

**WAITANGI TRIBUNAL**

Wai 2578  
Wai 2693  
Wai 2886

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

applications for an urgent  
hearing in relation to the Ngāti  
Hinerangi Deed of Settlement

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**DECISION**  
**ON APPLICATIONS FOR AN URGENT HEARING**

21 August 2019

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## Introduction

1. The Tribunal has received three applications for an urgent hearing in relation to the Ngāti Hinerangi Deed of Settlement, namely:
  - (a) Wai 2578, the Ngāti Hinerangi Deed of Settlement Claim, brought by Morehu McDonald and Hinengaru Thompson;
  - (b) Wai 2693, the Ngāti Tokotoko Claim, brought by Rawiri Bidois and Rapata Leef; and
  - (c) Wai 2886, the Ngāti Pango Claim, brought by Jonathon Anthony Mason.
2. The first application is brought by Morehu McDonald and Hinengaru Thompson Rauwhero on behalf of eight hapū of Ngati Hinerangi (Wai 2578), which are Ngāti Tokotoko, Ngāti Whakamaungarangi, Ngāti Kura, Ngāti Tamapango, Ngāti Tāwhaki, Ngāti Rangi, Ngāti Tangata and Ngāti Te Riha. Dr McDonald and Ms Rauwhero also bring their application on behalf of the claimants of the following historical claims:
  - (a) Wai 1226, the Ngati Tamaoho Lands and Resources Claim;
  - (b) Wai 2106, the Heeni Rawiri Whanau and Others Lands (McDonald) Claim;
  - (c) Wai 2110, Ngati Hinerangi (McDonald) Lands Claim;
  - (d) Wai 2111, Ngati Tamapango, Ngati Tokotoko, and Others Lands (Rauwhero, McDonald and McMillan) Claim;
  - (e) Wai 2112, Te Ohaki Marae and Others Lands (Rawiri-McDonald and McDonald) Claim; and
  - (f) Wai 2114, Ngāti Tamapango and Ngāti Hinerangi (Rauwhero and McDonald) Claim.
3. The Wai 2758 applicants oppose the mandate of Te Puāwaitanga o Ngāti Hinerangi Iwi Trust (the Trust) to negotiate the settlement of the historical claims of Ngati Hinerangi, and state that the Trust and the Crown have refused to recognise their withdrawal from the Deed of Mandate.
4. The second application is brought by Rawiri Bidois and Rapata Leef (Wai 2693), on behalf of the beneficiaries of the Maurihero B List A and List B Trust. The applicants submit that the Ngāti Hinerangi Deed of Settlement included hapū without adequate whakapapa or cultural connections to the rohe.
5. The third application is brought by Jonathon Anthony Mason (Wai 2886), on behalf of Ngāti Pango. The applicant submits that Ngāti Pango has been excluded from the Ngāti Hinerangi Deed of Settlement.

## Background

6. In 2012, the Trust began seeking a mandate to negotiate settlement with the Crown for Ngāti Hinerangi historical claims. The Crown recognised the mandate of the Trust on 20 February 2014. An agreement in principle was signed by the Crown and the Trust on 12 December 2015 which included details of the proposed redress. The Trust's mandate was reaffirmed at a Ngati Hinerangi hui-a-iwi on 6 November 2016.
7. In February 2018, the Crown indicated that it expected to initial a Deed of Settlement with the Trust in the second quarter of 2018, which would then be followed by a ratification process and, if approved, the signing of the Deed of Settlement and enactment of settlement legislation (Wai 2578, #3.1.20).

