

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

A N D

IN THE MATTER of a submission by Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Incorporated Society on the Proposed Natural Resources Plan for the Wellington Region pursuant to Clause 6 of Schedule 1, Resource Management Act 1991

A N D

IN THE MATTER of Hearing Stream Three – Water Allocation and Natural Form and Function

**OPENING SUBMISSION ON BEHALF OF RANGITĀNE TŪ MAI RĀ TRUST AND
RANGITĀNE O WAIRARAPA INCORPORATED SOCIETY**

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1.0 INTRODUCTION

- 1.1 The purpose of this opening submission is to set the scene for the evidence to be presented on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Incorporated Society (“Rangitāne”) and place that evidence in the right context.
- 1.2 The focus for Rangitāne for Hearing Week 3 is on the provisions of the Proposed Natural Resources Plan (“Proposed Plan”) that relate to water allocation and natural form and function. We do not intend to address every amendment proposed by Rangitāne in this submission as it relates to those topics. Rather, the focus is on describing the Rangitāne world view and how that translates into their aspirations for the management of natural resources in their takiwā (region). It is important for the Hearing Panel to understand the position Rangitāne is coming from in considering their submissions and evidence.
- 1.3 Rangitāne also wish to take this opportunity to highlight a wider issue with the Proposed Plan that has already been identified by Rangitāne’s planning expert, Phillip Percy, and others. That is essentially that the Proposed Plan does not fully give effect to higher order documents such as the Regional Policy Statement and the New Zealand Coastal Policy Statement as required by the Resource Management Act 1991 (“the RMA”) and the effect of that. This in our submission needs to be rectified before the Hearing Panel can approve the Proposed Plan.
- 1.4 On that basis, this opening submission addresses the following:
 - (a) The Rangitāne World View;
 - (b) Gaps in the Resource Management Framework;
 - (c) Natural Form and Function – Specific Submissions; and
 - (d) Water Allocation – Specific Submissions.

2.0 RANGITĀNE WORLD VIEW

- 2.1 The evidence of Jason Kerehi from Hearing Week 1 described the Rangitāne place in the world and the Wairarapa and the Greater Wellington region in particular, and how that place has been arrived at. This is, in short, the result of the decisions and experiences of their tūpuna, the broken promises of the Crown, the

effects of legislation and policy and attitudes in the Wairarapa about their place and the place of their values and beliefs.¹ The combined effects are that:²

- (a) Rangitāne own less than 2 per cent of whenua (land) throughout the Wairarapa and Tāmaki-nui-ā-rua district;
- (b) Many waterways and whenua in their takiwā are polluted, sites of significance have been destroyed, severely compromised or modified beyond recognition; and
- (c) Rangitāne leadership structures and Treaty of Waitangi protection of their rangatiratanga over themselves and the natural resources within their takiwā has been eroded.

2.2 To put this in context, it is important to highlight some of the deeply rooted and fundamental concepts underpinning the Rangitāne world view. Those concepts, as set out in the evidence³ are:

- (a) Papatūānuku – is our earth mother, we are the product of the earth. The whenua (land) is her body and the wai (water) is her lifeblood;
- (b) Kaitiakiakitanga and reciprocity – we are kaitiaki (caretakers) of Papatūānuku, and as such, our natural resources. It is our responsibility to take care of and protect her and, in turn, she will look after us;
- (c) Mauri – is the life force, central to all things animate and inanimate, and is the interconnection between the two;
- (d) Ki uta ki tai – the interconnection from the mountains to the sea; what happens upstream affects downstream, what happens inland affects the marine space, every action has a consequence;
- (e) Taurite (balance) – because everything is connected there must be balance for the ‘whole’ to be functional.

¹ Statement of Evidence of Jason Reuben Warena Kerehi dated 9 May 2017, paragraphs 2.4-2.5.

² Statement of Evidence of Jason Reuben Warena Kerehi dated 9 May 2017, paragraph 2.2.

³ Statement of Evidence of Michael Ian Joseph Kawana dated 9 May 2017, paragraphs 4.1-4.30. Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 2.1-2.7.

