

IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

WAI 2003

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

Te Paparahi o Te Raki
District Inquiry

AND

IN THE MATTER OF

a claim by Cheryl Turner,
John Klaricich, Harerei
Toia (deceased), Ellen
Naera, Fred Toi, Warren
Moetara and Hone
Tiamona on behalf of
Ngati Kororkoro Ngati
Wharara and Te Pouka
Hapu

Second Brief of Evidence of Warren Jeremiah Moetara

Dated this 24th day of March 2014

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Introduction

1. My name is Warren Jeremiah Moetara. I have previously introduced myself and given evidence in stage one of this Inquiry at Panguru.¹ It is disappointing to be presenting further evidence today without the benefit of a stage one report. I confirm my earlier evidence and in this brief describe the effects and impacts upon our hapu arising from Crown breaches of Te Tiriti o Waitangi in respect of:
 - a. My tupuna Rangatira Moetara, his commitment to Te Tiriti as a sacred pact and the continued attempts of our people to retain their authority and autonomy;
 - b. The effects of the Crown's laws, policies and regulations which saw the dismantling of our social norms including by an increase in the availability of alcohol despite attempts made by my tupuna and others to limit its availability because of its effects on our people;
 - c. The detrimental effects of land legislation on our whanau lands placed in the hands of the Maori Trustee.

Background

2. My grandfather was Hone Heremia Te Wake Iehu Moetara, most people knew him as John or Jack. My grandmother was Hana Ranga Hau. I was raised by my grandparents in Kaikohe and during my childhood and teenage years we often went to Pakanae to visit and spend time with whanau there. We camped at various places including on the beach front in front of the Andrews homestead and at Koutu at our karani Marama Russell's home. In later years we would camp on one of our whanau land blocks, Pakanae 2W1, where the whanau later built a garage and we came to learn of our ties and links to Pakanae and the Hokianga.
3. I attended Northland College in Kaikohe and after leaving school joined the Police working within that organisation for 22 years. I retired as a Detective Sergeant in 2004. I am now employed as the Team Leader of the Healthy Lifestyles Team for the Northland District Health Board, managing staff working in the area of health promotion across the

¹ Wai 1040, #C10. I am also a claimant in Wai 779 which relates to our whanau land at Pakanae.

Northland region. We focus on public and population health promoting initiatives that can improve and promote health, and prevent disease, with particular emphasis on the health of Maori in our region. Throughout my time with the Police and now in the health sector, I have observed many similarities in the issues for our people around health, crime and education.

Kawanatanga and Rangatiratanga

4. In the period following his signing of Te Tiriti, our tupuna Rangatira Moetara retained and asserted the mana of his people, maintaining key relationships with other leaders and hapu, and looking for opportunities for his hapu and Hokianga. Those opportunities had always existed in the historical hapu links, but with the signing of Te Tiriti, the Crown now presented opportunities as well.
5. In May 1855 he told Governor Gore Browne that the people of the Hokianga had been deserted by the Pakeha they had befriended. He spoke of the produce that was grown in the Hokianga and told the Governor to arrange for other Pakeha to come to the area. I believe he was building on the understandings and expectations he had in signing Te Tiriti; Hokianga had produce, and if the Governor arranged Pakeha settlers, they would be potential buyers and traders for that produce. I attach a copy of Te Karere Maori which refers to this as Appendix A.
6. In 1870 he, expressed his wish for economic development to the Governor, wanting to encourage Pakeha to continue establishing their flour and flax mills in the Hokianga, and saying that the Pakeha could prosper if they worked well with Maori. He said he wanted to see produce from the area shipped out, and that the fighting evident in other parts of the country would not happen in the Hokianga. In essence he was assuring the Governor that he and other Hokianga chiefs had control over peace in the area and that Pakeha were safe to establish industry's there. He warned however that Pakeha would only be able to continue in their work undisturbed as long as they did not turn against the Maori.³

³ Anderson, Armstrong and Subasic, "Northland Land and Politics: `1860-1910", Wai 1040, #A12, p568

