THE CONFISCATION OF PARE HAURAKI

The Impact of Te Ao Pākehā on the Iwi of Pare Hauraki Māori;

On the whenua of Pare Hauraki 1835-1997 and

The Foreshore and Seabed Act 2004

TE RAUPATUTANGA O PARE HAURAKI

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ABSTRACT

"Kia mau ki te rangatiratanga
o te Iwi o Hauraki" [1]

Just as the whakataukī[2] explains "*Hold fast to the power and authority of the Hauraki tribes"* the focus of this study is to examine and evaluate the impact of Te Ao Pākehā on Pare Hauraki lands and Tīkapa Moana under the mana of Pare Hauraki Māori[3] and Pare Hauraki tikanga. The iwi of Pare Hauraki have land claims through the, (Wai 100) and the Hauraki Māori Trust Board, before the Waitangi Tribunal highlighting whenua issues and their impact on Pare Hauraki iwi.

Also relevant is the foreshore and seabed issue which is documented leading on to the infamous Foreshore and Seabed Act 2004, (for Māori anyway), sparking widespread opposition by Māori throughout the country, and other supportive non-Māori groups because of the issue concerning Māori kaitiiakitanga and guardianship roles.

This investigation will commence by outlining the histories of discovery and settlement of Pare Hauraki, the concept of mana-whenua/mana-moana[4] as it applies to Pare Hauraki Māori and our tikanga, and then to subsequent issues leading to land alienation of the early 19th to late 20th cenutries and then to the foreshore issue of the early 21st Century.

This research will include information showing that before 1840 to Te Tiriti o Waitangi and thereafter that Pākehā and various Crown agents, through legislation claimed the rights to the lands, waterways and oceanic areas under the kaitiakitanga of my tupuna of Pare Hauraki. Tupuna and other iwi members have expressed their disgust seeing the mana of their traditional lands, waterways, oceanic areas and kaitiaki roles slipping away from them through these activities.

Therefore, this thesis is a response to those issues and the impact on (a), Māori as a people, and our tikanga Māori and (b), Pare Hauraki Māori as the kaitiaki/guardians of the Pare Hauraki rohe/territory in accordance with tikanga Māori, and the significance of the responsibilities which arise out of the Māori concepts of kaitiakitanga, manaakitanga and rangatiratanga.

[1] (Hauraki Maori Trust Board, 2004)
[2] Proverb (Ngata, 1993: 363)
[3] Pare Hauraki encompasses all iwi within the land area known as Pare Hauraki.
[4] Sovereignty (Ngata, 1993: 441)

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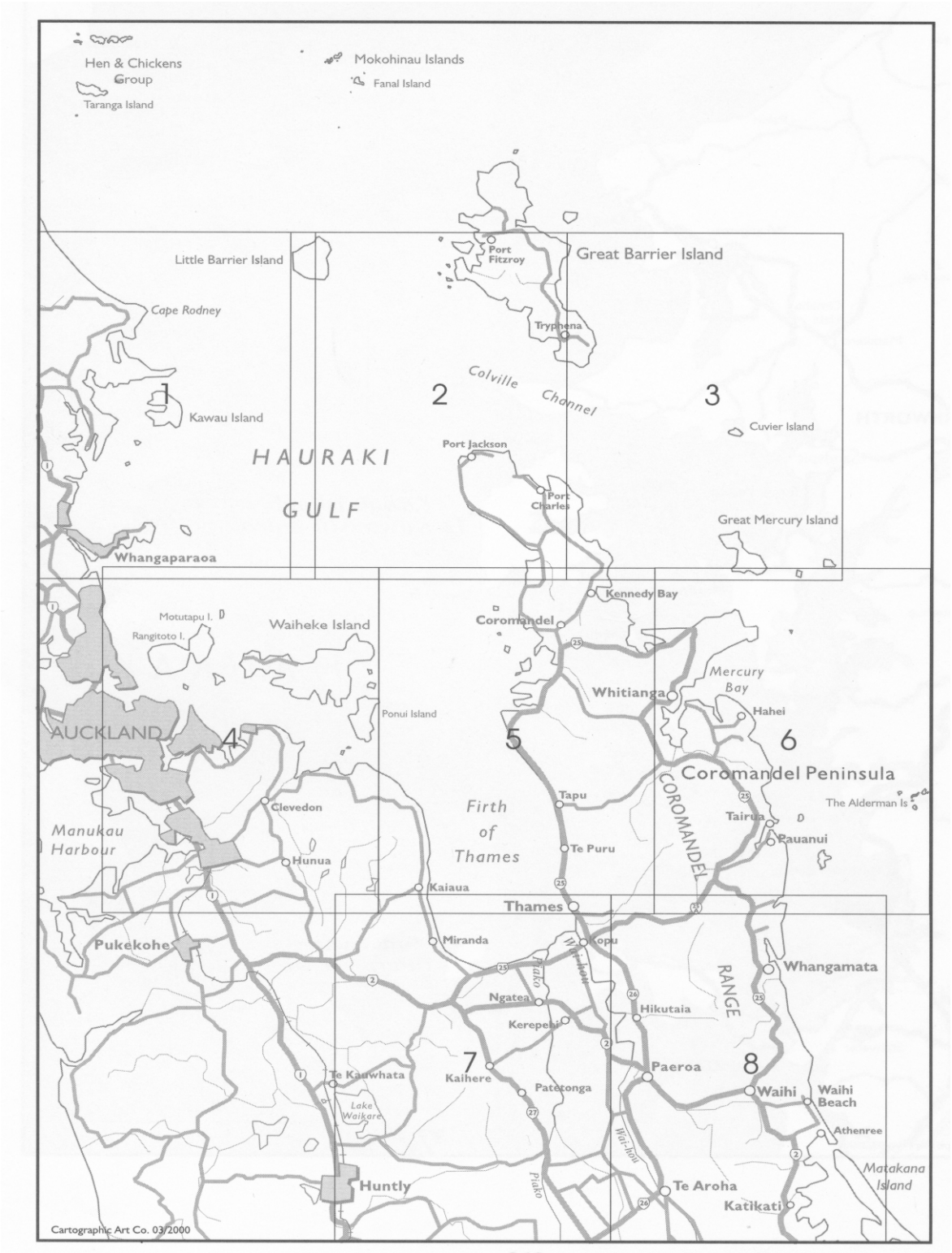

[5] (Royal and Turoa, 200: 243)

INTRODUCTION

"Ngā puke ki Hauraki ka tārehua
E mihi ana ki te whenua
E tangi ana ki te tangata
Ko Moehau ki Waho
Ko Te Aroha ki uta
Ko Tīkapa te moana
Ko Hauraki te whenua
Ko Marutūahu te tangata"[6]

Introduction

The whakataukī above gives a generic description of the regional boundaries and areas of Pare Hauraki, the people, the ancestral mountains, lands and Tīkapa Moana, with Marutūahu being the ancestor. This whakataukī specifically pertains to the sovereign status of Pare Hauraki Māori within Pare Hauraki[7].

This thesis is about justice for the mana of Pare Hauraki Māori as the kaitiaki of Pare Hauraki as well as the lack of accountability for the Crown concerning its impact on the lands, oceanic boundaries and related areas of Pare Hauraki and Pare Hauraki Māori 1835-2004.

During the 19th and 20th centuries the marginlization of Pare Hauraki Māori and the near loss of all of the Nation of Pare Hauraki through legislation, alienation and confiscation relegated Pare Hauraki Māori from being a master in his own world to being a slave in another.

By the Crown and the wheel of colonization under the guise of missionaries, traders, so called teachers and settler alike all claiming to be the friend of the Māori; Māori became disconnected from our earth mother of Papatuanuku and our sky father of Ranginui. Countless concepts of tikanga Māori encompassed within their children of Tāne guardian of the ngahere, Tangoroa guardian of the oceans and Tāwhirimātea guardian of the winds, storms and weather and the tikanga that Māori employed to survive within the natural world of the Māori was lost forever.

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[6] The hills of Hauraki Stand enshrouded by stars,
I greet the land,
I cry for the people,
Moehau the mountain to the coast
Te Aroha mountain inland
Tīkapa is the sea,
Hauraki is the land
Marutūahu is the ancestor, (Royal & Turoa, 2000: 9)

[7] Refer to Pare Hauraki Maps

By 1997 only 2.6 percent of Pare Hauraki customary lands, foreshore and seabed were still held by Pare Hauraki Māori, (Nicholls, 1998; Z. Williams & Williams, 1994). During this time the issue of traditional rights and tikanga Māori were highlighted when eight iwi of the Marlborough Sounds, since 1993 been in a court battle with the Crown over their territories and traditional customary rights to the Marlborough Sounds, this battle continuing until June 2003.

Here the Court of Appeal ruled that Ngāti Apa and other iwi could approach the Māori Land Court to enquire as to the nature and extent of their traditional customary rights to the Marlborough Sounds.

After their court loss the Labour Government while under the leadership of Helen Clarke and with the initiation of the Foreshore and Seabed Act, on the 24th day of November 2004[8] legislated to appropriate and seize the exclusive beneficial ownership and control of the traditional, customary foreshore and seabed of Māori, (Bennion *et al.*, 2004; Greensill, 2005).

It was this action from Māori which forced the Government to initiate the Act thus breaking the lore, and laws of not only the Tiriti o Waitangi, but its own system of law to justify what is blatantly the legislative theft of the foreshore and seabed of Maori, (Greensill, 2005; Inns, 2005).

Although on the surface the Act to purport to protect the rights of all New Zealanders they in fact extinguish the rights of Māori tenure to their lands, waterways and oceanic areas in accordance with tikanga Māori.

By the Act Māori grievances would no longer be determined in the same way as previously governed by the Māori Land Court. The Act does more than just vest the foreshore and seabed in the Crown it also extinguishes and renders Māori to a lesser status concerning Customary Title and the lore of Māori as opposed to a Certificate of Title and the law of the Pākehā, (Greensill, 2005; Jackson, 2003b).

Accordingly, major historical examples of land theft by the Crown of Pare Hauraki and related waterways, lands and oceanic areas from before the Tiriti o Waitangi to the Tiriti leading on the Act itself will therefore expose that the Act truly equates to the final land grab by the Crown of Pare Hauraki.

[8] (Greensill, 2005: 215)

Historically, racial attitudes, comments and actions of the Crown for anything Māori has done everything but enhance the well being and betterment of their Māori Tiriti Partners as a Polynesian indigenous people's race with our own unique, beliefs histories views and rights as its first people of Aotearoa, (Greensill, 2005; Jackson, 2003b)**.**

To get a feel of why Pare Hauraki Māori are so disgusted in the Crown since the Tiriti, one must first travel back in history. Therefore, an explanation and description of Pare Hauraki as well as the taniwha tupua and atua will be detailed; the settlement history of Pare Hauraki pertaining to the original settlers, the Marutūahu settlement, and the post-Marutūahu settlement will be revisited.

How and why my tupuna lived and viewed the natural world in accordance with tikanga Māori will be reviewed. This study will then review the Declaration of Independence 1835 to the Tiriti o Waitangi and then travel to the Act itself as an appreciation as to why Pare Hauraki Māori are so passionate when opposing the western views of the Crown concerning our lands and related areas, our tikanga as well as our status and rights as the tangata whenua of Aotearoa.

Methodology

This study will follow the methodologies concepts, tikanga and purposes of Rangahau Māori that is Kaupapa Māori Research. The empowerment spiritually, psychologically and physically by Māori, with Māori, for Māori is an essential concept of Rangahau Māori to enhance the well being of Māori and the legitimate right of Māori to economically develop their lands, waterways, oceanic related areas and resources in accordance with tikanga Māori.

The collaboration between the researcher and the informed consent of the researched pertaining to the importance of the social, historical, and cultural aspects of Māoridom incorporates the whakapapa relationship of the past, present and future of Māori, and also the sharing of the research findings to all of those directly involved.

How the research will empower Māori and how the conduct of the research will be carried out is pivotal so that the power of veto pertaining to any information remains with the direct descendants of tupuna, as well as the individuals, whānau hapū, iwi and waka being researched, (Cram, 2001; Smith, 1999).

- **Treaty Issues**

Some reference will be made to Te Tiriti o Waitangi, February sixth 1840 in particular to Article Two and Article Three as these statements clearly refer to the aims of my thesis i.e. our cultural heritage, relationships with our lands and waters and our status as a people within Aotearoa/New Zealand. These articles are outlined as follows;

Article Two

> *"...te tinorangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa",* or, *"...the full exclusive and undisturbed possessions of their Lands and Estates, Forest Fisheries and other properties which they may collectively or individually possess as long as it is their wish and desire to retain the same in their possession:..."*[9]

Article Three

> "*...nga tikanga katoa rite tahi ki ana mea ki nga tangata o Inarangi,* or, "*...all the Rights and Privileges of British Subjects"*[10]

- **Data Collection**

Initial data will be collected from the Waikato University Library, to facilitate a feel about the Act and its raw impact on Māori. Data from other libraries, the internet, and media sources will also be collected and evaluated.

- **Researching Oral Traditions**

Oral traditions are considered by Māori as the most important historical review of all. This is because these traditions are by word of mouth and experimental learning from the tribal and family histories of those directly involved, (Bell, 1999; Nicholls, 1998; Royal, 1992). Primary oral traditions from various sources will be noted.

- **Researching Written Traditions**

Written material for this study will be collected from published and unpublished works and cited Māori Land Court records, (Bell, 1999; Nicholls, 1998; Royal, 1992).

[9] (Orange, 1989: 30-31)
[10] Ibid

Overview

This research is sequentially set out, and will be discussed within the chapter headings of this thesis. Chapter one will examine the regional boundaries of Pare Hauraki its tupua, and taniwha[11] and how my ancestors of Pare Hauraki Māori were interrelated spiritually and culturally linked with these areas and deity. Chapter two will review the ancestors and settlements of note concerning Pare Hauraki and Pare Hauraki Māori to contemporary times.

Chapter three will explain how the Māori ancestors of Pare Hauraki lived and survived by way of tikanga or Māori lore, land tenure and mana-whenua/mana moana. Since Pare Hauraki Māori was part and parcel of the Declaration of Independence 1835: Chapter Four will explain why there was a Declaration of Independence and why it was the forerunner to the Tiriti o Waitangi 1840 leading on to the Tiriti itself and to broadly explain as to what the Tiriti means to Māori and Pākehā alike.

Chapter Five will chronologically review past Pare Hauraki Māori, Crown and Pākehā land dealings from the early nineteenth century leading on to the late twentieth century. Chapter Six will sequence the foreshore and seabed issue, that is, the Foreshore and Seabed Act 2004, why and how it came about and what it means to the Crown, the general public, Māori and Pare Hauraki Māori and responses from Māori and non-Māori alike.

Data from the report of the UN Representative Rodolpho Stavenhagen who arrived in New Zealand on the 15th of November, 2005[12] to review the Act will be collected and analyzed and discussed in relationship to the view of the United Nations concerning the Crown the Act, Māori and Pare Hauraki Māori, (Bell, 1999; Royal, 1992).

It will also examine its impact on Māori and Pare Hauraki Māori, whānau, hapū and iwi, the Act's imposition from a system based solely on English law and views. From such evidence it is planned that the research will show that historically, since the Tiriti the New Zealand Government have done all they can to steal everything that belongs to Pare Hauraki Māori.

[11] Deity
[12] (Jackson, 2005)

Does history prove that Māori will always be classed as second rate citizens? Does history expose that the only law of the Crown is the physical and legislative force and the right of might. Te Tiriti o Waitangi does not stop on the land, it also includes the foreshore and seabed and does not give governments the right to belittle Māori, and to legislate everything that rightfully belongs to Māori!

CHAPTER ONE

Ngā Rohe Pōtae o Pare Hauraki
Me ōna Taniwha rātou ko ōna Tupua[13]

"Mai Matakana ki Matakana"[14]

Introduction

The whakataukī above gives one of the broadest descriptions of Pare Hauraki from Matakana to the north to Matakana in the south encompassing the regional boundaries of Pare Hauraki nui tonu. This chapter will give a general description of the regional boundaries of Pare Hauraki including Tīkapa Moana and how the Pare Hauraki taniwha and tupua impacted on the general survival or demise of whānau, hapū and iwi of my Pare Hauraki Māori ancestors and how the natural world of the Māori was connected and interrelated by whakapapa. Alluding to the Pēpehā[15],

> *"I rongo au i te tai e pari ana i te akau, te unga mai o nga waka. Neke taku titiro ki Tikapa moana e wawahia ana nga wai kaukau o nga tupuna kua wehe ki tua o te aria. Hoki atu ki uta ki nga awa nei,*
>
> *Te Piako, Te Waihou, Te Ohinemuri te whakatere nga waka o ratou ma. Piki ake ki nga maunga, mai Moehau ki Te Aroha ki Nga Kuri a Wharei te ara i whara mai a ratou hikoi nga. Teenei te mana kua eke.*
> *Tihe Mauri ora"*[16]

The pēpehā above gives a description of Pare Hauraki which is a mountainous area with rugged undulating bush lands matched with flat lowlands of the Hauraki Plains, the wet lands and swamps with the Piako, Ōhinemuri and Waihou rivers. These sacred rivers then flow on to the foreshore and oceanic waters of Tīkapa Moana.

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[13] The Regional Boundaries of Pare Hauraki and its Deity
[14] From Matakana (Is in the south) to Matakana (estuary near Walkworth) in the north, (Nicholls, 1998: 16)
[15] Proverb, (Ngata, 1993: 363)
[16] I listen to the tide that caresses the shores, the landing places of canoes. I cast my eyes towards the Firth of Thames that carries my ancestors to the horizon where the sea and sky are joined. I return inland to the rivers of the Piako, the Waihou and the Ohinemuri, the water ways which where their canoes traveled. I look upwards to the mountains from Moehau to Te Aroha then down to the sunken reefs of Ngakuri. This is the mana. This is my right to stand. So let there be life, (Nicholls, 1998: 16)

Mentioned are the maunga tapu[17] of Moehau to the north and Te Aroha to the south and to Ngā Kuri a Wharei a sunken reef just south of Waihi solidifying the regional boundaries and mana of Pare Hauraki Māori to our lands waterways and oceanic waters of Pare Hauraki and Tīkapa Moana, (Royal & Turoa, 2000).

According to Taimoana Turoa a respected kaumatua[18] of Pare Hauraki, Ngāti Tamaterā and of the Whanganui area particularizes the tribal and regional boundaries of Pare Hauraki,

> *"The peripheral boundary of Hauraki can be generally described as commencing at the sunken rocks of Nga-Kuri-a-Wharei, offshore of Waihi on the eastern coast, progressing west inland to Mount Te Aroha thence to Te Hoe o Tainui. It then follows north along the range line of Hape-te-Kohe and the Hunua ranges to Moumouki and Papakura.*
>
> *The northern boundary includes parts of the Tamaki isthmus, Takapuna, Whangaparaoa, and Mahurangi before terminating at the Matakana river estuary, south of Cape Rodney. The seaward boundary includes Parts of Aotea (Great Barrier) and the southward beginning at Nga-Kuri-a-Wharei. Included in those margins are the inner gulf islands of Tikapa Moana and those (except for Tuhua Island) offshore of the eastern coastline of Tai Tamawahine"*[19]

Pare Hauraki predominantly receives from Te Tai Tokerau[20] temperate winds of Tāwhirimātea[21] creating a warm climate to already fertile lands, water ways and the oceanic areas which did produce an abundance of foods, medicinal, material and living resources from the forests, lands, rivers, water ways, and ocean depths of Tīkapa Moana.

It was these characteristics that appealed to my ancestors who developed an economic infrastructure for the well-being and protection of themselves and their families, their homes, fortifications, the farming and conservation of their cultivations whether land, fresh water based or from oceanic waters of Tīkapa Moana.

[17] Sacred Mountains
[18] Knowledgeable elder
[19] (Nicholls, 1998: 16)
[20] Northland
[21] Guardian of the winds, storms and the weather

These activities helped sustain their traditional practices while living, hunting and food gathering within their regional boundaries and related areas from the waters of Tangaroa[22], and its rivers/creeks of Pare Hauraki nui tonu, (Nicholls, 1998; Royal & Turoa, 2000).

Tīkapa Moana

Tīkapa Moana takes its name from an island rock north east of Waiheke Island[23] where the Tainui and Te Arawa waka departed from one another when arriving in Aotearoa. Sounds like an ever mournful sobbing can be heard continuously echoing when the ocean currents of the Hauraki Gulf surge, pierce and then emerge from within the vast crevices of this rocky outcrop**.**

Tīkapa Moana takes its name from its description above and is where specific land claiming rites known as uruuru-whenua were preformed here by Hoturoa the captain of the Tainui waka, when first entering the ocean waters of Tīkapa Moana guided by the Pare Hauraki taniwha named Ureia. There are also Pare Hauraki whakataukī such as,

> *"Ko Hauraki te moana, tōna taniwha ko Ureia"* [24]

As well as,

> *"Ko Tīkapa te moana, ko Hauraki te whenua, ko Marutūahu te tangata"*[25]

Tīkapa is where Marutūahu, after the wars with Te Uri-o-Pou preformed his uruuru-whenua rites and then placed, his mana or sovereignty, his mauri or life principle his wairua or spiritual essence and his effigy[26] securing and solidifying for himself his people and descendants the mana-whenua/mana moana and tino rangatiratanga[27] over the entire region of Pare Hauraki, (Royal & Turoa, 2000).

[22] Guardian of the ocean and everything within
[23] Refer to Pare Hauraki maps
[24] "Hauraki the sea and Ureia its taniwha", (Mead & Grove, 2001: 227)
[25] "Tikapa is the sea, Hauraki is the land, Marutūahu are the people", (Mead & Grove, 2001: 265)
[26] Refer to "The mauri Marutūahu", (Royal & Turoa 2000: 43-44)
[27] Refer to mana

Pare Hauraki Taniwha and Tupua

There were many taniwha and tupua of Pare Hauraki of the winds, the lands, the waterways and oceanic waters and below. Some were kind to people, some were not, some would when showing themselves be construed as a sign of continued well being or impending doom for Pare Hauraki iwi. Tukumana Te Taniwhā of Ngāti Whanaunga is quoted as saying on the taniwha of Ureia and Paneiraira,

- **Ureia and Paneiraira**

  "He hoa taniwha o Ureia, ko Paneiraira. Nga taniwha enei o 'Tainui waka'. I haeremai a 'Tainui' i runga i enei taniwha'... "Hurimai i Moehau, haere tahi mai ana nga taniwha Paneiraira me Ureia" "Ki te mate ana he tangata o taua kawei taniwha, ka pae mai he paraoa. E rua, e toru nga paraoa i te paenga mai. Pera tonu i nga wa katoa"

  "Paneiraira was a companion of Ureia – these were the taniwha of the Tainui canoe – Tainui came hither on these taniwha."..."Doubling Moehau, also came together (with the canoe) the taniwha Paneiraira and Ureia.

  If there died any man belonging to the associated people of this taniwha – then a whale was stranded. There would be two or three in that stranding. Thus it was all the time"[28]

Ureia, according to Hoani Nahe of Ngāti Maru a respected kaumatua of his time had this to say,

> *"A ko Ureia e korerotia nei, ehara i te taniwha patu tangata, rumaki tangata ranei. Engari, e karangatia ana a Ureia he tupua, he mauri no nga tangata o tenei moana o Tikapa, ara, o Hauraki. Ara he tohu mana o nga tangata o tenei moana. No mua atu tona tupuatanga ki tenei taiwhenua. Tetehi o ana karangatanga he taniwha*
>
> *"Ureia now told of was by no means a man killing taniwha – one who drowned men. But the definition of Ureia is that of a tupua (a monster), a mauri (mascot of the people of this sea of Tikapa, otherwise Hauraki. That is to say, he was the emblem of the mana (authority) '[Sovereignty]' of the people of this sea girt land. Yet another description of him is that of a taniwha."*[29]

[28] (Royal & Turoa 2000: 221)
[29] Ibid

- **Papakauri**

There was Papakauri, a tupua, Hoani Nahe of Ngāti Maru explains,

> *"Tera ano Tetehi tupua ko Papakauri te ingoa. He rakau, he putake kauri. Kei Hauhaupounamu e takoto ana inaianei. Kua mutu tona mananga. Engari i mua, i whai mana. A, e tohungia ana e ia nga matenga o te iwi, ara o nga Uri-o-Marutuahu ara a Ngati-Maru, kaore i era atu hapu o Hauraki nei. Ko tona tohutohu mate mo te iwi, he tere nana. He rakau, he harakeke, kei runga i a ia e tupu ana Tere tonu kaore e tahuri.*
>
> *A hoki atu ano ki tana takotoranga. Ahakoa, he tai-timu, he tai-pari whakangau tonu atu hei aha mana. No te Aitua hoki ia i kawe kia haere. Ko te kitenga whakamutunga a nga tangata kaumatua ora nei, i mua atu o te matenga o Te Totara i a Nga Puhi. I tere haere taua rakau ko Papakauri, puta atu ki waho o Trararu, me te ngunguru haere i te timatanga o te tai. Ahakoa he taitimu, whakapiki tonu atu ki te ia taitimu nei pera tonu me te paraoa. I muri iho ko Te Totara ka mate i a Ngapuhi"*
>
> *"There is yet another tupua (or mauri) of Hauraki Papakauri by name. It is the trunk-base of a kauri tree. It reposes at Hauhaupounamu now-a-days. Its mana is ceased; but of yore it possessed mana. It used to foretell the deaths of the people; that is to say, those of the descendants Marutuahu, Ngati Maru – but not those of others of the sub-tribes of Hauraki. Its portents of warnings of the deaths of the people were its driftings. There was a shrub – a flax bush growing upon it.*
>
> *It drifting [sic] about continuously – not turning over or about, until it returned again to its place of repose. Although it might be ebb tide, or flood tide, it kept onward – it (the tide) made no difference to it. For its aitua (guardian spirit) bore it onward in its going. The last time it was seen, was by the aged people who still live here, and just prior to the calamity of Te Totara (at the hands of Ngapuhi). That tree drifted onward, out beyond Tararu, and making a moaning cry as it went slowly on the ebbing tide. Although it was ebbing tide, yet it surmounted the surge of the ebb - even as would a whale. Just thereafter – Te Totara (pa) was destroyed by Ngapuhi."*[30]

[30] (Royal & Turoa, 2000: 220)

There was a giant flounder which dwelt in Tīkapa Moana that would affix itself to the gunwales of waka-tete[31] as a warning of impending storms. There was a large sting ray that would swim inshore of coastal settlements prophesising the deaths of prominent rangatira or the foretelling the outcome of impending wars.

These tupua and taniwha are synonymous within the histories, traditions and customary usages by Pare Hauraki Māori of Pare Hauraki and Tīkapa Moana, they were also the cultural and traditional links to Pare Hauraki Māori, the lands, waterways, and oceanic waters of Tīkapa Moana heard in kōrero or stories, accounts and narratives, in waiata or song, in whakataukī, whakatauakī, pēpehā or proverbs, and haka or war dance of the day, (Nicholls, 1998; Royal & Turoa, 2000).

Overview

All tribes of Aotearoa have their taniwha and/or tupua, and Pare Hauraki is no exception, which is illustrated in this whakataukī,

> *"Ko Hauraki te moana, tōna taniwha ko Ureira"* [32]

There were no places, areas, poutiriao[33], atua[34], tupua and taniwha within Pare Hauraki that were not known or named. These deity could love or be spiteful they could be in the form of a whale, a dolphin, a shark, a sea elephant, an octopus, a stingray, a flounder, a dog or an eel and could change their form at will. Some taniwha as with Ureia were adopted as mōkai or pets.

Pare Hauraki Māori lands, waterways, and oceanic waters of Tīkapa along with our taniwha and tupua links set the precedents for the cultural relationship between the living and those tupuna who have passed on. These histories also linked with the unborn of whānau, hapū, iwi, and waka relationships to our lands, waters and regional boundaries which are forged, strengthened, solidified and held in prior and contemporary times over our traditional customary lands of Pare Hauraki, (Barlow, 1991; Ministry of Justice, 2001; Nicholls, 1998; C. Phillips, 2000; Royal & Turoa, 2000; Sinclair, 1981; Walker, 1990).

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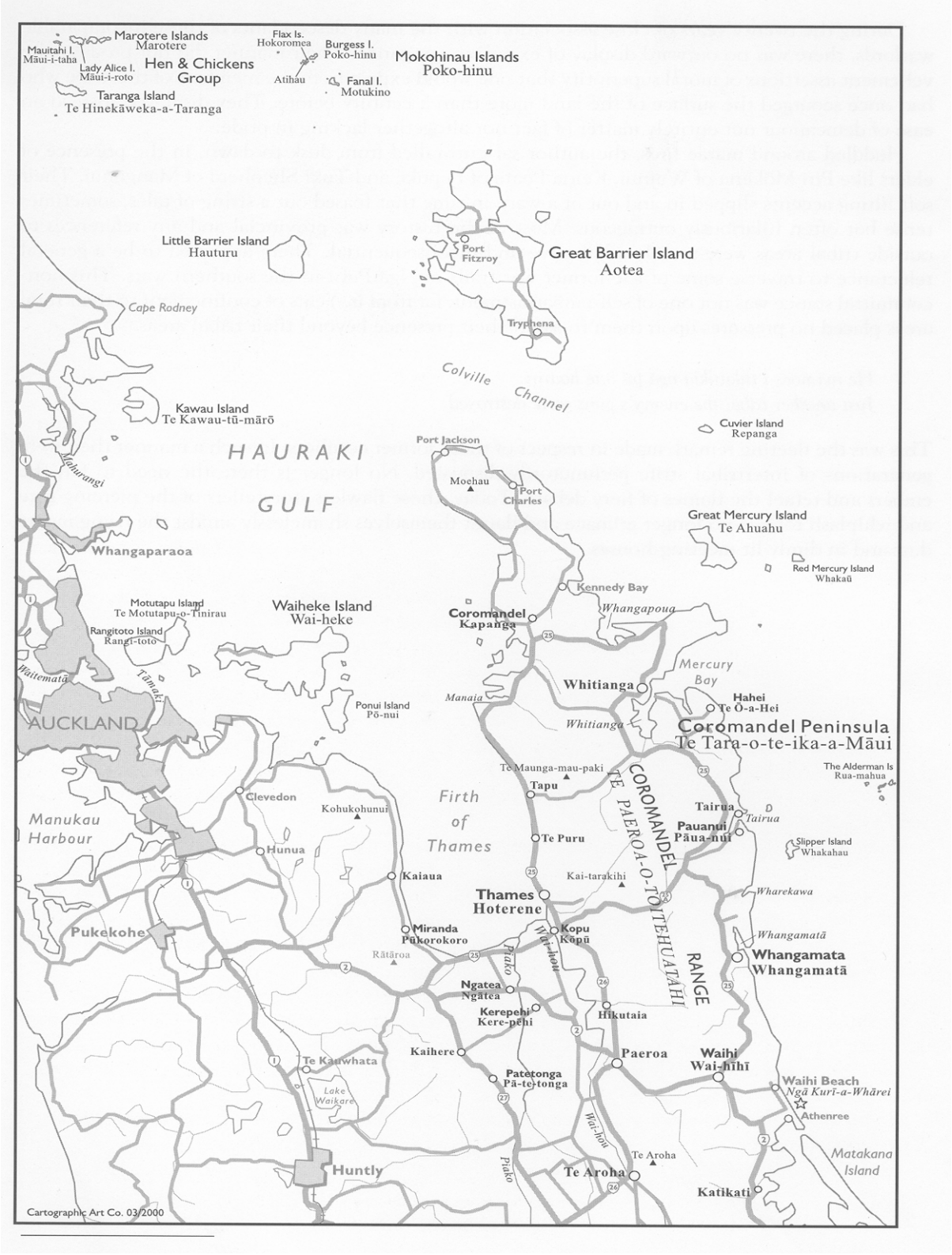
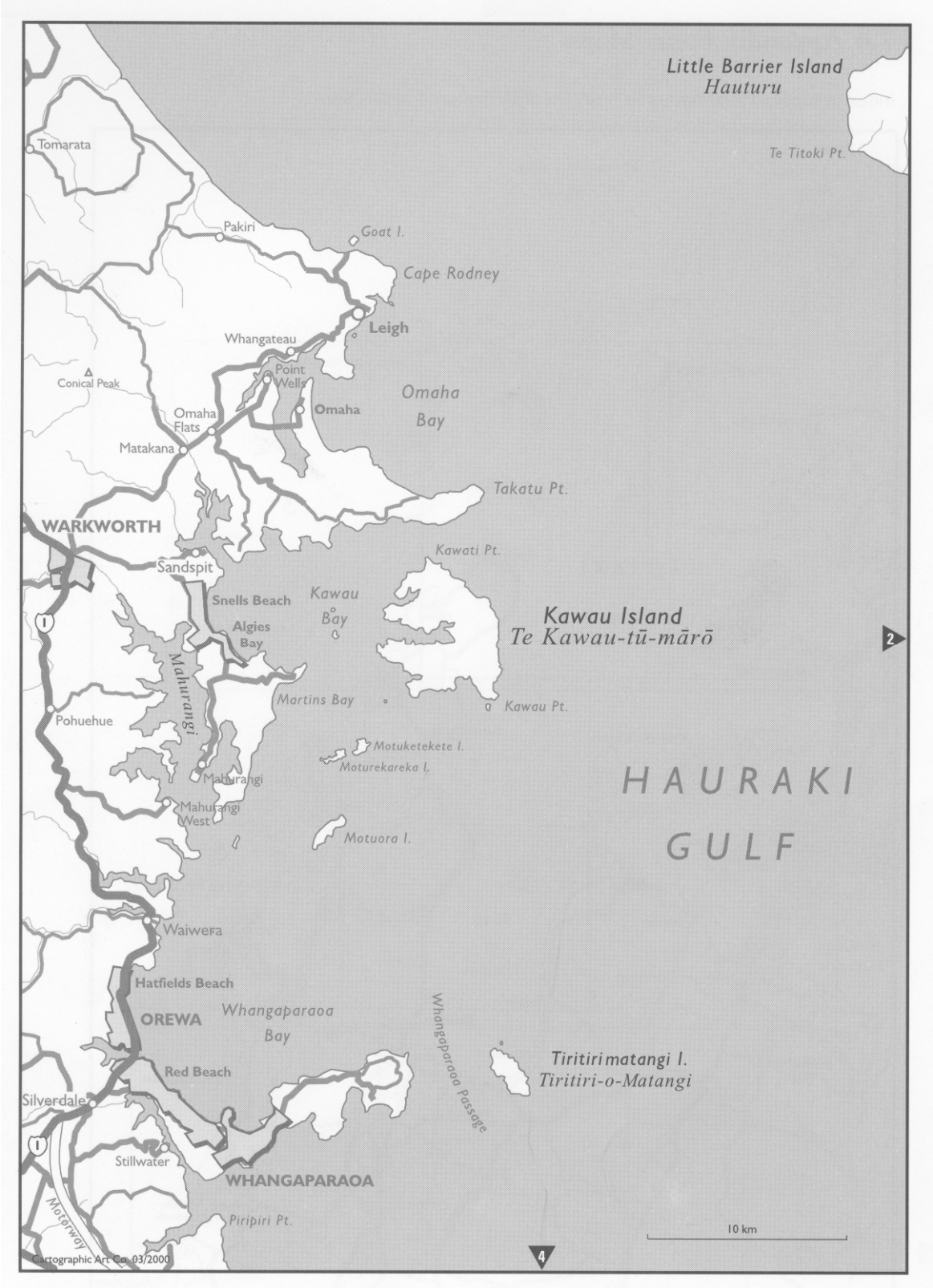
[31] Fishing vessel
[32] "Hauraki the sea and Ureira its taniwha", (Mead & Grove, 2001: 227)
[33] Guardians of a specific realm
[34] Supernatural beings

Map 2[35]



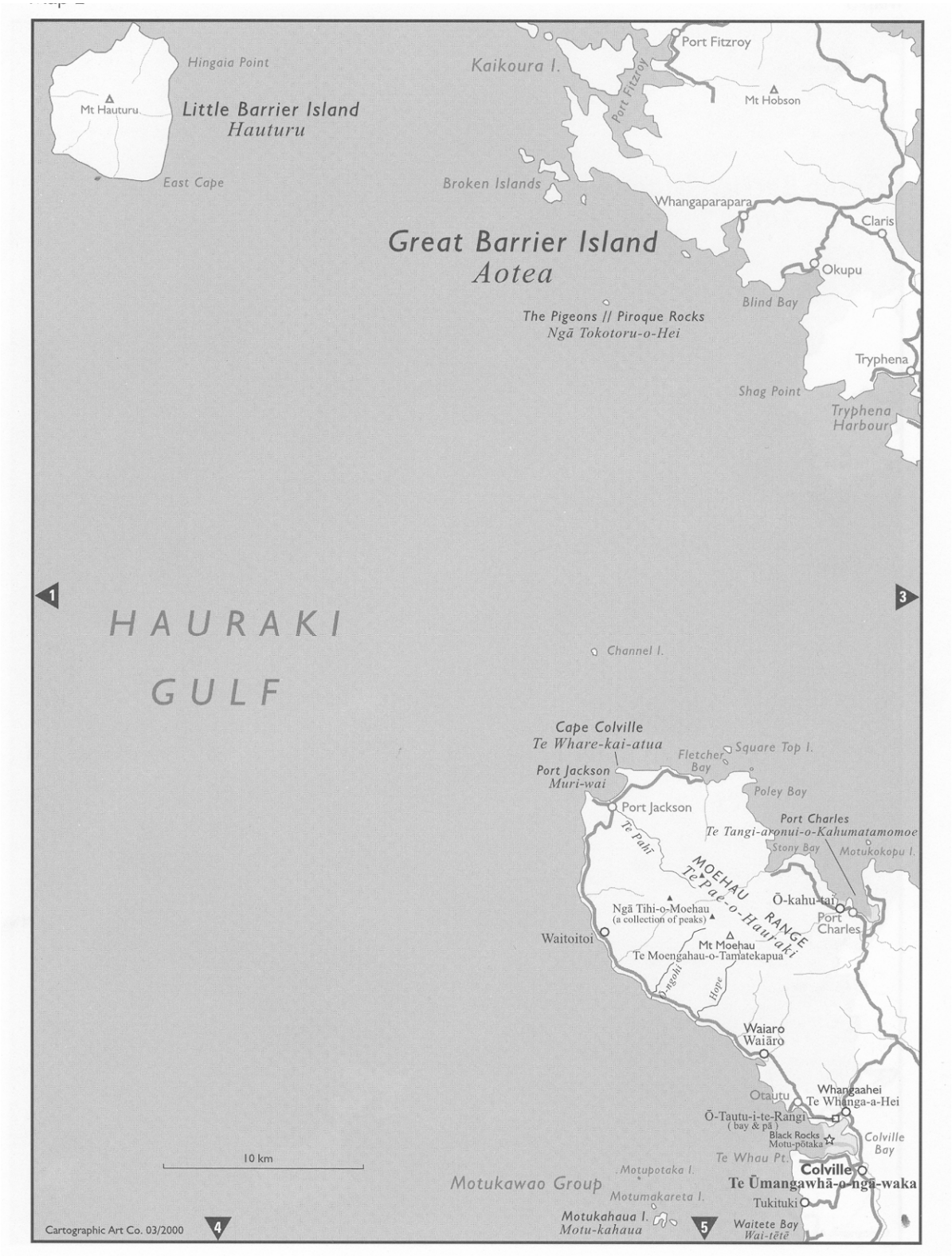
[35] Ibid: 34

Map 3[36]



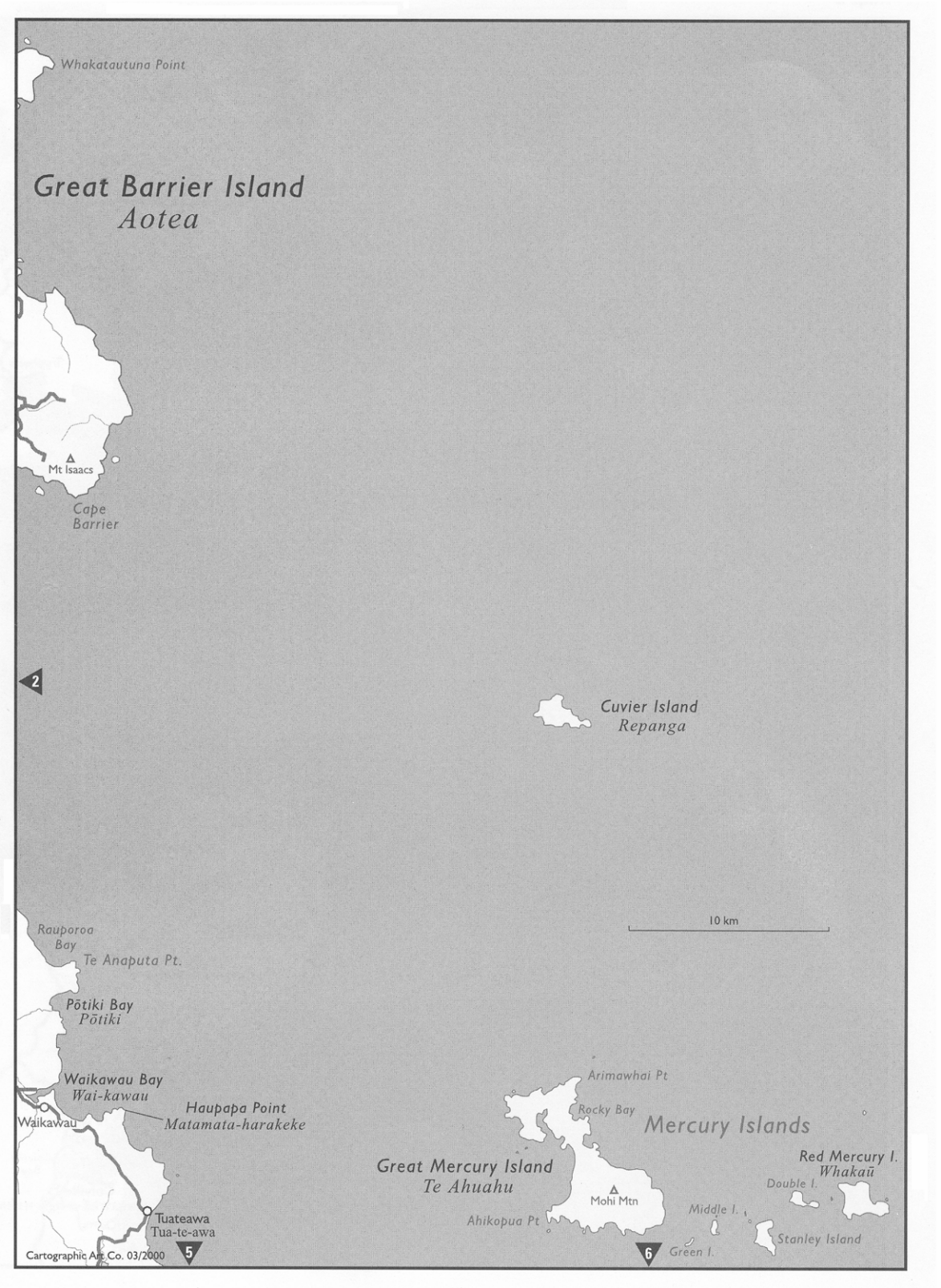
[36] Ibid: 244

Map 4[37]



