

**KEI MUA I TE ROOPU WHAKAMANA I TE  
TIRITI O WAITANGI**

**WAI 863 & 429**

**IN THE WAITANGI TRIBUNAL**

**MO TE TAKE**

Wahanga 6 o Te Ture  
Tiriti o Waitangi 1975  
(me ona whakawhitia)

**ME**

**TE TAKE**

o te kereme o **RYSHELL  
GRIGGS** mo te hapu o  
Ngaï Tumapuhia-a-Rangi  
e pa ana ki **NGA  
HOKONGA WHENUA  
O McLEAN**

---

**WAI 429: NGAI TUMAPUHIA-A-RANGI  
PUTAKE O TE KEREME – TE TUARUA  
TE 14<sup>th</sup> O PAENGA-WHAWHA RUA MANO-MA-TORU**

---

---

**TAMATEKAPUA LAW**

PO Box 37-347

Parnell

Auckland

Waea: (09) 336 1840

Waea whakaahua: (09) 336 1841

Nga Roia: PJ Kapua/J Bryant

## WHAARANGI UHI - TABLE OF CONTENTS

<b><u>I.</u></b>	<b><u>KO NGA KAITONO – THE CLAIMANTS</u></b>	<b>2</b>
<b>A.</b>	<b>Te Kaitono – The WAI 429 Claimants</b>	<b>2</b>
<b>B.</b>	<b>Nga Whakapapa Korero o te hapu – Origins of Ngai Tumapuhia-a- Rangi</b>	<b>2</b>
<b><u>II.</u></b>	<b><u>TE PUTAKE O TE KEREME – THE CLAIM</u></b>	<b>3</b>
<b><u>III.</u></b>	<b><u>TE ROHE – THE CLAIM AREA</u></b>	<b>3</b>
<b><u>IV.</u></b>	<b><u>NGA HARA O TE KARAUNA – THE GRIEVANCES</u></b>	<b>4</b>
	<b>KO TE TUATAHI - NGAI TUMAPUHIA-A-RANGI LANDLESSNESS</b>	<b>4</b>
<b>C.</b>	<b>First Contact Period: 1840-1844</b>	<b>6</b>
<b>D.</b>	<b>Leasing and Land issues</b>	<b>7</b>
<b>E.</b>	<b>Pre -1865 Crown Purchases</b>	<b>11</b>
	Alienation	<b>11</b>
	Five Per Cents	<b>13</b>
	Failure to Respond to Protests	<b>15</b>
<b>F.</b>	<b>The Native Land Court Period 1865-1900</b>	<b>16</b>
	Alienation	<b>16</b>
	Failure to Provide Reserves	<b>18</b>
<b>G.</b>	<b>20<sup>th</sup> Century Alienations</b>	<b>22</b>
	Ngapuketuruu and Te Maipi	<b>22</b>
<b>H.</b>	<b>Public Works Takings</b>	<b>23</b>
	Kaiwhata Native/Te Okautete School	<b>23</b>
	Te Awaiti	<b>26</b>
	<b>KO TE TUARUA - ENVIRONMENTAL DEGRADATION</b>	<b>27</b>
	Acts and Administration	<b>27</b>
	Environment - Biodiversity	<b>28</b>
	Forest Degradation	<b>29</b>
	Taonga	<b>31</b>
	Pests	<b>32</b>
	Waterways	<b>32</b>
	Waahi Tapu	<b>36</b>
	<b>KO TE TUATORU- FORESHORE AND SEABED AND FISHERIES</b>	<b>37</b>
	<b>KO TE TUAWHA - SOCIO-ECONOMIC IMPACT</b>	<b>38</b>
	Education	<b>39</b>
	Health	<b>39</b>
	Housing	<b>40</b>
	Economic	<b>40</b>
<b><u>V.</u></b>	<b><u>NGA PAANGA WHAKATIITAHA - PREJUDICIAL EFFECTS</u></b>	<b>41</b>
<b><u>VI.</u></b>	<b><u>NGA RONGOA – RELIEF SOUGHT</u></b>	<b>43</b>
	<b><u>APPENDIX A</u></b>	<b>45</b>

## **I. KO NGA KAITONO – THE CLAIMANTS**

### **A. Ko nga Kaitono – The WAI 429 Claimants**

1. The named Claimant is Ryshell Griggs, a member of Ngai Tumapuhia-a-Rangi te hapu.
2. On 20 April 1994, the original claim was submitted by Takirangi Smith for and on behalf of himself and all members of Ngai Tumapuhia-a-Rangi hapu regarding the wrongful dispossession of traditional lands of Ngai Tumapuhia-a-Rangi, as a result of the breaches by the Crown of the principles of the Treaty of Waitangi (“the Treaty”). This claim was registered as WAI 429 (WAI 863 #1.7).
3. On 1 September 2000, another application was made by Ryshell Griggs for and on behalf of herself and all members of Ngai Tumapuhia-a-Rangi hapu. This claim was registered as WAI 886 (WAI 863 #1.17).
4. On 7 and 8 February 2003, parties representing WAI 429 and 886 went to mediation concerning issues arising out of both claims. As a result, WAI 886 is now consolidated with WAI 429 and the named claimant has changed from Takirangi Smith to Ryshell Griggs.
5. Ryshell Griggs has the authority to file this claim for and on behalf of the members of Ngai Tumapuhia-a-Rangi (“Claimants”).

### **B. Nga Whakapapa Korero o te hapu – Origins of Ngai Tumapuhia-a-Rangi**

6. Ngai Tumapuhia-a-Rangi as a hapu trace their descent to Tumapuhia, the son of Rakaitekura and Te Ikaraeroa. Ngai Tumapuhia-a-Rangi claim ancestry from Takitimu and Kurahaupo waka. Today the pre-dominant sub-hapu of Ngai Tumapuhia-a-Rangi are: Ngati Kaitahi; Ngati Maru; Ngai Te

Ao; Ngati Koura; Ngati Kaumoana; Ngati Rongomaiaia; Ngati Kawekairangi; and Ngati Hinepare, Ngati Mahu and others.<sup>1</sup>

## **II. TE PUTAKE O TE KEREME – THE CLAIM**

7. This Statement of Claim covers the rohe of Ngai Tumapuhia-a-Rangi and identifies the past and continuing breaches of the principles of the Treaty by the Crown, which have caused and continue to cause prejudice to Ngai Tumapuhia-a-Rangi.
8. The Claimants refer generally to the Crown’s acquisition of their lands as the “McLean Purchases”.
9. The Claimants claim that all of the Acts, Regulations, Orders, policies, practices and actions taken, omitted or adopted by or on behalf of the Crown referred to are and remain a breach of the terms and principles of the Treaty of Waitangi.
10. The Claimants further say that they have been prejudicially affected by the Ordinances, Acts, Regulations, Proclamations, Notices and other statutory instruments, and the policies, practices, acts or omissions of the Crown, the referenced particulars of which are set out in this Statement of Claim.

## **III. TE ROHE – THE CLAIM AREA**

11. The claim covers the traditional rohe of Ngai Tumapuhia-a-Rangi, which is located on the eastern shores of the district of Wairarapa and extends inland to the Maungaraki Range and south to the Awhea River. A copy of the boundary map is attached and marked “A”. The Te Ngaumu Forests indicated on that Appendix occupy parts of blocks which Ngai Tumapuhia-a-Rangi have interests in, including (but not exclusive to): Whareama;

---

<sup>1</sup> See Smith, *Tukuwhenua and Maori Land Tenure in Wairarapa*, #A45, section 2.1 and Smith, *Land, Water and Resource use in Wairarapa*, #A54, sections 2.1 and 2.2.

Waikaraka; Tupapakurua and; Te Maipi. Their traditional rohe (“rohe”) is defined by the following boundary markers:

*“Mai i Whareama ki Taueru, whiti atu ki te Taumata o te Hangatu, ahu atu ki te Karaka o Waimatua ki Wainuioru, ahu atu ki te Karaka o Waimatua ki Te Awhea rere atu ki Hawerawera ki te ngutu awa o Te Awhea, rere atu ma te takutai ki Whareama.”<sup>2</sup>*

12. Ngai Tumapuhia-a-Rangi acquired mana and rangatiratanga over its rohe over a period of time and has continued to exercise it for many generations.

## **IV. NGA HARA O TE KARAUNA – THE GRIEVANCES**

### **KO TE TUATAHI - NGAI TUMAPUHIA-A-RANGI LANDLESSNESS**

13. In breach of the principles of the Treaty of Waitangi including the principle of active protection, from 1840 the Crown actively facilitated and/or permitted and/or failed to prevent the permanent alienation of Ngai Tumapuhia-a-Rangi lands and resources so that the land remaining in Ngai Tumapuhia-a-Rangi hands was insufficient for the present and future needs of Ngai Tumapuhia-a-Rangi.

#### **Particulars**

- 13.1 The rohe of Wairarapa originally consisted of 2,421,543 acres.<sup>3</sup> The rohe of Ngai Tumapuhia-a-Rangi originally comprised approximately 503,234 acres.<sup>4</sup>
- 13.2 By 1865 the Crown was responsible for the purchase of 1,626,000 acres.<sup>5</sup>

---

<sup>2</sup> WAI 863 #1.7, p1, para 2

<sup>3</sup> Walzl, *Wairarapa Land Issues Overview 1900-2000*, #A42, p 9

<sup>4</sup> Walzl, *Ngai Tumapuhia Reserves and Non-Purchase Land Blocks 1854-1980*, #A43. The figures are compiled from the following block acreages: Pahaoa, 250,000 acres, p 12; Whareama No.2(South), 38,000 acres, p 59; Whareama (Coastal) 25,000 acres, p 63; Whareama (Inland), 25,000 acres, p68; Kaiwhata, 10,000 acres, p 69; Te Awaiti & Pahaoa, 100,000 acres, p78; Tupurupuru, 422 acres, p87; Waikaraka, 175 acres, p 89; Tupapakurua 1,870 acres (Whareama 394, 1,150 acres, p 90, Te Aruhe o Pohatu, 720 acres, p 92); Ngapuketuru, 2,960 acres p 104; Te Maipi, 9,807 acres, p 122

<sup>5</sup> Walzl, #A42, p 9

- 13.3 Between 1865 and 1900 a further 532,593 acres were alienated. Of this amount the Crown was responsible for the alienation of 78% of the lands.<sup>6</sup>
- 13.4 By 1900, 168,950 acres in at least 101 blocks remained in Maori hands.<sup>7</sup>
- 13.5 As at 2002, a total of 34,710 acres remained in Maori ownership.<sup>8</sup>

14. In breach of the principles of the Treaty of Waitangi including the principle of active protection, the Crown failed to set aside sufficient reserves for Ngai Tumapuhia-a-Rangi; place adequate restrictions on the alienation of Ngai Tumapuhia-a-Rangi lands; and/or investigate the sufficiency of lands required for the foreseeable needs of Ngai Tumapuhia-a-Rangi.

