

25 Nov 2014

Ministry of Justice
WELLINGTON

WAITANGI TRIBUNAL

Wai 2490

CONCERNING the Treaty of Waitangi Act 1975
AND the Ngapuhi Mandate Inquiry

Tukuroirangi Morgan states

1. On 17 September 2012 I forwarded to the Hon Christopher Finlayson, Minister for Treaty of Waitangi Negotiations, a Report I completed following my facilitation of discussions between Te Kotahitanga o Nga Hapu Ngapuhi (Te Kotahitanga) and Tuhoronuku Independent Mandated Authority in an endeavour to assist resolution of conflict and issues which had arisen between at least these two bodies over the Crown accepting a mandate of Tuhoronuku Independent Mandated Authority ("Tuhoronuku") to negotiate settlement of historical grievances for all of Ngapuhi under the Treaty of Waitangi. My Report carried the title "He Ara Hou: A Proposed Strategy and Pathway to Settlement. September 2012". That Report is before the Tribunal appended to evidence produced from Pita Tipene on behalf of those he represents and from Maureen Cecelia Hickey on behalf of the Crown.
2. In my 64 page Report I completed a full analysis of the situation as I found it to be during my meetings with one or both of the parties (at least on eight occasions) with the Minister (on two occasions) and during fifteen (plus) hui with other interested groups or individuals to discuss the development of possible alternative mandate arrangements and options seeking, where possible, input from all connected with Ngapuhi and with an interest in the mandate issue.
3. I refer to the Report for its contents. My approach was to facilitate a collaborative approach and to try and bring the two factions together. At first I found both parties deeply entrenched in their own positions and neither side willing to give much, if any, ground.



4. I noted in my Summary of the Report (at p.5) that there was a significant majority within Ngapuhi who wished to begin direct Treaty negotiations with a view to settling historical grievances through a cohesive and integrated process. That significant majority was obviously looking for a settlement process which recognised a shared interest of all Ngapuhi hapu. Again, I refer to my Introduction and Summary in the Report for content and context. I offered to the Crown and the parties continued involvement on my part for the purposes of establishing a new mandated authority as recommended by me in the Report.

5. The strategic objectives I had for the parties for the way forward are set out in my Report. I provided historical context in the Report. I provided recommendations based upon three objectives:
 - (i) To build unity and cohesion amongst hapu and between hapu groupings;
 - (ii) To establish a representative structure with robust open and transparent processes; and
 - (iii) To develop a collaborative and integrated approach to settlement negotiations with the Crown.

6. At first I found that the views of the parties I was attempting to assist were very entrenched. I proposed that a new entity with a fresh mandate be established with a broad based membership comprising of Te Runanga, Te Kotahitanga, Rangatahi, Kuia/Kaumata and Urban representation. The establishment of this new independent mandated authority would follow the existing membership of Tuhoronuku standing down in preparation for fresh elections for the new independent mandated authority I recommended. I believe Te Kotahitanga demonstrated a greater desire to support a more inclusive and cohesive approach. Te Kotahitanga had agreed to the establishment of the Independent mandated authority and the 'Fast track' tribunal Hearing proposal. Tuhoronuku provided their preferred model which was

duplication of the current Te Runanga o Ngapuhi structure. Again, I refer to my Report for both context and conclusions.

7. This was in effect a recommendation for a “start again” process for establishing a sound mandate for all of Ngapuhi for historical Treaty claims settlement.
8. In the result, I understood that my recommendations were not supported by Tuhoronuku and the processes I envisaged as I set out in my Report, did not eventuate. Although additional burdens of time and cost would be imposed on Ngapuhi by the re-start I recommended. Prior to the completion of my report I concluded that Tuhoronuku became so entrenched that there would not be sufficient give or take from them to enable differences with Te Kotahitanga to be resolved. I was disappointed that fundamental practices like ‘Police Vetting’ of all potential board representatives were cast aside by Tuhoronuku. It demonstrated Tuhoronuku’s inability to ensure its members were able to meet the good character eligibility criteria with no convictions for dishonesty, domestic abuse/violence or serious crime. I also felt that the majority wishes of Ngapuhi to enter into direct Treaty negotiations would not be possible, or indeed very likely, without a fresh start. That seems still to be the position.
9. I subsequently corresponded with the Minister by letter 16 October 2012. This followed me receiving and considering the contents of a letter sent to the Minister by Tuhoronuku. I expressed my views about the contents of that correspondence. These remain my views, notwithstanding the fact that the way in which my work has been characterised by Tuhoronuku and my response, no doubt inevitably means I will not be able to assist the parties further. I am deeply disappointed that this was the outcome of my genuine attempts to assist the parties with options for resolution of the difficulties. I am still of view that had my recommendations be followed and had I been given the opportunity to work with both parties to implement them, the current impasse was resolvable.

DATED this 24th day of November 2014



Tukuroirangi Morgan