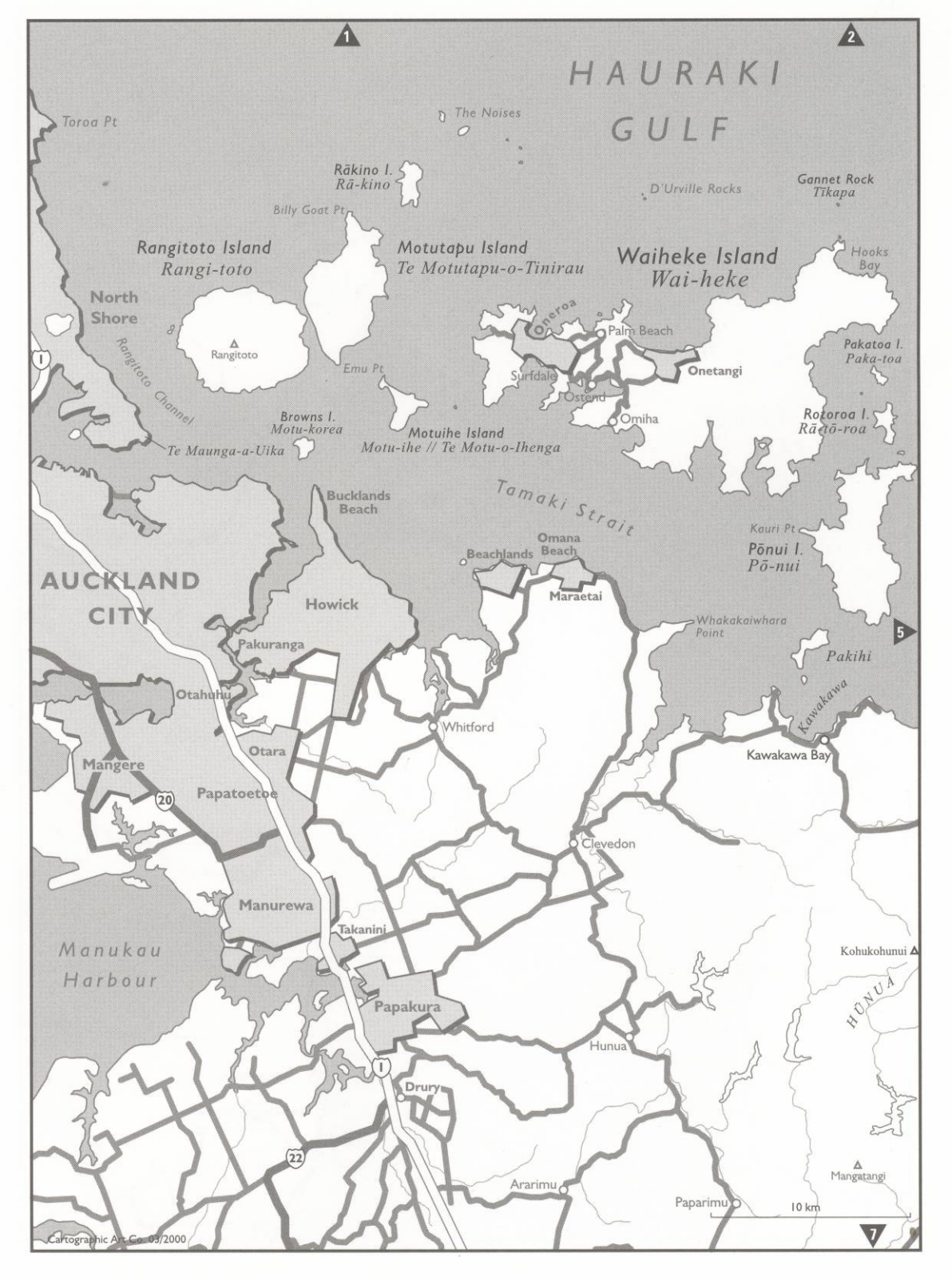
[37] Ibid: 245

Map 5[38]



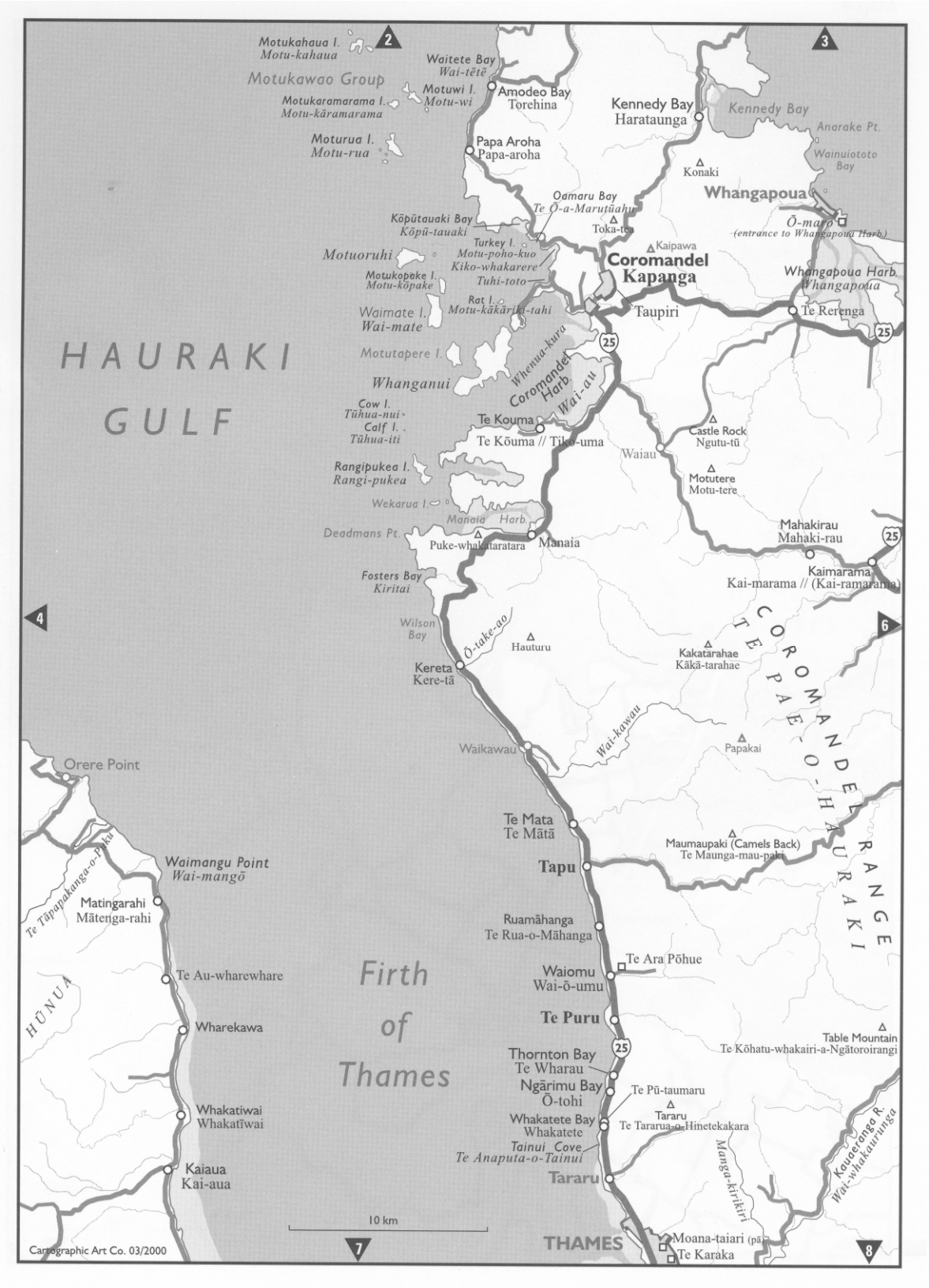
[38] Ibid: 246

Map 6[39]



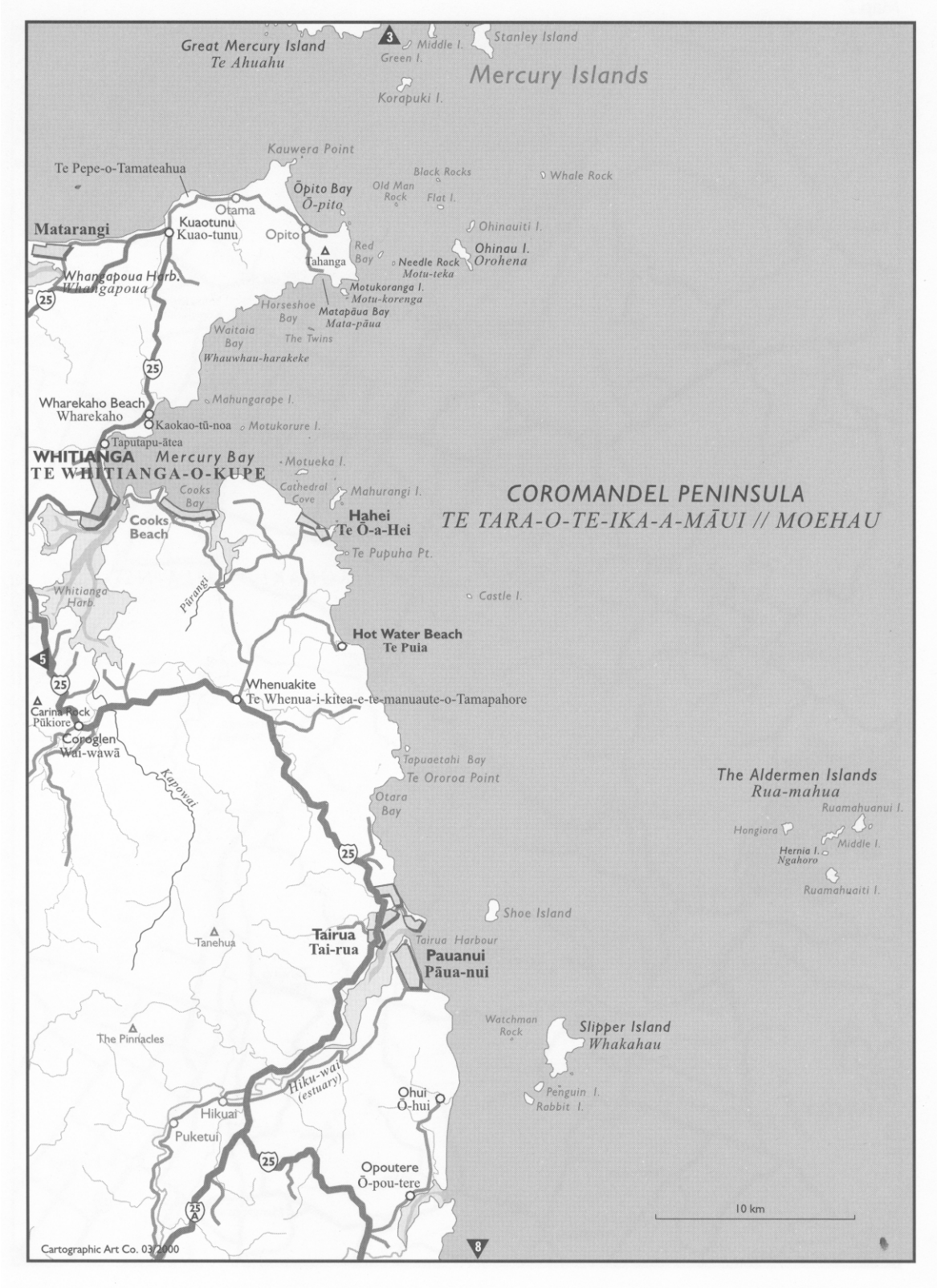
[39] Ibid: 247

Map7[40]



[40] Ibid: 248

Map 8[41]

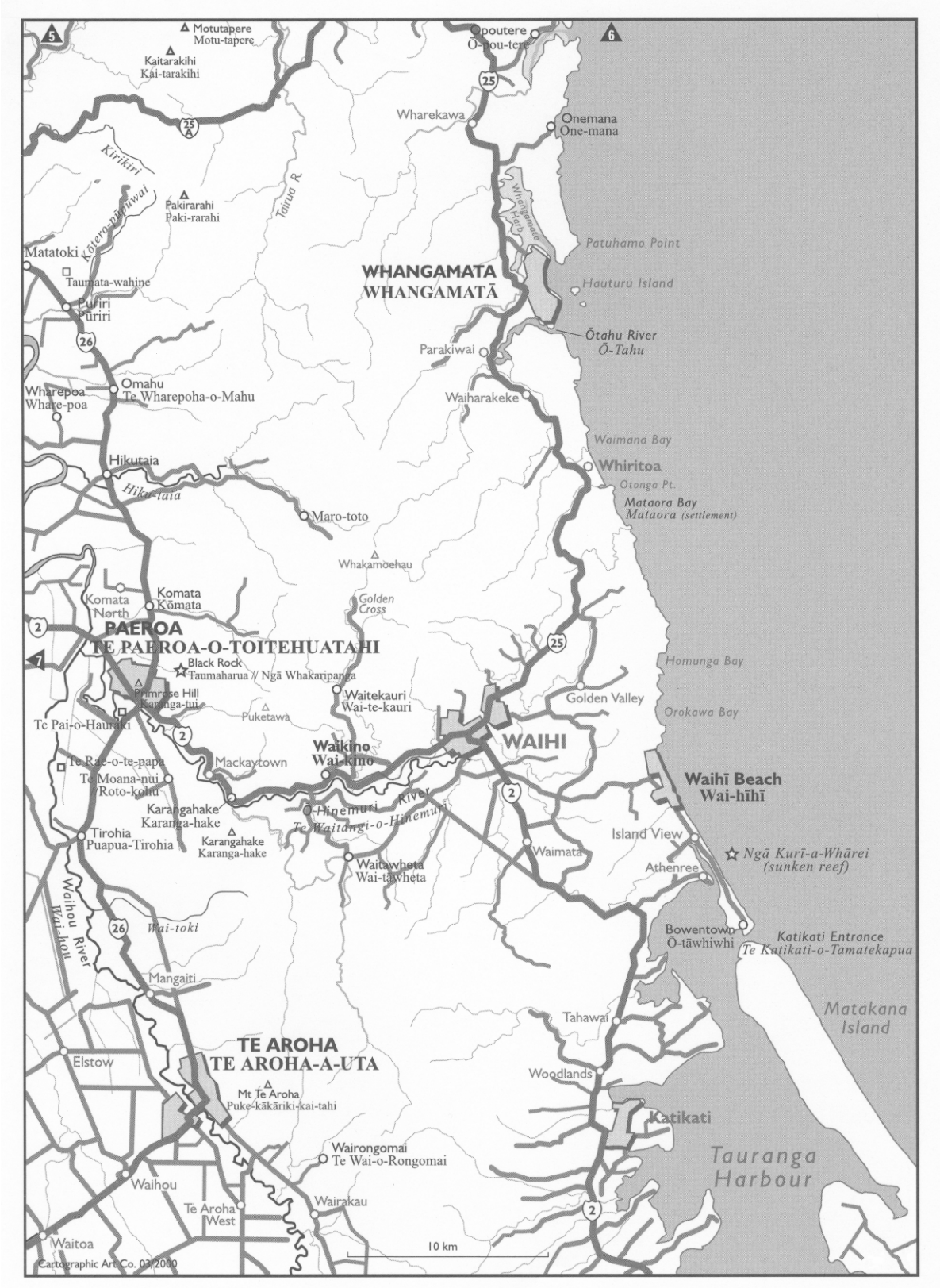


[41] Ibid 249

Map 9[42]

[42] Ibid: 250

Map10[43]



[43] Ibid: 251

CHAPTER TWO

"Pōkaia te whenua, kei ngaro ki ngā waipōhutu ki Moehau"[44]

Introduction

This chapter of Pare Hauraki and environmental links highlights the settlement of Pare Hauraki Māori to Pare Hauraki. The whakataukī above indicates the settlement of Pare Hauraki which is associated with over a thousand years and more of occupation by Pare Hauraki Māori.

There has been settlement, wars, re-settlement, abandonment, and then re-settlement again within its tribal boundaries, with a final culmination of iwi who are all related and still co-exist today, (Nicholls, 1998; Waitangi Tribunal, 2006a).

The fertile abundance of the Pare Hauraki region can be characterized in the following pēpehā that was expressed by Taipari of Ngāti Maru when welcoming Waikato to Hauraki,

"Haere mai ki Hauraki te aute te awhea"[45]

- **Te Aute**

The aute or mulberry plant was brought to Aotearoa by our ancestors for the produce of tapa cloth in which the aute was beaten and thinned until easily disturbed by the wind. However, the wind here refers to warfare or the lack thereof, which symbolizes peace and harmony and thus a place of a strong, noble and enlightened people.

There have been two periods of emigration to Aotearoa, the Polynesian discoverers[46] and then everyone else. Māori are the only people who can genealogically trace themselves to our ancestors and we are therefore tangata whenua of Aotearoa/New Zealand.

As the following will show our stories are relevant histories acknowledged by iwi Māori about the origins of Aotearoa and settlement of the country, (Evans, 1998; Nicholls, 1998; Royal & Turoa, 2000).

[44] "Strike out over the land, or disappear beyond the threshing surf at Moehau", (Royal & Turoa, 2000: 27)
[45] "Come to Hauraki, where the aute (mulberry) was not disturbed", (Royal & Turoa, 2000: 35)
[46] Evans, (1998: 15)

Maui

As Māori see it Maui is recognized as the greatest of all Polynesian explorers, and is credited by all Polynesians with the fishing up[47] of various islands of the Pacific Ocean including Aotearoa. His deeds are legendary, likened and linked to every point of the Pacific Triangle and thus pre-date all. Because of the vastness of time, his actual deeds have become metaphorically shrouded within a sophistry of mythical conjecture. Maui did indeed exist with a reference to Pare Hauraki as Te Tini-o-Maui[48], (Royal & Turoa, 2000).

Kupe

The wife of Kupe Hine-te-Aparangi is credited with the call of,

> *"...he ao, he ao, a cloud, a cloud",* however a fuller version is *"E Kupe he aotea, kua u tatou, Oh Kupe yonder is a cloud we have landed"*[49]

Kupe made landfall on his waka Matawhaorua at Te Whitianga-a-Kupe[50] on the eastern side of the Coromandel peninsula of Pare Hauraki which is now more generally known as Whitianga, (Evans, 1998; Nicholls, 1998; Reed, 1977; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

His Pā[51] there named Taputapu-ātea was named after an alter from Hawaiki[52] which was an ancient land bridge that was 10 meters high and 50 meters in length, it was said to be linked with the famed Rangiātea of Tāhiti and was revered to be the most sacred temple of all of Polynesia, (Evans, 1998; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

Some say that there is no definite evidence to suggest that Kupe had reason to occasion his people to this area. Others states that Kupe left some of his people on the east coast of Pare Hauraki, and it is understood that Hei the Te Arawa ancestor of Ngāti Hei intermarried with the people of Kupe at Hāhei, (Nicholls, 1998; Royal & Turoa, 2000; Z. Williams & Williams, 1994)

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[47] Discoveries
[48] The Multitudes of Maui
[49] (Reed, 1977: 24)
[50] The landing place of Kupe
[51] Fortified village
[52] Ancient homeland of the Māori

Toi-te-huatahi and Pare Hauraki Links

Three hundred years or so after the exploration of Kupe of Aotearoa and while at Hawaiki at the lagoon of Pikopiko-i-tawhiti the grandchildren of Toi-te-huatahi, Whatonga and Tūrāhui were playing inter-island racing games in their waka and were suddenly blown out to sea by gale force winds and presumed lost.

Their grandfather Toi-te-huatahi on his waka Te Paepae-ki-Rarotonga decided to seek his grandchildren and after a fruitless journey finally arrived in Aotearoa eventually landing at Pare Hauraki. Pare Hauraki tradition has it that the original name of the Coromandel-Colville ranges is Te Paepaeroa-o-Toi-te-huatahi (The long mountain ranges of Toi-te-huatahi).

Toi lived six kilometers north of Thames at Whakatete[53], at Aotea[54], and Hauturu[55], as well as the islands situated throughout Tīkapa Moana. Toi eventually left Pare Hauraki, traveled to the Bay of Plenty and then established his Papa-kāinga or unfortified village named Ka-pū-te-rangi overlooking the present townships of Whakatāne and Ōhope.

His people and descendants extended from the Tamaki to Hauraki, south towards Tauranga Moana, to Rangitaiki and the Kāingaroa Plains, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

Ngāti Hako

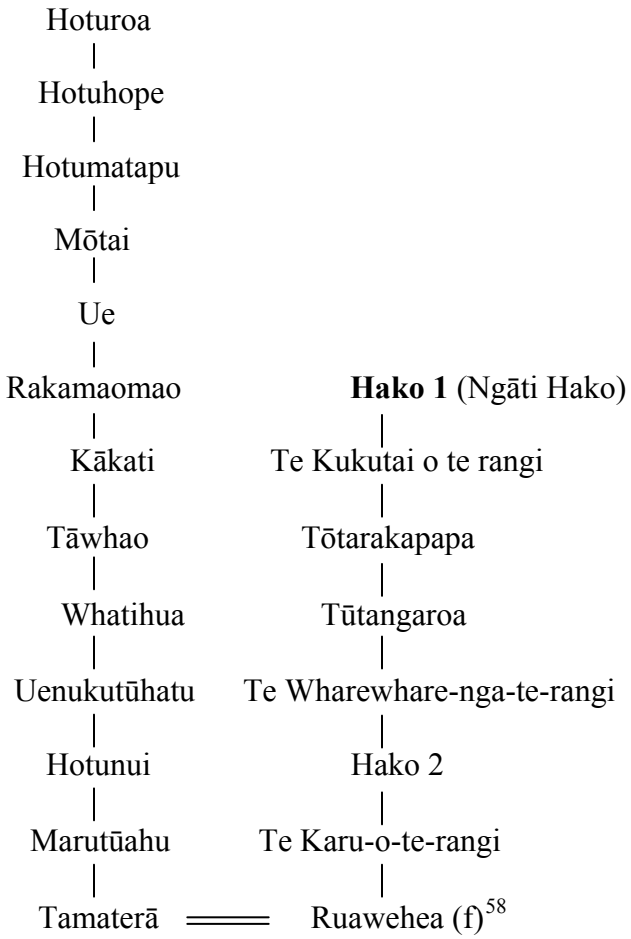
The whakapapa of Hako 1 makes no pre-reference to any other ancestor, and because of that, they are expressed in the following whakataukī as *"iwi noho puku"*[56] the original settlers of the land. Ngāti Hako of Pare Hauraki is the only iwi whose name has survived since the people of Toi. It is suggested that it is probable that Ngāti Hako knowledge was lost during the phases of hostilities with the Marutūahu peoples.

> *"Most tribes are able to qualify their identity through waka connection and ancestral whakapapa which enable them to calculate with some degree of accuracy, the time of occurrence.*

[53] Refer to Pare Hauraki maps
[54] Great Barrier Island
[55] Little Barrier Island
[56] (Nicholls, 1998: 58)

The eponymous figure of Hako heads the genealogical tables without pre-reference to any others and indeed his appearance is a belated one. He surfaces some six generations after the Tainui waka landing and a further six before the incursion of their domains by Marutuahu. That is why those of Ngāti Hako do not know of their ancestor Hako"[57]

Whakapapa for Hako 1



The iwi of Ngāti Hako are like many others are the descendants of Toi-te-Huatahi. This iwi has no relationship to the migration waka. They believe that they are the most ancient of all emigrational iwi to Pare Hauraki.

"Ngaati Hako of the Thames ... are generally admitted to be the descendants of the most ancient of all migrations to New Zealand differ[ing] greatly from the Ngaati Maru...."[59]

[57] (Royal & Turoa,1998: 58)
[58] Ibid: 45

It is said that there have been various attempts to seek ancestors that pre-date Hako 1 with little or no success, that there are no stories to tell and no songs to sing to commemorate Ngāti Hako tūpuna.

However, there are stories about their iwi at one time residing all over Pare Hauraki to the Aldermin islands and the fact that they were able to continue to exist despite hostilities demonstrates a major accomplishment of survival, (Nicholls, 1998; Royal & Turoa, 2000).

Te Kāhui Ariki

Te Kāhui Ariki was a tribe of Pare Hauraki and it is from this iwi where the two wives of Marutūahu were from and their names were Paremoehau and Hineurunga. This iwi could be linked to all the original inhabitants of Pare Hauraki.

With the aid of Te Kāhui Ariki, Marutūahu ousted Te Uri-o-Pou from Pare Hauraki in the battle named Te Ika-pukapuka. Furthermore, traditional evidence supports that Te Kāhui Ariki were allies to Marutūahu during the conflict that affected the Pare Hauraki region.

Their tribal name is no longer in use, however, the blood of this ancient people still course through the veins of all the descendants of Marutūahu today, (Kelly, 2002; Nicholls, 1998; C. Phillips, 2000; Royal & Turoa, 2000).

Te Uri-o-Pou

Te Uri-o-Pou was an iwi who descended from Te Tini-o-Toi and Te Arawa people. They lived at Whakatīwai on the western shores of Tīkapa Moana. They took their name from Pou-tū-keka who was a grandchild of Māpere brother of Tama-te-Kapua.

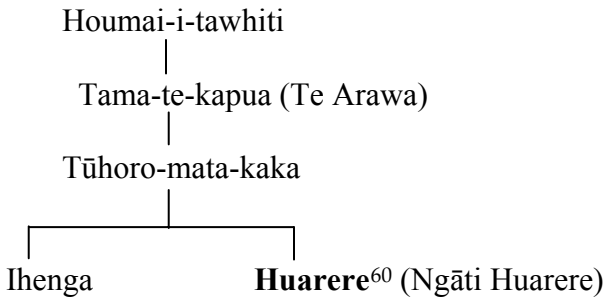
Te Uri-o-Pou lived in relative peace until the arrival of Marutūahu and after the battle of Te Ika-Pukapuka they migrated to Rangiriri and the Waikato Heads, (Jones & Biggs, 1995; Kelly, 2002; C. Phillips, 2000; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

[59] (Nicholls, 1998: 58)

Ngāti Huarere

Huarere, ancestor of Ngāti Huarere was the son of Tūhoromatakaka who himself was the son of Tama-te-Kapua. Huarere intermarried with all the original inhabitants of Pare Hauraki. Their territories once included the whole of the Coromandel Peninsula to Tararu, Kauaeranga, Kōpū, Hikutaia, Pūriri, Warahoe, the islands of the Hauraki Gulf and the greater Tāmaki isthmus. Ngāti Huarere once commanded a vast estate, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; C. Phillips, 2000; F. L. Phillips, 1995; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

Whakapapa for Huarere



Ngāti Hei

Hei was a tohunga a man of peace, and the brother of Houmaitāwhiti who was the father of Tama-te-Kapua captain of the Te Arawa waka. After Te Arawa made landfall at Maketu, Hei traveled to Hauraki where his nephew Tūhoromatakakā lived. Hei settled for a while and married into the people of Kupe at Hāhei.

Subsequent to Hei founding his iwi and naming various places of Hauraki, he and others then returned to rejoin his people at Katikati, Maketu and Te Puke traveling south where he with his son Waitaha, established the iwi of Te Waitaha-nui-o-Hei. It is said that there are also the bloodlines of Hei to be found within Ngāti Wai of Mahurangi north of Auckland.

There were in fact two Hei ancestors with the second being from the Tainui waka who traveled to Whitianga he and his people were given large tracts of land with the intention as opposed to marriage, that the second Hei and his subsequent descendants there after, would live on their lands in accordance with tikanga Māori.

[60] (Royal & Turoa: 48)

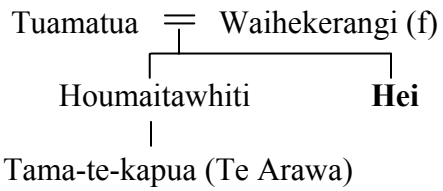
From the outset of the conflict with Marutūahu Ngati Hei became combatants opposed to the Marutūahu Confederation however after their first defeat they decided to become neutral and remain non-combatants.

Ngāti Hei was constantly forced to defend their rich fertile lands from marauding invaders such as the tribes of the Marutūahu Confederation to the north and Ngai-te-Rangi of Tauranga Moana to the south. On the 11th day of November 1769[61] Captain Cook and his crew on the Endeavour sailed into the harbour of Te Whanganui-o-Hei, (Mercury Bay) to observe the transit of Mercury.

While he was there he came upon the Ngāti Hei Pā of Wharetaewa where the high chief Toiawa explained to Cook that there were often raiders coming from the north and south to plunder all that they could lay their hands on, hence the reason why they had first been hostile to Europeans.

With the introduction of the musket Ngāti Hei were subject to attacks from Ngāpuhi which saw the complete sacking of most of their Pā[62] and as a result were almost annihilated. The survivors abandoned their homes of Te Ō-a-Hei, Hāhei, and fled inland to seek refuge with their Marutūahu relations.

Whakapapa for Hei



In 1870 a census showed that there were only fifty individuals of Te Whitianga-a-Kupe that claimed they were of Ngāti Hei. Over the centuries of Pare Hauraki settlement, Ngāti Hei has had to endure continuous hostilities.

However, unlike their Ngāti Huarere contemporaries Ngāti Hei have managed to survive an uncompromising tempestuous past, and thus inhabit an order of occupancy pertaining to the various settlements of Pare Hauraki, (Kelly, 2002; Nicholls, 1998; F. L. Phillips, 1989, , 1995; Royal & Turoa, 2000).

[61] (F. L. Phillips, 1995: 210)
[62] Fortified place, (Williams, 2000: 243)

Ngā Marama

Marama was the second wife of Hoturoa and from the Tainui waka. When the Tainui landed at Wharekawa two kilometers north of Whakatīwai on the western shores of Tīkapa Moana the people of Toi who were there told Hoturoa and his people of a large harbour named Te Kūrae-a-Tura on the northern headland of the Waitemata and offered to guide them there.

It was here that Marama with the aid of Te Okaroa and one other Riukiuta asked to be put ashore with the intention of traveling overland to Tamaki.

> *"Tainui went from Wai-whakapukuhanga to Wharekawa, a little further on. At that place the local people revealed that there was another sea to the west.*
> *When Marama-kiko-hura heard this she said that she and others would go by land and meet up again at Oo-taahuhu"*[63]

When the Tainui departed Marama and her entourage was escorted by some of Te-tini-o-Toi, to the Pā of Paretaiuru on the northern western foothills of the Hunua Ranges where she was entertained in a manner befitting a woman of noble rank. Marama then claimed her mana over the land in a ceremony known as ururu-whenua.

When Marama left Paretaiuru to rendezvous with Hoturoa she succumbed to the attractions of Te Okaroa. When they arrived at Tauoma the portage between the Tamaki River and the Manukau Harbour, the Tainui waka was waiting. It was here that the Tainui could not be dragged and thus slipped off her skids. This was seen as a bad omen and after consultation it was revealed that Marama had indeed committed adultery.

Te Okaroa was killed by Hoturoa and the appropriate karakia were preformed hence the Tainui waka entered the waters of the Manukau which was named Te Tāpotu-o-Tainui. After this incident Marama was renamed Marama-kiko-hura, (The Exposed Flesh of Marama) and Marama-hahake, (Naked Marama), in memory of her adulterous affair.

After a while Hoturoa forgave Marama and the place where they were united was named Te Whāinga-makau-o-Marama, (The Waiting Place of Marama). Marama whilst living with Hoturoa at Rangihua at Kāwhia gave birth to a child named Tāne-nui.

[63] (Royal & Turoa: 56)

Hoturoa vied this child with suspicion and after an impropriety towards the child, Marama left Hoturoa and returned to the Pā of Paritaiuru where she became the ancestress of Ngā Marama. Ngā Marama established themselves as the earliest of the Tainui tribes who settled in Pare Hauraki, and their boundaries once extended over the district of Papakura to the Hunua Ranges over to the east coast of Whangamatā to the Tauranga Harbour until being displaced by Ngai-te-Rangi to the south and Ngāti Tamaterā to the north, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; C. Phillips, 2000; F. L. Phillips, 1989, , 1995; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

Ngāi Tai

Although Ngāi Tai is settled within the east coast boundaries of Ōpotiki this segment will explain how a section of Ngāi Tai traveled from Ōpotiki and settled with their Tainui cousins within Pare Hauraki. When the Tainui waka was in the vicinity of the east coast, Tōrere a daughter of Hoturoa and Marama disembarked at a place there, the area was named Tōrere. Tainui her son was named after the waka Tainui and is the ancestor of Ngāi Tai being a shortened version of Ngāi Tainui.

At the Tamaki River Te Kete-Anatau and his son Taihaua left the Tainui waka and settled around the lower Tāmaki Isthmus between Ōrere Point and Howick. The descendents of Taihaua became Ngāti Taihaua or Ngāti Tai for short. Ngāti Tai became involved in the conflicts with the descendents of Marutūahu and lost much of their tribal lands.

When conflict arose at Tōrere; called Te Heke-o-ngā-tokotoru[64] and consisting of several hundred, under the leadership of three sisters, Te Raukohekohe, Motu-i-tawhiti, and Te Kaweinga traveled from Tōrere and settled at Moehau, Papa-aroha and Maraetai. Ngāti Tai and Ngāi Tai intermarried and became known as Ngāi Tai, (Nicholls, 1998; Royal & Turoa, 2000).

<u>Whakapapa for Tainui</u>

Hoturoa = Marama (f)
|
Manakiao = Tōrere (f)
|
Tainui[65]

[64] Migration of the Sisters Three
[65] (Royal & Turoa, 2000: 73)

Ngāti Rāhiri Tumutumu

Tradition has it that after an argument between Puhi-kai-ariki with his elder brother Tōroa, Rāhiri traveled with Puhi on the Mataatua waka to Te Tai Tokerau later establishing themselves as Ngā Puhi.

Rāhiri dwelled peacefully with Ngā Puhi and in his twilight years desired to return to Whakatāne, whilst in Pare Hauraki he and his grand daughter ascended its peak and seeing the rising steam from Whakaari, (White Island) Rāhiri exclaimed, *"Te Aroha-a-uta Te Aroha-Ki-Tai"* sections of this party remained at Te Aroha and became known as Ngāti Rāhiri, and are now known as Ngāti Rāhiri Tumutumu, (Nicholls, 1998; Royal & Turoa, 2000).

Patukirikiri

The iwi beginnings of Patukirikiri[66] start with Kapetaua who when a youngster was visiting his sister at Ōkahu Bay. Her husband would not warm up to him and on a fishing trip he left Kapetaua stranded on what is called Te Toka-a-Kapetaua[67] but now more commonly known as Bean Rock. His sister saw him there and rescued him.

In the years that followed Kapetaua as a man returned and exacted his revenge on his brother-in-law and his people and after a major campaign, which lasted until the late eighteenth century, settled on Waiheke Island, (Nicholls, 1998; F. L. Phillips, 1989; Royal & Turoa, 2000; Simmons, 1987).

Mairehau Williams (nee Tukukino) of Ngāti Tamaterā explains that the story has it that the name of Patukirikiri came about around 1805 when a taua, (war party) of Ngāti Huarere and Te Kāhui Ariki with the intention of executing a surprise attack waded from the mainland of Coromandel to Whanganui Island crossed this island and proceeded to cross over to the island of Motu Tāpere where Poau was living with his people.

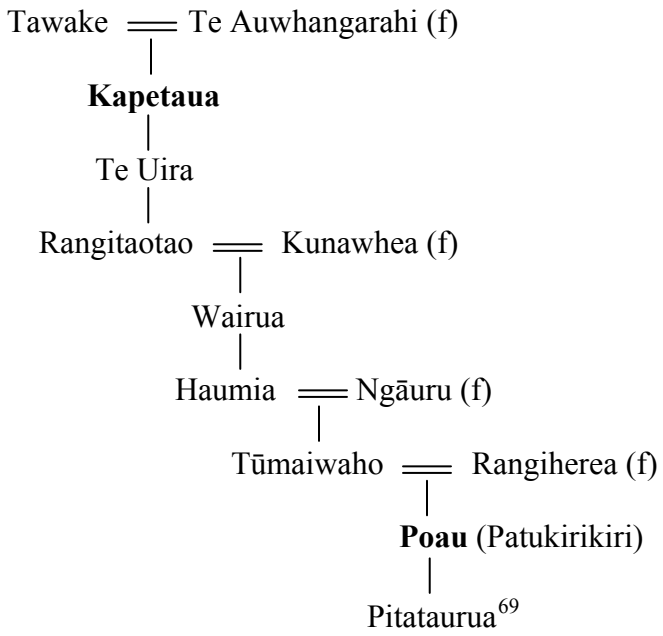
However on the shingle of the southern end of Motu Tāpere the combined war party suddenly came across the mother of Poau, Rangiherea and her sister Rangitaike who were promptly slain. This act was observed by a woman who was on her way to join Rangiherea and Rangitaike who made a hasty retreat with a call to arms.

[66] To be slain on shingle
[67] The Rock of Kapetaua

The leader of the taua realizing that the element of surprise had been lost, thus ordered, and led his men in an immediate retreat to the mainland. Poau and his warriors manned their waka and at a clearing near where the present township of Coromandel stands ensured a violent and bloody battle with most of the raiders being driven into a small defensive position where all were killed.

So ferocious was the reprisal of Poau that it is said that the blood of the vanquished flowed down from the center of this battle and formed into a pool close to where the bottom pub now stands and as a result this battle became known as Te Kōpua-toto.[68]
Poau not yet appeased directed that from that day forth our iwi in memory of his mother and aunt would be named Patukirikiri, (F. L. Phillips, 1995).

Whakapapa for Patukirikiri



Marutūahu

The Pare Hauraki tribal identities that claim Marutūahu as their tupuna are descended from the Tainui waka that traveled from Rangiātea north of Tāhiti to Aotearoa and then finally settling at Kāwhia. When Marutūahu was a young man, and after learning that before he was born his father Hotunui, after being falsely accused of stealing kūmara seedlings from the plantations of his father in law Māhanga, voluntarily left Kāwhia and moved to Hauraki.

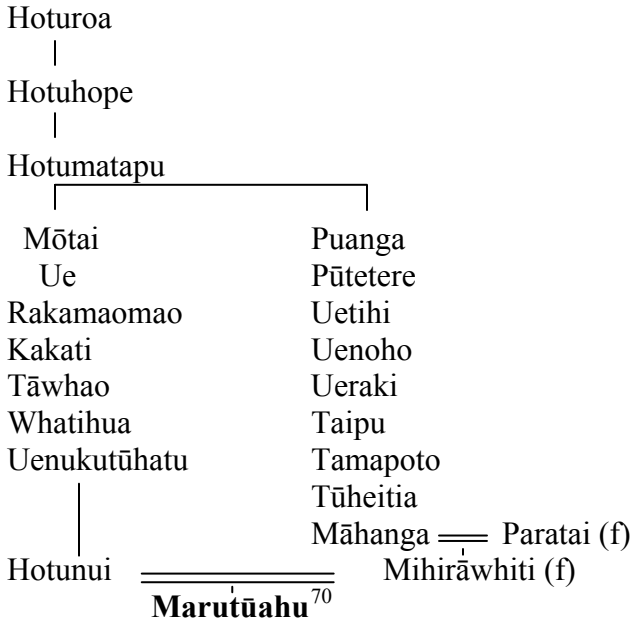
[68] The Pool of Blood
[69] (Royal & Turoa: 52)

Hotunui left instructions to his pregnant wife Mihirāwhiti that if she was to bear a girl her name was to be Paretūahu and if a boy his name was to be Marutūahu. Marutūahu decided to follow Hotunui, and found his father in Hauraki residing at Whakatīwai on the western shores of Tīkapa Moana of Pare Hauraki with the local iwi of Te Uri-o-Pou. Hotunui, after performing the necessary baptism rights of a father to his son, explained to Marutūahu that the people of Te Uri-o-Pou subjected him to the indignities of a slave.

Marutūahu set about exacting revenge on Te Uri-o-Pou and after the battle of Te Ika Pukapuka, settled permanently at Whakatīwai. Marutūahu had five sons to his two wives the daughters Te Whatu of the Te Kāhui Ariki tribe to his first wife Paremoehau; they had Tamatepō, Tamaterā, and Whanaunga. To the younger sister Hineurunga, the second wife of Marutūahu, they had Te Ngako and Taurukapakapa.

