

BEFORE THE WAITANGI TRIBUNAL
TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

WAI 2666

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND IN THE MATTER

of the Crown's Treaty settlement policy regarding overlapping claims and the proposed redress in relation to the Hauraki Collective, Marutūāhu Collective and individual Hauraki iwi settlements

AND IN THE MATTER

of a claim filed by **HAYDN THOMAS EDMONDS** on behalf of Ngātiwai Trust Board and the iwi of Ngātiwai for an urgent inquiry into the Crown's settlement policy regarding overlapping claims and the proposed redress in the Hauraki Collective, Marutūāhu Collective and individual Hauraki iwi settlements.

AFFIDAVIT OF KEATLEY RYAN MOANA HOPKINS IN SUPPORT OF
NGĀTIWAI TRUST BOARD

AFFIRMED 4th SEPTEMBER 2018

KAHUI
LEGAL

PO Box 1654

Telephone: 04 495 9999

Facsimile: 04 495 9990

Counsel: M K Mahuika / M C Tukapua

WELLINGTON

I, KEATLEY RYAN MOANA HOPKINS, AFFIRM:

Introduction

Ko Pukeārengarenga te maunga ki uta, Ko Rehuotane te maunga ki tai, Ko Whakairiora te maunga rangātira e tū ana ki te whanga o Ngunguru. Ko Ngunguru te awa, he awa hōhonu, he awa whanui, he rerenga roimata. Ko Te Rangitukiwaho te tūpuna. Ko Paratene Te Manu te tangata. Ko Ngāti Takapari te hapū.

1. My name is Keatley Ryan Moana Hopkins. I provide this evidence as an uri of Ngāti Takapari in support of the application for an urgent inquiry (Wai 2666, #3.1.1), statement of claim (Wai 2666, #1.1.1) and supporting documentation filed by the Ngātiwai Trust Board on behalf of Ngātiwai (WAI 2666) in relation to the Crown's settlement policy regarding overlapping claims and the proposed redress in the Hauraki Collective, Marutūahu Collective and individual Hauraki iwi settlements.

2. I am an uri of Ngāti Takapari by the following line of descent:

Ko Rangihokaia ka moe i a Tukituki, ka puta ko Haua, ka moe i a Te Kero, ka puta ko Te Popota, ka moe i a Te Waha, ka puta ko Te Kōwhai, ka moe i a Whenga, ka puta ko Taukōkopu, ka moe i a Meretiaho (no Ngāti Naunau, no Ngāti Maru), ka puta ko Mata Te Kura. Ta Mata Te Kura, ka puta ko Rihī Paea, ka moe i a Haehae Te Hokio, ka puta ko Tame Tuari Haehae, ka moe i a Makere Rora Piripi, ka puta ko Paratene Te Manu Parata Wellington, ka moe i a Mihi Hori Maki, ka puta ko Kamiria Wellington, ka moe i a Stanley Patrick Clueard, Ka puta ko Luanne Clueard, Ka moe i a Stephen Hopkins, ka puta ko ahau e tu nei.

3. Ngāti Takapari is a hapū of Ngātiwai. My other hapū within Ngātiwai are Patuharakeke, Te Aki Tai, Te Uri o Hikihiki, and Ngāti Te Rā.
4. The customary rights and interests of Ngāti Takapari associated with Aotea and surrounding islands are derived from Haua, the eldest son of Te Rangihōkaia, and his descendants Te Kōwhai, Tuatai, Kau Te Āwha and Taukōkopu. These customary rights and interests are not included in the Ngāti Rehua – Ngātiwai ki Aotea Settlement Mandate. Rather, they are included within the mandate of the Ngātiwai Blanket Claim (WAI 244).

5. This affidavit will address:

- (a) Ngāti Takapari;
- (b) Aotea and Hauturu;
- (c) Crown Overlapping Claims Policy;
- (d) Tikanga Based Process; and
- (e) Overlapping Claims within Ngātiwai Area of Interest.

6. To give this evidence context, it is important in the first instance that I provide a brief historical background of Ngāti Takapari. The following paragraphs pertain to the whakapapa and traditional history as I know it for Ngāti Takapari.

