

APPENDIX

RECORD OF INQUIRY

RECORD OF HEARINGS

THE TRIBUNAL

The Tribunal constituted to hear Wai 958, concerning both the inclusion of certain lands and interests within the heads of agreement between the Crown and Ngati Awa for the settlement of the latter's historical claims and the Crown's settlement policy and practice, comprised Judge Carrie Wainwright (presiding), Dame Margaret Bazley, Areta Koopu, and Joseph Northover.

THE COUNSEL

Counsel appearing were Kathy Ertel with Liz Cleary for the Wai 958 claimants; Te Kani Williams and Annette Sykes for the Wai 975 claimants; David Ambler with John Koning for the Wai 36 claimants; David Rangitauira and Peter Churchman for the Wai 524 claimants; Jamie Ferguson and Mātanuku Mahuika for the Wai 46 claimants; and Virginia Hardy with David Soper for the Crown.

THE HEARINGS

The claim was heard at the Rydges Hotel, Rotorua, on 17 and 18 June 2002 and the Quality Hotel, Wellington, on 20 and 21 June 2002. The Tribunal heard from Robert Pouwhare, Huka Williams, Tama Nīkora, David Potter, Deborah Collins, Andrew Hampton, Dr Hirini Mead, Joe Mason, and Samuel Tūtua.

RECORD OF PROCEEDINGS

1. CLAIMS

1.1 Wai 958

A claim by Robert Pouwhare on behalf of himself and Ngāti Haka Patuheuheu concerning the inclusion of the Matahina A1B, A1C, A4, A5, and A6 blocks within the heads of agreement between the Crown and Ngāti Awa for the settlement of the latter's historical claims, 20 December 2001
(a) Amended statement of claim, 26 February 2002

1.2 Wai 975

A claim by Sir John Turei, Mat Te Pou, Wairere Tame Iti, Robert Powhare, Wharekiri Biddle, and Tom Winitana on behalf of themselves and Ngā Rauru o Ngā Pōtiki concerning the inclusion of the Matahina A1B, A1C, A4, A5, and A6 blocks and interests in Motuhorā Island and Ōhiwa Harbour within the heads of agreement between the Crown and Ngāti Awa for the settlement of the latter's historical claims, 26 February 2002

2. PAPERS IN PROCEEDINGS

2.1 Memorandum from Wai 958 claimant counsel to Tribunal requesting urgency, 20 December 2001

2.2 Memorandum from deputy chairperson to parties directing registrar to register claim 1.1 as Wai 958 and directing claimants, Crown, Ngāti Awa, and Tuhoe-Waikaremoana Maori Trust Board to file submissions on granting of urgency, 25 January 2002

(a) Declaration that notice of registration of claim 1.1 given, 28 January 2002

List of parties sent notice of registration of claim 1.1, 1 February 2002

2.3 Memorandum from Wai 975 claimant counsel to Tribunal requesting reconvening of Wai 46 Tribunal and requesting recommendation that the Crown take no further steps towards divesting itself of any interest in claimed areas or creating any interest in those areas in any other party, 20 December 2001

2.4 Memorandum from Wai 524 claimant counsel to Tribunal advising latter that Ngāti Rangitihī do not want Matahina lands transferred to Ngāti Awa and requesting notice of any urgent hearing, 30 January 2002

- 2.5 Memorandum from Wai 958 and Wai 975 claimant counsel and Crown counsel to Tribunal seeking extension for filing of submissions on urgency, 1 February 2002
- 2.6 Memorandum from Wai 36 claimant counsel to Tribunal supporting Wai 958 application for urgency, 1 February 2002
- 2.7 Submission of Wai 958 claimant counsel supporting earlier application for urgency (paper 2.1), 4 February 2002
- 2.8 Memorandum from Wai 975 claimant counsel to Tribunal requesting urgency, 4 February 2002
- 2.9 Submission of Crown counsel opposing Wai 958 application for urgency, 4 February 2002
- 2.10 Submission of Crown counsel opposing Wai 975 application for urgency, 4 February 2002
- 2.11 Submission of Wai 46 claimant counsel opposing Wai 958 application for urgency, 4 February 2002
- 2.12 Memorandum from deputy chairperson to parties authorising Judge Carrie Wainwright to determine Wai 958 application for urgency, 5 February 2002
- 2.13 Memorandum from Judge Carrie Wainwright to parties declining Wai 958 application for urgency, 8 February 2002
- 2.14 Memorandum from Judge Carrie Wainwright to parties granting renewed Wai 958 application for urgency and directing parties to file memoranda setting out their positions with respect to Ngāti Awa settlement offer and Crown policies and practices, 6 June 2002
- 2.15 Memorandum from Wai 958 claimant counsel to Tribunal renewing application for urgency, 31 May 2002
- (a) Supporting documents to paper 2.15
- 2.16 Memorandum from Tribunal to registrar directing latter to register claim 1.1(a), 4 June 2002
- 2.17 Facsimile from Wai 36 claimant counsel to Tribunal giving notice of Wai 36 claimants' interest in Matahina lands and requesting postponement of proposed telephone conference between Judge Carrie Wainwright, Wai 958 claimant counsel, and Crown counsel, 6 June 2002

