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LIST OF ABBREVIATIONS

app	appendix
BOT	board of trustees
CA	Court of Appeal
doc	document
EEO	equal employment opportunities
ERO	Education Review Office
HC	High Court
MOE	Ministry of Education
n	note
no	number
NZEI	New Zealand Education Institute
NZLR	<i>New Zealand Law Reports</i>
NZTPA	<i>New Zealand Town Planning Appeals</i>
p, pp	page, pages
para	paragraph
PC	Privy Council
ROD	record of documents
s, ss	section, sections (of an Act)
sec	section (of a book, report, etc)
TROTT	Te Reo o Te Tai Tokerau
v	and
Wai	Waitangi Tribunal claim



The Waitangi Tribunal
Wellington

The Honourable Dover Samuels
Minister of Maori Affairs
Parliament Buildings
Wellington

*Tē hurumi kau nei
Hoe taituha, tai ki waho
Ki te whakangāoko i te motu nei.
Me hoki ra peā, ki te tuatahitanga
Ki te whānaketanga
Ki pihī ki te hiki o te rangi.
Kōmako te tangi he manu tui,
Tē tuiti, te tuiti,
Huia, tuia, tui tuia.
Tīhei Mouri Ora!*

E te Minita me tō rahi, ngā mihi

Nau mai, hāere atu rā ngā mihi o te rangi, o te papa whāroa, a te takiwa, ki a koutou te noho mai na i runga i tēna waka, whakahāere i te motu nei, urunga tomo ki te kai pupuri i te hoeroa.

Ko te tini mano, kua huri atu ki te wahangūtanga o te mate, kei te whatu manawa e pupuru ana inā, te ranga kei tua o pae maumahara mai uta, mai tai, kei ngā wahi katoa, hāere oti atu rā. Kāti mo aitua.

Ko te kaupapa e whai ake nei, kei te tautoko mātou i ngā whakapae a Te Whanau o Mokai arā, Ngati Te Kohera, Ngati Wairangi, Ngati Whaita, Ngati Haa, Ngati Moekino, Ngati Parekaawa me Ngati Tarakaiahi. Kahore i tika ngā ritenga whakahāere a te Karauna i te wā i aukatingia Te Kura o Mokai inā, ngā wahanga kihai i arotia ko to rātou Tino Rangatiratanga katahi, Te Taonga o Te Reo ka rua, me Te Matauranga Māori ka toru. Kei roto i te puku o te ripoata nei ngā whakamarama mo tēnei take.

Tēnei to mātou pātuki atu ki a koutou, te waka whakahāere i te motu nei, ki te wetewete i ngā here i runga i te Whanau o Mokai, ki a ō rite ai to rātou tū i tenei ao pēra i te Karauna, he ea ai, ki ngā tika whakahaere i raro i te Tiriti o Waitangi. Heoi ano, ko tēnei kaupapa kei roto i o koutou ringaringa otira, kei runga mātou i te tatari me te whakarongo.



We present to you our report on the claim made by Mohi Osborne and Te Aroha Adams on behalf of themselves and their children who were enrolled at Mokai

Primary School immediately before it was closed by the Minister of Education on 3 October 1999. They claimed they were prejudiced by breaches of the principles of the Treaty of Waitangi occasioned by inadequate consultation with the school community before the school's closure and by the closure itself. The claim was heard urgently by the Tribunal, with hearings in November 1999 and January 2000. We have completed our report with as much haste as is possible when careful consideration is also required.

