

**In the Waitangi Tribunal**

**Wai 207**

**Wai 785**

Under **the Treaty of Waitangi Act 1975**

In the Matter of **the Northern South Island Inquiry (Wai 785)**

And

In the Matter of **a claim to the Waitangi Tribunal by Akuhata Wineera, Pirihira Hammond, Ariana Rene, Ruta Rene, Matuaiwi Solomon, Ramari Wineera, Hautonga te Hiko Love, Wikitoria Whatu, Ringi Horomona, Harata Solomon, Rangi Wereta, Tiratu Williams, Ruihi Horomona and Manu Katene for and on behalf of themselves and all descendants of the iwi and hapu of Ngati Toa Rangatira**

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**BRIEF OF EVIDENCE OF ORIWA DENE SOLOMON**

**Dated 9 June 2003**

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## BRIEF OF EVIDENCE OF ORIWA DENE SOLOMON

- 1 My full name is Oriwa Dene Solomon. I am a curator at the Museum of New Zealand Te Papa Tongarewa. I presently reside at 1/17 Kaiwharawhara Road, Wellington.
- 2 My Uncle is Ruihi Solomon. He is one of four remaining living Ngati Toa original claimants.
- 3 I was born in Wellington in 1951. My whakapapa will be provided at the hearing.
- 4 My hāpū affiliations are:
  - Ngāti Toa Rangatira
  - Ngāti Te Maunu
  - Ngāti Kimihia
  - Ngāti Koata
  - Ngāti Mutunga
  - Te Āti Awa
  - Ngāti Raukawa
  - Ngai Tahu
- 5 My strongest hāpū affiliations are Ngāti Toa Rangatira and Ngāti Koata. I am a direct descendant of Te Rauparaha. My direct line from Te Rauparaha is through his daughter, Karoraina Tutari and Te Kanae. I descend from their daughter Ria Te Uira.
- 6 Tutari, Te Kanae, and Ria Te Uira were baptised in Cloudy Bay in 1842 (See Wellington Circuit Baptismal Register MS-Papers-1185-010/1). Ria Te Uira married Peneta Nohoa of Ngai Tahu and had a son Wineera Te Kanae. Te Kanae's first wife was Harata Cootes and their first-born Ria Te Uira was named after his mother. She is my great grandmother and was born in the Wairau in 1869. She married Ringi Horomona, who descended from Nohorua (Te Rauparaha's elder brother). Ringi and Ria had five children.

My mother Harata Ria Te Uira Parata descends from one of the girls Oriwa and Natanahira Te Umutapu Parata. My father Matua-ä-iwi descends from the only son Te Rangihoungariri. Ko ahau tēnā (that is me).

- 7 I was brought up in Takapūwāhia by my grandparents Te Rangihoungariri and Te Iringa Horomona until I started college in 1965. Hohepa Wineera who is regarded as one of the last great chiefs of Ngāti Toa Rangatira and uncle to both my grandparents lived with us in his final years until he died in 1960.
- 8 Hohepa Wineera was regarded as the rangatira of Ngati Toa before and after World War II until his death. I was told by my parents and others that the people in the Wairau used to send potatoes to Porirua for distribution to the families here. It is my understanding that the potatoes were a form of rent for the land there. This was organised by Hohepa Wineera in Porirua and Manny MacDonald in the Wairau. There has continued to be a good relationship between my family and the MacDonald's over the years.