7. Our tupuna Rangatira, and his son Hapakuku, continued to seek cooperation from the Crown and in 1873 Hapakuku wrote to Governor Fergusson inviting him to the Hokianga. Fergusson visited the Hokianga in May the following year and met with our tupuna Rangatira and other Hokianga chiefs at Herds Point (Rawene) where they spoke about the need for services like roads and schools, and raised concerns about new land laws.⁶

8. Again in 1879, one year before he died, our tupuna Rangatira and 108 others petitioned for infrastructure to be developed, wanting the Crown to establish a telegraph line, roads and railways between the Hokianga and Paihia. I believe our tupuna was looking for ways to improve their economic conditions and was challenging the Crown to meet their responsibilities.⁷

9. Our tupuna Rangatira was acting as he and other hapu leaders always had in maintaining their peoples authority and did not deserve the patronising way in which the Crown referred to them in a confidential list held by the government of the time, describing their rank and character:

Rangatira Moetara. Age 65. Waimamaku. Conduct good⁸

Waka Tu (Tio). Age 65. Pakanae. Conduct good. “Assessor under Native Lands Act”.

Tukiata. Age 50. Pakanae. Conduct good.

Tiopira Taoho. Age 45. Waimamaku. Conduct good.

Te Tohara. Age 40. Pakanae. Conduct good. “A man of influence in his own settlement”.

Taniora. Age 20. Pakanae. Conduct good.

10. Hapakuku Moetara, my great-great grandfather, worked hard as he followed in his fathers footsteps as a leader and he took on various roles for his people throughout his adult life.

11. He brought lands before the Native Land Court and also ensured interests in other land blocks around the Hokianga were maintained. In many cases I am certain that he acted

⁶ Anderson, Armstrong and Subasic, “Northland Land and Politics: `1860-1910”, Wai 1040, #A12, p892

⁷ Anderson, Armstrong and Subasic, “Northland Land and Politics: `1860-1910”, Wai 1040, #A12,p973

⁸ Anderson, Armstrong and Subasic, “Northland Land and Politics: `1860-1910”, Wai 1040, #A12, p1,539

under instruction from his father. Pakanae No. 1 was one of the blocks brought before the court with this being sold to the Crown for settlement.

12. He became involved in local government and in 1878 was elected onto the Wairoa Riding, Hokianga County Council and remained there until 1881. It is recorded that he sought to ensure Maori could vote in local elections when Maori were being prohibited to vote due to a lack of sufficient ownership in land.⁹
13. In 1877, Wiremu Rangatira, the younger brother of Hapakuku Moetara, and 58 others petitioned parliament seeking a repeal of the Native Land Administration Act for its provisions, “bear heavily on the Maori race”.¹⁰ In 1890, Hapakuku was a representative for Hokianga in the Kotahitanga movement, and together with Raniera Wharerau and Pene Tauī travelled throughout the country gathering signatures in support of Te Kotahitanga.
14. Although our tupuna continued to exercise their authority after 1840, and sought to engage at local and national levels with the Crown over the transaction of land and implementation of laws, they were frustrated by the lack of response from the Crown and it became increasingly difficult to progress things for their people.

Limits of rangatiratanga and alcohol

15. In my earlier brief I refer to the period prior to the signing of Te Tiriti when Moetara and Rangatira were concerned at the impact that the consumption of rum had on their people.¹¹
16. In 1835 Moetara and other chiefs met with Pakeha settlers, including Thomas McDonnell (Additional British Resident) and William White (Wesleyan Missionary at Mangungu), at Mangungu in Hokianga. They discussed prohibiting the importation and sale of liquor into Hokianga because of the concerns Moetara and others had about the negative impact alcohol was having in the area. Some Pakeha settlers were causing

⁹ Anderson, Armstrong and Subasic, “Northland Land and Politics: `1860-1910”, Wai 1040, #A12 608

¹⁰ Anderson, Armstrong and Subasic, “Northland Land and Politics: `1860-1910”, Wai 1040, #A12 p1071-1072

¹¹ Wai 1040, #C10, paragraph 36

problems when they became drunk, and Moetara and others didn't want those problems to begin arising amongst their own people. A prohibition was agreed to take effect from 14 December 1835, where persons apprehended importing or purchasing liquor would be fined 25 pounds.

