
**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
CROWN MEMORANDUM**

2 December 2022

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E TE KAIWHAKAWĀ, TĒNĀ KOE.

Introduction

1. The Crown, by memorandum dated 15 November 2022, has asked clarifying questions about the relationship between the original Wai 1623 Statement of Claim (“the 2008 Statement of Claim”)¹ and a subsequent Amended Statement of Claim (“the 2019 Statement of Claim”).²
2. This memorandum provides answers to those clarifying questions.
3. The Crown has suggested that the claimants’ responses to these questions will inform the Crown’s position on whether Ngāti Rangatahi claims about the Wairau valley are ‘new’ and therefore barred from the Tribunal’s jurisdiction under 6AA Treaty of Waitangi Act 1975.
4. The claimants reserve the right to respond to that suggestion in submissions should the Crown pursue that line of argument upon receipt of the claimants’ answers.

The Crown’s Questions

5. The Crown repetitively assumed that the 2019 Statement of Claim “added” a claim concerning Wairau, whereas the 2008 Statement of Claim did “not refer to the Wairau Valley.”
6. The Crown has asked the Wai 1623 claimants to identify:
 - a. Which aspects of the 2008 Statement of Claim relate to Wairau; and

¹ Wai 1623, #1.1.1, 27 August 2008.

² Wai 1623, #1.1.1(d), 18 April 2019.

- b. Whether one of these aspects is the claim concerning Crown actions preceding Ngāti Rangatahi expulsion from the Hutt Valley.

Wairau was in the Kāpiti District of the 1830's – 1840's

7. The 2008 Statement of Claim explains:

Ngati Rangatahi ki Rangitikei derive from a section of Ngati Rangatahi of Ngati Maniapoto who moved to the Kapiti District with Te Rauparaha before 1840 to establish an autonomous hapū comprised of Ngati Rangatahi and others from other hapū with whom they fused.

In the Kapiti District they settled and intermarried with Ngati Toa and eventually established an independent settlement in the Hutt Valley where they enjoyed the support of Te Rangihaeata.³

8. It later specifies claims concerning:

The acts of the Crown leading to the expulsion of Ngati Rangatahi from the Hutt Valley...⁴

9. The short answer to the Crown's question is that Wairau is in the Kāpiti District referred to in the 2008 Statement of Claim. Kāpiti was the culmination of the many heke south, and remained the central hub for Ngāti Toa political and military operations into the 1840's and beyond. The claimants have not "added" a location to their claim: the 2019 Statement of Claim simply refined the claim to

³ Page 1.

⁴ Page 3.

particular locations and events within the Kāpiti District as a whole. This is a traditional and widely acknowledged usage of 'Kāpiti'.

10. In Ngāti Toa, Taranaki and Waikato traditions, Kāpiti means more than Kāpiti Island and the immediately adjoining mainland. It was shorthand for the southern lands taken and occupied by Te Rauparaha and his allies. The area covered the lands to the east and west of Kāpiti on either side of what S Percy Smith referred to as the “shores of Cook’s Straits”.⁵ As in the wording of the 2008 Statement of Claim, this included at that time the Hutt Valley. In Ngāti Toa traditions the shoreline was conquered from Rangitoto (D’Urville Island) at one end, to Whangāehu, near Whanganui at the other with the adjoining hinterland falling in time. The area first taken in 'the South' was in fact to the immediate East as with the taking of Arapaoa and Rangitoto Islands and part of the mainland of the South Island. All was managed from Kāpiti Island in one contiguous strip. For those of the day “Kāpiti” described the whole of Te Rauparaha’s compact domain of land and sea.

11. Thus, on leaving Kāwhia in about 1821, Te Rauparaha farewelled Te Wherowhero in these terms “Farewell. Remain on our land at Kawhia. I am going to take Kāpiti for myself”.⁶

12. Percy Smith's informants appear to have seen Kāpiti in that way:

- a. P 396 “Te Rau-paraha had, of course, become aware of the defeat of Te Whata-nui (of Ngāti-Rau-kawa) in their attempt to reach Kāpiti by the East

⁵ S. Percy Smith History and traditions of the Maoris of the West Coast, North Island of New Zealand, prior to 1840 pages 381, 421.

⁶ Buick, Lindsay T., 1903, "Old Manawatu", 1st ed, Palmerston North, Buick & Young, page 55.

Coast...” [‘Kapiti’ extended well beyond what is now referred to as the Kapiti Coast. Te Whatanui settled beside Lake Horowhenua at Levin.]

- b. P 400 “Kainga (of Ngāti Mutunga, Taranaki) replied, ‘Waikato came of their own accord, and hence we fought and beat them.’ Turi-manu then said, ‘You had better all leave and go to Kapiti. Abandon your country or Waikato will eat you.’”
- c. P 482 “The Ngati-Tama were few in number, and not feeling themselves safe in their now home, all migrated to Kapiti.” [Ngāti Tama settled on the mainland of both the North and South Islands].
- d. P 485 “The fall of Puke-rangiora in December, 1831, and the serious losses sustained by Ati-Awa at that place, together with the siege of Otaka at Nga-Motu by Waikato, induced the leading men of the tribes from Waitara to Nga-Motu to consider the necessity of migrating to Kapiti and that neighbourhood to join the large numbers of their own people who had left the Taranaki district and settled in the vicinity of the Ngati-Toa tribe”.

