeded in convincing the Imperial Government that confiscation was essential to the maintenance of law and order. The ability to confiscate land from the innocent and the guilty alike was seen as a practical necessity. Loyal or kupapa Maori who lost land by such measures could apply for a land grant from the confiscated area as compensation, and a compensation court was established to award such lands. Surrendered 'rebels' were also made eligible for compensation.

7. Implementing confiscation.

Must how much land would be confiscated and where was an issue of intense debate between the Governor and his ministers throughout 1864. Grey was committed to confiscation as a means of enforcing the Crown's authority over Maori communities, but he argued that only small areas of land needed to be taken. In contrast the Whitaker and Fox ministry was intent on confiscating millions of acres of Maori territory. The decision was also being influenced by the raising of large numbers of troops to fight the wars, all being promised 50 to 400 acres each depending on rank. When in November 1864 the ministry was replaced by another headed by Frederick Weld, a South Island land owner and a comparative moderate, a compromise was reached and about 1.6 million acres were eventually confiscated. The Waikato and Northern confiscations accounted for over half of the total.(7)

8. The northern confiscations.

The land owned, or claimed, by Ngati Paoa was included in the first sweeping Proclamation of 17 December 1864, although not actually made under the New Zealand Settlements Act. It included all land within a line that passed around Waikato and

thence by the Mangatawhiri River to the Great South Road, thence Northward by the Great South Road to the Razor Back Redoubt thence by the Rama Rama and Hunua purchases to the Wairoa River, thence by

the Wairoa River to the North Eastern boundary of the land of the KowhairikL Tribe, thence to the summit of the Whare Kawa Mountain, thence following the ridge of Whare Kawa to the Surrey Redoubt, thence by a straight line to the point of commencement.[Pukorokoro] (See Appendix B) (8)

From this large area various Districts were declared in the months that followed. In an Order in Council of 29 December 1864 the first districts were gazetted, all of them in South Auckland - Patumahoe, Pukekoe, Pokeno, Tuakau, Waiuku North, Waiuku South and Tuimata. The Pokeno District included,

All that Land, estimated to contain 19000 acres, and known as the Pokeno Block, bounded on the West by land sold to the Queen in the parish of Mangatawhiri, by the Great South Road, and by the Ramarama purchase; on the North by the Ramarama and Hunua purchases; on the South by the Mangatawhiri Creek and Swamp; and on the East by a line bearing N.36 W.53,600 links.(9)

On 30 January 1865 the East Wairoa and West Pukekohe Blocks were added. The boundaries of the East Wairoa Block were marked as,

Bounded on the North by the Wairoa River and the Northern boundary of the lands intended to be confiscated, as set forth in the Proclamation of 17th December, 1864; on the East by the Eastern boundary of such confiscated lands; on the South by the Maungatawhiri, [sic] River, from the Surrey Redoubt to the Eastern boundary of the Pokeno Block as described in Proclamation of 29th December, 1864 ; and on the West, by the said Pokeno Block.(10)

These boundaries were further defined on 16 May September 1865) as,

Bounded on the north by a line commencing at the south-west angle of M'Nicol's grant, on the Eastern bank of the Wairoa River, and extending on a bearing of north 93° east, to the summit of the Western Wharekawa Range.

On the east by the summit of that portion of the Wharekawa Range that leads in the most direct line to Tuahu or the Surrey Redoubt.

On the south by a straight line from the Surrey Redoubt, on a bearing of 43° west to the southern margin of the Mangatawhiri Swamp.

On the west by a line from the southern margin of the ' Mangatawhiri Swamp, extending on a bearing of north 36° west to the Hunua purchase, thence by the south-eastern boundary of the Hunua purchase, and by the Wairoa River to the south-west angle of M'Nicol's grant aforesaid.(11)

Unfortunately contemporary maps appear quite confused over the margins of the Pokeno Block. In the maps published in the AJHR in 1870 the Pokeno block is given an area much in excess of 19,000 acres, taking the Northern boundary almost as far north as Drury. The block size as presented to the Royal Commission on Confiscated lands in 1927 was much

smaller and more like the 19,000 acres intended. However, there is still some doubt in my mind that the conservative total area presented to the Commission was completely accurate and this should be examined further through the deeds and plans of the Ramarama and Hunua purchases.

9. The Waikato confiscations.

The boundaries of the Waikato confiscations affecting Ngati Paoa are just as potentially confusing. Most maps used to show the confiscated boundary between the Waikato and Hauraki plains are also based on an 1870 AJHR map. This map shows the confiscation boundary as a series of straight lines from Pukorokoro to Hapuakohe Pass, then from Hapuakohe Pass to Pukemoremore, and from Pukemoremore to Maungakawa (See appendix C). This map's boundaries are based on the Gazette notices of 17 December 1854 and 2 September 1855.(12) However, in implementing the confiscation it is clear that it was the boundary provided by the Order in Council of 16 May 1865 that was actually used to separate land left in Ngati Paoa control with that confiscated.(13) This boundary was described as,

on the East by a straight line extending from the North-Eastern angle of the said Military Settlements Land to the most Easterly source of the Matahuru River, thence by a straight line extending to the summit of the Rataroa Range, and by the summit of the Rataroa Range to the Maungakawa summit, and thence in a straight line to Pukorokoro

As the line drawn on the map in Appendix B shows, it was this much more varied line that separated land placed in the parishes of the confiscated areas with the land retained for the eventual jurisdiction of the Native Land Court.

10. A note on compensation.

The second of the Darby maps presented to the Confiscation Commission at Ngaruawahia is a large map of the Waikato Confiscations, including those areas returned to Maori ownership, I was only able to view this map briefly before it was sent away for copying. Because of this I am unable to exclude the possibility that land was returned to Ngati Paoa. I have not been able to examine any files, if they exist, relating to the compensation awarded for the East Wairoa, Pokeno and Central Waikato Blocks. However, the Darby Map showed only two, very small sections, as awarded in compensation within the East Wairoa block. At present I cannot say just who received these grants. The block of land joining the Central Waikato confiscation with the Firth of Thames was also not returned and was still Crown Land in 1927.

Notices of compensation hearings for Pokeno were gazetted 25 January 1865(14) and for the East Wairoa Block on 5 April 1865(15),

(See Appendix D) On this map the North part of the East Wairoa confiscation is shown as formerly belonging to 'Ngatitai and Ngatipaoa. In the Central Waikato District an area South of Pukorokoro is clearly identified as Ngati Paoa lands, although disputed by Waikato Tribes.

12. East Wairoa.

This block of between 53,000 and 54,000 acres is clearly identified in Ngati Paoa's oral tradition as having been confiscated from Ngati Paoa. Unlike much of the Waikato land, the block was confiscated not for its agricultural potential, but for military reasons. Consisting largely of rough hill country in heavy bush, although with some fertile river valleys, the area had been a continual threat to South Auckland and the Great South Road during the war. Because of the recognised neutrality of Ngati Paoa, no attempt was made to confiscate occupied and cultivated land along the coastline. Although, as the Heaphy map shows, there were some Maori settlements within the inland bush region, these were few. As a result, the land confiscated contained inland food resources, places of burial and places of spiritual significance and healing.

Almost all the land not owned by Ngati Paoa in this block was owned by Ngai Tai - with only a small portion at the bottom of the block that could conceivably be claimed by Waikato tribes to the South. The Hunua purchase of 1854, and the Wairoa Purchase bounded the block to the West and North. The Hunua purchase of 16,000 acres was exclusively from Ngai Tai, and both groups had significant claims to the Wairoa purchase and to land as far west as the Tamaki Estuary and Papakura.

If the relationship between Ngai Tai and Ngati Paoa is proven then at least 50,000 acres, and possibly the entire block can be regarded as taken from Ngati Paoa. If this relationship cannot be proven, then possibly as little as 15,000 acres, but maybe as much as 30,000 acres must have come from Ngati Paoa.

13. The Pokeno Block.

Assuming that the Pokeno block does consist of 19,000 acres, thereabouts, (See the reservation in paragraph 8) then Ngati Paoa ownership depends on their relationship with Ngai Tai, as it is really Ngai Tai that have a claim to a portion of this block. Just how much they could claim is difficult to say. The Hunua purchase borders the block to the North, but the boundaries to the South and West are with other tribes. However, the Eastern boundary of the block, that shared with the East Wairoa Block, could well be with Ngati Paoa.

14. The Central Waikato Confiscation.

The northeastern corner of this block must also be seen as a confiscation from Ngati Paoa. The problem is to determine just how large this corner is. The actual boundary used was clearly kinder to Ngati Paoa than that initially Gazetted 17 December 1864. At the very least the area of land taken from Ngati Paoa would be the small triangular piece that joins the

11. Ngati Paoa's stake in the confiscations.

Unlike land purchased by the Crown before the establishment of the Native Land Court, or land subsequently awarded through the Court, confiscated land was not surveyed, or divided along tribal boundaries. The New Zealand Settlements Act did not discriminate between Maori owners who supported or who opposed the Government, as long as there had been some acts of 'rebellion then Districts could be declared, and the land taken. Once this had been done the innocent were supposedly awarded their land back in European title through the Compensation Court. For this reason, it is extremely difficult to determine just who owned what pieces of land in 1866, some one hundred and twenty three years after the land was taken. For this reason any assessment of the total area of Ngati Paoa land lost must remain an estimate and even with further investigation, a final figure could well have a margin of error of tens of thousands of acres.

11.1. From the records of Crown purchases it is clear that Ngati Paoa had legitimate claims to territory adjoining long stretches of the confiscation boundary. This included the eastern side of the Central Waikato District, roughly from Hangawera to the Hauraki Gulf, a distance of some 50 kilometres. Almost half, but possibly all, of the East Wairoa block was definitely bounded by Ngati Paoa land, and maybe a good part of the Pokeno Block as well.

11.2. Almost all contemporary government attempts to graphically match tribal boundaries to confiscated areas show land confiscated from Ngati Paoa. Appendix C shows the attempt in 1870 to describe involvement in war, tribal boundaries and the confiscation line. The green section shows an area where less than a third of the population were involved in the war, and includes the major areas of Ngati Paoa population on the mainland. Those Ngati Paoa on the islands of the Gulf were judged to have been even less involved, with less than one twentieth of the population joining with the King Movement. The inhabitants of Pukorokoro were probably included in the area where over 5/7 of the population were claimed to be in rebellion through the misfortune of being shelled by ships of the Royal Navy. Only those Ngati Paoa on the Hauraki Plains were claimed to have joined the King Movement in any numbers, and they would have had little choice.

11.3. The tribal boundaries recognised by Government in the 1860s and 1870s make a distinction between Ngai Tai, called Ngati Tai, and Ngati Paoa. If Ngai Tai are, in fact, a part of Ngati Paoa, or very closely associate with Ngati Paoa, as claimed by Hariata Gordon, then the tribal boundaries of Ngati Paoa extend well to the West of the lines marked on contemporary maps, further extending the area of tribal land confiscated by the Crown.

11.4. A sketch map prepared for the Government in 1866 shows Ngati Paoa and Ngati Tai territory well within the confiscation boundaries, both in the East Wairoa and Central Waikato Districts.

Central Waikato District to the Firth of Thames. (See map Appendix, B)
However, since all official sources tend to agree with Ngati Paoa claims
that a much larger slice of territory was taken, then it is much more likely
that the corner extends from Mangatangi, at the bottom of the East Wairoa
District, down as far as Hapuakohe or Pukemokemoke.

