

## Waitangi Tribunal

## Te Paparahi o Te Raki Stage Two Hearings

## Opening Remarks On Behalf of Ngapuhi Kaumātua Kuia

Titewhai Harawira (WAI 1427)

22 March 2013

1. Firstly, we want to acknowledge our Kaumātua and Kuia and especially the few Tohunga left amongst us today.
2. I stand here yet again, on the very soil where our tūpuna stood and debated the future of our Ngāpuhi nation. Those debates were guided by the rules of kupu mana, where your word was your bond.
3. When we look back at those chiefs who signed Te Tiriti o Waitangi, we cannot help but feel immensely proud at the honour and integrity with which they acted. They signed believing the Crown would honour its word, and our tūpuna, they fully honoured their word. You may recognise these words – I spoke them in May 2010 at the Initial Hearings.

**He Tapu ēnei Whakaritenga**

4. I want to turn your focus to our founding document – the founding document of this Nation is ‘He Whakaputanga o te Rangatiratanga o Niu Tirení’.
5. That is the point in world History where we as Māori – declared our Rangatiratanga.
6. Britain, the super power of the Day, accepted ‘He Whakaputanga’. No one challenged it. In fact no one power has ever challenged it.
7. Following on from that is Te Tiriti o Waitangi which affirmed our Rangatiratanga.
8. We seek that the Tribunal make recommendations for the recognition by the Crown of the rangatiratanga of Ngāpuhi nui tonu.

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9. Ngāpuhi Kaumātua Kuia are concerned with the adverse political, social, economic, cultural and spiritual impacts on the well being of their whānau, hapū and Iwi as a consequence of the imposition of laws, policies and actions of the Crown that were implemented contrary to the principles of Te Tiriti o Waitangi.
10. We have suffered political, social-economic, cultural and spiritual loss as a result of historical Crown actions. And have suffered significant losses and diminution of tikanga, kawa and te reo.
11. Kia ora ngā rangatira o Ngāpuhi
12. Kahore anō nei tātou I tuku I tō tātou rangatiratanga

#### **Ngā Kawenata Tokotoru**

13. On 10 May 2010 I spoke in my opening remarks about the role Sir Graham played in the birth of the World Council of Indigenous people in British Columbia in 1975 - that developed into 'Te Whakapuakitanga' – the Indigenous People's Declaration.
14. That involvement by our Ngāpuhi Rangatira is an expression of te Rangatiratanga o Ngāpuhi. If we did not possess Rangatiratanga none of that would have been achieved!!
15. Kia ora to all our Kuia and Kaumātua who have supported the leaders of our Ngāpuhi nation to perform and achieve recognition of our Rangatiratanga on the world stage –
  - He Whakaputanga
  - Te Tiriti
  - Te Whakapuakitanga
16. The principle throughout these three Constitutional Documents is Rangatiratanga.
17. Ko Te Rangatiratanga te Mauri o ēnei Kāwenata

## Te Karauna

18. The challenges that arise from these constitutional documents are many. Any and all outcomes sought by Ngāpuhi from the Crown, are fully supported.
19. Further to those outcomes, Ngāpuhi Rangatira with the support of recommendations from this Tribunal, look to the Crown to:
20. Re-instate the Privy Council into the hierarchy for Courts as an option for issues that affect Māori.

### **Rationale:**

- *The NZ Maori Council cases from the 1980's onwards were successful because they were put before Law Lords that yes, are from our Colonial past – but, they are independent of New Zealand politics and media and have the benefit of new eyes looking at issues that have been, and still are (in all cases) ongoing for Ngāpuhi, and all Māori.*
21. To pass legislation to enable the British consulate in Aotearoa to enact Article 3, Te Tiriti o Waitangi 1840.