Over a period of many generations and after many hard fought battles with mainly, Te Uri-o-Pou, Ngāti Hako, and Ngāti Huarere, Marutūahu and thereafter his descendants of Ngāti Tamaterā, Ngāti Rongoū, Ngāti Whanaunga, Ngāti Maru and Ngāti Paoa held dominion over the entire region of Pare Hauraki, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; Royal & Turoa, 2000).

Whakapapa for Marutūahu



[70] (Royal & Turoa, 2000: 60)

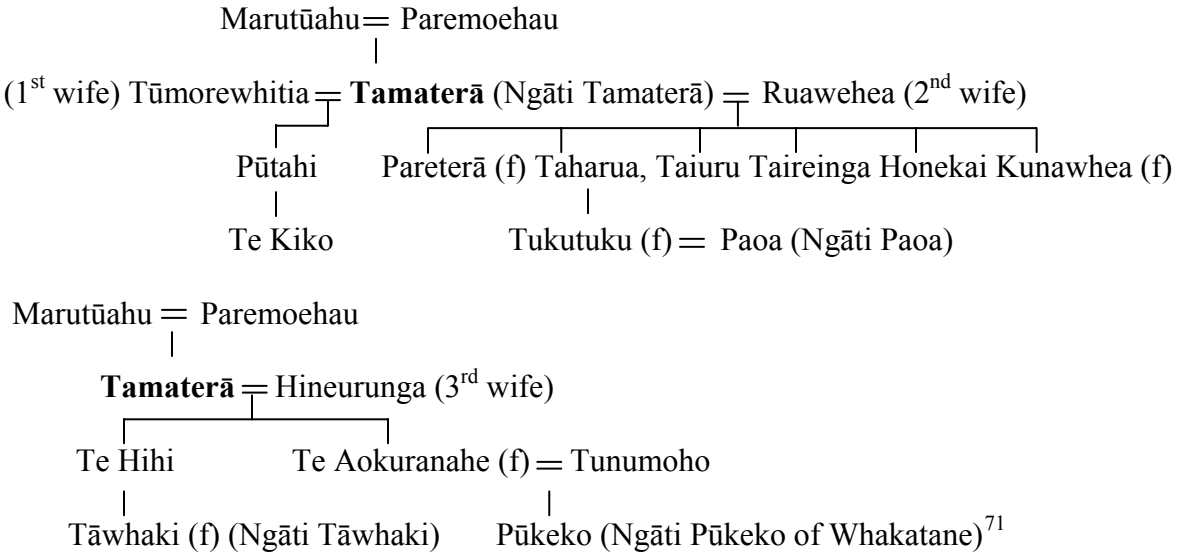
Ngāti Tamaterā

Tamaterā was the second son of Marutūahu to his first wife Paremoehau. Before the wars with Ngāti Hako and Ngāti Huarere, Tamaterā and his family lived at Kaiaua and Whakatīwai on the western shores of Tīkapa Moana. During the exploits of Marutūahu, Tamaterā inherited the role of a warrior chief. Tamaterā also inherited his father's mana when he died and then took Hineuranga who was his aunt as his own wife. This was custom, however, Pare Hauraki tradition has it that all was not well with his kin pertaining to this union.

The first wife of Tamaterā was Tū-more-whitia from Ngati Awa and they had a son named Pūtahi. Tamaterā had a second wife and her name was Ruawehea of Ngāti Hako and they had Pareterā (f), Taharua, Taiuru, Taireinga, Honekai, and Kunawhea (f). Tamaterā and Hineurunga had a son Te Hihi, whose daughter Tāwhaki who would become the ancestress of the Ngāti Tamaterā hapū of Ngāti Tāwhaki, and a daughter Te Aokuranahe. It is from these three unions that make up the Ngāti Tamaterā iwi group of the Pare Hauraki region.

Te Aokuranahe would marry Tunumoho of Ngāti Awa and have a son named Pūkeko who would establish the tribe of Ngāti Pūkeko based in Whakatāne. Tamaterā moved from Ōhinemuri to Katikati he then went to live the remainder of his days with his daughter Te Aokuranahe at Whakatāne, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; Royal & Turoa, 2000).

<u>Whakapapa for Tamaterā</u>


[71]

[71] (Royal & Turoa, 2000)

Ngāti Rongoū

Tamatepō was the mātāmua or first born of Marutūahu and Paremoehau. There has been little information retained of his deeds. Pare Hauraki tradition has it that Tamatepō accompanied his father on his earlier campaigns against the original inhabitants of Pare Hauraki.

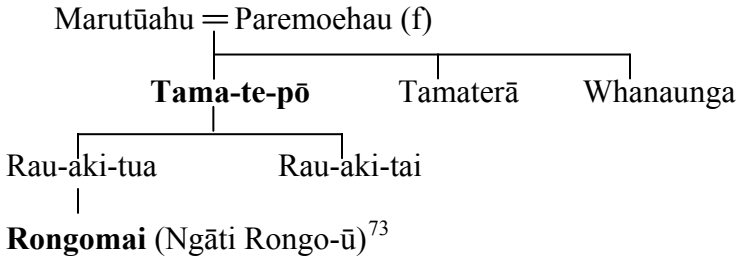
Tamatepō fell from his fathers favour when he married a slave woman from Ngāti Huarere instead of Ruawehea of Ngati Hako, whom his father had betrothed for him. Furthermore he also married another woman of Ngā Marama against his father's wishes and as a consequence Tamatepō was set aside. Subsequently, there was no tribe named after him.

Tamatepō had twin sons Ruakitua and Ruakitai and as twins were seen as a bad omen with the potential of splitting factional loyalties and weakening iwi structure the fate of their father was also destined to befall them. Of the twins it is said,

> *"Te kanohi o te tokorua, e kore e kitea"* or *"The eye of the two was not seen"*[72]

That is, that they had left no lasting or significant impressions. It was not until Rongomai the son of Ruakitua, grandson of Tamatepō that the tribal entity of Ngāti Rongoū was able to be established, (Nicholls, 1998; Royal & Turoa, 2000; Z. Williams & Williams, 1994).

Whakapapa for Tama-te-pō and Ngāti Rongo-ū



[73]

Ngāti Whanaunga

Whanaunga was the third son of Marutūahu and the most aggressive of all his brothers he took a major part in the earlier conflicts with Ngāti Huarere and Te Uri-o-Pou with his occupying lands being from the Ōrere stream of Whakatīwai to the north, to the Kaiaua stream at Pūwhenua in the south.

[72] Ibid: 62
[73] Ibid

Whanaunga then traveled to his father's former home of Kāwhia, and whilst there took part in many a bloody battle during the Tainui tribal phase of development. However, when Whanaunga returned he asked his mother Paremoehau if his father had left any passing words for him.

"Kaore he kupu iho a ta kaumatua Na?,

"Was there no words left by the old man?"

Permoeheu replied,

"... ka hura i a ia me tapahia tana ure he mea koauau mau"

"...if you uncover him cut off his membrum virile as a nose flute for you."

With this she continued,

"Kua to koutou whaea kua moe i a Tama-te-ra"

"...your aunt has married Tamatera"[74]

Whanaunga was incensed, and Paremoehau fearing intertribal warfare persuaded Tamaterā to leave and seek shelter with his sons Taharua and Taiuru at Kōmata and Ngāhinepōuri north of Paeroa. It was not long after this that Whanaunga decided to move and establish his own iwi on the eastern shores directly opposite Whakatīwai of Tīkapa Moana, and with his sons carried out his own campaigns against the Ngāti Huarere and Ngāti Hako.

However, it was not until several generations after the death of Whanaunga that his descendants finally settled at Manaia where they still exist today, (Nicholls, 1998; C. Phillips, 2000; Royal & Turoa, 2000). When the Endeavour sailed into bay of Whitianga-a-Kupe on the 5th day of November, 1769, Hōreta-te-Taniwhā of Ngāti Whanaunga who as a boy of about 12 years of age met with Captain Cook, some years later he would recount his experience,

It was a long time ago, when I was a very little boy, that the ship came to Whitianga. I and my two friends did not go wandering about the ship, for fear that we should be bewitched by the foreigners; we sat where we were, staring at the foreigners' home.

[74] Nicholls (1998: 66)

The leader disappeared for a while into his own part of the ship, then he came up on deck again, and approached my two friends and myself. He patted our heads, said something, and put out his hand towards me, holding the nail,

My friends were afraid and said nothing, but I laughed, and he gave the nail to me. I took it in my hand, saying, 'Very good.' He repeated this after me, patted our heads again, and went away. My friends said, 'His gift to us shows his nobility; he is indeed the leader of the ship. Also, he is very fond of children. A noble man—one of high birth and standing—cannot be lost in a crowd,

I took my nail, and looked after it very carefully; it went with me everywhere as my companion I used it as the point of my spear, and also to make holes in the sideboards of canoes, to bind them to the canoe. I kept it until one day our canoe was capsized at sea, and my precious possession [literally, 'object with supernatural powers'] was lost to me"[75]

Whakapapa for Whanaunga and Hōreta-te-taniwha

Marutūahu = Paremoehau (f)
|
Whanaunga (Ngāti Whanaunga)
|
Iwituha
|
Rāmuri
|
Puku
|
Kuripango = Waikaukau
|
Te Wharetuoi = Waioro
|
Tīwha (f) = Te Maunu
|
Hōreta Te Taniwha[76]

[75] ("A Little Boy Meets Captain Cook", 1965)
[76] (Royal & Turoa, 2000: 227)

Ngāti Maru

The full name of Te Ngako is Te Ngakohua the first son of Marutūahu and Hineurunga and is the ancestor of Ngāti Maru he was about the same age as his half brother Whanaunga, and as a fighting warrior chief joined his father and brothers and played his part in the domination of the earlier iwi who occupied the lands of Pare Hauraki.

When the battles with Ngāti Hako and Ngāti Huarere increased Te Ngako left his lands of Whakatīwai to his niece Tukutuku[77] and moved to Kauaeranga and Wharekawa east.[78]

In response to the murders of Māhanga the grand father of Marutūahu, Manaia the intended husband for Tukutuku, Kairangatira (a descendant of Tama-te-pō) from the battle of Ōruarangi[79], Waenganui the wife of Taurukapakapa[80] the younger full brother of Te Ngako.

Then the murder of Taurukapakapa himself, eventually the Ngāti Maru people arose and took thirteen pā in a single day as retribution against Ngati Huarere and their allied section of Ngāti Hako for these murders.

The whakataukī below illustrates that the tribes of Marutūahu could accomplish tremendous tasks in a in a short period time, hence the Marutūahu Confederation.

> *"Ngāti Maru rangi-tahi/ Ngāti Maru of a single day"*[81]

It was Taharua the son of Tamaterā and Ruawehea who stopped the Ngāti Maru chief Rautao-pou-whare-kura, and persuaded him to cease their genocide of Ngāti Hako. Taharua reminded Rautao of the connecting bloodlines to themselves and that ample retribution had been taken for the murders of his relatives.

It was also the Ngāti Maru war chief Rautao-pou-whare-kura who exacted utu or payment from the Wai-o-Hua of Tamaki for the killing of his father Kahurautao, his brother Kiwi and the Hauraki taniwhā Ureia.

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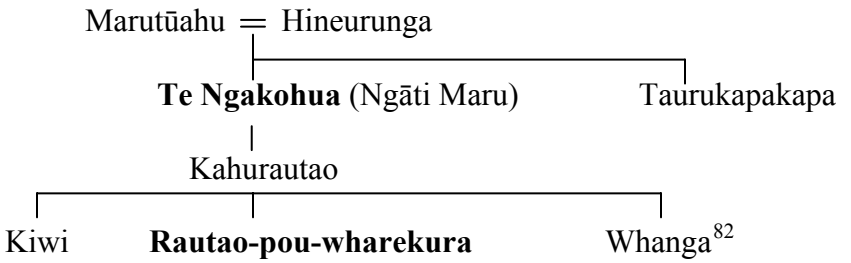
[77] See whakapapa for Ngāti Tamaterā
[78] Thames
[79] See section on Taurukapakapa
[80] Ibid
[81] (Mead & Grove, 2001: 332)

He captured the Wai-o-Hua pā of the Manukau and the Waitemata in which areas of the Tamaki and the Waitemata isthmus was occupied by Hauraki Māori until the arrival of the Pākehā, (Mead & Grove, 2001; Nicholls, 1998; F. L. Phillips, 1995; Royal & Turoa, 2000).

Whakapapa for Te Ngakohua and Rautao-pou-wharekura



Taurukapakapa

Taurukapakapa was the youngest son of Marutūahu and Hineurunga. He married Waenganui a Ngāti Huarere/Ngāti Hako chieftainess and lived at Whakatīwai on the western shores of Tīkapa Moana. One day Waenganui with five other women organised a work party to travel to Warahoe eight kilometers south of Thames to collect a type of flax known as awanga. On the return trip Waenganui was abducted by Ngāti Tū Hukea a hapū of Ngāti Hako who carried her off to their Pā of Ōruarangi near Kōpū.

On hearing this Taurukapakapa raised a taua and traveled by waka up the Piako to the Matangirahi Pā at Awaiti. Whare-whare-ngā-te-rangi the chief of that Pā and also of Ngāti Hako allowed his warriors to escort Taurukapakapa overland to Rangiora on the Waihou and then to Whetūroa to the Pā of his nephew Taharua the son of Tamaterā and Ruawehea to ask if he would accompany him to effect the release of his wife.

They then traveled by waka to Ōruarangi Pā. When they arrived Taurukapakapa blew on his pūtatara[83], he twice demanded the release of his wife. His demands were refused and with that Waenganui was brought forth to the outer ramparts of the Pā and killed before him by one Paeko with the impaling end of his whalebone hoeroa a long handled paddle. Paeko himself was from the Whakatane area and an in-law to Ngāti Huarere.

[82] (Royal & Turoa, 2000)
[83] A univalve volute shell used as a horn, (Williams, 2000: 316)

Taurukapakapa retreated and then conceived a plan of attack on Ōruarangi Pā. He and his war party later returned and lay hidden with 140 of his warriors; meanwhile under the cover of darkness a young chief named Kairangatira went forth to reconnoiter the pā. Once inside he made his way to a storehouse where the fishing nets were kept to remain hidden and to spy out their defenses.

However, Kairangatira overslept and was awoken by the pounding of fern-root for the morning repast. Being almost detected and fearing capture he cut the nets concealing him which were duly left for repair. When the men set off to their fishing grounds, Kairangatira under incantation passed undetected from the Pā and made his way back to Taurukapakapa where he and his men lay in wait.

He advised the war party to attack when the full tide was at its ebb as this would deny the defenders the protection of the high mud banks that skirted Pā at low tide. The swift ebb of the tide would also prevent the fishing party from returning to affect a succor of their Pā. The attack was prepared and executed Ōruarangi fell and came into the possession of the victors.

However, soon after, both Kairangatira and Taurukapakapa were murdered by Ngāti Huarere and Ngāti Hako. There was no tribe named after Taurukapakapa. Most of his descendants became Ngāti Maru, (Nicholls, 1998; F. L. Phillips, 1989; Royal & Turoa, 2000; H. W. Williams, 2000).

Whakapapa for Taurukapakapa

Marutūahu = Hineurunga

Te Ngakohua **Tāurukapakapa** = Waenganui (f)[84]

Ngāti Paoa

Paoa came by way of the Waikato to Hauraki he was the younger brother of Māhuta and the second son of Hekemaru the son of Pikiao of Te Arawa and Heke-i-te-Rangi from Waikato. Paoa lived on the west bank of the Waikato River across from Taupiri Maunga. The name of his pā was Kai-tō-tehe**.**

[84] (Royal & Turoa, 2000: 225)

It came about that Māhuta came to visit Paoa and his family and after his wife Tauhākiri was unable to accommodate their guests Paoa left her and his family and with a party of followers traveled to Hauraki.

Tukutuku was the daughter of Taharua and very much loved by Ngāti Tamaterā. She was puhi[85] and came from noble birth, she was sought after by many a suitor and apart from Manaia Tukutuku would not warm to any other chiefs.

Because Tukutuku showed an interest in Manaia he was later murdered by his jealous kin of Ngāti Huarere which brought about further hostilities between the Marutūahu people and Ngāti Huarere. Tukutuku had heard that a noted Waikato chief from Taupiri was traveling through her boundaries and thus expressed a desire to meet with him.

Although the party arriving had all dressed in their very best attire thus suiting the occasion, Paoa had dressed himself as a tūtūā or a person of little or no importance in a rough pakepake a raincoat made from toitoi[86] and or harakeke.[87]

Tukutuku was not deterred she was determined to have Paoa as her husband and thus to win his favor took him to visit her people and Pā. She took him to Whakatīwai, Rangiora, Tararū, Te Puru and to her areas encircling the Hauraki Gulf and up to its inland rivers.

However, his appearance and demeanor did not go unnoticed by Ngāti Tamaterā who then subjected him to various tests such as the servings of the most moldiest of foods and the offerings of the poorest of lodgings, these he accepted without question, Taharua and Ngāti Tamaterā approved very much to this union.

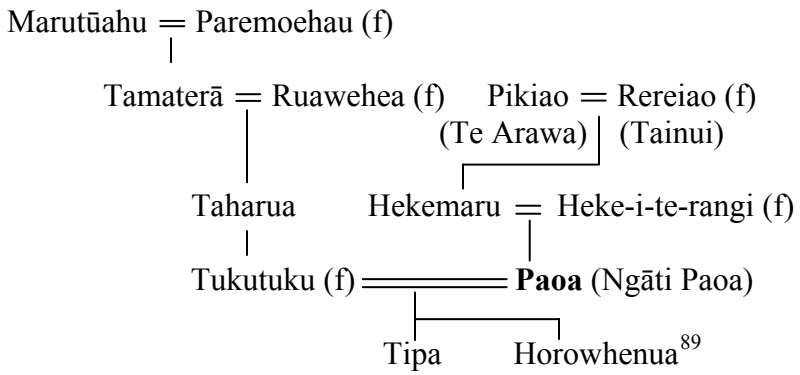
Tukutuku and Paoa were married with their issue becoming Ngāti Paoa their boundaries extended from Whakatīwai, to Kaiaua and the western shores of Tīkapa Moana, Waiheke Island, Devonport, areas of the Waitemata, Mahurangi and the Manukau isthmus. Ngāti Paoa were known to be the most temperamental of all Hauraki iwi which is expressed in the whakataukī,

[85] Betrothed woman, (Williams, 2000: 304)
[86] Toitoi grass, *Cortaderia spp* (Riley, 1994: 465)
[87] The general name for the New Zealand flax… (Williams, 2000: 36)

"Ngaati Paoa, taringa rahi - Ngāti Paoa whose large ears broach no insult"[88]

This Whakataukī was meant to be derogatory and relates to the ease that Ngāti Paoa would take offence which would more often than not would lead to war, (Jones & Biggs, 1995; Kelly, 2002; Nicholls, 1998; F. L. Phillips, 1989; Riley, 1994; Royal & Turoa, 2000; H. W. Williams, 2000).

Whakapapa for Paoa



[89]

Tara

Tara was a descendent of Whatihua and Ruaputahanga and occupied the area between Matamata, Tokoroa and Mangakino. He was living below his elder brother Tūkorehe at Taumahi and after an argument between the two, Tūkorehe built a heketua (latrine) on a cliff above the pā of Tara. Tara and his followers then moved to Pare Hauraki.

Tara and his people managed to displace Ngāti Hako of some of their areas of Ōhinemuri and occupied the lands of Piraurahi and built a Pā at Kuoiti beside a stream which bared the same name that entered into the Ōhinemuri River close to what is now known as Mill Road about seven kilometers south west from the township of Paeroa.

Ngāti Tara then directed its attention towards the lands of Ngā Mārama and after initial successes at Whangamatā, Waihi, and Katikati, Tara was killed and his people retreated to Ōtawhiwhi at Bowentown. That is, in the final battle between Tara and Ngā Mārama, Tara had them on the run and when Ngā Mārama rested at the pa of Tokanui at Titarakau near Katikati.

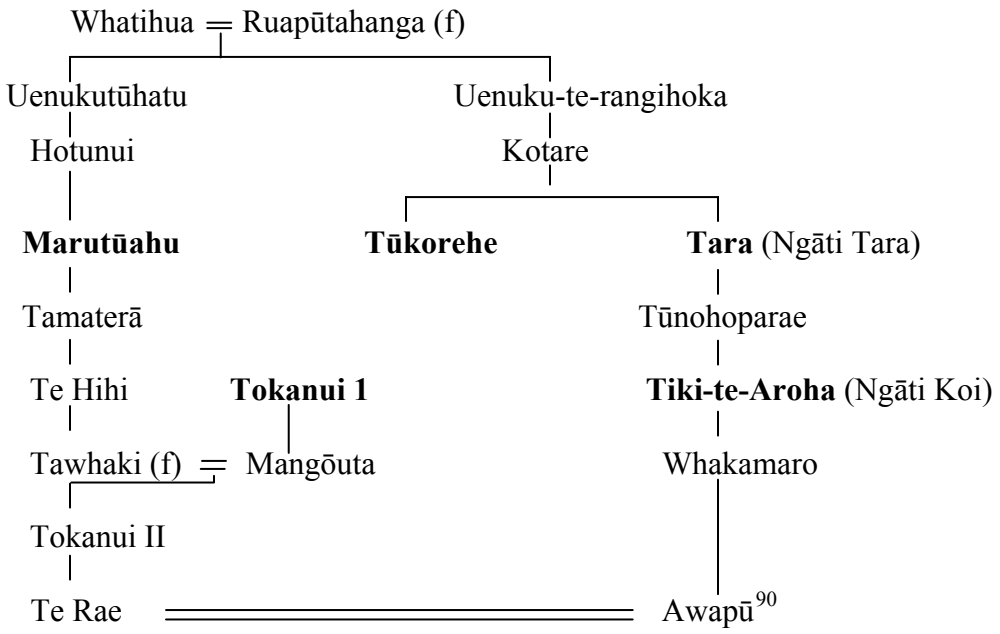
[88] (Nicholls, 1998: 70)
[89] (Royal & Turoa, 2000: 71)

Tokanui asked why they were running away from 350 men when Ngā Mārama could muster around 1600 men. Once Rimu, the chief of Ngā Mārama realized this they laid an ambush and as a result Ngati Tara were defeated with Tara, Hikei and Tikitearoha and most of their people being slain.

The survivors of Tara asked Te Kiko of Ngāti Tamaterā to avenge these deaths, which he promised to do but instead waited for Tara to increase in numbers and avenge themselves so they would not be in debt to Ngāti Tamaterā.

However later on Ngāti Tara sent Te Kiko a cloak made of human hair to remind him of his pledge so he sent his two grandsons Te Pōporo and Katohau to avenge Tara, which they did and from that time they became indebted to Ngāti Tamaterā. As a result the descendants of Tara like Te Mimiha and others aligned themselves with Ngāti Tamaterā. Because of intermarriages with Ngāti Tāwhaki, Ngāti Tokanui and Ngāti Koi, Ngāti Tara, were allowed to remain at Waihīhī at Ōwharoa. They are now known as Ngāti Tara-Tokanui and share their marae of Ngāhūtoitoi three miles, south of Paeroa with Ngāti Tāwhaki and Ngāti Koi, (Nicholls, 1998; F. L. Phillips, 1995; Royal & Turoa, 2000).

Whakapapa for Tara



[90] (Royal & Turoa, 2000: 55)

Ngāti Koi

Ngāti Koi[91] according to Pare Hauraki tradition has it that they were in occupation of lands of the Ōhinemuri, Waihīhī, Ōwharoa and Katikati to the south until being displaced by the Marutūahu peoples. Koi is not a person. Ngāti Koi is the iwi that descend from Tiki-te-Aroha[92], the grandson of Tara, whom was so deadly with the Koikoi[93] that his descendants took that name.

Māori Land Court records reveal that Ngāti Koi, were permitted to remain on various areas of land by leave of their conquerors. Ngāti Koi did however retain some of their lands alongside of Ngāti Tamaterā, Ngāti Hako and Ngāti Tara in particular to the marae of Ngāhūtoitoi, (Nicholls, 1998; F. L. Phillips, 1995; Royal & Turoa, 2000).

- **Ngāti Pūkenga**

Ngāti Pūkenga originally stem from Tauranga Moana and from the Mataatua waka. After the sacking of Te Tōtara Pā 1820 by Ngā Puhi the peoples of Marutūahu, retreated inland to find refuge at Horotiu and the Haowhenua territory of Ngāti Raukawa. While there a Ngāti Maru chief Te Waha was killed by Ngāti Raukawa.

Under the leadership of Tama-Te-Waka-Te-Puhi and Riwai-te-Kiore they rallied their Ngāti Maru and Ngāti Tamaterā forces to exact revenge and with the support of, Ngāti Pūkenga under Maru-i-tāwhiao-rangi and Ngāti Awa under Te Ahikaiata they defeated Ngāti Raukawa at Parekawau.

After this battle Ngāti Pukenga ki Hauraki was invited back to Pare Hauraki and as a reward for services rendered Ngāti Maru gifted Ngāti Pūkenga lands at Manaia, where this section of Ngāti Pūkenga still live today, (Nicholls, 1998; F. L. Phillips, 1995; Royal & Turoa, 2000).

- **Ngāti Porou ki Harataunga**

In 1841 the capital of New Zealand was moved from the Bay of Islands to the city of Auckland. With most settlers from England arriving landless and homeless they were completely reliant on the Māori tribes of the Tamaki Isthmus which includes Pare Hauraki for food and supplies.

[91] Refer to whakapapa for Tara
[92] Refer to Ngāti Tara whakapapa
[93] Māori weapon of war

As the European population of Auckland increased so did the demand for these supplies with trade between Māori and settler alike to be seen throughout the whole of the North Island. Ngāti Porou would sail from the East Coast and with the consent of Ngāti Tamaterā rest for awhile at Mataora and Harataunga[94] and then sail on to Auckland to sell their produce at the Auckland markets of the day.

It was during these excursions that there were some who died on the way to and from Auckland and were thus temporarily buried at Harataunga. On the return trip to the East Coast Ngāti Porou would exhume these bodies and return to their homes.

Ngāti Porou were then given permission to tend crops at Harataunga and although at first there were just a hand full of people there tending their crops there came a time when the bodies buried there outnumbered the retrievals.

After ten years the land had lost its original purpose in which relationships between Ngāti Porou and Ngāti Tamaterā became strained. In 1852 a contingent of several notable East Coast chiefs whilst on their way to Auckland sailed on their sailing ship name King Paerata to Pare Hauraki, their spokesperson Te Rākahurumai asked Paora-te-Putu of Ngāti Tamaterā for,

> *"...tētahi wāhi o te whenua hei tūranga mō ō rātou waewae - a Small portion of land on which to stand"*[95]

Paora-te-Putu agreed to this request, he thus gifted and then pointed out the lands consisting of 3,462 hectares of Harataunga and Mataora to Ngāti Porou. This was how Ngāti Porou under their various leaders including Tūterangi, Kāwhia and Rōpata Ngātai became part and parcel of Pare Hauraki nui tonu.

There is uneasiness between Marutūahu and Ngāti Porou kaumātua concerning the lands of Harataunga and Mataora. Ngāti Porou is a recognized iwi of Pare Hauraki and registered with the Hauraki Māori Trust Board.

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[94] Kennedys Bay
[95] (Royal & Turoa, 2000: 76)

With these lands of Harataunga and Mataora being whenua tuku[96] and with the precedence of Tūhourangi returning their whenua tuku after the Tarawera eruption back to Ngāti Maru in 1988, there is a view that Ngāti Porou should either return to their lands of the East Coast, or give up their Porourangi-tanga, stay, and become Pare Hauraki.

With the opening of the Ngāti Porou wharetupuna at Harataunga in 1996 there was no relative descendents of Paora-te-Putu nor were any kaumātua from Hauraki invited to sit on the paepae. At the opening John Tamahori a kaumātua from Ngāti Porou reminded his people that the land that they were on is whenua-tuku and a gift from Ngāti Maru.

However, for whatever reason Ngāti Porou ki Harataunga did purposely or not invite any Hauraki Marutūahu kaumātua and instead invite kaumatua from the outside is theirs alone. That is, it was from Paora-te-Putu of Ngāti Tamaterā that gifted those lands to Ngāti Porou and not Tainui as is perceived by others, (Nicholls, 1998; Royal & Turoa, 2000).

Overview

Today there are now twelve iwi from all the periodical emigrational settlements of Pare Hauraki registered with the Hauraki Māori Trust Board these iwi are,

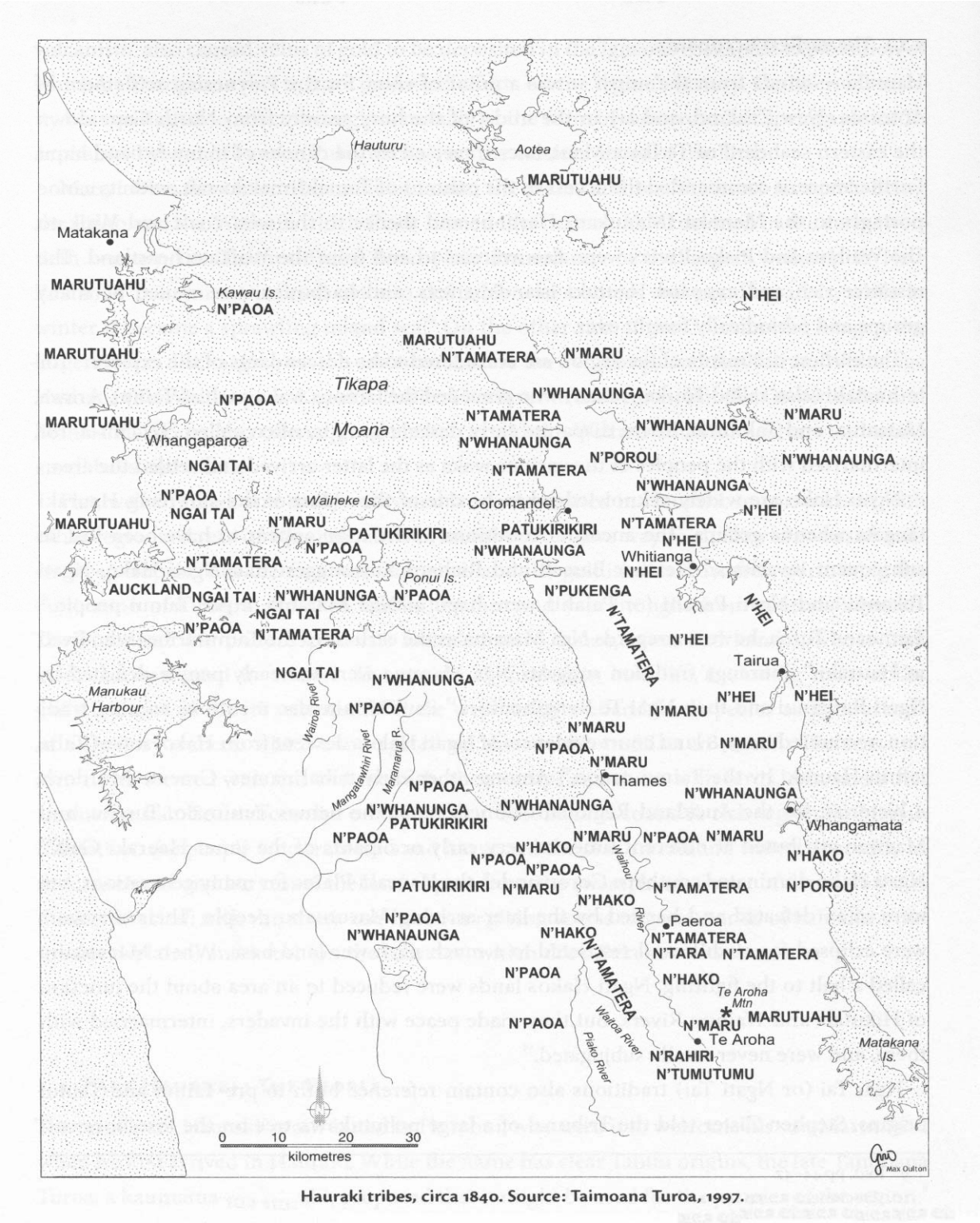
1. Ngāti Tamaterā
2. Ngāti Rāhiri-Tumutumu
3. Ngāti Maru
4. Ngāti Tara-Tokanui
5. Ngāti Whanaunga
6. Ngāi Tai
7. Ngāti Paoa
8. Ngāti Pūkenga
9. Ngāti Hako
10. Ngāti Hei
11. Patukirikiri
12. Ngāti Porou

Pare Hauraki has an opulent history and all iwi within no matter who they call themselves are able to whakapapa to all three of the pre Marutūahu, Marutūahu and post Marutūahu discovery and settlement periods, we are without a doubt one people. The discovery and settlement phases of Pare Hauraki forged blood connections which impact on the whole of Pare Hauraki Māori, for example the writer personally knows Pare Hauraki Māori of Ngāti Porou ki Harataunga who can whakapapa to Ngāti Hako, Ngāti Whanaunga and Ngāti Tamaterā alike. Ultimately the onus is on the cooperation of all Pare Hauraki leaders to unite Pare Hauraki and to pave the way for the socio-economic advancement and well being of all Pare Hauraki iwi within.

[96] Gifted lands in accordance with tikanga Māori

Hauraki Tribes c1840

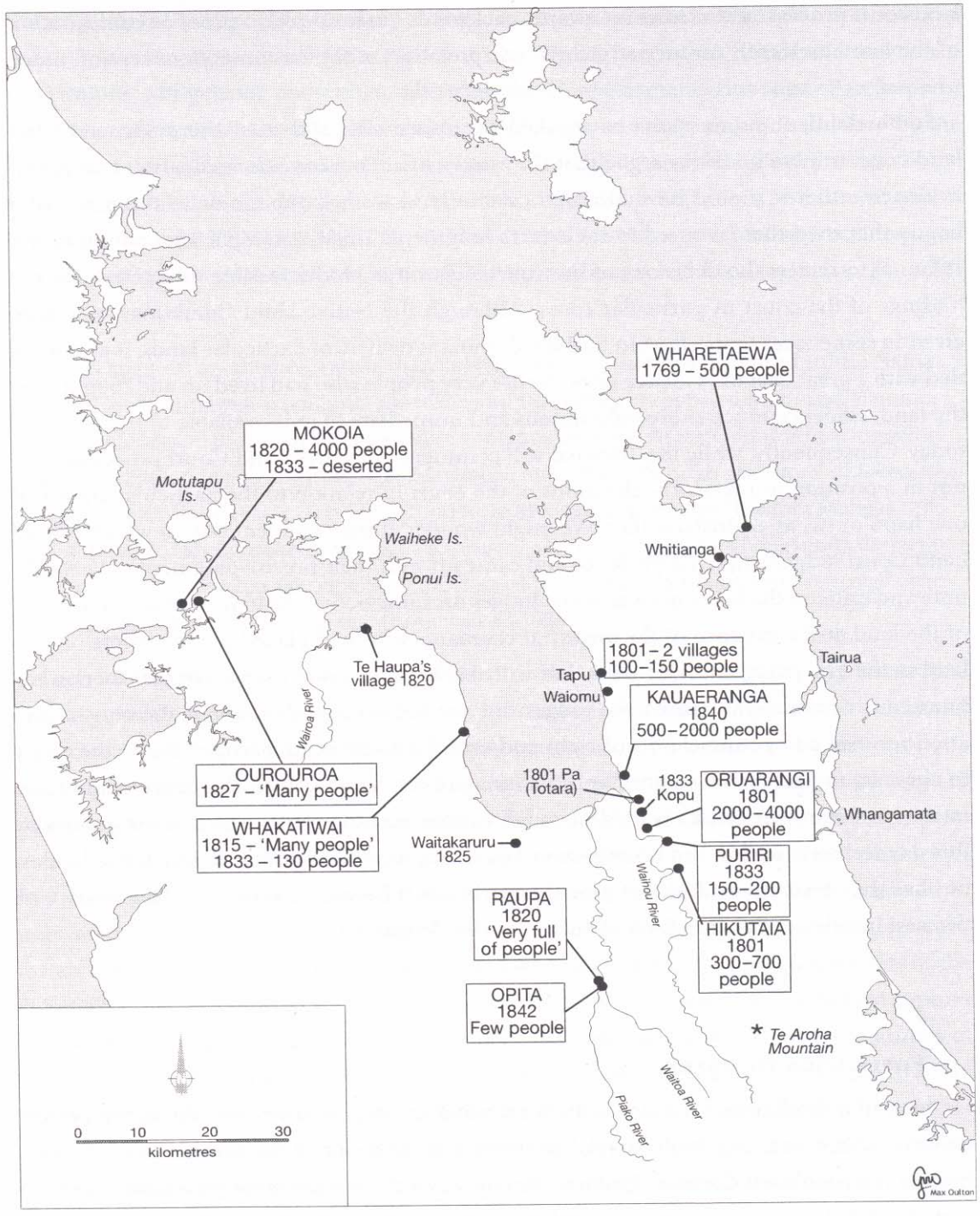
Map 11[97]



Hauraki tribes, circa 1840. Source: Taimoana Turoa, 1997.

Hauraki Pa Sites pre 1840

Map 12[98]



9 **Maori settlements recorded by European visitors pre-1840.**

CHAPTER THREE

Te Ao Māori;
He Tikanga;
Te Noho

Te Ao Māori

We now know how Pare Hauraki was settled and this chapter will now concentrate on how my tupuna of Pare Hauraki viewed the natural world, lived and survived within their environment. Pare Hauraki Māori has never acknowledged the notion of a closed world.

It is believed that the physical and the spiritual world overlaps, interacts and visa versa. Pūrākau or myths and legends bear witness and support a holistic view of time, creation and of peoples. According to James Irwin, Māori view the world that they live in as a three-tiered structure.

Figure 1[99]

The first tier symbolizes the spiritual realm that encompasses all Māori traditional kāwai-tūpuna or ancestors that are found within. The second tier represents contemporary times, the present day and all humans who are living.

[99] (Ministry of Justice, 2001: 10)

The third tier is a representation of tūpuna who are now in the realm and in the care of Hinenuitepō guardian of the underworld. The unfinished lines show that each realm is not closed off from one another.

Interaction between the spiritual and physical realms is evident in narrative accounts, such as whakapapa, whaikōrero which is a formal speech or karanga which is a formal call of welcome, a haka or war dance, karakia or prayer, waiata or songs, or whakataukī and whakatauākī. Understanding how to distinguish between these three realms is essential in recognizing the concepts and principles of the Māori world view in accordance with tikanga Māori, (Ministry of Justice, 2001).

He Tikanga

- **Land**

The thought of individual ownership, that is to singularly own land was unheard of in the traditional sense of the Māori word, world culture and society. Tikanga or the traditional customary lore of the Māori encompassed the guardianship, protection, and collective usages of the environment, winds, the lands and its adjacent waterways, swamps, mud flats, foreshores, ocean and seabed.

The sustainability of all resources as well as the concept of mahinga-kai[100] were for the well being and betterment of the whole of the iwi as opposed to the view of ownership of land in the European sense that is the individualized singular ownership and control of everything and its resources for the well being and betterment of themselves and just their family.

The children of Ranginui the sky father and Papatūānuku mother earth are the custodial parents of the diverse elements of nature and are called poutiriao. They are the protective keepers of the environment, and all its resources from the cosmos above to the skies below of Tāwhiri-mātea from the mountainous high lands to the forests and water ways of Tānemāhuta[101] with these waterways cascading on to the ocean depths of Tangaroa.[102]

[100] Maori aspects of food gathering, fisheries, preparation storage and cultivations
[101] Guardian of the forests and everything within
[102] Guardian of the ocean and everything within

As with all iwi of Aotearoa New Zealand, pre and early post European Pare Hauraki Māori had established their own set system of tikanga and lore. There were unions and alliances which were made, kept and sometimes broken, there were times of war and peace, there were always issues to be taken care of and all in accordance with tikanga Māori. Tūpuna who have passed on live on through the living and subsequently live on through the following generations.

During the Native Land Court proceedings Pare Hauraki Māori of the nineteenth century stated that,

> *"…the principle claimants in the 1880s traced their claim of mana whenua back to the grandsons of Marutuahu"*[103]

Pare Hauraki Māori would tend their gardens, lands and oceanic areas and would have access agreements over seafood gathering and fishing areas. Areas would be named and claimed, urupā[104] would be established and such was life back then.

Protocols were set up and developed to promote and nurture relationships and in many cases intertribal marriages such as Paoa and Tukutuku[105] with their children joining and solidifying the whakapapa of Pare Hauraki Māori with their neighboring tribal, sub-tribal and family groups. Regulation and protection of land and oceanic resources were initiated to ensure that the, food, medicinal and material stores and resources such as the forest of Tānemāhuta its trees birds and its fruits plants and resources as well as the ocean waters and children of Tangaroa such as fisheries, resources and sea birds were healthy and plentiful for all and for ever.

Whenua is also the Māori word for placenta and just as a baby is nourished and sustained by its whenua when in the womb of its mother, so are the Māori of Aotearoa. After a mother gives birth, her child's placenta and pito[106] is returned to the land establishing a personal, physical, and spiritual link to its traditional lands, hence, the child's wairua-tapu[107] and mana-mauri[108] is

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[103] (Phillips, 2000: 72)
[104] Burial ground
[105] Refer to Whakapapa for Paoa
[106] Umbilical cord
[107] Spirit
[108] Essence

forever preserved in the land of its ancestors by way of iho-whenua or the physical and spiritual connection of that child to its ancestral land.
It is these connections that bind and link Pare Hauraki Māori to their lands and tribal areas of Pare Hauraki and Tīkapa Moana.

