

IN THE WAITANGI TRIBUNAL
SOUTHERN NORTH ISLAND AND SOUTH ISLAND CLAIMS

Wai 2800
Wai 2236

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF the inquiry into the Remaining Historical Claims:
Southern North Island and South Island Claims

AND

IN THE MATTER OF a claim by Awhina Muriwai Hill (deceased) and
Peter Hill on behalf of the descendants of Priscilla
Muriwai Dennison (Wai 2236)

SUBMISSIONS ON BEHALF OF WAI 2236

Dated this 21st day of October 2022

RECEIVED
Waitangi Tribunal
21 Oct 22
Ministry of Justice WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

1. This Memorandum is filed on behalf of Wai 2236, a claim made by Awhina Muriwai Hill (deceased) and Peter Hill for the descendants of Priscilla Muriwai Dennison (“the Claimants”).
2. These submissions address the claim assessment completed by the Waitangi Tribunal.¹ The purpose of the claim assessment was to provide advice to the Waitangi Tribunal standing panel. It summarises allegations made in the statement of claim and assesses Waitangi Tribunal reports and other relevant existing secondary sources and primary records.²
3. The claim assessment concluded by summarising that the Dennison claim issues appear to be sufficiently addressed by existing primary and secondary sources but. However, further clarification was sought from the claimants or counsel.³
4. The Claimants were invited to submit their feedback on the claim assessment. They appreciate the opportunity to provide their feedback and do so below.

Summary of claim assessment

5. The claim assessment summarises the Wai 2236 issues as follows:⁴

¹ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1)

² Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 3

³ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 3

⁴ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), pp 5-6

- (a) What was the legislation introduced ‘around 1973’ that allegedly provided for non-Māori spouses to succeed to Māori land compliant? Did this legislation breach with the Treaty of Waitangi and its principles?
 - (b) What was the legislation that enabled Charles Dennison, as administrator, to vest Priscilla Muriwai Dennison’s estate in himself as sole owner? Was this process compliant with the Treaty of Waitangi and its principles?
 - (c) What were the circumstances of the original land awards that are the subject of claimants’ allegations? Was all of the Māori land that formed part of Priscilla Muriwai Dennison’s estate awarded under the South Island Landless Natives Act 1906?
 - (d) To what extent were Māori consulted about the development and implementation of legislation affecting the administration of Māori land and intestate successions?
 - (e) What legislation governed Charles Dennison’s will following his death? And, was he required to leave Priscilla Muriwai Dennison’s land to her children?
 - (f) What is the contemporary administrative status of the blocks that are the subject of claimants’ allegations?
6. The claim assessment then summarises the 18 documents filed in support of the claim.⁵

⁵ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), pp 9-10

7. Other relevant records were located at Archives New Zealand, notably the Supreme Court granting Priscilla Muriwai Dennison's estate to Charles Dennison as administrator⁶ and a signed affidavit of Charles Dennison stating that:⁷
- (a) Priscilla Muriwai Dennison had never been previously married;
 - (b) Priscilla Muriwai Dennison had three children;
 - (c) The estate was 'under the value of \$2,500'; and
 - (d) he delayed making an application to succeed her estate as administrator because he was 'under the impressions that my wife was of Māori blood and I was not I could not succeed to any realty'.
8. Archives also produced the will of Charles Dennison. There was no explicit mention of the land identified by the claimants or of provision for Priscilla Muriwai Dennison's children in his final will.⁸
9. The claim assessment correctly identifies the Māori Affairs Act 1953 and its amendment of 1967 as pertinent legislation. Of particular note is:
- (a) Māori Affairs Act 1953, s116(3) which limits the persons entitled to succeed to an estate of a Māori in Māori land shall be

⁶ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 – document bank (Wai 2800, #6.2.1(a)), p 6

⁷ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 – document bank (Wai 2800, #6.2.1(a)), pp 4, 7

