OFFICIAL

WAITANGI TRIBUNAL

Wai 898, # 2.1.152
Wai 1611, #2.1.1

CONCERNING the Treaty of Waitangi Act 1975

AND a claim by James Marcum, on behalf of the Moke whanau

MEMORANDUM-DIRECTIONS OF THE ACTING CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The claim was received on 29-Aug-08.

Claimants please take note of the 'Wai' number reference at the top of the page. Use this claim number in any communication with the Tribunal.

The Treaty of Waitangi Act 1975 requires that:

- the claimant is a Maori, or one of a group of Maori; and
- they claim that the Crown (Government) has done something, or not done something, that is inconsistent with the principles of the Treaty of Waitangi; and
- the action or inaction has, or is likely to have, prejudicially affected the person or group.

This claim is being registered because it satisfies these basic requirements.

The Tribunal's focus is on the Crown. This means that it inquires into what the Crown has or has not done; its inquiries do not focus on the actions of local authorities, or on other Maori whanau, hapu or iwi.

This claim will probably need to be amended at some time in the future. Usually, this happens when the Tribunal is preparing the relevant district inquiry, and after claimants have consulted a lawyer.

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. That is why the Tribunal is not allowed to inquire into:

- commercial fishing or commercial fisheries (within the meaning of the Fisheries Act 1983); the Deed of Settlement between the Crown and Māori

dated the 23rd day of September 1992; and any Act to the extent that it relates to commercial fishing or commercial fisheries;

- the Central North Island Forests Land Collective Settlement Act 2008;
- the Nga Rauru Kiahi Claims Settlement Act 2005;
- the Ngai Tahu Claims Settlement Act 1998;
- the Ngati Awa Claims Settlement Act 2005;
- the Ngati Mutunga Claims Settlement Act 2006;
- the Ngati Ruanui Claims Settlement Act 2003;
- the Ngati Tama Claims Settlement Act 2003;
- the Ngati Turangitukua Claims Settlement Act 1999;
- the Ngati Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005;
- the Pouakani Claims Settlement Act 2000;
- the Te Arawa Lakes Settlement Act 2006;
- the Te Roroa Claims Settlement Act 2008;
- the Te Uri o Hau Claims Settlement Act 2002; and
- the Waikato Raupatu Claims Settlement Act 1995.

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 (such as those listed above).

The Tribunal runs a district inquiry programme, where claims are grouped by district. A Presiding Officer leads the inquiry, and sits with a panel of Tribunal members. He or she decides which claims are included in the inquiry district. If an inquiry is already underway, a new claim will only be included with the Presiding Officer's approval. The claimants should contact the Tribunal with any questions about the Tribunal's inquiry programme.

It is currently unclear how or when the Tribunal will inquire into claims that relate to districts that have already been the subject of a Tribunal inquiry and report. More information will be issued about this when a plan is made.

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.

There are some recommendations that the Tribunal is not allowed to make. It may not recommend that private land be returned to Māori ownership. There are a few exceptions such as where the land is Crown forest land, or where land is owned by a state-owned enterprise. Tribunal recommendations about Crown forest and state-owned enterprise land are in a special category, because they may be binding on the Crown. Claimants should obtain legal advice about whether any of the exceptions in sections 8A to 8HJ of the Act apply to this claim.

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

The Registrar will please send a copy of this direction to the claimant, and ensure that these claimants are added to the relevant distribution list/s. She will also please give notice of the claim to:
Crown Forestry Rental Trust
Crown Law Office
Maori Land Information Office
Office of Treaty Settlements
Te Puni Kokiri
Legal Services Agency

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, PO Box 5022, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

DATED at Wellington this 19th day of December 2008

Judge C M Wainwright
Acting Chairperson
WAITANGI TRIBUNAL