> *"Māori attachment to land is rooted in mythology, tradition and the long history of tribal wars. Mythology conceived the earth as Papatūānuku the earth mother, from whose bosom sprang plants, birds, animals and fish for human sustenance. Therefore the earth was loved as a mother is loved"*[109]

To Māori, land is ones identity and belonging. It is confirmation it is proof of a continued existence of a people who can claim of being of that said region. Land is ones ūkaipō[110] and tūrangawaewae[111] it is a tribal kin group and waka link with the past, the present and future generations assuring that the tangata whenua in accordance with tikanga Māori will continue as long as the land remains, (Barlow, 1991; King, 1981; Mead, 1997; Ministry of Justice, 2001; Nicholls, 1998; C. Phillips, 2000; Royal & Turoa, 2000; Sinclair, 1981; Walker, 1990; Z. Williams & Williams, 1994).

- **Water and Māori Relationships**

What is said about land can also be said about water. Water was born from the separation of Ranginui and Papatūānuku. Water, whether fresh or salt was considered by Māori to be one with the land and termed as *"wai ora"*[112], that is, *"te wai ora a Tāne"* which is fresh water, and *"te wai ora a Tangaroa"* which is oceanic water of Tangaroa.

There were rāhui for conservation measures, resources such as medicinal, material purposes areas set aside as storage for specific occasions so there may be an abundance of various fresh water and oceanic foods stuffs to feed the masses that were expected to arrive for a wedding perhaps and the like. Water is what gives and sustains life as Māori know it and as a result is endowed with mauri so it may preserve the land, people and its resources, (Ministry of Justice, 2001; Sinclair, 1981).

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[109] (Walker, 1990: 70)
[110] Where one is born, raised and nurtured
[111] A place to stand
[112] The life force of water

Te Noho

In traditional times considerable areas of land would be won or lost in battles, agreements, or in the passing or gifting of lands areas resources and the like are in fact core features and concepts of the traditional and customary Māori land tenure in accordance with tikanga Māori. Whakapapa is the relationship in which the tangata whenua of Aotearoa correlate to the environment as Māori.

It is from the original discoveries, waka tradition, tribal, sub tribal and family histories, ancestral place names and historical events to the lands, waterways, oceanic areas and resources as well as the adaptation to the environment and the natural world that determined the traditional customary land tenure system and tikanga of the Pare Hauraki Māori.

Iwi, hapū and whānau protected and sustained their resources and properties. They provided the upkeep and general maintenance of their kāinga[113] in which Māori lived, the cultivations of gardens and the sharing of all the natural resources that the winds, lands, forests, waterways, and their oceanic waters had on offer for Māori to grow and survive as an iwi.

Like their tūpuna before them, parents and elders raised, healed, nurtured, taught and protected their children, in addition to preserving their customary lands, waterways, oceans and environments for future generations, (Mead, 1997; Sinclair, 1981). Some of the major concepts pertaining to how Māori tupuna viewed the world and lived employed by my tupuna of Pare Hauraki in accordance with tikanga Māori are,

- **Te Take Whenua Taunaha**

Te whenua taunaha is the discovery of that said land in the case of Aotearoa this honour would go to Māui. Claims were established with the invoking of rights by its first people by way of uruuru-whenua or formal appropriation such as Marutūahu did at Tīkapa the rocky outcrop of Tīkapa Moana.

[113] Unfortified place of residence, (H. W. Williams, 2000: 81)

Every centimeter of every block of land, of every water way, oceanic foreshores and sea bound islands and areas were known, named and used for its resources and purposes that it provided. All of Aotearoa became subject to claims,

> *"...there is no inch of land in the New Zealand islands which is not claimed by the Maoris; and I may also state that there is not a hill or valley, stream, river or forest, which has not a name, the index of some point of the Maori history"*[114]

To be able to recite complex generational whakapapa names deeds and sayings of waka, tupuna, pēpehā, whakataukī, whakatauākī waiata,battles, and marriages along with the informed knowledge of traditional hunting and gathering grounds urupā and sacred sites solidified their claim of whenua taunaha and land tenure of its tribal founders by right of generational decent by its continuous undisturbed occupation and usages by its first people, (Mead, 1997; Sinclair, 1981).

- **Te Take Whenua Papa-Tipu**

By 1769 the whole entire land mass and surrounding waters of Aotearoa was known and divided between all iwi Māori of the day. Te take whenua papa-tipu is to be raised on the lands of ones tupuna since its discovery in accordance with tikanga Māori.

The conservation and sustainability of resources by rāhui is but one aspect concerning the concept of te take whenua papa-tipu. Te take whenua papa-tipu is the direct result of te take whenua taunaha and is land that is unique to the first people of that particular land. Aotearoa is the whenua papa-tipu of the Māori People. The region of Pare Hauraki is the whenua papa-tipu of Pare Hauraki Māori, (Mead, 1997; Sinclair, 1981).

- **Te Take Ahi-kā-roa**

Te Ahi-kā-roa[115] is the continuous and physical undisturbed generational occupation, protection and usages of ancestral iwi lands, waterways and oceanic areas that is fishing hunting, gardening, living and existing from the discovery of that land by Māori ancestors to their descendants to the present day generation who still now occupy their traditional and customary lands in accordance

[114] (Mead, 1997: 235)
[115] The long burning fires

with tikanga Māori. Te ahi-kā-roa may also be achieved after a long period of occupation by way of whenua tuku[116], whenua ōhaki[117], or raupatu.[118]

Māori would travel to and from their respective areas within their regional lands maintaining a relationship with Io-matua-kore[119] all deity, burial grounds, sacred areas, cultivations, forest and oceanic customary hunting grounds, fishing areas and resources, would rekindle, regenerate, strengthen, re-strengthen and solidify the ahi-kā-roa of their customary lands. Horeta-te-Taniwhā of Ngāti Whanaunga stated that,

> *"Our tribe was living there [Whitianga] at that time. We did not live there as our permanent home, but were there according to our custom of living for some time on each of our blocks of land to keep our claim to each, and that our fire might be kept alight on each block so that it might not be taken from us by some other tribe"*[120]

This tikanga would ensure the continued mauri-ora of their traditional customary lands. The longer the undisturbed possession and continued occupational use of that land, the stronger the right of claim.

> *"Ahi kā appeared to have economic, political and social functions in allowing individuals to be able to reside in any one of a number of different locations. It also maintained hapū, and possibly tribal, territory"*[121]

If an iwi, hapū, whānau, or an individual and its descendants had to leave their lands for more than three generations than it is said that their ahi-kā-roa or right of occupation would be lost. If a woman left her land to live with her husband's people it is said that her fires had wandered, and had become unstable, hence the saying, ahi-tere.

If one and/or ones children or grandchildren returned this would be seen as the rekindling of their ahi-kā-roa thus their claim to their lands would be restored. However, if there was not a returning after a known and acknowledged period of time such as three generations, than it was

[116] Refer to section on whenua tuku
[117] Refer to section on whenua ōhaki
[118] Refer to section on Raupatu
[119] God-the-parentless-one
[120] (Tribunal, 2006b: 151)
[121] (Philips, 2000: 73)

said that their claim, that is that their fires, that their ahi-kā-roa had become extinguished and cold and was called ahi-mātaotao, that is, that their ahi-kā-roa claim had become extinguished, (Mead, 1997; Metge, 1967; Ministry of Justice, 2001; Sinclair, 1981; Waitangi Tribunal, 2006b).

- **Te Take Ringa Kaha**

The concept of Te take ringa kaha[122] was the physical defense of the tribe, sub-tribe or family of ones home, pā-tūwatawata as well as the traditional tribal boundaries and areas of those people. Apart from those specifically chosen for other duties, every male and sometimes females when old enough or for whatever reason was expected to a certain degree to learn the arts of war and the handling of mau-rākau or Māori weapons of war.

Te Hokowhitu-a-Tū[123] is a traditionally known Māori name for a war party consisting of 140 of the most elite warriors the iwi had on offer. Te ringa kaha is in fact the concept of hand to hand combat in which Māori were unequalled.

However, if attacked all that were able, were expected to stand in defense of their customary tribal lands. As is stated by Horeta-te-Taniwhā of Ngāti Whanaunga,

> *"...a war party came to conquer us; but the tribes of Hauraki were not overpowered by them, and the land from Whitianga even to the Thames was kept by us as it was claimed and held by our ancestors in days of old. The Waikato people were our most inveterate foes. They are great and numerous and we are few.*
>
> *The Ngapuhi fought with Waikato, and the Waikato fought with Taranaki, so that war was universal from the North Cape even to the end of the Wai Pounamu (South Island); and our tribe joined in those wars, but we were not driven out of Hauraki, but our lands were held by us by the power of our warriors"*[124]

[122] The strength of arms
[123] 140 elitist warriors of Tūmataenga the atua of human beings and war
[124] (Salmond, 1997: 242)

Arms were taken up in the defense of land and woman. Battles were fought, songs were sung, whakataukī and whaikōrero were orated, haka were preformed, all for the love and defense of their customary lands and regional boundaries, (Mead, 1997; Royal & Turoa, 2000; Salmond, 1997; Sinclair, 1981).

- **Te Take Whenua Tuku**

This is a category of land whereby the authority, organization and control of that said land has been gifted by the tribe, sub-tribe, paramount chief, a lesser chief, or person to another tribe, sub-tribe, paramount chief, a lesser chief, or person. That is, that in the majority of cases this could only be achieved with the blessing of iwi, hapū and/or whānau.

The gifting of lands could be for a number of reasons as in the case of Ngāti Maru who for services rendered, gifted to the branch of Ngāti Pūkenga lands at Manaia of the Coromandel Peninsula, or the case of Paora-te-putu of Ngāti Tamaterā who gifted lands to Ngāti Porou at Harataunga also of the Coromandel Peninsula or Tūhourangi who were gifted Hauraki lands by Ngāti Maru, (Mead, 1997; Royal & Turoa, 2000; Sinclair, 1981).

- **Te Take Whenua Ōhaki**

Te take whenua ōhaki is in essence the dying verbal wish, statement or command by a person near death, to gift or to pass on his or her land and mana to whomever was favoured to inherit that said land in question. A patriarch for instance with two or more sons would indeed if such circumstances warranted the nature of these actions, whilst, on his death bed pass on allocations and equal divisions of his lands to his children as to avoid a sibling rivalry of unnecessary internal warfare and bloodshed, (Mead, 1997; Sinclair, 1981).

- **Te Take Whenua Muru**

In its traditional sense, te take whenua muru is but one process of seeking justice in accordance with tikanga Māori. Although the concept of muru is a form of utu it differs from utu in that with the concept of utu, houses get burnt, goods and crops are plundered and destroyed and people get killed. Muru is to action redress and retribution where an individual, community or society was offended against.

If any iwi, hapū, whānau or individual who intentionally or unintentionally broke in any way shape or form, any tribal customary law in accordance with tikanga Māori, the transgressor could

and would in compensation be beaten and/or dispossessed of personal belongings such as valuables, clothing, waka, food stores and/or with the actual dispossession of that transgressors land, that being the most severest form of return that could be effected by the victims of that said transgression.

Shame is a pivotal concept in Whenua Muru in that those who transgressed had to watch their belongings being taken. To break tribal law was to upset the balance of its society. Muru is a principle of restoring the equilibrium of the mana and the tapu of all the parties involved. If it was not initiated by the victims, then their mana would be degraded. Something had to be done.

Formal hui[125] called whakawā were held by the victims to discuss as to what was to be taken as well as the quantity and produce. Decisions were made as to what the size of the taua[126] should be. The larger the taua the greater the mana for all the parties involved.

The size of the taua would depend on factors such as the fatality of the offence as well as the respect afforded to the transgressors by its victims. It was considered an honour by the transgressor if a large taua arrived as this would acknowledge the status of their mana that they held in their own society.

Through payment by way of muru the transgressors were recognized to have their offence and redress complete and settled. By receiving satisfactory payment the tribe offended recognized that the equilibrium of their society and that the mana of all those concerned had been restored, (Mead, 1997; Ministry of Justice, 2001; Sinclair, 1981).

- **Te Take Whenua Raupatu**

Te take whenua raupatu is land that is taken in conquest by it's conquers occupied and then held against all challengers in order to extinguish the rights previously held by its former occupants. Sometimes former owners would become taurekareka or slaves of their new masters, therefore being striped of all their mana and tapu.

However, there were unique times when certain people would prove themselves as warriors or the rescuer perhaps of a person of noble blood and thus with the agreement of the whole of the iwi would become a fully pledged member of his or her new iwi, and was allowed to marry with

[125] Meet, (Williams, 2000: 67)
[126] In this case an armed raiding party

their children being free born,. Te Take Whenua Raupatu is how Marutūahu and his descendants gained the mana-whenua and mana-moana of Pare Hauraki, (Nicholls, 1998; Royal & Turoa, 2000; Smith, 1999).

Overview

Pare Hauraki Māori land and sea tenure in accordance with tikanga Māori was structured to merge and to benefit the whole of the iwi to exercise the undisturbed and controlled usage of their land, its waters, its resources, its societies and communities, its cultural, religious, spiritual and physical beliefs and views all structured to attain a delicate balance and equilibrium of a sustainable life existence between human beings Ranginui, Papatūānuku, and mother nature.

> *"The [Hauraki] Maori land Court Records were principally statements of mana whenua based on seventeenth and eighteenth century battles and subsequent power relations"*[127] and that *"Iwi would base their rights to land on take"*[128]

To maintain their take iwi would place physical signs on their land as well as demonstrating their knowledge of place names the reason they were so named, local knowledge their usages as well as the resources of those areas.

> *"Key to understanding this difference were the interrelated [Hauraki] Māori concepts which emphasized the people's relationships to the land including mana whenua, ahi kā, kāinga tūturu, and tak*e*"*[129]

Take such as whenua taunaha, whenua papa tipu and te ahikā-roa required the iwi hold their mana-whenua, and apply their land tenure procedures in accordance with tikanga Māori. By these concepts just mentioned Pare Hauraki Māori maintained the ability to control the politics of their lands, waterways, and oceanic areas of Tīkapa Moana through the continued undisturbed use and occupation of their Pare Hauraki regional boundaries.

[127] (Phillips, 2000: 73)
[128] (Ministry of Justice, 2001: 50)
[129] (Phillips, 2000: 50)

CHAPTER FOUR

A Sovereign Nation

"They called themselves the Confederation of Tribes.
They asked the British government to recognise the country's
independence and to extend the Crowns protection.
The British Government agreed to both"[130]

Introduction

The intention of this chapter is to review the arrival of another people within Aotearoa and the effects thereafter on iwi Māori, generally, and Pare Hauraki iwi specifically, to explain why there was a declaration and then a treaty drawn up between the Māori people of Aotearoa and the Crown with the intention of bringing an atmosphere of peace and harmony between the Māori people the Crown and the immigrants from England wishing to settle in this country. However, for Māori, these aspirations did not come to pass.

During the past 167 years challenges including legislation by central and local government, together with Pākehā attitudes show that Māori have always been considered second class citizens in our own country, and now many issues linked to our lands and waters have been inscribed into law or included in policies of formal institutions such as some local authorities.

Many such regulations collide with Māori customs and tikanga especially when little consultation, or implementation of tikanga Māori is considered secondary to western forms of regulation. These attitudes commenced when Captain Cook an Englishman set foot on Aotearoa

In 1769 he arrived in Aotearoa and after him came faction settler groups, such as whalers, sealers, missionaries, imperial administrators, colonial officials, historians, scientists, artists, researchers, trades people, military personal, land sharks, and settler alike were immigrating to

[130] (Orange, 1989: 11)

Aotearoa they occupied any available areas that they desired renaming and then claiming these lands with no consideration for Māori whatsoever.

- **Christianity and an Emergence of a New Order**

Christian missionaries linked civilization with Christianity and thus considered since Māori, their views, ways, beliefs, practices and cultural values were unchristian they were therefore in fact uncivilized. It was considered that to rectify the problem that the Māori way should be abandoned in favour of the Christian way, language, beliefs and practices of the English.

Christianity saw whakairo, (Traditional Māori carvings) striped from various meeting houses and the like thus denying and eliminating the rightful places of our traditionally written histories and whakapapa.

Tohunga were branded witch doctors or medicine men as opposed to a man of medicine, scientist or specialist within his or her own specific field and genre of expertise. Missionaries regarded Christianity and therefore themselves and as superior.

> *"...set out to rescue the ignoble savage from the bondage of sin (Maaori culture) and Satan (Maaori gods). One approach was to make the Maaori realise that Christian society was the result of Gods favour, that the material prosperity was directly connected to religions"*[131]

To attain the control of Māori Christianity saw the initiation of the Tohunga Suppression Act 1908 which attacked every tohunga category of Māori such as rongoa Māori, karakia Māori, Māori navigation and whakapapa Māori were viewed as evil by the Pākehā and thus satanic. This field of thought is of course ignorant and untrue.

- **Impact on Iwi Māori**

However, as a result, Pare Hauraki Māori lost forever many of our traditional views, sayings, concepts and cultural practices to these so called Christian views. By the turn of the 19th century

[131] (Nicholls, 1998: 104)

where ever Pākehā were, interactions between Māori and Pākehā became frequent and more often than not bloody, (Nicholls, 1998; Project Waitangi, 1989; Rice *et al.*, 1992).

The Declaration of Independence

By 1830, missionary Samuel Marsden was anxious about the selling of preserved Māori heads to Pākehā and that the Māori people were looking for British protection from the outrages of European taking sides in tribal warfare with periodical influxes of sailors and lawless types causing serious problems at Kororareka[132] the main settlement of the day.

A popular trick of the Pākehā was to supply muskets to a tribe which in turn would decimate another with the Pākehā taking some of the fallen tribes land as payment. At this time there was no centralized form of government to control these people. Because there was no such law of England in Aotearoa these Pākehā could not be arrested by the Crown.

No British warship could be sent to Aotearoa to arrest any of their subjects without creating an act of war as was the case of a runaway convict who after escaping to Aotearoa and because he was on foreign land and thus not being under the jurisdiction of the British Empire he could not be arrested.

In May 1833 the British Government appointed James Busby to act as British Resident to New Zealand. This was in reply to a petition from thirteen leading northern chiefs to the King of England to provide some form of control over his British subjects living in Aotearoa and to also provide protection from the non British intervention such as the French taking in interest in their lands.

Busby took up residence at Waitangi. His duties were to protect traders, missionaries and settlers alike, to investigate outrages on Māori, and to apprehend escaped convicts. However, Busby had no such powers to enforce British laws on Pākehā or to arrest anyone instead his role became that of a mediator and negotiator between Māori and the British. His actual position was,

> *"...man of war without guns he had no effective authority"*[133]

[132] Russell
[133] (Metge, 1967: 30)

The Presence of James Busby in Waitangi did however symbolize an official British presence in Aotearoa which did not go unnoticed by the Americans the French or any other foreign nation of consequence of the time. It also signified initial steps to annex off New Zealand as a British colony.

> *"There might have never been a Treaty at all if not for the Declaration of Independence"*[134]

Perhaps the same can be said of the Declaration of Independence if not for a particular incident concerning the impounding in Sydney 1833c of a New Zealand made ship that was not flying an official ensign, the master of that ship was forced to erect a Māori mat as its ensign from its mast head before it was allowed to leave. In consequence to that event, in 1834, Busby convened a meeting of twenty five northern chiefs at his residence in Waitangi to discuss the selection of an official flag for Aotearoa. A flag was chosen and then hoisted beside the Union Jack thus recognizing Māori sovereignty over Aotearoa.

In 1835 Busby has concerns about other nations taking an interest in Aotearoa. One such case concerns a dubious Frenchman named Charles Phillipe Hippolyte de Thierry[135] who went by the title of Baron de Thierry. History has passed him off as a crackpot. He has also been described as being eccentric and pretentious, (Brooking *et al.*, 1988; Department of Internal Affairs, 1990; Durie, 1998; Rice et al., 1992; Walker, 1990; Wilson, 1990). The following extract is the *"Address to his Countrymen"* by James Busby dated October 10th, 1835,

> *"The British Resident announces to his countrymen that he has received from a person who styles himself 'Charles, Baron de Thierry, Sovereign Chief of New Zealand, and King of Nuhuhiva,' one of the Marquesas Islands, a formal declaration his intention to establish in his own person an independent sovereignty in this country, which intention, he states, he has declared to their Majesties the Kings of Great Britain and France, and to the President of the United States, and that he is now waiting at Otaheite the arrival of an armed ship*

[134] (Durie, 1998: 176)
[135] (Department of Internal Affairs, 1990: 533)

from Panama to enable him to proceed to the Bay of Islands with the strength to maintain his assumed authority"[136]

The British Resident to New Zealand James Busby did take Baron de Thierry and his declarations very, seriously indeed. Eighteen days later on October 28th, 1835, Busby again convenes an even more significant meeting at his residence in Waitangi of thirty four chiefs from Northland to Pare Hauraki. The purpose of the meeting was for these chiefs to agree with and to sign the Declaration of Independence 1835, thus creating a body known as,

"The Confederation of the United Chiefs and Tribes of New Zealand"[137]

They agreed to meet every year at Waitangi in the autumn to establish laws for the good and well being of their country. British representatives who were present at this meeting were James Busby, Rev Henry Williams, George Clarke, Esq., C.M.S., James, E. Clendon, and Gilbert Mair.

James Busby continued collecting signatures until 1839 from chiefs with added signatures coming from the likes of Patuone, Tamati Waka Nene, Mohi Tawai, Nopera, Panakareao, Taunui, Papahia, Tirarau, Parore, Te Hapuku of Ngāti Kahungunu and Potatau Te Wherowhero ariki of the Waikato tribes. The first clause declares to the world that Aotearoa is an,

"Independent State under the designation of the United Tribes of New Zealand"[138]

The second clause declares Māori sovereignty over their lands and territories of Aotearoa. It is interesting to note that the words Kingitanga and mana are the Māori language translations for sovereign and power.

The third clause declares that the chiefs will convene at Waitangi every autumn of every year to discuss laws designed towards peace, justice, preservation, agriculture, and the regulation of trade. In this clause was an invitation to the southern tribes to lay aside all animosities and join the United Tribes of New Zealand.

The fourth clause was for the United Tribes of New Zealand to send a copy of the Declaration to King William IV, to thank him for recognizing their flag, for his friendship and then asked that

[136] (New Zealand *et al*, 1976: 1)
[137] Ibid
[138] (Walker, 1990: 88)

he be the parent and protector of their new born state from all attempts upon its independence. With this the British Government agreed.

These thirty four chiefs swore allegiance and adopted the flag they chose in 1834 as their ensign. In 1839 thirteen more signatures were collected and in all fifty two chiefs signed the Declaration of Independence, (Brooking et al., 1988; New Zealand *et al.*, 1976; Orange, 1989; Project Waitangi, 1989; Ross, 1971; Walker, 1990). A translation of the Declaration as well as this letter was forwarded by James Busby to Under Secretary Hay,

> *"No. 1.*
> *The British Resident to the Under Secretary of State. Sir, - British Residency at New Zealand Bay of Islands, 2nd November, 1835. I have the honor to enclose herewith a copy of a Declaration of Independence by the chiefs of the Northern parts of New Zealand, of the independence of their country, and of their having united their tribes into one state, under the designation of "The United Tribes of New Zealand" In this Declaration the chiefs entreat that His Majesty will continue to be the parent of their infant state, and that he will become its Protector from all attempts on its independence; and it is at their unanimous desire that I transmit this document, in order to its being laid at the feet of His Majesty (signed) James Busby British Resident at New Zealand"*[139]

Figure 2[140]

The Declaration of Independence
Preamble
"This declaration was adopted at Waitangi on October 28, 1835. Thirty-five ariki and rangatira representing iwi and hapu from the far north to the Hauraki Gulf signed the declaration at that hui. Later, other notable leaders added their signatures; those from outside the Tai Tokerau included Te Hapuku of Ngati Kahungunu and Potatau Te Wherowhero of Tainui. The English translation presented here was sent to the Under Secretary of State at the Colonial Office in London by James Busby, British Resident in New Zealand, on 2nd November, 1835.
Declaration of The Independence of New Zealand
1. *We, the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi in the Bay of Islands on this 28th day of October, 1835, declare the*

[139] (New Zealand *et al,* 1976: 2)
[140] (New Zealand *et al*, 1976: 4)

Independence of our country, which is hereby constituted and declared to be an Independent State, under the designation of the United Tribes of New Zealand.
2. *All sovereign power and authority within the territories of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declare that they will not permit any legislative authority separate from themselves in their collective capacity to exist, nor any function of government to be exercised within the said territories, unless by persons appointed by them, and acting under the authority of laws regularly enacted by them in Congress assembled.*
3. *The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi in the autumn of each year, for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade; and they cordially invite the Southern tribes to lay aside their private animosities and to consult the safety and welfare of our common country, by joining the Confederation of the United Tribes.*
4. *They also agree to send a copy of this Declaration to His Majesty the King of England, to thank him for his acknowledgement of their flag; and in return for the friendship and protection they have shown, and are prepared to show, to such of his subjects as have settled in their country, or resorted to its shores for the purposes of trade, they entreat that he will continue to be the parent of their infant State, and that he will become its Protector from all attempts upon its independence.*
Agreed to unanimously on this 28th day of October, 1835, in the presence of His Britannic Majesty's Resident. [Signatures or signs of 35 chiefs, from North Cape to the Hauraki Gulf]
English Witnesses-
(Signed) Henry Williams, Missionary, C.M.S.
George Clarke, C.M.S.
James C. Clendon, Merchant.
Gilbert Mair, Merchant.
I certify that the above is a correct copy of the Declaration of the Chiefs, according to the translation of Missionaries who have resided ten years and upwards in the country; and it is transmitted to His Most Gracious Majesty the King of England, at the unanimous request of the chiefs.
(Signed) JAMES BUSBY
British Resident of New Zealand"

For Māori the Declaration of Independence confirmed iwi Māori sovereignty and a guaranteed their independence over their country and traditional customary regional boundaries. It was the first attempt by Māori which Pare Hauraki were a major Part of for the unification of all tribal identities and by its flag recognized the rights of all tribes to nationally and internationally trade as an independent nation.

For the Crown and James Busby the appointed British Resident of New Zealand and by the Declaration of Independence he was able to inhibit agreements between other nation's and Māori chiefs, it neutralized his rival Thomas McDonald in the Hokianga and put to rest any cunning plans and fancy's that Baron de Thierry had for Aotearoa.

Under closer examination the Declaration of Independence reveals direct links to the Tiriti o Waitangi as the Colonial office treated the United Confederation of Tribes very seriously in that it accepted the Confederation as 'indisputable' that Māori held customary title to the soil and sovereignty of Aotearoa.

British acceptance of the 'Sovereign Independence' of Māori meant that the British now had to initiate a formal negotiated Treaty with Māori if they were ever to govern Aotearoa as New Zealand and as a result the Declaration of Independence became the forerunner to the Tiriti o Waitangi, 1840, (Brooking et al., 1988; Department of Internal Affairs, 1990; Durie, 1998; Orange, 1989; Project Waitangi, 1989; Ross, 1971; Walker, 1990).

Te Tiriti o Waitangi 1840

When James Busby was British Resident to Aotearoa he was continuously criticized for his ineffectiveness to control and apprehend any settler lawlessness and misconduct. Requests for troops as well as warships were denied, nullifying his power to arrest anyone as Aotearoa was an independent state and his role was simply that of a civilian.

In the late 1830s, because of the dubious land dealings and goings on at that time Busby put forward to the Colonial Office that a British protectorate was needed in New Zealand. His report described local Māori as being in an appalling state of health and blamed this on the impact of Europeans.

At that time the British Government was reluctant to have Aotearoa as one of their colonies and did not want to be responsible for three islands on the other side of the world. However, the Aborigines Protection Society in Britain had considerable influence and was concerned about the impact of colonization on Māori.

The New Zealand Association later to become the New Zealand Company was only concerned with settler interests with designs of setting up Aotearoa as a British Colony under the principles and concepts of Edward Gibbon Wakefield.

Because of the 2000 settlers already here and the thousands that were expected to immigrate to New Zealand, theirs was only to protect their own economic trade and with that the British sent William Hobson to New Zealand. By Britain's recognition of the Declaration of Independence Hobson could only deal with Māori by way of a Treaty.

Instructions from Lord Marquis of Normandy being the Secretary of State for the Colonies from the British Colonial Office were to make a treaty agreement with Māori, to get the free and intelligent consent of chiefs and to acquire the sovereignty over all or part of New Zealand for Queen Victoria and the British Empire. On the 29th of January 1840 Hobson arrives at Waitangi, (Brooking et al., 1988; Orange, 1989; Project Waitangi, 1989; Ross, 1971; Walker, 1990).

- **Te Hainatanga o Te Tiriti o Waitangi 1840**[141]

Te Tiriti o Waitangi was signed at Waitangi by around 43 chiefs on the 6th of February 1840. It was then taken around the country with another 500 signatures being collected from 39 other areas of the north and south Islands. However, when brought to Hauraki on the 4th of May 1840 Ngāti Tamaterā under Taraia Ngākuti-te-Tumuhuia did not sign,

> *"Taraia did not sign the Treaty of Waitangi. When Major Thomas Bunbury presented the treaty to the Coromandel chiefs on 4 May 1840, Taraia was very likely one of two chiefs who were present but refused to sign. One consequence of this refusal to acknowledge the transfer of sovereignty was that he claimed a right to resolve disputes by force as he always had"*[142]

[141] The Signing of the Treaty of Waitangi
[142] (Department of Internal Affairs, 1990: 427)

Whakapapa for Taraia and Tukukino

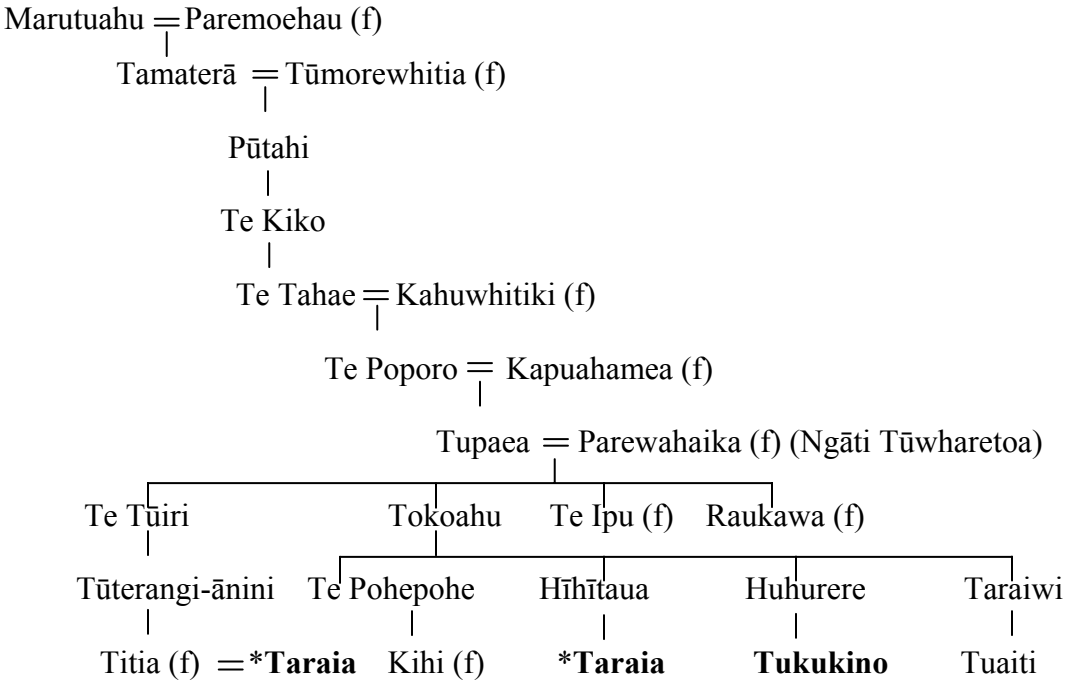

Figure 3[143]

Herald-Bunbury Treaty Copy signatories				
	Signed as	**Probable name**	**Tribe**	**Hapu**
Signed on 4 May 1840, at Coromandel harbour, witnessed by Joseph Nias and Thomas Bunbury				
1	Te Horeta te Taniwa	Te Horeta Te Taniwha	Ngati Whanaunga	Te Mateawa?
2	Kitahi	Kitahi [Te Taniwha]	Ngati Whanaunga, Ngati Paoa	Te Mateawa?
3	Puakanga	Puakanga	Ngati Whanaunga?	
4	Hauauru	Hauauru	Ngati Paoa, Ngati Whanaunga	
Signed on 7 May 1840, on HMS Herald off Mercury Islands, witnessed by Joseph Nias				
5	Purahi	Purahi	Ngati Maru	from Mercury Bay?
6	Ngataiaepa	Nga Taiepa	Ngati Paoa	Te Rapupo

[143] (New Zealand History Online)

By the Treaty prior occupation of Aotearoa/New Zealand by Māori was recognized by the Crown. It allowed the Crown by their right of pre-emption to acquire Māori land for settlement incentives to ensure immigrants could come to New Zealand and live in peace. In return Māori were given the rights and privileges of British citizenship.

The Crown guaranteed to actively protect the Māori way of life, their tino rangatiratanga and tribal authority over their, lands, waterways, oceanic areas and foreshore, fisheries, forestry's, treasures customs, language and culture and views, (Department of Internal Affairs, 1990; Orange, 1989; Project Waitangi, 1989; Walker, 1990).

- **What is Te Tiriti o Waitangi, 1840?**

Te Tiriti o Waitangi is a contract involving two sovereign nations which forms a covenant between the Crown and Māori. By the signing of Te Tiriti o Waitangi, Pākehā were in fact recognizing Māori sovereignty as is in its pre-amble, that expresses that the Māori presence should continue and be protected.

The Tiriti is of this world it is witnessed by people and guaranteed by the state. A covenant is witnessed and guaranteed by God. Although Te Tiriti o Waitangi is a living document, contracts subsist within a legal framework.

There is trepidation that the Tiriti/Treaty is being lead towards a narrow legal framework of lawyers and its living spiritual element as a covenant is being ignored. A covenant is the term used to define a relationship that is spiritually binding to all those involved.

The Old Testament of the Bible is a Covenant between God and the people of Israel. The New Testament changes this to a Covenant between God and the Church. Māori see the Tiriti as a living document and in the same light as the Bible, the Tiriti is a sacred covenant between the Crown and Māori, (Durie, 1998; Project Waitangi, 1989).

- **Who Drafted the Treaty?**

The English draft was then translated into Māori by Rev Henry Williams a missionary and his son Edward Williams.

"Captain William Hobson on written instructions from the Colonial Secretary the Marquis of Normandy; with the official Resident James Busby and Hobson's secretary Freeman"[144]

Originally there were four English versions of the Treaty and one in Māori in which its translation matched none of the former, (Project Waitangi, 1989; Walker, 1990).

- **Which Version Takes Precedence?**

The Waitangi Tribunal has been instructed to have regard for both versions of the Tiriti/Treaty as both have signatures on it. However, if there is any ambiguity then the international law and principle of contra-proferentum apply. This means that the indigenous language text takes precedence, (Project Waitangi, 1989).

- **Did Māori Cede Sovereignty to the Crown?**

No, although in the English version that states Māori would sign away their sovereignty to Queen Victoria 540 chiefs did not sign this text. After lengthy explanations were given in Māori, the English text was signed by thirty nine Waikato chiefs in April of 1840.

It is obvious by the vast distinction in meaning as well as the differentiation of signatures in comparison to both texts, and with the subsequent events following the signing of Te Tiriti o Waitangi it is evidently clear that Māori would never intentionally sign away their mana/sovereignty to anyone and by the Māori version of the Tiriti, Māori remain sovereign, (Project Waitangi, 1989).

- **What Was Ceded by Māori?**

Kāwanatanga that is the governorship was ceded to Crown. Māori retained their tribal sovereignty and tino rangatiratanga expressed in Article II. Pākehā such as Governor Grey not King Grey who claimed to be the Crown acted as the Queens representative to hold power of Governorship over their own people alongside Māori as sovereign chiefs in their own right.

[144] (Project Waitangi, 1989: 7)

With Henry Williams being the translator of the Declaration of Independence as well as the Tiriti o Waitangi he would have been well aware that if he had used in first Article of the Tiriti the words Kīngitanga, arikitanga, or mana which are the Māori terms for sovereignty then Māori would never have signed, (Project Waitangi, 1989).

> *"The explanation given at treaty signings support that conclusion that though the Maori expected the treaty to initiate a new relationship, it would be one in which Maori and Pakeha would share authority…*
>
> *Maori were encouraged to believe that their rangatiratanga would be enhanced…and that Maori control over tribal matters would remain…*
>
> *…whatever Williams intended it is clear that the treaty text, in using kawanatanga, did not spell out the implications of British annexation"*[145]

It is a fact that the reason why many chiefs signed the Tiriti is because their tino rangatiratanga was guaranteed under Article Two**,** (Orange, 1989; Project Waitangi, 1989; Ross, 1971; Walker, 1990).

- **What Does the Fourth Article Mean?**

During the signing of the Tiriti a Catholic named Bishop Pompallier and an Anglican named William Colenso discussed the right of religious freedom.

> *"…e mea ana te Kawana ko nga whakapono katoa o Ingarangi, o nga Weteriana, o Roma, me te ritenga hoki e tiakina ngatahitia e ia"*[146]

Hobson in discussion agreed with these clergymen and others that the English, Wesleyan and Roman churches with the writers interpretation of this article to mean that all faiths which has proven in history to be the case, the Mormon or Destiny Churches are such examples so undoubtedly this includes Māori religion beliefs and customs, shall be protected by the Crown, (Project Waitangi, 1989).

[145] (Project Waitangi, 1989: 8-9)
[146] Ibid: 11

Figure 4[147]

The Treaty of Waitangi
Preamble
"HER MAJESTY VICTORIA Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands - Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant-Governor of such parts of New Zealand as may be or hereafter shall be ceded to her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.
Article the First [Article 1]
The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole sovereigns thereof.

[147] Ibid: 30

Article the Second [Article 2]
Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.
Article the Third [Article 3]
In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.
[signed] William Hobson, Lieutenant Governor.
Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof in witness of which we have attached our signatures or marks at the places and the dates respectively specified.
Done at Waitangi this Sixth day of February in the year of Our Lord one thousand eight hundred and forty"[148]
Te Tiriti o Waitangi
Preamble
"KO WIKITORIA te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira - hei kai wakarite ki nga Tangata maori o Nu Tirani - kia wakaaetia e nga Rangatira Maori te Kawanatanga o te Kuini ki nga wahikatoa o te wenua nei me nga motu - na

[148] (Orange, 1989: 31)

te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.
Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.
Na kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei amua atu ki te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.
Ko te Tuatahi
Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu - te Kawanatanga katoa o o ratou wenua.
Ko te Tuarua
Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangitira ki nga hapu - ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua - ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.
Ko te Tuatoru
Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini - Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.
[signed] William Hobson, Consul & Lieutenant-Governor.
Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.
Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki"

Overview

As we know it today the national culture of New Zealand was founded and derived by the Declaration of Independence and the Tiriti o Waitangi, which has developed from both Māori and Pākehā tradition and culture. Tribalism and kinship, the spiritual and physical oneness with the natural world, to remember our ancestors and to honour their deeds, to use and conserve resources to maintain the balance and link between the physical and the spiritual realms of Māori, is the emphasis of Māori.

There are three areas of English common law that applied to what was perceived as a territory judged to have no developed system of law and that was ready to be colonized by the British. These three areas of law are,

a. *"To establish the sovereignty of the Queen either by treaty or by what ever means so as to institute automatically the first people or peoples of that land as British subjects, subject to English common law and entitled to its rights"*

b. *The lands, possessions, and properties of these native inhabitants would be protected"*

c. *The native inhabitants could only sell their land to the Crown"*[149]

The areas are designed to undermine aboriginal land tenure and are in essence the laws set out in the English version of the Treaty of Waitangi. On the side of the British, the Treaty was not intended to concoct a new law for a new territory, but rather to declare the rights that would automatically apply under English common law.

That is, if Māori ceded their sovereignty not kāwanatanga[150] then Aotearoa/New Zealand would become a British colony. Te Tiriti o Waitangi is the founding document of Aotearoa/New Zealand it allowed the English to settle and the Crown govern our country. It did not allow the Crown to claim outright sovereignty of Aotearoa, to treat Māori as second class citizens, to rename this country and areas within without first consultation with Māori and to literally legislatively steal everything that belongs to Māori.

[149] (Evans, 2004)
[150] Governance

CHAPTER FIVE

Raupatu[151]

"Ma te wahine ka tupu ai te hanga nei, te tangata;
Ma te whenua ka whai orange ai.
Whai hoki, ki te tangohia te wahine e te tangata ke,
Ka ngau te pouri ki roto i a koe.
Na, ki te tangohia te whenua e te tangata ke,
Ka pau to pouri ano.
Ko nga putake enei o te whawhai.
Koia i kia ai,
He wahine he oneone, i ngaro ai te tangata" [152]

Introduction

The crux of the whakataukī written above demonstrates mans love of women and land and the lengths he will go to attain both. This chapter will chronologically within the regional and geographical boundaries of Pare Hauraki.

While in the broader sense of the word this chapter will review a historical timeline and progressional renaming, alienation and cnfiscation of Pare Hauraki and Māori land and resources of the mid nineteenth and following on to the late twentieth century and then to the next chapter leading on to the Foreshore and Seabed Act 2004.

The impact of colonialism that Pare Hauraki Māori has faced is facing and probably will face long after the writer has departed stem from the time and period that is acknowledged in European history as the 'Enlightenment'.

The Enlightenment is often referred to as modernity; this involves the searching for knowledge that may be there, but not yet known to science. The industrial revolution of the nineteenth century is itself a direct result of modernity. Colonization is the expression and expansion of a sovereign nation state applied to another part of the world.

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[151] Confiscation
[152] Women alone gives birth to humankind
Land alone gives humans their sustenance
No man will lightly except the loss of
His beloved wife, nor that of his sacred land
It is said truly that mans destroying passions
Are the love of his wife and the love of his land, (Ministry of Justice, 2001: 43)

This new knowledge was to become a major component towards the invasive colonization of native peoples such as Māori being classified together with flora and fauna and with the swipe of a pen redefining and renaming traditional customary boundaries. The English language was forced on Māori by way of assimilation, (Nicholls, 1998; Smith, 1999; Walker, 1990).

