BEFORE THE WAITANGI TRIBUNAL

WAI 898

IN THE MATTER OF **THE TREATY OF WAITANGI ACT 1975**

CONCERNING **THE TE ROHE POTAE INQUIRY**

AND A claim by Maude Shaw, Tuahu Watene, Ken Te Houpikake Rautangata, Sunnah Thompson and Henare Gray for and on behalf of **NGATI MAHANGA** me **NGA URI O TE AWAITAIA (Wai 1327)**

JOINT BRIEF OF EVIDENCE OF KEVIN (MUSA) TAUKIRI, MAADI KING AND KAKA KIHI

Dated: 26th August 2013

RECEIVED
Waitangi Tribunal
26 Aug 2013
Ministry of Justice
WELLINGTON

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JOINT BRIEF OF EVIDENCE OF KEVIN (MUSA) TAUKIRI, MAADI KING AND KAKA KIHI

1. Our names are Kevin (Musa) Taukiri, Maadi King and Kaka Kihi.

2. We are descendants of Ngati Mahanga.

3. In this brief we talk about the Native Land Court and in particular the case of Pirongia as a prime example of the Court, and the Crown, failing to provide for and protect our interests.

4. Our Whanau talk about the Native Land Court hearings affecting Ngati Mahanga in more detail in the Oral and Traditional History Report and we support that korero. We are also aware that the historians have also prepared extensive reports on the Native Land Court. This brief is not meant to be a complete analysis of the Court and how it affected our people and our lands, it is only to provide an example of how it impacted on us with respect to one of our most important taonga, Pirongia Mountain, and the surrounding area (including where Pirongia South Forest currently is).

Mahanga and his region

5. The Mahanga rohe boundary begins at the summit of Pirongia on the peak called Mahaukura and runs north-east to a position on the Horotiu/Waikato river formerly called Horotiu but now known as Tamahere. From there it stretches to Pukeiahua at the junction of the Waipa and Waikato rivers. Up the Waipa to Nga Tokorua o Rawhatihoro, a stream near Karakariki, where it turns right in a straight line to the west and Parawai stream. This stream is an outlet of the Waitetuna river at Whaingaroa harbour. The boundary then follows the harbour to Putoetoe (Raglan) and the Opotoru river. It then turns south-west and up the Opotoru estuary to Takapaunui and Te Hutewai to Pakaraka and Ruapuke. It then follows the sea coast to Ngati Te Wehi rohe then south-east to Pakoka stream. The western boundary of Wharauroa turns north to Tutaenui near the Waitetuna river, then

turning south along a range of hills to Tukumaru, still south to Pukeruru, Putou to Tuporotangi south again to Te Tihi o Tonganui thence to Te Papatapu on Aotea harbour and follows the seashore to Pakoka. Then from Pakoka back to Mahaukura on Mount Pirongia.

6. Mahanga the tupuna of all Ngati Mahanga descended in a direct male line from Hoturoa, Ariki of the Tainui waka. There were twelve generations from Hoturoa to Mahanga, as follows:

Hoturoa = Whakaotirangi
|
Hotuope = Hineihi
|
Hotumatapu = Hineraku
|
Puhanga = Tapuirangi
|
Putetere = Hinetemoa
|
Uetihi = Parekawakawa
|
Uenoho = Wawana
|
Ueraki = Makura
|
Taipu = Rongoihi
|
Tamapoto = Takotonuiarangi
|
Tuheitia = Te Ataihaea
|
Mahanga = Paratai

7. There were ten further generations from Mahanga to Te Awaitaia, as follows:

Kieranui = Kokihi Tupana = Kui
|
Pareketeiwi = Taraparauri
|
Kuku = Kahuroro
|
Te Rawhatihoro = Te Ahooterangi
|
Pure = Poroaki

|
Rangitapui = Rangikaumoana
|
Te Taotahi = Te Kura
|
Purehina = Te Kata
|
Te Awaitaia

8. After Hoturoa and the occupants of Tainui settled at Kawhia, it was several generations before it became necessary for them to disperse throughout the land. Mahanga was the first to penetrate inland from Kawhia across the Pirongia range and into the Waipa valley. As a descendant of Hoturoa in a direct male line, the mana held by Mahanga was the mana of the land, which he already held and then carried with him when he came from Kawhia inland. He made his home at Purakau, north of Pirongia maunga, in the area of the confluence of the Waipa river and the Kaniwhaniwha stream (which has its source high on the mountain itself).

The relationship of Mahanga and Tuirirangi

9. The tribal history of Ngati Mahanga records that our ancestor Mahanga lived peacefully with his relative Tuirirangi, whose lands to the south adjoined those of Mahanga, and that they did not fight. There were strong links between Mahanga and Tuirirangi. Mahanga's wife, Paratai, came from the line of Tuirirangi. To give just two further examples: Mahanga's daughter Waitawake married Karewarewa, the man who later avenged the death of Tuirirangi; and Tuirirangi's daughter, Hinekino, married Mahanga's son, Ruateatea.