⁸ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 – document bank (Wai 2800, #6.2.1(a)), p 64

determined in accordance with Māori custom;⁹ and then detrimentally

(b) section 76 of the Māori Affairs Amendment Act 1967, as it prescribed that succession on intestacy should be determined in the same manner as if the deceased person were a European.¹⁰

10. The Te Tau Ihu Tribunal found that section 76 of the Māori Affairs Amendment Act 1967 was contrary to the principles of the Treaty. It also found that the Māori Affairs Amendment Act 1974 remedied further breaches.¹¹
11. The Hauraki Tribunal found that the Crown had caused the patrimony of the hapū to be eroded by legislative provisions relating to wills, causing significant injury in the 1880s and 1890s, and between 1909 and 1974. The report also found that the Māori Affairs Amendment Act 1967 prejudicially impacted Māori, with some losing their interest in ancestral land.¹²
12. The claim assessment considered the Central North Island Tribunal commentary of the Prichard–Waetford report of 1965 which led to the passing of the 1967 Amendment Act.
13. The claim assessment then referred to Tom Bennion and Judi Boyd’s report on *Succession to Māori Land 1900–1952*.¹³ Additionally,

⁹ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 12

¹⁰ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 14

¹¹ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 15

¹² Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 17

¹³ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 20

Belgrave, Deason, and Young's report on *Crown Policy with Respect to Māori Land* note that part V of the Māori Affairs Amendment Act 1967, which gave a Māori woman on the death of her husband the same rights as a Pākehā woman, resulted in Māori land being transferred to individuals without a direct whakapapa link.¹⁴ The contemporary report by the Law Commission, *‘He arotake i te āheinga ki ngā rawa a te tangata ka mate ana: Review of succession law: rights to a person's property on death’*, (2021) suggests state law should not determine the substantive question of succession to taonga, such as land connected to te ao Māori. Rather, succession to taonga should be determined by the tikanga of the relevant whānau or hapū.¹⁵

14. The claim assessment notes that an analysis of section 76 of the Māori Affairs Amendment Act 1967 would be needed, informed by the Te Tau Ihu Tribunal Report.¹⁶
15. The claim assessment required further information on:
 - (a) All Māori Land Court records concerning the estate of Priscilla Muriwai Flutey;
 - (b) The unidentified legislation that is the subject of the claim;
 - (c) Further land interests; and
 - (d) Siblings of Priscilla Muriwai Flutey.

¹⁴ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 22

¹⁵ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 24

¹⁶ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 26

Claimant feedback

16. The Claimants are appreciative of the effort that has gone into assessing the Wai 2236 claim, especially the supporting documents that shine further light on historical events through the Affidavit and Will of Charles Dennison.
17. Counsel has been instructed to provide details on the following matters raised in the claim assessment:
 - (a) Legislation subject to the claim;
 - (b) the land subject to the Wai 2236 claim and administrative status; and
 - (c) siblings of Priscilla Muriwai Dennison.
18. Counsel will address each matter in turn.

Legislation subject to the Wai 2236 claim

19. The statement of claim for Wai 2236 stated that “we are likely to be prejudicially affected by the change of law around 1973 which allowed spouses who are not of Māori heritage to succeed to Māori land”.¹⁷
20. In 1967 the Māori Affairs Act 1953 was amended to include a provision allowing non-Māori to succeed to Māori Land. Section 76 of the Māori Affairs Amendment Act states:

¹⁷ Wai 2236 Statement of Claim, p 1

76. Succession to Māori on intestacy

The persons entitled, on the complete or partial intestacy of a Māori or descendant of a Māori who dies after the commencement of this Act, to succeed to his estate, whether real or personal, and the shares in which they are so entitled, shall be determined in the same manner as if the deceased person were a European. Provided that the right of any person to succeed to any property of a Māori pursuant to this section shall not be affected by the fact that that person or any person through whom his claim was derived, is or was illegitimate.

