

BEFORE THE WAITANGI TRIBUNAL

**WAI 2490
WAI 2429**

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF The Ngapuhi Mandate Inquiry (Wai 2490) and the claims concerning the Crown's recognition of the Tuhoronuku Deed of Mandate Wai 2341, Wai 2429, Wai 2431, Wai 2433, Wai 2434, Wai 2435, Wai 2436, Wai 2437, Wai 2438, Wai 2440, Wai 2442, Wai 2442, Wai 2483

AND

IN THE MATTER OF An application by Waihoroi Shortland and Pita Tipene on behalf of Ngati Hine for an urgent inquiry into the Tuhoronuku Deed of Mandate (Wai 2429)

REPLY BRIEF OF EVIDENCE OF PITA TIPENE

Dated this 25th day of November 2014

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Introduction

1. My name is Pita Tipene and I am the Deputy Chairman of Te Runanga o Ngati Hine (“TRONH”), the Chairman of the Ngati Hine Forestry Trust, the Co-Chairman of Te Kotahitanga o Nga Hapu Ngapuhi (“TKONHN”) and the Chairman of Nga Hapu o Te Takutai Moana (“NHOTTM”).
2. This evidence is provided in response to the briefs of evidence that have been filed by the Crown and Tuhoronuku. In the interest of time and to avoid the repetition of evidence I have already filed, I do not respond to all briefs of evidence filed by the Crown and Tuhoronuku. Rather, I respond to specific matters which I believe require further information and clarification, including the nature of mandate hui which is discussed by Mr Tau and some statements made by Ngati Rehia representatives on Tuhoronuku. I also refer to and support the comprehensive evidence of Mrs Prime.
3. I first want to make a general comment about the Crown’s evidence. Having read the Crown’s evidence, I am not remotely convinced that any economic benefits or political imperatives claimed can justify the continuation of the Tuhoronuku negotiation process. The social and cultural detriment that has, and will continue to be caused by this settlement process is far too great of a cost for our people. I want to know, how much longer does the Crown really think this type of engagement can go on? The Crown has a moral, legal and political obligation to us, to ensure its involvement in our settlement results in a fair, robust and enduring settlement.

Brief of Evidence of Sonny Tau, 18 November 2014 (Wai 2490, #A98)

4. In his evidence, Sonny Tau says the following in relation to my involvement with hui:¹

I note that various allegations have been made about the conduct of mandating hui, and the ability of opponents to speak at those hui. I note, in particular, the allegations made by Pita Tipene,² Willow-Jean Prime,³ and Shirley Hakaraia:

¹ Wai 2490, #A98, *Brief of Evidence of Sonny Tau*, 18 November 2014, paras 4.32-4.36.

I believe it is important for the Tribunal to get the full picture about these mandating hui. Claimant evidence would have the Tribunal believe that the hui were only for Tuhoronuku to talk at people about Tuhoronuku, and that Tuhoronuku shut down opponents. This is not true. Pita Tipene, for instance, spoke at length about why the Tuhoronuku mandate should not be supported.

These were emotive and highly charged hui. The presence of the same people at every hui (Pita Tipene, Willow-Jean Prime and/or Rowena Tana), who put the same views at every hui and got the same response from Tuhoronuku, only served to increase this tension. There was also a problem with the same people attending multiple hui intent on monopolising the floor time available for questions.

Despite this, Tuhoronuku ropu members spent time at the end of each hui talking with those who missed the opportunity to have their say or seek clarification on points of interest to them.

With regards to Pita Tipene, while he doesn't mention the particular hui, I understand he may be referring to the hui of 22 August 2011. At this hui, Sam Napia made it clear that questions were to be at the end of the Tuhoronuku presentation. Denis Hansen facilitated the question time, and he asked people to not go off on tangents (as time was valuable at these hui). Pita Tipene stood up and said he had questions but wanted to say something first. Denis Hansen asked him three times to ask his questions. There was a short confrontation between the two men. Carol Dodd then answered questions about financing of Tuhoronuku by the Runanga, and Sam Napia answered the question put by Pita

Tipene. Hone Sadler did the best he could to chair the meeting.

5. I strongly disagree with those comments, and in fact my recollection of the hui I have attended is quite different to that described by Mr Tau. In the following paragraphs I recount two previous hui that I attended describing some of the intimidatory tactics used by Tuhoronuku.
6. At the hui of 22 August 2011, which was held at Mangere, the facilitator of the hui, like at every hui of that road show, made it clear that only questions could be asked and that attendees were not able to make any comments, or put forward any other alternatives to what had been previously described in the Tuhoronuku PowerPoint presentation, which obviously focused on the Tuhoronuku model.
7. Furthermore, the point had been made clear at the hui that this was a Tuhoronuku road show, and that if anyone had any alternative options to put forward, then they should hold their own hui to do so.
8. At that hui, and very much like the first hui at Avondale a day earlier, Mr Hansen tried to take on a very intimidating role in the proceedings. At the Avondale hui on 21 August 2011, Mr Hansen approached a member in the audience from where he was seated behind the Tuhoronuku table, and literally 'stood over' the person to stop them from talking.
9. At the 22 August 2011 hui, when I stood to ask my four questions and make a comment, it was reiterated that I could only ask questions and definitely could not make any comments. When I insisted that I would be adding comment to my questions, Mr Hansen, who was apparently facilitating the question session, came from across the hall from where he was standing and, after initially remonstrating with me in an effort to get me to stand down, stood shoulder to shoulder with me, which then resulted in some jostling after he attempted to invade my personal space, including grasping at my clothing.
10. I reinforced to the audience that I had a right to speak and continued to try and outline my views. Moreover, I quoted what Mr Tau had said at a