### Particulars

- 14.1 Of the 360,000 acres transacted by the Crown within the Wairarapa Inquiry district, Ngai Tumapuhia-a-Rangi were provided with 7,635 acres of reserves.<sup>9</sup> The Crown applied a minimalist approach to the awarding of reserves thereby failing to provide Ngai Tumapuhia-a-Rangi with a sufficient, sound or secure landbase for present and future generations.<sup>10</sup>
- 14.2 From 1865 the Native Land Court did not place sufficient or adequate alienation restrictions on the lands of Ngai Tumapuhia-a-Rangi.<sup>11</sup> Those restrictions that were imposed were removed or inadequately enforced so that the land was subsequently alienated.<sup>12</sup>
- 14.3 The remaining Ngai Tumapuhia-a-Rangi landholding is insufficient for the needs of present generations and those to come and this has, and will continue to add to, the prejudicial effects suffered by Ngai Tumapuhia-a-Rangi.<sup>13</sup>

---

<sup>6</sup> Walzl, #A42, p9

<sup>7</sup> Walzl, #A42, p9

<sup>8</sup> Walzl, #A42, p424

<sup>9</sup> Walzl, *Land Purchasing in the Wairarapa 1840-1854* #A44, p460 & 438

<sup>10</sup> See also Section F. The Native Land Court Period 1865-1900

<sup>11</sup> Stirling, *Wairarapa Maori and the Crown, Wero: The Challenge* #A49, pp 173 para 3 & 173-271.

<sup>12</sup> Gawith & Hartley, *The Native Land Court in Wairarapa 1865-1900* #A26, pp71-77

<sup>13</sup> See also Section V. Nga Paanga Whakatitaha - Prejudicial Effects

- 14.4 The Claimants are still awaiting sufficient restitution or reparation of their rangatiratanga so as to ensure their continued presence on their lands, the recovery of their identity in the rohe of Wairarapa and recognition of their mana and rangatiratanga as a hapu.
- 14.5 The various policies, practices, acts or omissions by the Crown which led to the landlessness of Ngai Tumapuhia-a-Rangi are set out in the remaining sections of this Statement of Claim.

### **C. First Contact Period: 1840-1844**

15. In breach of the principles of the Treaty of Waitangi the Crown failed to actively protect Ngai Tumapuhia-a-Rangi from the New Zealand Company's rapacious land purchase policy and in fact assisted the Company's land purchasing intentions.

#### **Particulars**

- 15.1 Prior to 1843 Ngai Tumapuhia-a-Rangi had seldom dealt with Europeans in land transactions.<sup>14</sup>
- 15.2 Ngai Tumapuhia-a-Rangi had in place their own traditional transfer or tuku system based on tikanga Maori whereby a conditional transfer would establish relationships between particular groups of people. Under this system the land was still owned by Ngai Tumapuhia-a-Rangi and managed by them in accordance with their tikanga.<sup>15</sup>
- 15.3 On the arrival of Europeans into their rohe, Ngai Tumapuhia-a-Rangi was eager to establish relationships which would benefit their own economic status.<sup>16</sup>

---

<sup>14</sup> Walzl, #A44, p 447

<sup>15</sup> Smith, #A45, p219 & 25-41, Walzl, #A44, pp 447

<sup>16</sup> Walzl, #A44, pp 9-20 & 448

- 15.4 From 1843, the New Zealand Company entered the Wairarapa rohe to purchase the lands of Wairarapa Maori including Ngai Tumapuhia-a-Rangi. The Company's policy was the exclusion of both Maori and European encroachments on the purchase area.<sup>17</sup>
- 15.5 On 27 February 1844, Governor Fitzroy, on behalf of the Crown, sent instructions to Commissioner William Spain. Those instructions required or allowed Spain to assist with the purchase of Wairarapa land by the New Zealand Company under a waiver of the Crown's right of pre-emption under the Treaty of Waitangi.<sup>18</sup>

## D. Leasing and Land issues

16. In breach of the principles of the Treaty of Waitangi including the principle of active protection, the Crown opposed the successful leasing arrangements entered into by Ngai Tumapuhia-a-Rangi and the squatters, and the Crown developed alternative policies to leasing in a manner that expedited the permanent alienation of Ngai Tumapuhia-a-Rangi lands.

### Particulars

#### *Early contact and Ngai Tumapuhia-a-Rangi control*

- 16.1 From 1845, Ngai Tumapuhia-a-Rangi had increasing contact with Europeans entering their rohe ("Squatters"). Ngai Tumapuhia-a-Rangi began to enter into negotiations with the Squatters to enable the squatters to occupy land. Such transactions were made in accordance with tikanga Maori and were viewed by the Squatters as leases. The occupation by the squatters was controlled by Ngai Tumapuhia-a-Rangi and, was ultimately for the benefit of Ngai Tumapuhia-a-Rangi.<sup>19</sup>
- 16.1.1 Although Europeans thought of the transactions as leases, leasing documents used language and form associated with Maori traditional land allocation mechanisms.<sup>20</sup>

---

<sup>17</sup> Walzl, #A44, pp 27-33 & 448

<sup>18</sup> Walzl, #A44, pp 27-33 & 448 & 1.63

<sup>19</sup> Walzl, #A44, pp 36-55 & 448

<sup>20</sup> Smith, #A45, pp 86-7, 219 & 25-41 for commentary on traditional Maori land transfer mechanisms



- 16.1.2 Rangatira of Ngai Tumapuhia-a-Rangi controlled the location and size of the leased land and would seek koha or payment for the use of the land as they deemed appropriate.<sup>21</sup>
- 16.1.3 While Ngai Tumapuhia-a-Rangi acted in accordance with their tikanga and understanding of the relationship, the Squatters did not understand the complexity of Maori custom and complained about the manner in which Ngai Tumapuhia-a-Rangi carried out the terms of the arrangement.<sup>22</sup>

***Crown awareness of traditional land allocation mechanisms***

- 16.2 The Crown was aware of the traditional land allocation mechanisms operating and actively opposed them.
- 16.2.1 Maori indicated their support of the leasing arrangements to the Crown.<sup>23</sup>
- 16.2.2 The Crown and New Zealand Company officials opposed the leasing situation claiming that:
- (a) European settlement enhanced the value of the land, thereby reducing the Crown's profit from the re-sale of land; and
  - (b) Maori and squatter disputes threatened national security.<sup>24</sup>

***Undermining by Crown legislation and policy***

- 16.3 In November 1846, the Crown enacted the Native Land Purchase Ordinance which prohibited further direct leasing being negotiated between Maori and European.<sup>25</sup>
- 16.4 The Crown did not actively protect Ngai Tumapuhia-a-Rangi from the detrimental effects of European settlement.
- 16.4.1 The Crown failed to adequately regulate the arrival of Europeans into the rohe so that competition for land and the likelihood of potential conflict between Ngai Tumapuhia-a-Rangi and Europeans increased.<sup>26</sup>
- 16.4.2 As to settlement, the Crown proceeded:

---

<sup>21</sup> Walzl, #A44, p93-4

<sup>22</sup> Walzl, #A44, p93-4

<sup>23</sup> Walzl, #A44, p451

<sup>24</sup> Walzl, #A44, p451

<sup>25</sup> Walzl, #A44, pp112-120

<sup>26</sup> Walzl, #A44, p449

- (a) without appointing a Crown official as an intermediary, or to facilitate negotiations or mediation; and,
- (b) on the assurance that Governor Fitzroy would condone settlement by enacting policy at a later date.<sup>27</sup>

16.5 The basis for the Crown's sole intervention in the Barton Incident was purely for its own benefit and to further the implementation of its own land purchase policies. In doing so the Crown undermined the authority of the Ngai Tumapuhia-a-Rangi rangatira, Wereta Kawekairangi.<sup>28</sup>

16.5.1 Forsaith used British law processes without consulting Ngai Tumapuhia-a-Rangi and made a pre-determined judgment against Wereta which was punished by the taking of his lands;

16.5.2 The punishment was disproportionate to the alleged offence;

16.5.3 Forsaith's coercive tactics led to Wereta's signing of the deed of purchase;

16.5.4 80,000 acres of Wairarapa land (including that of Ngai Tumapuhia-a-Rangi) were confiscated, which further undermined the authority of the rangatira Wereta in Ngai Tumapuhia-a-Rangi and Wairarapa.

