**KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI BEFORE THE WAITANGI TRIBUNAL**

**WAI 2200**
**WAI 113A**

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

**AND**

**IN THE MATTER OF** The Porirua ki Manawatū District Inquiry (Wai 2200)

**AND**

**IN THE MATTER OF** The claims by Mishy Vieira and Kuini Rikihana for and on behalf of Ngāti Koroki (Wai 113A)

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# THIRD AMENDED STATEMENT OF CLAIM OF NGĀTI KOROKI

31 May 2024

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Woodward Law

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WELLINGTON

**THIRD AMENDED STATEMENT OF CLAIM**

Introduction

1. This third amended statement of claim is filed by Queenie Rikihana and Mishy Rikihana Vieira, principal claimants for Wai 113A, supported by Kaumatua Gabrielle Rikihana, Pareraukawa Carkeek, Jack Rikihana and Tony Manning, and by the working committee Mishy Rikihana co-chair, Matthew Rikihana co-chair, Rawiri Rikihana, Elaine Bevan, Monique Moore, Zachary Hyland, Kukura Turner, Tiakina Manga, Te Ata Rikihana, Nopera Rikihana and Terewai Rikihana.

2. Enereta (Nellie) Carkeek, who was formerly named in support of this claim, passed away in 2021.

Ngāti Koroki Profile

1. Ngati Koroki of Otaki are a section of Ngāti Koroki of Waikato who migrated from Waikato to Otaki with others of Ngati Raukawa in the 1820s and who forged a new identity at Otaki commencing with a close relationship with Ngāti Moewaka and Ngāti Waihurihia. Today the people of the several hapū of central Otaki are represented in Ngāti Pare, Ngāti Maiotaki and Ngāti Koroki. These three constitute the hau kainga for Raukawa marae. They are recognised as such by all Ngāti Raukawa ki te Tonga as is recorded in the Māori Purposes Act 1936.

2. Likewise bonds were formed with Ngāti Kapu and Ngāti Huia ki Katihiku so that today the five hapū of Otaki, Ngāti Kapu, Ngāti Pare, Ngāti Maiotaki, Ngāti Huia o Katihiku and Ngāti Koroki combine on matters of common interest as Ngā Hapū o Otaki.

3. A distinctive descent line for Ngāti Koroki of Otaki is through Enereta Te Whakarato, the daughter of the rangatira toa of Ngati Koroki, Wiremu Te Manewha. Enereta married Rikihana Te Tarure Wairoa, who was part of the same household. He was born at Otaki on the arrival of the migration. He was taken back to Waikato as a child then returned with Te Manewha to marry Enereta. He was responsible for completing the development of the Makuratawhiti, Haruatai, and Paruauku lands for farming. The development was one that was started by Te Menewha and his several mokai.

4. The associated whanau are Rikihana and Hohipuha.

5. The Kingite and Queenite division between Ngāti Kapu and the central hapū during the wars, as depicted by the Government, was short-lived and reflected the opinions of only some individuals at the time. Ngāti Koroki and other hapū supported the Māori King and still do, to this day. Also, their support for the Māori King did not mean a lack of support for the British monarch. Otaki Māori were amongst the first to enlist for the Māori Contingent in World War I. Their complaint has not been with Queen Victoria or her

issue but with the New Zealand Government.

General Claims

6. The claimants plead the following general claims:
    a. The policies of the Crown from 1840 to 1860 in purchasing lands without their free, prior and informed consent;
    b. The policies of the Crown from 1860 in converting lands from hapū tenure to freehold titles in individual ownership including the extinguishment of the political base of Māori society due to the failure to award titles to hapū entities;
    c. The failure to provide for Māori local government including the failure to activate the Māori Councils Act to provide for Māori Local Government of the Māori towns; and
    d. The failure to ensure that the hapū retained sufficient land for their foreseeable needs by making that land inalienable or by creating inalienable reserves;
    e. The failure to maintain the integrity and independence of the Otaki township and papakainga;
    f. The failure to protect the maintenance of Māori governance and economic structures;
    g. The failure to recognise customary interests in the takutai moana and the failure to reserve fishing, hunting and foraging rights;
    h. The pollution of awa (rivers) and roto (lakes) and the drainage of repo (wetlands) when these were primary food

sources; and

i. The compulsory taking of land for roads, railways, schools and hospitals without consent, and the failure to ensure the return of the lands when they were no longer needed for the purpose for which they were taken.

The Affected Lands

7. The claimants also plead the failure to protect the Ngati Koroki interest in

   a. the Waiorongomai land and lakes;

   b. the Haruatai stream;

   c. the Otaki river as it was and as it now is;

   d. the Otaki river mouth and fishing reserve;

   e. the Otaki foreshore and beach;

   f. the Titokitoki, Paruauku, and Pukehou lands in the uplands;

   g. the Makuratawhiti and Haruatai lands on the river-flats.

   h. The Otaki hospital and former sanatorium lands;

   i. Haruatai Park;

   j. the Otaki township and papakainga;

   k. the Taumanuka block including the site of the children's health camp;

   **l.** The lands gifted to the Anglican Church by Ngāti Koroki being the 63 acres (approximately) on the north bank of the Haruatai stream.

Principles and Prejudice

**8.** It is submitted that the above acts and omissions of the Crown with regard to the affected lands above, were contrary to the principles of the Treaty of Waitangi and prejudicial to Ngāti Koroki (as well as other hapū of Otaki).

Relief

**9.** The claimants seek the relief that follows with regard to the following areas of interest.

Waiorongomai

*Explanation*

10. With its rich supplies of fish, waterfowl and materials for clothing and shelter, Waiorongomai was central to the survival of the Otaki hapū north of the Otaki river. It was at Waiorongomai that the first papakāinga of the Otaki hapū were established.

11. However, the capacity of the people to keep their homes, cultivations, food and material supplies at Rongomai was compromised by:

    a. The Government land reforms that removed hapū governance and substituted individual ownership in fragmented titles;

    b. the consequential land sales by individuals;

    c. the failure to conserve the resource as an inalienable reserve;

    d. the substitution of the traditional local government with the Government's form of local government;

    e. the introduction of rates compelling a commercial use of the

land;

f. pollution from the consequential practices of farming including the draining of the several lakes; and

g. the introduction from 1953 of planning laws that restricted the maintenance of residential properties in rural areas.

*Relief*

12. A recommendation is sought that

a. in consultation with the trustees of Waiorongomai 1A, Waiorongomai 10, the owners of other affected Waiorongomai Māori land blocks, and Ngā Hapū o Otaki, the Government undertakes a study of the steps needed for the integrated management of the Waiorongomai lake and river lands as an inalienable reserve for the common benefit of the entitled hapu, and freed from all rates; and

b. that subject to the level of support from the affected owners and the affected hapū having the customary entitlement, the government undertakes the necessary steps to implement the proposal, including by legislation.

Taumanuka

*Explanation*

13. Taumanuka block occupies the seafront from Waitohu stream to the Otaki river-mouth. It is the place where several hapū of Ngāti Raukawa camped for some seven years pending the completion of the conquest and their relocation to the lands allocated to them throughout the Manawatu and Horowhenua. Most of the hapū then

shifted following the Haowhenua battle in 1834, to take up their allocations. The Otaki hapū to whom the Otaki lands had been allocated, alone remained.

14. In the 1860s the Native Land Court was appointed to determine those entitled to the land according to Native custom. In the 1880s the Court wrongly determined that those entitled in Taumanuka were those in actual occupation over the period referred to. In custom, the hapū were not entitled if they were merely transitory, having no intention to reside there permanently, or if they in fact left the land, and established themselves elsewhere, which was the case here.

15. The land was vested in several individuals in 5 allotments and then partitioned into further fragments by which they were vulnerable to the many acquisitions that followed. The land was then rated notwithstanding that it was not revenue producing and received no benefits from the Borough's works. Here the only benefit was from roads but land for the roads was taken from Māori without compensation. The Crown then purchased the Māori lands from a board appointed to hold them for non- payment of rates.

