

IN THE WAITANGI TRIBUNAL  
OF NEW ZEALAND

WAI 2180

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of the Taihape Rangitīkei ki Rangipō District Inquiry (Wai 2180)

AND

IN THE MATTER of a claim by Turoa Karatea and Anthony Nopera Karatea for and on behalf of themselves and the hapū of Ngāti Waewae, Ngāti Pīkiahū, Ngāti Matakore and Ngāti Rangatahi – being Ngā Iwi o Te Reureu (Wai 651)



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**CLOSING SUBMISSIONS ON BEHALF OF NGĀ IWI O TE REUREU (WAI 651)**

**Dated 28 October 2020**

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*“Since the late 1840s, we have been kaitiaki of the Rangitīkei River. We share this responsibility with our whanaunga all along the River – it is a shared role and one we all take very seriously.”<sup>1</sup>*

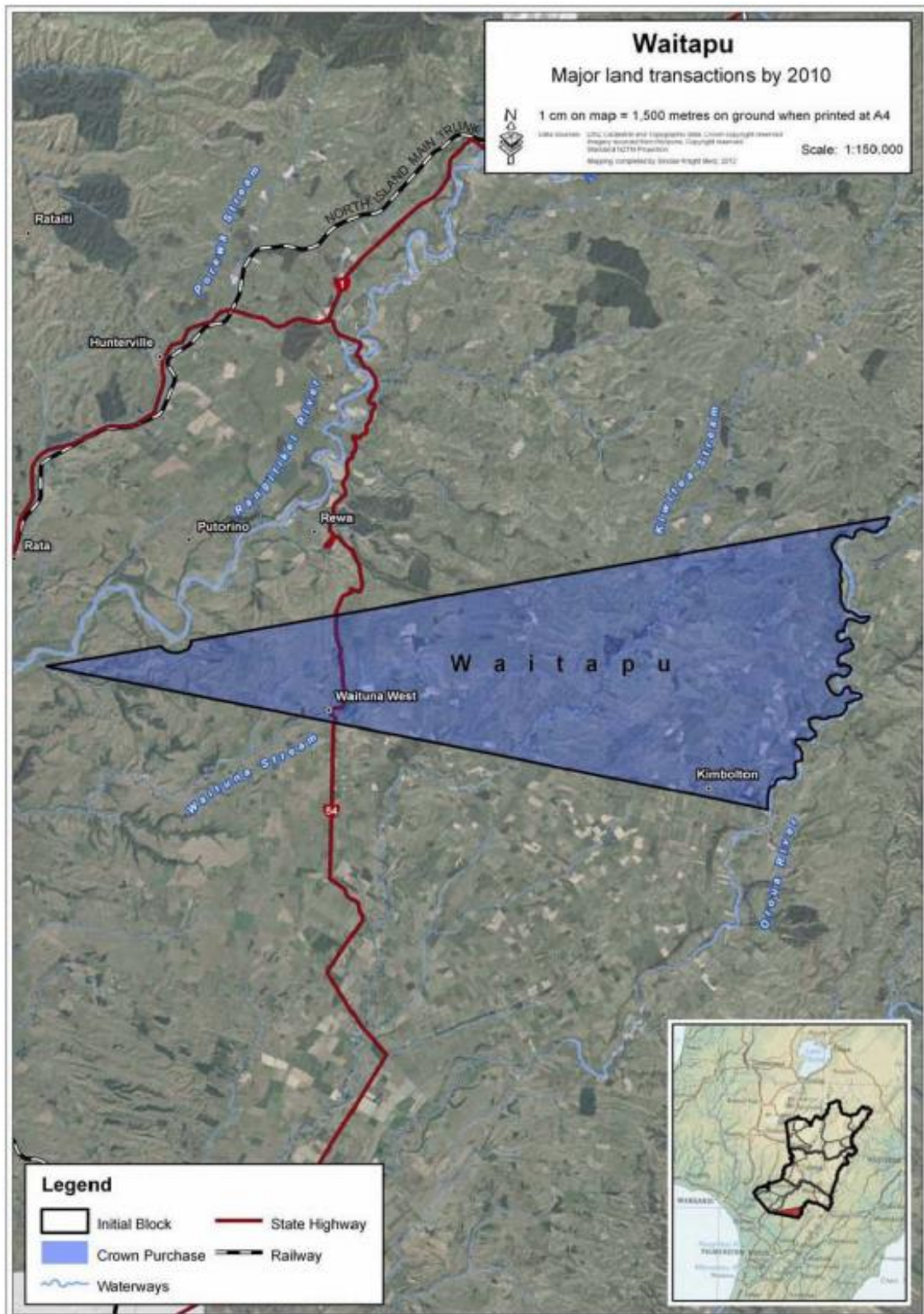
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<sup>1</sup> Statement of evidence of Turoa Karatea on behalf of Wai 651 dated, 17 May 2017, (Wai 2180, #F7) at p 5