17. In March 1836 the Wesleyan missionaries held a temperance meeting at which about 80 Maori people attended, along with 5 settlers to sign a declaration of total abstinence from alcohol. I believe that our tupuna would have been to the forefront of this action, given their concerns about the impact alcohol was having amongst their people.
18. In 1863, Rangatira Moetara was named as a member of the Bay of Island runanga and they subsequently resolved to prohibit the sale of liquor within the district. The actions of the chiefs reduced the trade in liquor in Hokianga at this time, however the dangers of alcohol were highlighted when in February 1870 a drunken brawl in Waimamaku resulted in the death of one man.¹³
19. In June 1876 Hapkauku Moetara and other tupuna from Te Wahapu o Hokianga set in place laws through their Church committee that would prohibit any person bringing liquor into their district. Any person found bringing liquor into the district of Waimamaku would be fined 5 pounds the people wanted total abstinence from liquor and they wished to become members of the Good Templars Movement which promoted complete abstinence, legislative change and prohibition. The principle tupuna involved in this initiative were Hapakuku Moetara, Pene Tipana, Rewiri Tiopira and Rua Takimona.
20. Our tupuna were not the only ones within Ngapuhi concerned about the impact alcohol was having. For example the Tribunal has already heard evidence from my whanaunga, some of the Wihongi whanau in Kaikohe, who gave evidence of their tupuna being involved in the administration of the Maori Abstinence Pledge Card during the late 1930's. I refer to the evidence of Ted Wihongi and Miller Wihongi in the Waimate Taiamai hearings.¹⁵

¹³ Anderson, Armstrong and Subasic, "Northland Land and Politics: 1860-1910", Wai 1040, #A12, p494

¹⁵ Wai 1040, #H15, paragraph 22

21. The efforts by our tupuna to prohibit alcohol in the Hokianga were not supported by the Crown. Without that support our tupuna struggled to stop or control the growth in trade in alcohol.
22. I do not believe anybody involved in these hearings would dispute that alcohol has played a major role in disintegrating the fabric of our Maori world and for me that has certainly been evidenced within our hapu. I have no doubt that many within Ngapuhi can recount endless stories where alcohol has been the fuel for disaster and misery, and I believe that is exactly what our tupuna feared and tried to avert. The Crown failed our tupuna, and continue to fail us today with poor alcohol control policies.

Limits of rangatiratanga and tobacco

23. Another trade item that became prominent in the time of our tupuna Rangatira Moetara was tobacco. Tobacco was an early trade item used by traders, settlers and missionaries and by the 1830's pipe smoking had become a normal part of everyday life and tobacco a common currency.
24. One example within Te Wahapu is where tobacco was involved as a trade item in the Koutu block. The 1835 Deed records 1x cask of tobacco at 112lbs, and 300 pipes, amongst the trade items for the block. This transaction was subject to dispute in later years, but in 1880 an area of 225ac was awarded to Young, meaning that the equivalent of about 8 ounces of tobacco was part payment for each acre, or in modern day terms, about 7 smaller packets of roll your own tobacco per acre.
25. Another example is the Oha block transaction by the Wesleyan Mission Station at Whiria. In this case '*2 casks of tobacco of 180 or 190lbs*' was included amongst the trade items for the 200 acres of land. In modern day terms about 1 dozen smaller packets of roll your own tobacco per acre of land.
26. The tobacco was not as we know it today but was simply dried unprocessed tobacco leaf, shipped in barrells and casks of varying sizes and eventually being smoked in pipes, cigarettes were not in use at that time. Being untreated the tobacco did not contain any of

the additives that tobacco companies add to their product today, and in its raw form could be said to pose more of a health risk than modern tobacco.

