

To: The Registrar, Waitangi Tribunal
P.O. Box 5022
Wellington

Under the Treaty of Waitangi Act 1975

And
In the matter of her Majesty Queen Elizabeth II,
representative as the Sovereign
Head of the Crown.

(Partner to Te Tiriti o Waitangi)

And
In the matter of a claim by Josie Mclean, Carol
Kerekere, John Reid, Joy Reid,
Huia Beach, Peehi Wanoa and
Mate Wanoa, for and on behalf of
the future generations of
Ruawaipu.

(Partner to Te Tiriti o Waitangi)

And
In the matter of The Maori Trustee Act 1953.

STATEMENT OF CLAIM
Dated this day 10 May 2008.

“this claim is about the Maori Trustee established by settlor government who are holding Maori monies from Maori land and failing to protect Maori land rights thus causing prejudice. The Claimants assert that to remove prejudice, Maori land monies should be used to defend Maori land rights against the Crown & Queen without limitation as guaranteed under Te Tiriti o Waitangi”

1. The Claimants

- 1.1 This claim is filed by Josie Mclean, Carol Kerekere, John Reid, Joy Reid, Huia Beach, Peehi Wanoa and Mate Wanoa ("the Claimants").
- 1.2 The Claimants are a direct descendant of Ruawaipu.
- 1.3 The Claimants rohe can be defined as the Whangaporoa river to the Tuparoa stream, seawards to the Pacific rim, inland to the Raukumara ranges.

2 The Claim: The Cause of Action

- 2.1 The Claimants state that this matter falls within one or more of the matters referred to in Section 6 (1) of the Treaty of Waitangi Act 1975.

3 Background

- 3.1 The Native Trustee Act 1920 Established trustee governance systems over Ruawaipu lands affecting Rangatiratanga. Incorporated Public trustees monies from native reserves, monies from native land Boards (undisbursed rents, proceeds of the sale of native lands, monies belonging to minors and natives under disability. The native trustee took over the accumulated funds mentioned.

- 3.2 The Maori Trustee Act superseded the Native Trustee Act 1920. The Maori Trustee Act 1953 pursuant to section 2 of the said Act, was to be read in conjunction with the Maori Affairs Act 1953. Section 4(2) Functions and objects of Department (of Maori Affairs)--- states;

“(2) In the exercise of its functions the Department shall always, to the extent possible, have regard to the following objects:

- (a) The retention of Maori land in the hands of its owners, and its use or administration by them or for their benefit;
- (b) The preservation, encouragement, and transmission of the Maori language, Maori customs and traditions, Maori arts and handicrafts, and other aspects of Maori culture essential to the
- (d) The promotion of the health, education, and general social well-being of all members of the Maori race.

- 3.3 The Maori Affairs Restructuring Act 1989 under section 11(1) abolished the Board of Maori Affairs constituted by section 5 of the Maori Affairs Act 1953.

- 3.4 The Ministry of Maori Development Act 1991 pursuant to section 6 replaced the Ministry of Maori Affairs. Section 5 of the 1991 Acts states;

“Particular responsibilities of Ministry of Maori Development---(1)

The responsibilities of the Ministry of Maori Development include---

(a) Promoting increases in the levels of achievement attained by Maori

with respect to---

(i) Education:

(ii) Training and employment:

(iii) Health:

(iv) Economic resource development:

(b) Monitoring, and liaising with, each department and agency that provides or has a responsibility to provide services to or for Maori for the purpose of ensuring the adequacy of those Services”.

- 3.5 The Maori Land Act 1993, substituted the Maori Affairs Act 1953, which was repealed by s. 362 (2) of the Maori Land Act 1993. See also section 8 of the Ministry of Maori Development Act 1991.
- 3.6 Maori Trustee Acts 1953 by Parliamentary Counsel 1996, under section 2, the Maori Trustee Act 1953 is now read with the Maori Land Act 1993.
- 3.7 The Maori Trustee Act 1953 is administered by Ministry of Maori Development who is responsible to the Minister of Maori Affairs.
- 3.8 At present the Maori Trustee and Maori Development Bill is before the House of New Zealand Representatives (settlor government). It is proposed that the Maori Trustee become a new independent “statutory” corporation to be governed and ruled by other settlor parliament’s “statutory” Ministers such as the Minister of Maori Affairs and the Minister of Finance, in turn the Trustee will transfer \$35 million from the present Maori Trustee’s General Purposes Fund to this new statutory organ of the settlor government.
- 3.9 In short the Minister of Maori Affairs The Hon Parekura Horomia and the Minister of Finance the Hon Dr Michael Cullen, as two of Her Majesty’s Ministers (Agents of the Crown who are guilty of already breaching Te Tiriti with the Foreshore & Seabed Act 2004) are colluding again to undermine Maori by failing to consult and advise Her Majesty (representative of the Crown) to fully protect Maori, and in doing so, the Crown is acting in bad faith.
- 3.10 Since the Maori Trustee has been active (1920), the general social wellbeing of Maori in the Ruawaipu rohe has deteriorated to the stage where we are the most deprived than any other iwi in New Zealand. This is testimonial that statutory actions of the settlor government and the Maori Trustee are failing.
- 3.11 In short, by omission, Her Majesty as the liable guarantor under Te Tiriti o Waitangi, is failing to protect Maori from her administration by way of such Acts as the Maori Trustee Act 1953.

3.12 Her Majesty will also again be in breach of Te Tiriti if Her Royal Assent is given to such a divisive Bill.

4 Statement of Claim

4.1 The Maori Trustee Act 1953 breaches Article II of Te Tiriti o Waitangi.

4.2 By omission there is no tino rangatiratanga clause incorporated in the Maori Trustee Act 1953.

4.3 The Maori Trustee Act 1953 is read in conjunction with the Maori Land Act 1993. In accordance with section 2(2) of the Maori Land Act 1993, Parliament has a statutory obligation to promote Maori land as he taonga tuku iho. He taonga tuku iho is a pre common law right recognised as unextinguished under section 28 of the New Zealand Bill of Rights 1990.

