

I TE RŌPU WHAKAMANA
I TE TIRITI O WAITANGI

WAI 3325
WAI 2397

KEI RARO I TE MANA o te ture o te Tiriti o Waitangi 1975

Ā

I TE TAKE O The Climate Change Priority Inquiry (Wai 3325)

Ā

I TE TAKE O he kereme na te Ngāti Hine Forestry Trust on behalf of the beneficial owners of Ngāti Hine H2B (Wai 2397)

KŌRERO TAUNAKI O PITA TIPENE

I tēnei rā, i te rā 30 o Oketopa 2024

RECEIVED

Waitangi Tribunal

30 Oct 24

Ministry of Justice
WELLINGTON



p 09 404 0953
a 91 Hupara Road, RD2 Kaikohe, Northland 0472
e admin@tukaulaw.co.nz
w www.tukaulaw.co.nz

Counsel acting

Dr Season-Mary Downs
Chelsea Terei-Tipene
Majka Cherrington
Emma Jackson

TĒNĀ, E TE TARAPIUNARA

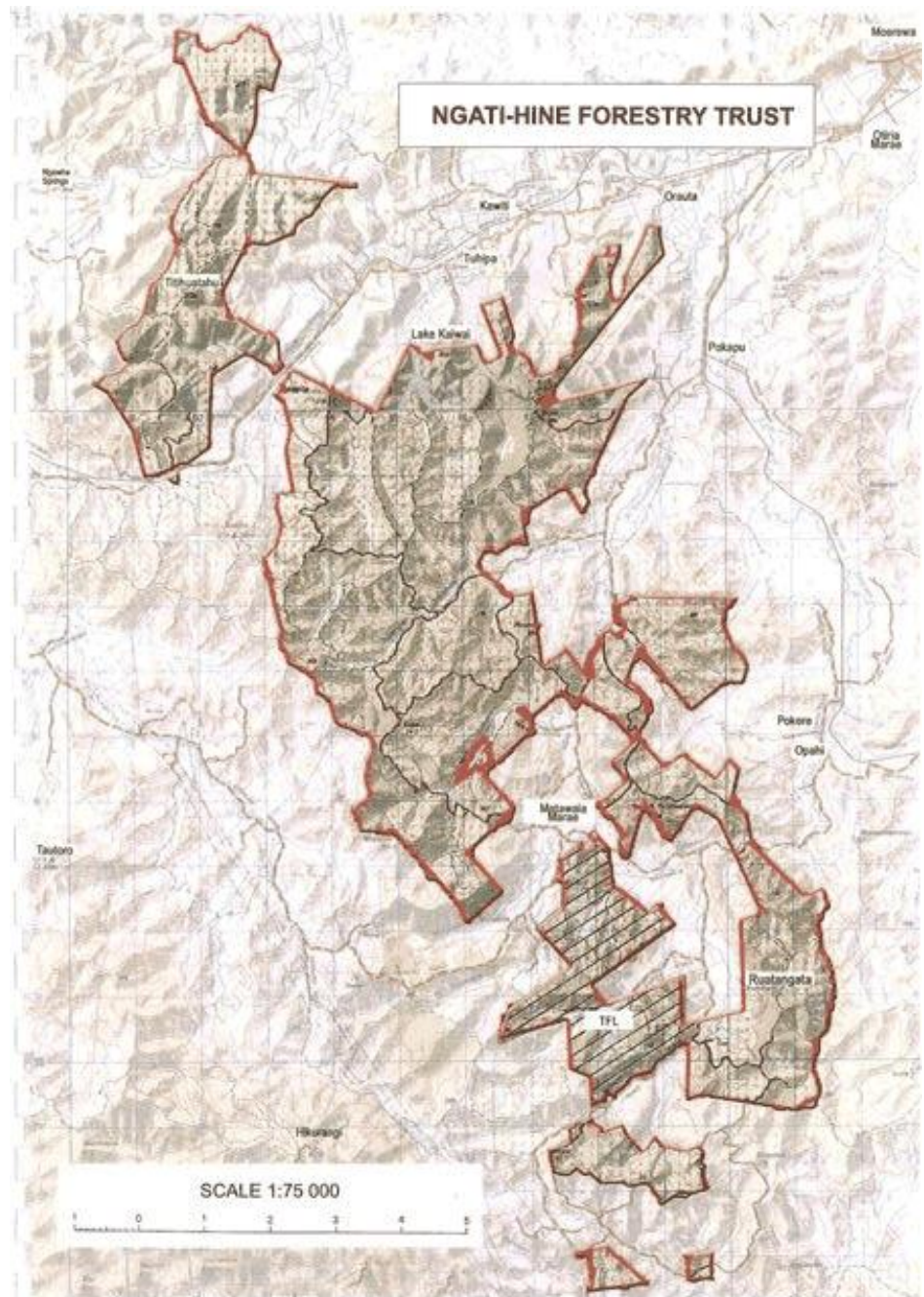
Introduction

1. My name is Pita Tipene.
2. I am a Trustee of the Ngāti Hine Forestry Trust (“the Trust”) and have been for approximately 20 years. For the last 16 years, I have also been the Chairman of the Trust.
3. I also hold the following roles:
 - (a) Chairman of the Waitangi National Trust Board;
 - (b) Chairman of the Te Ruapekapeka Trust; and
 - (c) Co-Chair of Ngā Toki Whakarururanga.
4. I make this brief of evidence in my capacity as both a trustee of the Trust and a member of Ngāti Hine.
5. My evidence includes:
 - (a) An overview of the Trust;
 - (b) The history of the Trust; and
 - (c) The impact of the Emissions Trading Scheme (“ETS”) on the Trust.

Overview of the Ngāti Hine Forestry Trust

6. The Ngāti Hine Forestry Trust (originally called the Ngāti Hine Trust) was established in 1974, when the decision was made to amalgamate 72 Māori land blocks through the Māori Land Court and vest the land in the Trust for the purposes of forestry. The amalgamated land is now known as the H2B Motatau Block.
7. Today, the Trust has over 6,020 registered beneficiaries (beneficial owners) and approximately 6,000ha of whenua adjacent to the towns of Moerewa and Kawakawa.

8. Of the Trust's whenua, approximately 5,523ha is the H2B Motatau Block and approximately 4,649ha is considered to be pre-1990 forest land for the purposes of the ETS. The remaining whenua is mostly indigenous reserves such as whenua rāhui, wetlands and the like.
9. The Trust's whenua is pictured in the map below:



10. When I became a trustee, the Trust operated on a much smaller scale than it does today. We only had two staff, a general manager and an office manager, and were in our first forestry rotation which was being

carried out under a lease agreement with us as the lessor and Carter Holt Harvey (“Carter Holt”) as the initial lessee. The lease arrangement meant that the trustees were very passive, having very little control and authority over how the forest or the Trust’s land were being managed.

11. Over the past 20 years, the trustees have deliberately moved from passive to active management of the Trust’s lands. This has seen the Trust expand and diversify.
12. The Trust now has 32 staff, plus contractors, and two offices and is in its second forestry rotation of pine, although its long-term goal is to return the land to a korowai of native forest.
13. The Trust’s interests now also extend beyond forestry to beekeeping, pollination, the production of mānuka honey, dairy farming, environmental work and pest control, owning and managing kiwifruit orchards and its own nursery, participation in research regarding transitional forests, training programmes, as well as other innovations which support an indigenous forestry future.
14. Each of the Trust’s initiatives are progressed in accordance with ‘te tū o Ngāti Hine’ and the Trust’s Strategic Intent which is attached as **Appendix A** and sets out:
 - (a) the Trust’s purpose “He Ringa Ahuwhenua, He Hanga Mahi” which is translated literally to ‘Busy Hands, Creating Opportunities’;
 - (b) the Trust’s vision “He Whenua Hua, He Tangata Ora” which is translated literally to mean ‘Productive Lands and People Wellbeing’; and
 - (c) the Trust’s values which include:

He Ringa Ahuwhenua – We are action orientated;
Kaitiakitanga – We are responsible guardians;
Te Tū o Ngāti Hine – We are Ngāti Hine;
Mana Motuhake – We are self-sufficient; and
Whanaungatanga – We build strong relationships.

15. Despite the progress made by the Trust, the actions and goals of the Trust have been inhibited and restricted by the imposition of the ETS. I discuss the journey of the Trust and the impact of the ETS below.

