TE MANUTUKUTUKU

Te Roopu Whakamana i te Tiriti o Waitangi Panui

Waitangi Tribunal Division Department of Justice Newsletter

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Surplus Railcorp Properties for Sale in Auckland

In 1991 the Crown and the National Maori Congress established a joint working party (CCJWP) to consider Treaty of Waitangi claims to Railways surplus properties with the aim of reaching agreement on the disposal of those properties, whether to Maori or other parties.

The CCJWP's first priority was the clearance of Railways surplus lands in central Auckland. In May 1992 it reported to the Minister of Justice that it has obtained the clearance for sale by Railways of some 407 surplus properties, which equates to approximately 60% of the value of Railway's entire property holdings. The Auckland properties have a market value of about $100 million.

A number of options for compensation to Auckland iwi have been presented for Crown consideration. Specific properties with spiritual or cultural significance to tribes have been set aside.

The CCJWP describes the strengths of its process:

- the CCJWP process has the ability to deal quickly and effectively with diverse tribal interests, so as to reach a settlement which has clear benefits both for the Crown and Maori
- the process of direct consultation with all the relevant tribal interests, and the involvement of the National Maori Congress, appears to have brought about a spirit of cooperation and conciliation which would not have been available under more adversarial circumstances, where the Crown's views were set against those of Maori groups
- the CCJWP is constituted so it is able to assist tribes to put their dealings in respect of Railways surplus land into the wider context of their economic and social development. The CCJWP's expertise enables tribes to maximise the commercial opportunities which are being made available to them through arrangements in relation to the Railways surplus lands. This is a very positive aspect not only from the point of view of the tribes, but also because it enables the Crown to have confidence that the benefit of settlements is being maximised
- because the CCJWP stands outside both Maori and Crown structures, it has no history of frustration or failure in this area; it starts afresh with a new bipartisan structure and a different mandate, and imperatives distinct from those of the other Treaty justice-delivery mechanisms. The circumstances allow the CCJWP to start from a position of strength, as confirmed by the positive results to date.

Maori Grievances and the Private Land Issue

Following is an extract from the speech given by John Kneebone, a former president of Federated Farmers, at the Federated Farmers annual conference in May. Mr Kneebone was not speaking as a member of the Waitangi Tribunal.

I believe I am here because of your concerns and fears for the security of tenure of the land you farm. I understand and identify with your anxiety, for like you, I and my family are totally dependent on the integrity of the title to the land we farm.

I know that much of your anxiety derives from the recent recommendations made by the Waitangi Tribunal in its Te Roroa report, some of which concerns land in private ownership here in Northland.

I cannot discuss the Te Roroa report because the Tribunal, of which I am a member, is still sitting. However, I do want to talk about the land and about the Tribunal process, the impact of which reaches into every household and affects every citizen.

But before I start, it might be helpful if we all take a deep breath, stand back a pace or two from the action, and ask the simple question – what are the facts? Facts, as you know, very rapidly prove to be elusive. We are left in most situations with often conflicting evidence. It is very important that we remind ourselves of that simple truth. For that reason, I'd like you to listen objectively to what I have to say and then stack that up against your set of facts and reach your own independent conclusion.

There is nothing more corrosive to public confidence in a process if the community is left in the dark as to how it works and how it is likely to affect them. For reasons which I cannot explain, better qualified people than I show a profound reluctance to explain fundamental procedures, and in particular the reasons why the Crown will and must guarantee titles it uses to land.

continued

We should remember that any claim is only a claim until it is proven. At the same time, the sooner everyone acknowledges the sanctity of a Crown-guaranteed title and stops scare-mongering and grandstanding for the media, the more expeditiously we can get on with the job of investigating claims.

Once a title is issued by the Crown, it is *guaranteed* by the Crown. If any financiers are, as reported, threatening to retrieve credit advanced and secured to land to which a Crown title has been issued, I can only comment that they must have very scant knowledge of land law, and some pretty unprofessional lending criteria. If any of you are so affected, I suggest you take your business to a financier who understands the business.

Maori land owners are not the only citizens who discover to their horror that the Crown has issued a title and sold land that was not the Crown's to sell. My father fell victim to such human error in the 1960s and it took 11 years of dogged persistence, with absolutely no assistance from the Crown agency responsible, to have the situation rectified. But for the cooperation of the purchaser, who agreed to sell the land back to the Crown, and then on to my father, that case would possibly still be in the 'too hard' basket along with umpteen other claims.

The significance of this is two-fold – no system is infallible; all systems are subject to human error. But because of the down-stream flow-on effect of human error in the land title issuing business, the issuing authority, always – I repeat always – stands by its action and guarantees that title.

The corollary to this is that the original owner is seriously disadvantaged. Once a title is issued, the integrity of everything that relies on that title – mortgages, family homes, domestic and international commerce – depends entirely on the sanctity of that title.

History tells us that governments for all of the above reasons do not, in fact cannot, renege on a title. If the title is in your name you are secure. If the title is not in your name, even though you may never have agreed to sell, or been paid, you are very insecure. This is the genesis of the greater part of the human unrest we see on our TV screens every night in all regions of the world. A problem as old as civilisation.

The only way such a dilemma can be resolved, if a claim is proven beyond reasonable doubt, is for the title issuing authority, in our case the Crown, to purchase the land back, but the owner *must* be a willing seller. Claimants, be they Pakeha like my father, or Maori, may have the satisfaction of their claim being justified but also have the frustration of waiting decades before the title-holder is willing to sell.

The Tribunal and Maori leadership is on record as having stated repeatedly 'there is no point in resolving one grievance by creating another'. For that reason you will not find the Tribunal making recommendations to the effect that land in private ownership be 'compulsorily' acquired and handed over to claimants where a claim has been proven, because the effect would do just that – create another grievance.

In any dispute resolution process, there are never any winners. Everyone has to compromise and most of us do not find that an easy process. No land owner is immune to an intervention into their land. It is most important to understand that there is much less likelihood of a government intervention to satisfy a Waitangi Tribunal claim than there is from a road re-alignment, an energy transmission route, a riparian strip or the bad luck of having some native trees growing on your property which assume the status of a national shrine.

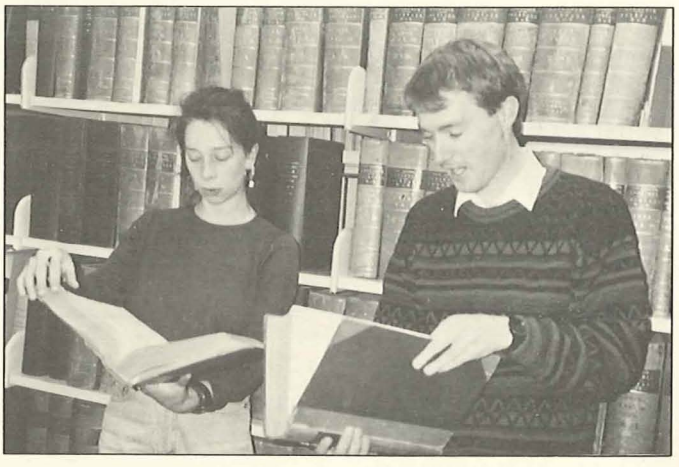
There have been recent comments that the problem is with the legislation, that the Tribunal shouldn't have the power to make recommendations about land in private ownership. I think that it is neither feasible nor practical to attempt to put the clock back and say Waitangi Tribunal legislation was a mistake. We always knew that the questions being dealt with by the Tribunal were tough ones. That was the reason for establishing the Tribunal in the first place. It's only now, after 17 years, that the Tribunal is starting to hit its straps in response to the elected government's desire to have all claims addressed by the turn of the century, that we have a focusing on these tough questions. Knowing all that, we shouldn't now be surprised at the tough answers needed.

The thing is that these claimants are not foreigners or aliens, but citizens of this country who can trace their ancestry back for generations to establish their residential qualification. The same as most of us can. They are real people, friends, relatives and neighbours, and their grievances are not going to evaporate. After 150 years they haven't evaporated, they are not going to go away. Therefore their grievances must be laid upon the table for all to see.

Community Task Force Project Under Way

Jane Falloon and Evan Morgan, both graduates of Victoria University of Wellington, are compiling an index of all Maori issues in the New Zealand Parliamentary debates of last century.

The New Zealand Employment Service scheme, called the Community Task Force, provides opportunities for unemployed people to work voluntarily on tasks that will benefit the community and provide work experience for the volunteers. Jane and Evan will also compile a record of all Maori language material in the appendices to the Journal of the House of Representatives and a list of all Maori petitions. These resources will be of great assistance to researchers of Treaty of Waitangi claims.



Jane Falloon and Evan Morgan sifting through the Parliamentary debates

New Claims Registered

WAI 279
Claimant: EC Uruamo for Te Taou Rewiti Charitable Trust
Concerning: Te Keti blocks
Region: Auckland
Received: 8 April 1992

WAI 280
Claimants: Laly Paraone Haddon and others for descendants of Rahui Te Kiri
Concerning: Little Barrier Island – forests, fisheries and other matters
Region: Hauraki Gulf
Received: 9 March 1992

WAI 281
Claimants: Waikura Herewini and others for Te Whanau a Kaiaio of Te Whanau a Apanui
Concerning: Maungaroa land
Region: Te Kaha
Received: 15 April 1992

WAI 282
Claimants: Robert Mita Taupopoki Piripi for Ngati Wahiao
Concerning: Whakarewarewa, blocks 2 and 3
Region: Rotorua
Received: 8 April 1992

WAI 283
Claimants: Eric John Tupai Ruru, Tutekawa Wyllie and Peter Gordon for Te Aitanga a Mahaki, Ngai Tamanuhiri and Rongo Whakaata
Concerning: East Coast, North Island raupatu
Received: 26 March 1992

WAI 284
Claimants: Margaret Shirley Mutu and others, and the Ngati Kahu Trust Board
Concerning: Rating and valuation of Karikari 2 for rating purposes
Region: Muriwhenua
Received: 7 February 1992

WAI 285
Claimants: Shane Ashby for Ngati Pukenga
Concerning: Manaia, blocks 1 and 2
Region: Coromandel Peninsula
Received: 10 December 1991

WAI 286
Claimants: Daphne Tait-Jones for Tuhoe
Concerning: Adoption of children
Region: Aotearoa
Received: 27 May 1992

WAI 287
Claimants: Arlana Lara Delamere for Te Whanau a Apanui, Whakatohea and Tuhourangi and all school children of Aotearoa
Concerning: School history syllabus
Region: Aotearoa
Received: 23 April 1992

NEW STAFF MEMBERS

Marama Henare, of Ngati Maniapoto, Ngati Porou and Ngati Hine, is working on contract doing legal research. She has completed a law degree at Auckland University and this is her first job where she will be putting her legal skills to use.

Denise Traill, of Ngati Rangitane, Ngati Kahungunu ki Wairarapa and Cook Islands descent, is the Tribunal's new administration officer. Denise was formerly the Maori liaison officer for the Housing Corporation, Lower Hutt. She has two daughters and instructs the Midget Marching Team for Te Roopu Hikoi ma Te Aroha Whanau.

MAORI AND THE RESOURCE MANAGEMENT ACT 1991

The Ministry for the Environment is producing a publication, entitled *Kia Matiratira,* which looks at the provisions of the Resource Management Act 1991 and how they relate to resource management issues facing Maori. It is a guide to the Act and could be of some benefit to potential claimants.

Kia Matiratira is being distributed to runanga, iwi authorities, iwi, hapu, and whanau who have shown interest in resource management issues. Complimentary copies to iwi may be obtained from:

Ministry for the Environment,
PO Box 10-362,
Wellington.

Attention: Harold Wereta.

There are also copies for purchase from Bennetts Government Bookshops.

Preliminary Reports Team

The Waitangi Tribunal has established a team of researchers to investigate the background of about 60 'small' claims on the Tribunal register. 'Small' is used with caution; claims that initially appear to be straightforward often turn out to be far more complex as research progresses.

Following are the researchers in this team and the claims they are investigating.

Suzanne Woodley

WAI 24 – Witehira rates
WAI 115 – Sewage rates
WAI 148 – Manaia 1C
WAI 159 – Tuhua
WAI 184 – Whangarae 1C
WAI 228 – Matakana Island
WAI 230 – Matauri and Putataua Bays
WAI 252 – Tarewa marae rates
WAI 258 – Ranfurly Bay Scenic Reserve, Matakeraka B3, Te Anina Pt
WAI 266 – Matakana Island
WAI 273 – Tapuwae Inc
WAI 285 – Manaia 1B & 2B

John Koning

WAI 43 – Nukuhau Marina and Lake Taupo
WAI 61 – Kaimanawa to Rotoaira land
WAI 80 – Waihaha and other lands
WAI 84 – Turangi lands
WAI 92 – Tokaanu B2F2, Puketi, Taupo lakeside
WAI 114 – Lake Taupo fisheries
WAI 178 – Lake Rotoaira
WAI 185 – Pepepe land
WAI 233 – Tarawera land
WAI 254 – Ngati Motai/Te Poi
WAI 255 – Ngati Mahana/Putaruru

Anita Miles

WAI 67 – Owira/Whananaki
WAI 149 – Te Horo Block development scheme
WAI 162 – Kopu-Kairoa Telecom site
WAI 173 – Waiapu River
WAI 224 – Maraehako block
WAI 234 – Motukawanui Island, Matauri
WAI 259 – Tawhiri Pa
WAI 111 – Te Raupo land, Bay of Islands
WAI 120 – Opua lands and waters, Bay of Plenty
WAI 244 – Ngati Wai lands and fisheries

Preliminary Reports team. From left: Paul Kennett, Anita Miles, John Koning, Sharyn Green (Ngati Maniapoto, Tainui), Suzanne Woodley

Sharyn Green

WAI 21 – Tasman Company pollution, Kawerau
WAI 68 – Motatau 1B5B5
WAI 247 – Waiohau C25
WAI 248 – Waiohau C26
WAI 82 – Omanaia lands
WAI 257 – Rangitaiki Plains
WAI 267 – Palmerston North Hospital land
WAI 270 – Kairakau block
WAI 278 – Waikokopu block

Paul Kennett

WAI 60 – Parai Estate, Takapuwahia C2A3
WAI 66 – Te Whaiti 1 & 2
WAI 238 – Former Hough whanau land
WAI 75 – Hauhungaroa and other blocks
WAI 78 – Torere, Opotiki
WAI 172 – Queen's Chain, riparian rights, Makara
WAI 181 – Kekerione, Chatham Islands
WAI 214 – Parikino block
WAI 251 – Te Rawhiti

Land Claims Settled

Owners of Oriwa 1B3 in the Whangarei region objected to a district scheme designation which proposed that the land should be a public reserve.

Following inquiries by Tribunal research staff and the commissioning and release of an exploratory research report on the matter, the Tribunal has received formal advice that the Department of Conservation has requested that the public reserve designation be lifted. The designation will now be removed and the district plan amended by the relevant territorial authority.

If you want to receive your own copy of *Te Manutukutuku*, please fill in this form.
Your name will be added to the mailing list.

Name _____ Address _____

Return this form to the Information Manager,
Waitangi Tribunal, PO Box 5022,
Wellington/Te Whanganui-a-Tara

Please advise the Waitangi Tribunal Division of any changes of address.