



CONSERVATION
TE PAPA ATAWHAI

WIT.006
QUA.085

Bay of Plenty Conservation Board

TREATY OF WAITANGI CLAIM (WAI.46) - NGATI AWA

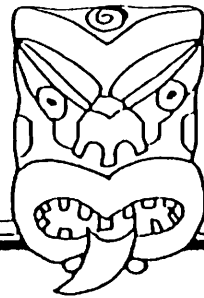
Board members will know that Te Runanga o Ngati Awa have lodged a Waitangi Treaty claim on behalf of Ngati Awa.

The Waitangi Tribunal, the claimant (Ngati Awa) and Government Department officials have all agreed to propose to Government that part of the claim be put on the "Negotiation Register". That is the part claim could be negotiated rather than be heard in full by the Waitangi Tribunal. If this "framework agreement" between Ngati Awa and the Crown is approved by Government, then the Treaty of Waitangi Policy Unit (TOWPU) of the Waitangi Tribunal Division of the Justice Department will lead negotiations for the Crown. These negotiations will include discussion with other affected parties, in this case the Department of Conservation, the Conservation Board and the Whakatane District Council.

The part of the wider Ngati Awa claim that affects conservation areas is the "blanket". The whole claim was described as the "pillow, bed and blanket". Specific conservation areas in the "blanket" are:

Kohi Point Scenic Reserve	154 ha
Ka-pu-te-rangi Historic Reserve	
Uretara Island Scenic Reserve	
Ohope Scenic Reserve	465 ha
Mokorua Bush Scenic Reserve	238 ha
Ohineteraraku Scenic Reserve	7 ha
Mangaone Scenic Reserve	580 ha
Rotoma Scenic Reserve	875 ha
Moutohora Island (Whale Is)	

Uretara Island, Mangaone and Rotoma Scenic Reserves are also of interest to other iwi (Whakatohea and Ngati Pikiiao), while Moutohora which was not part of the Crown confiscation area, and was not included in the "blanket" part of the claim, is also subject to a separate claim (WAI.206) in respect of geothermal resources.



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Housing Corporation
Building
Pyne Street

P.O. Box 76,
Whakatane.

25 February 1988

The Registrar.
Waitangi Tribunal
Dota Bank House
The Terrace
WELLINGTON

Dear Sir

THE NGATI AWA CLAIM: REFERENCE PC 49

I, HIRINI MOKO MEAD, Professor, member of Ngati Pahipoto, and Te Rongihouhiri hapu of Ngati Awa, and Deputy Chairman of the Ngati Awa Trust Board; and

I, CLETUS MAANU PAUL, member of Ngati Pukeko and Ngati Hokopu hapu of Ngati Awa, and member of the Ngati Awa Trust Board:

- (a) Claim on behalf of ourselves and all members of the constituent hapu of Ngati Awa of Mataatua Waka to be prejudicially affected or likely to be prejudicially affected by a series of actions taken by Governments of New Zealand from the 16th June 1840 when Ngati Awa signed "The Treaty of Waitangi" up to the present time 1988. Such actions are listed in the submission.
- (b) Further, supported by the Ngati Awa Trust Board we claim that these actions together with the failure of the Crown to act to safeguard our interests were inconsistent with the principle of the "Treaty of Waitangi".
- (c) Requests the Tribunal to assist us in the thorough research of our case.
- (d) Requests further that you appoint a lawyer to assist us in taking our case before the Tribunal.
- (e) Requests that you hear our claim at a marae of Ngati Awa at a time convenient to both parties.

- (b) The pine trees removed from the mountain and re-planted instead with native trees.
- (c) The title to the mountain returned to the people of Ngati Awa.
- (d) The mountain declared a "wahi tapu" and protected under the Maori Reservations Act, and
- (e) The structures already on the mountain side to become the property of Ngati Awa.

Nga Whenua Rahui (The Reserves)

Reserves set aside for various purposes are part of the confiscated lands of Ngati Awa. Ngati Awa wants those reserves which are not already Maori Reservations to be re-classified as Maori Reservations. Negotiations with Government focus specifically upon those reserves which are in the region we call te paraikete (the blanket). These are:

Kohi Point Reserve	154	ha
Koputerongi Reserve	5	ha
Ohope Reserve	237.5	ha
Mokoruā Reserve	489	
Ohineteraraku	10.5321	ha

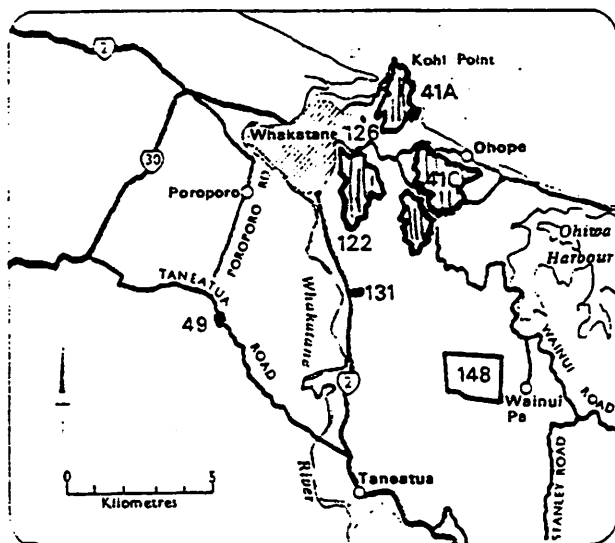
It is necessary now in terms of the "Treaty of Waitangi" and the promise made to Ngati Awa in Article 2 that all parcels of land classified as reserves be now re-classified as Maori Reservations.

We wish to negotiate with officers of DOC regarding the use of some of the reserves and we specifically want to talk to them about the employment by Ngati Awa of Kaitiaki Whenua (Land Protectors) and funded by DOC to look after the maintenance and protection of our reserves and to man reserves such as Ohope and others which Ngati Awa is willing to make available on its terms to the general public of Whakatane and Ohope.

Te Murungo Haro (The Pardon)

Ngati Awa asked for a full pardon for all of our chiefs and warriors who were court-martialled in 1865 and jailed in Auckland.

↓
This illustrates the essential difference between impartial administration as a Crown reserve, and administration as a private reserve.



WHAKATANE

No. 148 Waitane

Area: 255 hectares. Reserved 1977.
Class: Scenic.

Sixteen kilometres south-east of Whakatane off the Ohope Cheddar Valley Road is this attractive area of bush which is the Waitane Scenic Reserve. The forest in this reserve is the remnant of the forest type which once covered a large proportion of this area. Tree species present are tawa, hinau, rewarewa, mangeao, pukatea, kohekohe, puriri, rimu, tanekaha, rata, nikau, kanuka, and kamahi. An old military 1.8 metre wide track traverses the reserve roughly following a legal road alignment which splits the reserve in two. There is no legal access to this reserve.

No. 49 White Pine Bush

Area: 4.5 hectares. Reserved 1925.
Class: Scenic.

Situated 8 kilometres south of Whakatane on the Awakeri-Taneatua road, this is an attractive remnant of the original swamp forest of the district. The Tauranga-Taneatua railway forms the western boundary. There is a picnic area by the roadside; from here a track leads to a footbridge over a stream and into the bush where among the attractions are many fine specimens of kahikatea.

No. 131 Ohineteraraku

Area: 7 hectares. Reserved 1975.
Class: Scenic.

Five kilometres south of Whakatane on State Highway 2 is an old gravel reserve known as the Ohineteraraku Scenic Reserve. This reserve is a delightful, steep-sided gully with regenerating bush cover on the faces and a clear stream passing through it. The vegetation is a light semi-coastal type remnant of native forest consisting of tawa, pukatea, mangeao, and hinau with the odd pohutukawa, puriri, and titoki present. Wineberry, rangiora, and supplejack are major second canopy species.

No. 122 Mokorua Bush

Area: 238 hectares. Reserved 1971.
Class: Scenic.

This is a scenic feature on the Mokorua Gorge Road, on the eastern outskirts of Whakatane travelling towards Ohope Beach. The area is mainly in second-growth bush which has regenerated since farming of the area ceased. There are steep-sided gullies in which grow pohutukawa, puriri, rewarewa, and kamahi,

with smaller tawa, kohekohe, mangeao, hinau, and pukatea. In the northern quarter towards the road, regrowth is up to 6 metres high with mamaku, five-finger, kamahi, titoki, mahoe, and tree ferns growing under rewarewa. Tall pole stands of rewarewa with some kanuka and kamahi predominate over the central area. The main stream has several pleasant, grassy glades. From the western ridge, fine views are obtained of the sea-coast, the plains, and the foot hills of the Urewera.

Control lies with the Whakatane Borough Council.

No. 41C Ohope

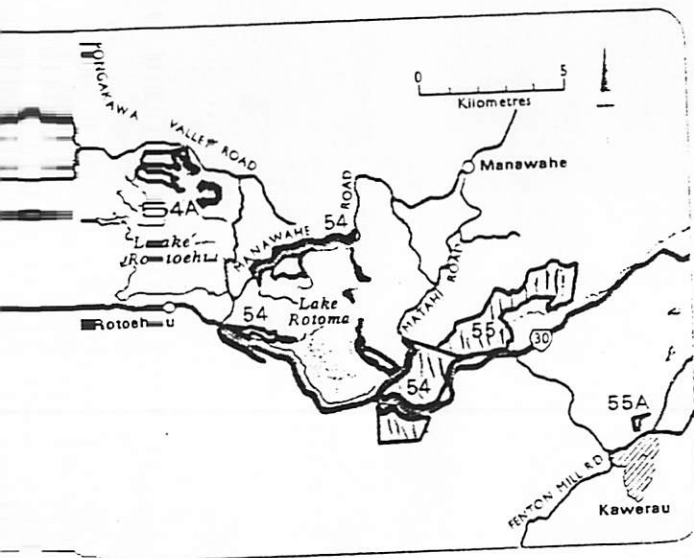
Area: 465 hectares. Reserved 1973.
Class: Scenic.

Wainui Road over the hill from Whakatane to Ohope Beach passes through this large reserve which includes what was previously part of the Ohope Beach Domain. It is nearly all bush-covered, hill country with a large amount of pohutukawa, the large ones on the cliffs facing the sea being especially notable. Rewarewa and kanuka are dominant over a large area having regenerated after fires many years ago. Other common trees are kamahi, fuchsia, puriri, tawa, and rangiora with many ponga. The grey-faced petrel or oi nests in the cliffs. (This is the traditional mutton-bird of the North Island Maoris.) A walking track which starts behind the Ohope Public Hall leads into the reserve.

No. 41A Kohi Point

Area: 154 hectares. Reserved 1969.
Class: Scenic.

Kohi means seasick. It is said that when the *Mataatua* canoe, commanded by Toroa, was



east of LAKE ROTOEHU

No. 54 Rotoma

Area: 875 hectares. Reserved 1910, 1967.
Class: Scenic.

The name means lake of clear waters. The reserve consists of several large sections of bush, on the northern shore of Lake Rotoma and adjacent to the Rotorua-Whakatane highway. At the western end where the road passes along the lake margin is one area of bush which surrounds Whangaroa Bay. Other parts of the reserve can be reached from the Manawahe and Matahi Roads. Some parts have large rimu and rata with tawa, kohekohe, kamahi, hinau, rewarewa, pukatea, and mangeao; in some gullies there is kahikatea, some places have tanekaha, toatoa, and tawari, and areas

burned long ago have attractive pole stands of rewarewa-kamahi. Among the smaller trees are some fine specimens of mahoe, tarata, and kohuhu.

No. 54A Lake Rotoehu

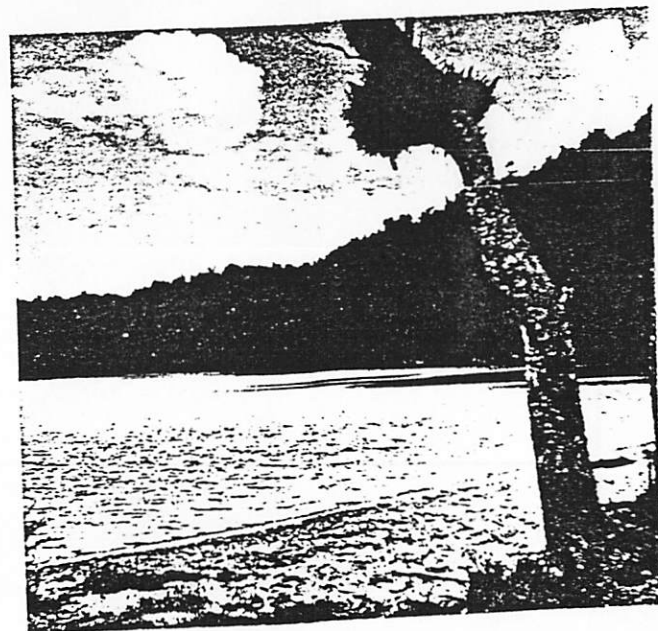
Area: 126 hectares. Reserved 1972.
Class: Scenic.

The name means the lake with turbid water. The reserve consists of several areas between the Pongakawa Valley Road and the northern shores of Lake Rotoehu. The second-growth bush is thick and many tree ferns cover the peninsulas jutting into the lake. The bays here are an important habitat for waterfowl and are particularly attractive when approached from the water.

No. 55 Mangaone

Area: 580 hectares. Reserved 1939, 1966.
Class: Scenic.

Overlooking forest and bluffs from the Rotorua-Whakatane highway this reserve is east of Lake Rotoma and 45 kilometres from Rotorua. The boundary on the western side is about 1 kilometre from the road and the only access is across private land. Owner's consent is required. The rugged country is clothed with heavy forest protecting the headwaters of the Mangaone Stream. Mangaone means the stream with sandy beaches. The partly-burned area on the southern margin has regenerated to fern, manuka, and light bush with a vigorous growth of rimu coming through. The main bush has tawa, pukatea, and rewarewa with scattered rimu, totara, kahikatea, and rata. On the higher parts are miro, Hall's totara, tanekaha, and tawari.



Manawahe Bay—one of the most popular recreation spots on Lake Rotoma. J. C. Greenwood

No. 55A Parimahana

Area: 39 hectares. Reserved 1973.
Class: Scenic.

Situated at Onepu on the outskirts of Kawerau Borough, this reserve is a hillside of regenerating bush. Parimahana meaning warm cliff refers to the fact that the area was once volcanically active. There is an apparently quiescent thermal area on the banks of the Ruruanga Stream which forms the eastern boundary. The vegetation appears to be the original covering developed in the wake of volcanic action and consists largely of rewarewa, five-finger, hardwood shrubs, and many large mamaku. The reserve is controlled by the Kawerau Borough Council.

21.6.93

The Bay of Plenty Conservation Board
Box 1146
ROTORUA

The Honourable Denis Marshall
Minister for Conservation
Parliament
WELLINGTON

Dear Mr Marshall

DISPOSAL OF CROWN CONSERVATION LAND, SPECIES, AND ECOSYSTEMS IN THE
RESOLUTION OF TREATY OF WAITANGI CLAIMS.

The BOP Conservation Board has been catapulted into this issue with the welcome progression towards resolution of claims at Whakatane in our Conservancy.

The "policy" papers of your department which are enclosed for reference, are a focus of interest to the Board. As policy they obviously have wider ramifications than the immediate claims at Whakatane. The ramifications are national.

Clearly the thrust of this "policy" is to :

- * set aside general public representation in the management of a national system of reserved ecosystems, habitats of native species, and special scenic and historical sites, which under the existing legislation are set aside for the primary purpose of preservation and protection.

(Please refer to policy paper 1, approach 4, and approach 1.)

- * add to the category of surplus conservation land, land which has been set aside for natural, historic, and recreational values, but could in the minds of the author of this policy be owned and managed as well or even better by somebody else other than the Crown

(Please refer to paper 1, approach 4.)

- * to dispose of "surplus" conservation land. Note this can be by the definition, conservation land with high conservation value.

(Please refer to policy paper 1, approach 4, and paper 2, approach 6.)

- 2
- * to relinquish Crown ownership of the remainder that is under claim but not "surplus" to some "trustees".

(Please refer to paper 2. approach 7.)

This "trustee" could of course be interpreted as the Department of Conservation from approach 2, but this doesn't seem likely with approach 3.

- * change the existing primary purpose of the various conservation Acts from one of preservation and protection, to one of sustainable use.

(Please refer to paper 3. objective 2.)

The issues that arise and which we would like you to address are:

1. Is this "policy" your policy as Minister reflecting the National Governments intentions .

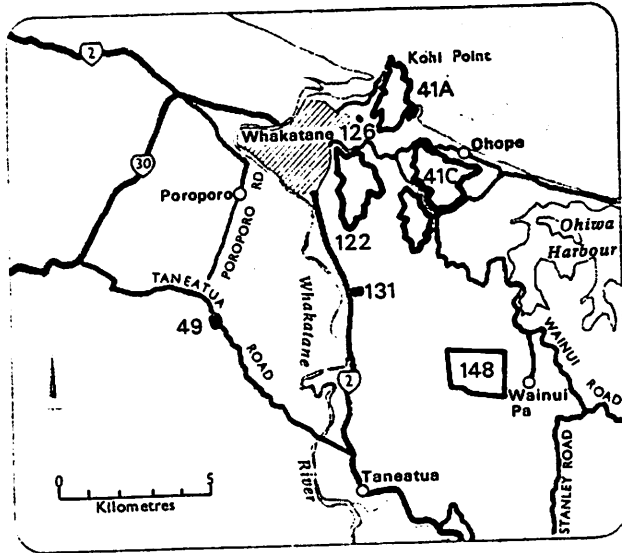
(Please refer to the top of the HO File: MAO-0006)

2. Would you help us to interpret the approaches 1,2.& 3. and explanations of them from paper 1. and how this relates to the existing legislation?

Your reply on these matters will be of great interest to the Board as the enclosed policy presented to us has been the focus of our debate.

Yours sincerely

Basil Graeme
Chairman



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Waitomo Valley Road
R. D. 7
OTOROHANGA 2064

Membership No. 515485

Phone (07) 873-7881

22nd June 1993

Waitomo Conservation Board
Information Item

- no recommendations opportu-
fast accomps.

The Chairman
King Country Div. Royal Forest
& Bird Society
KAKAHI

Dear Sir

Re: SCENIC RESERVES

With regard to the article in the N.Z. Herald dated 21 June, 1993, we, as members wish to add our support to the Royal Forest and Bird Society in their concerns over the possibility of the Government intending to hand over Conservation reserves to settle Treaty of Waitangi claims.

In our area, namely Waitomo Caves, a similar situation seems to be arising. In the Ruakari Caves and Bush Scenic Reserve there is an area which the Maori Heritage Committee of the N.Z. Historical Places Trust have classed as being a traditional site. This is not a Waitangi claim, but there is a claim to Dept. of Conservation, who administer the Reserve to make it a Maori Reservation. We also feel a further claim could be forthcoming for the whole of the Reserve.

We have no argument to the proposal over the traditional site but as it takes in an area of walkway now used by up to 75,000 people a year, we feel that it has to be stated that the walkways have to be alienated from the Maori reservation.

The Scenic Reserves around Waitomo are used by tourists and many different groups, including Dept. of Conservation in their Summer Programme walks and if these areas come under the claims of Maori claimants, they could be lost to all New Zealanders.

We feel that the Dept. of Conservation have done a marvellous job in making these areas a pleasure to visit, and with the expertise that they have in the field of conservation, they make sure that both flora and fauna are preserved. We also feel that the Government has no right to settle these land grievances with areas of land that have been set aside for the enjoyment of all New Zealanders, and if D.O.C. lose control of these same areas, it would be to the detriment of New Zealand.

More
Secret
discussions

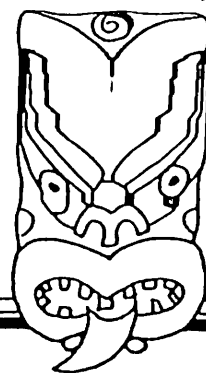
of
privatisation
to
SR & Cave
main
reserve
includes
walkway

We wish the Royal Forest and Bird Society every success in appealing to the Government to keep our Scenic Reserves and National Parks under the protection of the Department of Conservation for all to enjoy.

Yours faithfully

Clare Holden
J. Holden
Clare & Jim Holden





Telephone: Bus. 88558, 70760
A/Hrs. 87 652.
FAX 70760

Housing Corporation
Building
Pyne Street

P.O. Box 76,
Whakatane.

25 February 1988

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Data Bank House
The Terrace
WELLINGTON

Dear Sir

THE NGATI AWA CLAIM: REFERENCE PC 49

I, **HIRINI MOKO MEAD**, Professor, member of Ngati Pahipoto, and Te Rangihouhiri hapu of Ngati Awa, and Deputy Chairman of the Ngati Awa Trust Board; and

I, **CLETUS MAANU PAUL**, member of Ngati Pukeko and Ngati Hokopu hapu of Ngati Awa, and member of the Ngati Awa Trust Board:

- (a) **Claim** on behalf of ourselves and all members of the constituent hapu of Ngati Awa of Mataatua Waka to be prejudicially affected or likely to be prejudicially affected by a series of actions taken by Governments of New Zealand from the 16th June 1840 when Ngati Awa signed "The Treaty of Waitangi" up to the present time 1988. Such actions are listed in the submission.
- (b) Further, supported by the Ngati Awa Trust Board we claim that these actions together with the failure of the Crown to act to safeguard our interests were inconsistent with the principle of the "Treaty of Waitangi".
- (c) Requests the Tribunal to assist us in the thorough research of our case.
- (d) Requests further that you appoint a lawyer to assist us in taking our case before the Tribunal.
- (e) Requests that you hear our claim at a marae of Ngati Awa at a time convenient to both parties.

Tena koutou nga mema o Te Tarāipiunara

WE, HIRINI MOKO MEAD and CLETUS MAANU PAUL, wish to place before you a request to have our longstanding grievances with the Government of New Zealand and incidentally with the Otago Museum and Tasman Pulp and Paper Company heard. Though filed originally on 25.3.87 in a letter of intent, this application amplifies the claim. Our case is actually before Government at this time and it is very likely that Government will offer a settlement package this year. We had intended not going to the Tribunal until Government had made a final offer of settlement. But in discussions with the Select Committee concerning the "Treaty of Waitangi" (State Enterprises Bill) on 2 February we were advised to file our claim before you in order to safeguard ourselves from possible embarrassment, compromise, and damage from unseen quarters. The important point is that our case is placed officially with the Waitangi Tribunal for serious consideration.

The grievances of Ngati Awa have been stated over and over again in the last few years. We are now able to focus more clearly on exactly what our grievances are. Once the overall grievance is clearly defined it is easier to suggest what the remedies might be.

THE TREATY OF WAITANGI

Ngati Awa signed the "Treaty of Waitangi" at Whakatane on the 16th June 1840. Those who signed on our behalf were:

**Tautari, Mokai, Mato, Tarawatewate, Tunui, Taupiri,
Haukakawa, Piariari, Matatehokia, Rewa and Tupara.**

The "Treaty" was between Ngati Awa and the Queen of England, and the promises made to the tribe were in the name of the Queen and thus supported by her Government in the United Kingdom.

Ngati Awa's first grievance is that the Queen abandoned Ngati Awa and the tribes of Aotearoa to the settlers who came here from her domain and thereby prejudiced our standing as an "iwi". She let us down. She did this by giving the power of self government to the wrong people, that is, to her own kith and kin and not to the tribes of New Zealand. Then, her

government sent troops here to support her kith and kin and to enable them to take over the whole country at the expense of the Maori people. Both of these actions were against the spirit of the "Treaty" and had serious consequences for us.

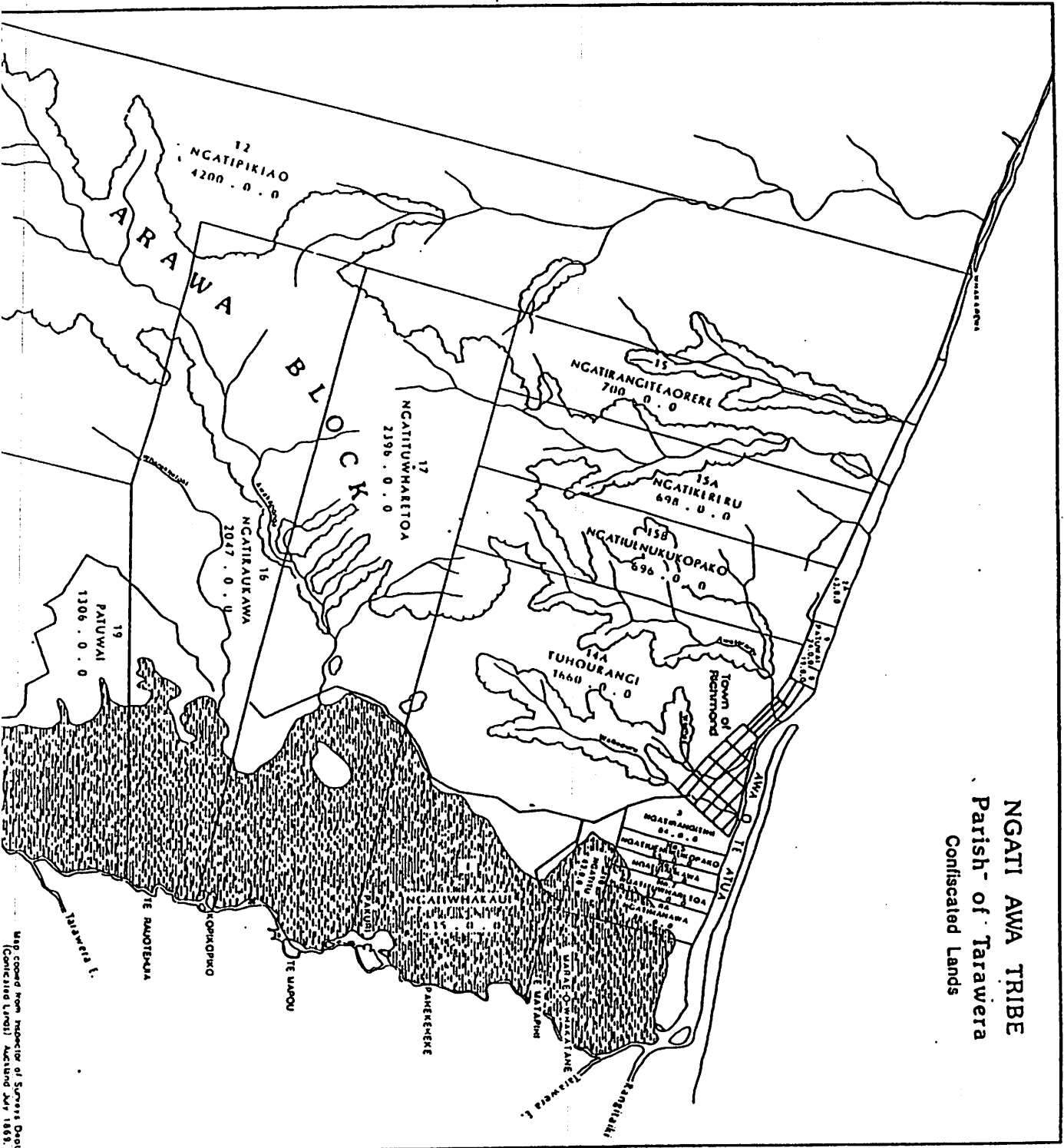
Ngati Awa's next grievance is over the failure of the Queen, the British Government and her Government in New Zealand to honour promises made in the "Treaty" of Waitangi. These promises were made to Ngati Awa itself on the 16th June 1840 at Whakatane and thus on our home ground.

