



**DATE: 4<sup>TH</sup> JULY 2014**

**FROM: HOLDEN HOHAIA**

**TO: HIS HONOUR JUDGE HARVEY – MAORI LAND COURT**

**SUBJECT: REPORT BACK – REVIEW OF THE NGATI MARI (TARANAKI) TRIBAL REGISTER**

This report updates His Honour on the process that Te Runanga o Ngati Maru (Taranaki) followed to review the Ngati Maru Tribal Register. It recommends that His Honour endorse this process and the resulting updated Tribal Register (i.e, the New Register) so that the trustees can call an election for new trustees in accordance with the Trust Deed.

#### **Background to the Tribal Register Review**

On 31 October 2012, you issued a Reserved Judgment regarding the application of the late Rata Pue for the removal of a number of the previous trustees, including the then Chair - Maria Kingi. In your judgment you noted that a number of the previous trustees had committed breaches of their trustees' obligations (including failure to account for expenditure of Ngati Maru funds) and that you considered these breaches were serious enough to warrant removal.

You will recall that a number of trustees, including Ms Kingi, resigned and you appointed and confirmed a number of new interim trustees (Jan Matuku, Tom Rangihaeata and Maioha Tokotaua and myself). Eddie Ngeru was invited to participate as a Court Appointed Trustee but declined. Tamzyn Pue remains an elected trustee from the previous election (she was not the subject of the Reserved Judgment), and Michael Kopu remains as an advisory trustee. You instructed the Court Appointed Trustees to, amongst other things, review the register to : *"... ensure that the individuals listed therein are members of Ngati Maru."*<sup>1</sup>

#### **Competing Claims**

Following the Court appointment of new trustees, a number of the previous trustees and others, led by Maria Kingi, continued to seek mandate to negotiate the Ngati Maru claim under the auspices of the "Ngati Maru Treaty Claim Working Party". This Working Party was established prior to the previous trustees resigning. Incidentally, your findings around breach of trustees' obligations related mainly to expenditure and transfer of funds associated with payment of Working Party members.

At an advertised Ngati Maru hui-a-iwi in December 2012 the people unanimously instructed the new trustees to take all steps necessary to stop Ms Kingi and others speaking on behalf of Ngati Maru. As a result, the new trustees decided to seek mandate from the people for the Runanga to progress the

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<sup>1</sup> Para 66 Reserved Judgement (291 Aotea MB 257)

claim, instead of Ms Kingi and others. We met with previous trustees, held several public meetings (one facilitated by OTS) and, in May 2013, at an advertised Ngati Maru hui-a-iwi the people voted in support of the Runanga seeking mandate, subject to more hui being held to further clarify our “claimant definition”.

### **Work on Claimant Definition – The Ngati Maru Whakapapa Research Report and Tupuna List**

In August 2013 the Runanga, in an attempt to foster debate about our claimant definition and tribal identity (consistent with the resolution from the May hui-a-iwi), promoted a proposal that anyone who could whakapapa to a *Taranaki* tupuna should be included in the Ngati Maru tribe. Feedback on this proposal was almost universally negative, with most saying it was opening the door too wide, despite our close association with all other Taranaki tribes. However the proposal did stimulate positive debate amongst the iwi about our tribal identity, whakapapa and history.

As a result, in Sep 2013 at an advertised hui-a-iwi, the people unanimously agreed that the Runanga should commission a suitably qualified historical researcher with knowledge of Ngati Maru whakapapa and history to undertake research to assist with the question of claimant definition. This work was within scope of the pre-mandate funding that OTS had at that time released to the Runanga.

The Runanga commissioned Karl Burrows, a member of the iwi, to identify from historical written sources,<sup>2</sup> a list of Ngati Maru tupuna (the Tupuna List) and recommendations about a process by which the Tupuna List could be used to assist not only with our claimant definition work, but also to determine tribal membership, by descent, to Ngati Maru. Incidentally, clause 3.1 of the Trust Deed requires the Runanga to produce and maintain a Ngati Maru (Taranaki) Tupuna List: *“which may be used for the purposes of applications for registration on the Ngati Maru (Taranaki) Register”*.

Karl is a solicitor and experienced researcher, and is also well known amongst Ngati Maru as being knowledgeable in Maru whakapapa and history. Pare Hayward (also a qualified and experienced historian and descendant of Ngati Maru) was also involved in quality assuring the accuracy of the Tupuna List based on source documents.

