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**KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA  
I TE TIRITI O WAITANGI**

**BEFORE THE WAITANGI TRIBUNAL**

**WAI 2180**

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**IN THE MATTER OF**                      **the Treaty of Waitangi Act 1975**

**AND**

**IN THE MATTER OF**                      **THE TAIHAPE: RANGITĪKEI KI  
RANGIPŌ DISTRICT INQUIRY**

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**BRIEF OF EVIDENCE OF MICHAEL REREAO MOHI**

**18 February 2019**

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## **INTRODUCTION**

1. My full name is Michael (Mike) Rereao Mohi. I provide this brief of evidence on behalf of Ngā Whenua Rāhui. I am the longest employed staff member of Ngā Whenua Rāhui. My present position is “Relationship Lead”. I am authorised to give this evidence on behalf of Ngā Whenua Rāhui.
2. I understand the Tribunal has asked some questions about the purpose and operations of Ngā Whenua Rāhui earlier in the inquiry. I will be available to answer any questions the Tribunal may have that arise out of those earlier discussions or out of this evidence.
3. My evidence, at the highest level, seeks to address how Ngā Whenua Rāhui contributes to the recognition of the mana, tino rangatiratanga and kaitiakitanga of Taihape Māori over the land-based environmental resources and taonga Taihape Māori have interests in.

### **Background and experience**

4. I started work with Ngā Whenua Rāhui in 1991. At that stage I was the sole field officer and I answered to a manager within the Department of Conservation.
5. My role was to work with the Ngā Whenua Rāhui Komiti and introduce the concept of Ngā Whenua Rāhui to interested Māori land owners. I had responsibility for identifying areas where protection may be possible, and to negotiate and draft agreements.
6. Ngā Whenua Rāhui remained a low-key project within the Department for some time, but by 2000 there were five other staff, which I managed, also negotiating potential agreements.
7. More recently I was appointed as a special advisor between the Komiti and the previous Associate Minister of Conservation, who had responsibility for Ngā Whenua Rāhui. This provided a useful conduit. I have continued to work closely with the Komiti, although no longer directly with the Minister of Conservation.

8. My role now is as reviewer of those covenants which have reached the 25 year stage. I was there when they were first entered into and it is with great pleasure that I now have the opportunity to see what Ngā Whenua Rāhui has achieved. Ten reviews have been undertaken, and all of the agreements have been reaffirmed for a further 25 years.
9. I am now of an age that I could retire, but I have continued to contribute to Ngā Whenua Rāhui as I believe it has protected indigenous biodiversity and provided for tino rangatiratanga.
10. I am also the Chair of the Hawkes Bay Regional Council's Māori Committee and cultural advisor to Pan Pac Forest Company. I have been a Resource Management Hearing's commissioner for the last 10 years.

#### **Structure of this evidence**

11. This evidence introduces Ngā Whenua Rāhui to the Tribunal. I address the legal status and operational protocols of Ngā Whenua Rāhui in relation to DOC;<sup>1</sup> its purpose, values and methodology; and a brief overview of what landowners are achieving in partnership with Ngā Whenua Rāhui nationally.
12. I then outline Ngā Whenua Rāhui activity in the Taihape Inquiry District before addressing some of the matters raised in earlier evidence to the Tribunal.
13. In preparing this evidence I have read sections of documents placed on the Inquiry record, in particular the report of Mr D Alexander on Ngā Whenua Rāhui Kawenata<sup>2</sup> and the case study on Aorangī Awarua.
14. In relation to the case study and the section entitled Negotiation of a Ngā Whenua Rāhui Kawenata, 1994-1999,<sup>3</sup> I consider that Mr Alexander has generally captured the negotiations around that kawenata well.

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<sup>1</sup> Throughout this evidence I will refer to "DOC" as a shorthand term to cover the Minister of Conservation (Minister), the Director-General of Conservation and the Department of Conservation.

<sup>2</sup> Wai 2180, #A38, "Environmental Issues and Resource Management (Land) in Taihape Inquiry District, 1870s – 2010", Sept 2015, at 408-416.

<sup>3</sup> At 589-605.