History of the Ngāti Hine Forestry Trust

Establishment of the Trust

16. The decision to establish the Trust was not made lightly and was in part, a decision of necessity.
17. In the late 1960s, the original landowners of the Trust's lands were having difficulties with the council because they had fallen into arrears with their rates payments. When they were not able to pay, the council threatened to confiscate their lands.
18. The threat of land confiscation created a lot of fear amongst the people of Ngāti Hine because no one wanted to see the further loss or confiscation of Ngāti Hine lands. Essentially, this sparked the conversation between the landowners around what could be done to protect and safeguard the lands for Ngāti Hine into the future.
19. At that time, the Government heavily promoted forestry and the planting of commercial pine forests which raised the prospect of amalgamating the lands and developing forestry in Ngāti Hine through the vehicle of a forestry trust.
20. In the early 1970s, several hui were held at marae to wānanga the idea. Naturally, people had differing opinions on whether establishing a forestry trust was the right thing to do, and it created significant tension amongst the people of Ngāti Hine, so much so that some people went to court over the matter.
21. To speak to the scale of the decision, there were 72 land blocks for potential amalgamation and each of those blocks belonged to whānau, who in and of themselves were managing multiple intergenerational interests. There were differing opinions across the rohe and even within homes – mine included.

22. I can still recall sitting at the table and listening to my parents debate the pros and cons of establishing the Trust. My mother saw some benefit in it from an employment perspective, but my father was worried about the environmental effects that forestry may have, given they would be large pine forests.
23. I recall my mother saying things like 'we need to be able to offer our people employment in the future, forestry can do that, and not just in the forest or at harvest time but in the management of the forest too'. Then my father would counter and say 'well, I'm not too sure about pine trees. Nobody else has grown pine trees in the area and I'm not sure it's going to be good for the environment or the lands of Ngāti Hine'. What my parents did agree on was that no matter what, we needed to have and maintain control of the whenua.
24. Ultimately, the original landowners agreed to amalgamate their lands and establish the Trust, not only because it would safeguard the lands but because it promised employment and other economic opportunities for the people of Ngāti Hine. This is what those that advocated for amalgamation, promised them.
25. That said, the discussion and debate around whether a forestry trust should be established carried on post 1974 and into the stage where establishment trustees were put in place.

History of the Ngāti Hine Forestry Trust

Early Forestry leases

26. In 1981, the Trust entered into its first forestry lease with Carter Holt where it agreed to lease approximately 85% of its land to Carter Holt for 30 years, and Carter Holt would plant, harvest and manage the forest.
27. Carter Holt started planting in its first year and planned to begin harvesting in 2014.
28. I still recall my mother's optimism because she thought it would be the start of the employment benefits that were promised when the Trust

was established. She thought the logs would be milled locally and turned into furniture creating jobs for the people of Ngāti Hine, but this did not come to pass.

29. Instead, Carter Holt as the lessee had complete control of the forest and the product. They decided who would manage the forest, who the contractors would be and even who would construct the roads and other infrastructure. Thus, many of the job opportunities that were meant for the people of Ngāti Hine were outsourced.
30. Outside of the employment issues, Carter Holt's management of the forest also led to land and roading issues, leading to disputes around the terms of the lease and how the land was to be managed. This was one of the first instances where the trustees, shareholders and beneficiaries had to stand firm in our rangatiratanga and ensure our roles and obligations as kaitiaki over the land were upheld.
31. In 2006, Carter Holt transferred their lease to Graeme Hart and through a further on sale, it was acquired by Taumata Plantations (Hancock Forestry Company) ("HFC"). Once the lease was settled, HFC decided that they were going to start harvesting in 2008, which obviously took us by surprise as we were looking to 2014 as the start date. Nonetheless, it was their prerogative and harvesting began.
32. Despite the fact that we had no control over the management of the forest or the timing of the harvest, it was our whenua and a significant moment for us. A ceremony took place before the first tree was cut down where we conducted karakia as per our tikanga, made our acknowledgements and broke bread together. I can still remember where the tree was, who cut it down and who was there, many of whom were our kaumātua, kuia, former trustees and those that were involved in the establishment of the Trust.
33. HFC harvested approximately 300ha per annum. They brought in forestry gangs, many of whom were from elsewhere, and the logs were carted by truck to the port at Marsden Point where they were shipped overseas, mainly to China.