> *"Auguste Comte, (1798-1857) … believed that the solution of persistent social problems might be had by the application of certain hierarchical rules; he believed in the progress of mankind toward a superior state of civilization by means of the science of sociology, itself, (Marx and Hitler had similar notions)"*[153]

The Western view allows the invasion, power, domination, and control by the West which is embedded in Western scientific determination for the benefit of the West over other societies considered by the West as inferior.

Pākehā would research and to objectify indigenous peoples or after a brief contact with Māori would solicit information from Māori, claim ownership of that information, assume to know everything there is to know about Māori then reject and deny our people the chance to table our own histories as told to us by our elders and theirs before them, (Nicholls, 1998; Smith, 1999).

Successive settler governments of the 19th and 20th centuries have processed legislative deception and manipulation concealing their true reality of motive, hence had Māori endorsing their own demise. The 1841-1844 Land Commissions were originally set up to investigate invalid land sales prior to the Tiriti o Waitangi, with those lands supposedly to be returned to Māori.

The settler government of the day either kept those lands as reserves or just paid Māori a sum of money. Māori were denied the option of selling or keeping their so called to be returned lands, (Nicholls, 1998; Orange, 1989). The hegemonic attitude of the Pākehā for Māori is in reference in which legislation along with various agreements were developed by the Crown as controlling and shaping mechanisms in which to manipulate, and to the detriment of Pare Hauraki Māori society did so to ensure that the Pākehā hold of our lands, waterways, and Tīkapa Moana would be under their power, domination and control.

[153] (Biographies, 2004)

> *"...in cultural invasion ... the invaders mould; those they invade are moulded. The invaders choose; those they have invaded follow that choice. The invaders act; those they invade have only the illusion of acting. For cultural invasion to succeed, it is inessential that those invaded become convinced of their inferiority"*[154]

Hegemony is how dominant groups or individuals maintain their power. It is the capacity of the dominant classes to persuade the subordinate with or without the threat of force to dictate for its own advantage and benefit. As a result indigenous cultural perspectives become obscured and skewed in favor of the oppressor, (Nicholls, 1998; Walker, 1990).

The Crown assimilated and suppressed Māori well into the 19th and 20th century by way of legislative acts used as tools to seize, dominate and control the Māori people, our country and resources of Aotearoa/New Zealand. The control of Hauraki resources have been gained by successive settler governments by the imposition of its laws and bias attitudes.

Successive settler governments have implied that their right of pre-emption was to protect Māori it was in fact a ruse to take possession and control of Māori land, water ways, rivers, oceanic areas its fisheries, resources and in the case of Pare Hauraki the precious metals there also, (Nicholls, 1998). Principle methods concerning the alienation of Māori lands were purchases under native land acts, public works takings and old land claims. This chapter will expose how the Crown achieved their theiving objectives in Pare Hauraki and why, (Ward, 1997).

Naming and Claiming

History has shown that one of the major key components for the subjugation and domination of indigenous peoples has been the invasive re-naming and re-labeling of those said peoples and their ancestral lands by the ruling hierarchies such as Māori being named 'Māori' by Pākehā and then being identified as the other.

When Cook sailed into Tīkapa Moana which is now called the Hauraki Gulf, he re-named the ancient river of the Waihou to the River Thames and now the township of Thames stands at a place formally known as Kauaeranga. Indeed this is a small portion of England brought hither.

[154] (Nicholls, 1998: 49)

The naming and renaming of this land and its people has been and continues to be a core principle instrument in the changing the colonial geography of Aotearoa New Zealand and in this particular case Pare Hauraki which is now more commonly known outside the of Hauraki as the Coromandel Peninsula.

More often than not the various reasons offered that necessitated the Crown to re-name significant landmarks such as mountains, lakes, rivers or harbours, gulfs or oceans or any other geographical feature are the,

- Recognition of gallant defeats in war
- To recognise dubious victories
- To memorialize some homeland politician
- To memorialize Imperial connections
- As a reward for some civic duty
- As a form of ownership, domination and control
- To be spared the agony of trying to correctly pronounce Māori names [155]

There are also misconceptions of Pare Hauraki Māori place names one such example is Māhanga the grandfather of Marutūahu who was killed by Ngāti Huarere below their pā of Tutukākā where the township of Thames is now situated. However, the area now known as Rua-mahunga about twenty kilometers north of Thames is believed by many to be the area where Māhanga was killed. It is in fact the area where Ngāti Huarere used the head of Māhanga as ground bait.

> *"Embarking on to a relative who lived at Te Puru Māhanga's canoe was storm-blown on to the beach at the mouth of the Waiotahe Stream below Tutukākā, a Ngāti Huarere pā where the present town of Thames now stands ... [Ngāti Huarere] were thus led to the waiting Māhanga. The luckless chief was thereupon captured killed and eaten .... His head was saved and used as ground-bait..."*[156]

[155] (Crawford, 2004)
[156] (Royal, 2000: 174)

Thousands of names to say the least that once commemorated historical events, ancestors of renown or were used for geographical land marks or navigational aids or for whatever reason at have been replaced, reassigned or lost forever.

Disconnection to ancestral lands continues with street names such as Queen St, Pollen St or Upper Grey St located at Thames within the roads and regional boundaries of Hauraki. The renaming of these areas can be regarded as furthering processes of dispossession, (Crawford, 2004; Mead, 1997; Nicholls, 1998; Royal & Turoa, 2000; Smith, 1999; Z. Williams & Williams, 1994)**.**

The Commission

After the Tiriti, William Hobson and company felt compelled to investigate all pre Tiriti land dealings between Māori and individuals. The Crown initiated a lands claim bill on May the 28th 1840. A Commission was established to investigate pre Treaty land purchases from Māori. Let it be noted that land dealings prior to 1840 were between individuals and Māori. The Commissions function was to,

1. *investigate each claim to see if the claim was equitable*
2. *identify and locate the areas that had been sold*
3. *restrict the purchases to 2,560 acres*[157]

The purpose of the Commission was to reprimand speculators and to protect actual settlers. Any claims to land over 2,560 acres were deemed invalid. The access land in question would thereafter be called, 'surplus lands' Māori were led to believe that these lands would then be returned to them.

However the lands were retained by the Crown who then gave money to Māori as a form of redress. When it came to land this type of redress was literally a foreign concept to Māori. Older settlers some justifiably, felt robbed newer settlers felt that the Crown was dawdling when dealing with Māori and not progressing at a more satisfying pace when acquiring Māori land for Pākehā settlement so the Commission was followed up by the Lands Claims Ordinance Act 1841.

[157] (Nicholls, 1998: 88)

This Act in essence stated that any land 'not' occupied by Māori was 'waste land' and therefore owned by the Crown thus denying the concept of te ahi-kāroa and needless to say breaches the Tiriti. By this Act immeasurable tracts of land were taken by the Crown.

There were protests by settlers themselves, so in 1844 another Commission was set up to hear and investigate more of the so called settler claims. Many of these claimants were awarded grants well above the 2,560 acres specified as being the restriction set by the settler government of the day.

It was believed by Edward Williams a missionary and an official language translator, that Māori needed protection from unscrupulous people and land sharks alike.

> *"...and the Government wished to 'check their imprudently selling their lands without sufficiently benefiting themselves or obtaining fair equivalent"*[158]

However, at Pare Hauraki another missionary by the name of James Preece was appointed as a land purchase officer. His job was to placate and obtain the trust of Māori which in reality was a stratagem to accelerate further Crown acquisitions of Land.

It was Preece who advocated that Māori land should be purchased before they became aware of its commercial potential. The commission did prove to be consistently in favour of settler claimants, (Nicholls, 1998; Orange, 1989; Project Waitangi, 1989; Z. Williams & Williams, 1994).

Pre Treaty Land Purchases

After 1840 in the Hauraki district private parties lodged claims pertaining to 53 pre Treaty land purchase transactions between 1836 and 1840. Out of 100,388 acres that was originally claimed for only, 21,726 acres were surveyed and out of that only 14,602 acres were awarded to settler claimants and 'scrip in lieu for another 4,002 acres.' The Crown kept the remaining acreage with little or in the majority of cases, absolutely no redress at all for Pare Hauraki Māori, (Ward, 1997).

[158] Ibid: 87

- **The McCaskill Old Claim**

The McCaskill claim derives from alleged purchases in 1839 of two blocks at Hikutaia, one at Ōpūkeko, and one at Ōhinemuri. Specific claims made by McCaskill in the Thames area in 1839 amounted to over 16,000 acres.

In the case of the first two blocks the relationship between the McCaskill brothers and my ancestors was at first a harmonious one. Eventually in 1851 the McCaskill's grants were surveyed. Relationships became strained. My tupuna protested over disputed lands and resisted the so called surveyed boundaries.

In 1858 further attempts to survey land were blocked by Ngāti Maru and Ngāti Tamaterā. These iwi disputed the land sale east of the Paiakau Ridge. Māori frustration manifested and prior to the survey had implored Commissioner Francis Dillon Bell to have the matter settled.

In February 1859 Bell finally arrived. Opposition from my ancestors could not be ignored so proceedings to investigate the land claims in question were postponed until McCaskill could prove his claims. In Auckland 1862 Drummond Hay appeared before Bell and stated that Maori opposition to survey would be overcome by 'appropriate financial compensation.'

He recommended the reissuing of grants for, as well as other blocks, the block south of Hikutaia. Hay insisted that there would be zero risk of resistance from Māori when issuing grants for land survey.

Until the reissuing of the grants, Maori were led to believe that McCaskill had yet to table credible evidence that supported his claim to South Hikutaia and that Francis Dillon Bell would return to Hikutaia to honour his word. Bell was not to return.

My ancestors were outraged, denied McCaskill access to timber on disputed lands and continued further correspondence with various colonial officials. Frustrated, my ancestors in a form of resistance new to them moved and took up permanent residence at Hikutaia. Disputes escalated so while Pākehā were trying to steal and Māori were trying to defend their customary lands both sides perpetrated various acts of offensive and defensive violence, (Moore *et al.*, 1997; Ward, 1997).

"The acquittal of Lachlan McCaskill following one particular incident, and his subsequent return to Hikutaia in 1872, brought renewed Maori protest, forcing McCaskill to sell his interests to Hawke's Bay settler Henry Alley (given that the Colonial Government had refused to buy out McCaskill's shares). Maori resistance continued"[159]

Ultimately in 1879 the issue went to the Native Land Court. Judge Henry Halse being sympathetic to Maori grievances and the fact that the court could not rule in relation to Hikutaia the validity of the grants, thus ruled that Maori should be paid by way of compensation.

The land in question was not returned to Māori. Although this case has yet to be completely researched it is obvious to see that Bell's proceedings were grossly inadequate and did what it could no matter how unscrupulous to acquire the lands of Hikutaia from Pare Hauraki Māori, (Moore et al., 1997; Ward, 1997).

McCaskills Hikutaia Claim 18962-1866

Map13[160]

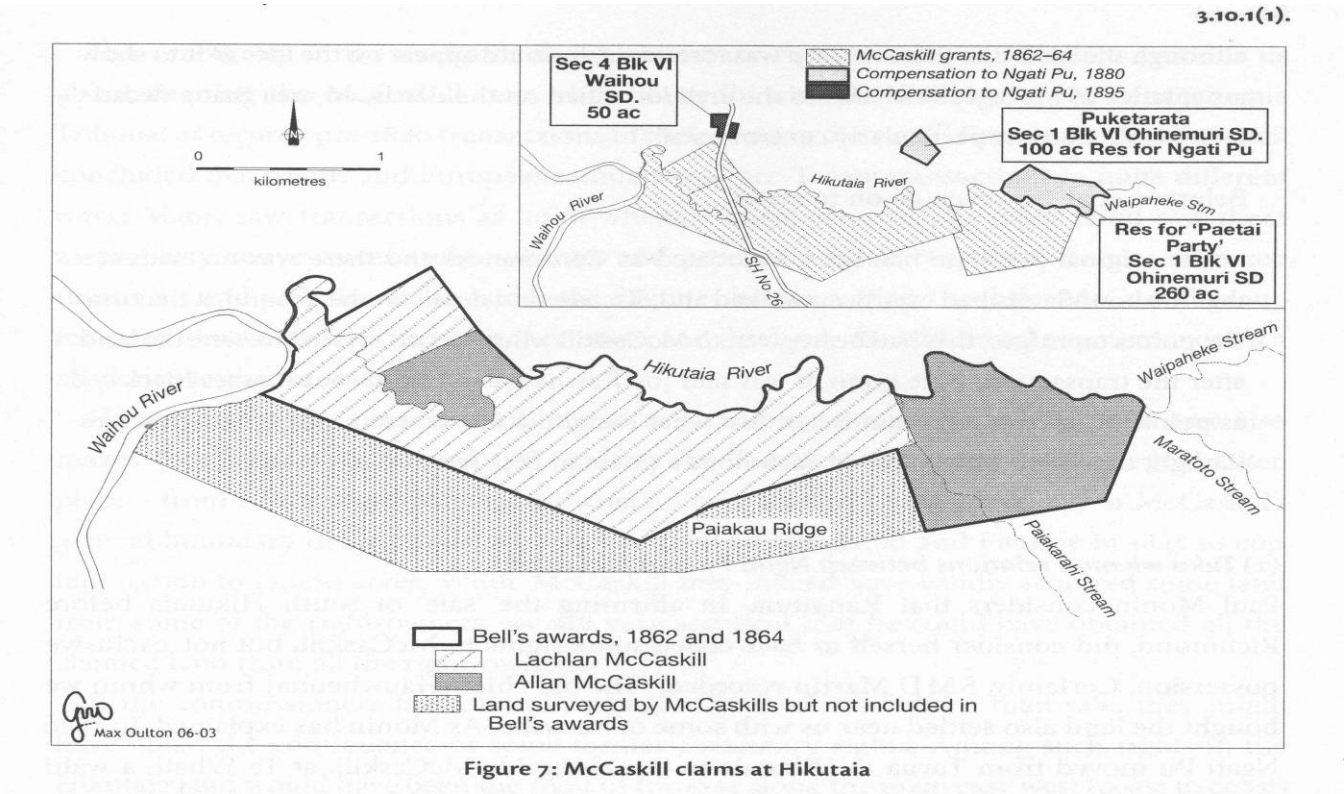


Figure 7: McCaskill claims at Hikutaia

[159] (Ward, 1997)
[160] (Waitangi Tribunal, 2006: 135)

Map 14[161]

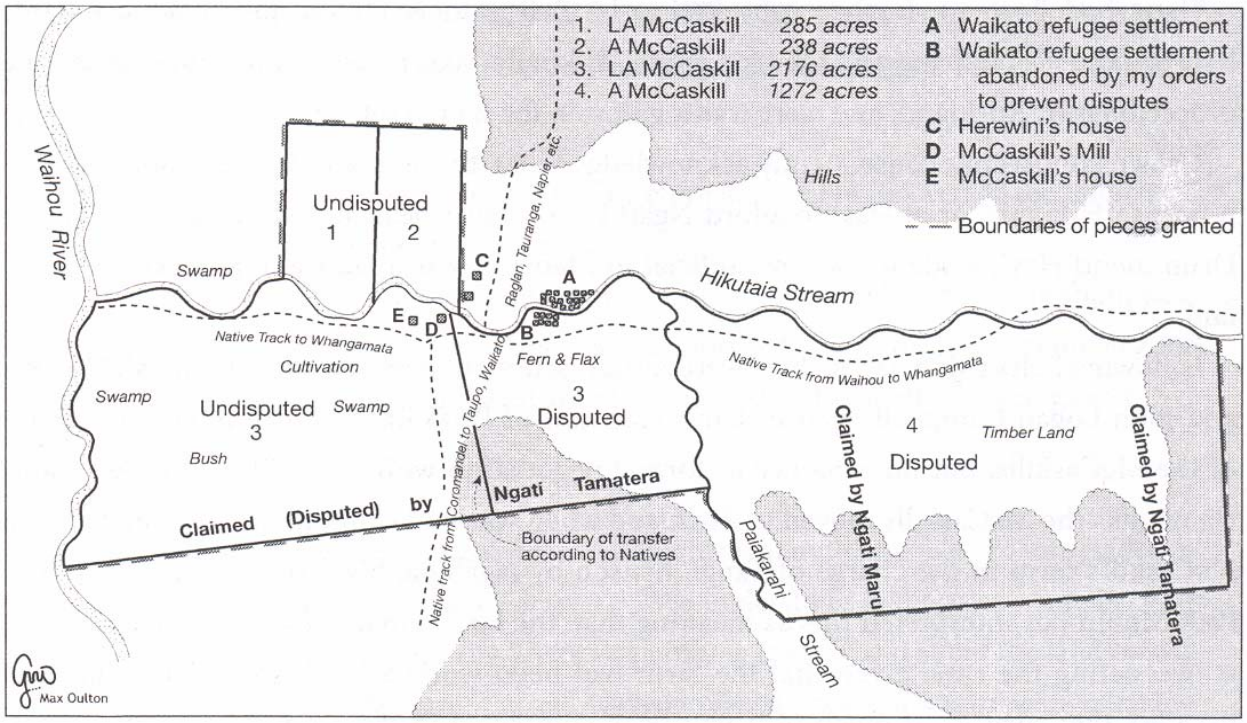


Figure 8: James Mackay's sketch plan of McCaskill awards, 1866 (redrawn)

- **The Fairburn Purchase**

The Fairburn Purchase 1836 heard by the Commission in 1844 is a most significant case indeed. In 1836 William Fairburn for ninety blankets, twenty four axes, twenty four adzes, twenty six hoes, fourteen spades, 900lbs of tobacco, twenty four combs, twelve plane irons, and 80 pounds, purchased from Hauraki Māori nearly all of south Auckland from Otahuhu to the north and Papakura to the south, (Nicholls, 1998).

> *"The whole of the dragging place at Otahuhu, go on from thence to the Ararata, from thence to the Awatiotio,*
>
> *from thence to Papakura; go on from thence to Rangiuru; from thence to the Wairoa; from thence to Wakakaiwera;*

[161] (Waitangi Tribunal, 2006: 142)

from thence to Umupuia; from thence to Poho; from thence to Maraitai; from thence to Motukaraka; from thence to Awakarihi; from thence to Mangimangiroa; from thence to Tawakaman; from thence to Waipapa;

from thence to Okokino;

from thence to the Panahoroiiwi;

from thence to the River Wangamatau:

continue on from thence to Otahuhu where it ends.

That portion of the land to the Eastward is bordered by the sea called Mimirua, flowing towards Hauraki: that to the Westward is bounded by Manukau: that to the Southward by the river Wairoa"[162]

In this deal 32 people were signatories, and although (Moore, *et al*, 1997: 82) states *"This is evident in the following 1851 statement of Ngati Paoa chief, Hauaura:"*, his name was in fact Hauauru Taipari of Ngāti Maru and Ngāti Paoa who was later to change his name to Wirope Hoterene Taipari it was he who stated that,

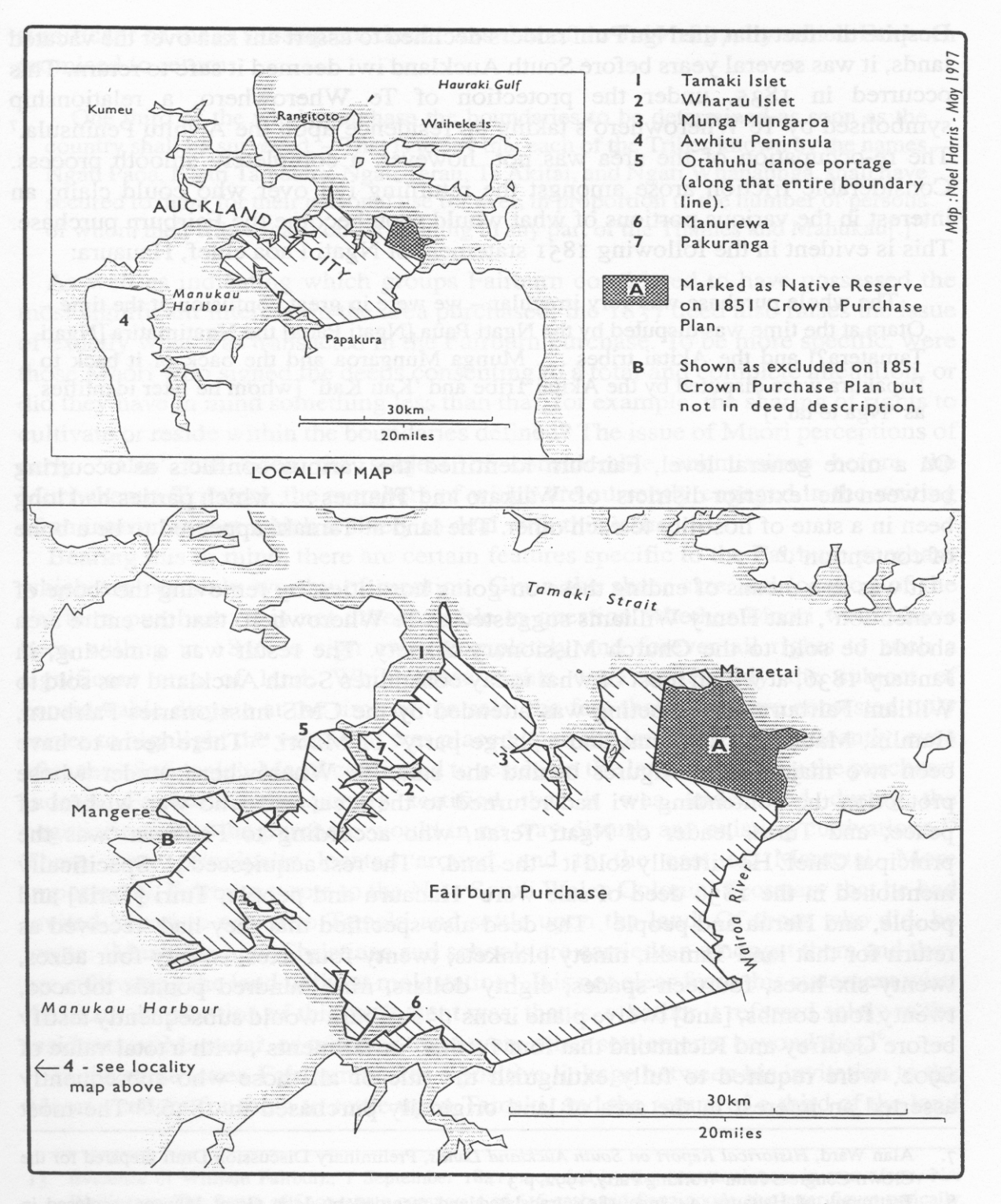
"The whole purchase was very irregular – we were in great confusion at the time – Otara at the time was disputed by the Ngati Paua [Ngati Paoa] the Ngatimatira [Ngati Tamatera?] and the Akitai tribes, ... Mungaroa and the back of it back to Papakura were disputed by the Akitai Tribe and 'Kati Kati' [whom he later identifies as 'Ngati tai]"[163]

It was estimated by Fairburn that he had purchased 40,000 acres. However, when these lands were surveyed the actual area was 82,947[164] acres. Five thousand, five hundred acres was awarded to Fairburn. The remaining 77, 447 acres of the balance of those lands was kept by the Crown, (Black, 1985; Moore *et al*., 1997; Nicholls, 1998; Z. Williams & Williams, 1994).

[162] (Moore, 1997: 81)
[163] Ibid: 82
[164] Ibid: 79

The Fairburn Purchase 1836

Map15[165]



[165] (Moore *et al., 1997*: 81)

Pre Emption Waiver Purchases

Due to the Crowns sole right of pre-emption and by having insufficient funds the Crown was unable to buy land to appease the demands of the growing settler population. Pressure to procure land from Māori forced the Proclamation of 1844 by Governor Fitzroy to waiver its sole right of pre-emption,

> *"...waiv[ing] the right of pre emption previously held up as necessary for Hauraki Protection, in order to allow settlers to purchase land from Maaori on payment of tax of 10/ - per acre ... The Settlers raised objections to the tax. Three months later the tax was reduced to a penny an acre"*[166]

Governor Fitzroy on the 26 of March 1844 implemented a

> *"...policy whereby one tenth of such purchases were to be set aside for public purposes, especially the future benefit of Māori"*[167]

Both the Home Office and George Grey gave no support to this policy and took the matter to the Supreme Court who ruled that

> *"...contrary to the Treaty and injurious to the interests of the natives"* and *...the waiver of the right of pre emption was null and void"*[168]

Pre-emption waiver purchases of Pare Hauraki lands and areas were Aotea/Great Barrier Island comprising of 3500 acres purchased by Whitaker and Du Moulin from Ngati Maru. This purchase in 1848 was disallowed for a lack of survey. The Crown kept the land.

In the late 1850s Frances Dillon Bell of the Lands Claim Commission who in 1862 would become Minister of Native Affairs made awards of 5463 acres from a surveyed area of 28,608 acres. The Crown kept the balance. The 850 acres at Waiheke Island purchased by Adam Chisholm from Patukirikiri was disallowed. The Crown took the land.

[166] (Nicholls, 1998: 87)
[167] Ibid: 88
[168] Ibid

Along with the consent of Patukirikiri de Witte purchased 700 acres at Waiheke from Ngati Paoa which was also disallowed in 1848. However in the late 1850s Bell made awards comprising of 280 acres. The Crown kept the balance. John Brigham purchased 2, 550 acres of land at Waiheke Island from Ngati Maru and Ngati Paoa who were compensated for in 1848 with debentures for £290. The Crown kept the land.

Isaac Merrick purchased 900 acres of land at Waiheke Island from Ngati Paoa which was disallowed in 1848. Bell later granted 368 acres to Merrick. The Crown kept the outstanding acreage. McGregor obtained 600 acres of land at Coromandel from Ngati Tamaterā which was disallowed in 1848 later Bell made awards of 93 acres to McGregor. The Crown took the remaining land.

Peppercorne attained 800 acres of land at Coromandel and Colleville from Patukirikiri which was disallowed in 1848 with £125 compensation being paid at that time. The Crown kept the land, (Ward, 1997: 24).

Donald Mclean between the years of 1853 to 1855 alleged that by a succession of down payments, interests of various different persons concerning particular defined land blocks of the Thames and Piako districts had been extinguished.

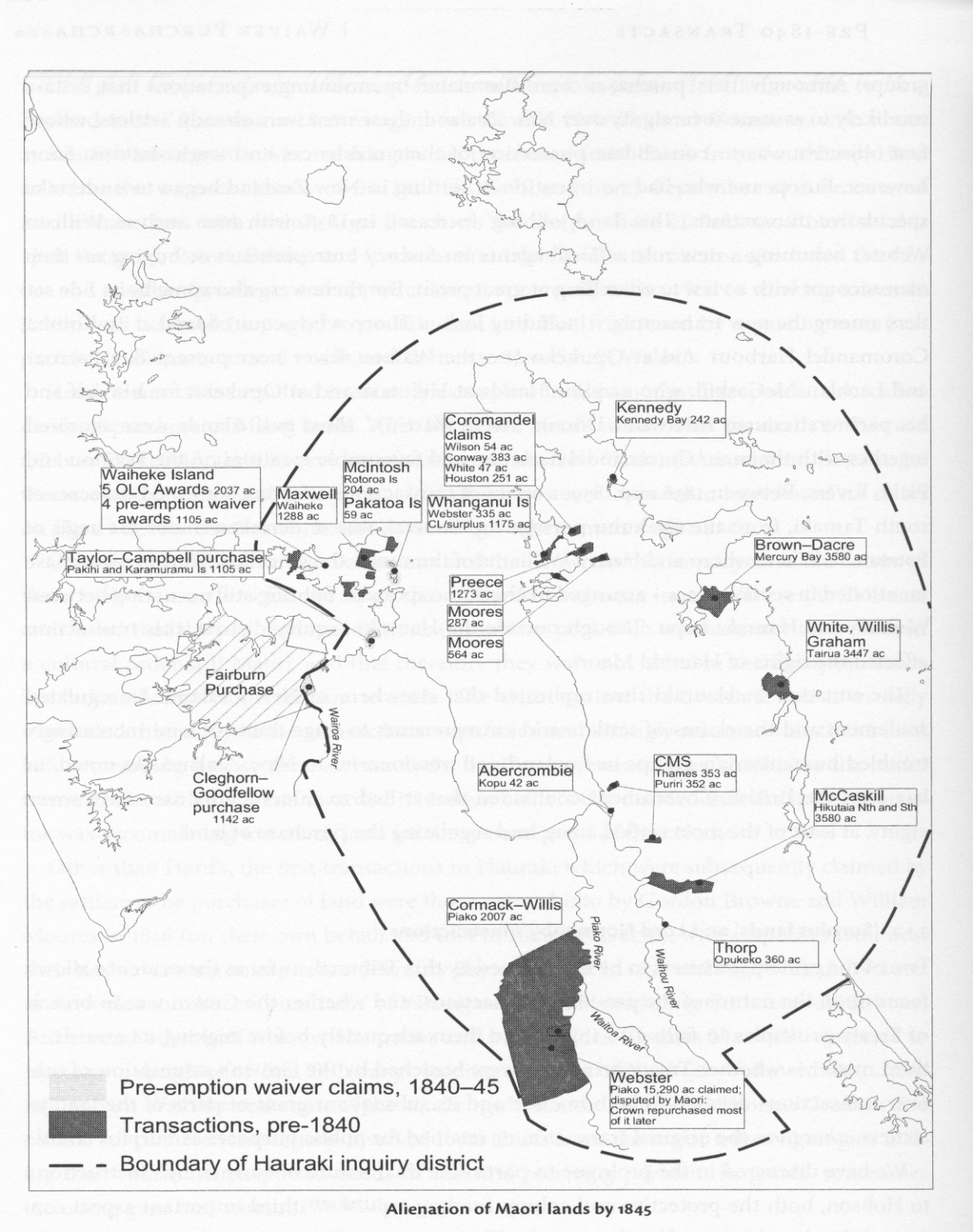
A deed for the Piako block was signed in November 1857. Reserves which included eel fisheries were made for the various claims of Ngati Paoa. In 1856 the government introduced the Lands Claims Settlement Act allowing settlers only, not Māori the right of appeal against earlier judgments that they found unjust.

During the years of 1857 to 1859 deeds were signed for, and purchases were made for various blocks on the Coromandel Harbour, Mercury Bay, and Mercury Island. In the same year from Patukirikiri and Ngāti Whanaunga respectively the Matakitaki and Papawhakanoho blocks of the Waiau were also acquired by the Crown.

From 1864 to 1865 deeds were signed for and purchases made for various other blocks of Mercury Island off Whitianga, at Pungapunga, Whangapoua as well as several blocks at Waiau, (Nicholls, 1998; Project Waitangi, 1989; Ward, 1997).

Pre-emption Waiver Claims 1840-1845

Map16[169]



[169] (Eaitangi Tribunal, 2006: 82)

Crown Purchases

By 1853 both the Government and settler alike became indignantly impatient believing that Māori were purposely holding back the progress of the Pākehā by not releasing their lands to the Crown as promptly as they would have preferred and therefore demanded,

> *"The fact that Maaori wanted to negotiate leases was no longer acceptable to the Crown. The Crown was interested in freehold arrangements"*[170]

To further hasten further acquisitions of Māori land the Government set up the Native Purchase Department. The department employed a system that simplified the processes of land purchase by altering the comprehension of tikanga Māori and tribal tenure, (Nicholls, 1998).

The whole of Kawau Island was awarded to a man named Tailor because it was believed that it contained precious metals. Along with others, Pare Hauraki tribes in April of 1841 were involved in land negotiations in which 30,000 acres were purchased at Mahurangi from Ngati Paoa, Ngati Tamatera, Ngati Maru, and Ngati Whanaunga for £200, 400 blankets, and other goods. Again in 1841, the Crown purchased from 24 chiefs of Ngati Paoa 6000 acres at Kohimarama for £100 and other assorted goods, (Ward, 1997).

At Aotea, Great Barrier Island and to promote the exploration of minerals, large areas of land was awarded to three Pākehā settlers which amounted to 8,119 acres to a Peter Abercrombie. Jeremiah Nagel was awarded 8,070 acres and 8080 acres to the American sailor William Webster. Protests from Māori caused the government to annul these grants however the Crown then awarded one grants of 24,269 acres to all three of these claimants, (Ward, 1997).

> *"Governor Robert Fitzroy and his Executive Council reviewed Webster's claims in April 1844, noting in particular that Webster and his two partners stood to lose their copper mine on Great Barrier Island, which was considered to be an asset to the colony. Grants of 5,000 acres to Webster and 12,655 acres to the persons who claimed lands bought from him were recommended.*

[170] (Nicholls, 1998: 94)

Webster, Peter Abercrombie and Jeremiah Nagle were confirmed in the possession of 24,269 acres on Great Barrier Island, which they promptly subdivided.

Of the lands which Webster claimed to have bought, title to 41,924 acres had been issued to him, or to his assigns, by 1 May 1844. Within a few months of receiving the Crown grants Webster had sold all except his Great Barrier property, which was mortgaged"[171]

Even if there was opposition by wider tribal community, declining hapū were encouraged persuaded and then pushed to sell their lands. In 1845 Dr S. M. Martin cited in (Nicholls, 1998: 89), stated that instead of the surplus lands going back to the 'natives' to quote,

"...the parties alleged to be injured, are strangely enough declared to be the property of the Crown,

... when our crime is proved the property is taken from us, but instead of being restored from whom we stole it, it is kept by the judge himself,

... Bribery and every species of deception was practiced with the view of including the poor natives to part with their birthright"

At the expense of Māori who were opposed to the alienation of their territories, Hauraki land purchase officer of the day Drummond Hay employed the tactic of backing minority sellers**,** (Black, 1985; Department of Internal Affairs, 1990; Nicholls, 1998).

"Drummond Hay refused to recognise the right of the tribe to prevent the alienation of land in which their rights intermingled with others.

Natives were told 'that if any natives could prove sound title to land they wished to sell the offer would be entertained" [172]

[171] (Department of Internal Affairs, 1990: 579)
[172] (Nicholls 1998: 95)

Confiscation

When war broke out in the Waikato the majority of Hauraki tribes who also made it known to the Crown took a neutral stance. They endeavoured to maintain their neutrality however under the Government's campaigns strict blockades were enforced along the entire coast between Maraetai Point to the River Thames through to Cape Colville which then cut across the established trade lines of the Pare Hauraki and Auckland tribes, (Nicholls, 1998; Ward, 1997).

The war in the Waikato was used by the Crown as an excuse to further confiscate Pare Hauraki lands. The Tauranga district in May 1865 was brought under the provisions of the New Zealand Settlements Act 1863 by an Order in Council, (Nicholls, 1998; Ward, 1997).

Ngā-Kuri-a-Wharei and Te Aroha were confiscation blocks that transected the interests of Hauraki Maori within those areas. These lands were located at Katikati, Pukerokoro, as well as east Wairoa and Mangatangi. Māori were forced to abandon and relocate from their ancestral home lands. Waikato central was proclaimed forfeit in May 1865 again transecting Hauraki Maori interests in the Eastern Wairoa back blocks of the Hūnua Ranges.

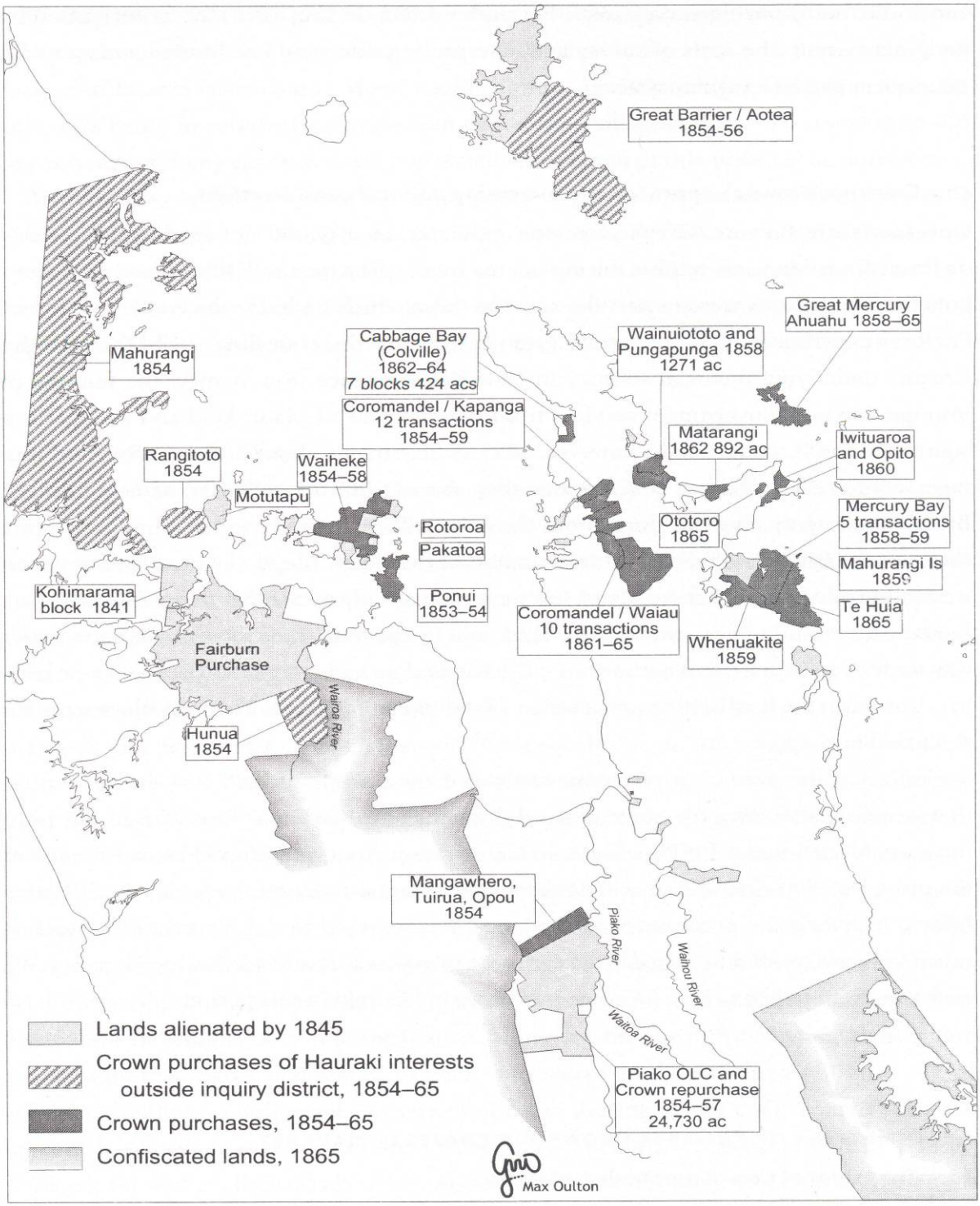
In 1865 Compensation Court hearings were convened for the East Wairoa block with awards made to the claimants of Ngāi Tai and Ngāti Paoa. The Pūkorokoro Māramarua lands were not investigated. There were further Native Land Court hearings, thus extinguishing the rights of the so called 'rebel' Māori north of the Eastern Wairoa confiscation line, (Nicholls, 1998; Ward, 1997).

In September of 1866, Hauraki hapū were compensated for their interests in confiscated Tauranga lands. One hundred pounds was given to Ngati Hura for their claims at Te Aroha and Katikati. Tāwera of Manaia was given five hundred pounds for their interests in lands from Katikati to Waimapu.

Tanumeha-te-Moananui was given six hundred pounds concerning specific area claims at Te Aroha and Katikati. Ngāti Tumutumu was given five hundred pounds for their block interests between Te Puna and Katikati. On behalf of Ngati Whanaunga twenty five pounds was received, (Ward, 1997).

