

IN THE WAITANGI TRIBUNAL

**Wai 2366
Wai 2364
Wai 2372
Wai 1699
Wai 1701**

IN THE MATTER OF the Treaty of Waitangi Act
1975

AND applications for Resumption of
Land by **HAAMI PIRIPI** on
behalf of himself and **TE
RARAWA**

**AFFIDAVIT OF HAAMI PIRIPI IN SUPPORT OF
APPLICATION FOR RESUMPTION**

6 SEPTEMBER 2012

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AFFIDAVIT OF HAAMI PIRIPI

I, **HAAMI PIRIPI**, of Kaitaia, Chairperson swear:

- 1.** I hold the positions of:
 - a.** Chairperson of Te Runanga o Te Rarawa ("Te Runanga"), the governance entity for the Iwi of Te Rarawa ("Te Rarawa");
 - b.** Negotiator on behalf of Te Rarawa for historical Te Tiriti o Waitangi/Treaty of Waitangi ("Te Tiriti/Treaty") settlements; and
 - c.** Chairperson of Te Hiku o Te Ika Forum ("the Forum"). This Memorandum is filed on behalf of Haami Piripi, Chairperson of Te Runanga o Te Rarawa, and the Iwi of Te Rarawa.

- 2.** I swear this affidavit in support of my and Te Rarawa's application for resumption of certain lands in our rohe boundary. As a result of events that have occurred over the past few months we have come to the conclusion that it is in our best interests and the interests of our constituent members that Te Rarawa seeks to have resumed, those lands set out in the Resumption Application which this affidavit supports.

- 3.** I have already filed extensive information setting out Te Rarawa's interests by way of an affidavit in relation to the Urgency Application made by Ngati Kahu and a Brief of Evidence for the Ngati Kahu Remedies Application hearing. Suffice to say I am not going to get into the level of detail that has already been submitted to the Tribunal in relation to these matters.¹ We have entered into negotiations with the Crown and are almost at the point of execution of a Deed of Settlement.

- 4.** Te Rarawa has entered into direct high level negotiations along with other Te Hiku Iwi in good faith. The other four Te Hiku Iwi, have preferred to negotiate our settlement directly with the Crown. Ngati Kahu has chosen a different route. We do not

¹ Wai 45 #R44, Wai 45 #R43 and Wai 45 # R42.

oppose their Application for Remedies per se. What we do oppose is their incursion into our rohe.

- 5.** Our experience so far in their remedies hearing is that we are finding that, as a result of being relegated to the status of “an interested party”, we have been prejudiced and our interests as an iwi are being marginalised through the process. In these circumstances, we have decided to take our own application for resumption of the lands set out in our Application for Resumption. We have suffered and continue to suffer prejudice as a result of the Ngati Kahu Remedies Application.
- 6.** An example is the way that the Briefs of Evidence of Associate Professor Manuka Henare, who is a historian for the Te Rarawa Runanga, and Joe Cooper, who is an elected Te Rarawa negotiator and the bearer of the Wai 128 Hokianga Ki Te Rarawa claim lodged by his mother Dame Whina Cooper, which were just a mere one day late, were not accepted by the Tribunal.
- 7.** A Memorandum of Counsel was filed stating that:

Dr. Henare and Mr Cooper are two of the witnesses being called by Te Rarawa to provide key evidence in the Ngati Kahu Remedies Proceedings. Counsel advises that Dr. Henare has been tied up with other pressing proceedings and in light of other urgent priorities, will be unable to complete his Brief of Evidence by this Wednesday 22 August 2012. Mr. Cooper has been ill recently and as such will also be unable to complete his Brief of Evidence by this Wednesday 22 August 2012. Both Dr. Henare and Mr Cooper require a short extension of time to be able to complete their respective Briefs of Evidence.²

² Wai 45 2.456.

8. In response, the Tribunal declined the requests to file the late material and directed the Registrar not to place the two briefs on the record of inquiry for the following reasons:

- a.** Counsel for Te Rarawa have had the Ngati Kahu tangata whenua material since at least 13 July 2012. This Tribunal hearing has had to operate under extremely tight timeframes and there has been a more than ample opportunity for Te Rarawa to file all of its evidence within the timeframes set out;
- b.** The timeframe for the timetable anticipated Te Rarawa tangata Whenua evidence being filed by midday, Wednesday 22 August 2012. Ngati Kahu had until midday, Wednesday 29 August 2012 to file and serve any tangata whenua evidence in response. I am informed by the Registrar that the briefs of evidence of Dr Henare and Mr Cooper were filed at 6.30pm on 23 August 2012. That late filing effectively meant Ngati Kahu lost the benefit of one and a half working days to respond to the evidence of Te Rarawa. Therefore, I consider that they were prejudiced in preparing their reply evidence;
- c.** Simply allowing Ngati Kahu further time to file reply evidence would not be possible. There is already a huge amount of evidence that has been filed this week and continues to be filed today. The timetable is so tight that very little time is effectively being left for the Tribunal and counsel to read, absorb and work with the material that is being filed; and
- d.** I have taken the opportunity to look briefly at the proposed evidence on behalf of Dr Henare and Mr Cooper. I understand that Mr Cooper would not have been available to give evidence at the hearing in any case. In this case where there is clear contest as to mana whenua issues I consider that all witnesses who give mana whenua evidence challenging the interests of Ngati Kahu need to be available to give evidence in person. In addition, without meaning any disrespect, the evidence of

Dr Henare appears to be pitched at a generic level and does not necessarily address the specific issues which this Tribunal will need to canvass in this inquiry.³

- 9.** Mr. Cooper's illness was sudden and prolonged. The reality is that even though people may have a lengthy period of time to complete a piece of work, they generally set aside some time to do that. If during the particular days that have been set aside, something urgent crops up, then they will need more time. It is not unusual for the Tribunal to grant extensions and has granted many extensions during this hearing. Throughout the course of the hearing week, many negative comments have been said about Te Rarawa's esteemed rangatira Panakareao, which we have not been able to counter because we do not have the benefit of the evidence from Associate Professor Henare, an esteemed scholar of Te Rarawa in this area.
- 10.** In relation to Joe Cooper it is exceedingly harsh that the son of Dame Whina Cooper who played such a critical role in the land struggle to have not allowed his evidence to be placed on record.

Attendance at the Hearing

- 11.** On day one of the hearing, I arrived at the door of the Kareponia Marae only to be told that I, along with my Legal Counsel, was to sit outside. I have spent all of the hearing week outside. After protestations, my Legal Counsel was allowed to enter the Marae. I do not consider that such conduct is conducive, in any shape or form, to a fair hearing.
- 12.** The evidence that has been presented by Ngati Kahu in relation to manawhenua has appeared to me to be a wholesale attempt at a land grab in our rohe. We do not consider that we can sufficiently defend ourselves against this attack without taking our own application for resumption.

³ Wai 45 2.485 at paragraph 8.

13. It has been a difficult decision to make because we have been negotiating with the Crown in good faith but we feel we have been forced to do this. We do not yet have title to the properties that are in our Deed, and we will not gain title to them until settlement legislation is passed through the house. This could take anywhere from 6 to 8 months to 3 years. In the meantime, claimants comprising not just iwi but also hapu are free to come to the Tribunal and file an application for resumption over our properties. We have already been forced to divert scarce resources towards defending our rohe and interests in the five urgency applications that have been filed and in train since mid-last year, attacking our Deed. Despite these five applications requiring our extensive participation in the proceedings which have been on-going for well over a year now, we have received no funding whatsoever from the Legal Services Agency for participation for our Legal Counsel in any of these proceedings. We consider that, in the circumstances, binding orders from the Tribunal would secure these properties for us and prevent a situation where we are dragged into proceedings not of our own doing at the expense of ourselves and our Legal Counsel.

SWORN at Kaitaia)
this 6th day of September 2012)
before me:) _____

HAAMI PIRIPI

Solicitor of the High Court of New Zealand/Deputy Registrar