



# ECO

# LINK

## Newsletter for Members & Friends April 1997

ISSN 1174-0671

*Bruce: Wan 262 needs to be discussed at the Trustees mtg.*

*Not much good having access if you have no say in the CE's*

### Contents

*management. High.*

	Page
Organochlorines: A Promised Phaseout/ SeaViews Conference	2
Aila Taylor Mourned/ Saving Rimu Forests from the State	3
Second Stage of Library Project Completed/ Forests and Agriculture Merger: An Opportunity to Change Course	4
Submission on Legislation	5
Major Antarctic Treaty Meeting in Christchurch/ Nuclear Waste Shipments set to continue	6
Vote for the Environment Proves its Worth/ ECO Annual Conference	7
Illegal Fishing Continues in the Southern Ocean/ Campaign to save threatened fishery and seabirds/ Good Easter for Hooker's sealion	8
Fishing Industry Bully Boys/ Ministerial Portfolios	9
New Measures Needed to protect the Ozone Layer/ Government delays carbon charge decision	10
Shell Feels the Pressure/ DoC Restructuring: Immense Loss of Specialist Talent	11

## New Zealand Indigenous Flora and Fauna - Waitangi Tribunal Claim 262.

### NZ Indigenous Flora and Fauna - Waitangi Tribunal Claim 262

In February this year a claim by Maori relating to indigenous flora and fauna was given urgency by the Waitangi Tribunal. The claim, originally received by the Tribunal in October 1991, relates not only to knowledge about indigenous flora and fauna but also to its control, use, conservation and management. The claimants challenge all laws, regulations, rules and other instruments used by the government to protect species and areas, including scientific and other reserves and protected species legislation.

The summary statement of claim relates to "the protection, control, conservation, management, treatment, propagation, sale, dispersal, utilisation and restriction on the use of and transmission of the knowledge of New Zealand Indigenous Flora and Fauna and the genetic resource contained there-in." The statement of claim, repeatedly stresses concerns at inadequate conservation of species but also challenges the Crown's own laws and other instruments of conservation. It also stresses Iwi Maori wish to have far more control over uses of both the flora and fauna and knowledge about it.

Clause 3 of the claim says "That te tino rangitiratanga o te Iwi Maori was and is an absolute authority which incorporated and incorporates a right of development which permits the Iwi to conserve, control, utilise and exercise proprietary and ownership rights over natural resources, including indigenous flora and fauna."

The body of the statement of claim appears to go well beyond claims to intellectual property rights. It challenges the right of the Crown to manage indigenous flora and fauna. Thus the claim asserts "That the absolute nature of these rights renders any exercise of kawanatanga by the Crown

in relation to indigenous flora and fauna a denial of te tino rangitiratanga o te Iwi Maori and therefore an act in breach of the Treaty of Waitangi."

The claim continues, "therefore the provisions of Crown legislation, regulations, orders, proclamations, notices, and statutory instruments as they concern the protection, conservation, management, treatment, sale, dispersal, and restrictions upon the use of New Zealand indigenous flora and fauna, were and are in breach of the Treaty of Waitangi and deny te tino rangitiratanga o te Iwi Maori as it relates specifically to indigenous flora and fauna."

In several places in the claim stress is laid on the rights of Maori to conservation as well as use. Paragraph 5 stresses that this includes "preservation of biodiversity" "and in the on-going development of a philosophy of eco-ethno ethics." Paragraph 9 picks up the theme of a "right to environmental well-being dependent upon the nurturing and wise use of indigenous flora and fauna". The following paragraph stresses the "Iwi interest in the continued existence of flora and fauna as particular species and as interconnected threads of te ao turoa."

The claim advances for special attention four species of flora (kumara, Pohutukawa, koromiko, Puawananga - clematis), indigenous export timbers of various species and three species of fauna (Pupu Harakeke - eastern northland flax snail, Tuatara and Kereru).