Land Alienation 1854-1865

Map 17[173]

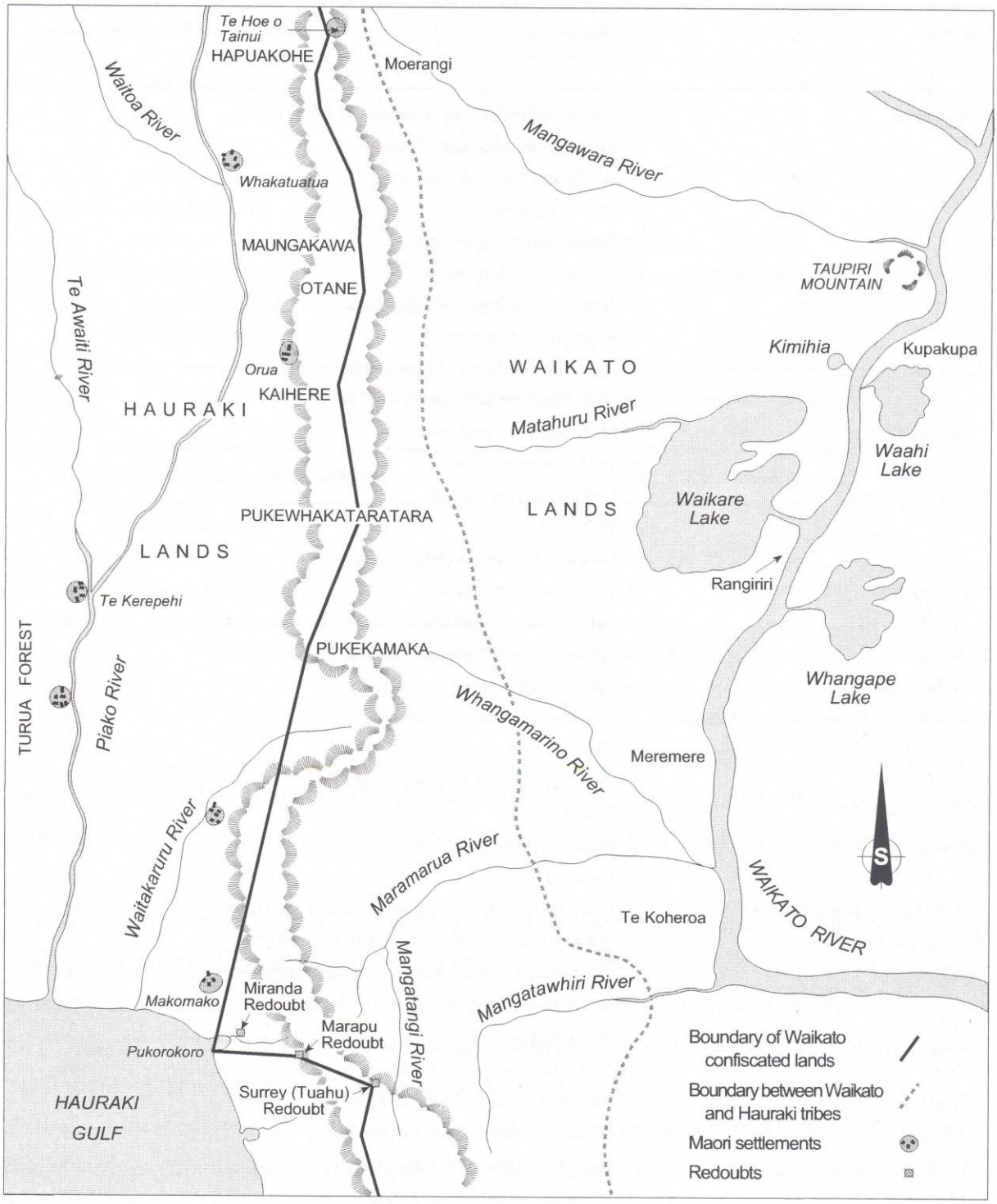


The alienation of Hauraki lands by 1865

[173] (Waitangi Tribunal, 2006: 170)

Confiscation Lines 1871

Map 18[174]



Mackay's sketch map of East Waikato, 1871

[174] Ibid: 219

Pare Hauraki River Control

By the Timber Floating Act 1873, in Hauraki along the Waihou and Ōhinemuri Rivers, so called river 'improvements' were undertaken by the Government opening access for steamer traffic. Due to Maori protests snag clearing within the region of Paeroa was suspended until 1883. Subsequently Maori lost traditional food traps, these taonga were considered irrelevant by the Government. The Government took control of the rivers. There was no redress, (Ward, 1997).

Pare Hauraki and Gold

The discovery of gold in 1852 by Charles Ring at Kāpanga Coromandel would again pressure my ancestors for their lands and its resources but this time it would be for the purposes of mining. At this time the estimated 60,000 Māori in Auckland heavily outnumbered the 12,000 Pākehā who lived there. The settler government of the day was unable to enforce what they believed to be their prerogative rights to minerals because they had no real power to act, (Nicholls, 1998; Z. Williams & Williams, 1994).

> *"...the council is unanimously of the opinion that it would be inexpedient to attempt freely to enforce Her Majesty's Prerogative Rights in the case of gold found on native's land because it would be impossible to satisfy the owners of the particular land in question, ...that such a proceeding or part of the Government is consistent with the Treaty"*[175]

With that, Lt Governor Wynyard began initiating negotiations with Hauraki Māori for the opening of auriferous lands under Crown control in a letter to George Grey he states that,

> *"...with the natives, it will be necessary to make them understand any proceedings and convince them, I have their rights and their interests at heart"*[176]

Prospects of gold being found in the Hauraki region would be enough for one to think that the owners, that is Hauraki Māori would indeed benefit and prosper from this bonanza. However, as history would prove only the Pākehā would prosper, (Black, 1985; Nicholls, 1998; Z. Williams & Williams, 1994).

[175] Nicholls, (1998:91)
[176] Ibid

- **The Patapata Agreement**

A meeting was held at Patapata Coromandel on the 18th of November 1852 to discuss the ceding of lands to the settler Government. Along with Bishop Selwyn and Justice William Martin over 1000 Māori listened as Wynyard spoke,

> *"I come to offer the protection of the Government to you as I would if the gold had been found on the land of Europeans, to protect you from all and every annoyance you might otherwise be exposed to by the strangers who might come here ... and preserve good right to your land and property, as subjects of the Queen"*[177]

The settler government promised to protect Māori from the mad rush of prospectors destined to arrive from all corners of the world and tendered an adequate proportion with Māori in relation to the administration revenue of the gold predicted to be mined.

Two days later on the 20th three Pare Hauraki iwi Patukirikiri, Ngāti Whanaunga and Ngāti Paoa signed an agreement with Wynyard which stated that Māori owned gold. It is also noted that this agreement is Tiriti/Treaty binding. Clause B is a leasing agreement which states that,

> *"The property of the land was to remain with the native owners, and their villages and cultivations to be protected as much as possible. Under Clause 9, the Crown promised that 'if any other tribes of the peninsular declined this proposal, their land should not be included <u>until they consent</u>"*[178]

Māori were willing to open certain lands for controlled mining; however it was always on the condition that the land was to remain in the hands of its Māori owners. Pita Taurua[179] of Patukirikiri stated,

> *"The gold should be given to the Governor but the land was to be held for our children.' ... [His mother reaffirmed his position] ... 'The gold only will be given up - but the land is for myself"*[180]

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[177] Ibid: 92
[178] Ibid
[179] Refer to whakapapa for Patukirikiri
[180] (Nicholls, 1998: 92)

An initial agreement to the cessation of six acres was decided upon between Māori and the settler government, with the principle of this agreement being that the government was to protect Māori from the thousands of prospectors expected to arrive on the shores of Pare Hauraki.

However, the Patapata Agreement between Patukirikiri, Ngati Whanaunga, Ngati Paoa, and the settler government for the purposes of mining eventually opened up some 17 square miles of the signatory tribes lands, (Ward, 1997). An agreement for the Crown to pay Māori a license fee per annum, for three years was arranged. Such specific terms of the agreement was for,

- The government guarantee of protection for all persons and classes pertaining to a license fee which will be paid by all prospectors not being owners of the land
- To issue licenses immediately but to hold back payment until the 1st of December 1852 then the 31st of March 1853 and then quarterly thereafter.
- For the owners to register and to point out their boundaries to the government
- For the government to pay Māori a license fee per annum for three years
- For the Māori owners to make the government aware of any and all people digging unlicensed
- Land was not to be entered upon until the Māori owners had given their consent
- The land was to stay in Māori hands[181]

Fees paid to Māori were pitiful mainly because Wynyard was against Māori receiving money on an 'uncontrolled basis' which would in his view cause idleness among Māori 'tending to vice and disease.'

It was reported by Wynyard that he was against the recommendation of paying Māori one third of the licensing revenues, that the sum would fluctuate and that it could not be spent judiciously by Māori, (Nicholls, 1998).

[181] Nicholls, (1998)

"Grey whilst supportive of Maaori working on the [gold] fields baulked at the prospect of a wealthy Maaori. Condescendingly, he believed that 'the sums of money paid to the natives would be so large as to be useless to them and the money would be foolishly squandered"[182]

Doubts among Maori as to whether or not the Crown would honour its promises for the payment and protection of their lands soon arose. One such example was the transgressions on the Te Matewaru territory which was overlooked by the Government. Some finds that indicated rich gold deposits on the eastern side of the Coromandel Peninsula that were often made without the consent or knowledge of Maori, and were compensated for after the fact.

The goldfield in Coromandel dwindled in 1853 and then petered out, finally collapsing in mid 1854. Non Māori blamed the collapse on the insecurity of the capital invested in lands that could be closed by Maori, and on the confinement of the mining activity to the negotiated areas.

This meant of course that they wanted more (Māori) land to mine without the so called interference from Māori. This is particularly indicative with respect to mining in which there was conflict concerning the public interest and Maori interest.

Problems also arose with the fact that potential gold fields could and would be rushed by miners to the detriment of all concerned and without the appropriate collaboration between Maori and the Crown.

In the following decade the Crown set in motion the acquirement of holdings of the signatory tribes to the 1852 Coromandel Patapata agreement. The Patukirikiri block which was adjacent to the goldfield for example was purchased for 120 pounds in 1857. Ten years after the 1852 Patapata agreement the Crown again broke its promise that lands wanted for mining purposes would not be entered upon unless right-holders gave their willing consent.

The Ngati Tamaterā lands that had previously been withheld from the jurisdiction of the Crown were then forcibly opened. By 1862 it was painfully obvious that these sales were detrimentally affecting my Pare Hauraki Maori ancestors of Waiau. Purchases of note were the Pawhakanoho and Matakitaki blocks of 1852. In spite of this the Crown continued purchases. The expansion of

[182] Ibid: 91

goldfields was the primary objective of the settler government, regardless of the Patapata Agreement or the Treaty of Waitangi**,** (Black, 1985; Nicholls, 1998; Ward, 1997; Z. Williams & Williams, 1994).

- **The Kauaeranga Agreement 1867**

The Kauaeranga Agreement on the 27th of July 1867 was arranged through the Crown by developing alliances with Māori who were 'disposed to selling land' James Mackay solicited the subaltern friendship and services of the Ngāti Maru Chief Hauauru Taipari it was he who would assist Mackay in further accelerating Māori land sales. Generalised terms of the Agreement were,

- *The Native owners will receive rents accruing from the land when leased*
- *Miners must hold a 'Miners right to mine gold' for the payment of one pound per annum*
- *The owners of the land were offered 1 pound per Miners right for as long as the governor shall require the land for gold mining purposes*[183]

The one pound per Miners right was relevant in that it was seen as a motivation tool to cede lands to the Crown. Māori were apprehensive and as it turned out rightly so that once the lands were ceded thus falling into the hands of the Crown that they would just as they had done with Kāpanga Coromandel thus commandeer the land for a town. This town of course is Thames, (Nicholls, 1998).

- **The Ōhinemuri Purchase**

Confusion arose over the pre-1865 payments made for Ōhinemuri Māori stated that the block would be for mining purposes only. Tukukino-te-Ahiataewa[184] along with Mere Kuru-te-Kati also of Ngāti Tamaterā for years staunchly resisted the Crowns want of opening the Ōhinemuri lands for gold mining purposes. James Mackay described my 4th Great Grandfather Tukukino as,

> *"...a pretty good "fellow but intensely obstinate"*[185]

[183] (Nicholls, 1998: 95)
[184] Refer to whakapapa on Taraia
[185] (Graham, 1965: 54)

His first cousin and comrade in arms Taraia Ngākuti-te-tumu-huia of Ngāti Tamaterā to the Governor stated that,

> *"I have consented that the gold of Ohinemuri shall be yours but I still have my land. You take the gold only"*[186]

However the Crown maintained that the block had been earmarked for its complete alienation and so it was.

> *"The MacCormick commission later stated that those least willing to sell Ohinemuri are likely to have been most unduly penalized by the transaction"*[187]

In 1880 encompassing some 73, 231 acres the Ōhinemuri goldfield came before the Native Land Court. The goldfield was subsequently divided into 21 blocks they were Ōhinemuri 1 to 19 and Ōwharoa 1 and 2.

In 1882 James Mackay convinced the Native Land Court that the Government Agents had negotiated with the correct land owners of Ōhinemuri, with the court awarding 65,000 acres to the Crown.

It is obvious that from the date of opening of the Ōhinemuri Goldfield in 1875 to the date of completion of the purchase 1882 all revenue was held by the Crown as a set-off against the imbursement of £15,000. No Goldfield revenues were ever allocated to my ancestors, (Graham, 1965; Nicholls, 1998; Ward, 1997).

- **Gold the Foreshore and Fisheries**

When agreements concerning gold were initially signed and confirmed between Māori and the Crown there were no references made concerning the foreshore.
In the original agreement with Mackay the foreshore and beach areas were excluded. However, by s. 9 of the Gold Field Amendment Act 1868 the Crown had to negotiate with Māori before any foreshore lands could be opened for mining, (Nicholls, 1998).

[186] (Z. Williams & Williams 1994: 71)
[187] (Ward, 1997: 33)

"S. 9 was interpreted as confirming the Governments sole power to deal with the foreshore, but also as recognising 'an interest' on the part of the Māori"[188]

During the 1870s and due to the sparse amount of land remaining under Hauraki Māori control and rather than to selling outright, my ancestors expressed a staunch explicit disinclination to further alienate themselves from their lands offered instead to lease the foreshore areas of Tīkapa Moana to the Crown.

However by this time and by the right of might leases full stop, was now unacceptable to the Crown, therefore flatly denying any type of lease agreements with Māori. The advice to Maori was that they were to surrender their exclusive usages of the foreshore so as to avoid confrontations with the settler population. That is, to give it up or else. By the end of the 1870s Maori control of the foreshore was no longer unquestioned and disputes arose.

Hauraki Māori endeavored to maintain and assert their man and authority but the Crown drafted the Thames Sea Beach Bill 1869 which in essence stated that all prerogative rights of the land and thus the precious metals there, below the high water mark of the foreshore adjacent to the Thames gold fields belonged to the Crown, (Nicholls, 1998).

My ancestors vehemently opposed this Bill and were outraged stating that the Crown had no rights over the lands of the foreshore or the Hauraki mud flats. At Pukerahui on the 5th day of August 1869 Tanumeha-te-Moananui of Ngāti Tamaterā and others stated,

"And now you have said that the places of the sea which remain to us will be taken…it is wrong, it is evil"[189] *"Our voice, the voice of Hauraki, has agreed that we shall retain the parts of the sea from high-water mark outwards"*[190]

"These places were in our possession from time immemorial; these are the places from which food was obtained from the time of our ancestors even down to their descendants"[191]

[188] (Nicholls, 1998: 98)
[189] (Te Matahauraki, 2003)
[190] (Z. Williams & Williams, 1999: 43)
[191] (Te Matahauraki, 2003)

"... our hands and our feet, our bodies, are always on our places of the sea; the fish, the mussels, and the shell fish are there. Our hands are holding on even to the gold beneath"[192]

- **The Kaueranga Case 1870**

In the Kauaeranga Case of 1870 although declining 'to make an order for the absolute propriety of the soil' to Pare Māori of Hauraki, Judge Fenton upheld,

"...the exclusive right of fishing, ...the surface of the soil of all that portion of the foreshore or parcel of land between high water and low water mark, which was generally interpreted at the time to constituting an exclusive right to fish only"[193]

This Judgment was opposed by the Government as they preferred that the fishing rights be purchased or else terminated so that the mining of gold could proceed unheeded. They then proclaimed that any jurisdiction of the Native Land Court within the province of Auckland was thus suspended.

This was to ensure that the Crown could no longer be embarrassed by the Native Land Court. Obviously the Crown intended the Māori to have nothing. Not long after the suspension, at a hearing in Auckland concerning an investigation of the foreshore title of the Coromandel mud flats a counsel of the Crown interrupted the proceedings and arrogantly produced the proclamation.

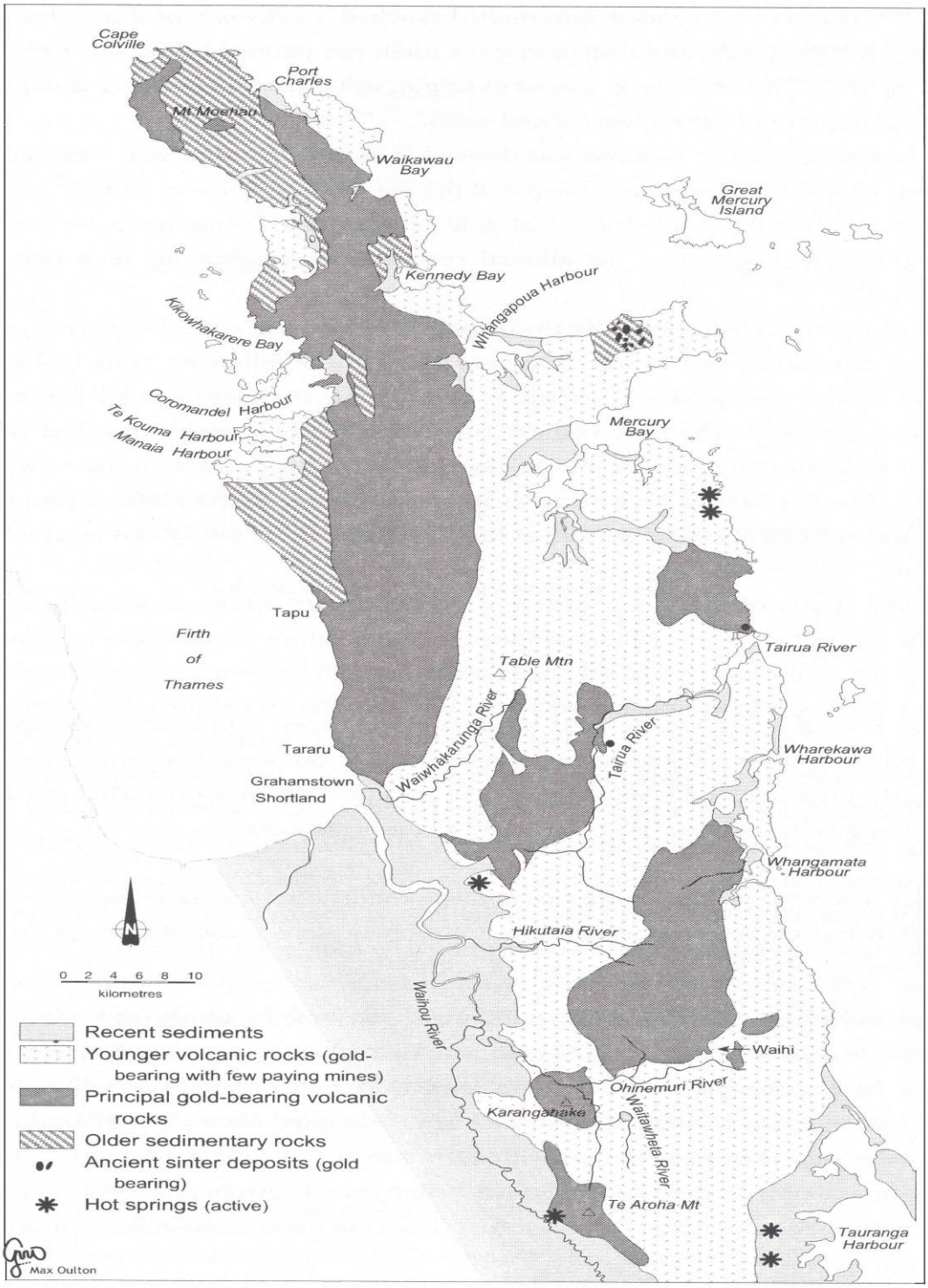
The progressive attenuation of Pare Hauraki Maori customary land rights and thus the rights of Māori in respect of gold mining totally contravenes what the Crown Government had legally acknowledged at the Coromandel Patapata Agreement of 1852.

By the late nineteenth century it was vehemently held that the land below the high water mark of the foreshore was covered by common law prescripts and therefore owned by the Crown,(Inns, 2005; Nicholls, 1998; Z. Williams & Williams, 1994).

[192] (Nicholls, 1998: 99)
[193] Ibid

Gold and Land Confiscation

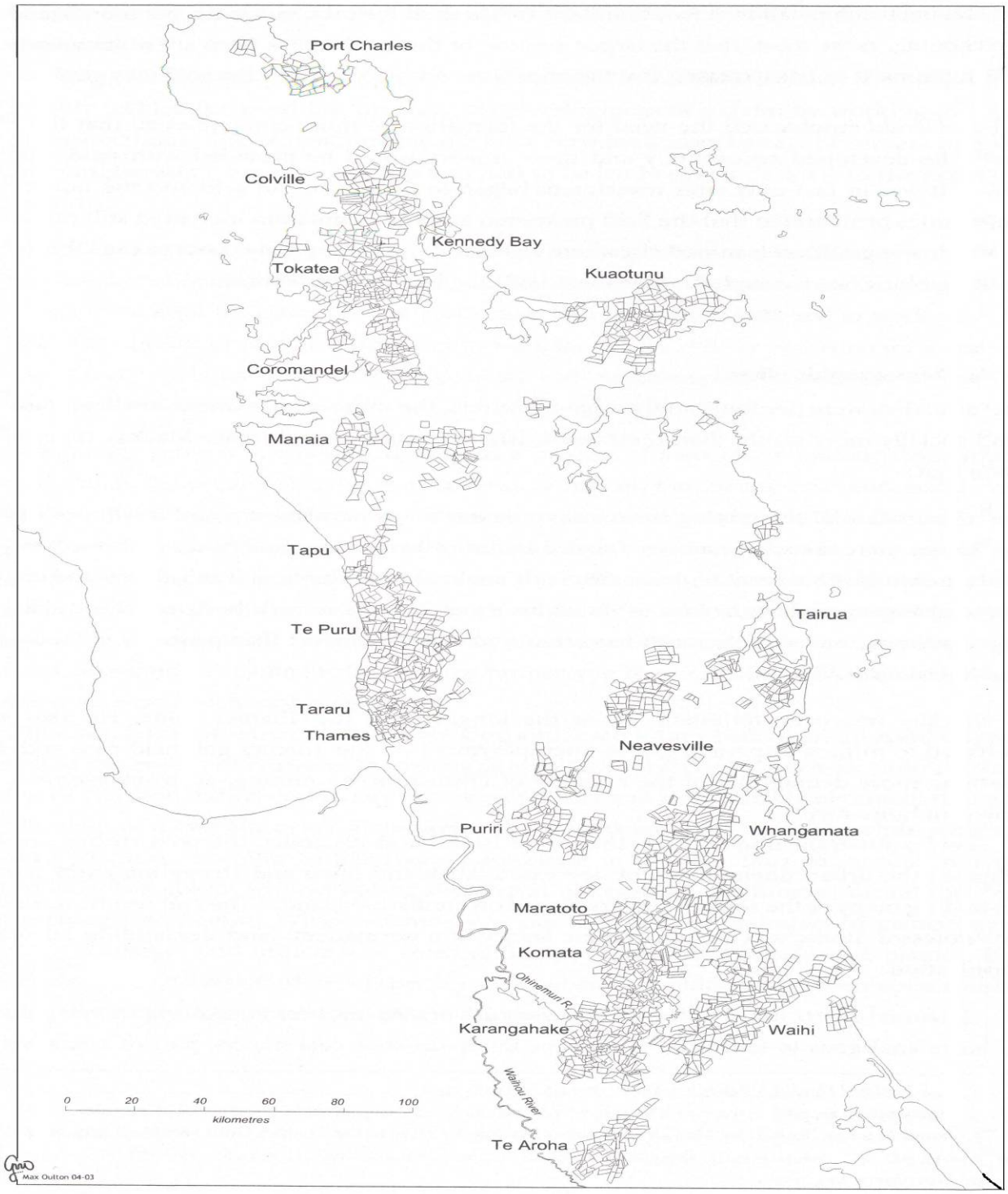
Map 19[194]



Coromandel Peninsula, Alexander Mackay's geological sketch map, 1897.

[194] (Waitangi Tribunal, 2006: 269)

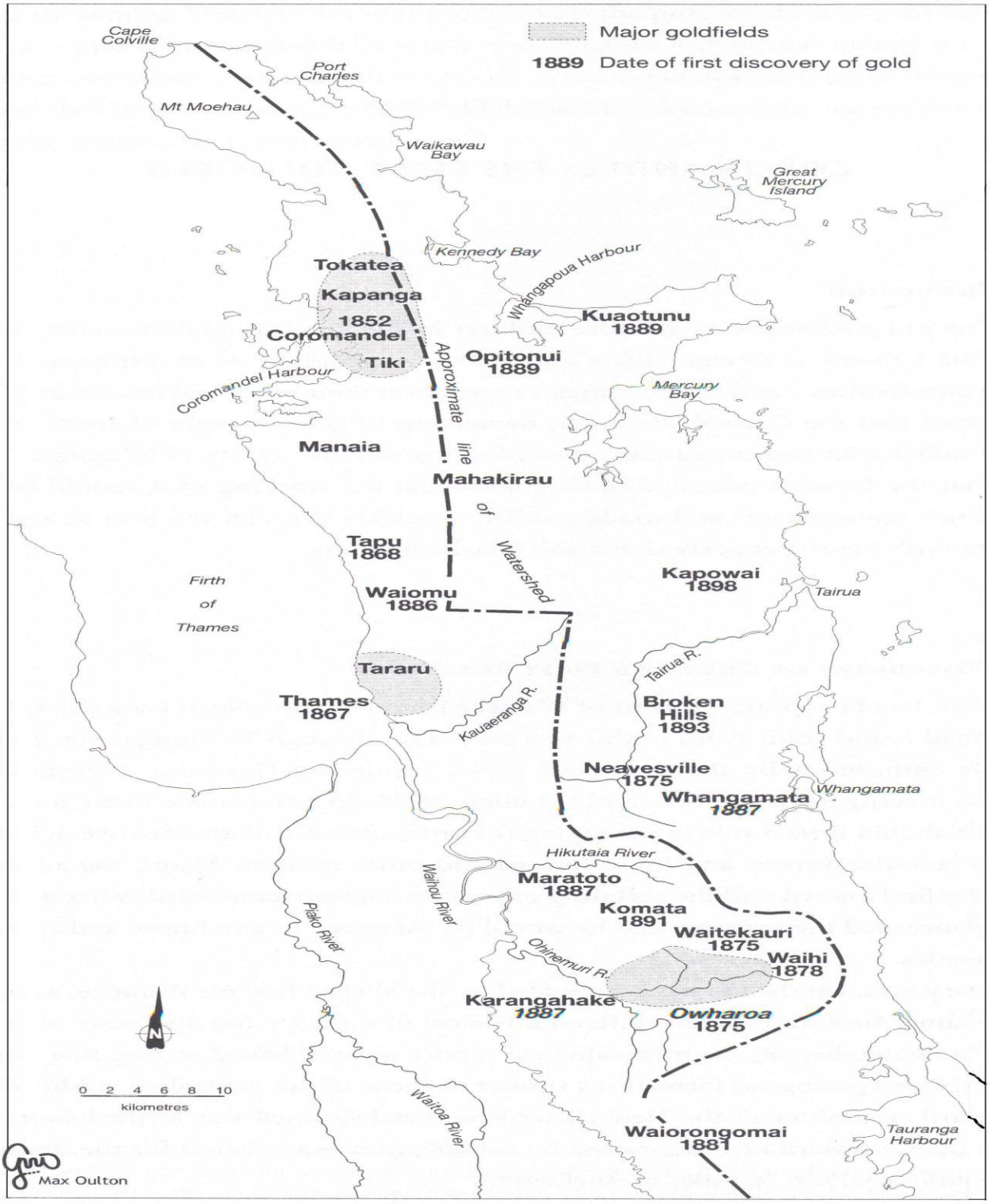
Map 20[195]



Coromandel Peninsula mining claims registered by 1897

[195] Ibid: 278

Map21[196]



Gold discoveries in the Coromandel Peninsula

[196] Ibida; 288

Loan Advances

Loan advances were given to Māori by the Crown on the condition that when the Miners Rights were received then the advances would be paid back. However, if the capital that was supposed to be paid to Māori in the first place did not eventuate then the Crown conveniently took any lands they desired as payment.

> *"It seems common practice to make payments for natives in want of money, and then to cast about for some block on which such payment could be charged"*[197]

There was no investigation or accountability to the unpaid fees my ancestors ended up with no capital to repay the loan advances and enormous tracts of the most elite primmest of lands were alienated as a payment ruse to the Crown for the unpaid advances. The fees were never going to be, and never were paid in the manner so promised to my ancestors, (Nicholls, 1998).

Rationing

By the raihana or ration system, credit was given to Maori by the Crown with interests on undefined extensive tracts of land. Maori on a regular basis would be paid small sums of money which would accrue over the years while the Government value of the land remained stagnant.

Credit on goods was in many cases for thousands of pounds were advanced to Māori via a promissory note with shopkeepers. Subsequently, by this method substantial debts would be listed against Māori.

It is important to note that these advances were meant to subject Māori into an impossible to repay the dept back situation, and then for the Crown and settler alike it was just a matter of sitting back and waiting for the wheels of capitalism to run its course. The Ōhinemuri and Piako purchases are such examples of this practice.

Credit and goods would never have been extended if the shopkeepers were not secure in the fact that they would surely be reimbursed by the Crown.

[197] (Nicholls, 1998: 96)

As it was orchestrated, my ancestors of Pare Hauraki Māori at no fault of their own were forcibly unable to repay the goods and/or credit afforded them and as a result the Crown seized their lands as payment, and without a doubt all shopkeepers, traders and others in cahoots with the Crown were thus compensated for, (Nicholls, 1998).

Leasing

The leasing system extinguished native title and all but fully excluded Māori from participating in any matters concerning their lands in spite of Māori protests. The Government passed the Validation Act 1869, which effectively barred any chance what so ever of Māori ever challenging any of the Governments control over the goldfields, (Nicholls, 1998).

In 1908 the Crown introduced the Mining Act. This Act allowed individuals, people, persons and companies who held a miner's right to be issued with a Resident Site License, (RSL), which is perpetually renewable or in other words the RSL can be renewed again and again forever and ever, (Nicholls, 1998).

> *The Government consequently attempted to bring Hauraki land still under native title within the State's mining jurisdiction. Furthermore, it refused to relinquish control of land in Hauraki after mining activity had ceased, instead pursuing its freehold"*[198]

By the Mining Act those with an RSL were able to convert it to a Business Site License without first consulting with Māori. As a direct result of leasing and by the RSL Māori were forced to cede their lands and gave those with an RSL to forever own the land that they were mining perpetually at the rate of one pound per year,

> *"In 1867 the Crown negotiated residential site leases for gold miners at 30 shillings per annum for what was thought to be a temporary use. Today dwellings, hotels, motels, and businesses flourish on the leases"*[199]

The Crown may argue that they never did have any real legal obligations during the 1800s regarding the negotiations and their respective agreements with my ancestors concerning the

[198] (Ward, 1997: 28)
[199] (Walker, 1990: 213)

auriferous and mineral lands of Pare Hauraki, however, the fact of the matter is that the Crown was legally obligated and still are, (Nicholls, 1998; Walker, 1990; Ward, 1997).

Overview

The initiation of the Native Land Court later, the Māori Land Court was supposedly set up to protect the ownership of Māori over their lands, however the true nature of these courts was to break down the Māori concept of communal ownership of their lands, to individualize those Māori ownerships so to make it easier for the government to buy, beg, steal or borrow Māori lands and then to sell those lands to others at an exorbitant profit.

Within the philosophical and traditional differences between Māori and Pākehā there has emerged a clash of ideologies such as the Pākehā view of individualism, that is, the single ownership of land and resources as opposed to the Māori view pertaining to the family and wider sub tribal units and by the iwi as a whole, that is, that land and resources were held, conserved, and protected by the iwi for the iwi and their descendants.

However, successive settler government Pākehā systems whether ignorant or indignant do not and will not fully recognize Māori cultural values and thus the Māori world view was has, and still is being subsumed within an ethos of the right of might. The ulterior motive was that only Pākehā should and would benefit and prosper and so it was.

The personal acquisition of wealth in the capitalistic sense was literally foreign to Māori. However, Hauraki Māori were quick to adapt to a cash society by supplying and trading agricultural produce destined for the markets of the early to mid nineteenth century Auckland.

Later access to Auckland was closed to Māori. Māori then started trading in forestry and the sales of land to generate income when there was no more land most Māori were destined to become unskilled labourers. A society between the ruling and working class developed in Hauraki. The inequity of the judicial system saw Pare Hauraki Māori land owners being manipulated by the legislators. It wasn't long before these legislators became the land owners. Pākehā ultimately becoming the ruling class with Māori the working class, (Nicholls, 1998).

During the 1870s the Crown had acquired some 600 acres of Ngāti Tamaterā and Ngāti Maru foreshore blocks as well as 98, 988 acres of land at Waikawau and Moehau. By the end of 1873, the Crown had acquired lands which were endowed with valuable timber resources, that is, 8000 acres of NgātiTamaterā and Ngāti Maru lands at the Hikutaia and Whangamata.

Also acquired were 17 blocks that had previously being subject to private timber leases encompassing some 96,000 acres. In September 1874, the Crown acquired 200,000 acres of Ngāti Paoa land adjacent to the Piako and Waitoa Rivers, to the west side of the Tīkapa Moana and some areas of land at Waitakaruru and Pukorokoro.

In December of 1876 the Crown acquired 32,930 acres of Ngāti Tamaterā lands. By 1877 Ngāti Rāhiri of Te Aroha lost 53,902 acres to the Crown. By 1880 it was obvious that the lands of Pare Hauraki were leaving the hands of Pare Hauraki Māori at too fast a pace.

By 1889, proposals were made that 120,000 acres of a block which were of the confiscated lands was promised to be returned to the so call rebels would be set aside for the Crown in payment of debts accrued by Maori. By the so call debts accrued by Māori the Government took a further 45,000 acres of Ngāti Paoa lands at Piako.

Information was limited regarding Hauraki land purchases made between 1891 and 1910 however by researching maps calculations indicated that during this time some 200,000 acres had been lost to Māori. From 1910 to 1939 a further 88,200 acres of land was alienated leaving just 7000 acres still in the hands of Māori.

Between 1939 and 1997 around 98 percent of all Pare Hauraki lands had been alienated by the Crown. Because of time constraints, this thesis was unable to fully discuss the entire details of Pare Hauraki land alienation of the 19th and 20th centuries but to point out perhaps some of the major happenings concerning the land alienation of Pare Hauraki the Crown and Pare Hauraki Māori.

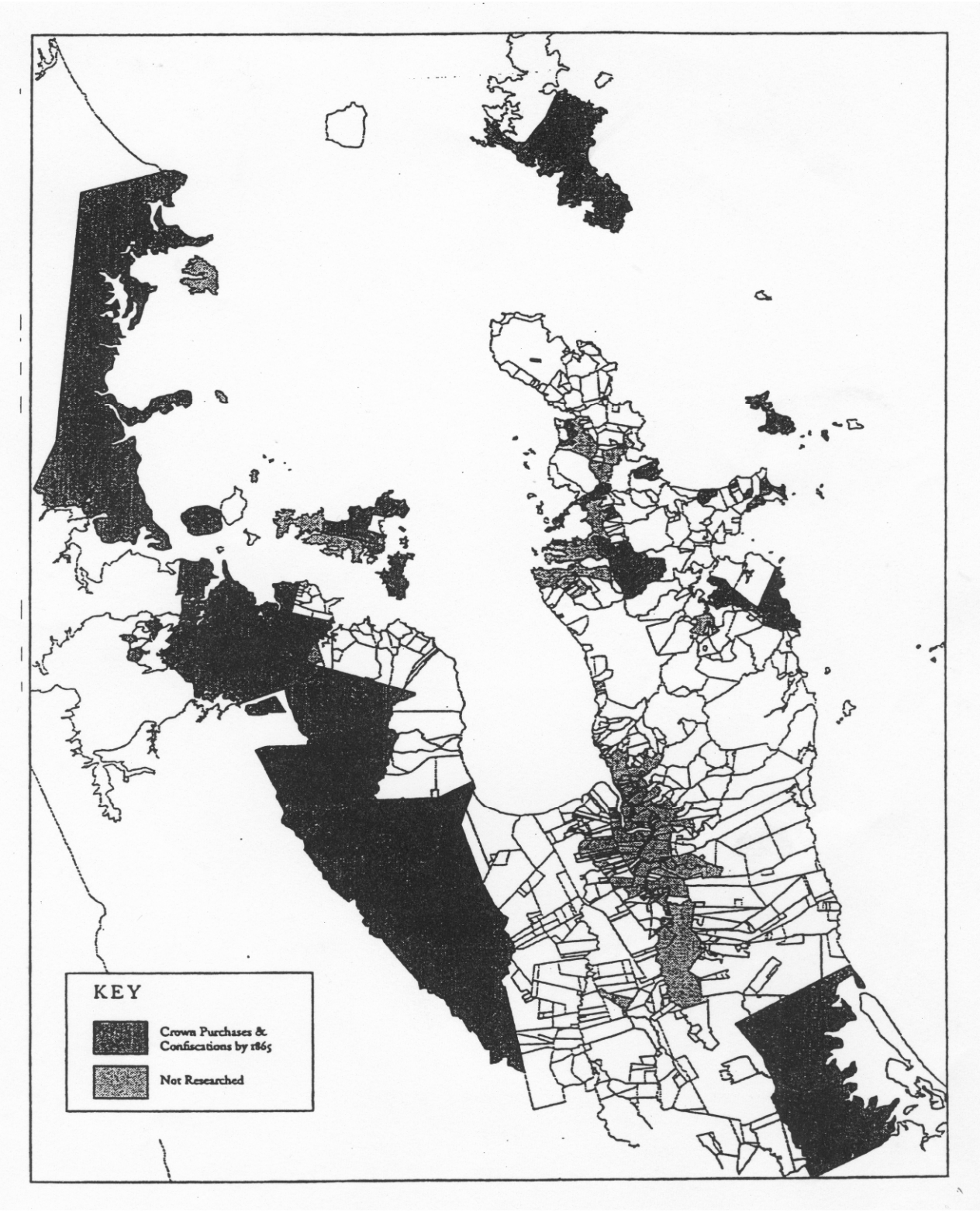
Figure 5:[200]

Pare Hauraki Land Alienation 1840-1997	1840 %	1865 %	1875 %	1885 %	1890 %	1906 %	1912 %	1939 %	1997 %
Maaori owned	87	74	49	28	23	14	12	6	2.6
Alienated Land	6	19	44	65	70	79	81	94	97.4
Not Researched	7	7	7	7	7	7	7	0	0

[200] (Nicholls, 1998: 77)

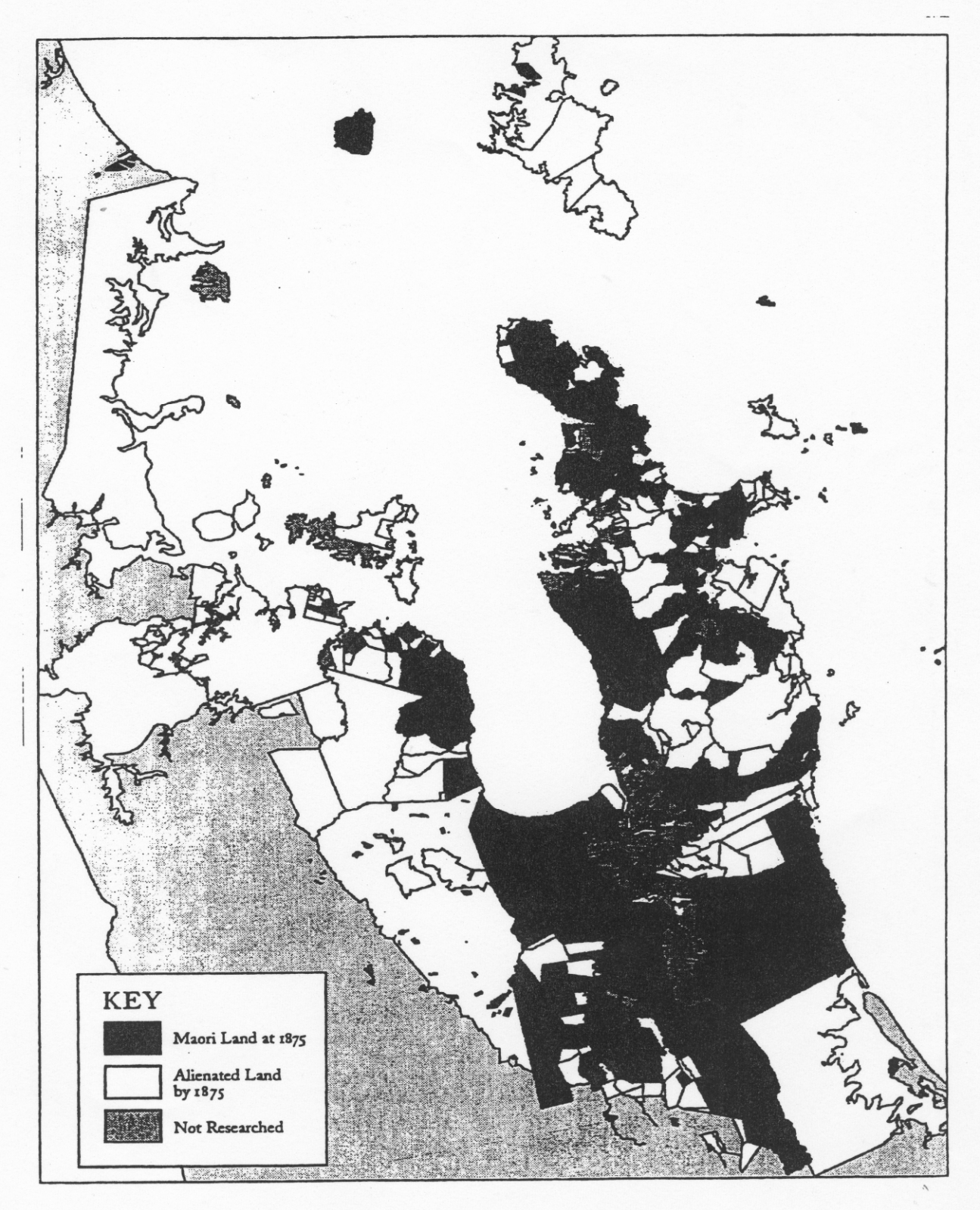
Land Alienation 1865-1997

Map 22[201] **1865**



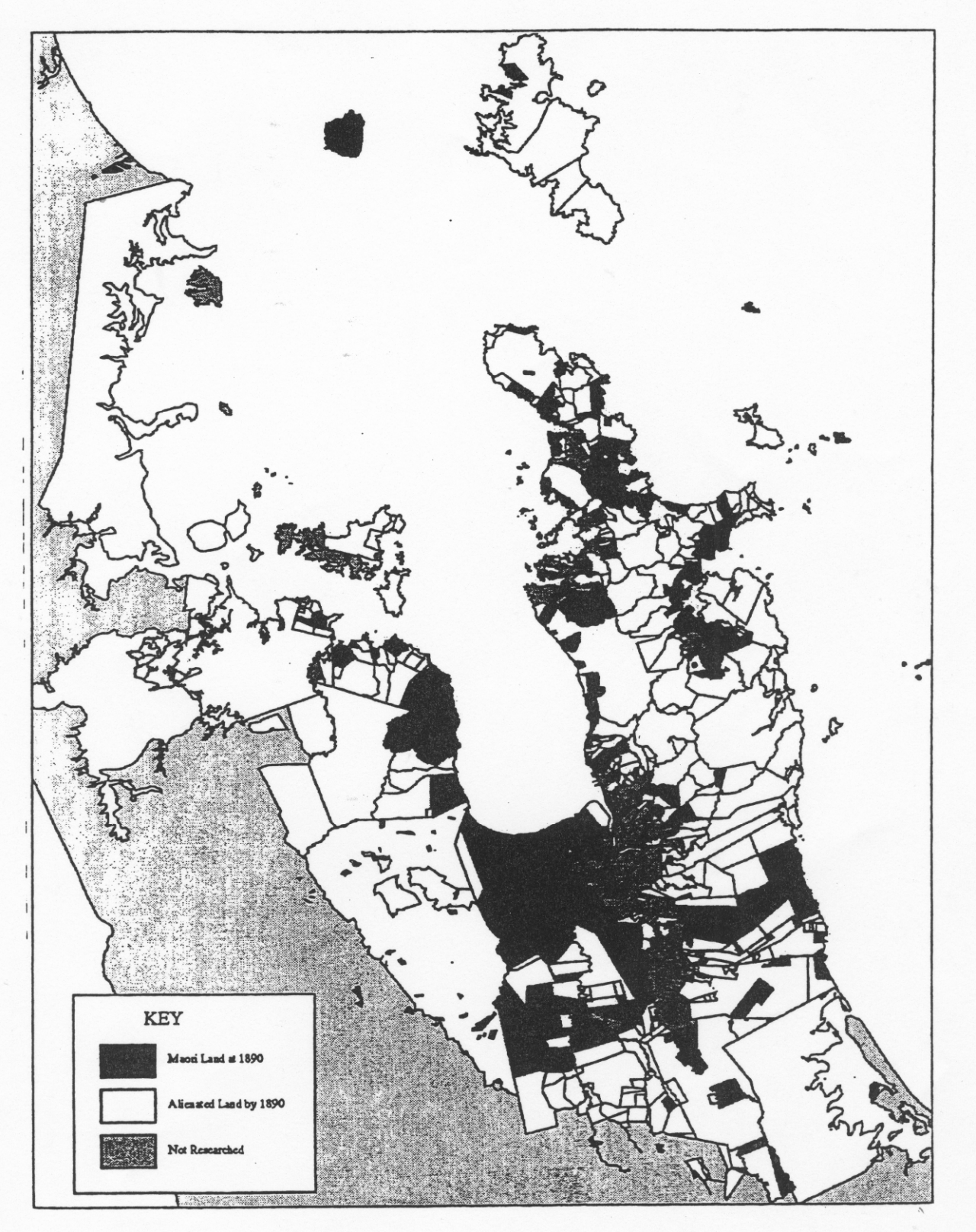
[201] (Nicholls, 1998: 78)