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Map 1: Waitapu Block and the Rangitikei River<sup>2</sup>



## **MAY IT PLEASE THE TRIBUNAL**

### **1.0 INTRODUCTION**

- 1.1 These closing submissions are prepared for Turoa Karatea and Anthony Karatea on behalf of themselves and Ngā Iwi o Te Reureu
- 1.2 These closing submissions address the following issues:
- (b) The Rangitīkei River and its tributaries; and
  - (a) The Waitapu Block.
- 1.3 In particular, this claim adds to the chorus of claims by other tangata whenua who have lost land and resources in this Inquiry District and provides a specific overview of the results of those takings and the impact on their awa and waterways at a whānau and hapū level.
- 1.4 Finally, the relief/recommendations sought on behalf of the claimants will be discussed.
- 1.5 Given the nature of the closing submissions process for this inquiry, it has not been necessary to make detailed submissions on all issues, as these are covered adequately by the generic submissions. These claimant closing submissions, however, attempt to illuminate specific issues relevant to this claim. We adopt the Generic Closing submissions in so far as they relate to the Wai 651 claim.
- 1.6 In particular, the following Generic Closing Submissions are relevant to this claim:
- (a) Crown Purchasing;
  - (b) Environmental Issues; and
  - (c) Waterways, lakes and aquifers and non-commercial fisheries.

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<sup>2</sup> Hearn, TJ *The Sub-district Block Study – Southern Aspect* (Wai 2180, #A7) 1 November 2012, at p 244.

## 2.0 RANGITĪKEI RIVER AND ITS TRIBUTARIES

### Introduction

2.1 The purpose of filing this claim is to address the grievances suffered by Ngā Iwi o Te Reureu and their tūpuna, at the hands of the Crown. The claimants submit that the Crown has failed to recognise the importance of the Rangitikei awa and its tributaries to Ngā Iwi o Te Reureu. In doing so it has failed to uphold and acknowledge the mana and tino rangatiratanga that Ngā Iwi o Te Reureu has within this area and over the Rangitīkei River.

2.2 This issue relates to issue E of the Tribunal Statement of Issues which asks:<sup>3</sup>

*6. In what ways has the Crown sought to exercise its authority over the management of waterways, lakes and aquifers in the Taihape inquiry district since 1840, including the creation of local authorities and the delegation of powers and functions to such bodies?*

*7. In what ways has the Crown sought to exercise its authority over the management of waterways, lakes and aquifers in the Taihape inquiry district since 1840, including the creation of local authorities and the delegation of powers and functions to such bodies?*

...

*9. In what ways have the policies and processes of the Crown and local authorities contributed to physical changes of the waterways, lakes and aquifers of the Taihape inquiry district, including environmental degradation? For example:*

*b. Flood protection works;*

*c. Bridges;*

*d. Gravel Extraction;*

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<sup>3</sup> Wai 2180, #1.4.3 *Tribunal Statement of Issues*, 9 December 2016 at 47.

## **Management and Control of the Rangitīkei River and its tributaries**

2.3 A detailed explanation of the significance of the Rangitīkei River is set out in:

- (a) David Alexander #A38 and #A40 Reports;
- (b) Robert Joseph and Paul Meredith #A44 Report;
- (c) The Wai 651 Amended Statement of Claim;
- (d) Generic Closing Submissions on Environmental/Waterways Issues; and
- (e) Statement of Evidence of Turoa Karatea.

