OFFICIAL

IN THE WAITANGI TRIBUNAL
PORIRUA KI MANAWATU INQUIRY

WAI 2200
WAI 1482

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of the Porirua ki Manawatu Inquiry (Wai 2200)

AND

IN THE MATTER of a claim by Richard Edward Orzecki, Ropata William Miratana and Patricia Ngatakutai Jacobs on behalf of themselves, and of Te Kotahitanga o te Iwi o Ngati Wehi Wehi (Wai 1482)

MEMORANDUM OF COUNSEL FOR NGATI WEHI WEHI

Dated: this 7th day of December 2012

RECEIVED
Waitangi Tribunal
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Ministry of Justice
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MAY IT PLEASE THE TRIBUNAL:

1. This Further Memorandum of Counsel is filed on behalf of the Wai 1482 claimants Richard Edward Orzecki, Ropata William Miratana and Patricia Ngatakutai on behalf of themselves, and of Te Kotahitanga o te Iwi o Ngati Wehi Wehi ("the Claimants").

Introduction

2. This Memorandum is filed in response to the Tribunal's Memorandum-Directions dated 21 November 2012[1] ("the Directions") and addresses the following:

   (a) Requests for corrections to the record;

   (b) Submissions in relation to mandate issues;

   (c) Submissions on the research proposal put forward by Te Ropu Mangai;

   (d) Separate research for Ngati Wehi Wehi and affiliates; and

   (e) Amended version of whakapapa

3. While this Memorandum is filed by Counsel, the Claimants have considered its contents at length at a hui on 6 December 2012 with the Wai 977 and 2031 claimants and the Claimants' korero is also quoted in this memorandum where appropriate.

Requests for corrections to the record

The Claimants note that Ngati Wehi Wehi is spelt throughout the directions as Ngati Wehiwehi. The Claimants request that this be corrected and that all future use of our name is spelt as Ngati Wehi Wehi

[1] Wai 2200, 2.5.45

Submissions in relation to mandate issues

4. We note that the heading following paragraph 16 of the Directions refers to "Ngati Kauwhata and Ngati Wehi Wehi mandate issues". The Claimants dispute that their mandate to represent Ngati Wehi Wehi has been challenged in this inquiry.

5. At paragraph 14 of his submissions dated 14 November 2012,[2] Mr Orzecki stated that the named claimants had reporting mechanisms back to Ngati Wehi Wehi's registered members, who number 1,100. They also have over 800 Facebook friends that they continually update on the Treaty Claims process. The Claimants say that no other group has a mandate to speak on behalf of Ngati Wehi Wehi in this inquiry.

6. The Claimants say that Ngati Wehi Wehi's mandate is directly linked to its whakapapa tradition where the current generation of leaders are inherently responsible for the maintenance and advancement of tribal interests for and on behalf of the tribe as a whole.

7. The Claimants seek clarification from the Tribunal as to whether or not there is any issue with Ngati Wehi Wehi's mandate to speak on behalf of its claim.

8. The Claimants also seek clarification from the Tribunal as to the extent to which the mandate of claimants forms part of this Tribunal process.

Te Ropu Mangai's Research Programme

Research Process

9. The Claimants respond to Te Ropu Mangai's Research Programme, as summarised at paragraph 7 of the Directions, as follows:

   (a) The Proposal calls for a three-stage consultation process in relation to the research. The Claimants submit that:

[2] Wai 2200, 3.1.412

(i) This process appears to be unwieldy, particularly if report writers are required to follow this process during every round of consultation rather than simply calling research hui; and

(ii) Claimants appear to be at the end of the priority list for consultation, unless they consent to Te Ropu Mangai undertaking discussions with researchers on their behalf. As Te Ropu Mangai do not represent the Claimants, their interests would be considered last in this process.

(b) Further, this proposal places control of the entire research programme with Te Ropu Mangai, who:

(i) Select the pukenga group who will discuss the research in the first instance; and

(ii) Settle the smaller clusters who will be consulted with in the second round of consultation.

(c) The Claimants do not consent to placing control over their research in the hands of Te Ropu Mangai. The Claimants submit that claimant, groups who have a demonstrable mandate to represent their respective groups, should not be placed under a Ropu against their express wishes.

10. The Claimants wish to record that they attended the Hui-a-Iwi convened by Te Ropu Mangai on 28 October 2012 and that there was no agreement that Te Ropu Mangai should have this level of control over the research programme. What was agreed at the Hui, as reflected in the minutes, was:

> *That Te Rōpū Mangai **work with and support the claimants** and hapū and iwi to ensure that progress will be made in accordance with the aspirations of the individual claimants and of clusters of claimants and hapū and iwi to the best of their ability and capability.*

11. As submitted by Mr Orzecki at the 1 November Judicial Conference, the Claimants consider that providing its composition was agreed to by all

claimants, Te Ropu Mangai could usefully have a facilitation role in the research. This would be consistent with making progress in accordance with the aspirations of the claimants, hapu and iwi. Placing control of the research programme in the hands of Te Ropu Mangai would not, however, be consistent this agreed approach.

12. The Claimants do understand that other whanau/hapu/Iwi or claimants groups may wish to place their research under Te Ropu Mangai, and have no objection to these groups progressing their research as they choose.