Actions taken in 1865 against Ngati Awa were in breach of the "Treaty" and became a deliberate campaign to negate the promise made in Article 2, namely the promise to guarantee the tino rangatiratanga of Ngati Awa.

Actions which were in flagrant disregard of Article 2 of the "Treaty" and prejudiced the well being of Ngati Awa were the following:

- (a) The military invasion of Ngati Awa's territory in 1865.
- (b) The court-martial in 1865 of our chiefs and men when they were clearly not a part of the British Army nor of the armed forces of the settler Government of New Zealand (list attached).
- (c) The long incarceration of these men in the stockades at Auckland and their being publicly humiliated in numerous civil trials in Auckland as a way of demonstrating the superiority of British law and of imposing it upon a people who had their own views and practices on justice.
- (d) The confiscation in 1865 of all of Ngati Awa's land totalling 194,120 acres (Research paper by K Cayless of Lands and Survey 1983 attached).
- (e) The deliberate policy of settling 'foreigners' consisting of military settlers, traders and members of other tribal groups in the territory of Ngati Awa as a way of purposely damaging the tino rangatiratanga of the tribe.
- (f) The failure of the Settler Government to return 116,220 acres of confiscated land to Ngati Awa (refer to K Cayless paper for confirmation of figure).

Confiscated lands given to Te Arawa, Tuwharetoa, Ngati Manawa and Ngati Raukawa



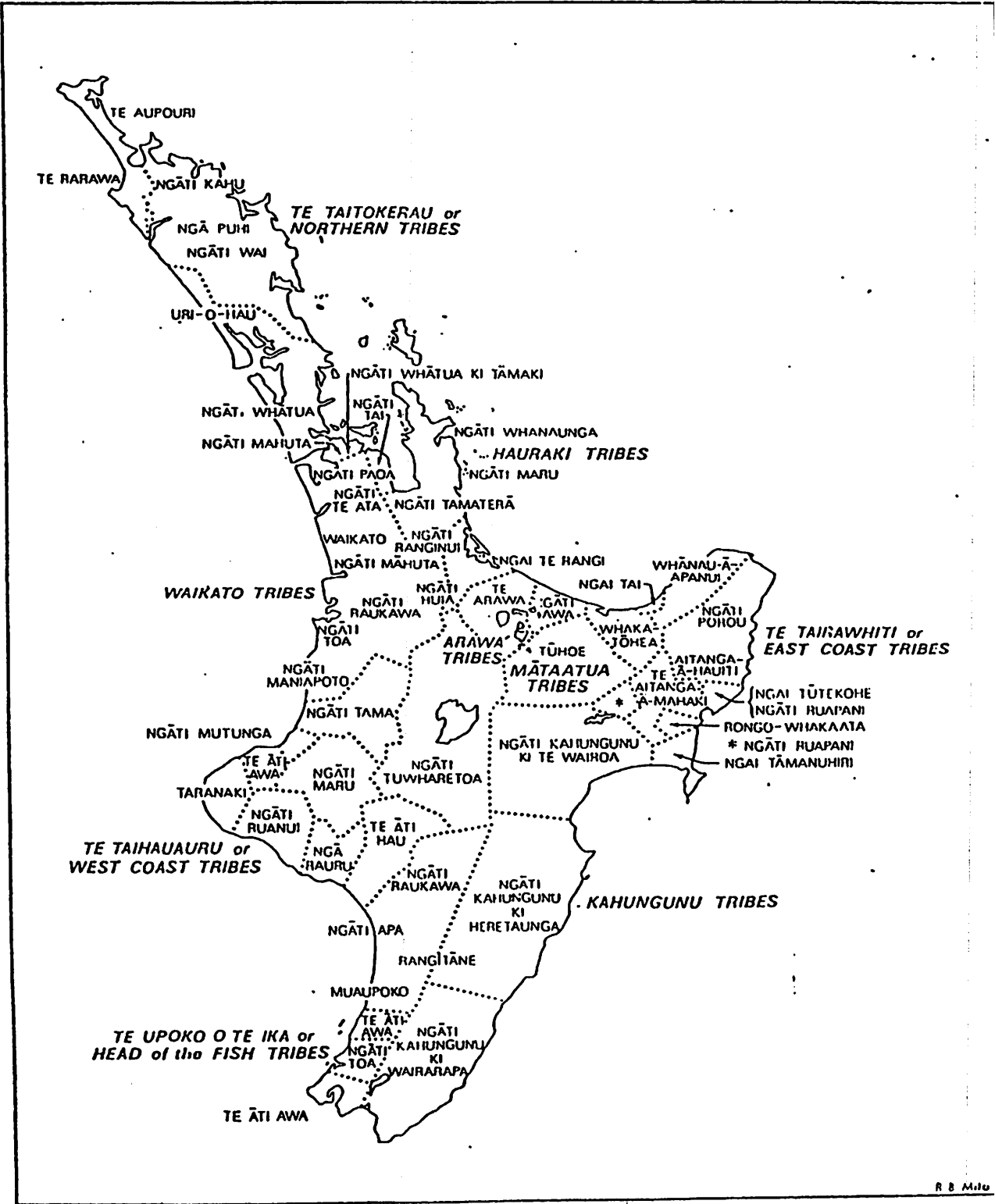
NGATI AWA TRIBE
Parish of Tarawera
Confiscated Lands

Map compiled from Inspector of Survey Dept.
(Confiscated Lands) Auckland May 1855.

- (g) The taking of other land by means such as the Public Works Act, the Reserves Act, the Harbour Board Act, etc., which compromised the promises made to Ngati Awa.
- (h) The giving away to our traditional rivals, Te Arawa, of a substantial portion of our good land (this amounted to 87,000 acres) and the subsequent loss of our ahikaaroa (long burning fires) and tino rangatiratanga (chieftainship and mana) over these lands at Otamarakau.
- (i) The taking away by Fisheries of our tino rangatiratanga over our ocean reserves, fishing grounds and territorial waters and the giving away of ITQ's, relative to species of fish which Ngati Awa regards as coming under its control.
- (j) The actions of the Education Department in not assisting Ngati Awa maintain and develop its cultural heritage and especially its language.
- (k) Various actions not taken by Governments of New Zealand to safeguard the tino rangatiratanga of Ngati Awa, for example, failure to give Ngati Awa a voice in Parliament, failure to protect, maintain and develop the hapu and their resources, failure to conserve and develop the heritage of Ngati Awa according to Article 2 of the "Treaty", failure to help Ngati Awa positively to maintain and develop its language as a taonga.

All of these actions affected Ngati Awa in the lawful conduct of its tribal affairs as promised in the "Treaty of Waitangi" and, in fact, resulted in a very serious loss of economic resources, of heritage resources, of mana viz a viz other tribes in the region. In other words, the tribe was disadvantaged seriously because of the actions of Governments of New Zealand commencing in 1865 and continuing up to modern times. Ngati Awa was almost destroyed by these actions.

TE IKA A MAUI TRIBAL REGIONS IN THE NORTH ISLAND



NGATI AWA TRUST BOARD AND ITS NEGOTIATIONS

Ngati Awa through its Trust Board has been negotiating with the Government of New Zealand for the return of its confiscated lands and other matters since 1981 (see attached history of negotiations).

