

Customary interests in the Kāweka and Gwavas CFL lands

**RESPONSES TO QUESTIONS
OF CLARIFICATION**

Te Maire Tau and Martin Fisher

February 2020

RECEIVED Waitangi Tribunal
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Ministry of Justice WELLINGTON

Questions in Clarification for Tau and Fisher
Leo Watson, Barrister and Solicitor

1. At page 16 of your report, you state that *"The early tupuna of Ngati Hinemanu and Ngati Paki connect to both Whatumamoa and Kahungunu lines of descent. Drawing from both whakapapa is the ancestor of Ngati Paki according to the Ngati Hinemanu me Ngati Paki Trust, Te Ao Pakiaka."*

- (a) Based on the Mokai Patea whakapapa at page 23 of your report, and your comments at footnote 24, do you agree that this depicts that Te Ao Pakiaka does not descend from Whatumamoa?

Yes we agree.

- (b) Would you agree that there are no documented whakapapa sources which support the suggestion that Te Ao Pakiaka descends from Whatumamoa? If you disagree, please provide those documented whakapapa sources.

Yes we agree.

- (c) Would you agree that there are no documented whakapapa sources which support the suggestion (made at page 22) that Te Ao Mahanga married both Hutu and Huripapa? If you disagree, please provide those documented whakapapa sources.

Yes we agree.

- (d) You reference (at your footnote 24) adjustments to the whakapapa in the McBurney #A52 report on the issue of the marriage of Te Ao Mahanga. Can you confirm you have also adjusted his page 50 whakapapa in that where he depicted Te Ao Pakiaka and Rongomaipuku as brothers, they are in fact now correctly depicted as father and son.

Our reference at footnote 23 is incorrect and should be #A52, p88 not p50. Footnote 24 correctly references p88 from #A52 which itself depicts Te Ao Pakiaka and Rongomaipuku as father and son. We have followed this depiction rather than that noted at p50.

2. At the end of page 16, you state that *"It is unclear when each attack occurred but the arrival of Tuwhakaperei and later Taraia I and his grandson Taraia II left indelible changes in the customary interests in the lands of Heretaunga and Patea."*

Q: While it is acknowledged that Tuwhakaperei (and others) certainly reported to have had this affect in Patea when they attacked Ngati Hotu, do you agree however that:

- (a) the conquests by Taraia I left indelible changes in the customary interests

in the Heretaunga rohe, not the Patea rohe?; and

Yes we agree.

- (b) Taraia II's principal impact on customary interests in the Patea rohe was when he eloped with Punakiao?

Yes we agree.

- (c) This elopement did not alter the fact that, for their descendants, the whakapapa of Punakiao was the source of the derivation of customary interests in Patea, not the whakapapa of her husband Taraia II?

Yes we agree.

3. On page 17, you state that "*They were joined in one attack by the brother of Taraia I and maternal great-grandfather of Taraia II, Tupurupuru.*" The reference for this statement is given as Wai 2180 #A52 (McBurney), p.74-76. Mr McBurney in turn references the Tony Walz! "Tribal Landscape Overview", April 2013 pp. 234-240.

- (a) After reviewing Mr Walz's research, do you accept that Mr McBurney has misinterpreted what occurred, and that a reasonable summary is that the attack was a failed incursion by Ngai Tamawahine against the people of Mokai Patea many years after the original conquests by the Mokai Patea tupuna over Ngati Hotu?

Yes we accept that.

- (b) If so, do you agree that Tupurupuru was not assisting the Miikai Patea tupuna to conquer Ngati Hotu, but was in fact part of a group attempting to conquer those Mokai Patea tupuna and their descendants.

Yes we accept that.

4. At page 79, you state that "*Ngiti Hinemanu me Ngati Paki Trust claim that Whakarara/Poutaki pa, was built by Winiata Te Whaaro and Utiku Potaka.*"

Q: With reference to your research at page 32, and acknowledging that both Winiata Te Whaaro and Utiku Potaka were in the area of Te Aute in the early 1860's, do you agree that they were clearing the bush and not building Pa, as these Pa were erected prior to the 1860's?

We agree that it would be difficult to have built pa in the 1860s in these areas without any direct oral or written evidence of their construction and that the pa erected in this area all seem to have been erected prior to the 1860s.

5. At page 87 of your report, you state that *"During the Te Koau and Awarua partition NLC investigations both he (Winiata) and Utiku Potaka noted a kainga used to gather titi and fernroot-Tauwharepokoru. They thought it was in the Te Koau block when it was actually in the northwestern corner of the Otaranga block. Te Whaaro claimed that the kainga "belonged to the descendants of Tutemohuta [Punakiao's father] and Rangiwahakamatuku."* The reference to Tauwharepokoru features in your report conclusions at pages 189 and 191 as being one of the inconsistencies of information which leads to, (in the final two words of the report) an "uncertain conclusion".

Q: In relation to the location of Tauwharepokuru, do you agree that:

- (a) Your depiction of the location of Tauwharepokuru is incorrect? and
- (b) Tauwharepokuru was a point used in the Gazettal of the Awarua Block in 1886, as it is located on the boundary between Awarua I and Awarua o Hinemanu?
- (c) Tauwharepokuru is a well-known place name as shown on modern topographic maps as a survey point? and
- (d) Tauwharepokuru is within the Mokai Patea rohe?

