OFFICIAL

Wai 898

IN THE WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND the Te Rohe Pōtae District Inquiry (Wai 898)

MEMORANDUM-DIRECTIONS OF JUDGE D J AMBLER CONCERNING HEARING WEEK THREE

26 February 2013

Tēnā koutou

1. Introduction

1.1 This memorandum-directions addresses planning issues for hearing week three and extension requests for providing comments on the draft transcript for hearing week one.

2. Hearing week three

Week three timetable

2.1 I thank counsel for providing a revised timetable for hearing week three (Wai 898, #3.3.115(a)) and append it to this direction as **Appendix A.**

2.2 There are still some details to be confirmed, notably identification of the speakers for Ngāti Tūwharetoa on Tuesday 5 March 2013. I understand that the intended speaker Mr Otimi has been in hospital and understandably has not been able to confirm his appearance. However, in the interests of finalising the timetable, counsel for Ngāti Tūwharetoa Ms Feint is to advise the Tribunal which witnesses will be presenting evidence for Ngāti Tūwharetoa during this hearing week by **midday, Wednesday 27 February 2013**.

2.3 Crown counsel Mr Melvin filed a memorandum noting the lack of provision for Crown opening submissions in the week three timetable (Wai 898, #3.3.116). However, it seems that counsel have liaised and agreed the Crown could be accommodated on Wednesday 6 March 2013.

2.4 In light of the above, I expect a final revised timetable to be filed by **5pm, Thursday 28 February 2013.**

2.5 I remind counsel that the hearing will commence with a pōwhiri at Maketu Marae at 5pm on Sunday 3 March 2013.

Proposed site visit

2.6 I directed claimant counsel Mr Warren to provide further details on the nature of his Ngāti Mahuta clients' proposed site visit to areas of significance within walking distance of Maketu Marae. I note that time has been set aside on the afternoon of Friday 8 March for the site visit in the timetable filed by the Claimant Counsel Coordinating Committee (Wai 898, #3.3.115(a)) and that the visit could be shortened or cancelled if time runs short.

2.7 In light of Mr Warren's submission, which addresses each of the criteria I have set down for approving site visits, and considering the proximity of the sites to the hearing venue and Ngāti Mahuta's position as host for this week, I grant the application for the site visit should time allow. The visit will proceed as Mr Warren has outlined in his submission and site visit plan, namely to Te Ahurei, Tainui Waka, Sea Wall/Erosion and Te Puna O Rona (Wai 898, #3.3.114(a)).

2.8 The formal proceedings (including the visit and closing formalities) must not run past 5pm on the Friday due to travel arrangements of parties attending, if it is to take place on that day. However, I invite counsel to consider whether it would be better to conduct the site visit earlier in the week at the conclusion of the day's hearing, that is, at 5pm.

2.9 I reiterate my previous directions that counsel are required to file booklets to accompany any site visit, indicating sites of significance and other matters of importance, and that simultaneous interpretation and transcription will not be available for site visits (Wai 898, #2.5.139, Appendix B). Electronic versions are to be filed.

Cross-examination indications

2.10 In my last directions dated 19 February 2013 I listed counsel who had sought leave to cross-examine professional witnesses (Wai 898, #2.6.11). I note that a request from claimant counsel Mr Mahuika and Ms Albert was omitted from the table due to late filing (Wai 898, #3.3.88). I confirm that Mr Mahuika and Ms Albert are granted leave to cross-examine both Ms Boulton and Mr Stirling for 15 minutes each. The revised table below includes this request.

Counsel	Time requested for Bruce Stirling	Time requested for Leanne Boulton	Time requested for Dr Grant Young
Crown: G Melvin	1.5 hours/ 90 minutes	4 hours/240 minutes	45 minutes
T Afeaki	15 minutes (min)	25 minutes	-
T Bennion	20 minutes	30 minutes	-
J Pou/A Sykes	20 minutes	80 minutes	-
C Hockly/D Naden	-	25 minutes	-
C Savali/B Gilling	-	20 minutes	-
P Johnston/E Rongo	-	20 minutes (min)	-
A Warren/G Tootill	-	20 minutes	-
H Te Nahu	-	10 minutes	-
D Stone	-	15 minutes	-
M Mahuika/K Albert	15 minutes	15 minutes	-
Total cross-examination time requested:	***160mins/2.6 hrs approx***	***500 mins/8.3 hours***	***45 minutes***

2.11 I note that only one bundle of documents for cross-examination has been filed for hearing week three, by Mr Hockly (Wai 898, #J21). I previously directed that bundles of documents for week three were to be filed by midday, Monday 25 February 2013. I therefore anticipate that counsel are not intending to refer the Tribunal to any further documents when cross-examining professional witnesses.

