

**EVIDENCE** Luana Pirihi  
**TOPIC** PC113 *Table by Kelly Dixon*  
**SUB#** 18  
**DATE** 20 NOV 2013

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IN THE WAITANGI TRIBUNAL

KEI MUA I TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

WAI 1040

WAI 745

WAI 1308

IN THE MATTER OF

the Treaty of Waitangi Act  
1975

AND

IN THE MATTER OF

Te Paparahi o te Raki  
District Inquiry

AND

IN THE MATTER OF

A claim filed by Paki Pirihi  
on behalf of Patuharakeke  
and a claim filed by  
Ngawaka Pirihi and  
others

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**BRIEF OF EVIDENCE OF LUANA PIRIHI**  
Dated this 30th day of September 2013

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**Ko Manaia te maunga  
Ko te Rerenga Paroa te moana  
Ko Takahiwai te Marae / te whenua  
Ko Patuharakeke te hapuu  
Ko Henare Maki Pirihi taku matua  
Ko Tuihau Elizabeth (Paki) Pirihi taku whaea  
Ko Luana Pirihi ahau**

### **Introduction**

1. I was born in Whangarei and raised in Takahiwai the turungawaewae of the Patuharakeke hapuu. I was educated at Takahiwai Maori School and then went on to complete my secondary schooling at Waipu District High School. I am an ex-primary school teacher. I was employed as a Flight Attendant with Air New Zealand International and when I left I went to the University of Auckland where I graduated with a BA degree Geography.
2. Both my father Henare Maki Pirihi and mother Tuihau Elizabeth (Paki) Pirihi whakapapa to the Patuharakeke hapu. I stand here today and speak on their behalf as well as my whanau, extended whanau and the Patuharakeke hapu at large
3. This brief of evidence relates to properties in our area of claim which are subject to section 27B State Owned Enterprise Act memorials ("Memorials") and the proposal by the Whangarei Racing Club to redevelop and rezone the Ruakaka Racecourse land as an "equine centre."

### **BACKGROUND**

4. I returned to live at Takahiwai on a permanent basis in 2004 after an absence of some thirty five years. I grew up in this area as a youngster so I am very familiar with the land and the coast in this area. In relation to the Whangarei Racing Club (“WRC”) lands, I have attached at Appendix A an old map showing map the electricity land an outline of the racecourse and interestingly a reference to a Public School site which was never built there.
5. I am also part of a group called Ruakaka Coastal Care Group and earlier this year I became aware of a proposal put forward by the Whangarei Racing Club to the Whangarei District Council to change the Operative District Plan in order to rezone the Ruakaka Racecourse site from the existing Coastal Countryside zone to Ruakaka Equine Environment. I am opposed to this proposal and Patuharakeke is opposed to this proposal on two levels, the first is because of the impact that the scale of the proposal will have on the land and surrounding area. However, most importantly I am opposed because of the fact that the proposal could potentially deem this land irretrievable for Patuharakeke if it is granted prior to it being given back to Patuharakeke.
6. The objective of the plan change is to ensure the long term viability of horse racing activities on the site. Expansion of horse training activities and compatible commercial development along with a framework for future residential and mixed use development are key aspects of the proposed plan change.
7. I am aware that the WRC signalled its intentions for the site by way of submission to the Marsden Point Ruakaka Structure plan in 2008. However, it wasn’t until 2010 that WRC met with the Patuharakeke Te Iwi Trust Board (PTB) to discuss the proposal.
8. It is no surprise that two years passed before Patuharakeke were consulted with directly. As with most developments in our area it sometimes feels like we are

simply there to provide the applicant and WDC with the tangata whenua mandate. The issue of consultation has been raised in the Brief of Evidence of Juliane Chetham and I agree with her evidence on that point.

