BEFORE THE WAITANGI TRIBUNAL **WAI 1040 Inquiry**

Concerning **THE TREATY OF WAITANGI ACT 1975**

Concerning **Wai 121, 654, 1129, 1450, 1970, 1941 & other claimants in the Mahurangi Inquiry District**

MEMORANDUM OF COUNSEL RE TIMETABLE FOR WAI 1040 INQUIRY

DATED THIS 3rd DAY OF DECEMBER 2012

RECEIVED
Waitangi Tribunal
3 Dec 2012
Ministry of Justice
WELLINGTON

RightLaw

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MAY IT PLEASE THE TRIBUNAL :

I Background

1 Counsel has just returned this afternoon from a hui receiving feedback from representatives of a substantial number of claims in the Mahurangi.

2 It is important to remember that these hearing have two key functions , first to derive weigh and test the evidence presented to establish the nature of the wrongs, and second to provide an opportunity for peace and reconciliation through the hearing and recording of the claimant grievances. This process is often time consuming but is an essential ingredient in a complete settlement. To run this subject to the time constraints placed by the Crown's resourcing imperils the legitimacy of the process.

3 This counsel requested severance of the Mahurangi hearings earlier this year for a number of reasons which in counsel's opinion were likely to impact the efficacy of the hearing process. Counsel chose not to pursue the matter further when the application was refused at that time and see how the processed would transpire.

4 The result has been a perpetuation of a misallocation of resources and time. Time allocation of only 20% of the hearing time of other districts is inequitous, and no meaningful support for Mahurangi claimants in evidence or support services has persisted.

5 The matter is further aggravated with claims from adjoining claims districts have land allocated within this hearing district prior to our hearing or our ability to access such Crown assets. This is especially aggravating when there are so few assets within Crown control in this district.

6 Counsel has spent the morning in a hui with a number of claimant's (approximately 20 claims) concerning the hearing process.

7 Counsel has been asked to communicate the findings of the hui to the Tribunal.

8 That the hearing time be increased for Mahurangi to at least four weeks.

9 That there is a specific lack of evidence associated with the Mahurangi purchase, and the other very specific forms of land alienation in the Mahurangi.

10 The need for this research implies that specific hearing time for Mahurangi should be deferred to end of 2013 or 2014.

II Hearing Time

11 We need four weeks. We have identified about 70 hours of time for the provision of direct evidence from over twenty witnesses. We are concerned that due to the diverse tribal makeup of Mahurangi this evidence may be much contested thus increasing the time.

12 None of the generic hearings addresses issues that are most pertinent to Mahurangi. The loss and grievance in Mahurangi followed a different path being through specific purchases most of which were completed by 1850.

13 Counsel has made an assessment of the likely parties and hearing time needed. There are at least three or four different perspectives from the hapu with interests in this area as to the history such as Ngai Tawake, Ngati Rehia, Kawerau, Te Taou, Ngati Poua, Ngati Maru, Ngati Whatua, Ngati Poataniwha, Ngati Rongo. This leads to a multiplication of time as those different approaches are reconciled.

III Claimants

14 There are a number of claims that we know desire to deliver evidence these include:

Wai 121, 532, 654, 798, 884, 914, 1129, 1146, 1181, 1313, 1460, 1519, 1770, 1896, 1941, 1970, 2309, 2181, 2191.

15 There are other claimants, tribal groups, and interest groups that have an interest which we also anticipate will wish to be heard.

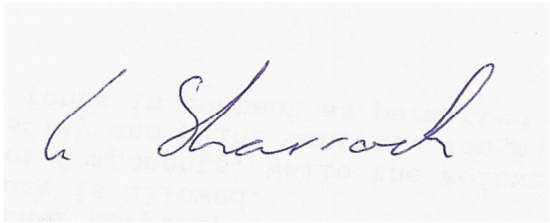
IV Recommendation

Counsel in the alternative respectfully requests either:

1. Severance of Mahurangi into a separate hearing district with a hearing for late 2013 or early 2014, or
2. Extend hearing time within this hearing to four weeks with a slot of late 2013, or early 2014.

Counsel wishes to make further submissions at the judicial conference on this matter.

DATED at Auckland this 3rd day of December 2011



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Gerald Sharrock

Claimant counsel