

BEFORE THE WAITANGI TRIBUNAL

WAI 2180
WAI 662
WAI 1835
WAI 1868IN THE MATTER OF
AND

the Treaty of Waitangi Act 1975

IN THE MATTER OF

the Taihape Rangitīkei ki Rangipō
District Inquiry

AND

IN THE MATTER OF

a claim by **Peter Steedman, Herbert Steedman** and **Jordan Winiata-Haines** on behalf of themselves and the descendants of Winiata Te Whaaro and hapū of Ngāti Paki (**WAI 662**)

AND

IN THE MATTER OF

a claim by **Lewis Winiata, Ngahapeaparatuae Roy Lomax, Herbert Steedman, Patricia Anne Te Kiriwai Cross** and **Christine Teariki** on behalf of themselves and the descendants of Ngāti Paki me Ngāti Hinemanu (**WAI 1835**)

AND

IN THE MATTER OF

a claim brought by **Waina Raumaewa Hoet, Grace Hoet, Elizabeth Cox, Piaterihi Beatrice Munroe, Terira Vini, Rangimarie Harris** and **Frederick Hoet** on behalf of themselves, their whānau and all descendants of Raumaewa Te Rango, Whatu and Pango Raumaewa (**WAI 1868**)**OPENING SUBMISSIONS**Dated this 10th day of February 2020ANNETTE
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MAY IT PLEASE THE TRIBUNAL

1. These opening submissions are filed for and on behalf of Ngāti Hinemanu me Ngāti Paki:
 - a) **Wai 662**: a claim brought by Peter Steedman, Jordan Winiata Haines and Herbert Winiata Steedman on behalf of themselves and the descendants of Winiata Te Whaaro and hapū of Ngāti Paki;
 - b) **Wai 1835**: a claim brought by Lewis Winiata, Ngahape Roy Lomax, Herbert Winiata Steedman, Patricia Anne Te Kiriwai Cross, Christine Teariki on behalf of themselves and the descendants of Ngāti Paki me Ngāti Hinemanu; and
 - c) **Wai 1868**: a claim brought by Waina Raumaewa Hoet, Grace Hoet, Elizabeth Cox, Piaterihi Beatrice Munroe, Terira Vini, Rangimarie Harris and Frederick Hoet on behalf of themselves, their whānau and all descendants of Raumaewa Te Rongo, Whatu and Pango Raumaewa.
2. Having regard to the Crown's Treaty breaches, the extent of the prejudice suffered and recognition of that to be provided for in the Mohaka Ki Ahuriri Inquiry, in Treaty Settlement arrangements with Heretaunga Tamatea and Mana Ahuriri, as a matter of course, similar findings should be made in the context of claims now being pursued in the Taihape Inquiry District.
3. It is now settled that there are four prerequisites to the Tribunal's exercise of its statutory power to recommend the resumption of licensed land¹:
 - a. The Tribunal must be satisfied that the claim is well founded;
 - b. The claim relates to licensed land²;
 - c. The remedy should include the return to Māori ownership of the whole or part of that land; and

¹ Treaty of Waitangi Act 1975 s 8HB. Waitangi Tribunal The Mangatu Remedies Report (Wai 814, 2014 (Remedies Report) at 26 and 145 affirmed by the Court of Appeal in Attorney General v Haronga [2017]2 NZLR 394 (CA0 (CA Judgement) at [50].

² Defined in Crown Forest Assets Act as Crown forest land that is subject to a Crown forestry licence and includes land that was at any time Crown forest land and that is subject to a Crown forestry licence:: CFAA , s 2: Treaty of Waitangi Act 1975, s 8 HA , CFAA s 36 (1)(b) and Schedule 1

- d. The group to whom the land will be returned is clearly identified as appropriate for that purpose.
4. Counsel have filed extensive submissions on the legal framework that has evolved from the jurisprudence with respect to the application of the Crown Forest Assets Act and its amendments including;
 - a) Opening Submissions dated 30 November 2017;³ and
 - b) Memorandum of Counsel dated 28 February 2018.⁴
5. These submissions will therefore only seek to augment matters to emphasise what issues come to be considered at this hearing phase to satisfy the legal tests established.
6. A significant issue before this Tribunal is whether Ngāti Hinemanu and Ngāti Paki have established a well-founded claim and suffered prejudice by dint of Crown action that is inconsistent with Te Tiriti and is the appropriate body to see the return of lands now claimed.
7. We say at the outset that the issue is not a simplistic debate about Punakiao's rights versus those of Taraia II as it has been framed by some who seek to displace the customary rights and interest of Ngāti Hinemanu and Ngāti Paki into the lands in questions. The debate is about the systematic dismantling of Winiata Te Whaaro's credibility, and now his descendants, in order to disqualify them from having any substantial customary interests in the Patea district, let alone in Heretaunga. This is the central issue in this case.
8. Key testimonies will be provided that also sheds light on a consistent theme that has emerged in this Inquiry and that is this process of invisibility which we say is part of deliberate Crown policy that was designed and applied to marginalise the peoples of Ngāti Hinemanu and Ngāti Paki in processes that were neither fair nor consistent with Te Tiriti.
9. The evidence presented this week will also expose how the efforts of the Crown, and others in opposition to the rights claimed, based on the argument that the

³ Wai 2180, #3.3.9, 30 November 2017.

⁴ Wai 2180, #3.2.258, 28 February 2018.

prejudice that the claimants are alleging must be confined to the prejudice stemming directly from the CFL lands in questions should be rejected. We say that this argument is unsustainable, since the claims being remedied are those of the iwi and hapū, that is the peoples of Ngāti Hinemanu and Ngāti Paki, rather than the land itself. The Turangi Township Remedies Report is instructive on this point and expresses it in this way that the provisions are clearly intended to be remedial.⁵

10. We say that the evidence has already demonstrated over the past 13 weeks of hearings that the Crown's actions are in breach of the Treaty and have undermined the autonomy of Ngāti Hinemanu and Ngāti Paki in direct contravention of the Article 2 protections of tino rangatiratanga.
11. Ngāti Hinemanu me Ngāti Paki have come to this Tribunal to seek findings of well-founded claims to remedy a situation that has subsisted since the imposition of the Native Land Court in the 1860's. The conversion of tenure by the Native Land Court undermined community ownership and control of land and alienated Winiata Te Whaaro and many others of Ngāti Hinemanu and Ngāti Paki from traditional territories that they had born to and to which their livelihoods depended upon.

Evidence

12. Counsel has been cognisant of the recent directions of the Presiding Officer which has emphasised a clear desire on the part of the panel not to hear evidence that has already been presented in any repackaged way.
13. Counsel submits that the evidence now to be considered while is not repackaged must build on its foundations of whakapapa if the discrete claims to the Kāweka and Gwava's Crown forest licensed lands are to be understood in their totality. Rather than repeat the whakapapa foundations many witnesses have thus referred the Tribunal to earlier evidence on the record. Furthermore, given the significance of the connections to the peoples of Ngāti Hinemanu as a whole there has been a deliberate effort on behalf of the claimants to draw attention to the intimacy of relationships with their kin that reside on the eastern side of the Ruahine Ranges to highlight the importance of those connections as part of the

⁵ Waitangi Tribunal, *The Turangi Township Remedies Report*, (Wai 84, 1998) 16- 18.

matrix of understandings in the present claims to the CFL lands which of course all lay on the eastern side of the Ruahine Ranges.

14. The claimants are also indebted to settler families that have corroborated their understandings that rather than being a mountain range of separation, the Ruahine Ranges was one area where significant tātau pounamu and relationships were forged between and amongst the hapū and iwi and Pākehā. These are two significant features of the evidence we wish to highlight in our opening statements and are matters that are woven through the narratives of the speakers we will be hearing from this week.
15. The Tribunal will hear evidence from the following witnesses:
 - a) Joseph Te Rito;
 - b) Jordan Winiata-Haines;
 - c) Lewis Winiata;
 - d) Kathleen Parkinson;
 - e) Patricia Cross;
 - f) Florence Katariana;
 - g) Terry Steedman; and
 - h) Bill Beamish.

Joseph Te Rito

16. Mr Te Rito examines and analyses the transformation of Ngāti Hinemanu hapū and associated community of Ōmāhu. He argues that Ōmāhu is a marginalised community which has been a direct result of colonisation. He also gives in depth discussions around the lineal whakapapa (genealogy) framework.

Jordan Winiata-Haines

17. Mr Winiata-Haines provides evidence which highlights the traditional boundaries between Ngāti Hinemanu of Heretaunga in the east and Ngāti Hinemanu of Inland Patea in the west and the early Crown purchases and how

they affected those boundaries. Mr Winiata-Haines further explains how the loss and division of the whenua alienated Ngāti Hinemanu and Ngāti Pouwharekura from their traditional rights to freely occupy and traverse their lands. He also addresses the discussions that occurred between the Ngāti Hinemanu me Ngāti Paki Heritage Trust and He Toa Takitini.

Lewis Winiata

18. Mr Winiata discusses the mana whenua of Punakiao through her whakapapa and occupational rights relating to the whenua on the eastern side of the Kāweka and Ruahine Ranges. He also explains how these rights should not be decontextualised from the decision-making processes that sometimes manipulated or ignored these lines of entitlement.

Kathleen Parkinson

19. Ms Parkinson discusses the area where the Kāweka and Gwava Crown Forest Licensed lands are situated covering ancestral tracks, pā sites, resources and rivers. She also addresses the Awarua o Hinemanu lands and the eastern boundary and the eastern and western parent blocks in the Kāweka and Ruahine Ranges.

Florence Karaitiana

20. Ms Karaitiana address the relationship that Winiata Te Whaaro, Te Irimana Ngahoa and Hana Hinemanu had to the land on the east of the Ruahine Ranges particularly in the vicinity of the Gwavas Crown Forest Rental Lands. She discusses the history of these ancestors and their experiences while living at Ōwhiti, Ngātarawa and Ōmahu.

Terry Steedman

21. Mr Steedman sets out the significance of the primary and secondary tracks that lead up and over the Ruahine Ranges from Te Awarua Riu o Puanga aka Mōkai Inland Patea. He discusses how it not only enabled access, but it created pathways that cemented long held relationships to both sides of the Ruahine Ranges by the descendants of Ngāti Hinemanu and Ngāti Paki.

Patricia Cross

22. Mrs Cross addresses the history of Winiata Te Whaaro and his connection and experiences in the Kāweka, Whakarara-Gwavas and Whanawhana. She also speaks about the visit that Ngāti Hinemanu and Ngāti Paki had to Whanawhana with Bill Beamish and the discussions had with Bryce Wright.

Bill Beamish

23. Mr Beamish provides evidence which supports the evidence presented by Patricia Cross. He also provides further discussions around the relationship that his family has with Whanawhana and the interactions with Māori in the area.
24. Overall, the evidence presented this week will demonstrate that Ngāti Hinemanu and Ngāti Paki continue to assert customary rights in the Heretaunga that converge in the Kāweka and Gwavas CFL lands. Significantly, their evidence highlights that ancestral fires of Ngāti Hinemanu me Ngāti Paki still burn brightly notwithstanding the Crown's ongoing efforts to limit their territorial homelands to one side of the mountain range. They say that their relationships to the lands were preserved under the guarantees of Te Tiriti and any attempts to manipulate these relationships is a fundamental breach of Te Tiriti.

Developments since the Mediation Process

25. To assist the Tribunal in understanding the status quo with respect to the Treaty Settlement arrangements for Heretaunga Tamatea and Mana Ahuriri, we attach herewith as Appendix A, a brief timeline of events that have occurred since urgency proceedings were initiated and the adjourned since then with respect to claims by Ngāti Hinemanu and Ngāti Paki.

Conclusion

26. It is counsel's submission that the evidence to be led by tangata whenua witnesses this week, will establish that the Crown failed to adhere to the principles of the Te Tiriti in protecting the hapū land resources and rangatiratanga. The evidence will show that the Crown pursued policies and practices designed to undermine the chiefly authority of the hapū and Māori customary law in general.
27. The operation of the Native Land Court, the implementation of legislation which provided for individualisation of title to land and then subsequent alienations

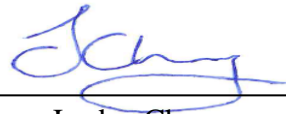
and partitioning all resulted in significant loss by the hapū as Mr Winiata describes.

28. These reinforce the nature of the prejudice that has been wrought on Ngāti Hinemanu and Ngāti Paki by the Crown. Once the threshold requirements are met, a remedy should follow. Otherwise, the Crown undermines Te Tiriti. The CFAA regime provides the framework for that remedy. We ask this Tribunal to confirm that the claims now made are well founded so that we can invoke that framework to remedy the injustices that have clearly emerged in the evidence.

DATED at Rotorua this 10th day of February 2020



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