Hokotehi Newsletter

June 2016

Ta imi Moriori, tēnā kotou, hokomenetai me rongo

Ka nui te mihi ki a kotou kā hūnau Moriori. Moe mai kā mate Moriori, moe mai takoto mai. Our deepest sympathies go out to all those who have lost loved ones in the last few months.

Our thoughts and best wishes go also to those who have welcomed in babies and the next generation.

Karakii for new beginnings and planting trees

Manaka mai te tira i uta

Manaka mai te wheau i uta

Manaka mai te aka i uta

Manaka mai te tira i uta, ka uwauwe

Uea mai i ru putake me re pu kerekere, kia mahuta ai

Tena taki mahuta te kawa

E tai na tutakina, takina, uea whenua

Brief Update on HMT Projects

Rākau momori

The wind filters around Rotorua covenant, Kairae and Taia have been completed and had battens added in early June. This work is being done by the team at Wind Shadow Ltd.

The second tree assessment was completed by arborist Marc Higgie and archaeologist Justin Maxwell in early June. Slow release fertiliser was added to the base of most kōpi trees in Hāpūpū as part of the kōpi conservation strategy work. The annual advisory board meeting with DOC also took place at this time.

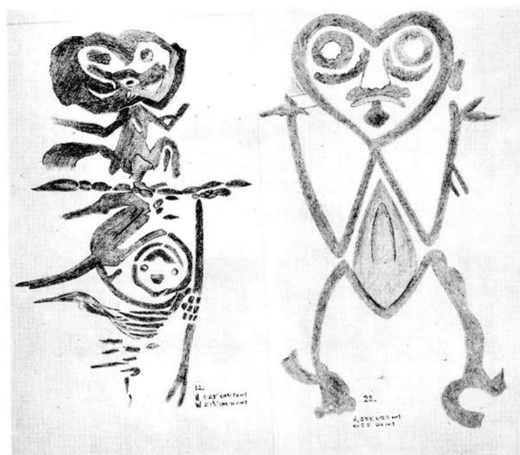


Fig. 14.
H. 3 ft. 4½ in. (102.7 cm.)
W. 2 ft. 1½ in. (69.6 cm.)

Fig. 22.
H. 3 ft. 8½ in. (112.9 cm.)
W. 2 ft. 2 in. (66 cm.)

Kōpinga Marae

The marae continues to be busy with bookings and events. Since April we have hosted an ope from the East Coast (Rongowhakaata, Tamanuhiri, Mahaki and Ringatu Church) visiting the places associated with Te Kooti who was wrongfully held on the island from 1866-68. This was a special day for all at Kōpinga and opportunity to connect with whānaunga from NZ.

One of our Moriori kuia - Julie O'Donnell and her cousins who came down with the ope from Tai Rawahiti (East Coast) and brought photos and taonga from their tupuna, Pera Te Uatuku (pictured), who was imprisoned (wrongly) on Rēkohu in 1866 and who subsequently returned to Poverty Bay with Te Kooti in 1868

We also hosted a workshop with Crown representatives to discuss law reform for freshwater, marine protected areas and Ture Whenua Māori. Hokotehi has prepared submissions on these reforms and staff found the meeting useful for understanding the proposed reforms in more details.

In May we were honoured with the visit of two colleagues from Tahiti: Danee Hazama (photographer) and Prof Josiane Teamotuaitau (linguistics professor). Josiane is interested in working with Moriori on language research and development. Whilst at the marae we were struck by the similarities between re Moriori and Tahitian – esp commonalities in karakii.

At the same time we were also joined by freshwater scientist/marine ecologist, Nicole Hancock, who is working on developing a freshwater plan for HMT. Later this year we will be carrying out glass eel monitoring and will hold a community workshop on fish and macro-invertebrate monitoring. More information on these workshops will be forwarded to members on the facebook and websites when dates are available.

In the image below note the cow hoof-prints in the sand. Around much of Te Whanga stock are able to have easy access to the water edge, resulting in significant damage to ecological health and water quality.