### **Land Interests in Te Tau Ihu**

- 9 I have land interests in Te Tau Ihu at Rangitoto (D'Urville Island), Wairau, Whangarae (Croiselles), and the Wakatu Incorporation (Nelson Tenth Reserve lands). I also have land interests in Te Waipounamu at Kaiapoi, Rapaki, Koukourarata, and Wai-rewa around Banks Peninsular through Wineera Te Kanae. These interests are collectively owned by descent through Ngāti Toa Rangatira, Ngati Koata, and Ngai Tahu.
- 10 I am one of the beneficiaries of the Ngati Toa Commons in the Wairau. Some of the original 26 Ngati Toa grantees of reserves in the Wairau are closely connected to my family. They include Hohepa Tamaihengia and Wineera Te Kanae (interests succeeded by the Wineera family). I have whanau interests in Port Levy through my Ngai Tahu affiliations, through my Wineera line. We also had a whare in Whangarae, which was recently destroyed by fire while the occupant was out. However, my family and extended family enjoyed many years of occupation in Whangarae. I myself have lived in Whangarae and that meant living without power and depending almost entirely on the sea and the bush for food. We were taught a tikanga for living with that environment. My father and his brothers, uncles and

aunties, cousins, and others, were all connected to the land, to the ocean, and to the people who in reality are one people. A lot of those people passed through Matapihi and Whangarae on the way to or from D'Urville Island and to the cities. Whangarae, Whangamoa, Whakapuaka, and Whakatu were all within rowing distance and there are stories of Wetekia Ruruku-Elkington going by dinghy from Rangitoto (D'Urville) to Whakatu (Nelson).

- 11 I also have a number of other (now) disputed South Island land interests including Linkwater and Te Awaiti (Arapawa) in the Marlborough Sounds.
- 12 The Ngati Toa Commons in the Wairau are a fraction of the lands once considered to be the property of Ngati Toa. The Wairau Affair 1843 was the precursor to Hone Heke Pokai and the Northern Wars. In the Maori world view, Ngati Toa made the correct response to an incursion on their territory whether it was by Pakeha or Maori. When Nohorua met the surveyors J.W. Barnicoat and his partner in Cloudy Bay while they were on their way to partition the land, Nohorua "began to stamp and scold" (Burns, P. (1980) '*Te Rauparaha: A New Perspective*': page 239). They were warned and yet proceeded regardless. The Crown failed to recognise Ngati Toa's rights thus depriving them of any economic base or way to sustain themselves in the Wairau region. Until the time of the Wairau Incident, Ngati Toa had undisputed ahi ka in the Wairau.
- 13 I have recently located a summary of Ngati Toa South Island land interests. It was with my family's files. I believe it is a summary of extracts from Maori Land Court records. It includes reference to the Ngati Toa lands in the Wairau. This is indicative only as I do not believe it is an exhaustive list, but it is useful to show the Ngati Toa interests listed.
- 14 In 1993 my brother, Hohepa Matuaiwi Solomon, compiled a record of land court lists of the remaining Ngati Toa lands located in the Wairau. There appears to be only a few blocks left, few more than ten acres, all with owners in the hundreds. I have attached one of these files, relating to land around the Wairau Pa, being Wairau Block XII. This shows how reduced Ngati Toa land interests in Te Tau Ihu are. This largely stems from the fact that the Reserves left in the Wairau were never adequate to sustain the families living there. Of the remaining blocks from the reserves none were of a size and shape and location to be really viable land blocks. This, combined with the

actions of the Crown to reduce the Reserves further and take them out of Maori control (i.e. by administering them through the Native Trustee) has resulted in a situation where today most of our people are alienated from their lands. The number of descendants of the original named owners in the Reserves are now so numerous with such small shares that it has become extremely difficult to make any decisions about how to utilise that land. The miniscule shares also made people feel that they have no real interest in the land.

- 15 My grandmother Te Iringa used to own beach frontage land at Port Hardy, D'Urville Island until the 1950s at which time unfortunately she was persuaded to part with the land. Her two 'brothers' Te Ouenuku and Ruru Rene wanted to sell some land but the purchaser would not take the land without her beach frontage. She reluctantly agreed to sell. Te Iringa had inherited this land through her mother Ruihi Takuna, a descendant of Tukutahi of Ngāti Koata. Tukutahi's son, Te Tahua was part of the original Ngāti Toa Rangatira-Ngāti Koata heke to Te Tau Ihu. Te Tahua's daughter Riria Te Kahurangi was a sister to Rene Te Ouenuku and Te Iringa's grandmother. That is how my whakapapa links to Ngati Koata and Rangitoto (D'Urville Island). Riria Te Kahurangi and her brother Rene Te Ouenuku once owned hundreds of acres of land on D'Urville (Refer Maori Land Court, Nelson MB No. 3 page(s) 197, 199, 207-213).

