

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Ngapuhi Mandate Inquiry

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**BRIEF OF EVIDENCE OF THE HONOURABLE SHANE JONES**

19 November 2014

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**Introduction**

1. My full name is the Hon Shane Geoffrey Jones.
2. I am Te Aupouri and Ngai Takoto.
3. I was born in 1959 in Awanui, Northland.

**Background**

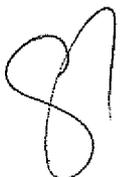
4. I have recently been appointed as the Ambassador for Pacific Economic Development. I must be clear that I am giving this evidence in my personal capacity. The views herein do not (in any way) reflect the views of the Ministry of Foreign Affairs and Trade.
5. During 2005-2014 I was Member of Parliament. During that time I was:
  - 5.1 Minister for Building and Construction: 5 November 2007 – 19 November 2008
  - 5.2 Associate Minister in Charge of Treaty of Waitangi Negotiations: 5 November 2007 - 19 November 2008
  - 5.3 Associate Minister of Immigration: 5 November 2007 – 19 November 2008
  - 5.4 Associate Minister of Trade: 5 November 2007 - 19 November 2008
6. I was Chair of the Finance and Expenditure Committee (2005-2007) and a member of the following Select Committees:
  - 6.1 Member, Commerce Committee: 9 November 2005 - 7 November 2007
  - 6.2 Member, Local Government and Environment Committee: 9 December 2008 - 21 July 2010
  - 6.3 Member, Auckland Governance Legislation Committee: 28 May 2009 - 20 October 2011
  - 6.4 Member, Transport and Industrial Relations Committee: 9 February 2011 - 20 October 2011



- 6.5 Member, Finance and Expenditure Committee: 18 May 2011 – 20 October 2011
- 6.6 Member, Finance and Expenditure Committee: 21 July 2010 – 9 February 2011
- 6.7 Member, Primary Production Committee: 21 December 2011 – 7 August 2013
- 6.8 Member, Māori Affairs Committee: 7 August 2013 - 25 September 2013
- 6.9 Member, Finance and Expenditure Committee: 25 September 2013 – 14 May 2014
- 6.10 Member, Primary Production Committee: 25 September 2013 – 14 May 2014
7. I was a member of Te Ohu Kaimoana, the Maori Fisheries Commission, from 1993. I was the Chair of Te Ohu Kaimoana from 2000 to 2005, when I was elected to Parliament. I was also the Chair of Sealords.
8. I spent a year at Harvard University between 1990 and 1991, where I earned a Master's in Public Administration on a Harkness Fellowship. I returned to the Ministry for the Environment at the end of 1991 as the Manager of Maruwhenua, the Maori Secretariat of the Ministry.
9. Prior to going overseas to study I worked at the Ministry for the Environment, between 1988 – 1990. I also served in the Prime Ministers Department under Sir Geoffrey Palmer.

### Summary of this evidence

10. The purpose of this brief is to set out my views on some of the matters before the Tribunal. In summary, my views are these:
- 10.1 Forward momentum, delay costs
- 10.2 The Tribunal should not act to encourage atomisation of the Ngapuhi Iwi
- 10.3 Settlement is more a political act rather than a legal process



### **Momentum**

11. During the tumult of the 1992 Treaty fisheries settlement, “Sealords deal” debates raged within Iwi as to the wisdom of settling such grievances. Fears about the adequacy of process, quality of the Deed, robustness of mandate and impacts on hapu loomed large. It was a litigious time. But fortunately that generation of jurists were not dim and they saw beyond the din.
12. President Cooke of the Court of Appeal dealt with these issues. He showed intelligence and imagination. He captured the mood and the imperatives of the moment. He knew there were short-comings in the process. Parties before him wanted to bail out of that settlement process. He acknowledged in the long term not all Maori aspirations would be satisfied. Nevertheless he knew it was an historic step.
13. He drew from the great Shakespeare quote; “there is a tide in the affairs of men. Which, taken at the flood, leads on to fortune; Omitted, all the voyage of their life is bound in shallows and in miseries”. Lord Cooke described the Sealord opportunity as a tide which had to taken at the flood. His insight is as applicable now in the historic Ngapuhi claim as it was in the Sealord opportunity.
14. Power is a force that ebbs and flows with the exigencies of time. Delay can certainly allow power to peak and fade away. The tribunal must ensure Ngapuhi can go with the flow and not miss this historic opportunity. Momentum once built up in the settlement process has to be sustained and followed through. The alternative to momentum for Ngapuhi will be like sprats stranded in the shallows.