Responses to questions of clarification for Ms Leanne Boulton

2.12 I am advised that, notwithstanding the slight reduction in the number of questions of clarification for Ms Boulton to be completed prior to the hearing week, one further day is required to finalise the answers for her 'Land Alienation in Te Rohe Potae inquiry district, 1866-1908: An Overview' report (Wai 898, #A67). Ms Boulton is to file her answers to questions of clarification for her #A67 report by **5pm, Tuesday 26 February 2013.**

Extension requests for tangata whenua briefs of evidence

2.13 I previously granted extensions to Friday 22 February 2013 for Mr Webster, Ms Feint and Ms Ertel to file briefs of evidence for their clients (Wai 898, #2.6.11). Tribunal staff advise that Mr Webster's clients for Ngāti Toa Tupahau (Wai 870) and their corresponding traditional history report by Dr Young (Wai 898, #A106) have withdrawn from this hearing week and will present at a future hearing. Ms Feint and Ms Ertel have since filed their respective briefs of evidence.

3. Hearing week one transcripts

3.1 Claimant counsel Ms Tuwhare requested an extension to Wednesday 27 February 2013 to file her clients' comments on the draft week one transcript (Wai 898, #3.3.110). I see no issue with the request and grant the extension sought. Ms Tuwhare must file the comments by no later than **5pm, Wednesday 27 February 2013**. Counsel from Kahui Legal also sought an extension but have since filed their comments (Wai 898, #3.3.111(a)).

The Registrar is to send this direction to all those on the notification list for Wai 898, the combined record of inquiry for the Te Rohe Pōtae District Inquiry.

DATED at Whangarei this 26th day of February 2013.

Judge D J Ambler
Presiding Officer
WAITANGI TRIBUNAL

Wai 898 Hearing Week 3: 4 – 8 March 2013, Maketu Marae, Kawhia

Themes: Pre-Treaty Transactions – Old Land Claims, 1885-1909: Land Alienation during the Period of Pre-emption

Min		Monday 4 March	Tuesday 5 March	Wednesday 6 March	Thursday 7 March	Friday 8 March
120	**9.00am – 11.00am**	Ngaati Mahuta Opening Submissions #J4 Rahui Papa #J20 Verna Tuteao*	Ngāti Patupo #J19 Trevor Malcomson	#A53(j) – Bruce Stirling Continued Opening Submissions - Pre-Treaty Transactions – Old Land Claims: Wackrow Williams Opening Submissions - 1885-1909: Crown Pre-emption: Bennion Law	#A67(b), #A70(b) – Boulton Continued	#A101(a) Ngāti Mahuta #A103 Ngāti Patupo Traditional History Reports – Dr G Young
	11.00am – 11.20 am	**KAPU TI**				
100	**11.20am – 1.00pm**	Ngaati Mahuta #J15 John Forbes* #J11 Merv Ranga* #J5 Harry Maki-Midwood** #J8 Connie Hepi #J9 Nellie Whitiora** #J6 Peggy Willison**	Tuwharetoa	#A67, #A70 – Boulton #A67(b) – Land Alienation in the Rohe Potae Inquiry District, 1866 – 1908: An Overview #A70(b) – Hapu and Iwi land transactions with the Crown and Europeans in Te Rohe Potae inquiry district c. 1840-1865 Leading Witness: Wackrow Williams Leading cross-examination: Aurere Law	#A67(b), #A70(b) – Boulton Continued	Ngaati Mahuta #J2 Georgina Houpapa [20] #J1 Tangiwai King [45] #J17 Edith Dockery [45]
	1.00pm – 1.40pm	**HE KAI**				
80	**1.40pm – 3.00pm**	#J13 Tahaaroa Lakes Trust #J14 Pari Maikuku** #J10 Jeanette Taylor	Tuwharetoa	#A67(b), #A70(b) – Boulton Continued	#A67(b), #A70(b) – Boulton Continued	Ngaati Mahuta #J18 Morris Tuaupiki [45] #J16 Shirley Tuteao
	3.00pm – 3.20pm	**KAPU TI**				
100	**3.20pm – 5.00pm**	Ngaati Mahuta #J12 Tania Bidois #J7 Tom Moke*	#A53(j) – Bruce Stirling Taupo-Kaingaroa 19th Century Overview Leading counsel: K Feint	#A67(b), #A70(b) – Boulton Continued	#A67(b), #A70(b) – Boulton Continued	Ngaati Mahuta Site visit
	5pm	**KA MUTU**				

* Summary to be filed and presented

** Statement of evidence taken as read and available for questioning at this time