
KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I
TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL

WAI 2800

WAI 1623

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF the inquiry into Remaining Historical Claims:
Southern North Island and South Island Claims

AND

IN THE MATTER OF a claim on behalf of Ngāti Rangatahi (Wai 1623)

SUBMISSIONS OF NGĀTI RANGATAHI IN RESPONSE TO
CLAIM ASSESSMENT

18 October 2022

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Waitangi Tribunal

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WELLINGTON

E TE KAIWHAKAWĀ, TĒNĀ KOE.

Introduction

1. These submissions refer to the Waitangi Tribunal's Claim Assessment of the Wai 1623 Ngāti Rangatahi kei Rangitikei Claim.¹

Feedback on Claim Assessment

Claimants

2. The claimants, as the Trustees of the Ngāti Rangatahi Claims Trust ("Claims Trust"), are now:
 - a. Danny Karatea-Goddard;
 - b. Sue Tumanako Herangi;
 - c. Rawiri Meihana Durie;
 - d. Mereti Hokiopera Taipana; and
 - e. Natasha Jane Ropata.
3. The Chief Executive of the Claims Trust is Tā Taihākurei Durie.
4. The Claims Trust Deed was approved by hui-ā-iwi at the Ngāti Rangatahi marae, Te Hiiri o Mahuta at Kākārīki, on 16 July 2017. Trustees are appointed at hui-ā-iwi of Ngāti Rangatahi, or in some circumstances by the Marae Trustees of Te Hiiri o Mahuta.²
5. Ngāti Rangatahi are a hapū whose members descend from Maniapoto, Raukawa and Toarangatira. They have lived, migrated and acted as part of or alongside each of those iwi at different times in their history.

¹ Wai 2800, #6.2.3

² The Ngāti Rangatahi Claims Trust Deed has been previously filed as an appendix to Wai 1623, #1.1.1(b)

6. Ngāti Rangatahi witnesses will evidence the whakapapa and identity of the tribe today, drawing down from lines of Maniapoto, Raukawa, and Toarangatira, Rārua and Koata who led the principal migration from Kawhia. The tribe at Kākāriki today will evidence their descent from members of the tribe who have lived at all recorded locations of parts of the tribe across its history, particularly at Mokau, Ōhura, Kāpiti, Porirua, Wairau and the Hutt Valley.

Claim Allegations

7. The Claim Assessment states on page four:

Ngāti Rangatahi sought to settle the Wairau Valley with Ngāti Toa but were forcibly removed by the Crown after the Wairua conflict in 1843.

8. The wording, ‘with Ngāti Toa’ is taken from the Wai 1623 Amended Statement of Claim of 18 April 2019.³ It should be understood in the context that Ngāti Rangatahi, particularly those of the whakapapa line of Te Haunga, were a hapū of Ngāti Toa. Both the Ngāti Rārua and Ngāti Koata lines of Ngāti Toa – the two principal lines to have migrated from Kawhia – are rich in Ngāti Rangatahi whakapapa and members.
9. Ngāti Rangatahi and Ngāti Toa had migrated, fought, and settled together, and had many close family ties. The Wai 1623 claim will produce evidence on this point. Ngāti Rangatahi do not assert a separate identity from Ngāti Toa in Wairau (as is implied by the word ‘with’) – the claim is that Ngāti Rangatahi were a significant hapū of the group of Ngāti Toa in Wairau and that their claim as members of that group has not yet been settled by the Crown.
10. In the modern day, Ngāti Rangatahi live primarily amongst Ngāti Raukawa, and are participating in the Wai 2200 inquiry for that reason. They are not included within the scope of Ngāti Toa’s settlement. To the extent that Ngāti Rangatahi acted with or as part of Ngāti Toa at Wairau and Heretaunga, their claim remains unsettled.
11. The Claim Assessment states on page four:

³ Wai 1623, #1.1.1(d)

The Crown did not consider the unique interests of Ngāti Rangatahi of Kākāriki when engaging with Taumarunui-based Ngāti Rangatahi concerning the 1992 Hutt Valley railway settlement. Similarly, the Crown progressed Treaty settlement mandate activity with their Ngāti Rangatahi Whanaunga Association (also based in Taumarunui) without the proper consideration of Ngāti Rangatahi of Kākāriki.