We agree that our depiction of the location of Tauwharepokuru is incorrect. The location on the map is not Tauwharepokuru but as Tony Walzl notes on p549 (#A12) Tikorangi, the name of a large stone below Rakautanga. He states that "fernroot was collected and titi were caught in the range of hills called Tauwharepukoru (also referred to as Te Wharepukoru) that was located nearby." This was why a mistake was made labelling the site as Tauwharepokuru. We agree that Tauwharepokuru was a point used in the Gazettal of the Awarua Block in 1886, as it is located on the boundary between Awarua 1 and Awarua o Hinemanu. We also agree that it is a well-known place name and is within the Mokai Patea rohe.

CROWN QUESTIONS OF CLARIFICATION FOR DR TAU AND DR FISHER

Crown Question 1

1. You state “The shared whakapapa is undeniable, but the descent from a specific tupuna is certainly open to debate.” (main report at p 4 and p 1 of summary).

Questions:

- 1(a) How would you characterize the nature of that “debate” (ie is it evenly balanced between the options or, in your expert opinion, is one view more credible or more tenuous)?

The view of Taraia II and Punakiao’s rights as distinct and separated by the Ruahine range is supported by more evidence.

- 1(b) Do you consider there is a degree of tension between the matter being “certainly open to debate” and your statement (in both your summary and main report) that “From the material that is available, it was difficult to find direct evidence of a specifically Punakiao-derived Ngāti Hinemanu right or a separate Ngāti Paki occupation of the area that is now known as the Kāweka and Gwavas CFL lands.”

There is a degree of tension but nothing is absolute when limited material is available.

Crown Question 2

2. At the bottom of page 4 of your summary you state “Ngāti Hinemanu me Ngāti Paki currently emphasise that the marriage of Punakiao and Taraia II signified a merging of interests rather than their separation symbolised by the Ruahine range.”

Questions:

- 2(a) Are there any documented sources or other customary norms from this region to support this view?

As we noted in the report and summary this is the view of Ngati Hinemanu me Ngati Paki. We could not locate any documented sources to support this view.

- 2(b) To the extent it is an accurate description of the evolution of rights in this area (ie merging through that marriage), on what basis then is it claimed that Hinemanu ki Heretaunga interests are separate to those merged interests?

You would have to ask the Ngati Hinemanu me Ngati Paki claimants that question as it is their view of the evolution of rights.

Crown Question 3

3. You note “In the Native Land Court Te Whaaro claimed through a number of different hapu and iwi including: Ngāti Hinemanu, Ngāti Hauti, Ngāti Whiti, Ngāi Te Ohuake, Ngāti Paki, Ngāi Te Ngāhoa, Ngāi Te Ngaruru, Ngāti Haukaha, Ngāti Kautere, Ngāti Hau and Ngāi Te Rangi. Ngāti Hinemanu, Ngāi Te Ohuake, Ngāi Te Ngāhoa and Ngāti Paki were the most commonly used iwi and hapu affiliations” (eg at summary p 5). In your main report at pages you list the various lines he identified through but seem, at 33/34 to place stronger emphasis on Ohuake (eg “with Te Ohuake as a fairly consistent ancestral base” P 33; “What appears most consistent in his claimed descent lines in the NLC are his claims through the tupuna Ohuake.” P 34).

Questions:

- 3(a) Is any difference in approach intended (or is this simply the shifting between Ohuake as iwi in one context and in a list of all interests in the other)?

Simply the shifting between Ohuake as iwi in one context and a list of all interests in the other.

- 3(b) If a difference is intended, why?

Difference was unintended, just a list of all interests provided in the summary.

Crown Question 4

4. In your conclusion you state “Evidence of specific discussions of the name Punakiao were not present in the Kāweka and Gwavas CFL lands in terms of claims to the land, but her children and their descendants were a key part of most blocks involving Ngāti Hinemanu, Ngāi Te Upokoiri, Ngāti Honomokai and Ngāti Mahuika particularly” (main report page 189 and page 8 of your summary).

Questions:

- 4(a) Can you confirm that these children and descendants (including Winata Te Whaaro) were also descendants of Taraia II?

Yes they were also descendants of Taraia II.

- 4(b) Is there anything in your research or documentation you’ve located to indicate whether those descendants (prior to these proceedings) attributed their interests in these lands as having derived from Punakaio rather than Taraia II?

No.

Crown Question 5

5. You note the absence of Pouwharekura in the HTT settlement claimant definition (eg main report at p 6).

Questions:

- 5(a) Do you accept that Rakaihikuroa was the father of Taraia I and great grandfather of Taraia II?

Yes.

- 5(b) Do you have any knowledge of whether Pouwharekura is regarded in the HTT claimant community as adequately represented by wider hapū?

You would have to ask the HTT claimant community.

- 5(c) Is there any evidence that Pouwharekura interests were derived from Punakaio?

No evidence that we have seen.