OFFICIAL

**Wai 3555, #3.1.11(b)**
**Wai 87, #1.1(i)**
**Wai 1750, #3.1.452(b)**

**BEFORE THE WAITANGI TRIBUNAL**

**Wai 1750**
**Wai 87**

**IN THE MATTER OF** the Treaty of Waitangi Act 1975

**AND**

**IN THE MATTER OF** claims relating to the North-Eastern Bay of Plenty Inquiry District **(WAI 1750)**

**AND**

**IN THE MATTER** of an application by Adriana Sylvia Edwards for and on behalf of Whakatōhea Hapū **(WAI 87)** **("Claimants")**

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# AMENDED STATEMENT OF CLAIM
**(Wai 87)**
**DATED 19 June 2020**

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RECEIVED
Waitangi Tribunal
*19 Jun 2020*
Ministry of Justice
WELLINGTON

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**The Claimant Says,**

**1.** This amended statement of claim is filed by Adriana Edwards principal claimant on behalf of Wai 87 Whakatohea hapu Raupatu claim. The amended statement of claim does not replace but adds additional matters to statements of claim previously filed to Wai 87.

**2.** The statement of claim is accompanied by an application seeking a discrete inquiry for Wai 87 Whakatohea hapu customary use rights occupation and interests in the Waipaoa Blocks and Mangatu overlapping blocks.

**3.** The affidavit of Adriana Edwards accompanies the amended claim.

**4.** The amended statement of claim refers to land outside the Whakatohea Waitangi Tribunal District Inquiry Wai 1750. For that reason Wai 87 seek to have the matter heard in a discrete inquiry but parallel to the Whakatohea Historical District inquiry or as the Tribunal may see fit to determine.

**The Claim**

**5.** Whakatōhea hapū customary rights use and occupation in the Waipaoa are particularized in this statement of claim additionally Whakatohea customary rights use interests overlapping with Mangatu and Whatatutu Matawai and Ormond concern this amended claim as follows;

**a)** That Whakatōhea occupied and used a vast amount of fertile land in Opotiki, along the coastline of Whakatōhea and into the hinterland north-east west and south, south-east which was deliberately confiscated in the 1860s by the Crown leaving the tribes traditional land mass severely diminished and vulnerable to occupation by non-Whakatohea tribes;

**b)** Whakatōhea hapū had customary rights use and interests in Waipāoa Blocks 5, 1A1, 1A2, 1, and 2, overlapping and abutting Mangatu and had customary rights and interests in Mangatu blocks (1,2,3,4,5,6).

**c)** The Crown established a reservation at Matawai, affecting Whakatohea and confiscated Whakatōhea land as far east as Ormond (Dr Ranginui Walker).

**d)** Whakatohea had on their western flank Tuhoe and Ngati Awa, to the east Ngai Tai and Whanau A Apanui to the sea to the north it could be anyone; and the south, Ngati Kahungunu, Aitanga-a-Mahaki and

Whanau-a-Kai (Gilling 1994);

**e)** Whakatōhea customary lands rights use occupation and interests shared with the noted tribes above have not been the subject of research nor professional mapping nor an inquiry for Whakatohea;

**f)** Whakatōhea interests in Waipaoa Blocks and Mangatu Blocks (1-6) have not been heard before a Watangi Tribunal Inquiry.

**Facts**

**6.** In 1865 Whakatōhea had large tracts of land confiscated by the Crown thereby;

**a)** Whakatōhea had been a large wealthy tribe trading large quantities of produce, owners of trading ships which was all undone by the catastrophic turn of events of colonial settler confiscations (Gilling 1994);

**b)** Crown confiscations and alienation of land in Waipāoa, Mangatu and Ormond areas eroded the socio economic and cultural fabric of Whakatōhea society to the extent the communal land base was decimated causing irreparable harm from which Whakatōhea would never recover;

**c)** The traditional rights and customary interests Whakatōhea owned and enjoyed in the hinterland between Opotiki to Tūranganui a Kiwa were disrupted and their ownership to such hinterland lands in large part removed;

**d)** A large section of Te Whakatōhea were relocated on to reservations including Matawai reservation leaving Whakatōhea ownership of traditional lands scantily populated, virtually vacant unprotected and vulnerable to takeover including lands in Waipāoa and Mangatū;