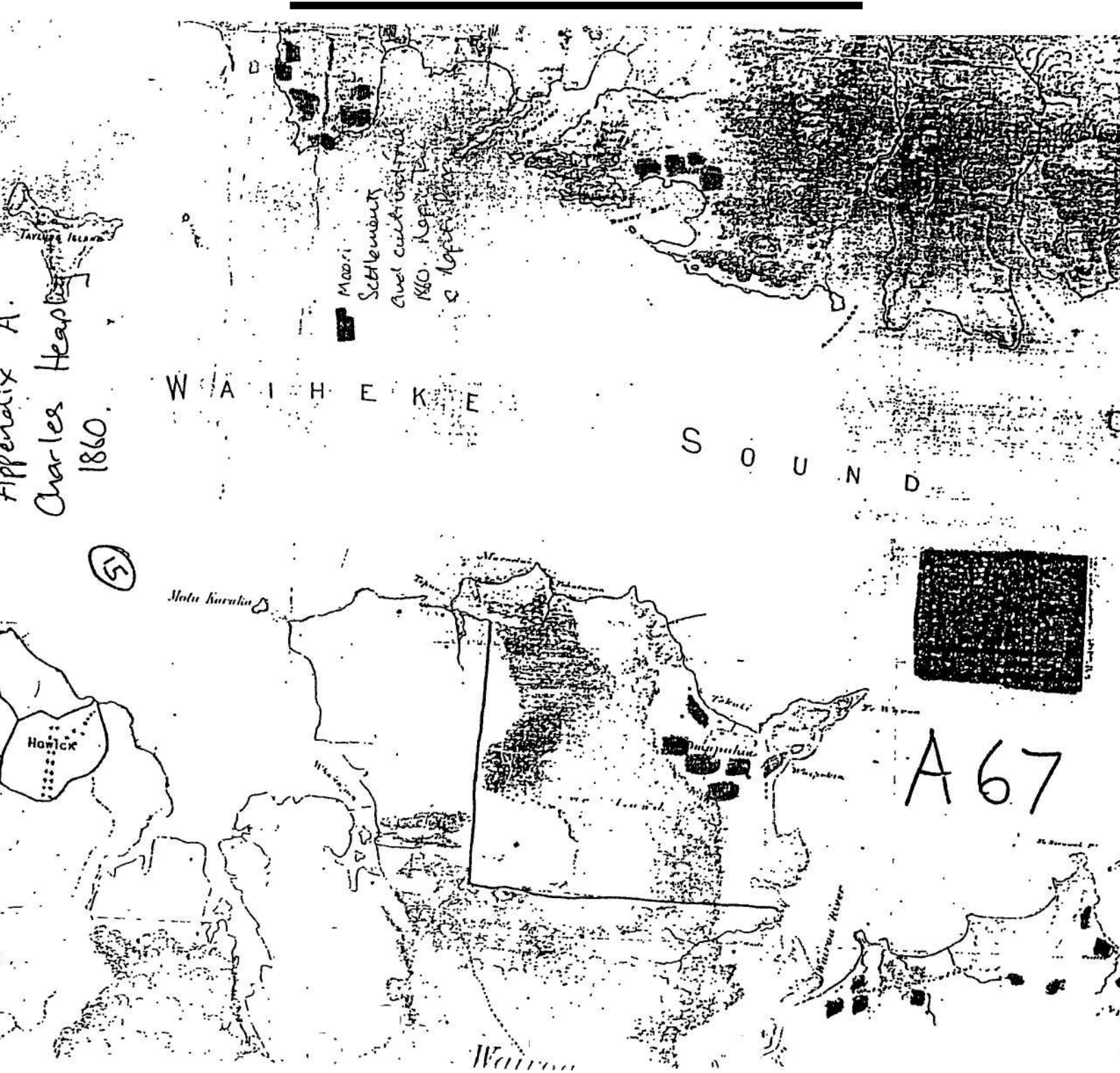
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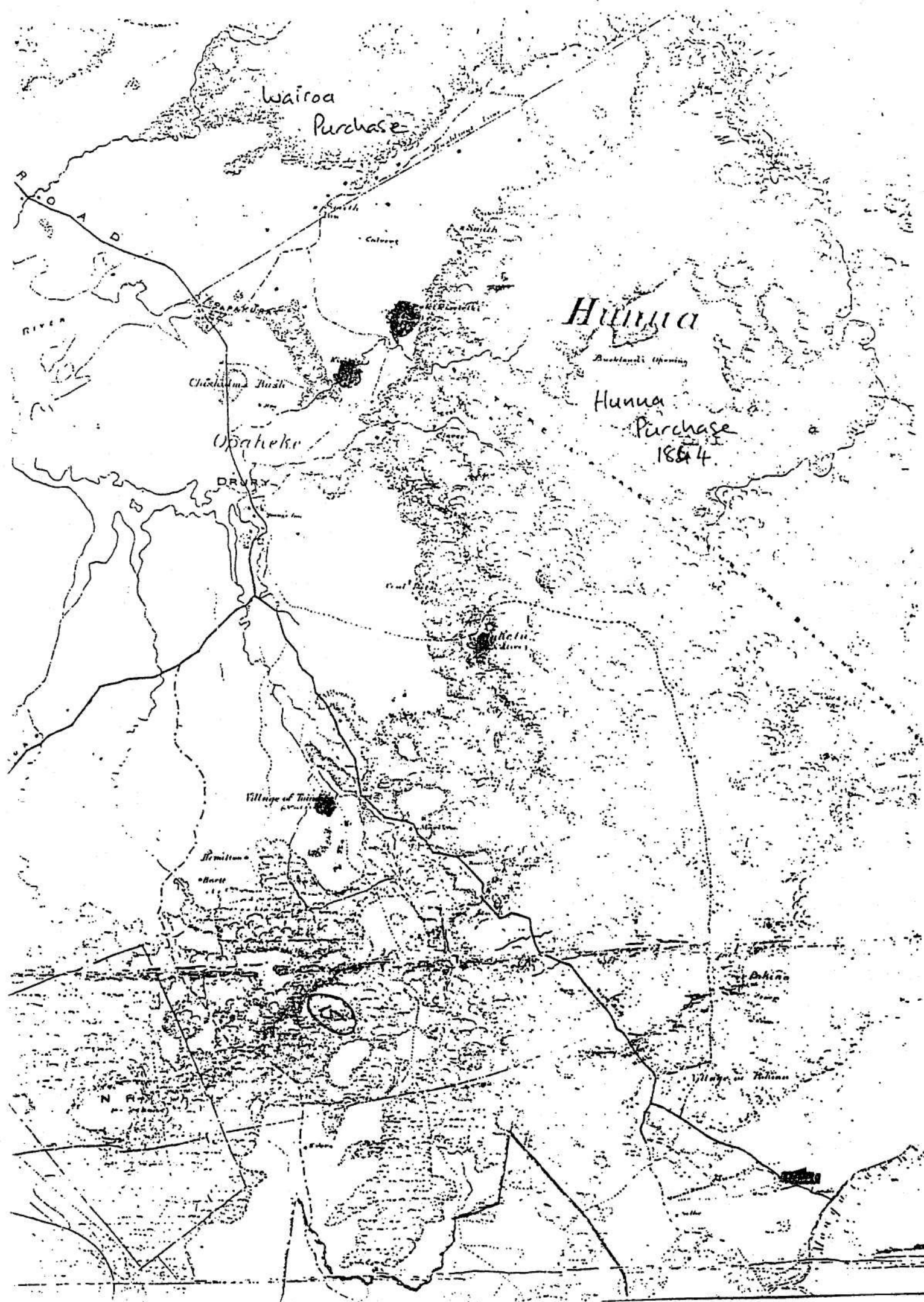
1. AJHR, 1865, E-12, p.8.
2. Turton's Maori Deeds, No. 233, 21 February 1854, Vol 1, p.290.
3. Ibid, No. 236, p.292.
4. See Turton's Maori Deeds, 392-403, Vol 1, pp.549-61.
5. James Belich, The New Zealand wars and the Victorian interpretation of racial conflict, (Auckland University Press, Auckland, 1986) pp.128, 134, 140, 144-5.
6. James Cowan, The New Zealand wars: a history of the Maori campaigns and the pioneering period, (Government Printer, Wellington, 1922) Vol.1, pp.321-3.
7. Alan Ward uses the figure of 1.2 million acres based on the area confiscated in the Waikato before compensation was awarded, A show of justice, racial 'amalgamation' in nineteenth century New Zealand, (Auckland University Press / Oxford University Press, Auckland, 1973) p.177-8; Keith Sorrenson gives 1.6 million acres, 'Maori and Pakeha', The Oxford History of New Zealand, W.H. Oliver and B.R. Williams, eds (Oxford, Wellington, 1981) p.186. Sorrenson's figures come from the Royal Commission on 'Confiscated Native Lands and Other grievances', AJHR, G-7, 1928, . see pp.11, 17, 20, 21.
8. New Zealand Gazette (NZG), 17 December 1864, p.461.
9. NZG, 5 January 1865, p.1-2.
10. NZG, 31 January 1865, p.15.
11. Ibid, p.172.
12. NZG, 17 December 1864, p.461 and 5 September 1865, p.265.