12. This understates the position. The claim is as follows:

- a. The Ngāti Rangatahi tribe lived at Mokau prior to migration south. Maniapoto is a grandson of Raukawa, and Rangatahi is a granddaughter of Maniapoto. Many of her descendants – in particular through Te Rangikaiwhiria – share descent from Toa Rangatira. Evidence will be produced of the close ties of Ngāti Rangatahi with the Ngāti Rārua, Ngāti Koata and Ngāti Kimihia lines within Ngāti Toa. Ngāti Rangatahi as a hapū affiliate closely to each of Maniapoto, Toa and Raukawa, although they have lived amongst Ngāti Raukawa for most of the last two centuries.
- b. Some members of Ngāti Rangatahi had settled in the Ōhura Valley near the Whanganui River in the late 18th Century due to a family dispute, and intermarried with Ngāti Hāua there. They lived there primarily as a Hāua / Maniapoto tribe. Whakapapa to Rangatahi is widespread within Ngāti Maniapoto. However, a tribe is only characterized by descent: it is defined by participation. When the main body of Ngāti Rangatahi was migrating south in the 1820's as part of the migrations of Ngāti Toa and Ngāti Raukawa, some of the Ōhura Valley people then rejoined the main body of the tribe. This is recorded to have been a small number compared to the bulk of the migration.⁴ Others remained with their Ngāti Hāua kin at Ōhura.
- c. Ngāti Rangatahi then lived – in sequence – at Kāpiti, Porirua / Heretaunga, Wairau, again at Heretaunga, and then at Kākāriki, continuously under the leadership of Te Rangihaeata. It has been said that in the few short years of the second occupation of Heretaunga, some members of Ngāti Rangatahi forged political independence from Te Rangihaeata. This is

incomprehensible in terms of whakapapa and tikanga, and completely inconsistent with the pattern of events both prior to and after the Ngāti Rangatahi occupation of Heretaunga.

- d. Between Heretaunga and Kākāriki, Ngāti Rangatahi – by every account known – fought and migrated under the leadership of Te Rangihaeata. In settling at Kākāriki, Ngāti Rangatahi settled on the allocation of Te Rangihaeata, acknowledged as a hapū of Ngāti Maniapoto, Toa and Raukawa. Many members who had migrated from the Ōhura Valley remained at Kākāriki, and so some of their names are recorded amongst those who hold land interests at Kākāriki. Some members of the tribe departed from Kākāriki to live again as Ngāti Hāua and Maniapoto with the family they had left behind before joining the migration. The majority of those recorded as ‘returning’ to the Whanganui River had not in fact joined the body of Rangatahi until 1845 as part of the taua of Tōpene te Mamaku.
- e. Ngāti Rangatahi say that the body of the tribe settled at Kākāriki, and that is where the customary rights of Ngāti Rangatahi reside. Members of the tribe who move away may resume their relationship with those customary rights by becoming active participants of the tribe again at Kākāriki. If they do not do so, then they are in diaspora and cannot exercise any customary rights to the exclusion of the tribal group.
- f. Included amongst the customary rights held at Kākāriki is the right to settle historical grievances relating to those customary rights with the Crown. Members of the tribe who have left Kākāriki may engage in this process – but only through the Ngāti Rangatahi marae at Kākāriki and the Wai 1623 claim. This is why the hui-ā-hapū at Kākāriki and the Marae Trustees of Te Hiiri o Mahuta appoint the Wai 1623 claims Trustees.
- g. To date, other members of Ngāti Rangatahi who call themselves the Ngāti Rangatahi Whanaunga Association (Whanaunga Association) have engaged with the Waitangi Tribunal and with the Crown without engaging at all with the tribe at Kākāriki, which has the appearance of keeping the tribe in the dark about their actions on the tribe’s behalf. They control two Wai claims:

366 and 1064, but as is recorded on the Te Arawhiti website, have attempted to achieve mandate to settle on behalf of Wai 1623.