8. The Tribunal has considered three previous applications for an urgent hearing in relation to this mandate from the Wai 2578 applicants, brought on 8 December 2016, 17 May 2017 and 15 December 2017 (Wai 2578, #3.1.1; #3.1.12; #1.1.1(b)). The first application was withdrawn by the applicants to allow their counsel to revise the statement of claim (Wai 2578, #3.1.8). The Chairperson dismissed the second application on the grounds that the applicants had appropriate alternative remedies, namely the processes for removing hapū representatives or the Trust's mandate, and that the applicants had not demonstrated they were suffering or about to suffer significant and irreversible prejudice arising from a Crown act or omission. I dismissed the third application on the basis that there were alternative remedies available, namely submitting a new withdrawal petition that complied with the Deed of Mandate.
9. On 4 May 2019, the Trust and the Crown signed the Deed of Settlement of historical claims. The Crown has indicated that the Ngāti Hinerangi Settlement Bill is likely to be considered by Cabinet in early September and the introduction to the House of Representatives will occur shortly thereafter.

## **Procedural History**

### Wai 2578

10. On 3 May 2019, the Tribunal received an amended statement of claim and a fourth application for an urgent hearing from the Wai 2578 claimants in relation to the negotiations between the Crown and Ngāti Hinerangi (Wai 2578, #1.1.1(c)). This was accompanied by the joint brief of evidence of Dr McDonald and Ms Rauwhero (Wai 2578, #A10).

### Wai 2693

11. On 15 May 2019, the Tribunal received a statement of claim and application for an urgent hearing (Wai 2693, #1.1.1(a)). This was accompanied by an affidavit in support of Rawiri Bidois (Wai 2693, #A9).

### Wai 2886

12. On 22 May 2019, the Tribunal received a statement of claim and application for an urgent hearing from Jonathon Anthony Mason (Wai 2886, #1.1.1). This was accompanied by an affidavit of Mr Mason and a further affidavit of Dr Morehu McDonald (Wai 2886, #A1 & #A2).

### Crown and Trust response

13. On 11 June 2019, the Crown filed submissions opposing all three applications for urgent hearing, with an affidavit in support of Petrina Dyll (Wai 2578, #3.1.46 & #A11; Wai 2693, #3.1.29 & #A10; Wai 2886, #3.1.7 & #A4).
14. On 12 June 2019, counsel for the Trust filed submissions opposing the applications for urgency (Wai 2578, #3.1.47; Wai 2693, #3.1.30; Wai 2886, #3.1.8). This was accompanied by the brief of evidence of Phillip Ian Smith (Wai 2578, #A12; Wai 2693, #A11; Wai 2886, #A5).

## Applicants' replies

15. On 26 June 2019, counsel for the Wai 2886 applicant filed submissions in reply to those of the Crown and the Trust, accompanied by a second brief of evidence of Jonathon Mason (Wai 2886, #3.1.9 & #A6).
16. On 26 June 2019, counsel for the Wai 2693 applicants also filed submissions in reply to those of the Crown and the Trust, along with the brief of evidence of Rawiri Bidios (Wai 2693, #3.1.31 & #A12).
17. On 15 July 2019, the Wai 2578 applicants filed submissions in reply to those of the Crown and the Trust accompanied by further appendices to support the joint brief of evidence of Dr McDonald and Ms Rauwhero (Wai 2578, #3.1.52 & #A10(a)).

