IN THE WAITANGI TRIBUNAL
WAI 898

WAI 800, WAI 2014, WAI 2068

IN THE MATTER of The Treaty of Waitangi Act 1975

AND Claims in Te Rohe Pötae District Inquiry and consolidated under Wai 898

AND the Wai 2068 claim by Harold Te Pikikotuku Maniapoto, Winston Te Winitana Maniapoto, Sonya Kararaina Parangi, Jack Tahana, and Rovina Te Kawenata Maniapoto-Anderson on behalf of themselves and Ngāti Paretekawa

AND the Wai 800 claim by Harold Te Piki Kotuku Maniapoto, Roy Matengaro Haar, Tame Tuwhangai, Tiaki Ormsby-VanSelm, and Valerie Matarangimahue Ingley

AND the Wai 2014 claim by Harold Te Pikikotuku Maniapoto, Thomas Te Whiwhi Maniapoto, Dana Erina Maniapoto, Maria Pare Raukawa Maniapoto, and Joana Johnston on behalf of themselves and Te Pae Tapu o Paretekawa for Ngäti Paretekawa

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OPENING SUBMISSIONS FOR THE NGÄTI PARETEKAWA CLAIMANTS ON THE RAUPATU LANDS DATED THE 9th DAY OF APRIL 2013

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Waitangi Tribunal
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Ministry of Justice
WELLINGTON

WACKROW WILLIAMS & DAVIES LIMITED
Barristers & Solicitors
Level 14, 48 Emily Place
PO Box 461
DX CP20503
AUCKLAND
Dominic Wilson
Ph. (09) 379 5026, Fax (09) 377 6553
e mail: dominic@wwandd.co.nz

MAY IT PLEASE THE TRIBUNAL

Introduction

1. These opening submissions are made for the Wai 2014 and Wai 2068 claimants ("the Ngäti Paretekawa claimants") and for the benefit of Ngäti Paretekawa generally. The submissions relate to the lands of Ngäti Paretekawa north of the Püniu river.

2. The key point that the Ngäti Paretekawa claimants wish to make to the Tribunal is that the hapü lost all its lands to the north of the Püniu Awa. The hapü received nothing through the Compensation Court process – no lands were returned at all.[1] The Tribunal will hear in later hearings how the bulk of the remaining lands to the south of the Püniu awa were later taken as a public work – the Tokanui takings.

3. The claims in the confiscation region can be grouped as follows:

   3.1. The claims relating to the church land transactions in the region of the modern township of Te Awamutu; and,

   3.2. The raupatu claims.

4. These topics will now be covered in turn.

The church land transactions in Te Awamutu

5. Counsel presented generic opening submissions in relation to pre-Treaty transactions in the previous hearing week at Maketu. Ms Boulton in her report on the pre-Treaty and other transactions to 1865,[2] noted a few private and Crown deeds executed after the Treaty of Waitangi that sought to solidify in legal terms certain pre-Treaty customary transactions. Counsel advised that certain

[1] At a later point, approximately 1 acre was given to Rewi Maniapoto "Rewi's Reserve", Lot 112 Kihikihi township, and this is discussed in the evidence of Ms Ingley and Mr Maniapoto #K28
[2] #A70

claimants were likely to bring evidence before the Tribunal of further such transactions.[3]

6. The joint brief of evidence of Mr Harold Maniapoto and Mr Thomas Maniapoto sets out a series of such post-Treaty deeds relating to pre-Treaty transactions in the area of modern Te Awamutu township.[4] We will describe the transactions in greater detail below, but would summarise them as follows:

   6.1. Church missionaries (from the Church Missionary Society and from the Roman Catholic church) formed relationships with local tangata whenua in the region of the modern township of Te Awamutu. The missionaries were granted occupation in terms of tikanga Mäori;

   6.2. The customary transactions were legally formalised during the 1850s by the Crown, but in one case there was a deed completed by the church in that period. The deeds were generally always executed with the different groups to those who had made the founding customary transaction.

   6.3. The claims by Ngäti Paretekawa are that:

      6.3.1. the transactions were not carried out with the correct customary owners of the land;

      6.3.2. the transactions of the 1850s did not correctly set out the nature of the customary transactions; and,

      6.3.3. certain trusts established by the transactions were not enforced by the Crown.

