

NGĀTI AWA

and

HER MAJESTY THE QUEEN

in right of New Zealand

**DEED OF SETTLEMENT TO
SETTLE NGĀTI AWA HISTORICAL
CLAIMS**

27 March 2003

I TŪ TE TŪTOHINGA nei i te rā 27 o te marama o Māehe o te tau 2003.

KI WAENGANUI I A

- (1) **NGĀTI AWA**
- (2) **TE ARIKINUI TE KUINI** i te tika o Niu Tīreni e te Minita mō te Tari Whakatau Take e pā ana ki te Tiriti o Waitangi.

WAIATA

HE TANGI MŌ MATAHINA

Kāore hoki e te rangi nei
Te hua mahara noa i roto rā ki ahau rā,
Ka noho pani nei.
I pani ki te whenua,
I pani ki te tangata,
Au tangi kau iho i te pō,
Ka whakatū ki hea te aroha?
Te tōnga o te rā ki a Rikirangi
Ko tōku whanaunga ia tērā.
Ina te ahau, i mihi ki te whenua
I tangi ki te tangata,
Ka noho te wairangi nei.
Āpōpō, ka retireti, kīhai
Ka tahuri noa.
Ka rarapa noa kei hea
He tūnga nō te waewae?
He aha te pai ki te noho noa iho?
Te āta rere ai ki Poihākena!
Kai noho ki konei rongō rā ai i te waunga.

Nā Te Araroa o Ngāi Tamaoki me Te Pahipoto

THIS DEED is made on the 27 day March 2003

BETWEEN

- (1) **NGĀTI AWA**
- (2) **HER MAJESTY THE QUEEN** in right of New Zealand acting by the Minister in Charge of Treaty of Waitangi Negotiations

WAIATA

LAMENT FOR MATAHINA

This day as I look back
A thousand thoughts are in my mind,
Here I live as an orphan
An orphan upon the land and
An orphan among the people.
At night I weep helplessly,
For where is hospitality to be given?
When the sun set on Rikirangi (Te Kooti)
His relative am I
For did he not greet the land!
Did he not weep for his people
Now left to live aimlessly!
Tomorrow they move on
With no place to turn back to
I look about me and ask,
Where is a place for the feet to stand?
What is the use of staying here?
Better by far to flee to Sydney!
For if I stay I will hear
The groaning of the people

By Te Araroa of Ngai Tamaoki and Te Pahipoto

TE KAUPAPA

E ai ki ngā kōrero a Ngāti Awa:

Tīwakawaka

He uri a Tīwakawaka nō Māui. Nā Māui, ka puta ko Te Papa-titirau-maewa, ā, mai i a ia, ka puta ko Tīwakawaka. Ko ngā whenua i te takiwā ki Kākahoroa (Whakatāne), i kitea, i nōhia tuatahitia e ia. Ko tōna waka ko Te Ara-tauwhāiti, ā, ko ōna uri whakaheke i mōhiohia ai ko Ngāti Ngainui. Taketake ake, ko rātou te tangata whenua tuatahi o Kākahoroa.

Toi-te-huatahi

Ngahuru mā rua ngā whakatipuranga ka whai, ka tae tātou ki te tipuna nei a Toi-te-huatahi. Ko tōna kāinga ko Kāpū-te-rangi, kei runga ake o Kākahoroa. E whakaaehia whānuitia ana, ko Toi te tino tipuna o ngā iwi maha o Te Tai Rāwhiti, tae rawa ki a Ngāti Awa.

Awanui-a-rangi I, Rauru

Nā Toi, ka puta ko Rauru ki mua, ko tōna whaea ko Huia-rei; whai muri ko Awanui-ā-rangi I, ko tōna whaea ko Te Kura-i-monoa. Ko ngā uri whakaheke o Awanui-ā-rangi I, ko Ngāti Awa ki Te Moana o Toi-te-huatahi rātou ko Te Āti Awa o Taranaki.

Tīhori, Kōpura-kai-whiti

Ka moe a Tīhori i a Kōpura-kai-whiti o Te Mārangaranga, ko ō rāua kāinga ko Taiwhiti-Kāeaea me Taiwhero, he wāhi e tata nei ki Pūtauaki. Ko tōna iwi ko Ngā Maihi, he hapū taketake o Ngāti Awa. I te wā i whakatauhia ai e Tīhori me wehe ia i te rohe mā runga i tōna waka i a Whakapau-karakia, ki te haere ki Te Tai Tokerau, i āraia tōna ara e tērā wāhanga o Ngāti Awa i mahue mai. Kātahi ka tonono a Tīhori ki tōna taniwha kia huakina mai he ara mai i te awa o Rangitāiki ki te awa o Tarawera, kia wāhia ake hoki he putanga ki te moana i Te Awa a Te Atua. Ka noho mai tōna whānau, ā, ko ō rātou uri whakaheke ko Ngā Maihi o Matahina me Te Teko.

Kauri rāua ko Kahungunu

He wāhanga nui o Ngāti Awa i noho ki te takiwā o Kaitāia, o Ahipara, o Te Roto o Tangonge. I reira ētahi ana pupuri kōiwi, nō Ngāti Awa. Kātahi te wā roa e pakanga ana ki a Ngāti Whātua rāua ko Ngā Puhī, ka tīmata tētahi hekenga nui a Ngāti Awa i Te Tai Tokerau. E rua ngā hekenga, ko tētahi nā Tītahi i ārahi mā te Tai Hau-ā-uru, tau rawa atu ki Waitara i Taranaki; ko tētahi tira nā Kauri i ārahi mā te Tai Rāwhiti, ahu rawa atu ki roto o Tauranga. Ko tētahi wāhanga o tēnei hekenga, i haere tonu atu, tae rawa atu ki Kākahoroa, ki reira noho ai ki raro o Te Tini o Awa. Ko ō rātou uri, ko ngā hapū o Ngāti Awa.

Hoaki rāua ko Taukata

I tau a Hoaki rāua ko Taukata ki Kākahoroa i te wā e noho ana ko Tama-ki-Hikurangi, te rangatira, i Kāpū-te-rangi. I haere mai te tokorua nei ki te kimi haere i tā rāua tuahine, a Kanioro. Nā rāua te kūmara i hari mai hei kai mā Te Tini o Awa.

Toroa

E ai ki ngā kōrero tuku iho a Ngāti Awa, i tau mai te waka Mātaatua ki Kākahoroa (Whakatāne) mai i te kāinga tūturu o Hawaiki. Nā Mātaatua te kūmara i mau mai ki Kākahoroa me tētahi mōkī one mai i Rangiātea, he mea āta waiho ki te māra kai e mōhiohia nei, ko Matirerau. E mōhiohia ana ko ngā tāngata o runga o te waka nei o Mātaatua ngā tīpuna taketake o ngā iwi o te rohe o Mātaatua arā, a Te Whānau a Apanui, a Te Whakatohea, a Ngāi Tūhoe, a Ngāi Te Rangi, a Ngāti Awa me ētahi o ngā iwi o Te Tai Tokerau pēnei i a Ngā Puhī. E whakaaetia ana ko Toroa, te rangatira o runga o te waka o Mātaatua, tētahi o ngā tīpuna nui o Ngāti Awa.

Awanui-ā-rangi II

Mai i a Toroa ka puta ko Ruaihona, mai i a Ruaihona ka puta ko Tahinga-o-te-rangi, mai i Tahinga-o-te-rangi ka puta ko Awanui-ā-rangi II. E whakaaetia ana e Ngāti Awa ko Awanui-ā-rangi II, te mokopuna tuarua a Toroa, koia te tipuna ariki e taea ai e ngā hapū katoa o Ngāti Awa te tātai atu.

Mai i a Awanui-ā-rangi ka heke mai ai ngā tīpuna o ngā hapū o Ngāti Awa pēnei i a Rongo-tangi-awa, Rongo-kārae, Irapeke, Tamatearehe, Taiwhakaea I, Tonumoko, Pūkeko, Ikapuku, Te Rangi-tipu-ki-waho I, Taiwhakaea II, Ira-tūmoana, Manukorihī, Iramoko, Umutahi, Tu-te-ao, Ikapōkai, Awatope, Irawharo, Hikakino, Te Rangi-hou-hiri II, Ruaroa, Tamawera, Nukukaitangata,

Tamapahore, Uruhina me te tokomaha atu o ngā tīpuna. Takea mai ai anō hoki ngā hapū o iwi kē i ēnei tīpuna.

Ngāti Awa

Mai i te ūnga mai o te waka Mātaatua ki uta, ā, tae rawa ki te taenga mai o tauīwi, e noho ana a Ngāti Awa he iwi motuhake, he iwi tūturu i raro i ngā whakahaere o ngā hapū o Ngāti Awa. He wā ka ūhia e Ngāti Awa tōna tino rangatiratanga ki runga i ngā whenua mai i Ōhiwa i te rāwhiti tae atu ki Pongakawa i te uru, haere whaka-te-uta ki Maungawhakamana, ki Pōkohu, ki Matahina, hoki atu ki Ōhiwa. Mō ngā rau tau maha, whakamātautauria ai te rohe o Ngāti Awa i roto i ngā tauwehewehenga, ngā tukitukinga me ngā tautohetohe ki ngā iwi e noho tata ana, ahakoa te mea, i reira ētahi piringa i roto i ngā tau, me te mea anō hoki he whakapapa kotahi, he tīpuna kotahi katoa o rātou.

TE KAUPAPA

According to the traditions of Ngāti Awa:

Tiwakawaka

Tiwakawaka was a descendant of Maui. From Maui came Te Papa-titirau-maewa, then from Te Papa-titirau-maewa came Tiwakawaka. He was the first explorer to discover and settle the land around Kakahoroa (Whakatāne). His waka was Te Aratauwhaiti and his descendants became known as Ngāti Ngainui. The descendants of Tiwakawaka are the original people of Kakahoroa.

Toi-te-Huatahi

Twelve generations from Tiwakawaka came the ancestor Toi-te-Huatahi. He resided at Kāpūterangi above Kakahoroa. Toi is acknowledged as the principal founding ancestor of many Te Tairāwhiti iwi including Ngāti Awa.

Awanuiarangi I, Rauru

From Toi came Rauru, the first born, whose mother was Huiarei, then Awanuiarangi I, whose mother was Te Kura-i-Monoa. The descendants of Awanuiarangi I are Ngāti Awa of the Bay of Plenty and Te Ati Awa of Taranaki.

Tihori, Kopura-kai-whiti

Tihori married Kopura-kai-whiti of Te Marangaranga and resided at Taiwhiti-Kaeaea and Taiwhero near Putauaki. He belonged to Nga Maihi, an ancient hapū of Ngāti Awa. When Tihori decided to depart the region on his waka, Whakapaukarakia, to go to Taitokerau, he was prevented by the rest of Ngāti Awa from departing. Tihori then ordered his taniwha to open a channel from the Rangitaiki River to the Tarawera River and to carve a new outlet to the ocean at Te Awa a Te Atua. His whānau remained behind and their descendants are Nga Maihi of Matahina and Te Teko.

Kauri, Kahungunu

A large division of Ngāti Awa occupied the area around Kaitaia, Ahipara and Lake Tangonge. Several burial caves in the region belonged to Ngāti Awa. After a long series of battles with Ngāti Whatua and Nga Puhi, a general exodus of Ngāti Awa from the north occurred. There were two great migrations, one down the west coast, led by Titahi, to Waitara, Taranaki and the other down the East Coast, led by the ancestor Kauri to Tauranga. One section of Kauri's group

continued on to Kakahoroa and merged with Te Tini o Awa. Their descendants are the hapū of Ngāti Awa.

Hoaki, Taukata

Hoaki and Taukata arrived at Kakahoroa during the time when Tama-ki-Hikurangi was the chief living at Kapu-te-rangi. The brothers came in search of their sister, Kanioro. They introduced the kumara to Te Tini o Awa.

Toroa

Ngāti Awa history records the arrival of the waka Mātaatua at Kakahoroa (Whakatāne) from the ancestral homeland Hawaiki. Mātaatua brought the kumara to Kakahoroa and a parcel of soil from Rangiatea to place in the garden called Matirerau. The crew of this waka are recognised as the progenitors of the iwi of Mātaatua being Te Whānau a Apanui, Whakatohea, Ngai Tuhoe, Ngai Te Rangi and Ngāti Awa and of certain northern iwi including Nga Puhi. Toroa, the captain of Mātaatua, is acknowledged as one of the principal ancestors of Ngāti Awa.

Awanuiarangi II

From Toroa came Ruaihona, from Ruaihona came Tahinga o te rangi and from Tahinga o te rangi came Awanuiarangi II. The eponymous ancestor Awanuiarangi II, great-grandson of Toroa, is acknowledged by Ngāti Awa as the paramount and principal identifying ancestor from which all hapū of Ngāti Awa can trace descent.

From Awanuiarangi II came the ancestors of the hapū of Ngāti Awa. Those ancestors include Rongotangiawa, Rongomainohorangi, Rongokarae, Irapeke, Tamatearehe, Taiwhakaea I, Tonumoko, Pūkeko, Ikapuku, Te Rangitipukiwaho I, Taiwhakaea II, Iratumoana, Manukorihi, Iramoko, Umutahi, Tuteao, Ikapokai, Awatope, Irawharo, Hikakino, Te Rangihouhiri II, Ruaroa, Tamawera, Nukukaitangata, Tamapahore, Uruhina and many other tipuna. Hapū of other tribes may also claim descent from these ancestors.

Ngāti Awa

From the time following the landing of Mātaatua and prior to the arrival of tauiwi in Aotearoa, the Ngāti Awa iwi was an autonomous, independent and self-governing confederation of hapū. Ngāti Awa exercised tino rangatiratanga as tangata whenua from time to time between Ōhiwa in the east to Pongakawa in the west, thence inland to Maungawhakamana, Pokohu, Matahina and back to Ōhiwa.

For many centuries the rohe of Ngāti Awa was continually tested through rivalry, conflict and dispute with neighbouring iwi, many of whom shared common historical associations, whakapapa and tipuna with Ngāti Awa.

TE TIRITI O WAITANGI/TREATY OF WAITANGI

Nō te rā 16 o te marama o Hune o te tau 1840, i hainahia ai ki Pōhaturua i Whakatāne e ētahi o ngā rangatira o Ngāti Awa te tuhinga reo Māori anake o Te Tiriti o Waitangi. Ko te nuinga o ēnei rangatira nō Ngāi Tonu me Ngāti Pūkeko, arā ko ētahi o rātou ko Tautari, ko Mōkai, ko Mato, ko Tarawatewate, ko Tūnui, ko Taupiri, ko Haukakawa, ko Pīariari, ko Mata-te-hokia, ko Rewa, ko Tūpara me Mōkai II. E mea ana ngā kōrero o Te Tiriti o Waitangi:

On 16 June 1840, certain Ngāti Awa chiefs signed the Maori text only of the Treaty of Waitangi at Pohaturua in Whakatāne. These chiefs were primarily from Ngai Tonu and Ngāti Pūkeko and included Tautari, Mokai, Mato, Tarawatewate, Tunui, Taupiri, Haukakawa, Piariari, Matatehokia, Rewa, Tupara and Mokai II. The text of the Treaty of Waitangi provided:

Te Tiriti o Waitangi

“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 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 kua 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 Rangatira ki nga hapu –ki 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 wakaetanga 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 and 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 wakaetia 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.

Ko nga Rangatira o te wakaminenga.”

“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

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.

Article The Second

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 Pre-emption 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

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.

W. 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.

BACKGROUND TO THIS DEED

Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty.”

TE HĪTORI O TE WHAKATAUNGA

Mai i te wā o te raupatu i 1866, kua whakatūria ngā tonono paremata a Ngāti Awa ki te Karauna mō āna mahi hē, tae rawa ki te raupatu. Kua hīkina ngā taumahatanga mō ngā takahitanga i te Tiriti o Waitangi e tēnā, e tēnā whakatipuranga o Ngāti Awa i roto i ngā tau, tāne mai, wāhine mai. Whai muri iho o ngā petihana me ngā kawenga kōrero o ngā tau tōmuri o te rau tau 1800, me ērā o te tekau tau 1920, tae rawa ki te tekau tau 1960, ko te nekehanga nui, ko te whakatūnga e ngā kaumātua o Ngāti Awa pēnei i a Eruera Mānuera, i a Hāre Rēneti, i a Aniheta Rātene me Matarena Rēneti, i te Poari o Ngāti Awa i te tau 1980 i Puawairua, te marae o Ngāti Hikakino. I whakatūria te Poari e ngā hapū o Ngāti Awa hei kawewhakarā me ngā kaupapa mō te iwi, pēnei i i te take raupatu (tae rawa ki te muri i ngā whenua, te noho manene o ngā hapū me te riro o te tino rangatiratanga), te whakatū pakari anō o te whareniui Mātātua, te whakahokinga mai o te pāmu teihana o Ngāti Awa me te maunga Pūtauaki ki ngā ringaringa o te iwi. I whakarāpopotonga ngā whāinga matua nei e Aniheta Rātene i roto i tana kōrero mō te Moenga, te Paraikete me te Urunga – ko te Moenga, koia tērā ko ngā whenua o Ngāti Awa i raupatuhia, ko te Paraikete, ko te pāmu teihana tērā o Ngāti Awa, ā, ko te Urunga, koia tērā ko ngā kerēme a Ngāti Awa mō Kawerau.

