

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 1475

E PĀ ANA KI
CONCERNING

te Treaty of Waitangi Act 1975

Ā,
AND

the Land Block Maketu A
Section 72 kereme

HE PĀNUI WHAKAHAU O TE TIAMANA TUARUA KAIWHAKAWA REEVES /
MEMORANDUM DIRECTIONS OF THE DEPUTY CHAIRPERSON JUDGE REEVES
REGARDING NAMED CLAIMANTS FOR WAI 1475

17 Hōngongoi 2025

Background

1. These directions concern the named claimants of the Land Block Maketu A Section 72 (Wai 1475) claim and its legal representation, both of which are in dispute between parties.
2. On 27 May 2008, Theresa Ngawaka Horne, Te Wano Walters, Hone Ihaka Devon and Maru Tapsell filed a claim on behalf of themselves and the descendants of Ieni Hans Tapsell and his wife, Te Ao Kore Warangi. and concerns the Maketu A block, Section 72 (Wai 1475, #1.1.1 & #2.1.1).
3. On 8 July 2010, the Tribunal registered an amendment to this claim, removing Maru Tapsell, Theresa Ngawaka Horne and Hone Ihaka Devon as named claimants and adding Maria Brenda Horne as a named claimant (Wai 1475, #1.1.1(a) & #2.2.1). The remaining named claimants were accordingly Maria Brenda Horne and Te Wano Walters.
4. On 2 May 2019, the Tribunal received an amended statement of claim from Ms Horne who sought to amend the claimant group on whose behalf the claim was brought to also include Ngāti Peehi hapū and Ngāti Tutanekai hapū (Wai 1475, #1.1.1(b) & #2.2.2).
5. On 26 October 2023, the Tribunal received an amended statement of claim advising that named claimants Ms Horne and Mr Walters had passed away, and therefore sought to remove them as named claimants and add Ieni Ngatipeehi Walters and Larissa Ngawaka Wharepōuri as named claimants (Wai 1475, #1.1.1(c)).
6. On 8 December 2023, the amendment was registered and Mr Walters and Ms Wharepōuri were added as named claimants (Wai 1475, #2.2.3). This was done on the assumption that this change had been with the consent of the representative group given the passing away of the previous named claimants.
7. The amended statement of claim also advised a change of legal representation to Kāhui Legal, from their previous counsel Phoenix Law. This amendment is now in dispute.
8. On 14 December 2023, the Tribunal received a memorandum of counsel from Janet Mason of Phoenix Law, regarding the change in named claimants. Ms Mason submits that counsel were not served with the request to amend the Wai 1475 claim, and that Phoenix Law continues to act for Te Rūnanga o Ngāti Whakaue ki Maketū (the Rūnanga) of whom Maria Horne was the Chairperson (Wai 1475, #3.1.1).
9. On 5 April 2024, I issued memorandum directions that directed counsel from both Phoenix Law and Kāhui Legal to file submissions to assist the Tribunal in determining the identity of the new claimants (Wai 1475, #2.5.1).

Kāhui Legal submissions

10. On 12 April 2024, the Tribunal received a memorandum from Nathan Milner of Kāhui Legal alongside the affidavit of Larissa Wharepōuri (Wai 1475, #3.1.3 & #A1).
11. Mr Milner submitted that Larissa Wharepōuri and Ieni Walters are the named claimants for Wai 1475 and seek the retention of directions issued on 8 December 2023.
12. Ms Wharepōuri explains in her affidavit that in early 2023 that the Rūnanga had made submissions to the Crown which referred to the Rūnanga as “the holder” of Wai 1475. Ms Wharepōuri as the descendant of Ieni Tapsell, questions and challenges this description (Wai 1475, #3.1.3 at [10]).
13. Counsel submit that at a hui held on 30 September 2023, with representatives of Whakaue Marae trustees, and the Rūnanga and Maketu claims, the issue of Wai 1475 being an Ieni Tapsell whānau claim rather than a Rūnanga claim was discussed. Counsel submit that it was agreed and confirmed, including by the Chair of the Rūnanga, that the Wai 1475 claim is an Ieni Tapsell whānau claim (Wai 1475, #3.1.3).