27. Another example of tobacco as a trade item for land is a transaction in 1839 for an area of land at Waitangi estimated at about 5000ac. Traded for the land were various goods including 1 cask of 100lbs of tobacco, and 1 cask of 130lbs of tobacco, 230lbs of tobacco in total.
28. This transaction was one of a series of transactions by the same 'purchaser', Samuel Marsden. Between 1834 and 1839 he acquired 9 blocks of land in the Waitangi area totalling approximately 10,000 acres. Various goods were traded for these lands, including a total of about 540lbs of tobacco, half an imperial ton of tobacco. I attach a schedule of transactions at Appendix B.
29. These transactions involving Marsden saw nearly 10,000 acres lost for the equivalent of about 25gms of tobacco per acre, in modern day terms, less than a packet of roll your own tobacco per acre of land.
30. Another obvious example involving tobacco is of course it's use at the signing of Te Tiriti at Waitangi and at Mangungu where tobacco was provided to tupuna following their signing of Te Tiriti.
31. These are just a few known examples of how tobacco was used during the time of our tupuna, but I have no doubt that there are many, many more transactions that have gone unrecorded given the extent of settlement, and the growth in demand for tobacco as more and more of our tupuna became smokers.
32. In the 20th century tobacco use became prolific amongst Maori and policies such as providing tobacco as part of ration packs to soldiers during the 1st World War didn't help. Smoking prevalence rates for Maori increased over the decades along with smoking related illnesses and deaths. Yes, it is accepted that in those earlier times the health risks of smoking tobacco were not known, but by the mid 1900's questions were starting to be asked about those risks and in 1964 the release of the US General Surgeons Report on Smoking and Health linking smoking to lung cancer and heart disease amongst men lead to ongoing subsequent efforts to quell the impacts of tobacco on our health.

33. The Tribunal will be aware of the goal of having Aotearoa become a smokefree nation by 2025, but for many of our people that move is too late as many thousands have died since the time of our tupuna as a result of tobacco related illness. Along with alcohol, tobacco has decimated the health of our people.
34. The prevalence of smoking in Hokianga remains high, but the area remains poorly resourced to provide support for smokers to quit. The same applies in relation to services dedicated to alcohol treatment, and the Crown must redress must address that under resourcing.

Land Court, Land Development Schemes, and the Maori Trustee

35. My great grandfather Iehu Hapakuku Moetara navigated the Land Court system on behalf of his people, just as his father had done. During the early 1900's he supported many whanau by making applications to the Court on their behalf and was also forced to go through the consolidation process in order bring his interests together into distinct blocks at Pakanae. In relation to the Pakanae 2Y3 block he wasn't able to complete that before his death and we are still trying to resolve the ownership schedule on that block.
36. Despite the difficulties he farmed his land at Pakanae which consisted of about 50 acres and when the Native Land Development Scheme was introduced he tried to take advantage of this to improve the farm through the unit farm scheme but by 1940 was still finding this difficult. By this time he was 76 years old, and had brought my grandfather Jack, who was about 18 at that time, home from boarding school at St Stephens to help with managing the farm.
37. My great grandfather died in 1942 and my grandfather was left to run the farm. Together with my grandmother, they raised some of their family there including my mother, but making a living proved difficult and my grandfather ended up getting work as a Ganger on the railways in Kaikohe. He had to live away from Pakanae for the work, and my grandmother would look after the milking of the cows until in the late 1950's the whole whanau moved to live in Kaikohe and the farm was leased to one of my grandfather's cousins.

Pakanae 2N

38. Our whanau have interests in Pakanae 2N, an area of about 11 acres located on the south eastern slopes of Whiria, extending from SH12 to the summit of the Pa. A number of other blocks along side it are sited in a similar manner.
39. When the Wesleyan Missionaries negotiated for land to establish their Mission Station, they were restricted to the north western side of Whiria , with the remaining area retained by our tupuna as reflected in blocks such as Pakanae 2N.
40. I recall my grandfather telling us that the flat paddock on Pakanae 2N was used as rugby grounds, but I never ever saw it used in that way in my time. He also told us that the block was held by the Maori Trustee and that he and the other owners in the block were supposed to receive lease moneys for it, but they rarely did.
41. In 1967 Pakanae 2N and 14 other adjacent and nearby blocks were vested in the Maori Trustee pursuant to Section 438 of the Maori Affairs Act 1953 on the basis that the owners had *'neglected to farm or otherwise manage the said lands with due diligence'*. The combined area of all the blocks totalled approximately 100 acres and they were to be held in trust for the benefit of the owners and to lease as one block or as several blocks for a period not exceeding 50 years.
42. The blocks were leased from 1 June 1968 to 13 June 1978, following which the lease was terminated and the land vested back into the beneficial owners. However the Maori Trustee remained as administrator under its statutory powers (Section 231 and 239 of the Maori Affairs Act 1953). Under that Act the Trustee was to collect and distribute rent to the owners, undertake inspections of the property and complete rent renewals.
43. The Maori Trustee continued to administer the blocks and the lease, which changed hands twice over the next 30 years, however shareholders in my whanau received little if any benefits from the lease monies received by the Trustee, this was despite ownership schedules being updated on Pakanae 2N block as a result of succession orders we made in the Maori Land Court.
44. In 2008 the lease rent for Pakanae 2N and 6 other adjacent blocks was reviewed and a proposed rent increase from \$5,400 per annum to over \$27,000 per annum was put forward by the Maori Trustee. During the same period new valuations were completed