34. Once each block of land was harvested, HFC surrendered the land back to the Trust and began harvesting other blocks.

The second forestry rotation and the Emissions Trading Scheme

35. Ultimately, the Trust did not want to progress to a second rotation of pine because the aspirations of the shareholders, and therefore the Trust, was to transition to native forest. However, the introduction of the ETS in 2008 and the liabilities associated with deforestation, meant that we were essentially forced into a second rotation. We did not have a choice.
36. Even in trying to comply with the ETS, the Trust was stuck. Not only could it not afford the ETS liabilities associated with deforestation, but it did not have the capital to fund a second forestry rotation, which it needed to do to avoid the ETS liabilities.
37. In deciding what to do, the Trustees were also very conscious of the lessons learned from the first rotation with Carter Holt and HFC. We were clear that we could no longer afford to be passive managers of our own land where we had very little say about what or how things were done. We needed to be able to exercise our rangatiratanga and fulfil our obligations as kaitiaki.
38. We also wanted the second forest rotation to realise the promises that were made to our people at the time the Trust was established, and we knew that required a more hands-on approach in actively managing our assets.
39. The only way we saw possible to give effect to that vision, was to bite the bullet and fund the planting ourselves, which is all well and good to say but, again, the Trust did not have the capital to fund a second rotation so we had to be creative in how we could do it.
40. In the end, the Trust decided to fund the second rotation by selling some of the 273,840 New Zealand Units (“NZU”) that it was allocated as part of the ETS. The sale was not enough to completely fund the second rotation, but it was enough to make a start.

41. The first tree was planted in 2011 on Pukeatua Road, overlooking Ngawha. I still have a photo that I took of our second eldest mokopuna standing by the newly planted seedling. The Trust planted 300ha that year, and another 600ha followed.
42. By 2014 our capital had depleted, and the forestry market had taken a down-turn, so we were forced to find a joint venture partner to plant the remaining 1500ha and help manage the existing forest. At the time, the offers we were getting were laughable, so we decided to hold off. However, the longer we took, the more overgrown the land became and the more exposed the Trust was in terms of its obligations under the ETS.
43. These circumstances are recorded in the Trust's 2009 Annual Report which reads:¹

The potential for ETS liabilities compounds the Trust's problem's associated with poor forest economics and the inability to attract a partner for the second rotation.
44. Fortunately, funding became available for forestry at the end of 2017 when a new coalition government was formed. The incoming Government had the One Billion Trees planting programme which was allocated around \$245 million from the Provincial Growth Fund. At that time, Mr Shane Jones became the Minister of Forestry and was responsible for the fund.
45. I wasted no time and contacted Mr Jones to explain the Trust's predicament. Through these discussions and the fund available, the Trust was able to carry out the due diligence necessary with Crown officials and ultimately enter into a Forestry Right with the Crown where the Crown agreed to fund and re-plant the balance of the estate in pine and manage the forest until maturity (which is expected around 2036). Upon harvesting, the stumpage will be shared between the Crown and the Trust as per the Crown Forestry Right.

¹ Ngāti Hine Forestry Trust, Annual Report 2009.

46. As part of our negotiations, I shared that the Trust's long-term goal is to revert to native forest and that we wanted to start planting mānuka. However, the Forestry Right agreement required pine to be planted.
47. We have started working toward transitioning to a native forest through the project, He Ringa Ahuwhenua, but we realise that pine trees will be the predominant crop for now and native cover will be part of an intergenerational strategy.

The impact of the Emissions Trading Scheme

48. As mentioned above, the introduction of the ETS in 2008 had a huge impact on the Trust and its shareholders and beneficiaries.
49. The ETS has forcefully encroached on the Trust's land rights without our agreement, and without providing any education or support to the Trust to help the trustees and beneficiaries understand and managing the Trust's obligations under the ETS.

Lack of involvement and restriction on rights

50. It must be said at the outset that the ETS is not something the Trust asked for or wanted. Ngāti Hine have our own environmental plans and strategies, based on mātauranga Māori, which accommodate for climate change issues. Our preference is to adapt and mitigate to climate change using that mātauranga.
51. The ETS does not align with the Trust, and that can be attributed to the fact that the Trust had no involvement in the development of the ETS or the discussions around the Kyoto Protocol or any of the other international agreements the Crown has committed to. The Trust and Māori more broadly have been completely excluded from climate change legislation and policy development.
52. If the Trust had been engaged, we would have suggested a scheme which is entirely different – one which recognises our right to rangatiratanga over our whenua, encompasses our views and strategies relating to the environment, and provides for our own responses to climate change.

