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IN THE WAITANGI TRIBUNAL **WAI 1040**
WAI 1524

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF Te Paparahi o Te Raki Inquiry

AND

IN THE MATTER OF Wai 1524 a claim by Hineamaru Lyndon and Louisa Collier concerning Pomare Kingi

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MEMORANDUM OF COUNSEL REGARDING TARGETED RESEARCH

DATED 18 NOVEMBER 2013

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1. This memorandum is filed in response to the Memorandum Directions of Judge Coxhead dated 23 October 2013 (Wai 1040, #2.6.35).

2. This research memorandum is filed on behalf of Hineamaru Lyndon and Louisa Collier the claimants for Wai 1524 the Pomare Kingi claim ("the claimants").

3. While the claimants have already presented evidence concerning Pomare Kingi, the focus of that research was limited to evidence concerning Pomare Kingi the person and his subsequent incarceration. The focus of the Wai 1524 claim now centres on the land interests that Pomare Kingi had and the alienation of those land interests by acts and omissions of the Crown and its agents.

4. The claimants have identified that Pomare Kingi held interests in the following land blocks:
   a. Whatitiri;
   b. Poroti;
   c. Waitomotomo;
   d. Ngararatunua;
   e. Wihoanga Falls;
   f. Hikurangi (reclaimed/swamp land);
   g. Parakiore (Island); and
   h. Hihiaua.

5. To date these specific blocks have been shown to have had succession secured from the 1880s, however from the point of succession forward, the land blocks have either been reduced in size or alienated. The Wai 1040 Te Paparahi o Te Raki Record of Inquiry report #A039 – *Northland Block Narratives, Paula Berghan* – provides only an overview of Native Land Court Minutes relating to the above blocks and nothing

else. Therefore further research is required to progress the WAI 1524 claim as identified in this memorandum.

6. The blocks are located in and around the main centre of Whangarei, an area over which Pomare Kingi held mana whenua, kaitiakitanga and rangatiratanga over as Rangatira of Te Uri Rori and Ngati Kahu o Torongare ki Parawhau. Analysis of documents at the Archives New Zealand is required to establish how and why the land blocks came to be alienated. To ascertain the level of prejudice visited upon the claimants, an analysis of the full tribal estate initially held by Pomare Kingi needs to be undertaken. Further to establish proper breaches of Te Tiriti o Waitangi and its Principles, research is required into the policy and practices of those responsible for the surveying and partitioning of the land blocks. Said research and analysis includes perusal of Survey District files, Crown Purchase Deeds from 1899, swamp and wetland files and township planning files.

7. An individual analysis of the research required for each specific land block follows.

Poroti

8. In 1885 this was a large block designated Native Land. From the mid-1890s requests were sent into the Native Land Purchase department by pakeha settlers requesting that the Crown purchase this block in order for it to be subdivided and partitioned. These settlers included D. Finlayson, IM Robinson, and Thomas Jennings. There were also Maori landowners requesting 40 acres of this block to be partitioned to graze sheep. In August 1899 The Chief Surveyor recommended that the Poroti/Whatitiri lands be opened up for selection under Part III of the Land Act 1892 once a survey had been undertaken. In the same year

the Crown purchased 15 blocks of Whatitiri around Poroti, including extending an area of Crown land.

9. Research is required to answer the following questions:

   a. Was the Maori land owner awarded his 40 acres? If not, why not and what was the policy behind that decision?
   b. To what extent did Pakeha settlers influence the opening up of this block?
   c. Did the surveying of the Poroti block accommodate and incorporate Maori knowledge of the land?
   d. Were any waahi tapu destroyed, damaged or alienated as a result?
   e. Were any maahinga kai destroyed, damaged or alienated as a result?
   f. What was the nature and extent of the consultation with Maori land owners?
   g. What was the nature of consultation regarding the partitioning of the block into 15 blocks?
   h. How/why did the Crown extend the acreage of Crown land?
   i. What was the price paid for the Crown's purchase of this block?
   j. Who received the money?

Hihiaua

10. This land block has the potential to allege foreshore and seabed issues. The Whangarei Harbour Board claimed this block. In 1918 a Commission of Inquiry recommended that the Maori landowners be awarded the dry land, but not the land below the high water mark. Research is required to answer the following questions:

   a. What was the extent of consultation with the Maori landowners?
   b. What were the objections of the Maori landowners?

c. Were these objections acted upon or ignored?
d. What was the Crown's policy surrounding the non-award of land below the high water mark?

Parakiore

11. In the early 1880s a pakeha settler requested a road be put through this Maori land block, in order to retain his adjacent block in its entirety to create an orchard. In 1884 Pomare Kingi objected to the surveying, requesting that the road be placed in a different position so as not to cut through the block and his land interests. This block was subsequently partitioned and documents perused so far suggest that the acreage forming these two blocks was reduced. In other words as a result of the road, Pomare Kingi's land interests were reduced. Research is required to answer the following questions:

a. Where was the road positioned?
b. To what extent were Pomare Kingi's land interest reduced as a result of the surveying of this block?
c. Did the Maori landowners and Pomare Kingi receive compensation for the road?
d. What was the nature of the consultation?
e. Why were Pomare Kingi's objections ignored?
f. How and why was this block subsequently alienated?