I te tau 1988, whai muri o tētahi whakahōunga o Te Ture mō Te Tiriti o Waitangi 1975 e taea ai te rongohia o ngā kerēme mai i 1840, i whakatakotoria e Ngāti Awa tana kerēme ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti kia rangahau āna whakamaui e pā ana ki te Tiriti. I te tau 1988, i runga i tāna kaupapa here ki te tuku i ngā whakahaere ki ngā poari whakahaere iwi, ā, i runga anō hoki i te tonono a Ngāti Awa, i whakamanatia Te Ture mō Te Rūnanga o Ngāti Awa 1988 arā, te ture whakatū i te Rūnanga. Ko tētahi wāhi o te ture nei i pā ki te wetewete i ngā whakawhiu ā-ture i mau ki runga i ētahi o te iwi i uru ki ngā nekenekehanga o te tau 1865.

Nō te tau 1990 i whakawhitia ai e te Karauna te pāmu teihana o Ngāti Awa ki Te Rūnanga o Ngāti Awa. I tua atu, i ngā tau 1989 me 1990, tukuna ai e te Karauna ētahi utunga e \$200,000 hui katoa ki Te Rūnanga o Ngāti Awa. I te tau 1994, i whakawhitia ai e te Karauna ki a Ngāti Awa, ko te wāhi mahi a Telecom i Whakatāne, ko tōna wāriu i whakaaetia ai kia \$390,000. Hei tā Ngāti Awa titiro mai rā anō, he wāhanga noa iho ēnei o ngā utu mō ngā kerēme raupatu ki te Karauna.

Nō te rā 4 o te marama o Hūrae o te tau 1994, kātahi anō ka tīmata te take a Ngāti Awa ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti, i te marae o Te Whare o Toroa i Whakatāne. I whakatakotoria e Ngāti Awa tana kerēme i roto i ētahi hui i tū ki te marae o Kokohīnau i Te Teko, ki te marae o Umutahi i Matatā, me te kapinga o āna kōrero i Te Whare o Toroa i te rā 1 o Tīhema o te tau 1995.

Nō te marama o Mei o te tau 1995, i whakaputaina e Te Rōpū Whakamana i te Tiriti tētahi whakaaturanga e kī ana, ahakoa kāore anō kia rongohia te Karauna, nā te kaha me te pakari o te kerēme a Ngāti Awa, tērā tonu pea ka nui te paremata me utu e te Karauna ki a ia mō ngā takahitanga a te Karauna i Te Tiriti o Waitangi i roto i ngā tau kua pahure. I whakaputaina tuatahitia te kōrero nei i roto i te whakaaturanga a Te Rōpū Whakamana i te Tiriti i te marama o Noema i te tau 1994.

I whakatakotohia, i kōrerohia tētahi tikanga whakahaere i waenganui i ngā hapū, Te Rūnanga me ngā kai-whiriwhiri i te hui ā-tau o te tau 1996, me ngā hui o muri a Te Rūnanga i roto i taua tau. Whai muri i tērā, i tū anō ngā hui me ngā whitiwhitinga kōrero e whiwhi mana kōkiri ai ngā kai-whiriwhiri. I whakaae te Rūnanga o te Kāwanatanga ki te mana kōkiri i te Ōketopa 1996.

I te rā 21 o te marama o Tīhema o te tau 1998, whai muri o tētahi toru tau e kōrerohia ana te kaupapa, ka uru te Karauna rāua ko Ngāti Awa ki tētahi Whakaaetanga Ūpoko. Ko tā te Whakaaetanga Ūpoko nei, he whakatakoto noa i ngā take e mātua whakaaetia ana me uru ki roto i te Tūtohunga Whakatau, me tā rāua whakaae tahi ki te whiriwhiri i runga i te ngākau pono ki te whakatutuki i ngā ritenga o te Tūtohunga Whakatau.

Nō te rā 8 o te marama o Oketopa o te tau 1999 i oti i Te Rōpū Whakamana i te Tiriti tana pūrongo e kīia nei ko “ Te Pūrongo mō te Raupatu a Ngāti Awa.” Ko ngā whāinga matua o te pūrongo i kī, i raro i Te Tiriti o Waitangi, i te hē te mahi raupatu i ngā whenua o Ngāti Awa, ā, e kore e taea te kī i tū tētahi whana e whai take ai te raupatu i ngā whenua, me te mea ko te āhua nei, i tua atu kē te raupatu o ngā whenua o Ngāti Awa i te mana o Te Ture Whakatau Manene ki Niu Tīreni, 1863.

I tua atu, i kite anō Te Rōpū Whakamana i te Tiriti, he takahitanga tēnei o ngā mātāpono o te Tiriti o Waitangi, mēnā kāore i whakahokia mai ngā whenua i runga i te tikanga pai, māraakerake; he whakawhiu anō i a Ngāti Awa mō ana mahi whana tēnei te wehe i a ia mai i ngā whenua ki te taha uru o te rāina raupatu; i hurihia te taitara o ngā whenua ki te tangata takitahi, ā, ko te putanga o tēnei, ko te unuhanga o te mana o te iwi, ko te whakamāmā hoki i te huarahi hoko i te whenua. I tua atu i whakatau Te Rōpū Whakamana i te Tiriti, ko te huarahi e ea ai ngā kerēme a Ngāti Awa, mā te huarahi ki Te Rūnanga o Ngāti Awa. Ahakoa te mea kāore i whakatakotohia e te Karauna ētahi whakaaturanga ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti, me te mea anō ehara i te mea e whakaae ana ia ki te katoa o ngā whāinga o Te Rōpū Whakamana i te Tiriti, e whakaae ana te Karauna i mahi hē ia ki te raupatu i ngā whenua o Ngāti Awa, nā reira he takahitanga tēnā o ngā mātāpono o Te Tiriti o Waitangi.

Kāore i tau he whakaritenga i waenganui i te Karauna me Ngāti Awa i runga i ngā tāpaetanga o te tau 1998. Nō te tau 2000 whakatakotoria ai e te Karauna tētahi tāpaetanga hōu.

TE WHAKAHOKINGA MAI O TE WHARENUI A MĀTAATUA

I ngā tau tōmua o te tekau tau 1870, i tahuri te iwi o Ngāti Awa ki te hanga i tētahi whare whakairo ki Whakatāne, ko tōna ingoa ko Mātaatua. I te tīmatanga o te tau 1875 i oti te hanga i te whare. Nō te tau 1879, i tukuna e te Karauna te whare Mātaatua ki tētahi whakaaturanga e kīia nei ko te *Inter Colonial Exhibition* i tū ki Poihākena, i Ahitereiria. Nō te tau 1880 i nekehia te whare ki Poi-piripiri, ki Rānana, ki reira whakaaturia ai. Nō te tau 1924 i whakahokia mai ai a Mātaatua, e aha ai, e uru atu ai ia ki te Whakaaturanga mō te Moana-nui-a-Kiwa i tū ki Ōtepoti. I whakaae te Karauna kia whakaaturia e Te Whare Taonga o Ōtepoti te whare whakairo mō ake tonu. Mai rā anō, kua rapu te iwi kia whakahokia mai te whare ki Whakatāne, me te kī a Ngāti Awa, kāore i tukuna e ia te mana mō Mātaatua ki tētahi atu. Nō te marama o Ākumahana o te tau 1996 i hainahia e Ngāti Awa rāua ko te Karauna tētahi Tūtohunga Whakatau mō te whakahokinga mai o Mātaatua ki a Ngāti Awa. I whai wāhi ki roto i te whakaaetanga nei ko te \$2 miriona hei utu i te whakahoki mai me te whakatū o te wharenui a Mātaatua ki Whakatāne.

TE WHAKATAU I NGĀ KERĒME

I runga i te whakaae a te Karauna ki mua i te aroaro o Te Rōpū Whakamana i te Tiriti rātou ko Ngāti Awa, i tūkinotia a Ngāti Awa, i wāhia hoki ētahi mātāpono o Te Tiriti o Waitangi i te wā i raupatutia ō rātou whenua, ko te hiahia o te Karauna ki te uru ki tētahi tūtohunga whakatau, e whakatakoto ana he aha ngā mea e ea katoa ai ngā kerēme a Ngāti Awa i roto i ngā tau. Nā reira koia nei a Ngāti Awa, kua roa āna whakatipuranga e tohe ana mō ana kerēme e mea ana, ko tōna hiahia kia uru ki tētahi tūtohunga whakataunga.

NĀ REIRA, e whakaae ana a Ngāti Awa rāua ko te Karauna, whai muri i ētahi whitiwhitinga kōrero i whakahaerehia i runga i te ngākau pono, i raro hoki i te wairua mahi tahi, ki te kuhu ki tēnei Tūtohunga.

I TŪ hei Tūtohunga i te rā 27 o te marama o Māehe o te tau 2003.

BACKGROUND TO THE SETTLEMENT

Since the time of the raupatu in 1866, Ngāti Awa has sought redress for its grievances against the Crown including the confiscation of land from Ngāti Awa. The responsibility for seeking redress for breaches of the Treaty of Waitangi has passed through many generations of Ngāti Awa men and women. Following the petitions and representations of the late nineteenth century, the 1920s and up to the 1960s, the next significant effort occurred in 1980 with the establishment of the Ngāti Awa Trust Board at the Ngāti Hikakino marae, Puawairua by the hapū and kaumatua of Ngāti Awa including Eruera Manuera, Hare Reneti, Aniheta Ratene and Matarena Reneti. The hapū of Ngāti Awa established the Trust Board to progress various issues on behalf of the iwi and in particular, to seek redress for the raupatu (including the loss of land, dislocation of hapū and loss of rangatiratanga), the restoration of Mātaatua whareniui, the return of the Ngāti Awa station, and the return of Putauaki. These principal goals of the Trust Board were encapsulated by Aniheta Ratene in the phrase the Bed, the Blanket and the Pillow – the Bed symbolized the lands confiscated from Ngāti Awa, the Blanket represented the Ngāti Awa station and the Pillow embodied the Ngāti Awa claims to Kawerau.

In 1988, following an amendment to the Treaty of Waitangi Act 1975 to allow hearing of claims back to 1840, Ngāti Awa lodged its claim with the Waitangi Tribunal to investigate its Treaty grievances. In 1988 the Crown, in accordance with its policy of devolution to iwi authorities and at the request of Ngāti Awa, enacted Te Runanga o Ngāti Awa Act 1988 establishing the Runanga. This included a statutory pardon for those members of Ngāti Awa involved in the events of 1865.

In 1990 the Crown transferred the Ngāti Awa station to Te Runanga o Ngāti Awa. The Crown also made payments totalling \$200,000 to Te Runanga o Ngāti Awa in 1988 and 1990. In 1994, the Crown transferred the Whakatāne Telecom site at an agreed value of \$390,000 to Ngāti Awa. Ngāti Awa has always regarded these returns as part settlement of its raupatu claims against the Crown.

On 4 July 1994, Ngāti Awa finally began its Waitangi Tribunal case at Te Whare o Toroa Marae in Whakatāne. Ngāti Awa presented its claims at hearings at Kokohinau Marae in Te Teko and Umutahi Marae in Matata, completing the process at Te Whare o Toroa on 1 December 1995.

In May 1995, the Waitangi Tribunal issued a memorandum observing that although the Crown had yet to be heard, Ngāti Awa had demonstrated significant and compelling claims that were likely to require substantial compensation from

the Crown to remedy past breaches of the Treaty of Waitangi. This point was previously made by the Waitangi Tribunal in its memorandum in November 1994.

A mandate protocol between the hapū, the Runanga and the negotiators was prepared and discussed at an annual general meeting in 1996 and at subsequent hui of the Runanga during that year. This was followed by further hui and consultations to confirm the mandate of the negotiators. Cabinet recognised the mandate in October 1996.

On 21 December 1998, following three years of discussions and negotiations the Crown and Te Runanga o Ngāti Awa entered into a Heads of Agreement. This recorded on a without prejudice basis the matters which they had agreed in principle should be contained in a Deed of Settlement to effect a settlement of Ngāti Awa's historical claims, and their agreement to negotiate in good faith to settle the terms of the Deed of Settlement.

On 8 October 1999, the Waitangi Tribunal completed its report entitled "The Ngāti Awa Raupatu Report". The principal findings of the Tribunal were that the confiscation of the lands of Ngāti Awa was contrary to the Treaty of Waitangi, that there was no rebellion to justify confiscation, and that confiscation as effected against Ngāti Awa appears to have been beyond the authority of the New Zealand Settlements Act 1863. The Tribunal also found that it was contrary to the principles of the Treaty of Waitangi that the return of lands and reserves was not affected by a fair and open process; that Ngāti Awa's exclusion from the lands to the west of the confiscation line was an additional retribution for their perceived rebellion; that tribal land was converted to individual shareholding and tribal authority was therefore removed and the land was exposed to alienation. The Tribunal also concluded that the claims of Ngāti Awa should be settled by the Crown through Te Runanga o Ngāti Awa. While the Crown did not present evidence to the Tribunal and does not necessarily agree with all the findings made by the Waitangi Tribunal, the Crown had acknowledged that the confiscation against Ngāti Awa constituted an injustice and was therefore in breach of the principles of the Treaty of Waitangi.

In the meantime the Crown and Ngāti Awa were unable to reach agreement on the basis of the 1998 offer. The Crown made a revised settlement offer in 2000.

RETURN OF MĀTAATUA WHARENUI

In the early 1870s the people of Ngāti Awa undertook the construction at Whakatāne of a carved meeting-house, Mātaatua. Construction of Mātaatua was completed at the beginning of 1875. In 1879 Mātaatua was sent by the Crown for exhibition at the Inter Colonial Exhibition in Sydney, Australia. In 1880 the

house was sent to Melbourne, then to London to be exhibited. Mātaatua returned to New Zealand in 1924 for the South Seas Exhibition in Dunedin. The Crown agreed to allow the University Museum in Otago to exhibit the meeting-house on permanent loan. Ngāti Awa has always maintained that it did not transfer title to Mātaatua and sought the return of the meeting-house to Whakatāne. In August 1996 Ngāti Awa and the Crown signed a Deed of Settlement to return Mātaatua to Ngāti Awa. This agreement included a Crown payment of \$2 million for the costs of transporting and establishing Mātaatua Whareniui at Whakatāne.

SETTLEMENT OF CLAIMS

The Crown, having acknowledged before the Waitangi Tribunal that Ngāti Awa has suffered an injustice and breaches of the principles of the Treaty of Waitangi in the confiscation of their land, now wishes to enter into a deed of settlement, recording the matters required to give effect to a settlement of all of Ngāti Awa's historical claims. Ngāti Awa, having sought redress over many generations for its historical claims, also wishes to enter into a deed of settlement.

ACCORDINGLY, Ngāti Awa and the Crown wish, following extended negotiations conducted in good faith and in a spirit of co-operation and compromise, to enter into this Deed.

EXECUTED as a Deed on the 27 day of March 2003.

SIGNED for and on behalf of
NGĀTI AWA by the Mandated
Negotiators

Dr Sidney Moko Mead

John Mahiti Wilson

Bernard Paul Quinn

Joseph Mason

Pouroto Nicholas Hamilton Ngaropo

In the presence of:

Name:

Occupation:

Address:

In the presence of:

Name:

Occupation:

Address:

In the presence of:

Name:

Occupation:

Address:

In the presence of:

Name:

Occupation:

Address:

SIGNED for and on behalf of **HER**)
MAJESTY THE QUEEN in Right of)
New Zealand by the Minister in Charge)
of Treaty of Waitangi Negotiations)

Honourable Margaret Wilson

In the presence of:

Name:

Occupation:

Address:

He mea tautoko nā:
Supported by:

SECTION 1: SCOPE AND NATURE OF SETTLEMENT

1.1 INTRODUCTION

1.1.1 Mutual agreement to settle the Ngāti Awa Historical Claims

This Section records the mutual agreement of Ngāti Awa and the Crown to settle the Ngāti Awa Historical Claims.

1.1.2 Definitions

This Section also sets out definitions of Ngāti Awa, Ngāti Awa Historical Claims, and certain related terms. Those definitions apply in this Deed unless this Deed or the context requires otherwise.

1.2 MEANING OF NGĀTI AWA

1.2.1 Definition of Ngāti Awa

Ngāti Awa is nga uri o nga Hapū o Ngāti Awa and:

- (a) means the collective group composed of individuals referred to in *clause 1.2.1(b)*;
- (b) means:
 - (i) every individual who is descended from a Ngāti Awa Tipuna; or
 - (ii) every individual who is a member of a hapū, group, family or whānau referred to in *clause 1.2.1(c)*; and
- (c) includes:
 - (i) the Hapū of Ngāti Awa; and
 - (ii) any hapū, group, family or whānau, composed of individuals referred to in *clause 1.2.1(b)*.

1.2.2 Related definitions

- (a) In this *clause 1.2*, a person is *descended* from another person if the first person is descended from the other person by:
 - (i) birth; and/or

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- (ii) legal adoption; and/or
 - (iii) Maori customary adoption in accordance with the custom of Ngāti Awa.
- (b) For the purposes of the definition of Ngāti Awa in *clause 1.2.1*, and in this Deed generally, the following terms or expressions have the following meanings:

Area of Interest means the area of interest identified in *Attachment 1.1* as the area which Ngāti Awa identify as its area of interest together with the adjacent waters and Offshore Islands;

Customary Rights means rights according to tikanga Maori (Maori customary values and practices), including the following rights:

- (a) rights to occupy land; and
- (b) rights in relation to the use of:
 - (i) land; and/or
 - (ii) natural or physical resources;

Hapū of Ngāti Awa means:

- (a) the following 22 hapū being:
 - (i) Ngāti Hokopu – Te Whare o Toroa;
 - (ii) Ngāti Hokopu – Te Hokowhitu a Tu Ki Te Rahui;
 - (iii) Ngāti Wharepaia;
 - (iv) Ngāti Pūkeko;
 - (v) Ngāti Rangataua;
 - (vi) Ngai Tamapare;
 - (vii) Te Patuwai;
 - (viii) Ngāti Maumoana;

SCOPE AND NATURE OF SETTLEMENT

- (ix) Ngai Taiwhakaea II;
 - (x) Ngāti Hikakino;
 - (xi) Ngai Te Rangihouhiri II;
 - (xii) Te Tawera;
 - (xiii) Nga Maihi;
 - (xiv) Te Pahipoto;
 - (xv) Ngai Tamaoki;
 - (xvi) Ngai Tamawera;
 - (xvii) Tuariki;
 - (xviii) Warahoe;
 - (xix) Ngāti Hamua;
 - (xx) Ngāti Awa ki Tamaki Makaurau;
 - (xxi) Ngāti Awa ki Poneke; and
 - (xxii) Te Kahupake;
- (b) the following tribal identities, which are incorporated into the hapū listed in paragraph (a) of this definition:
- (i) Ngāti Ahi;
 - (ii) Ngāti Hinanoa;
 - (iii) Ngāti Irawharo;
 - (iv) Kahurere;
 - (v) Ngāti Nuku;
 - (vi) Te Patutatahi;

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- (vii) Te Patutahora;
- (viii) Ngāti Tapatahi,

Member of Ngāti Awa means every individual referred to in *clause 1.2.1(b)*;

Ngāti Awa Tipuna means an individual or individuals who:

- (a) exercised Customary Rights by virtue of being descended from:
 - (i) Awanuiarangi II; or
 - (ii) a recognised ancestor of any of the Hapū of Ngāti Awa; and
- (b) exercised the Customary Rights referred to in paragraph (a) of this definition predominantly in relation to the Area of Interest at any time after 6 February 1840;

Representative Entity means:

- (a) the Ngāti Awa Governance Entity;
- (b) Te Runanga o Ngāti Awa;
- (c) any person (including any trust or trustees) acting for or on behalf of:
 - (i) the iwi, or collective group, referred to in *clause 1.2.1(a)*; and/or
 - (ii) any one or more of the individuals referred to in *clause 1.2.1(b)*; and/or
 - (iii) any one or more of the hapū, groups, families or whānau referred to in *clause 1.2.1(c)*.

1.3 MEANING OF NGĀTI AWA HISTORICAL CLAIMS

1.3.1 Definition of Ngāti Awa Historical Claims

Ngāti Awa Historical Claims

- (a) Subject to *clause 1.3.2*, means every Claim that Ngāti Awa (or any Representative Entity) had at, or at any time before, the Settlement Date, or may have at any time after the Settlement Date, that:

SCOPE AND NATURE OF SETTLEMENT

- (i) Is, or is founded on, a right arising:
 - (aa) From Te Tiriti o Waitangi/the Treaty of Waitangi, or the principles of Te Tiriti o Waitangi/the Treaty of Waitangi; or
 - (bb) Under legislation or at common law (including in relation to customary law or aboriginal title); or
 - (cc) From a fiduciary duty; or
 - (dd) Otherwise; and
- (ii) Arises from or relates to acts or omissions before 21 September 1992:
 - (aa) by or on behalf of the Crown; or
 - (bb) by or under legislation;

whether or not the Claim has arisen or been considered, researched, registered, notified or made on or before the Settlement Date; and

- (b) Without limiting *clause 1.3.1(a)*, means every Claim to the Waitangi Tribunal to which *clause 1.3.1(a)* applies, including:
 - (i) The following Claims to the Waitangi Tribunal, being Claims that exclusively relate to Ngāti Awa (or any Representative Entity) which are referred to in the following Wai 46 (Ngāti Awa/Eastern Bay of Plenty) Claims:
 - (aa) General Claim of 11 March 1988;
 - (bb) Amended Claim of 18 July 1989;
 - (cc) Amended Claim of 8 November 1990;
 - (dd) Amended Claim of 16 December 1990;
 - (ee) Consolidated Claim of 8 April 1994; and
 - (ff) Amended Claim of 12 September 2000 (Wai 46 Doc No. 1.3(e)); and

SCOPE AND NATURE OF SETTLEMENT

- (ii) The following Claims to the Waitangi Tribunal so far as they relate to Ngāti Awa (or any Representative Entity):
 - (aa) Wai 12 (Motiti Island);
 - (bb) Wai 23 (Putauaki);
 - (cc) Wai 206 (White Island and Whale Island);
 - (dd) Wai 501 (Tarawera Forest Claim No 2);
 - (ee) Wai 819 (Waiohau Block No 2 and Rangitaiki Block No 38);
and
 - (ff) Wai 1001 (The Whakatāne Township Flooding claim).

1.3.2 Exclusions from definition of Ngāti Awa Historical Claims

The term *Ngāti Awa Historical Claims* does not include the following Claims:

- (a) Wai 411 (Tarawera Forests Claim) as filed with the Waitangi Tribunal on 14 June 1993 and amended by an amended statement of claim dated 26 April 2000;
- (b) Wai 888 (Whakatāne Sawmill Claim) as filed with the Waitangi Tribunal on 1 February 2001;
- (c) The Ancillary Claims;
- (d) Any Claim that a Member of Ngāti Awa, or a hapū, group, family or whānau referred to in *clause 1.2.1(c)* had at, or at any time before, the Settlement Date, or may have at any time after the Settlement Date, that is, or is founded on, a right arising from being descended from an ancestor who is not a Ngāti Awa Tipuna;
- (e) Any Claim based on descent from a recognised ancestor of Te Tawera to the extent that any Claim is, or is founded on, a right arising from being descended from an ancestor other than Awanuiarangi II; and
- (f) Any Claim that a Representative Entity may have to the extent that Claim is, or is based on, a Claim referred to in *clause 1.3.2(d)*.

SCOPE AND NATURE OF SETTLEMENT

1.4 THE NGĀTI AWA HISTORICAL CLAIMS ARE SETTLED**1.4.1 Settlement**

Ngāti Awa and the Crown agree that this Deed settles the Ngāti Awa Historical Claims from the Settlement Date.

1.4.2 Release

From the Settlement Date, Ngāti Awa releases and discharges the Crown from any obligations, liabilities and duties in respect of the Ngāti Awa Historical Claims.

1.5 RELATIONSHIP TO CERTAIN RIGHTS AND DECISIONS**1.5.1 Deed does not derogate from, or affect, certain matters**

Nothing in this Deed:

- (a) Except as expressly provided in or under this Deed, derogates from any rights or powers that Ngāti Awa or the Crown might have arising:
 - (i) From Te Tiriti o Waitangi/the Treaty of Waitangi, or the principles of Te Tiriti o Waitangi/the Treaty of Waitangi;
 - (ii) Under legislation, or at common law (including in relation to customary law and aboriginal title);
 - (iii) From a fiduciary duty; or
 - (iv) Otherwise;
- (b) Including agreements on the part of Ngāti Awa, is intended to affect any decision, proposal or report of the Treaty of Waitangi Fisheries Commission:
 - (i) Under the Maori Fisheries Act 1989; or
 - (ii) In respect of the Deed of Settlement between Maori and the Crown dated 23 September 1992 or the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

1.5.2 Clause 1.5.1 does not affect Settlement

Clause 1.5.1 does not limit clauses 1.1.1, 1.4.1 or 1.4.2.

SCOPE AND NATURE OF SETTLEMENT

1.6 ABORIGINAL TITLE AND CUSTOMARY RIGHTS NOT AFFECTED BY SETTLEMENT

Ngāti Awa and the Crown acknowledge that:

- (a) Nothing in this Deed extinguishes or limits any aboriginal title or customary rights that Ngāti Awa may have, or constitutes or implies any acknowledgment or acceptance by the Crown that such title or rights exist either generally or in any particular case, but this clause does not limit *clause 1.1.1 or clause 1.4*; and
- (b) The Settlement:
 - (i) Is not intended:
 - (aa) To prevent any Member of Ngāti Awa or Representative Entity from pursuing Claims against the Crown (including Claims based on aboriginal title or customary rights) if such Claims do not come within the definition of Ngāti Awa Historical Claims; or
 - (bb) To prevent the Crown from disputing the Claims described in (aa) above or the existence of aboriginal title or customary rights; but
 - (ii) Is intended to prevent any Member of Ngāti Awa or Representative Entity from pursuing Claims against the Crown (including Claims based on aboriginal title or customary rights) if such Claims come within the definition of Ngāti Awa Historical Claims, such Claims having been settled in accordance with *clauses 1.1.1 and 1.4*.

1.7 ACKNOWLEDGMENTS BY NGĀTI AWA CONCERNING THE SETTLEMENT

Ngāti Awa acknowledges that:

- (a) The Crown has acted honourably and reasonably in negotiating the Settlement;
- (b) The Settlement will be final;

SCOPE AND NATURE OF SETTLEMENT

- (c) The Settlement, and the rights and obligations on the part of Ngāti Awa under this Deed, will be binding upon Ngāti Awa and any Representative Entity;
- (d) It is intended that the Settlement and the rights on the part of Ngāti Awa and the Ngāti Awa Governance Entity under this Deed:
 - (i) Will be for the benefit of Ngāti Awa; and
 - (ii) May be for the benefit of particular individuals, or any particular hapū, group of individuals, family, whānau or marae if the Ngāti Awa Governance Entity so determines in accordance with its relevant governance procedures; and
- (e) The Settlement Legislation will, with effect from the Settlement Date, provide that:
 - (i) The Courts, the Waitangi Tribunal, and any other judicial body or tribunal will not have jurisdiction (including, without limitation, the jurisdiction to inquire, or further inquire into, or to make any finding or recommendation) in respect of:
 - (aa) The Ngāti Awa Historical Claims;
 - (bb) This Deed;
 - (cc) The redress provided to Ngāti Awa or to the Ngāti Awa Governance Entity under this Deed; and
 - (dd) The Settlement Legislation;

(but not for the removal of that jurisdiction in respect of the implementation or interpretation of this Deed or the Settlement Legislation); and
 - (ii) Certain statutory protections be removed in accordance with *Section 11*.

1.8 ACKNOWLEDGMENTS BY NGĀTI AWA AND THE CROWN CONCERNING THE SETTLEMENT

Ngāti Awa and the Crown acknowledge that:

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- (a) The Settlement represents the result of extended negotiations conducted in good faith and in a spirit of co-operation and compromise;
- (b) There is difficulty in assessing redress for the loss and prejudice suffered by Ngāti Awa;
- (c) It is not possible to fully compensate Ngāti Awa for all loss and prejudice suffered;
- (d) This forgoing by Ngāti Awa of compensation is recognised by the Crown as a contribution to the development of New Zealand;
- (e) That the decision of Ngāti Awa in relation to the Settlement is a decision that Ngāti Awa take for themselves alone and does not purport to affect the position of other tribes;

and that, taking all matters into consideration (some of which are specified in this *clause 1.8*), the Settlement is fair in the circumstances.

1.9 SETTLEMENT TO IMPROVE THE ONGOING RELATIONSHIP

The Settlement is intended to improve the ongoing relationship between Ngāti Awa and the Crown in terms of Te Tiriti o Waitangi/the Treaty of Waitangi.

1.10 REDRESS FROM CROWN

1.10.1 Summary of redress

The redress provided or to be provided by the Crown includes:

- (a) The acknowledgements and apology by the Crown given under *Section 3*;
- (b) Cultural redress as specified in *Sections 4 and 5*, including:
 - (i) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in the following properties, subject to the Reserves Act 1977:
 - (aa) Kāpūterangi Historic Reserve;
 - (bb) Te Paripari Pā Historic Reserve;
 - (cc) Te Toangapoto Recreation Reserve, being part of the Western Whakatāne Recreation Reserve;

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- (dd) Te Ihukatia Recreation Reserve, being part of the Port Ōhope Recreation Reserve;
- (ee) Whakapaukorero, being part of the Matata Scenic Reserve;
- (ii) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in Otitapu Pā, being part of the Mangaone Scenic Reserve, subject to a protected private land agreement;
- (iii) The vesting in the Ngāti Awa Governance Entity of the fee simple estate in Former Matahina A4 Block;
- (iv) The making of a \$1 million gift in respect of the Mātaatua complex;
- (v) A Statutory Acknowledgement of Ngāti Awa's special association with the Statutory Areas, being:
 - (aa) Koohi Point (Kohi Point);
 - (bb) Mokorua Scenic Reserve;
 - (cc) Ōhope Scenic Reserve;
 - (dd) Moutohora (Whale) Island Wildlife Management Reserve;
 - (ee) Part Ōhiwa Harbour;
 - (ff) Uretara Island;
 - (gg) parts of the Whakatāne, Rangitaiki and Tarawera Rivers;
 - (hh) Te Kaokaoroa Historic Reserve; and
 - (ii) Former Matahina A5 Block;
- (vi) Entering into Deeds of Recognition over Uretara Island and parts of the Whakatāne, Rangitaiki and Tarawera Rivers;
- (vii) The establishment of:
 - (aa) a Joint Advisory Committee to advise:

SCOPE AND NATURE OF SETTLEMENT

- the Minister of Conservation and the Director-General of Conservation in respect of Te Awa a Te Atua, and the Matata Scenic Reserve (less Whakapaukorero); and
 - the Ngāti Awa Governance Entity in respect of Whakapaukorero; and
- (bb) a Joint Management Committee to advise the Minister of Conservation and others, and carry out certain delegated powers and functions, in respect of the Moutohora (Whale) Island Wildlife Management Reserve, Ōhope Scenic Reserve, and Tauwhare Pā Scenic Reserve;
- (viii) The appointment of the Ngāti Awa Governance Entity as an advisory committee to provide advice to the Minister of Conservation and the Minister of Fisheries in relation to their respective roles of managing, conserving and utilising fish, aquatic life and seaweed in the relevant Protocol Area;
- (ix) The granting of renewable Nohoanga Entitlements over the Nohoanga Sites, being situated near Te Awa a Te Atua within the Matata Wildlife Refuge Reserve, Port Ōhope Recreation Reserve, Ohineteraraku Scenic Reserve and Thornton Lagoon Wildlife Management Reserve;
- (x) Provision for the issue of Protocols by the Minister of Conservation, the Minister of Fisheries, and the Minister for Arts, Culture and Heritage which set out how the relevant Department/Ministry will exercise or perform its functions, powers and duties in relation to specified matters, interact with Ngāti Awa, and provide for Ngāti Awa's input into certain decision-making processes;
- (xi) Provisions to recognise rights to extract Hangi Stones from Moutohora (Whale) Island Wildlife Management Reserve;
- (xii) Noting of sites considered by Ngāti Awa to be waahi tapu;
- (xiii) Provision for certain new place names and changes to certain place names;
- (xiv) Provision for consultation in relation to any future review of local government administration of Offshore Islands;

SCOPE AND NATURE OF SETTLEMENT

- (xv) Provision reflecting that the Crown has written to the current owner of Putauaki in respect of the matters specified in *Section 5.12* and to Environment Bay of Plenty in respect of the matters specified in *Section 5.13*;
 - (xvi) Provision for the Ngāti Awa Governance Entity to express to the Ministry for the Environment the views of Ngāti Awa on how the Treaty of Waitangi provisions and other relevant provisions of the Resource Management Act 1991 are being addressed in the Area of Interest and for the Ministry for the Environment to monitor the performance of local government in implementing those provisions;
 - (xvii) The granting to the Ngāti Awa Governance Entity of preferential rights if the Minister of Conservation offers, by public tender, authorisations under section 161 of the Resource Management Act 1991 in a specified part of the Coastal Marine Area; and
 - (xviii) Provision to the effect that the Whakatāne Airport Land will vest in the Ngāti Awa Governance Entity, and not the Crown, if the reservation of that land as a reserve is ever revoked;
- (c) Financial and commercial redress comprising:
- (i) \$42,390,000, represented by:
 - (aa) payment of the Cash Settlement Amount on the Settlement Date;
 - (bb) the transfer of Commercial Redress Properties;
 - (cc) the lessor's interest in Ōhope Beach Holiday Park;
 - (ii) a payment of \$590,000 to the Ngāti Awa Governance Entity under *section 7*.
- (d) The establishment of a statutory regime for the Ngāti Awa Governance Entity to hold land in the name of Ngāti Awa's eponymous ancestor, Awanuiarangi II as specified in *Section 9*; and
- (e) The granting of a right of first refusal in favour of the Ngāti Awa Governance Entity over RFR Properties in the RFR Area as specified in *Section 10*.

SCOPE AND NATURE OF SETTLEMENT

1.10.2 General description only

Clause 1.10.1 contains a general description of the redress to be provided pursuant to this Deed and is not intended to modify or affect the interpretation of the specific provisions of this Deed. If there is any discrepancy between *clause 1.10.1* and the provisions elsewhere in this Deed, those provisions elsewhere in this Deed shall prevail.

1.10.3 Defined terms

Words and phrases appearing in *clause 1.10.1* with capitalised initial letters and which are not defined in this Section or *Section 15* are defined in the Section or clause of this Deed in which the substantive provisions, which are summarised in *clause 1.10.1* appear, and are intended to have the same meaning in *clause 1.10.1* as they have in the Section or clause in which they are defined.

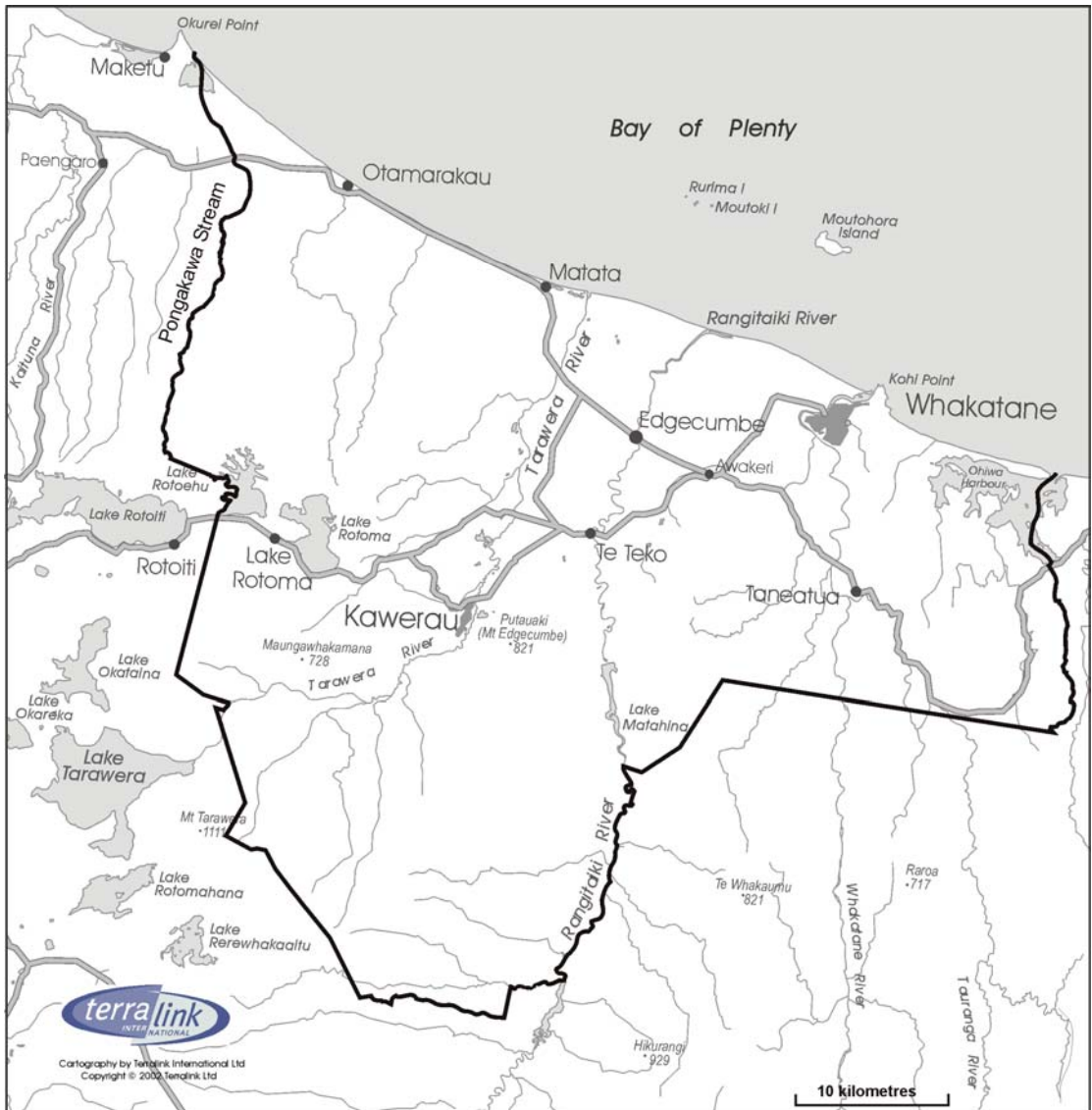
ATTACHMENT 1.1

AREA OF INTEREST

(clause 1.2.2, Definition of Area of Interest)

SCOPE AND NATURE OF SETTLEMENT

SCOPE AND NATURE OF SETTLEMENT



SECTION 2: AUTHORITY TO ACT FOR NGĀTI AWA

2.1 THE NGĀTI AWA GOVERNANCE ENTITY

2.1.1 Establishment of the Ngāti Awa Governance Entity

Ngāti Awa agree, as soon as reasonably practicable after the date of this Deed, and in any event within 6 months of the date of this Deed:

- (a) To procure the establishment of a body (the “*Ngāti Awa Governance Entity*”) which the Crown has advised Ngāti Awa in writing that the Crown is satisfied:
 - (i) Will be an appropriate body to which the Crown will provide the redress under this Deed (other than the acknowledgements and apology given under *Section 3* which are given to Ngāti Awa generally);
 - (ii) Will have a structure that provides for:
 - (aa) Representation of Ngāti Awa;
 - (bb) Transparent decision-making, and dispute resolution, processes; and
 - (cc) Accountability to Ngāti Awa; and
 - (iii) Has been ratified by Ngāti Awa (by a ratification process agreed in writing by Ngāti Awa and the Crown) as an appropriate body to receive the redress referred to in *clause 2.1.1(a)(i)* and to assume the Undertaking of Te Runanga o Ngāti Awa in accordance with *Schedule 2.2*; and
- (b) To procure the execution by the Ngāti Awa Governance Entity of a Deed of Covenant in the form set out in *Schedule 2.1*.

2.1.2 Redress to be provided to the Ngāti Awa Governance Entity

Ngāti Awa agree that the Crown will provide the redress under this Deed (other than the acknowledgements and apology given under *Section 3* which are given to Ngāti Awa generally) to the Ngāti Awa Governance Entity on the terms set out in this Deed.

2.1.3 Perpetuities Act 1964

The Settlement Legislation will provide that, if the Ngāti Awa Governance Entity is a trust, the rule against perpetuities and any relevant provisions of the Perpetuities Act 1964 will not prescribe or restrict the period:

- (a) During which the Ngāti Awa Governance Entity may exist in law; or
- (b) During which the Ngāti Awa Governance Entity may deal with property.

2.1.4 Not conditional

Clause 12.1.1 (which provides that this Deed is conditional) does not apply to *clause 2.1.1*.

2.2 RATIFICATION OF SETTLEMENT AND MANDATE TO SIGN DEED

2.2.1 Definition

In this *clause 2.2.1 Eligible Member of Ngāti Awa* means a Member of Ngāti Awa registered on the register of Members of Ngāti Awa maintained by Te Runanga o Ngāti Awa and aged 18 years or over as at 20 December 2002.

2.2.2 Confirmation by Ngāti Awa

Ngāti Awa confirm that:

- (a) This Deed was ratified by Ngāti Awa by a majority of 87% of the valid votes cast in a postal ballot of the Eligible Members of Ngāti Awa; and
- (b) Each Mandated Negotiator has a mandate from Ngāti Awa to sign this Deed on behalf of Ngāti Awa by virtue of the ratification of the settlement as set out in *clause 2.2.2(a)*.

2.2.2 Confirmation by Crown

The Crown confirms that it is satisfied with:

- (a) The ratification of this Deed by Ngāti Awa; and
- (b) The mandate to the Mandated Negotiators from Ngāti Awa to sign this Deed on behalf of Ngāti Awa.

2.3 APPOINTMENT OF AGENT FOR NGĀTI AWA

2.3.1 Ngāti Awa agent to agree ratification processes

Ngāti Awa appoints Te Runanga o Ngāti Awa as the agent for Ngāti Awa to agree with the Crown a process for the establishment and ratification of a body which is satisfactory to the Crown under *clause 2.1.1*.

2.3.2 Ngāti Awa agent for other matters under this Deed

Te Runanga o Ngāti Awa may (in addition to the powers under *clause 2.3.1*) take any of the following action on behalf of Ngāti Awa under this Deed (until the Ngāti Awa Governance Entity signs the Deed of Covenant under *clause 2.1.1*):

- (a) Give and receive any notice or other communication;
- (b) Exercise any right or power;
- (c) Waive any provision; and
- (d) Agree to any amendment.

2.3.3 Ngāti Awa Governance Entity to replace agent

Upon execution by the Ngāti Awa Governance Entity of the Deed of Covenant in accordance with the provisions of *clause 2.1.1*:

- (a) The appointment of any agent for Ngāti Awa under *clause 2.3.1* terminates; and
- (b) All powers under *clause 2.3.2* may be exercised by the Ngāti Awa Governance Entity.

2.4 REPEAL OF TE RUNANGA O NGĀTI AWA ACT 1988

The Settlement Legislation will repeal all sections of the Te Runanga o Ngāti Awa Act 1988 other than section 11 of that Act.

2.5 STATUTORY RECOGNITION OF NGĀTI AWA GOVERNANCE ENTITY

The Crown recognises, and the Settlement Legislation will state, that:

- (a) The Ngāti Awa Governance Entity is the appropriate body to receive, in accordance with the Settlement Legislation, the redress under the Settlement Legislation;
- (b) The Ngāti Awa Governance Entity is a body that represents Ngāti Awa; and
- (c) To avoid doubt, *clause 2.5(b)* does not limit the Crown's rights, functions, and obligations to other representative entities.

2.6 TRANSFER OF UNDERTAKING OF TE RUNANGA O NGĀTI AWA

- (a) The Settlement Legislation will provide that on the Settlement Date:
 - (i) The Undertaking of Te Runanga o Ngāti Awa vest in the Ngāti Awa Governance Entity subject to all charges and other liabilities;
 - (ii) Te Runanga o Ngāti Awa is taken to be dissolved; and
 - (iii) Every person holding office as a member of Te Runanga o Ngāti Awa ceases to hold that office; and
- (b) To give effect to *clause 2.6(a)*, the Settlement Legislation will address the matters described in *Schedule 2.2*.

2.7 NGĀTI AWA GOVERNANCE ENTITY TO BE RENAMED TE RUNANGA O NGĀTI AWA

The parties acknowledge that, on Settlement Date, the name of the Ngāti Awa Governance Entity will change to “Te Runanga o Ngāti Awa” in accordance with the governance procedures of the Ngāti Awa Governance Entity.

TE WĀHANGA 3: TE TĀHŪ KŌRERO, NGĀ WHAKAAETANGA A TE KARAUNA, ME TANA WHAKAPĀHA

3.1 TE TĀHŪ KŌRERO

- A. E whai take ana te kupu whakapāha a te Karauna ki a Ngāti Awa i runga i te tāhū kōrero ka whai.

Te Rohe o Ngāti Awa

- B. E whakapono ana a Ngāti Awa, i mua o te tau 1866, koia te tangata whenua, ā, nōna te tino rangatiratanga e hora ana i ētahi wā, ki runga i ngā whenua ka whai nei: ngā moutere o Motiti, o Rurima, o Mou-tohorā, Te Paepae o Aotea, Whakaari, a Ohakana rāua ko Uretara (he moutere ēnei kei te whanga o Ōhiwa), ngā wai mai i te wahapū o Waihī ki Ōhiwa; te whenua, ngā ngahere, ngā roto, ngā awa me ngā repo, mai i te wahapū o Waihī ki te raki, ā ka whai haere i te takutai tae rawa ki Ōhiwa, mai i te wahapū o Waihī anō, ka huri whaka-te-hau-ā-uru ki te awa o Pongakawa, ki te moutere o Rotoehu (tae rawa ki te papa o te roto o Rotoehu me te ngahere o Rotoehu), ā, mai i Rotoehu ki Te Haehaenga, tae atu ki te roto o Rotomā ki ngā whenua o Pokohu, o Tuararangaia me Matahina ki te tonga, ā, atu i reira ki te Whanga o Ōhiwa.
- C. Ko ētahi o ngā wāhi nui i whakahuahuatia ai i roto i ngā tāhū kōrero mō Ngāti Awa ko: ngā maunga e kōrerohia nei ko Pūtauaki ki Kawerau, ko Whakapau-kōrero ki Matatā me Maunga Whakamana ki Te Haehaenga, me te hiwi e kīia nei ko Te Tiringa ki Awakeri, tae rawa hoki ki Te Rae o Kōhī ki Whakatāne; ngā awa o Whakatāne, Ōrini, Rangitāiki, Tarawera, Wai-tahanui me ngā wai o Waikōwhewhe rāua ko Pongakawa; te repo o Rangitāiki; ngā ngahere i Rotoehu, i Matahina, i Kiwi-nui, i Ō-mata-roa, i Tarawera me Manawa-hē; ngā roto o Rotoehu, Rotomā, Kawerau, Te Tahuna, One-rahi, Roto-iti Paku, Onepū me Roto-roa; ngā waiariki i Kawerau, Awakeri, Mou-tohorā me Whakaari; ngā whanga i Ōhiwa me Whakatāne; ngā wahapū i Waihī, i Te Awa a Te Atua i Matatā, me Whakatāne.
- D. I pupuritia ngā whenua me ngā rawa o Ngāti Awa i raro i ngā tikanga Māori, arā, ka noho hei mea tino nui rawa te kaitiakitanga ohu a-hapū, a-iwi. I mua o te raupatu, i mau tonu ngā rangatira o Ngāti Awa ki tō rātou rangatiratanga, ā, iti noa iho nei ngā whenua o roto i te rohe o Ngāti Awa i hokona.
- E. I tua atu, ko te whakapae a Ngāti Awa, i te tau 1865 e noho motuhake ana rātou, i te hua ngā painga o ngā mahi kaipakihī. Ka mutu, i roto rātou i ngā mahi whitiwhiti taonga, tauhokohoko hoki. I te whakatipu, i te hoko rātou i ngā rawa pēnei i te poaka, i te harakeke, i ngā hua whenua, i te wīti, i te papa rākau me te

rīwai, ā, i roto anō hoki rātou i te whānuitanga o ngā kaupapa tauhokohoko pēnei i te mira wīti me te whakahaere kaupuke. I te haere tonu ngā mahi whitiwhiti taonga a Ngāti Awa me ētahi atu iwi mō ngā taonga pēnei i te kōkōwai, te tītī me te nuinga atu o ngā rawa o te moana.

Te Ture Whakatau Manene ki Niu Tīreni 1863

- F. Nō te tau 1863 i whakamanatia e te Karauna ētahi hanganga ture whakahirahira e toru arā, te Ture Tāmi i te Mahi Whana, te Ture Pūtea Taurewa o Niu Tīreni me te Ture Whakatau Manene ki Niu Tīreni. I āheitia e te ture whakamutunga te raupatu i ngā whenua Māori e tirohia ana e te Karauna “nā tētahi iwi, nā tētahi wāhanga o tētahi iwi, nā tētahi rahinga mai i tētahi iwi rānei” i mahi hara ki te mana o te Kuini. Ko te mea nui, i whakamanatia te ture “ki te tiaki, ki te whakamaru tūturu i ngā tāngata pai o ngā iwi e rua, kia ārai atu i ngā mahi whana, kia pupuri hoki ki te mana o Te Arikinui Te Kuini i roto i te Ture me te Māriretanga puta noa i te whenua”. Hei whakatutuki i ēnei whāinga whānui e rua, i mea te Karauna ki te whakatū tāngata noho ki ngā rohe mā te hoko i ngā whenua raupatu ki te hunga whai. Ko te titiro a te Karauna mā ngā moni hua i ēnei hokonga whenua e ea ai ngā utu a te Karauna mō ana pakanga ki te Māori.
- G. I te āwangawanga te Tari Koroni o Piritana mō te whānui me te whakamahi i te Ture Whakatau Manene ki Niu Tīreni 1863, e mea ana ia, “ka taea ngā mahi tūkinu nui”. I te tīmatanga, i te wā e whakaarohia ana te raupatu whenua, i whakatūpatohia e te Hēkeretari Koroni te Kāwana Tianara, kia aro nui ki ngā whenua o ngā tāngata me ngā iwi harakore, ā, kia hāngai hoki te whiunga ki te hara. Nō muri mai, i a ia ka noho ki te āta whakaaro mō te hanganga ture raupatu whenua, i te āwangawanga tonu te Tari Koroni o Piritana mō te whakamahi i te Ture me tōna roanga, engari i whakaaetia kia tū tonu nā te mea ko te mana whakamutunga rawa mō te raupatu ko te Kāwana. I tohungia e te Hēkeretari Koroni te Kāwana kia kaua ia e whakaae kia raupatuhia he whenua mēnā kāore i te “tika, i te ngāwari”.

Te Kaokaoroa

- H. E ai ki ngā kōrero tuku iho a Ngāti Awa, i te tau 1864, i uru atu ētahi o ngā hapū o Ngāti Awa pēnei i a Te Patu-tātahi, a Ngāti Hikakino me Ngāi Te Rangihouhiri II, me ētahi o Te Tāwera ki tētahi ope taua o ngā iwi o Mātaatua me ētahi atu iwi, ā, e mōhiotia nei ko Te Ope Taua o Te Tai Rāwhiti. E mea ana te ope nei ki te hou atu ki te rohe o Waikato ki te tautoko i ngā iwi o Waikato e ātete ana i te whakaeke pokanoa o ō rātou whenua e ngā ope taua o te Karauna me ngā tāngata whai. I āraitia e Te Arawa te haere a te ope taua o Te Tai Rāwhiti nei mā te rohe o Rotorua. I tono ētahi o ngā iwi o Te Arawa ki te Karauna ki te tautoko i tā rātou mahi, ā, tautokona noa mai e te Karauna. I te marama o Pepuere o te tau 1864 i tū

tētahi pakanga i waenganui i tētahi wāhanga o te ope taua o Te Tai Rāwhiti me ētahi o te iwi o Te Arawa, ki Roto-iti; mate atu ētahi ki reira. Hāunga tērā, he wāhanga o te ope nei i pakaru atu ki roto ki te rohe o Waikato, rokohina atu ko Ōrākau.

