

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 BETH (TE TUI) TUI SHORTLAND

I tēnei rā, i te rā 30 o Oketopa 2024

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Waitangi Tribunal

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Ministry of Justice
WELLINGTON



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TĒNĀ, E TE TARAPIUNARA

Introduction

1. My name is Beth Tui Shortland. I am known as Te Tui. Ko Ngāti Hine, Ngātiwai, Ngāti Raukawa me Te Rarawa ōku iwi.
2. I was a trustee of the Ngāti Hine Forestry Trust (“the Trust”) from October 2011 to October 2014. This was the time that the Trust filed its claim in respect of the Emissions Trading Scheme (“ETS”).
3. My evidence is filed in support of the Trust’s claim and covers:
 - (a) My background and experience;
 - (b) The Ngāti Hine Forestry Trust;
 - (c) The impact of the ETS on the Trust;
 - (d) Lack of Māori involvement in the development and implementation of the ETS and climate-related matters;
 - (e) The Government’s changing policy landscape; and
 - (f) Concluding remarks and recommendations.

Background and experience

4. I have always been passionate about environmental kaupapa, and even more so when it concerns Indigenous or tangata whenua rights. I believe this passion started at the time I was born.
5. It is common for Māori to be named after the environment or events occurring around the time of their birth, as it symbolises our connection to the taiao and to kaupapa that is important to us. It is quite a beautiful whakaaro because it captures the significance of the kaupapa to the collective and is bigger than any one person.
6. My name, Te Tui, reflects one of those important kaupapa to our people. I was given my name because the tui, a bird that plants small seeds in the forest, was declining in numbers around the time that I

was born. For me, my name sits as a cultural indicator of the environment at that time and as a tohu, pulling and guiding me on a path of protecting and promoting living in harmony with Papatuānuku.

7. This path has grown into what is now an environmental passion for me which I think was probably inevitable because I had the privilege of growing up in the taiao - surrounded by my awa and under my tupuna maunga, Tararua.
8. I have been lucky to have my passion for the environment translate into my work. I have extensive experience working on Indigenous environmental and climate-related issues both domestically and internationally, including as:
 - (a) Deputy Chair for the Northland Regional Council;
 - (b) Member of Pou Herenga, the Māori Advisory Board to the Climate Commission;
 - (c) Director of Te Kopu Pacific Indigenous and Local Knowledge Centre of Distinction;
 - (d) Managing Director of Awatea Services, a collective of Indigenous environmental managers working in Indigenous communities for Indigenous Peoples' organisations, non-government organisations ("NGOs"), and local and central governments around the world;
 - (e) Board Member of Cultural Survival, which supports Indigenous rights globally with a focus on environmental, climate and land and sea justice;
 - (f) Member of the International Indigenous Forum on Biodiversity providing advice to governments on their obligations to recognise and respect Indigenous rights under the UN Convention on Biological Diversity;
 - (g) Member of the International Indigenous Peoples Forum on Climate Change which included work on the Local

Communities and Indigenous Peoples Platform and attendance at the Conference of the Parties (“COP”) 2023; and

- (h) Pacific Regional representative on the Global Steering Committee of the International Indigenous Forum on Climate Change from 2014 to 2016.
9. I have travelled expensively visiting Indigenous communities and learning how we can better provide for Indigenous knowledge in our approach to environmental issues and climate change. My experience and knowledge in this area has led me into international advisory roles for governmental and NGOs internationally, including as part of the Indigenous advisory team for the Paris Agreement.
 10. I intend to speak more about my international work and what I believe New Zealand can take from Indigenous climate responses in later evidence to the Tribunal as part of the Wai 682 claim.

The Ngāti Hine Forestry Trust

11. Like many in Ngāti Hine, I grew up hearing about the Trust in terms of how it was established and how it was progressing.
12. I believe it was the early 70s when the discussions started around safeguarding the whenua from alienation and potentially amalgamating the land and for forestry use. At the time, the Crown was encouraging forestry amongst Māori landowners. I believe that is where the idea to enter the forestry industry originally stemmed from.
13. My whānau are not large shareholders in the Trust, but the discussions around what to do with the whenua went right through the valleys of Ngāti Hine, whether you were a shareholder or not.
14. My father and aunties would tell me stories of how they used to hear my grandfather, Ariki Takiwa Hoterene, phoning his cousins to talk about it. They would talk about what they could do to retain the land and whether forestry was the best way to do it, and all of the implications if it went ahead. Despite the tangents they went on, the kōrero was always about land retention and maintaining mana

motuhake, it was never about a dividend or personal gain, and I see that as being a strong reflection of Ngāti Hine's cultural values.

15. In the Trust's early years, it followed what has since been described as a "passive management" model. In its first forestry lease, essentially all control and authority sat with the lessee, leaving the Trust with very little influence over how the forest would be managed and who would be involved in that work.
16. This was not what the Trust or its shareholders had aspired to in establishing the Trust, so reclaiming control and moving to a more "active management" model was a non-negotiable for the Trust once the first forestry lease ended.
17. Maintaining rangatiratanga over the land has always been a priority to Ngāti Hine and, coincidentally, the first forestry lease ended at a time when Ngāti Hine had been heavily participating in the Wai 1040 Paparahi o te Raki Inquiry where we collectively asserted our rangatiratanga and mana motuhake over our lands. It was also a time when Ngāti Hine was also developing our own environmental policies and plans in the hopes of better environmental outcomes for our whenua and establishing our own organisations and mechanisms to give effect to these aspirations. So, it was only natural that this autonomy and approach would also be applied to the management of the Trust.
18. Prior to my becoming a trustee, I did environmental work for Te Rūnanga o Ngāti Hine under the mentorship of our renowned Ngāti Hine environmental experts. I worked heavily on Ngāti Hine sites of significance as well as the environmental policies which underpin how our sites and wider taiao interests should be thought about and cared for in. For example, I was responsible for Ngāti Hine's 'Ngā Tikanga mō the Taiao' documents and the Taumarere Catchment Plan which are based on and include kōrero tuku iho on our atua, awa, repo and mātauranga Māori.

19. In 2011, at the request of some of the larger shareholders, I became a trustee of the Trust. The decision to step into this role was easy for me because my family are shareholders. My grandfather had participated in the Trust's meetings since before the Trust was even established, so I was proud to join that legacy and do my part in caring for and progressing the land. The Trust's goal of reverting to native forest also appealed to me.
20. It was very apparent to me before becoming a trustee, and even more so after, that the decisions of the Trust impact Ngāti Hine as a collective, rather than just the shareholders and beneficiaries of the Trust. This is because the people of Ngāti Hine share a connectedness to our whenua through whakapapa, and also because we have spent generations fighting for rangatiratanga over our lands.
21. The collective impact of the Trust's decisions is demonstrated in the awa that join the valleys of Ngāti Hine. Any slash or waste from the forest that is not properly tended to, falls into our awa, impacting our tuna and everything that lives there, before flowing downstream to our whanaunga in the next valley.
22. Likewise, any roading issues or dust caused by forestry works creates a health and safety issue for our people living in Ngāti Hine. In this regard, Ngāti Hine have had monitoring stations (PM5 monitoring stations) put in to monitor the dust, particularly in Pipiwai and Motatau and the intention is that this data will be able to be cross-referenced to assess the health impacts of the dust on Ngāti Hine.
23. There are also spiritual and cultural implications which stem from the Trust's decisions - or inability to make decisions. A clear example of this can be seen in first forestry lease. Due to a lack of Ngāti Hine input, pine was planted right on top of Ngāti Hine pā sites and wāhi tapu causing the Trust and Ngāti Hine whānau to have to intervene. In these instances, several meetings were held to discuss how to remove the trees and restore the tapu, because you could not take big machines to those sacred sites.

24. On a lesser scale, cultural impacts also stemmed from the decisions the Trust had to make around accessing the land. We would often receive requests from Ngāti Hine whānau to go hunting on the forestry land or to take timber, and it was difficult if we had to say no. It was a big worksite and we would have to follow health and safety protocols, but how do you tell Ngāti Hine they cannot enter their own lands?

The impact of the Emissions Trading Scheme on the Trust

25. The most significant and ongoing issue during my time as a trustee was the impact of the ETS on the Trust.
26. The overarching issue with the ETS is that it impinges on our autonomy and ability as Ngāti Hine to engage in land management practices that align with our values and community needs. It does this by imposing stringent compliance requirements that effectively coerce pre-1990 forest landowners, like the Trust, into continuous reforestation. This situation not only restricts our land use choices, but places financial liabilities on us for non-compliance.
27. This was the situation we were forced to navigate during my time as a trustee. The first rotation of pine on the Trust's land had been harvested and we had to consider the next steps for the Trust. Ultimately, our only option was to reforest the Trust's land because we could not afford the ETS liability that came with deforestation.
28. What was more is that the Trust did not have the funds to replant on its own, so we had to find a partner to help fund the second rotation. The time and financial pressure that came from the ETS while we tried to find a partner was huge. We even looked for a partner in China and other countries but had no luck.
29. Essentially, the pressure from the ETS to reforest is what led the Trust to selling its ETS credits, New Zealand Units ("NZUs"), to fund as much of the replanting as possible. This was a hard decision because it meant that we essentially were forced to buy into a scheme that we wanted no part in, but we had no choice.