- h. The Crown has ceased mandate negotiations with the Whanaunga Association. To the extent that it has engaged with or transferred money or land interests to the Whanaunga Association, the Crown has done so in error and cannot consider any of that engagement or purported settlement to have been applied to the interests of Ngāti Rangatahi.

Summary of Research - Wairau

- 13. The Claim Assessment states at page seven:

... the [Te Tau Ihu Wai 785] report provided little insight into the specific involvement of Ngāti Rangatahi in the 1843 Wairau conflict, identifying only Ngāti Rarua and Rangitāne support for Ngāti Toa resistance to the New Zealand company.

- 14. This statement reflects an incorrect understanding of Rangatahi as a separate body of people from Ngāti Toa at Wairau. Ngāti Rangatahi will produce whakapapa and other evidence to demonstrate their participation at Wairau as a hapū of Ngāti Toa, also comprising many of the members of Ngāti Rārua.

- 15. At page eight, the Claim Assessment states:

Ultimately, the *Te Tau Ihu Report* found the Crown's response to the Wairau incident was consistent with its Treaty obligations.

- 16. Page 243 of the Te Tau Ihu Report is cited as authority for this proposition. Page 243 and its surrounds detail a litany of Crown errors and omissions, including those set out in the Claim Assessment on page seven. This statement on page eight of the Claim Assessment seems to be in error.

- 17. At page eight, the Claim Assessment states:

There was also no detail concerning the involvement of Ngāti Rangatahi in the subsequent 1847 Wairau Crown purchase. It is possible that the absence of Ngāti Rangatahi references in the *Te Tau Ihu Report* resulted

from the fact that Ngāti Rangatahi of Kākāriki claimants did not participate in that inquiry.

18. The Ngāti Rangatahi claimants have previously given their reasons for waiting for the Tribunal to come to Kākāriki before presenting their claim. The Wai 785 inquiry panel – as with the Wai 898 and Wai 145 inquiry panels – did not have the benefit of whakapapa, oral and traditional evidence from the Wai 1623 claimants in forming its views of traditional intra-tribal relationships, and cannot therefore be expected to have made accurate findings on the extent of Ngāti Rangatahi’s role as a hapū of Ngāti Toa through this period.

Summary of Research – Multiple Sources Regarding Heretaunga

19. The Claim Assessment describes the following breach of the Crown, as found by the Wai 145 Tribunal:

Allowing the destruction and pillaging of [Ngāti Rangatahi] property after they had agreed to vacate their lands in the Hutt Valley (which included the burning of their pa by the military forces of the Crown)

20. This understates the position. The Wai 1623 claimants understand that the Crown had as many as 340 soldiers stationed in the Hutt Valley and surrounds in Autumn of 1846, equipped with artillery including two Howitzer machine guns.⁵ The Governor unlawfully declared martial law over the whole of the valley. The severity of military threat and action by the Crown in the Hutt Valley has not yet been accurately reflected in the Tribunal’s findings, and needs to be inquired into and confirmed by the Wai 2800 Tribunal.

Discussion of the Hippolite Report.

21. The Claim Assessment refers to a report entitled ‘Ngāti Rangatahi’ by Joy Hippolite, filed in 1997.⁶ The introduction to the Hippolite Report states:⁷

⁵ Arthur S. Thomson, *The Story of New Zealand: Past and Present, Savage and Civilized*, Vol. 1, (London: Spottiswoode and Co, 1859), 131.

