

WAITANGI TRIBUNAL

Wai 2417

CONCERNING

the Treaty of Waitangi Act 1975

ANDthe New Zealand Māori Council
Māori Community Development
Act Claim**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER**

1. On 14 and 28 May 2014 the Waitangi Tribunal received the closing submissions of the Crown and claimants in relation to this claim (Wai 2417, #3.3.3 & #3.3.5). The Tribunal is now in the process of writing its report. Given the large volume of material involved in these proceedings we anticipate that it will take 4-5 months to complete a pre-publication version of our report on the issues.
2. We note there is much the parties could continue to work on while we complete our report. This could include continuing to negotiate over the proposal of the Chief Executive of Te Puni Kōkiri (TPK) concerning a possible way forward.
3. That proposal for facilitating the review of the Māori Community Development Act 1962 and the role of the Māori Wardens was essentially as follows:
 - a) Two reference groups could be established, one comprised of New Zealand Māori Council representatives and the other of Māori Warden Representatives. Those reference groups should engage with or seek advice from other stakeholders such as iwi, the Iwi Chairs Forum, the Māori Women's Welfare League, Māori authorities, and Te Kohanga Reo Trust.
 - b) The reference group members and stakeholders would be free to engage with their own constituencies as they see fit. The reference groups and stakeholders would advise their views and proposals to the Crown. The Crown would merely facilitate the establishment of the two reference groups.
 - c) The groups would be free to operate and engage with their stakeholders and others as they see fit subject to agreement by the Crown as to Crown funding and timing matters. The members of the New Zealand Māori Council reference group would be selected by the New Zealand Māori Council.
 - d) Nominations for the Māori Wardens reference group will be sought from a cross section of groups representing Māori Wardens including the New Zealand Māori Council and the Māori Wardens Association.
 - e) In assessing any proposals for reform that involve legislative reform or have public funding implications, the Crown wants to be free to undertake its own research, receive its own advice and itself consult relevant stakeholders.
4. In their closing submissions the claimants have raised issues regarding Ms Hippolite's proposal for the future. The claimants want to lead any review of the Māori Community Development Act 1962 in accordance with their own timetable and in accordance with their own procedures.

5. In terms of the Crown's proposal, the claimants express concern that the Crown has not identified what criteria it will apply in choosing between any competing proposals that emerge from the two stakeholder groups it suggests be set up (or which, for that matter, emanate from the Crown and its parallel process of seeking advice and views on reform which it may not even disclose to Māori). They also do not accept that two reference groups are needed and nor do they accept that the Crown should discuss the issues and take advice from any other group.
6. Nonetheless, the claimants do accept that if the Crown is to give statutory effect to the proposed changes the Crown will need to be satisfied as to the reasonableness of the proposals, of any fiscal elements and of the extent of consultation and the level of Māori support. They contend that at the end of the review process led by the New Zealand Māori Council, and only then, should the Crown be looking to 'audit' the Māori-developed proposal for reform.
7. We see that the positions taken by the Crown and the claimants have not closed off the possibility of a mediated or negotiated process that could move the parties forward. That process could begin at any time and we welcome the steps both sides have taken in at least presenting options for the future. We encourage the parties to meet sooner rather than later and see if they can provide some accommodation of each other's positions.
8. As a matter of priority we note that they could, at the least, meet to discuss interim administrative measures for the Māori Wardens Project while awaiting the Waitangi Tribunal's report, even if they are unable to agree on a process for the review of the 1962 Act.
9. Parties may wish to engage the assistance of an outside objective mediator to assist any discussions.
10. We assure all parties that any interim solution reached in respect of the administration of the Wardens Project until the release of our report, will not be taken into account by the Tribunal in its deliberations unless both sides agree.

The Registrar is directed to send a copy of this direction to counsel for the claimants, Crown counsel and all those on the distribution list for Wai 2417, the New Zealand Māori Council Māori Community Development Act Claim.

DATED at Gisborne this 10th day of June 2014



Deputy Chief Judge C L Fox
Presiding Officer
WAITANGI TRIBUNAL