

IN THE WAITANGI TRIBUNAL

WAI 2490

IN THE MATTER

of the Treaty of Waitangi Act 1975 (as amended)

AND

IN THE MATTER

of the Ngāpuhi Mandate Inquiry (Wai 2490)

BRIEF OF EVIDENCE OF SAM NAPIA FOR TE WHIU

14 November 2014



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BRIEF OF EVIDENCE OF SAM NAPIA

Introduction

1. My name is Sam Napia.
2. I am the mandated hapū kaikōrero for Te Whiu hapū and it is on this basis that I am giving this evidence.
3. I am also the deputy chair of the Tuhoronuku Independent Mandated Authority.

Te Whiu

4. Te Whiu are the descendants of the Turou, who was descendent of Te Wahineiti, a descendant of Kupe of the Matahourua waka.
5. The Te Whiu hapū estate includes areas within Te Waimate, Rangaunu, Puketotara, Mokau, Pungaere, Te Wiroa, Te Mamaku, Toa Toa, Manginangina and Puketi.
6. Tauwhara is the marae of Te Whiu.

Representative Entity

7. Te Whiu hapū is represented by the Te Whiu Hapū Incorporated, a registered incorporated society that was established following a hui a hapu held on 14 May 2011, which is discussed further below.
8. Te Rau Arena is the chairperson of the Te Whiu Hapū Incorporated, and I am the hapū kaikorero.

Stage 2 Waitangi Tribunal hearings

9. Te Rau Arena, chair of Te Whiu Hapū Incorporated, gave evidence on behalf of Te Whiu at Kerikeri on 5 September 2013. Te Rau was supported by a large gathering of hapū members in attendance at the hearing.

Submission on Tuhoronuku Mandate Strategy 2011

10. I was initially personally opposed to the Tuhoronuku mandate. I made a submission in respect of the Deed of Mandate Strategy of Te Roopu o Tuhoronuku on 24 February 2011. My submissions unequivocally

stated that it was a submission from an individual and that I represented nobody's views other than my own.

11. Parts of my submission appear in claimant evidence. However, this 'quote' has been taken out of context and is wrongly dated as 24 September 2011. This point is important because of what occurred for me personally and for Te Whiu hapū between 24 February and 24 September 2011, which is discussed below.
12. But returning to my personal individual position prior to mandate as summed up in my 24 February 2011 submission, I declared that:
 - 12.1 "Claimants have a right to be heard. Any proposition by [Tuhoronuku] that that right be circumvented is an abomination";
 - 12.2 Representation and governance structures that are contemplated by the strategy must uphold hapu rangatiratanga;
 - 12.3 Representation and governance structures that are contemplated by the strategy must be capable of delivering successful corporate governance; and
 - 12.4 I would be willing to work with others to rectify these perceived deficiencies in the Deed of Mandate Strategy.

Te Whiu Hui a Hapū

13. Subsequent to my individual 24 February 2011 submission, a Te Whiu hapū hui was held on 19 March 2011 at Tauwhara. This hui was called to discuss the progress of WAI 421 including the draft research report and the Te Whiu whakapapa contained therein and was attended by 60 people.
14. Following the outcomes of that 19 March hui, a further hapu hui was called for 14 May 2011. The comprehensive panui noted the following:

"Generally, the issues to be discussed at this hui include:

 - Re-affirming that Te Whiu is a significant and influential hapu within Ngapuhi, whose influence must grow as a result of and upon treaty settlement.
 - Following the 19 March rejection of the

whakapapa presented by the Te Waimate Taiamai Alliance, there is a need to discuss and confirm (or otherwise) Te Whiu's support for the Puketotora claim.

- Moreover, as a result of the 19 March hui, there is likely a view outside of Te Whiu that we are “a house that is divided against itself”. Te Whiu must consider how to come together and establish a structure that will ensure its influence in the settlement process such that the fruits of settlement for Te Whiu will benefit our mokopuna for generations to come.
- In the meantime, Tuhoronuku (along with Te Runanga a Iwi o Ngapuhi) has published its intention to and a strategy for seeking Ngapuhi's mandate to negotiate and settle with the Crown on behalf of all Ngapuhi. Hence the urgency.
- The overriding objective of the hui is to ensure that Te Whiu is part of the wave of change that is coming; not swept away by it. To this end, included in this panui are some draft recommendations on key discussion topics for the hui. “

15. The panui went on to say:

“Included in this posting, with this panui and agenda, are a number of reference documents for the hui. A key reason for their inclusion with this panui is to assist hui attendees in being well prepared for the discussions that will take place so that the resolutions we make at the hui will be informed and well considered decisions. “

16. The reference documents distributed for the hui were noted as:

“Discussion Paper: Draft Recommendations on Proposed Matters for Resolution by the Hui. This paper provides background information relating to draft recommendations that will be put to the hui as listed in the agenda.

Draft Rules: If the hui resolves to incorporate a hapu structure, rules are required. This document provides draft rules for the

consideration of the hui.

Submission by Sam Napia on the Deed of Mandate Strategy for Te Roopu o Tuhoronuku: This is the submission of one Te Whiu hapu member, Sam Napia, to the recently announced Treaty settlement strategy supported by Te Runanga a Iwi o Ngapuhi. It is important to note that, in making the submission, Sam does not purport to represent anyone's views but his own. Nevertheless, the points raised should provide for useful discussion at the hui. Other Te Whiu members may have similarly made a submission; if so, it will be valuable for them to bring and review these at the hui. "

17. The 14 May 2011 hui was held at Parawhenua Marae and was attended by 50 people. The meeting commenced with karakia by Gray Theodore. The meeting's outcomes included the following resolutions:

Organising a hapu structure

Moved Lily Rawson /Seconded Hare Tiatoa

That this Te Whiu Hapu hui resolves to incorporate "Te Whiu Hapu Incorporated". Carried

Engaging in the Treaty settlement process

Moved Anne Nom/Seconded Rapine Arena

That Sam Napia be appointed as Te Whiu hapu kaikorero on Tuhoronuku Carried

Recorded: Objection to the resolutions tabled by John Alexander on behalf of the Te Waimate Taiamai Alliance (recorded as follows):

"We want this statement to be formally adopted or recorded that:

As at 14 May 2011 we oppose and object to Te Whiu, incorporation or similar, putting Puketotara block or other hapu/whanau resources in their documentation for negotiation, settlement or alienation.