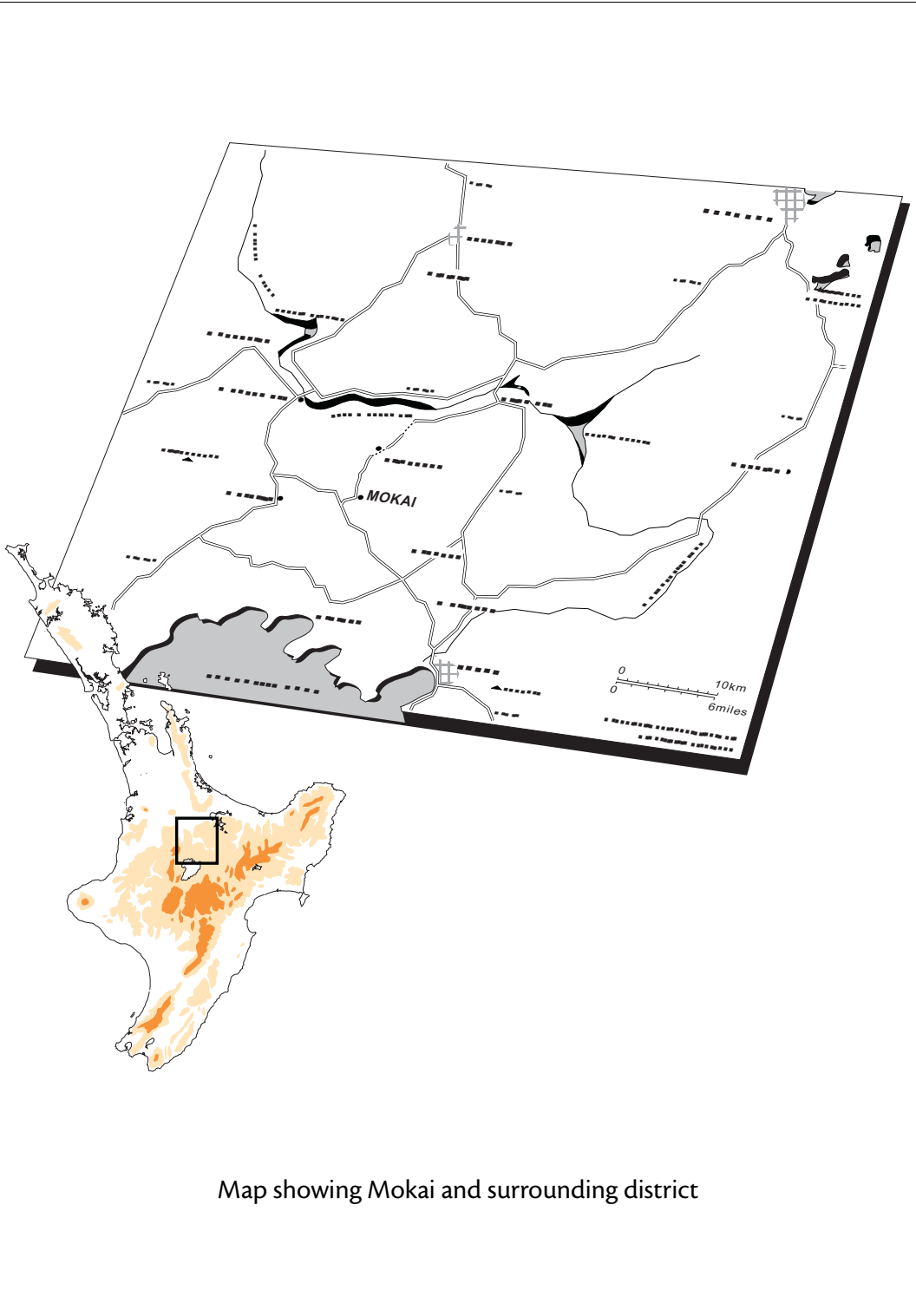
The claimants were supported by their people, who are joined by whakapapa links to the seven hapu of Mokai. They maintained that the school, which taught bilingually, made substantial progress in the last three years of its life towards meeting the Crown's requirements for quality education and the needs of Mokai children to be educated into, and in, their own community. Claimant witnesses were confident that, despite a range of difficulties, the last sole-charge principal and board of trustees of Mokai school, with abundant support from the wider community, were utilising te reo and matauranga Maori in the school's teaching in a manner that instilled in the students the self-confidence and pride that is essential to their educational success and their ability to thrive in the future within or outside Mokai. For this reason, the school was seen to be a critical means of preserving and strengthening the very identity of the Mokai people. Inevitably then, the tino rangatiratanga of Mokai, and its dependence on the acknowledged taonga of te reo and matauranga Maori, were central to the claim. It was said that the Minister of Education's closure of the school, and the process by which that was achieved, did not take sufficient account of Mokai tino rangatiratanga and the taonga of te reo and matauranga Maori that the Crown is obliged to protect.

The Crown's position was that the Minister's decision to close Mokai Primary School was reached after consideration of all relevant matters so that neither the process by which that decision was reached nor the fact of the school's closure was inconsistent with the Treaty's principles. This view was based on an interpretation of the ambit of the Crown's authority to govern (kawanatanga) that did not engage directly with the claimants' view that Mokai tino rangatiratanga is inextricably bound up with the taonga of Maori language and knowledge and that the Crown needed to give this matter due consideration when assessing the school's future. The Crown maintained that its assessment of the poor quality of education delivered at Mokai school, and of the school's inability to endure as a viable part of the national network of schools, was properly made according to the policies and practices of an education system that is committed to promoting quality education for Maori children by all reasonable means. The circumstances of Mokai school were such, however, that there were no reasonable alternatives to its closure.

Our analysis of the evidence and submissions presented in the claim leads to the conclusion that, despite the Crown's commitment to the goal of improving the education of Maori children, its closure of Mokai Primary School was not undertaken consistently with the principles of the Treaty of Waitangi. In brief, the 'good governance' that is required of the Crown, and that is demonstrated by its attention to protecting taonga and enhancing tino rangatiratanga by reasonable means, was not

evident in the chain of events that culminated in the school's closure. The nature of the prejudice this has caused the claimants is such that we recommend that Mokai Primary School be 'reopened' with more intensive support from the Crown than was available in the past. We also recommend that the Crown clarify its policies and processes for intervening (by closure or other means) in the governance of schools in difficulty.

Although the claim concerned one small primary school that was serving a rural Maori community, we consider that the Treaty arguments and evidence submitted to us (outlined in some detail in the first three chapters of this report), and our analysis of them (in chapters 1 and 4), raise larger questions about the responsiveness to Maori interests of contemporary Crown education policies. We do not purport to have the answers as to how the rights and responsibilities of the Crown and Maori may be balanced consistently with Treaty principles across the wide range of issues embraced by the education sphere. We believe, however, that this report's account of the parties' evidence and opinions, together with our analysis of their situation and comments on some of the larger questions, offers insights to matters that would benefit from further examination in light of the Treaty's principles. To that end, we have recommended that the Ministry of Education, in consultation with Maori communities, explore additional strategies to increase the Ministry's, and schools', responsiveness to the educational needs of Maori children.



Map showing Mokai and surrounding district