

IN THE WAITANGI TRIBUNAL

Wai 1040

CONCERNING

the Treaty of Waitangi Act 1975

AND

Te Paparahi o Te Raki
(Northland) Inquiry

**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER
DECONSOLIDATING WAI 2424 WITHIN TE PAPARAHI O TE RAKI INQUIRY**

20 November 2024

Deconsolidation of Wai 2424, the Walls Bay Reserve Environmental Degradation claim

1. This memorandum-directions concerns a request to change the status of Wai 2424, the Walls Bay Reserve Environmental Degradation claim from consolidated to aggregated in the Te Paparahi o Te Raki (Wai 1040) inquiry.

The nature of aggregation and consolidation

2. In 2011, at the beginning of the aggregation and consolidation process for Wai 1040, I outlined the nature of consolidation and aggregation to parties (Wai 1040, #2.5.87):

Where there are multiple claims in an inquiry, the Tribunal's practice is to combine the record of inquiry of each claim into one common record of inquiry. In doing so, the record of each individual claim is either consolidated or aggregated within the combined record.

If a claim is consolidated, it means that all allegations in the claim fall within the Te Paparahi o Te Raki inquiry boundaries. The entire claim will be heard as part of our inquiry.

If a claim is aggregated, it means that some allegations in the claim fall within the Te Paparahi o Te Raki inquiry boundaries, and some allegations fall within the boundaries of other inquiries. Only aspects of the claim that fall within the Te Paparahi o Te Raki inquiry boundaries will be heard in our inquiry.

3. I released the Tribunal's assessment of which claims should be aggregated or consolidated within the Te Paparahi o Te Raki record of inquiry, and invited parties to file any responses they may have (Wai 1040, #2.5.87 at [6]). The Tribunal did not receive any objections at the time and therefore many claims were consolidated into the Te Paparahi o Te Raki inquiry on 22 December 2011 (Wai 1040, #2.5.106).
4. The Tribunal has since commenced its kaupapa inquiry programme. The Chairperson, in his memorandum concerning the kaupapa inquiry programme dated 1 April 2015, has emphasised that claims or parts of claims cannot be inquired into twice (at [15]).

Change of claims' status from consolidated to aggregated directed to date

5. Following consideration of submissions received regarding the commencement (from 25 September 2014) of an inquiry into claims concerning military veterans issues (Wai 2500, #2.5.1) – and with the agreement with the Presiding Officer for the Military Veterans Kaupapa Inquiry – on 25 August 2015, I directed that the Te Paparahi o Te Raki Tribunal would not inquire further into veterans issues. I consequently aggregated those claims raising military veterans allegations that had been consolidated in this inquiry. This was to allow those claimants with veterans issues to also participate in the Military Veterans Kaupapa inquiry (Wai 1040, #2.6.153).
6. Similarly, on 7 February 2020, I confirmed a change of status from consolidated to aggregated in relation to nine claims on the basis that from the additional allegations that the claimants had indicated they intended to raise, it was apparent that the Wai 1040 inquiry would not fully inquire into and report on those claims. I observed, however, that this did not mean the claims were necessarily eligible for inclusion in the kaupapa inquiries they wish to participate in because eligibility would be determined by the respective Tribunal panels of those inquiries (Wai 1040, #2.7.30). I noted that for some of these claims there was substantial overlap between some of the kaupapa inquiry topics and the evidence and submissions that had been heard by the Wai 1040 Tribunal and indicated those I considered that remained within the scope of this Tribunal.

7. On 22 December 2020, in a Housing Policy and Services kaupapa inquiry memorandum-directions, I, as the Presiding Officer for the Te Paparahi o Te Raki inquiry, directed the Tribunal's Registrar to remove the 15 claims from the list of consolidated claims in the Te Paparahi o Te Raki inquiry and add them to the list of aggregated claims (Wai 2750, #2.5.29 at [19]). I later issued memorandum-directions in the Te Paparahi o Te Raki inquiry confirming the change in status (Wai 1040, #2.7.34).
8. On 23 August 2021, I confirmed a change of status from consolidated to aggregated in relation to the Emma Gibbs Smith and Whānau (Bay of Islands) (Wai 1477) claim as the mana wāhine and military veterans allegations had not been heard in the Te Paparahi o Te Raki inquiry (Wai 1040, #2.7.33).
9. On 15 July 2022, I changed the status from consolidated to aggregated in relation to a further 20 claims that had filed additional allegations relating to several inquiries that would not be heard in the Te Paparahi o Te Raki Inquiry (Wai 1040, #2.7.34).

Request of Wai 2424, the Walls Bay Reserve Environmental Degradation claim

10. On 11 December 2023, the Tribunal received a memorandum of counsel for the Walls Bay Reserve Environmental Degradation (Wai 2424) claim seeking to change the claim's consolidated status to aggregated in the Te Paparahi o Te Raki inquiry (Wai 1040, #3.4.70).
11. Counsel submit that the claimant now wishes to participate in the Education Service and Outcomes (Wai 3310) inquiry and the issues to be raised in the inquiry are not issues that have been raised by the claimant in the current inquiry.
12. On 1 February 2024, an amended statement of claim was registered for Wai 2424 concerning education (Wai 2424, #1.1.1(a) & #2.2.1).
13. I accordingly direct the Registrar to remove Wai 2424, the Walls Bay Reserve Environmental Degradation claim from the list of consolidated claims in Wai 1040, the Te Paparahi o Te Raki inquiry and to add it to the list of aggregated claims.
14. I remind parties that claims or parts of claims cannot be inquired into twice and reiterate that it is ultimately at the discretion of the various Tribunal panels inquiring into kaupapa matters to determine which claims will be included in their inquiries.

The Registrar is to send this direction to all those on the notification list for Wai 1040, the Te Paparahi o Te Raki inquiry.

DATED at Niue this 20th day of November 2024



Deputy Chief Judge C T Coxhead
Presiding Officer

WAITANGI TRIBUNAL