- I. I Maketū, i te marama o Āperira o te tau 1864, ka ngana te ope taua o Te Tai Rāwhiti ki te pakaru atu mā te wahapū o Waihī. Nā ētahi o te iwi o Te Arawa, tāpae atu ko ngā waka taua me ngā hōia a te Karauna te ope taua o Te Tai Rāwhiti i whiu. Ko te whawhai nui o Te Kaokaoroa te whawhai i parekura atu ai a Ngāti Awa, me kī, ko ana kārangatanga hapū a Ngāti Hikakino me Ngāi Te Rangihouhiri II, tae rawa atu ki ētahi o ngā hapū me ngā iwi haumi. I hinga atu ki te pakanga nei ētahi o ngā rangatira nui o Ngāti Awa.

James Te Mautaranui Fulloon

- J. Nō te tōmuritanga o te tau 1864, i tau atu a Kereopa, a Horomona me Pātara, ētahi poropiti o te whakapono Pai Mārire, ki te rohe o Whakatāne, ā, nā rātou ētahi o te iwi o Ngāti Awa i whakawai ki te uru ki te whakapono o Pai Mārire. I te marama o Maehe o te tau 1865 ka kōhurutia a Rev. Carl Volkner, he mihingare e noho ana ki Ōpōtiki, e ētahi o ngā Māori o taua takiwā kua taka ki te whakapono Pai Mārire. Nō te rā 6 o te marama o Maehe o te tau 1865 ka whakaputaina e ngā rangatira o Ngāti Awa ō rātou tino whakahē mō te patunga o Volkner; hāunga tērā, kāore rātou ngā rangatira o Ngāti Awa i whakaae kia haere te Karauna mā te rohe o Ngāti Awa i a ia ka rapu mō te hunga nā rātou a Volkner i patu. Kore rawa i whakamanatia e te Kāwanatanga te haere a tētahi o ōna ope taua mā te rohe o Ngāti Awa ki te rapu i te hunga nā rātou a Volkner i patu.
- K. Nō te marama o Pepuere o te tau 1865, whai muri i ētahi rūnanga, ka hui ētahi rangatira o Ngāti Awa ki Whakatāne, i reira ka whakatakotoria ai e rātou tētahi aukati o tō rātou rohe, kia kua tētahi noa atu e uru mai. Nāwai ā, i te marama o Hūrae i te tau 1865, whai muri i ētahi hui ki Tauaroa me Matatā, ka whakatakotoria ai tētahi atu aukati anō e te poropiti Pai Mārire e Horomona, me ētahi o ngā rangatira o Ngāti Awa tautoko i a ia. Mai i Whangaparāoa i te rāwhiti tae atu ki Taranaki i te uru te aukati nei. I te rā 19, te rā 20 rānei o Hūrae i tau ai ki Whakatāne a *Maruwiwi*, tētahi kaupuke hokohoko nō Te Arawa. I hopukina te kaupuke, mō tōna takahi i te aukati a ngā Pai Mārire. Nō te rā 22 o te marama o Hūrae o te tau 1865 i tau atu ai te kaupuke *Kate* ki Whakatāne. Ko ngā tāngata i runga i te kaupuke, ko James Fulloon, he āpiha nā te Karauna, me ētahi atu. I patua i runga i te kaupuke, a Fulloon, he uri nō Ngāti Awa, me ētahi kaumoana tokotoru, e ērā o Ngāti Awa i tautoko i te Pai Mārire. Kātahi ka tahuri a Wepiha Apanui o te poro o Ngāti Awa ki Whakatāne ki te whakarite mō te tanu i tōna uri, a Hēmi (James) Fulloon. He maha ngā kōrero he aha i patua ai a Fulloon; e ai ki a

Ngāti Awa i patua ia mō tana takahi i te aukati. Nā ēnei nekenekhehanga i korikori ake ngā hapū o Ngāti Awa.

Te Whakamana

L. Nō te rā 2 o te marama o Ākuhata o te tau 1865 i Maketū ka whakaputaina e T.H. Smith, te Kōmihana Kāwanatanga tana whakamana hopu tāngata mō te mau here i te hunga e whakapaetia ana nā rātou a Fulloon me ētahi atu i patu.

M. Ko ngā tāngata i te rārangi o te whakamana ko:

Te Hura Te Taiwhakaripi	Haki Waihou
Te Pitoiwi Te Putarera	Te Hemara Tukairangi
Hakaraia Tohora	Ture Te Matutaera
Te Aka o Tau Te Hura	Paraharaha
Te Metera Te Tii	Raniera Te Werotokotoko
Hepeta Te Tai	Haki Tukino
Korimana	Eria Te Hakona
Horomona Poropiti	Heahea Te Pakihiwi
Utuku Te Rangi	Hohepa Te Ra
Te Meihana Te Tawa	Tawhaki
Te Wetini	Raureti
Tamati o Ngāti Hoko	Hunia Marupo
Mohi Te Paohi	Panapa Rangirewaia
Turiri	Hakopa Tupika
Hawera Te Hihira	Petera Moki
Te Hekara	Pakiuru
	Hohua Karipipi

N. Nō te marama o Ākuhata o te tau 1865, i whakakotahihia tētahi ope taua a te Karauna e rima rau nei te tokomaha, he mea emi i ētahi o ngā hapū, iwi e noho tata ana ki a Ngāti Awa ka mutu, kua roa kē hoki e pakanga ana ki a Ngāti Awa mai rā anō; ko ētahi o te ope nei i roto i ngā riri o Te Kaokaoroa. Ko te kaingārahu o te ope taua nei a te Karauna ko Meiha William Mair, Te Kaiwhakawā. I kuhu atu te ope taua nei ki te rohe o Ngāti Awa ki te whakatutuki i te whakamana mau here. Nō te pokapū o te marama o Ākuhata whakamāramahia ai ki te rangatira o Ngāti Awa, a Te Hura Te Taiwhakaripi, he aha te kaupapa a te taua. I tū ētahi whakapāpā i waenganui i te taua a te Karauna me Ngāti Awa, ko te otinga atu i mate ētahi tāngata. I murua ngā kau, ngā hoiho

me ētahi atu o ngā rawa a Ngāti Awa, i wāwāhia ngā kāinga, wharenuī, pātaka, waka hoki o Ngāti Awa. I whakaekea ngā pā o Ngāti Awa i Whakatāne, i Matatā me Te Teko, te wāhi i rere ai a Te Hura me ana tāngata.

- O. Nō te rā 2 o te marama o Hepetema o te tau 1865 i whakaputaina e te Karauna tētahi Pānuitanga Rongomau e kī ana kua mutu te pakanga i tīmata rā i Oakura, takiwā o Taranaki i te tau e 1863. Ko tā te Pānuitanga Rongomau i whakamārama ai, e kore e whiua e te Karauna ērā i mau pū ki te Karauna i ngā raruraru o mua, hāunga ērā nā rātou a Fulloon i patu, kāore rātou i kuhuna ki raro i te tikanga o te pānuitanga nei. Ko ngā kupu o te pānuitanga i kī pēnei, ki te kore e tae ngā tāngata nā rātou a Fulloon i kōhuru ki te aroaro o te Kāwana, ka murua e te Karauna ngā whenua o ngā iwi nā rātou i manaaki te hunga kōhuru. I tua atu, i tono te pānui kia āwhinatia e te Māori te mahi aukati i ngā tutūnga puehu, ā, i takoto anō te hiahia ki te kōrerorero me ngā Rangatira nui, me pēhea e rongohia ai te reo o te Māori i roto i te Rūnanga Nui, e aha ai, e whai wāhi ai e te Māori ki te hanga ture hei whai māna.
- P. Nō te marama o Hepetema o te tau 1865 ka whakaputaina e te Kāwana tētahi Pānuitanga Ture Taua mō ngā rohe o Whakatāne me Ōpōtiki, e taea ai te hopu i te hunga e whakapaetia ana nā rātou a Fulloon i kōhuru, e taea ai hoki te whakawā i a rātou mā te Whakawā Taua. Ko te tikanga, ka mau te Ture Taua ki runga i ngā rohe nei ā, tae noa ki te wā hīkina ai, ka mutu, ko tā te pānuitanga e mea ana, ka āhei ngā tāngata a te Karauna te tū anō nei he ope taua. Nō te rā e 5 o Hepetema o te tau 1865 pānuitia ai ēnei pānuitanga e rua ki te Kāhiti o Niu Tirenī. Hāunga tērā, kāore i te marama nōnahea mōhio ai a Ngāti Awa mō ēnei pānuitanga.

Te Kupenga

- Q. Kia tae ki te wāhanga tōmuri o te marama o Hepetema o te tau 1865, kua nui ake ngā korikoringa a ngā hōia o te Karauna. Ko te otinga atu, e toru rā e whawhai ana i te pā o Te Kupenga, takiwā ki Te Teko. Nāwai rā, ā, nō te rā 20 o te marama o Oketopa o te tau 1865, ka mutu i Te Kupenga te whawhai o ngā hapū o Ngāti Awa i raro i te ārahitanga o Te Hura Taiwhakaripi. Ko ētahi o ngā hapū i roto i te whawhai nei ko Te Tāwera, Warahoe, Ngāi Te Rangihouhiri II, Te Patu-tātahi, Ngāti Hikakino me ētahi atu. Kō atu i te 30 ngā tāne, tae noa ki te nuīnga o ērā i te rārangi ingoa o te whakamana me ētahi atu, i mauheretia, i kawea hoki ki Ōpōtiki, kia whakawātia e te Kōti Taua i te marama o Nōema o te tau 1865, mō te patunga o Fulloon, mō ētahi atu whakapae. I whakatau te Kōti Taua he tokomaha rātou i hara, ā, ko te hunga nei i whiua kia whakamatea.

Ngā Whakawātanga

- R. Nō te rā 23 o te marama o Tīhema o te tau 1865 ka whakatakoto whakaaro a James Prendergast, te Rōia Matua mō ngā whakawātanga mā te kōti taua, i ngā mauhere i kawea ki Ōpōtiki. E ai ki a Prendergast “ehara i te mea tika i raro i te ture” te ture taua. Nāwai ā, ka tonu te Kāwana kia kawea ngā mau here o Ngāti Awa ki Tāmaki-makau-rau, ki reira whakawātia anō, ki mua tonu i te aroaro o te Kōti Matua, mō te kōhuru me ētahi atu whakawhiu. Kotahi te rōia i tū mō te hunga e 35 o Ngāti Awa.
- S. E whai ake nei ko te rārangi ingoa o rātou o ngā tāngata i whakawhiua mō te tāhae waka me te kōhuru i a Fulloon me kaumoana Ned i runga i te waka *Kate*: Mikaere Kirimangu, Hekara, Himone-te-Auru, Paraharaha, Hoani Poururu, Hoani Hupe, Utuku-te-Rangi, Te Aka o Tau-te-Hura, Hunia Marupo, Haki Waihou, Haki Tukino, Tamati o Ngāti Hoko, Tio Wahu, Hawera-te-Hihira, Heahea te Pakihiwi, Raniera te Werotokotoko. I unuhia ngā whakapae i runga i te tokotoru o ngā tāngata nei mō te tāhae waka, engari katoa rātou i whakaaetia e te kōti he tangata hara mō te mahi kōhuru. Tekau atu anō ngā tāngata i kīia e te kōti nā rātou i awhi te hunga nā rātou ngā mahi kōhuru. Ko ēnei tāngata ko Te Hura Te Tai, Te Pitowhi Te Putarera, Hepeta Te Tai, Horomona Poropiti, Mohi te Paohi, Te Hemara, Hakaraia Tohora, Te Uwhi Te Haraki, Kereama Toitoi me Ture Te Matutaera. I tua atu, tokoono ngā tāngata i whakawhiua mō te whiwhi rawa i tāhaetia i te *Kate*. Kia tae ki te rā 23 o te marama o Maehe o te tau 1866, ko te hunga katoa i tū ki mua o te aroaro o te Kōti i whakataungia e te Kōti i hara, ā, i whiua kia whakamatea, kia mauhereheretia rānei. Nō te rā 17 o Mei o te tau 1866 whakamatea ai a Mikaere Kirimangu rāua ko Horomona Poropiti (o Taranaki) mō te kōhuru i a Fulloon. Tuangahuru mā tahi o rātou i whiua kia whakamatea i hurihia kia mauheretia mō ake tonu atu, ā, ko te toenga o ngā tāngata nei i whakahaua e te Kōti kia whakamatea, i takahurhia e te Kōti kia mauheretia ētahi o rātou mō ngā tau e whā, piki atu ki te tekau mā whā tau. Ko ērā i hara mō te whiwhi rawa i tāhaetia, i whiua kia mauheretia mō ngā tau e toru. No ngā tau 1867 me 1868 i wetekina te hara i runga i ētahi o ngā tāngata nei, engari ko te nuinga i mauheretia ā, eke noa te wā i whakaritea mō rātou. Tokotoru rātou i mate i te wā e mauheretia ana rātou arā, ko Tamati o Ngāti Hoko (rā 1 o Ākuhata o te tau 1866), a Hepeta Te Tai (rā 26 o Nōema o te tau 1866), a Paraharaha (rā 18 o Tīhema o te tau 1866). Kāore i karakiahia, i poroporoakia rānei ēnei tāngata i mate ki roto i te whare herehere. Rite ana ngā tono a ngā whakatipuranga i roto i ngā tau kia whakahokia ngā kōiwi o ō rātou whanaunga ki a rātou; nō te tau e 1988 tutuki ai ā rātou tonu.
- T. Hei tā Ngāti Awa, tokomaha tonu ērā i tukuna, kāore i hiahia hoki ki ō rātou kāinga i Whakatāne me Matatā nā te whakamā i runga i tō rātou mauheretanga me te rironga atu o ō rātou whenua. I noho rātou i te taha i a Te Kooti, i Te Rohe

Pōtae, i raro i te maru o Ngāti Maniapoto. Ko te nuinga i mate, i takoto ki waho kē o te rohe o Ngāti Awa, engari nā runga i te mahi a Te Kooti me āna tāngata, nō te tau 1885 hahua ai rātou, ka tanumia ki te Urupā o Ohuirere, takiwā ki Whakatāne.

Te Raupatu Whenua

U. Nā runga i te mana o ngā Tono ā-Kaunihera i tukuna i te rā 17 o te marama o Hānuere me te rā 1 o te marama o Hepetema o te tau 1866, whai muri mai hoki o tā te Karauna i kī, i hara ngā iwi o Te Moana o Toi, āhua e 448,000 eka te rahi o ngā whenua i pānuitia ai kia raupatuhia i raro i te Ture Whakatau Manene ki Niu Tīreni, 1863. Kāore te Ture i kōrero mō te utu, engari ko te whiu tonu ia tōna whāinga.

V. Ko te ripa tauārai o ngā whenua i raupatutia, ko:

“Ngā whenua katoa pōkaitia ai e te ripa tauārai, mai i te pūwaha o te awa o Wai-tahanui, haere whaka-te-tonga mō tētahi 20 maero; kātahi ka hāngai te haere ki te tihī o (Mt Edgecombe) Putanaki [sic], mai i reira ka rere whaka-te-rāwhiti ki tētahi wāhi 11 maero ki te taha tonga o te pūwaha o te whanga o Ōhiwa, ā, tōtika ana te haere ki te rāwhiti mō tētahi 25 maero; kātahi ka ripa atu ki te pūwaha o te awa o Araparapara [sic], huri haere i te takutai ā, kia tau atu ki te tīmatanga i Wai-tahanui.”

I roto i te whenua pōkaitia ai i raro i te maru o te tono, āwhiwhi e 245,000 eka te rahi o ngā whenua o Ngāti Awa i raupatutia i te tau 1866. He mahi pokanoa tēnei mahi, nō te mea nui rawa atu ngā whenua i raupatutia, ki tērā rahi o te whenua e ea ai ngā kaupapa i raro i te Ture Whakatau Manene ki Niu Tīreni.

W. I pā ki ngā hapū katoa o Ngāti Awa te raupatunga o ngā whenua, tae rawa ki te hunga kāore rawa i ātete ki te Karauna. Ko te otinga atu o tēnei, me haere rā anō ngā hapū o Ngāti Awa ki mua i te aroaro o te Kōti Utunga me ētahi atu wāhi, rapu ai kia whakahokia mai ō rātou whenua.

Ngā Whakaritenga a Wilson me te Kōti Utunga

X. Nō te marama o Pēpuere o te tau 1866, i mua o te noho a te Kōti Utunga, ka whakaingoatia e te Karauna tana kai-kōmihana hira, a John A Wilson ki te whakarite i te toha o ngā whenua i raupatutia i Te Moana o Toi. I uru atu a Wilson ki ētahi kōrerorero me ētahi o ngā hapū mō te whakahokinga mai o ētahi whenua. I whiwhia ētahi o ngā iwi o Te Arawa me ētahi atu ki ētahi toha mō ā rātou kawē ā-riri ā, ko ngā toha nei, mai i ngā rohenga whenua o te taha hau-ā-uru o te awa o Tarawera, ka taea te kī ka taka i roto i ngā toha nei, ko te nuinga o ngā

whenua e kīia ana e Ngāti Awa ko ōna rohe o te taha hau-ā-uru (he whenua ēnei e kerēmehia ana e ētahi atu iwi). Kia taka ki te tau 1885, kua hokona kē e te Karauna te nuinga o te whenua nei. Ko te whakaritenga a Wilson, kia whakahokia ā-whenua rāhui nei te e 77,000 eka ki ngā tāngata takitahi o Ngāti Awa. Koianeī tēnei tētahi wāhanga o te 245,000 eka i murua tuatahitia i te tau 1866.

- Y. I whakahaerehia ngā mahi a Wilson i raro i ngā wāhanga o Te Ture Whakatau Manene ki Niu Tīreni, 1863, tae rawa ki ana whakahōunga. E whai mana ai āna whakaritenga, i whakamanatia ai e te Karauna ētahi atu hanganga ture pēnei i Te Ture Whenua Raupatu 1867, Te Ture Hoko Whenua i Richmond 1870, Te Ture Whakamana Toha Whenua i Whakatāne 1878, Te Ture Kerēme Whenua Maori me Te Ture Whakamana Taitara o te tau 1894.
- Z. Nā Te Ture Whakatau Manene ki Niu Tīreni 1863, ka whakatūria ai Te Kōti Utunga ki te aha, ki te utu i ngā tāngata i raupatuhia ō rātou whenua, ahakoa te mea kāore rātou i te “hara”. Nō te marama o Maehe o te tau 1867 i tīmata ai ngā hui a te Kōti i te rohe. Ko ngā Kaiwhakawā ko William Mair rāua ko Thomas Smith, ko rāua tonu ētahi o ngā kaiārahi i ngā ope taua a te Karauna i mua tonu o te raupatu. He maha ngā wā, whakamanahia ai e te Kōti ngā whakaritenga a Wilson, anō nei he whakataunga i waho ake o te kōti.
- AA. Ko ērā tāngata o Ngāti Awa kāore i te pīrangi whakatau kerēme me Wilson, i whakatakoto kerēme kē me te Kōti; waihoki, ko ērā te hunga kāore i āhei ki te haere ā-tinana ki te Kōti ki te whai i ā rātou kerēme, tae tonu ki ērā te hunga i mauheretia i te tau 1866, i taka ki waho o ēnei whakaritenga. Hei ētahi wā, nā te tōmuri o te tae o ngā pānui, me te tawhiti ki te haere ki ngā nōhanga a te Kōti, tae rawa ki ērā nōhanga i waho atu i te rohe o Ngāti Awa, kāore te hunga whai pānga e tae ake.
- BB. Ahakoa te mau i herea ngā kai-tono Māori ki ngā whakahaere o Te Kōti Utunga kei whiua ki waho, nō te tau 1886 puta ai te whakamana tōmuri a te Paremata e mea ana, kei te tika katoa ngā mahi a te Kōti, ahakoa te mea tērā kāore i tutuki ētahi o ngā whakaritenga ā-ture.
- CC. Nō muri mai ka āraitia e te hātepe utunga a Ngāti Awa ngā rohenga whenua ka taka ki roto i te rāina raupatu me ērā whenua i te taha uru o te rohe o Ngāti Awa arā, ngā rohenga whenua o Matatā 31, 39 me 63. Hui katoa e 50,000 eka te rahi o te whenua nei, ā, ka taka te nuinga o te rohe whaka-te-uru e kerēmehia ana e Ngāti Awa ki roto. Mō te take o Matata Lot 63, he nui ngā kōrero i whakatakotoria e ngā kaiwhakaatu o Ngāti Awa ki mua i te aroaro o te Kōti, ā, i tautokongia aua kōrero e ētahi o ngā iwi o Te Arawa. Ahakoa tēnei, i whiwhia e

te kōti aua whenua ki iwi kē ki hapū kē, ki ētahi i whawhai mō te Karauna. Kāore he huarahi hoki atu ki te pira i ngā whakatau a te kōti.

DD. Nā te tikanga utunga kātahi ka pōuri rawa atu te iwi o Ngāti Awa mō ngā mahi raupatu whenua. Kāore i te tino mōhiotia ko wai te hunga e āhei ana ki te tono utunga i te Kōti. Hei ētahi wā tekau tau e tāria ana kātahi anō ka whiwhi rātou ki te pūtea Kāwanatanga mō te whenua i whakahokia. I whiwhi ētahi hapū ki ngā whenua o hapū kē, ka mutu, ka mate ngā hapū o Ngāti Awa ki Whakatāne ki te tiaki i ngā tāngata o hapū kē ki runga ki ō rātou whenua, tae rawa ki ērā mai i te rohe o Matatā i uru ki roto i ngā pakanga o ngā tau 1864 me 1865. He nui tonu te whenua poupou, koraha i whakaritea e Wilson hei whakahoki. Ina whakahokia ngā whenua mā ngā whakaritenga a Wilson, mā ngā tikanga a te Kōti Utunga rānei, ka whakahokia kē ki te tangata takitahi, āpā te hapū, te iwi rānei. Kāore i whai wāhi ki ngā toha nei ngā tikanga tūturu mō te whenua, ā, mōrearea te noho a te whenua, kei hokona.

EE. I ngā tau whai muri mai, kāore i aronuitia ngā pānga a Ngāti Awa ki ngā rohenga whenua i te taha hau-ā-uru o te raina raupatu, i roto i ngā toha a Te Kōti Whenua Māori. Hei tā Ngāti Awa, nā runga i ngā nekenekēhanga o roto i ngā tau mai i te 1865 ki te 1867, tae rawa ki ngā whakataunga a Te Kōti Utunga i taua wā, i raru ai a Ngāti Awa i roto i ngā kēhi o muri mai a Te Kōti Whenua Māori e pā ana ki ngā rohenga whenua nei.

Ngā Mahi o Ngā Ture Whenua Māori, Ngā Hoko me ētahi atu Wehewehenga o muri iho

FF. Whakatūria ai te Kōti Whenua Māori i raro i ngā Ture Whenua Māori o ngā tau 1862 me 1865, ki te rapu ko wai te hunga nō rātou ngā whenua “e ai ki te Tikanga Māori”, ki te takahuri hoki i te mana tūturu mō te whenua, kia noho ko ngā taitara a te Karauna ki runga i te whenua. I whakatahangia hoki te tika a te Karauna ki te hoko tuatahi i ngā whenua o te Māori, e aha ai, e taea ai e te Māori te rīhi, te hoko rānei i ōna whenua, kāore he nui o ngā here. Kāore i nui ngā whakawhitiwhiti kōrero i waenganui i te Karauna me te Māori i mua o te whakamanatanga o te ture nei, kāore hoki ia i āta kōrero ki a Ngāti Awa; he pērā te āhua o ēnei mea i te tekau tau 1860. I tēnei wā, kāore he waha kōrero mō te Māori i roto i te Paremata. Nā reira ko tō Ngāti Awa whakaaro, he mea uhi kē e tētahi atu tēnei tikanga tiaki whenua ki runga i a rātou.

GG. I te tekau tau o 1870, i whakahaua ngā āpiha hoko whenua ki te hoko whenua i te rohe o Rangitaiki, ā, hei ētahi wā, ka whakarite rīhi, ka whakawhiti whenua rātou i mua o te haria o te whenua ki mua i te aroaro o Te Kōti Whenua Māori kia āta rangahauatia te taitara. I ngā tekau tau 1870, 1880 me 1890, whakatakotohia ai e Ngāti Awa ana kerēme ki ētahi whenua i te taha tonga o te rāina raupatu. Kāore i

tautokona e te Kōti ā rātou tonono mō ngā rohunga whenua i Ruātoki me Kaingaroa. I roto i tēnei wā, whakawhiwhia ai ētahi hapū o Ngāti Awa ki ētahi pānga whenua i ngā rohunga whenua o Pokohu, Pūtauaki, Matahina, Waiohau me Tuarāraia. I te nuinga o te wā, i tukuna e te Kōti ētahi wāhanga o ngā rohunga whenua nei ki iwi kē, ahakoa te mea hei tā Ngāti Awa, no rātou ake te whenua. No muri kē, mā te hanganga ture, ka whakahaua e te Kōti kia whakarongohia anō ngā kōrero mō ētahi o ngā rohunga whenua. Ko te otinga atu o tēnei, i riro atu ētahi o ngā whenua i tukuna tuatahitia ki a Ngāti Awa i Pokohū me Matahina.

HH. No muri o tētahi rangahau taitara i te tau 1881, whakawhiwhia a Ngāti Awa ki te e 79,000 eka i roto i te rohunga o Matahina. Nō te tau 1884 rongohia anō ngā kōrero, ā, ko te hua o tērā, i whakaitia te korahi o te rohunga ki te e 74,300 eka. E 8,500 eka o tēnei rahi i tangohia e te Karauna e ea ai ngā utu rūri. I whakawhiwhia e Te Kōti Whenua Māori ngā pānga ki ngā tāngata takitahi, ā, ahakoa i pupuritia ngā whenua mō tētahi wā i runga i ngā okeoke a Ngāti Awa kia pupuria, kia tae ki te rau tau e 20, kua mārō kē te haere o te wehewehe whenua ki ngā tāngata takitahi. Ko te hua o tēnei, i noho kongakonga noa ngā whenua, i maha ngā hokohoko whenua i te wāhanga tōmuri o te rau tau e 19 me te wāhanga tōmua o te rau tau e 20. Kia taka ki te tau 1980, e 240 eka anake te rahi o te pānga whenua o Ngāti Awa ki roto i Matahina A1D1. He mate nui ki te iwi o Ngāti Awa tēnei te rironga atu o te rohunga nei, ā, kei roto i te waiata *Tangi mō Matahina* e whakaata ana te mamae.

II. Ko Pūtauaki te tipuna maunga o ngā tāngata katoa o Ngāti Awa. I tauwehea a Pūtauaki e te rāina raupatu, nāwai ā nō te tau 1867, ka tukuna ai te taha whaka-te-raki o te maunga e Te Kōti Utunga ki a Te Pahipoto rāua ko Ngā Maihi. Ko te wāhanga whaka-te-tonga o te maunga i roto kē i te rohunga whenua e kīia nei ko Pūtauaki. I te tau 1879 i tū tētahi whakaritenga – me āna tikanga - i waenganui i ngā āpiha hoko a te Karauna me ētahi o Ngāti Awa kia hokona te rohunga whenua, engari nō te tau 1881 kātahi anō te rohunga whenua nei ka rangahaua e Te Kōti Whenua Māori. I tukuna e te Kōti te whenua ki a Ngāti Awa, ā ka tonono te iwi kia rāhui motuhaketia te whenua. Waihoki, i te hipanga o ngā rā e tekau, i runga hoki i te tonono a ētahi rangatira tokorua o Ngāti Awa, arā, a Rangitūkehu rāua ko Penetito, i wehea e te Kōti te rohunga whenua ki ngā wāhanga e toru. Ko te rohunga whenua nui rawa atu, i tukuna ki ētahi tāngata takitahi e 15, ā, hokona wawetia e rātou ki te Karauna. Kāore e tino maha ngā rā whai muri, e 27 ngā tāne, wāhine, tamariki hoki i petihana ki te Minita mō Ngā Take Māori mō te mahi tauwehe i te rohunga whenua nei. Nō muri kē ka tonono te hunga nā rātou te whenua i hoko ki te Karauna, kia whakahokia tēnei me ētahi atu rohunga whenua, ā, ko te utu mō tēnei, ko te moni i homaihia mō te hoko i te whenua i te tuatahi, engari kāore te Karauna i whakaae. Ko te iti noa o te rohunga whenua i mahue mai, tae rawa ki te maunga, i tukuna ki ētahi tāngata takitahi mai i Ngāti Awa me ētahi atu iwi. Nā ēnei mahi whaka-takitahi i te mana whenua, ka ngaro noa i te

iwi ēnei whenua. He whakamau nui tā Ngāti Awa, mō te rironga atu o Pūtauaki mā ngā tikanga rerekē i ngā rau tau tekau mā iwa, rua tekau hoki.

- JJ. I tua atu, kua riro ētahi whenua o Ngāti Awa pēnei i ngā rohenga whenua i Rangitāiki, Poroporo-Rewatu, Matahina, Whakatāne me Matata mā ngā hanganga ture mahi tūmatanui o te rau tau rua tekau. He wāhi tapu, he urupā, he papakāinga i runga i ētahi o ngā whenua i riro.
- KK. Mai i te tau 1867, kua rapu a Ngāti Awa i te tika, mō ngā hē i mahia ki te iwi e te Karauna. He maha ngā petihana a Ngāti Awa ki te Karauna mō ngā raupatu, ngā mauheretanga, me te rironga atu o ngā whenua i roto i te wā roa. I tae te kaupapa a Ngāti Awa ki mua i te aroaro o te Kōmihana Sim i te tau 1925, ā, kāore i tautokongia e te Kōmihana te kaupapa whānui a Ngāti Awa. Hāunga tērā, i kite te Kōmihana, paku noa iho te whenua i tohaina ki a Ngāi Te Rangihouhiri II rāua ko Ngāti Hikakino. Nō muri mai ka tangohia ai tētahi wāhanga o te whenua nei i raro i Te Ture Mahi Tūmatanui, ā, i te mutunga, i toe mai ki ngā hapū nei ko ētahi whenua tītōhea anake, e kore e puta he oranga. I tūtohu te Kōmihana ki te toha i ētahi whenua i Matatā, engari kāore tēnei tūtohu i puāwai.
- LL. I runga i ngā tūtohinga o te Kōmihana Sim, whiwhi ai ētahi atu iwi ki ētahi utunga ā-tau mai i te Karauna, ā, whakatūria ai ētahi Poari mō ētahi iwi raupatu, hāunga anō a Ngāti Awa.

3.2 NGĀ WHAKAAETANGA A TE KARAUNA

- A. E whakaae ana te Karauna, mai i te tau 1867, kua whai a Ngāti Awa i te tika mō ana whakamau ki te Karauna e mea ana, ahakoa ētahi mahi pai āna i te rau tau rua tekau, kāore i tōtika te mahi a te Karauna ki te whakatika i ngā whakamau a Ngāti Awa. Nā reira e whakaae ana te Karauna i konei ki te tika o ngā kerēme wā roa a Ngāti Awa, ā, e whai iho nei te roanga atu o te whakaaetanga.
- B. E whakaae ana te Karauna:
- (a) i mate ētahi o Ngāti Awa, i wāwāhia ngā rawa o Ngāti Awa i te wā e rapu ana te ope taua a te Karauna i te hunga nā rātou a Fulloon i kōhuru;
 - (b) mō te pōuri i tau ki runga i a Ngāti Awa e pā ana ki te hopukanga, te whakawāhanga, te mauhereheretanga me te whakamatanga o ngā kai-ārahi o ngā hapū o Ngāti Awa;
 - (c) mō te mea i tanumia ngā tūpāpaku o Ngāti Awa i mate ki roto i te whare herehere i runga i te tikanga kore, i roto tonu i ngā poupou o te whare

herehere, ā, kia taka ki te tau 1988, kātahi anō ka whakahokia rātou ki roto i ngā ringaringa o ō rātou whanaunga;

- (d) mō te pā mai o te kino ki runga ki te anga hapori, te mana me te rangatiratanga o aua hapū i riro ō rātou whenua, ō rātou rangatira.

C. E whakaae ana te Karauna:

- (a) i hē te uta i ngā kupu “tangata hara” ki runga i te iwi o Ngāti Awa, ka mutu e kore e taea te kī i te whana rātou;
- (b) i tangohia ngā whenua me ngā rawa o Ngāti Awa, i tangohia anō hoki ko te rangatiratanga o te iwi ki runga i aua mea;
- (c) nā runga i te raupatu o ngā whenua o Ngāti Awa, i tino kaha te paheketanga o te oranga, te ōhanga me te whanaketanga o te iwi, ā, tāpae atu ko te rironga atu o ngā wāhi tapu, me te āheinga ki ngā rawa me ngā tuwheratanga ki te whanaketanga;
- (d) i hē tana raupatu i ngā whenua o Ngāti Awa, he mahi mōrikarika, he takahitanga hoki i te Tiriti o Waitangi me ōna mātāpono, ā, kīia ai e Ngāti Awa “he mahi pokanoa” tēnei.

D. E whakaae ana te Karauna:

- (a) nā te raupatu, i puta ko te whakatoihara, ā, nā ngā tūpuhitanga o Te Kōti Utunga kātahi ka hē rawa atu;
- (b) i tukuna e Te Kōti Utunga ngā whenua ki ngā tāngata takitahi, āpa te iwi, te hapū rānei, waihoki, ehara tēnei i te whai i ngā tikanga tūturu mō te tiaki whenua. He mea uta kē ēnei tikanga ki runga i a Ngāti Awa, kāore i whāia ko ngā whakaaro ake o te iwi;
- (c) he maha ngā wā, ko tā Te Kōti Utunga he whakamana noa i ngā whakaritenga o mua noa atu a tētahi āpiha Karauna e pā ana ki te tuku haere i te whenua i tēnei takiwā;
- (d) he mahi pokanoa noa iho te raupatu haere i ngā whenua, nā te kore whakahoki ōna i ngā whenua katoa ki ērā i noho ki a ia;
- (e) nā te hē o te hātepe utunga arā, te nekehanga o ngā hapū o Ngāti Awa, mai i ngā whenua kua roa kē e nōhia ana e rātou, ki ērā whenua o hapū kē, i kaha ake ai te raruraru i waenganui i ngā hapū;

- (f) i tohaina ētahi o ngā whenua o Ngāti Awa, tae rawa ki ōna wāhi tapu, ki ētahi atu iwi, me te mea, rite tonu te wehea mai o aua whenua whai muri tata iho o te whiwhinga;
- (g) nā ēnei mahi i ngoikore haere ngā tikanga tangata mai rā anō, tae rawa ki te mana me te rangatiratanga o Ngāti Awa. Kāore i tutuki e te Karauna tōna kawenga ki te ārai i a Ngāti Awa i ngā hua kino o ēnei mahi, he takahitanga tēnei o Te Tiriti o Waitangi me ōna mātāpono.

E. E whakaae ana te Karauna:

- (a) whai muri iho o te takahanga o ngā taitara whenua ki raro i ngā ture whenua Māori, i topea anō ngā pānga whenua o Ngāti Awa, me kī ngā whenua i whakahokia mai i muri o te raupatu, me ērā whenua i waho atu o ngā whenua i raupatutia, mā:
 - (i) te tango whenua hei utu mō ngā mahi rūri whenua;
 - (ii) ngā hoko whenua a te Karauna, me ētahi atu momo hoko whenua;
- (b) nā te whakamahia me te whakapā o ngā ture whenua Māori, arā, te tuku whenua ki ngā tāngata takitahi o Ngāti Awa, āpā ki te iwi, te hapū rānei, i noho wātea te whenua ki ngā mahi tauwehe, wāwāhi, hoko hoki. Nā tēnei mahi i kaha ake te paheketanga o ngā tikanga a Ngāti Awa, he tikanga i takea mai i te kotahitanga ā-hapū, ā-iwi hoki mō te tiaki i te whenua. Kāore i āta tiakina aua hanga e te Karauna. Ko te otinga atu, ko te paheketanga o Ngāti Awa, me te takahitanga o Te Tiriti o Waitangi me ōna mātāpono.

F. E whakaae ana te Karauna:

- (a) i riro anō i a ia ētahi whenua o Ngāti Awa mā ngā ture hanga tūmatanui, e aha ai, e taea ai e ia te tango whenua ki te kore e taea he whakaritenga.

G. E whakaae ana te Karauna:

- (a) ki te hui katoahia ngā mahi me ngā mea kāore i mahia e te Karauna, me kī tana kore tiaki i ngā pānga a Ngāti Awa i roto i ngā whenua e hiahia ana ia ki te pupuri, kua kite tātou, i tata te noho a Ngāti Awa hei iwi whenua kore. He takahitanga o Te Tiriti o Waitangi me ōna mātāpono te mahi a te Karauna i tana kore ngana kia rahi te whenua ka noho kei ngā ringaringa o Ngāti Awa e ea ai ōna wawata mō ēnei rā, mō ngā rā kei te tū.

H. E whakaae ana te Karauna:

- (a) he wāhi nui ngā whenua me ngā rawa i tangohia i a Ngāti Awa, i roto i te oranga me te whanaketanga o tēnei whenua, i te wā e noho whenua kore ana, e kore e āhei ana a Ngāti Awa ki ngā painga mai i aua whenua me aua rawa. Nā tēnei kore mana, kua raruraru a Ngāti Awa me tana whanaketanga taha ōhanga, taha hapori, taha tikanga hoki. Kua raruraru hoki a Ngāti Awa i te kore taea e ia te uhi i tōna mana ki runga i ōna taonga, i ōna wāhi tapu, me te whakapūmau i ngā hononga wairua ki aua whenua tuku iho;
- (b) E aronui ana, e mihi ana te Karauna ki te wāhi ki a Ngāti Awa i roto i ngā whawhai mō te whenua nei, i roto hoki i ngā pakanga o Niu Tīreni ki tāwāhi;
- (c) E whakaaturia ana e ngā kupu o te waiata a Ngāti Awa e whai iho nei, ngā mamaetanga me ngā taumahatanga i pā mai i ngā mahi a te Karauna:

Ka noho pani nei.

I pani ki te whenua,

I pani ki te tangata.

Au tangi kau iho i te pō,

Ka whakatū ki hea te aroha?

3.3 TE WHAKAPĀHA A TE KARAUNA

Ka tuku whakapāha ōkawa te Karauna ki a Ngāti Awa, e pēnei ana.

- A. E aro nui ana te Karauna ki ngā tonono me ngā akiakinga a ngā tīpuna o Ngāti Awa i a rātou i rapu i te utu, i te tika, me te whakaea i roto i ngā tau e 130 kua pahure, mō ngā mahi a te Karauna, ā, i konei ka tuku whakapāha te Karauna ki a rātou, ki ō rātou uri me ngā uri o ngā hapū o Ngāti Awa whānui.
- B. E tino pōuri ana, e whakapāha noa ana te Karauna mō ana takatakahi i Te Tiriti o Waitangi me ōna mātāpono, i whakahuatia i runga ake nei.
- C. E tino pōuri ana, e whakapāha noa ana te Karauna mō tana raupatu i ngā whenua o Ngāti Awa, he mahi mōrikarika.
- D. Ko te mea nui, e tino pōuri ana, e tino whakapāha ana te Karauna mō tana raupatu i ngā whenua o Ngāti Awa, tae rawa ki ngā putanga o ana mahi i tau ki runga i ngā whakatipuranga, ko te otinga atu o aua mahi, kua noho āhua whenua kore a

Ngāti Awa, kua turakina ngā hanganga taha hapori, taha tikanga tuku iho, kua takahia te tino rangatiratanga o ngā hapū o Ngāti Awa.

- E. E tino pōuri ana, e tino whakapāha ana te Karauna i te mea kua kotahi rau tau e mau ana te kōrero ki runga i a Ngāti Awa iwi, he “tangata hara” rātou; nā ēnei āhuatanga te mana o te iwi i hahau.
- F. E tino pōuri ana, e tino whakapāha ana te Karauna mō ngā rerekētanga me ngā paheketanga i pā kino mai ki te ora, ki te taha ōhanga me te pakari o te tū a Ngāti Awa hei iwi.
- G. E tino pōuri ana, e tino whakapāha ana te Karauna i tana kore aro atu ki te mana me te rangatiratanga o Ngāti Awa.
- H. Na reira, i runga i ngā kupu o te whakapāha nei, e rapu ana te Karauna kia ea ēnei mahi hē āna, kia tīmata ngā mahi whakaora; i tua atu, ko tōna hiahia, ki te hanga whakapakari i tētahi hononga e takea mai ana i runga i te wairua whakawhirinaki, tētahi ki tētahi, me te wairua mahi tahi me Ngāti Awa.

SECTION 3: HISTORICAL ACCOUNT, CROWN ACKNOWLEDGEMENTS AND APOLOGY

3.1 HISTORICAL ACCOUNT

- A. The apology from the Crown to Ngāti Awa is based on the following historical account.

Rohe of Ngāti Awa

- B. Ngāti Awa claim that prior to 1866 they exercised tino rangatiratanga as tangata whenua from time to time over their rohe including: the islands of Motiti, the Rurima group, Moutohora (Whale Island), Paepae o Aotea (Volkner Rocks), Whakaari (White Island), Ohakana and Uretara (both the latter two islands being situated in Ōhiwa Harbour); the seas from Waihi Estuary near Maketu to Ōhiwa Harbour; the land, forests, lakes, rivers and swamps bounded to the north by the coastline from Waihi Estuary to Ōhiwa, to the west from the Waihi Estuary along the Pongakawa River to Lake Rotoehu (including the lake itself and the Rotoehu Forest), from Lake Rotoehu to Te Haehaenga, and including Lake Rotoma to the Pokohu, Tuararangaia and Matahina lands to the south and from there to Ōhiwa Harbour.
- C. Places of historical and cultural significance to Ngāti Awa include: the mountains called Putauaki at Kawerau (Mt Edgecumbe), Whakapaukorero at Matata and Maunga Whakamana at Te Haehaenga, the hill called Te Tiringa at Awakeri and Koohi Point at Whakatāne; the rivers Whakatāne, Orini, Rangitaiki, Tarawera, Waitahanui and the Waikowhewhe and Pongakawa Streams; the Rangitaiki swamp and wetlands; the forests at Rotoehu, Matahina, Kiwinui, Omataroa, Tarawera and Manawahe; the lakes Rotoehu, Rotoma, Kawerau, Te Tahuna, Roto-Onerahi, Rotoiti Paku, Onepu and Rotoroa; the thermal areas at Kawerau, Awakeri, Moutohora and Whakaari; the harbours at Ōhiwa and Whakatāne; and the estuaries at Waihi, Te Awa a Te Atua at Matata and Whakatāne.
- D. Ngāti Awa land and resources were held in customary tenure where tribal and hapū collective custodianship remained paramount. In the exercise of their rangatiratanga the chiefs of Ngāti Awa ensured that very little land within the Ngāti Awa rohe was permanently alienated prior to the confiscation.
- E. Further, Ngāti Awa claim that in 1865, they were essentially autonomous, economically prosperous and actively engaged in trade and commerce. They produced and sold commodities such as pigs, flax, vegetables, wheat, timber and potatoes and were involved in a range of commercial activities including flour milling, and merchant shipping. Ngāti Awa also used commodities such as red

ochre, mutton-birds and the resources of the sea for customary trade with other iwi.

New Zealand Settlements Act 1863

- F. In 1863, the Crown enacted three important pieces of legislation, the Suppression of Rebellion Act, the New Zealand Loan Act and the New Zealand Settlements Act, the last of which provided for the confiscation of Maori land whenever the Governor in Council was satisfied that “any native tribe, or section of tribe or any considerable number thereof”, had been engaged in rebellion against the authority of the Queen. More particularly, the Act was passed into law to provide “permanent protection and security of the well-disposed inhabitants of both races for the prevention of future insurrection or rebellion and for the establishment and maintenance of Her Majesty’s authority in Law and Order throughout the Colony”. In order to achieve those two broad ends, the Crown proposed introducing settlers into the regions by confiscating land and allotting or selling it to military and other settlers. The returns from the sales of land to settlers were also intended to recoup the Crown’s costs of the wars against Maori.
- G. The British Colonial Office had misgivings about the scope and application of the New Zealand Settlements Act 1863, considering it “capable of great abuse”. When initially considering the proposal to confiscate lands the Colonial Secretary cautioned the Governor to respect the lands of innocent people and tribes and to apportion the measure of punishment to the degree of guilt. When it later considered the confiscation legislation the British Colonial Office continued to express serious reservations about the use of the Act and its duration but allowed it to remain in operation because final authority for any confiscation remained with the Governor. The Colonial Secretary instructed the Governor to withhold his consent to any confiscation which was not “just and moderate”.

Te Kaokaoroa

- H. In 1864, according to the traditions of Ngāti Awa, certain hapū of Ngāti Awa including Te Patutatahi, Ngāti Hikakino, Ngai Te Rangihouhiri II, and some members of Te Tawera and others joined a combined force of various Mātaatua and related iwi which came to be known as the Tai Rawhiti force. This force was destined for the Waikato region to lend assistance to the Waikato tribes who were resisting the unjust invasion of their lands by Crown and colonial forces. It was prevented from travelling through the Rotorua region by a Te Arawa prohibition on armed parties moving through its territory. A number of Te Arawa iwi had sought, and gained, Crown support in this undertaking. A Tai Rawhiti party fought against various Te Arawa iwi in February 1864 at Rotoiti which resulted in

loss of life. However, part of this group did proceed to Orakau, in the Waikato region.

- I. The Tai Rawhiti force made a second attempt to break through at the Waihi estuary, Maketu, in April 1864. Certain Te Arawa iwi, supported by Crown warships and military personnel, repulsed the force. The fighting culminated in the battle of Te Kaokaoroa where Ngāti Awa, particularly Ngāti Hikakino and Ngai Te Rangihouhiri II, and allied hapū and iwi suffered numerous casualties. Several key chiefs of Ngāti Awa were among those lost.

James Te Mautaranui Fulloon

- J. In late 1864, Kereopa, Horomona and Patara, prophets of Pai Marire arrived in the Whakatāne region and persuaded a number of Ngāti Awa to join Pai Marire. In March 1865, the Reverend Carl Volkner, a missionary living in Opotiki, was killed by local Maori some of whom were influenced by Pai Marire. On 6 March 1865, Ngāti Awa chiefs at Whakatāne expressed strong disapproval of the killing, but also stated that the Crown should not come through their territory while apprehending those responsible for killing Volkner. No military force was authorised by the Government to pursue Volkner's killers through Ngāti Awa territory.
- K. In February 1865, after a series of runanga, certain chiefs of Ngāti Awa, met at Whakatāne and resolved to place an aukati (customary prohibitive measure) about their territory to prevent encroachment into their rohe. Then in July 1865, following a series of hui at Tauaroa and Matata, the Pai Marire prophet Horomona and certain Ngāti Awa chiefs who supported him declared a second aukati. This aukati ran from Cape Runaway in the east to Taranaki in the west. On 19 or 20 July 1865, the *Maruiwi*, a Te Arawa trading vessel, arrived at Whakatāne. The vessel was seized for breaching the Pai Marire aukati and its crew was held at Whakatāne. On 22 July 1865, the *Kate* carrying Crown official James Fulloon, and others, arrived at Whakatāne. Fulloon, of Ngāti Awa descent, and three of the crew were killed on board by Ngāti Awa supporters of Pai Marire. Wepiha Apanui of the Whakatāne section of Ngāti Awa then arranged for the burial of his first cousin Hemi (James) Fulloon. There are various explanations for Fulloon's death; Ngāti Awa attribute Fulloon's death to his breach of the aukati. These events evoked various reactions among the hapū of Ngāti Awa.

The Warrant

L. On 2 August 1865, T. H. Smith, as Civil Commissioner at Maketu, issued a warrant for the arrests of those persons alleged to have been responsible for killing Fulloon and others.

M. The people who were subject to the warrant were:

Te Hura Te Taiwhakaripi	Haki Waihou
Te Pitoiwi Te Putarera	Te Hemara Tukairangi
Hakaraia Tohora	Ture Te Matutaera
Te Aka o Tau Te Hura	Paraharaha
Te Metera Te Tii	Raniera Te Werotokotoko
Hepeta Te Tai	Haki Tukino
Korimana	Eria Te Hakona
Horomona Poropiti	Heahea Te Pakihiwi
Utuku Te Rangi	Hohepa Te Ra
Te Meihana Te Tawa	Tawhaki
Te Wetini	Raureti
Tamati o Ngāti Hoko	Hunia Marupo
Mohi Te Paohi	Panapa Rangirewaia
Turiri	Hakopa Tupika
Hawera Te Hihira	Petera Moki
Te Hekara	Pakiuru
	Hohua Karipipi

N. In August 1865, a Crown force of some 500 men was formed. It was drawn primarily from certain neighbouring iwi and hapū, many of whom were the traditional foes of Ngāti Awa and who had been involved in the battle at Te Kaokaoroa. The Crown force, under the command of Major William Mair, Resident Magistrate, entered the rohe of Ngāti Awa to execute the arrest warrant. The purpose of this expedition was explained to Te Hura Te Taiwhakaripi, a Ngāti Awa chief, in mid-August. The Crown force was involved in skirmishes with Ngāti Awa in which some people were killed. Cattle, horses and other Ngāti Awa property were seized and kainga, wharenuī, pataka and waka were destroyed. This force laid siege to Ngāti Awa pā at Whakatāne, Matata and Te Teko to which Te Hura and his force had retreated.

- O. On 2 September 1865, the Crown issued a Proclamation of Peace declaring that the war, which had begun at Oakura in Taranaki in 1863, was at an end. The Proclamation of Peace stated that those who had been in arms against the Crown would not be prosecuted for past offences, but excluded those responsible for the killing of Fulloon. The Proclamation stated that if those responsible for the killing of Fulloon were not given up to the Governor then the Crown would take parts of the lands of those tribes who concealed the murderers. It also called for Maori assistance in stopping all future acts of violence and declared an intention to consult with the great Chiefs about the best means for Maori to be represented in the General Assembly so that they could help make the laws they were called on to obey.
- P. On 4 September 1865 the Governor issued a Proclamation of Martial Law in the areas of Whakatāne and Opotiki to enable the capture of those accused of the murder of Fulloon and others through the use of military force and to enable them to be tried by Court-Martial. Martial Law was to operate in the areas from that time until duly revoked and the proclamation implied that the Crown forces could act as a military force. Both these proclamations appeared in the *New Zealand Gazette* on 5 September 1865. It is unclear, however, when Ngāti Awa became aware of these proclamations.

Te Kupenga

- Q. There was an increase in Crown military activity at the end of September. This culminated in three days of fighting at Te Kupenga Pā, Te Teko. Eventually, on 20 October 1865, those Ngāti Awa hapū under the leadership of Te Hura Te Taiwhakaripi surrendered at Te Kupenga. They included Te Tawera, Warahoe, Ngai Te Rangihouhiri II, Te Patutatahi, Ngāti Hikakino and others. Over 30 men, including most of those Ngāti Awa named in the warrant and some others, were placed under arrest and transported to Opotiki for trial by Courts-Martial in November 1865 for the killing of Fulloon and other charges. The Courts-Martial found many of the accused guilty and sentenced them to death.

Trials

- R. On 23 December 1865 James Prendergast, the Attorney-General, provided an opinion on the trial by court-martial of the prisoners taken at Opotiki. Prendergast determined that martial law was "in no way recognised by the law". As a consequence the Governor then ordered that the Ngāti Awa accused be transported to Auckland to be tried again, this time before the Supreme Court for murder and other charges. The 35 Ngāti Awa accused were all represented by a single legal counsel.