#### ***New Zealand Company purchases encouraged***

16.6 In 1845, the Crown gave the New Zealand Company permission to purchase 300,000 acres in the Wairarapa and granted a reserve of one million acres in 1847. The Crown also assisted the Company with loans and the provision of Crown officials to oversee Company dealings. All of this was done without any or any sufficient consultation with Wairarapa Maori.<sup>29</sup>

16.7 The Crown encouraged and assisted European settlement outside of Wairarapa by acquiring land in the Hawkes Bay. The Crown did so in order to undermine existing and future leases by Ngai Tumapuhia-a-Rangi and to discourage settlers from entering into the leases.<sup>30</sup>

---

<sup>27</sup> Walzl, #A44, p449

<sup>28</sup> Walzl, #A44, pp 40-51 & 101-103

<sup>29</sup> Walzl, #A44, p451

<sup>30</sup> Stirling, #A48, p78

### ***Benefits to Maori***

16.8 By 1847, leases were generating an income to Ngai Tumapuhia-a-Rangi of £300 per annum as well as fostering trade between Ngai Tumapuhia-a-Rangi and Europeans. By 1848 the rental income to Ngai Tumapuhia-a-Rangi had doubled and income from trade to £200. This resulted in the rapid socio-economic advancement of Wairarapa Maori and Ngai Tumapuhia-a-Rangi.<sup>31</sup>

### ***Crown undermines Maori traditional values on leasing***

16.9 In 1848, Wereta asked the Crown to assist Ngai Tumapuhia-a-Rangi to continue the existing lease framework. The Crown indicated that it would not assist and that it would actively oppose any new leases. Accordingly by May 1849, Wereta had agreed to transfer his lands on the basis of the Crown position.<sup>32</sup>

16.10 Up to 1853 the Crown was aware that the Maori traditional view of the leasing arrangements remained prevalent and in force despite the Crown's attempts to ignore or undermine that view and those arrangements.

16.10.1 In 1849 Kemp stated that "native usages are in force in this district".<sup>33</sup>

16.10.2 The official Crown translations of letters and correspondence during this period by the Crown and by Maori misunderstood, edited and/or misinterpreted the concepts and terms that revealed the prevalence of Maori customs, and the Maori understanding of the arrangements.<sup>34</sup>

(a) On 23 January 1849, Kemp spent a day with Ngai Tumapuhia-a-Rangi rangatira Wereta, who gave him a letter for Eyre.

(b) Kemp's translation of the letter contains a fundamental inaccuracy.

(c) Kemp's translation refers to Wereta's proposal to provide land for sheep grazing or sale.

(d) A more recent translation refers to a proposal only for sheep grazing and a leasing arrangement, not the sale of the land.<sup>35</sup>

(e) On 12 January 1852, McLean wrote to Wereta, and suggested that Wereta, "leave him [Potangaroa] to tuku that side of the land". The

---

<sup>31</sup> Walzl, #A44, p450

<sup>32</sup> Walzl, #A44, p 458

<sup>33</sup> Walzl, #A44, p453

<sup>34</sup> Walzl, #A44, p454

<sup>35</sup> Smith, #A45, pp 121-22, Walzl, #A44, pp 242-245

Maori concept of *tuku* did not include the permanent alienation of the land, yet McLean interpreted the situation as a sale by Maori of their land.<sup>36</sup>

## E. Pre -1865 Crown Purchases

### Alienation

17. In breach of the principles of the Treaty of Waitangi including the principle of active protection, the Crown adopted a variety of policies, practices and tactics to alienate the majority of Wairarapa and Ngai Tumapuhia-a-Rangi lands (“the McLean Purchases”).

### Particulars

#### *Ngai Tumapuhia-a-Rangi blocks*

17.1 Ngai Tumapuhia-a-Rangi had interests in the following blocks prior to the McLean Purchases:<sup>37</sup>

- (a) Pahaoa;
- (b) Whareama No.2(South);
- (c) Whareama (Coastal);
- (d) Whareama (Inland);
- (e) Kaiwhata;
- (f) Te Awaiti & Pahaua;
- (g) Tupurupuru;
- (h) Waikaraka;
- (i) Tupapakuraa (Whareama , Te Aruhe o Pohatu);
- (j) Ngapuketuraa; and
- (k) Te Maipi.

### *Purchase figures*

---

<sup>36</sup> Walzl, #A44 pp 440-41, also see Smith, #A45, pp 219 & 25-41 for commentary on traditional Maori land transfer mechanisms including take *tuku*

<sup>37</sup> Walzl, *Ngai Tumapuhia Reserves and Non-Purchase Land Blocks 1854-1980*, #A43

17.2 By 1865, the Crown had purchased the majority of the lands of Ngai Tumapuhia-a-Rangi. The blocks purchased, their acreages (if available), and dates of purchase are:

- (a) Part Pahaua and Wilson's, 250,000 acres, 29 October 1853.<sup>38</sup>
- (b) Whareama No.2 (south), 38,000 acres, 1 November 1853.<sup>39</sup>
- (c) Whareama part of (central), 25,000 acres, 9 December 1853.<sup>40</sup>
- (d) Whareama part of (inland), 25,000 acres, 12 December 1853.<sup>41</sup>
- (e) Kaiwhata, 10,000 acres, 27 December 1853.<sup>42</sup>
- (f) Te Awaiti and Part Pahaua, 100,000 acres, 3 January 1854.<sup>43</sup>
- (g) Tupurupuru, 400 acres in eastern region, 28 January 1859.<sup>44</sup>
- (h) Waikaraka, 2 November 1859.<sup>45</sup>
- (i) Tupapakurua, 30 January 1860.<sup>46</sup>

### *Crown strategies*

17.3 The Crown, through its agent McLean, pursued a number of strategies to pressure Ngai Tumapuhia-a-Rangi into transacting land with the Crown including by destroying the successful economic system already in existence. These strategies include:

- (a) Acquiring sufficient Hawke's Bay land to provide alternative leasing lands for existing and prospective European lessees.<sup>47</sup>
- (b) Actively enforcing and/or threatening to enforce the Native Land Purchase Ordinance, so as to discourage and/or prevent any further or new attempts at leasing.<sup>48</sup>
- (c) Supporting and encouraging Squatters to act in a self-interested manner in relation to their existing leases.<sup>49</sup>

---

<sup>38</sup>Walzl, #A43, pp 12-58

<sup>39</sup>Walzl, #A43, pp 59-63

<sup>40</sup>Walzl, #A43, pp 63-68

<sup>41</sup>Walzl, #A43, p 68

<sup>42</sup>Walzl, #A43, pp 69-78

<sup>43</sup>Walzl, #A43, pp 78-84

<sup>44</sup>Walzl, #A43, pp 87-8

<sup>45</sup>Walzl, #A43, p 89

<sup>46</sup>Walzl, #A43, pp 89-97.

<sup>47</sup>Stirling, #A48, p78, Walzl, #A44, 4.392

<sup>48</sup>Walzl, #A44, 4.392-4

<sup>49</sup>Walzl, #A44, 4.395

- (d) Engendering support from rangatira outside Wairarapa to actively encourage Wairarapa Maori to relinquish their land, and in doing so undermined the tribal authority of rangatira within Wairarapa.<sup>50</sup>

## Five Percents

18. The Crown promised and guaranteed to Ngai Tumapuhia-a-Rangi general benefits and welfare, so as to convince Ngai Tumapuhia-a-Rangi to enter into a relationship that involved the transfer of most of their lands in return for reserves and the benefit of an ongoing endowment fund. In breach of the principles of the Treaty of Waitangi including the principles of active protection and of good faith, the Crown failed to fulfil or to sufficiently fulfil its promises and guarantees. These promises and guarantees are referred to as the Five percents or koha.

## Particulars

### *Purpose of Five Percents*

- 18.1 The Five Percents purported to ensure that Ngai Tumapuhia-a-Rangi would benefit from European settlement through the provision of koha, infrastructure, markets, European settlers, towns, schools, hospitals and other benefits.<sup>51</sup>

### *Maori interpretation of Five Percents*

- 18.2 Maori interpreted the Five Percents fund to be a koha. The guarantee of that koha was critical to Ngai Tumapuhia-a-Rangi agreeing to the transactions, which they viewed as tuku whenua.<sup>52</sup>
- 18.3 The term “koha” was translated as a lease payment, similar to that used in the tukuwhenua lease arrangements that Ngai Tumapuhia-a-Rangi and the Squatters had entered into previously.<sup>53</sup>

---

<sup>50</sup> Walzl, #A44, 4.396

<sup>51</sup> Walzl, *The Wairarapa Five Per Cents 1854-1900*, #A40, pp 4-50, Walzl, #A44, p 429-30

<sup>52</sup> Smith, *Koha and the Ngati Kahungunu Interpretation of the Five Percent Purchases in Wairarapa* #A53, pp 2-3, Smith #A45, p 226

<sup>53</sup> Smith, #A53, pp 2-3, Smith #A45, p 226

18.4 Letters dated 6 September 1864 from representative rangatira indicate that the koha was seen as rental for the land, which would be ongoing and without end.<sup>54</sup>

***Crown's approach to the implementation of the five per cents***

18.5 The Crown's failure to adequately implement the Five Percents, and its practices, policies, acts and omissions in relation to the Five Percents undermined the promises and guarantees that they had made to Ngai Tumapuhia-a-Rangi.<sup>55</sup>

18.5.1 Until June 1861 the Crown made no serious effort to address the Five Percents issue.<sup>56</sup>

18.5.2 Although the Crown and its agents promised the Five Percents to Wairarapa Maori generally and in some cases orally, the Five Percents were later interpreted literally, so that the Five Percents would only be paid against the blocks which had express reference to it in their deeds.<sup>57</sup>

18.5.2.1 Wairarapa Maori were led to believe that the koha were not limited to the particular blocks with specific clauses in their deed.<sup>58</sup>

18.5.3 To Ngai Tumapuhia-a-Rangi the Five Percents were to create an endowment fund that would be used to pay for projects for their benefit. Instead the Crown treated the Five Percents as a cash fund for individual payments.<sup>59</sup>

18.5.4 Later in the 1860s the Crown decided, without consulting with Ngai Tumapuhia-a-Rangi, that the Five Percents would consist of the nett proceeds from land sales, rather than the gross payments on Crown sale.<sup>60</sup>

18.5.5 At an early stage, and without consulting with Ngai Tumapuhia-a-Rangi, the Crown ended the ongoing nature of the fund.<sup>61</sup>

***No benefits for Ngai Tumapuhia-a-Rangi***

18.6 Ngai Tumapuhia-a-Rangi had not benefited from the Five Percents and expressed their disappointment to the Crown.<sup>62</sup>

---

<sup>54</sup> Walzl, #A40, p97

<sup>55</sup> Walzl, #A40, pp 97-98

<sup>56</sup> Walzl, #A40, pp 97-98

<sup>57</sup> Walzl, #A40, pp 97-98

<sup>58</sup> Walzl, #A40, pp 97-98

<sup>59</sup> Walzl, #A40, pp 97-98

<sup>60</sup> Walzl, #A40, pp 97-98

<sup>61</sup> Walzl, #A40, pp 97-98

- 18.6.1 Ngai Tumapuhia-a-Rangi rangatira Wereta wrote a letter dated 10 September 1862 to Wellington Superintendent Featherston reflecting that, by this period, he was indebted and needed a monetary payment to address his debts.<sup>63</sup>
- 18.7 There is no record of the Crown developing any projects for Ngai Tumapuhia-a-Rangi for the improvement of their socio-economic status.<sup>64</sup>
- 18.8 The Crown was not prepared to admit that the endowment intention of the fund had not been a success.<sup>65</sup>

### **Failure to Respond to Protests**

19. In breach of the principles of the Treaty of Waitangi including the principles of partnership and of good faith, the Crown failed to sufficiently respond to protests by Ngai Tumapuhia-a-Rangi during the post-purchase period.