### **Rationale**

- *That Māori be given full citizenship by the Queen of England, as if they were an English person.*
  - *That as yet remains an untouched, unfulfilled promise by the Queen of England, as a reciprocal arrangement for the governance of lawless Pākeha, and her agent having exclusive purchasing rights to this land*
  - *There should be research into quantifying the value of this promise, based on census populations since the data was collected, as well as estimated calculations in the intervening years from 1840. The aim of which would be to quantify its worth, in order that Ngāpuhi and the crown have an established base from which to enter into further negotiations.*
22. Build an 'Institute of Education' for Ngāpuhi at no cost to Ngāpuhi. Every Taiwhenua is seeking to address this issue.

### **Rationale**

- *The Institute of Education is one that Ngāpuhi envisages for its future generations – from the placement of the Institute within the environs of Ngāpuhi, to the architecture, the curriculum and its delivery;*
- *That the Institute be constructed out of the Government's Budget, in the same way as the Government built another Institute at Ngāwha – for incarceration. This time our protests will be voices – that are educated, joyous and celebratory;*
- *I would be a proud Kuia o Ngāpuhi to be seen to stand alongside the Crown, with our Tiriti partner – the representative of the Queen, on that day to open the Ngāpuhi Institute of Education;*
- *Every Taiwhenua has grievances about education, Te Reo and how they want these grievances addresses.*

23. On behalf of the Kuia and Kaumātua o Ngāpuhi, this outcome on Education is and will be the most beneficial to all of Ngāpuhi and non- Ngāpuhi alike. This is the priority for Ngāpuhi.

- Every parent wants the best for their child
- As Kuia and Kaumātua, we want the best for Ngāpuhi
- Our Tūpuna Ruatara, responsible for bringing the written word into our world can then be acknowledged for his vision for his people of Ngāpuhi.

## **THE WAITANGI TRIBUNAL**

### **The Report**

24. Where is the Stage one report?

25. If that was delivered in a timely way, we would not need to be here today – as other speakers have already said. Why the delay in writing your report? Or is it because you want to say that “Ngāpuhi did cede sovereignty”?

26. Ngāpuhi Kuia and Kaumātua commissioned our own report. We did not have the resources you have at your fingertips. Yet, we have published our report “Ngāpuhi Speaks”. Our report is \$30 each, and only pays for the cost of publishing it.

## The Process

27. On the 16<sup>th</sup> December 2010, I was party to a memorandum filed with the Waitangi Tribunal in response to the Tribunal's memorandum-directions dated 15 November 2010<sup>1</sup>.
28. Amongst other things, the memorandum requested the Waitangi Tribunal consider a Stage 2 process that took place in a planned and coordinated manner. The memorandum further requested that these hearings proceed with some semblance of order, not dictated or coordinated by lawyers.
29. The following was provided for the Waitangi Tribunal's consideration:
  - 12 weeks may be allocated to a Stage Two Hearings process. We urge the Waitangi Tribunal to consider this – **it isn't too late**.
  - In keeping with a 12 week hearing timeframe, and the intention of the Waitangi Tribunal as an Independent Commission of Inquiry, the Waitangi Tribunal were asked to consider:
    - Allocating a set number of weeks for Ngāpuhi to present Tangata Whenua evidence excluding legal counsel;
    - At the conclusion of the presentation of Tangata Whenua evidence, and in conjunction with claimants and legal counsel, identify and prioritise the issues that require legal consideration and allocate a set number of weeks for these issues to be heard.
30. Now we have one lawyer per Claimant almost. The process, and decisions are being led by legal counsel. This is not mana enhancing nor is it recognising our rangatiratanga. This process is excluding the right of claimants to be heard.
31. Everything about this particular process is designed for the lawyers. Only the lawyers really know what is going on.
32. I understand other Inquiries have held open forums that provide an opportunity for Kuia and Kaumātua to present their case, to give their kōrero

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<sup>1</sup> Memorandum filed on behalf of Titewhai Harawira (WAI 1427), Raniera (Sonny) Tau (WAI 2073) and Hone Sadler (WAI 1676, WAI 1709)

how they want to. Not to have it filtered through a lawyer. Why is this not available to us, as requested in 2010? **It's not too late.**

