OFFICIAL

IN THE WAITANGI TRIBUNAL

WAI 2700
WAI 2717
WAI 2855
WAI 2884
WAI 2917

IN THE MATTER OF	The Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	The Mana Wāhine Kaupapa Inquiry
AND	
IN THE MATTER OF	A claim by Bonnie Jade Kake on behalf of all Māori Women A claim by Hana Maxwell concerning mana wāhine and Ngātihau a claim by Huhana Lyndon concerning mana wāhine representation in local government a claim by Thelma Connor and Kristi Henare on the impact of contemporary land law on Wāhine Māori and Mana Wāhine

---

Memorandum of Counsel in advance of Judicial Conference

Dated 2 October 2020

Counsel Acting: Brooke Loader & Cameron Hockly

LOADER LEGAL

Brooke Loader
Brooke@loaderlegal.com
022 025 0436

PO Box 21605
Henderson
AUCKLAND 0650

HOCKLY LEGAL

Cameron Hockly
cameron@hockly.co.nz
021 738 542

Hockly.co.nz
PO Box 59211
Mangere Bridge
AUCKLAND 2022

RECEIVED
Waitangi Tribunal
2 Oct 2020
Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL

1. This memorandum is filed on behalf of the following claimants:
    a. A claim by Bonnie Jade Kake on behalf of all Māori Women (Wai 2717);
    b. A claim by Hana Maxwell concerning mana wāhine and Ngātihau (Wai 2855);
    c. A claim by Huhana Lyndon concerning mana wāhine representation in local government (Wai 2884); and
    d. A claim by Thelma Connor and Kristi Henare on the impact of contemporary land law on Wāhine Māori and Mana Wāhine (Wai 2917).
    (the claimants)

2. In its Directions dated 22 July 2020, the Presiding Officer directed parties to file submissions on various matters including Tūāpapa hearing planning in advance of the upcoming judicial conference, by midday 21 September 2020 (Directions).[1]

3. In subsequent directions dated 29 September 2020 the Tribunal granted an extension for the filing of submissions to Wednesday, 30 September 2020.[2]

4. On 28 September 2020 Tamaki Legal file a joint memorandum of counsel (joint memorandum) and counsel has indicated their support for the joint memorandum on behalf of the claimants.[3]

5. After meeting with the claimants in Whangarei yesterday, counsel has been instructed to file this memorandum concerning planning for the first Tūāpapa hearing week which is scheduled in Taitokerau.

6. Accordingly, Counsel seeks leave to file these submissions out-of-time, and submits that no prejudice should be suffered should these submissions be accepted for filing.

7. Counsel intend to make oral submissions during the Judicial Conference on any further outstanding matters if required.

[1] Wai 2700, #2.5.24.
[2] Wai 2700, #2.5.32.
[3] Wai 2700, #3.1.280.

Tūāpapa Hearing Planning

Proposed Hearing Dates

8. The Tribunal has confirmed that the first Tūāpapa hearing week will take place in Taitokerau from 3 to 5 February 2020[4] and has sought feedback on proposed hearing dates.[5]

9. It has been noted in the joint memorandum that claimant counsel have not yet discussed views on these dates.[6]

10. The claimants are of the view that the date indicated by the Tribunal for the first hearing week is impractical and should be postponed until the following week, being 10-12 February 2020.

11. In the week of 3 to 5 February 2020, many will be involved with Waitangi Day preparations. This date also clashes with a number of significant events planned that week in Taitokerau in the leadup to Waitangi Day, including:
    a. Iwi Leaders Forum;
    b. Ruapekapeka Pa Commemoration and Soldiers' Unveiling; and
    c. Waitangi Political Forum.

12. After reviewing the Waitangi Tribunal Unit External Hearing Calendar,[7] it appears that there are no Waitangi Tribunal hearings scheduled for this week.

Hearing locations and venues

13. In its Directions dated 1 September 2020 the Tribunal indicated a number of possible venues to host the first Tūāpapa hearing week, including Tau Henare Marae, Akerama Marae, Whakamaharatanga Marae and Terenga Paraoa Marae.[8]

14. The Tribunal sought submissions as to the practical consequences of holding a hearing in Northland. [9]

[4] Wai 2700, #2.5.28, (9).
[5] Wai 2700, #2.5.24, (27).
[6] Wai 2700, #3.1.280, (5).
[7] *Waitangi Tribunal Unit External Hearing Calendar*, updated 11 August 2020 (URL: https://waitangitribunal.govt.nz/assets/Documents/Publications/WTU-EXTERNAL-Hearing-Calendar-11-Aug-2020.pdf)
[8] Wai 2700, #2.5.28, (9).
[9] Wai 2700, #2.5.28, (12).

15. The claimants are members of Tau Henare Marae, Akerama Marae, and Terenga Paraoa Marae, and have instructed that they support a hearing being held at either of these marae.

16. The claimants state that all three marae are all suitable to host a Waitangi Tribunal hearing as they have hosted previous Tribunal hearings, particularly for the Wai 1040 Te Paparahi o Te Raki Inquiry, so are equipped with the buildings, infrastructure, adequate parking and personnel to be able to effectively host a hearing week.

17. This location would be suitable as there are a number of claimants who intend on presenting evidence at the first hearing week that are based in Whangarei and wider Northland.

18. Each marae that has been suggested has a number of factors for consideration by the Tribunal as a suitable venue:

    a. Akerama Marae is the claimants' first preference for marae. It is located 34 kilometres north of Whangarei and is easily accessible from the main state highway.
    b. Tau Henare Marae is located in a rural setting 40 km north-west of Whangarei. It has an optimal technical setup for a Tribunal Hearing, with the most up-to-date AV equipment.
    c. Terenga Paraoa Marae is based in central Whangarei, so is most easily accessible and closest to the nearest amenities and accommodation.

19. In its directions, the Tribunal indicated that Tribunal staff were awaiting a response to confirm availability of Terenga Paraoa Marae to host a hearing week.[10] Counsel have liaised with Marae Manager, Janelle Beazley, who has confirmed that the marae is available for the hearing dates indicated.

Dated at Auckland this 2nd day of October 2020

Brooke Loader

Counsel for the Claimants

TO: The Registrar, Waitangi Tribunal, Wellington;
All Counsel - Wai 2700 Mana Wāhine Kaupapa Inquiry

[10] Wai 2700, #2.5.28, (10).