Ngāti Takapari

- 7. Ngāti Takapari can claim descent from Ngāi Tahu, Ngāti Manaia, Te Waiariki, Ngāre Raumati and Ngātiwai.
- 8. Ngāti Takapari are mostly associated with Ngunguru and Tutukākā where we hold mana whenua status and ahi kā through descent from Te Rangitukiwaho, son of Whakaruaiteangi of Te Waiariki and Ngāi Tahu, and Hinetau, an important tūpuna of Ngāre Raumati.
- 9. Through the union of Whenga (the daughter of Te Rangitukiwaho) to Te Kōwhai (a descendant of Te Rangihōkaia and his son Haua), traditional and ancestral associations and customary rights and interests were forged that extend off shore to Tawhiti Rahi and Aorangi, Marotiti and Taranga, Pokohinau and Motukino, and Hauturu and Aotea/Piki Paria.
- 10. The outlying islands are an integral part of the identity of Ngāti Takapari and Ngātiwai whānui. True to the coastal and seagoing traditions of our people, we have travelled up and down Te Ākaroa o Ngātiwai including between the offshore islands from Tawhiti Rahi and Aorangi to Hauturu and Aotea for centuries.

Ngā Tūpuna o Ngāti Takapari

- 11. The children of Whenga and Te Kōwhai – Kau Te Āwha, Tuatai and Taukōkopu, were all prominent leaders of Ngātiwai in their time as were their children Henare



Te Moananui, Paratene Te Manu, Miria and Mata Te Kura.

Te Pai o Taukōkopu

12. In 1821, Hongi Hika and his allies carried out a number of retaliatory raids against Marutūahu. Under the leadership of Taukōkopu, Ngāti Takapari were part of a large Ngātiwai force from Te Tai Tokerau and Aotea that attacked Ngāti Paoa at Mauinaina Pā in Tāmaki, and then Ngāti Maru at Te Totara Pā.

13. Alongside Taukōkopu was Paratene Te Manu who at the time would have been a young man in his twenties. In an account of his life published in the Auckland Star on 11 July 1896, Paratene Te Manu described these early battles:

My first fight – whawhai tuatahi was at Tamaki, where in those days many people lived, I and my elders went with a great army of Ngā Puhī, under Hongi to the pā of Mauinaina on the Tamaki. This pā belonged to the Ngāti Paoa. It fell to us – we captured it. We had many guns, which Hongi had bought home after his visit to England, and the killing was great.

My second fight was at Te Totara, near the mouth of the Thames River. That pā was held by the Ngāti Maru people, and we went in canoes to attack it with our guns. The pā fell – we captured it and killed the people thereof.

14. Taukōkopu who had gone with Ngā Puhī from Aotea to Te Totara, refused to participate in the final events there and left alongside Pomare, warning the people of that place to be on alert as Hika planned to return and attack under the cover of darkness.
15. In recognition of this, a union between Taukōkopu and Meretiaho of Ngāti Maru was made. Meretiaho returned to Aotea with Taukōkopu and is described as one of only two Ngāti Maru living permanently on Aotea in 1838. From their union came Mata Te Kura and Miria. A third child Takapari – a son, died young in Ngaiotonga and was interred there.
16. This important Tatau Pounamu was cemented further with the union of Mata Te Kura to Parata Te Mapu, a leading figure in Ngāti Whanaunga and Ngāti Maru, and within the Kīngitanga as Minister of Finance in Te Kauhanganui.

17. In recounting his eighth expedition south, this time against the people of Ngāti Kahungunu, Paratene Te Manu describes the events that lead to the untimely death of Taukōkopu:

Then fought our chief Taukōkopu – himself and his dogs only, with two hundred of the Mauparaoa – the people of that place – for a long time, until we rushed to the place where he was fighting. There fell Taukōkopu. He was a warrior indeed! He was the younger brother of my father. We slew the warriors of Ngāti Kahungunu at that place, they died there in great numbers before our guns.

18. Ngāti Takapari and Ngātiwai returned to Aotea with the body of Taukōkopu where it was interred until being exhumed in part much later by Te Mariri from his original place and taken firstly to Kawa, then to Hauturu and finally to Tuparehuia.

Aotea and Hauturu

19. As stated earlier, the outlying islands of Ngātiwai, including Hauturu and Aotea, are an integral part of the identity of Ngāti Takapari and indeed Ngātiwai whānui.
20. Ngāti Takapari tūpuna were among those that occupied and exercised rangātiratanga over Hauturu nō te ao kōhatu - since men were stones - as stated by Paratene Te Manu during the title investigation hearings from 1878 – 1886.
21. After the confiscation of Hauturu by the Crown, Paratene Te Manu was among those that refused to leave the island. As a result, he was forcibly evicted in 1896. He took up residence on his lands at Tuparehuia in Whangaruru, before residing with his niece Rihi Paea at their kāinga Makekenui, Kauakarangirangi and Tapauta in Ngunguru, where he died in 1898. He is interred on Pii Manu (Ngunguru Sandspit) across from Motu Kuihi.
22. On Aotea, there are a number of places that are intimately tied to the use and occupation by Ngāti Takapari tūpuna:
- (a) in front of where Kawa Marae now stands was the main kāinga of Meretiaho. The Puriri grove there was considered a place of great tapu because of the whenua buried there. Meretiaho, a tohunga in her own right, was kaitiaki of this area. Meretiaho remains interred on Aotea at Tukari. Her daughter Miria also remains on Aotea;