### **Particulars**

- 19.1 After the McLean Purchases a rapid European settlement process occurred within Wairarapa and the Ngai Tumapuhia-a-Rangi rohe. Only then were Ngai Tumapuhia-a-Rangi aware that their transactions were not *tuku* but sales.<sup>66</sup>
- 19.2 Due to their economic and political marginalisation Ngai Tumapuhia-a-Rangi felt betrayed and demonstrated their discontent by protesting to the Crown and its officials.<sup>67</sup>
- 19.3 Ngai Tumapuhia-a-Rangi joined the Kingitanga movement in an attempt to restore their tribal lands and *mana*.<sup>68</sup>
- 19.4 The Crown did not respond to the protests of Ngai Tumapuhia-a-Rangi.<sup>69</sup>

---

<sup>62</sup> Walzl, #A40, pp 97-98

<sup>63</sup> Walzl, #A40, pp 97-98

<sup>64</sup> Walzl, #A40, pp 97-98

<sup>65</sup> Walzl, #A40, pp 97-98

<sup>66</sup> Smith, *Tukuwhenua in Wairarapa: The Maori response to the post purchase period of 1853 and 1854*, #A52, pp 4-11

<sup>67</sup> Smith, #A52, pp 12-43

<sup>68</sup> Smith, #A52, pp 44-43



## F. The Native Land Court Period 1865-1900

### Alienation

20. In breach of the principles of the Treaty of Waitangi including the principles of active protection and of partnership, the Crown established the Native Land Court and enacted related legislation, including the Native Land Acts 1862 and 1865, and policies that facilitated the fragmentation and further alienation of Ngai Tumapuhia-a-Rangi land and resources.

### Particulars

#### *Native Lands Acts*

20.1 The Crown enacted the Native Land Act 1865 by which the Native Land Court operated with the following objectives:

- (a) To encourage the extinction of traditional Maori proprietary customs; and
- (b) To provide for the conversion of those traditional modes of ownership into titles derived from the Crown.<sup>70</sup>

#### *Individualised title*

20.2 The Crown established the Native Land legislation and Native Court system, and thereby procured or allowed the creation of titles that emphasised individual rights. This directly undermined the traditional hapu ownership and collective tenure of Ngai Tumapuhia-a-Rangi, and the rights and responsibilities flowing from that traditional tenure system.<sup>71</sup>

20.2.1 The individuals granted title by the Native Land Court were almost always granted legal ownership free of any trust, despite the collective nature of traditional ownership.

20.2.2 Piecemeal acquisitions and partitions were required to define the title and share apportionment.

---

<sup>69</sup> Smith, #A52, pp 12-43

<sup>70</sup> Stirling, #A49, p 26

<sup>71</sup> Stirling, #A49, pp 25-33

20.2.3 The Native Land Court's processes were costly and time consuming for Ngai Tumapuhia-a-Rangi, which further facilitated the extinction of Maori customary rights.<sup>72</sup>

***Ngai Tumapuhia-a-Rangi titles investigated***

20.3 From 1865 to 1900 the Native Land Court investigated the titles of the following blocks owned by Ngai Tumapuhia-a-Rangi.<sup>73</sup>

- (a) Pahaoa;
- (b) Whareama No.2(South);
- (c) Whareama (Coastal);
- (d) Whareama (Inland);
- (e) Kaiwhata;
- (f) Te Awaiti & Pahaua;
- (g) Tupurupuru;
- (h) Waikaraka; and
- (i) Tupapakuraa (Whareama, Te Aruhe o Pohatu).

***Disadvantages of system for Ngai Tumapuhia-a-Rangi***

20.4 Ngai Tumapuhia-a-Rangi were subjected to the following disadvantages as a result of the imposition of the Native Land Court system, which in turn facilitated and expedited the alienation of their lands:<sup>74</sup>

20.4.1 The high costs for Ngai Tumapuhia-a-Rangi to be involved in the Court process included: court application costs, legal and interpreters' costs, and costs incurred attending the hearings.<sup>75</sup>

20.4.2 Time expended attending hearings.

20.4.3 Ten percent duties on the sale of Native land.

20.4.4 Survey inspection fees where no title was available.

20.4.5 Ngai Tumapuhia-a-Rangi were relegated to mere witnesses in the Court's hearing process, rather than being involved as decision makers in the administration of their own lands.

---

<sup>72</sup> Stirling, #A49, p 113

<sup>73</sup> See Allegation 21. regarding reserves and its related sections for specific Native Land Court dealings in each block. Ngapuketuru and Te Maipi are addressed at H. 20<sup>th</sup> Century Alienations

<sup>74</sup> Stirling, #A49, sections 5.4.2 & 5.4.3

<sup>75</sup> Walzl, #A43, p 97. Owners could not afford to process their titles. Whareama, pp, 97-8

20.5 The Crown failed to ensure that Maori Land Boards decisions were adhered to or enforced, and therefore provided no real protection for Ngai Tumapuhia-a-Rangi against the alienation of their lands and resources.<sup>76</sup>

***Prejudicial effects***

20.6 Ngai Tumapuhia-a-Rangi suffered the following prejudicial effects as a result of the Native Land Court system:

- (a) the destruction of the traditional system of tenure;
- (b) being left with fragmented, meagre and individualised land holdings of little utility or value that are manifestly insufficient for the present and future needs of Ngai Tumapuhia-a-Rangi;
- (c) the damage to and gradual destruction of the social structure and organisation of Ngai Tumapuhia-a-Rangi;
- (d) the erosion and destruction of tribal leadership within Ngai Tumapuhia-a-Rangi.

**Failure to Provide Reserves**

21 In breach of the principles of the Treaty of Waitangi, the Crown failed to grant adequate, suitable or sufficient reserves to provide a sound economic base for the present and future generations of Ngai Tumapuhia-a-Rangi. Further, and as a result of the insufficient reserves, the Crown ought to have assisted Ngai Tumapuhia-a-Rangi by providing alternatives to the leasing and sale of their remaining lands, and ought to have ensured that sufficient alienation restrictions were implemented and maintained.

**Particulars**

***Crown aware of need for reserves***

21.1 The Crown was aware of the need to provide sufficient and adequate reserves for Ngai Tumapuhia-a-Rangi.

---

<sup>76</sup> Walzl, #A43, 5 56, 1.170

- 21.1.1 In the Crown's instructions for the 1847-48 purchase attempts, Grey stated that there was a need for 'ample reserves' to be made for Wairarapa Maori.<sup>77</sup>
- 21.1.2 In the Crown's instructions for the 1848-49 purchase attempts, Kemp was given specific instructions to make 'such Reserves as it may be necessary to make for the Natives'.<sup>78</sup>
- 21.1.3 Crown official, Eyre, gave assurances to Maori of unrestricted reserves.<sup>79</sup>

### ***Reserves figures***

- 21.2 In return for transacting 360,000 acres of Ngai Tumapuhia-a-Rangi land, reserves were granted in most but not all blocks. The Crown: failed to finalise provision for reserves before the transaction was completed; granted certain reserves to specific rangatira; granted other rangatira only temporary resource rights. In total Ngai Tumapuhia-a-Rangi were provided with 7,635 acres of reserves. This gave an allocation of 47.6 acres per person.<sup>80</sup>
- 21.3 The amount of land remaining from the reserves is not sufficient for the present and future generations of Ngai Tumapuhia-a-Rangi.
- 21.3.1 From the 250,000 acre Part Pahaoa block only 1,095 acres or less remains in Ngai Tumapuhia-a-Rangi ownership.<sup>81</sup>
- 21.3.2 From the 198,000 acres in the Whareama No2 (South); Whareama part of (Coastal); Whareama part of (Inland); Kaiwhata; Te Awaiti; and Pahaua blocks only 186 or less acres remains in Ngai Tumapuhia-a-Rangi ownership.<sup>82</sup>
- 21.3.3 From the 2,467 acres in the Tupurupuru; Waikaraka; and Tupapakuraa blocks only 175 acres or less remains in Ngai Tumapuhia-a-Rangi ownership.<sup>83</sup>
- 21.4 The Crown failed to grant reserves for the Waihora, Whareama (North) and Upokongaru blocks.<sup>84</sup>