## **HISTORY OF THE RUAKAKA RACECOURSE LANDS**

9. Most of the properties near where the Marsden A Power Station once was have s27B memorials on their titles. I have attached at Appendix B a photo showing some of the properties that have memorials located down at Ruakaka Beach, the main street on view is Ata-Mahina Way. Most of the blocks with 27B memorials on them that haven't already been transferred into private ownership are still in the ownership of Mighty River Power who took over ownership in 1999 as part of the Electricity reforms. Landcorp also owns some of the properties in the Ruakaka, Marsden Point area. The other proprietor of land surrounding the Racecourse on the eastern, southern and part of the western boundaries is the Department of Conservation.
10. Despite there being a lot of properties that are now in private ownership the fact remains that most were bought with the knowledge that there was a memorial on the title. I am not aware of any applications by third parties to have the memorial removed.
11. The Ruakaka Race Course is one of those memorialised properties. The title (attached at Appendix C) includes a 56.17 hectare block of land ("Racecourse Land") that is subject to section 27B of the State-Owned Enterprises Act 1986. The current proprietor is the Whangarei Racing Club Incorporated.
12. As outlined in the evidence of Harry Midwood, the Racecourse Land falls well within the rohe that Patuharakeke claims. At the time that the Ruakaka block was purchased by the Crown in 1854 the Racecourse Land was still an area being

used by Patuharakeke as a place of kainga and for gathering kai from Ruakaka beach and the freshwater lakes that were found in that area.

13. It remained in Crown ownership until 1991.

*Timeline of events from 1966 to 1991*

14. In 1966 the Crown began the construction of the Marsden A Power Station. A large area of land which included the area that became Racecourse Land was gazetted by the Department of Lands and Survey for use by the New Zealand Electricity Department. At Appendix D you will see an aerial photo of the area taken in 1985 showing the Marsden Point Power Station and the Racecourse Land. I have also attached at Appendix E a photo of the area in 1965 showing all of the vegetation in the area that is now Racecourse Land.
15. In June 1974 the Whangarei Racing Club and Northland Trotting Club ("NTC") made an application to the then Whangarei County Council for an amendment to the zoning at Ruakaka so that the race course could be developed. From records that I have found there were big plans to have a sports field in the middle of the race track and other public sports amenities. As far as I'm aware there has never been any other sports amenities developed apart from a horse racing track.
16. On 9 August 1974 a hearing of the application was set down and approval of the application for the racecourse rezoning was granted that same day.
17. On the 27<sup>th</sup> of May 1977 the Ruakaka racecourse was opened and just over one month later on 1 July 1977 the Whangarei Racing Club was granted a lease from the Crown for 33 years expiring in 2010. Throughout this entire time, there was no consultation or engagement with anyone from Patuharakeke and I am at a loss to understand why the Crown was so eager to assist a horse racing club

develop a racecourse in this particular area. Clearly it is an activity that does not fit with the purpose of Electricity Generation.

18. From the information that I have found, the WRC was in financial dire straits for many years. Meetings between the WRC president and Ministerial representatives were held on 10 July 1980 and again on 14 February 1989 to seek financial reprieve from Landcorp for the rent arrears that the WRC was in. At the meeting on the 14 February 1989 the WRC met with the Chief Executive of Landcorp to try and have the arrears waived however found themselves by the end of the meeting being offered the land to purchase.
19. As attached at Appendix F, three options were traversed with those in attendance at the meeting. The first put forward by Mr Tait from the WRC was whether "Landcorp would gift the land to the Trust", the second again as suggested by Mr Tait was whether "Landcorp could grant the land to the Trust with a tag that it never be sold" and the third option as suggested by Mr McMillan for Landcorp was that of "straightout purchase by the Trust."
20. The third option was the most favoured option of the Trust as highlighted in the minutes stating, "the Trust indicated quite an interest in this option." So despite a poor record of paying rent and a forecast that did not look set to improve anytime in the near future the Crown was amenable to selling of a prime area of waterfront land for \$270,000.00 as evidenced on the Sale and Purchase agreement attached as Appendix G.
21. In 1991 less than 3 years later, the Racecourse Land was transferred to the WRC even though the lease still had 22 years to run and was purchased with the section 27B memorial on the title, the WRC therefore had knowledge of the potential for a claim to be made to the land and that potential was no doubt factored into the low purchase price.

