WAITANGI TRIBUNAL

Wai 2200

CONCERNING the Treaty of Waitangi Act 1975

AND the Porirua ki Manawatū District Inquiry

MEMORANDUM-DIRECTIONS (NO. 52) OF DEPUTY CHIEF JUDGE C L FOX, PRESIDING OFFICER, SIR TAMATI REEDY (EMERITUS PROFESSOR), DR GRANT PHILLIPSON AND THE HONORABLE SIR DOUG KIDD

Tēnā koutou katoa

1. In this memorandum-directions we set out our decision regarding the organisation of the Nga Kōrero Tuku Iho hui, following the submissions we received on 31 July 2013.

2. In our memorandum-directions of 1 July 2013 (Wai 2200, #2.5.64), we indicated that we expect to hold six hui in the inquiry district, one each for Muaūpoko and Te Ati Awa/Ngāti Awa ki Kapiti, and four for the group broadly affiliated with Ngāti Raukawa which would be arranged on a geographical or cluster basis.

3. We also called for submissions on the following matters:
   a) Muaūpoko claimants were to advise whether they would be willing to proceed with their Nga Kōrero Tuku Iho hui before the end of 2013;
   b) Crown Forestry Rental Trust (CFRT) staff were to update the Tribunal on their ability to provide financial support for the hui;
   c) Counsel for hapū and iwi broadly affiliated with Ngāti Raukawa were to consider clustering, venues and committees for their Kōrero Tuku Iho hui; and
   d) The Crown, CFRT and the Muaūpoko Tribal Authority (MTA) were to advise on their respective positions with regard to the MTA's participation in the inquiry.

4. We believe we are now in a position to make decisions with regard to venues for the six hui. We thank the tāngata whenua of the rohe for their willingness to compromise with regard to venues. We wish to remind parties that there will be further opportunities for the Tribunal to visit other marae within this inquiry district during the hearing phase.

5. Before setting out our understanding of how the process will work, the Tribunal would like to remind parties of the following:
   a) The purpose of Nga Kōrero Tuku Iho is for claimants to share their oral and traditional histories with the Tribunal, setting out how they relate to each other through whakapapa, land and tribal history;
   b) We expect claimants to form coordinating committees to host and organise the hui;

c) This process is subject to CFRT funding;

d) All marae must have suitable facilities to host the Tribunal and site visits will be organised by various coordinating committees as required; and

e) The Tribunal has limited capacity to fund amenities such as marquees and additional facilities which might extend the capacity of the marae to enable them to host Nga Kōrero Tuku Iho hui. An alternative might be to hold parts of proceedings such as pōwhiri at marae and the kōrero itself at a larger venue.

Nga Kōrero Tuku Iho – Muaūpoko

6. In their submissions the Muaūpoko Claimant Cluster (MCC) indicated they will be ready to proceed with their hui within three to four months, and have proposed the Levin Memorial Hall as a venue (Wai 2200, #3.1.482 & #3.1.483). Claimants have asked that the kawa of Kawiu Marae be observed at this venue. However, we consider that the point of the process is that we hear traditional stories in an environment that compliments those and would like to have the hui at a marae if possible. We ask claimants to consider how this could be achieved and if there is another Muaūpoko marae that is suitable.

7. In our directions of 1 July 2013 we asked the Muaūpoko claimants affiliated with the MTA to indicate whether they wished to participate in the Nga Kōrero Tuku Iho hui (Wai 2200, #2.5.64). In reply, Steve Hirini of the MTA indicated that they look forward to working with the hapū of Muaūpoko to participate in the process (Wai 2200, #3.1.499).

8. We expect a single coordinating committee to be formed to organise this hui comprised of all Muaūpoko claimants who intend to participate. This should include those involved with the MCC, MTA, and those not represented by counsel. Parties are directed to file a joint memorandum providing a list of coordinating committee members by **midday, Monday 30 September 2013**.

9. The Tribunal proposes to hold the Muaūpoko hui on Thursday 5 and Friday 6 December 2013**.** If this is not suitable to parties, the Tribunal's heavy hearing schedule in other districts means that the next available dates will not be until February 2014. We direct claimants to file submissions indicating the suitability of the proposed December dates and an agreed venue no later than **midday, Monday 30 September 2013.**

10. We have also received submissions from Te Hono ki Raukawa and the Crown discussing the participation of the MTA, along with correspondence from CFRT.

11. CFRT states that 'the Trust is not in a position to provide funding to support a negotiations client to participate in the Waitangi Tribunal process' (Wai 2200, #6.2.19). Te Hono have challenged this, observing that there is nothing in the Trust deed to prevent this sort of funding (Wai 2200, #3.1.494).

12. The Crown, in turn, have indicated that 'Crown policy is that if a claimant group enters into direct negotiations they must cease actively pursuing their claims before the Tribunal' and that 'the Crown does not currently fund iwi participation in Tribunal processes' (Wai 2200 #3.1.496).

13. However, the Crown also states that it is considering the impact of making an exception in regard to Muaūpoko's participation in the Nga Kōrero Tuku Iho process. Finally, the Crown notes that it 'would prefer to make its decisions about funding in light of any CFRT funding decisions, given that it is the body established to provide funding for claimant participation in the Tribunal'.

14. Given that there is no clear timeline for the resolution of the CFRT funding issue, we ask the Crown not to delay making its own decision about Muaūpoko funding and to advise the Tribunal as to its position by **midday, Wednesday 4 September 2013.**

Nga Kōrero Tuku Iho - Groups affiliated with Raukawa

15. As previously indicated, four hui will be held for groups broadly affiliated with Raukawa (Wai 2200, #2.5.64, para 16). We consider that the suggested venues, received in memoranda from these groups, give an appropriate geographical and tribal coverage.

16. This conclusion is broadly reflected in the memorandum we have received from Te Hono ki Raukawa, who have suggested the following venues as a starting point (Wai 2200, #3.1.494):

    a) Te Tikanga marae for Te Reureu;

    b) Kauwhata marae for Ngāti Kauwhata, including for Ngāti Tukorehe and Ngāti Wehi Wehi and also for their neighbours, Ngā Hapū o Himatangi – Ngāti Te Au, Ngāti Turanga and Ngāti Rakau-Paewai;

    c) A venue, probably near Levin, focusing on Ngāti Huia from Ngāti Kikopiri to Ngāti Parewahawaha; and

    d) A venue, probably at Otaki, focusing on Ngāti Raukawa.

<u>Te Reureu</u>

17. We received a memorandum of counsel from Ngā Iwi o Te Reureu, filed on behalf of hapū of Ngāti Waewae, Ngāti Pikiahu, Ngāti Matakore, Ngāti Rangatahi, Ngāti Rangatahi ki Rangitikei and Te Hiiri o Mahuta marae (Wai 2200, #3.1.487).

18. The claimants' position is that they are organised and ready to proceed. They have nominated Te Tikanga Marae as a venue for Nga Kōrero Tuku Iho and included the names of their coordinating committee. The Tribunal notes that this venue was also suggested in the memorandum from Te Hono ki Raukawa (Wai 2200, #3.1.494).

19. The Tribunal accepts the invitation for a hui to be held at Te Tikanga Marae.

20. In order that claimant groups be heard together, the Tribunal asks that the Ngāti Rangatahi Whānaunga Association (Wai 366 and 1064) also present their kōrero at this hui, alongside other Ngāti Rangatahi claimants. We note that the Ngāti Rangātahi Whānaunga Association have nominated Grace Le Gros and Robert Jonathon as representatives for a coordinating committee and suggest that they join the coordinating committee, as outlined in the submission from Ngā Iwi o Te Reureu (Wai 2200, #3.1.495).

21. Counsel are directed to file a joint memorandum providing a full list of coordinating committee members by **midday, Monday 30 September 2013**.

<u>Ngāti Pareraukawa at Ngātokowaru Marae</u>

22. The Tribunal received a letter from Ngāti Pareraukawa offering to host a Nga Kōrero Tuku Iho hui at Ngātokowaru Marae at Levin (Wai 2200, #3.504).

23. This invitation reflects the suggestion by Te Hono that a Raukawa hui be held at a venue near Levin. The Tribunal accepts this offer to host a Nga Kōrero Tuku Iho hui.

24. We anticipate that Raukawa hapū from Ngāti Huia north as far as Parewahawaha may elect to participate in this hui. We ask counsel to file a joint memorandum indicating which groups will present at this marae and providing a list of coordinating committee members by **midday, Monday 30 September 2013.**

Raukawa Hui at Raukawa Marae

25. The Tribunal received two memoranda suggesting a hui be held at Raukawa Marae from Raukawa claimants Iwi Nicholson, Ngawini Kuiti, Wayne Kiriona, Margaret Morgan-Allen and Rupene Waaka (Wai 2200, #3.1.502) and Nga Hapu o Otaki (Wai 2200, #3.1.505).

26. The Tribunal accepts the invitation and suggests that this venue could be the last for Nga Kōrero Tuku Iho hui.

27. The above-mentioned Raukawa claimants state that they wish to join the coordinating committee formed by Nga Hapu o Otaki for the purposes of this hui. The Tribunal asks counsel to file a joint memorandum providing a list of coordinating committee members by **midday, Monday 30 September 2013.**

Kauwhata, Ngāti Tukorehe and Ngāti Wehi Wehi

28. The Tribunal has received three memoranda from Ngāti Kauwhata claimants:

    a) The Kauwhata Treaty Claims Komiti, Te Marae Komiti o Kauwhata Trust and Ngā Uri Tangata o Ngāti Kauwhata (Wai 2200, #3.1.489);

    b) The Kauwhata Treaty Claims Komiti and Ngā Uri Tangata o Ngāti Kauwhata ki te Tonga (Wai 2200, #3.1.490); and

    c) The Ngā Kaitiaki o Ngāti Kauwhata Inc (Wai 2200, #3.1.492).

