Waitangi Tribunal Presentation
Te Tākinga Marae, Mourea, Rotorua
via AVL on 28 November 2024

Speaking Notes of Mark Ross

Introduction

1. Tēnā koutou kātoa. My name is Mark Mohoaonui Ross.

2. I am of Ngāti Tūwharetoa descent and a beneficiary of a number of large Tūwharetoa forestry and farm trusts. I serve as a Trustee for East Taupō Lands Trust and Ōwhaoko B&D Lands Trust whose lands are predominantly in a state of natural vegetation and have Kawenata with the Minister of Conservation.

3. I also have experience and qualifications in environmental science, information systems, resource sustainability, and policy development. I am currently an operations & sustainability manager and have worked as business analyst and project manager

4. My passion is "kaitiakitanga" and environmental sustainability. I am dedicated to finding ways for Māori landowners to diversify their land-based activities and manage their environmental waste on-farm. I have been involved in large composting operations to manage on-farm waste and various environmental planting projects

5. I have also been involved in developing honey and ecotourism businesses on our trust lands. Many of our land trusts rely heavily on the carbon credits earned from forestry or indigenous forest restoration to fund diversified businesses and to meet our cultural and social goals.

6. I am concerned that the proposed Climate Change plans and the previous Governments Emissions Trading Scheme proposals will undermine the potential for achieving carbon income from forest lands and will detrimentally affect Māori landowners. I am particularly concerned that Māori will be constrained in their ability to offset their emissions on-farm and will have reduced ability to maintain their kaitiakaitanga and associated values connecting them with the whenua.

Presentation

7. My evidence is on the impacts of Crown policies on Climate Change and the Emissions Trading Scheme on our tāonga tuku iho lands.

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8. My whānau, hapū, iwi, whānau whānui and whāngai have been impacted physically, spiritually, and socio-economically by Climate Change and the Crown's responses and lack thereof. We have been prejudicially affected by the acts and omissions, policies and practices of the Crown in respect of Climate Change and the Emissions Trading Scheme and the subsequent breaches of the principles of the Treaty of Waitangi. These continue to have a detrimental impact on Māori whānau because of the compounding inequities faced by our whānau.

Concerns

9. In my view, Māori governors of ahu whenua land trusts have been failed by the Crown on multiple counts. The legislative, historical and cultural challenges of governing Maori land are immense. We require ongoing assistance to provide equitable outcomes for utilising our whenua.

10. The Crown has failed to incorporate adequate Māori mātauranga regarding Climate Change and the Emissions Trading Scheme and failed to acknowledge this leading to the current crisis now. In my view, Māori have been prejudiced by the failures of the Crown to adequately consult with Māori during policy drafting.

11. As expressed by the evidence of other forestry claimants, I am worried that Crown's proposals for Climate Change and the Emissions Trading Scheme will lock Māori Trusts and Incorporation's into permanent forestry into the future and restrict the ability of the next generations to govern intergenerational lands. The focus of having only one species - radiata pine - on our land destroys the biodiversity and the myriad of tāonga species that can and should exist on our lands.

12. The core of this claim is that the Crown has breached the principles of Te Tiriti by failing to provide an adequately respond to the growing issues of climate change on Māori, both historically and contemporarily. The current issue is ensuring that biodiversity and tāonga species on Māori whenua are protected.

13. The Crown has failed to protect Māori from climate change, inequitable responses to climate change and constraints imposed by the emissions trading scheme. This includes unreasonably restraining decision making for whenua Māori. In my view, the Crown has a duty to support the survival and protection of Māori, our lands and our tāonga.

14. I believe the Crown has failed to actively protect Māori, has failed to facilitate Māori Tino Rangatiratanga, and has failed to engage in active partnership. I also believe the Crown has failed to consider Te Ao Māori in its crafting of the emissions trading scheme, specifically:

    a. Māori view land intergenerationally, decisions on the use of Whenua are made with multigenerational considerations.

b. Māori are Kaitiaki - guardians of the land. This shapes and influences their approach to governance. Māori organisation's have actively incorporated carbon mitigating practices for many years. This has not been considered in the current framework.

Physical Impacts of Climate Change

15. I consider that the physical impact of Climate Change includes but is not limited to the following:
    a. the loss of tāonga species both in and on the whenua and in our streams, awa and moana through erosion caused by significant weather impacts;
    b. the loss of land through the rising levels of our awa and moana; and
    c. the loss of land through forestry slash being carried for kilometers and taking out what would otherwise be fertile useful land, homes, roads and infrastructure.