4.4 Furthermore section 2(3) of the Maori Land Act 1993, explicitly interprets the Maori version of the preamble to the 1993 Act as prevailing in case of conflict. This means by law, that he taonga tuku iho is interpreted in context with Te Tiriti (the East Coast treaty) which did not cede sovereignty.

4.5 In other words, the Maori Land Act 1993 currently has statutory jurisdiction to administer he taonga tuku iho in regards to matters before common law NZ not in accordance with common law NZ.

4.6 The Claimants asserts he taonga tuku iho is an inalienable full right, power and privilege prior to and post Te Tiriti o Waitangi February 6, 1840 which is part and parcel of te tino rangatiratanga.

4.7 The Maori Trustee has failed to protect the Claimants from the unscrupulous settlor government. In fact the Maori Trustee derives its powers from the settlor government.

4.8 Valuable and economic toanga such as water, minerals, oils, foreshore and seabed, and flora and fauna on the Claimants land as he taonga tuku iho have been stripped with the help of the Maori Trustee. This is in breach of Article II of Te Tiriti o Waitangi (the protection of tino rangatiratanga and taonga katoa).

4.9 The Claimants assert there are common law protectorate mechanisms so entrenched that not even Parliament or the Crown can override, especially if such powers derive from the Treaty of Waitangi.

4.10 Furthermore, Her Majesty Queen Elizabeth II has been provided independent Parliamentary monies, (Her Majesty's Counsel - Crown Law Office) to defend Her Majesty against the Claimant domestically and internationally.

- 4.11 Maori as treaty Partner, have no legal representation, and such a right as viewed by the United Nations¹.
- 4.12 The Claimants assert that the Queen has also failed to protect the Claimants in Her Majesty's courts as guaranteed under Article III of Te Tiriti o Waitangi, and that there is no option for justice except to form an independent Maori Trustee (independent of settlor government) to hold in trust tino rangatiratanga duties for the interests of land as he taonga tuku iho.
- 4.13 THEREFORE, the Claimants assert that all interests and profits accrued from the Maori Trustee unclaimed monies fund and expenditure used since 1920 be returned to the General Purposes Fund.
- 4.14 That the monies for the General Purposes Fund should **be transferred** to a non-biased fully independent entity such as a international organ, to control such a fund promulgated by way of Charter from the hapu representatives of Aotearoa-New Zealand.
- 4.15 Furthermore, that such a Charter would include a **FUND FOR SPECIAL PURPOSES** to represent Maori without prejudice or bias regarding significant issues of the law and Te Tiriti o Waitangi (domestically and internationally).
- 4.16 The Claimant is aware the Crown has been approached and submitted to on this matter, but the Crown has continued to ignore such matters., thus acting in bad faith.

5 The breaches

- 5.1 It is alleged that the Crown has breached the principle of active protection

6 The result of prejudice

- 6.1 It is alleged that as result of specific prejudices, Ruawaipu have been adversely affected and discriminated in the development of their political, economic, social and cultural well being by way of;

(a) The Maori Trustee Act 1953.

7 Recommendations Sought


- 7.1 That the Tribunal find this claim to be well founded.

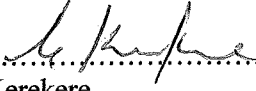
¹ Economic and Social Council - Commission on Human Rights sixty-second session , item 15 of the provisional agenda, 10 March 2006 Mission to New Zealand

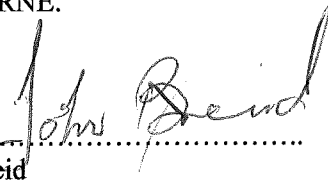
- 7.2 A recommendation to Her Majesty Queen Elizabeth II to constrain and warn Her settlor government, and Ministers to refrain from using Maori Trustee monies for any purposes other than the facilitation of advancing Maori land owners political, social and economic development (sovereignty).
- 7.3 That an adequate Maori Trustee (independent of settlor government) be established with current Maori Trustee monies put into a special fund to provide legal representation for the hapu of New Zealand to make representations against Her Majesty for breaches of Te Tiriti in the international and domestic arena
- 7.4 Any other recommendation the Tribunal may see fit.

8 Particulars

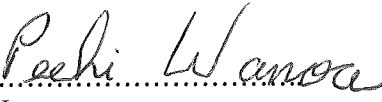
- 8.1 The Claimants wish the Tribunal to commission a researcher to report on the Claim.
- 8.2 The Claimants ask for permission to amend this claim if necessary.
- 8.3 That this claim is heard at Ohinewaiapu Marae East Coast Gisborne.
- 8.4 The Claimants believe all affected parties of the Tribunal East Coast Inquiry District should be notified of the claim.
- 8.5 The Claimants wish to notify the Tribunal that they wish to be represented as of right by independent legal counsel (independent of the Legal Aid Statute) without bias or prejudice by Her Majesty's Crown Law Office.

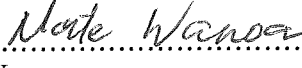
Signed 
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 RANGITUKIA

Signed 
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 Mate Wanoa
 20 Huxley Road
 GISBORNE.

Signed *Hua Deane*
Huia Beach
19 Leon Street
GISBORNE.

Dated this day at GISBORNE *10th* / May 2008.

Cc
Her Majesty Queen Elizabeth II, SW1A 1AA, Buckingham Palace, London, England.
Tariana Turia, Maori Party, Parliament Buildings Wellington, New Zealand.