16. The lands have historic significance for the Ngāti Raukawa hapū and especially for the Otaki hapū who continued to reside at Rangiuru Pa.

17. The Crown now holds extensive parts of the land being the land of a

former children's health camp and the rest as conservation land where most of it does not have conservation values. The land is suitable for a much-needed papakāinga.

*Relief*

18. Ngati Koroki seeks a recommendation that the whole of the Crown interest in Taumanuka other than significant wetlands be transferred to an entity for the five hapū of Otaki with compensation to develop a papakāinga.

The Town

*Explanation*

19. From about 1847, the hapū of Otaki moved inland to establish. under the guidance of a missionary, a township of European design with some 170 commercial or residential sections with occupational rights allocated by a committee headed by a missionary. The town would be flanked by a mission station and church to the west and by a marae to the east. Those to whom sections were allocated appear to have been converts to Christianity. Notwithstanding that the whole of the east wing of the town was on Ngāti Koroki land, Ngāti Koroki were excluded from the allocations presumably because Te Manewha was one of the few who held to the customary beliefs and refused to convert.

20. In the 1870s the Native Land Court granted titles to the occupiers as though they were absolute owners when they were not, and when the hapū held the underlying customary title to the land on which

the sections were established. The court should therefore have vested the land in the respective hapū subject to the occupational rights bestowed by the township committee.

21. The grant of titles to individuals led to an extensive leasing of those sections to Europeans until the ban on private purchases was lifted and then to the sale of sections. About half of the sections were lost from Māori ownership in that way.

22. With the establishment of a borough in 1920 the borough assumed the governance of the Māori town and introduced an onerous system of levying and enforcing rates that saw nearly all of the sections remaining in Māori hands being sold for non-payment of rates.

*Relief*

As partial relief a recommendation is sought that to help restore the place of the Ōtaki hapū within the township, Government will legislate for the Otaki hapū to approve any planning proposal for the township and any development for which a planning consent is required.

The land gifts for a church school

*Explanation*

23. As a result of Governor's ongoing demands for more land, over 500 acres of four of the five Otaki hapū were granted by the Crown to the Church for the maintenance of a school and student hostel on the land. A similar gift was made by Ngāti Toa and Te Atiawa in

respect of the Whitireia block on Porirua harbour. When no school was built at Porirua and the Otaki school closed, and when the Church declined to return the land, legal proceedings were instituted. These were defended by both the Church and the Crown. Much later, in the early 1900s when the Church was still pressured to return the land, the Church proposed to rebuild the school at Otaki, utilising proceeds from the sale of the Whitireia lands, and proceeds from the compulsory acquisition of some 30 acres of the Ngāti Koroki gift land for a hospital and sanatorium.

24. The school finally closed in 1939 but none of the gift land has returned.

25. Meanwhile, Ngāti Koroki are without land and in dire need of housing

*Relief*

As partial relief the Tribunal recommends that the Government negotiates with the Ōtaki Porirua Trusts Board to buy the balance land (about 30 acres) gifted by Ngāti Koroki for a school, for the purpose of returning it to Ngāti Koroki for papakāinga housing.

Pukehou, Paruauku, Haruatai and Makuratawhiti lands

*Explanation*

**26.** The three central hapū of Ngāti Pare, Ngāti Maiotaki and Ngāti Koroki are amongst the most landless of the hapū of Ngāti Raukawa and of the country. For practical use purposes their land holdings have been reduced to a few house sections on or near to Mill Road.

**27.** Even before Ngāti Raukawa shifted from Kapiti Island to occupy the

Otaki seafront at Taumanuka, four of the five Otaki hapū occupied the higher country around Pukehou and Paruauku, a mile or so to the north of the river flats, where they removed Muaupoko from the site and where the country provided defensible positions. Subsequently Ngāti Koroki occupied Makuratawhiti and Haruatai, on the river flats, or flood plains, although again the first whare were on the higher lands of Makuratawhiti adjoining Titokitoki.

