

**KI MUA I TE ROOPU WHAKAMANA
I TE TIRITI O WAITANGI**

**WAI 2490
WAI 354**

MO TE TAKE O

Te Ture Tiriti o Waitangi 1975 (kua whakawhitia)

ME

TE TAKE O

Te Paparahi o Te Raki Inquiry

ME

TE TAKE O

a claim by **Arapeta Wikito Pōmare Hamilton** on behalf of **descendants of Pōmare II and members of the Ngāti Manu, Te Uri Karaka, Te Uri o Raewera and Ngāpuhi ki Taumārere tribes (Wai 354)**

FOURTH STATEMENT OF EVIDENCE OF ARAPETA HAMILTON

Dated this 10th day of November 2014

RECEIVED Waitangi Tribunal
10 Nov 2014
Ministry of Justice WELLINGTON

Kathy Ertel & Co.
Barristers & Solicitors
26 Bidwill St
Mt Cook
Wellington, 6021
Ph: 04-384-1148

Fax: 04-384 1199
Persons acting: Annette Sykes

MAY IT PLEASE THE TRIBUNAL

1. **Te Tuakiri te Mana Whenua**

- 1.1 My name is Arapeta Hamilton of Opuā, Taumārere. This is the 4th statement that I have placed before this Waitangi Tribunal with respect to our challenge to the mandate that the Crown seeks to confer upon Tūhoronuku.
- 1.2 I am authorised to make this statement for and on behalf of my people of Ngāti Manu, Te Uri Karaka and Te Uri o Raewera (Wai 354 and Wai). There are further claims that are being pursued within the Northland Inquiry District of the Waitangi Tangi tribunal that have been filed on behalf of Ngā Uri ō Pōmare II and Ngāti Rongo o Mahurangi that may have application in considerations that are to be the focus of this Urgency Inquiry. I have been mandated to speak on our behalf by all of the above groups. I attach herewith marked with **Appendix “A”** confirmation of that mandate.

2. **Kō wai ā Ngāti Manu?**

- 2.1 I have previously presented extensive whakapapa to the Tribunal showing our main descent line from our ancestor Ngamanu and his mokopuna Tohe. It was he who travelled from Muriwhenua to Maunganui to see his mokopuna, Te Raninikura, and it was he who died at Ripiro Beach. His eyes were eaten by a bird, and so we take our Ngāti Manu name from Ngāmanu, and also from the bird that ate Tohe’s eyes. Both of these stories confirm that we have carried the Ngāti Manu name for centuries.
- 2.2 It is acknowledged extensively by Maori historians that we, Ngāti Manu are *he iwi tawhito no Te Taitokerau* (an ancient people of Northland). Contrary to popular Ngāpuhi opinion, our main whakapapa lines are not dependent upon a descent from Rāhiri. However there has been intermarriage with the descendents of Rāhiri, (especially in the Bay of Islands area) with Ngāti Rāhiri, Ngāti Hineira of Taiamai, and Ngāti Rangi of Tautoro.
- 2.3 Our whakapapa lines have also merged with marriages with other ancient Iwi of the mid and coastal Bay of Islands area, such as Ngāti Rangi, Ngai

Tu, Te Ngare Raumati, Ngai Tāhuhu and Ngāti Tu. It is from these political marriages that Ngāti Manu gained land rights from Hokianga to the Bay of Islands specifically at Waimatenui, Otuaa, Tautoro, Kohewhata, Taiamai, Pouerua, Orauta, Taumārere, Opuā, Otuihu, Okiato, Te Wahapu O Rongo and Kororareka.

3. **Mana Motuhake o Ngāti Manu**

- 3.1 Our Ngāti Manu ancestors have always maintained their own Rangatiratanga. This has been clearly evidenced through the early records, and is well documented in the various historical research projects produced by the Waitangi Tribunal as the evidential basis for the Northland Inquiry District. They were never subordinate to any other Hapū or Rangatira within Ngāpuhi .
- 3.2 Ngāti Manu have also fiercely maintained their own independence and authority. It is this very real tradition of Ngāti Manutanga, a tradition which encapsulates our independence and autonomy that we now present before the Tribunal for your careful deliberation and adjudication.
- 3.3 Assertions of our independence have not been confined to a historical context either. In the modern context of Treaty Claims and settlements we have consistently sought to assert our own Mana Motuhake.
- 3.4 Ngāti Manu have not tolerated any attempt to takahi (coerce or disrupt) our Rangatiratanga and mana whenua, whether it be by the Crown, local or regional Government, any rūnanga or any other Hapū.
- 3.5 This is clearly evidenced by our:
 - 1) withdrawal from Te Rūnanga-ā-Iwi o Ngāpuhi in 2010, due to dissatisfaction with the way the proposed settlement structure was to be established and operated which negated our Ngāti Manu Rangatiratanga. We attach herewith confirmation of that withdrawal marked as **Appendix “B”**;