### **The Tribunal should not act to encourage atomisation of the Ngapuhi Iwi**

15. Ngapuhi Kowhau Rau is not an endorsement for atomisation. I have read a number of the submissions opposing the Tuhoronuku model. Their points are not new. The stresses within Ngapuhi are essentially about power and influence. These matters will be a constant feature within the Ngapuhi dynamic. The balance between the marae courtyard of the hapu and the governance table of the Iwi is common to all Iwi settlements.
16. Negotiators for Ngapuhi will not be strengthened by a fractured set of negotiations. Ngapuhi is our largest Iwi and deserves to be the economic powerhouse of the North. Any move by the Tribunal to reward

factionalisation will guarantee a mediocre outcome for the 125,000 members of the Iwi. The virtues of critical mass are plain to see in the progress of Tainui, Ngai Tahu and the Kaingaroa collective.

17. The challenges of development in the North are substantial. Ngapuhi have a very dispersed population and a major effort will be required to build an economic base. Such a task will be more manageable with a single powerful institution, well capitalised with quality personnel as opposed to multiple competing bodies. More than likely the eventual endowment of Ngapuhi will be a mix of resources, commodities, of the North and financial interests. Critical mass will be important.
18. The desire to break into overlapping hapu claimants does not enhance the prospects of Ngapuhi rather it weakens the options for substantial redress. It will protract the process and impose an economic toll because of lost opportunity costs. It might be said that cleaving Ngapuhi into a host of hapu settlement units is a superior form of mana. Ngapuhi is not a Tom Thumb Iwi, they are the largest in Aotearoa but hail from the poorest areas. Given such a challenge the mana of a single powerful Ngapuhi settlement entity will always eclipse a range of small socioeconomic atoms.

#### **Settlements are political**

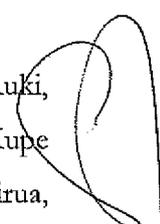
19. Although the Tribunal is a quasi-judicial body, it is now entangled in the skein of Ngapuhi Iwi politics. It may have a clear remedy to this internal wrangle. I doubt it very much. Perhaps a lengthy process of hearings is seen as preferable to a set of negotiations. It is most unlikely that such an approach will change for the better a settlement outcome or endowment. The Crown has to account to both taxpayers as well as Iwi negotiators.
20. Some hapu advocates say they are likely to be prejudiced if the Tuhoronuku model is not struck down. These assertions of prejudice must be measured against the injury done to the overall Iwi population through delay. A Tribunal process which persists until 2020 will not deliver a superior result. A Tribunal finding which terminates Tuhoronuku will not solve the mandate challenge rather it will protract the pain and economically cost the Iwi members dearly.
21. Inter Iwi relations are not static, they change with personalities, economic circumstance and social opportunity. Opponents of Tuhoronuku have



ventured close towards casting aspersions and doubt on the notion that Ngapuhi can be an Iwi. Tell that to the thousands of Maori who identify themselves as Ngapuhi. The vast majority of such people are not regularly involved in Iwi matters but they all have a vote. The Tribunal is on treacherous ground if it decides to put down their preferences without a robust alternative.

