

Ngati Porou ki Hauraki Newsletter

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Website online at www.ngatiporoukihauraki.maori.nz

Foreshore & Seabed Negotiations

It is now, only upon reflection that we can look back and see that we have come a long way since beginning these negotiations with the Crown. In that time we have built up an important body of information which will support a case for a recognition agreement for our Territorial Customary Rights claim. At this point in time we have reached a critical stage in these negotiations, where each piece of traditional information is now being assessed to gain an understanding of its overall evidence value to an eventual case. By necessity this must be a careful process, whereby we maintain the integrity of our traditional information at hand as we feed it through the various stages of developing our statements of evidence.

Since beginning these negotiations a veritable mountain of paper has been used to gather, sift and report on, the history, occupation, use and rights of Ngati Porou ki Hauraki in Harataunga and Mataora. To guard against the danger of getting lost in the mass of paper and information overload, this is probably a good time for us to reflect on what we are trying to achieve through our negotiations with the Crown. In order to do this we must look at two important definitions.

Customary Rights are rights that pre-date Crown sovereignty and have been exercised ever since. That means they were in existence at 1840 and have continued to be exercised from 1840 to the present day. Customary rights are recognised by the common law along a spectrum, with territorial rights (i.e. rights of exclusive use and occupation) at one end and non-territorial rights (i.e. rights of use) at the other.

Territorial Customary Rights (TCR) are rights that would, at common law, have been called aboriginal or customary title. They are based on the exclusive occupation and use of a particular area of the public foreshore and seabed. The Foreshore & Seabed Act 2004 provides a process for recognition of territorial customary rights and redress. Any group of Maori or non-Maori that can prove exclusive occupation and use, and meet the other criteria in the Act, can claim territorial customary rights. The group must hold title to the land adjoining the relevant area of the foreshore and seabed (or a significant part of that area) before it can claim territorial customary rights.¹

Our negotiation with the Crown is an attempt by us to secure a Territorial Customary Rights claim over Harataunga and Mataora for Ngati Porou ki Hauraki. To be successful we must prove exclusive use and occupation of these areas between 1840 and 2004 when the act came into power. If we are successful, this claim will be recognised by the Crown and in the Courts. Along with the traditional evidence which we have collected, the history report forms an important backdrop to our case.

NPKH Foreshore & Seabed History Report

The work continues well towards establishing the historical account of Ngati Porou presence and life-style in Harataunga and Mataora. The historical canoe tradition is set in

¹ Both definitions obtained from <http://www.courts.govt.nz/foreshore/main3.html>

place. Currently we are pulling together the environmental, cultural, economic and demographic strands relating to the Ngati Porou identity in the early 19th century.

This report forms the backdrop for the FSSB negotiations and will be part of a compilation of evidence to support our application for Territorial Customary Rights. These rights are not to be confused with Customary Rights which are the freedom of the people to use what is theirs. A territorial Customary Right (TCR), on the other hand, is a way of looking at occupation and use of the resources. This amounts to a right to exclusive use and occupation of the given area. Thus, TCR concentrates on “uninterrupted use and control (since 1840), by the resident people, of the land adjoining the area of public foreshore and seabed.”²

Our historical research has revealed that the events of the second half of the 19th century had their origins deeply embedded in the early part of that century.

Challenge to NPKH’s Mandate

Over the last few months a group led by Mr Winiata Harrison in Harataunga has attempted to challenge the mandate that NPKH Trust holds in the Foreshore & Seabed negotiations with the Crown. In March of this year Mr Harrison sent letters, accompanied by a large volume of information; to the Prime Minister and Ministers of Justice and Maori Affairs, members of the Maori Party, the CEO of Te Runanga o Ngati Porou and the CEO of the Hauraki Maori Trust Board. And again in July of this year the Crown received further correspondence from him.

As a result of this groups letters and information, which they claimed supported their challenge, the Crown carried out an investigation into how NPKH Trust obtained its mandate to negotiate. After careful consideration the Crown wrote to Mr Harrison in October explaining to him that “..... The Crown is satisfied that the mandate process carried out from August to October 2005 was conducted in an open, fair and transparent manner....On reviewing the documents that you have supplied, and taking into account information the Crown has received from Ngati Porou ki Hauraki Trust, the Crown is satisfied that the Ngati Porou ki Hauraki Trust continues to hold the mandate for the foreshore and seabed negotiations on behalf of Ngati Porou ki Harataunga ki Mataora.”

Under the terms of the agreement to negotiate, the Crown has kept NPKH Trust informed and supplied the Trust with any relevant correspondence on this matter.

For those who are interested in how the NPKH Trust received its mandate, we would draw your attention to the Ngati Porou ki Hauraki Website (www.ngatiporoukihaauraki.maori.nz) from the main menu go into **Latest News**, from there select **Reports**, and then select the **Foreshore & Seabed Negotiations Report**. This report was tabled at our last AGM in January 2007.

NPKH Meet with the Attorney General

Another progress meeting was held between NPKH representatives and the Attorney General Dr Michael Cullen and the Minister of Maori Affairs Parekura Horomia in Wellington on Thursday 25th October. NPKH representatives who attended were Dick Hauraki, John McLeod, Rex Hale, Michael Ainsley, Fred Thwaites, Kevin Kerr & Marlene Ngapo. Our kaumatua Paki Harrison, who usually attends these meetings, was unavailable on this occasion. As usual a meeting was held with Justice, Crown Law and TPK officials earlier in the day prior to meeting with Ministers Cullen and Horomia. At the earlier

² The Foreshore and Seabed Act 2004. Section 32.

meeting we discussed the ongoing progress in putting together the evidence briefs, the historical report and its importance to the case, and the timetable that has been agreed to in order to complete the work.

The discussions at the Ministers meeting later in the day, centered mainly on the completion of evidence briefs and the timetable ahead of us to reach an interim agreement as set down by the act. The timetable we have agreed to is quite tight and will see us having an interim agreement by July next year. NPKH representatives also took the opportunity to discuss the recent mandate challenge from Harataunga with both ministers, who in turn expressed their satisfaction with the mandate process and their recognition that NPKH Trust holds that mandate; and on that basis are happy and willing to continue these negotiations through to their conclusion.

Harataunga NPKH Runanga Update

The Executive of the Runanga have now had two meetings and are beginning to come to terms with all the requirements of a new organization. Some important issues are at this stage unresolved but processes are well in place to remedy these.

As would be expected there are good contributions coming from each member & already the "team" concept is strong. Fred Thwaites was elected as Chairman, Dick Hauraki deputy chairman & Kevin Kerr as Secretary. Very shortly nominations will be sought for a Kaumatua Committee from which one Kaumatua will be elected on to the executive of the Runanga. Within two months, it is planned that the process of electing the remaining two members of the Runanga Executive will begin. When this process is complete, this will bring the Executive up to the full quota of nine members.

Fred Thwaites

Runanga Chairman

Monthly Newsletter by Email

We are keen to send issues of our monthly newsletter to you by email. The advantages of this are several. Firstly you will get it much quicker and secondly it is more cost effective and less labour intensive. Email us at lyndahale@clear.net.nz with your email address and you will be put onto our email list.

Membership & Register Details

If you have recently changed address, please let us know so we can update your address details in the register. We are still keen to enrol new members, so keep your whanau informed and encourage those who haven't yet registered to register. Registration forms are available on our website or contact Lynda to have forms posted to you.

NPKH Trustees