

IN THE WAITANGI TRIBUNAL  
OF NEW ZEALAND

IN THE MATTER OF: The Treaty of Waitangi Act 1975

A N D

IN THE MATTER OF: The Wairarapa Ki Tararua Inquiry  
**Wai 863**

A N D

IN THE MATTER OF: The claims by **JAMES RIMENE** and  
**PIRINIHA TE TAU** for and on behalf  
of the Rangitāne iwi of Wairarapa and  
their constituent hapū – **Wai 175**

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**OPENING SUBMISSIONS BY COUNSEL FOR RANGITĀNE O  
WAIRARAPA (WAI 175)**

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## Introduction

1. In the opening remarks on behalf of the Rangitāne o Wairarapa – the Wai 175 claimants (hereinafter referred to as “Rangitāne”), Counsel anticipated that by the time each claimant group had reached their specific hearing, the technical evidence concerning the policies and processes of alienation would be well known to the Tribunal. It was foreshadowed at that time that during the course of its hearing, Rangitāne would lead evidence of:
  - (a) Their origins, migration and settlement patterns. Evidence of continual Rangitāne occupation of the Wairarapa, even when under threat during the musket wars of the early 19<sup>th</sup> century;
  - (b) An identification of significant sites, places of occupation and resource gathering areas including but not limited to: pā; urupā; kāinga; battle sites; mountains and waterways; mahinga kai; fishing grounds and eel gathering sites;
  - (c) An identification of important Rangitāne tūpuna during the Crown purchase and Native Land Court eras. Evidence of the affect that Crown actions and policy had on the Rangitāne community during the 19<sup>th</sup> Century;
  - (d) An elaboration on the Rangitāne identity issue.
2. Evidence of this nature will be led during the next three days. In addition to the matters outlined above, Rangitāne will also lead evidence concerning contemporary issues concerning:
  - (a) The management of the natural environment, including inland waterways and coastal areas;
  - (b) Customary fisheries;

- (c) The ongoing difficulty in managing Māori land.
3. Thus the evidence to be led can be grouped under four broad headings they being:
- (a) Traditional;
  - (b) 19<sup>th</sup> Century claims;
  - (c) Contemporary issues; and
  - (d) The Rangitāne identity.
4. The Rangitāne claimants (Wai 175) are **James Rimene** and **Piriniha Te Tau**. The claim is supported by the Rangitāne o Wairarapa Incorporated Society.
5. The Rangitāne claim area is depicted in Map 1 of the Rangitāne Map Booklet (#E39). There is, as previously mentioned, an intermingling of interests with Rangitāne o Tamaki-Nui-a-Rua particularly in the Puketoi No.4, Ihuraua, Manawatu-Wairarapa, Kaihinu and Ngā Tapa blocks.

*(Refer Map 1 of the Rangitāne Map Booklet #E39)*

### **Traditional Evidence**

6. Traditional evidence is important in counsel's view for the following reasons:
- (a) It is difficult to comment on whether the claims brought before the Tribunal are well founded unless the Tribunal has an understanding of who and what the claimant group is about;
  - (b) Evidence of genealogy and occupation underpins all other evidence;

- (c) Such evidence assists the Tribunal to understand the widespread and intimate nature of some of the associations Rangitāne held throughout the Wairarapa;
  - (d) It underpins the identity claim.
7. The traditional evidence will be given by the following witnesses: James Rimene; Steven Chrisp; Manahi Paewai; Siobhan Garlick; Michael Kawana and Joseph Potangaroa. Their evidence is supported by the following supplementary documents:
- (a) Waiata booklet – *Te Reka o Te Ha* (#F13);
  - (b) Sites of significance booklet – *Ngā Takana Tawhito* (#F14);
  - (c) Tupuna photograph booklet – *Kua Whetūrangitia* (#F15) ;
  - (d) Site visit report – *Ngā Tapuwae Tahi o Ngā Tupuna* (#F16); and
  - (e) Rangitāne map booklet – *Ngā Takahanga Waewae o Rangitāne* (#E39).
8. A number of themes arise out of this evidence:
- (a) Rangitāne oral traditions record that upon discovery of the Wairarapa by Rangitāne they did not encounter other iwi. Thus they claim rights to the Wairarapa through discovery and continual occupation;
- (Refer Rangitāne o Wairarapa Traditional History Report #A60 by Steven Chrisp and Statement of Evidence of James Rimene)*

- (b) Over time Rangitāne in Wairarapa and Tamaki-Nui-ā-Rua, whilst sharing similar whakapapa and traditions developed distinct takiwa and identities;

*(Refer Statement of Evidence of Manahi Paewai)*

- (c) Rangitāne accept the presence of and close relationship with Kahungunu descendants. Despite that they maintain a distinct Rangitāne tribal identity;

*(Refer Rangitāne o Wairarapa Traditional History Report #A60 by Steven Chrisp)*

- (d) There were a significant number of Rangitāne kāinga, pā sites, fishing grounds, cultivation sites and wāhi tapu throughout the Wairarapa. The evidence highlights a significant cluster of sites in the Masterton, Castlepoint and Ngaumu areas;

*(Refer Rangitāne o Wairarapa Traditional History Report #A60 by Steven Chrisp, Statement of Evidence of James Rimene, Statement of Evidence of Joseph Potangaroa, paras 48-53, Statement of Evidence of Siobhan Garlick, Sites of Significance Maps 1 and 2)*

- (e) The place of Waiata in the Rangitāne traditional and contemporary history is significant;

*(Refer Statement of Evidence of Mike Kawana paras 35-48, James Rimene paras 103-106 and Waiata booklet – Te Reka o Te Hā)*

- (f) The collection and recording of traditional and oral history remains important to Rangitāne today.

*(Refer Statement of Evidence of Mike Kawana and Joseph Potangaroa)*

9. In leading this evidence, Rangitāne are painfully aware that their former widespread interests are now permanently alienated from them.

### **19<sup>th</sup> Century Claims**

10. The dominant themes in this part of the Rangitāne claim are:
- (a) The deliberate undermining by the Crown of the leasing economy. The themes to be explored under this heading being:
- Rangitāne had welcomed European settlement. They allocated their lands and resources to early settlers in arrangements akin to informal leases;
  - Rangitāne participated in a fledgling economy based on grazing, trade and barter arrangements;
  - The fledgling economy was of mutual benefit to both Rangitāne and the settlers;
  - The informal leasing system threatened the systemic model of colonisation which the Crown wished to pursue;
  - That the Crown deliberately embarked upon a policy of undermining the informal leasing system;
- (b) The rapid and large scale Crown purchase of much of the Wairarapa by 1865. Rangitāne argue that the policy adopted by the Crown was akin to a “carrot and stick” policy. The stick being the undermining of the informal leasing system, the carrot being the benefits and promises held out by the Crown of large scale alienation. Problems encountered by Rangitāne included:

- Specific promises were not honoured;
  - Boundaries were not properly defined;
  - Reserves were not properly established;
  - Reserves were not made inalienable and became vulnerable to alienation;
  - The koha fund was never properly established or implemented;
- (c) The Native Land Court era. Rangitāne have characterised the era 1865-1900 as a “mopping up” exercise, given that 75% of the Wairarapa land base had been alienated by 1865. Nevertheless significant issues remain they being:
- Radical tenurial reform;
  - Reserves being inadequate in size, difficult to access and easily sold;
  - An emphasis on individualism with the resulting fractionalisation of title;
  - A heavy debt burden as a result of survey, Court, legal, land agent and interpreters fees,
  - The use of unscrupulous tactics such as advances to individuals wanting to sell;
  - Not being satisfied with having acquired 75% of the Wairarapa land base the Crown continued to be the major acquirer of Wairarapa Māori freehold land.

11. All the above themes have been dealt with by the plethora of material presented by the myriad of historians in this Inquiry. What is missing from that evidence is a Rangitāne perspective. To alleviate this gap, Steven Chrisp has prepared a statement of evidence drawing on a series of case studies for each of the major historical themes being advanced by Rangitāne and captured in the statement of issues.
12. Mr Chrisp's evidence concentrates on the following major themes:
  - (a) The leasing economy;
  - (b) The "Carrot and Stick" approach to land sales;
  - (c) The Native Land Court;
  - (d) The alienation of Wairarapa Moana;
  - (e) Rangitāne protests;
  - (f) Gifted lands for schools;
  - (g) Public works takings.
13. In the case studies, Mr Chrisp has been able to identify specific Rangitāne players, and demonstrate the effect Crown actions and policy had on the Rangitāne community during the 19<sup>th</sup> century.

*(Refer Statement of Evidence of Steven Chrisp, #F11)*

## **Contemporary Issues**

### *Management of the Natural Environment*

14. Rangitāne will lead three pieces of evidence in respect of the issues surrounding management of the natural environment. Elizabeth Burge will address Wairarapa inland issues relating to the impact of the Resource Management 1991 (#F5). Jason Kerehi (#F6) will address coastal issues and Mike Grace (#F7) will discuss the relationship Rangitāne have with the



National Wildlife Centre Trust and the Department of Conservation with reference to Pukaha/Mt Bruce.

15. Recurring themes to arise out of this evidence are:

- (a) The significant number of entities, (both Crown and local government), that Rangitāne have to work with in terms of conservation and resource management issues. This has forced Rangitāne to prioritise not only who they deal with, but which issues they dealt with. As Elizabeth Burge puts it:

*“Rangitāne had to compromise their holistic world view in order to ‘fit in’ to the particular kaupapa of the day”.*

*(Refer para 26, Statement of Evidence of Elizabeth Burge).*

- (b) The lack of funding and resources places restrictions on Rangitāne’s ability to properly engage in the protection and management of the natural environment. The Greater Wellington Regional Council is the only local authority to currently provide funding to Rangitāne for resource management work.

*(Refer paras 37-38 Statement of Evidence of Elizabeth Burge).*

*(Also refer paras 70-77 Statement of Evidence of Jason Kerehi).*

- (c) The lack of formal acknowledgement and/or relationship between Rangitāne and local Councils is evident. The relationship Rangitāne have with all Councils (with the exception of the Greater Wellington Regional Council) remains ad hoc and informal. This is despite genuine Rangitāne attempts to build working relationships with all local authorities. True joint management of the natural environment between Rangitāne and local government remains far from being a reality. As Elizabeth Burge states:

*“These relationships differ in scale and effectiveness among the Councils, but essentially they haven’t progressed much further than superficial “consultation”.*

*(Refer para 83, Statement of Evidence of Elizabeth Burge)*

- (d) The relationship that Rangitāne have with DOC and the National Wildlife Centre Trust in respect of Pukaha is illustrative of difficulties Rangitāne face. Despite the good intent behind a Memorandum of Understanding the relationship is recent, it has been characterised by good intent but is currently stalled.

*(Refer Statement of Evidence of Mike Grace #F7)*

#### *Customary Fisheries*

16. Customary fishing remains an important contemporary issue for Rangitāne. Joseph Potangaroa (#F4) provides an analysis of the Customary Fishing Regulations 1998 and raises the following concerns:

- (a) The Customary Fishing Regulations 1998 allow kaitiaki to be nominated by diverse tangata whenua groups. Mr Potangaroa argues that the Regulations are straining and dividing traditional relationships between inland and coastal hapū;
- (b) The dispute resolution process under the Regulations remains flawed in that they do not provide a mechanism to allow for parties to resolve disputes. Groups with little or no interests in the coastal area are hindering the ability of legitimate hapū to act as kaitiaki.

#### *Māori Land Matters*

17. Punga Paewai (#F18) provides an insight into the difficulties in developing and retaining Māori land in the Wairarapa. Themes which emerge are:

- (a) The quality and shape of Māori land blocks inhibits development of the land. A phenomenon in the Wairarapa is the numerous “bowstring” shaped blocks (long and thin), which prove difficult to farm and develop unless amalgamated with adjoining lands.

*(Refer para 19, Statement of Evidence of Punga Paewai #F18)*

- (d) The difficulty in dealing with local authorities in terms of developing Māori land remains. Trying to live on ancestral land remains difficult, time consuming and expensive.

*(Refer para 22-24, Statement of Evidence of Punga Paewai, #F18)*

- (c) Government initiatives to assist in the development of Māori land and other activities continue to operate in an ad hoc fashion which produces the same “old tired results”.

*(Refer paras 25-32, Statement of Evidence of Punga Paewai, #F18)*

### **Rangitāne Identity**

18. The evidence to be led in support of the identity cause of action involves a combination of technical and tangata whenua witnesses. Michael O’Leary was commissioned to prepare a technical report on the issue of Rangitāne identity for both the Wai 175 and Wai 166 claimants. Mr O’Leary has filed a report and summary on these issues.

*(Refer #A62 and #A62(a))*

19. A major plank of both Rangitāne claims (Wai 166 and Wai 175) is the allegation that the Crown failed to recognise and protect the identity of Rangitāne as an iwi and tangata whenua within their rohe, examples of this being:

- Classifying Rangitāne as a conquered iwi;
  - Transacting with non Rangitāne rangatira in the acquisition of Rangitāne lands;
  - Failing to carry out any searching investigation of Rangitāne interests in land acquired by the Crown;
  - Failing to refer to Rangitāne in any of the 1853-1854 purchase deeds;
  - Recording non Rangitāne iwi in deeds as the only vendors;
  - Labelling of Rangitāne rangatira as Kahungunu;
  - Allowing official documentation to exclude reference to Rangitāne as an iwi;
  - Establishing the Native Land Court system, which pitted claimants against each other. In the Wairarapa the reliance upon sources of evidence to the detriment of Rangitāne;
  - The failure to refer to Rangitāne in the Papawai and Kaikokirikiri Trust Act.
20. Steven Chrisp (*#F11*) in his Statement of Evidence addresses the identity issue with a particular emphasis on the argument that a strong cultural identity is an important platform for social and economic development. Mr Chrisp will examine three broad phases they being:
- (a) 1850's-1920's (misinformation about Rangitānetanga);
  - (b) 1920's-1960's (destabilisation of systems for transmission of tribal knowledge);

- (c) 1960's-present day (he provides contemporary examples of ongoing misinformation about Rangitānetanga).
21. Mr Chrisp will demonstrate that during the last 20 years, Rangitāne have successfully reasserted their Rangitanetanga in the Wairarapa and have re-established relationships with other iwi, their own marae, with Government agencies and local Councils. Having said that the process has taken a toll on kaumātua after years of arguing and has meant significant opportunity costs have been lost to Rangitāne.
22. Notwithstanding the improved position Rangitāne find themselves in, Mr Chrisp is able to demonstrate that even today in the eyes of many learned outsiders the Rangitāne are still confused with and, at times, submerged under the Kahungunu banner, thus prejudice remains.
23. Piriniha Te Tau (#F10) and Tina Te Tau (#F9) outline their journeys in terms of their Rangitāne identity. Mr Te Tau also outlines the difficulty he and his supporters faced in re-establishing Rangitāne as a tangata whenua group the Wairarapa in the 1980's. Mr Te Tau's evidence highlights the lack of support and acknowledgement during the 1980's from Crown officials and local government.

## **Visual Evidence**

### *Maps*

24. Many of the witnesses will be referring to the Rangitāne Map Booklet (#E39) during their evidence. In addition further maps have been created specifically for the Wai 175 claimants. The new maps are simply an aggregation of the information contained in Maps 6-9 inclusive, 11 and 12 of the Rangitāne Map Booklet.

*Booklets and CD*

25. From time to time various images will be displayed by way of powerpoint presentation. Those images are all contained in the various booklets filed on behalf of Rangitāne.

*GIS Programme*

26. Mr Potangaroa refers to a GIS Programme in his Statement of Evidence. The programme is a work in progress and it is not intended to file it with the Tribunal. Having said that a demonstration of the programme will be given by Mr Potangaroa at the conclusion of his evidence. The sites of significance as appearing in the maps before the Tribunal are drawn heavily from the GIS Programme.

Dated at Masterton this            day of September 2004.

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