

APPENDIX II

RECORD OF INQUIRY

RECORD OF HEARINGS

THE TRIBUNAL

The Tribunal constituted to hear the Hauraki claims, which included Wai 728, comprised Dame Augusta Wallace (presiding), John Kneebone, Professor Wharehuia Milroy, and Professor Dame Evelyn Stokes.

THE COUNSEL

Grant Powell appeared for the Wai 728 claimants, Charl Hirschfeld for the Wai 110 and Wai 475 claimants, and Annsley Kerr for the Crown.

THE HEARINGS

The first hearing was held at the Thames Boat Club, Tararu, on 17 July 2000. Submissions (in support of the claim) were received from Laura Te Rore Hiku, Kenneth Linstead, Terrence John McEnteer, Te Hiiri Ngamane, Richard Rakena, Toko Renata Te Taniwha, and Betty Whaitiri Williams.

The second hearing was held at Thames Racecourse, Thames, on 24 and 25 October 2000. Submissions (on behalf of the Crown) were received from Dr Graeme Campbell and Marilyn Fullam.

The third hearing was held at Luck at Last Restaurant, Whangamata, on 13 February 2001. Closing submissions were received from Charl Hirschfeld, Annsley Kerr, and Grant Powell.

RECORD OF PROCEEDINGS

Note: The reference in parentheses after each entry or list of entries gives the location of that paper or papers in the Wai 686 record of proceedings.

1. Claims

1.1 Claim by Toko Renata Te Taniwha and the Hauraki Maori Trust Board concerning the Hauraki Gulf Marine Park, 19 June 1998 (claim 1.33)

(a) Amended statement of claim, 20 June 2000 (claim 1.33(a))

(b) Second amended statement of claim, 1 February 2001 (claim 1.33(b))

2. Papers in proceedings

2.1 Direction of deputy chairperson registering claim 1.1 as Wai 728, referring application for urgency to the Hauraki Tribunal for consideration, and consolidating the Wai 728 record with that of Wai 686, 15 July 1998 (paper 2.142)

2.2 Declaration that notice of registration of Wai 728 given, 16 July 1998

Letter from Tribunal to concerned parties advising of registration of Wai 728, 16 July 1998

Letter from Tribunal to claimant counsel advising of registration of Wai 728, 16 July 1998

List of parties sent notice of registration of Wai 728, 16 July 1998

(paper 2.143)

2.3 Application for urgency from claimant counsel, 14 July 1998 (paper 2.144)

2.4 Memorandum from Crown counsel to Tribunal concerning proposed Hauraki Gulf Marine Park Bill, 31 July 1998 (paper 2.150)

2.5 Memorandum from claimant counsel to Tribunal in response to paper 2.4, 3 August 1998 (paper 2.151)

2.6 Memorandum from Wai 720 claimants to Tribunal supporting application for urgency, 12 August 1998 (paper 2.152)

2.7 Memorandum from Wai 289 claimant counsel to Tribunal supporting application for urgency, 12 August 1998 (paper 2.153)

- 2.8** Claim by Rawiri Tooke and others concerning Tikapa Moana and giving notice of interest in Wai 728, 8 August 1998 (paper 2.154)
- 2.9** Submissions of claimant counsel, 13 August 1998 (paper 2.155)
- 2.10** Submissions of Crown counsel opposing application for urgency, 13 August 1998 (paper 2.156)
- 2.11** Memorandum from Wai 454 claimant counsel to Tribunal supporting application for urgency and giving notice of interest in Wai 728, 13 August 1998 (paper 2.157)
- 2.12** Memorandum from Wai 349 claimant to Tribunal supporting application for urgency, 13 August 1998 (paper 2.158)
- 2.13** Facsimile from Department of Conservation to Tribunal concerning catchment areas of proposed Hauraki Gulf Marine Park, 14 August 1998 (paper 2.159)
- 2.14** Direction of Tribunal adjourning application for urgency sine die, 19 August 1998 (paper 2.160)
- 2.15** Direction of Tribunal concerning deadlines for filing of evidence, 21 August 1998 (paper 2.162)
- 2.16** Memorandum from Wai 522 claimant counsel to Tribunal supporting application for urgency and giving notice of interest in Wai 728, 19 August 1998 (paper 2.163)
- 2.17** Letter from Crown counsel to registrar concerning scheduled meeting of Minister of Conservation and Hauraki iwi to discuss proposed Hauraki Gulf Marine Park Bill, 27 August 1998 (paper 2.166)
- 2.18** Notice of first hearing of Hauraki inquiry, 2 September 1998 (paper 2.169)
- 2.19** Declaration that notice of first hearing of Hauraki inquiry given, 4 September 1998
Notice of first hearing of Hauraki inquiry, 2 September 1998
List of parties sent notice of first hearing of Hauraki inquiry, 4 September 1998
(paper 2.170)
- 2.20** Notice of second and third hearings of Hauraki inquiry, 7 October 1998 (paper 2.178)