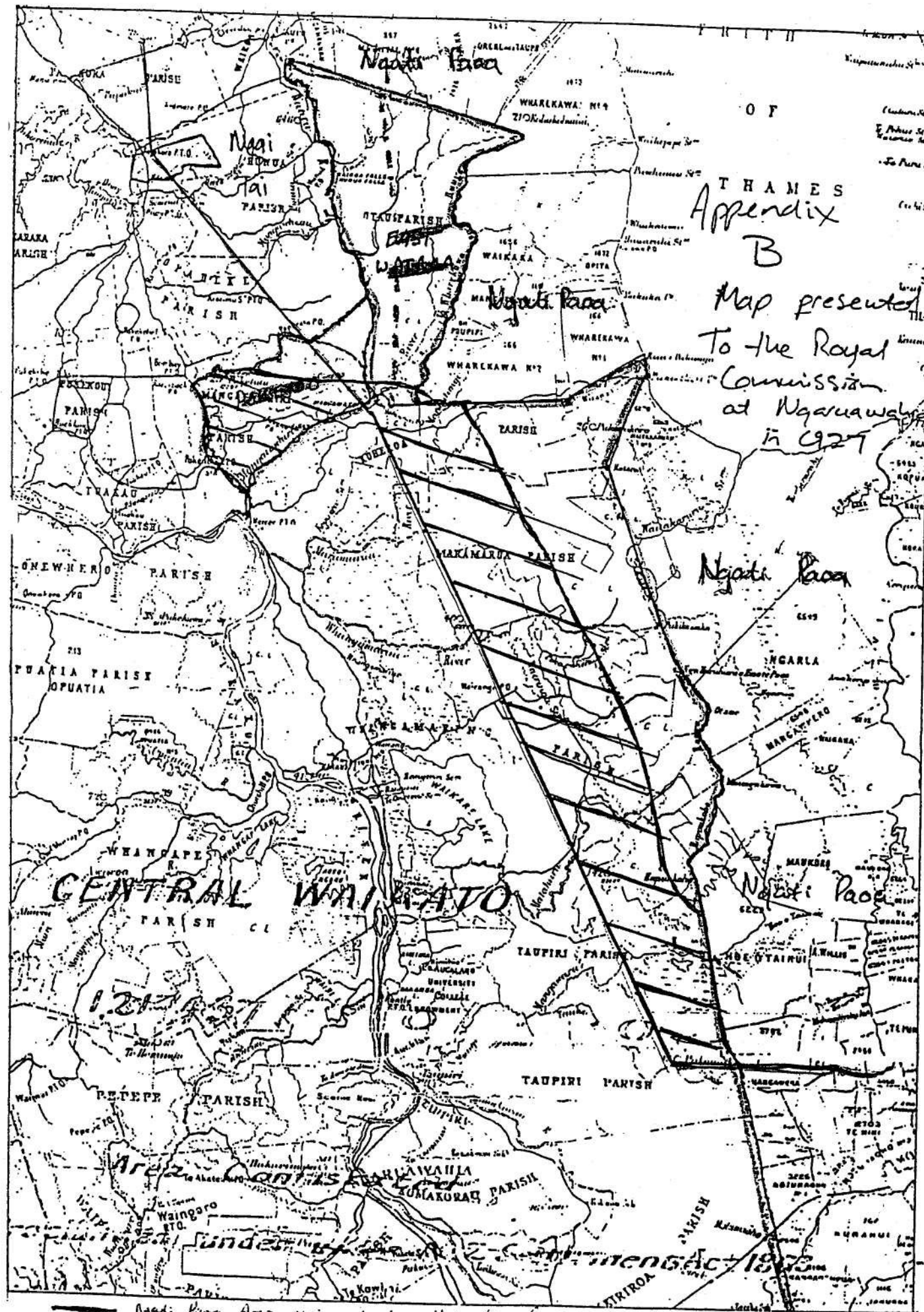
13. NZG, 16 May 1865, p.169.