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2.18 Memorandum from Judge Carrie Wainwright to parties summarising 6 June 2002 telephone conference between Judge Wainwright, Wai 958 claimant counsel, Wai 975 claimant counsel, Wai 46 claimant counsel, and Crown counsel on timetabling of High Court proceedings and Tribunal hearing, granting of leave to Wai 36 claimants to join inquiry, and filing and service of documents, 6 June 2002

2.19 Covering letter from Crown counsel to Tribunal, 6 June 2002

Statement of claim of first and second plaintiffs in *Milroy and Anor v Attorney-General* (High Court, Wellington, CP77/02), 17 April 2002

Letter from Crown counsel to plaintiff counsel advising latter that no undertaking to defer initialling of deed of settlement between Ngāti Awa and Crown can be given and proposing timetable for hearing, 5 June 2002

Letter from Crown counsel to plaintiff counsel proposing timetable for High Court proceedings and advising latter of Crown's willingness to defer initialling of deed of settlement between Ngāti Awa and Crown pending resolution of High Court proceedings, 24 May 2002

Minute of Justice Gendall allocating urgent fixture and reserving leave for applications for interim relief with respect to *Milroy and Anor v Attorney-General* (High Court, Wellington, CP77/02) and *Pouwhare v Attorney-General* (High Court, Wellington, CP78/02), 27 May 2002

2.20 Letter from Wai 524 claimant counsel to Tribunal requesting service on Ngāti Rangitahi of documents filed in relation to Wai 958 urgent hearing and agreeing to timetable for filing of memoranda set out in paper 2.18, 7 June 2002

2.21 Memorandum from Wai 958 claimant counsel to Tribunal setting out claimant's position with respect to Ngāti Awa settlement offer and Crown policies and practices, 9 June 2002

2.22 Memorandum from Wai 975 claimant counsel to Tribunal setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices, 9 June 2002

2.23 Facsimile from Wai 958 claimant counsel to Tribunal providing additional information on High Court proceedings involving Ngāti Haka, 4 June 2002

Letter from Tribunal to Wai 958 claimant counsel outlining status of renewed application for urgency and requesting additional information on High Court proceedings involving Ngāti Haka, 31 May 2002

2.24 Memorandum from deputy chairperson to registrar directing latter to register claim 1.2 as Wai 975, 10 June 2002

- 2.25** Declaration that notice of registration of claim 1.2 given, 11 June 2002
List of parties sent notice of registration of claim 1.2, 11 June 2002
- 2.26** Direction of deputy chairperson constituting Tribunal of Judge Carrie Wainwright (presiding), Dame Margaret Bazley, and Areta Koopu to hear claim Wai 958, 10 June 2002
- 2.27** Memorandum from Wai 975 claimant counsel and Wai 958 claimant counsel to Tribunal requesting consolidation of claim Wai 975 with claim Wai 958, 26 February 2002
- 2.28** Memorandum from Tribunal to parties advising latter of request from Wai 958 claimant that urgent hearing be held in Rotorua and inviting comment on venue, 11 June 2002
- 2.29** Memorandum from Crown counsel to Tribunal naming Wellington as preferred venue for urgent hearing, 11 June 2002
- 2.30** Memorandum from Wai 36 claimant counsel requesting extension for filing and serving memorandum setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices, 11 June 2002
Covering facsimile from Wai 36 claimant counsel to Tribunal accompanying 11 June 2002 memorandum setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices, 11 June 2002
- 2.31** Memorandum from Wai 36 claimant counsel to Tribunal setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices and naming Wellington as preferred venue for urgent hearing, 12 June 2002
- 2.32** Memorandum from Wai 524 claimant counsel to Tribunal setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices, 11 June 2002
- 2.33** Memorandum from Wai 46 claimant counsel to Tribunal opposing choice of Rotorua as venue for urgent hearing and naming Wellington as preferred venue, 12 June 2002
- 2.34** Memorandum from Tribunal to parties declining to adjourn scheduled urgent hearing, naming Rotorua as venue for urgent hearing, and directing parties to advise Tribunal of evidence to be presented and time required for such presentation, 12 June 2002
- 2.35** Memorandum from Crown counsel to Tribunal concerning giving of notice to David Potter of urgent hearing, 12 June 2002

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- 2.36 Memorandum from Wai 524 claimant counsel to Tribunal advising latter of David Potter's membership of Ngāti Rangitihi Claims Committee, 13 June 2002
- 2.37 Letter from Crown counsel to registrar advising latter of counsel's inability to meet filing deadline and giving anticipated filing date, 13 June 2002
- 2.38 Letter from Te Kani Williams to registrar advising latter of his appointment as counsel for Wai 975 claimants with respect to urgent hearing, 13 June 2002
- 2.39 Memorandum from Wai 958 claimant counsel to Tribunal giving notice of intention to call two witnesses at urgent hearing, outlining time required for witnesses, and listing evidence to be referred to, 14 June 2002
- 2.40 Memorandum from Crown counsel to Tribunal setting out Crown's position with respect to Ngāti Awa settlement offer and Crown policies and practices, 14 June 2002
- 2.41 Memorandum from Wai 36 claimant counsel to Tribunal giving notice of intention to call one witness at urgent hearing and outlining time required for witness, 14 June 2002
- 2.42 Memorandum from Wai 524 claimant counsel to Tribunal listing evidence to be referred to at urgent hearing, 14 June 2002
- 2.43 Memorandum from Crown counsel to Tribunal advising latter of filing of brief of evidence of Deborah Collins (doc A1) and outline of Crown counsel's submissions on application of Treaty principles, 14 June 2002
- 2.44 Memorandum from Wai 46 claimant counsel to Tribunal giving notice of intention to call three witnesses at urgent hearing, advising Tribunal of counsel's inability to meet filing deadline, and giving anticipated filing date, 14 June 2002
- 2.45 Memorandum from Wai 975 claimant counsel to Tribunal giving notice of intention to call two witnesses at urgent hearing and outlining time required for witnesses, 14 June 2002
- 2.46 Memorandum from Wai 46 claimant counsel to Tribunal setting out claimants' position with respect to Ngāti Awa settlement offer and Crown policies and practices, 14 June 2002
- 2.47 Memorandum from Wai 524 claimant counsel to Tribunal outlining discussions undertaken by Ngāti Rangitihi with respect to Ngāti Awa settlement, 19 June 2002

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- 2.48 Memorandum from Crown counsel to Tribunal disclosing four documents brought to attention of Crown as part of High Court discovery process, 25 June 2002
- 2.49 Memorandum from Wai 958 claimant counsel to Tribunal requesting confirmation of reconvening of Ngāti Awa Tribunal or reasons for failure to reconvene Tribunal, 3 July 2002
- 2.50 Memorandum from Wai 958 claimant counsel to Tribunal seeking leave to file draft research report, 8 July 2002
- 2.51 Memorandum from Wai 36 claimant counsel to Tribunal opposing granting of leave to file draft research report and declining consent to release said report, 10 July 2002
- 2.52 Memorandum from Tribunal to parties declining application to reconvene Ngāti Awa Tribunal and declining application for leave to file draft research report, 11 July 2002

RECORD OF DOCUMENTS

A DOCUMENTS RECEIVED TO END OF HEARING

- A1 Brief of evidence of Deborah Collins, undated
- (a) Supporting documents to document A1, vol 1
- (b) Supporting documents to document A1, vol 2
- A2 Opening submissions of Wai 958 claimant counsel, 17 June 2002
- A3 Submissions of Wai 975 claimant counsel, 17 June 2002
- A4 Submissions of Wai 524 claimant counsel, 18 June 2002
- A5 Brief of evidence of Tamaroa Nikora, 17 June 2002
- A6 Brief of evidence of David Potter, undated
- A7 Office of Treaty Settlements, *Healing the Past, Building the Future: A Guide to Treaty of Waitangi Claims and Direct Negotiations with the Crown* (Wellington: Office of Treaty Settlements, 1999), pp 23, 61
- A8 Brief of evidence of Dr Hirini Mead, 20 June 2002

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A9 Claim by David Potter and Andre Paterson on behalf of themselves as members of Ngāti Rangitihī concerning confiscation of Bay of Plenty lands and destruction of resources, 21 March 2002

A10 Closing submissions of Wai 958 claimant counsel, 27 June 2002

A11 Closing submissions of Wai 36 claimant counsel, 27 June 2002

A12 Closing submissions of Wai 975 claimant counsel, 26 June 2002

A13 Closing submissions of Crown counsel, 2 July 2002

A14 Submissions of Wai 958 claimant counsel in reply to closing submissions of Crown counsel, 5 July 2002

A15 Submissions of Wai 36 claimant counsel in reply to closing submissions of Crown counsel, 5 July 2002

A16 Closing submissions of Wai 46 claimant counsel, 5 July 2002

A17 Submissions of Wai 36 claimant counsel in reply to closing submissions of Wai 46 claimant counsel, 8 July 2002

ACKNOWLEDGEMENTS

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