This is part of a long series of negotiations with Governments of New Zealand since 1923. It is only in this decade, however, that Ngati Awa was able to form a central authority to negotiate grievances on behalf of all hapu of the tribe. Beginning in 1981 the Ngati Awa Trust Board has prosecuted its case first before the Hon. Mr Ben Couch, when he was Minister of Maori Affairs, and now before the Hon. Mr Koro Wetere. Ngati Awa's central authority, the Ngati Awa Trust Board, was established by ourselves under The Charitable Trusts Act, and financed largely by ourselves through contributions from our hapu.

While this self-help attitude was necessary to get started, it has meant that:

- (a) We have always been under-financed, and
- (b) We have never been able to afford legal counsel to help us in our negotiations with Government.

We have done it all by ourselves, and it is precisely because we are struggling that we believe the Government ought to be more helpful and understanding of cases such as ours which is currently before it, and has been since 1981. No Government or large institution can be proud of scoring points over a Maori group which is at a distinct disadvantage financially, legally, and in the matter of resources. Yet, in the past there has been no hesitation among Pakeha institutions in knowingly cheating Maori people. We think times have changed and this attitude should be overturned.

In a document prepared in 1983, we submitted before Government what we thought at the time was a comprehensive case.

This booklet sets out a good deal of the background research on the confiscations, the house, "Mataatua", the Reserves and so on. Since then, we have had to refine and re-define some aspects of our case in order to take account of recent events such as the State Enterprises Bill and court

actions taken by the New Zealand Maori Council. We have not had the time or the resources to re-think our case completely and to take some legal advice. However, the present submission goes some distance in making our case a comprehensive one.

That our grievance is justified is a matter no longer under doubt. The National Government under Sir Robert Muldoon recognised in 1983 that there was a grievance to be put right. Arguments today focus upon the extent of the grievance and how much compensation should be paid to Ngati Awa.

TE MANA WHENUA (THE LAND)

Under Article 2 of "The Treaty", Ngati Awa was guaranteed "te tino rangatiratanga o o ratou whenua, o ratou kainga, me o ratou taonga katoa". This was described "as full exclusive and undisturbed possession of their lands, estates, forests, fisheries, and other properties". Ngati Awa takes this to mean that we retain mana over the land, what was growing on it or flowing over it, and the mineral resources below the surface.

In 1865 all of Ngati Awa's whenua was confiscated (map 1). The total was 194,120 acres. After various lots were returned to us, over half, that is 59.87%, was never returned. Thus, the outstanding debt to Ngati Awa is 116,220 acres. The easy solution to our problem is to return 116,220 acres of land to us.

Ngati Awa, however, in addition claims the river beds of the Whakatane, Rangitaiki and Tarawera Rivers, and we claim the mineral resources of our Tribal Territory.

NGA TAONGA TUKU IHO (HERITAGE)

The military invasion of our region in 1865 destroyed villages, carved houses, storehouses, canoes, and items of great symbolic value to the "iwi". After the wars, the Government took the carved house, "Mataatua", to Sydney and although permission was given by the tribe only to take the house to Sydney, the Government then took it to Melbourne, London and Dunedin. After the Dunedin exhibition and without the permission of Ngati Awa, the Government gave our house away. Ngati Awa requests the return

of "Mataatua" to Whakatane, and compensation for damage to the house and for denial of heritage rights to our ancestors inside the house.

TE ROHE O TANGAROA (WATER AND OCEAN RESOURCES)

Through the actions of various governments, Ngati Awa lost the tino rangatiratanga over its fisheries and its fresh water and ocean domains. The traditional coastline of Ngati Awa is from Ohiwa Harbour to Waitahanui River mouth. Fishing rights extend from this coastline to points beyond the Rurima Islands and extending to White Island.

Within the domain of Ngati Awa fall the islands Rurima, Whale Island, White Island, Hokianga Island and even Motiti Island where dwells a major hapu of Ngati Awa, namely, Te Patuwai.

There are numerous fishing grounds within this wide zone for which Ngati Awa claims traditional rights and there are also sacred rocks which are of especial significance not only to Ngati Awa but also to Mataatua as a whole. As already stated, we seek control over fish resources and species within our tribal waters extending from the shore line and 12 miles out.

We claim the control over and water rights to the rivers Whakatane, Tarawera and Rangitaiki as well as over Matahina Dam.

NGATI AWA'S GRIEVANCE

Over the years of negotiating with Government, we are able to summarise our cause for grievance in the following way:

Te Whenua (Land)

In 1965 all of Ngati Awa's land was confiscated (map 1). This amounted to 194,120 acres. After various lots were returned to us, over half (59.87%), was never returned. The outstanding debt to Ngati Awa is 116,220 acres and this is what we are complaining about. Next, however, is our claim that mineral rights to all of Ngati Awa's whenua remain with us.

Nga Taonga Tuku Iho (Heritage)

The military invasion of Ngati Awa in 1865 destroyed villages, and crops, destroyed our art heritage and destroyed much of the social organisation of the tribe. After the wars, the Government took our house, "Mataatua", to Sydney, Melbourne, London and then Dunedin, and except for Sydney, without the consent of the tribe. The Government failed to bring it back to us and by doing so damaged the mana of the tribe and put the "iwi" through many trials in efforts to get the house back. This house symbolises the loss of our heritage.

Te Rohe o Tangaroa (Water Resources)

Ngati Awa lost a great deal of its ocean resources, along the shore line and into Ohiwa Harbour. Control of our traditional rivers Whakatane, Tarawera, Rongitaki and Waitahanui were also lost. Fishing rights were compromised by the Fisheries Department and our territorial rights over the sea front and over traditional fishing grounds were over-ridden.

Nga Mamaetanga o te Iwi (Damage to People)

Besides men and women lost in the battles of 1865 and the consequent loss of mana and prestige suffered by our people, Ngati Awa focusses its claims for people-damage upon:

(a) The incarceration, illegal court-martial, harsh series of trials in Auckland and mental cruelty of the State toward 35 Ngati Awa men and chiefs (see list attached).

(b) The deaths in prison of:

Paraharaha	05.02.1866
Tamati	03.08.1866
Hopeta Te Tai	26.10.1866

For these men, we seek compensation at the same level as though they were Pakeha citizens wronged by the State.

(c) The execution of the **Chief Aporotanga of Matataa** by a woman of Te Arawa while he was a prisoner of war. He was handed over by the military to be executed.

- (d) The loss of mana suffered by all of Ngati Awa no matter whether hapu were classified as "loyal" or "rebel" in terms of the 1865 military invasion.
- (e) The pepper-potting of other tribes in our region by the Government and the establishment of Pakeha military settlements in our tribal zone contributed to the loss of tino rongotiratonga of Ngati Awa that was guaranteed in Article 2 of the "Treaty of Waitangi".