14. NZG, 25 January 1865, p.20-22.

15. NZG, 5 April 1865, pp.74-5.

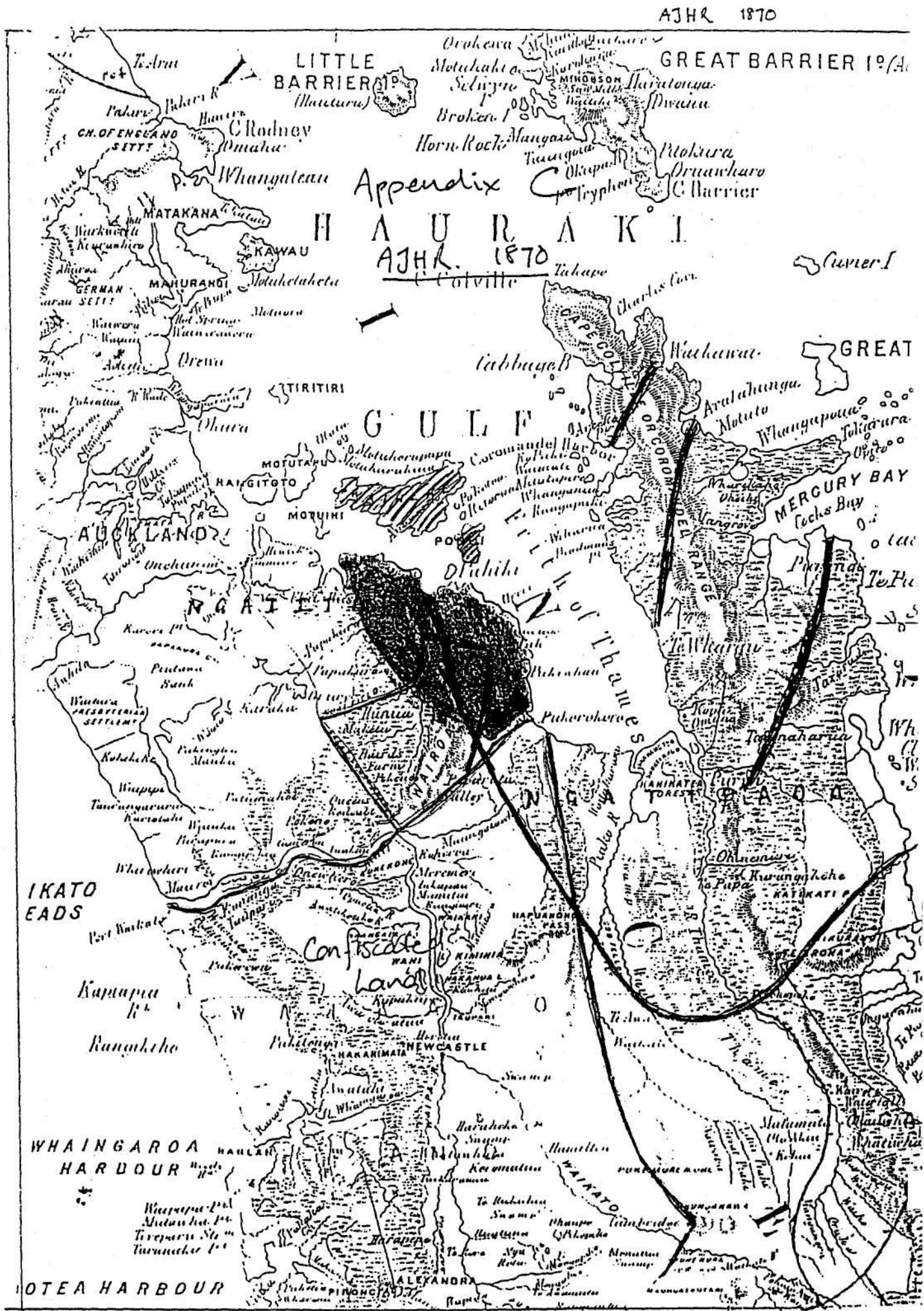






THAMES
Appendix
B
Map presented
To the Royal
Commission
at Ngauruhia
in 1927

- Ngati Paoa Area claimed by Horowhenua Group, April 1987
- Confirmation line.
- Area that could be disputed by non Ngati Tai or non Ngati Paoa groups.
- A very rough estimate of the boundary between Ngati Tai and