13. Turning to contemporary evidence reinforcing that usage, the preliminary report of the Wai 785 Te Tau Ihu panel of the Waitangi Tribunal gives a detailed analysis of patterns of pre-colonial customary occupation of Te Tau Ihu.⁷ The centrality of Kāpiti island and events at Kāpiti island to the region as a whole is evidenced throughout that discussion.⁸ This is particularly so for Ngāti Rārua and Ngāti Toa, and particularly in the eastern areas of Te Tau Ihu including Wairau

⁷ Waitangi Tribunal, Te Tau Ihu o te Waka a Maui: Preliminary Report on Customary Rights in the Northern South Island, Wai 785, pages 17 – 84.

⁸ See for instance at pages 28-30, 30-31 & 36, 38-39, 41-42 concerning the district-wide impact of Haowhenua and Kuititanga near Kāpiti island, 48, 56, 67, 70, 77-78

where they settled. This reflects the customarily marine-based nature of Māori military and political presence. Many Ngāti Toa excursions through or into Te Tau Ihu are concluded by noting the return afterwards to Kāpiti island. The Wai 785 Tribunal panel notes that “Ngāti Toa occupation included regular visits by Te Rauparaha and others of the tribe who more usually resided at Kāpiti and Porirua,”⁹ and later “Ngāti Toa... were a mobile people, maintaining rights on both sides of Cook Strait.” Kāpiti remained a central hub for Ngāti Toa and its allies in Wairau until at least the mid-1840’s.

14. The nature of this marine-based presence is also reflected in the Ngāti Toa Rangatira Claims Settlement Act 2014:¹⁰

By 1840 Ngati Toa Rangatira had established a powerful position in the Cook Strait region with settlements in the lower North Island and upper South Island (Te Tau Ihu).

15. The “Cook Strait region” referred to in the Act is synonymous to the Kāpiti District referred to by the Ngāti Rangatahi claimants in the 2008 Statement of Claim.

Events at Wairau led directly to the eviction of Ngāti Rangatahi from the Hutt Valley.

16. The Wairau Valley events of 1843 were part of the chain of events that led to the exclusion of Ngāti Rangatahi from occupation of any lands in the Kāpiti district.

⁹ Page 56.

¹⁰ Ngāti Toa Rangatira Claims Settlement Act 2014, s 8(1).

There is a claim in respect of each such event, each event including those in the Hutt Valley being within the claim area that is 'Kāpiti District'.

17. The Te Tau Ihu panel detailed the ways in which the Crown’s “failure to intervene” was major a factor leading to the military conflict at Wairau in 1843.¹¹ Ngāti Rangatahi was forced to move from their occupation of Wairau to occupy a different frontier of pākehā settlement, instead cultivating the Hutt Valley.¹² Contemporary sources noted the presence in the Hutt Valley of a range of Ngāti Rangatahi leaders who had been prominent in the Wairau conflict.¹³
18. The Wai 1623 claimants say that there is a clear nexus between events at Wairau and their eventual expulsion from the Hutt Valley and the Kāpiti District altogether – both in their own forced migration, and in the mind of the Crown and pākehā settlers.

He Kōrero Whakakapi

19. The Wai 1623 claimants consider the above information sufficient to explain their understanding of Wairau as situated within the Kāpiti District of the 1830’s - 1840’s, and the way in which Crown actions leading to the Wairau conflict ultimately contributed to the eviction of Ngāti Rangatahi from the Hutt Valley. The 2019 Statement of Claim simply particularised aspects of the 2008 Statement of Claim that were already before the Tribunal.

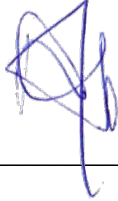
¹¹ Summarised at Waitangi Tribunal, Te Tau Ihu o te Waka a Maui: Report Volume 1, Wai 785, page 243.

¹² James Cowan, *The New Zealand Wars: A History of the Maori Campaigns and the Pioneering Period*, Volume I: 1845-1864, (Wellington), 1922 (1983 reprint), p 102.

¹³ *New Zealand Spectator*, and *Cook’s Straits Guardian*, 28 February 1846 p 2 c 3 & 4, <https://paperspast.natlib.govt.nz/newspapers/new-zealand-spectator-and-cook-s-strait-guardian/1846/02/28/2>, cited and discussed in Paul Husbands, *Ngāti Rangatahi and Ngāti Matakore in the Porirua ki Manawatū Inquiry District 1800 – 1900*, Wai 2200, #A221 at pages 31-32.

20. As such, the Wai 1623 claimants do not consider the jurisdictional risk raised by the Crown to arise.

Dated at Wellington this 2 December 2022



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