

Wai 898, 2.5.29

OFFICIAL

Wai 898

IN THE WAITANGI TRIBUNAL

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Te Rohe Pōtae District Inquiry

MEMORANDUM-DIRECTIONS OF JUDGE DJ AMBLER
CONCERNING THE FOURTH JUDICIAL CONFERENCE
7 MAY 2008

Te Rohe Pōtae District Inquiry, 7 May 2008

Tēnā koutou

1. Introduction

- 1.1 This memorandum-directions addresses submissions filed prior to the the fourth judicial conference, to be held on Thursday 5 June 2008 at Te Tokanganui-a-noho, Te Kūiti. The main focus of this conference will be the consolidation and aggregation of claims into the Te Rohe Pōtae District Inquiry.
- 1.2 This memorandum-direction also addresses two boundary matters and advises the agenda and timetable for the conference.

2. Filing extension requests

- 2.1 A number of counsel sought extensions to file amended statements of claim for their clients.
 - 2.1.1 Mr Webster and Mr Bluegum sought leave to leave to file a memorandum and an amended statement of claim for Ngāti Hāua (Wai 48, 81,146) by 6 May 2008 (Wai 898 #3.1.180). I note that these documents have now been filed.
 - 2.1.2 Ms Feint and Ms Fox sought leave to file an amended statement of claim for Ngāti Tūwharetoa (Wai 575) by 7 May 2008 (Wai 898 #3.1.181).
 - 2.1.3 Mr Williams, Mr Wilson and Ms Arapere sought leave to file an amended statement of claim for Ngāti Urunumia (Wai 1255) by 9 May 2008 (Wai 898 #3.1.171).
- 2.2 I note that the parties listed above are all involved in intensive Tribunal hearings or Treaty settlement processes. I am therefore prepared to grant a filing extension for all three until **12 noon Friday 9 May 2008**.

3. Requests to link claims

- 3.1 A number of counsel have suggested that a Wai claim linked or clustered with a Wai claim within the inquiry should be aggregated or consolidated into the Inquiry, without the need for that claim to specify issues that will be heard within the Inquiry.
 - 3.1.1 Ms Patuawa states that Wai 37, 933 and 1196 are a cluster of claims brought by Ngāti Hikairo and notes that only Wai 37 has been aggregated into the inquiry. Ms Patuawa states that Wai 933 and 1196 are specific claims under Wai 37 as an umbrella

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claim and asks that they be consolidated into the inquiry alongside Wai 37 (Wai 898, 3.1.170).

3.1.2 Ms Lang states that Wai 1224 is a whānau claim under the umbrella of the Wai 555 Tamahaki Council of Hapū. She notes that the Wai 555 claim is to be aggregated into the Wai 898 inquiry while the Wai 1224 is not. She asks that the Wai 1224 claim be consolidated into the Wai 898 record of inquiry alongside the Wai 555 claim. Ms Lang seeks leave to file an amended statement of claim for Wai 1224 by 7 May 2008 if the Tribunal is not minded to link claims in this way.

3.1.3 Ms Feint and Ms Fox request that nine Ngāti Tūwharetoa claims be aggregated under the Wai 898 Te Rohe Pōtae District Inquiry with the Ngāti Tūwharetoa comprehensive claim, Wai 575, on the basis that they are clustered under Wai 575 (Wai 898 #3.1.181).

3.2 My direction of 2 April 2008 stipulated that if claims do not currently raise claim issues that fall within the inquiry boundary they have not been included in the preliminary lists for consolidation or aggregation. Counsel were directed to clarify whether those claims raised issues within the inquiry boundary and, where it is intended that those claims be consolidated or aggregated into the Inquiry, to file an amended statement of claim clearly setting out the claim issue within the Inquiry (Wai 898 #2.5.28).

3.3 The fact that a claim might cluster with other claims in the Inquiry does not justify it being aggregated within the Inquiry. The fundamental issue is whether the claim raises issues to be heard within the Inquiry. If it does, then it will be aggregated. If it does not, then *ipso facto* it is not a claim to be heard in this Inquiry and will not be aggregated. I also note that where a claim has been heard in a previous Inquiry it can only be aggregated into the Te Rohe Pōtae District Inquiry, not consolidated.