Map 23[202] **1885**



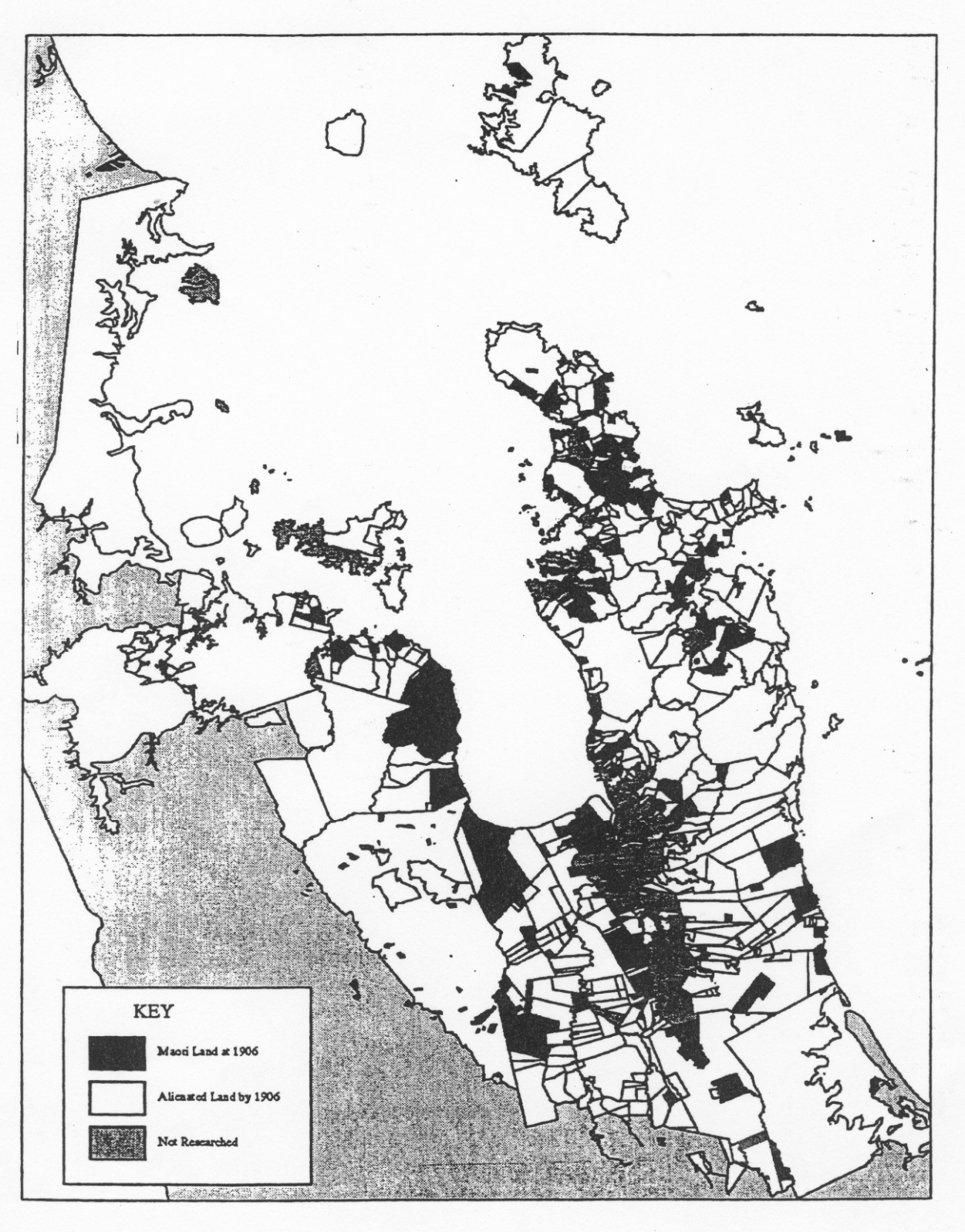
[202] Ibid: 79

Map 24[203] **1890**



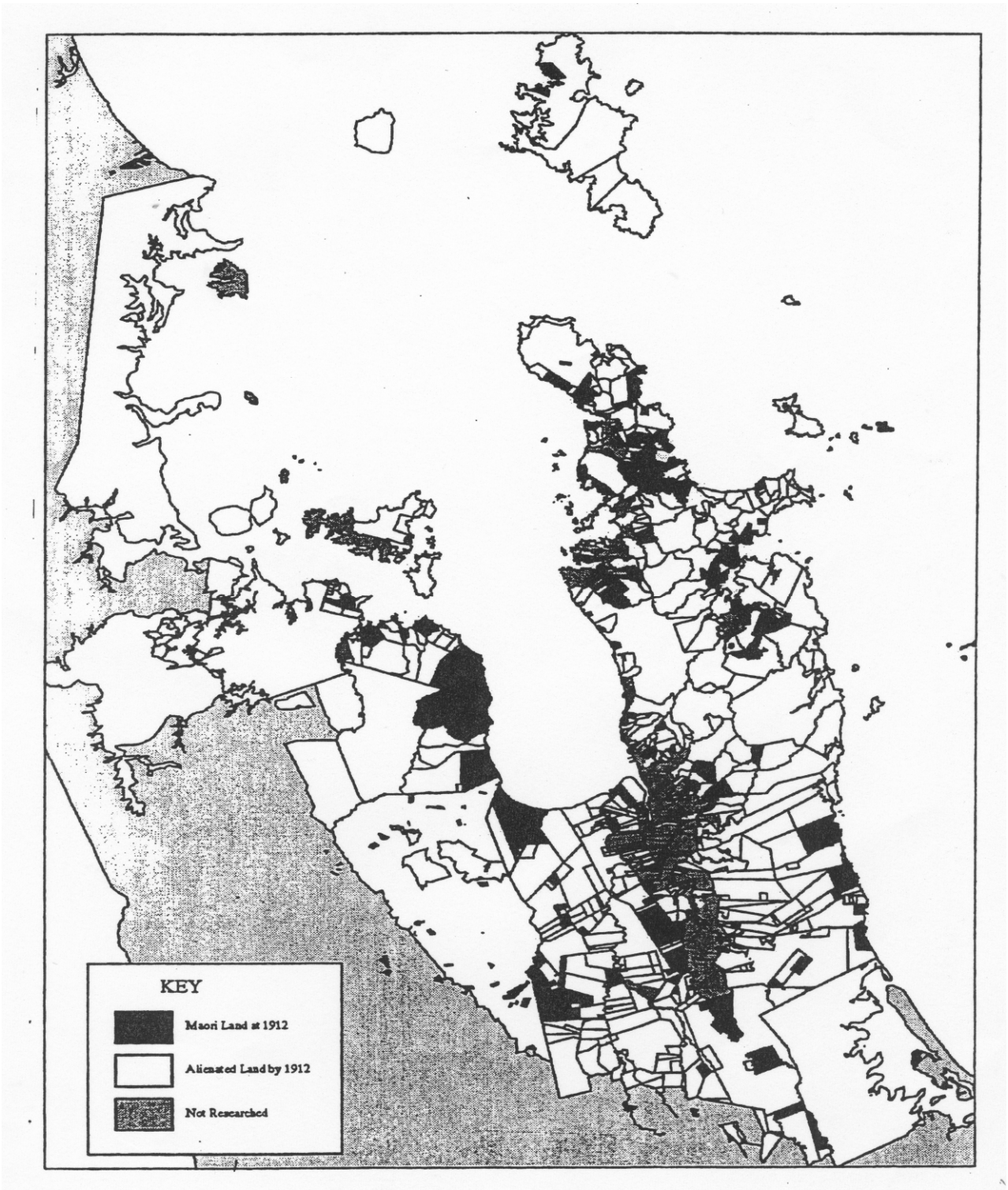
[203] Ibid: 80

Map 25[204] **1906**



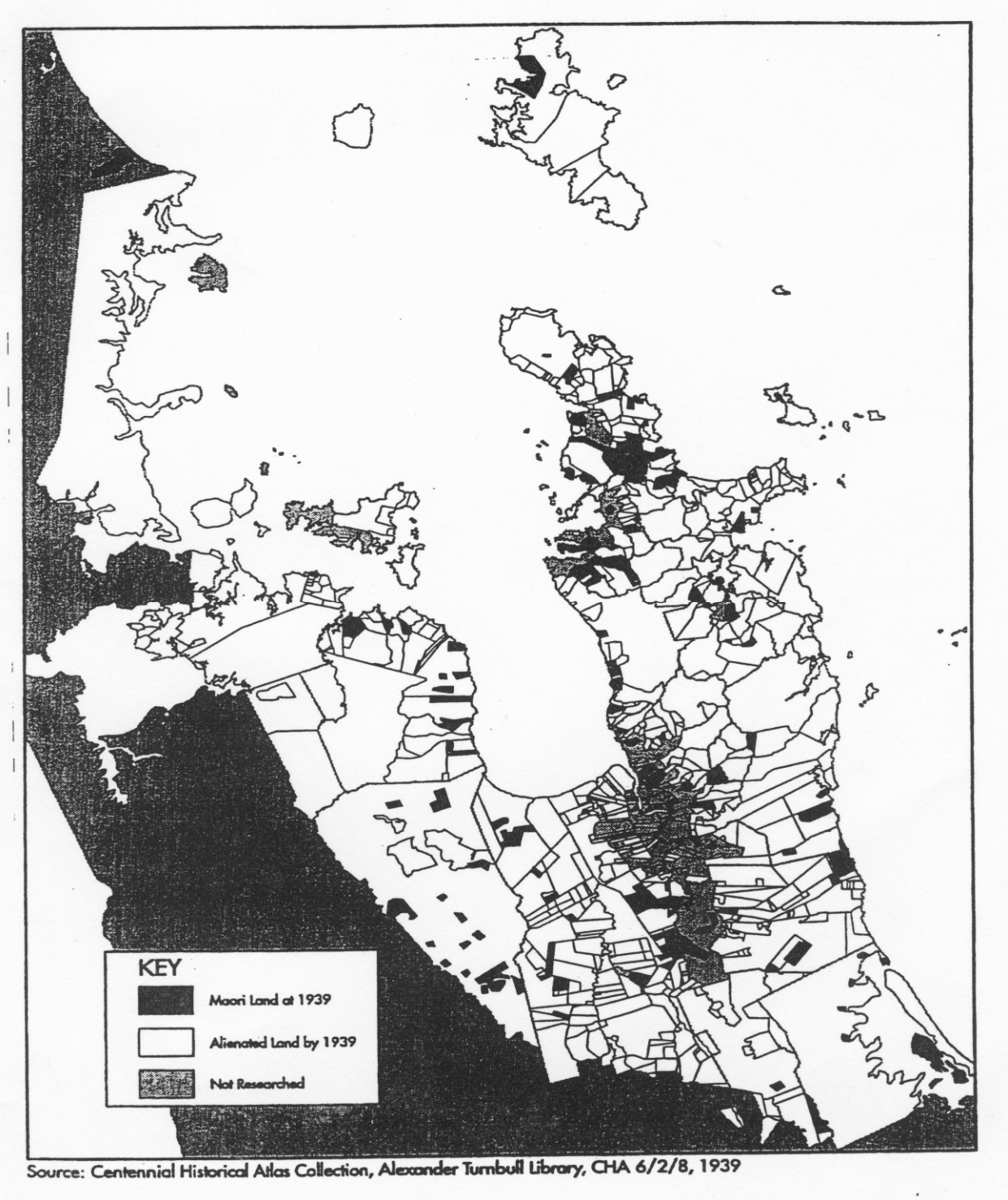
[204] Ibid: 81

Map26[205] **1912**



[205] Ibid: 82

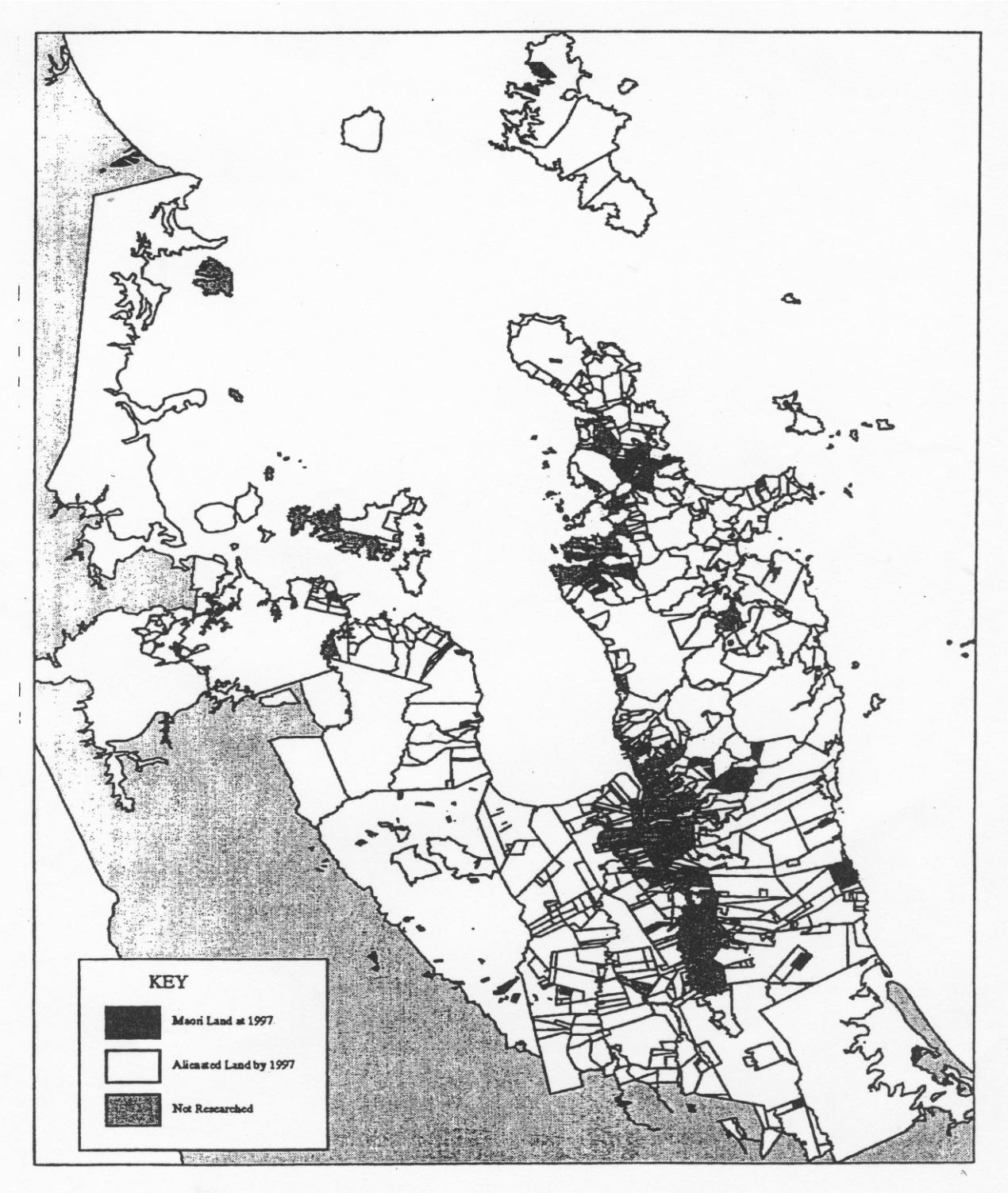
Map 27[206] **1939**



Source: Centennial Historical Atlas Collection, Alexander Turnbull Library, CHA 6/2/8, 1939

[206] Ibid: 83

Map 28[207] **1997**



[207] Ibid: 84

CHAPTER SIX

The Foreshore and Seabed Act 2004

Te raupatu whakamutunga o

Pare Hauraki nui tonu, arā,

ko Tīkapa Moana[208]

Introduction

The area of beach land that is neither always wet nor dry is termed the 'foreshore'. Where one witnesses the average tide mark to its landward boundary, this is termed as the, 'mean high water mark'. When a specific area of the landward boundary adjacent to the mean high water mark is itself covered, then this area is defined as the, 'mean high water springs' or in layman's terms the spring tide mark.

> *"Spring tides are the measurements of two successive high waters during those periods of 24 hours when the range of the tides is at its greatest"*[209]

This chapter will review how the Foreshore and Seabed Act 2004 came to be initiated, how and why it contravenes to the Treaty as well as New Zealand Common Law. Although, this study will show how the Act impacts on all iwi of all Māori of Aotearoa/New Zealand: This chapter will be in particular to Pare Hauraki, Pare Hauraki Māori and Tīkapa Moana.

The court battles arriving to the High Court between the Crown and Ngāti Apa and others concerning their rights as tangata whenua and the foreshore and seabed of the Marlborough sounds will be revisited, reviewed and evaluated. The reaction of the Crown to the High Court ruling against them and the actions they took will become blatantly obvious as the chapter proceeds.

Pare Hauraki vehemently opposes the Act such as 'The Paeroa Declaration of 2003 and the slogan *'Hauraki Says No!'* when marching in the national hikoi opposing its billing of 2004. The Waitangi Tribunal held urgent meetings and found the Crown to be in breach of both versions of the Tiriti o Waitangi. Regardless the Crown arrogantly continued supporting its bill.

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[208] The final confiscation of Pare Hauraki, that is, Tīkapa Moana

[209] (Bennion *et al,* 2004: 5)

After being invited to New Zealand to review the Act United Nations Special Rapporteur on monitoring the fundamental rights and freedom of indigenous Peoples, Professor Rodolpho Stavenhagen reviewed the Act and gave his findings and then finally his recommendation that the Act should be repealed.

This did not go down well with the Crown stating that Professor Stavenhagen had no right to tell them what to do. The Māori Party will have its The Foreshore and Seabed Act (Repeal) Bill read in 2007. No doubt Pare Hauraki Māori will be monitoring its progress.

The Act itself is racist and breaches human rights, it is the final land grab of what little Māori have left as a whole, which is true and correct as far as Pare Hauraki Māori are concerned and diminishes all Māori to second class citizens.

This is the final confiscation for Pare Hauraki Māori as we have only 2.6 percent of a once vast estate. By the Acts own clauses this chapter will expose how the Act legally lessens the status of Māori in Aotearoa/New Zealand as opposed to all other citizens of New Zealand. By the impunity of the Crown there is no justice for Māori in this Act.

The Act

During the early 1990s eight iwi of Te Tau-Ihu-o-Te-Waka-a-Maui (Marlborough Sounds), Ngāti Apa, Ngāti Koata, Ngāti Kuia, Ngāti Rārua, Ngāti Tama, Ngāti Toa, Rangitāne, and Te Atiawa[210] asserted their customary rights to their traditional coastal waters.

However the customary rights of the Appellant iwi that are protected by Article Two of the Tiriti-o-Waitangi were totally ignored by the Marlborough District Council.

Ngāti Apa and others of Te Tau-Ihu-o-Te-Waka-o-Maui had a 100 percent failure rate in opposing applications pertaining to marine farming on customary grounds and a further 100 percent failure rate in pursuing their own resource consent applications pertaining to marine farming on these same customary grounds.

[210] Ngāti Apa and others, or Appellant iwi

It was at this time that the Crown decided to impose a moratorium an interim halt on applications to marine farming in the Marlborough Sounds. Marlborough iwi felt that this moratorium would set a precedence to pioneer a tendering regime for marine farming and that this type of regime would ultimately lead to the privatization of large areas of Te Tau-Ihu-o-te-waka-a-Maui[211], (Bennion *et al*., 2004; Crosby, 2002; Greensill, 2005; Inns, 2005).

In 1997-1998 Ngāti Apa and others approached the Māori Land Court to consider the legal status of the land underlying the 1500 kilometer area of Marlborough Sounds maintaining that it was Māori customary land and that their traditional ownership had never been ousted

The court agreed, with Judge Heta Hingston ruling that Māori had a right to petition the court for customary title to the foreshore and seabed. However, the Crown appealed the ruling with the case ending up in the High Court, (Bennion *et al*., 2004; Crosby, 2002; Greensill, 2005; Inns, 2005; Walker, 1990).

The High Court

In the Court of Appeal as well as the High Court the Crown reiterated its argument that subsequent to the case, *"In Re the Ninety Mile Beach [1963] NZLR 461 (Ninety Mile Beach)"*, that Māori customary interests in the foreshore had been extinguished wherever title to land adjoining the high water mark, had been investigated by the Māori Land Court by,

> *"...section 7 of the territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 and section 9A of the Foreshore and Seabed Endowment Investment Act 1991"*[212]

The Crown argued further that since 1977, general legislation had vested all property in the foreshore and seabed to the Crown, Following the Ninety Mile Beach decision the High Court held that by general legislation in 1991 and 1997 the seabed below the High water mark was vested in the Crown,

As far as the foreshore was concerned, consideration from High Court held that Māori customary rights became extinguished where ever a Māori Land Court order or a Crown purchase described the sea as a boundary, *"(2 NZLR 661 [2002] and Māori LR June 2000)."*

[211] Marlborough Sounds
[212] (Bennion *et al*, 2004: 8)

On the first of July, 2002, Ngāti Apa and Te Rūnanga o Muriwhenua approached the Court of Appeal and appealed this ruling, (Bennion *et al*., 2004; Greensill, 2005).

The Court of Appeal Decision

The appellant iwi raised 8 questions before the Court of Appeal, (Bennion et al., 2004). The crux of those questions, before the Court were,

> **By the Te Ture Whenua Māori Act 1993, what was the juridical scope of the Māori Land Court, in relation to the determination and status of the foreshore and seabed?**

Te Ture Whenua Māori Act states,

> *"The kaupapa of the Act is to promote the retention of Māori land in the hands of its owners and their whānau and hapū and to facilitate the occupation development, and utilization of that land for the benefit of the owners and their whānau and hapū"*[213]

In New Zealand earlier Crown purchases recognized that there was no part of Aotearoa that was unknown to Māori, (Bennion *et al*., 2004; Maori Land Court, 2001).

The Court ruled under s18 (1) (h) of Te Ture Whenua Māori Act, 1993, that, Māori customary land, Māori freehold land, General land, General land owned by Māori, Crown land, and Crown land reserved for Māori was all Māori customary land, (Bennion *et al*., 2004).

Chief Justice Elias considered other instances where the recognition of customary property rights was standard by a colonizing power such as,

- Land used by North American Indians was viewed as vacant Crown lands however this was subject to native rights

The Canadian Crown Government had a *"substantial and paramount estate"* however this was subject to the rights of its Indian inhabitants. Only when it's indigenous title was surrendered or extinguished was full title vested in the Canadian Government, (Bennion *et al*., 2004).

[213] (Māori Land Court, 2003: 6)

She went on to say,

> *"...that Māori customary land held by Māori in accordance with tikanga Māori under s 129 (2) (a) of Te Ture Whenua Maori Act 1993 existed independently of statute or the Treaty of Waitangi"..."therefore had to be recognized after a change in sovereignty"*[214]

The Court of Appeal held that prior to the Crown colony government being established, customary Māori interests in all lands wet or dry existed with iwi in accordance with tikanga Māori thus having pre-existing recognized property rights thereafter to their customary lands in accordance with common law, (Bennion *et al*., 2004; Greensill, 2005; Maori Land Court, 2001).

The reason for this is because when common law is applied to British territories with indigenous populations the law becomes adapted to fit in with local area conditions as is recognized explicitly in the English Laws Act 1848, and stated that customary property rights,

> *"...whatever the extent of the right, established Native custom"* and *"therefore had to be fully recognized after a change in sovereignty"*[215]

This ruling meant that after a change in sovereignty, if Māori customary interests had not been dealt with, then the Crown having no source of title by the rule of law had no property rights what-so-ever pertaining to Māori customary land.

Until the Crown exercises its right of pre-emption concerning those customary lands and are legislatively investigated, determined and then extinguished thus following on to the issuing of a Vesting Order of full fee simple title held by the Crown, then those lands in question remain customary lands, (Bennion *et al*., 2004).

Therefore the Court of Appeal ruled that for, *"the purposes of s 129 (1)"*, of Te Ture Whenua Māori Act, that the Māori Land Court, did indeed have the jurisdiction to investigate and to determine, under s18 (1) (h) of Te Ture Whenua Māori Act, 1993, the actual status of the foreshore and seabed of Aotearoa, (Bennion *et al*., 2004; Greensill, 2005; Inns, 2005).

[214] (Bennion *et al,* 2004: 13)
[215] Ibid

Was the Decision in the Ninety Mile Beach Case 1963 Correct?

For the Court of Appeal to find in favor of the appellant iwi it first had to overrule their previous 1963 decision in respect to the Ninety Mile Beach. There are reasons for overruling a doctrine of precedent decision, these include whether there is a conflict with the ruling from the Court of Appeal and that the law needs to be clarified, if the law in other Commonwealth jurisdictions and social attitudes have changed and if the majority of the court agree that the previous court decision was wrong, (Bennion *et al*., 2004).

The Crown maintained that when sovereignty was proclaimed, all foreshore lands were vested in the sense of extinguishing any Māori customary title to be forever Crown land. Thus, the Māori Land Court did not have the jurisdiction to determine the status of the foreshore and seabed.

The decision in the Ninety Mile Beach held that all lands rights and privileges of the Māori people depended wholly on the grace and favour of Her Majesty Queen Victoria who had the absolute right to disregard Native Title and status to any land above or below the high water mark, (Bennion *et al*., 2004).

It was at this point Chief Justice Tipping considered that the reasoning for this decision had started to go awry. He continued that with the free-holding of a block of land adjoining to the high water mark of the foreshore, that, that adjacent foreshore must be deemed to be subject to investigation, (Bennion *et al*., 2004)**.**

He found it difficult to find justification of how a change of status above the high water mark, from Māori customary land to Māori freehold land, if not yet investigated, could cause the loss of an existing customary status of the adjacent customary wet land of the foreshore.

The premise that the adjacent foreshore had lost its customary status because it was no longer part of the investigated free-hold land was not considered by Chief Justice Tipping to be consistent, in that the adjoining foreshore had not yet been investigated, and thus remained customary land, (Bennion *et al*., 2004; Inns, 2005).

It was agreed that when English common law was applied, it was applied as part of New Zealand common law in so far as applicable to New Zealand, in that, *"Bladick v Jackson (1910) 30 NZLR 343"*[216] pertained to the issue as to whether whales were a royal fish as was as applicable to the common law of England. This particular law was deemed as inapplicable to New Zealand, and so should the Act.

Mechanisms of extinguishments in which the decision was held to be effective was in the view of Chief Justice Tipping insufficient for the purpose, in that customary title was based on New Zealand common law in so far as applicable to New Zealand and not on the grace and favour of mother England or Queen Victoria, (Bennion *et al*., 2004).

In 1840 Māori customary title had became part of New Zealand common law and continued to be so thereafter, and thus by law could not be ignored by the Crown until Māori customary title had been investigated and legislatively striped of that status. It was not for the Crown to grant customary title to Māori, for theirs was a right of pre emption, thus clearly recognizing Māori customary land and property rights, (Bennion *et al*., 2004; Orange, 1989).

As to the extent to which a distinction of where the dry land and wet land adjoin, pertaining to the present issue of the foreshore and seabed, the Court concluded that this must be dealt with in accordance with tikanga Māori and is therefore under the jurisdiction of the Māori Land Court to investigate and then to determine its status under Te Ture Whenua Māori Act 1993, (Bennion et al., 2004; Jackson, 2003b).

In the opinion of Chief Justice Elias the forty year Ninety Mile Beach decision which was followed by the pre-fix that at the moment British rule was established, the Crown by prerogative right of grace and favour with the absolute right to disregard, took possession of New Zealand as its property and that English common law in so far as applicable to England totally applied unless abrogated by statute, was a radically erroneous assumption and totally inaccurate, (Bennion *et al*., 2004).

[216] (Bennion *et al.*, 2004: 26)

As far as the *Ninety Mile Beach* case was concerned the Court of Appeal did not agree, that at the signing of the Treaty of Waitangi 1840, that the foreshore and seabed its associated status and customary rights instantly became part and parcel of English common law, (Bennion *et al*., 2004; Christie, 1997).

The Court ruled that the Ninety Mile Beach decision was incorrect, that Māori customary title, land rights and Māori land tenure in accordance with tikanga Māori had always belonged to Māori and continued before and thereafter the Treaty, (Bennion et al., 2004; Greensill, 2005).

> **Does New Zealand Common Law recognize any Māori customary title to the seabed and waters preceding the first general legislation governing those areas, that is namely the Territorial Sea and Fishing Zone Act 1965, and could it do so after the passing of the 1991 and 1997 Acts?**

Crown reasoning held that the Territorial Sea and fishing Zone Act 1965 and the Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977 deemed all land and subsoil below the low water mark from three miles and then 12 miles out to sea to be and have always been vested in the Crown, (Bennion *et al*., 2004).

Elias C, J, held that in relation to these Acts, there was no expropriatory purpose pertaining to Māori property as being recognized as a matter of common law and statute, being properly read into legislation, because those common laws and statutes were concerned with matters of sovereignty, not property.

The Crown argued that because the Resource Management Act 1991 had annulled section 150 of the Harbours Act 1950, that Section 9A of the Foreshore and Seabed Endowment Revesting Act 1991 was sanctioned, thus affecting a vesting of all the foreshore and seabed, in the Crown.

Elias C, J, considered that section 9A appeared at first to vest all the foreshore and seabed from the high water mark and 12 miles out to sea of the coastal marine area in the Crown. However if read in context, section 9A, applied only to lands which were already the property of the Crown and therefore excluded Māori customary land.

"In conformity with the Land Act 1948 and the common law discussed above, Māori customary land is necessarily excluded"[217]

Crowns submissions argued that the Territorial Seas Act were either consistent with the non-recognition of status, or extinguished the status of Māori customary land as part of foreshore and seabed. Gault, P, found that the 1965 and 77 Territorial Seas Contiguous Zone Acts vested the seabed in the Crown.

However, those provisions were subject to past and future grants consistent with this concept of vesting being of radical title only and not of the full fee simple as common law demands. It was considered the vesting, as radical titles only, are inconsistent with any expressive legislative enactment. Enactments claiming to extinguish Māori customary land titles and rights must be clear and plain.

As with other subsequent minor amendments to those Acts just mentioned, they seemed to suggest that the word 'vest' meant the full fee simple, but were radical titles only. That is, an express legislative enactment is required to extinguish any native rights, as opposed rather than by an indirect route such as a minor amendment to an Act.

Keith and Anderson J, J, considered that the, Territorial Sea and fishing Zone Act 1965 and the Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977 did not deny, or extinguish Māori customary land and held that in spite of vesting the foreshore and seabed in the Crown.

Therefore it was ruled that New Zealand common law could and did recognize any Māori customary title to the seabed and waters preceding the first general legislation governing those areas, that is, namely the Territorial Sea and Fishing Zone Act 1965, and did so after the passing of the 1991 and 1997 Acts. This ruling was moved on to consider as to what sort of title could be applied to the land of the foreshore and seabed, (Bennion *et al*., 2004).

[217] (Bennion, *et al*, 2004: 19)

Had previous legislation (9 pieces of legislation were listed) which vested parts of the foreshore and seabed in harbour boards and local authorities in relation to the Marlborough Sounds did specifically and effectively extinguish any Māori customary title?

Chief Justice Elias considered that there was no general land legislation which extinguished Māori customary rights. However, other legislation that applied specifically to the Marlborough Sounds was a different matter requiring a necessity of consideration for any Māori customary rights to be established.

Counsel for the Crown argued that private ownership of the foreshore and seabed was historically unthinkable. Gault, P responded and drew attention that past certificates of title for land underlying the sea within the Marlborough Sounds area had been issued. Section 4 (2) (c) (iii) Foreshore and Seabed Endowment Revesting Act 1991 identified these lands to be around and under the Picton Wharf.

It was not unthinkable that some of the seabed of the claim area could constitute land in New Zealand pertaining to the meanings given in section 129 of Te Ture Whenua Māori Act, 1993. Some legislation vesting specific parts within the foreshore and seabed would have extinguished customary interests. However, those only affected minor areas of the claim area.

The Court of Appeal agreed that the High Court ruled in error and reiterated that the change of sovereignty did not affect customary property because those interests are safeguarded by the processes of common law, and could only be extinguished in accordance with common law.

The Court of Appeal ruled that previous legislation such as Seabed Endowment Revesting Act 1991 and the Harbours Acts which vested parts of the foreshore and seabed in harbour boards and local authorities in relation to the Marlborough Sounds specifically, did not, effectively extinguish Māori customary title to land, (Bennion *et al*., 2004; Greensill, 2005). Therefore the Court of Appeal ruled that Māori could have their applications heard concerning their ownership of the foreshore and seabed. That is the Court of Appeal ruled in favour of Māori!

Government Backlash

Government reaction was immediate. The impact of the Court of Appeal ruling goes a great deal deeper than just in the direction of the underlying seabed as can be seen by the erratic behavior and outbursts from certain people when reacting to its ruling. Prime Minister Helen Clarke and Attorney General Margaret Wilson in a press release stated that this decision was limited, had no real immediate or practical impact and that,

> *"The Decision is a narrow one and technical one relating to the jurisdiction within which claims to the foreshore and seabed may be considered,*
>
> *...Ownership of the foreshore and seabed has long been considered to lie with the Crown, and the Crown has made provision for regulation of its use in the national interest.*
>
> *In a democracy citizens are free to explore what their legal rights are through the court system. The government respects attempts to explore legal rights through the courts, but also acknowledges that issues of ownership and use affect all New Zealanders."*[218]

The Next day Prime Minister Helen Clarke gave notice that steps would,

> *"...be taken to confirm absolute Crown title over the foreshore"*[219]

Four days later the Government announced to New Zealand that it would reassert its full and beneficial ownership of the foreshore and seabed and two months later released the *"Protecting Public Access and Customary Rights: Government Proposal for Consultation (18 August, 2003)*"[220], (Evans, 2004; Greensill, 2005; Inns, 2005).

A Government supported Select Committee sought and received about 8000 submissions around the four key principles of the proposal with the vast majority opposing the Bill. Eleven hui were held throughout several marae around Aotearoa these were in Whangarei, Auckland, Pare Hauraki, Maketū, Hastings, New Plymouth, Gisborne, Wellington, Christchurch, Blenheim, and Invercargill.

[218] (Bennion *et al*, 2004: i)
[219] (Greensill, 2005: 211)
[220] (Bennion *et al*, 2004: 2)

Yet less than ten percent representing these submissions, were invited to stand before the Committee to state their concerns in person. The submissions of the proposal were vital to areas around four key principles,

1. The principle of **'access'**, states there *"should be open access"* for all New Zealanders to the foreshore's and seabed's of Aotearoa:

2. The principal of **'regulation'**, states that it is the responsibility for the Crown on behalf of all present and future New Zealanders and general public the full regulation of practice and usage of the foreshore and seabed of Aotearoa:

3. The principle of **'protection'** states that *processes should* subsist to facilitate customary interests in the foreshore and seabed to be recognized as well as all specific rights to be identified and protected:

4. The principle of **'certainty'** states that there *should be certainty* for those who practice, use and administer the foreshore and seabed with reference to the range of rights that are relevant to their actions.[221]

The proposal was supposed to set out a framework with the purpose of providing a clear and just system that recognized and unified all rights in the foreshore and seabed. It would also develop initiatives promoting effective working relationships with the decision makers of local government and whānau, hapū and iwi, who hold the mana and ancestral connections over the area of the foreshore and seabed in question.

Title to the right of reasonable and appropriate public access to most of the foreshore and seabed would apply to the public. Māori customary title held by iwi could exist along side public domain title however this title could not affect public access. This only applies to the areas of the foreshore and seabed that would have been recognized as Māori customary land if not for the Act, (Bennion *et al*., 2004; Inns, 2005).

[221] (New Zealand *et al.*, 2004: 2)

In some areas of customary title, there could possibly be found, in small areas, customary rights that might in some situations, inhibit public access. If there was any significant impact on Māori customary title then the new developments in the foreshore and seabed would be prohibited.

The existing system was to be replaced by a new system in the foreshore and seabed. Government justification of its decision to legislate was based on the fundamental territorial jurisdiction of the Crown over New Zealand including Crown jurisdiction over any Māori customary land.

This was deemed by the Court of Appeal to be of radical title only. The Crown considered that it had the fundamental right as the sovereign parliament to legislate its held general regulatory responsibility over any of its territories, (Bennion *et al*., 2004).

The Crown held that it had been consistent with The Treaty of Waitangi as well as the law making powers of Parliament under the Constitution Act 1986.

The Government then argued that international law upheld New Zealand's Crown ability to make laws which regulate activities of the territorial sea, (Bennion *et al*., 2004).

However, these proposed legislative changes are in fact contrary to tikanga Māori, in that Māori are unable to have their concerns for the foreshore and seabed heard in the Māori Land Court.

The proposals are in breach of the Tiriti, that it is only a tokenism status of Māori representation in local government issues concerning their regional areas, that Māori have to prove who they are and that Māori are unable to economically go forward as an iwi or hapū.

These changes in law by the Crown are designed to extinguish Māori customary rights and that these principles support majority cultural values only, not Māori cultural values, (Carpinter, 2003; Cullen, 2004; Greensill, 2005; Inns, 2005; Jackson, 2003b)**.**

Major Clause Impacts of the Act on Māori

- **Clause, 3 (a)** of the Act, states that its purpose is to vest,
  "The full and legal beneficial ownership of the public foreshore and seabed will be vested in the Crown, to preserve it for the people of New Zealand" [222]

This clause at first glance would indicate that the Crown Government will protect the foreshore and seabed for the benefit of all New Zealanders. However, there are hidden agenda's within this clause that impact on the human rights of Māori that most New Zealanders are not yet aware of, (Bennion *et al*., 2004; Cullen, 2004; Greensill, 2005). The Waitangi Tribunal Report on the Act states that,

> *"The foreshore and sea [sic] were and are taonga for many hapū and iwi. Those taonga were the source of the physical and spiritual sustenance.*
>
> *Māori communities had rights of use, management and control that equated to full and exclusive possession in the English version of the Treaty of Waitangi"*[223]

The Article Two Treaty promise in 1840 applied as much to the foreshore and seabed as it did apply to all dry land. Clause 3 (a) of the Act extinguishes the right of access to and the protection of the law for Māori.