22. This process whereby the Whangarei Racing Club was able to acquire 56 hectares of prime waterfront land transferred to them for next to nothing is gut wrenching for Patuharakeke. Given that we have had to fight and struggle to even be heard or get an opportunity to talk with the Crown and yet we still have nothing and we still have a long way to go before we may even get anything.
23. Why does the Crown do this to us? Why do we have to jump through hoops to prove that we have mana whenua over these lands when clearly we do because the Crown would have had to get these lands off someone and we have been saying for decades now that that someone is Patuharakeke. Further, the Crown knows that we have mana whenua over this rohe because it is Patuharakeke they come to when they need to show they have “consulted” with tangata whenua.
24. Essentially this is a prime example of how the Crown and the Council, be it the previously named Whangarei County Council or the Whangarei District Council, have collaborated to alienate Patuharakeke from their land.

**Proposed Rezoning of Racecourse Site to “Ruakaka Equine Environment”**

25. In 2008 the Whangarei District Council received a request from the WRC to adopt a proposed change to its Operative Whangarei District Plan in order to rezone the Ruakaka Racecourse site from the existing Coastal Countryside zone to “Ruakaka Equine Environment.”
26. The objective of the plan change is to ensure the long term viability of horse racing activities on the site. The expansion of horse training activities and compatible commercial development along with a framework for future residential and mixed use development. In 2008 the WRC signalled its intentions for the site by way of a submission to the Marsden Point Ruakaka Structure Plan.
27. Consultation between WRC and Patuharakeke took place in 2010.

28. The proposal allows for an increase in the number of horses stabled there from 100 to 200, it will allow for 350 residential properties, the re-development of the existing grandstand and club facilities, a hotel, conference centre and other appropriate commercial activities.
29. The proposal is staggering and from my perspective if the proposal goes ahead it will be extraordinarily difficult for Patuharakeke to be able to purchase this land back.
30. Patuharakeke has submitted in opposition to the plan change proposal.
31. Essentially, the effect of the proposal if it is approved will mean that Patuharakeke will lose the opportunity to determine what is appropriate for the Racecourse Land prior to all that development happening if we are successful in getting the land returned to us using the resumption process. Patuharakeke was not involved in the decision to have a racecourse built there, we weren't involved in the building of the Marsden A and B Power Stations or the housing development in the Ruakaka area. We weren't involved in any discussions when beachfront land and management was transferred to the Department of Conservation, we weren't involved in the development of the Waipu Golf Course or the Marsden Point Oil Refinery. We don't want this situation to continue, we don't want to continue being merely an "interested party" particularly when there is a mechanism there under the resumption process for our claim to the land to be recognised and remedied. I believe that the section 27B memorial is present on the titles for a reason and that is to have these lands returned to us for our future. The Act makes it clear that section 27B "provides for the resumption of land on the recommendation of the Waitangi Tribunal and which does not provide for third parties, such as the owner of the land, to be heard in relation to the making of any such recommendation."



## **Conclusion**

32. In 1998 a claim WAI 745 was lodged on behalf of Patuharakeke. The claim area in our original claim covered the same area as that outlined in our amended Statement of Claim that was dated 13 October 2011. Patuharakeke has never resiled from the position that we are tangata whenua of this area and for that reason we implore the Tribunal to keep in the forefront of your minds that any opportunity we have to get our lands and resources back we will take.
33. A large percentage of our claim area does not have memorials on the title and that opportunity for our rights to be protected by statute does not exist. Through the memorial process we have an opportunity to pursue the return of those lands that are and were Crown lands.
34. The Section 27B memorial attached to the Ruakaka Race course land provides a window of opportunity to have this small portion of land returned to its rightful owners. I look forward to a positive conclusion in this matter. Kia Ora.

**Luana Pirihi**