The first version of the Ngati Maru Whakapapa Report and Tupuna List was first posted on the Runanga website for feedback in January 2014. Subsequent revisions of the Report and Tupuna List were posted on the website over the months of February, March and April 2014. The original Report and Tupuna List and subsequent revisions are attached as **Appendix I**

### **Preliminary Review of the Previous Tribal Register**

In January 2014 I took possession of the hard copy set of the previous Tribal Register. I conducted an initial review of all registration forms and assessed them against the Tupuna List. My initial finding was that less than half of the approximately 750 forms evidenced sufficient information to establish a whakapapa connection to an ancestor on the Tupuna List.

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<sup>2</sup> Sources for the Tupuna List include: The Purangi and Ngati Maru Landless Natives Acts 1907, Western Maori Electoral Rolls 1908 and 1919, various Petitions to the Crown (1887 and 1925), Maori Land Court hearings from 1882 and 1895, and various West Coast Commission Reserves land block hearings ranging from 1884 – 1916.

On 31 January 2014 I advised the trustees of this via a trustees' phone conference. Trustees agreed that, given the state of the previous register, a full review was required using the Tupuna List as the basis for the review. Trustees also agreed that we should seek feedback on both the Tupuna List and the need for a full review of the register. Furthermore we agreed that, given the timeframe to achieve the objective (i.e, complete the review, engage with iwi and run elections), we should postpone plans to hold Treaty claim mandating hui until after this mahi was completed. On 2 Feb 2014 we released a media statement to this effect.

We sought feedback as widely as possible on the Tupuna List and the need for a register review. This was done through extensive media coverage on Atiawa Toa FM, Korimako FM Radio NZ's Morning Report, and regular posting on the Runanga website. On 13 Feb 2014 we advertised a Ngati Maru hui-a-iwi for the 16<sup>th</sup> March at Kohangamoa Marae to (amongst other things): "*Seek agreement to a review of the register in accordance with the recommendations contained in the Whakapapa Research Report*"

At the above hui the people unanimously agreed to the register review in accordance with the recommendations contained in the whakapapa research report. Minutes of that hui were posted on the Runanga website immediately after the hui. Further promotion of the decision was carried out on Korimako FM and at regular advertised Ngati Maru Noho Marae at both Tarata and Kohangamoa Marae. A copy of the minutes for the Kohangamoa hui is attached as **Appendix II**

### **Register Review Process**

In April 2014 I applied on behalf of the Runanga to Te Puni Kokiri for funding to undertake the Register Review. This project required someone with strong knowledge of Ngati Maru whakapapa *plus* proven expertise in historical research, particularly relating to Maori Land Court and processes for succession to Maori land interests. The Runanga agreed to contract Pare Hayward (the Registrar) for three months, to undertake the review process essentially in the capacity of an Inaugural Registrar. They also agreed that the Registrar should be assisted by a newly constituted Whakapapa Validation Committee (WVC) comprising: myself, Karl Burrows, Maioha Tokotaua, Aroha Paenga, Ron Puata and Liz Patu. The WVC is required under clause 3.1 of the Trust Deed.

The last three names above were the three kaumatua attendees of the Kohangamoa hui on the 16<sup>th</sup> March. These three kaumatua agreed to participate both on the WVC and to be part of a three member "Kaunihera Kaumatua". Clause 4.2 of the First Schedule of the Trust Deed requires that the WVC include not less than three members of the Kaunihera Kaumatua.

### **Registrations Validated Under the New Process**

The register review process involved the Registrar assessing each registration form the Runanga holds against the Tupuna List to ascertain what evidence there exists, *if any*, for a connection by descent to an ancestor on the Tupuna List. Where a connection was evidenced based on the whakapapa provided on the registration form, or if the Maru tupuna connection was ascertained through further inquiry or by virtue of membership of a particular whanau group, the Registrar compiled these names into whakapapa chart form in a series of 3 reports, with narrative explanation, and recommendation for endorsement by the WVC. These reports are attached as **Appendix III**.

In total the three reports described above recommended **426** names be endorsed on the “New Register” (i.e, the register that has been built under the review process). These are a combination of forms that the Runanga held at the time the review was initiated in Feb 2014 *and* new registrations received as a result of the subsequent registration drive that the Registrar led.

