



EXECUTIVE COUNCIL CHAMBERS

4 November 2020

Reference: OIA-2020/21-0185

Dear [REDACTED]

Request relating to 1868/1869 East Coast campaign

Thank you for your email correspondence, received on 14 October 2020. You requested:

"Official Information Request: clarification of Government stance during the 1868/1869 East coast campaign. Please Supply the following information under the Official Information Act

- 1) *Does the crown stand by the actions of its predecessor during the assault of Makeretu, and Ngatapa in 1868/1869?*
- 2) *Did the crown or its agents issue orders, or give consent or tacit consent for the summary execution of prisoners without trial or appeal in contravention of Magna Carta and English common law?*
- 3) *Does the Government stand by or condemn the actions of former legislative council member Rapata Wahawaha? (Also known as Ropata Wahawaha, and Rangi-wahawaha-aruhe-ki-Te-Puia-ki-te-Reinga-a-Tamateahiwera-o-Ngarangikakautu-ma-te-poaka.)*
- 4) *Why was Rapata Wahawaha awarded the NZ cross for crimes against humanity?*
- 5) *Why has Rapata Wahawaha not been disgraced posthumously including the loss of his New Zealand Cross?"*

On 28 October 2020, my colleague, Clare Ward, wrote to you advising that Parts (1), (2), and (3) of your request as numbered above had been referred to Te Arawhiti – the Office for Māori Crown Relations as correspondence.

As Clerk of the Executive Council, I am responding to Parts (4) and (5) of your request that ask for information about the awarding of the New Zealand Cross to Major Rapata Wahawaha.

In response to Part 4 of your request, the details of the award of the New Zealand Cross (NZC) to Major Rapata Wahawaha on 11 May 1876 are set out in the official citation in the Roll of the NZC. The original roll is held in the Alexander Turnbull Library. The citation was also notified in the *New Zealand Gazette* on 11 May 1876. At the time, the NZC was awarded by the Governor, Marquess of Normanby (Sir George Phipps), in the Executive Council on the advice of Ministers.

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The Cabinet Office does not hold information relating to the award of the NZC to Major Rapata Wahawaha. I therefore decline your request for this information under section 18 (g) where the information requested is not held by the Department of the Prime Minister and Cabinet and I have no grounds for believing that the information is held by another department. However, I recommend contacting the Alexander Turnbull Library for information held about the award to Major Rapata Wahawaha on the Roll of the NZC: <https://natlib.govt.nz/collections/a-z/alexander-turnbull-library-collections>

In response to Part 5 of your request, clause 7 of the instituting Order in Council, 10 March 1869, provides for the decoration to be forfeited for certain offences. A copy of the Order is **enclosed**. There is no known situation where consideration was ever given to the forfeiture of an NZC. The forfeiture of an award so long after the associated events, and when key personnel involved are no longer living including Major Rapata Wahawaha, is highly unlikely. The government closed nominations for the NZC in 1897, and the award is now regarded as obsolete. Therefore, it is unlikely that present-day Governors-General have any authority in relation to this NZC.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Yours sincerely



Michael Webster
Clerk of the Executive Council

G. F. BOWEN, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this
tenth day of March, 1869.

Present:

HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

WHEREAS it is expedient that regulations should be made for conferring a Decorative Distinction on members of the Militia, Volunteers, and Armed Constabulary, who may particularly distinguish themselves by their bravery:

Now, therefore, His Excellency the Governor, with the advice of the Executive Council of New Zealand, and in exercise of all powers and authorities enabling him in this behalf, doth by this present Order institute a Decorative Distinction, to be conferred on members of the Militia, Volunteers, or Armed Constabulary, who may particularly distinguish themselves by their bravery in action, or devotion to their duty while on service:

And doth, with the like advice and consent, make and ordain the following regulations under which such Distinction shall be conferred:—

Firstly. The decoration shall consist of a Silver Cross, with the name of the colony and the name of the recipient engraved thereon.

Secondly. It shall be suspended from the left breast by a crimson riband.

Thirdly. Any person upon whom the Distinction has been conferred, who shall afterwards perform any act of bravery which would, had he not been already decorated, have entitled him to the honour, may receive for every such act a silver bar, to be attached to the riband by which the Cross is suspended.

Fourthly. The Distinction shall only be conferred upon those officers or men who, when serving in the presence of the enemy, shall have performed some signal act of valour or devotion to their duty, or who shall have performed any very intrepid action in the public service, and neither rank, nor long service, nor wounds, nor any other circumstance or condition whatever, save merit of conspicuous bravery, shall be held to establish a sufficient claim to the honour.

Fifthly. The Distinction shall be awarded by the Governor only. It shall not be claimed by any individual on his own account, but the claim must be made in favour of the person considered to be entitled to it by the Commanding Officer of the Force or District to which such person belonged, and the Governor shall call for such description and attestation of the act as he may think requisite.

Sixthly. Every person upon whom this Distinction is conferred shall be publicly decorated before the force or body to which he belongs, or with which the act of bravery for which he is to be rewarded shall have been performed; and a roll shall be kept in which shall be inscribed the names of the recipients, with a brief description of the special act for which the Distinction has in each case been awarded; and every inscription on the roll shall be published in the Government *Gazette*.

Seventhly. If any person on whom such Distinction shall have been conferred be convicted of treason, felony, cowardice, or of any infamous or disgraceful offence his name shall forthwith be erased from the roll.

Eighthly. Constables and privates decorated with this Distinction will take command of other constables or privates on duty, when no officer or non-commissioned officer is present.

FORSTER GORING,
Clerk of the Executive Council.