2.21 Declaration that notice of second and third hearings of Hauraki inquiry given, 7 October 1998

Notice of second and third hearings of Hauraki inquiry, 7 October 1998

List of parties sent notice of second and third hearings of Hauraki inquiry, 21 October 1998
(paper 2.179)

2.22 Memorandum from Crown counsel to Tribunal concerning draft Hauraki Gulf Marine Park Bill, 11 November 1998 (paper 2.184)

2.23 Notice of fourth hearing of Hauraki inquiry, 16 November 1998 (paper 2.187)

2.24 Declaration that notice of fourth hearing of Hauraki inquiry given, 16 November 1998
(paper 2.188)

2.25 Notice of fifth hearing of Hauraki inquiry, 1 February 1999 (paper 2.195)

2.26 Declaration that notice of fifth hearing of Hauraki inquiry given, 5 February 1999

Notice of fifth hearing of Hauraki inquiry, 1 February 1999

List of parties sent notice of fifth hearing of Hauraki inquiry, 9 February 1999
(paper 2.196)

2.27 Notice of sixth hearing of Hauraki inquiry, 23 March 1999 (paper 2.198)

2.28 Declaration that notice of sixth hearing of Hauraki inquiry given, 25 March 1999

Notice of sixth hearing of Hauraki inquiry, 23 March 1999

List of parties sent notice of sixth hearing of Hauraki inquiry, undated
(paper 2.199)

2.29 Direction of chairperson appointing Joanne Morris presiding officer for sixth hearing of Hauraki inquiry, 29 March 1999 (paper 2.200)

2.30 Notice of seventh hearing of Hauraki inquiry, 31 May 1999 (paper 2.217)

2.31 Declaration that notice of seventh hearing of Hauraki inquiry given, 1 June 1999

Notice of seventh hearing of Hauraki inquiry, 31 May 1999

List of parties sent notice of seventh hearing of Hauraki inquiry, 31 May 1999
(paper 2.218)

2.32 Notice of eighth hearing of Hauraki inquiry, 12 July 1999 (paper 2.224)

- 2.33** Declaration that notice of eighth hearing of Hauraki inquiry given, 12 July 1999
Notice of eighth hearing of Hauraki inquiry, 12 July 1999
List of parties sent notice of eighth hearing of Hauraki inquiry, 12 July 1999
(paper 2.225)
- 2.34** Direction of Tribunal scheduling conference to allocate further hearing dates for Hauraki inquiry and setting closing date for consolidation or aggregation of new Hauraki claims with Wai 686, 26 October 1999 (paper 2.248)
- 2.35** Direction of Tribunal concerning hearings scheduled for July and August 2000, 21 March 2000 (paper 2.310)
- 2.36** Notice of thirteenth hearing of Hauraki inquiry, 14 June 2000 (paper 2.318)
- 2.37** Declaration that notice of thirteenth hearing of Hauraki inquiry given, 27 June 2000
Notice of thirteenth hearing of Hauraki inquiry, 14 June 2000
List of parties sent notice of thirteenth hearing of Hauraki inquiry, undated
(paper 2.319)
- 2.38** Direction of Tribunal registering amendment to statement of claim, 3 July 2000 (paper 2.323)
- 2.39** Statement of Crown in response to amendment to statement of claim, 14 July 2000 (paper 2.323A)
- 2.40** Declaration that notice of amendment to statement of claim given, 13 July 2000
Direction of Tribunal registering amendment to statement of claim, 3 July 2000
Notice of amendment to statement of claim, 13 July 2000
List of parties sent notice of of amendment to statement of claim, 13 July 2000
(paper 2.323B)
- 2.41** Memorandum from Crown counsel to Tribunal concerning presentation of Crown submissions and filing of Crown evidence, 18 August 2000 (paper 2.338)
- 2.42** Notice of fifteenth hearing of Hauraki inquiry, 25 September 2000 (paper 2.345)
- 2.43** Declaration that notice of fifteenth hearing of Hauraki inquiry given, 25 September 2000
Notice of fifteenth hearing of Hauraki inquiry, 25 September 2000
List of parties sent notice of fifteenth hearing of Hauraki inquiry, undated
(paper 2.346)

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2.44 Memorandum from Wai 728 and Wai 110 claimant counsel to Tribunal objecting to parts of document B1, 24 October 2000 (paper 2.351)

2.45 Joint memorandum from Crown counsel and Wai 110, 475, and 728 claimant counsel to Tribunal concerning presentation of closing submissions, 30 November 2000 (paper 2.356)

2.46 Entry vacated

2.47 Notice of seventeenth hearing of Hauraki inquiry, 31 January 2001 (paper 2.363)

2.48 Declaration that notice of seventeenth hearing of Hauraki inquiry given, 1 February 2001
Notice of seventeenth hearing of Hauraki inquiry, 31 January 2001
List of parties sent notice of seventeenth hearing of Hauraki inquiry, undated
(paper 2.364)

2.49 Entry vacated

2.50 Entry vacated

2.51 Direction of Tribunal registering second amended statement of claim, 13 February 2001
(paper 2.367)

2.52 Statement of Crown in response to second amended statement of claim, 20 February 2001 (paper 2.368)

2.53 Declaration that notice of second amended statement of claim given, 27 February 2001
List of parties sent notice of second amended statement of claim, 27 February 2001
(paper 2.369)

RECORD OF DOCUMENTS

Note: The reference in parentheses after each entry or list of entries gives the location of that document or documents in the Wai 686 record of documents.

A. DOCUMENTS RECEIVED PRIOR TO END OF FIRST HEARING, 17 JULY 2000

A1 The Hauraki Gulf Marine Park Act 2000 (doc M1)

A2 Opening submissions of claimant counsel, 17 July 2000 (doc M26)

A3 Brief of evidence of Toko Renata Te Taniwha, undated (doc M27)

A4 Brief of evidence of Te Hiiri Ngamane, undated (doc M28)

A5 Brief of evidence of Richard Rakena, undated (doc M29)

A6 Brief of evidence of Kenneth Linstead, undated (doc M30)

A7 Brief of evidence of Betty Whitiri Williams, undated (doc M31)

A8 Brief of evidence of Laura Hiku, undated (doc M32)

A9 Brief of evidence of Terrence John McEnteer, undated (doc M33)

A10 Brief of evidence of Terrence John McEnteer, undated (doc M34)

B. DOCUMENTS RECEIVED PRIOR TO END OF SECOND HEARING, 25 OCTOBER 2000

B1 Brief of evidence of Dr Graeme Campbell, 13 October 2000 (doc 04)

(a) List of contents of documents B1(a)(A)–(S), 13 October 2000 (doc 04(a))

(a)(A) Department of Conservation, *Tapui Taimoana: Reviewing the Marine Reserves Act 1971*, Wellington, Department of Conservation, 2000, pp 48–50 (doc 04(a)(A))

(a)(B) The first schedule to the Conservation Act 1987 (doc 04(a)(B))

(a)(C) Dr Kenneth Palmer, 'The Hauraki Gulf Marine Park Act 2000', paper presented at the New Zealand Centre for Environmental Law seminar, 8 September 2000 (doc 04(a)(C))

(a)(D) Hauraki Gulf Forum, 'Report of the Hauraki Gulf Forum for the Period 27 February 2000 to 30 June 2000', report to the Minister of Conservation, August 2000 (doc 04(a)(D))

(a)(E) International Union of Conservation Nations Commission on National Parks and Protected Areas, *Guidelines for Protected Area Management Categories*, Cambridge, International Union of Conservation Nations, 1994, pp 7–13, 16–23 (doc 04(a)(E))

(a)(F) Department of Conservation, *Conservation Management Strategy for Auckland, 1995–2005*, 3 vols, Auckland, Department of Conservation, 1995, vol 1, pp 70–75 (doc 04(a)(F))