- 2.3 The degradation of waterways, whenua and sites of significance in their takiwā is therefore a serious affront to Rangitāne tikanga. As kaitiaki, to see Papatuānuku being treated in the way that she has, her lifeblood being polluted, many examples throughout their takiwā of mauri being depleted and the imbalance that this has caused, has been devastating.⁴
- 2.4 To Rangitāne, it is important that lessons are learned from mistakes of the past. It is also important to them that they are closely involved in the management of the natural resources in their takiwā going forward to ensure that those mistakes do not happen again and ensure that they are fulfilling their role as kaitiaki.

3.0 GAPS IN THE RESOURCE MANAGEMENT FRAMEWORK

- 3.1 As mentioned, there is a wider issue with the Proposed Plan that we want to highlight, which, if not rectified, will leave exploitable gaps in the Resource Management framework. This is of significant concern to Rangitāne as it may lead to further degradation of the whenua and waterways within their takiwā.
- 3.2 The issue is that, contrary to section 67(3) of the RMA, the Proposed Plan does not give full effect to certain higher order planning documents. Mr Percy will present evidence on this issue, including that the New Zealand Coastal Policy Statement (“NZCPS”) and/or the Regional Policy Statement (“RPS”) provide explicit direction on what must be included in the Proposed Plan including with regard to the assessment and identification of natural character, natural features and landscapes and water quantity management. His evidence is that those directive policies have not been adhered to in the Proposed Plan as it is proposed that certain directives will be implemented in stages, which is not provided for in the relevant policy documents.⁵
- 3.3 We submit that in order to comply with section 67(3) of the RMA, the directive policies in both of those statements and other higher order policy documents should have been implemented in the Proposed Plan before it was notified.

⁴ Statement of Evidence of Michael Ian Joseph Kawana dated 9 May 2017, paragraphs 4.23-4.26, 5.7 and 5.22-5.23. Statement of Evidence of Jason Reuben Warena Kerehi dated 9 May 2017, paragraphs 2.8(b) and 3.9. Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 3.22-3.24 and 4.18-4.20.

⁵ Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, paragraph 21.

Because this has not happened, the Proposed Plan does not comply with section 67(3) of the RMA and the hearing panel is being asked to “consider only a partial component of the comprehensive resource management toolbox necessary to give effect to the RPS and other higher order documents”.⁶

- 3.4 Without the detail, the Proposed Plan will not be effective in achieving its objectives, which will increase the probability that the purposes of the RMA will not be achieved. The ramifications of this could be wide and far-reaching for Rangitāne and many others and could lead to the erosion of Rangitāne values. Rangitāne is particularly concerned that areas of outstanding natural character that are of significance to them have not been identified and therefore afforded the protections that the Proposed Plan seeks to provide. One example identified in the Rangitāne submissions, which Rangitāne seek to be specifically included in the Proposed Plan, is Wairarapa Moana.⁷
- 3.5 This leads to an inevitable submission that the Council must carry out the necessary work pursuant to its statutory obligations and add the required detail in to the Proposed Plan before it can be approved by the Hearing Panel.⁸

4.0 NATURAL FORM AND FUNCTION

- 4.1 The relationship between Rangitāne and the natural environment is clear in consideration of their relationship to Papatūānuku and their role as kaitiaki of all natural resources ki uta ki tai. It is also clear from Rangitāne occupation of various areas within the Wairarapa and Tāmaki-nui-ā-rua regions, including both coastal and inland areas, and Rangitāne pepeha, which include whakapapa to awa and maunga in their takiwā.⁹
- 4.2 Mr Kerehi describes in his evidence the knowledge Rangitāne tūpuna had of the forests, the locations of maunga and the use of the land for mahinga kai.¹⁰ He

⁶ Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, paragraph 32.

⁷ Submission by Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc (31 July 2015), p55.

⁸ Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, paragraphs 30-31.

⁹ Statement of Evidence of Michael Ian Joseph Kawana dated 9 May 2017, paragraph 1.1. Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 3.28-3.29 and 4.1.