3.4 I am prepared to grant an extension for Ms Lang, Ms Patuawa, Ms Feint and Ms Fox to file amended statements of claim by **12 noon Friday 9 May 2008**. Counsel must clarify the extent to which their clients' specific claims raise issues that will be heard in the Te Rohe Pōtae District Inquiry.

4. Wai 1409 boundary extension request

4.1 In my memorandum-directions dated 10 March 2008 I directed Mr Naden to clarify what he sought in terms of a boundary extension for his Ngāti Ngutu clients, Wai 1409 (Wai 898 #2.5.27). Mr Naden subsequently filed two submissions and two briefs of evidence that

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discuss the claims his clients wish to present to the Te Rohe Pōtae Tribunal (Wai 898 #3.1.165, #3.1.68, #A7, #A7(a)).

- 4.2 Mr Naden and his client will have the opportunity to address this issue at the fourth judicial conference. I will be interested to hear from any other parties in response to this boundary extension request.

5. The Hurakia block

- 5.1 The Tribunal staff have identified a discrepancy regarding whether the Hurakia block is included within the inquiry boundary. The interim inquiry boundary was defined in the King Country/Rohe Pōtae inquiry boundary discussion paper as 'the Aotea block as defined in 1886 (except the Ohura South block) and the area between the north-west of the Aotea block and the Waikato-Tainui Raupatu Settlement Area' (Wai 898 #6.2.2). I then determined that the inquiry boundary 'will be based on the interim boundary of the King Country Inquiry district' with a number of extensions (Wai 898 #2.5.21, #2.4.24).

- 5.2 The Hurakia block falls outside of the Aotea block as it is depicted in a Māori Land Plan (ML5851) produced before the Native Land Court 28th July 1886, being the first day that the Court at Otorohanga sat for Te Rohe Pōtae lands. However, the final boundary paper lists the Hurakia block as within the inquiry boundary (Wai 898, #2.6.5).

- 5.3 The block is located on the eastern boundary of the Te Rohe Pōtae Inquiry District, where the boundary meets the Central North Island-Taupō inquiry boundary. The block was not heard as part of the Central North Island Stage One inquiry and will therefore be included in the Te Rohe Pōtae District Inquiry.

6. Timetable for the 4th judicial conference, 5 June 2008

8:30 am	Pōwhiri <i>Morning tea</i>
10:00 am	Session one
12:00 pm	<i>Lunch</i>
12:45 pm	Session two
2:45 pm	<i>Afternoon tea</i>
3:00 pm	Session three

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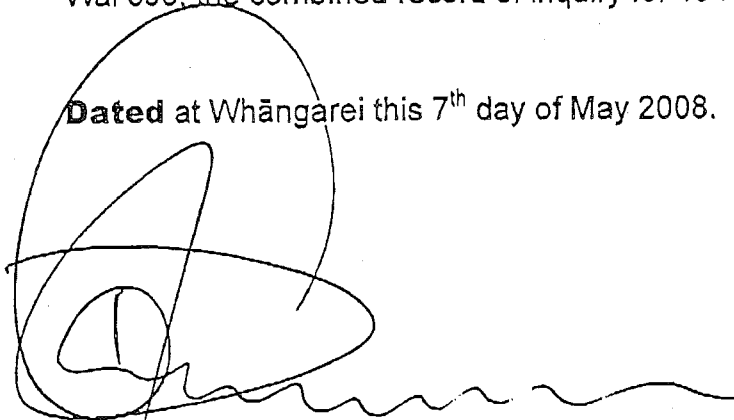
5.00 pm	<i>End of judicial conference</i>
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7. Agenda for the 4th judicial conference, 5 June 2008

- 7.1.1 Consolidation and Aggregation
- 7.1.2 Boundary extension sought by Ngāti Ngutu, Wai 1409
- 7.1.3 Research update, Waitangi Tribunal Unit
- 7.1.4 Research and clustering update, Crown Forestry Rental Trust

The Registrar is to send this direction to all those on the notification list for Wai 898, the combined record of inquiry for Te Rohe Pōtae District Inquiry.

Dated at Whāngarei this 7th day of May 2008.



Judge DJ Ambler
Presiding Officer

WAITANGI TRIBUNAL