21. The 1967 Act allowed the estate of a Māori to be treated the same as a 'European' if they died intestate. This meant non-Māori spouses were able to succeed to Māori Land, irrespective of whether the intestate deceased had surviving children.
22. The Claimants state that the Māori Affairs Amendment Act 1967 was the primary piece of legislation that worked to disintegrate their customary land holdings following the passing of their Mother. Additionally, further legislation and Crown policies also worked to strip them of their customary rights and interests. The Claimants seek to develop this issue further in evidence and submissions filed during the course of this inquiry.
23. A consideration of the Māori Affairs Amendment Act 1967 would benefit this claim, especially given that only the Te Tau Ihu Tribunal was aware of the intestate succession issues that resulted in its enactment.
24. Additionally, the Claimants seek a review of remedial action by the Crown following the Te Tau Ihu Tribunal finding that section 76 of the 1967 Amendment Act breached Te Tiriti. Especially, whether the

Crown proactively sought out and assisted Māori whose land interests were inappropriately transferred to individuals outside of the whanau, hapū and iwi.

Land Subject to the Wai 2236 claim

25. The claim assessment requested clarification on the circumstances of the original land awards that formed part of the estate of Priscilla Muriwai Dennison.
26. Counsel has been advised that the Claimants do not have the full background behind the circumstances of the original land that formed part of the estate of Priscilla Muriwai Dennison in reflection of her customary interests. They seek further understanding through targeted gap-filling research on this issue.
27. The claim assessment questioned whether all land identified in the various Māori Land Court records filed in support of the statement of claim were also the subject of claimant allegations.¹⁸
28. Attached and marked 'Appendix A' is a table of Māori land blocks in the name of Charles Dennison which he succeeded to as husband of Priscilla Muriwai Dennison. The attached table also shows the contemporary administration of the blocks in question.
29. The Claimants are not aware of other land blocks that Charles Dennison may have potentially disposed of since succeeding to Priscilla Muriwai Dennison's interests. The Claimants request that this be the focus of further gap-filling research.

¹⁸ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 27

Siblings of Priscilla Muriwai Dennison

30. The Schedule of ownership orders provided in the Wai 2236 statement of claim for Rowallan Block XVI section 1, dated in the 1970s records the following owners after the death of Ripini Waipapa Flutey:
- (a) Charles Jeffery Dennison;
 - (b) John Flutey;
 - (c) Queenie Flutey; and
 - (d) William Flutey.
31. All four individuals received $\frac{1}{4}$ of shares (0.238090 shares).
32. The claim assessment questions whether the individuals listed alongside Charles Dennison were siblings of Priscilla Muriwai Dennison.¹⁹
33. Counsel has been advised that John Reuben Flutey, Queenie (Kuini) Hinemoa Rewai (nee Flutey), and William (Bill) Oxley Flutey are the full siblings of Priscilla Muriwai Dennison. There is also Kingi Joseph Manihera Flutey and Arthur Flutey (who passed away in 1918).

Conclusion

34. There are a number of matters that the Claimants request further targeted gap-filling research on, namely:

¹⁹ Waitangi Tribunal, *Claim assessment for the Standing Panel: The Descendants of Priscilla Muriwai Dennison claim (Wai 2236)*, July 2022 (Wai 2800, #6.2.1), p 27

- (a) A consideration of the Māori Affairs Amendment Act 1967 would benefit this claim;
 - (b) Additionally, a review of remedial action taken by the Crown following the Te Tau Ihu Tribunal finding that section 76 of the 1967 Amendment Act breached Te Tiriti;
 - (c) The circumstances of the original land awards that formed part of Priscilla Muriwai Dennison's estate; and
 - (d) Whether Charles Dennison disposed of land interests that he succeeded to from Priscilla Muriwai Dennison.
35. Further amendments to the Wai 2236 statement of claim may be required following this research, the claimants seek the right to pursue this course of action if necessary.
36. The Claimants want to be clear that the customary interests of their tupuna should have always stayed within their whanau. Claimant evidence produced later in this inquiry will touch on the fear they harbour around what could happen to the land currently in the name of Charles Dennison by his successors and the prejudice they suffer.

DATED this 21st day of October 2022



Eve Rongo

Claimant Counsel

Submissions on behalf of Wai 2236
Appendix A: Land blocks under claim

Block ID	Block name	Shares	Minute Book	Ownership Type	Current administration	Trust Type
22825	Bruce Bay Blk X Sec 782 (Bruce Bay Blk XIV Sec 782)	0.0358		Absolute	Mahi Tah Maori Beach Trust	Ahu Whenua Trust
23147	Bruce Bay Block XIV Section 781B (Bruce Bay Blk XIV Sec 781B)	0.29576		Absolute	Bruce Bay Section 781B Ahu Whenua Trust	Ahu Whenua Trust
22092	Orohaki 894 Section B (Orohaki 894B or Orohaki MR 894B, Orohaki MR 894 Sec B)	0.15871		Absolute	Orohaki MR 894 Sec B Block Ahu Whenua Trust	Ahu Whenua Trust
21515	Reserve 2486 Block VIII Rangiora SD (Rangiora Blk VIII Res 2486)	0	1 TWP 13-16	Absolute	Rangiora Blk VIII Res 2486	Ahu Whenua Trust
22426	Reserve 2557 Teviotdale SD (Teviotdale Reserve 2557)	0	1 TWP 13-16	Absolute	Teviotdale Reserve 2557	Ahu Whenua Trust
22176	Section 1 Block XIV Rowallan Survey District (Rowallan Blk XIV Sec 1)	0.23809		Absolute	Rowallan Blk XIV Sec 1	Ahu Whenua Trust
23138	Section 11 Block X Lords River Survey District (Lords River Blk X Sec 11)	52		Absolute	Rakiura Maori Lands Trust	Ahu Whenua Trust
21563	Section 5 Block VIII Rowallan Survey District (Rowallan Blk VIII Sec 5)	14.36094		Absolute	Rowallan Blk VIII Sec 5	Ahu Whenua Trust
22934	Section 56 Block I Hawkesbury Survey District (Hawkesbury Blk I Sec 56)	1		Absolute	n/a	n/a
22293	Section 7 Block XII Rowallan Survey District (Rowallan Blk XII Sec 7)	0.22321		Absolute	Rowallan Blk XII Sec 7	Ahu Whenua Trust
21966	Taerutu No 898 in red (Taerutu No 898 (Fishing Easement))	0	1 TWP 13-16	Absolute	n/a	n/a
22247	Taieri Block A Subdivision 22 (Taieri Blk A Sub 22)	0.0887	136 SI 11-17	Absolute	Taieri A Sub 22	Ahu Whenua Trust
22372	Taieri Block A Subdivision 5 (Taieri Blk A Sub 5)	0.00932	136 SI 11-17	Absolute	Taieri Block A Sub 5	Ahu Whenua Trust
23190	Te Akaaka 896 in Red (Fishing Easement) (Te Akaaka 896)	0	1 TWP 13-16	Absolute	Te Akaaka Ahu Whenua Trust	Ahu Whenua Trust
22402	Torotoroa Reserve 895 (Fishing Easement) (Torotoroa Blk IX RES 895)	0	1 TWP 13-16	Absolute	Torotoroa Blk IX Res No. 895	Ahu Whenua Trust
21781	Waimaiaia 899 (Fishing Easement)	0	1 TWP 13-16	Absolute	Waimaiaia 899	Maori Reservation
21635	Whataroa Native Reserves Secs 21 & 22 (Whataroa Native Reserves Secs 20, 21 & 22)	0.14446		Absolute	Whataroa MR Secs 21 & 22	Ahu Whenua Trust