on the blocks which saw them classified as “lifestyle blocks”, with the capital values and rates increasing as a result.

45. Subsequent discussions between some of the block owners, the Maori Trustees Office, and the Lessee resulted in the lease being terminated in December 2010 and the Maori Trustee end its administration role, us owners strongly feeling that the Maori Trustee should have no further involvement with the land.
46. In our experience the Maori Trustee has been very poor at communicating with us and owners have felt disconnected from our whenua having little involvement if any with the whenua since it was placed into Trustee hands over 40 years ago. I estimate that in the 10 year period up to 2008 alone only 60% of income from Pakanae 2N block was distributed to owners, the remainder being absorbed by Maori Trustee costs or retained where the Trustee had failed to maintain up to date contact details for owners.
47. It is now left to the owners to establish a management structure for the block – something we believe the Maori Trustee should have done if it was indeed acting in the best interests of the owners. With the huge number of beneficial owners the task of bringing all together to ensure a sound decision making structure is in place is daunting and beyond our limited resources.
48. This situation is further exasperated by Quotable Valuation Ltd (“QV”)who have refused to acknowledge that Pakanae 2N is situated on Whiria Pa, and is thus ineligible for a valuation adjustment granted to land that has significant sites such as pa on it. As the valuation determines the rates applied by the Far North District Council, the poor understanding by QV means that the owners are denied reduced rates.
49. This experience sours our attempts to regain control of our whenua, whenua that our tupuna set aside and retains our presence on Whiria Pa, and is thus bound to the very foundations of Ngapuhi and can therefore never be alienated.
50. I believe the Crown has failed dismally in protecting our tribal, hapu and whanau structures that would have maintained our sense of control over our whenua, and the Maori Trustee structure has served only to disconnect us further from that which was left in place by our tupuna. We are now left with having to untangle decades of poor trusteeship, argue with agencies that have poor cultural understanding and reconnect whanau with their whenua.

51. I believe resourcing should be allocated to owners to enable the necessary research and facilitation that will reconnect owners with their whenua, enable us to establish enduring management structures, and ensure better ongoing benefits for the owners.

Concluding comments

52. Our tupuna from the earliest times of contact with Pakeha and the Crown asserted their mana and the authorities of their people. That mana and authority was constantly eroded by the Crown which sought to undermine them.
53. Throughout the past 200 hundred years the physical, mental and spiritual health of whanau at Te Wahapu, and in Hokianga, has been battered by the tools of colonisation represented in tobacco and alcohol. It has suffered from the poor resourcing of health services, and ignorance of the unique economic needs of the area.
54. That situation is best addressed by the people of Te Wahapu, and Hokianga, who continue to assert the mana of our tupuna and the authority of our people. Redress for the breaches I have described above should include:
- a. The enablement of control by the people of Te Wahapu over the provision of well resourced health services.
 - b. The resourcing of whanau to update and resolve land ownership schedules, establish management structures for their land, develop businesses and better utilise their land.
 - c. Addressing both local and national legislation, regulation and polices that present barriers to whanau of Te Wahapu and the Hokianga controlling and utilising their land and human resources.
 - d. The enablement of whanau of Ngati Korokoro, Te Pouka, and Ngati Wharara to have control over our physical, spiritual, environmental and economic well-being.

Ka nui te mihi

Warren Moetara

24 March 2014