---

<sup>77</sup> Walzl, #A44, p 461

<sup>78</sup> Walzl, #A44, p 461

<sup>79</sup> Walzl, #A44, p 461

<sup>80</sup> Walzl, #A43, p 99

<sup>81</sup> Walzl, #A43, p 52

<sup>82</sup> Walzl, #A43, p 84

<sup>83</sup> Walzl, #A43, p 97

<sup>84</sup> Walzl, #A43, p 10

### ***Insufficient, inadequate reserves***

- 21.5 Many of the reserves granted to Ngai Tumapuhia-a-Rangi were inadequate.
- 21.5.1 Much of the Ngai Tumapuhia-a-Rangi reserve land was not well suited to profitable European-style farming.<sup>85</sup>
- 21.5.2 The interest of Europeans in acquiring the reserve land arose only out of its value as an adjacent property.<sup>86</sup>
- 21.5.3 The reserves were not economically viable to separately farm for Ngai Tumapuhia-a-Rangi and European alike.<sup>87</sup>
- 21.5.4 The owners often did not have legal access to their own reserves and were landlocked.<sup>88</sup>
- 21.6 Many of the reserves granted to Ngai Tumapuhia-a-Rangi were also insufficient.
- 26.6.1 Many reserves granted were insufficient for the number of people who had interests in them and thereby diminished the economic viability of the land.<sup>89</sup>
- 21.7 The numbers of owners in undivided blocks increased to unreasonable numbers.<sup>90</sup>
- 21.8 The subdividing and partitioning of the reserves further fragmented title.<sup>91</sup>
- 21.9 The Crown failed to ensure that alienation restrictions on Ngai Tumapuhia-a-Rangi reserves were maintained.<sup>92</sup>

### ***Leasing***

- 21.10 As a result of the insufficiency and inadequacy of reserves many of Ngai Tumapuhia-a-Rangi reserve blocks were leased.<sup>93</sup>

---

<sup>85</sup> Walzl, #A43, Part Pahaoa p 53, 1.159, Te Aruhe o Pohatu, p 98

<sup>86</sup> Walzl, #A43, Part Pahaoa p 53, 1.159

<sup>87</sup> Walzl, #A43, Part Pahaoa p 53, 1.159

<sup>88</sup> Walzl, #A43, Waipuna & Ahirara p 585, 2.124, Wharaurangi, p 58, 1.177,

<sup>89</sup> Walzl, #A43, Part Pahaoa p 53, 58 1.178, Pukaroro & Te Awaiti, p 86, 2.127, Waipupu, p 85, 2.123, Waipuna, p 84, 2.119, Ahirara, p 84, 2.119

<sup>90</sup> Walzl, #A43, Waipupu p 85, 2.123,

<sup>91</sup> Walzl, #A43, Waikekeno, p 53, Te Unu Unu, p 54, Waipapa, p 97, Te Aruhe o Pohatu, p 98

<sup>92</sup> See 21. 10-15

<sup>93</sup> Walzl, #A43, Waipuna & Ahirara p 585, Motuwaireka, Waipupu, Whareama 884, p 85, Te Unu Unu, p 53, Wharaurangi, Waikekeno, p 54, Pahaoa, para 1.177, Te Aruhe o Pohatu (not 2A), p 98

- 21.11 The Crown failed to ensure that the leases were advantageous for Ngai Tumapuhia-a-Rangi.
- 21.11.1 Leasing the land and living away from it did not produce sufficient returns for Ngai Tumapuhia-a-Rangi. There is evidence that owners were in debt and “practically penniless”. Some owners wanted to sell the reserves before 1900.<sup>94</sup>
- 21.12 The terms of the leases were often overly favourable to the lessees.
- 21.12.1 There was a reluctance to specify any improvements separately on the block, as it would interfere with farming practices.<sup>95</sup>
- 21.12.2 The Crown failed to ensure sufficient infrastructural development, such as roads, so that lease rentals were of low value.<sup>96</sup>
- 21.12.3 The isolation of the blocks and the fact that they were often surrounded by a single European farm further restrained any increase in value.<sup>97</sup>
- 21.12.4 The reserves were merely farmed as part of the surrounding estate.<sup>98</sup>
- 21.12.5 The Crown permitted lessees to decrease the viability of leasing by holding back rental payments and refusing to enter into short term leases, thereby pressuring Ngai Tumapuhia-a-Rangi into selling their lands.<sup>99</sup>

### *Sales*

- 21.13 As a result of the insufficiency and inadequacy of reserves many of Ngai Tumapuhia-a-Rangi reserve blocks were sold.<sup>100</sup>
- 21.13.1 Land Board recommendations not to sell lands were easy to circumvent by individuals subdividing the land.<sup>101</sup>
- 21.13.2 The pressure for sale caused much division amongst Ngai Tumapuhia-a-Rangi owners.<sup>102</sup>

---

<sup>94</sup> Walzl, #A43, Part Pahaoa p 53, 1.166,

<sup>95</sup> Walzl, #A43, Part Pahaoa p 57, 1.177

<sup>96</sup> Walzl, #A43, Part Pahaoa p 57, 1.177

<sup>97</sup> Walzl, #A43, Part Pahaoa p 59, 1.177

<sup>98</sup> Walzl, #A43, Part Pahaoa p 57, 1.177

<sup>99</sup> Walzl, #A43, Part Pahaoa p 58, 1.179, Te Aruhe o Pohatu, p 98

<sup>100</sup> Walzl, #A43, Mangapiu, Mangapokia, Whareama 884, p 84, Waipupu, Waipuna, Ahirara, p 85, Hahaia, Te Unu Unu, Waikekeno 3F, p 54, Whareama 394, p 97, Te Aruhe o Pohatu, p 98, Waipapa, p 87

<sup>101</sup> Walzl, #A43, Part Pahaoa p 56, 1.170

<sup>102</sup> Walzl, #A43, Part Pahaoa p 56, 1.169, Whareama 394, pp 97-8

21.14 Some Ngai Tumapuhia-a-Rangi retained their remaining land against sale pressures due to the existence of urupa, tauranga waka and taunga ika on the reserves.<sup>103</sup>

21.15 No reserves were granted for the Waihora, Whareama (North) and Upokongaru blocks.<sup>104</sup>

## **G. 20<sup>th</sup> Century Alienations**

22 In breach of the principles of the Treaty of Waitangi, the Crown continued to act in a manner that facilitated the alienation of the already meagre landholding of Ngai Tumapuhia-a-Rangi.

### **Particulars**

22.1 By 1900, fragmentation was such that 168,950 acres in at least 101 blocks remained in Maori ownership in Wairarapa.<sup>105</sup>

### **Ngapuketurua and Te Maipi**

22.2 Ngapuketurua and Te Maipi were the only land blocks in the Ngai Tumapuhia-a-Rangi rohe that were not purchased in whole or in part between 1853-1854.

22.3 Due to the nature of individual land titles and the increasing number of owners for each block, Ngai Tumapuhia-a-Rangi partitioned and subdivided their interests in Ngapuketurua and Te Maipi in an attempt to effectively utilise their meagre interests.<sup>106</sup>

---

<sup>103</sup> Walzl, #A43, Part Pahaoa p 57, 1.174-5, Ahirara, p 85, 2.125

<sup>104</sup> Walzl, #A43, p 10

<sup>105</sup> Walzl, #A42, p 9

<sup>106</sup> Walzl, #A42, p 146-60, 201

- 22.4 Despite resistance by Ngai Tumapuhia-a-Rangi, there was immense pressure to lease, or if leased already, there was pressure to sell.<sup>107</sup> The Crown did not adequately alleviate their pressure or adequately assist Ngai Tumapuhia-a-Rangi to resist such pressure.
- 22.5 On 22 August 1940, 2,500 acres of the Te Maipi and Ngapuketuru blocks were used for the Homewood Development Scheme (“Homewood Scheme”).<sup>108</sup>
- 22.5.1 The implementation of the Homewood Scheme failed to provide the financial relief and opportunities promised to Ngai Tumapuhia-a-Rangi such as:
- (a) Farming and horticulture;<sup>109</sup>
  - (b) Employment of Ngai Tumapuhia-a-Rangi; and<sup>110</sup>
  - (c) Housing.<sup>111</sup>
- 22.5.2 Due to the failure of the Homewood Scheme Ngai Tumapuhia-a-Rangi were unable to effectively utilise the lands that were put into the scheme.

## H. Public Works Takings

23 The Crown adopted and pursued a policy of compulsorily acquiring the few remaining Ngai Tumapuhia-a-Rangi lands for various public works without adequate consultation or compensation, in breach of the principles of partnership, good faith and active protection.

### Particulars

#### Kaiwhata Native/Te Okautete School

23.1 In breach of the principles of the Treaty of Waitangi, the Crown failed to return or provide adequate compensation for the lands used for the Te

<sup>107</sup> Walzl, #A42, p 202, #A43, pp 104-132, pp 231-239

<sup>108</sup> Walzl, #A43, p 232

<sup>109</sup> Walzl, #A43, p 231-234

<sup>110</sup> Walzl, #A43, p 231-234

<sup>111</sup> Walzl, #A43, p 231-234



Okautete Native School to Ngai Tumapuhia-a-Rangi when those lands were no longer in use for their original purpose.

- 23.1.1 In 1902, Ngai Tumapuhia-a-Rangi lobbied the Government for the establishment of a school for Maori children of the area.<sup>112</sup>
- 23.1.2 In 1903, just over two acres of the Ngapuketuru Maori reserve were taken by the Crown under the Public Works Act 1894 for education purposes and the establishment of Te Okautete Native School (“the School”).<sup>113</sup>
- 23.1.3 Although the owners sought to gift the land, the Crown decided to take it under the Public Works Act 1894 and its 1900 amendment.<sup>114</sup>
- 23.1.4 The School was not opened until 1906.<sup>115</sup>
- 23.1.5 If the site was no longer required for the School, the land ought to have been returned under section 436 of the Maori Affairs Act 1953.<sup>116</sup>
- 23.1.6 Despite protest by Ngai Tumapuhia-a-Rangi, the Crown disestablished the School on 1 February 1963, and a new public school established on 1 February 1963.<sup>117</sup>
- 23.1.7 The School lands have not been returned to Ngai Tumapuhia-a-Rangi nor have Ngai Tumapuhia-a-Rangi received any compensation.<sup>118</sup>

23.2 In breach of Article Three and the principles of the Treaty of Waitangi, the Crown failed to provide Te Okautete Native School with sufficient and/or adequate facilities, resources, funding and support.