2.4 The claimants say that as kaitiaki of the Rangitīkei River they seek to have their rights and interests acknowledged and recognised to actively protect, engage and participate in the management of the Rangitīkei River and its tributaries.<sup>4</sup>

### **Relevant Crown Duties**

2.5 The claimants submit that the Crown has failed in its duty to:

- (a) Actively protect the claimants, their lands and taonga to the fullest extent possible;
- (b) Act reasonably and with utmost good faith towards the claimants; and
- (c) Ensure that policy and legislation is sufficient to allow Māori the ability to actively manage and make decisions relating to their lands and taonga.

### **Breach**

2.6 As above, we adopt the Generic Closing Submissions on Environmental Issues and Generic Submissions on Waterways, lakes and aquifers and non-commercial fisheries Issues which note:<sup>5</sup>

- (a) The claimants referred to "taonga in the environment" which they said included "natural resources; indigenous flora and fauna and the ecosystems

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<sup>4</sup> Amended Statement of Claim dated 22 August 2016, (Wai 2180, #1.2.12) at [21] – [22].

<sup>5</sup> Wai 2180, #3.3.56 *Generic Closing Submissions on Environmental Issues* (14 Oct 2020) and Wai 2180, #3.3.58 *Generic Closing Submissions re waterways, lakes and aquifers and non-commercial fisheries* (20 Oct 2020).

and habitats that support them; geographic features such as rivers, lakes, maunga, and swamps; and sites such as pā and wāhi tapu;<sup>6</sup>

- (b) There is sufficient evidence for a finding that rongoā was severely affected by deforestation, simply by considering the evidence before the Native Land Court produced in the 1870s and 1880s about customary uses, and then considering the title conversion, alienation and extent of deforestation that occurred outside of the control of Taihape Māori and outside of Crown duties guaranteeing rangatiratanga over land and taonga;<sup>7</sup> and
- (c) In relation to the concept of *ad medium filium aquae*, consequently, there is evidence that Taihape Māori conceptualised the river as a tupuna in a very different way from English law notions, and that the idea of a conceptual halfway line was alien to their conceptions.<sup>8</sup>

2.7 The evidence from Dr Joseph and Mr Meredith's report on the Rangitīkei River also indicates that:

- (a) Many Māori refer to the use of water and of water bodies in rituals that were and are central to their spiritual life... Intrinsic to many Māori customary rituals was the use of particular awa for karakia, for the sick, for protection, and for healing. Some informants explained that rivers and other waterways had many wāhi tapu including burial sites on their banks or in the waters. Special sites were used for Rongoā (healing) or to prepare the dead for burial. As a result, some places were tapu and were never used for drinking water, swimming, or for gathering food. On the other hand, other places are noa and are safe to swim, drink or take kai.<sup>9</sup>
- (b) Iwi and hapū along the Rangitīkei River continue to practice Rongoā Māori – spiritual rituals that are central to the spiritual life of the iwi and hapū. Rongoā Māori or traditional Māori medicine was a system of healing that comprised diverse practices with an emphasis on the spiritual dimension of

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<sup>6</sup> Wai 2180, #3.3.56 *Generic Closing Submissions on Environmental Issues* at p 12.

<sup>7</sup> Wai 2180, #3.3.56 *Generic Closing Submissions on Environmental Issues* at p 42.

<sup>8</sup> Wai 2180, #3.3.58 *Generic Closing Submissions re waterways, lakes and aquifers and non-commercial fisheries* at 9.

<sup>9</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 139.



health. Rongoā includes spiritual healing through karakia and rituals in rivers and streams, herbal remedies and physical therapies. Tohunga ahurewa were often responsible for rongoā, especially its spiritual aspects. Many of the informants discussed how the waterways were important for rituals that are central to the spiritual life of the iwi and hapū.<sup>10</sup>

- (c) The Rangitīkei River and other waterways were the main mode of transport between settlements. A Ngāti Pīkiahū/Ngāti Waewae informant noted that in times of old, the Rangitīkei and Moawhango Rivers were a type of “aqua highway” that connected them and their Ngāti Tūwharetoa relations to the north.<sup>11</sup>

2.8 As well as this, the following points arose from questioning by Counsel and the Tribunal of Dr Joseph and Mr Meredith:

- (a) A Māori legal system based on tikanga Māori applied to the river. A “traditional body of rules and values developed by Māori to govern themselves personally and collectively. People were taught from a young age what was tika (right, correct, proper, honest, just, culturally correct, or upright). This included values of Whānaungatanga, Wairuatanga, Mana, Tapu, Noa, Utu, Rangatiratanga, Manaakitanga, Aroha, Kaitiakitanga.<sup>12</sup>

2.9 Under cross-examination, David Alexander also pointed out a significant event to the Te Reureu claimants, referring to the the 1897 flood wherein:

- (a) The 1897 flood is supremely important in my opinion because it changed the character of the river and as such, the river was not then able to be navigable by water craft or by waka. Even before then the use of the river had declined so far as waka is concerned because alternatives had become available and those alternatives were of course the railway which was progressively being extended up the Rangitīkei Valley and the roads which likewise were being extended.<sup>13</sup>

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<sup>10</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 139.

<sup>11</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 78.

<sup>12</sup> Wai 2180, #4.1.9, Hearing Week 2 transcript at 107-108.

<sup>13</sup> Wai 2180, #4.1.9, Hearing Week 2 transcript at 215.

- (b) A large number of waka in effect were left stranded on various stretches of the river. They were still used to ferry across the river and we have got photos ... which shows the waka at Onepuehu where the bridge had collapsed. The bridge which people had relied on to cross the river was no longer possible. They used waka instead to go across the river.<sup>14</sup>

2.10 Further to this, the claimants gave evidence that:

- (a) Their key concerns in relation to the Rangitīkei River and its tributaries are about how the Crown has failed to recognise their relationship with the River, how they understand it in a holistic way and how they exercise mana and rangatiratanga over the Rangitīkei River;<sup>15</sup>
- (b) Various decisions by government and local bodies have changed the course of the River itself. This has had a number of cumulative effects including the loss of large tracts of land from Ngā Iwi o Te Reureu;<sup>16</sup> and
- (c) Farming practices, gravel extraction, and sewage disposal have all negatively impacted on the mauri of the River and the surrounding land.<sup>17</sup>

2.11 Importantly, the claimants also stated that flooding and erosion is also another significant issue. With the deforestation from farming in the upper reaches of the Rangitīkei, the flooding of the River is more frequent and more violent. The forests that once controlled excess water now do not exist leading to torrents of water cascading down into the River without impediment. The claimants say that the Crown and local bodies have not bothered to talk to them about caring for the River.<sup>18</sup>

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<sup>14</sup> Wai 2180, #4.1.9, Hearing Week 2 transcript at 216.

<sup>15</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 4.

<sup>16</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 5.

<sup>17</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 5.

<sup>18</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 7.

- 2.12 The claimants believe that had those in ‘power’ bothered to talk to them and work together the health of the River would not be in the sad state it is now.<sup>19</sup>
- 2.13 We submit that, based on the evidence, the Crown rather than actively protecting the claimants in the use of their waterways to the fullest extent possible, sought to establish ownership over the waterways without proper consideration of tangata whenua rights and interests.
- 2.14 We also submit that the actions of the Crown showed no regard for the concept of partnership.
- 2.15 Furthermore, through the delegation of powers to local authorities the Crown has failed to create opportunities for Māori to participate and engage at a meaningful level. The Crown’s attempt to include Treaty references in legislation has proved to be unreasonable, especially for the Ngā Iwi o Te Reureu claimants who have been unable to successfully engage with local authorities to protect their awa and natural environment.<sup>20</sup>
- 2.16 Accordingly, we submit that the failure of the Crown is demonstrated by the following actions:
- (a) The Crown’s assertion of ownership over the Rangitīkei River and its tributaries;<sup>21</sup>
  - (b) Diversion of the Rangitīkei river in 1917-1918 by the Rangitīkei City Council. This re-routing of the rivers natural flow caused sections of the awa to dry up and no form of consultation was undertaken with Te Reureu Māori;<sup>22</sup>
  - (c) The dredging of gravel and shingle from the bed of the Rangitīkei has been authorised by the Crown for over 100 years, which has materially affected the mauri, plant/fish life and structure of the river. Dredging has also caused substantial erosion of the riverbed. This extraction of gravel took

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<sup>19</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 5.

<sup>20</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 282.

<sup>21</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 241.