(a)(G) Hauraki Gulf Working Party, 'Report of the Hauraki Gulf Working Party to the Minister of Conservation', report to the Minister of Conservation, February 1992 (doc 04(a)(G))

(a)(H) Department of Conservation, 'Department of Conservation Submission on the Future of the Hauraki Gulf', submission to caucus subcommittee, September 1992 (doc 04(a)(H))

B1—*continued*

- (a)(I) Document entitled ‘Statement from Hui at Motutapu Island, 14–15 November 1992’, 1992 (doc 04(a)(I))
- (a)(J) Minutes of a meeting on 2 December 1992 between the Minister of Conservation and iwi for the presentation of iwi reports on the Hauraki Gulf park proposals (doc 04(a)(J))
- (a)(K) ‘Hauraki Gulf Proposal: Summary of Consultation’, COA0244, Department of Conservation briefing paper to Minister of Conservation, 9 October 1995 (doc 04(a)(K))
- (a)(L) Letter from Minister of Conservation to Hauraki iwi concerning Hauraki Gulf legislation, 10 August 1998
Mailing list for above letter
(doc 04(a)(L))
- (a)(M) ‘Additional Item: Hauraki Gulf Marine Park Bill: Drafting Approval’, CAB(98) M35/20, Cabinet minutes, 14 September 1998
‘Hauraki Gulf Marine Park Bill: Further Information’, CAB(98) M41/14, Cabinet minutes, 2 November 1998
(doc 04(a)(M))
- (a)(N) Russell McVeagh McKenzie Bartleet and Company and Walters Williams and Company, ‘Report on the Hauraki Gulf Marine Park Bill’, report to tangata whenua representatives of the Hauraki Gulf Legislation Working Party, undated (doc 04(a)(N))
- (a)(O) Minister of Conservation, ‘Hauraki Gulf Marine Park Bill’, submission to Transport and Environment Select Committee, 21 April 1999 (doc 04(a)(O))
- (a)(P) Letter from Minister of Conservation to Hauraki Maori Trust Board concerning representation on Hauraki Gulf Forum, 18 April 2000 (doc 04(a)(P))
- (a)(Q) Letter from Hauraki Maori Trust Board to Minister of Conservation concerning representation on Hauraki Gulf Forum, 2 May 2000
Letter from Hauraki Maori Trust Board to Minister of Conservation concerning representation on Hauraki Gulf Forum, 12 May 2000
(doc 04(a)(Q))
- (a)(R) Letter from office of Minister of Conservation to Hauraki Maori Trust Board concerning appointment of tangata whenua representatives to Hauraki Gulf Forum, 17 May 2000 (doc 04(a)(R))
- (a)(S) ‘Additional Item: Hauraki Gulf Forum: Appointment of Tangata Whenua Representatives’, POL(OO) M11/4, Cabinet Policy Committee minutes, 17 May 2000 (doc 04(a)(S))
- (b) 1:300,000 colour map entitled ‘Hauraki Gulf and Catchment – Hauraki Gulf Marine Park’, Auckland Regional Council, 24 November 1998 (doc 04(b))
- (c) Department of Conservation, *Conservation Management Strategy for Auckland, 1995–2005*, 3 vols, Auckland, Department of Conservation, 1995 (doc 04(c))
- (d) Document entitled ‘Te Ia O’Nuku: A Waiata for the Department’, undated (doc 04(d))

- (e)(i) 'Hauraki Gulf Marine Park Bill: Drafting Approval', STR(98) M28/12, Cabinet Strategy Committee minutes, 2 September 1998 (doc 04(e)(i))
- (e)(ii) 'Hauraki Gulf Marine Park Bill: Drafting Approval', ECO(98) 152, Cabinet Economic Committee paper, 1 September 1998 (doc 04(e)(ii))
- (f)(i) 'Hauraki Gulf Marine Park Bill: Further Changes to SOP', LEG(OO) M1/4, Cabinet Legislation Committee minutes, 17 February 2000 (doc 04(f)(i))
- (f)(ii) 'Hauraki Gulf Marine Park Bill: Further Changes to SOP – Late Paper', LEG(OO) 4, Cabinet Legislation Committee paper, 16 February 2000 (doc 04(f)(ii))
- (f)(iii) 'Consideration of Further Changes to the Hauraki Gulf Marine Park Bill', paper to Government caucuses from Sandra Lee, Minister of Conservation, and John Tamihere, member of Parliament for Hauraki, undated (doc 04(f)(iii))
- (f)(iv) 'Hauraki Gulf Marine Park Bill: Changes to the SOP', CAB(OO) M4/1D(1), Cabinet minutes, undated
Facsimile from Jeanette Fitzsimons, Green Party co-leader, to Helen Clark, Prime Minister, and Sandra Lee, Minister of Conservation, concerning Hauraki Gulf Marine Park Bill, 13 February 2000
(doc 04(f)(iv))