7. At this juncture, the tangata whenua evidence is the key source of information on these transactions. The tangata whenua witnesses are largely drawing upon the work of Raureti Te Huia.

[3] #3.4.9, para 15
[4] #K16

The transactions are inadequately, or not at all, covered by the technical evidence presently on the record.

8. A particular and key gap in the information before this Tribunal is: How, in legal terms, was the land lost? We see the following options:

   8.1. The land was lost at the time of the Crown grant because the Crown either abandoned its subsequent confiscation of the lands[5] or because the Crown only confiscated Mäori lands held under a customary Mäori title; or

   8.2. The land was lost to Mäori through the Crown grant and then again through the subsequent confiscation, but was then returned to the church through the Compensation Court process.[6]

9. Counsel hope to obtain some answers on this matter through the course of this hearing and inquiry. There are other gaps however in the record. There is a lack of certainty as to the location and area of some of the lands set out in the deeds. In addition, some of the transactions appear to be for the same lands.[7]

10. The following is a summary of the evidence on the transactions provided by Mr Harold Maniapoto and Mr Thomas Maniapoto.[8]

Date	Lands	Area (acres)	Transaction	Notes
26 March 1850	Moeäwhä	870	Private Deed of conveyance	Land for the Mission Farm, pursuant to a private Deed of purchase by the Church Missionary Society. This was later granted by Governor Grey to Bishop Selwyn subject to a Deed of Trust on 29 October 1853

[5] O'Malley queries whether the Crown abandoned its confiscation for certain church lands, #A22, p509
[6] O'Malley notes that 1,669 acres was set aside for non-Mäori claims, #A22, p416, 437
[7] For example it appears that the transaction for Te Awamutu Pä was already included within the Otäwhao lands and that Te Tomo lands were included within the Moeäwhä or Paiaka lands
[8] #K16

Date	Lands	Area (acres)	Transaction	Notes
26 March 1850	Awamutu Mission lands	173	Part Crown Deed of conveyance and part Deed of gift to the Crown	Known as the "Teasdale Settlement", this is an alleged Crown purchase and part gift (Turtons Deeds, 405A)
10 July 1850	Otäwhao School	5	Crown Deed of conveyance	An alleged Crown purchase (Turtons Deeds, 405B)
12 July 1850	Te Awamutu Pä	2	Crown Deed of conveyance	An alleged Crown purchase (Turtons Deeds, 405C)
2 January 1854	Rangiaowhia School	289	Deed of gift to Crown	An alleged gift to the Crown for education and for the Roman Catholic Church (Turtons Deeds, 4)
13 July 1855	Te Tomo	?	Crown Deed of conveyance	An alleged Crown purchase (Turtons Deeds, 411)
16 July 1855	Paiaka	?	Crown Deed of conveyance	An alleged Crown purchase (Turtons Deeds, 412)
25 April 1856	Te Taruna	4	Crown Deed of conveyance	An alleged Crown purchase for transfer onto "Rachel Edwards and her children" (Turtons Deeds, 413)
29 January 1857	Kairangapaihau		Deed of gift to Crown	An alleged gift of the Rangiaowhia Church lands to the Crown for a church for the Roman Catholic Bishop, (Turtons Deeds, 8)

11. Mr Harold and Mr Thomas Maniapoto have mapped certain of the above transactions as set out in the appendices to their brief of evidence.[9]

The Wars and confiscation

12. Counsel understand that the Tribunal has agreed to inquire into a "raupatu claim" where the claimants can establish that they are making their claim on the basis of a non-Waikato affiliation.[10] The evidence of Mr Maniapoto will be that the Ngäti Paretekawa raupatu claims are made on the basis of Ngäti Maniapoto affiliations through Maniapoto and Tukörehu, Whati and others.[11]

13. Counsel adopt the generic submissions on the war and raupatu

[9] #K16(a) pp 4, 5
[10] Determination of Presiding Officer, 6 September 2012, #2.5.132, para 6.1, pp13-14
[11] #K35, paras 4, 9-23

and will not repeat those here. Further, the evidence of Mr Maniapoto will provide a general summary of the events of the wars. However, there are matters of specific importance to Ngäti Paretekawa claimants as follows:

13.1. There was a close relationship between the church and Mäori which the Crown used to its advantage;

13.2. The Crown sought to use the church teachings as a mechanism to quell Mäori desires for self-control and to promote obedience to the Government;

13.3. The Crown engineered the wars to require Ngäti Paretekawa and other Mäori to defend themselves so that the Crown could label them as being in rebellion and consequently confiscate their lands. This was in a context the land sales had not been forthcoming for the rich and fertile Ngäti Paretekawa lands;

13.4. Ngäti Paretekawa tüpuna participated in the wars in Taranaki to support their whanaunga and to protect the southern boundaries of Ngäti Maniapoto;

13.5. The first significant engagement of Ngäti Paretekawa in the wars in the Waikato region was at Rangiriri;

13.6. The Crown's destruction of the cultivations and kāinga around Te Awamutu was a form of scorched earth policy - that is that the Crown sought to destroy the supplies to the warriors.

13.7. The Crown deliberately inflicted psychological pain through the destruction of Hui te Rangiora wharenui;

13.8. Many Ngäti Paretekawa chiefs and people fought and died at Öräkau.

Confiscation

14. As noted in the introduction, the evidence will be that Ngäti Paretekawa lost all its lands north of the Püniu awa to confiscation. These are among the very best lands of the area.

15. Except for a reserve given directly to Rewi Maniapoto at a later date, no reserves were returned to Ngäti Paretekawa.

16. As a consequence, the Tribunal will hear how Ngäti Paretekawa presently have no land, apart for Rewi's 1 acre reserve, to the north of the Püniu awa. The hapü has been all but removed from this important part of their turangawaewae.

The witnesses

17. The following witnesses have produced evidence to support the Ngäti Paretekawa claimants:

Mr Harold Maniapoto and Mr Thomas Maniapoto (#K16)

17.1. They will discuss the church transactions in the vicinity of the modern township of Te Awamutu. Their evidence will also give a snapshot of the customary interests of Ngäti Paretekawa in this region. The evidence will provide an important background to the church presence in the region.

Mr Thomas Te Whiwhi Maniapoto (#K15)

17.2. His evidence will discuss the wars in both Taranaki and Waikato and will focus on particular Ngäti Paretekawa tupuna involvement. His evidence will conclude with further impacts and prejudice arising for Ngäti Paretekawa.

Ms Dana Maniapoto (#K14)

17.3. Ms Maniapoto's evidence will bring a rangatahi voice before this Tribunal and will demonstrate how the pain and mamae of the confiscation continues to be felt today. The key part to her evidence will be that her whänau have no marae that is theirs.

Ms Valerie Ingley and Mr Harold Maniapoto (#K28)

17.4. Their evidence will focus in particular on the 1 acre reserve given to Rewi Maniapoto. The main points will be that the Crown has failed to properly ensure that the reserve was protected and that the Crown has failed to adequately allow the iwi to manage the reserve themselves.

Mr Harold Maniapoto (#K35)

17.5. Mr Maniapoto's evidence will discuss the impacts and prejudice suffered as a consequence of the wars and confiscation. He will draw together the various impacts discussed by the other witnesses and he will provide general summaries also on the evidence of the customary interests of Ngäti Paretekawa and of the events of the wars in the Waikato.

Concluding submissions

18. I wish to repeat the key point made in introduction. The Crown confiscated all of Ngäti Paretekawa's lands north of the Püniu awa and returned nothing except for 1 acre to Rewi Maniapoto. These were the most fertile and rich of the hapü lands.

19. The hapü consider that their tupuna were merely defending themselves from an invading force.

20. The pain and impacts of the wars and confiscation are not just

historical matters. The evidence before this Tribunal will be that the prejudice and suffering caused by the Crown through the raupatu continues today.

DATED at Hamilton this 9th day of April 2013

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Dominic Wilson / James Fong
Counsel for the Wai 2014, Wai 2068, Wai 800 Claimants