10. The importance of these relationships to both Ngati Mahanga and the people of Te Rohe Potae has been reinforced by the intermarriages between us over the generations. For example Te Rangiapoa, the grandson of Mahanga, married Te Taurukingaoho, granddaughter of Tuirirangi and Maramuka. There is also Parengaope, daughter of Te Kanawa and granddaughter of Te Kawairirangi, who in her lifetime married each of the sons of Hourua, Te Ahooterangi and Te

Umukiwhakatane. And the grandchild of Te Ihingarangi (elder half-brother of Maniapoto) was given in marriage to Tamaihohonginoa, another grandchild of Tuirirangi. These are just some of many intermarriages between our peoples. This practice of re-connecting whanau through marriage after a number of generations have passed is well-known among our people.

11. We know that the people of those times often went to visit their relatives for extended periods. We can be sure that Mahanga and his people went to visit in the lands of Tuirirangi, and enjoyed the hospitality of their relatives in those areas, and vice versa. The well-known principles of reciprocity and hospitality were two of the main elements in the lives of the people in those times. It is a well-known fact that people would store food for an anticipated visit by their relatives, sometimes going hungry themselves in order to be ready to host the visitors.

Our relationship to Pirongia maunga

12. As recited in Ngati Maahanga pepeha, Pirongia is our tupuna maunga:

Karioi Pirongia nga maunga
Waipa te awa
Tuheitia te tangata
Te Papa o Rotu te marae

Maahanga te tupuna
Pirongia te maunga
Waitetuna te awa
Te Aramiro te marae
Moerangi te whenua

13. Pirongia maunga itself is to us a place where the patupaiarehe have always lived, and we believe that they live there still; sometimes you

come across places they have only just departed from, when you are walking on the mountain.

14. The flanks of Pirongia maunga have sustained our people from the time of Mahanga until now, with birds and pigs and other produce of the bush and streams. This area was well-known for birding in past times in our history, and people came here from other places for that purpose. Right up to recent times, within the past ten years, some of us still lived off the bush and fed our families from the mountain. We ranged freely across the mountain, not staying just on one side. We would often walk to Oparau, a journey of about five hours. Sometimes people would walk to Kawhia just to play rugby.

15. The people of one of the marae affiliated to Nga Uri a Mahanga, Aramiro, are the only hapu with a marae and land within Pirongia Forest Park. In quite recent times, people from Aramiro would spend up to two weeks at a time away in the bush on the mountain. There was always someone from Aramiro away in the bush on Pirongia maunga, in those days.

16. We also know that our people have cultivated their gardens on the flanks of the mountain for generations; just one example is the story of Te Keene told in the Moerangi case, of how as a consequence of the people laughing at the gardens he had made in the bush about one and a half miles from Aramiro, he left and went to Aotea.

17. Ngati Mahanga strongly identify with Pirongia maunga. To us the mountain is our tupuna with whom we have a spiritual bond. You cannot have one side of a mountain without the other to support it, that is, when we speak of Pirongia maunga we are speaking of the whole mountain, including all its foothills and sidlings, on both sides, not just the extensive part of the mountain which lies within our tribal boundaries. On that note the toes of the mountain with which we associate do not stop at the mountain itself but spread out to the surrounding regions.

18. There is a pepeha for Ngati Mahanga concerning Pirongia which states:

> "*Tera ia te tautara ki Pirongia*
> *Te Maunga korero o tua whakarere"*

19. There is also a well known whakatauki which also sets out our association with the maunga:

> "*Whakamau whakamau to titiro ki Manuaitu pururu kau ana ngauru ka hikitia ki Omaero, horohora nga kakaho o te Kaharoa."*

20. It is through these ancestral connections that Ngati Mahanga claim connections to Pirongia Maunga and the lands lying south of the maunga. The nature of the interests and connections we are claiming is a spiritual relationship to the lands, based on historical associations according to whakapapa and tikanga. This is based on our association with Pirongia mountain and our shared ancestry and our ongoing connections and relationships with the other tangata whenua who lived and held mana whenua over those lands.

21. I note that we are not saying that Ngati Mahanga has exclusive interests over the mountain or the lands to the south of the mountain. We acknowledge our other Whanau who have strong connections there. There are a number of different Iwi and Hapu with associations with the maunga including Ngati Mahanga and Ngati Hikairo. I understand that Ngati Hikairo also acknowledge our connection with Pirongia Maunga. These are not the only two there are others also.

22. This is all part of our shared whakapapa, shared histories and shared use of these areas.

The Native Land Court

23. Unfortunately for our tupuna, the Native Land Court did not view this the same way. The Court could not and did not understand the intricacies of these relationships and the nature of these interests. The Court also required our tupuna to make claims to these lands before the Courts otherwise they were left out whether they had interests or not.

24. We understand that a number of historians and the Waitangi Tribunal have all criticised the Native Land Court and its processes. As above this brief does not try to address every shortcoming of the Court but rather highlight issues faced by Ngati Mahanga with respect to these lands. Paula Berghen has also prepared a report setting out the block narratives on these blocks (A60). We have referred to that report when looking at the Court decisions below.

25. Firstly, as above, we viewed Pirongia maunga as a whole. This includes all of its peaks, foothills and sidlings, on both sides, and it's toes which spread out to the surrounding regions.

26. The Court did not view it the same way. It investigated this area based on survey boundaries that cut our maunga into pieces. These pieces were then dealt with separately in the investigations into the Moerangi block and the Pirongia West / Te Kopua block.

27. The north face of Pirongia including Mahaukura and Tahuaniu were part of Moerangi. The southern face was part of Pirongia West and included the peak called Pirongia.

<u>Moerangi</u>

28. On 28 September 1909 the Moerangi block (45,170 acres) underwent its investigation of title at Ngaruawahia. Moerangi

contained 45,170 acres and extended from Aotea Harbour to the western slopes of Pirongia. The Court delivered its judgment on 17 February 1910.

29. The various parties set up cases on 28 and 29 September. A number of claims were made on behalf of Ngati Mahanga but these can be grouped under three headings:
    a) Claims by Ngati Mahanga under their ancestor Mahanga over a defined portion of the block. A further claim by that section represented by Roka Hopere to the remainder of the block by conquest, including a special claim to the portion called Matakowhai;
    b) Claims under the ancestor Kakati; and
    c) Claims advanced by Henare Kaihau: ancestry under Hekemaru, conquest and gift.[1]

30. The Ngati Mahanga witnesses stated their ancestor Mahanga was the exclusive owner of a large tract of land east of the Waipa River extending westward. They gave evidence that Mahanga and another ancestor Tuirirangi had set a boundary across the land leaving two thirds for Mahanga on the east and one third for Tuirirangi on the west.[2]

31. Those opposing Ngati Mahanga stated Mahanga could not have set the boundary as he had no right of his own to the land and only lived there through the rights of his three wives Paratai, Hinetepei and Wharewaiata.[3]

32. The Court did not accept that the right of Mahanga himself from the setting of the boundary had been proved. However it did accept that Ngati Mahanga Hapu had established interests (by evidence of occupation) on the eastern part of the block. Those Hapu were:
    a) Ngati Tonganui;

[1] Block Research Narratives Paula Berghan A60, page 535.
[2] Block Research Narratives Paula Berghan A60, page 536-537.
[3] Block Research Narratives Paula Berghan A60, page 536-537.

b) Ngati Kahu;
c) Ngati Ngarape;
d) Ngati Whare;
e) Ngati Hourua;
f) Ngati Kuku;
g) Ngati Ruateatea; and
h) Ngati Waiaranui.[4]

33. The Court then dealt with the claim of conquest over the western part of the block by the section of Ngati Mahanga represented by Roka Hopere. The Court dismissed the claim based on conflicting evidence that although the fighting took place, the original inhabitants remained on the land.[5]

34. The Court proposed making a division between Ngati Mahanga and Ngati Te Wehi once the lists of names were settled.[6]

35. Lists were arranged from 21 February 1910. The Court awarded its decision on the lists of owners on 30 April 1910. 41,750 shares were awarded each representing one acre to the persons on the following lists:
    a) Ngati Mahanga: Hemi Kereama and Mrs. Brabant, 100 shares (50 shares each);
    b) Ngati Mahanga: Maaka Patene's list of the descendants of Haara Patene, 300 shares;
    c) Ngati Mahanga and Ngati Hourua: Toea Te Awaitaia's list, 800 shares;
    d) Ngati Mahanga: Roka Hopere's list, 6,850 shares;
    e) Ngati Mahanga: Tai Rakena's list, 9,000 shares;
    f) Ngati Mahanga: Tawharu Rapana's list, 200 shares;
    g) Ngati Mahanga: Ngati Paratai, 1,000 shares;

[4] Block Research Narratives Paula Berghan A60, page 536-537.
[5] Block Research Narratives Paula Berghan A60, page 537.
[6] Block Research Narratives Paula Berghan A60, page 540.

h) Ngati Te Wehi: list of Hone Waitere and others, 4,100 shares;

i) Ngati Mahanga: Ngati Hourua list of Houkura Te Awaitaia and others, 1,200 shares;

j) Ngati Mahanga: Ngati Whare list of Tangataiti Maru and others, 800 shares.[7]

36. Most of this land was then purchased by the Crown and by settlers which was another very sad, but almost inevitable, result of the Native Land Court.