B2 Brief of evidence of Marilyn Fullam, 6 October 2000 (doc 05)

B3 List of contents of documents B3(1)–(6), being supporting documents to document B1, (doc 07)

- (1) The Hauraki Gulf Marine Park Act 2000 (doc 07(1))
- (2) The Hauraki Gulf Marine Park Bill 1998 (PCO134/10) (doc 07(2))
- (3) The Hauraki Gulf Marine Park Bill 1998 (244–1, PCO134/15) (doc 07(3))
- (4) The Hauraki Gulf Marine Park Bill 1998 (244–2) (doc 07(4))
- (5) The Hauraki Gulf Marine Park Bill 1998 (244–3) (doc 07(5))
- (6) 'Hauraki Gulf Marine Park Bill Proposed Amendments', Supplementary Order Paper 2, 17 February 2000 (doc 07(6))

B4 Opening submissions of Crown counsel, 24 October 2000 (doc 010)

- (a) *In Tandem Marine Enhancement Ltd v Waikato Regional Council* 10 May 2000, Environment Court, A58/2000 (doc 010(a))
- (b) *GR and EE Kemp and EA Billoud v Queenstown Lakes District Council* 22 December 2000, Environment Court, C229/99 (doc 010(b))
- (c) List of contents of document C(1)–(4) (doc 010(c))
 - (c)(1) *Deed of Settlement between Te Runanga o Ngai Tahu and the Crown*, Wellington, Office of Treaty Settlements, 1999, attachment 12.65 (deed of recognition for Hananui (Mount Anglem)) (doc 010(c)(1))

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B4—*continued*

(c)(2) *Deed of Settlement between Te Runanga o Ngai Tahu and the Crown*, Wellington, Office of Treaty Settlements, 1999, attachment 12.140 (topuni for Kura Tawiti (Castle Hill) (doc 010(c)(2))

(c)(3) *Deed of Settlement between Te Runanga o Ngai Tahu and the Crown*, Wellington, Office of Treaty Settlements, 1999, attachment 12. 10 (statutory acknowledgement for Kura Tawhiti (Castle Hill)) (doc 010(c)(3))

(c)(4) *Deed of Settlement between Te Runanga o Ngai Tahu and the Crown*, Wellington, Office of Treaty Settlements, 1999, attachment 12. 74 (deed of recognition for Kura Tawhiti (Castle Hill)) (doc 010(c)(4))

(d) Department of Conservation, *Kura Tawhiti – Treasure from Afar*, Christchurch, Department of Conservation, 2000 (doc 010(d))

C. DOCUMENTS RECEIVED PRIOR TO END OF THIRD HEARING, 13 FEBRUARY 2001

C1 Closing submissions of Wai 110 and 475 claimant counsel

Te Runanga a Iwi o Ngati Tametera Inc v The Thames–Coromandel District Council and Whitianga Waterways Ltd 26 January 2001, Environment Court, A014/01 (doc Q10)

C2 Closing submissions of claimant counsel, 1 February 2001 (doc Q11)

C3 Closing submissions of Crown counsel, 9 February 2001 (doc Q12)

C4 Fergus Sinclair, ‘Kauwaeranga in Context’ (1999) 29 VUWLR 139 (doc Q5)

D. DOCUMENTS RECEIVED SUBSEQUENT TO THIRD HEARING

D1 Submissions of Wai 110 and 475 claimant counsel in response to closing submissions of Crown counsel, 22 February 2001 (doc R1)

D2 List of interpolations and corrections made to closing submissions of Crown counsel during oral presentation, 23 February 2001 (doc R2)

D3 Submissions of claimant counsel in response to closing submissions of Crown counsel, 1 March 2001 (doc R3)