<sup>22</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 241.

place as early as 1888, under the Public Works Act 1876 and was continued under the Coal Mines Act 1903;<sup>23</sup> and

- (d) Implementation of the Fisheries Amendment Act 1986 resulted in a quota management system being enforced. The introduction of this management system has been detrimental to Ngā Iwi o Te Reureu as it has restricted their ability to gather mahinga kai in their rohe.<sup>24</sup>

2.17 We submit that the result of these actions has been largely negative for the Rangitīkei awa and its tributaries. As described by the claimants, the mauri and health of the awa has been severely degraded.

2.18 Ngā Iwi o Te Reureu have a vast knowledge of their waterways and seek to participate in management structures where they are equal partners, so that the health and quality of the awa can be improved.

2.19 Accordingly, we submit that Ngā Iwi o Te Reureu have not had the opportunity to fully engage with local authorities, as all attempts to have their rights and interests recognised have been overlooked.

2.20 Here we say that the Crown has an overarching duty to protect Te Reureu Māori rights and interests, however these considerations have been disregarded in pursuit of Crown and local authority interests.

### **Prejudice**

2.21 As a result of the Crown's legislative regime, the claimants are deprived of their rights over their tūpuna awa Rangitīkei. In their evidence, the claimants stated:

What this confirms to us is that the Crown and local authorities do not consider the River in a holistic way and that permitting an activity in one part of the River will impact on other parts of the River. They think about the resources that can be extracted without consideration of the overall health and balance of the River.<sup>25</sup>

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<sup>23</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 282.

<sup>24</sup> P Meredith, R Joseph and L Gifford, *Ko Rangitīkei Te Awa: The Rangitīkei River and its Tributaries Cultural Perspectives Report* (Wai 2180, #A44) dated 20 May 2016 at 282.

<sup>25</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated, 17 May 2017, (Wai 2180, #F7) at 11.

2.22 In our submission, what must also be remembered is the significance of the awa to the claimants, and that the legislation and regulatory regime put in place by the Crown has not sufficiently provided for proper consultation and participation in managing and protecting the claimants natural environment, including their tūpuna awa Rangitikei.

### 3.0 WAITAPU BLOCK

#### Introduction

- 3.1 Another issue of significance for the claimants is the loss of land on the Waitapu Block.
- 3.2 The Waitapu block sits in both the Taihape and Porirua ki Manawatū Inquiry Districts. As such the Tribunal has directed that specific issues be determined in each Inquiry.<sup>26</sup>
- 3.3 We submit that the claimant's evidence is particularly important to address Land Alienation and Crown Purchasing Issue of the Tribunal Statement of Issues which asks:<sup>27</sup>

*9. Were the Crown's purchase methods fair and reasonable, and Treaty compliant? Did they involve willing sales by communities of willing owners?*

...

*11. What impacts were felt by Taihape Māori as a result of Crown purchases in the district?*

...

*16. Were there opportunities, processes or policies available that enabled Taihape Māori to express their concerns or hopes for the transaction of ownership and if so, were Taihape Māori in a suitable position (eg. financially, economically, politically) to take advantage of them?*

*17. What method(s), if any, did the Crown employ to adequately investigate customary interests in the Waitapu block? Why did the block not go through the process of title determination by the Native Land Court before purchase?*

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<sup>26</sup> Wai 2180, #2.5.59 *Joint Direction of the Taihape: Rangitīkei ki Rangipō and Porirua ki Manawatū Tribunal Panels on Joint Hearings For The Rangitīkei River and the Waitapu Block*, 28 April 2016 at para 20.

<sup>27</sup> Wai 2180, #1.4.3 *Tribunal Statement of Issues*, 9 December 2016 at 23 – 24.

18. *What was the impact, if any, of the Crown determining title in, and purchase of, the Waitapu Block on Taihape Māori customary interests, in terms of their present and future needs?*

- 3.4 The TSOI also sets out that the Taihape Tribunal will inquire into:<sup>28</sup>
- (a) The ‘discovery’ of the Waitapu block as a leftover piece of land between Ōtamakapua and the Rangitikei-Manawatū purchase; and
  - (b) The subsequent Crown purchase of the block and any issues associated with how the owners were identified, the level of compensation awarded, recognition of any customary interests.
- 3.5 In particular, the claimant’s evidence highlights the prejudice arising from the incorporation of a land tenure system that facilitated the alienation and fragmentation of Māori land in the Inquiry District.