- S. The following men were charged with piracy and the murders of Fulloon and seaman Ned on board the *Kate*: Mikaere Kirimangu, Hekara, Himone-te-Auru, Paraharaha, Hoani Poururu, Hoani Hupe, Utuku-te-Rangi, Te Aka o Tau-te-Hura, Hunia Marupo, Haki Waihou, Haki Tukino, Tamati o Ngāti Hoko, Tio Wahu, Hawera-te-Hihira, Heahea te Pakihiwi, Raniera te Werotokotoko. Three of these men were found innocent on the piracy charge but all were found guilty of murder. Ten other men were charged with being accessories before the fact to the murders. They were Te Hura Te Tai, Te Pitoiwi Te Putarera, Hepeta Te Tai, Horomona Poropiti, Mohi Te Paohi, Te Hemara, Hakaraia Tohora, Te Uwhi Te Haraki, Kereama Toitoti, and Ture Te Matutaera. Six men were also charged with receiving stolen goods from the *Kate*. By 23 March 1866, all those tried before the Court were found guilty on at least one charge and were sentenced to execution or imprisonment. Mikaere Kirimangu and Horomona Poropiti (Taranaki) were executed for the murder of Fulloon on 17 May 1866. Eleven of the men sentenced to death had their sentences commuted to life imprisonment and the other death sentences were commuted to between four and fourteen years penal servitude. Those charged with receiving stolen goods were sentenced to three years' hard labour. In 1867 and 1868 pardons were issued to some of these men but most served out their terms. Three men died while in prison, namely Tamati o Ngāti Hoko (1 August 1866), Hepeta Te Tai (26 November 1866) and Paraharaha (18 December 1866). Those who died in prison were interred without ceremony in the prison grounds. After regular requests over the generations their remains were released for reinterment with their families in 1988.
- T. Ngāti Awa say that many of those who were eventually released were unable to return to their homes in Whakatāne and Matata because of the shame they felt as a consequence of their imprisonment and the confiscation. They lived in the King Country with Te Kooti Rikirangi under the protection of Ngāti Maniapoto. Most of them died and were buried outside of the rohe of Ngāti Awa but were eventually exhumed and reinterred at Ohuirehe Urupa near Whakatāne by Te Kooti Rikirangi and his followers in 1885.

Confiscation

- U. By Orders in Council on 17 January and 1 September 1866, approximately 448,000 acres of land was proclaimed to be confiscated under the New Zealand Settlements Act 1863 as a consequence of Bay of Plenty tribes being deemed by the Crown to have been in rebellion. The Act did not mention punishment but was punitive in nature.
- V. The boundaries of the confiscated area were:

“All that land bounded by a line commencing at the mouth of the Waitahanui River, Bay of Plenty, and running due south for a distance of 20 miles; then to the summit of (Mt Edgecombe) Putanaki [sic], thence by a straight line in an easterly direction to a point 11 miles due south from the entrance to the Ohiwa Harbour, thence by a line running due east for 25 miles; thence by a line to the mouth of the Aparapara [sic] River and thence following the coastline to the point of commencement at Waitahanui”.

Within the area covered by the proclamation Ngāti Awa had approximately 245,000 acres of its land confiscated in 1866. This was indiscriminate in that the lands taken greatly exceeded the minimum necessary for achieving the purposes of the New Zealand Settlements Act.

- W. The confiscation of land affected all Ngāti Awa hapū, including many hapū who had never been engaged in any conflict with the Crown. The result was that all of the hapū of Ngāti Awa then had to go through the Compensation Court and other processes to seek the return of their land.

Wilson’s Arrangements and the Compensation Court

- X. In February 1866, prior to the sitting of the Compensation Court, the Crown appointed a special commissioner, John A Wilson, to deal with the allocation of confiscated lands in the Bay of Plenty. Wilson was involved in making arrangements with various hapū for the return of land. Military awards for services rendered were made to certain Te Arawa iwi and other tribes from the 87,000 acre blocks west of the Tarawera River, which included the bulk of the area Ngāti Awa claim as their western rohe (other iwi also claim an interest in this area). By 1885 the Crown had purchased most of this land. Wilson’s arrangements provided for the return of approximately 77,000 acres awarded to Ngāti Awa individuals in the form of reserves. This land was part of the 245,000 acres originally confiscated from the iwi in 1866.
- Y. Wilson’s activities were carried out under the provisions of the New Zealand Settlements Act 1863 and its amendments. In order to validate his arrangements the Crown then enacted further legislation including the Confiscated Lands Act 1867, the Richmond Land Sales Act 1870, the Whakatāne Grants Validation Act 1878, and the Native Land Claims and Boundaries Adjustments and Titles Empowering Act 1894.
- Z. The Compensation Court was established by the New Zealand Settlements Act 1863 to compensate anyone who had suffered land confiscation when they had not been in “rebellion”. The Court began its hearings in the region in March 1867. The presiding judges were William Mair and Thomas Smith, both of whom

played important roles in either leading or directing the Crown's expeditionary force prior to confiscation. In many cases, the Court validated Wilson's arrangements as out of court settlements.

- AA. Those Ngāti Awa not wishing to settle with Wilson filed claims with the Court but those who could not attend the Court to pursue their claims, especially those who had been imprisoned in 1866, were inevitably excluded. In several cases non-attendance at court hearings was due to inadequate notice, the inability of claimants to attend and hearings being held outside of the rohe of Ngāti Awa.
- BB. Although Maori claimants were required to comply with Compensation Court processes or be excluded, in 1866 Parliament retrospectively declared the Court's own actions and proceedings to be valid and beyond judicial scrutiny, even if statutory requirements had not been met.
- CC. Ngāti Awa were subsequently excluded by the compensation process from those blocks falling within the confiscation line and the western part of the Ngāti Awa rohe, namely Matata Lots 31, 39 and 63. These lands comprised an area in excess of 50,000 acres and made up the bulk of the western rohe claimed by Ngāti Awa. In the case of Matata Lot 63 Ngāti Awa witnesses gave a large amount of evidence and were supported by members of certain Te Arawa iwi. Despite this, the court awarded this lot to another iwi who had given military service to the Crown. There was no provision for appeal from the decisions of the Court.
- DD. The compensation process and its outcomes added to the upheaval and distress of the people of Ngāti Awa about the confiscation. There was uncertainty about who was entitled to claim compensation from the Court. It often took up to 10 years before a Crown grant was issued for the land returned. Some hapū received land that was previously occupied by other hapū and the Whakatāne section of Ngāti Awa also had to accept members of other hapū onto their lands, including those from the Matata region who had been more directly involved in the battles of 1864 and 1865. A large proportion of the land that Wilson had arranged for return was mountainous, barren country. Once land was restored either through Wilson's arrangements or the Compensation Court process, it was returned to individuals rather than to the hapū and iwi. The awards did not reflect customary forms of land tenure and the land became more susceptible to sale.
- EE. In future years Ngāti Awa's interests in the blocks to the west of the confiscation line were not recognised in the awards of the Native Land Court. Ngāti Awa consider that because of the events of 1865 to 1867, including the determinations of the Compensation Court, they were prejudiced in later Native Land Court cases involving these blocks.

The Operations of the Native Land Laws, Subsequent Purchases and Other Alienations

- FF. The Native Land Court was established under the Native Land Acts of 1862 and 1865 to determine the owners of Maori land “according to Native Custom” and to convert customary title into title derived from the Crown. The Crown’s pre-emptive right of land purchase was also set aside, enabling Maori to lease and sell their lands with few restrictions. As was often the case in the 1860s there was limited consultation concerning this legislation, and the Crown did not specifically consult Ngāti Awa. Maori had no direct representation in Parliament at this time. Ngāti Awa therefore considers that this change in the land tenure system was imposed on them.
- GG. In the 1870s Crown land purchase agents were instructed to purchase land in the Rangitaiki area and sometimes negotiated leases and deeds of transfer prior to the land being taken to the Native Land Court for title investigation. During the 1870s, 1880s and 1890s Ngāti Awa made claims to lands south of the confiscation line. Their claims to Ruatoki and Kaingaroa blocks were not upheld by the Court. The Native Land Court awarded Ngāti Awa hapū interests in the Pokohu, Putauaki, Matahina, Waiohau and Tuararangaia blocks over this period. In most cases the Court also awarded parts of these land blocks, regarded by Ngāti Awa as theirs, to other iwi. The Crown later ordered re-hearings into some of the blocks by way of legislation. As a result, Ngāti Awa lost some of the land they had originally been awarded at Pokohu and Matahina.
- HH. The Court awarded Ngāti Awa approximately 79,000 acres in the Matahina block after a title investigation hearing in 1881. A rehearing was held in 1884 and Ngāti Awa were awarded a reduced area of approximately 74,300 acres. An area of 8,500 acres of this was immediately taken by the Crown in payment of a survey lien. Native Land Court awards were made in the names of individuals and while Ngāti Awa managed to retain most of the land awarded to them for some time, the process of individualising and partitioning of interests accelerated in the twentieth century. This resulted in substantial fragmentation and as a consequence many private sales occurred throughout the late nineteenth and early twentieth centuries. By 1980 Ngāti Awa’s interests in the Matahina block had been reduced to 240 acres in Matahina A1D1. Ngāti Awa consider the loss of this block a significant grievance, which is encapsulated in the waiata *Tangi mo Matahina*.
- II. Putauaki is the tipuna maunga of all Ngāti Awa. Putauaki was bisected by the confiscation boundary and consequently, the northern portion of the maunga was awarded to Te Pahipoto and Nga Maihi by the Compensation Court in 1867. The southern portion of the maunga was within the Putauaki block. An agreement for the sale of the block, subject to conditions, was arranged between Crown

purchase agents and some Ngāti Awa in 1879 but title to the block was not investigated by the Native Land Court until 1881. The Court awarded the block to Ngāti Awa and the iwi requested the land be made inalienable. Ten days later, however, on a request from two Ngāti Awa chiefs, Rangitukehu and Penetito, the Court divided the block into three parts. The largest block was vested in 15 individuals and immediately sold to the Crown. Within days, 27 Ngāti Awa men, women and children petitioned the Native Minister protesting the alienation of the block. Those involved in the sale later requested that the Crown return this and other blocks in exchange for a refund of the purchase money but the Crown did not agree. The remainder of the block, which included the maunga, was awarded to various individuals of Ngāti Awa and other iwi and ceased to be a tribal asset as a consequence of this process of individualisation. Ngāti Awa consider the alienation of Putauaki through various processes in the nineteenth and twentieth centuries to be a significant grievance.

JJ. Ngāti Awa also lost land through acquisitions under public works legislation in the twentieth century, including blocks in the Rangitaiki, Poroporo-Rewatu, Matahina, Whakatāne, and Matata areas. There were urupa, other waahi tapu and papakainga on some of the lands taken.

KK. Ngāti Awa have sought justice for the wrongs inflicted on the iwi by the Crown since 1867. Numerous petitions were sent to the Crown relating to the confiscations, imprisonments, and the loss of land over many generations. Ngāti Awa's case was heard before the Sim Commission in 1927 but the Commission did not find in favour of the general Ngāti Awa claim. The Commission did, however, find that Ngai Te Rangihouhiri II and Ngāti Hikakino had only been granted a small area of land. This was later depleted by a taking under public works legislation and as a result these hapū were left with poor quality land which was insufficient to support them. The Commission recommended the award of some land at Matata, but this never eventuated.

LL. As a result of the recommendations of the Sim Commission other iwi had annuities paid to them by the Crown, and Trust Boards were established for some raupatu iwi, but not for Ngāti Awa.

3.2 ACKNOWLEDGEMENTS BY THE CROWN

A. The Crown acknowledges that Ngāti Awa have sought redress since 1867, that despite previous efforts made in the twentieth century it has failed to deal with the grievances of Ngāti Awa in an appropriate way and that recognition of these grievances is long overdue. The Crown hereby recognises the legitimacy of the Ngāti Awa historical claims and makes the following acknowledgements.

B. The Crown acknowledges:

- (a) that Ngāti Awa suffered loss of life and destruction of property during the Crown's expedition to arrest those involved in the murders of Fulloon and others;
- (b) the sense of grievance suffered by Ngāti Awa in relation to the arrests, trials, imprisonment and execution of leaders of Ngāti Awa hapū;
- (c) that the remains of the Ngāti Awa men who died in prison were interred without ceremony within the prison walls and were not returned to their whānau until 1988;
- (d) the destructive effect of these events on the social structure, mana, and rangatiratanga of the hapū involved who were rendered both landless and leaderless.

C. The Crown acknowledges that:

- (a) Ngāti Awa as an iwi were not in rebellion and were unfairly labelled as "rebels" and "tangata hara";
- (b) Ngāti Awa were deprived of tribal land and resources within the confiscation area and were unable to exercise rangatiratanga over them;
- (c) the confiscation of Ngāti Awa tribal land had a devastating effect on the welfare, economy and development of Ngāti Awa and deprived the iwi of its many waahi tapu, access to its natural resources and opportunities for development;
- (d) its confiscation of Ngāti Awa land was unjust, unconscionable and a breach of the Treaty of Waitangi and its principles, and was described by Ngāti Awa as "he mahi pokanoa – an act without reason".

D. The Crown acknowledges that:

- (a) the prejudice created by the confiscation was compounded by inadequacies in the Compensation Court;
- (b) the Compensation Court awarded land to individuals rather than iwi or hapū which was not consistent with customary tenure. This system was imposed on Ngāti Awa and their views were not sought;

- (c) in many cases the Compensation Court validated prior arrangements made by a Crown official regarding the distribution of land in this area;
- (d) the confiscations were indiscriminate because of the Court's failure to return land in full to those considered to be loyal;
- (e) the compensation process relocated Ngāti Awa hapū from land they had traditionally occupied and cultivated, to those that belonged to other Ngāti Awa hapū which further exacerbated traditional tensions between those hapū;
- (f) Ngāti Awa land, including waahi tapu, was awarded to other iwi who then frequently alienated those lands soon after award;
- (g) these actions eroded the traditional social structures, mana, and rangatiratanga of Ngāti Awa. The Crown failed to adequately protect Ngāti Awa from the impact of these actions and this was a breach of the Treaty of Waitangi and its principles.

E. The Crown acknowledges that:

- (a) following the vesting of title under native land laws, Ngāti Awa land holdings, comprising land returned after the confiscation and land outside the confiscation boundaries, were further reduced by:
 - (i) The taking of land for payment of survey liens;
 - (ii) Crown purchases and other sales;
- (b) the operation and impact of the native land laws, in particular the awarding of land to individual Ngāti Awa rather than to iwi or hapū, made those lands more susceptible to partition, fragmentation and alienation. This contributed to the further erosion of the traditional tribal structures of Ngāti Awa which were based on collective tribal and hapū custodianship of land. The Crown failed to take steps to adequately protect those structures. This had a prejudicial effect on Ngāti Awa and was a breach of the Treaty of Waitangi and its principles.

F. The Crown acknowledges that:

- (a) land was also acquired from Ngāti Awa under public works legislation which allowed for the compulsory taking of land if agreement could not be reached.

- G. The Crown acknowledges that:
- (a) the cumulative effect of the Crown's actions and omissions, particularly its failure to actively protect Ngāti Awa interests in the land Ngāti Awa wished to retain, left Ngāti Awa virtually landless. The Crown's failure to ensure that Ngāti Awa were left with sufficient land for their present and future needs was a breach of the Treaty of Waitangi and its principles.
- H. The Crown acknowledges that:
- (a) the ancestral lands and resources alienated from Ngāti Awa have made a significant contribution to the wealth and development of the nation, whilst Ngāti Awa has been alienated from and deprived of the benefits of those lands and resources. This loss of control over land has prejudiced Ngāti Awa and hindered its economic, social and cultural development. It has also impeded the ability of Ngāti Awa to exercise control over its taonga and waahi tapu and maintain and foster spiritual connections with those ancestral lands;
 - (b) the Crown also acknowledges and pays tribute to the contribution that Ngāti Awa has made to the defence of the nation in New Zealand's war efforts overseas;
 - (c) the suffering and hardship resulting from the Crown's actions is described by Ngāti Awa in the following waiata:

Here I live as an orphan.
An orphan upon the land,
An orphan among the people.
At night I weep helplessly,
For where is hospitality to be given?

3.3 APOLOGY BY THE CROWN

The Crown apologises formally to Ngāti Awa as follows:

- A. The Crown recognises the efforts and struggles of the ancestors of Ngāti Awa in pursuit of their claims for redress, justice and compensation against the Crown for over 130 years, and hereby makes this apology to them, their descendants and nga uri o nga hapū o Ngāti Awa whanui.

- B. The Crown profoundly regrets and apologises unreservedly for the breaches of the Treaty of Waitangi and its principles acknowledged above.
- C. The Crown profoundly regrets and unreservedly apologises for the confiscation of Ngāti Awa lands which was unconscionable.
- D. The Crown profoundly regrets and unreservedly apologises for the cumulative effect of its actions over the generations which has left Ngāti Awa virtually landless, and which has undermined the social and traditional structures and autonomy of Ngāti Awa hapū.
- E. The Crown regrets that Ngāti Awa as an iwi have borne the century old stigma of being labelled “rebels” and “tangata hara” and that this has damaged the self-esteem of the people.
- F. The Crown profoundly regrets and unreservedly apologises for the destructive impact and demoralising effects of its actions which have caused significant damage to the welfare, economy and development of Ngāti Awa as an iwi.
- G. The Crown profoundly regrets its failure to acknowledge the mana and rangatiratanga of Ngāti Awa.
- H. Accordingly, with this apology, the Crown seeks to atone for these wrongs and begin the process of healing and looks forward to building a relationship of mutual trust and co-operation with Ngāti Awa.

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