30. I do not recall receiving any assistance from the Government in navigating the reforestation of the Trust's land. The ETS was a very top-down approach, and it was concerning because while we were struggling, we were also seeing other pre-1990 forest landowners being disenfranchised as a result of the ETS.
31. While the Government issued NZU credits to the Trust, they are in no way proportionate to, or able to compensate for, the impact that the ETS has had on the Trust.
32. There did not seem to be any care from the Government about how the Trust was going to actually meet the ETS obligations and still serve its beneficiaries. This lack of care was reflected in the way that the Trust's shareholders and beneficiaries received the ETS.
33. Ngāti Hine consider ourselves to be sovereign in that we did not cede our sovereignty to the Crown, and the ETS was and is seen to be such an overreach by the Government into our rangatiratanga in terms of our ability to manage such a significant amount of land that is really important to Ngāti Hine.
34. That is essentially how Ngāti Hine responded to the ETS. The home people would say "our rangatira did not sign up to it", "no one asked us", "we did not sign up to the Kyoto Protocol, that was the settler government".
35. They felt just as strongly as we did – that we had been thrown into a scheme which restricted our use of the land, provided no assistance, and all the while other industries and organisations, like agriculture and the military who are some of the bigger polluters, were left to create emissions without any regulation or liability at all.
36. For some of the shareholders and beneficiaries, there was/is little trust in the Government to begin with, so the imposition of the ETS on their rights reaffirmed and strengthened their lack of trust in the Government.

37. In the end, I believe it was at our Annual General Meeting in 2012 that the resolution was passed to file a claim in the Tribunal on the impact of the ETS on the Trust.

The lack of Māori involvement in the development of the ETS and on climate-related matters

38. The absence of Māori involvement and engagement in the design and evolution of the ETS and related legislative frameworks is obvious in how out of step the ETS is with Māori and Indigenous systems of environmental regulation and management.
39. From my international work with Indigenous groups, the model for engagement has been that a representative will meet with the Indigenous group and relay the views, information or outcomes from the meeting to the Government. There are then periodic meetings with the Indigenous group so that policy developments can be relayed and to ensure their voice is reflected in whatever is produced. This process has been referred to in best practise as Free, Prior, Informed Consent and is promulgated in the UN Declaration on the Rights of Indigenous Peoples. I do not know of any similar process for Māori organisations, hapū or iwi in respect of the establishment of the ETS.
40. With the Government's emission reduction plans, it is the Climate Commission who engages with Māori (with support of Te Pou Herenga – the independent Māori Advisory Group) and makes recommendations to the Minister. These recommendations are not binding and do not necessarily influence the Minister's emissions reduction plan. In fact, there is often a huge difference between the Commission's recommendations and what the Minister commits to.
41. As far as I know, there is no consultation from Government itself with Māori on the potential targets and goals of the emissions reduction plans. In my view, this undermines Te Tiriti o Waitangi and its principles and perpetuates systemic inequities that Māori face as landowners and in their inability to effect legislative and policy change.

42. The Government has come so far in its understanding of climate change, but it is still so siloed into thinking that the ETS is the only way despite its shortfalls, even from a scientific point of view. These shortfalls include the failure to include wetlands as a way to sequester carbon and the impact of pest management programmes which promote faster growth of native forests, and therefore sequester more carbon.
43. There are 198 countries with 198 different ways of addressing carbon emissions, and Māori have our own distinct way which must be considered and included in New Zealand's climate change strategy.
44. Māori are dynamic. We have been taught to grow a monoculture for generations and some of our kaumātua and kuia have done so much work to show the Government that there are better ways of doing things and that our Indigenous systems are worthy. There is also evidence now to support our systems and the taiao-wide approach that they take.
45. An example of this is the Trust's desire to transition to native forest. Commercial pine forests have lost a lot of social licence in our rohe because of the wide-reaching impacts that they have on the taiao.
46. We know that pinecones increase the acidity of the soil, impacting the waterways and highly vulnerable ecosystems (such as puru tuna) and our plutonic (underground) wetlands which Ngāti Hine are well known for. Ngāti Hine are experts on plutonic wetlands and tuna in terms of knowing where they are likely to be, how you look after them and what species live there.
47. Accordingly, the Trust's approach to forestry looks at all of these issues rather than just carbon emissions in isolation. According to the Māori worldview, the forest is a super organism – that is why it is called a ngāherehere. It is literally the "here", or the binding together of all the different plants and trees and every species within, not one more important than the other. It is incomparable, the carbon that we can sequester.

48. The Trust's goal, and the goal of Ngāti Hine more broadly, is to find the point of healthy balance in our taiao where we can create economic opportunity but maintain healthy ngāhere, awa and whenua. Unfortunately, the ETS does not support this.
49. The Government has also not supported the inclusion of biodiversity credits in the ETS.
50. It is ironic. On one hand you have the Government saying they are trying to fix climate change, but then they are relying on Māori to participate in the ETS when Māori are likely to have the smallest carbon footprint in the country. It is unethical and it is happening on an international scale where smaller Indigenous countries who have contributed the least to climate change are being impacted the most – not only by more extreme weather events but also by these colonial mechanisms that, in many senses, Indigenous peoples see as a co-modification.

The Government's changing policy landscape

51. In the discussion around the ETS, there also needs to be some consideration of the Government's everchanging policy environment for climate change and the instability this causes for organisations like the Trust who are being forced to carry the country's emission reduction efforts.
52. Historically, successive governments have incentivised developments and initiatives which have prejudicially impacted the environment for economic gain. For example, our late whanaunga, Erima Henare, often used to talk about the economic drivers in the 50s which incentivised forestry to the extent that the advice was to burn native bush down to make way for commercial pine forests or to clear and drain swamps for agricultural use.
53. The thought that was pushed by governments at the time was that if it was native, then it was uneconomical. It was a wasteland. That concept in itself is crazy to me. That our dynamic, life giving, abundant ngāhere, could be considered a wasteland.

54. The strength in the governments' messaging, their excessive rating of our ngāhere, and the potential to lose the land by confiscation, can be seen in the decision to burn Ngāti Hine's native forest down, and enter into a passive lease with Carter Holt Harvey eventually turning the soil in 1981, and subsequently entering into the forestry industry. There are still living descendants who remember the forest being burnt, the scorched earth. It was very traumatic watching kiwi and other birds and wildlife seeking refuge from the fires and some still have nightmares about it.
55. Since then, the Government has made a series of climate related commitments and emission reduction targets. The country's target was first set under John Key's Government with the Paris Agreement in 2015 and then updated under Jacinda Ardern's Government with the Glasgow Climate Pact in 2021.
56. Recently, it has been announced that New Zealand is no longer on track to meet its emissions reduction targets, which include the 2050 net zero emissions target, the third emissions budget in 2031 to 2035 nor the 2050 methane reduction target.
57. The Climate Change Minister, Simon Watts, has also made a number of public comments indicating that the emissions reduction targets are not a priority to the Government. The Ministers comments include:
- (a) "When I stand up and say, 'Guess what, I'm going to write a cheque for \$4 billion in your taxpayer money to some country overseas,' you know people go: 'I sort of want my hospital and I want my health care over that. You know, I love it, but I sort of want other stuff'".
 - (b) "The political reality of writing a cheque to someone overseas, for benefits that will be achieved overseas, is sort of nice, but I don't think it's realistic, and hence why the conversation, from a government point of view, is we need to do everything possible in order to reduce our domestic emissions at a profile that doesn't decimate our economy".

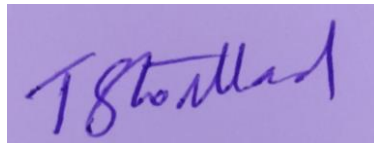
58. There is no logic in forcing mandatory participation in the ETS when the Government is so flippant in its climate-related targets.
59. In my view, the ETS has not functioned how it was intended to, and it is now outdated. The price of carbon is volatile and relies heavily on our export market. It is an abstract system which simply does not align with its participants.

Concluding remarks and recommendations

60. The ETS is flawed, and its flaws are indicative of a Government that is not wholly committed to better environmental and climate-related outcomes.
61. It is undeniable that when you support an Indigenous peoples, such as Ngāti Hine, to manage and foster their lands in traditional ways that you are going to have better environmental outcomes. Instead, the ETS takes away Māori rights and pushes Māori forestry organisations into a pattern of commercial forestry where trees are valued by their price rather than their function.
62. I consider that a complete review of the Government's climate strategy should be carried out alongside hapū and iwi. This review should consider:
 - (a) redesigning the ETS (or another emissions reduction scheme) in partnership with hapū and iwi;
 - (b) financial instruments or support systems that enable Māori landowners to sustainably manage their resources without facing liabilities;
 - (c) pathways for transitioning commercial forests into native forests and other sustainable land uses that align with Māori cultural values, providing clear guidelines and financial support for these initiatives;
 - (d) the role of wetlands and native plants and trees in sequestering carbon;

- (e) the role and inclusion of key polluters such as the agricultural industry and the Military; and
 - (f) the role of the Climate Change Commission. In this respect, recommendations made by the Commission to the Government should be binding.
63. In any way forward, Ngāti Hine and Māori more broadly must be able to exercise their rangatiratanga and mana motuhake.

DATED at Whangarei this 30th day of October 2024



Beth (Te Tui) Tui Shortland