Less than 1/5 involved in war
confiscation boundaries

Less than 1/5 involved in war

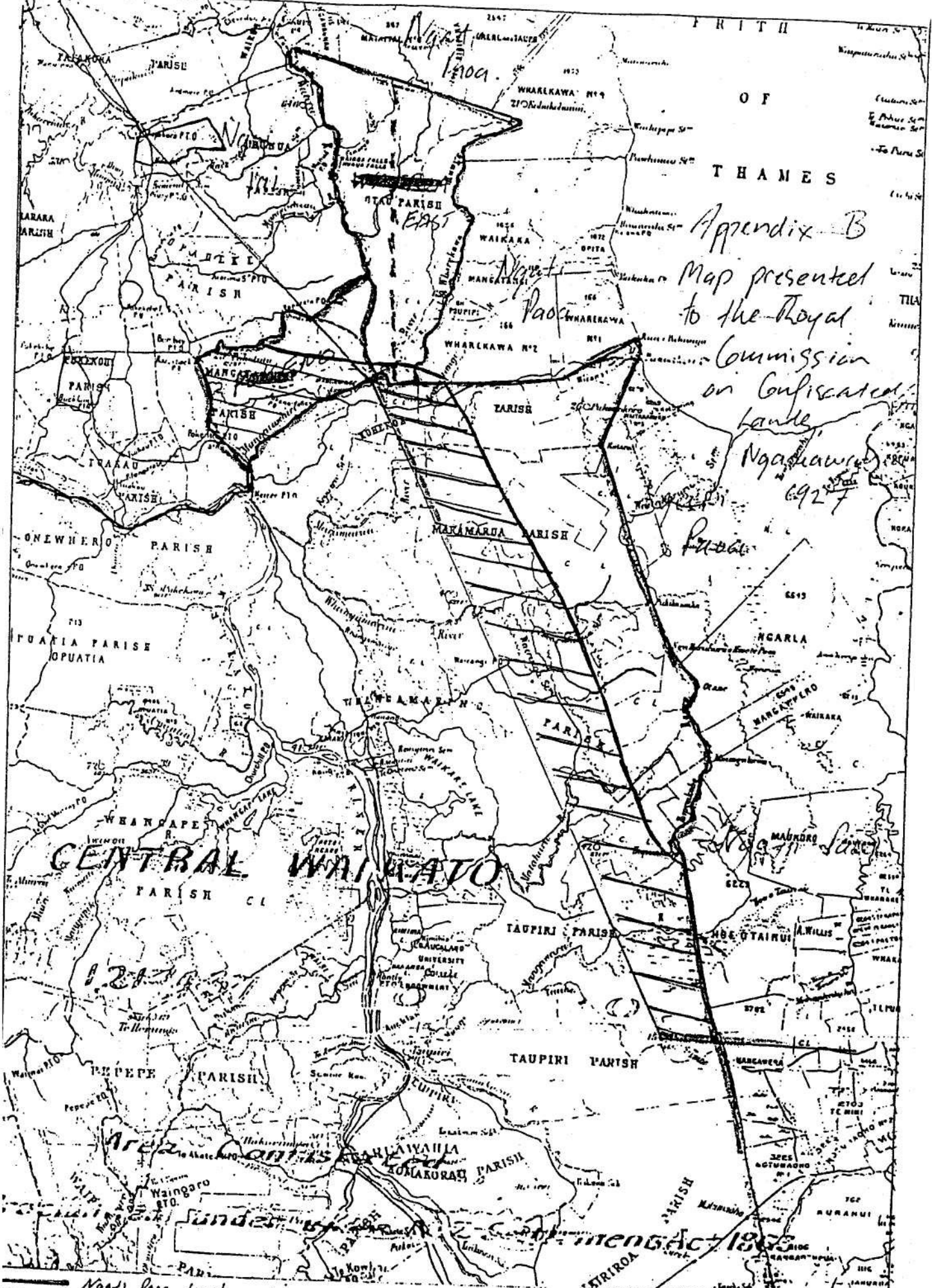
NGATI PAOA
An investigation of their land loss
due to the New Zealand Settlements Act
1863

SUMMARY

1. Ngati Paoa lost a considerable area of land as a consequence of confiscations made under the New Zealand Settlement Act, 1863. A conservative estimate of this loss would be in the tens of thousands of acres, but the total figure could well be over 100,000 acres.
2. Most, if not all, of the confiscated land known as the East Wairoa Block, consisting of around 54,000 acres, originally belonged to Ngai Tai (Ngaititai) and Ngati Paoa.
3. Part of the Pokeno Block of 19,000 acres may also have been confiscated from Ngai Tai and Ngati Paoa.
4. On behalf of the claimants, Mrs Hariata Gordon maintains that Ngati Tai (Ngai Tai) were in fact a hapu of Ngati Paoa. Although there, is evidence to support this from the primary sources surveyed, this connection would need to be further demonstrated by the respective kaumatua. Even if Ngai Tai are regarded as a separate tribal entity then a large part of the East Wairoa Block must be regarded as a confiscation from Ngati Paoa.
5. A long strip of land along the Eastern boundary of the Central Waikato confiscation was also land owned by Ngati Paoa. Much of this land was disputed by Waikato Tribes, making it impossible to estimate the total area. However, the amount of Ngati Paoa territory was considerable and certainly included the triangular corridor that joins the Central Waikato block with the Hauraki Gulf.
6. Ngati Paoa were not judged to have played a significant part in the Waikato campaign, and under the Act were entitled to have large areas of land returned as compensation, irrespective of whether the Proclamations under the Act were just or unjust, legal or illegal. It has been impossible, in the time available, to rule out the possibility that compensation in land or money was paid to Ngati Paoa: however, it appears that very little, if any compensation was awarded.
7. It may be impossible to do more than estimate the total area of Ngati Paoa land confiscated. Boundaries between iwi and hapu within confiscated blocks were never accurately determined. A more detailed examination of Crown purchases in the South Auckland area and of Maori Land Court awards east of the Wairoa river and in the Hauraki plains could lead to a more accurate estimate of Ngati Paoa's confiscated lands, when combined with the existing oral tradition.

FRITH OF THAMES

Appendix B
Map presented to the Royal Commission on Confiscated Land
Ngāwhāwhe
1892



- Ngāti Paoa territory claimed by Mrs. Fairweather Gordon, April 1887
- Confiscation Boundary
- Land claimed by Ngāti Tai or Ngāti Paoa but disputed by other tribes
- Boundary division between Ngāti Tai and Ngāti Paoa