- (b) within the inner part of Ongungu Tainui – Port Fitzroy is the island Taukōkopu, or as it is more generally known today, Graves Island. This island was traditionally occupied by Ngātiwai and is now a significant Wāhi Tapu. Its name Taukōkopu is testament to the fact that Taukōkopu was the last Ngātiwai Rangatira to occupy it;
- (c) another kāinga of Taukōkopu is at Waikirikiri, also known as 'Pa beach'. The Pā located here is known as Patuwhera and was occupied by Ngātiwai Rangatira Taukōkopu alongside Te Heru and Te Mariri;
- (d) two important Tauranga Ika are named for our Ngāti Takapari tūpuna, Te Kōwhai and Taukōkopu. In her 1995 evidence to the Māori Land Court during the investigation of title to the offshore Islands, Islets and Rocks off the coastline of Aotea, Whetumarama McGregor details how these reefs are excellent places from which to get whapuku, maomao and koura and that this area is also one of the only places on the coast of Aotea from which to get ngakihi and karapupu. In evidence presented at the same hearing, Witi McMath gives the history pertaining to these areas in detail;
- (e) within the vicinity of Motairehe is the fortified pā, Te Ruahuihui, or as it is also known, Te Pā o Taiawa. This Pā was constructed by Taiawa Te Awaroa and Te Mariri in the 1840s with the assistance of Taukōkopu, Kau Te Āwha, Paratene Te Manu as well as other Ngātiwai who had come to Aotea from as far away as Whangaruru. This was a direct response to a perceived threat from Ngā Puhi in retaliation for Haehae Te Hokio of Ngare Raumati and Te Kapotai having killed his first wife Marara Pohara. This wahine was a mokopuna of Te Wharerahi and Tari Tapua of Ngā Puhi and a niece of Tamati Waka Nene and Patuone. Haehae Te Hokio later went on to marry Rihī Paea, whose mother Mata Te Kura was born on Aotea; and
- (f) Te Atamira is a large pā and kāinga located above Rangitāwhiri. Witi McMath noted the association of Ngātiwai rangatira Te Heru, Taiawa Te Awaroa, Kau Te Āwha, Taukōkopu, Tihewa and Haumakuru with this place. It was from here and Ahuriri in the north of the island that Taukōkopu, alongside Te Huaroa and Taiawa Te Awaroa, kept vigil over Aotea and Hauturu after most of the people of Aotea had temporarily withdrawn from

the island and taken refuge at Te Kapanga and Tangiaro on the Coromandel Peninsula.

Crown Overlapping Claims Policy

23. It is of extreme concern that the Crown has decided to progress with overlapping redress without having ever undertaken a robust process to ascertain the nature of interests in the cross-claim area. Had the Crown done so, it would have undertaken a process, and provided redress, in a manner that respects mana whenua and tikanga Māori.
24. The Crown, in failing to adequately weigh interests to determine whether genuine mana whenua rights exist, has allowed some iwi and entities such as the Hauraki Collective to exploit the process by claiming frivolous interests and insisting to the Crown that this gives them entitlement to Treaty redress in areas they were never established or suffered any genuine Treaty grievances. The Crown has done this without any requirement for kanohi-ki-te-kanohi hui by cross-claimants to better understand the nature of claimed interests. This is contrary to tikanga.
25. Determining whether or not a genuine claim has merit would involve the Crown engaging with any relevant iwi groupings, hapū and whānau affected in a manner that reflects our tikanga, not by writing letters and requesting written responses. The continued failure on its part to do so demonstrates a lack of good faith by the Crown.

Tikanga Based Process

26. The tikanga based process being promoted by the Crown is a thinly veiled attempt by the Crown to absolve the Crown entirely from the negative impacts the current overlapping claims policy has on inter-iwi relations. The Crown can readily resolve this issue by providing other redress (ie, not land in contested areas) that does not cause these negative impacts.
27. For the tikanga process to be an effective vehicle to resolve overlapping claims, the Crown must ensure that iwi are required to engage properly and in good faith. The Crown must give genuine consideration to the outcome of that process.
28. It has been the experience of Ngātiwai that iwi with overlapping claims have

deliberately refused to engage in a tikanga process. Their refusal to do so is demonstrative of the Crown not giving any weight to it. As such, they have been able to rely on the Crown's existing process to seek redress beyond their legitimate tribal boundaries. To date, only Ngāti Paoa, Ngāi Tai ki Tāmaki and Ngāti Hako have undertaken to work out how to resolve overlapping claims with Ngātiwai.