#### **Interests in the Waitapu Block**

3.6 The Waitapu Block is of great importance to the claimants wherein a major issue in relation to the Waitapu block is the failure of the Crown to recognise their customary interest in this land.<sup>29</sup>

3.7 The claimants have said that Waitapu has been a place which their ancestors travelled through since their early arrival in the rohe wherein they said:

Our great-grandfather was a brother to Paranihi Te Tau and they would often travel to and from Mokai Patea in waka they had built. They would get off at Waitapu and travel through to the Wairarapa and Horowhenua. This became a well-worn track for our tupuna.<sup>30</sup>

3.8 The formalisation of the Waitapu block reduced the size of the Te Reureu block which was originally set aside as a reserve for Ngā Hapū o Te Reureu. Our tupuna were never consulted about the sale of this block, despite residing in the area at the

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<sup>28</sup> Wai 2180, #1.4.3 *Tribunal Statement of Issues*, 9 December 2016 at 11.

<sup>29</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated 7 September 2018, (Wai 2180, #L15) at 4.

<sup>30</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated 7 September 2018, (Wai 2180, #L15) at 4.

time. It seems as though the Crown took land and created boundaries without considering the impact on those living and using the land.<sup>31</sup>

#### *Motukawa Land Block*

3.9 The Karatea whānau also indicated their interests in the Motukawa land blocks.

3.10 In describing the significance of the Motukawa lands, the claimants said:

Motukawa was one such block that was lost in the early 1960s, the last of whānau land for us in this Inquiry District. This is not an isolated occurrence for us as, in other inquiry districts, this has happened whereby our evidence has indicated that the Crown “unlawfully” acquired our whenua.<sup>32</sup>

3.11 The claimants say that the loss of this whenua occurred around the 1960s, under the Māori Affairs Act 1953 regime, wherein the loss continues to be a great mamae for the whānau to bear.

#### **Relevant Crown Duties**

3.12 The claimants argue that the Crown has failed to uphold the following duties:

- (a) To actively protect Māori land from alienation; and
- (b) To ensure that Ngā Iwi o Te Reureu retained enough land to sustain themselves and future generations.

#### **Breach**

3.13 We submit that the Crown has breached its Te Tiriti duty of active protection by purchasing the Waitapu block without completing a proper investigation into who held rights in this block. The Crown’s failure to gain prior consent from all Māori owners resulted in the denial of rights, as Ngā Iwi o Te Reureu have been unable to exercise unqualified exercise of chieftainship over the lands in which they possess customary rights.

3.14 The Waitapu block became of significant interest to the Crown in 1872, where Crown Officials insisted that the Waitapu block purchase be completed before

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<sup>31</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated 7 September 2018, (Wai 2180, #L15) at 4.

<sup>32</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated 7 September 2018, (Wai 2180, #L15) at 5.



securing Otamakapua, on the basis that it was “the key to the larger block,” illustrating the eagerness of the Crown to secure large tracts of land in this district.<sup>33</sup>

3.15 We submit that there is little evidence to suggest that Te Reureu Māori had an interest in selling their land, nor is there evidence to illustrate that in depth discussions with Māori had taken place, with very little reserves set aside for Māori.<sup>34</sup>

3.16 In deciding to secure the Waitapu block, we submit that the Crown did not take sufficient steps to investigate or determine who the beneficial owners of the land were. Had further investigations been undertaken, Crown officials would have found that some of the land included in the Waitapu boundary was within the Ngā Iwi o Te Reureu rohe.

3.17 It is also vital to note that no record of this Native Land Title has been located to date. There is no record of what type of title this land was held under, or how title was determined and awarded.<sup>35</sup>

3.18 This lack of documentation exacerbates the claimant’s rights to this land, as there is no record of the Crown undertaking negotiations, consultation or gaining consent from Te Reureu Māori.

