IN THE WAITANGI TRIBUNAL

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

a claim by Frank Rawiri and Bobby Newson on behalf of themselves and Nga Tauira Tawhito o Hato Petera

Brief of Evidence of Frank Rawiri

Date: Tuesday 3 June 2014

TamakiLegal
Barristers & Solicitors

10 Stratford Road, Manurewa, Auckland
PO Box 75517, Manurewa, Manukau, 2243, Auckland
P. 09 286 2927
E. darrell@tamakilegal.com

Counsel Acting: Darrell Naden/Jessica Frame
MAY IT PLEASE THE TRIBUNAL

Introduction

1. My name is Francis (Frank) Rawiri. This urgency claim is made on behalf of myself, the named co-claimant Bobby Newson, and Nga Tauira Tawhito o Hato Petera ("Nga Tauira"), the Wai 1385 claimants of the Te Paparahi o Te Raki District Inquiry. I gave evidence to the Waitangi Tribunal at Hearing Week 7 of Stage II of this Inquiry.

2. Nga Tauira have authorised me to present this evidence. We do not wish to be represented by Tuhoronuku, and will be prejudiced by the Crown settlement with Tuhoronuku. We are entitled to the guarantees and protections afforded by Te Tiriti o Waitangi. We want to see our claim completed before the Waitangi Tribunal and our grievances addressed by the Crown independently of Tuhoronuku.

3. Nga Tauira are unique in that we are not tribally based.

4. Nga Tauira is a pan tribal organisation made up of affiliated Catholic Maori and other Maori from around the country who share an allegiance to Hato Petera College. Nga Tauira formed and registered the Nga Tauira Tawhito o Hato Petera Trust Board as a charitable trust on 2 September 2002 for the purpose of acting on behalf of and advocating for the education of Nga Tauira. We number approximately 1200. I was chosen to represent Nga Tauira for our Treaty claim because I am an old boy and have been actively involved with the College since 1995. I was a trustee of Te Whanau o Hato Petera Trust from 1995 until my recent resignation this year. From 2000 until 2010 I was Chairperson of the Trust.

5. The Wai 1385 claim currently before the Waitangi Tribunal as part of the Stage II Te Paparahi o Te Raki Inquiry is not a mana whenua claim and I have reiterated this to Waitangi Tribunal. Our Treaty claim concerns the 376 acres awarded in trust by way of a Crown Grant to the Catholic Church in 1850, and the subsequent maladministration of that land.
6. Many years of research and effort have gone into the preparation of our Treaty claim. It has been a long process spanning over a decade. We made the decision to investigate the Crown Grant at the College's 75th jubilee in 2001, and began commissioning research in 2003, culminating in Morehu McDonald's 'Hato Petera College Research Report'. As a result of this research we registered our Wai 1385 Treaty claim in 2007. In Hearing Week 7 of the Stage II Te Paparahi o Te Raki, our evidence was presented before the Waitangi Tribunal. We wish to exercise our right under the Treaty of Waitangi Act 1975 to seek a finding from the Tribunal on this evidence and to negotiate redress from the Crown accordingly.

7. This brief of evidence is accompanied by an application for an urgent hearing in relation to the Crown's 2014 decision to recognise the Tuhoronuku Deed of Mandate.

The Tuhoronuku Mandate

8. In 2008 at the Annual General Meeting for Te Runanga a Iwi o Ngapuhi ("TRAION"), the sub-committee Te Roohpu o Tuhoronuku ("Tuhoronuku") was formed. As I understand it, the main purpose of the establishment of Tuhoronuku was to explore settlement options for Ngapuhi Te Tiriti o Waitangi claims.

9. In 2009, Tuhoronuku entered into discussions with the Crown, focusing on seeking a Deed of Mandate from Ngapuhi to enter into direct negotiations with the Crown, to be centred on achieving a single, comprehensive settlement for all Ngapuhi Treaty of Waitangi claims. The settlement area as described in the Tuhoronuku Deed of Mandate includes the area covered by the Nga Tauira Tawhito o Hato Petera claim.