- 2) opposition to various activity in our traditional territories which have resulted in appeals to the Environment Court regarding our wāhi tapu at Okiato; We attach herewith confirmation of those matters with material marked as **Appendix “C”**; and
- 3) current appeal against the Opuā Marina extension in Te Awa tapu ō Taumārere. We attach herewith as **Appendix “D”** a variety of material to illustrate the efforts our people have gone to in this appeal process to assert our ongoing responsibilities of kaitiakitanga and to ensure that those taonga that are under our stewardship are properly protected

4. **Te Tiriti ō Waitangi**

- 4.1 Our Ngāti Manu tūpuna Pōmare was also a signatory to Te Tiriti-ō-Waitangi. It is important to note that Pōmare signature was not appended to that sacred covenant until 17th of Feb 1840. The majority of Ngāpuhi from the Bay of Islands had signed on Feb the 6th. This separate signing ceremony is very indicative of the way my tūpuna have always acted. Just because the whole of Ngāpuhi might go down one path doesn't mean to say Ngāti Manu is going to follow suit. Significantly the Crown recognised at that time that it was important for the assent of Pōmare and his iwi to the covenant if it was to have any measure of acceptability to the peoples of Kororareka
- 4.2 In 1987 when the Tainui Express came to protest at Waitangi Feb 6th, Ngāti Manu hosted them at our Marae in Karetu, and fed the Express train at Taumārere. This was against calls from various Hapū of Ngāpuhi who asserted questions such as, “why are you hosting those radicals?” The answer to this question endures to this day and is relevant in the present context with respect to the ongoing importance of Te Tiriti ō Waitangi to protect assertions of tino rangatiratanga. We are our own Rangatira and we will do as we please in our own backyard. If we want to extend manaakitanga to our whanaunga from Tainui-Waikato then we will do that.

5. Tūhoronuku , he Kararehe o Te Karauna

- 5.1 The first Tūhoronuku meeting in the Bay of Islands was held at Waikare Marae on Tuesday the 3rd of June 2014. It was the only Tūhoronuku meeting I attended. It became very obvious to me that the structure being proposed by Te Runanga-a-Iwi o Ngāpuhi usurped the mana and tapu of the Hapū of Ngāpuhi. Like the process that was adopted for the devolution of fishing assets that was implemented in Northland where the assets would become locked up in a central Ngāpuhi structure the proposal that was being promoted once again was based on a central organisation purportedly acting in a representative capacity for selected Hapū. Ngāti Manu has actually received no distribution of benefits from the Fisheries model of settlement and certainly nothing at the marae and Hapū level which desperately require support for their activities mostly promoted to protect our meagre fisheries resources.
- 5.2 It was at that hui that I voiced my concerns and asked Mr Tau, “*Kei hea te Mana me te Tapu o nga Hapū i roto o Tūhoronuku?*” The answer I received back from him was perfunctory and that it was all there in the Tūhoronuku structure. This is something I did not see then, and am not able to see now.
- 5.3 From that meeting I knew that Tūhoronuku was not going to be suitable for Ngāti Mānu. I have watched the Tūhoronuku process evolve over time, and the developments that have accrued do not even vaguely reflect the needs and preferences of Ngāti Manu or indeed a number of Hapū that are affected by this proposal.
- 5.4 Various representations have been made at hui and in writing by nominated spokespeople for Ngāti Manu but again our position has been ignored and we suggest wilfully denied. I append herewith **Appendix “E”** setting out some of the relevant correspondence that has passed between Ngāti Manu and the Minister of Treaty of Waitangi Negotiations in this regard.

5.5 In this respect I refer the Tribunal to the Statement of Evidence of Mr Phillip Bristow dated the 7th day of November 2014 which has relevant correspondence on this point also.

5.6 When we met with the Office of the Treaty Settlements on the 3rd of September 2014 at Karetu Marae Ngāti Manu again reaffirmed our continuing position. I said to Mr Nigel Fyfe and his party; “Ngāti Manu has waited 174 years for the Crown to rectify the wrongs. If need be, we will wait another 174 years to settle it.” The position that Ngāti Manu asserts is that we will not be pushed into a settlement process that we do not agree with.

6. **Withdrawal from the Tūhoronuku process and Crown interaction**

6.1 Following the presentation of evidence in the Mahurangi Sub District of Northland Inquiry District of the Waitangi Tribunal Ngāti Manu wrote a letter to the Minister of Treaty Settlements Chris Finlayson setting out our concerns on the way in which our process of withdrawal from Tūhoronuku had not been adhered to and reiterating our earlier position. This was very important given we had made it very clear in our evidence in the Northland Inquiry of our independence from Tūhoronuku ; Te Kawerau a Maki and Ngāti Whātua who were all claiming overlapping interests in our territories and over specific claim matters.

6.2 In his reply to us the Minister implied that the process that Tūhoronuk had undertaken over the two years was far more robust than what we had done. The question must be asked, why is it necessary to withdraw from a process when Ngāti Manu are not part of that structure or process, and have neither evidenced any intention to ever being part of it.

6.3 At our meeting on the 3rd of September 2014 with Mr Fyfe and his party from The Office of Treaty Settlements, I asked Ngāti Manu, do you want to go under Tūhoronuku? The reply was a unanimous no. I stated to Mr Fyfe and his colleagues:

6.3.1 “On our Marae, in our sacred house, in front of the photos of our ancestors, the house of Ngāti Manu says no! That is as robust as you and your Minister are going to get it from Ngāti Manu. If the Minister wants anything more than that, then he is going to have to put up more resources so we can achieve that.”

6.4 Unfortunately, the OTS did not outline the withdrawal process at all during that Hui, even though they knew we were waiting to hear it. This leads me to ask the question, is there really a withdrawal process at all? Or is it a figment of someone’s vivid imagination? I say this because at this stage I have not seen one policy or procedural guideline from the Office of Treaty Settlements stipulating the correct manner in which withdrawal ought to be constituted.

7 Te Rautaki o Tūhoronuku me ōna hapa

7.1 Ngāti Manu assert the election process which we did not take part in is flawed on a number of fronts. Within our area of Te Pewhairangi there are approximately 15 Hapū (please note there may very well be more), spanning from inland Ngāti Hine to Ngāti Manu at Taumārere and Karetu, Te Kapotai and Ngāti Pare at Waikino, Waikare out to Patukeha and Ngāti Kuta at Rawhiti, across to Ngāti Rāhiri at Waitangi, over to Ngāti Rēhia at Te Tii, Ngāti Torehina at Whare Ngaere and to Te Hikutu at Kaihiki.

7.2 Each of those Hapū has to have a voice in any process of representation and must therefore be given the opportunity to articulate the thoughts of their Hapū and Marae through-out any negotiation and settlement process. Yet when you examine the advice given to the Crown many of these Hapū have been deemed as no longer in existence.

7.3 This is one of the most concerning suggestions is that our people of Ngāti Manu have effectively suffered a cultural genocide by the processes employed in this mandate exercise.

7.4 Forced assimilation of Ngāti Manu Identity

7.5 Ngāti Manu further assert that if it's good enough for these same Hapū and Marae to present their many grievances to the Crown via an Inquiry process governed by the Treaty of Waitangi Act and founded on the principles of independence affirmed in Te Tiriti o Waitangi itself, then we all need to be part of the process of settling our claims. That is what Rangatiratanga is about. It is not about being forced to abdicate your Hapū voice and autonomy, and then transfer it to some other entity or legal personality created by the Crown to further its own policy objectives of settling all Treaty Claims before a certain cut off date.

Tūhoronuku lacks legitimacy

7.6 I say this because Tūhoronuku is effectively a European construct with a Māori name that fails to take account of significant relevant considerations in Tikanga Maori practice such as Mana, Rangatiratanga, and Tapu if we just look at its operation since its inception.

Individualisation of Collective Rights and Responsibilities

7.7 Being a kaikōrero in the Waitangi Tribunal process does not necessarily mean that you are the person who has the mandate to talk for your Hapū. You might very well be a whanau spokesperson who is a knowledge keeper, but that does not translate to you being the appropriate person who has the negotiation skills to settle a Hapū claim.

7.8 What we have seen under the adhoc processes in claimed Tūhoronuku Elections is individuals putting their names forward in without a clear written Hapū mandate supporting them.

7.9 In our Ngāti Manu situation, it was broadcast loud and clear amongst our own people that we were not participating in the Tūhoronuku process. As a consequence no one stood to represent us on Tūhoronuku. It was clear by all representations to the Crown that we wished to explore other options with

the Crown to settle our extensive land claims from Mahurangi in the south to the Bay of Islands and mid-northern areas.

Lack of robust transparent or accountable process

- 7.10 Ngāti Manu questions any assertion that Tūhoronuku has been robust in its participation and engagement with Ngāti Manu. The attributes described by Minister of Treaty Settlements Mr Finlayson to the Tūhoronuku mandate has certainly not been evident at all to Ngāti Manu in the numbers turning out for Hapū kaikōrero and the kūia kaumātua elections hui that were held across the motu. The turnout at those hui was abysmal. It does however show that Tūhoronuku assertions when assessed independently a completely farcical and illustrate clearly that the organisation does not have the support of a marginal majority of the 120,000 or more Ngāpuhi members, let alone a convincing majority to substantiate its existence.
- 7.11 By way of example in the Elections that are relied upon to assert a mandate having been conferred to Tūhoronuku it is evident that only a mere 5355 people voted out of an estimated population of 120,000 that was eligible to participate in elections. This is even lower than the number who purportedly voted for Tūhoronuku right at the beginning of the process.
- 7.12 Surely the Crown realises that this charade is not to be tolerated any longer. Looking at the vast sums of money that have been provided by the Crown to Mr Tau and his group Ngāti Manu really have to question whether value for money has been achieved by such an action.
- 7.13 In terms of Hapū Kaikorero as identified in the Crowns documents, out of a total number of Hapū of 110, only 46 have Hapū Kai-kōrero identified. This means that 64 hapū don't have representation. To clarify the point, that means that the majority of Ngāpuhi don't have representation on Tūhoronuku. I would like for the Crown to please note that this includes Te Uri Karaka Hapū, who is very much alive and well in 2014 so please reactivate us and delete us from your moa list.

Te Rore Kiore

7.14 From what has been observed in relation to the Minister and his OTS Officials in their correspondence, it seems as if they have fallen into what we call *Te rore kiore* paradigm (a snare skilfully crafted to catch rats).

7.15 As I have said before, the majority of Ngāpuhi don't want to be part of Tūhoronuku so let those who abstain carry on to pursue their own settlement process, and let those few that do support it stay with it. The dictatorial stance employed by the Crown and Mr Tau which is a "you will do as I say" attitude, is simply not going to be tolerated, especially by Ngāti Manu and its Hapū of Te Uri Karaka and Te Uri ō Raewera.

8 Ngāti Manu is a large and natural grouping

8.1 Ngāti Manu and its Hapū conservatively number about 10,000 people. This was the estimate in the late 1980s so the increase from that period to now could be as high as 20,000. The majority of our younger people are now located overseas and our mokopuna are now living and being brought up in foreign countries. We have approximately a population of 3000 still located around the Northland area with a larger number living in the Auckland region.

8.2 As our demographics grow each year and our Hapū increases in size we need to begin the process of maintaining our Ngāti Manutanga in a global world and increasing our capacity to communicate with our people wherever they are. We do not have branding issues like Tūhoronuku our people identify as Ngāti Manu. It is more about ensuring we have an engagement process to communicate with them.

8.3 Ideally we would like to develop a data base of our Ngāti Manu people but with limited resources this becomes very problematic for us. However we will not compromise our Rangatiratanga to chase a few Crown dollars.

9. Conclusion

- 9.1 The Crown currently has the experts and the resources to complete a logistical break out of the total Ngāpuhi claims for every Hapū within Ngāpuhi. This reluctance to venture down this pathway seems to be based more on political expediency and bureaucratic nonsense.
- 9.2 Just as in 1840 there was no large Ngāpuhi blanket that covered everyone so it is today each of our Hapū and marae are not covered or even looked after by Te Runanga a Iwi o Ngāpuhi or by Tūhoronuku either. So the Crown really needs to wake up and stop trying to ensnare the rest of us in Te Rore Kiore ma nga kiore.
- 9.3 Let Ngāpuhi Hapū and whanau make the decision of whether they want to proceed in pursuing their own destiny away from the Tūhoronuku snare and settling their claims in their own right. This notion of Ngāpuhi as one entity is a European construct. We are Ngāpuhi kōwhao rau and fiercely proud of our diversity and identity. While we applaud the Crown's desire to settle the myriad of claims against it this should not be at the expense of our own Hapū that wish to retain their own Rangatiratanga and settle their legitimate claims with the Crown in their own way. The Crown must begin to display a more positive attitude in developing a matrix of multi-layered settlement.
- 9.4 As my Tūpuna Pōmare II said in the 1840s

Pupuhi te hau te paura o te Pū

Gunpowder can be blown away by the Wind

Pākarukaru ngā kōhua rino

Iron pots can be broken

Tawhewhe ngā paraikete whero

Red blankets become threadbare

Ēngari toitū te whenua

But the land remains forever

Dated at Rotorua this 10th day of November 2014



Arapeta Wikito Hamilton
Wai 354