33. The process that you as the Tribunal have adopted is not a safe place for our Kuia and Kaumātua.
34. Whānau are being pitted against whānau, hapū against hapū – Where is the pono and tika in that?
35. For example, when we started one of my hapū, Ngāti Hine, was known as Ngāti Hine. Then something happened and it became Te Aho Alliance. Well that alliance is now over, and they are now Takutai Moana! How did that happen?
36. Oral and traditional reports are another avenue for eroding what should be kōrero arising from Hapū-hui.
37. What has transpired is that only claimants and in some cases, only leaders of claimant Taiwhenua actually know what is going on, along with their supporters.
38. The signing off of the oral and traditional reports are left to those who were lucky enough to get copies.
39. Our rich history has become couched in ways that allows the leaders of the claimant Taiwhenua to manipulate or present what should have been a Hapū-wide history and kōrero. This is alienation at its best and this Tribunal is allowing it to happen.

#### **Waitangi Tribunal Membership**

40. Kei hea ā Keita Walker? Put out to pasture because she is “Kuia”? Where is Joanne Morris? Where is Dr Hill?
41. I mihi to them because they are the ears that heard the kōrero from Ngāpuhi that we have not ceded our sovereignty.
42. Kia ora to you two women new to Ngāpuhi

## Claimant Alienation

43. Sadly, this process has alienated those claimants who are not in a claimant Taiwhenua – for whatever reason, they're not involved.
44. If you don't affiliate to a claimant Taiwhenua, you're unlikely to be funded or able to participate. One can only conclude that we are operating in an environment of bias. How does the Tribunal envisage dealing with issues that arise?

## WHY ARE WE HERE?

45. Ngāpuhi and Members of the Tribunal - Ngāpuhi did not cede sovereignty.
46. Stage One Hearings have concluded and it was never intended that the Waitangi Tribunal would proceed to a Stage Two Hearings process. If the Waitangi Tribunal had issued the report on Stage One our case would have been proven – Ngāpuhi did not cede sovereignty.
47. Ngāpuhi Speaks – an Independent Report of the Stage One Hearings – provides recommendations that will be tabled in during these hearings. The recommendations are to:
- a. The Crown<sup>2</sup>;
  - b. Ngāpuhi Nui Tonu<sup>3</sup>;
  - c. The People of Aotearoa<sup>4</sup>;
  - d. The Media<sup>5</sup>; and
  - e. Elizabeth II, Queen of England<sup>6</sup>.
48. Ngāpuhi and Members of the Tribunal I want to make sure that we understand the main point of this independent report.

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<sup>2</sup> Ngapuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngapuhi Nui Tonu Claim, Summary and Recommendations, Page 3

<sup>3</sup> Ngapuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngapuhi Nui Tonu Claim, Summary and Recommendations, Page 5

<sup>4</sup> Ngapuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngapuhi Nui Tonu Claim, Summary and Recommendations, Page 6

<sup>5</sup> Ngapuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngapuhi Nui Tonu Claim, Summary and Recommendations, Page 6

<sup>6</sup> Ngapuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngapuhi Nui Tonu Claim, Summary and Recommendations, Page 7

49. It is this - If the Crown is to address the wrongs that have been identified through the hearings (Stage One Hearings) then it must work with Ngāpuhi Nui Tonu for the effective restoration of their full mana and authority; it must surrender its unilateral exercise of power and prove itself willing to enter into power-sharing arrangements; and it must support moves towards a constitution based on He Wakaputanga and Te Tiriti o Waitangi.
  
50. If the peace and right order promised by the treaty is to be a reality for Aotearoa, then all New Zealanders need to honour the intentions of Ngāpuhi Nui Tonu in seeking prosperity and benefit for all, based on a true partnership between the parties to the treaty<sup>7</sup>.
  
51. Members of this Tribunal – on behalf of Ngāpuhi Kaumātua Kuia - Ngāpuhi did not cede sovereignty.

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<sup>7</sup> Ngāpuhi Speaks He Wakaputanga and Te Tiriti o Waitangi Independent Report on Ngāpuhi Nui Tonu Claim, Summary and Recommendations, page 2