

Malibu Hamilton - received 26th August
(Hamilton/Hopuhopu
kui).

**I Support the Wai 262 Claimant iwi Ngati Wai, Ngati Kuri, Te Rarawa
Statement July/August 2007 and their recommendations.**

THAT the Crown development of a bioprospecting policy (and its consultation process) be deferred until the receipt by Maori and the Crown of the Waitangi Tribunal findings and recommendations on Wai 262;

THAT the Crown endorse the proposed 'framework for resolution' recommended by the claimants and seek urgent approval from the Tribunal for this to commence.

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The process await the Tribunal's findings

An "ethical framework for resolution" be endorsed by Maori which enhances Maori capacity to respond, + robustly addresses key assumptions made by Crown

Recommendations are sought on:

- Risks to Maturanga Maori – when and how protection is appropriate, and who has the say?
- An Ethical Framework for Resolution as a critical pathway forward
- A "Kanohi Ora" strategy, by Maori and for Maori, to raise awareness and capacity
- Engagement by Maori representatives with Crown agencies to negotiate the key underlying assumptions to the debate, in accordance with Treaty principles.
- Stage One – Kanohi Ora:
 - Communication and Consultation strategy among whanau, hapu and iwi;
 - Canvassing of kaitiaki to determine foundational principles.
 - Appointment of Taumata
 - Crown fund reasonable costs
- Stage Two – Engagement with the Crown.
 - Ethical space (refer page 308)
 - Process has been elaborated to ensure that it is not just a talk fest
 - Identify issues which have primacy in negotiations
 - What are the suite of options
 - Structural requirements at local, national and international levels
 - Involvement of other stakeholders
- Policy Objectives:
 - Preservation
 - Protection
 - Promotion
 - to support and respect the integrity and underlying values of existing customary knowledge systems and provide incentives to the kaitiaki to maintain and safeguard their knowledge systems (eg by the re-establishment of Marae based where wanaanga);
- to provide the means by which kaitiaki can control access to, disclosure and use of Maturanga including through exercising the right to require prior informed consent;
- and to ensure they derive fair and equitable benefits from the application of any commercial application of their Maturanga;

- to prevent the misappropriation and illicit uses of Mātauranga;
- Policy Principles – (refer page 312)
- Biological and Genetic Resources;
- That all indigenous flora and fauna (referred to as including associated biological and genetic resources of indigenous flora and fauna, and the habitats, ecosystems and environment of indigenous flora and fauna) within the respective rohe of Ngāti Kuri, Te Rarawa and Ngātiwai were and remain ‘taonga’ which are guaranteed protection under Article 2 of the Treaty of Waitangi.
- Mātauranga Māori:
 - That the customary systems of knowledge or mātauranga (including tikanga and reo) of each of the respective iwi of Ngātiwai, Te Rarawa and Ngāti Kuri are taonga guaranteed protection under Article 2 of the Treaty of Waitangi, and includes rongoa and the taonga works derived from mātauranga.
 - International:
 - That the Treaty guarantee of tino rangatiratanga extends to the Crown protecting at an international level the rights and interests of Ngāti Kuri, Te Rarawa and Ngātiwai in relation to their indigenous flora and fauna and their environment, mātauranga and customary laws and practices and the Crown has failed to recognise, actively protect and give effect to those rights and interests
 - Treaty Partnerships and relationships:
 - Local, national and international partnerships with Māori including co-management regimes between Kaitiaki and DOC; development of robust frameworks and processes.
- CONVENTION ON BIOLOGICAL DIVERSITY
 - Access and Benefit Sharing – effective participation of indigenous peoples being opposed by NZ Govt
 - Wai 262 seeking effective partnership and genuine engagement with Māori, before, during and after international meetings

WORLD INTELLECTUAL PROPERTY ORGANISATION (WIPO)

- Development of policies and objectives towards an international framework
- Indigenous peoples arguing for a more holistic framework
- NZ Govt support continued development but not necessarily a “binding” international instrument.

I support the Summary of Māori Hui 31 July 2007 (Wellington)

- Unanimous support for Wai 262 resolutions (ie await report from Tribunal)

- Support for Nga Pou Uara as principles for ethical framework
- NZ Govt support ratification of DRIP
- No consultation over process
- Maori as traditional “bioprospectors” and managers of flora and fauna
- Need to build Maori capacity.
- Why Ministry of Energy??
- Why is MED promoting policy development when driven by Environmental agencies at international level?
- Govt main focus on commercial imperatives
- Why is MED not following its own three stage work programme? (evidence to WT and own website)
- What work is being done to quantify “compliance costs” of negotiating with Kaitiaki?

I also support the position Ngati Kahungunu that is”

Ngati Kahungunu proposed a process based solution, to enable Maori and the Crown, together with other stakeholders including the public to develop joint solutions to problems identified in the claim. A coordinating body would supervise the process, while eight working groups would be established to deal with particular issues namely:

- ***Matauranga/Education Working Group:***

Transfer and preservation of matauranga Maori;
Te Reo issues;
Preschool, primary, secondary and tertiary education;

- ***Environmental Management Working Group:***

Resource Management issues;
Local Government issues;
Biosecurity;
Customary Fisheries.

- ***Taonga Working Group:***

Review of the Protected Objects Act regime;
Museum legislation and repatriation issues.

- ***Resource Ownership Working Group:***

Crown minerals;
Other minerals;
Indigenous flora and fauna;
Water.

- ***Department of Conservation Working Group:***

Joint management of the conservation estate;
Policy and legislative review of Department of Conservation.

- ***Rongoa Working Group:***

Funding;
Development;
Structures;
Coordination with other Maori health issues.

- ***Intellectual Property Working Group:***

Traditional knowledge protection issues;
Intellectual property protection issues;
Development of reforms to address claimant concerns in respect of the intellectual property regime;
Consider international obligations, international instruments both current and proposed.

- ***International and Legislative Review Working Group:***

Involvement of Maori in legislative process;
Involvement of Maori in development of international instruments.

The key point made by Ngati Kahungunu was that it is important to work through the big issues before getting into details such as bioprospecting policy.