Ngararatunua

12. Surveying of this block began in 1894. Perusal of documents to date provides evidence illustrating that:

a. The Maori landowners including Pomare Kingi objected to the survey lines;

b. The original size of the block was 1000 acres but the surveyor plotted lines that reduced the area by some 400 acres;

13. Research is required to answer the following questions:

a. What was the nature of consultation with the Maori landowners during the surveying of the block?
b. What objections were raised by the Maori landowners?
c. What was the response to these objections?
d. To what extent were the Maori landowners able to protect their interests in the block through the subsequent partitioning in 1918?
e. What is the full nature in terms of acres of the land lost as a result of the surveys?

Hikurangi

14. The claimants have suffered land loss around the Hikurangi swamp area. Archival files regarding the Hikurangi swamp are only located in Wellington so to date no documents have been available for the drafting of allegations and pleadings concerning Hikurangi. Research is required to answer the following questions:

a. When and how did the Crown acquire this area?
b. What was the nature and extent of consultation with the Maori landowners?
c. What were the objections of the Maori landowners?
d. What is the full extent of the land lost by the Maori landowners including Pomare Kingi?

Waiohanga Falls

15. Documents relating to the Crown acquisition of this scenic reserve are only located in Wellington, so to date no documents have been available for the drafting of allegations and pleadings concerning Waiohanga Falls. Research is required to answer the following questions:
    a. What was the nature of consultation with the Maori landowners regarding the acquisition of this area as a scenic reserve?
    b. To what extent were objections by the Maori landowners considered?
    c. Was compensation if any was paid to the Maori landowners?
    d. Who received these payments?

Raumanga

16. This block subsequently became the Raumanga township and is just below Whangarei township. This was and remains an important block to the claimants. Research is required to answer the following questions:

    a. Did the Crown acquire Maori Land specifically for the creation of the Raumanga township?
    b. To what extent did this acquisition render Maori landowners with insufficient land?
    c. What was the nature of consultation with the Maori landowners?
    d. What objections were raised by the Maori landowners?

Waitomotomo

17. Initial perusal of documents to date have revealed evidence showing that despite objections to the surveying of this land block, 40 acres of

land was alienated during the surveying of this block. There is a letter from Eru Hiri and other showing these objections. Documents relating to the surveying of Waitomotomo are only located in Wellington, so to date no documents have been available for the drafting of allegations and pleadings concerning Waitomotomo. Research is required to answer the following questions:

a. What was the nature and extent of the consultation with Maori landowners, including Pomare Kingi?
b. What objections were raised by the Maori landowners?
c. Were objections by Maori accommodated or ignored?
d. What is the full nature and extent of the land alienated as a result of the survey?

Documents

18. To help assist in the specific research sought by counsel, counsel advises that the following documents located in Archives New Zealand's Wellington Office, have been specifically identified:

a. Crown Purchase Deeds - Whatitiri 1A through to 15 dated 1897-1899. Agency: ABWN Series: 8012 - various boxes.

b. Waihoanga Falls Scenic Reserve. Agency: BBEE 15336 A1632 369/1 12142. BBEE 15336 A1632 369/b 13/21/1

c. Site Survey Information – Ngararatunua. Agency: YCBD 19848 A688 2179/c.

d. Townships – Raumaunga. Agency: ACGT 18190 LS1 1827/25/856

e. Townships – Poroti. Agency: ACGT 18190 LS1 1849/ 25/1647

f. Alienation – Parakiore. Agency: ACIH 16036 MA1 990/ 1909/671

g. Alienation – Parakiore. Agency: BAA1 11466 A39 152/f 4872

h. Parakiore – Acquisition for railway. Agency: ACIH 16036 MA1 1334 1924/106

i. Hikurangi Swamp Drainage. Agency: AADS W3562 182/ 15/9 Part 1

j. Hikurangi Swamp Drainage. Agency: AADS W3652 182/ 15/9 Part 2

k. Hihiaua Block – Whangerei Harbour Board. Agency – ABWN 7611 W5021 848/ 1911/761 1

l. Report on Commission of Enquiry regarding Hihiaua Block. Agency: ACIH 16036 MA1 1162 1916/4186

m. Accounts and Papers re: Commission of Enquiry regarding Hihiaua Block. Agency: AEBE 18507 LE1 672 1917/22/8.

DATED at Auckland this 18 November 2013

David Stone/Brooke Loader

Counsel for the Claimants

TO: The Registrar, Waitangi Tribunal; Crown Law Office; and those on the notification list for Wai 1040 Inquiry.