**e)** Te Whakatōhea customary lands were completely at the mercy of who ever could convince the Crown that they were the rightful customary owners, when the Crown set up the Land Compensation Courts. This process pitched hapū against hapū, and iwi against iwi, thereby destabilizing the whanaungatanga between these groups, and obliterating the traditional rohe and boundaries including Waipāoa and Mangatū;

**f)** That Whakatōhea and Ngai Tamahaua, Ngati Muriwai, Kutarere, Hiwarau Turangapikitoi, Ūpokorehe, and others exercised customary rights and interests in the said Waipāoa and Mangatū land blocks;

**g)** That chief Matiu Ranapia from Whakatōhea were named in the Waipaoa Blocks Waipaoa Block 5 A, 5 A1, and other Whakatohea persons named in other Waipaoa blocks;

**h)** The Waipaoa Block 5A schedule of owners additionally includes members of Ngāi Tamahaua; Ani Ranapia; Ihaka Ranapia; Mere Ranapia; Maia Ranapia; Mihi Ranapia; Taku Ranapia alias Ranapia Taku; all Whakatōhea.

**i)** That abutting the Waipaoa Blocks the original Mangatu Block 1 title deed in 1881 identified Whakatohea original owners and then again in 1893 further Whakatōhea individuals were named as owners in Mangatu Block 1;

**j)** That Whakatōhea people and Ngati Muriwai hapū of Torere have a whakawhanaunga relationship with people of Mangatu, exemplified through the tomo marriage of Heni Kumekume (Brown) of Torere with Ned Brown of Mangatu[1].

**k)** That Whakatōhea kaumatua (Jack Takao) claim marae and pa sites in and around Mangatu rohe Waipaoa River were those belonging to Whakatōhea;

**l)** That Whakatōhea exercised customary rights and use of kereru reserves located in Whitikau, in Whakapaupakihi in Mangatu blocks, in Whatatutu and Rangatira, past Te Karaka as far as Ormond on the outskirts of Tūranganui A Kiwa and including Waipaoa blocks'

**m)** That Whakatōhea annually harvested a customary food source colloquially know as para (kokopu) from the Whakapaupakihi and Mangatu rohe which were known to Whakatōhea (Larry Delamere);

**n)** That Kutarere hapū and Nga Ariki whakapapa are interconnected to Hiraina Poaru, an original owner in Mangatu Block 1 (Barry Kiwara);

**o)** That Ngati Muriwai whakapapa through Nga Ariki whakapapa to a

[1] Wai 814, #P23(a) WAI 1489 #A24(a) Judith Binney and Gillian Chaplin

prominent rangatira of Ngati Muriwai, Te Paku Eruera (A Edwards);

**p)** In an application by the Maori Trustee to aggregate the owners of Whakapaupakihi 6 & 7, the Maori Land Court sitting at Opotiki on 22 April 1980 recorded that these lands are situated near Matawai on the Tairawhiti and Whakatōhea borders. The Court adjudged that the people entitled to these lands were people of the Ngaitai and Whakatōhea tribes of this area.[2]

**q)** Te Whakatōhea land interests stretched to Waipaoa blocks that crosses through the Mangatu forest to the heads of the Waipaoa river. These were cited in Court minutes in 1868, confirming the occupation of ngā hapū o Te Whakatōhea in the Mangatū region.[3]

**r)** There is no live claim in respect of the Waipāoa blocks, which are thus available for a claim, the East Coast Inquiry having concluded without a recommendation concerning Waipāoa blocks.

**7. Cause of Action**

1. This claim falls within one or more of the matters referred to in Section 6(1) & (3) of Te Tiriti o Waitangi Act 1975 namely;

**a)** The claimant is Māori; and

**b)** That she on behalf of Wai 87 claimants have been and continue to be or is likely to be prejudicially affected by the various ordinances, acts, regulations, orders, proclamations, notices and other laws and by various policies, practices and omissions adopted by, or on behalf of the Crown, their agents or their successors and;

**c)** If the Tribunal finds that any claim submitted to it under this section is well-founded it may, if it thinks fit having regard to all the circumstances of the case, recommend to the Crown that action be taken to compensate for or remove the prejudice or to prevent other persons from being similarly affected in the future

**8.** That the aforesaid prejudices are inconsistent with the Principles of the Te

[2] Opotiki Minute Book Volume 56 Folio 205
[3] Whakatōhea Customary Rights and Overlapping Interests in Turanga (Adriana Edwards).