10. In January 2011, the Crown endorsed the Tuhoronuku Deed of Mandate Strategy and called for public submissions.

11. In September 2011, a ballot vote confirmed 76.4% of Ngapuhi who voted decided they were in favour of the Tuhoronuku Mandate. Amendments were made, and in July 2013, the Crown called for public submissions on
the amended mandate. The amended mandate continued to include Nga Tauira.

12. 63% of the submissions opposed the Tuhoronuku Mandate.

13. Despite this opposition, on 14 February 2014, the Crown officially recognised the Tuhoronuku Deed of Mandate, which continues to include Nga Tauira.

14. On February 17 2014, Minster Finlayson advised those who want to withdraw from the Tuhoronuku Mandate that their efforts will have to be as robust as those that led to the Tuhoronuku Mandate. The Crown has funded Tuhoronuku with over $2,000,000. No such funding has been given to any groups who wish to oppose the mandate. How are we supposed to match the efforts of Tuhoronuku when we have no funding? I think this disparity is extremely unfair, and places those in opposition on the back foot.

15. Nga Tauria expressed their support of an urgent hearing in relation to the Crown’s recognition of the Tuhoronuku Mandate by way of Memorandum of Counsel on May 15 2014, where we were listed as an interested party. We have since decided to put forward a separate application to become a claimant.

Nga Tauria and the Waitangi Tribunal

16. Nga Tauria wish, and plan to, continue with the Stage II Te Paparahi o Te Raki Inquiry, and to have a finding made on the Crown’s breaches of Te Tiriti by the Waitangi Tribunal.

17. There is a lot at stake for Nga Tauria.

18. During Hearing Week 7 of the Te Paparahi o Te Raki Inquiry, opening submissions were presented on behalf of Wai 1385. In Counsel’s submissions, the Auckland University of Technology land on Akoranga Drive in Northcote was identified as falling within Section 8A of the Treaty of Waitangi Act 1975, and it was submitted that it is open for the Tribunal to
make a binding recommendation for these lands to be returned to Nga Tauira. The Crown, nor any other parties, did not object to this submission. If this land were to be returned to us, the benefit to Hato Petera College, and to the education of Maori in general, would be tremendous. To have this possible remedy subsumed by Tuhoronuku is a cause of deep concern to Nga Tauira.

19. This is our claim and it is of great importance to us. We wish to determine the redress and negotiate our own settlement with the Crown. We have a right to be party to any negotiations with the Crown relating to the settlement of our claim. We do not want Tuhoronuku to decide on our behalf how they should be settled. A settlement than encompasses of all Ngapuhi will be especially harmful to small groups such as ours. Our claim will be marginalised.

Prejudice

20. Nga Tauira have been prejudiced and will continue to be prejudiced by the Crown's actions in the following ways:

a) Under the Treaty of Waitangi we were guaranteed Tino Rangatiratanga by the Crown. By choosing to deal only with Tuhoronuku, the Crown are trampling on this guarantee.

b) Nga Tauira are being included a group with which we have not been involved with and who we have not chosen to represent us.

c) Our right to a full and fair hearing by way of the Waitangi Tribunal Inquiry process is under threat.

d) We will lose our right to seek our own independent remedies from the Crown on the basis of findings from the Waitangi Tribunal.
e) We are on the back foot because we, nor any other claimant groups, have received the same financial support from the Crown as Tuhoronuku to fund our campaign.

**Relief Sought**

21. We seek:

a) for the Waitangi Tribunal to grant this application for an urgent hearing;

b) a finding that this claim is well founded;

c) a recommendation from the Tribunal that the Crown retract its recognition of the Tuhoronuku Deed of Mandate;

d) a recommendation that the Crown cease settlement negotiations with Tuhoronuku until this urgency application has been suitably disposed of;

e) a recommendation that the Crown formally recognise the Tino Rangatiratanga of Nga Tauira to make decisions and represent themselves in respect of any litigation or dealings with the Crown;

f) that the Tribunal hear and report on the claims of Nga Tauira without further interference from the Crown; and

g) recommendations, findings and further redress that the Tribunal considers appropriate in the circumstances.

---

Frank Rawiri