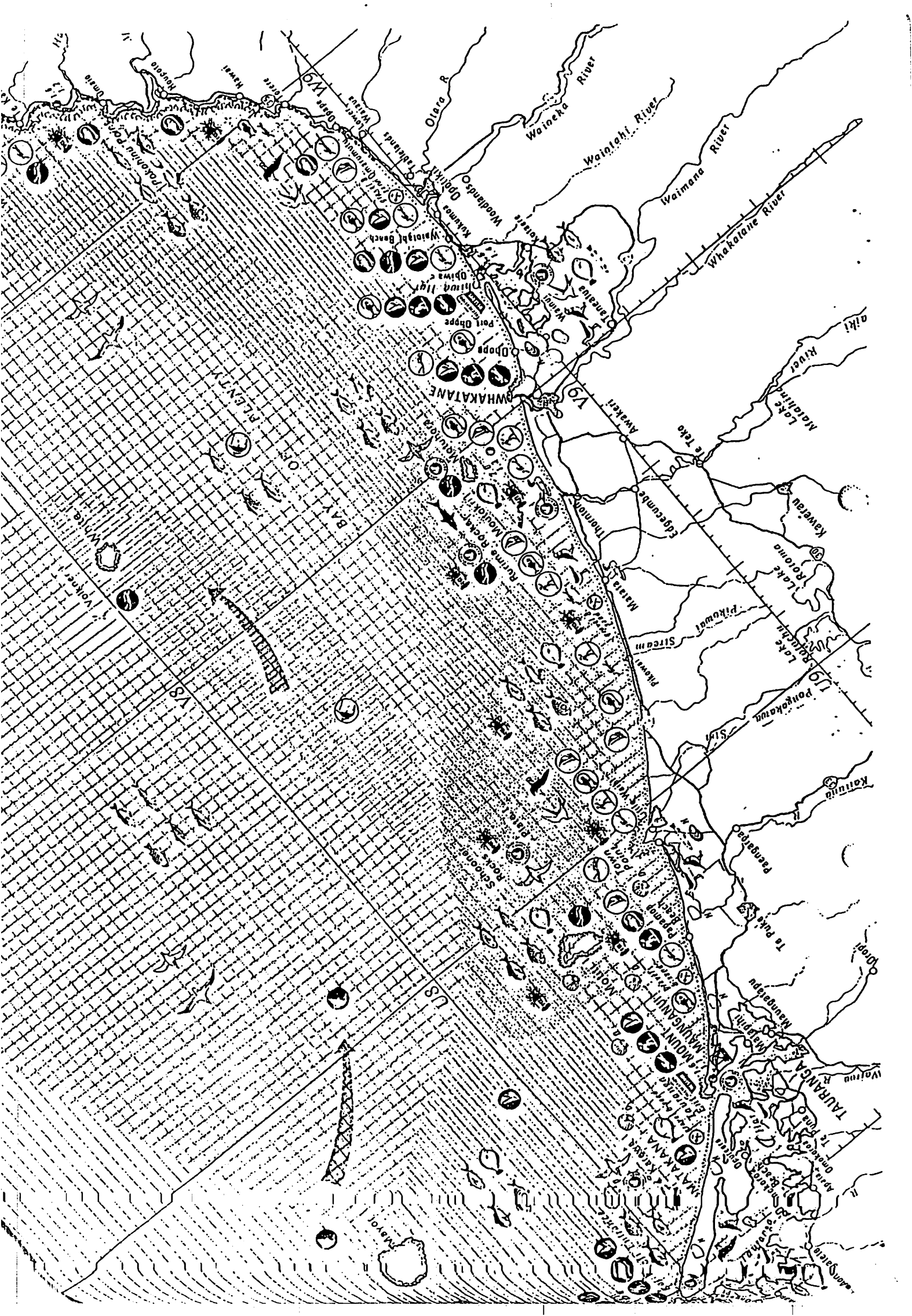
Nga Whenua Karauna (Crown Land)

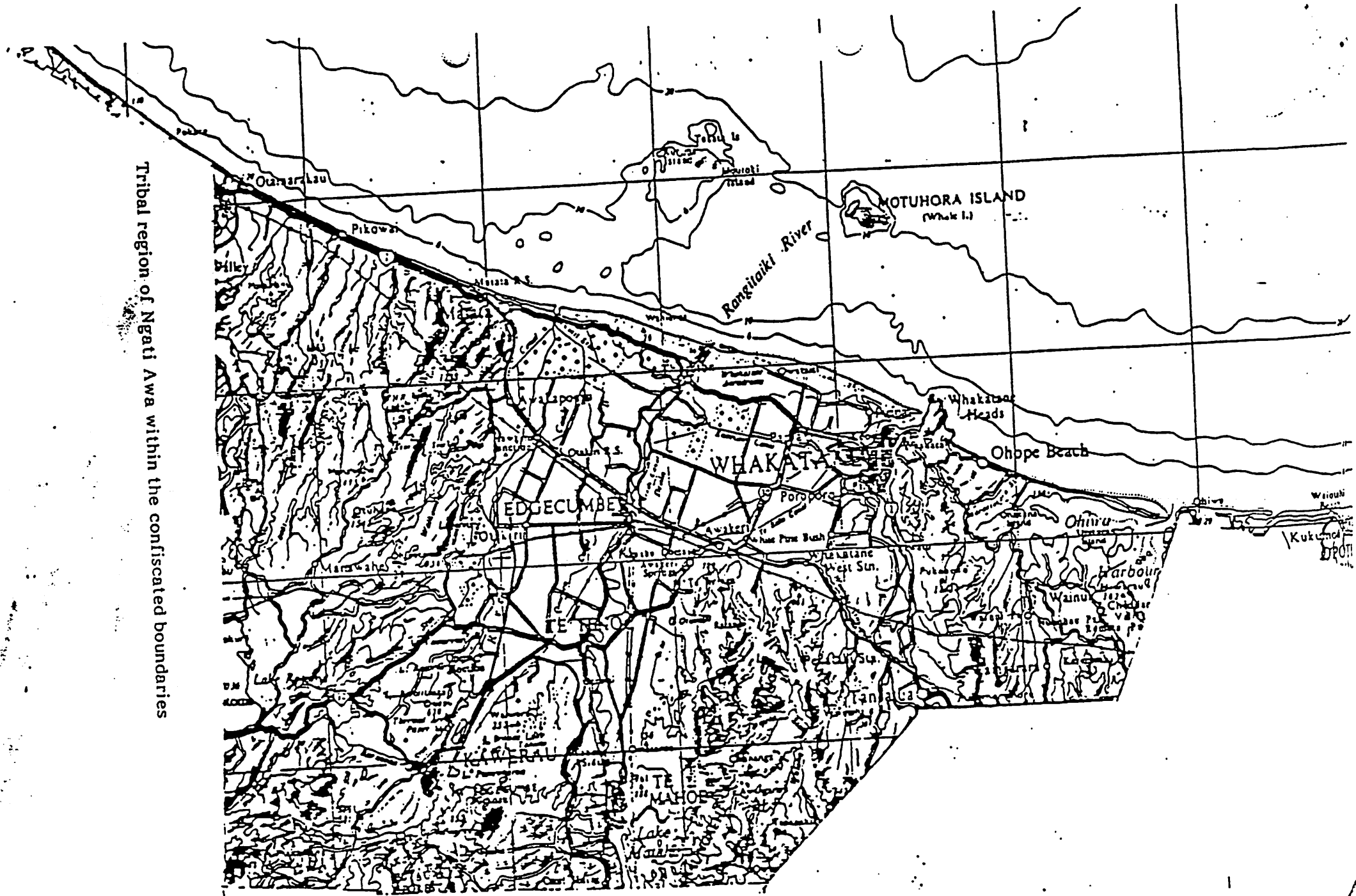
Ngati Awa takes the position that the Crown should return to us those parcels of land that were classified as Crown land before such land was transferred to SOE's and those lots which are or have been transferred to DOC. Some parcels of land should be returned outright and not sold off as occurred last year (1986) when Land Corp offered Ngati Awa land for sale. In some cases where land is needed for special conservation measures, Ngati Awa is willing to have the title of such land vested back in Ngati Awa but their usufruct given to DOC. In yet other cases, we want reserves re-classified as Maori Reservations which are for the benefit of Ngati Awa people.

The position of the tribe is simple enough. There is an outstanding debt of 116,220 acres of confiscated lands. Because so little of this land is left, the Crown should give back to us what it still holds and which the Crown does not really need. It is heartening for the tribe to know that the Crown has agreed to return the Ngati Awa Station consisting of:

The Farm Unit	600 ha
Homestead Area	173 ha
Afforestation Area	326 ha
Otarawairere Area	98 ha
Total:	<u>1197 ha</u>

The giving back of this land is an event looked forward to with great pleasure by all hapu of Ngati Awa.





Tribal region of Ngati Awa within the confiscated boundaries

Ngati Awa land outside the confiscated boundary

A Mataatua Whare (Mataatua House)

The return of "Mataatua" House from the Otago Museum in Dunedin has always been an essential part of our case with Government. This house was removed from our marae at Whakatane by the Government to take to Sydney for exhibition purposes. Permission was reluctantly given by Ngati Awa for the house to be taken to Sydney for display purposes, but permission was not given to take the house to Melbourne, London, and then Dunedin. The house was never actually gifted formally to the Crown and there is no record anywhere of a formal act of giving. The Government failed to act properly in this matter and was callous and negligent in its handling of our cultural property.

Ngati Awa seeks the full co-operation of the Government of New Zealand in getting the house back from the Otago Museum, and paying for its careful removal from the museum, its proper transport to Whakatane, and then paying a substantial grant of \$250,000.00 to re-build it as a living wharenui, to do new carvings to replace those lost by the Government, and to re-establish the marae with proper modern facilities on a section of the land which the Government is returning as part of the Ngati Awa Station.

Putauaki Maunga (Mount Edgecumbe)

The return of Putauaki Mountain has also been an essential part of our grievance. Ngati Awa has been through several court actions already to have the mountain returned. Government was a party to setting up the Tasman project at Kawerau and Government has shares in Tarawera Forests Limited which holds the title to Maori lands in the project. Our grievance briefly is that Government and Tasman together failed to provide Ngati Awa with legal counsel to defend it against such giants and, in fact, the two of them conspired against Ngati Awa to persuade us to put our land into the project without proper safeguards of the tino rangatiratanga guaranteed in Article 2 of the "Treaty". Furthermore, they knowingly took Putauaki Maunga into the enterprise when they knew Ngati Awa wanted it protected as a Maori Reservation.

Ngati Awa wants:

- (a) The mountain taken out of the Tasman project.

