

BEFORE THE WAITANGI TRIBUNAL  
TE ROOPU WHAKAMANA I TE  
TIRITI O WAITANGI

**Wai686#W8**  
**Wai349#A18**  
**Wai720#A8**  
**Wai778#A18**

**IN THE MATTER** of the Treaty of Waitangi Act 1975

**AND**

**IN THE MATTER** of the Hauraki Inquiry  
District

**AND**

**IN THE MATTER** of a claim by Te Wiremu Mataia Nicholls, Tamatehura Mataia Nicholls, Wharenui Piahana and Te Runanga o Ngati Tamatera for and on behalf of themselves and all the descendants, whanau and hapu and the constituent whanau and hapu of the NGATI TAMATERA of the MARUTUAHU TRIBAL CONFEDERATION

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**BRIEF OF EVIDENCE OF OHOMAURI MATAIA NICHOLLS  
DATED 29 JULY 2002**

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Rangitauira & Co  
Barristers and Solicitors  
PO Box 1693  
DX JP30025  
ROTORUA  
Ph: 07 348 0034 Fax: 07 3452933  
e-mail:rangitauira.office@clear.net.nz

Counsel Acting: John David Rangitauira and Haimona Hemi Te Nahu

1. My name is **OHOMAURI MATAIA NICHOLLS**, and I live at Koputauaki Bay. eight miles north of the Coromandel township.
2. I am a great-grandson of Rihitoto Mataia a Ngati Tamatera and Ngati Maru chieftainess in the Hauraki region. Rihitoto accepted that she was under an obligation to the Hauraki iwi to protect and provide for them and to act as their advocate. The Crown disempowered her by taking away her chiefly authority mainly through the operations of the Native Land Courts. Rihitoto lost land throughout Hauraki but mainly at Ohinemuri, Moehau, Waikawau and other lands.
3. This obligation she carried passed down to her grandson, my father William Tawhia Nicholls, who was also prevented from carrying out his obligation to his people. He particularly fought against the loss of Ngati Tamatera lands at Ohinemuri that were taken for Goldmining purposes. My whanau and I have taken up the responsibility for this obligation and as a result we are asking the Tribunal to help us complete this.
4. I am a retired farmer, and I manage the W.T. and V.T. Nicholls' estate properties at Papaaroha which are about 1200 acres or 480 hectares. Also the island properties belonging to Ngati Tamatera off the western coast of the Coromandel, and other properties where there are Maori land interests. I am a trustee and administrator in seven family estates, so I am familiar with land issues.
5. I am speaking in support of the WAI 686. and the consolidated Wai 349, the WAI 720, and the WAI 778 claims.
6. I have been concerned and involved with both Government and Maori politics since returning to the family property at Koputauaki in March 1978. This has been my main base for administration and kaitiaki-ship responsibilities for the family honour.
7. There have been numerous disputes for us as Maori land owners with local government, which is nowadays the Thames Coromandel District Council

and also with the Waikato Regional Council and with SOE's, and also with Central and various Regional governments in which our lands are situated. Since I returned to the land in 1978, I realised that these bodies do not recognise or identify us for who we are as tangata whenua, and until this is recognised our success and survival as Maori on this planet earth is under threat.

8. Because of this we have been denied our freedoms and our human rights have been challenged and eroded and in many cases destroyed altogether.

### **The Public Works Acts**

9. It is my belief that the Government in the early days was obliged to provide services for the advantage of both Maori and the Colonial settlers. Roads, proposed roads, railways, and telegraph lines came later. This could have been carried out in a manner which was good for everyone
10. However, the government used the Public Works Acts to our disadvantage in many cases. In Wai 100 the evidence of Anderson refers to Ngati Tamatera forebears resisting the roadworks as exemplified by Tukukino opposing the Tauranga-Thames road. And again Tukukino and Hoera Tareranui took exception to roads for Pakeha only and then being run through Maori cultivations and around Pakeha land.
11. For instance, up to a certain date there was a promise by the government to purchase Maori lands for Public Works, and compensation was supposed to be paid to Maori owners (see Anderson re: Komata). However, these were often merely promissory, and were frequently not paid. Lands were taken for access purposes. Also endowment roads were taken by government to provide asset security and equity and collateral for development, for example for hospitals, council buildings and housing developments.
12. Once the control and authority had been taken through the Courts, the Crown began to take control and often chose Maori lands in preference to disturbing European farmers (see Anderson re: Te pure O Te Rangi). Telephone and power lines worked on the same principle, and came later.

13. Surplus lands taken for roads were declared "road reserves" and should have been returned back to the owners but were sold off instead. This was a form of sub-division that deprived Maori owners. This is still happening today. The Crown released gave authority to local government, who sold anything off which was declared 'surplus' to its needs. In Koputauaki there are that are closed affecting Papaaroha 6A without returning those closed roads
14. Partition and subdivision of Maori land removed more and more control from Maori hands, as titles became fragmented and were split amongst individuals. The purchase of these lands became easier for the Crown under the Act, another form of alienation. As a result the various Crown agencies became the landlords able to dictate their terms without redress for Maori owners.
15. When lands were alienated for roads etc. those who agreed to sell were identified on the compulsory alienation under the Act, but those who did not agree to sell were not identified by name, and often knowledge of who they were became lost over time. There was a percentage of those who sold who were paid often in a promissory consideration with "intentions to take land" Refer to Ngaringi Fry's evidence where her Father lost his lands.
16. The Public Works Act 1981 allowed mandatory provisions for offering the land back to the successors of the original owners, which was an attempt to rectify the flaws of the earlier system, as it affected Maori. However this has been a case of "too little too late." Too much damage has been done, and too much land has been lost. The Crown attempted to indemnify itself, without accepting any responsibility or blame for the injustices to us under these Acts. The new Act was an improvement, but because of the many years under the earlier system, there is little hope of receiving any redress or compensation for these past Crown actions. Maori are being eliminated by this action from any claims for redress, any loopholes are being closed.
17. Earlier, it was prohibitive in most cases for Maori to challenge any of these decisions which involved their lands. Legal and Court were too costly, so many grievances are spoken of within the families, and are remembered, but there has been no practical way for ordinary Maori to challenge what has taken place, or to seek or obtain a fair hearing towards redress.



18. This activity is still continuing today and the compulsory acquisition of land is allowing overseas investors to exploit the original resources at the expense of the Maori land owners.
19. Many of the roads taken for public transportation are still in Maori title, and have not been legally purchased by the Crown. Many of the roads around the Coromandel Peninsula, including the Thames Coast road from the top of the Kereta blocks to Thames.

### **Railways**

20. The purposes for which lands were taken under the Public Works Acts for the railways, were similar to that for the roading; to provide for the transportation of passengers and freight. Once again this should have been for everyone's advantage, a communication and access service for the public and for development and eventually for industry.
21. But once again, our people were seriously disadvantaged by the methods by which the lands were acquired by the Crown. The lands required for the railways were partitioned out. Compensation was paid for some land, but there were many owners and their successors who have never been compensated, because they have been denied the right to complete successions to the forebears. There has been additional confusion over the fact that some of the Railways land is now under European title while some remained under Maori title, and is now almost impossible to research.
22. My great-grandfather was compensated in the early 1900's for his land taken for the railways, and I was able to re-purchase this in 1978. Others have not been so fortunate, and in this is a grievance for our people. Another issue is the privatisation of Railway lands, which have become owned by overseas interests.

### **Local Authorities**

23. Today the local authorities are in total control, and the Crown passed a review which permits them to continue on and administer the status quo. The Crown recognises the Treaty of Waitangi to some extent, but Local and Regional government do not, and with this denial of our status and rights, they frequently act as if they are the tangata whenua themselves.

**Road dispute between the Thames Coromandel District Council and the W.T. Nicholls Estate.**

24. May I be permitted to discuss a personal grievance dispute which has remained unresolved for eighteen years.
25. The entire road coming into Koputauaki has never been dedicated, as it actually passes through a waahi tapu and an area of old cultivations. The area was surrounded by traditional papakainga and other waahi tapu areas.
26. There had been a roadside boundary fence which had fallen into disrepair, and it had been covered over by bulldozed material cleared from slips on the corner by the Council workmen. These workmen also used the area as a handy unofficial dump for road metal which they kept expanding towards the beach high water mark, and which blocked access to the beach.
27. I erected a fence in the early 1980s on our own and. It was therefore not a boundary fence. This was to prevent stock from wandering onto the main road and also to prevent the public from driving their motorbikes and cars along the beach and onto the pipi beds. I wanted to restore some order and sanity.
28. Recreational fishermen as well as the Council objected to the fence, despite the fact that I had erected an unlocked gate and a stile for the convenience of the public.
29. The TCDC removed the fence and gates and took me to Court for erecting it. as "I had no written authority' from them. The judge's decision was for the TCDC to take the matter to the High Court, which they have not done. For my part I was to carry out certain conditions, which I did. The documentation does not favour the TCDC and the Court would in all probability have found in my favour. Meanwhile. I have been left seriously out of pocket for legal costs and materials which the TCDC removed from the site. I consider I have been harassed by the Council which was attempting to bully me with no legal right to do so.