¹⁰ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 4.4 and 4.6.

describes the detrimental effects of changes to the natural landscape in the Rangitāne takiwā¹¹ and states that, being kaitiaki of our natural resources “*does not, on any level, provide the right to change, modify or dictate natural resources and its natural processes. Rather it imposes an obligation to support, protect and encourage the enhancement of them in its most natural form and function*”.¹²

- 4.3 Mr Kerehi’s evidence is that Rangitāne cultural practices have been severely impacted by the changes that have occurred over time, including relationships with wāhi tapu (sacred sites), polluted waterbodies, mahinga kai practices, and the mauri of water-bodies has been compromised.¹³ Against that backdrop it is important now more than ever to ensure that natural features and landscapes of significance to Rangitāne are identified and protected.
- 4.4 The failure of the Council to identify natural character areas and outstanding natural features and landscapes before notifying the Proposed Plan is therefore a key issue for Rangitāne. Whilst certain objectives, such as O32, and policies such as P48 and P49 are generally supported, an assessment of outstanding natural features and landscapes has to be carried out so that it is clear what it is that such objectives seek to protect and whether the policies will appropriately manage those features and landscapes.¹⁴ Rangitāne submit that, as part of that process, particular consideration is given to natural features and landscapes with value to tangata whenua, given their important role in Māori culture and traditions.
- 4.5 It is acknowledged that the Council has undertaken some work in identifying sites with significant mana whenua values and Ngā Taonga Nui a Kiwa, however, Mr Percy’s evidence is that the outcomes in the Proposed Plan for those sites are different to the outcomes for areas with outstanding natural character, features, landscapes and the like.¹⁵ His evidence is that the management regime for Ngā Taonga Nui a Kiwa in the Proposed Plan does not provide protection for those

¹¹ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 4.8-4.12.

¹² Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 4.7.

¹³ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 4.10, 4.12, 4.18 and 5.9.

¹⁴ A similar issue arises with regard to O38 and that is addressed in the Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, pp 27-29.

¹⁵ Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, paragraph 64.

sites and features, as it is largely non-regulatory.¹⁶ On that basis, the management regime for Ngā Taonga Nui a Kiwa needs to be brought in line with the management regime for natural character areas and outstanding natural features and landscapes for it to be considered a sufficient alternative.

5.0 WATER ALLOCATION

- 5.1 The key issue for Rangitāne with regard to water allocation is again that the detail has not been included in the Proposed Plan as required by the RPS and NZCPS. On that basis the submissions already made regarding the effects of that and the need for rectification are also relevant to this topic.
- 5.2 The rivers have always been and remain important to Rangitāne, not only as a means of mahinga kai, but also as transport and for cultural identity.¹⁷ Mr Kerehi's evidence is that the main settlements throughout Wairarapa and Tamaki Nui-ā-Rua were along the rivers and near freshwater sources along the coastline.¹⁸ This is reflected in their pepeha, which sets out their whakapapa, including to a particular awa (river) or moana (lake).¹⁹
- 5.3 As Mr Kerehi states, the primary concern of Rangitāne with regard to water allocation and management is the waterway itself – that the volume and flow sufficiently sustains the biodiversity and health qualities of a waterway, which provides for its mauri.²⁰ One of the main objectives of Rangitāne is to improve overall water quality in their takiwā.²¹ The question therefore arises of whether this is achievable via the Proposed Plan as it is currently drafted, given much of the detail has been left to be inserted later down the track.
- 5.4 Mr Percy will provide evidence on the effect of the staged approach that has been taken by the Council with regard to the Proposed Plan. An example he gives is the relationship between the objectives that describe outcomes for Māori customary

¹⁶ Planning Evidence of Phillip Harry Percy – Natural Form and Function – on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, paragraph 66.

¹⁷ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 3.4.

¹⁸ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 3.5.

¹⁹ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 3.28-3.29 and 4.1.

²⁰ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 3.2.