37. The Crown acquired 71% of the Moerangi block including that part of Pirongia maunga which fell within the boundary lines.

38. Although the majority of this block was awarded to Ngati Mahanga, it was on the basis of occupation only. It is clear based on this decision, and many other Native Land Court decisions affecting Ngati Mahanga, that the Court favoured occupation and paid very little regard to any other 'take' or claims to the land.

Pirongia West / Te Kopua

39. The remaining area of Pirongia maunga, and the surrounding region including the area now known as Pirongia South Forest, was dealt with in the Court investigations into the Pirongia West / Te Kopua block.

40. The judgment was given on 7 July 1888.[8] Ngati Hikairo and Ngati Paiariki had each asked that separate orders be made in their favour for the land on each side of Pirongia mountain.[9]

41. The Court noted that the claim was through ancestry from Raka and Whatihua and also from permanent occupation. The hapu who

[7] Block Research Narratives Paula Berghan A60, page 542.
[8] Block Research Narratives Paula Berghan A60, page 745.
[9] Block Research Narratives Paula Berghan A60, page 745.

claimed through these ancestors were Te Urukahutaraheke, Ngati Horotakere, Ngati Pourahui, Ngati Parewhata, Ngati Te Waha, Ngati Ngaupaka, Ngati Hounuku, Ngati Kouparanga and Ngati Maru.[10]

42. A number of counterclaims were also made.

43. The Court made several orders for the counterclaimants:
    a) **Kahakaharoa:** 600 acres in the district of Te Kauri awarded to the descendents of Tukorehu.
    b) Ngati Matakore were awarded an unnamed portion of land on the Waipa River, probably **Takotokoraha**
    c) **Parihoro:** awarded to Ngati Makahori. (Lists for Parihoro were later passed on 1 August 1888. The block was awarded to 29 persons of Ngati Makahori.).
    d) **Whakairoiro:** awarded to Ngati Ngawaero and persons of the hapu Ngati Kawau and Ngati Kahurekereke who had rights through Ngati Ngawaero.[11]

44. The balance of the Kopua-Pirongia-Kawhia block was awarded to the applicants in three parts:
    a) **Waiwhakaata:** awarded to hapu acknowledged by claimants Ngati Paiariki.
    b) **Mangauika:** awarded to Ngati Puhiawe and those claimants connected to them, and also to Ngati Purapura and Ngati Rohopupuwai over part of the block.
    c) **Pirongia West:** awarded to hapu connected with claimants Ngati Hikairo.[12]

45. A large amount of this land was also purchased by the Crown.[13]

[10] Block Research Narratives Paula Berghan A60, page 746.
[11] Block Research Narratives Paula Berghan A60, page 748.
[12] Block Research Narratives Paula Berghan A60, page 749.
[13] Block Research Narratives Paula Berghan A60, page 756.

46. Ngati Mahanga did not participate in the hearings for these blocks. This was for many reasons.

47. The hearing for Pirongia West ran from November 1887 to June 1888 with judgment delivered on July 1888. At this time Ngati Mahanga were pursuing their interests in hearings before the Native Land Court for the Tauranga and Takapaunui blocks which took place from 1887 to April 1889.

48. This period followed the aftermath of the New Zealand wars which had seen loss of land, life and resources of Ngati Mahanga and their relations.

49. This was also during a period of economic decline and so the income that Ngati Mahanga had received in earlier good times was no longer available.

50. The costs of attending and participating in Native Land Court hearings were high and Ngati Mahanga did not have sufficient resources to attend these hearings as well as those for the other blocks in which Ngati Mahanga held interests.

51. On this basis it is not surprising that Ngati Mahanga had to concentrate on claims to those lands closer to the heart of our rohe.

52. I also note that the Court had consistently found in favour of occupation claims and had rejected other types of claims to land. This is something Mahanga had experience of in a number of Court sittings. Given that Ngati Mahanga were not occupying those lands in Pirongia West and Te Kopua at the time of the hearings, that may have also discouraged our tupuna from making claims to these blocks.

53. The Native Land Court did not seek information on whether any other Iwi or Hapu, who were not present before the Court, had interests or claims to those lands. Instead it proceeded on the claims and counter-claims before it and awarded title based only on those.

54. For all of these various reasons, all of which derive from the Crown, Ngati Mahanga could not or did not advance claims to these blocks and missed out on the lands. The majority of these lands in which Ngati Mahanga held interests were sold to the Crown.

55. This is a clear example of the Native Land Court process failing to protect Maori interests. The Court was only focussed on determining title so that sale could follow. The Crown did not ensure that Ngati Mahanga's interests were protected through this process with the result being that Ngati Mahanga was alienated from lands and taonga that they had strong customary associations with.

DATED this 26th day of August 2013

Kevin (Musa) Taukiri Maadi King Kaka Kihi