Spiritual Impacts of Climate Change

16. For me, my Climate Change has had a direct impact on the spiritual wellbeing of my whānau, hapū, iwi, through the loss of land and tāonga species. This goes to the heart of my identity which is directly related to the wellbeing of the whenua.

Socioeconomic Impacts of Climate Change

17. The socioeconomic impacts of Climate Change and the Crown's response has been driven by successive governments investment in New Zealand's agricultural industry to build the dairy and meat sectors since the 1900's. Followed by the development of the Pinus Radiata sector which included trade training funding, research, market infrastructure, the establishment of marketing boards and co-operatives. Māori investment in the forestry sector spans generations and the intermittent returns after 30 years were considered to be safe and certain. That is no longer the case, the cost of forestry and the restrictions placed on Māori whenua in forestry such as the exclusion of pre-1990 forests in the emissions trading scheme and the restriction placed on the use of Māori whenua for alternative uses create huge socioeconomic disadvantage for Māori. The Crown will now need to help Māori develop new supply networks, processing and marketing channels and cooperatives in lower carbon industries to adapt to Climate Change

The Treaty Principles

18. Under Te Tiriti and its principles, the Crown has obligations and duties to protect Māori interests and rights. I believe the following principles are relevant.

Active Protection

19. I define 'active protection' as there being a duty for the Crown to act in good faith towards Māori. I define 'Good Faith' as acting out of good will in protecting and acting in the interests of Māori within the Crown and Māori relationship. Good faith includes creating policies that benefit Māori and do not disadvantage them. Active protection is affording Māori protection systematic disadvantages. Active protection is also the Crowns obligation to care for their treaty partner.

Tino Rangatiratanga

20. The Treaty principle of Te Tino Rangatiratanga is the Crown's obligation to allow Māori to self-govern and practice their own governance methods. Te Tino Rangatiratanga is the right for all Māori to make decisions for the use of their whenua, and customary resources.

Partnership

21. Partnership is the Crown's obligation to work with Māori as equal partners. Māori have the right to participate in policy drafting, governmental positions and leadership roles at a rate equal to that of non Māori. Partnership is equal engagement in the matters that affect everyone. This includes environmental policy and in my case the Crown's biodiversity policy.

Breaches of the Treaty

22. The Relevant Principals not adhered to by the Crown are:

    A. the Crown has failed to engage in partnership when drafting policies related to Climate Change and the Emissions Trading Scheme;
    B. the Crown has failed to facilitate Te Tino Rangatiratanga for Māori, instead punishing them further through complex legal constraints in utilising their whenua; and
    C. the Crown has failed Māori on multiple counts, failing to actively protect Māori from the impacts of climate change.

23. In respect of the physical, spiritual and socioeconomic impacts of Climate Change on Māori and the Crown's response, the Crown's approach to law and policy development for climate change has traditionally been exclusive to itself, and it has failed to provide for a Te Tiriti partnership and a consistent principled approach, inclusive of Māori. The impact of this approach ignores the reality of the acceleration of climate change and the effect that will have on the rate in which the Crown is able to meet domestic and international targets to reduce greenhouse gas emissions.

Recommendations

24. I recommend the following:

Māori are supported and engaged with as partners of the Crown.

25. This includes consulting Iwi advisors and trustees with knowledge of the issues in their roopu; Māori possess Tino Rangatiratanga over their tāonga, including their communities, Tikanga and Whenua Māori. This would mean addressing the barriers to effective governance and utilisation of iwi assets; cooperation and partnership with iwi organisations to consult with and utilise mātauranga Māori.

Crown policies be developed and implemented:

26. that encourage and facilitate indigenous biodiversity in our land use;

27. that recognise and prioritise the important role of existing indigenous forests as carbon sinks and in the ongoing sequestration of carbon;

28. that support a move towards increasing whenua returned to native planting; and supports Māori landowners to achieve ultra-low impact, niche approaches to land use diversification that is optimised using mātauranga Māori as a reference.

29. The Crown increases their commitment to acknowledging our own values and innovation to bring them to life within the context of Climate Change. Our culture is not a monoculture, and we shouldn't use the whenua in this way either.

30. Maori landowners want sustainable, inclusive, profitable and future proofed businesses.

31. The Crown works with Māori landowners to develop resilience, agility, and adaptability to respond to any future climatic conditions or weather anomalies that ensures we can maneuver ourselves through the troubling times to come.

Mark Ross