²¹ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 5.11.

use and relationships and the water quantity and allocation regime.²² As noted by Mr Percy, the Council has presented evidence that outcomes for Māori cultural values were not taken into account when setting the minimum flows and allocation volumes. His evidence is that, on that basis, it is uncertain whether the allocation regime will achieve the proposed objectives.²³

5.5 This is an example in our submission of mere “lip service” being paid to the Proposed Plan, which is a concern identified by Michael Kawana in Hearing Week 1.²⁴ His evidence was essentially that, in order for the Proposed Plan to be robust and far-reaching as it relates to Māori values and tikanga the work must be put in so that the objectives are achieved and not simply ignored. It is submitted that the minimum flows and allocation volumes must therefore be reassessed in consideration of Māori, and more specifically, Rangitāne cultural values.

5.6 Mr Kerehi refers to the November 2011 Cultural Values Report produced by Ohau Plants Limited²⁵ which found that, “*Maori values attributed to the rivers and streams throughout the Wairarapa Valley are consistently being compromised through low flows and poor water quality*”.²⁶ He supports the recommendations made in the report with regard to minimum flows and asks that the minimum flows be increased to allow for the waterways to be rejuvenated.²⁷ As referred to in Mr Kerehi’s evidence, Mike Thompson in his section 42A report agrees with the adoption of a higher minimum flow, stating that it would be more consistent with the principle of safe guarding the life supporting capacity.²⁸

5.7 In order to ensure that objectives are given effect to via the Proposed Plan, Mr Percy sets out in his evidence an analysis of the proposed provisions for water quantity management against an alternative management framework.²⁹ Rangitāne consider that use of the alternative framework will better achieve the

²² Planning Evidence of Phillip Harry Percy on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, Minister of Conservation and Fish and Game dated 28 August 2017, paragraph 35.

²³ Planning Evidence of Phillip Harry Percy on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, Minister of Conservation and Fish and Game dated 28 August 2017, paragraph 35.

²⁴ Statement of Evidence of Michael Ian Joseph Kawana dated 9 May 2017, paragraph 4.24.

²⁵ Caleb Royal, *Cultural Values for Wairarapa Waterways Report* (November 2011).

²⁶ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 5.2.

²⁷ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 5.3.

²⁸ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraph 5.4.

²⁹ Planning Evidence of Phillip Harry Percy on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa, Minister of Conservation and Fish and Game dated 28 August 2017, pp15-24.

objectives of the Proposed Plan, including the objectives that incorporate Māori values and priorities with regard to water quantity management.

5.8 Policy P122 is one policy that Rangitāne wish to highlight and Mr Kerehi does this in his evidence. Rangitāne consider flow variability to be critical, not only for Rangitāne values, but also for habitat values, the natural flushing out of the river systems periodically, and the the carrying of nutrients and mauri throughout river systems.³⁰ On that basis, Rangitāne seek:³¹

- (a) The expansion of the purposes for variable river flows being maintained, including to maintain and enhance mahinga kai and natural character;
- (b) The amendment of the policy and associated rules so that it is consistent with achieving the objectives, including providing for safeguarding lifesupporting capacity, mahinga kai, natural processes, preserving natural character, as well as sustaining mauri.

6.0 CONCLUSION

6.1 It is important that the Hearing Panel understands and has an appreciation of the Rangitāne world view in order to understand the position from which they are coming from in making submissions on the Proposed Plan. That world view and, more particularly, their tikanga, shines through in their aspirations for the management of natural resources in their takiwā (region).

6.2 Through this process, Rangitāne have been provided with the opportunity to have input into how the natural resources in their takiwā are managed and protected. Rangitāne take that opportunity very seriously as it is a way for them to exercise kaitiakitanga and facilitate the alignment of their cultural values with Council plans and processes that are provided for under the RMA. In their view the Proposed Plan must give real effect to their values, in particular the value of mauri³² and they are here to make sure, as best they can, that that happens.

³⁰ Statement of Evidence of Jason Reuben Warena Kerehi dated 23 August 2017, paragraphs 5.5-5.6.

³¹ Submission by Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa Inc (31 July 2015), p80.

³² Statement of Evidence of Michael Ian Joseph Kawana dated 9 May 2017, paragraph 6.3.