The rights of Māori on their own property and to exercise Māori land tenure in accordance with tikanga Māori has been legislatively extinguished, (Bennion et al., 2004; Inns, 2005; Jackson, 2003b; Orange, 1989)**.**

> *"There is no logical factual, or historical distinction to be drawn. In addition to rights and authority over whenua, Māori had a relationship with their taonga which involved guardianship, protection, and mutual nurturing.*
>
> *This is not liberal sentiment of the twenty-first century but a matter of historical fact."*[224]

Clause 3 (a) of the Act extinguishes tikanga Māori. Tikanga Māori is the right of Māori to exercise their customs, practices the control of fisheries, fishing places and coastal sites to a set

[222] (Cullen, 2004: 3)
[223] (Bennion *et al.*, 2004: 43)
[224] Ibid

of rules that are not fixed, but are developing and evolving sets of principles that vary from tribe to tribe which regulate the behavior and culture of Māori tribal society, (King, 1981; Sinclair, 1981). The Waitangi Tribunal goes on to say,

> *"Indeed we go further. We say that in order to properly fulfill the role of Treaty partner, and actively protect the cultural foundation of what it is to be Māori, the Crown must itself be schooled in the essentials of Tikanga"*[225]

Clause 3 (a) does not refer to Māori and non-Māori as equal citizens of Aotearoa because property rights and access to courts for Māori only, are extinguished. The Act also breaches the Bill of Rights Act 1990, (BORA), (Greensill, 2005; Inns, 2005).

Clause 3 (a) of the Act seizes from Māori the freedom, of speech, the power to exercise common law property rights within ones own country, to develop as an autonomous iwi, to hold a social status sharing in all the cultural benefits within the social order of society, and due process for all to a Court of law,.

The violation of the foreshore and seabed by Clause 3 (a) of the Act is considered as contrary to both common law and tikanga accepted by the Court of Appeal. It is a clause that attacks, damages and undermines the physical and spiritual connection Māori have to their lands, and traditional Hauraki Māori land tenure pertaining to the foreshore and seabed of Tīkapa Moana in accordance with tikanga Māori, (Bennion et al., 2004; Cullen, 2004; Jackson, 2003b).

Clause 12 of the Act states that

> *"...no part of the public foreshore and seabed may be alienated or otherwise disposed of* except *by a special act of parliament"*[226]

This special act of parliament says that the Crown has the power of veto, and can sell the foreshores and seabed to whomever they feel like. This in itself comes as no surprise to Māori, in that historically 'Special Acts' clearly show that successive Governments have further repeated air, water, land, and sea confiscations at the expense of Māori and for the full and beneficial good of the Crown, (Cullen, 2004; Jackson, 2003b).

[225] (Bennion *et al.*, 2004: 39)
[226] Ibid:121

Clause 28 of the Act, states the recognition of *"territorial customary rights…that would have been recognized"*[227] if not for the Act.

Clause 29 of the Act states that the High Court may find that a group held *"territorial customary rights"* and has jurisdiction to grant a *"customary rights order"*[228] to that group recognizing that they would have held full and beneficial ownership of the foreshore and seabed if not for the Act, (Cullen, 2004).

Clause 35 of the Act cited in (Bennion *et al*, 2004: 123),

> *"outlines the jurisdiction of the Māori Land Court" to consider applications for a "customary rights order"* that *"they would have been entitled to hold an aboriginal title to an area of the foreshore and seabed had the full beneficial ownership not been vested in the Crown."*

Clauses 28, 29 and 35 of the Act states that customary right is a right limited to 'traditional activities' only and that these activities have continued unheeded, in accordance with tikanga Māori from 1840 to the present.

This at best appears to be limited to such activities as collecting fire wood, hāngī stones or the launching of a waka, if indeed, these activities cannot be proven this concept of customary right will not be considered.

If this is fact then Pare Hauraki Māori traditional 'customary territorial rights' that existed before the Act being recognized by the Court of Appeal in so far as applicable to New Zealand Common Law has effectively been extinguished, (Cullen, 2004; Jackson, 2003b).

Clause 39 and 3 (c) of the Act states that the Māori Land Court has jurisdiction to grant an *'ancestral connection order'* to Māori who have to prove that since 1840 that they have had an ancestral connection to an area of the foreshore, and that Clause 3 (c) redefines kaitiakitanga that supposedly recognizes this ancestral connection to the public foreshore and seabed.

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[227] (Bennion, *et al*., 2004: 122)
[228] Ibid

Indeed if any non-Māori can prove an ancestral connection since 1840 to any piece of land in New Zealand the Crown will, listen. The order only gives Māori a token level of participation in local government decision making processes under the Resource Management Act 2004. If an ancestral connection cannot be proven even if one is tangata whenua then there is no right of participation, thus the Crown enforcers its own form of Te Ahi-kāroa on Māori, (Cullen, 2004; Jackson, 2003b).

Clause 39 extinguishes and then replaces all previous aspects of tikanga, the Treaty, as well as common law and then concocts a new concept in statute called an ancestral connection. These clauses impact on Māori, in that, kaitiakitanga Māori as defined by Clause 3 (c), pertaining to Clause 39 is contrary to the Treaty and does not fully recognize traditional Māori world views and concepts, (Cullen, 2004; Evans, 2004; Jackson, 2003b).

Clause 64 (1) of the Act states that a *'customary rights order'* and under this order may entitle a group to take on commercial benefits from recognized customary pursuits. However, **Clause 64 (2)** state that these benefits are subject to customary activity only, that is the activity of 1840.

Moana Jackson, states that that this Act subordinates interests of Māori in favor of the Crown and restricts Māori to a limited right only to participate within local Government decision making, and thus denies Māori a right of self development, (Cullen, 2004; Jackson, 2003b).

> *"The right to create marine farms is an obvious case in point"* and *"At present the Bill does not allow for the grant of such rights"* [229]

Clause 68 and 112 of the Act states that

> *"All orders made under this Part must be entered in the public foreshore and seabed register"* [230]

This means that any customary order must be registered with the Chief Executive Officer of the Ministry of Justice, (Cullen, 2004). The Crown has stated that they will manage and control the foreshore and seabed.

[229] (Evans, 2005: 19)
[230] (Cullen, 2004: 32)

Clause 33 of the Act iwi as well as hapū can have discussions with the Crown about redress. Redress is not what Māori want. Māori want justice. The fact that there is no statutory provision, as such, that vests title to the foreshore and seabed to the Crown, and that the Crown has been content to rely on an assumption that it owns the foreshore and seabed by prerogative right, such as in Britain, clearly shows racial attitudes of the Crown towards Māori, (Boast *et al.*, 1999; Cullen, 2004; Evans, 2004; Greensill, 2005; Jackson, 2003b; Smith, 1999)**.**

This Act denies Māori a self right for contemporary development and is a ploy that seeks out to destroy the relationship of the tangata whenua to their customary and traditional lands handed down to us by our ancestors.

One group, that is Māori, by this Act, have been removed of their rights as land owners in accordance with tikanga while other groups holding certificates of title to land have not. This is a denial of a right to justice for Māori confirmed in section 27 of the Bill of Rights Act, 1990, and infringes section 19 of the BORA, (Greensill, 2005; Inns, 2005; Jackson, 2003b).

The Paeroa Declaration

On July the 12th 2003 a National Hui was held at the Ngāti Tamaterā Marae of Ngāhutoitoi in Paeroa where *'The Paeroa Declaration'* was developed expressing the fundamental rights and values of Māori concerning the foreshore and seabed. There were seven resolutions drafted into the declaration, these are,

1. *"The foreshore and seabed belong to the Hapu and Iwi under our tinorangatiratanga"*

2. *"We reaffirm our tupuna rights to the foreshore and seabed as whenua rangatira"*

3. *"We direct all Māori MP's to oppose any legislation which proposes to extinguish or redefine customary title or rights"*

4. *"We support all Hapu and Iwi who wish to confirm their rights in the Courts"*

5. *"The government must disclose its proposals to whanau, Hapu and Iwi immediately"*

6. *"The final decision on the foreshore and seabed rests exclusively with whanau, Hapu and Iwi"*

7. *"We accept the invitation of Te Tau Ihu to host the next hui"*[231]

These resolutions reaffirm that the customary foreshore and seabed have always been under the jurisdiction of Hapu and Iwi by way of tinorangatiratanga as guaranteed under Article 2 of the Tiriti o Waitangi and English common law. That land the foreshore and seabed in accordance with tikanga Māori are all interrelated.

The term *'tupuna rights'* is in consequence, and derives it's legitimacy from ancestral precedents and that as the Court of Appeal has already stated, that these rights have never been relinquished. That all Māori MP's should support the wishes of their people as expressed at the Paeroa hui,

> *"Perhaps more importantly it acknowledges that the government authority to extinguish or redefine Iwi and Hapu rights is itself an assured one with precedents based solely on the power taken by colonizing States to dispossess Indigenous Peoples"*[232]

That there are effectively two laws, one for Māori and one for everyone else. However, Māori must support Māori when they endeavour to pursue issues that threaten the tinorangatiratanga of hapū and iwi.

That it is a breach of the Treaty for the Crown to legislate without first consulting with hapū, iwi, and by having discussions with governmental Māori MP's is not Treaty based, but simply the Crown talking to the Crown.

That when it comes to customary rights, the final say rests with Māori to whom that right belongs, thus exercising our tino rangatiratanga and Resolution 7 recognizing the major role that the eight iwi of Te Tau ihu o te waka o Maui have played as parties heard in the Court of Appeal, (Jackson, 2003a).

[231] (Jackson 2003a: 38-39)
[232] Ibid: 38

The Waitangi Tribunal

After the Crowns proposed framework policy the Waitangi Tribunal held an urgent hearing during the month of January 2004, consisting of 149 claims opposing this policy, (Bennion *et al*., 2004). The Tribunal agreed that the proposal breached the Treaty of Waitangi that it did not attain to the wider norms of domestic and international law and principles of justice, equality and non discrimination of a modern democratic state, (Inns, 2005).

The Tribunal found that it denied Māori due process and access to courts, expropriating Māori property rights only are abolished placing Māori in an inferior class to all other New Zealanders. By the rule of law it is in violation of the fundamental tenet of citizenship which is guaranteed in Article three of the Tiriti o Waitangi, (Greensill, 2005; Inns, 2005; Jackson, 2003b). On the 8th of March 2004 the Waitangi Tribunal released its,

> *"Report on the Crowns framework policy proposal for the Foreshore and Seabed"*[233]

This report found that international human rights for Māori had been breached, such as, the Declaration of Human Rights (UDHR) 1948, the International Covenant on Civil and Political Rights (ICCPR - ratified by New Zealand in 1978) and the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD - ratified by New Zealand in 1972), (Inns, 2005).

Māori and non-Māori alike expressed an opinion for these principles with representatives of Hauraki Māori asserting their tinorangatiratanga stating that,

> *"Hauraki says no",* and that *"High public use can be one of the greatest threats to the natural values of our beaches, rivers, and lakes.*
>
> *This may be in the form of disturbance of flora and fauna either intentionally such as vandalism or unintentionally such as lighting fires, allowing into reserves, illegal camping, littering, human waste, and other pollution"*[234]

Human rights in relation to Māori and the Bill of Rights Act (BORA) that have been breached by the Foreshore and Seabed Act are,

[233] (Inns, 2005: 221)
[234] (Carpinter, 2003: 19, 36)

- *Freedom from racial or other discrimination, (s. 19)*
- *Rights of minority to enjoy their culture, (s. 20)*
- *The right to justice, (s. 27)*[235]

The Act breaches the New Zealand Human Rights Act 1993. The Act discriminates between a Certificate of Title and the customary ahikā of Māori and the foreshore and seabed in accordance with tikanga Māori, that is, that the latter pertaining to Māori only, is detrimentally affected by the Act, (Greensill, 2005; Inns, 2005; Jackson, 2003b).

Hīkoi

May 6th 2004, around 15,000 to 25,000, Māori, Pākehā and others, from Te Reinga in the Far North to the far reaches of the east to Rekohu[236] west and south to Rakiura[237], and overseas marched in the largest hīkoi seen in the history of New Zealand on Parliament, Wellington to protest against the Foreshore and Seabed Bill.

However, on that day the Prime Minister Helen Clarke was busy wooing a Sheep and on the very next day the Foreshore and Seabed Bill 2004 was introduced into the House of Representatives then on the 24th of November, 2004 the 'Foreshore and Seabed Act 2004' became law, (Bennion *et al*., 2004; Greensill, 2005; Inns, 2005).

Special Rapporteur Rodolfo Stavenhagen

In 2004 when it became blatantly clear that in spite of protests and opposition from Māori that the New Zealand Labour Government intended to ensue with its legislation of the foreshore coastline and seabed areas of Aotearoa which belongs to Māori, Māori then approached the UN Permanent Forum for Indigenous Peoples.

An extensive claim was made to the Convention on the Elimination of all Forms of Racial Discrimination or the CERD Committee, who found that 'the foreshore legislation was in breach of the Convention, (Jackson, 2005).

[235] Ibid: 223
[236] Chatham Islands
[237] South Island

> *"…the (foreshore) legislation appears…on balance to contain discriminatory aspects against the Maori, in particular in its extinguishment of the possibility of establishing Maori title to the foreshore and seabed and in its failure to provide a guaranteed right of redress"*[238]

Special Rapporteur on the *'Human Rights and Fundamental Freedoms of Indigenous Peoples'* Professor Rodolfo Stavenhagen from Mexico is an independent expert chosen by government leaders of the United Nations to investigate and report on issues around the world which are thought to be of major importance. He had already compiled extensive reports on various other countries before arriving in New Zealand, (Jackson, 2005).

> *"Rodolfo Stavenhagen, a Mexican professor, was asked by the United Nations Commission of Human Rights to visit New Zealand and report on the situation of indigenous people, including the implications of the Foreshore and Seabed Act.* Also*…the Government had a long standing invitation for the Rapporteur to visit"*[239]

Professor Rodolfo Stavenhagen arrived in New Zealand on November 15th 2004. The majority of his meetings were with the Government or various Crown agencies. He met with Officials and Chief Executives of twelve individual agencies as well as Te Puni Kokiri, the Office of Treaty Settlements and the Office of the Prime Minister and Cabinet.

He also had meetings and briefings with Deputy Prime Minister Dr Michael Cullen, with Minister of Māori Affairs Parekura Horomia and the Human Rights Commission. Professor Stavenhagen also attended a National hui at Parihaka and hui with Ngāti Whatua, Pare Hauraki, Te Arawa, Ngāti Tūwharetoa and Ngāi Tahu.

Professor Stavenhagen's report included an historical overview of colonisation and issues of land rights it also addressed the social inconsistencies between Māori and Pākehā. It found that the Māori as a people have held the acuity (perception) that as far as Treaty relationships and negotiations are concerned, Māori have always been considered and treated as junior partners, (Jackson, 2005; Young, 2006).

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[238] (Jackson, 2005)
[239] (Young, 2006)

"The matters it considers are political representation, the Treaty settlements process, Maori justice, language and education issues, social and economic inequalities, and the particular human rights implications of the Foreshore and Seabed Act"[240]

The Report clearly focuses on the question as Dr Brash and others have alleged that Maori have and receive special privileges. Professor Stavenhagen states that he had not been presented with any such evidence to that effect. However, he went on to say that he had received plenty of evidence to the contrary and is concerned that historical and institutional discrimination had been suffered by the Māori People of Aotearoa, It found that lands returned or monies paid out by way of settlement processes are of minimal percentage and for the most part 'less than one percent of the current value of the land, (Jackson, 2005; Young, 2006).

"He also noted that the whole discourse around supposed Maori privileges and recent shifts in government policy appeared to be unwelcome evidence of a return to "the assimilationist model of race relations"[241]

By the Act the Crown extinguished in the name of the public interest all and total existing rights of Maori to the foreshore, seabed and resources while allowing the prospect for the acknowledged recognition by the Crown of its customary use and practices through confusing restrictive judicial and administrative procedures, (Jackson, 2005).

"It says that it was exemplified in complex land rights issues which led to a latent crisis that broke over the foreshore and seabed issue, ... And it argues for a resumption of measures based on ethnicity to strengthen the social economic and cultural rights of Maori"[242]

Other findings of the Report are,

- The Act can be envisioned as a backward step for Māori
- All total and existing rights of Maori to the foreshore and seabed has been extinguished by the Crown

[240] (Jackson, 2005)
[241] Ibid
[242] (Young, 2006)

- The law abolished the right to claim customary title to the foreshore and seabed through the courts, with no possible redress except by negotiations with the Government, (Jackson, 2005).

The Report recognizes the importance of Māori aspirations and emphasis on the retention or reclamation of decision making capacities over clear intrinsic matters incorporating the organizations of the social and political nature, lands, resources, the nature of Māori our relationship with the Crown as well as the 'wider cultural polity..

Rodolfo Stavenhagen's report was of the opinion that the Crown should engage in negotiations with Maori, with agreements and settlement policies to be reached on fair and equitable processes and that the 'Waitangi Tribunal should be granted legally binding and enforceable powers to adjudicate Treaty matters.

Recommendations were that the Act should be repealed or amended. The Government should engage with Māori pertaining to Treaty settlement negotiations meanwhile recognizing the inherent rights of Maori to their customary areas whilst establishing 'regulatory mechanisms' allowing the full and free access by the general public to the beaches and coastal areas of New Zealand, without discrimination.

It suggested constitutionally entrenching the Treaty of Waitangi and that the units for the strengthening the customary governance of Māori should come from iwi and hapū as well as recommending the ratification of the ILO Convention 169 on indigenous rights. Report recommended that the New Zealand Government encourage efforts in achieving a 'United Nations declaration on the rights of Indigenous Peoples, (Jackson, 2005; Young, 2006).

> *"It recommends that this issue be addressed through a constitutional convention and a process of constitutional reform in order to clearly regulate the relationship between the government and Maori people on the basis of the Treaty ... and the internationally recognised right of all peoples to self determination"*[243]

[243] (Jackson, 2005)

Further recommendations are,

- The Treaty of Waitangi should be constitutionally entrenched in recognition of the alternative system of knowledge, philosophy and law of Maori
- MMP should be entrenched guaranteeing sufficient representation of Maori in Parliament at regional and local level
- The Waitangi Tribunal should be given binding powers of adjudication
- That Maori wāhi tapu or sacred sites as well as all other places of particular significance are permanently incorporated into national cultural heritage
- For an independent commission to be established thus monitoring all media for balanced, non-racist coverage and reporting and to suggest remedial action[244]

The Government dismissed the report by Professor Stavenhagen and demeaned the Committee by claiming it as irrelevant and did not fully appreciate the complexities of the issue at hand. Furthermore the Government claimed that even if there were discriminatory aspects in legislation, they themselves did not breach the Convention, (Jackson, 2005; Young, 2006).

The United Nations Human Rights Commission report on the situation in New Zealand concerning Maori the Crown and the Foreshore and Seabed Act 2004 was also described by the Government as unbalanced, narrow and although being invited to New Zealand thus accused the UNHRC of interference.

Gerry Brownlee Deputy Leader of the National Party said that the UN "has no business telling New Zealand what to do, (Jackson, 2005). The 'contentious legislation' was shepherded by Dr Cullen through Parliament and passed thus being supported by the New Zealand First political party with its leader Winston Peters also condemning the report, (Young, 2006).

> *"It is sad that the unique and complex social reality in New Zealand, including the high proportion of intermarriage between Maori and other ethnicities, was ignored as a result of a rigid ideological approach far removed from the reality of most New Zealanders"*[245]

[244] (Young, 2006)

Cullen claims the report to be full of errors of 'fact and interpretation.' He goes on to say that New Zealand has a proud democratic tradition and that may be fine in countries without one but not here in the land hidden by the long white cloud where 'we prefer to debate and find solutions to these issues ourselves', (Young, 2006).

> *"...probably underlines the fact that the committee it comes from is being wrapped up and reformed ... Deputy Prime Minister Michael Cullen said the report by Professor Rodolfo Stavenhagen was an attempt to tell us how to manage our political system"*[246]

The Deputy Prime Minister also claimed that the report did not have any supporting evidence as to what it meant. A brief document responding to Professor Stavehagens report was then issued which raised a number of dubious arguments pertaining to the so called errors in law in the report and that the Government would have the world believe that it's all just a storm in a teacup, (Jackson, 2005).

> *"It will be widely read and no doubt widely discussed and then nothing much will happen - Deputy Prime Minister Michael Cullen"*[247]

The Report endeavours to place the foreshore and seabed issue into a broad context covering historical material as well as the contemporary, current, social and economic indicators involved. In spite of the progress being made in relation to Treaty settlement grievances as well as various social initiatives the Report acknowledges that,

> *"...disparities continue to exist between Maori and non-Maori with regard to employment, income, health, housing, education [and] the criminal justice system"*[248]

As the report is a highly critical one it therefore comes as an embarrassment to the New Zealand Government who on the surface would have the world believe that it has fair and equitable relationship with its Māori indigenous Treaty partners thus wholeheartedly embracing the concepts and principles of the United Nations, (Jackson, 2006; Young, 2006).

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[245] (Young, 2006)
[246] Ibid
[247] (Young, 2006)
[248] (Jackson, 2005)

> *"To repeatedly reject UN findings is unhelpful and does no credit to the country's international reputation"*[249]

Although the Report specifically focused on the foreshore and seabed issue it also encompassed a wide range of other topics.

Therefore the Report reflects a broad mandate by the Rapporteur and an independent summary is presented concerning the fair and equal rights for Māori and our relationship with the Government in which the issue of Foreshore and Seabed Act has been orchestrated by the Crown, (Jackson, 2005).

> *"In keeping with the human rights mandate of the special Rapporteur the Report defines the passage of the foreshore and seabed legislation as "an important human rights issue for Maori and all New Zealanders"*[250]

Subsequently the New Zealand Labour Government and the National Party whilst being supported by New Zealand First are somewhat exposed to an uncomfortable hypocrisy while they each apiece promote a healthy and harmonious respect for the UN as an advocate body of human rights, to only discredit and demean the findings and recommendations of the Rapporteur invited, concerning the Foreshore and Seabed Act 2004 and its impact demeaning on the human rights of Maori, (Jackson, 2005; Young, 2006).

> *"The Report is the product of the most important international human rights institution there is. It was established by governments and for the New Zealand government to now belittle its work is to belittle the very notion of human rights"*[251]

To underestimate the power of international embarrassment is foolish. Fortunately for the Crown the Report is not binding and can only present its findings and give recommendations, however, it's considered views will not go far unnoticed when tabled at the UN, (Jackson, 2005; Young, 2006).

[249] Ibid
[250] Ibid
[251] Ibid

The Māori Party

When Tariana Turia crossed the proverbial floor she in fact set the conceptional wheel in motion which gained momentum snowballed and brought forth the Maori political party. The Māori Party was in turn created in opposition to the law thus hailed Professor Stavenhagen's Report as an accurate and balanced depiction of the reality of life for the tangata whenua of Aotearoa, (Young, 2006).

> *"The Maori Party received this report with a heavy heart said co-leader Tariana Turia. It records for the world to see an appalling picture of 'bad news' about the way in which the Government has systematically ignored or neglected the position of Maori in this country"*[252]

As a result during this year of 2007 the Māori Party intends to introduce to Parliament for its first reading its 'Foreshore and Seabed Act (Repeal) Bill.'

- **Foreshore and Seabed Act (Repeal) Bill**

Part 1 under clause 4 requires that the Foreshore and Seabed Act 2004 be repealed and consequentially repeals the Resource Management Act (Foreshore and Seabed) Amendment Act 2004. Consequential amendments to a number of other enactments under clause 5 require that the position of law be returned to its position prior to the enactment of the foreshore and Seabed Act 2004.

Part 2 under Clauses 6 to 18 as being part of that process, restores the provisions of the Foreshore and Seabed Endowment Revesting Act 1991, which in its entirety was repealed by the Foreshore and Seabed Act 2004

The function of the Bill is for the Foreshore and Seabed Act to be repealed. The Foreshore and Seabed Act overrides the pre-existing traditional customary property rights of Māori and therefore the human rights of Māori. There is no justifiable reasoning for Māori to be treated differently under the law concerning the customary property rights of Māori and are therefore entitled to an equal protection of the law.

[252] Ibid

Therefore, the purpose of the Bill is to restore the Court of Appeal ruling in the Ngāti Apa case of the June 2003, and to have the Foreshore and Seabed Act 2004 expunged in its entirety, ("Foreshore and Seabed Act (Repeal) Bill", 2006).

Overview

Following 1840-1997 nearly all the lands of Hauraki were alienated or confiscated under a variety of tactics, force and legislative laws. Māori customary and legal property rights over the foreshore and seabed were never extinguished and by default the Tiriti o Waitangi was in actuality honoured and common law adhered to, (Jackson, 2003b; Nicholls, 1998)

The Act deems participation of Māori and council decision making at to be but a token gesture with no real substance. The Acts one law for all concept, is a contradiction in terms, in that, the Act stops Māori access to court, steals the foreshore, seabed, oceanic areas, and resources of Māori and places Māori in an inferior class and status to all others of Aotearoa/New Zealand, (Greensill, 2005; Inns, 2005; Jackson, 2003b).

The New Zealand Government would have the world believe that here is a country that is a staunch defender of human rights and a good international law abiding citizen which has a harmonious relationship with its indigenous people, (Inns, 2005). However, the Act is highly contrary to this belief.

Indigenous peoples from Australia, America, Canada and Scandinavia are believed to be monitoring any action Māori are likely to take in respect to the Act, with the Pacific nations supporting an international focus on the issues at hand.

The international community is viewing the actions of New Zealand pertaining to the Act as a broader litmus test for the monitoring of Crown colonists in respect to the continued international treatment of indigenous peoples. New Zealand is widely regarded overseas as a world leader in the recognition of indigenous rights, (Inns, 2005).

Regardless of what the New Zealand Government portrays to the world and what the Act purports to offer the fact remains that the Act legislatively steals and seizes the foreshore and seabed from Māori without redress.

The Act is discriminatory, racist, breaches national and international human rights in regard to indigenous customary property rights, in that, it diminishes Māori customary property native land rights to a lesser position as opposed to all others with a Certificate of Title to Freehold Land, (Jackson, 2003b).

Pare Hauraki Māori did not walk away from, relinquish, gift, lease or sell all the areas of the foreshore and seabed of Tīkapa Moana, nor have these specific areas ever been investigated by previous or current Native/Māori land courts of the day.

Although the Crown have always assumed that it has absolute ownership of the foreshore and seabed this is not a new issue to Māori, and Pare Hauraki Māori have always asserted that the foreshore and seabed have always fallen within the exercise of tinorangatiratanga in that they are both part of the land and therefore a Tiriti issue, in that the Tiriti reaffirmed the rights and authority that Māori have been exercising over many centuries before 1840, (Jackson, 2003b).

The foreshore debate has become prominent because of the Court of Appeal ruling of June 2003 who judged a transfer of sovereignty did not extinguish existing customary rights of Māori and that the eight iwi of the Marlborough Sounds could have their claims over their specific area of the foreshore and seabed heard in the Māori Land Court.

Although the Act breaches Te Tiriti, the Court of Appeal ruling was decided as a common law issue as opposed to a Tiriti issue because English common law had always recognized that aboriginal or customary rights and title had existed before and continued to exist after the establishment of a colony and that it was the job of the Māori Land Court to define these areas.

The Crown in its ultimate wisdom sought to overrule not only the tupuna version but its own common law description of Māori rights by vesting the full and beneficial ownership of the foreshore and seabed in itself for the so called benefit of all New Zealanders.

This, the Crown achieved by the scaremongering of the general public by stating that Māori would block off access or sell the beaches. However any land which is collectively owned and exercised in accordance with tikanga Māori is non-tradable.

As far as blocking off access to beaches, this has never been an issue as this concept pertains only to the customary foreshore and seabed of Māori. If the truth be known many if not all of the free trade agreements that the government enters into requires that there must be, absolutely, no confusion over title, this includes the foreshore and seabed. The only people to feel any sense of loss and injustice over the Foreshore and Seabed Act are Māori.

> *"The Crown proposal reduces Māori to tenants of the foreshore which Iwi and Hapu have exercised for centuries. It subordinates tinorangatiratanga to the whim of the Crown"*[253]

In a pitiful attempt to save face amongst the growing opposition from Māori and overseas interests in this case which had begun to broaden, the government held meetings with Māori caucus which is a waste of time as this is just the Crown talking to the Crown, as well as other groups with the overwhelming majority opposing the foreshore and seabed proposal.

Apart from stating that they would recognize certain 'customary uses' or the possibility of compensation, thus far the Crown has not changed its stance on the foreshore and seabed issue. The Crown has asserted that iwi and hapu or for that matter Māori are claiming special rights from the Crown when in reality Māori are only exercising and reaffirming their rights which have been in existence for over a thousand years, (Bennion et al., 2004; Greensill, 2005; Inns, 2005; Jackson, 2003b)**.**

[253] (Jackson, 2003: 8)

CONCLUSION

In 1840 Pare Hauraki Māori owned 94 percent of their lands. Between the years of 1870 and 1885 my ancestors had lost 470, 000 acres of their lands as this was the heaviest time of land purchasers by the Crown in the Hauraki district, with 400,000 acres taken by the Crown and 70,000 acres by private individuals. By 1885, 65 percent of Māori land had been alienated.

By 1890 approximately 23 percent of which was essentially of little economic value was still held in Māori Trusteeship. By 1899, Hauraki Māori were left with only fifteen percent of their traditional customary lands with the demographics of Maori and settler becoming totally unbalanced. During the twentieth century and by 1997 Pare Hauraki Māori held just 2.6 percent of their traditional customary lands, (Nicholls, 1998).

Breaches of the Tiriti, pre Tiriti land purchases, Fitzroy's pre-emptive waiver purchases, various methodologies, old claims, land confiscation, laws such as native land act's, public work schemes, mining rights as well as Christianity have all been tools instrumental by successive governments to steal Pare Hauraki and now the foreshore and seabed from Pare Hauraki Māori.

> *"The history of land alienation tells a story of how the Crown deliberately misled Hauraki Māori in matters relating to land"*[254]

Since 1840 Māori have had little choice but to accept Crown designed sporadic and inconsistent redress, while at the same time having to endure a 167 years of backlash and accusations from non-Māori, that Māori are receiving unwarranted privileges.

Consecutive generational bias of native land courts, judges, politicians, missionaries, traders and settlers alike of the nineteenth and well into the twentieth century did further ensure the continued marginalization of Pare Hauraki Māori, the alienation and continued disconnection from our, lands, waters, oceanic areas, minerals, resources, culture, language and views.

Now with the foreshore issue at hand, this matter has seen an unprecedented change in the law in that before the Act Māori had always, had the right of due process.

[254] (Nicholls, 1998: 99)

Breaching the Tiriti is nothing new however to breach ones own law, exposes a governmental tyranny with an historical thought of disdain for Māori. To claim sovereignty over Aotearoa/New Zealand is the only promise the Crown has kept.

The fact is that the foreshore and seabed is customary Māori land and that the Crown only holds radical title only illustrates that the Act is racist and unjust and as Rodolpho Stavehagens report and others have stated that this Act should be repealed, amended ratified, or expunged in its entirety. The Act indeed is the act that broke the proverbial camels back.

The Foreshore and Seabed Act is the final land grab of Pare Hauraki lands, waterways, and now Tīkapa Moana. Pare Hauraki Māori for the benefit of Pākehā has been dispossessed by the Crown of nearly all our customary lands and traditional resources in which only 2.6 percent remains. Pare Hauraki Māori has little left to hand down to our descendants.

Perhaps by this thesis the evidence presented can be used not only by Pare Hauraki Māori but by all Māori and non-Māori alike as a means and a way, along with the support from other fair and like minded people to bring justice to Pare Hauraki Māori and Māori alike and thus hold the New Zealand Government accountable for its actions. Kei wareware tātou![255]

[255] Lest we forget!

Bibliography

Barlow, C. (1991). *Tikanga Whakaaro: Key concepts in Maori culture*. Auckland, NZ: Oxford University Press.

Bell, J. (1999). *Doing your research project: A guide for first-time researchers in education and social science* (3rd ed.). Buckingham, England: Open University Press.

Bennion, T., Birdling, M., & Paton, R. (2004). *Maori law review: Making sense of the foreshore and seabed: A special edition of the Maori Law Review* (No. 0476008026 (pbk). Wellington, NZ: The Maori Law Review.

Biographies. (2004). Auguste Comte (1798-1857). Retrieved 19 August, 2006, from http://www.blupete.com/Literature/Biographies/Philosophy/Comte.htm

Black, V. (1985). *The Spirit of Coromandel*. Auckland, NZ: Reed Methuen.

Boast, R., Erueti, A., McPhail, & Smith, N., F. (1999). *Maori Land Law*. Wellington, NZ: Butterworths.

Brooking, T., Enright, P., Mills, H., & Rogers, A. (Eds.). (1988). *Milestones: Turning points in New Zealand history*. Lower Hutt, NZ: Mills Publications.

Carpinter, A. (2003). *The foreshore and seabed of New Zealand : Report on the analysis of submissions* (No. 0477019897 (pbk.). Wellington, NZ: Dept. of Prime Minister and Cabinet.

Christie, W. (1997). *Treaty issues*. Christchurch, NZ: Wyvern Press.

Cram, F. (2001). Rangahau Maori. In T. Martin (Ed.), *Research Ethics in Aotearoa New Zealand* (pp. 35-53). Auckland, NZ: Pearson Education.

Crawford, W. (2004). Using a perspective explored in the first half of this course, write an essay that (i) describes the perspective, with reference to some reading you have done, (ii) use the perspective to comment on a local (geographic) place of your choice (pp. 1-7): Waikato University.

Crosby, R. (2002). Te Tau Ihu Maori: Involvement in Resource Management Issues. In M. Kawharu (Ed.), *Whenua: Managing our Resources* (pp. 359-372). Auckland, NZ: Reed.

Cullen, D. M. (2004). *Foreshore and Seabed Bill: Government Bill*. Wellington, NZ: New Zealand Government.

Department of Internal Affairs. (1990). *The Dictionary of New Zealand Biography* (Vol. One: 1769-1869). Wellington, NZ: Allen & Unwin.

Durie, M. (1998). *Te mana, Te kawanatanga: The politics of Maori self-determination*. Auckland, NZ: Oxford University Press.

Evans, J. (1998). *The discovery of Aotearoa*. Auckland, NZ: Reed Publishers.

Evans, J. (2004). Untangling the Foreshore. Retrieved 14 February, 2007, from http://www.arena.org.nz/sbevans.htm

Foreshore and Seabed Act (Repeal) Bill, (2006).

Graham, J. C. (Ed.). (1965). *Maori Paintings by Gottfried Lindauer*. Wellington, NZ: Reed.

Greensill, A. (2005). Crown Confiscation in the 21st Century: The Foreshore and Seabed Act in Aotearoa New Zealand. In G. Garth, A. Goodall & J. Inns (Eds.), *Discourses and silences: Indigenous peoples, risks and resistance* (pp. 209-218). Christchurch, NZ: University of Canterbury.

Hauraki Maori Trust Board. (2004). About the Hauraki Maori Trust Board. Retrieved 25 July 2006, from http://www.haurakimaori.co.nz/aboutus.htm

Inns, J. (2005). Crown Confiscation in the 21st Century: The Foreshore and Seabed Act in Aotearoa New Zealand. In G. Garth, A. Goodall & J. Inns (Eds.), *Discourses and Silences* (pp. 219-229). Christchurch, NZ: University of Canterbury.

Jackson, M. (2003a). Backgrounding the Paeroa Declarartion. In The International Research Institute for Maori and Indigenous Education (IRI) (Ed.), *Te Takutai Moana: Economics, Politics and Colonisation: A Series of Readers Examining Critical, Issues in Contemporary Maori Society* (2 ed., Vol. 5, pp. 38-40). Wellington, NZ: The International Research Institute for Maori and Indigenous Education (IRI).

Jackson, M. (2003b). The Crown Baseline for Legislation on the Foreshore and Seabed - An analysis. Retrieved 14 February, 2007, from http://www.terarawa.co.nz/mahi/rm/seabed/seabed_9n.htm

Jackson, M. (2005). The United Nations on the Foreshore: A Summary of the Report of the Special Rapporteur. Retrieved 15 November, 2006, from http://www.converge.org.nz/pma/mj050406.htm

Jackson, M. (2006). The United Nations on the Foreshore: A Summary of the Report of the Special Rapporteur. Retrieved 15 November, 2006, from http://www.converge.org.nz/pma/mj050406.htm

Jones, P. T. H., & Biggs, B. (Eds.). (1995). *Nga iwi o Tainui:The traditional history of the Tainui people: Nga koorero tuku iho a nga tupuna*. Auckland, NZ: University Press.

Kelly, L. G. (2002). *Tainui: The story of Hoturoa and his descendants* (2nd ed.). Christchurch, NZ: Cadsonbury Publications.

King, M. (Ed.). (1981). *Te Ao hurihuri: The world moves on: Aspects of Maoritanga* (New . ed.). Auckland, N.Z: Longman Paul.

A Little Boy Meets Captain Cook. (1965). *Te Ao Hou*(52), 43-49.

Maori Land Court. (2001). *Maori Land Court: A Guide: Te Ture Whenua Maori Act 1993*. Wellington, NZ: Department for Courts.

Mead, H., M. (1997). *Landmarks, Bridges and Visions: Aspects of Maori Culture*. Wellington, NZ: Victoria University Press.

Mead, H., M, & Grove, N. (Eds.). (2001). *Nga pepeha a nga tupuna: The sayings of the ancestors*. Wellington, NZ: Victoria University Press.

Metge, J. (1967). *The Maoris of New Zealand*. London, England: Routledge & K. Paul.

Ministry of Justice. (2001). *A Glimpse into the Maori World: Maori perspectives on justice: He Hinatore ki te ao Maori*. Wellington, NZ: Ministry of Justice.

Moore, D., Rigby, B., & M, R. (1997). *Rangahaua Whanui National Theme. A, Old Land Claims* (B. R. M. Rigby, Trans. 1st release. ed.). Wellington, N.Z: Waitangi Tribunal.

New Zealand, Great Britain, & New Zealand Governor (1840-1842 : Hobson). (1976). *Facsimiles of the Declaration of Independence and the Treaty of Waitangi*. Wellington, NZ: Govt Printer.

New Zealand History Online. Herald-Bunbury Treaty Copy-Signatories to the Treaty of Waitangi. Retrieved 15 October, 2006, from http://www.nzhistory.net.nz/politics/treaty/making-the-treaty/herald-bunbury-copy

Nicholls, J., P. (1998). *The establishment of the Hauraki Maaori District Council: Ko te timatanga oo te Kaunihera Maaori o Hauraki.* Unpublished Ma, University of Auckland.

Orange, C. (1989). *The story of a treaty*. Wellington, NZ: Allen & Unwin.

Phillips, C. (2000). *Waihou journeys: The archaeology of 400 years of Maori settlement*. Auckland, NZ: University Press.

Phillips, F. L. (1989). *Nga Tohu a Tainui: Landmarks of Tainui* (Vol. One). Otorohanga, NZ: Tohu Publishers.

Phillips, F. L. (1995). *Nga Tohu a Tainui: Landmarks of Tainui* (Vol. Two). Otorohanga, NZ: Tohu Publishers.

Project Waitangi. (1989). *The Treaty of Waitangi: Questions and Answers: A resource kit for Pakeha* (2nd ed.). Wellington, NZ: The Project.

Reed, A., W. (1977). *Treasury of Maori exploration: Legends relating to the first Polynesian explorers of New Zealand*. Wellington, NZ: Reed.

Rice, G., Oliver, W. H., & Williams, B. R. (Eds.). (1992). *The Oxford history of New Zealand* (2nd ed.). Auckland, NZ: University Press.

Riley, M. (1994). *Maori Healing and Herbal*. Paraparaumu, NZ: Viking Sevenseas.

Ross, H. (1971). The Treaty of Waitangi (pp. 1-16): 293 Somme Parade: Wanganui, NZ.

Royal, C. (1992). *Te Haurapa: An introduction to researching tribal histories and traditions*. Wellington, NZ: Bridget Williams Books Limited.

Royal, C., & Turoa, T. (Eds.). (2000). *Te Takoto o te Whenua o Hauraki: Hauraki Landmarks*. Auckland, NZ: Reed

Salmond, A. (1997). *Between Worlds: Early exchanges between Maori and Europeans, 1773-1815*. Auckland, NZ: Viking.

Simmons, D. (1987). *Maori Auckland*. Auckland, NZ: Bush Press.

Sinclair, D. (1981). Land: Maori View and European Response. In M. King (Ed.), *Te Ao Hurihuri* (pp. 86-107). Auckland, NZ: Longman Paul Limited.

Smith, L. T. (1999). *Decolonizing Methodologies: Research and Indigenous Peoples*. Dunedin, NZ: University of Otago Press.

Te Matahauraki. (2003). Maori Customary Rights: The Hard Yards. Retrieved 4/10/06, 2006, from http://lianz.waikato.ac.nz/PAPERS/NEWSLETTER/News7.pdf

Waitangi Tribunal. (2006a). *The Hauraki report* (Vol. 1). Wellington, N.Z: Legislation Direct.

Waitangi Tribunal. (2006b). Nineteenth Century Discussions on Maori Land Tenure. Retrieved 17 October, 2006, from http://www.waitangi-tribunal.govt.nz/doclibrary/public/researchwhanui/theme/c/Chapt08.pdf

Walker, R. (1990). *Ka Whawhai Tonu Matou: Struggle Without End*. Auckland, NZ: Penguin.

Ward, P. A. (1997). Hauraki. *Waitangi Tribunal Rangahaua Whānaui Series* Retrieved 11 October, 2006, from http://www.knowledge-basket.co.nz/oldwaitangi/natview/vol3/chapt02.PDF

Williams, H. W. (2000). *Dictionary of the Maori Language* (7th ed.). Wellington, NZ: Legislation Direct.

Williams, Z., & Williams, J. (1994). *Thames and the Coromandel Peninsula: 2000 years*. Thames, NZ: Williams Publishers.

Wilson, O. (1990). *Kororareka & Other Essays*. Dunedin, NZ: John McIndoe.

Young, A. (2006, 15 November 2006). UN foreshore report 'unbalanced'. *NZ Herald* Retrieved 5 April 2006, from http://subs.nzherald.co.nz/topic/story.cfm?c_id=247&objectid=10376141