- (b) The pine trees removed from the mountain and re-planted instead with native trees.
- (c) The title to the mountain returned to the people of Ngati Awa.
- (d) The mountain declared a "wahi tapu" and protected under the Maori Reservations Act, and
- (e) The structures already on the mountain side to become the property of Ngati Awa.

Nga Whenua Rahui (The Reserves)

Reserves set aside for various purposes are part of the confiscated lands of Ngati Awa. Ngati Awa wants those reserves which are not already Maori Reservations to be re-classified as Maori Reservations. Negotiations with Government focus specifically upon those reserves which are in the region we call te paraikete (the blanket). These are:

Kohi Point Reserve	154	ha
Kaputerangi Reserve	5	ha
Ohope Reserve	237.5	ha
Mokorua Reserve	489	
Ohineteraraku	10.5321	ha

It is necessary now in terms of the "Treaty of Waitangi" and the promise made to Ngati Awa in Article 2 that all parcels of land classified as reserves be now re-classified as Maori Reservations.

We wish to negotiate with officers of DOC regarding the use of some of the reserves and we specifically want to talk to them about the employment by Ngati Awa of Kaitiaki Whenua (Land Protectors) and funded by DOC to look after the maintenance and protection of our reserves and to man reserves such as Ohope and others which Ngati Awa is willing to make available on its terms to the general public of Whakatane and Ohope.

Te Murunga Hara (The Pardon)

Ngati Awa asked for a full pardon for all of our chiefs and warriors who were court-martialled in 1865 and goaled in Auckland.

This illustrates the essential difference between impartial administration as a Crown reserve, and administration as a private reserve.

Te Whaaki Hara (The Apology)

Ngati Awa has also asked the Crown to apologise to us for the wrongs committed in its name especially during the 1860's and which has been the cause of a legacy of bitterness over the last century.

Progress in Negotiations

1. National Government: 15 August 1983

On the 15th August 1983, Cabinet declined the return of the whole of the Ngati Awa Block debt-free and authorised the Minister of Maori Affairs to settle Ngati Awa grievances in final up to a value of \$320,000.00 cash or cash/land settlement.

This was rejected unanimously by Ngati Awa and so Cabinet rescinded its decision and asked us to re-submit our case.

2. Labour Government: 17 March 1987

Cabinet Social Equity Committee 17 March 1987 agreed:

- (a) Introduction of legislation to establish a Ngati Awa Maori Trust Board.
- (b) The Minister of Maori Affairs negotiating with representatives of the proposed Ngati Awa Maori Trust Board for a settlement of the Ngati Awa Block (as a going concern) plus cash of \$250,000.00 as final settlement of its grievance and the Ngati Rangihouhiri and Hikakino claims in respect of 1000 acres of land at Kawerau.
- (c) A full pardon of the Ngati Awa men imprisoned in 1865.
- (d) (i) The Ngati Awa tribe becoming more involved in the administration of Kohi Point Reserve, Kaputerangi Reserve, Ohope Reserve and Mokorua Reserve in the Whakatane area, and
(ii) The Minister of Lands negotiating with Ngati Awa representatives of how this can be effected.

In addition the Committee:

- 1 Deferred deliberations on the return of "Mataatua" House from the Otago Museum in Dunedin to Whakatane pending a further approach from the Ngati Awa Maori Trust Board (when formed).
 - 2 Declined the application by the Ngati Awa tribe for a proposed settlement figure of \$11,500,000.00 which represents land confiscated and human suffering associated with the imprisonment of Ngati Awa chiefs and men.
3. Minister of Maori Affairs: 24 December 1987

Pardon of Statutory Apology:

This has been accepted but the format for drafting this formally is still being investigated.

Financial Compensation:

This will continue to be negotiated since the opening offer and counter offer have been spurred.

Otamarakau Lands:

Negotiations are continuing.

Ngati Awa Maori Trust Board:

The bill to establish the Trust Board is being written up now for submission early 1988.

"Mataatua" House:

Ngati Awa sent delegations to Dunedin twice and Professor Mead visited the museum on several occasions. We met twice with the Museum Trust Board.

The Museum's Whare Taonga Committee was meeting in February 1988 to put a recommendation to the Museum Trust Board in March.

Maori Land Court Hearing

Ngati Awa has called upon the Maori Land Court in Rotorua to establish ownership of "Mataatua". A case is expected to go before the Maori Land Court early this year.

Record of Negotiations

The Ngati Awa Trust Board has kept a record of its negotiations over its many grievances. The record is attached as part of the submission.

Other details about our case can be supplied on request. A research team is building up a tribal archives to help with the case. This is a recent 1987/88 development for which we thank the Department of Maori Affairs. Meanwhile, we have an enormous collection of material bearing on our total case. The climate for negotiations has improved and although it has taken far too long for our case to be treated fairly, the delays are now working towards our advantage in that doors that were formerly closed are now beginning to open.

It is quite possible that many of Ngati Awa's claims will be met by direct negotiations with Government.

But it is also possible that Ngati Awa will not receive the justice we think we deserve by the Government's final offer of settlement.

Therefore, we file this claim in anticipation that Ngati Awa will be prejudiced in some aspects of its total case by Government's final offer.

We are,
Yours sincerely


HIRINI MOKO MEAD


CLETUS MAANU PAUL

Telephone: 076 70760
FAX 70762

1st FLOOR - HOUSING CORP BUILDING
PYNE ST, WHAKATANE.

P.O. Box 76,
Whakatane.

CL 0/1

RECEIVED Waitangi Tribunal Division
28 JUL 1989
Dept. of Justice WELLINGTON

OUR REF:

18 July 1989

*Kei te hira
kōwhiri*

The Director
Waitangi Tribunal
175 The Terrace
WELLINGTON

Dear Sir

The Principles of the Treaty of Waitangi approved by Cabinet Monday 3rd July 1989

Kia ora. You are aware of the list of five principles which the Crown defined and announced as policy on Monday 3rd July 1989 by the Prime Minister. Subsequently the principles were printed as two grey covered brochures, the larger one called Principles for Crown Action on the Treaty of Waitangi and the smaller one entitled, The Crown and the Treaty of Waitangi. These were distributed widely. The two booklets are appended to this letter as necessary documentary evidence.

At the time the principles were announced I set out some objections to them and my comments were widely distributed in newspapers on radio and on Te Karere. The burden of my comments is to the effect that the Crown has interpreted the Treaty of Waitangi in a way which gives a great deal of advantage to it and thereby disadvantages Maori claimants.

To begin with the first principle. The Crown calls this the Principle of Government and it bases its claim to exclusive sovereignty on the English text or the Treaty which only a mere handful of Maori signed. I speak now for Ngati Awa who signed the Maori text of the Treaty on 16 June 1840 at Whakatane. Our ancestors did not give away their aboriginal rights and their sovereignty in the manner suggested by the Crown. It is true that the Crown talks about a qualified sovereignty but in effect and in practice the Government acts as though it had an unqualified sovereignty to govern and make laws and it proclaims it as an absolute right.

Ngati Awa rejects the use of the words The Principle of Self-Management to describe the tino rangatiratanga which was guaranteed in the Treaty. "Absolute authority" was guaranteed to Ngati Awa in 1840 and we insist that the Crown honours the obligation made then. To call this self-management is to demean the concept of tino rangatiratanga in a calculated way which borders on being deceitful. If Ngati Awa were to recognise this principle as interpreted by the Crown our case would be seriously undermined and certain solutions which might deal justly with our case would be set aside and not allowed by the Crown.

Also the notion of "a resource base" for a claimant is not what the Treaty promised. Tino Rangatiratanga and absolute authority over the resources of an iwi does not mean preserving a resource base which the Crown would define as something far less than tino rangatiratanga implies.

Ngati Awa has objections of this sort to each one of the five principles and we would like to present a paper which would explore all of our ideas in more detail than is possible in this letter of intention. We object to the Principle of Equality as described, and to the selection of the common law system as the only appropriate system of law to apply to us.

We object to the elevation of the idea of cooperation above the concept of partnership in Principle No. 4, to the specification of what process should be followed, in seeking redress to the idea of "practical impact" and of "the need to avoid the creation of fresh injustice". The expectation that the Crown should expect reconciliation after it has controlled the whole process of redress sounds far too much like the shark demanding reconciliation with a little kahawai.

We the claimants for Ngati Awa request that our case, Waitangi - 46, is expanded to include a full examination of the Crown's five, principles because in our view this action by the Crown falls within Section 6 (a) and (c) of The Treaty of Waitangi Act 1975 as reprinted in 1981. We claim that our case is prejudicially affected by the Crown determining and defining the principles of the Treaty of Waitangi, that the Crown's five principles do not fairly describe or reflect the Maori text of the Treaty which Ngati Awa signed and that the principles as they are interpreted affect Ngati Awa's enjoyment of its aboriginal rights and tino rangatiratanga which was guaranteed in Article 2 of the Treaty.

