OFFICIAL

IN THE WAITANGI TRIBUNAL

WAI 2200
WAI 1618

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER a claim by Milton Rakei Te Kura Rauhihi, Hayden Brinsley Turoa and Edward Whatanui Devonshire on behalf of themselves and Nga Hapu o Himatangi, being the members of Ngati Te Au, Ngati Turanga and Ngati Rakau.

MEMORANDUM OF COUNSEL FOR NGA HAPU O HIMATANGI RESPONDING TO MEMORANDUM-DIRECTIONS (NO. 46) OF THE TRIBUNAL

DATED THIS 20TH DAY OF MAY 2013

RECEIVED
Waitangi Tribunal
20 May 2013
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

1. This memorandum is filed on behalf of Milton Rakei Te Kura Rauhihi, Hayden Brinsley Turoa and Edward Whatanui Devonshire for and on behalf of Nga Hapu o Himatangi, being the members of Ngati Te Au, Ngati Turanga and Ngati Rakau and the claimants of the Wai 1618 claim ("the claimants"). The claimants file this memorandum in response to the Memorandum-Directions No. 46 (Wai 2200, #2.5.59) of the Tribunal and address in particular the Tribunal's proposal for a Korero Tuku Iho hui process in this inquiry.

2. The claimants address the matters raised at paragraph 19 of the Tribunal's directions as follows:

19.1 Do parties support the idea of a Nga korero Tuku Iho process in this inquiry district?

3. The claimants earlier filed a memorandum of counsel (# 3.1.107) supporting the idea in principle of a Korero Tuku Iho hui process. The claimants' still support a Korero Tuku Iho hui process so long as no delay is caused to the development of the research programme and commencement of substantive hearings.

19.2. If so, what should the process be called?

4. The claimants have no particular view as to what the process should be called.

19.3. How broad should the scope of the hui be? What topics from existing oral traditions would be most appropriate for discussion?

5. The claimants consider that the hui should cover pre-1840 matters such as whakapapa; hapu and iwi customary history; the heke; oral korero establishing Raukawa mana whenua in the region; and inter-iwi relationships including treaties and agreements negotiated between Raukawa and Rangitane. In addition, the claimants consider that post-1840 matters should also be addressed including the

background to the Himatangi Crown Grants Act and in particular the understandings of the claimants' tupuna of this legislation.

19.4. How should each iwi hui be organised? By geographical location, by theme, or in some other manner?

6. The claimants consider that the hui should be organised by tribal grouping and/or geographical location. The claimants would like to offer to host a Korero Tuku Iho hui at Motuiti to illustrate the customary histories of Nga Hapu o Himatangi and the living relationships between Rangitane and Raukawa which were established by the claimants' tupuna treating within their own kawa and tikanga.

19.5. How should speaking rights be organised and speakers selected for each hui? Should each speaker be given the opportunity to speak once or should something more akin to a discussion among kaumatua be organised? Are there particular local kawa which could guide us in this respect?

7. The claimants' view is that speaking rights and selection of speakers should be left to the claimant groups of each hui to co-ordinate. The appropriate kawa will be that of the Marae that is hosting the hui.

19.6. Who should be given responsibility for organising each hui? Possibilities include marae-based committees, representative iwi bodies, claimant groups or some other form of organisation?

8. The Wai 1618 claimants are hapu of Ngati Raukawa. They are part of a group of claimants that is not aligned with either Te Hono ki Raukawa or Tumatanui. The claimants have tried to lead initiatives that would bring these two bodies together so that the research programme could commence. Unfortunately this has not yet been successful. Accordingly, the claimants' position is that a Korero Tuku Iho hui process should not be controlled by one or two umbrella groupings but by organising committees made up of claimants for each Korero Tuku Iho hui working with the Marae committees of the hosting Marae.

Other matters

9. A concern for the claimants is the manner in which claimant groups will be supported to prepare for and participate in a Korero Tuku Iho

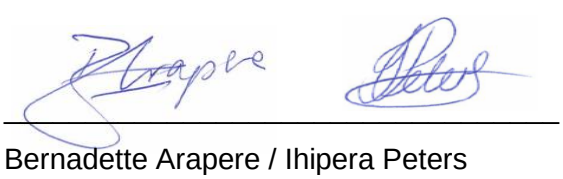
hui process. To date the claimants have been gathering their own korero and research in their own time, at their own cost and with no external financial support. It is submitted that claimant groups will need to be appropriately resourced to prepare for participation in the hui process so that the process is successful and useful to the Tribunal. Their view is that it is neither appropriate nor sustainable to rely on the goodwill and kaha of the claimants to participate in either the Korero Tuku Iho process or the substantive hearing process without support. The claimants' view is that they require resources to allow them to appropriately develop their case against the Crown for its breaches of the Treaty in order to present it to the Tribunal.

10. A further matter is that the claimants wish to be fully involved in discussions around the development of the Korero Tuku Iho process and the research programme for this Inquiry. As stated above, the claimants are supportive of the Korero Tuku Iho hui process but do not wish to see any further delays in this Inquiry. For that reason counsel submit that the Tribunal should consider embarking on the development of the research casebook concurrently with the Korero Tuku Iho hui process. Counsel is aware that the commencement of the research programme is dependent on CFRT funding being made available to allow this to occur.

11. The claimants and counsel will be in attendance at the Judicial Conference on 28 May at Tukorehe Marae and will seek to address the Tribunal on these matters in further detail at that time.

12. Counsel apologise for the brief delay in filing this memorandum and submit that no prejudice will be caused to the Crown or any other party.

Dated this 20th day of May 2013 at Auckland



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