HMT Registration Record

Kia ora kotou. Hokotehi is in the process of updating our registration record (contact details, registered children etc). Over the next few months a staff member from the office will be calling all NZ based members to update records. We will then start work on members overseas. So, if you get a call from the office (Tawnee Goomes) you will know what it is for. If you have any queries about this, please contact the office directly.

HMT Ranger Position

Hokotehi has a contract position available for a biodiversity ranger. This is a one-year contract position. The job will entail co-ordination of large-scale planting and fencing work around the kōpi groves on the NE coast of the island. Experience with working in remote locations is essential. The position will be physically demanding and require qualifications for use of quad bikes and possibly chain saw. A house in Kaingaroa and vehicle is included as part of the remuneration package. Expressions of interest are open – contact:

HMT office office@kopinga.co.nz or 03 3050450

Full Time Position – Nursery Manager

Hokotehi is looking to appoint a manager for Henga Nursery and the Moriori Ethnobotanic Garden (MEG). Horticultural experience is desirable but some support and training will also be available. A focus of the job will be meeting a target of growing a minimum of 20,000 shelter belt trees pa. We are also looking at further development of the ethnobotanic resource at Henga. The position will suit someone who loves working with plants and who is physically fit.

Expressions of interest are open – contact:

HMT office office@kopinga.co.nz or 03 3050450

Heke Mātauranga

Through 2016 a series of 4 noho marae at Kōpinga will be held for a Diploma in Mātauranga (Heke Mātauranga). This is being offered through Te Wānanga o Raukawa and co-ordinated by Deb Goomes.

Your Trust Board – introducing your South Island Trustees:

Hokotehi has 8 trustees – 3 from Rēkohu; 3 from the South Island and 2 from the North Island. The next few newsletters will feature profiles of Trustees region by region.

Aaron Donaldson

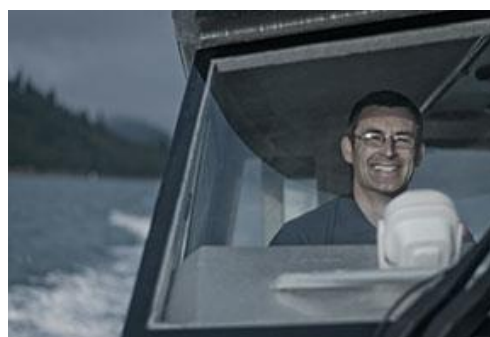
Tēnā kotou

I am Aaron Donaldson, son of Elizabeth and Maurice Donaldson; grandson of Rose and Charles Solomon and great grandson of Whakarawa Fowler and Tame Horomon-Rehe.

I have been married to Marie for 21 years and we have 3 children: Te Teira, Ana and Kera.

I am the local manager of Vero Insurance n Timaru and by the very nature of my job am careful and considered in my decision-making, whilst always upholding values on integrity and honesty. My vision for Moriori is to be globally recognised as being the benchmark of peace. My immediate focus though is to review and update the Trust Deed to enable power to return to the members. Me rongo.

Mark Preece



I was raised on Rangihaute (Pitt Island) and now live in Blenhiem. I have a Masters degree in Marine Science from Otago and have spent the past 20 years following my passion for the

aquaculture industry, with the past 15 years in managerial positions. I am currently part of King Salmon's aquaculture team growing premium king salmon in the Marlborough Sounds for international markets.

I am honoured to be a Trustee for Hokotehi and excited at the chance to help achieve our goals. I believe through a unified approach Moriori can achieve common goals that will benefit Moriori hūnau and in the future. I believe that maximising gains from HMT assets will serve to increase our mana ensuring that we grow and foster all aspects of our culture.

UPDATE ON TREATY SETTLEMENT NEGOTIATIONS AND MANDATE AS AT JUNE 2016

Since the meeting on Rēkohu in March 2016 with OTS officials, Crown Chief Negotiator and the Minister Hon. Christopher Finlayson, there have been further meetings between HMT negotiators and OTS in April, May and June. The meetings in May was held on Rēkohu during which time we showed OTS some of our important sites and landscapes including Kaingaroa, Manauea, Hāpūpū, Henga, and Te Whānga. Time did not permit us to visit further places but there will be an opportunity later in the year to do so.

Other specialist advisors have been added to the negotiating team including Richard Meade (Economist and specialist commercial advisor on Treaty Settlements including Ngāi Tahu settlement in the 1990's) and Bruce Stirling, historian. We thus have a full complement of negotiators and advisors and believe we have a very capable and professional team to work on your behalf.

At the meeting in June OTS arranged for our team to meet with officials from a range of government departments including Ministry of Education, Heritage New Zealand, Te Papa Tongarewa, Ministry of Culture and Heritage, Department of Internal Affairs, Ministry of Business and Innovation, Ngā Taonga Sound and Vision, Department of Conservation, and NZ Geographic Board.

These meetings were very positive and provided an opportunity for Moriori to discuss with the various Ministry Officials our aims and aspirations as well as the work we were currently doing in that policy space. Every Ministry expressed ways in which they can continue to support and work with HMT to achieve our goals and aspirations and in many cases suggested ways in which they can provide immediate support rather than waiting for the settlement to happen.

A key matter for Moriori will be the Post Settlement Group Entity ("PSGE") that we will need to set up to receive any settlement assets. A paper presented by an OTS legal adviser outlined the steps that Moriori will need to take in setting up our own PSGE. One of the criteria they have is that the Crown prefers not to acknowledge charitable trusts as PSGE's. However, given that HMT is such a trust with tax exempt status we will need to think carefully about what structure or structures are best suited to the needs of HMT and Moriori going forward and in this regard will be seeking specialist tax advice to assist us with these aspects of the settlement.

Your Negotiators and Advisors have made it clear to the Crown and OTS that we expect that any settlement will be both just and principled and to right historical wrongs that have occurred. To this end we have pointed out that the Waitangi Tribunal Report of 2001, makes findings and recommendations that should have a major bearing on any settlement between the Crown and Moriori. After all, the Tribunal heard expert evidence and legal submissions from all parties in 1994/95 including Moriori, Ngāti Mutunga and the Crown, and the Tribunal made its finding some 6 years later. Moriori expect that the Crown will respect the tenor and spirit of the Tribunal's findings and not seek to re-litigate the matters already dealt with by the Tribunal.

Moriori emphasised to OTS that our Imi has suffered in very special/unique ways, our claim is therefore very special/unique, and hence very special/unique redress is required to settle these long standing grievances.

There was also discussion around the development of the Historical Account ("HA") between Moriori and the Crown, at the June

meeting. While a lot of progress was made 10 years ago towards developing the HA there is still a lot of work to be done to complete the account. The Crown has appointed Sam Ritchie as their historian and we have Bruce Stirling to assist us. Another important matter for Moriori will be the extent to which the official HA will differ from the findings of the Tribunal and what changes the Crown or Moriori will endeavour to make. Whatever history is ultimately decided upon must be done so on the basis of rigorous research and factual findings/accounts.

The Crown are keen for Moriori to meet with Ngāti Mutunga to discuss our "overlapping interests" on Rēkohu. We have advised both the Crown and Mutunga that we are agreed in principle that we will meet with Ngāti Mutunga but that our Treaty relationship is with the Crown and just as our forebears looked to the Crown in 1862 to address their grievances (which were largely ignored), we to look today to the Crown to do what is right and just. Once we have a clearer understanding from the Crown of how they intend to respond to the issues we outlined to them in our presentation back in March and therefore a more informed understanding of what the overlaps are, then we will be better prepared to engage with Ngāti Mutunga. We accept that there are some overlapping interests with Mutunga, such as in the future management of Te Whānga lagoon, but as for other areas, these are not so evident. Especially in light of the fact that the Native Land Court in 1870 (wrongly applying the 1840 Rule as found by the Tribunal) awarded 98% of all the land on Rēkohu, Rangihaute and outlying Islands to Ngāti Mutunga claimants.

