

IN THE WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND the Te Paparahi o Te Raki Inquiry

MEMORANDUM-DIRECTIONS OF JUDGE C T COXHEAD

7 December 2017

1. This memorandum-directions concerns filing date extensions requested by counsel for the Whirinaki Lands and Waters (Hokianga) Claim (Wai 700), and Crown counsel on the Opuia Reserve (Wai 2424 claim) matter in stage 2 of the Te Paparahi o Te Raki inquiry (Wai 1040) inquiry.

Extension request by counsel to file the revised claim specific closings for the Whirinaki Lands and Waters (Hokianga) Claim (Wai 700)

2. In my memorandum-directions of 22 November 2017 (#2.7.3), I granted leave for claimant counsel Tavake Afeaki, Neuton Lambert and Siaoisi Tofi to file revised closings for the Whirinaki Lands and Waters (Hokianga) (Wai 700) claim by 18 December 2017.
3. Counsel had been instructed to represent the Wai 700 claimants in early November and had sought to file revised closings by early March 2018 (#3.2.2646). I considered, however, this filing date was out of proportion to the length of extension other parties had received to file closing submissions, and so granted an extension to December.
4. On 27 November 2017, Wai 700 counsel filed a memorandum (#3.2.2667) seeking till 2 February 2018 to file the revised closings for Wai 700. Counsels' reasons for needing more time are as follows:
 - a) In their 6 November 2017 memorandum (#3.2.2646) counsel omitted to refer to the impact of attending to Wai 700 revised closings on their 11 other whānau and hapū claimants in the Wai 1040 inquiry. They also pointed out they have multiple claimants in other inquiries and matters before the Māori Land Court and other jurisdictions.
 - b) A major concern with the current leave to file on 18 December 2017 is that there is insufficient time for counsel to properly consult with the hapū 'to properly ascertain the hapū's instructions and collective will'.
 - c) They submit neither claimants nor counsel are at fault as the original extension to file on 28 Aug 2017 was granted to the previous counsel.
 - d) They say they were not engaged until 4 November 2017 and any time that has been lost has not been the fault of claimants nor of current counsel.
 - e) They acknowledge the need to ensure fairness to all parties but submit that drawing a line in the sand for Te Hikutu at 18 December 2017 is unfair to Te Hikutu as they have already been disadvantaged through no fault of their own.
 - f) Counsel highlight that neither claimant nor Crown counsel opposed the leave sought in their original memorandum date 6 November 2017.

Decision

5. Given that some closing submissions were filed, there has been no opposition to the extension requests, and, in this particular situation, the delay was neither the claimants' nor new counsel's fault, I grant the further extension sought.
6. Counsel are to file revised claim-specific closings for the Te Hikutu hapū (Wai 700) claim by **12pm, Friday 2 February 2018**.

Request for extension to advise Crown position on the Opuia Reserve matter sought by Ngāti Manu, Ngāti Hine and Te Kapotai hapū (Wai 2424) claimants

7. On 4 December 2017, Crown counsel Gillian Gillies filed a memorandum seeking an extension to 22 December 2017 to advise the Crown's position on Ngāti Manu, Ngāti Hine and Te Kapotai hapū (Wai 2424) claimants' request for preliminary findings for a discrete remedy concerning Opuia reserve.
8. In my memorandum-directions of 30 October 2017 (#2.7.1), I had directed the Crown to advise the Crown's position by 4 December 2017. Counsel say they are currently seeking instructions on this matter.
9. I grant the extension sought. Crown counsel are to file a response to the Opuia Reserve matter by **12pm, Friday 22 December 2017**.

The Registrar is to send this direction to all those on the notification list for Wai 1040, the Te Paparahi o Te Raki inquiry.

DATED at Rotorua this 7th day of December 2017



Judge C T Coxhead
Presiding Officer

WAITANGI TRIBUNAL