### **Ongoing Connections to Te Tau Ihu**

- 16 My grandmother Te Iringa was brought up by Ngahuia Ngawati. Ngahuia was a granddaughter of both Matene Te Whiwhi of Ngati Toa Rangatira and the Nga Puhi chief Mangonui. Ngahuia married Te Ouenuku Rene II, a descendant of Te Tahua of Ngāti Koata, and had two sons Te Ouenuku III (Joe) and Ruru as well as raising Te Iringa since her birth. Te Ouenuku II died in a tragic accident at Waikanae when his oldest child Joe Rene was only five. Hanikamu Te Hiko of Ngāti Toa brought Te Ouenuku's body back to Takapūwāhia.
- 17 When Te Iringa married Te Rangihoungariri, Ngahuia delivered and named her children, including my father Matua-ā-iwi. Te Iringa's third child was named Matengaro after Te Ouenuku Rene's tragic death. As a child growing up, Te Ouenuku III (Uncle Joe Rene) always brought kai Maori from

D'Urville Island to my grandmother when he was visiting Takapūwāhia. Te Ouenuku always referred to my grandmother Te Iringa as his sister and when she died in the 1960s, he insisted to no avail that she be buried alongside his mother and father in their family urupa.

- 18 At seventeen years of age my mother Harata Parata having just left Hukarere Māori Girls College went to D'Urville Island and lived with her Ngati Koata relations Ratapu and Wetekia Elkington nee Ruruku. Ratapu was a half brother to her mother Oriwa's father Ringi Horomona and was therefore her grand uncle. While on D'Urville she became pregnant with my eldest brother Ratapu Nelson Leigh Solomon who was named after Ratapu Elkington. He was named Nelson because that is where he was born. To my knowledge Ratapu was a much loved and respected Ngāti Koata kaumatua as was his wife Wetekia Ruruku. Wetekia was the daughter of Hoerā Ruruku a direct descendant of Kawharu who was a contemporary of Toarangatira and the first born son of Koata.
- 19 Outside of Porirua my family have spent most time in the South Island in Whangarae (Croiselles), D'Urville Island (Rangitoto), Nelson, and Wairau. I spent time living in the Wairau with Manny McDonald who was about seventy at the time working on their farm. Manny reiterated to me many times how he had been close to my grandfather Te Rangihoungariri and how they had sent produce up to Ngati Toa at Takapuwahia. I think this must have been a meaningful event for the Ngati Toa people at Takapuwahia because it kept alive their connection to the Wairau. However, that practice ceased a long time ago. My father in particular would go to Whangarae for months at a time (particularly in his later years). Every year he would disappear in about October when the whitebait were running and make brief return trips to Porirua as needed. By summer, Whangarae would be overflowing with people. My father and his brothers had created a second kainga (home) for us down at Whangarae, which at times was idyllic.
- 20 When I was growing up in the 1950s and early 60s, my family and indeed many families from Takapūwāhia maintained regular contact with the Ngati Koata people on D'Urville Island and the wider Nelson region. Every year many families from Takapūwāhia migrated to D'Urville Island for the summer. These trips were the highlight of our year and everyone was there from young to old. It was a very secure feeling to be part of that Toa-Koata

cultural continuum. There were often young American families from Temple View in Hamilton accompanying this migration. We got to taste a very different culture from our own because of this continued contact but all in all, it was beneficial to the Toa-Koata people, especially in terms of their socialisation. Our uncle Turi Elkington, his brother Rangi Elkington, and Jack Guard from Admiralty Bay transported the boat-loads of people to and from D'Urville Island. I view this now as the living tradition of whānaungatanga that our parent's generation were trying to instil in us.

- 21 During these excursions, I would pester everyone until I was allowed to stay behind at Haukawakawa (Madsen Bay) with our Ngati Koata-Ngati Kuia relations. At different times, I stayed with the Ruruku family, Turi Elkington, Rangi Elkington, Roma Elkington, and the Kohe-Hippolite family. All of the Ngāti Toa Rangatira-Ngāti Koata families from both sides of Raukawa Moana were very close. With the urban drift of the 1950s-60s Takapūwāhia was settled by many families from D'Urville Island because of its proximity to a big urban centre and employment.
- 22 I know that from about the 1930s onwards, many families were more or less forced into town because of the difficulties of making a living on D'Urville and the Outer Sounds. Seasonal work had to be supplemented by fishing and hunting and if conditions were too adverse to pursue these activities then you may be faced with some pretty bleak winters. In the 1930s-40s people were having to live in raupo huts and catch possums to put food on the table. The families with adequate land on D'Urville were able to ride out lean times but for the majority of people it meant having to leave to pursue full time work. They were also forced to leave to find schooling for their children. And they needed to be near hospitals because D'Urville was a six hour boat journey by launch. (Refer to evidence from Benjamin Hippolite).
- 23 In the early 1960s Uncle Rangi Elkington once brought a damaged 9-10m boat over to Onepoto, Porirua for my father to repair the hull. I helped out sometimes although I cannot remember what happened to the boat but can only assume that it was fixed and taken back over Raukawa Moana to Te Tau Ihu.
- 24 In the 1930s my father worked on Mana Island for a few years for the Vella family that leased the island. The Ngati Toa-Koata people on this side of

Raukawa Moana had and maintained their own traditions related to the sea. On the lowest tides of the year they drove cattle from the northern end of Mana Island across a large submerged kelp bed to Titahi Bay. In the early 1890s when Ngati Toa still controlled Porirua Harbour, the whole iwi including men and women linked arms across the channel at Paremata to stop a trawler from coming into either one of the harbour inlets to fish. Ngāti Toa got seventy five percent of their food from the sea. That included the harbour and outer coastal areas towards the south and west as far as Rangitoto-D'Urville. As far as I know, there was always somebody with a boat at Takapūwāhia which people utilised. This practice continues to the present day. Historically, the Ngati Toa-Koata people have been the most frequent Māori users of Raukawa Moana from the time of migration from Kāwhia to eventual resettlement in Te Tau Ihu through their take raupatu.

### **Customary Fishing Practices and Use of Cook Strait**

25 Raukawa (Cook Strait) is integral to Ngati Toa's identity. Ngati Toa never relinquished their rights to the sea. It is Ngati Toa's birthright, by right of conquest. Te Rauparaha himself apparently constantly reiterated this point about the distinction between owning the land and the sea. It has been passed to successive generations that Ngati Toa's influence or mana moana as well as mana whenua straddled Raukawa Moana. Te Rauparaha signed the Treaty twice. Once in the North Island and again in the South Island. He was making the point that as at 1840, the land and waterways surrounding Raukawa Moana (Cook Strait) belonged to Ngati Toa. Te Rauparaha retained the right to fish anywhere and to enter any area to exploit bush or sea resources as food for his people. He had the right to fish the rivers and the lakes. He had the right to use any bush resources and that included from Rangitikei to the South Island. “Mai i Miria Te Kakara ki Whitireia whakawhiti te Moana o Raukawa ki Whakatu ki Wairau.” This statement emanated from Te Rauparaha. It is Ngati Toa's pepeha or statement of identity to other Maori tribes. It is saying that from Rangitikei in the Manawatu to Whitireia (the mountain overlooking Mana Island), across Cook Strait to Nelson and the Wairau — that this is Ngati Toa's mana tangata, mana whenua, and mana moana. However, Ngati Toa do not claim these rights exclusively.



- 26 Ngati Toa caught every type of shoaling lagoon fish species. They took every type of edible shell fish. They ate every part of the fish including their heads and livers. They pushed shark livers into the intestines and dried them and then cooked them. They ate the livers of all fish as we still do today. I personally have eaten a massive stingray liver here in Takapuwahia. We were known as providers of tuere and traded our tuere up in Taranaki. We were known as providers of big hui and when the 28th Maori Battalion returned to Wellington in 1945, we were the only Maori people capable of hosting such an extraordinarily large gathering. Ngati Toa fished snapper, cod, kahawai, kingfish, shark, butterfish, moki, warehou, conger eels, crayfish and groper as well as baiting large sea mammals like porpoises and pilot whales to catch tuere. I have seen one of these large sea mammals stranded on D'Urville and all the subsequent activity around preparing tuere. I am aware of Ngati Toa fishing at Horowhenua, Kapiti Island, Waikanae, Mana Island, Cook Strait, in Te Koko-a-Kupe (Cloudy Bay-Port Underwood), Hapua Rock, Nga Whatu Kaiponu (The Brothers), Te Hoirere (Pelorous Sound), Tawhitinui (Kenepuru Sound), Rangitoto, Whangarae, Whakapuaka, and Te Tai-o-Aorere, (Tasman Bay). Te Rauparaha exerted and maintained mana for all Ngati Toa Rangatira people including the future generations. This included mana over all of the fisheries to which I have referred.
- 27 Wineera Te Kanae's grandfather Te Kanae witnessed the momentous events of the 1840s and recorded these events. Ngati Toa has maintained their fishing traditions up to and as far as they have been able to do the same. Our rights have been systematically diminished by the actions of the Crown. However, fishing has been and remains a major activity of Ngati Toa. At present Ngati Toa has real concerns about the decimation of our traditional fishing habitats and the exploitation of our fisheries cultural heritage.
- 28 My father and his brothers used to own boats. Originally they were sail powered and then they owned a small launch in the 1950s. They set nets on the outside coast for butterfish and moki. They also caught conger eels and crayfish using traditional pots. I can remember seeing these pots made from supplejack vines and muka (flax) at my grandmother's house. I can only assume that she made them because they just seemed to appear outside the house. As well, Ngati Toa frequently fished out in mid-Cook Strait in the

deep water groper grounds. My father once took a launch across Cook Strait with a small flotilla of boats to D'Urville Island. Ngati Toa with Ngati Koata also used their boats to travel to offshore islands off D'Urville for titi (mutton birds) as well as other coastal sites and deep water species like groper.

29 My Ngati Toa ancestors from Te Peehi, Nohorua, Te Rauparaha, Te Hiko o te Rangi, Te Rangihaeata, Te Kanae, down to within living memory of Wineera Te Kanae, Hohepa Wineera, and Te Ouenuku (Joe) Rene, including my father Hohepa Matua-ā-iwi Solomon, have consistently said that the Crown had breached Ngati Toa's rights concerning the land and fisheries under 1) the Treaty of Waitangi, 2) Customary law; and 3) The Doctrine of Aboriginal Title.

30 My grandfather Te Rangihoungariri was one of our people that linked arms across the Porirua Harbour entrance to prevent a trawler coming in to fish in the 1890s. The Ngati Toa people believed that they owned the harbour and foreshore. In the 1890s two High Court judges ruled that Ngati Toa had an Incorporal Hereditament which meant that Porirua Harbour was tribally owned and not owned by individuals. In about 1953 the Government told Ngati Toa that they had no rights at all in the harbour and that the judges who had made the previous judgement did not have the authority to make that judgment. Today Ngati Toa is a party to the Marlborough Foreshore case currently before the Court of Appeal.

31 Today the fisheries resources of the Cook Strait area remain of significant importance to Ngati Toa who continue to demonstrate the utilisation and management of traditional kaimoana sources. This relationship is expressed in a number of ways for instance, through the establishment of a customary fisheries managers position by the Runanga to manage customary fishing activities and to promote the sustainable management of fisheries resources. As an expression of Ngati Toa's ongoing mana in the Cook Strait region the Iwi continue to authorise and practise customary fishing from traditional areas on both sides of the Cook Strait including in the south, Nga whatu (The Brothers Rocks), Rangitoto and Arapawa islands.

32 Ngati Toa acted as guardians of their fisheries through the exercise of tribal kawa concerning fishing activities. For example, all fish and shell fish are at their best when they are in roe. Down in Tasman Bay during one scallop

season, my father knew that the scallops were too thin even though the season was open. The scallops were not in roe and so you might say that the fish would not be shoaling because when fish are shoaling they are in roe as well. The fish have to gather in certain places to lay their eggs. Most fish that are shoaling, mullet, kahawai, kingfish, or whatever — when they're moving around in shoals, usually they are in roe. However, at present the fishing companies openly exploit the fish nurseries. They should not be fishing at those times of the year. And so to protect different species from inevitable destruction, Ngati Toa has to re-institute tribal kawa within our fisheries to protect the areas where fish lay their eggs because they always go back to the same places.

- 33 In 1840 the New Zealand coastline and offshore areas were teeming with fish. I have worked in the deep-sea fishing grounds on the Chatham Rise, the Challenger Plateau and off the Hikurangi Trench when there were minimal government regulations. We competed in fairly modest boats against the giant Russian and Japanese factory ships that were aggressive and never ceased in their intent to plunder our fishing grounds as quickly as possible. I am talking about the era of drift netting that went on with nets 50 kilometres long. Maori people including Ngati Toa used large nets up to a league long and six fathoms deep. That is three and a quarter miles long and 36 feet deep. That is a big net and a lot of hand plaiting but they probably only used a net like that once a year and then prepared and dried the fish for long-term storage. With the old Maori type of mesh, the smaller mesh was in the wings with the larger mesh towards the centre. This had the effect of allowing smaller species drifting towards the centre of the nets to get through. It was another way they protected the species.
- 34 Ngati Toa people also instituted Rāhui to protect their fishing resources. If a drowning occurs around our coastline even to this day a rāhui would be put in place that may last up to six months. In some areas they instituted rāhui where a noted chief may have died and that had nothing to do with the sea. Apparently there is a place in Te Tau Ihu where a rāhui was put over a whole bay where a chief had died in the 1850s. According to my late father, sometimes Europeans would not fish in these areas of the Marlborough Sounds because of all the drownings that have occurred in these areas. I think Ships Cove is one of these areas. But there are areas of the

Marlborough Sounds where Ngati Toa evacuated and left rāhui over the places. When they put a rāhui on a place, that means everybody is subject to special conditions until the rāhui has been lifted.

- 35 Ngati Toa Rangatira has traditionally exerted mana moana over all fisheries in the Cook Strait region. The Cook Strait was a great conduit. Ngati Toa waka traffic was heavy between the islands. Travel between Kapiti, Cloudy Bay, the Marlborough Sounds including Rangitoto and Whangarae was common. Te Rauparaha established mana whenua in the North and South Islands. Mana moana in surrounding waters and waterways flowed naturally from this. Te Rauparaha exerted and maintained mana for all Ngati Toa. This included mana over all the fisheries to which I have referred. The iwi fished extensively to the extent that it was possible in view of the prejudicial actions of successive Pakeha governments and courts.
- 36 The fact that Ngati Toa was dispossessed (almost entirely) of their lands in the Wairau and in other southern areas significantly hindered Ngati Toa's ability to fish traditional fisheries. Nevertheless, we have continued to take fish in traditional fisheries areas. This has been on the basis that it is a customary iwi right. These patrimonial rights of ownership also extend to the areas of Ngati Toa's land interests as at 1840. And these rights of ownership have never been forfeited. Ngati Toa will uphold our rights and speak of these grievances until we can get a form of restorative justice for the Treaty breaches that remain unresolved.