30. in Summary. The Thames Hauraki District Council are a law unto themselves, and have not been called to account to our whanau as kaitiaki of these areas. This land has been passed down from our ancestors, and we have a responsibility to ensure respect for our special places, and the responsibility to protect the safety of anyone coming onto this type of land. The Treaty promised that the Crown in the form of the government and its agencies would protect our way of life, and respect our values. In this instance, and in many other instances, this has not happened.
31. We ask the Waitangi Tribunal to make recommendations to bring these agencies of the Crown to accountability in their policies and practices, so that my actions are vindicated as justified and fair.
32. We also ask that the Waitangi Tribunal make recommendations so that this type of action cannot occur again for our people in similar circumstances.

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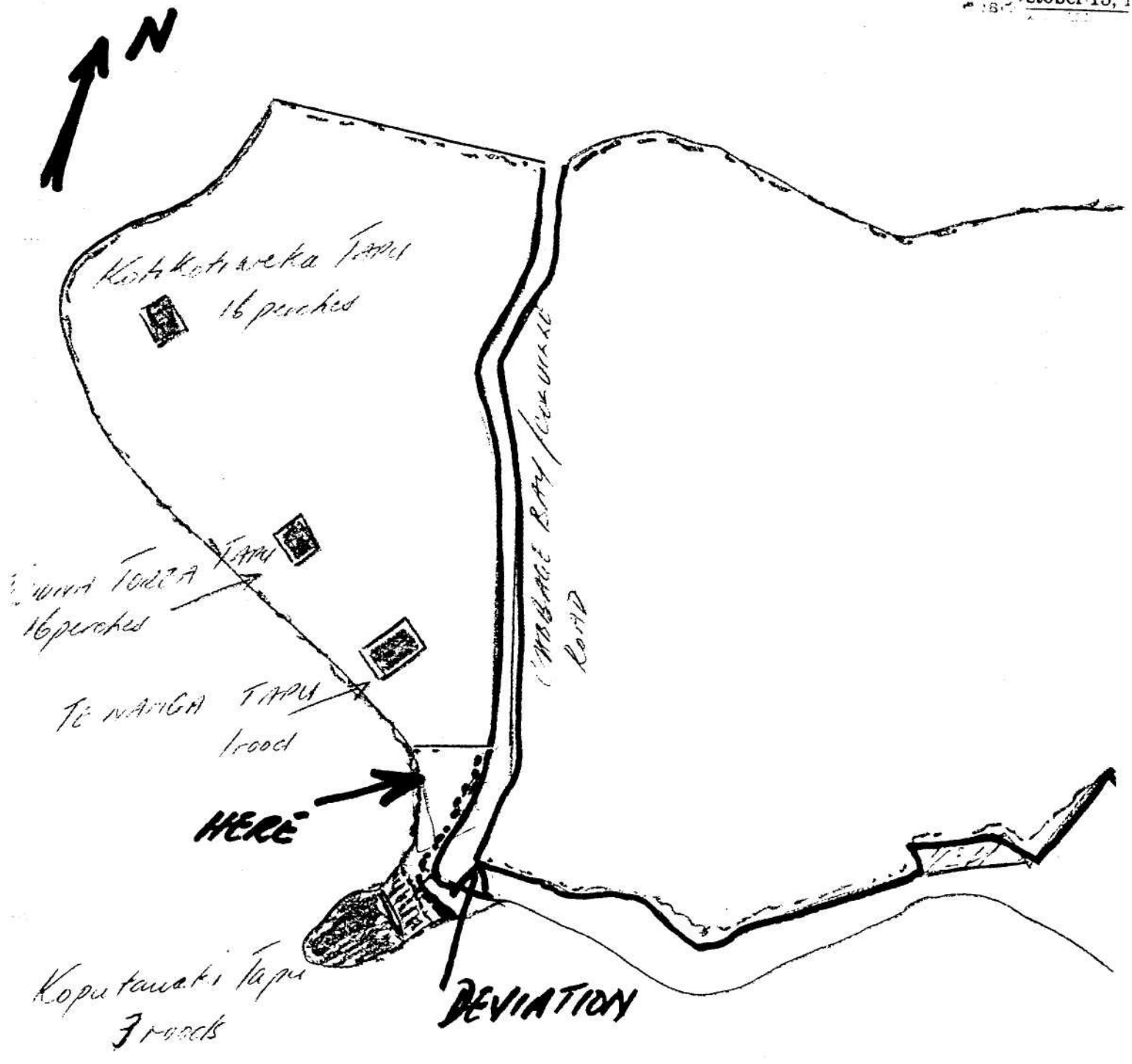
**OHOMAURI MATAI NICHOLLS**


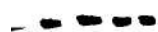


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**DATE**

NOT TO SCALE

October 15, 1



-  **POUNDS**
-  **Recently erected fence line**
-  **Boundaries Para-Aroha S.D. 2 (91 miles)**
-  **original boundary / original boundary formed by**  
to 2551 to 2/10/18