Overlapping Claims within Ngātiwai Area of Interest

29. If the proposed commercial property redress (including vestings and Right of First Refusals (**RFR**)) and cultural redress are to proceed, this would unalterably disrupt and diminish Ngātiwai's (including Ngāti Takapari) rangatiratanga and kaitiakitanga over our ancestral domain and would in effect be an open act of aggression by the Crown against us. Of specific concern is:

(a) The protocol areas in relation to Taonga Tuturu and MPI Protocols:

- (i) the proposed 'protocol areas for the individual iwi of Hauraki' that extend upwards to Te Ārai o Tāhuhu (Te Ārai Point) and include Aotea, Hauturu and the surrounding ocean that are mapped by Ngāti Maru and Ngāti Tamaterā and indicated by Ngāti Whanaunga;
- (ii) Hauturu was the main Kāinga of Ngāti Takapari rangatira, Paratene Te Manu. Ngātiwai alone were granted sole title to the island and included in the schedule of owners were Paratene Te Manu, Miria Taukōkopu (Miria Henare) and Henare Te Moananui; and
- (iii) as stated earlier, Paratene Te Manu was among those that refused to leave the island and was forcibly evicted in 1896. Despite this, Hauturu and the surrounding environs remains as it always was, an intrinsic part of our hapū identity.

(b) Ngāti Whanaunga – Exclusive RFR over Tryphena Hall Local Purpose (Site for Community Buildings) Reserve:

- (i) the proposed commercial redress to Ngāti Whanaunga in the form of a RFR adjoining Tryphena Hall would undermine the long historical

relationship between Ngāti Takapari and Ngāti Whanaunga;

- (ii) this site is a place of historical and cultural significance not only to Ngāti Rehua but to Ngātiwai whānui, including Ngāti Takapari. As stated earlier, this site is known as Waikirikiri and it adjoins Patuwhera Pā which is associated with Te Heru, Te Mariri, and Ngāti Takapari tūpuna Taukōkopu; and
 - (iii) a Ngāti Whanaunga RFR would cause significant and irreversible prejudice to the descendants of Taukōkopu and alienate us from any actual cultural and/or commercial redress in regard to this area.
- (c) Ngāti Tamaterā, Ngāti Maru and Te Patukirikiri – Shared RFR over Pa Point Recreation Reserve and Te Atamira
- (i) my comments relating to Pa Point Recreation Reserve, more correctly known as Patuwhera, are identical to those relating to the adjoining Tryphena Hall Local Purpose Reserve as described above. This place was occupied by Taukōkopu alongside Te Heru and Te Huaroa. The potential alienation of this land to Marutūahu by way of RFR redress is entirely unacceptable; and
 - (ii) similarly, I support opposition to Te Atamira being included in vesting of RFR redress for Ngāti Tamaterā, Ngāti Maru or Patukirikiri. Any such redress would again cause significant and irreversible prejudice to the descendants of Taukōkopu and alienate us from any actual cultural and/or commercial redress in regard to this area.

Conclusion

30. We as whānau, as hapū and as iwi are defined by our tūpuna and their lands. Our maunga, awa, moana, tauranga waka, tauranga ika, wāhi tapu, and marae are all physical manifestations of our unique identity, history, whakapapa, and culture.
31. These taonga that have been handed down to us come with an obligation to care for them, protect them and if necessary defend them. We as Ngātiwai must heed the same warning given by Taukōkopu to the people of Te Totara "*Kia mataara, kia*

tūpato – be alert, be wary” and not allow outsiders to encroach upon our tribal estate, to trample our mana and to expand their influence over our natural resources by stealth or by any other means.


32. The Crown must see these overlapping claims for what they are, as damning evidence against an inherently flawed and unjust overlapping claims process. A process that has not only tarnished inter-tribal relations in Aotearoa but also the Crown-Māori Treaty partnership.

AFFIRMED at ~~Whangarei~~ this ~~4~~ day of
~~2018~~ SEPTEMBER 2018
before me


Tricia Bancroft

A Solicitor of the High Court of New Zealand

Tricia Bancroft
Deputy Registrar
High/District Court


Keatley Ryan Moana
Hopkins