KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL **WAI 2180**

IN THE MATTER OF	**the Treaty of Waitangi Act 1975**
AND	
IN THE MATTER OF	**THE TAIHAPE: RANGITĪKEI KI RANGIPŌ DISTRICT INQUIRY**

MEMORANDUM OF COUNSEL FOR THE CROWN REGARDING REVIEW OF TAU AND FISHER REPORT

7 August 2023

Te Tari Ture o te Karauna
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MAY IT PLEASE THE TRIBUNAL:

1. On 3 July 2023, Justice Harvey issued Memoranda-Directions:

   1.1 advising parties the Tribunal had commissioned Mr Paul Meredith to review a Crown Forestry Rental Trust commissioned report *Customary Interests in Kāweka and Gwavas CFL Land Blocks* by Drs Te Maire Tau and Martin Fisher;

   1.2 releasing Mr Meredith's review and seeking submissions in response.[1]

2. These submissions should be read with earlier Crown submissions on this matter (and the Crown's contribution through the hearing into these matters held at Ōmahu Marae in 2020).

Background

3. It is common ground that the Ngāti Hinemanu and Ngāti Paki tupuna Winiata Te Whaaro travelled over, and had knowledge regarding, the Kāweka and Gwavas CFL lands.[2] It is also common ground that Ngāti Hinemanu have customary interests in those lands derived through Taraia II.[3] The derivation of customary interests in these lands is the outstanding issue.

4. The Kāweka and Gwavas CFL lands are located outside the boundary set for the Wai 2180 inquiry. The Tribunal's jurisdiction over claims relating to those lands was largely removed following the settlement of claims through the Heretaunga Tamatea Claims Settlement Act 2018 (including claims through Taraia II). Historical claims relating to Ngāti Hinemanu interests derived from Punakiao are excluded from that settlement.[4]

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1 Wai 2180, #2.6.137.

2 The derivation of those interests that enabled that relationship with those lands that is at issue.

3 Wai 2180, #O002(k) at 12.

4 Heretaunga Tamatea Claims Settlement Act 2018 s 14(4)(c).
However, the historical claims do not include— (c) a claim of Ngāti Hinemanu to the extent that the

Submissions on content of the review

5. Mr Meredith's review is comprehensive and is premised on sound methodology. Mr Meredith's report did not identify material "gaps and limitations" or concerns with the methodology employed by Drs Fisher and Tau. He notes the limitations inherent in dealing with incomplete evidence, and the context particular sources must be assessed within, but considers that the Tau and Fisher report handles those matters appropriately. He concludes that the Tau and Fisher report is sound, comprehensive, and fair.[5]

6. The Tribunal can have little concern remaining regarding "gaps in the possible evidence and that the authors [Tau and Fisher] had made best use of all possible available material" given Mr Meredith's conclusions.

Submissions on relevant matters and future steps

7. The Tribunal's four step process includes provision at the end of each step for parties to advise the Tribunal of their views as to the necessity of proceeding to the next step.

8. The process is at step three: preliminary opinion on customary interests. The parties have previously confirmed their support for such an opinion to be issued. The Crown reiterates that support but defers to the Tribunal concerning any issues of efficiency involved in prioritising the release of a preliminary report (for example on the timing for the full report).

9. The four-step process was put in place to enable fair and due consideration of the perspective of those claiming interests through Punakiao, whilst also enabling finality and completion to be achieved should that derivation of interests not be made out. The Crown's view is

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claim relates to the interests of Ngāti Hinemanu that are derived through the ancestor Punakiao.

[5] On one matter, he suggests that Tau and Fisher may have been "diplomatic" in nuancing an aspect of their report.

that sufficient evidence is available to the Tribunal to bring this aspect of the inquiry to a close. Step four is not required.

7 August 2023

R E Ennor
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal
AND TO: Claimant Counsel