Finally by adopting the five principles in a unilateral fashion and imposing them on Maori claimants the Crown has itself violated

Principle 4, namely the Principle of Cooperation which calls for "consultation on major issues of common concern".

Would you therefore add this issue to our general claim under the Waitangi Tribunal.

Noho ora mai

Yours sincerely

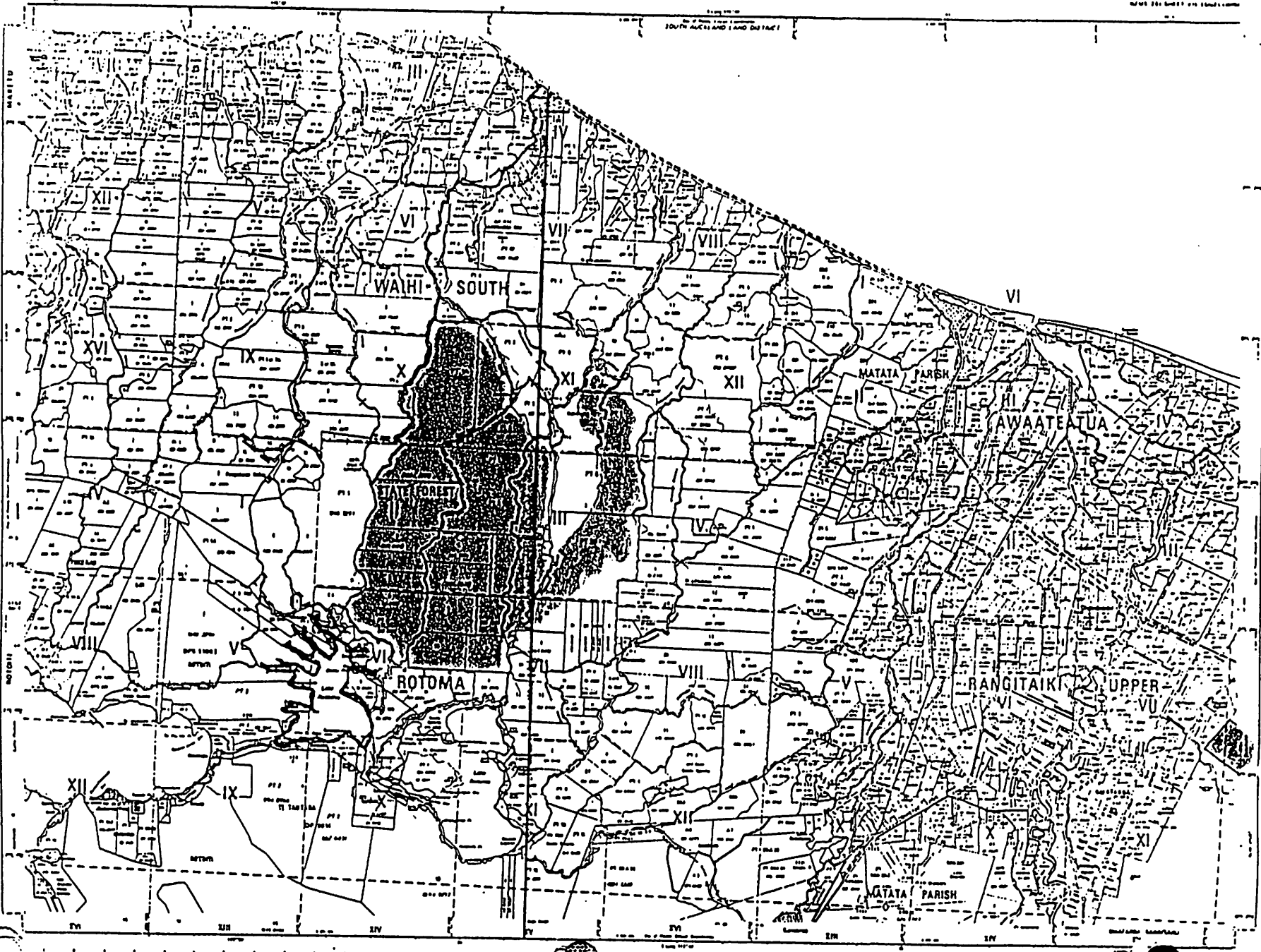
H. M. Mead

Hirini Moko Mead of Ngati Pahipoto and Ngati Te Rangihouhiri, hapu of Ngati Awa, and deputy chairman of Te Runanga o Ngati Awa.

M. N. Paul

Maanu Cletus Paul of Ngati Pukeko and Ngati Hokopu, hapu of Ngati Awa and member of Te Runanga o Ngati Awa.

- Encl:
- 1 Principles for Crown Action on the Treaty of Waitangi, 3 July 1989
 - 2 The Crown and the Treaty of Waitangi
3 July 1989
 - 3 Treaty guide clearly biased, says Prof Mead
Evening Post, 4 July 1989
 - 4 Govt's treaty stance revealed
Evening Post, 4 July 1989
 - 5 The Govt's view of the Treaty
The Press, 5 July 1989
 - 6 Palmer warns of 'throwing out baby with bathwater'
The Evening Post, 7 July 1989



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WAITANGI TRIBUNAL

WAI 46

IN THE MATTER of the Treaty of Waitangi Act 1975

A N D

IN THE MATTER of the Ngati Awa Raupatu Claim

Addition to Claim
Concerning Rangitaiki Swamp Lands

The claimants make the following addition to their claim.

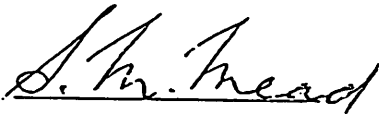
1. THAT Ngati Awa and members of Ngati Awa were owners of a large area of swamp land extending from Mount Putauaki and containing approximately 100,000 acres that without consent of the owners the Crown passed legislation or otherwise provided for the drainage of the swamp and subdivision of the land.
2. THAT as a result of the drainage work the owners suffered a loss of a valuable swamp resource.
3. THAT as a result of the drainage of the swamp the owners suffered increased rates and other pressures that led to the eventual alienation of the lands.
4. THAT the actions and policies of the Crown resulting in the loss of the swamp and of the land were contrary to the principles of the Treaty of Waitangi.
5. THAT the claimants seek recovery of the land and/or the substitution of other Crown land in the Ngati Awa Rohe, or monetary compensation for the loss of the swamp resource, the land and for the loss of use.

4. THAT the balance of the Rotoehu Forest to the west to the Waitahanui River is claimed as Crown land available for reparation in respect of other of the claimant tribe lands wrongfully confiscated or other wise denied them. PROVIDED HOWEVER, that the land west of the Waitahanui River is subject to any claims that may be made thereon by other tribal groups.

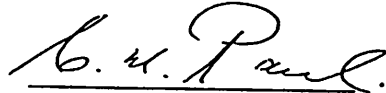
5. THE claimants seek leave to amend the claim upon the completion of further research.

6. THAT the claimants seek \$90,000 from the Tribunal for the cost of that research.

Dated at Wellington this 8th day of November 1990.



Hirini Moko Mead



Cletus Maanu Paul

CONCERNING

The Treaty of
Waitangi Act
1975 and the
Crown Forest
Assets Act
1989

THE NGATI AWA
R A U P A T U
CLAIM

A N D

Addition to Claim
Concerning the Rotoehu State Forest

We, HIRINI MOKO MEAD, Professor, member of Ngati Pahipoto, and
Te Rangihouhiri hapu of Ngati Awa, and Chairman of the Ngati Awa
Trust Board; and
CLETUS MANN PAUL, member of Ngati Pukeko and Ngati Hokopu hapu
of Ngati Awa, and member of the Ngati Awa Trust Board:

Being the claimants of the Ngati Awa claim hereby give NOTICE of
further particulars of claim as follows:

1. THE claimants claim the right of the ownership of the
Rotoehu State Forest shown on the attached map in yellow.
2. THE claimants state that the eastern extremity of the
Rotoehu Forest (coloured on the map in pink) was confiscated
under the New Zealand Settlement Act 1863 and, as alleged
in the claim earlier filed, that confiscation was wrong,
prejudicial to the claimants and contrary to the Treaty.
3. THAT the central section of the forest from the area
confiscated west to the Waitahanui River, falls within the
traditional rohe of the claimant tribes but such land was
wrongly free-held to other than the claimant tribes. That
action was wrongful and contrary to the Treaty. (See map
area coloured blue.)

6. THE claimants seek leave to amend the claim upon the completion of further research.

7. THAT the claimants seek \$90,000 from the Tribunal for the cost of that research.

DATED this 16th day of December 1990 at Wellington.

S. M. Mead

Hirini Moko Mead

C. M. Paul

Cletus Maanu Paul