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WAITANGI TRIBUNAL

Wai 2242

CONCERNING the Treaty of Waitangi Act 1975

AND a claim by Tracey Dalton on behalf of herself and Māori of the whānau, hapū and iwi of Te Tai Tokerau

MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 1 September 2008, with additional information received on 2 November 2009.

The claimant should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Tracey Dalton on behalf of herself and Māori of the whānau, hapū and iwi of Te Tai Tokerau, and concerns a number of matters. The claimant alleges that the Crown has prejudicially affected Te Tai Tokerau Māori by choosing to delegate some of its powers to local authorities and failing to ensure that those local authorities act consistently with the principles of the Treaty of Waitangi. The claimant further alleges that:

- the Resource Management Act 1991 provides insufficient protection for wāhi tapu sites which has caused the degradation of such sites;
- the Historic Places Act 1993 fails to provide whānau, hapū and iwi with any power to manage or protect their wāhi tapu;
- the Crown has allowed the Department of Conservation (DOC) to ignore the principles of the Treaty of Waitangi when administering the conservation estate of Te Tai Tokerau;
- the Crown, in amending the Local Electoral Act 2001, failed to ensure Māori participation by providing for optional inclusion of Māori seats in local body authorities; and
- the Crown's health policy has failed to combat Māori health issues within Te Tai Tokerau.

The claimant seeks a variety of relief, including a finding of facts in the claimant's favour, a finding that her claim is well founded, a recommendation that the tino rangatiratanga of iwi and hapū be formally recognised and provided for by the Crown in its statutory delegations to other bodies, a finding that DOC continues to operate in breach of the Treaty of Waitangi and other relief.

To the extent, if at all, that the claimant seeks the return of land that is private land, the Tribunal notes that it may not recommend that this 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 claimant may amend this claim at a later stage. In any case the Tribunal will require the claimant to prepare a fully particularised statement of claim before the claim can be heard.

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. The claimant needs 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.

The Tribunal currently runs a district inquiry programme, where claims are grouped by district. This claim may be included in the Te Paparahi o Te Raki Inquiry, which is currently in preparation for hearing. The claimant should note that a tentative start date of March 2010 has been set for the commencement of hearings in this district and it would be advisable for the claimant to act soon to ensure she can be involved. The claimant should contact the Tribunal with any questions about the Tribunal's inquiry programme.

The claimant also needs 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.

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.

The Registrar is to send a copy of this direction to the claimants and to:
Crown Law Office
Office of Treaty Settlements
Crown Forestry Rental Trust
Legal Services Agency
Te Puni Kōkiri
Department of Conservation
Ministry of Health
All those on the notification list for Wai 1040, the Te Paparahi o Te Raki Inquiry

DATED at Wellington this 8th day of February 2010

Judge C T Coxhead
Presiding Officer
WAITANGI TRIBUNAL