29. All three memoranda refer to Kauwhata Marae (also referred to as Kai Iwi Marae or Pa) as a suitable venue for the hui (Wai 2200, #3.1.500).

30. We note that both Te Hono ki Raukawa and Ngāti Hikitanga te Paea also acknowledge the suitability of this venue (Wai 2200, #3.1.494; Wai 2200, #3.1.488).

31. The memorandum of counsel received from Wai 1492, Ngā Kaitiaki of Ngāti Kauwhata Inc, outlined whakapapa which lends itself to the hosting of Nga Kōrero Tuku Iho at Kauwhata Marae, and extends an invitation to the neighbouring hapū of Himatangi, Ngāti Te Au, Ngāti Turanga and Ngāti Rakau-Paewai, and also Ngāti Hikitanga/Hikitanga Te Paea and Ngāti Hinemata.

32. The Tribunal has received the two following memoranda from the collective known as Tu Te Manawaroa:

    a) Wai 1944 including Ngāti Hinemata, Ngā Uri o Tukumaru, Ngāti Ngakohua, Ngāti Wairangi, Ngāti Ira, Ngāti Te Momo, Ngāti Takihiku, Ngāti Ngarongo, Ngāti Te Ringa, Nga Hapū o Himatangi, Ngāti Te Au, Ngāti Turanga, Ngāti Rakau, and Te Iwi o Ngāti Tukorehe (Wai 2200, #3.1.493); and

b) Wai 1913 including Te Iwi o Ngāti Tukorehe, Nga Hāpu o Himatangi, Ngāti Hinemata, Ngā Uri o Tukumaru, Ngāti Ngakohua, Ngāti Wairangi, Ngāti Ira, Ngāti Te Momo, Ngāti Takihiku, Ngāti Ngarongo, and Ngāti Te Ringa (Wai 2200, #3.1.501).

33. Both of these memoranda refer to Tukorehe Marae at Kuku as a suitable venue for the hui. We understand that discussions are continuing with other claimant groups with regard to joining this hui.

34. Counsel for Ngāti Wehi Wehi filed submissions expressing a preference that a hui be held at Ngāti Wehi Wehi Marae and organised by Te Kotahitanga o Te Iwi o Ngāti Wehiwehi (Wai 2200, #3.1.486). If this was not possible, counsel indicated that Ngāti Wehi Wehi kaumātua and kuia may prefer to present via video conference link or pre-record their kōrero to be presented on the day.

35. The Tribunal would accept the filing of evidence recorded in audio or video format, but would not consider viewing these during the Nga Kōrero Tuku Iho hui, which are designed to be a dynamic, oral, kanohi ki te kanohi forum.

36. The Tribunal acknowledges the close whakapapa links between these groups. However, as previously stated there can be no more than six Nga Kōrero Tuku Iho hui in total (Wai 2200, #2.5.64 para 16). We ask that Kauwhata, Wehi Wehi and Ngāti Tukorehe establish a coordinating committee made up of representatives of all three groups.

37. We would hope that this committee could come up with a suitable venue for the hui. If an agreement cannot be reached, the Tribunal will decide on the fourth marae venue for Raukawa and affiliates, and invite participants to consider presenting their kōrero at this or one of the other three hui being held at Te Tikanga, Ngātokowaru or Raukawa Marae.

38. The Tribunal asks Kauwhata, Ngāti Wehi Wehi and Ngāti Tukorehe to file a joint memorandum providing a list of coordinating committee members by **midday, Monday 30 September 2013**.

Nga Kōrero Tuku Iho for Te Ati Awa / Ngāti Awa ki Whakarongotai

39. As previously indicated, the Tribunal considers it appropriate to hold one hui for Te Ati Awa/ Ngāti Awa ki Whakarongotai and other claims relating to Kapiti Island (Wai 2200, #2.5.64 para 15).

40. In response, we received a submission from Simon Austin, named claimant for Wai 2031, on behalf of the descendants of James Howard Wallace (Wai 2200, #3.1.485). Mr Austin states that because it is a whānau claim, Wai 2031 does not fit easily within the Te Ati Awa claims as part of Nga Kōrero Tuku Iho. He notes that their preference would be to be heard alongside Ngāti Wehi Wehi, as these groups have worked together in the past.

