WAITANGI TRIBUNAL

Wai 3416

CONCERNING the Treaty of Waitangi Act 1975

AND a claim by Mane Grant Tahere, Iti Joyce and Hone Sadler on behalf of themselves and the whānau, hapū and iwi who constitute te Whare Tapu o Ngāpuhi

MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 24 April 2024.

The claimants should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by by Mane Grant Tahere, Iti Joyce and Hone Sadler on behalf of themselves and the whānau, hapū and iwi who constitute te Whare Tapu o Ngāpuhi and concerns constitutional issues. The claimants allege that the Crown has breached the principles of the Treaty of Waitangi by:

- usurping Māori tino rangatiratanga since after the signing of te Tiriti;
- failing to respect, recognise and protect the right of Māori to exercise tino rangatiratanga in accordance with tikanga Māori, over their own territories and communities;
- imposing on Māori, without their consent or acquiescence, unfamiliar and unwelcome legal, political and constitutional systems;
- failing to actively protect and ensure Tiriti/Treaty compliant outcomes for Māori, in particular by removing any ability for Māori to pursue their Tiriti/Treaty rights through independent, international courts, and/or tikanga Māori based courts;
- failing to protect Tiriti/Treaty rights by way of entrenchment;
- failing to ensure there is adequate Māori representation in Parliament; and
- failing to protect Māori rights from the effects of the tyranny of the majority, by placing reliance on the doctrine of Parliamentary Sovereignty.

The claimants seek a variety of relief, including recommendations that the Crown:

- recognise that under te Tiriti/the Treaty, the British Crown was not ceded the authority to govern over Māori peoples and their territories;
- recognise the systemic failure of the Crown to recognise and protect tino rangatiratanga;
- recognise the consequences on Māori of the majoritarian system, and the Crown's abject failure to adequately protect them from the devastating effects on the system which the Crown had imposed on them;

- recognise the intentional lack of legal recognition that binding te Tiriti/the Treaty rights have been given under New Zealand's legal system, and the consequent inability of Māori to enforce those rights;
- provide a formal apology for the harm and trauma caused to all of the claimants, their whānau, hapū, iwi and urban communities, and which acknowledges that the full responsibility for the prejudice which has befallen Māori arises from the Crown's legal and constitutional system;
- provide the provision of funding to a new group established collaboratively by the claimants, Māori organisations and the Crown ("the Constitutional Review Committee). The Constitutional Review Committee is expected to engage collaboratively with other Māori groups with an interest, and devise a new constitutional system, consistent with the exercise of tino rangatiratanga and tikanga Māori, and propose new legislation, administration and policies to ensure Māori tino rangatiratanga is secured; and
- provide compensation for those detrimentally affected by the Crown's acts and omissions in relation to the Crown's imposed constitutional system, for all the harm and losses suffered, either directly or indirectly, and including the immediate and ongoing detriment to the social, psychological, cultural, economic and spiritual wellbeing of Māori, and their whānau, hapū, iwi and urban communities.

The claimants may amend this claim at a later stage. In any case the Tribunal may require the claimants to prepare a fully particularised statement of claim before the claim can be heard.

The claimants should also note that this claim is registered only insofar as it concerns contemporary allegations of Treaty breaches by the Crown.

In April 2015, the Chairperson issued a memorandum outlining a kaupapa inquiry programme. A second memorandum updating and refining the kaupapa inquiry process was issued in March 2019. A number of kaupapa inquiries are now under way.

The Tribunal's Strategic Direction 2014-2025, launched by the Chairperson in July 2014, outlines two other new programmes for claims that have fallen outside the scope of the district and kaupapa inquiries, one for remaining historical claims and the other for contemporary claims. Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations made in this claim are contemporary in nature. They pertain to constitutional issues and as such may be best suited for consideration in Wai 3300, Tomokia ngā tatau o Matangireia – The Constitutional Kaupapa Inquiry.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimants need to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Treaty of Waitangi Act 1975). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimants also need to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

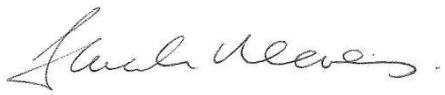
Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimants should check their telephone directory for contact details.

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

The Registrar is to send a copy of this direction to the claimants and to:

- Crown Law Office;
- Te Kahui Whakatau (Treaty Settlements), Office for Māori Crown Relations – Te Arawhiti;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri; and
- All those on the notification list for Wai 3300, Tomokia ngā tatau o Matangireia – The Constitutional Kaupapa Inquiry.

DATED at Wellington this 1st day of October 2024



Judge Sarah Reeves
Deputy Chairperson
WAITANGI TRIBUNAL