At the time of writing this report, 338 people had been contacted in writing (letters dated 6 June 2014) to confirm their endorsement and inclusion on the New Register. A copy of the letter confirming validation and inclusion on the New Register is attached as **Appendix IV**. Letters to the remainder will be notified in batches as is practical and cost effective.

### **Registrations that Need More Information**

The Registrar also identified a total of **387** registrations that need more information (“NMIs”) to ascertain the specific descent connection to a Maru ancestor on the Tupuna List. On 26<sup>th</sup> June 2014 letters were sent to all NMIs explaining the Tupuna List, the fact the iwi agreed to use it as a basis for determining membership, the current review process and the status of their application. A sample copy of a letter to an NMI is attached as **Appendix V**.

By way of explanation, of the 387 NMIs over half of these could be grouped into 6 family groups each having a common ancestor, but that ancestor having no apparent connection to anyone on the Tupuna List. In these cases the Registrar contacted key informants and kaumatua from within each whanau group to try and shed more light on how these groups were connected, *if at all*, to Ngati Maru. Incidentally, approximately half of the NMI’s were inherited registration forms from the old Ngati Maru Claims Progression Trust.

A further comment needs to be made about the NMI forms particularly from the 6 family groupings mentioned above. It appears that key individuals have filled out forms on behalf of other members of their whanau, possibly unbeknownst to those whanau members. What is also obvious, based on briefings to me from the Registrar, is that none of these key individuals seem able to cite any historical evidence to support a whakapapa connection between the tupuna they have referenced in their particular cluster of registration forms, and a Maru tupuna on our Tupuna List.

In summary, a small number of individuals have tried to take advantage of the fact that the previous administration had no clear basis (ie no Tupuna List) by which membership of Ngati Maru could be validated.

### **Legal / Trust Order Matters**

The Runanga has now established a robust process, consistent with the Trust Deed, whereby the Tupuna List is used to determine a person’s entitlement to be included on the New Tribal Register. This was always anticipated under our Trust Deed. In addition, the Tupuna List has been available online for comment for nearly six months now, and a process exists whereby people can seek to have tupuna added to the List based on new evidence (see the original report online). At the time of writing this report, I understand Karl Borrows is producing a report to have several tupuna added to the List based on new information.



The Registrar has also reviewed all registration forms the Runanga currently holds and has produced a New Register based on the above process. Furthermore, we now hold a current "NMI" file of all registration forms that need more information to evidence a Maru connection. This work can continue under the auspices of any subsequent permanently appointed Registrar.

The Runanga has now written to *everyone* to advise them of their status - i.e. either confirmed on the New Register or needing more information. We will endeavour to follow up "Return to Senders" through social media channels such as the Runanga website and the Runanga Facebook Page. The only thing remaining is the legal "tidy up" to endorse what the Runanga has done in carrying out the Judge's instructions to: "...ensure that the individuals listed therein are members of Ngati Maru." (see para 66 Reserfved Judgement).

An example of where such a "tidy-up" may be required is under clause 5.4 of the First Schedule where it states that Registration of any person in the Ngati Maru Register "*shall be conclusive evidence of that person's status as a member of Ngati Maru (Taranaki)...*". It is unclear if the previous Runanga ever formally notified "successful" (successful in that the previous process essentially involved rubber stamping all registration forms with no reference to a Tupuna List) applicants in writing as required under section 4.5 First Schedule. While all registration forms were stamped as "validated" under the old regime, there is no record of written notification. That aside, assuming they were notified, this new process needs to be acknowledged as superceding clause 5.4 because - i.e, this process has *invalidated* around half of those registrations based on a robust and transparent process supported at a Ngati Maru hui-a-iwi. Therefore we respectfully request that His Honour endorse the process we followed. Another legal "tidy up" relates to clause 6.1 First Schedule where it states that the Runanga include on the register all those who were on the register of the Ngati Maru Claim Progression Trust. As mentioned above, approximately half of the current NMIs were inherited registration forms from the old Maru Claims Progression Trust. Therefore this provision of the Deed needs to change.

### **Recommendations**


Based on the process followed above, and the legal and Trust Deed matters that need to be resolved in order to formally endorse this register review we respectfully request that His Honour:

**note** the register review process that has been followed

**agree** to the outcome of the register review process, and

**agree** to make any necessary amendments to the Trust Deed in order to formally endorse the process that has been followed to create the New Ngati Maru (Taranaki) Tribal Register

Noho ora mai



Holden Hohaia

Court Appointed Trustee for Te Runanga o Ngati Maru