Below is an extract from Chapter 8 of the Waitangi Tribunal 'Rēkohu' Report 2001 which sets out its views about the infamous '1840 Rule'. Simply put this rule was developed by the Native Land Court which drew a line in the sand as at 1840 (the date the Treaty was signed) and whoever was in occupation of the land at that date was essentially awarded land. There were exceptions to this rule but none were applied on Rēkohu in 1870 despite the Māori invaders having only been in occupation of Rēkohu 5 years before 1840. The Tribunal has found that this rule was in breach of the Treaty and that the Crown should have intervened to ensure that Moriori received "at least 50% of the land" in 1870. Your negotiators asked the Crown at our June meeting if they agreed that the so-called 1840 was wrong in Treaty terms and they agreed that it was.

Chapter 8 – Rēkohu Report on Moriori and Mutunga Claims

> ***"8.2 The '1840 Rule'***
>
> ***8.2.1 What were the rules?***
>
> *When referring to the '1840 rule', it is usual to do so in the singular, as though there was only one rule, but we think that there were several, all based on the thought that customary rights were to be settled at1840 or that 1840 provided a starting point for determining Māori freehold title.*
>
> *The rules were judge-made. They were not written into the Native Lands Act 1865. The Act specified only one criterion: that rights were to be determined in accordance with native custom. In adopting these rules, however, the court may not have determined matters by native custom as the statute required.*
>
> *The key rule was that, from 1840 onwards, no land rights could be acquired by force. That was sound common sense. It immediately put a gloss upon that which the statute required, but it was a principled gloss and one that was consistent with the Treaty of Waitangi, which envisaged an end to violence following the establishment of British law. The determination of rights as they had been at 1840 was not a natural corollary, but that is how the rule was sometimes interpreted. The context was that Māori society was in an uncustomary state of flux as a result of musket war relocations. Normality had still to be restored, and time was needed to see how relationships between the conquerors and conquered, or between different sub-groups within them, would work out. But different judges made different assumptions on admitting peaceful*

changes after 1840. Some did not move beyond the 1840 position. Others did. From a confused and conflicting series of cases, Crown researcher Fergus Sinclair submitted that three further rules developed and were generally accepted. Arguments could continue interminably about how representative these rules were, but they seem a reasonable distillation of the many cases that were examined. Put together (and with a small adjustment to Sinclair's opinion), the rules were as follows:

1. After 1840, no rights could be acquired by force.

2. No later assertion of rights could be upheld which did not have the consent of those who were the dominant occupiers at 1840.

3. Lack of occupation did not destroy a claim which was valid at 1840.

4. The dominant occupiers at 1840 could voluntarily dispose of their rights or admit other persons to ownership.

Time was required:

The complaint, as put to us by Moriori, was that, if a decision had to be made for the purpose of providing settled titles, it should have been based on the position at the time of hearing, as far removed from 1840 as possible. Time should have been allowed for changes that happened naturally and peacefully. For example, in this case Māori had left Rēkohu for their own ancestral lands before the court sat. That was a natural thing for Māori to do. They had not returned to Rēkohu by the time the court sat, and some admitted in evidence that they had no intention of returning. If that were the case, then, according to custom, those who remained would been titled to the rights in respect of the land. There was no customary basis for requiring those who had left to consent or for assuming that their claims were not destroyed by their lack of occupation.

Ngāti Tama had no intention of returning and they did not return. Moriori might well have taken the land formerly held by them on account of whatever was their proper share. The intentions of Ngāti Mutunga were not so clear. Unlike Ngāti Tama, they did not endeavour to sell all or most of their interests before they left. The point here, however, is that the court did not even deal with the issue, though it was raised. As was so often the case in the early Native Land Court decisions, the recorded reasons for the judgments were very scant. In this case, the court simply assumed that Māori had obtained an absolute title at 1840 and that thereafter actual occupation was irrelevant.

Rights had not matured:

The second complaint put to us by Moriori is that at 1840, the occupations of many conquerors throughout the country had still to be made respectable by time, but the Native Land Court treated the conquerors as absolutely entitled. It was argued that, in custom, they had first to stay on the land for some time– possibly for as much as three generations – before their feet could be said to have been firmly planted in the soil. Here, as at 1840 the conquerors had been on the land for only four years. If a decision had to be made before time had provided its own answer, then it had to be made as far from 1840 as was possible. Once more, in this case, it would have been indicative of the conquerors' commitment to Rēkohu (or, in Māori idiom, of the depth of their feet in the soil) that, when pressed, the Māori left Rēkohu and took their feet to where their hearts were – Taranaki. We think that there is much strength in this argument and that, accordingly, the court was not properly adhering to the injunction to determine matters in accordance with native custom. Rights were not extinguished: Thirdly, it was complained, the interests of the conquered were wrongly treated as

entirely extinguished. It was said that this was not native custom. With regard to those recently forced from the land, one had to look to their latent right to return, which was a very real right in native custom, especially if they had been the true occupiers for centuries. Ngāti Mutunga themselves had argued this position in Taranaki. They had been forced from Taranaki by Waikato tribes and were absent from Taranaki at 1840, but they vehemently argued that their interests had not been extinguished. The Moriori case was the same in principle. They had remained on the land but in a state of subjugation. They argued that their long occupation was worth more than a recent conquest and that, in native custom, they had the latent right to recover their full interests as soon as they could do so. Again, the Māori departure, after 1840, allowed them to do that. The court had properly to respect the position at 1870, when it heard the matter, for, as a matter of custom, it was argued, and in a peaceful manner, their latent right had become vested in possession.

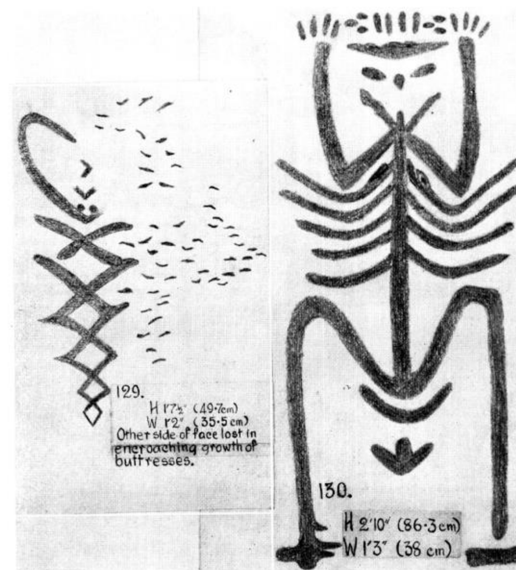


FIG. 129.—H. 1 ft. 7½ in. (49.7 cm.), W. 1 ft. 2 in. (35.5 cm.)
FIG. 130.—H. 2 ft. 10 in. (86.3 cm.), W. 1 ft. 3 in. (38 cm.)

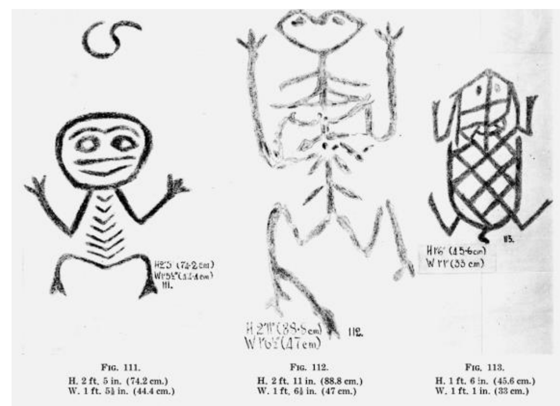


FIG. 111. H. 2 ft. 5 in. (74.2 cm.) W. 1 ft. 5½ in. (44.4 cm.)

FIG. 112. H. 2 ft. 11 in. (88.8 cm.) W. 1 ft. 6½ in. (47 cm.)

FIG. 113. H. 1 ft. 6 in. (45.6 cm.) W. 1 ft. 1 in. (33 cm.)

Further details of the Treaty negotiations and mandate update will be posted on the HMT website and Facebook page. It is also intended that regional hui will be held later in the year to provide members with an opportunity to ask questions of the negotiators and provide feedback.

Any queries may be directed for response to the 'Moriori Treaty Negotiating Team' c/- office@kopinga.co.nz.

Me rongo