53. Instead, the ETS was developed and implemented, and extended to the Trust's lands without our consent. In this respect, the Trust had no choice but to participate in the ETS as virtually all of its land is deemed to be pre-1990 forest.
54. Right from the outset, the ETS took away our options and ability to deal with the land as we wanted. It forced us into a second forestry rotation when we did not have the means or ability to commit to a second rotation or pay the ETS liabilities that would be imposed if we did not. The Trust was completely exposed, and we just had to hope that we would not be penalised before we were able to fully replant the land.
55. The ETS deforestation liabilities have also prevented the Trust from being able to completely transition to a native forest.
56. What was even more demeaning was that the trustees and beneficiaries of the Trust had already gone through so much difficulty trying to uphold our rights over the land. At first, it was with the council who threatened to confiscate the land, then there were the issues that came with the first forestry lease and then it was the imposition of the Crown's ETS which basically said – this is what you are allowed to do with your land, you have no choice and if you do not, you will be penalised.
57. It has been a constant battle of trying to protect the rights of the Trust to manage and control its land for the benefit of its beneficiaries. Land which the beneficiaries are connected to – not only legally but through whakapapa and tikanga.
58. What is more is that forestry is carrying the weight of the ETS (being an industry largely populated by Māori), when other key emission contributors are excluded. Agriculture being a key example. To me, this is the Government pandering to its large support base, which is the farming community.

No assistance or education provided on the ETS

59. The ETS is also a hugely complex system, and it has been disappointing that there has not been more support to help participants in the ETS understand what it is or what it means for them.
60. When the ETS was introduced, we struggled because we needed to be able to inform the Trust's shareholders and beneficiaries about the ETS, but there was no education or support to help us to do that.
61. At the time the ETS was introduced, HFC had just advised the Trust that it was going to begin harvesting – so the Trust was in a new situation not only with the ETS but also with its first forestry rotation being harvested prematurely. The addition of the ETS put an enormous amount of pressure on the Trust because it meant that the Trust had very little time (with the land in the process of being deforested) to understand what the ETS was, what our obligations were and how we could avoid liabilities.
62. We were told that the Government would provide workshops on the ETS but when it came down to it, there was nothing and we had to find the information ourselves.
63. In those early years, there were people who set up schemes to trade NZUs in the ETS looking to make a buck and those were the people we had to turn to for advice on the ETS. The ETS was so new that many people did not understand it yet, so we probably found out more from them than anybody else.
64. From 2008 to 2010, the Trust held special meetings for shareholders and beneficiaries to explain the ETS. In short, our people were not amused at all and, in fact, felt quite aggrieved by the imposition of the ETS.
65. The trustees made a submission to the Parliament Select Committee and met with Parliamentarians and the Ministry of Agriculture and

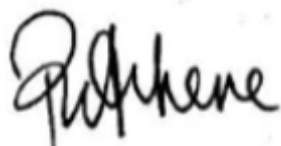
Forestry to explain what we described as the “invidious position which the legislation inflicts on the Trust” at a time of poor forest returns.²

66. Despite these submissions, the ETS remains unchanged in that it continues to restrict and impose obligations on the Trust without our consent.

Concluding Remarks

67. I can still hear my parents’ voices debating whether the Trust was a good idea and stressing the need to have control over the Trust’s lands. I hear it just as clear as I heard it as a young boy sitting at the dinner table and nothing has changed. Maintaining our rangatiratanga over our lands is paramount.
68. The Trust has had to deal with countless legislation and policies which have essentially shackled us as landowners, and the ETS is another roadblock telling us how we have to use our land and to what specifications. It is a complete breach of our mana motuhake and rangatiratanga.
69. That is why the Trust filed an application for an urgent inquiry into the ETS in 2013. We want to be able to control our own lands, without fear of penalties.
70. When it comes down to it, the ETS is not right and it is certainly not honourable. The ETS is a prime example of what can go wrong for Māori when the Crown unilaterally holds the pen.

DATED at Whangarei this 30th day of October 2024



Pita Tipene

² Ngāti Hine Forestry Trust, Annual Report 2009.