WAITANGI TRIBUNAL

Wai 2200

CONCERNING	the Treaty of Waitangi Act 1975
AND	the Porirua ki Manawatū District Inquiry

MEMORANDUM-DIRECTIONS (No. 20) OF DEPUTY CHIEF JUDGE C L FOX, PRESIDING OFFICER, EMERITUS PROFESSOR SIR TAMATI REEDY and DR GRANT PHILLIPSON

Tēnā koutou katoa

Introduction

1. This memorandum-directions confirms oral directions given at the judicial conference held on 13 July 2011 at Kawiu Marae, Levin.

Matters arising from the judicial conference

Muaūpoko Tribal Authority

2. The Muaūpoko Tribal Authority (MTA) has proposed a 'hybrid approach whereby the MTA would proceed with direct negotiations with the Crown while participating, and supporting other claimants to participate, in a modified Tribunal process' (Wai 2200, #3.1.255).

3. The Tribunal seeks clarification from MTA regarding how they believe the hybrid process would work in practice, and the outcomes necessary to satisfy both claimants who wish to participate in a Tribunal inquiry and those who wish to proceed to direct negotiations. Submissions on this issue are due by **12 noon, Wednesday 10 August 2011**.

4. The Tribunal looks forward to future updates from MTA as they carry out their mandate hui within this inquiry district over the coming months.

Muaūpoko Claimant Collective

5. The Tribunal seeks clarification from the Muaūpoko Claimant Collective as to how they plan to move forward within the Wai 2200 inquiry district. These submissions are due by **12 noon, Wednesday 10 August 2011**.

Wai 52

6. At the judicial conference it was apparent that there is more than one counsel representing the Wai 52 claim, with some claimants having instructed Kathy Ertel while others have instructed Matt Sword of Tuia Legal. The Tribunal would appreciate clarification of this situation.

7. On Friday 22 July 2011 Kathy Ertel filed a memorandum on behalf of Muaūpoko Claimant Cluster informing the Tribunal that Wai 52 was filed by 14 named claimants and others for and on behalf of the iwi and hapū of Muaūpoko relating to Ngāi Tara/Muaūpoko (Wai 2200 #3.1.260).

8. Claimant Kay Kahumaori Pene has retained the services of Ms Ertel and has instructed that she wants the claim to proceed to hearing. However, Ms Ertel on behalf of her client, acknowledges that the claimants have not met as a group to discuss legal representation and their preferred settlement pathway. Ms Ertel further advised that some of the claimants are deceased.

9. Ms Ertel's firm filed the last amendment made to this claim in May 2001 on instruction from the named claimants. Ms Ertel's firm are the solicitors on the record. However, it was also acknowledged that save for the instructions received from Mrs Pene, Ms Ertel's firm does not have active instructions from any other named claimant. Ms Ertel suggested that Wai 52 is in limbo because the claimants are unable to provide unambiguous instructions to counsel. Accordingly, neither her firm nor Tuia Legal, she submitted, has authority to represent Wai 52 before the Tribunal and cannot purport to do so.

10. The Tribunal would appreciate an update from the Wai 52 Muaūpoko claimants indicating who are their counsel, and also their preferred inquiry process to the Tribunal. Submissions are due by **12 noon, Wednesday 10 August 2011**.

Te Ati Awa ki Waikanae

11. The Tribunal was informed at the judicial conference by claimants from Waikanae that they are Ngāti Awa ki Waikanae. We have now reviewed all claims in this area and have identified three that have been filed under the iwi name Te Ati Awa ki Waikanae.

    i) Wai 88: The Kapiti Island Claim filed by Te Pehi Parata on behalf of the descendants of Te Kakakura Wi Parata Waipunaahau and other members of Ati Awa ki Waikanae;

ii) Wai 89: The Whitireia Block Claim filed by Te Pehi Parata and others on behalf of Ati Awa ki Waikanae/Te Kakakura Wi Parata Waipunaa; and

iii) Wai 1945: Ngarara West A14B1 Block Claim filed by Paul Ropata on behalf of Kaunihera Kaumatua, Te Ati Awa ki Waikanae and the Te Ati Awa Iwi.

12. We would, therefore, like those who appeared before us to file any research they may have regarding why Te Ati Awa ki Waikanae is now to be known as Ngāti Ati Awa ki Waikanae.

13. The Tribunal also heard that there are 18 claims in the process of unification for Ngāti Ati Awa ki Waikanae. The Tribunal would like an update from claimants outlining what Wai numbers are involved and how the clustering process has been conducted. Submissions on this issue are due by **12 noon, Wednesday 24 August 2011**.

Crown Forestry Rental Trust

14. Mr Daniel Phillips provided an update to the Tribunal at the judicial conference on the position of CFRT in this inquiry district. The Tribunal would like an update provided in writing, including clarification of the terms of funding provided to the Muaūpoko Tribal Authority by 12 noon, Wednesday 10 August 2011.

The Crown

15. The Tribunal seeks a comprehensive update from the Crown on which groups with interests within the Wai 2200 inquiry district are currently seeking a mandate for negotiations, in negotiations with the Crown, or have reached an agreed settlement. The Tribunal also seeks information on groups working on pre-mandate processes, as these groups may enter into negotiation before Wai 2200 hearings can begin.

16. As part of this comprehensive update, it would be helpful if the Crown could provide a list of research reports relevant to this district, which have been, are being, or will be relied upon by the Crown for negotiations, and which have not already been identified in the Hearn scoping report (Wai 2200, #2.6.2). Crown submissions on these issues are due by 12 noon, Wednesday 10 August 2011.

17. The Tribunal would also like to be advised as to the Crown's understanding of the status of the Te Atiawa ki Waikanae claims relative to the settlement of other Te Atiawa claims.

Summary

18. A summary of the judicial conference will be distributed in August 2011 for the benefit of all parties.

The Registrar is to send a copy of this direction to all those on the notification list for Wai 2200, the combined record of inquiry for the Porirua ki Manawatū District Inquiry.

DATED at Gisborne this 25th day of July 2011.

Deputy Chief Judge Caren Fox
Presiding Officer
WAITANGI TRIBUNAL