## NGĀ WHENUA RĀHUI

### Ngā Whenua Rāhui status and operational protocols

15. I have read the evidence of Mr Kemper which sets out the role of DOC and its vision of being “the greatest living space on Earth”: Kāore he wāhi i tua atu i a Aotearoa, hei wahi noho i te ao. His evidence also sets out the importance of section 4 of the Conservation Act and the steps DOC has made to give effect to this section. Ngā Whenua Rāhui was established to under the section 4 obligation to give effect to the principles of te Tiriti, its statutory obligations, and DOC’s non-statutory priorities as stated in the vision and related goals.
16. As was indicated by Mr Alexander’s evidence, the pressure on Māori land owners to pay rates meant that people were looking to fund these demands from the land itself, which potentially would impact on the indigenous plants and animals which had been protected because the land had not been developed. The aim was to provide some form of formal protection for those values with the owners retaining tino rangatiratanga.
17. For this to be effective some payment was necessary. At least for the bigger blocks, that payment is a consideration for not harvesting and as some consideration for what biodiversity is within the blocks. The bigger costs, however, are not the one-off payments for entering the covenant or the kawenata, but are for the on-going work in maintaining and improving the land. These costs have been mainly for pest management. For some smaller areas, where it is feasible, costs have also included fencing. The contribution of management advice and actual pest control has developed over the years and so more practical support can now be offered.
18. The administration and funding of Ngā Whenua Rāhui is provided through DOC, but Ngā Whenua Rāhui is independent of DOC. Through the Komiti chaired by Sir Tumu Te Heuheu, it makes its own decisions about what will be recommended to the Minister of Conservation for funding and the value of the whenua to be protected. That value is not just in terms of “lost timber potential”, but also spiritual and cultural values. Those working for Ngā Whenua Rāhui seek to preserve this independence from

DOC, as it is part of what provides us with credibility with the Māori land owners.

19. By way of background, I attach an account of the founding of the fund as **Exhibit MM1**.<sup>4</sup> In brief, it emerged to fill a gap between the then extant conservation management mechanisms and the recognition of Māori values (including retaining ownership of lands).

### **Ngā Whenua Rāhui purpose, values, policies and methodology**

Ngā Whenua Rāhui exists to protect the natural integrity of Māori land and to preserve Mātauranga Māori, so that the values, stories and history associated with our natural taonga are not lost to the world.

Sir Tumu Te Heuheu, the foundation chair of the Ngā Whenua Rāhui Komiti.

20. The Ngā Whenua Rāhui Komiti serves to encourage voluntary protection of indigenous biodiversity on Māori owned land with special emphasis to recognise the cultural and spiritual values of those lands, while recognising the rights guaranteed to Māori land owners under the Treaty of Waitangi. The Komiti is directly responsible to the Minister of Conservation; the Director-General of Conservation does not have a role in making recommendations.
21. The Ngā Whenua Rāhui unit services the Komiti. The role includes the management and distribution of money through two contestable funds. One small fund (Matauranga Kura Taiao Fund) seeks to preserve the customs, history and stories associated with Māori land and tikanga. It can be used for things such as preserving the story of a marae or repairing the tukutuku panels. No such funding has been provided in the Taihape district and, to my knowledge, no applications have ever been made to that fund from the Taihape district.
22. The main fund, Ngā Whenua Rāhui Fund, is the focus of this evidence. It supports the protection of indigenous ecosystems on Māori owned land and is geared towards the owners retaining tino rangatiratanga of their lands through:

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<sup>4</sup> See <https://www.doc.govt.nz/news/stories/2015/march/how-nga-whenua-rahui-came-to-be/>

- 22.1 helping to protect representative, sustainable, landscape integrity of indigenous ecosystems which have cultural importance to landowners;
  - 22.2 leaving the land in Māori ownership and control; and
  - 22.3 covenanting (kawenata) and management agreements.
23. The Fund aims to reaffirm the bond between tangata whenua and the land. Ki te āwhina i te tangata whenua ki te tiaki i ngā ngahere motuhake-ā-Tāne me ērā atu wāhi motuhake i runga i ōna ake whenua.
24. The Fund is administered by the Ngā Whenua Rāhui Komiti, which makes recommendations to the Minister of Conservation based on applications from Māori landowners to legally protect their land. Administrative support is provided by the Ngā Whenua Rāhui team, with some assistance from DOC for specialist services such as Legal (which check all of the agreements).
25. Ngā Whenua Rāhui employs three types of agreements to formalise arrangements between landowners and the Minister of Conservation. The type of agreement used will depend on the protection being sought and land status. The three agreements (kawenata) are:
- 25.1 Ngā Whenua Rāhui Kawenata (section 77A Reserves Act 1977 and section 27A of the Conservation Act 1987) - applies to long-term protection.
  - 25.2 Agreement for the Management of Land (section 29 Conservation Act 1987) - is suited to smaller blocks. It requires an application to be lodged with the Māori Land Court and the proposed area set aside as a Māori Reservation pursuant to section 338 of Te Ture Whenua Maori Act 1993.
  - 25.3 Deed to enter into a Conservation Covenant (section 77 Reserves Act 1977) - used for Māori-owned land that is in General Land title.

26. The majority of the kawenata in place in the Taihape inquiry district are Reserves Act section 77A kawenata. These kawenata can be granted by the Minister so as to preserve and protect:
- 26.1 the natural environment, landscape amenity, wildlife or freshwater-life or marine-life habitat, or historical value of the land; or
  - 26.2 the spiritual and cultural values which Māori associate with the land.
27. Under section 27A(1)(a) of the Conservation Act, the kawenata is for conservation purposes so as to preserve and protect:
- 27.1 the natural and historic values of the land; or
  - 27.2 the spiritual and cultural values which Māori associate with the land.
28. It is, therefore, not a statutory requirement for a kawenata that there be both ecological values and Māori cultural and spiritual values. It could, in theory, be either although for Māori all whenua will have spiritual and cultural values.

### **National scene**

29. In the first 25 years of its existence (1991 – 2015) the Fund protected a significant segment of Māori land with around 220 agreements protecting 180,000 hectares. It also approved 238 Mātauranga Māori projects to preserve the histories of their land. Kevin Prime (Ngāti Hine) has been an active part of Ngā Whenua Rāhui since the beginning as a Komiti member. He stated at the 25 year celebrations:

Success for me is that more iwi now understand and are aware about what is happening on their land, and are now making use of that knowledge. To me that is what success is - the ability of the shareholders to return to the land and know they are part of it. They value it, they believe in it and they say 'that's us.'

I have thought about it and it isn't the amount of hectares. If we were able to get everyone thinking about protecting the land, even if it wasn't covenanted, to me that is far more successful. Of course I can understand the government saying it's about how many hectares have

been protected but to me, it is the identity, of being part of the whenua, the moana, the restoration of the mauri of the forest.

30. The Fund's unique contribution is to use the best of western science methods and to marry them to the Māori view of the natural world. The Fund works with landowners to clarify what the mauri of the land means to them, so they can tell their own stories relating to their cultural histories while still protecting their land with conservation management practices.
31. Recently the Komiti has decided that it is important to assist the rangatahi to connect with their whenua and has been providing encouragement for them to be educated on pest control and to be actively involved. This will mean that the operational team run by Ngā Whenua Rāhui may not be as needed in the future as the local people will be able to undertake that mahi, not only on their own land but also as contractors for service to others, including potentially nearby DOC lands.
32. From a very slow start, I consider that nearly 30 years on Ngā Whenua Rāhui has shown its worth. Māori land is now being managed for the benefit of the people and the environment. The fact that all ten agreements, which were reviewed at the end of 25 years, have been renewed attests to this. There is no further lump sum funding (consideration payment) for continuing with the kawenata as these were one-off payments. Assistance with management and funding for management activities e.g. pest control, taonga species management is still available.
33. There are still Māori land owners who are not aware of Ngā Whenua Rāhui so there is more that can be done to raise the profile. With a total staff of less than 30 people spread throughout the North Island, and a representative in the South Island, I consider a great deal has been achieved for Aotearoa (including the Chathams). The interest in Ngā Whenua Rāhui is steadily rising – at present there are over 70 applications being processed and a further 50 expressions of interest.



## NGĀ WHENUA RĀHUI IN THE TAIHAPE INQUIRY DISTRICT

### Ngā Whenua Rāhui protected areas in the Taihape Inquiry District

34. Ngā Whenua Rāhui kawenata in place within the inquiry district are shown on the map attached as **Exhibit MM2**.
35. The table attached as **Exhibit MM3** shows when the kawenata were entered, the particular legal form utilised, and the total approved funding to date for each block. Close to 7 million dollars has been invested in the inquiry district since 1992. Aside from the dollars, the things we pay attention to more are the biodiversity values and – of course – our relationships with the people and their relationships with their lands.

### First kawenata

36. I note that Mr Alexander, at page 410 of his report, refers to six kawenata in the Taihape inquiry district. As you can see from the table, there are a few more than that. The first kawenata in the district were entered into under section 77 of the Reserves Act as conservation covenants and each cover a small area.

### Aorangi Awarua

37. The first Reserves Act 1977 section 77A kawenata was entered into for Aorangi Awarua.
38. As noted by Mr Alexander, the negotiations between Ngā Whenua Rāhui and the Māori land owners were protracted. This was because trust needed to be built between the parties. Not surprisingly some owners were suspicious about the intentions of the Crown. It was also necessary for a full understanding of the interests to be developed and, then, the options to meet those interests had to be identified. The differences between kawenata and previous conservation land management mechanisms needed to be understood. The timeline of negotiations set out by Mr Alexander at page 596 is broadly accurate and shows a fairly constant dialogue occurring throughout the period at a pace largely set by the owners.
39. Although there may have been similarity in wording with the previous covenants, what Ngā Whenua Rāhui kawenata brought was a genuine

alternative for tangata whenua. In particular, it provided that the owners retain tino rangatiratanga over their whenua. Also of importance, was the change in personnel at the negotiations, including the involvement of Sir Tumu Te Heuheu with Ngā Whenua Rāhui Komiti.

#### **Further kawenata 2003-2019**

40. Whilst the negotiations for Aorangi Awarua were protracted (completed in 1999), I would like to think that the fact that further kawenata were subsequently entered into on broadly similar terms indicates that the negotiations have arrived at arrangements satisfactory to the owners.
41. From the Ngā Whenua Rāhui perspective the kawenata in place are important as they have, over the years, helped retain indigenous biodiversity and taonga associated with the whenua, while still enabling tangata whenua to use their land for hunting, mahinga kai, recreational activities as well as supporting potential economic opportunities.
42. The most recent addition has been Owhaoko A East & A1B. It is immediately adjacent to Owhaoko B & D and so creates a significant protected area in the north of the Taihape district. The pest control funding provided for this land may have a direct impact on other land as tangata whenua will be able to work with adjoining land owners and the local authorities on more intensive co-ordinated controls where appropriate.

#### **Ngā Whenua Rāhui Proposed Areas for Protection**

43. As shown on the map (MM2), Ngā Whenua Rāhui protection for one other area is proposed. Negotiations with the owners of these lands are advancing, but are in the very early stages.

#### **ISSUES RAISED BY EVIDENCE IN WAI 2180**

44. There are a few matters that have been raised in evidence which I can address specifically:

- 44.1 Ngā Whenua Rāhui was developed as a more credible option for Māori. It was not a ‘tool’ to achieve ends unable to be met by Forest Service as suggested by Mr Alexander.<sup>5</sup>
- 44.2 Kawenata in Taihape district may be largely over land locked land. It is understood that lack of access to the lands is a significant issue. There is, however, no avenue through Ngā Whenua Rāhui kawenata to resolve this problem. The kawenata can only protect the land it applies to – it cannot force any other land owner to take action or provide access.
- 44.3 The Consideration Payment was for entering into the kawenata. Consideration Payments are only made for larger blocks where fencing is not an option. Each is negotiated and the amount payable is dependent on a number of things – including the size of the land block, the state of the indigenous vegetation, the restoration work required, the values the block holds. The intention is that the ecological values of the larger blocks are monitored every seven years so that the whenua can be maintained. It is up to the trust, on behalf of the land owners) to decide how money is actually spent.
- 44.4 This does mean that what is undertaken on one area covered by a kawenata compared with another will vary. Use of 1080 poison is clearly controversial but in some steep terrain it is the only viable option for pest control. If trustees are agreeable then 1080 may be used. In other areas other solutions may work. As an example, if the pest is deer, then using local hunters to target female deer and leaving the stags to become trophy heads and support hunting tourism may be an option.
- 44.5 Pests also take the form of plants. Controls for wilding pines is something Ngā Whenua Rāhui supports. In the Taihape district, a focus on “Old Man’s Beard” is appropriate.

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<sup>5</sup> Wai 2180, #A38, “Environmental Issues and Resource Management (Land) in Taihape Inquiry District, 1870s – 2010”, Sept 2015, at 408.

44.6 Although the kawenata does follow a process, as each is negotiated, what is provided for differs. As noted above, cultural and spiritual values can form the basis of a kawenata, even without ecological values. It is therefore, reasonable to protect wāhi tapu sites. In those cases, public access to the whenua can be limited. Generally, access is now controlled by the trustees, on behalf of the land owners, so that matters of health and safety can be taken into account along with farming practices and any cultural matters.

44.7 As far as I am aware, there are no outstanding issues about management of kawenata within the Taihape district. As with everyone, Ngā Whenua Rāhui could always spend more and it would be advantageous to have more people on the ground to assist tangata whenua. These are practical limitations on the support that can be provided, but I believe that Ngā Whenua Rāhui has retained a good relationship with those who have entered into a kawenata.

#### CONCLUDING REMARKS

45. None of the kawenata in the Taihape district have yet reached the 25 year review period. I have no reason to believe, however, that they should be any different from the reviews already undertaken elsewhere in Aotearoa. It may have taken a while to develop an approach which met the needs of Māori, but I consider that the work of Ngā Whenua Rāhui has successfully addressed mana, tino rangatiratanga and kaitiakitanga as well as meeting conservation goals.

46. I am happy to address any further issues that the Tribunal members may have in relation to the work of Ngā Whenua Rāhui. I note, however, that I am not in a position to address matters relating to the work of the Department of Conservation.

 15/2/19

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