Tiriti o Waitangi; and further the claimant says the Crown has failed in its duties towards Māori by way of acts and omissions, practices that were or are inconsistent with the principles of Te Tiriti o Waitangi, to wit:

**a)** Breach of partnership

**b)** Breach of active protection

**c)** Breach of real redress

**d)** Breach of equal fair treatment

**9.** As a result of the same, the claimant has been prejudicially affected resulting in prejudice to the claimant in that Whakatōhea hapū claims to customary use rights and interests in Waipaoa Mangatu and Ormond districts were not heard and should be heard the cause and effect of which if denied is irreparable and irreversible harm.

**Particulars**

**10.** The claim is amended under the Waitangi Tribunal Practice Note to the Practice and Procedure of the Waitangi Tribunal section 3.4;

> 3.4 Amendments and additions to a claim; The Tribunal may grant claimants leave to amend or add to the claim that they have submitted, at any time before hearing.

**11.** The Wai 87 claim has not been heard before a commission of inquiry, Waitangi Tribunal.

**12.** That the matters within this amended statement of claim Wai 87 fall under Section 8HB in respect the Wai 87 amendment statement of claim is to Crown forest land in Waipaoa Blocks and Mangatu Blocks.

**13.** **Section 8HB (1) reads;**

Subject to section 8HC, where a claim submitted to the Tribunal under section 6 relates to licensed land the Tribunal may, if it finds

**(i)** that the claim is well-founded; and

**(ii)** that the action to be taken under section (3) to compensate for or remove the prejudice caused by the ordinance or Act, or the regulations, order, proclamation, notice, or other statutory instrument, or the policy or practice, or the act or omission that

was inconsistent with the principles of the Treaty of Waitangi, should include the return to Māori ownership of the whole or part of that land, —

include in its recommendation under section 6(3) a recommendation that the land or that part of that land be returned to Māori ownership (which recommendation shall be on such terms and conditions as the Tribunal considers appropriate and shall identify the Māori or group of Māori to whom that land or that part of that land is to be returned)

**Relief**

**14.** The claimant seeks the following relief;

**a)** That the Tribunal urgently commission a discrete historical inquiry for Wai 87 claim into Te Whakatōhea customary use rights and interests in Waipāoa Blocks 5, 1A1, 1A2, 1, and 2, all those Waipaoa blocks currently administered by Crown Forest Lands including any customary use rights and interests Whakatohea had overlapping in Mangatū Blocks (1-6) and in Matawai reservation blocks and to Ormond in Turanganui a Kiwa as made out in this amended statement of claim;

**b)** That the claim hereunder is well founded;

**c)** A finding that the customary use rights and interests of Whakatōhea have been inquired into and found that Whakatōhea hapū indeed have a customary right to the Crown Forest lands in Waipāoa lands in the East Coast Inquiry District;

**d)** That the Whakatōhea Wai 87 claim be heard before the Waitangi Tribunal as the only pathway to attain a well-founded claim for the purposes of **S8HB** on matters stated within this amended statement of claim;

**e)** Whakatōhea Wai 87 Waipāoa and Mangatu blocks being blocks outside the boundaries set by the Waitangi Tribunal Whakatōhea district inquiry Wai 1750 may be held either as;

**I.** discrete inquiry for Wai 87 Waipāoa and Mangatu blocks;

**II.** Waipāoa and Mangatu blocks heard inside the Wai 1750 Whakatōhea Historical inquiry;

**III.** Waipāoa and Mangatu blocks discrete but parallel to Wai 1750 Whakatōhea Historical inquiry.

**f)** Wai 87 claimants prefer option (c).

**g)** Any further recommendation the Tribunal may deem appropriate.

**Amendment of Claim**

**15.** The claimant advises that this claim may be amended during such time frame as the Tribunal directs.

**Dated this 19 day of June 2020**

**Tony Sinclair**
**Legal Counsel**

**Brett Cunningham**
**Legal Counsel**