

Before the Environment Protection Authority

Application for Marine Consents and Marine Discharge Consents to Extract and Process Iron Sand Within the South Taranaki Bight – EEZ 000011

Expert Evidence of TeHuia Bill Hamilton  
On behalf of  
Nga Rauru Kiihahi

23 January 2017

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## Introduction

1. I am TeHuia Bill Hamilton. I whakapapa to Nga Rauru, Ngati Kahungunu and Ngati Raukawa. I have recently retired from full-time work and work casually as a consultant. My evidence is based on my expertise knowledge and understanding of the links between The Treaty of Waitangi, Human Rights and Nga Raurutanga,

## Code of Conduct - Environmental Court Practise Note 2014

2. I have read and understand the Environmental Court Practise Note 2014 and agree to comply with it.

## Qualifications and experience

3. I have worked as a Treaty educator since 1990 when with members of my whanau, we designed and implemented workshops to help school Boards of Trustees adjust to the Treaty of Waitangi requirements established by Government's *Tomorrows Schools* policy.
4. From 1989 to 1999 I lead the transformation of NZEI:TeRiuRoa (education sector union) to becoming a Treaty-based organisation. This involved developing policy, providing education to members, establishing structures and providing resources and support for them. This work had a significant impact on the development of Maori education policy including recognition for the need to adequately support kaupapa Maori education through the implementation of an appropriate curriculum (Te Marautanga) advocacy for the recognition of the value reo speakers and providing training that will enable Kura Kaupapa Maori to select staff who are both trained and fluent.
5. In 1999, I was selected by Nga Rauru to be part of the team to negotiate the settlement of Treaty grievances. The negotiations were completed in 2003. Our priorities were to "Honour our tipuna by telling their stories" and Honouring our mokopuna by revitalising Nga Raurutanga." The priority for the Crown was to "restore the honour of the Crown." Considering the political climate of the time, the settlement set a good platform to achieve those priorities.
6. Through this process, our team learned how to articulate Nga Raurutanga. One of my significant contributions was the design and leadership for the Paepae Rangatira, a forum for Nga Rauru Rangatira and Ministers to review the health of our Treaty relationship and discuss ways to work together on social and economic development priorities. The Nga Rauru Act (2005) formalised the relationship.
7. During this time I also had a senior position in the public sector with responsibility for the thirteen Te Puni Kokiri regional offices around the country. (Branch Manager, Regions).
8. In 2002, I was appointed to a senior management position in the Human Rights Commission (Kaiwhakarite) with responsibility for leading the implementation of one of the Commission's new functions under the Human Rights Act to "promote by research, education and discussion a better understanding of the human rights dimensions of the Treaty of Waitangi and their relationship with domestic and international human rights law." (section 5(2) (d)). That involved developing a thorough understanding of the Treaty and human rights especially linking and articulating key Treaty concepts such as *Rangatiratanga*

to international human rights concepts such as *self-determination and free, prior and informed consent*. It also included developing resources and community education programmes. This programme went across the public, private and community sectors.

9. When the United Nations Declaration on the Rights of Indigenous Peoples was adopted by the UN in 2007, the Commission, under my leadership, became the agency responsible for promoting it to the public. The significance of the Declaration is that it establishes international standards that help governments and their Tangata Whenua measure the realisation of Treaty rights. We developed and implemented education programmes, advocacy strategies and resources.
10. I have represented the Commission and the Iwi Chairs at the United Nations Expert Mechanism on the Rights of Indigenous Peoples, a forum that has an active role in promoting the Declaration. That has involved presenting submissions and facilitating workshops.

### **Key Points of Evidence**

11. Over the past 15 years there has been a lot of development in a strengthened Treaty relationship between the Crown and Rangatira. This is probably because the entities created from Treaty settlements have enabled iwi to act more effectively as a Treaty partner. Evidence of this includes the Whanau Ora programme, Regional Councils and engagement with iwi over resource consents and Nga Rauru's Paepae Rangatira. There is increasingly greater public acceptance for the Crown honouring its Treaty obligations.
12. The Nga Rauru submission provides an explanation of Nga Raurutanga and international human rights standards that apply to this issue. I am available to provide further information if the DMC requires me to do so.
13. The EPA is the Crown and has all the rights and obligations of the Crown. These include the obligations of partnership, protection and participation. These are based on the Treaty being the founding document of our state, belonging to all of us and being a promise of two peoples to take the best possible care of each other. The EPA "recognise tikanga Māori where appropriate, and to give effect to the Māori Language Act 1987 and receive evidence written or spoken in Te Reo Māori."
14. In this application from TTR Ltd, the key issue for the EPA as a Treaty partner is how will your decision impact on the protection of Nga Raurutanga? What authority (rights and responsibilities) does Nga Rauru have over the resource being sought for use? What domestic and international human rights standards apply? How will your decision impact on the public? What domestic and international human rights standards apply?
15. My opinion is that the EPA has a duty to act as a Treaty partner and support Tangata Whenua rights and responsibilities to apply Rangatiratanga, especially as Kaitiaki, to the resources being discussed. Failure to do so will cause a breach of the Crown's Treaty obligations and international human rights standards

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