**28.** All of those lands were subject to the Government's reforms in the 1880s substituting for hapū control of a single title, multiple ownership of fragmented titles, with consequential vulnerability to land buyers, starting with the Government itself. The result was an immediate and massive land loss in the uplands. At first, there was a lesser land loss on the flats where a papakāinga was developing, but the development of a workable papakāinga was stymied by the Court which took it upon itself to divide the land into narrow, parallel corridors, entirely unsuited for living but presumably to assist the arithmetical computation of relative interests. In short it was to suit the Court despite the loss of suitable house sites.

**29.** Ultimately nearly all this land was lost to Māori ownership through land purchases and enforced sales due to the levying and recovery of rates.

*Relief*

30. In partial compensation of the land losses, and to assist in the re-establishment of papakāinga on Ngāti Koroki customary lands a recommendation is sought that Government returns to Ngāti Koroki the lands of Ōtaki College, the Primary School and the Telephone Exchange, which are all on Ngāti Koroki customary land, subject to a lease back for the life of each facility and with rates exemptions so long as the land is used for a government purpose.

Hospital and Sanatorium

*Explanation*

33 In 1906, the Crown took 54 acres of Maori land and 39 acres of land administered by the Church for a maternity hospital and sanatorium. The Church land was part of the Ngāti Koroki gift for the maintenance of a school that should have returned to Ngāti Koroki when the school closed in the 1860s. The gifted lands were not returned and partly because of the Government's opposition. In any event the 39 acres and the Māori land should not have been taken. The hospital had previously been established under a lease and there was no need to take the land for that purpose. The sanatorium should not have been established in the area because it was a residential area close to Māori homes. It should have been located in the country like other sanatoria were. Its location also meant an inordinate area was required. Ngāti Koroki received no benefit from the taking as the compensation was paid to the

Church.

31. The hospital and sanatorium have closed. The 39 acres should have gone back to Ngāti Koroki. Instead, the government set aside about half for what is now Haruatai Park and land-banked the balance for claim settlements.

*Relief*

32. Recommendations are sought that:

    a. The Crown withdraws the hospital land from the Landbank and transfers it to Ngāti Koroki, together with the adjoining land immediately behind it, that once provided an accessway;

    b. That compensation is paid for the loss of use and degradation of those lands;

    c. That the land which became Haruatai Park is returned, or compensation paid for that which cannot be returned.

    d. That the Māori lands of some 57 acres, currently held by the Crown, is returned to an entity representative of the hapū originally entitled, as agreed, or as determined by the Māori Land Court.

    e. That the value of the land transfers and compensation does not form part of a treaty settlement of historic claims.

Papakainga

*Explanation*

33. The nascent papakāinga along Mill Road on the Makuratawhiti and Haruatai lands were destroyed by the Native Land Court's

prescription for long, narrow corridors. The importance of Papakainga and the special needs of Māori for whanau living are better understood today but are far t from perfect.

*Relief*

34. Recommendation are sought that:
    a. The Māori Land Court be empowered to hear applications to have clusters of Māori homes declared a papakāinga, to be noted on district plans, and to settle rules for the conduct and alienation of the properties within it; and
    b. that a national direction is embedded in statute to facilitate the development of papakāinga including such provisions as those for establishing several discrete units on papakāinga lands with access to common facilities.

Papatupu

*Explanation*

35. The hapū of Otaki who retained land continue live with the consequences of the Land Reform policies imposed on Māori society – multiple and

    absentee ownership and fragmented titles and the absence of hapū titles.

    However, the damage done can be undone and hapū or whanau

    ownership can be restored as an option for Māori people.

*Relief*

36. A recommendation is sought that the government establishes a working group to propose legislation that allows for the return of Māori land to an entity representative of the hapū or whanau; or

that the matter be referred to the Law Commission for that purpose.

Dated at Lower Hutt this 31 May 2024

Donna Hall,
solicitor for the claimants