⁶ Joy Hippolite, ‘Ngati Rangatahi’, January 1997, (Wai 145, #H004)

⁷ *Ibid.*, 1.

“This report was prepared on behalf of the Ngāti Rangatahi claimants (Wai 366) ... This report is based largely on secondary sources, printed contemporary material and material supplied by the claimants...”

22. Despite drawing heavily on evidence from the Whanaunga Association claimants, the Hippolite report characterises the flight from the Hutt Valley to Kākāriki as being entirely under the leadership of Te Rangihaeata.⁸ It definitively concludes with Ngāti Rangatahi settling at Kākāriki.⁹ Only those warriors led by Topine Te Mamaku (who arrived in the Hutt Valley in 1845 alongside Te Rangihaeata’s greater military force) are said to have “returned” to Whanganui.¹⁰ Aside from Kaparetehau, who is said to have returned to the Hutt Valley, Hippolite states that the rest of the Ngāti Rangatahi from the Hutt appear to have stayed in the Rangitikei (Kākāriki).¹¹ Indeed, the Hippolite Report includes in its appendices the original Native Land Court Minute book pages that include the names of the Ngāti Rangatahi who settled at Kākāriki alongside the notation, “The Ngāti Rangatahi fought under Te Rangihaeata in the Hutt War and after wards fled north. Many of them settled at Te Reureu [Kākāriki].”¹²
23. A key theme of the Hippolite Report is the ‘independence’ that Ngāti Rangatahi established in the Hutt Valley between 1843 and 1846. This independence is evidenced through the express intention of Kaparetehau to remain on the land despite the decision of Te Rauparaha to receive money as part of the Spain settlement process following the Port Nicholson block ‘purchase’.¹³
24. This line of argument harkens back to the idea expressed in R.D. Hanson’s letter to Governor Fitzroy of Ngāti Rangatahi paying a “tribute” of “canoes, eels and birds” to Ngāti Toa during their earlier occupation and use of the Hutt Valley in the 1830’s.¹⁴ In “Shadow of the Land” in 1968, Ian Wards described Rangatahi’s title to the valley as a “fiefdom” paying “tribute” to Te Rauparaha

⁸ Joy Hippolite, ‘Ngāti Rangatahi’, January 1997, (Wai 145, #H004), 43 – 45.

⁹ Ibid., 43, 46.

¹⁰ Ibid., 46.

¹¹ Ibid.

¹² “Alexander MacKay, MA 13/71 “Rangitikei-Manawatu: List of Hapu Occupying the Reureu Reserve”, appended to Joy Hippolite, ‘Ngāti Rangatahi’, January 1997, (Wai 145, #H004).

¹³ Joy Hippolite, ‘Ngāti Rangatahi’, January 1997, (Wai 145, #H004), 29 – 41.

¹⁴ R Davis Hanson, *Extracts from a letter to Captain Fitz-Roy*, RN, Adelaide 1846 (ATL), 5.

and Te Rangihaeata.¹⁵ That Ngāti Rangatahi later refused to move from the Hutt Valley when Te Rauparaha removed his support for them is, in that light, interpreted as a cession – as if Ngāti Rangatahi had by then forged their own nation state no longer under Te Rauparaha’s rule. This narrative is relied upon in the Whanaunga Association claims.

25. This entire line of reasoning is based in a misunderstanding of Māori customary relationships. Both Te Rangihaeata and Te Rauparaha are of Ngāti Rangatahi. The people living in the valley were their close kin and friends. The group will have operated as a single economic and familial unit, including in the internal transition of resources between the Hutt Valley, Porirua and Kāpiti. The hierarchy inherent in tribute (which would only be seen in tikanga Māori in the case of a conquered people) has no place in this familial relationship.
26. This perceived hierarchy is also utterly inconsistent with the nature of hapū / iwi relationships. The primary unit of Māori economy and society was the hapū. Hapū came together as an iwi in times of need or for particular purposes, and affiliated to different iwi at different times. This is evidenced in the movements of the Ngāti Rangatahi members from Ōhura valley, who had lived with their Ngāti Hāua kin there, but then migrated south as a hapū of Ngāti Toa. After being evicted from Wairau and the Hutt Valley, they settled amongst kin of Raukawa, Maniapoto and Toa descent. Hapū make up the iwi: without the consensus-based participation of hapū, ‘iwi’ do not exist. There is nothing in the historical record that would have given Te Rauparaha a basis in custom to force a hapū from the lands it occupied against its own consent. The fact that the hapū stayed in the valley after Te Rauparaha removed his support for their continued occupation there (if that is the case) is not abnormal at all in customary law. The overlay of immense Crown pressure on Te Rauparaha across the many customary land interests of Ngāti Toa makes it difficult to infer any clear meaning from his actions in any case.
27. The Wai 1623 claimants say that Ngāti Rangatahi did not need to pretend ‘independence’ from Ngāti Toa in order to have land rights in the Hutt Valley.

¹⁵ Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852*, (Wellington, A R Shearer. Government Printer, 1968), 233.

They had rights there by virtue of contributing to its conquest, being placed there by Te Rangihaeata, and through occupation as a hapū. These rights survived until the Crown's military action.

28. The myth of 'independence' is any case quickly embarrassed in the face of all accounts of the military action and retreat through Pāuatahanui through to Kākāriki. Uniformly, these accounts show Ngāti Rangatahi as the people of Te Rangihaeata.

Discussion of the Patete Report.

29. The Claim Assessment refers to research by Anthony Patete in the Whanganui Land inquiry, commissioned by the Crown Forestry Rental Trust.¹⁶ Mr Patete's Acknowledgements section identifies that all of his research assistants were members of the Whanaunga Association and the Wai 366 or Wai 1064 claims.¹⁷

30. Nonetheless, the Patete Report also acknowledges that:

- a. Many people who were members of Ngāti Rangatahi had remained at Ōhura and had not joined the Ngāti Toa migration south¹⁸ (weakening the assertion made by the Whanaunga Association claimants that the presence of members of Ngāti Rangatahi at Taumarunui in the late 19th century proved a link to the Hutt Valley occupants);
- b. The 'returnees' to Taumarunui in 1847 were those under the leadership of Te Mamaku (numbering 80, which the Wai 1623 claimants understand is roughly the number of people said to have come with Te Mamaku into the Hutt Valley in 1845)¹⁹; and
- c. A substantial population of Ngāti Rangatahi remained at Kākāriki²⁰ – and that this did not change until the government's assimilationist policies of the mid 20th Century.²¹

¹⁶ Anthony Patete, 'Whanganui Northern Cluster' (Wai 898, #A108).

¹⁷ Ibid., 2.

¹⁸ Ibid., 91 – 95.

¹⁹ Ibid., 113.

²⁰ Ibid., 106 – 108.

²¹ Ibid., 112.

31. Mr Patete’s report substantiates through population statistics that significant populations of Ngāti Rangatahi lived at both Kākāriki and Taumarunui through the late 19th century.²² The report offers no evidence of a connection between the Ngāti Rangatahi who had cultivated and occupied the Hutt Valley throughout the 1830’s and 1840’s and the members of Ngāti Rangatahi who lived in Taumarunui in the late 19th century.

Discussion of He Iti Nā Mōtai.

32. The Claim Assessment, at page nine, ascribes authorship of ‘He Iti Nā Mōtai’ to Professor Whatarangi Winiata. Professor Winiata’s role was in curation of He Iti Nā Mōtai as a library of Ngāti Raukawa tribal scholarship. The section on Ngāti Rangatahi was prepared by Sue Tumanako Herangi, one of the Wai 1623 claimants, and details the way in which families of Ngāti Rangatahi who descend from both Mokau and Ōhura are resident at Kākāriki.²³

This history ultimately points towards a destiny, that of the Rangitīkei River. This is where Ngāti Rangatahi eventually settled, and is the focal point for their identity and culture.

33. Kui Herangi’s evidence in He Iti Nā Mōtai includes a discussion of the whakapapa and identity of each of the main families at Kākāriki, and evidences the breadth of Ngāti Rangatahi whakapapa that resides there.²⁴
34. The Wai 1623 claimants say that their account of history is the only one that incorporates the breadth of the Ngāti Maniapoto, Ngāti Raukawa and Ngāti Toa aspects of the tribe’s history and identity.

Discussion of the Husbands Report.

35. From page nine, the Claim Assessment discusses Dr Paul Husbands’ Ngāti Rangatahi report prepared for the Wai 2200 Porirua ki Manawatū District Inquiry. Dr Husbands’ report is largely supported by the Wai 1623 claimants, and is the first of any technical historical research referenced in the Claims Assessment that included Ngāti Rangatahi at Kākāriki in its preparation. The

²² Anthony Patete, ‘Whanganui Northern Cluster’ (Wai 898, #A108), 113 – 114.

²³ Professor Whatarangi Winiata, ‘He Iti Nā Mōtai volume 1’, 31 January 2019 (Wai 2200, #H1), 117.

²⁴ Ibid., 108 – 116.

introduction to the Husbands report acknowledges its focus as sitting within the geographical constraints of the Wai 2200 District Inquiry area.²⁵

36. At page nine, the Claim Assessment characterises the position of the Wai 1623 claimants as a “Ngāti Toa” perspective. This is inaccurate. Ngāti Rangatahi are a hapū of Ngāti Maniapoto and Raukawa descent, many of whose members descend from Ngāti Toa, and which has therefore joined with other hapū of each of those three iwi at different stages in its history. The perspective and whakapapa evidence of the Wai 1623 claimants are equally able to account for the tribe’s Ngāti Maniapoto, Ngāti Raukawa and Ngāti Toa lines. In settling at Kākāriki, all three iwi affiliations are acknowledged in the historical record.
37. The Claim Assessment focuses on the Husbands Report’s evidence of Ngāti Rangatahi military participation at Wairau. The Husbands Report in fact gives a much broader perspective. Aside from military action, the Husbands Report also noted accounts of the way in which Te Rangihaeata was living at Wairau with a community of his own people separate to that of Te Rauparaha. This included his wife Te Rongopamamao, also of Ngāti Rangatahi.²⁶ The Husbands Report notes that the combined groups numbered above 100, including men, women and children.²⁷ The Wai 1623 claimants say that these people, as the families travelling and living with Te Rangihaeata, are their tupuna.
38. The Wai 1623 claimants consider the broader narrative in the Husbands report to be more accurate: that their people attempted to cultivate and settle, and maintained exclusively non-violent resistance to European encroachment until the armed New Zealand Company party attempted to arrest Te Rauparaha and Te Rangihaeata, resulting in armed conflict.

Discussion of the McBurney Report.

39. The Claim Assessment refers to a report prepared by Peter McBurney for the Wai 2200 inquiry. The McBurney report identifies in its introduction that the lead research assistant was again one of the Whanaunga Association members –

²⁵ Paul Husbands, ‘Ngāti Rangatahi and Ngāti Matakore in the Porirua ki Manawatu Inquiry District 1800-1900’, 31 July 2020 (Wai 2200, #A221), 7.

²⁶ *Ibid.*, 21.

²⁷ *Ibid.*, 31.

in this case the Whanaunga Association's Chief Executive.²⁸ It was also commissioned using Crown Forestry Rental Trust funding.²⁹

40. As reflected in the Claim Assessment, the McBurney Report characterises Ngāti Rangatahi's right to live in the Hutt Valley as a 'gift' from Ngāti Toa,³⁰ as if Ngāti Rangatahi were a separate group outside of Ngāti Toa to receive such a gift, and as if Ngāti Toa would alienate such valuable land to an external group in such a way.
41. This assertion is blind to the close kinship ties between Toa and Rangatahi which saw Rangatahi operating as a hapū of Ngāti Toa throughout this period – it reflects instead a view of Rangatahi as a hapū exclusively of Ngāti Maniapoto.
42. The Wai 1623 claimants say that this bias arises – as with the Patete, Hippolite and other reports – from the participation of the Whanaunga Association claimants as members of the research team. This means that the evidence supporting the Whanaunga Association claim theory cannot be considered impartial or expert.
43. Despite this, the McBurney report acknowledges at several points that the body of Ngāti Rangatahi settled at Kākāriki³¹ and does not produce evidence aside from an assertion from a Whanaunga Association member that a significant body of Ngāti Rangatahi – except from those led to the Hutt Valley by Te Mamaku in 1845 – returned to Taumarunui after the eviction of the tribe from the Hutt Valley.

Mandate Issues.

44. The Claim Assessment notes that the Whanaunga Association has sought mandate to settle all Ngāti Rangatahi claims. It did so without engaging with Ngāti Rangatahi at Kākāriki. This pursuit of mandate has now been suspended after Ngāti Rangatahi ki Kākāriki's communications with the Crown.

²⁸ Peter McBurney, 'Tumatanui Oral and Traditional History Report', 22 January 2018 (Wai 2200, #A204), 19 – 23.

²⁹ Ibid.

³⁰ Ibid., 224.

³¹ Ibid., 776.

45. The Ngāti Rangatahi Claims Trust (Wai 1623) allows for a tikanga-based process for the appointment of Trustees, with Trustees appointed either at hui-ā-iwi or by the Te Hiiri o Mahuta Marae Trustees. Members of the tribe from Taumarunui have attended these hui over the years, most recently in 2019, as they are always welcome to do.
46. By contrast, the ability to participate in the Ngāti Rangatahi Whanaunga Association is tightly controlled. Trustees can only be appointed by existing Trustees. Only registered members receive notice of and are able to participate in meetings. There is no mechanism for direct influence or control by broader tribal organisations – it is a group answerable only to itself.³²

Overall Summary and Potential Further Areas for Clarification

47. The Claim Assessment states at page 13:

From the sources considered in the preparation of this assessment, there appears to be sufficient evidence for the standing panel to consider Ngāti Rangatahi of Kākāriki claim allegations in relation to their historical experiences at Heretaunga.

...

However, it should be noted that the Taumarunui-based Wai 366 claimants, not Ngāti Rangatahi of Kākāriki, participated in the Te Whanganui a Tara Inquiry. Therefore, the Standing Panel may wish to hear from Ngāti Rangatahi [ki] Kākāriki on their experience at Heretaunga.

48. As identified above, the Wai 145 panel (as with the Wai 785 and Wai 898 inquiry panels) heard not only from the Whanaunga Association claimants, but also from technical historians commissioned to augment and present the Whanaunga Association's perspective. This has had an inevitable impact on the findings of these Tribunal Panels, whose findings add to the material that the Wai 1623 claimants now need to respond to.

³² Its Trust Deed is available on the Te Arawhiti website, as a result of its attempts to settle on behalf of all Ngāti Rangatahi claims.

49. The Wai 2800 panel should hear not just from the Wai 1623 claimants, but should ensure – either through the Crown Forestry Rental Trust, or the Tribunal’s own resources – that the Wai 1623 claimants are equitably resourced to instruct historians to conduct the research they consider necessary to their claim. There is otherwise a significant inequity in resourcing in play.
50. At page 13, the Claim Assessment further states:

While both Husbands and McBurney, in their recent research reports for the Porirua ki Manawatū Inquiry, refer to Ngāti Rangatahi’s support of Te Rangihaeata and Ngāti Toa in the 1843 conflict, neither discuss Ngāti Rangatahi’s settlement in the Wairau Valley.

51. This is inaccurate. As discussed above, the Husbands report does identify significant details from European accounts about the group of Te Rangihaeata and his Ngāti Rangatahi people and their attempt to settle peacefully at Wairau in the face of European advancement.
52. From page 13 to 14 of the Claim Assessment, the insufficiency of evidence relating to the participation of members of Ngāti Rangatahi in the Spain Inquiry and Wairau purchase is noted. These are matters to be included within research commissioned for the Wai 1623 claimants.
53. Three questions are posed at page 14 of the Claim Assessment:

Was Ngāti Rangatahi participation in the 1843 Wairau conflict sufficient to establish their Treaty rights there?

Were Ngāti Rangatahi acting independently of Ngāti Toa at Wairau in 1843, and in the subsequent 1847 Wairau Crown purchase negotiations?

Did Ngāti Rangatahi participate independently in Land Claims Commissioner Spain’s 1842 – 1845 inquiry?

54. These questions each contain unhelpful assumptions:
- a. The first assumes that participation in conflict is the necessary test for the establishment of ‘Treaty rights’. The focus for the Wai 1623 claimants is on the attempts of their people to settle at Wairau where – but for New

Zealand Company military action with the later support of the Crown – Ngāti Rangatahi would otherwise continue to live or exercise customary title to the present day.

- b. The second question places importance on Ngāti Rangatahi's independence from Ngāti Toa at Wairau. As has been explained above, Ngāti Rangatahi was present as a significant hapū of Ngāti Toa, and comprised a significant number of the Ngāti Toa people there. To the extent that the Crown may have settled with the descendants of other members of Ngāti Toa, it has not settled with the descendants of the Ngāti Rangatahi members of Ngāti Toa.
- c. The Wai 1623 claimants presume that Te Rangihaeata would have been their primary spokesperson in the Spain inquiry. To the extent that he participated, they consider Ngāti Rangatahi to have participated.

Overall Approach of the Wai 1623 Claimants

55. The Wai 1623 claimants seek an inquiry as follows:

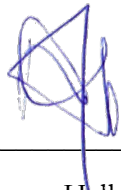
- a. First, to be assured of adequate resource to commission technical historical work to review the historical record to date;
- b. Second, upon receipt of that evidence, to file an amended Statement of Claim identifying the specific issues for determination by the Wai 2800 Tribunal Panel;
- c. Third, in mid-2023 to present within a single hearing week their opening submissions, the commissioned historical work, and specific whakapapa and oral and traditional evidence; and
- d. To have a right of reply to the Crown or any interested parties who seek to participate in relation to their claim, and a right to cross-examine witnesses upon whose evidence either the Crown or interested parties rely.

56. The Wai 2800 Panel will have to make some findings and recommendations that overlap with the District boundary of the ongoing Wai 2200 inquiry, and

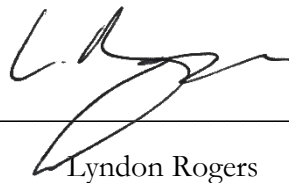
given the membership of the Wai 2800 panel, the Wai 1623 claimants consider it well equipped to do so.

57. The key findings sought by the Wai 1623 claimants will be that Ngāti Rangatahi ki Kākāriki have a claim in full against the Crown for its support of the New Zealand Company in Wairau, and its direct military action against Ngāti Rangatahi in Heretaunga, and that this claim is not precluded by prior settlements between the Crown and other hapū of Ngāti Toa.
58. The Wai 1623 claimants will seek a recommendation that the Crown can only settle the historical grievances of Ngāti Rangatahi with the Wai 1623 claimants, who have been appointed from Kākāriki, where the tribe settled at the end of its long retreat from Heretaunga.

Dated at Wellington this 18 October 2022



Donna Hall



Lyndon Rogers

Woodward Law.

Counsel for the Claimants.