OFFICIAL

Wai 1040

IN THE WAITANGI TRIBUNAL

CONCERNING the Treaty of Waitangi Act 1975

AND the Te Paparahi o Te Raki Inquiry

MEMORANDUM-DIRECTIONS OF JUDGE C T COXHEAD

1 October 2013

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1. This memorandum-directions addresses hearing week funding for weeks 5 and 6 and pre-hearing matters for week 5 of stage 2 in the Te Paparahi o Te Raki inquiry.

Crown memorandum addressing funding and other matters

2. On 20 September 2013, Crown counsel Andrew Irwin and Rachel Hogg advised that Crown funding would be provided for hearing week 5 of stage 2 (14-18 October 2013) (#3.2.242).

3. They also advised that Crown funding would be provided for the timetabled technical evidence for hearing week 6 of stage 2 (16-20 December 2013).

4. The timetabled technical evidence is (#3.1.881):

   (a) P McBurney, 'Northland: Public Works and Other Takings' (#A13)

   (b) T Walzl on behalf the Tai Tokerau District Māori Council Hapū Claims Collective, 'Mana Whenua Report' (#E34)

5. I thank the Crown for their funding assistance.

Proposed hearing week timetable and site visit plans for week 5

6. On 20 September 2013, I directed counsel to file a revised detailed week 5 hearing timetable and site visit plan by 30 September 2013, taking into account Tribunal criteria for the pōwhiri, site visit, and the hearing week timetable (#2.6.24).

7. On 30 September 2013, counsel John Kahukiwa and Alana Thomas filed a detailed week 5 hearing timetable and site visit plan on behalf of the Counsel Coordinating Committee (CCC) and Ngā Hapū ō Whangārei.

Hearing week timetable for week 5

8. While this timetable may be subject to some amendments, this can be taken as the final timetable.

Site visit plan for week 5

9. I thank the claimants and the CCC for their work in coordinating this timetable and site visit plan.

10. However, regarding the site visit, I note that 'site visit part B', scheduled from 1.30-5.00pm on Tuesday 15 October 2013, looks to contain far too many sites to be visited over an expansive area in a limited time. I put this to the CCC to amend or provide confirmation that the site visit can be completed within the estimated timeframe.

Leave sought for late filing of week 5 briefs of evidence

Late filing requests – leave granted

11. The Tribunal has received the following requests for late filing:

    (a) On 30 September 2013, claimant counsel Kelly Dixon sought leave for the late filing of the brief of evidence of Juliane Chetham, and two briefs of evidence for Guy Gudex. As these are briefs of evidence of a technical nature, the filing deadline for them was 23 September 2013.

    (b) On 30 September 2013, claimant counsel Kelly Dixon sought leave to file the brief of evidence of Luana Pirihi by 5pm on Monday 30 September 2013.

    (c) On 30 September 2013, claimant counsel John Kahukiwa and Alana Thomas sought leave to file the evidence of Waimarie Bruce and Violet Rata Sade on Tuesday 1 October 2013.

(d) On 30 September 2013, claimant counsel Kelly Dixon sought leave to file the brief of evidence of Harry Midwood by Wednesday 2 October 2013.

12. I grant the leave sought.

Filing extension requests – leave granted

13. The Tribunal has received the following requests for filing extensions to Friday 4 October 2013:

    (a) On 30 September 2013, claimant counsel Gerald Sharrock and Mireama Houra sought leave to file the brief of evidence of Popi Tahere on Friday 4 October 2013.

    (b) On 30 September 2013, claimant counsel Tavake Afeaki sought leave to file the appendices of Patrick Hilton by Friday 4 October 2013.

    (c) On 30 September 2013, claimant counsel Tavake Afeaki sought leave to file the briefs of evidence for Peti Kake, Dickie Shepherd, and Waimarie Bruce by Friday 4 October 2013.

14. I grant the leave sought. These briefs of evidence must be filed by **4pm, Friday 4 October 2013.**

Filing extension requests – leave declined

15. On 30 September 2013, claimant counsel Moana Tuwhare sought leave to file the following briefs of evidence on Monday 7 October 2013:

    (a) Taparoto Anna George, Riripeti Mira Norris, Margaret Tahi Marea Kay, Marina Molly Fletcher and Browne Davis (Wai 1248);

    (b) Mira Norris and Marina Fletcher on behalf of themselves and the Hapū of Whangarei Terenga Paraoa (Wai 2337);

    (c) Tamihana Akitai Paki and Pauline Ramari Smith descendants of Tautohe Parata Paki and Ramari Whareaitu Pitman (Wai 504);

    (d) Tamihana Werehiko Rewi on behalf of the Whānau Beneficiaries of Te Rewarewa B No 1 2A Block (Wai 521);

    (e) Marie Oldridge, Kimiora Tito and Druis Barratt (Wai 291);

    (f) Steve Panoho on behalf of the Panoho whānau and the beneficiaries of the Te Rae Trust (Wai 1725); and

    (g) Marie Tautari and Dave Peters.

16. I decline the leave sought.

17. On 30 September 2013, claimant counsel Anthony Ruakera and Dave Kapa sought leave to file the brief of evidence for Hinemoa Apetera on Monday 7 October 2013.

18. I decline the leave sought.

19. The Tribunal, claimants, and counsel need to engage with hearing week evidence before it is presented. I will therefore only grant leave for evidence to be filed by 4pm, Friday 4 October. I note that this is more than 4 days beyond the filing deadline which most witnesses and counsel have been able to meet.

20. All outstanding week 5 evidence is to be filed with the Tribunal by **4pm, Friday 4 October 2013.**

Memorandum containing 'Framework of Evidence'

21. Claimant counsel Mere Mangu filed a memorandum on 30 September 2013 referring to another memorandum also dated 30 September 2013 on behalf of Titewhai Harawira (Wai 1427) entitled 'Stage Two Hearings on behalf of Ngapuhi Kaumatua Kuia' on its first

page, and 'Framework of Evidence in Support of Ngati Hau Claimants' on its second page. Ms Mangu describes her client's memorandum as ‘a framework of the submissions that Titewhai Harawira will be presenting' on 16 October. Ms Mangu is asked to explain this further.

22. We have set timetabling requirements for the filing of evidence prior to each hearing week that all claimants and counsel must follow. The point of such timetabling is so all inquiry parties (claimants and counsel, Crown and the Tribunal) are prepared for the hearing of evidence and can seek prior clarification if need be.
23. These two memoranda seek to depart from the Tribunal’s requirements for the filing of evidence in advance by seeking to file evidence on the day.
24. The Tribunal will not accept briefs of evidence on the day of presentation.
25. If Ms Mangu’s client seeks to present evidence then Ms Mangu will need to file a proper brief with the Tribunal and given the date for filing has passed she will need to seek leave to file late.

The Registrar is to send this direction to all those on the notification list for Wai 1040, the Te Paparahi o Te Raki inquiry.

DATED at Rotorua this 1st day of October 2013

Judge C T Coxhead
Presiding Officer
WAITANGI TRIBUNAL