Much of the claim is about the export and "internal" trade of species and knowledge about them, but the claimants also take exception to and repudiate many acts and omissions by the Crown. These include inappropriate land use, the introduction of possums, and the prevention of "Maori access to the commercial use sale or dispersal of indigenous forest timbers.." and various Acts of Parliament

To Page 6

Published by the Environment and Conservation Organisations of New Zealand (Inc). Editor Sarah Duthie. ECO PO Box 11057, Wellington. **Phone/fax (04) 385 7545. Street Address: 126 Vivian Street, Wellington.**

While every effort is made to ensure the accuracy of information contained in this publication ECO, its executive and editorial staff accept no liability for any errors and omissions. Views and opinions expressed in this publication do not necessarily represent the policy or opinions of ECO or its member bodies.



Continued from page 1

Included amongst the Acts objected to are the Plant Varieties Act, the Wild Birds Protection Act of 1864, Animals Protection Act of 1880 and the Wildlife Act as well as various rules for the protection of Kereru (native pigeon).

In the context of kereru, the claim also asserts "that the establishment of scientific reserves, protected areas and other actions or inactions of the Crown which prevent or inhibit Maori access to the species Kereru is a denial of the right to maintain those cultural and spiritual concepts which are an inherent part of te tino rangitiratanga o te Iwi as it applies to indigenous fauna".

In an earlier section of the claim, dispossession of Iwi Maori is said to have occurred in a number of ways including the creation of reserves for species protection and the establishing of protected species; the delegation by the Crown of management of flora and fauna to Departments of the Crown and to the Fish and Game Councils (formerly Acclimatisation Societies); social and economic policies, dispossession of land and other actions.

The original claim of 29 pages has been the subject of further submissions by counsel for the claimants and by a few other people.

The claimants are Dell Wihongi, Haana Murray, John Hippolyte, Tama Poata, Katarina Rimene and Witi McMath plus unnamed others.

Morris Love, Director of the Waitangi Tribunal (and previously director of the Maruwhenua of the Ministry for the Environment) has indicated that the Tribunal will find a means for those with an interest in the claim to express their views to the Tribunal. If you want to do so, you are also entitled to make a submission at any time by asking to be heard and explaining why you are interested.

## Vote for the Environment Proves its Worth

The effort of developing and promoting the Vote for the Environment Charter paid off thanks to the efforts of Deborah Morris of NZ First and others. Quite a number of the policies from Vote for the Environment have found their way from our Charter into the NZ First Manifesto and from there into the Coalition Agreement.

The main task now will be trying to keep the agreement up to its word. We know that there is strong pressure on the government by big business interests to limit government spending and to drop policies that those interests dislike. In return, persuading the government to implement the policies will take some pressure by ECO and its supporters.

Please write to the Prime Minister and to the Deputy Prime Minister Winston Peters to urge them to implement the environmental and conservation pledges in the Coalition Agreement. Copy your letters to Hon Simon Upton, Minister for the Environment; Hon Deborah Morris, Associate Minister for the Environment and to Hon Nick Smith, Minister for Conservation.

# A broad view of the Planet



## 1997 ECO Annual Conference

Friday 20-Sunday 22 June

The Citadel, Christchurch and  
Living Springs, Lyttleton Harbour

This year our conference will be held a little earlier in the year with our meeting now just a little over two months away. The Conference will be featuring discussion on New Zealand's performance in relation to the commitments made at the Earth Summit in Rio Di Janeiro (The United Nations will be convening a special session on the environment in the week following our conference to consider international progress on commitments made at Rio).

The Conference will open in Christchurch before moving to the Living Springs Conference Centre for the weekend. The Christchurch Agenda 21 are well on the way in building an amazing supporting programme along with some excellent choices of venues. The conference will conclude on Sunday after a special workshop on fundraising for NGOs.

This year we are making a special effort to assist people travelling to the conference.

To take advantage of some very special concessions we have obtained for early bookings please contact the E.C.O. Office (fax 04-3857545) or return the insert accompanying the programme brochure

*Price, For you in PO.  
A bit of a mixed bag as a claim.  
Steeh.*

*10/9/92*

**Claim**  
WAI 172

The Registrar  
Waitangi Tribunal  
Tribunal's Division  
Justice Department  
P O Box 10-944  
Whanganui A Tara

RECEIVED Waitangi Tribunal Division
30 OCT 1990
Dept. of Justice WELLINGTON

WE

Tama Te Kapua Poata Ngati Ira Whanau A Rua (and others)	Company Director	Main Road Makara Wellington
Eva Rickard Tainui Awhiro Ngati Toa (and others)	Tribal Leader	Post Office Raglan
John Hippolite Ngati Koata (and others)	Male Nurse	61 Beachville Cres, Nelson
Keely O'Carroll Ngati Awa (and others)	Community Programmer	Heretaunga Sq. Silverstream
Rowan Castree Ngati Tama Ngati Awa (and others)	Child	34 Harland St Brooklyn Wellington
Vern Kamo Ngati Tama (and others)	Child	Post Office Chatham Island
Marina Smith Tuwharetoa Ngati Kahungunu (and others)	Shop Owner	510A Pukehina Pde, Te Puke R D 1

FOR OURSELVES AND THE DESCENDANTS OF THE FOLLOWING  
DECEASED PERSONS NAMELY

Orongo Riria,  
Pene Te Hiko,  
Te Kume Ihaka,  
Te Manu Tieki Horomona,  
Tiki Rerekaipuke,  
Tupuhitai Hakopa and  
Whareri Horomona

CLAIM

1. That Article the Second of the Treaty of Waitangi promised Maori: "...the full exclusive and undisturbed possession of their lands and estates, forests and fisheries.....as long as it was their wish and desire to retain the same in their possession."
2. That Maori have customary rights to their traditional fisheries, flora and fauna collection, urupa sites and tapu areas.
3. That changes to the law will allow land commonly known as the Queen's Chain made up of land held as marginal strips, road reserves, esplanade strips and s58 strips (under the Land Act 1948) to be disposed of, swapped with other land, closed to Maori and other public access and built or planted on.
4. That these changes have been promulgated through the Conservation Law Reform Act 1990 (and are proposed in the Resource Management Bill) .

5. That the power to alienate land abutting lakes, rivers and the sea will make that land more valuable and result in pressure to alienate Queen's Chain land.
6. That we will be prejudicially affected by these changes to the law because we will be deprived of access to traditional fishing grounds, urupa and other sacred places, and sources of collection of flora and fauna.
7. That it is contrary to the principles of the Treaty of Waitangi for beaches or lake or river foreshores to be privately owned.
8. That our claim relates to all of the Queen's Chain in Aotearoa.
9. That we are particularly concerned with land on the Makara coastline.
10. That land held as Native Reserves in this area, namely, Waiariki Native Reserve and Oterongo Bay are surrounded by land which is farmed. We have access to the Native Reserves, urupa and wahi tapu only through the goodwill of the neighbouring farmers. The only public access to these areas is around the coast on land held as road reserves.
11. That Waiariki Native Reserve, Oterongo Bay, Te Ika a Maru and Ohau Bay contain unmarked urupa, wahi tapu and old Maori settlement sites which we seek to protect.

12. That we question the sale under the Native Land Act 1909 of land at Ohau Bay which was held as Native Reserve, Te Ika a Maru No. 1.
13. That we question the sale of land in the Makara area which was originally assigned to provide areas for cultivation and so on during the period 1840-1900.

THEREFORE, WE ASK

1. That the Tribunal determines whether land which constitutes the Queen's Chain is Maori land.
2. That the Tribunal recommends that the provisions allowing land which is part of the Queen's chain land to be disposed of, swapped or closed to the public be amended to ensure ownership and control of the Queen's chain remains in the Crown and that Maori and other public have access to it.
3. That no land which abuts the sea, lakes or rivers which is part of the Queen's Chain be allowed to be sold, swapped, closed or built or planted on.
4. That urupa, wahi tapu and old Maori settlement sites in the Makara area be protected.
5. That the legality of sales of Maori land in Makara during the period 1840 - 1900 be investigated.

and such other relief as the Tribunal considers appropriate.

THE TRIBUNAL is asked to commission a researcher to investigate the land sales mentioned and report on this claim before any hearing. We ask leave to amend this claim following that report if necessary.

THE TRIBUNAL is asked to appoint a lawyer to assist us.

PERSONS affected by this claim who should have notice of it are:

The General Manager  
Electricity Corporation  
Rutherford House  
23 Lambton Quay  
Wellington

The General Manager  
Department of Conservation  
59 Boulcott Street  
P O Box 10-420  
Wellington

The Manager  
Terawhiti Farming Co. Limited  
South Makara Road  
Makara

The Town Clerk  
Wellington City Council  
5 Mercer Street  
P O Box 2199  
Wellington

WE CAN BE CONTACTED CARE OF THE FOLLOWING ADDRESS:

Tama Te Kapu Poata  
Main Road  
Makara  
Phone 766-931

DATED this *24<sup>th</sup>* day of *October*, 1990.

*Tama Poata*

Signed by TAMA TE KAPUA POATA on behalf of the above  
named claimants.



IN THE WAITANGI TRIBUNAL

#1.1(b)

WAI 262

*Bruce, Assume  
you haven't  
got one directly.  
If so, pass it  
on to Brian  
or David.  
If*

IN THE MATTER the Treaty of Waitangi Act 1975

AND

IN THE MATTER A claim by HAANA MURRAY,  
DELL WIHONGI and others in  
relation to a Claim to Protect Native  
Flora and Fauna and Maori Cultural and  
Intellectual Property Rights

AND

THE MATTER OF A claim by TAMA TE KAPUA  
POATA, of Te Whanau a Ruataupare,  
TE KAPUNGA MATEMOANA  
DEWES of Te Whanau a Rakairoa,  
both of Ngati Porou, and others in  
relation to a claim to protect matauranga  
mo nga tikanga o Ngati Porou; Te  
Whakautanga i te mana motuhake o  
Ngati Porou; Taonga Tuturu me nga  
Taonga Tuku Iho a Ngati Porou.

---

**SECOND AMENDED STATEMENT OF CLAIM  
(FOR NGATI POROU)  
Dated 31 July 1998**

---

---

RUDD WATTS & STONE  
SOLICITORS  
WELLINGTON  
PO BOX 2793  
TELEPHONE 04 498-5000  
FACSIMILE 04 498-5001  
ATTENTION: Gina Rudland/Stacey Shortall

## SECOND AMENDED STATEMENT OF CLAIM

DATED THIS 31 DAY OF JULY 1998

### 1. PREAMBLE

1.1 This Second Amended Statement of Claim ("this claim") amends the first Amended Statement of Claim ("the first amended claim").

1.2 This claim amends certain provisions only of the first amended claim and then in respect of the Ngati Porou Wai 262 claimants only ("Ngati Porou 262 claim") but otherwise does not replace the first amended claim. In all other respects the first amended claim is endorsed.

1.3 In essence, this claim, Wai 262 is about te tino rangatiratanga o nga iwi Maori and, in particular, te tino rangatiratanga in respect of taonga. The claim both is historical and contemporary.

1.4 The claimants say that the exercise of te tino rangatiratanga in respect of those taonga has been denied by the Crown and that the Crown has a duty to actively protect those taonga and their te tino rangatiratanga generally.

### 2. THE CLAIMANTS

2.1 The original claimants were Dell Wihongi of Te Rarawa, Haana Murray of Ngati Kuri, the late John Hippolite of Ngati Koata, Tama Poata of Te Whanau A Ruataupare and Ngati Porou, Kataraina Rimene of Ngati Kahungunu and Witi McMath of Ngati Wai.

2.2 Ms Wihongi, Ms Murray, the late John Hippolite and Mr McMath are being separately represented, and for convenience we have called them the first claimants.

- 2.3 Mr Poata and Mrs Rimene are also separately represented. This second amended statement of claim should be treated as amending Mr Poata's claims only. Mr Poata and the other Ngati Porou witnesses can be described as the Ngati Porou claimants.

### 3. ROHE OF NGATI POROU

- 3.1 The tribal rohe of the Ngati Porou claimants extends from Potikirua ki te Te Toka a Taiau.

- 3.2 The hapu of Ngati Porou traditionally exercised mana motuhake, or to use the words in the Treaty, te tino rangatiratanga.

### 4. THE CLAIM : NGATI POROU TREATY RELATIONSHIP WITH THE CROWN

- 4.1 There are 12 signatories in Ngati Porou to the Treaty of Waitangi. The signatories were Rangiuiua, Te Mimiopawa, Rangiwai, Kakatarau, Awarau, Tametere, Rangiwhakatatae, Takatua, Rangikatia, Tamaiwhakanehua, Te Mokopuorongo, Rawiri Teeke, Tutaepa, Te Kaurunuioterangi, Koiauruterangi, and Te Potae Aute. As well, others refused to sign the Treaty. Ngati Porou established contact with missionaries, traders and settlers prior to the signing of the Treaty.

- 4.2 For over 100 years, Ngati Porou have worked and fought alongside the Crown, as equals.

- 4.3 Ngati Porou have contributed positively to the Treaty relationship. In particular, over this period, Ngati Porou have made contributions to the state including without limitation:

- (a) to the State's war efforts, in particular World War I and World War II; and



- (b) as guardians of Ngati Poroutanga and Maori cultural values generally.

4.4 It is largely as a result of these contributions, that a distinct and special Treaty relationship with the Crown has evolved.

4.5 The Ngati Porou claimants say their claim falls within one or more of the matters referred to in section 6(1) of the Treaty of Waitangi Act 1975, namely:

- (a) each of the Ngati Porou claimants are Maori; and
- (b) each of the Ngati Porou claimants claim they have been prejudicially affected, or are likely to continue to be prejudicially affected by:
  - (i) ordinances of the General Legislative Council of New Zealand, and/or the provincial Legislative Council of New Munster and/or provincial ordinances and/or acts passed on or after the 6th of February 1840; and/or
  - (ii) by regulations, orders, proclamations, notices or other statutory instruments made, issued or given at times on or after the 6th of February 1840 under the ordinances or acts referred to in paragraph (i) above; and/or
  - (iii) by policies, practices (some of which are no longer in force) adopted by or on behalf of the Crown, and by policies or practices proposed to be adopted by or on behalf of the Crown; and/or by acts, omissions on and after the 6th of February 1840 including proposed acts and/or proposed omissions, by and on behalf of the Crown.



- 4.6 Specifically, the Ngati Porou claimants say they have suffered prejudice by the acts or omissions referred to in this paragraph 4 in that their te tino rangatiratanga, both generally and in respect of Ngati Porou taonga, has been abrogated.

## 5. PARTICULARS OF CLAIMS

- 5.1 Specifically, Ngati Porou claim te tino rangatiratanga namely all that (other than their whenua) which is fundamental to their identity as Ngati Porou, including without limitation all dimensions of matauranga Ngati Porou in its many traditional, present and future forms of expressions.
- 5.2 Rights to matauranga mo nga tikanga o Ngati Porou; Te Whakautanga i te mana motuhake o Ngati Porou; Taonga Tuturu me nga Taonga Tuku Iho a Ngati Porou (the aforementioned for ease of reference **only** hereinafter referred to as “matauranga mo nga tikanga o Ngati Porou”):
- (a) *Extent of Above Rights:*
- (i) tino rangatiratanga and kaitiekitanga includes, but is not limited to the control, access, guardianship, maintenance and development of matauranga mo nga tikanga o Ngati Porou in all its expressions;
  - (ii) matauranga mo nga tikanga o Ngati Porou encompasses all aspects of Ngati Porou life;
  - (iii) incidents of tino rangatiratanga includes the control and transmission by Ngati Porou of Ngati Porou matauranga and, the control of and the transmission to

the appropriate repositories of that matauranga mo nga tikanga o Ngati Porou;

- (iv) Te Reo Ngati Porou, as the mouth piece of Ngati Porou heritage as integral to understanding and transmitting matauranga mo nga tikanga o Ngati Porou generally;
- (v) Ngati Porou oral traditions, oral arts, oral history, oral literature and in the performing arts, or otherwise whether traditional or modern, whether in the past, present or in the future;
- (vi) Plants and animals which are taonga of Ngati Porou and their ecosystems, including the genetic material thereof;
- (vii) Te Motu o Paikea;
- (viii) Hikurangi;
- (ix) Waiapu River Catchment;
- (x) Whangaokena;
- (xi) Ngati Porou images, designs, symbols in all media and in every medium;
- (xii) except where specifically referred to above, nga mahi a toi a Ngati Porou, including without limitation Ta Moko and Mahi Whakairo, Mahi Raranga; and
- (xiii) other cultural taonga, including without limitation Ngati Porou cultural taonga, wherever situated.

(b) *Breaches of Such Rights:*

failure by the Crown, or its agents, ordinances, acts, regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions to actively protect the tino rangatiratanga of Ngati Porou and the matauranga mo nga tikanga o Ngati Porou including but not limited to the failure to uphold that tino rangatiratanga, and to ensure the control, access, guardianship, maintenance and fostering, and/or preventing the misappropriation of matauranga mo nga tikanga o Ngati Porou, amongst others by the following:

- the failure to protect the ongoing development of matauranga mo nga tikanga o Ngati Porou;
- the subsequent and resulting loss of the effective exercise by Ngati Porou of Ngati Porou tino rangatiratanga in all of its forms; and
- assimilation and urbanisation policies of successive governments generally.

5.3 **Te Reo o Ngati Porou**(a) *Extent of Above Rights:*

tino rangatiratanga and kaitiekitanga includes, but is not limited to, the control, access and guardianship of Te Reo o Ngati Porou, both as the mouthpiece for the expression of Ngati Porou cultural heritage, and as integral to understanding and transmitting Ngati Porou knowledge;

(b) *Breaches of Rights:*

failure by the Crown, or its agents, through certain ordinances, acts, regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions, to actively protect the tino rangatiratanga of Te Reo o Ngati Porou through, but not limited to:

- the failure to protect Te Reo o Ngati Porou from loss and misuse;
- failure to assist Ngati Porou to promote and actively foster audio visual and oral expressions of Te Reo o Ngati Porou; and
- in the past, to have actively prevented the use of Te Reo o Ngati Porou and therefore associated customs and usages by past education policies.

5.4 **Rights to Ngati Porou composition and performing arts**(a) *Extent of Above Rights:*

tino rangatiratanga and kaitiekitanga includes, but is not limited to, the control, access and guardianship of Ngati Porou composition and performing arts. Such rights include, but are not limited to, the song poetry of Ngati Porou, whether historical, traditional, modern or future expressions of Ngati Porou composition, as contributing to the continued preservation of Ngati Porou identity and, in particular, to the



retention and development of language, matauranga, culture and tikanga generally.

(b) *Breaches of Rights:*

failure by the Crown, or its agents, through certain ordinances, acts, regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions, to actively protect the tino rangatiratanga of Ngati Porou in respect of Ngati Porou composition and performing arts through, but not limited to:

- categorisation by non Ngati Porou of Ngati Porou composition and performing arts;
- failure to actively protect and foster Ngati Porou composition and performing arts from abuse and exploitation by non Ngati Porou;
- failure to actively protect and foster the continued development of Ngati Porou composition history;
- the imposition of intellectual property rights laws;
- the commercialisation of Ngati Porou song poetry composition;
- the failure to provide adequate resources for Ngati Porou hapu to develop their performing arts and composing history into the 20th century;

- the failure to prevent the introduction of laws and policies which have restricted the access to and control of traditional knowledge; and
- the adoption by successive governments of urbanisation and colonisation policies generally.

## 5.5 Rights to Plants, Animals, Forests and Management of Ecosystems of such Species

### (a) *Extent of Above Rights:*

tino rangatiratanga and kaitiakitanga includes, but is not limited to, the control, access and guardianship of Ngati Porou taonga. It encompasses all species, which are Ngati Porou taonga including plants, animals, and forests and specifically includes the ecosystems of such species;

### (b) *Breaches of Rights:*

failure by the Crown, or its agents, through certain ordinances, acts, regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions, to actively protect the tino rangatiratanga of Ngati Porou in respect of plants, animals, forests and management of ecosystems through, but not limited to:

- the introduction of exotic species including without limitation the opossum;
- protection given to exotic game species to the detriment of indigenous species;

- destruction of biodiversity of flora and fauna;
- destruction of or degradation of ecosystems including Hikurangi, Te Motu o Paikea, Waiapu River Catchment Area and Whangaokena;
- denial of cultural harvests rights in particular in relation to the kukupa/kereru.

## 5.6 Genetic Material of Plants, Animals and their Ecosystems

### (a) *Extent of Above Rights:*

tino rangatiratanga and kaitiakitanga includes, but is not limited to, the control, access and guardianship of Ngati Porou taonga within the Ngati Porou rohe, including the right to develop or to limit development of processes such as genetic technology, genetic manipulation, bioprospecting and biotechnology as those practices impact on plants, animals and their ecosystems;

### (b) *Breaches of Rights:*

failure by the Crown, or its agents, through ordinances, Acts, regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions to actively protect the tino rangatiratanga of Ngati Porou in respect of the right to develop or to limit development of processes such as genetic technology, genetic manipulation, bioprospecting and biotechnology of species which are taonga of Ngati Porou by, but not limited to:

- creation of Forest Research Institutes, DSIR, and other hybrid creating programmes;
- failure to protect Ngati Porou rights to native plants and animals and their genetic resources through misappropriation and inappropriate use.

## 5.7 Rights to Cultural Taonga

### (a) *Extent of Above Rights*

- (i) tino rangatiratanga and kaitiekitanga includes, but is not limited to, the control, access and guardianship of cultural taonga, including the whakapapa, mauri, ihi, and wehi of those taonga;
- (ii) cultural taonga in this context includes moveable cultural taonga, such as artifacts, weaponry, whakairo, tipuna whare and immoveable cultural taonga such as waahi, waahi tapu, and pa sites.

### (b) *Breach of Such Rights:*

failure by the Crown, or its agents, through certain ordinances, Acts regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions to actively protect the tino rangatiratanga of each of the claimant iwi by failing to ensure the protect of, and consequently the loss, misappropriation or violation of artifacts, weaponry, whakairo, tipuna whare, waahi, waahi tapu, and pa sites.



## 5.8 **Rights to Other Cultural Property**

### (a) *Extent of Above Rights*

tino rangatiratanga and kaitiekitanga includes, but is not limited to, the control, access and guardianship of all cultural property, including images, designs and symbols, in all media and in every medium;

### (b) *Breach of Rights:*

failure by the Crown, or its agents, through certain ordinances, Acts regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions to actively protect the tino rangatiratanga of each of the claimant iwi by failing to ensure the protection of, and consequently the loss, misappropriation or violation of cultural property, including images, designs and symbols in all media and in every medium.