previous road show hui, that Tuhoronuku were 'duty bound to hear Ngapuhi'. Yet Tuhoronuku were not willing to listen to any Ngapuhi who had 'any thoughts and opinions that were incongruent with the Tuhoronuku model'.

11. Mr Hansen persisted with his intimidatory tactics by getting in my personal space, directing me to stand down and generally trying to stop me putting across an alternative view.
12. I refused to step down and kept trying to put my view across and said that I had every right to give the audience a balanced view.
13. By now the situation was beginning to get ugly and various people in the audience were calling for order, including one lady who asked that I be given the right to speak as my view might better inform her and the wider audience about the kaupapa.
14. Mr Hansen finally heeded the words of the meeting facilitator (Hone Sadler) and backed off slightly in his intimidation. I was then left to complete my talk and to ask my questions. In the best interests of helping to keep the meeting civil and under control, I chose not to outline that TKONHN were seeking to progress Stage 2, Waitangi Tribunal Hearings and garner a hearing report as a prerequisite to any Ngapuhi negotiations, as well as that, we were predisposed towards a sub-regional negotiations and settlement model.
15. I could respond paragraph by paragraph to Mr Tau's evidence, but again, I (or my whanaunga Erima, Waihoroi, Rowena and Willow) have already addressed these matters in our earlier evidence.

Brief of Evidence of Te Huranga Hohaia, 14 November 2014 (Wai 2490, #A92)

16. In his brief of evidence, Te Huranga Hohaia makes a number of comments about TKONHN and Ngati Rehia:²

22. *Our understanding was that the purpose of Te Kotahitanga was to oppose Tūhoronuku and prepare for hearings in Te Paparahi o Te Raki.*

² Wai 2490, #A92, *Brief of Evidence of Te Huranga Hohaia*, 14 November 2014, paras 22-26.

23. *Ngāti Rēhia representatives attended Tūhoronuku meetings from the beginning and sought to oppose it at every turn. However, over time things changed.*
24. *We became disaffected with the leadership of Kotahitanga who sought to stifle all views deemed contrary to those actively promoted by them despite the palpable concessions which had been made by Tuhoronuku.*
25. *Following the Te Whāiti report, changes were made to the Tūhoronuku model and, in particular, the number of hapū kaikōrero representatives on the Tūhoronuku board was increased. We in Ngāti Rēhia regarded that as a crucial change.*
26. *That caused us to consider carefully whether, in fact, the modified Tūhoronuku model was the best model through which to enter into negotiations with the Crown concerning settlement of historical grievances.*
17. In response to those comments, I suggest that Ngati Rehia had previously been a staunch supporter of the TKONHN kaupapa. This support can be traced back to the inaugural hui held to discuss the unification of hapu in the Bay of Islands, which Ngati Rehia hosted on 11 July 2009 at Whitiara Marae, Te Tii.
18. By December 2009, NHOTTM had developed a clear position, which is outlined in the following resolution made at a hui held at the Ngati Manu marae, Karetu on 31 December 2009, attended by a strong contingent of Ngati Rehia, including Mr Hohaia:

Motion:

That the Working group write letters to various Crown Ministers & Entities notifying them of our position in regard to mandate.

Patu Keha-Ngati Kuta/Te Kapotai Carried

*We **do not** support Te Runanga-a-Iwi o Ngapuhi or Te Roopu o Tuhoronuku holding the mandate for Nga Hapu o Te Takutai Moana or Ngapuhi to directly negotiate with the Crown on Treaty Settlements.*

Nga Hapu o Te Takutai Moana believes that this should be a hapu led process. The role we see for Te Runanga-a-Iwi o Ngapuhi is to support this process as opposed to holding the mandate itself.