13. Therefore, the Claimants propose that:

    (a) Te Ropu Mangai could have a facilitation role in the research programme which could include providing support and input when requested by claimants, and facilitating the exchange of information between claimants groups when requested.

    (b) A pukenga group, composed through consultation with all the claimants, could be available to provide expert input when requested by claimants.

    (c) Those whanau/hapu/Iwi or claimants groups who wish to liaise with researchers through Te Ropu Mangai, or through a pukenga group, would be free to do so.

    (d) Those whanau/hapu/Iwi or claimants groups who wish to liaise directly with researchers should also be free to do so.

Separate Research for Ngati Wehi Wehi

14. The Claimants respect the wishes of other whanau/hapu/Iwi or claimants groups who may wish to have separate chapters within a broader Ngati Raukawa report. However, for Ngati Wehi Wehi the Claimants reiterate that this research should be a separate report. The report should not be confined to 'local issues' only concerning Manakau and or Waikawa but their historic interests in the (Kapiti-Horowhenua and the Manawatu-

Rangitikei areas) which covers the whole inquiry district and beyond. The Claimants' core concern is that the Ngati Wehi Wehi story is told and that its perspective on all relevant issues in this inquiry district be recorded. The Claimants respectfully assert that the need for a separate report for Wehi Wehi has been recognised. A report that has been commissioned by the Crown Forrest Rental Trust for the Wai 898 Te Rohe Potae Inquiry District is being prepared. We submit the first eight pages of one hundred and forty one pages for your information. The Claimants believe that a separate report for Kauwhata and Wehi Wehi in this Inquiry area would be a continuation of their history and journey from the Te Rohe Potae inquiry district.

15. Ngati Wehi Wehi (Wai 1482) and its affiliates (Wai 977) Hikitanga Te Paea and (Wai 2031) Wallace Whanau have been working together on a research programme since March 2012.

16. In his submission to the 1 November 2012 Judicial Conference, Sir Taihakurei Durie of Te Roopu Mangai submitted that:[3]

> *There should be one research programme covering all members of the Raukawa confederation. These include Kauwhata, Wehiwehi and all other of the 25 tribal entities specified in the Constitution of the Runanga 0 Raukawa.*

17. He further submitted that:[4]

> *There is no customary, equitable or rational basis on which Ngati Wehiwehi [sic] should be treated differently from any other of the 25 tribal entities that make up the Raukawa confederation.*

18. In response, the Claimants say:[5]

> *Ngaati Wehi Wehi agrees that they be treated no differently to any other claimant group and expects a fair and equitable process especially when it comes to matters that concern and are exclusive to Ngaati Wehi Wehi per say.*
>
> *Ngaati Wehi Wehi still finds it objectionable when their ancestral name is placed in the public arena for whatever reason without prior knowledge or consent. Ngaati Wehi Wehi thus reserves the right to respond in kind.*

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[3] Wai 2200, #3.1.410, para 1
[4] Wai 2200, #3.1.410, para 2
[5] Statement endorsed by hui of Claimants at Wehi Wehi Marae 6 December 2012

To refute the argument that there was 'no customary, equitable or rational basis' for Ngaati Wehi Wehi specific research the writer provides a list of customary hapuu that are not represented by either the Runanga o Raukawa or Raukawa confederation but were allocated reserve lands in the WAI 2200 Inquiry district nonetheless.

They are: Ngaati Kahoro, Ngaati Ihi Ihi, Ngaati Tuara, Ngaati Tamatatai, Ngaati Parehotea, Ngaati Pihaka, Ngaati te Rangi, Te Mateawa, Ngaati Hikitanga te Paea, Ngaati Kirihika, Ngaati Kotare.

(For Ngati Hikitanga te Paea, In 1898 when the reserves were distributed it was Ngati Hikitanga that received 75 acres of land to be a reserve, hence the Wai 977 reserve claim.)

Ngaati Wehi Wehi acknowledge that the surviving descendants of the above named hapuu have long since been disconnected with some survivors being subsumed into other kin hapuu and iwi. For those of Ngaati Wehi Wehi, their rationale is to seek an explanation of the Crown with regard to their loss of land reserves and their tribal identity.

It is not only equitable but necessary to have this snippet of oral tradition researched so that others may better understand why it is important to Ngaati Wehi Wehi to retain its ancestral identity as a tribe and their desire to remain inter-dependent of Ngaati Raukawa and not be similarly subsumed.

Amendments version of whakapapa

19. The Claimants wish to respond to the matters raised about whakapapa being printed with errors. The Claimants say that whakapapa for Ngati Wehi Wehi is their tradition and the source of their historic stories. Ngati Wehi Wehi contends that those responsible for providing this whakapapa are also responsible for rectifying the identified anomalies. This highlights the reason why Ngati Wehi Wehi would like to tell its own story including it's own whakapapa.

Conclusion

20. The Claimants wish the research programme to commence as soon as possible, and request that the Tribunal supports a research programme in a form of a separate report that enables Ngati Wehi Wehi's and affiliates story to be told in the Porirua ki Manawatu Inquiry district.

Dated this 7th day of December 2012.

Peter Johnston / Jo-Ella Sarich