<sup>112</sup> Marr, Cleaver & Schuster *The taking of Maori Land for Public Works in the Wairarapa ki Tararua district: 1880 – 2000*, #A32, p 198-9

<sup>113</sup> Marr, Cleaver & Schuster, #A32, p 198

<sup>114</sup> Marr, Cleaver & Schuster, #A32, p 200

<sup>115</sup> Marr, Cleaver & Schuster, #A32, p 198

<sup>116</sup> Marr, Cleaver & Schuster, #A32, p 198

<sup>117</sup> Striling, *Nonoke: The Struggle*, #A51, p272-280

<sup>118</sup> Marr, Cleaver & Schuster, #A32, p 198

- 23.2.1 The Government was not willing to open the School for Ngai Tumapuhia-a-Rangi without the hapu's contribution and participation.<sup>119</sup>
- 23.2.2 Ngai Tumapuhia-a-Rangi were required to provide land, contribute to the maintenance expenses, and provide half the cost of buildings and a quarter of the salary of the teachers.<sup>120</sup>
- 23.2.3 In addition to the land required by the Crown, Ngai Tumapuhia-a-Rangi also gave more than a reasonable contribution for the establishment of the School.
- 23.2.4 The School komiti (consisting of local Maori) also contributed labour and materials to the School, including materials for a shelter shed in the playground, ploughing the grounds, clearing manuka, flooring the shed, topping shelter pines, repairing fences and other time and resources.<sup>121</sup>
- 23.2.5 The Crown did not provide adequate supplies, resources or support for the efficient and sound running of the School, nor for the health and well-being of the students.<sup>122</sup>
- 23.2.6 The School suffered from a lack of adequate supplies, equipment, building refurbishments and provisions.
- 23.2.6.1 In 1925, children used benzene drums for tables and chairs.
- 23.2.6.2 The sub-standard buildings and poor accommodation for teachers were frequently commented on by health officials and school inspectors.
- 23.2.6.3 The medical and dental care provided by the School on the Crown's behalf was sub-standard.
- 23.2.6.4 The overcrowded and badly ventilated classrooms and the location of toilet blocks contributed to tuberculosis and ill health among the students.

---

<sup>119</sup> Marr, Cleaver & Schuster, #A32, p 199

<sup>120</sup> Marr, Cleaver & Schuster, #A32, p 199

<sup>121</sup> Stirling, #A51, p258-267

<sup>122</sup> Stirling, #A51, p258-267

- 23.2.7 The Crown did not assist the School to provide quality teaching for the educational advancement of its Maori students.<sup>123</sup>
- 23.2.8 Despite pleas from Ngai Tumapuhia-a-Rangi the Crown did not assist the School with the appointment of teachers.
- 23.2.9 The School remained closed for long periods of time due to a lack of teaching staff.
- 23.2.10 The European based curriculum did not recognise or provide for Maori customs, teachings and learning needs.
- 23.2.11 The School had less and poorer access to Crown services compared to other schools under the Wellington Education Board.<sup>124</sup>
- 23.2.11.1 Advisory services, such as agricultural instructors and physical education teachers, were under the control of the Wellington Education Board as the Crown's agent.

### **Te Awaiti**

23.3 In breach of Article Three and the principles of the Treaty of Waitangi, the Crown failed to ensure that landlocked Ngai Tumapuhia-a-Rangi owners had access to their lands, despite guarantees to provide beneficial public works when Maori required them.

### **Particulars**

- 23.3.1 Crown grants were issued for Te Awaiti and road lines were provided but then later excluded from subsequent certificates of title resulting in the lands being landlocked.<sup>125</sup>

---

<sup>123</sup> Stirling, #A51, p258-267

<sup>124</sup> Stirling, #A51, p264

<sup>125</sup> Marr, Cleaver & Schuster, #A32, p 78

- 23.3.2 A public road was later surveyed across Oterei stream but ended within a few metres of Te Awaiti and continued the failure to provide access to the Maori owners.

## KO TE TUARUA - ENVIRONMENTAL DEGRADATION

### Acts and Administration

24. The Crown has delegated powers to local government bodies within the Ngai Tumapuhia-a-Rangi rohe, including provincial governments, river boards, catchment boards, road boards, highway boards, borough councils, county councils, city councils, regional councils, regional authorities and territorial authorities (“Local Government”). In breach of the principles of partnership and active protection, the Crown has failed to ensure that the process of those delegations to Local Government is consistent with the Treaty guarantees and principles.

### Particulars

- 24.1 The Crown has failed to consult Ngai Tumapuhia-a-Rangi about the establishment of Local Government processes within their rohe.
- 24.1.1 The Crown has failed to consistently incorporate the Treaty guarantees and principles into all legislation delegating powers to Local Government.
- 24.1.2 The Crown has failed to incorporate into the Local Government processes the traditional management, leadership and governance processes of Ngai Tumapuhia-a-Rangi.
- 24.1.3 By requiring office holders in Local Government to be freehold owners or ratepayers, Maori who held land in common have been excluded.<sup>126</sup>
- 24.1.4 The Crown failed to implement policies, practices, and acts that ensured Local Government managed the environment in a way that had any or any

---

<sup>126</sup> Marr, *Wairarapa Twentieth Century Environmental Overview Report lands Forests and Coast*, #A25, p 80

sufficient regard to the cultural and spiritual values of Ngai Tumapuhia-a-Rangi.

- 24.1.5 The Crown has failed to ensure that Ngai Tumapuhia-a-Rangi are sufficiently resourced to participate in Local Government processes.

## Environment - Biodiversity

25. In breach of the principles of the Treaty of Waitangi, including the principles of partnership and active protection the Crown failed to: recognise or incorporate the traditional management systems of Ngai Tumapuhia-a-Rangi within its systems for managing indigenous forests and wildlife; allow Ngai Tumapuhia-a-Rangi to have any or any sufficient participation in the management of indigenous forests and wildlife; and/or implement policies, practices and acts that ensured Local Government managed the environment in a way that involved Ngai Tumapuhia-a-Rangi as kaitiaki of their taonga.

### Particulars

- 25.1 For seven years prior to 1874 Wairarapa rangatira sought to ban the hunting of huia, but the Crown did not support or enforce that ban. The Crown did not ban the hunting of huia until 1892 and made little effort to enforce that ban.<sup>127</sup>
- 25.2 The Crown empowered its agent, the Wellington Acclimatisation Society (“WAS”), to manage game seasons for indigenous and introduced animals, fish and bird species, to control waterways and land, to recommend regulations, to charge and manage fees for hunting and fishing licences, and to enforce the law.<sup>128</sup>
- 25.3 The Crown empowered its agents, the Wildlife Service and the WAS, to share management of introduced and native wildlife.<sup>129</sup>

---

<sup>127</sup> Marr, #A25, p 43

<sup>128</sup> Marr, #A25, p 36

<sup>129</sup> Marr, #A25, p 44

- 25.4 The Crown failed to include any voice or right of participation by Ngai Tumapuhia-a-Rangi in the Wildlife Service, Forest Service, and the WAS.<sup>130</sup>
- 25.5 The Crown completely controls the management and harvest of indigenous birds pursuant to the Forests Act 1953, and continues to do so.<sup>131</sup>
- 25.6 The Crown gazetted part of the Aorangi Ranges as the “Haurangi State Forest Park” in 1974. Although the Park is now known informally as the Aorangi State Forest Park, its legal name still contains the word “Haurangi”, which Ngai Tumapuhia-a-Rangi consider to be an insult in its corruption of the word “Aorangi”, and incorrect.
- 25.7 The Crown has failed to ensure that Ngai Tumapuhia-a-Rangi are sufficiently resourced to participate in the management of indigenous forests, plants, birds and fisheries.
- 25.8 The Minister of Maori Affairs is neither obliged nor required to consult with Ngai Tumapuhia-a-Rangi, Ngati Kahungunu nor with Maori generally when recommending appointments to the New Zealand Conservation Authority, and the Wellington Conservation Board.<sup>132</sup> Similarly, the Minister of Conservation is neither obliged nor required to consult in making those appointments.

### **Forest Degradation**

26. In breach of the principles of the Treaty of Waitangi, including the principle of active protection, the Crown’s policies, practices, acts and omissions failed to ensure that the lands of Ngai Tumapuhia-a-Rangi were not severely eroded, valleys infilled and flooded, that the habitats for indigenous plant, fish and bird life were not devastated, degraded, depleted or made extinct and that Ngai Tumapuhia-a-Rangi did not suffer from the deterioration or disappearance of their traditional housing, food gathering and land

---

<sup>130</sup> Marr, #A25, pp 49 & 53

<sup>131</sup> Marr, #A25, p 46 & 57

<sup>132</sup> Marr, #A25, p 55

resources. Nor did the Crown have any sufficient regard to the effect that its land clearance policies would have on Ngai Tumapuhia-a-Rangi.

### Particulars

- 26.1 The Crown adopted a policy of offering subsidies to land owners under the Land Act 1892, which encouraged land to be developed and resulted in the almost total clearance of indigenous forests within the Ngai Tumapuhia-a-Rangi rohe.
- 26.2 Almost the whole of the Ngai Tumapuhia-a-Rangi rohe has been cleared of indigenous forests, particularly lowland and hill country forests, which has devastated ownership and access by Ngai Tumapuhia-a-Rangi to their taonga including bird and plant life.<sup>133</sup>
- 26.3 Ngai Tumapuhia-a-Rangi no longer has any or any sufficient access to totara, rimu, mātai, kahikatea and other indigenous plant species.<sup>134</sup>
- 26.4 The Crown's failure to implement policies, practices and acts to retain indigenous forests and its policies, practices and acts of encouraging clearfelling and farming have led to the replacement of trees with pastoral plants, particularly grasses, across most of the hill country, and has accelerated the rate of soil erosion and further undermined the kaitiaki obligations of Ngai Tumapuhia-a-Rangi.<sup>135</sup>
- 26.5 What little significant hill country indigenous habitat remains is in the hands of the Crown (through its agents the Department of Conservation, and local and regional authorities) or in private hands.

---

<sup>133</sup> Marr, #A25, p 73

<sup>134</sup> Smith, #A54, 6.3

<sup>135</sup> Marr, #A25, p 33; & Smith, *Land, Water and Resource Use in Wairarapa*, #A54, 4.3, 4.7, 6.3 and 6.4

- 26.6 Examples of the Crown's failure to protect Ngai Tumapuhia-a-Rangi in the enjoyment of their forests include deforestation at Wainuioru, Maungarake, Weraiti, Te Maipi, Te Pöhue blocks and part of Pikihorohoro.<sup>136</sup>

## Taonga

27. In breach of the principles of the Treaty of Waitangi, including the principle of active protection, the Crown and its agents (including the Forest Service) failed to adequately protect Ngai Tumapuhia-a-Rangi taonga and ensure Ngai Tumapuhia-a-Rangi enjoyment of those taonga.

## Particulars

- 27.1 The Crown permitted indigenous forests to be milled despite the devastation of indigenous forests and birds. For example, in 1966 to 1967 a quarter of the timber cut in the Wairarapa was indigenous forests, mainly from the Aorangi ranges.<sup>137</sup>
- 27.2 Pursuant to the Wildlife Act 1953 the Crown granted itself the sole right to control the dead bodies of indigenous birds and marine mammals (including feathers), and to manage the harvest and use of indigenous birds, and it continues to do so.<sup>138</sup>
- 27.3 By those acts and omissions, the Crown was responsible for:
- (a) the loss of uncultivated mahinga kai, including birds, fernroot, berries and kiore; and,<sup>139</sup>
  - (b) the loss of resources such as feathers and raupō, which were used to make tools, clothing, and to support other economic activity.<sup>140</sup>

---

<sup>136</sup> Smith, #A54, 4.1 & 5.7

<sup>137</sup> Marr, #A25, p 51

<sup>138</sup> Marr, #A25, p 51

<sup>139</sup> Smith, #A54, 4.4

<sup>140</sup> Smith, #A54, 3.2



## Pests

28. In breach of the principles of the Treaty of Waitangi, including the principle of active protection, the Crown failed to protect the taonga of Ngai Tumapuhia-a-Rangi from the introduction of pests.

## Particulars

- 28.1 Ngai Tumapuhia-a-Rangi was given no or no sufficient opportunity to be heard in the management and control of indigenous species.
- 28.2 Ngai Tumapuhia-a-Rangi was given no opportunity to be heard in the introduction, management and control of introduced species even where those introduced species undermined the viability of indigenous species.
- 28.3 The Animals Protection Act 1862 and the Salmon and Trout Act 1867 both protected introduced species but did not protect indigenous species, despite the fact that introduced species were contributing to the decline in indigenous species' viability.<sup>141</sup>
- 28.4 The WAS introduced possums, deer, game birds and sports fish to the Ngai Tumapuhia-a-Rangi rohe, which contributed to the devastation of indigenous forests, birds and fish life.
- 28.5 The WCB and local authorities, as Crown agents, used pesticides to control introduced species, but failed to consult with Ngai Tumapuhia-a-Rangi, or to consider the effect of those pesticides on the interests of Ngai Tumapuhia-a-Rangi in their waterways and native plant, fish and bird life.<sup>142</sup>

## Waterways

29. In breach of the principles of the Treaty of Waitangi including the principle of partnership, the Crown failed to give Ngai Tumapuhia-a-Rangi an

---

<sup>141</sup> Marr, #A25, p 39

<sup>142</sup> Marr, #A25, pp 69 & 74 – 75

opportunity to be heard or a role in the decision making processes regarding waterways.<sup>143</sup> In further breach of the principle of partnership, the Crown failed to provide for or protect Ngai Tumapuhia-a-Rangi in their ownership of and access to their inland waterways and associated taonga, including freshwater fisheries, flora and fauna.

## **Particulars**

### ***Management***

- 29.1 The Crown enacted the River Boards Acts 1884 and 1908, and thereby empowered river boards as its agents.
- 29.2 The Crown enacted the Soil Conservation and Rivers Control Act 1941, and thereby empowered in 1944 as its agent the Wairarapa Catchment Board (“WCB”).
- 29.3 The Crown empowered the WCB to control and regulate all water and watercourses within the Wairarapa catchment, which included the rohe of Ngai Tumapuhia-a-Rangi.
- 29.4 The Crown vested exclusive care, control, and management of all watercourses within the Wairarapa in the WCB.
- 29.5 The WCB prepared a scheme to prevent or minimise flooding and erosion in the Wairarapa, for approval by the Crown’s agent, the Minister of Works without any or any sufficient consultation with Ngai Tumapuhia-a-Rangi.

### ***Drainage***

- 29.6 Pursuant to the Land Drainage Act 1893, the Crown empowered drainage boards as its agents to drain land for agricultural and pastoral purposes.

---

<sup>143</sup> McClean, *Wairarapa 20<sup>th</sup> Century Environmental Overview Report: Inland Waterways*, #A41, 87

- 29.7 Only neighbouring land owners had a statutory right to object. Maori had no separate right to object, despite any interests they had in other resources, including waterways, wetland ecologies, and plant, fish and bird life.
- 29.8 The Crown's policies, practices, acts and omissions contributed to drainage of swamps within the Ngäi Tumapuhia rohe (including at Waiorongō).

#### ***Adequacy of management***

- 29.9 The Crown failed to adequately regulate water use within the rohe of Ngai Tumapuhia-a-Rangi, and continue to do so. For example, the WCB gave owners of land adjoining waterways free reign to reclaim wetlands, and to take from, discharge into, realign, divert, stopbank, stop and otherwise use waterways within the rohe of Ngai Tumapuhia-a-Rangi.

#### ***Wetlands***

- 29.10 The Crown took no account of Maori cultural values in its actions relating to wetlands and the taonga within those wetlands, including native plant species, fisheries, and birdlife.
- 29.11 Swamps such as Waiorongō were drained.

#### ***Taking of shingle***

- 29.12 The Crown and its agents developed and implemented policies and practices to control shingle taking, without adequate consultation with Maori, without adequate regard for Maori views on the management and use of the rivers and associated taonga, and without adequate compensation to Maori for such taking.
- 29.13 From 1947 the Crown vested in the WCB control of shingle takings within the rohe of Ngai Tumapuhia-a-Rangi.
- 29.14 In 1972 the Crown granted the WCB a general licence to control taking the taking of shingle pursuant to s 165 of the Land Act 1948.

- 29.15 In 1977 the Crown, through its agent the Ministry of Transport, approved shingle taking controlled by WCB from rivers within the Ngai Tumapuhia-a-Rangi rohe, including the Awhea River.
- 29.16 Until 1985 the WCB encouraged shingle takings from the Awhea-Opouawe scheme area by allowing shingle to be taken without fee or licence.<sup>144</sup>
- 29.17 The taking of shingle contributed to the destruction of wahi tapu and traditional mahinga kai (including pa tuna), depletion of freshwater fisheries and degradation of water quality.

***Water quality***

- 29.18 In breach of the principles of the Treaty of Waitangi, including the principle of partnership, the Crown failed to give Ngai Tumapuhia-a-Rangi an opportunity to be heard in the decision making process in relation to waterways.<sup>145</sup>
- 29.19 In breach of the principle of partnership and of other Treaty principles, the Crown failed to provide for or protect Ngai Tumapuhia-a-Rangi in their ownership of and access to inland waterways and associated taonga, including freshwater fisheries, flora and fauna.
- 29.20 The practices, policies, acts and omissions of the Crown and its agents had a detrimental impact on the fishing resources of the river resulting in the loss of a resource base for Maori.
- 29.21 Sewage and run off were permitted by local authorities to enter into waterways that were significant to Maori for spiritual and kaimoana purposes.
- 29.22 The practices, policies, acts and omissions of the Crown and its agents have resulted in increased flooding, river erosion and sedimentation problems.<sup>146</sup>

---

<sup>144</sup> McClean, #A41, 3.11.5

<sup>145</sup> McClean, #A41, 87

<sup>146</sup> Smith, #A54, 6.4

- 29.23 The practices, policies, acts and omissions of the Crown and its agents concerning chemical and fertiliser use, resulted in toxins leaching into waterways, polluting traditional resource habitats and species.<sup>147</sup>
- 29.24 The resulting degradation of waterways caused a decline in taonga of Ngai Tumapuhia-a-Rangi, including freshwater fish stocks (such as tuna and kokopu), birdlife (such as pūkeko and matuku), and plants (such as raupō and bread pollen).

### **Waahi Tapu**

30. In breach of the principles of the Treaty of Waitangi, including the principle of active protection, the Crown's policies, practices and acts regarding the management of the environment have undermined the spiritual and cultural relationship and whakapapa connections that Ngai Tumapuhia-a-Rangi has with the natural environment, including waahi tapu, forests, fresh and sea waters, indigenous plants, birds, insects, fish and other taonga.<sup>148</sup>

### **Particulars**

- 30.1 As a result of the Crown's actions and policies, Ngai Tumapuhia-a-Rangi have not been able to manage, maintain or protect their waahi tapu, traditional and sites of significance, including (but not limited to):
- (a) Urupā such as Waipuna, Mangapiu, Ahirara, Wainuioru.
  - (b) Waahi tapu and urupā on Te Maipi.
  - (c) Kainga and ancestral sites at Waikekeno, Ngapuketuruua, Nga Mahanga and Whakawhiti.

---

<sup>147</sup> Smith, #A54, 6.4

<sup>148</sup> Smith, #A54, 1.3

## KO TE TUATORU- FORESHORE AND SEABED AND FISHERIES

31. In breach of the principles of the Treaty of Waitangi the Crown failed and/or refused to formally recognise and/or actively protect Ngai Tumapuhia-a-Rangi in their customary ownership and management of their foreshore, seabed and marine resources.

### Particulars

#### *Mahinga kai moana*

31.1 In breach of the principles of the Treaty of Waitangi including the principle of active protection, Crown practices, policies, acts and omissions allowed the depletion of kaimoana, through overfishing and degradation of the marine habitat, leading to the loss of crayfish, fish, paua, karengo, ingo, shellfish and other traditional kai moana.<sup>149</sup>

31.2 In breach of the principles of the Treaty of Waitangi including the principle of active protection, Ngai Tumapuhia-a-Rangi has been denied ownership of and access to their traditional fishing areas, such as Waikare, Waikohi and Rangipo Reef.

31.3 In breach of the principles of the Treaty of Waitangi including the principle of active protection, the Crown has failed to set aside and protect any or any sufficient fishing reserves, for the benefit of Ngai Tumapuhia-a-Rangi, between the mouth of the Whareama River and the mouth of the Awhea River.

#### *Foreshore and seabed*

31.4 The coastline, particularly between the mouths of the Whareama River and the Awhea River, was relied upon by Ngai Tumapuhia-a-Rangi, and was the site of mahinga kai, tauranga waka, taunga ika, kainga, and waahi tapu.

---

<sup>149</sup> Smith, #A54, 3.3 & 4.6

- 31.5 The Crown failed to ensure Ngai Tumapuhia-a-Rangi retained access to sites of importance along the coastline such as: Te Ununu; Ahirara; Waikeno; Waikaraka; Kaihoata and; Waimimihia (including mahinga kai, and waahi tapu) and failed to protect those sites from degradation.
- 31.6 Despite continued ownership and occupation by Ngai Tumapuhia-a-Rangi of lands adjacent to the foreshore and seabed, between the mouths of the Whareama River and the Awhea River, the Crown has granted to itself:
- 31.6.1 Ownership of the seabed and foreshore, and the right to control and manage the coastal area and sea, in particular pursuant to the Territorial Sea and Exclusive Economic Zone Act 1977, the Foreshore and Seabed Endowment Revesting Act 1991 and the Resource Management Act 1991.

### ***Management***

- 31.7 Systems established by the Crown for the management of wai moana, of the coast, foreshore and seabed, and of mahinga kai moana excluded Ngai Tumapuhia-a-Rangi from participating, and failed to provide for customary management practices and rights, and continue to do so.
- 31.8 In breach of the principles of the Treaty of Waitangi including the principle of partnership the Crown failed to consult Ngai Tumapuhia-a-Rangi or to give Ngai Tumapuhia-a-Rangi a role in respect of environmental issues within the coastal and marine area.

## **KO TE TUAWHA - SOCIO-ECONOMIC IMPACT**

32. In breach of the principles of the Treaty of Waitangi, and due to the landlessness of Ngai Tumapuhia-a-Rangi,<sup>150</sup> the Crown has caused or allowed Ngai Tumapuhia-a-Rangi to suffer from evident poverty, economic stress and poor housing, health and education.

---

<sup>150</sup> See Ko Te Tuatahi

## Particulars

### Education

32.1 In breach of the principles of the Treaty of Waitangi, the Crown failed to provide adequate educational facilities for Ngai Tumapuhia-a-Rangi and expected Maori to contribute their little remaining lands to the establishment of schools for Maori. Further, in establishing schools, the Crown pursued assimilationist education policies resulting in the near extinction of te reo Maori me ona tikanga and policy aimed at producing Maori as labourers.

### Particulars

32.1.1 Ngai Tumapuhia-a-Rangi had to contribute 2 acres of their already dwindling landholding for the establishment of Te Okautete Native School.<sup>151</sup>

32.1.2 Despite specific attempts by Ngai Tumapuhia-a-Rangi to establish and maintain a school in their rohe, the Crown failed to provide adequate support and resources.<sup>152</sup>

32.1.3 The Native Schools Act 1858 contained a statutory obligation to instruct in the English language.<sup>153</sup>

32.1.4 Mission schools gave primarily industrial training to Maori, whereby Maori spent more time labouring on the land gifted to endow the schools than they did in the classroom.<sup>154</sup>

### Health

32.2 In breach of Article Three and the principles of the Treaty of Waitangi, the Crown failed to provide Ngai Tumapuhia-a-Rangi with the same health care systems and services and/or assistance as European.

---

<sup>151</sup> See H. Public Works Takings

<sup>152</sup> See H. Public Works Takings

<sup>153</sup> Stirling, #A51, section 8, p 151

<sup>154</sup> Stirling, #A51, section 8, pp150-1



## Particulars

32.2.1 Due to the Government's lack of provision of medical services, Ngai Tumapuhia-a-Rangi suffered from significantly higher rates of communicable diseases and mortality than European.<sup>155</sup>

## Housing

32.3 In breach of the principles of the Treaty of Waitangi the Crown failed to provide Ngai Tumapuhia-a-Rangi with adequate housing and assistance with living conditions.

## Particulars

32.3.1 As late as 1966, a large proportion of the Maori population lived in 'deplorable' housing conditions.<sup>156</sup>

32.3.2 Despite the implementation of some housing initiatives, Maori housing programmes were never allocated sufficient resources to adequately deal with the problem of poor Maori housing.<sup>157</sup>

## Economic

32.4 In breach of the principles of the Treaty of Waitangi the Crown continue to allow for the economic position of Ngai Tumapuhia-a-Rangi to be marginalised in comparison to the European community and colonial economy.

## Particulars

32.4.1 As at 2001, Wairarapa Maori including Ngai Tumapuhia-a-Rangi are in a position of economic disadvantage in comparison with their non-Maori counterparts both regionally and nationally.<sup>158</sup>

---

<sup>155</sup> Stirling, #A51, section 7

<sup>156</sup> Stirling, #A51, section 9, p 367

<sup>157</sup> Stirling, #A51, section 9, p 367

<sup>158</sup> Sceats, Kukutai, Ian Pool & Portal Consultants *The Socio-Demographic and Economic Characteristics of Maori in the Wairarapa ki Tararua Region, 1981-2001*, #A28, p 104

## V. NGA PAANGA WHAKATIITAHĀ - PREJUDICIAL EFFECTS

33. The prejudicial effects suffered by Ngai Tumapuhia-a-Rangi include (but are not limited to):
- (a) the desecration and destruction of waahi tapu and other significant sites and the severance of the tribes from those areas;
  - (b) the dispossession of substantially all of their cultural, spiritual, economic and political resource base;
  - (c) the loss of mana and the consequent loss of economic, cultural and political autonomy through the continuing erosion of rangatiratanga;
  - (d) the loss of the harbours, foreshore, seabed and customary fisheries in the Wairarapa region and beyond;
  - (e) the loss of economic independence and potential prosperity;
  - (f) the destruction of the traditional system of tenure;
  - (g) being left with fragmented, meagre and individualised land holdings of little utility of value that are manifestly insufficient for the present and future needs of Ngai Tumapuhia-a-Rangi;
  - (h) being left with insufficient land and resources to actively participate in the economy and enjoy the benefits of European settlement as contemplated by the Treaty of Waitangi and in particular, the principle of development;
  - (i) the damage to the natural environment of Ngai Tumapuhia-a-Rangi and its abundance of natural resources caused by the pollution of the lands, waterways, sea and air;
  - (j) the arousal of division, dissention and conflict between hapu and iwi within the Wairarapa rohe leading to a breakdown of their traditional structures;
  - (k) the damage to and gradual destruction of the social structure and organisation of Wairarapa Maori;

- (l) the arousal of division, dissent and conflict between the Wairarapa iwi, hapu and other whanau;
- (m) poor health, wealth and education as a direct or indirect result of the prejudice and losses referred to;
- (n) the imposition of anxiety, stress and trouble on Ngai Tumapuhia-a-Rangi as a result of the above matters; and
- (o) causing a gross offence to the right, title and mana of the Ngai Tumapuhia-a-Rangi within their tribal region.

## VI. NGA RONGOA – RELIEF SOUGHT

34. The claimants have long anticipated the recommendations of the Tribunal on their claims. Ngai Tumapuhia-a-Rangi seek the following recommendations in terms of the Treaty of Waitangi Act 1975:
- (c) That the Crown offer a full apology for the actions and omissions that were in breach of the Treaty of Waitangi;
  - (d) Pursuant to ss.8A-8H(j) of the Treaty of Waitangi Act 1975 with the return to the claimants of all relevant Crown land, land held by any State Owned Enterprise, land held by any institution under the Education Act 1989 and land vested under the New Zealand Railway Corporation Restructuring Act 1990 or any interest in any such land and together with improvements thereon;
  - (e) That all land owned by the Crown within the claim area and any improvements thereon including reserve and conservation land be returned to the claimants;
  - (f) That the Crown compensate the claimants for the prejudicial effects as a result of the Crown's legislation, acts, omissions, policies and practices as identified in their Statement of Claim;
  - (g) That the Crown restore the mana and mauri of Ngai Tumapuhia-a-Rangi through Crown acknowledgment of their ancestral, customary and historical interests within their rohe through various mechanisms and processes to be agreed between the parties;
  - (h) That the customary title and any other rights of the claimants (including those of management and control) in respect of the harbour, foreshore and seabed, and petroleum resources are the resources of the Ngai Tumapuhia-a-Rangi;
  - (i) Transfer of all and any existing property rights if any to the harbours, foreshore and seabed to Ngai Tumapuhia-a-Rangi;
  - (j) That the Crown takes all steps necessary to restore the appropriate names to sites and landmarks of importance within the rohe of Ngai Tumapuhia-a-Rangi;

- (k) That the Crown pay the full costs to Ngai Tumapuhia-a-Rangi for the preparation and presentation of their claim and the costs of recovering any land recommended to be returned or other costs incurred in securing the implementation of recommendations;
- (l) That the Crown provide sufficient compensation to Ngai Tumapuhia-a-Rangi for lands compulsorily taken for public works;
- (m) That the Crown provide joint management or ownership of urupa and waahi tapu (that are not returned or already in the ownership of Ngai Tumapuhia-a-Rangi) with Ngai Tumapuhia-a-Rangi;
- (n) That the Crown recognise and provide for the tangata whenua status of Ngai Tumapuhia-a-Rangi at local government level;
- (o) Such other recommendations that the Tribunal deems appropriate.

## **“APPENDIX A”**