## 5.9 **Impact of GATT:TRIPS and other International Instruments and Conventions on Te Tino Rangatiratanga**

### (a) *Extent of Above Rights*

(i) tino rangatiratanga and kaitiekitanga includes, but is not limited to, the control, access and guardianship of all the taonga set out in the preceding paragraphs including the right to formulate laws, or to have existing customs and practices recognised at law, in respect of those taonga;

(ii) an incident of that tino rangatiratanga would include the right to formulate laws, including international

conventions and other codes of behaviour that would be consistent with, and recognise the tino rangatiratanga of Ngati Porou, and in particular, in respect of their taonga.

(b) *Breach of Rights:*

failure by the Crown, or its agents, through certain ordinances, Acts regulations, orders, proclamations, notices, instruments, policies, practices, acts or omissions to actively protect the tino rangatiratanga of Ngati Porou by failing to ensure the protection of, and consequently the loss, misappropriation or violation of the taonga set out in paragraph 5.

**6. FINDINGS SOUGHT**

The Ngati Porou claimants seek findings that:

- (a) Ngati Porou exercised te tino rangatiratanga over the taonga referred to in paragraph 5 above, immediately before and after the Treaty of Waitangi was signed on 6 February 1840; and
- (b) the Crown and its agents had a duty to actively protect te tino rangatiratanga, including te tino rangatiratanga over those taonga referred in paragraph 5 above;
- (c) the Crown and its agents have breached their duty to actively protect the te tino rangatiratanga over the taonga referred to in paragraph 5;
- (d) the Crown and its agents owes (and continues to owe) a fiduciary obligation to each of the Ngati Porou claimants, their hapu and their iwi to preserve their te tino rangatiratanga,

including the te tino rangatiratanga over the taonga referred to in paragraph 5 above;

(e) such further findings as the Tribunal deems just.

**7. RECOMMENDATIONS**

The Ngati Porou claimants reserve their right to make submissions on recommendations as the claim progresses.

**8. FURTHER AMENDMENTS TO THE CLAIM**

The Ngati Porou claimants reserve the right to further particularise the claim and seek further findings and recommendations as the claim progresses.

**DATED** at Wellington this 31st day of July 1998



R M Rudland

Counsel for the Ngati Porou Claimants

**TO:** The Registrar of the Waitangi Tribunal  
**AND TO:** The Crown Law Office  
**AND TO:** The First Claimants and Kataraina Rimene

[REDACTED]  
Dunedin.

Tuesday, 8 September 1992

The Registrar,  
Waitangi Tribunal,  
Waitangi tribunal Division,  
P O Box 100-44,  
The Terrace,  
WELLINGTON.

Dear Sir,

I understand that there is a claim before the Waitangi Tribunal that involves marginal strips (being strips of Crown land along the margins of rivers, lakes, the sea, that are administered by the department of Conservation).

I urgently require a copy of any such claim and would appreciate a prompt response to this request.

I am also interested in obtaining a schedule of all current claims that affect SOE or Crown-owned lands and waters however if no such document is readily available please defer providing this rather than delaying a response to my request re marginal strips.

Thanking you,

*BQ Mason*  
Bruce Mason.

**fast POST**   
PAR AVION

DUNEDIN  
5 - PM  
8 SEP  
1992  
NZ



NEW ZEALAND NEW  
EXPO 92



80c

REDIRECTION ORDER  
EXPIRED.

The Registrar,  
Wai tangi Tribunal,

P. O. Box ~~100-44~~,

The Terrace,  
Wellington.

SUPERVISOR FASTPO  
- 9 SEP 1992  
New Zealand Post Ltd  
WELLINGTON





B. J. MASON

DUNEDIN

RETURN  
TO  
SENDER