19. As a result, NHOTTM elected three representatives onto the Te Kotahitanga Working Party. These representatives were Pita Tipene (Ngati Hine), Willow Prime (Te Kapotai), and Nora Rameka (Ngati Rehia).
20. Ngati Rehia were therefore very strong supporters of NHOTTM and TKONHN from the inaugural hui through to at least February 2014, having attended most hui with strong delegations, including Mr Hohaia.
21. At no time has the TKONHN leadership sought to stifle the views of others, and certainly not the views of Ngati Rehia. In fact, some people argue that the TKONHN values of holding its hui on marae and fostering an environment of open and frank discussion through tikanga, is far too liberal for those who are instead intent on maintaining standing orders in the marae forum.
22. This is particularly given that Mrs Nora Rameka has always been a part of the leadership of both NHOTTM and TKONHN. For instance, Mrs Rameka was a part of the Te Kotahitanga Working Group, and the group that led discussions directly with the Crown and Tuhoronuku. At all times, Mrs Rameka has been a valued and able contributor. There would be absolutely no chance of stifling Mrs Rameka's opinion as everyone well knows. Mr Hohaia himself is known as one of the very best communicators in both English and Maori, and he has always had an unfettered ability to articulate his opinion and those of Ngati Rehia.
23. Furthermore, many resolutions passed at hui of both NHOTTM and TKONHN were often moved and seconded by key members of the Ngati Rehia team.

24. As recently as 25 July 2013, Mrs Rameka was a part of the delegation that met with the Office of Treaty Settlements when NHOTTM tabled documents to the Crown seeking to develop a Mandate Strategy for NHOTTM.
25. Moreover, when Ngati Rehia last attended a hui of TKONHN, held at the Miria Marae in Waiomio early in 2014, Mr Hohaia stood to make it clear to the hui that Ngati Rehia had held a hui and decided to join with Tuhoronuku. However, in saying that, they continued to oppose the model as outlined by Tuhoronuku and were simply working to bring about Tuhoronuku's downfall by working from within. That is, they still supported the position of TKONHN.
26. Mr Hohaia provides that Ngati Rehia say they made the decision to join Tuhoronuku as a hapu through a hapu hui. If that is so, one must question why it is enough for a hapu to agree through a hapu hui to join Tuhoronuku, but it is not enough for hapu like Ngati Hine who have done exactly the same thing to oppose Tuhoronuku and to attempt to withdraw. Taking this forward logically, the decision by Ngati Hine to oppose Tuhoronuku should equally be upheld by both the Crown and Tuhoronuku.
27. Mr Hohaia concludes his evidence by saying:³
31. *We believe therefore that the iwi platform of Tuhoronuku is the correct one which has the potential to actualise the aspirations articulated in the kaupapa of Te Runanga o Ngāti Rēhia in terms of developing a sustainable social, economic and cultural base for our hapū whanau. This potential is not merely confined to Ngāti Rēhia but even now strives to reach out across the entire Ngāpuhi nation.*
32. *We therefore oppose any and all attempts to deflect, impede or obstruct the course that Tuhoronuku is embarked upon, a course, we believe, that is able to serve not only the interests of Ngāti Rēhia but of all Ngāpuhi hapū.*

³ Wai 2490, #A92, *Brief of Evidence of Te Huranga Hohaia*, 14 November 2014, paras 31-32.

28. Ngati Rehia had made it clear throughout the development of the Tuhoronuku mandate that they not only opposed the structures and processes, but also the negative style of leadership by Tuhoronuku and the bad behaviours exhibited when measured against our Maori tikanga value set. An example of this was when Tuhoronuku called a Hapu Kaikorero hui at the Kaikohe Mid-North Motor Inn on 18 February 2011 to confirm hapu kaikorero. Many hapu had not been officially informed by Tuhoronuku that the hui was being held. Nonetheless, word soon spread and hapu leaders turned up in force to see what was happening. One by one they openly expressed their opposition to the Tuhoronuku regime, as well as their intent to implement Stage 2 Hearings. Towards the end of this hui, Ngati Rehia became livid when the Tuhoronuku leadership chose to begin lunch and sat down to eat while a member from Patu Keha/Ngati Kuta was still on his feet addressing the hui. The comment made at the time by Ngati Rehia was that this type of leadership was unacceptable and unforgivable.
29. I reiterate that Ngati Rehia had previously been a strong supporter of NHOTTM in seeking our own mandate strategy as a proactive way forward.
30. On that basis, it is difficult to understand how Ngati Rehia made a quantum change to suddenly support Tuhoronuku. But that is the choice for their hapu.
31. That aside, Ngati Rehia, and the Crown for that matter, know that they do not have a mandate to represent Ngati Hine on Tuhoronuku, but that is exactly what they are there to do. This is not sustainable.
32. Further prejudice will be caused to Ngati Hine because of their (and others) involvement in the Tuhoronuku process. The Crown's fault is allowing this situation to arise where hapu are now in a position of representing other hapu against their will and without their support. These are serious representation issues and they must be addressed.

33. There is no Ngati Hine mandate for Tuhoronuku or any of its current representatives. Tuhoronuku does not have the right to negotiate, settle and extinguish Ngati Hine Te Tiriti o Waitangi claims.

A handwritten signature in black ink, appearing to read 'Pita Tipene', is centered on the page. The signature is written in a cursive, flowing style.

Pita Tipene, 25 November 2014