## **Parties' Submissions**

### *Applicants' Submissions*

#### Wai 2578

18. The Wai 2578 applicants submit that they are suffering and will continue to suffer irreversible prejudice as a result of the Crown excluding them as hapū members for the purpose of voting on the ratification of the Ngāti Hinerangi Deed of Settlement, post-settlement governance entity (PSGE) and the cultural and commercial redress package.
19. The applicants say that the ratification voting excluded unregistered hapū members, who chose not to register with the Trust due to their lack of trust in it. The applicants submit that their mana, tino rangatiratanga and mana whenua will be extinguished if the settlement is concluded. The applicants submit that Ngāti Hinerangi have never given their consent or authority to the Trust to represent them or negotiate on their behalf. The applicants say the Trust has never met with Ngāti Hinerangi hapū nor have they elected hapū representatives to the Trust. Counsel for the applicants submit that the Crown has rushed the ratification voting process before dealing with petitions they have submitted for the withdrawal of the mandate and the removal of trustees (Wai 2578, #1.1.1(c)).
20. The applicants submit there is no alternative remedy that is reasonable for them to exercise. They submit that they have attempted to trigger the withdrawal process, but this has been hindered by the Crown. On 1 September 2018, the hapū which they represent lodged petitions with the Trust and Crown to withdraw the mandate, which they say have been stonewalled. The applicants submit that more than 230 hapū members who are not registered with the Trust voted in a parallel process that they initiated, and the Crown has failed to recognise the legitimacy of these votes.
21. Further, the applicants submit that the Ngāti Hinerangi ratification process is flawed as it does not recognise hapū rangatiratanga. The applicants prefer a hapū-based representation model for the PSGE and submit that the marae-based representation model agreed between the Crown and the Trust is not appropriate as it undermines hapū rangatiratanga and excludes members who have no connection with the marae in the rohe.
22. The applicants submit they require urgent Tribunal assistance as once the Ngāti Hinerangi Settlement Bill is introduced to the House of Representatives the Tribunal will lose jurisdiction. The applicants submit they are ready to proceed urgently.

### Wai 2693

23. The Wai 2693 applicants submit that they are suffering and will continue to suffer significant and irreversible prejudice as a result of being included in the Deed of Settlement without adequate whakapapa or cultural connections. The applicants submit they have been effectively disenfranchised, their apparent consent was manufactured, and that voting has advanced despite their petitions in protest. The applicants submit that the ratification election was manipulated to exclude those who may not support ratification. Further, applicant counsel submits that when the mandate election was held there was no provision for special votes from people who were included in the mandate but were not registered with the Trust. In order for a vote to be valid, the individual casting was forced to register as part of the Trust, a group they do not want to represent them. The applicants say this is why many were not able to cast valid votes (Wai 2693, #1.1.1(a)).
24. The applicants submit that there is no alternative remedy that is reasonable for them to exercise. They have submitted a withdrawal petition which they say complies with the requirements set out in the Deed of Mandate. The Deed allows the mandate withdrawal process for trustees to be triggered if there is a petition signed by 15 hapū members. The Crown has rejected their petitions and required the applicants to produce whakapapa by way of filling out an application form. The applicants submit that this was not reasonable as those who did not want to be registered with the Trust objected to filling out a form for a group they did not want to represent them. Counsel for the applicants submit that there is further ambiguity in how much whakapapa is to be provided and requests varied from the identification of parents to the identification of great-grandparents. The applicants further submit that there is no provision in the Deed of Settlement which allows the process of whakapapa verification for petitioners.
25. The applicants submit they attended a Crown-facilitated hui during their previous urgency application and this failed to deliver any positive outcomes and submit this is not a reasonable or available alternative remedy to exercise in these circumstances.
26. The applicants submit they opposed the mandate outside of the official voting process which has not been recognised. They submit this must be given consideration. The applicants submit that Ngāti Tokotoko are not merely a disaffected minority but rather a substantial group of people who have been left out of the settlement process.
27. The applicants submit they are ready to proceed to hearing urgently.

### Wai 2886

28. The Wai 2886 applicant submits that Ngāti Pango have been excluded from the Ngāti Hinerangi Deed of Settlement and as a result will suffer from significant and irreversible prejudice as they will not be able to benefit from the settlement. Counsel for the applicant submits the Ngāti Hinerangi Settlement has the effect of extinguishing all remaining historical claims relating to Ngāti Pango without recognising Ngāti Pango as a settling hapū (Wai 2886, #3.1.2).
29. The applicant submits that he is ready to proceed to hearing urgently.

### *Crown's Submissions*

### Wai 2578 and Wai 2693

30. In response to both the Wai 2578 and Wai 2693 applications, the Crown submits the Trust's mandate to negotiate is sound and robust and that the Trust has maintained support among the claimant community. The Crown draws attention to the fact the Trust

held five mandate hui, with provision for a special voting process so votes could be cast by iwi members who were not registered with the Trust. The Crown say that all valid votes cast at mandate hui were in favour of the Trust having a mandate to negotiate (Wai 2578, #3.1.46 & Wai 2693, #3.1.29)

31. The Crown submits that the ratification process was open, transparent and was calculated in accordance with standard Crown reporting conventions, including being managed by an independent election company. The Crown submits that its role was to ensure the ratification strategy met the ratification criteria which was approved by the Minister for Treaty of Waitangi Negotiations in October 2018.
32. The Crown submits that the applicants have failed to exercise alternative remedies. It argues that the applicants have not provided the information necessary to verify hapū membership of the petitioners who have purported to trigger the withdrawal process. Clause 14 of the Deed of Mandate outlines the agreed process for the removal and replacement of hapū representatives from the Trust. The Crown submits this provides that any removal petition must be signed by 15 members from each of the hapū and who are over the age of 18, with verified whakapapa. Ms Dyll sets out in her affidavit that this is not explicit but implied to ensure fair processes are followed and that those who have sought to trigger the withdrawal process are entitled to do so (Wai 2578, #A11). The Crown submits that the applicants have not provided this verification and therefore the withdrawal process could not and has not been triggered. The Crown argues that this is the responsibility of the petitioners, rather than the Crown, and that the applicants have prejudiced themselves by not providing whakapapa lineage. The Crown submits that as the applicants have not sought judicial review of the Trust, this consideration weighs against granting an urgent hearing.

#### Wai 2886

33. The Crown submits that the applicants have not demonstrated they are suffering or likely to suffer significant and irreversible prejudice as a result of any Crown action or inaction. It submits that Ngāti Pango, who have Ngāti Hinerangi connections, will benefit from the settlement.
34. In the alternative, the Crown submit that the fact that Ngāti Pango are not explicitly listed in the claimant group definition reflects defensible choices made by mandated negotiators in light of relevant historical evidence. The Crown submits this is not for the Crown or the Tribunal to inquire into. The Crown submits that Ngāti Tamapango, which is included in the Ngāti Hinerangi Deed of Settlement, and Ngāti Pango are alternative names of the same hapū.

#### *Ngāti Hinerangi Trust's submissions*

#### Wai 2578 and Wai 2693

35. In response to the Wai 2578 and Wai 2693 applications, the Trust submits that that there is no risk of substantial or irreversible prejudice to the applicants and its mandate is strongly supported. Further, counsel for the Trust submit the settlement agreement has attracted wide support and the ratification process was robust and transparent.
36. The Trust submits the applicants have not made use of alternative remedies available to them under the Deed of Mandate. It submits the applicants have failed to comply with verification requirements that enable the Trust to determine whether the petitions are compliant with the Deed. The Trust relies on my decision issued on 26 July 2018 where I noted there were alternative remedies for the claimants to pursue, namely submitting a new withdrawal petition that complied with the Deed of Mandate and voting on the future

Deed of Settlement and proposed PSGE following the initialling of the Deed of Settlement (Wai 2578, #2.5.14 & Wai 2693, #2.5.7). Counsel for the Trust submit these alternative remedies have either not been exhausted or have been utilised in such a way that no prejudice can be claimed. The Trust submits that they have dealt with the applicants' petition for withdrawal in accordance with the process set out in the Deed of Mandate and that the applicants have not progressed the withdrawal due to the failure to provide adequate whakapapa. The Trust notes that the Tribunal has recognised the applicants' unwillingness to comply with the process set out in the Deed.

37. The Trust submits that the applicants have had the opportunity to participate in the ratification process and to vote against the Deed of Settlement and PSGE if that was their wish. Counsel submits that dissatisfaction on those matters does not in and of itself equate to prejudice and submits the results of the ratification process demonstrate the applicants' views are a minority view.
38. The Trust submits the marae-based representation model was selected because it was simpler for iwi members to whakapapa to marae rather than a hapū and the representation model was a result of considerable time and resources.
39. In relation to Wai 2693, the Trust also challenges the validity of Mr Bidois bringing this claim on behalf of a trust from which he has resigned as trustee.

#### Wai 2886

40. In response to the Wai 2886 application, the Trust submits that the applicant has had opportunities to express his views on the Deed of Mandate and the Deed of Settlement like all members of Ngāti Hinerangi but his are minority views. The Trust submits that Ngāti Pango are entitled to share in the benefit of the Deed of Settlement through Ngāti Tamapango and will suffer no prejudice. The Trust submits that Ngāti Tamapango and Ngāti Pango share the same lineage, the same histories, and the same stories but over time the descendants on either side of the Kaimai Ranges have adopted different names. The Trust submits that Mr Mason engaged with the Trust on the claimant definition in the Deed of Mandate process by way of submissions and a meeting with the Trust on 26 January 2013. As a result of that engagement, the claimant definition in the Deed of Mandate adopted and approved includes the hapū Ngāti Tamapango.
41. The Trust submits the applicant's allegations relate largely to Trust process and negotiating strategy, neither of which fit easily within the Tribunal's inquiry jurisdiction. The Trust submits that the Tribunal is not the appropriate forum to deal with allegations relating to the Trust's decision-making under the Trust's deed. It submits that this claim is a challenge to the internal workings of the iwi, which are matters that are better dealt with by the iwi itself rather than through the Tribunal.

#### *Applicants' Reply*

#### Wai 2578

42. In reply to the Crown and the Trust, these applicants submit that the ratification process was flawed and lacked transparency. The applicants submit that on the face of it the vote shows that a majority of Ngāti Hinerangi approved the settlement, but the applicants say there is no way to establish if these voters are actually of Ngāti Hinerangi descent. Further, the applicants submit that the growth of numbers enrolled in the Trust tripled in a short time frame without explanation, which demonstrates lack of transparency (Wai 2578, #3.1.52).
43. The applicants further submit that demanding evidence of whakapapa is a breach of tikanga. They submit that interrogating someone in relation to whakapapa is tantamount

to questioning the birth right of Māori and their right to stand on the tūrangawaewae of their tūpuna.

#### Wai 2693

44. The applicants, in reply to the submissions of the Crown and Trust, submit that the Deed of Mandate does not have a provision for hapū or marae to withdraw completely from the mandate, only the withdrawal of mandated representatives from the Trust. Counsel for the applicants submits that there is nothing in the mandate process that showed there was consensus within Ngāti Tokotoko to be part of the Ngāti Hinerangi Deed of Settlement.
45. The applicants submit that hapū rangatiratanga should be paramount. The applicants reiterate that Ngāti Tokotoko is not a hapū of Ngāti Hinerangi so there should be no need to gather signatures. Counsel submit there was no assurance given about who would verify or what the criteria for examining whakapapa would be and that this should be done by kaumatua. Further, counsel for the applicants submit that the demand for the examination of whakapapa is not an honest inquiry into these petitions, but rather used to undermine the message of the attempted withdrawal or replacement.
46. The applicants submit that the ratification process was not robust, inclusive or transparent. The applicants reiterate that the process:
  - (a) failed to give non-supporters an adequate voice in the ratification process;
  - (b) had no provision for special votes to be cast;
  - (c) required voters to enrol with the Trust prior to voting;
  - (d) manufactured a positive view of a weakly supported settlement; and
  - (e) was only able to establish support of 482 persons for the Deed of Settlement, without any indication of hapū affiliation.
47. In response to the Trust, the applicants submit that Mr Bidois has not resigned as trustee of the Maurihero List A and List B Trust.

#### Wai 2886

48. In reply, the applicant reiterates that Ngāti Pango members will continue to suffer significant and irreversible prejudice by not being included in the Deed.
49. The applicant reiterates that there is no reasonable alternative remedy outside of the Tribunal process. Counsel for the applicant submits that in order for Ngāti Pango members to benefit from settlement, they would need to register with Ngāti Hinerangi as belonging to a hapū or marae to which they do not belong. The applicant submits that if he registers with the Trust, he will benefit from the settlement through other hapū, which he does not affiliate with. Further, he submits that the rohe of Ngāti Hinerangi historical claims will be settled but not recognised formally through settlement.
50. Counsel for the applicant submits the Crown has proceeded to settlement where it is aware that a relatively large part of the settlement constituency has been isolated from the settlement process. Counsel for the applicants submit that the Crown and Trust have failed to act in good faith or with transparency.

#### **Urgency Criteria**

51. The Tribunal's *Guide to Practice and Procedure* states the following with regards to applications for an urgent hearing:

In deciding an urgency application, the Tribunal has a regard to a number of factors. Of particular importance is whether:

- The claimants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies;
- There is no alternative remedy that, in the circumstances, it would be reasonable for the claimants to exercise; and
- The claimants can demonstrate that they are ready to proceed urgently to a hearing.

Other factors that the Tribunal may consider include whether:

- The claim or claims challenge an important current or pending Crown action or policy;
- An injunction has been issued by the courts on the basis that the claimants have submitted to the Tribunal the claim or claims for which urgency has been sought; and
- Any other grounds justifying urgency have been made out.

Prior to making its determination on an urgency application, the Tribunal may consider whether the parties or the take or both are amenable to alternative resolution methods, such as informal hui or formal mediation under clause 9A of schedule 2 to the Treaty of Waitangi Act 1975.

## Discussion

52. The Wai 2578 and Wai 2693 applications are to a large extent repetitions of the applications that were dismissed in August 2017 and July 2018. It is to be remembered that the mandate was recognised in 2012 and the agreement in principle in December 2015. The primary difference now is that the Deed of Settlement was signed on 4 May 2019 and the introduction of a Bill is imminent.
53. Viewed as a whole, the complaints of the applicants can be grouped as follows:
- (a) the provision for special votes to be cast during the mandate ratification process;
  - (b) the withdrawal process, specifically the unsuccessful attempts to trigger this process; and
  - (c) the marae-based representation model for the PSGE.
54. The first group of complaints are that the vote for ratification of the mandate excluded unregistered hapū members meaning there was no ability for those not registered with the Trust to vote. This is not so. There was a non-registered ballot option available which enabled anyone aged 18 years and over who fell within the proposed claimant definition to participate in the mandate vote. This was publicly notified in national and regional newspapers and sent to registered members of the Trust. A correction advertisement was also issued to clarify that people who whakapapa to Ngāti Hinerangi would be able to vote by way of a non-registered ballot form.
55. The second group of complaints the applicants raise is in relation to the withdrawal process and their attempts to trigger it. In his decision of August 2017, which I also relied on in my decision of July 2017, the Chairperson of the Tribunal said at [48] and [49], in relation to the available procedures under the Trust's Deed of Mandate to replace hapū representatives and to withdraw the mandate (Wai 2578, #2.5.14; Wai 2693, #2.5.7):

The first is a process to remove and replace hapū representatives on the mandated body, an option which is available to each of the six hapū. This requires a petition signed by "25 people (of Hapū descent and over the age of 18)". The deed of mandate does not state that these 25 people must be registered members. I note that in the original mandating process in 2012, all

members of Ngati Hinerangi could participate and vote, whether registered with the Trust or not. Following the signed petition, a hui-a-hapū must be called with 21 days notice, clearly advertised. At the hui, a vote to replace the representative requires full documentation and an independent observer. Following that process, the hapū must write to the Trust and advise that a new mandated representative has been appointed.

The second process enables "the claimant community" to "remove or replace the Ngati Hinerangi Trust" as the mandated body for Treaty settlement negotiations. This process requires:

- (a) a petition signed by at least 15 people from each member hapū (again, there is no specification that hapū members be registered);
- (b) presentation of the petition of the "complainant community" in writing to
- (c) a meeting of the Trust;
- (d) the calling of a hui-a-iwi with 21 days' notice;
- (e) the chairing of that hui-a-iwi by an independent facilitator; and
- (f) either the taking of the matter to each hapū to resolve or some other process decided upon by the hui, with the possibility of hui-a-hapū to vote to remove all representatives and begin a new mandating process.

56. The applicants have attempted to submit a number of withdrawal petitions, but these have not been successful due to their failure to verify whakapapa. Although there is no explicit reference to how whakapapa will be verified, as those who sign the petition need to be of hapū descent, it therefore goes without saying that there must be a way to determine whether an individual has whakapapa to Ngāti Hinerangi or not.
57. It appears that the applicants have not taken what was in fact advice and have not acted in accordance with those procedures set out in two earlier decisions. This either raises questions about the level of support the applicants have for their applications or reflects an unwillingness to exhaust remedies available before proceeding with an application for urgency. The requirement that the applicants verify their whakapapa does not seem to be a particularly onerous task, considering the number required to sign the petition.
58. The third general complaint of the applicants is that the marae-based representation model for the PSGE has extinguished hapū rangatiratanga. The applicants are clearly not supportive of the marae-based model which has emerged and suggest that a better model would be hapū-based. The Crown have not submitted on the issue. The Trust submit the marae-based representation model was selected because it was simpler for iwi members to whakapapa to marae rather than hapū. In my decision of 26 July 2018, I noted alternative remedies were available, including voting on the proposed PSGE structure. It appears that the applicants have not taken my advice, which appears to be an unwillingness of the applicants to exhaust all available remedies before applying for urgency.
59. The picture that emerges is of groups who will not be transparent as to their number and whakapapa. They have come to believe, perhaps wilfully, that they could not vote without trust membership. This is so despite best efforts to show them otherwise. They have declined to exercise alternative remedies. The task of collecting the requisite names supported by whakapapa would not have been onerous. In declining alternative remedies, they cannot now claim urgency in the situation that they have in fact manufactured. I also note that during the five mandate hui not one vote to the contrary was cast.
60. As to Wai 2886, the point for Ngāti Pango is that they say they live on both sides of the Kaimai Ranges. The Crown and the Trust say that it is Ngati Pango to the east and Ngati Tamapango to the west. They are the same people with a variation as to their name.

61. On the eastern side of the range their claim is partially settled by the Tauranga Moana Iwi Collective Redress and Ngā Hapū o Ngāti Ranginui Claims Settlement Bill before the house. The claimant is concerned that Ngāti Tamapango is only referred to in the Deed and believes that his group may be missing out. It is inevitable however that they have an entitlement because of their relationship with Ngāti Tamapango and Ngāti Hinerangi. All descend from Koperu. They will have the same rights as everybody else. No significant prejudice arises. The settlement legislation that is proposed cannot, in terms of tikanga, change or diminish the name by which a group wishes to call itself. In Te Ao Māori these matters will continue to endure or change in the usual way and words in a statute or Deed are not particularly relevant.
62. It is true that to participate in the benefits of settlement members of this applicant's group may not have a primary affiliation to named marae, but they have a right to, in fact, affiliate to those marae. A certain awkwardness exists here, and this is recognised by the Crown. But in achieving settlement there is always going to have to be a degree of give and take particularly by those whose interests straddle tribal or settlement boundaries.

Decision

63. Urgency is declined.

The Registrar is to send a copy of this direction to the claimant, Crown counsel and those on the notification lists for:

- Wai 2578, the Ngāti Hinerangi Mandate Claim;
- Wai 2693, the Ngāti Tokotoko Claim; and
- Wai 2886, the Ngāti Pango Claim.

**DATED** at Rotorua this 21<sup>st</sup> day of August 2019



Judge P J Savage  
Deputy Chairperson

**WAITANGI TRIBUNAL**