3.19 During questioning from claimant counsel at Hearing Week 7, Dr Hearn indicated that:

“... the creation of the so-called Waitapu Block was a purely political convenience. It had nothing to do with customary interests and anyone. It had everything to do with certain other imperatives that the Crown had. McLean of course was a master at effecting compromises and that’s what he managed to do. Although to be fair I mean Ngāti Apa or at least Kāwana Hunia because it is not entirely clear that he had the undiluted support of Ngāti Apa over this one. But he made it clear that he would continue to press his interest in that section of Waitapu that was apparently allocated to Ngāti Hauti but he didn’t succeed of course. But no, as far as I know, no one outside those named on those purchase deeds was ever consulted.”<sup>36</sup>

3.20 The claimants and their tupuna received no form of compensation for the taking of this land. On this basis we submit that the Crown purchase of the Waitapu block is

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<sup>33</sup> B Stirling and E Subasic, *Taihape: Rangitikei ki Rangipo Inquiry District Technical Scoping Report* (Wai 2180, #A2) dated 27August 2010 at 55.

<sup>34</sup> B Stirling and E Subasic, *Taihape: Rangitikei ki Rangipo Inquiry District Technical Scoping Report* (Wai 2180, #A2) dated 27August 2010 at 53.

<sup>35</sup> B Stirling and E Subasic, *Taihape: Rangitikei ki Rangipo Inquiry District Technical Scoping Report* (Wai 2180, #A2) dated 27August 2010 at 55.

<sup>36</sup> Wai 2180, #4.1.15, *Hearing Week 7 Transcript*, at 99.

in breach of the Crown's Treaty duty of active protection by failing to consult with Ngā Iwi o Te Reureu once the 'discovery' of the Waitapu block was made and by failing to recognise the customary interests of Ngā Iwi o Te Reureu in the Waitapu block.

- 3.21 Furthermore, we submit that the duty of good faith meant that the Crown was required to consult with the claimants prior to compulsorily acquiring the land. On this occasion no consultation was undertaken with the claimants, which was a failure by the Crown to consult and protect Māori interests.

### **Prejudice**

- 3.22 The Crown taking of Ngā Iwi o Te Reureu land, specifically in relation to the Waitapu block, has been detrimental to the claimants as they are no longer able to exercise their customary rights or interests over their land.

- 3.23 The claimants have said that:

We want the Crown, in true Treaty partnership, to establish a relationship with us, acknowledging the loss of our lands in this Inquiry district where we once held significant interests, as well as the recognition and protection of wāhi tapu and historical sites of significance on these blocks.<sup>37</sup>

- 3.24 The taking of this land has effectively alienated Ngā Iwi o Te Reureu from their whenua and has left them with a small portion of land to cultivate and pass on to their future generations. We say that in this instance the Crown has not provided a sufficient endowment of land for Ngā Iwi o Te Reureu's present and future needs.

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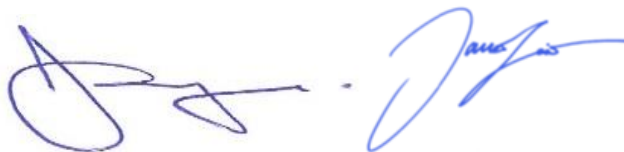
<sup>37</sup> *Statement of evidence of Turoa Karatea on behalf of Wai 651* dated 7 September 2018, (Wai 2180, #L15) at 8.

#### **4.0 RELIEF SOUGHT/ RECOMMENDATIONS**

4.1 In accordance with the above submissions, the claimants seek the following recommendations:

- (a) Findings that the Crown breached the principles of Te Tiriti o Waitangi;
- (b) That the Crown provides a full and comprehensive apology for the breaches of the principles of Te Tiriti o Waitangi, in particular that the Crown apologise for the compulsory acquisition of significant amount of the claimant's land in the Waitapu block;
- (c) That the Crown return claimants land in the Waitapu block, or, where it is not currently Crown-owned, compensation to the claimant for the loss of that land;
- (d) That the Crown provide full and comprehensive financial compensation;
- (e) Recognition of the claimants' tino rangatiratanga and the restoration of the claimants' self-governance, including appropriate recognition by all Crown Departments and Agencies and Local Authorities;
- (f) Make provision for the participation of the claimants on all statutory boards, authorities, agencies, companies and other Crown organisations;
- (g) Pay the full costs of the claimants for the preparation and presentation of this claim and the cost of recovering any land recommended to be returned or other costs incurred in securing the implementation of recommendations; and
- (h) Any further relief that this Tribunal deems appropriate.

Dated this 28<sup>th</sup> day of October 2020



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**Jerome Burgess/James Lewis**  
Claimant Counsel