

Wai 3555, #2.5.6
Wai 558, #2.31
Wai 864, #2.43
Wai 1781, #2.5.7
Wai 2160, #2.5.7

WAITANGI TRIBUNAL

Wai 1750, #2.6.15
Wai 900, #2.5.64
Wai 814, #2.945
Wai 87, #2.99

Wai 900
Wai 814
Wai 87
Wai 558
Wai 864
Wai 1781
Wai 2160

CONCERNING

the Treaty of Waitangi Act 1975

AND

claims participating in the North-Eastern Bay of Plenty District (Wai 1750) Inquiry that make claims to the Mangatū Crown Forest Licensed Land in the East Coast inquiry district

HE PĀNUI WHAKAHAU O TE TIAMANA KAIWHAKAWĀ MATUA DR C L

FOX / MEMORANDUM-DIRECTIONS OF CHIEF JUDGE DR C L FOX

11 October 2024

Background

1. On 10 March 2023, the Ngāti Ira o Waiōweka Rohe (Wai 558) claim filed submissions in the North-Eastern Bay of Plenty District (Wai 1750) Inquiry claiming they have interests in the Mangatū Crown Forest Licensed Lands (CFLL), including parts of the Waipāoa blocks east of Mangatū (Wai 1750, #3.1.433).
2. Following a judicial conference in September 2023, several parties in Wai 1750 indicated that they wished to be heard regarding interests in the Mangatū CFLL. The Presiding Officer accordingly directed parties to file submissions in support or opposition of hearing claims to Mangatū CFLL, as well as for counsel to address issues of jurisdiction in light of the Whakatōhea settlement and binding recommendations made by the Tribunal in the Mangatū Remedies report 2021 (Wai 1750, #2.5.97).

Submissions received

3. The Tribunal subsequently received a number of submissions in support of inquiring into Mangatū CFLL from the following claims:
 - (a) the Whakatōhea Raupatu (Wai 87) claim (Wai 1750, #3.2.25);
 - (b) the Ngāti Ira o Waiōweka Rohe (Wai 558) claim (Wai 1750, #3.1.433 & #3.1.577);
 - (c) the Moutohora Quarry (Wai 864) claim (Wai 1750, #3.1.459);
 - (d) the Ngāi Tamahaua (Biddle) (Wai 1781) claim (Wai 1781, #3.1.578); and
 - (e) the Whakatōhea and Ngāti Muriwai of Ōmarumutu Lands and Resources (McMurtie) (Wai 2160) claim (Wai 1750, #3.2.26).
4. The Tribunal also received submissions from the Te Whānau a Kai (Wai 892) claim in support who have since withdrawn from Wai 1750 (Wai 1750, #3.1.453).
5. The Tribunal additionally received submissions in opposition to the Tribunal inquiring into Mangatū CFLL that fell into the Tūranganui a Kiwa (Wai 814) district inquiry, and that had been reported on by the Tribunal in the Wai 814 inquiry from the following parties:
 - (a) Ngā Uri o Tamanui Trust (Ngā Ariki Kaipūtahi and Ngāriki Kaipūtahi) (Wai 499, Wai 507 and Wai 874) (Wai 1750, #3.2.7); and
 - (b) Te Aitanga a Māhaki and Mangatū Incorporation (Wai 274, Wai 283, and Wai 1489) (Wai 1750, #3.2.6).
6. Parties in opposition did not oppose in principle to an inquiry into the Waipāoa blocks portion of the Mangatū CFLL which are situated outside the Wai 814 inquiry, however submit that the Mangatū CFLL has already been inquired into in the Wai 814 inquiry, and that the Tribunal cannot inquire into these claims as a matter of jurisdiction.
7. The Crown has also indicated that whilst it supports, in principle, inquiry within the shortest reasonable period into unheard claims that related to Mangatū CFLL, there are key jurisdictional issues to be determined (Wai 1750, #3.2.8 & #3.2.8(a)).

Referral

8. Following a judicial conference on 23 July 2024 to hear submissions in respect of an inquiry into claims relating to Mangatū CFLL, the Presiding Officer issued directions referring these claims to me as Chairperson (Wai 1750, #2.5.8 at [53]).

Decision

9. Pursuant to clause 5 (1)(a)(ii) and 8(2) of Schedule 2 of the Treaty of Waitangi Act 1975, I appoint Judge Stephanie Milroy as Presiding Officer of the panel to determine the applications for the above-mentioned claims' asserted interests in Mangatū CFLL to be inquired into.
10. Pursuant to clause 5(1)(b) of Schedule 2 of the Treaty of Waitangi Act 1975, I appoint Dr Paul Hamer, Emeritus Professor David Williams and Prue Kapua as members of the Tribunal panel to hear the applications for asserted interests in the Mangatū CFLL to be inquired into.

Disclosures

Prue Kapua

11. Prue Kapua is a lawyer who in the past has acted for Te Aitanga a Mahaki and John Ruru, the named claimant for the Mangatū State Forest (Wai 274) claim and the East Coast Raupatu (Wai 283) claim who had interests in the Mangatū CFLL. Ms Kapua advises that she did not act for Mr Ruru in his pursuit of his claims interests in the Mangatū CFLL. Ms Kapua further advises that it has been years since she has acted for these parties.

Professor Emeritus David Williams

12. Professor Williams is a noted legal academic publishing extensively on Treaty of Waitangi matters. He has recently written a Waitangi Tribunal commissioned report concerning tribal landscapes for the North-Eastern Bay of Plenty District Inquiry (Wai 1750). While Professor Williams' report mentions both the Mangatū CFLL and the Waipāoa blocks, his report makes no findings as to the hapū or iwi interests in those lands.
13. Professor Williams has also previously written a legal opinion for one of the claims participating in the Wai 814 inquiry. This opinion concerned the position at common law as to whether the Maori at Waerenga-a-Hika in 1865 were 'holding a fort' against the Queen's forces or merely defending themselves and their right to hold religious opinions of their own without any intention of attacking any forces of the Queen. Professor Williams advises this work was not related to any interest in the Mangatū CFLL and the Waipāoa blocks.
14. Finally, Professor Williams provided an affidavit in the the *Re Edwards (No 2)* MACA proceedings on behalf of a hapū of Whakatōhea. That evidence was relied on significantly by the Court of Appeal in *Whakatohea Kotahitanga Waka (Edwards) & Ors v Te Kahui and Whakatohea Maori Trust Board & Ors* [2023] NZCA 504 as to 'the complex distribution of specific rights in Māori law.'

Responses

15. Parties are invited to file submissions on the disclosed conflicts of interests, if they wish, by **5pm, Friday 18 October**.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō te North-Eastern Bay of Plenty District (Wai 1750) Inquiry, te East Coast District Inquiry (Wai 900) mō te Combined Record of Inquiry for the Gisborne claims (Wai 814).

The Registrar is to send this direction to all those on the notification list for the North-Eastern Bay of Plenty District (Wai 1750) Inquiry, the East Coast District Inquiry (Wai 900) and the Combined Record of Inquiry for the Gisborne claims (Wai 814).

DATED at Wellington this 11th day of October 2024

A handwritten signature in black ink, appearing to read 'C L Fox'.

Kaiwhakawā Matua Dr C L Fox
Tiamana

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