

IN THE WAITANGI TRIBUNAL

Wai 2490

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Ngāpuhi Mandate Inquiry

**BRIEF OF EVIDENCE OF DR TERENCE DOUGLAS LOMAX
DATED 13 NOVEMBER 2014**

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I, Dr Terence Douglas Lomax, state:

Introduction

1. I am a great great grandson of Moetu Te Hura (Moetu Tauī / Rebecca Falkiner) of Ngawha. Moetu Te Hura was a great great great granddaughter of Pito, who was a descendant of Motuiti and Rangapu, the tupuna for Ngāti Korohue.
2. I am an Analyst working at the Northland Polytech.
3. I am the Mandated Hapū Kaikorero ("MHK") for Ngāti Korohue.
4. I am a claimant with Gil Parker for Wai 862 (Ohaeawai and surrounds).
5. I am principal claimant for Wai 605 (Te Waimimiti Block).
6. I provide this evidence in support of Tūhoronuku because I think it is the only process currently available that that can lead to a beneficial settlement for Ngāpuhi.
7. At the beginning of this process, I did not support Tūhoronuku. I was originally not of the opinion that a centralised settlement would deliver benefits to the claimants. Over a long period of time I've started to see that the longer term view of how those benefits are going to be administered is really important for the outcome, and that there are problems with hapū based settlements in this regard.
8. I think that my story is therefore important, because it relates to how Tūhoronuku conducted its mandating process, the concessions and changes it made, how those changes affected my opinion and made me (and others) think it was better to participate in the Tūhoronuku process, and how that participation has made me sure that participation is the correct decision for my hapū and Ngāpuhi nui tonu.
9. I now support Tūhoronuku. In particular, I wish to give evidence on the following issues:
 - (a) the benefits of the single settlement model, and the ability of Tūhoronuku to represent all of Ngāpuhi;
 - (b) the robustness of the Tūhoronuku process, the changes Tūhoronuku has made, and how this led to me changing from opposing Tūhoronuku to supporting it;
 - (c) the fact that the Tūhoronuku model is tika, and the historical support and precedent for a Ngāpuhi wide body speaking for Ngāpuhi as a whole (the Māori Parliament); and
 - (d) the benefits of a single entity being the PSGE, and how this supports the idea of a single settlement.

My background

10. I am principal claimant for Wai 605 (which was put in in 1996, and specifically deals with the Te Waimimiti Block (Remuera Settlement)). Nineteen kaumatua and kuia from Ngawha Marae signed the claim agreeing for it to go forward. On that basis I have pursued the claim process for 18 years on behalf of the hapū of Ngāti Rangī, Ngāti Kiriahi, Whānau Wai and Ngāti Hine with respect to the Wai 605 claim. Ngāti Korohue are intimately involved in the Wai 605 claim.
11. I have the whakapapa for this role:

Motuiti = Rangapu; Weu = Uenuku; Pito = Rauahine (of Ngāti Rangī); Kahuru = Te Kauri (of Ngāti Rangī); Puketapu = Te Kau; Kou = Nuiroa; Monika Te Hura = Tauī; Moetu Te Hura = Charles Falkiner; Laura Falkiner = William Ludwig; Frederick Ludwig = Helena Mason; Douglas Lomax (Ludwig) = Maureen Broady; Terence Lomax.
12. Tamati Pukututu (Puketapu) signed He Whakaputanga "No Te Uri o Hawato". His sons Kou and Kahi had mana whenua over the lands at Ohaeawai in the 1860s; Kou was also an assessor appointed by Governor Grey's government.
13. I grew up in the central North Island and then the North Shore of Auckland knowing nothing of my family history. I knew my grandfather's surname only. In 1977 I was starting a PhD in chemistry at Auckland University and running out of money because my family was poor and I had no support. I told my supervisor that I was going to have to leave. My supervisor, Professor Charmian O'Connor, checked with me that I had Māori ancestry, and arranged for me to have a talk with Dr Pat Hohepa. Dr Hohepa arranged for me to attend a meeting two weeks later where Sir James Henare and Māori Marsden and another man recommended me for one of the first Māori Education Foundation Fellowships. Their response to Pat's answer about who my family was so surprised me that the first thing I did after completing my doctorate in 1983 was to start researching that family. It took me until 1995 working through court records to work out the my family ancestry.
14. I found that my ancestors kept on dying at a young age, and the children were essentially dispossessed of their significant land inheritances because of a failure of the Māori Land Court to ensure that all those who were entitled were included in relevant land title. The Court left it up to the family to decide who would inherit the land (the family has come to an arrangement!). I therefore know how hard it is for someone who knows nothing to find their way back to hapū and iwi, and what dispossession feels like.
15. I also have quite a lot of experience in carrying out research and ensuring good process. I have been a Senior Lecturer in a university, an Information Manager for the Māori Land Court, an Authority Member for the Environmental Risk Management Authority (EPA), a Principal Analyst for a government agency, and I am now working as a Business Analyst for a polytech. The skill sets I acquired and experiences I have had are why Gil Parker thought that I would be able to effectively represent Ngāti Korohue interests.

16. The decision to nominate me was made at a hui with Hinerangi Heimoana, Hone Mihaka and Gil Parker. The discussion prior to nomination included the necessity or otherwise of participating in the Tūhoronuku process. We jointly decided that it was important to participate to ensure that our various hapū were not left out. Gil Parker is a respected kaumatua for Ngāti Korohue. Because I was asked by a man who had my respect and a longstanding hapū mandate, and because I thought it important to participate, I agreed to the nomination. Because there was no other nomination, I was elected unopposed. Had I not agreed to the nomination, Ngāti Korohue would probably have had no representation.

Benefits of the single settlement model

17. I fully understand the angst that goes with a claim. I have waited for 18 years to have my claim heard, and I have worked through a full gambit of emotions about the dispossession and lack of justice. I understand the wish of claimants to see recompense for the Crown's actions appropriate to each individual claim – I have been in that place myself.
18. However, I have come to realise that there is a larger view. As claimants, we are not only seeking recompense for those we know – we are also seeking recompense and settlement for those who were so badly impacted by the loss of land and family structure that they currently do not know how to find their way back to whānau, hapū and iwi. For natural justice reasons, part of any settlement process has to address what provision is required to those who as yet haven't found out who they are. I was in that position, and I understand how difficult it can be to find out where one belongs.
19. The primary demographic for Ngāpuhi is one of youth, dislocation, disenfranchisement and poverty. It is also of membership of multiple hapū and widespread families. It has been my experience that approaching hapū for information about family is often not an illuminating experience. My experience has been that "those who have" can fail to disclose to "those who have not" pertinent information either because they simply do not know of anything other than their immediate lines of descent, or are unwilling to assist those who do not have good information.
20. For most people the only way to find and rebuild one's relationship with hapū and iwi is to dig slowly and comprehensively through court records, a process that takes years and consumes effort that for most people would be better spent on participating in normal life. Many are not up to the effort and dedication required. I was lucky – I had a considerable training in research methods, and it still took me many years of dedicated effort.
21. I have also found out that if one is not on someone's mailing list, then one simply doesn't find out about hapū-based meetings. If one lives outside Northland, then it is generally not possible to attend meetings, or to participate in claimant processes. I recently moved to live in Northland. Until then the Tūhoronuku process was the only one that was accessible to me.

22. It has also been my experience that obtaining any benefit from hapū based trusts is almost impossible. Despite my family not being Ngāti Hine, and Ngāti Hine Forestry having the management of Motatau 1A8, a block that descends from Tupuarangi of Ngāti Rangī, my family has never obtained any benefit from that Trust. My family has also never had any benefit from Te Horo Te Orewai Trust.
23. Whilst acknowledging the importance of whānau and hapū should there be a hapū-based settlement I fear that it is unlikely that my family will obtain any benefit because they have been dislocated and are "not known".
24. What is required is a fair and equitable outcome not only for those who have retained some of their lands and family connections, but also for those who are "lost". It would be my assertion that a hapū-based settlement is likely to ensure that any settlement will benefit only a small number of families, and auditing how fairly the settlement is distributed is likely to be an impossible task.
25. There needs to be a larger view that also takes into account the need to remedy the poverty and social dislocation the Crown's actions have created. Those families who are isolated from iwi and are socio-economically disadvantaged are also those families who are likely to suffer from gendered domestic violence which indigenous studies in Canada have indicated is an outcome of Crown colonisation policies.
26. A centralised process enables those who have lost contact and knowledge to be a part of Ngāpuhi and its settlement because there becomes a central point of contact for those who simply don't know their ancestry.
27. The Tūhoronuku process offers that possibility of addressing some of those issues because it offers the possibility of a centralised, auditable, participatory outcome that enables issues such as inter-hapū and socio-economic complexities to be addressed on an ongoing basis. I do not believe that settling claims on an individual basis will have the outcome of dealing with the larger social issues.
28. I think that it is important that those who were most negatively impacted by Crown policies have an outcome from any settlement. I believe that after the recent changes that have increased hapū representation, Tūhoronuku is more likely to achieve an outcome of benefit to ALL of Ngāpuhi than simply distributing settlements to claimants.

Robustness of Tūhoronuku process, and my changed position

29. I originally opposed the Tūhoronuku process because I thought the benefits would be captured by a small group of families. From what I could see, Sonny Tau and others in Te Rūnanga Ā Iwi O Ngāpuhi ("TRAION") held all the decision-making power and would have controlled the distribution of any settlement. Since then, Tūhoronuku have separated from TRAION, separated the Post-Settlement Governance Entity ("PGSE") from Tūhoronuku, increased the hapū representation, and made the selection process far more transparent. When the new changes came into force in June, Tūhoronuku

attempted to meet earlier timelines by shortening the notice period for elections to the board.

Tūhoronuku is responding to criticism

30. Moana Tuwhare, myself, and others complained about the potential breach of the Trust Deed in relation to MHK processes. In response, Tūhoronuku extended the notice period to ensure the process was robust. I now believe that Tūhoronuku intends to ensure that it has a properly representative structure with transparent and robust processes. The existing MHK representatives and board have already instituted changes to the election processes to make them more robust and to increase the involvement of hapū who are currently not represented.

Voicing of Opposition

31. I attended several of the Tūhoronuku hui, one in the Hutt Valley, where I was residing at that time, and one in Kaikohe after I moved to Northland in late 2013. I was able to attend these meetings because they were well advertised. In Wellington, I spoke against the flaws I saw in Tuhoronuku. Ngāti Hine were present. Erima Henare and Hone Harawira both attended the hui. In Northland, I criticised the process for communicating with iwi members. Members of Ngāti Hine were also present. From my experience, I reject the contention by some claimants that opponents were not allowed to voice their opposition at those meetings.

Historical precedent supports the Tūhoronuku model

32. Te Kotahitanga has suggested Tūhoronuku is not in accordance with Tikanga. I reject that. There is evidence of a similar body, supported by Ngāti Hine tupuna, that spoke for all of Ngāpuhi. This was the Te Kotahitanga Māori Parliament of 1892. Pene Tauī, Raniera Wharerau and Hapukuku Moetara were the men who collected the signatures. Heta Te Haara chaired the first meeting in April 1892 which formed Te Rūnanga o Te Kotahitanga mo Te Tiriti o Waitangi which led to the Māori Parliament later in 1892. Maihi Kawiti supported this body, which had a structure similar to Tūhoronuku, with an Upper House (Whare Ariki) and Lower House (Whare o Raro) - that is, a board and hapū representatives. The initial hapū representatives are listed in "Nga Korero o Te Hui o Te Whakakotahitanga I tu Ki Te Tiriti o Waitangi", published by Wiremu Makura, Akarana. The document exists in the Hocken Collection. The last in the list of five hapū representatives for Ngāpuhi Pewhairangi is Maihi Kawiti.

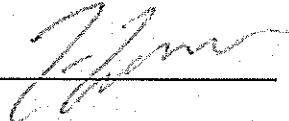
Benefits of a single entity PSGE

33. I realise this proceeding is about whether Tūhoronuku has the support of Ngāpuhi. I have addressed that above in relation to my changed position, and the benefits of a single settlement model. But this issue of a single body is also important to consider for the future.
34. There has been an ongoing saga of failures of organisations post-Treaty settlements. There have been several recent examples of trusts that have failed to comply with statutory processes or that have

failed to distribute benefits past the governance and management structure. I do not wish this to be the Ngāpuhi story.

35. It is important therefore that there be an ongoing audit of both the processes and finances of any PGSE that is established. There needs to be a strong governance, and effective oversight of decisions made and management processes. There is a need for those who are unsure to easily engage with iwi. There needs to be a robust process for ensuring equity and fair outcomes. Ensuring these outcomes will be far easier with a single body that is subject to Crown audit.
36. I believe that people are starting to see the possibility that both the claimant process and the preparations for negotiation can exist side by side. They are not mutually exclusive. Irrespective of who represents Ngāpuhi in any negotiations, the preparation work will still be required. For that reason I support the Tūhoronuku model.

Dated 13 November 2014



Dr Terence Douglas Lomax