That any future Te Whiu committee or entity will respect taonga and whenua of kin hapu

Also we oppose and object to any appointment of a Te Whiu representative on the Runanga's subcommittee – Tuhoronuku"

18. The meeting closed with karakia by Gray Theodore at 5:00 pm.
19. It is important to note the following outcomes of the 14 May hui. Te Whiu:
 - 19.1 Determined that the Tuhoronuku mandating strategy did indeed provide for hapu involvement and perspective - by providing for hapu kaikorero and then those kaikorero electing amongst themselves representatives onto Te Ropu o Tuhoronuku (now the Tuhoronuku Independent Mandated Authority);
 - 19.2 Agreed that claimants have a right to be heard and the hui welcomed and supported information affirming that Tuhoronuku does indeed support the hearing of claimants;
 - 19.3 Found that Te Runanga-a-Iwi o Ngapuhi (TRAION), because of its charitable trust status, cannot be the body that receives and manages settlement. A new body, the construction of which will involve korero amongst all of Ngapuhi, will be created to receive and manage settlement assets and outcomes; and
 - 19.4 Having regard to my 24 February submission offer to work with Tuhoronuku to become part of the solution rather than only point out problems, appointed me as hapu kaikorero.
20. In summary then, my participation in Tuhoronuku is a result of the decision of Te Whiu hapu to engage in the Tuhoronuku process and to mandate me as hapū kaikorero. I am doing the bidding of my hapū, I am happy to do so, I am committed to continue to do so, and I make no apology for any of that. I had my personal views initially but through this process, we as a hapu have decided to move forward in Tuhoronuku with me as kaikorero and I fully respect the decision of our people.

Subsequent events

21. In June 2012, Te Whiu submitted a discussion document to the Office of Treaty Settlements regarding hapū representation in the Ngāpuhi Deed of Mandate and Settlement Process This document was presented by Te Rau Arena, as chair of Te Whiu Hapū Incorporated, and myself as hapū kaikorero.

22. This paper **is attached as SN01** and by way of summary, it discussed:
- 22.1 Four core principles underpinning effective hapū representation;
 - 22.2 An analysis of those principles as they presented in the mandate process (of the time); and
 - 22.3 Seven recommendations to further improve the mandate process.
23. Changes were made to the Tuhoronuku structure. The subsequent Tuhoronuku Deed of Mandate and Addendum satisfied the concerns we had highlighted in these documents.
24. Accordingly, Te Whiu was eventually able to provide a submission in support of the amended Tuhoronuku Deed of Mandate on 7 August 2013. Our reasons for support included:
- 24.1 The Tuhoronuku Deed of Mandate recognises and upholds hapū rangatiratanga;
 - 24.2 The Deed of Mandate strengthens the settlement process by requiring robust and demonstrable hapū mandate;
 - 24.3 The Deed of Mandate empowers hapū; and
 - 24.4 The Deed of Mandate correctly established the pre-eminence of hapū of Ngāpuhi over the claimant community.

Reporting and Accountability

25. I routinely report back to my hapū on tasks I am undertaking on their behalf. This is generally done by way of hapū kaikorero report, which is distributed to our hapū members by email.
26. My hapū kaikorero reports generally provide an overview of the relevant events, and I also provide an update on other matters and issues of concern to our hapū as outlined below.

Non-Tuhoronuku Tasks

27. I have also undertaken a number of tasks regarding issues of concern for Te Whiu alongside the chair of our Incorporation, including:

- 27.1 Contacting local councils regarding:
- (a) The Bay of Islands wastewater treatment plant resource consent;
 - (b) The Kerikeri wastewater treatment plant project;
 - (c) The application for renewal of permit to take water from Puketotara stream;
- 27.2 Corresponding with Top Energy regarding the proposed transmission lines across Puketotara Block; and
- 27.3 Corresponding with the Department of Conservation and the Celebration Trust regarding the Waimate North School Reserve.

Reaffirmation of Mandate

28. My mandate to continue as hapū kaikōrero for Te Whiu has recently been confirmed by my hapū:
- 28.1 Te Whiu Hapū Incorporation held an AGM on 12 May 2014 at Tauwhara Marae. The Incorporation confirmed my continued appointment as the hapū kaikōrero for Te Whiu on Tuhoronuku; and
- 28.2 The Tauwhare Marae Trustees confirmed their support for me to continue as hapū kaikōrero at their AGM held on 15 March 2014.

Conclusion

29. Te Whiu sees Tuhoronuku as a vehicle through which we can realise our settlement aspirations. Ultimately, it is not the mandated entity that determines the outcomes but the nature and scope of the redress that is obtained through the negotiations that is important. We want to move to that phase of the process.
30. Te Whiu considers that the actions of the claimants in this urgent hearing will achieve nothing but delay of the Ngāpuhi settlement to the detriment of all hapu and Ngāpuhi as a whole.

DATED this 14th day of November 2014

A handwritten signature in blue ink, appearing to be 'Sam Napia', written over a horizontal line. The signature is highly stylized and cursive.

Sam Napia