41. We are not willing to grant this request. We can see no justification, based on the evidence provided, that it would assist the Tribunal to have the Wai 2031 claimant present any kōrero tuku iho with Ngāti Wehi Wehi. Unless the claimant can show a reason to be heard at another hui, for example whakapapa, we expect kōrero tuku iho in relation to this claim to be heard at the Te Ati Awa/Ngāti Awa ki Kapiti Kōrero Tuku Iho hui.

42. We received a letter from Ani Parata as claimant and chair of the Whakarongotai Marae Trustees (Wai 2200, #3.1.498) asking the Tribunal to consider Whakarongotai Marae as an appropriate venue to host the Nga Kōrero Tuku Iho hui. As we noted above, we consider that the point of the process is that we hear traditional stories in an environment that complements those. Thus we accept the invitation to Whakarongotai Marae.

43. We would expect that claimants who will be presenting at this hui will have the opportunity to be represented on the coordinating committee, and that adequate time will be made available for witnesses to present their kōrero. Counsel are directed to file a joint memorandum providing a list of coordinating committee members by **midday, Monday 30 September 2013**.

44. Funding of this hui remains a concern for the Tribunal. CFRT have indicated that their funding policy would not extend to Ngāti Awa/Te Ati Awa on the basis that they do not have Crown licensed forests in their rohe. We note Te Hono's invitation to Ngāti Awa/Te Ati Awa to join with Te Hono for the purposes of accessing funding for the Nga Kōrero Tuku Iho hui, on terms that would respect the independent mana of each iwi involved (Wai 2200, #3.1.494 para 9). We would strongly encourage both groups to meet and explore how this might be achieved.

Administrative Issues

45. The Tribunal received a memorandum of counsel from Ngāti Whakatere ki te Tonga seeking leave to file submissions with regards to clustering, venues and committees by Wednesday 28 August 2013 (Wai 2200, #3.1.491).

46. The Tribunal grants the leave sought for the claimants to state where they wish to present their Kōrero Tuku Iho. The Tribunal does not wish to receive any further submissions on the process. Counsel is directed to file the preferred venue for Ngāti Whakatere ki te Tonga by **midday, Monday 30 September 2013**.

Transcripts

47. The Tribunal received two memoranda requesting administrative changes to the transcript of the May 2013 judicial conference (Wai 2200, #3.1.484 & #3.1.486). The approved changes have been made and an electronic copy of the transcript is now available to all parties from WT_Requests@justice.govt.nz.

Venue for Nga Kōrero Tuku Iho hui

48. The Tribunal anticipates starting the Nga Kōrero Tuku Iho hui in either December 2013 or February 2014, depending on the preparedness of Muaūpoko. Once the hui commence, we hope to hold a hui every eight weeks subject to funding. The order of the hui, and the nominated venues are as follows:

Hui	Venue	Back up	Presenters
1	To be advised		Muaūpoko
2	Te Tikangā Marae	Poupatate Marae	Nga Iwi o Te Reureu Ngāti Rangātahi
3	Ngātokowaru Marae		Ngāti Pareraukawa
4	To be advised		Ngāti Kauwhata Ngāti Tukorehe Ngāti Wehi Wehi

Hui	Venue	Back up	Presenters
			Ngāti Hikitangā te Paea
5	Whakarongotai		Te Ati Awa/Ngāti Awa
6	Raukawa Marae, Otaki		Raukawa

49. Claimants are welcome to nominate which marae they wish to present at and advise the Tribunal by **midday, Monday 30 September 2013**.

Conclusion

50. There will be six Nga Kōrero Tuku Iho hui for the Porirua ki Manawatū inquiry district, as outlined at paragraph 48

51. By **midday, Monday 30 September 2013**, the Tribunal expects submissions on the following:

    a) A memorandum from Muaūpoko on whether they will be ready for a 5-6 December hui and a suggestion of a suitable marae venue;
    b) A joint memorandum from Muaūpoko claimants listing the members of their coordinating committee;
    c) A memorandum from Ngāti Whakatere ki te Tonga stating where they will present their Kōrero Tuku Iho;
    d) A joint memorandum from Kauwhata, Ngāti Wehi Wehi and Ngāti Tukorehe suggesting a venue for their joint hui and listing the members of their coordinating committee;
    e) A joint memorandum from claimants listing the members of their coordinating committee for the following three hui: Te Tikanga Marae, Ngātokowaru Marae, and Raukawa Marae; and,
    f) A joint memorandum from Te Ati Awa/Ngāti Awa ki Whakarongotai claimants listing the members of their coordinating committee.

The Registrar is to send a copy of this direction to all those on the notification list for Wai 2200, the combined record of inquiry for the Porirua ki Manawatū District Inquiry.

DATED at Gisborne this 20th day of August 2013

Deputy Chief Judge C L Fox
Presiding Officer
WAITANGI TRIBUNAL