22. Politics is always accompanied by friction. The Ngapuhi mandate result was always going to be fraught. Debates on the marae will carry on ad nauseum. The weighty issues of settlement, governance and investment must not be held ransom to. Certainly not because participants reject an internal result and want the debate to continue. Embroiling the Crown in an internal Ngapuhi wrangle does not necessarily make them responsible for the stalemate. Rangatiratanga demands Ngapuhi take responsibility for these issues themselves. Recourse to the Tribunal is no substitute.
23. The political choice between an array of hapu initiatives or a single Iwi settlement is a matter for Ngapuhi members. A process has been carried out. The Crown has intervened several times to seek improvements. The result is not totally accepted but it is time to move on and catch the tide.

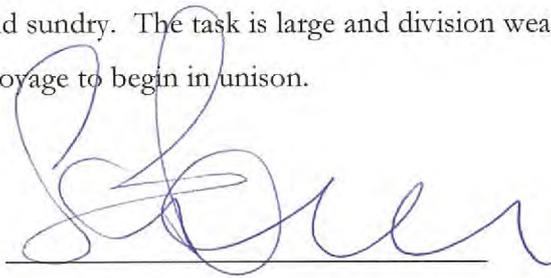
### Conclusion

24. E tamara ma, tera ranei e kitea ai te wehi o te rei, o te pururu o te pou whenua, te matatoru o te marohirohi? Te tu o Ngapuhi, haruru ana te whenua, te ito ka horoa, te ripo ka taea. Te kupu ka whakaaria, paorooro i te maunga, hakaina i te parae, ngoto ki te manawa. Hore rawa kei nga ngutu kau, whakakaupapatia ana kia taea ai a uruuru whenua, a oruoru tangata, a utiuri po me te pungawerewere a te ture. Whakatikaia e Ngapuhi, e taaria ana koe!
25. E kore ahau e whai kupu mo te hapu kotahi o Ngapuhi, mana ano ana maara e ngaki, ana rango e papaki, ana whare e tahi. He wa ano, tirohia tonutia ana te tumatakuru, pura ana nga kanohi. Whakarewaina, mau ana a mumu tai, a wawa whenua, a hau tangata, a kakara taara. Tera noa te tangaengae o te rua, kei te riu waka nui, tona ingoa ko Ngapuhi.
26. Hei aha maku te whakahuahua ake i nga kupu whakarite a Hongi, a Te Ruki, a Taonui, a Te Atua Wera. Ma nga whare korero mai Hokianga nui a Kupe ki Taumarere herehere i te riri ke. Taaku he tautoko i te nui o Puhi a wairua,
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a hinengaro, a tinana kotahi. He tangata ano hei hongihongi i tena kowhao, i tena kowhao a Puhi.

27. Ahakoa purangatia ana nga amuamu, nga nawe ki te aro o te pae ture, me tupato i te kekerengu. Pai ke me nanati ki te tapapa o to whaea, kei hua ake heoi ano to tikanga. Te otinga hei whai, kei pahoretia mo te mahinga kau. Kati e Ngapuhi a moana, a ariki, a taniwha, taaria ana to tira, kua rite te tai, hoesa tahitia te waka!
28. Ngapuhi, now is the time to show the breadth of vision, the potential of the people and the power of purpose. Ngapuhi has a proud history in adversity, it is recounted within many places and homes. This is a time when it must be in deed and not simply upon the performers lips.
29. I will not talk of any single hapu. They have their own issues and ought to continue addressing them. My focus is on the broader people of Ngapuhi and all of their challenges.
30. The ancestral words of the Ngapuhi, may they continually be spoken of in all the marae from Hokianga to Taumarere. My support is for the entire Ngapuhi people as a single body others can comment on various parts of that body.
31. Whilst there are concerns before this Tribunal, many of them are like the kekerengu, are better addressed in a different forum rather than displayed for all and sundry. The task is large and division weakens. The time is right for the voyage to begin in unison.

Signed:



Shane Jones

Date:

