

**IN THE WAITANGI TRIBUNAL**

Wai 2666

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

a claim by Haydn Thomas Edmonds on behalf of the Ngātiwai Trust Board and the iwi of Ngātiwai

**MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON**

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 24 July 2017.

The claimant has applied to have their claim heard urgently by the Tribunal and this application will be dealt with in separate directions.

The claimant should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Haydn Thomas Edmonds on behalf of the Ngātiwai Trust Board and the iwi of Ngātiwai and concerns the Hauraki Collective Deed of Settlement. The claimant alleges that the Crown has breached the principles of the Treaty of Waitangi by:

- Creating rights which erode the customary rights and tikanga of Ngātiwai, through means inconsistent with tikanga and the Treaty;
- Undermining the mana, rangatiratanga, tikanga and customary interests of Ngātiwai;
- Creating divisions and damaging the relationship between Ngātiwai and the iwi of Hauraki; and
- Proposing to transfer properties to the iwi of Hauraki, which will preclude Ngātiwai hapū from purchasing land on Aotea or preclude the Crown from offering such land to Ngātiwai hapū.

The claimant seeks a variety of relief, including recommendations for the Crown:

- To revise its overlapping claims policy so that it is consistent with the principles of the Treaty of Waitangi;
- To remove the protocols redress in the Ngāi Tai ki Tamaki (NTKT) Deed of Settlement in so far as it relates to areas that overlap with the Ngātiwai rohe;
- To remove reference to fixed boundary points on the map to which the Hauraki Collective Fisheries RFR relates;
- To include in the Hauraki Deed of Settlement a provision that the Hauraki Collective Fisheries RFR must be consistent with the allocation policies under the Māori Fisheries Act 2004;
- To not further progress the Protocols Redress, the Aotea Redress and the Ngati Whanaunga Redress in so far as such redress relates to areas that overlap with the customary interests of Ngātiwai;

- To establish an independent, tikanga-based process to determine the customary interests of Hauraki iwi and Ngātiwai within the Ngātiwai rohe; and
- To establish an independent dispute resolution process between the Crown, Hauraki iwi and Ngātiwai to consider customary interests and to determine appropriate terms of any settlement redress to be offered to Hauraki iwi within the Ngātiwai Rohe.

The claimant may amend this claim at a later stage. In any case the Tribunal may require the claimant to prepare a fully particularised statement of claim before the claim can be heard.

The Tribunal currently runs district and kaupapa inquiry programmes in which claims are grouped either by district or by kaupapa (thematic) issue. District inquiries are currently in preparation or hearing in Te Paparahi o Te Raki, Porirua ki Manawatu and Taihape: Rangitikei ki Rangipo. In other districts, Tribunal inquiries have been completed or are in report writing, or the principal claimant groups have settled their claims with the Crown, or are in or preparing for Treaty settlement negotiations.

In April 2015 the Chairperson issued a memorandum outlining a kaupapa inquiry programme. The first of the kaupapa inquiries – the Military Veterans Kaupapa Inquiry and the Health Services and Outcomes Kaupapa Inquiry – are now under way.

The Tribunal's Strategic Direction 2014-2025, launched by the Chairperson in July 2014, outlines two other new programmes for claims that have fallen outside the scope of the district and kaupapa inquiries, one for remaining historical claims (to be completed by 2020) and the other for contemporary claims (to start after 2020). Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations in this claim are contemporary in nature. Although arising in relation to a specific geographic area, they pertain to the Crown's mandating policy and process and as such may be best suited for consideration in a kaupapa inquiry. If an urgent hearing is not granted for this claim, it may fall within the scope of a future kaupapa inquiry or, alternatively, of the future contemporary claims programme but it is unknown when the Tribunal will be able to inquire into it.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimant needs to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Act). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimant also needs to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimant should check their telephone directory for contact details.

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email [wt.registrar@justice.govt.nz](mailto:wt.registrar@justice.govt.nz).

The Registrar is to send a copy of this direction to the claimant and to:

- Crown Law Office;
- Office of Treaty Settlements;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri
- Ngātiwai Trust Board;
- Hauraki Collective; and
- All those on the notification list for:
  - Wai 2616, the Hauraki Collective Deed of Settlement (Ngāi Te Rangi) claim;
  - Wai 2617, the Hauraki Collective Deed of Settlement (Te Arawa) claim;
  - Wai 2652, the Hauraki Collective Deed of Settlement (Mangakahia) claim;
  - Wai 2653, the Hauraki Collective Deed of Settlement (Te Whakakitenga) claim;
  - Wai 2664, the Hauraki Collective Deed of Settlement (Maatai Ariki R Kauae Te Toki) claim;
  - Wai 2665, the Hauraki Collective Deed of Settlement ( Patrick Nicholas) claim; and
  - Wai 2666, the Hauraki Collective Deed of Settlement (Ngāti Wai) claim.

**DATED** at Wellington this 24<sup>th</sup> day of August 2017



Judge P J Savage

Deputy Chairperson

**WAITANGI TRIBUNAL**