14. Further, at an Ieni Tapsell whānau meeting held on 17 October 2023, it was confirmed that Wai 1475 was a claim belonging to the Ieni Tapsell whānau. At this meeting, Larissa Wharepōuri and Ieni Walters were also confirmed as the new claimants, as descendants of Ieni Tapsell and Te Ao Kore Warangi. Minutes of this meeting have been provided to the Tribunal (Wai 1475, #A1(a)).
15. Counsel submit that the Rūnanga does not have any role in Wai 1475, or in determining who the claimants for Wai 1475 are. They submit the Rūnanga cannot be a claimant as it is not a Māori person under s 6 of the Treaty of Waitangi Act 1975.
16. Further, the Wai 1475 was not filed on behalf of the Rūnanga, but on behalf of the descendants of Ieni Tapsell and Te Ao Kore Warangi. Their descendants have since determined Larissa Wharepōuri and Ieni Walters to be the new claimants.
17. The issue of whether Apirana Hemi-Horne should also be a named claimant, is one for the Ieni Tapsell whānau to decide. It is further submitted that the Tribunal has previously confirmed that there is no right of succession to claims – the right to be a claimant does not automatically pass to a child of a deceased claimant.¹
18. Accordingly, counsel submit that the affidavit (Wai 1475, #A1) and appendices (Wai 1475, #A1(a) & #A1(b)) filed with their memorandum are sufficient evidence that the whānau have now determined who the new claimants should be.

Phoenix Law submissions

19. On 15 April 2024, the Tribunal received a memorandum of counsel from Ms Mason of Phoenix Law on behalf of Maru Poihipi Tapsell, Apirana Hemi-Horne and Moerangi Potiki, representative of the Rūnanga² (Wai 1475, #3.1.2).
20. They dispute the amendment registered on 8 December 2023 and seek leave for Mr Hemi-Horne and Mr Tapsell to be added as named claimants, Mr Walters to remain as a named claimant, and Ms Wharepōuri to be removed.
21. Counsel submit that Maria Horne was the named claimant on Wai 1475 within her capacity as CEO of the Rūnanga. The claim was originally made on behalf of the original named claimants' children, as descendants of Ieni Hans Tapsell and Te Ao Kore Warangi.
22. Counsel seek to add Mr Hemi-Horne and Mr Tapsell as named claimants on the grounds that Mr Tapsell is one of the initial named claimants, and Mr Hemi-Horne is the son of Maria Horne, and has the support of his whānau who wish for him to be added.
23. Maria Horne was the daughter of Theresa Horne, an original named claimant, and succeeded her as named claimant on this basis. Counsel submit that Mr Tapsell wishes now to be added back to ensure the original intent of the claim is maintained.
24. The claimants agree to Ieni Walters being added as a named claimant, as he is the son of Te Wano Walters and thus his successor. The parties represented by Phoenix Law dispute the addition of Ms Wharepōuri, who they say was wrongly added without notice or consultation and she is neither a successor, nor a descendant of the initial claimants.
25. On 27 June 2025, the Tribunal received a further memorandum of counsel from Phoenix Law that requests for Ms Agnes Devon to replace Mr Hone Ihaka Devon as a named claimant. Counsel submits that the amendment removing Mr Devon in 2010³ was done upon his death, and without the authorisation of Mr Devon's successor or whānau. Counsel accordingly submit Mr Devon's interest persists (Wai 1475, #3.1.4).

¹ See Memorandum-Directions (No. 206) of Deputy Chief Judge Fox concerning Wai 52 Named Claimant Representation Issues, dated 8 July 2019, Wai 2200, #2.6.60, at [19]-[20].

² Signed authority was also filed from Mr Tapsell and Mr Maru.

³ Wai 1475, #1.1.1(a).

Amendments to claimant group definition

26. The dispute concerns the identity of the relevant claimant group, and thus who has the authority to appoint new named claimants. Mr Milner's submissions assert that it is the descendants of Ieni Hans Tapsell and Te Ao Kore Warangi who are the relevant claimant group. Ms Mason's submissions assert that it is Te Rūnanga o Ngāti Whakaue ki Maketū.
27. The identified claimant groups for Wai 1475, as previously indicated, are the descendants of Ieni Hans Tapsell and Te Ao Kore Wirangi as well as Ngāti Peehi and Ngāti Tutanekai hapū who were added by the amendment made by Maria Horne in 2019 (Wai 1475, #1.1.1(b)).
28. Maria Horne states in the first letter that accompanies the amendment, that the amendment was made on behalf of herself, whānau and whānaunga that whakapapa to Ieni Tapihana (Tapsell). It amended the claimant group to include the Ngāti Peehi and Ngāti Tutanekai hapū, as descendants of Ieni Tapihana (Wai 1475, #1.1.1(b)).
29. Ms Horne also says that the collective hapū (Ieni descendants, Ngāti Peehi and Ngāti Tutanekai) have evolved, and are recognised today as Ngāti Whakaue ki Maketū, and that the iwi authority of the claim is Te Rūnanga o Ngāti Whakaue ki Maketu (Wai 1475, #1.1.1(b)).

Guide to Practice and Procedure

30. The Tribunal's *Guide to Practice and Procedure* (the Guide) outlines the following in relation to the change of named claimants:⁴

Unless authority to prosecute the claim has been duly transferred by the original claimant or claimants, the Tribunal will generally register an amendment to a claim only if it has been signed by the same individual or individuals who submitted the original claim or their counsel. Where a claimant(s) wishes to withdraw from prosecuting a claim, the claimant(s) may at any stage in the inquiry transfer authority to prosecute the claim to another person(s), provided that person(s) meets the statutory requirements.

Where a claimant dies and it is not clear who has authority to prosecute the claim, the Tribunal will work with the claimant groups and counsel to identify new named claimants on a case-by-case basis and accepts a broad range of evidence as appropriate to determine their identity.

Claimant disputes previously determined by the Tribunal

31. The Tribunal has previously made determinations of claimants when disputed. In 2019, then-Deputy Chief Judge Fox determined a dispute to an amendment of the Muaūpoko Land (Wai 52) claim participating in the Porirua ki Manawatū District Inquiry. The amendment requested for parties to be added as named claimants on the basis of succession (Wai 2200, #2.6.60.). Judge Fox observed in her directions that the *Guide* does not provide any right of succession to claims. The amendments brought on the basis of succession were therefore rejected.
32. In the same inquiry, an issue of determining named claimants arose regarding the Ngāti Raukawa (Wai 113) claim when all named claimants had passed. The widow of a named claimant asserted that, in accordance with tikanga, she should be given the opportunity to consult and consider the progression of the claim. An amended statement of claim seeking to add her as the new named claimant was filed accordingly (Wai 2200, #3.1.891),
33. This request was disputed by several other parties to the Wai 113 claim. These parties submitted an account of a hui-a-iwi as evidence that a different person should be added as named claimant on the basis of his position in the Rūnanga, and that this person should serve as the interim caretaker for the claim (Wai 2200, #3.1.923.).

⁴ Waitangi Tribunal *The Guide to Practice and Procedure* (August 2023) at [2.24] – [2.25].

34. Judge Fox held that the equitable approach would be for both parties to be named claimants, unless determined otherwise by the iwi in a “duly convened hui-a-iwi” (Wai 2200, #2.5.163).
35. On 14 August 2024, Judge Isaac released a memorandum-directions addressing a similar dispute in the Military Veterans inquiry with the Patukeha Land and Resources (Wai 1140) claim (Wai 2500, #2.6.21). Phoenix Law in that dispute held the position that Wai 1140 was a claim brought on behalf of individuals. They accordingly contested the amendment to the named claimants – pursuant to a hapū hui – made by Wackrow Panoho Law.
36. Judge Isaac, in determining whether this was an individual or hapū claim (and therefore who had the authority to amend and prosecute the claim) considered that amongst other factors, as the claim was originally lodged on behalf of the hapū, and as all subsequent amendments to the claim had been made in accordance and with the permission of the hapū, the hapū held this authority.

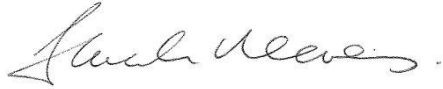
Decision

37. I thank counsel for their submissions and the additional material provided to the Tribunal to assist it in determining the identity of the new claimants. Upon reviewing this material, and considering all submissions, I accept the amendments made in December 2023 that added Larissa Wharepouri and Leni Walters as named claimants to the Wai 1475 claim for the reasons outlined below.
38. First, Kāhui Legal has provided evidence to the Tribunal that it was agreed by the Chair of the Rūnanga and the leni whānau that this claim is a whānau claim, and not a Rūnanga claim. Kāhui Legal have also provided that subsequently the leni whānau confirmed that Larissa Wharepouri and Leni Walters would be the new named claimants for this claim. Phoenix Law have not provided the Tribunal with any evidence that disputes this agreement between the Chair and the whānau taking place, nor any other evidence that supports their submissions.
39. Second, the submissions made by Phoenix Law largely rely on principles of succession. I accept the submissions made by Kāhui Legal that there is no right of succession to claims, as expressed by Chief Judge Fox in the Porirua ki Manawatū (Wai 2200) Inquiry, discussed above at [31].
40. Third, this claim has consistently been referred to as a whānau claim. The Tribunal has not received any submissions prior to this dispute that refer to it as a Rūnanga claim.
41. I am therefore satisfied that the whānau had the mandate to make the amendment in December 2023 (Wai 1475, #1.1.1(c)). I conclude that the named claimants for the Land Block Maketu A Section 72 (Wai 1475) claim are Larissa Wharepouri and Leni Walters. On this basis I also find that Kāhui Legal is the legal representative for the Wai 1475 claim.
42. The application by Phoenix Law to add Maru Poihipi Tapsell, Apirana Hemi-Horne, Moerangi Potiki and Agnes Devon is declined.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 1475, the Land Block Maketu A Section 72 claim.

The Registrar is to send a copy of this direction to all those on the distribution list for Wai 1475, the Land Block Maketu A Section 72 claim.

WHAKAPŪMAUTIA ki Tamaki i te 17 o te Hōngongoi 2025



Kaiwhakawā Sarah Reeves
Tiamana Tuarua

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI