

IN THE WAITANGI TRIBUNAL

Wai 2180

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Taihape: Rangitīkei ki
Rangipō District Inquiry**DIRECTIONS OF JUSTICE L R HARVEY
RELEASING REVIEW OF TAU AND FISHER REPORT**

3 July 2023

Claimant counsel

L Watson *Ngā Iwi o Mōkai Pātea amalgamated claim* (Wai 1705, 647, 588, 385, 581, 1888)
A Sykes (Annette Sykes & Co.) *Ngāti Hinemanu me Ngāti Paki amalgamated claim* (Wai 662, 1835, 1868)
K Feint (Thorndon Chambers) *Ngāti Tūwharetoa amalgamated claim* (Wai 61, 575)
C Hockly (Hockly Legal) *Ngāti Hikairo amalgamated claim* (Wai 37, 933)
P Walker (Kahui Legal) *Waiouru to Ohakune Lands claim* (Wai 151)
D Naden (Tamaki Legal) *Horowhenua Block claim* (Wai 237) and *Tongariro Power Development Scheme Lands claim* (Wai 1196)
B Gilling (Mahony Horner) *Ōwhāoko C3B claim* (Wai 378), *Kaweka Forest Park and Ngaruroro River claim* (Wai 382), *Ahuriri Block claim* (Wai 400), and *Ngāti Kauwhata ki te Tonga surplus lands claim* (Wai 972)
T Afeaki (Afeaki Chambers) *Renata Kawepo Estate claim* (Wai 401)
R Siciliano & J Burgess (McCaw Lewis) *Te Reu Reu Land claim* (Wai 651) and *Ngāti Pīkiahū claim* (Wai 1872)
P Johnston (Rainey Collins) *Kauwhata Lands and Resources claim* (Wai 784) and *Te Kotahitanga o Te Iwi o Ngāti Wehiwehi claim* (Wai 1482)
Y Singh (Legal Hub) *Awakino and Other Lands claim* (Wai 868), *Ngāti Hekeawai Land Block claim* (Wai 1299), *Lands and Resources of Ngāti Ngutu/Ngāti Hua claim* (Wai 1409), *Ngāti Ngutu Hapū claim* (Wai 1497), *Hauturu Waipuna C Block (Herbert) claim* (Wai 1978), *Ngāti Kinohaku and Others Lands (Nerai-Tuaupiki) claim* (Wai 2131)
M Tuwhare *Ngā Poutamanui-a-Awa Lands and Resources claim* (Wai 1254)
C Linstead-Panoho (Wackrow Panoho & Associates) *Ngāti Waewae Lands claim* (Wai 1260) and *Ngāti Parewahawaha (Reweti) claim* (Wai 1619)
T Bennion (Bennion Law) *Waimarino No. 1 Block and Railway Lands claim* (Wai 221), *Ngāti Tara Lands claim* (Wai 1261), and *Tahana Whānau claim* (Wai 1394)
D Hall (Woodward Law) *Ngāti Kauwhata ki te Tonga and Rangitīkei-Manawatū, Reureu blocks and Awahuri reserve lands claim* (Wai 1461)
M Sinclair (Te Haa Legal) *Raketapauma (Descendants of Ropoama Pohe) claim* (Wai 1632)
M McGhie for the *Te Wai Nui a Rua (Ranginui and Ranginui - Tamakehu) claim* (Wai 2157)
Representatives for the *Ngāti Hikairo ki Tongariro Lands claim* (Wai 1262)

Unrepresented claims

Te Kōau Block and Ruahine Ranges claim (Wai 263)
Gwavas Forest Park claim (Wai 397)
Parakiri and Associated Land Blocks claim (Wai 1195)
Descendants of Mōkai-Pātea (Cribb) claim (Wai 1639)

Counsel for the Crown

R Ennor

Interested parties

P Majurey (Atkins Holm Joseph Majurey) *Genesis Power*
Big Hill Station
Mangaohane Station
Ngamatea Station
Rangitīkei District Council
B Pitman of Ngāi Tapuwae
Heretaunga Tamatea Settlement Trust

Introduction

1. These directions:
 - (a) update parties on the Tribunal’s progress in addressing claim issues concerning the Kāweka and Gwavas Crown Forest Licensed (CFL) lands;
 - (b) release Paul Meredith’s “Review of the ‘Customary Interests in Kāweka and Gwavas CFL Lands’ Research Report by Te Maire Tau and Martin Fisher”; and
 - (c) seek submissions in response to Mr Meredith’s review and its findings.

The four-step process

2. In directions dated 22 May 2018, I outlined the procedural background to the Kāweka and Gwavas CFL lands claim issues and how they came to be considered by this Tribunal despite falling outside the district boundary.¹
3. In those May 2018 directions, I confirmed that this Tribunal would defer its decision on whether to inquire into claim issues concerning alleged Crown actions and omissions in respect of the Kāweka and Gwavas CFL lands, or to extend the inquiry boundary in order to do so.²
4. Instead, I outlined a four-step process by which claim issues concerning the Kāweka and Gwavas CFL lands will be inquired into within the Taihape inquiry:³
 - (a) **Step one:** the commissioning of historical research into the customary interests in the Kāweka and Gwavas CFL lands;
 - (b) **Step two:** the hearing and cross-examination of the historical research and the hearing of any further evidence regarding customary interests in the Kāweka and Gwavas CFL lands;
 - (c) **Step three:** a preliminary Tribunal decision on customary interests in the Kāweka and Gwavas CFL lands; and
 - (d) **Step four:** an inquiry into Crown actions and omissions in relation to the Kāweka and Gwavas CFL lands.
5. At the end of each step, parties were to advise the Tribunal whether they consider it necessary to proceed to the next step, or whether they have sufficient material to proceed with a process other than a Tribunal inquiry (such as direct negotiations with the Crown).⁴

Progress thus far

Step one: historical research

6. Step one was completed on 28 November 2019 when the Crown Forestry Rental Trust filed the report *Customary Interests in Kāweka and Gwavas CFL Land Blocks* by Drs Te Maire Tau and Martin Fisher (the Tau and Fisher Report).⁵

¹ Wai 2180, #2.6.53.

² Wai 2180, #2.6.53 at [67].

³ Wai 2180, #2.6.53 at [70] – [75].

⁴ Wai 2180, #2.6.53 at [68].

⁵ Wai 2180, #O2(a).

Step two: hearing

7. In directions dated 23 December 2019, in response to parties' submissions, the Tribunal confirmed that it would progress to step two.⁶
8. Step two took place in the form of hearing 10, which was held on 17 to 19 February 2020 at Ōmahu Marae. The Tau and Fisher Report, as well as a range of further evidence concerning customary interests in the Kāweka and Gwavas CFL lands, was presented and cross-examined.⁷

Step three: preliminary opinion on customary interests (thus far)

9. At this point, the progress of the Kāweka and Gwavas inquiry stream was unable to progress because of the impact of the COVID-19 lockdowns during 2020.
10. Progress resumed with directions dated 4 September 2020, where the Tribunal addressed outstanding evidential matters arising from hearing 10. Submissions were also sought on whether a Tribunal preliminary opinion on customary interests in the Kāweka and Gwavas CFL lands was required considering the evidence heard.⁸
11. The Tribunal received the following submissions:
 - (a) Ms Ennor for the Crown supported a preliminary opinion.⁹
 - (b) Mr Afeaki for the Renata Kawepo Estate (Wai 401) claim supported a preliminary opinion and advised that the Wai 401 claimants seek recognition of their customary interests in the Kāweka and Gwavas CFL lands.¹⁰
 - (c) Mr Watson for Mōkai Pātea submitted that a preliminary opinion would be beneficial and advised that Mōkai Pātea's parallel mandating process has included provision for this preliminary opinion on customary interests.¹¹
 - (d) Ms Sykes for Ngāti Hinemanu me Ngāti Paki submitted that a preliminary opinion is required and included detailed submissions as to why the Tribunal can find that the Ngāti Hinemanu and Ngāti Paki have customary interests in the Kāweka and Gwavas CFL lands.¹²
12. The following parties expressed no view and would abide by the Tribunal's decision:
 - (a) Danyon Chong for Ngāti Wehi Wehi (Wai 1482).¹³
 - (b) Emily Martinez for Ngāti Kauwhata ki Te Tonga (Wai 784).¹⁴

⁶ Wai 2180, #2.6.90.

⁷ See Wai 2180, #4.1.21 for the transcript of hearing 10 and its appendices for parties' corrections.

⁸ Wai 2180, #2.6.104.

⁹ Wai 2180, #3.2.797 at [3].

¹⁰ Wai 2180, #3.2.798 at [7].

¹¹ Wai 2180, #3.2.802 at [2] – [4].

¹² Wai 2180, #3.2.801(a).

¹³ Wai 2180, #3.2.794.

¹⁴ Wai 2180, #3.2.795.

(c) Dr Gilling for the Ōwhāoko C3B (Wai 378) claim, the Kaweka Forest Park and Ngaruroro River (Wai 382) claim, the Ahuriri Block (Wai 400) claim, and the Ngāti Kauwhata ki te Tonga surplus lands (Wai 972) claim.¹⁵

13. Plainly the parties supported the issuing of a preliminary Tribunal opinion on customary interests in the Kāweka and Gwavas CFL lands. Accordingly, the Tribunal began to review the relevant evidence for this purpose.

Review of Tau and Fisher Report and next steps

14. While assessing the relevant evidence, it was decided that the Tau and Fisher Report needed to be reviewed to ensure that there were no gaps in the possible evidence and that the authors had explored and made best use of all possible available material.

15. As part of this review, advice was sought from Paul Meredith. His review is titled “Review of the ‘Customary Interests in Kāweka and Gwavas CFL Lands’ Research Report by Te Maire Tau and Martin Fisher” and has been placed on the Record of Inquiry as document **Wai 2180, #O002(k)**.

16. Submissions are invited from any of the parties directly affected by the review. The submissions should concentrate on both the content of the review and any other relevant matters along with what future steps if any might be appropriate in the circumstances. Parties are to file any submissions by **midday, 7 August 2023**.

The Registrar is to distribute this direction to all parties on the notification list for Wai 2180, the record of inquiry for claims in the Taihape: Rangitīkei ki Rangipō District Inquiry.

DATED at Rotorua on this 3rd day of July 2023



Justice L R Harvey
Presiding Officer

WAITANGI TRIBUNAL

¹⁵ Wai 2180, #3.2.796.