

Wai 1040

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

22 November 2017

1. This memorandum-directions concerns the request for a new counsel to file the revised claim-specific closings for the Whirinaki Lands and Waters (Hokianga) Claim (Wai 700) claim in stage 2 of the Te Paparahi o Te Raki inquiry (Wai 1040) inquiry.

Request for a new counsel to file the revised claim specific closings for the Whirinaki Lands and Waters (Hokianga) Claim (Wai 700)

Counsel Tavake Afeaki, Neuton Lambert, Siaoosi Tofi seek to file revised closings for the Whirinaki Lands and Waters (Hokianga) (Wai 700) claim in March 2018

2. On 6 November 2017, claimant counsel Tavake Afeaki, Neuton Lambert and Siaoosi Tofi filed a memorandum seeking an extension to 2 March 2018 to file the revised closings on behalf of the late Ben Morunga and Anania Wikaira for the Whirinaki Lands and Waters (Hokianga) (Wai 700) claim.
3. Counsel advised that they have just been instructed by the claimants to represent them as counsel for the Wai 700 claim, and seek leave to file written closing submissions on their behalf by 2 March 2018. Counsel provided Mr Wikaira's and Mr Arthur Wynard's signed authority instructing counsel to act for Wai 700. (The Registrar advises that Mr Wynard is not currently recorded as a 'named claimant' for Wai 700.)
4. On 30 October 2017, claimant Mr Wikaira had written to me advising they were in the process of engaging new claimant counsel and asking for an extension to complete their full closing submissions.
5. Counsel submit Te Hikutu hapū 'ought to be afforded their right to have written closing submissions filed to properly close their claim, which in Te Hikutu's hearts and minds is very significant and will be well-founded'. They add 'the claimants find themselves in this unfortunate situation through no fault of their own'.
6. Counsel say an extension to 2 March 2018 is needed as time will be required to:
 - a) collate and review all relevant evidence, legal issues arising thereto and related documents;
 - b) confer with the clients;
 - c) complete the transfer of all hard and electronic files;
 - d) draft the closing submissions;
 - e) take confirmed instructions from the clients; and
 - f) file final closings.
7. Counsel ask that if the Tribunal has questions of counsel regarding the closings once filed that 'the opportunity to field and reply to any such questions be provided' to Te Hikutu.

Procedural context

8. Parties will recall my direction of 3 August 2017 (#2.6.272, para 8), directing then Wai 700 counsel Tony Shepherd to file revised closings for his clients by Monday 28 August 2017. A closings document for Wai 700 was filed (late) on 22 June 2017 by counsel Jason Pou on behalf of Mr Shepherd (#3.3.307). This document lacked relief pleadings and full referencing. I had granted Mr Shepherd leave to present these Wai 700 claim specific closings on Friday 23 June at hearing week 24 in Whangarei. I then directed Mr Shepherd to file revised Wai 700 closings with full referencing and specifying relief. No

revised closings were received on 28 August 2017. I said that the Tribunal may put written questions to him following receipt of the revised document.

Decision

9. I acknowledge that Te Hikutu claimants have found themselves in this situation through no fault of their own and I appreciate new counsel need time to draft revised closings. However, the request to file six months after the original extended deadline and at the same time as claimant replies to specific Crown closings is out of proportion to the length of extension other parties have received to file closings submissions.
10. I grant a further extension for revised closings to be filed but in this calendar year. Therefore, Te Hikutu counsel are to file the revised claim specific closings for Wai 700 by **12pm, Monday 18 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 22nd day of November 2017



Judge C T Coxhead
Presiding Officer
WAITANGI TRIBUNAL