

The Honourable Parekura Horomia
Minister of Māori Affairs
Parliament Buildings
WELLINGTON



The Waitangi Tribunal
141 The Terrace
WELLINGTON

19 March 2007

E te Minita Māori

Tēnā rā koe e te rangatira e noho mai na i runga i tēnā taumata whakahirahira, e whakatutuki nei i ngā kaupapa me ngā moemoeā a te iwi Māori. Tēnā hoki koe e whai ake ana i ngā tapuwae o te hunga rongonui i mua atu i a koe. Ara hoki ko Tā Te Rangihiroa, Tā Maui Pomare, Tā Timi Kara, te matua i a Tā Apirana Ngata me ngā mea no muri ake nei, i a Matiu Rata, a Koro Wetere me etahi atu.

He mihi he tangi hoki ki te hunga kua mene atu ki te po otirā kua huri atu ki tua o te arai. Takoto mai koutou i te urunga e kore e nekehia, i te moenga e kore e hikitia.

Kāti ka hoki mai ki a tatau o te ao tangata e takatu nei i roto i te ao hurihuri. Tēnā tātou katoa.

E rua ngā wāhanga whānui o ēnei kerēme.

Tuatahi ko ngā uri o te waka Kurahaupō ara a Rangitāne, Ngāti Apa me Ngāti Kuia. Ko ēnei iwi te tangata whenua o Te Tau Ihu o te Waka o Maui i mua i te taenga atu o ngā iwi o Kāwhia/Taranaki.

Tuarua ko Ngāti Toa Rangatira, Ngāti Rārua, Ngāti Koata, Ngāti Tama me Te Ātiawa ngā iwi i heke ngatahi mai i ngā rohe o Kāwhia me Taranaki.

At the request of the claimants, we have completed a preliminary report on customary rights in Te Tau Ihu o te Waka a Maui (the northern South Island). The purpose of the report is to assist claimants and the Crown with their negotiations by providing early findings on customary rights and their treatment by the Crown. Our findings on Treaty breach are final. Nonetheless, we have not dealt with all the relevant issues, so we have not made full findings on prejudice, nor made recommendations on how to remove the prejudice. These matters will be dealt with in full in our final report.

We are satisfied that all eight iwi of Te Tau Ihu – Ngāti Apa, Rangitane, Ngāti Kuia, Ngāti Toa Rangatira, Ngāti Rarua, Ngāti Tama, Te Ātiawa, and Ngāti Koata – had valid customary rights when the Treaty was signed in 1840 (see ch 2). Those rights, and the customary law from which they were derived, were protected and guaranteed by the Treaty. This was acknowledged by the British Government of the day (see ch 3).

Despite this acknowledgement, the Crown acquired the great bulk of Te Tau Ihu lands and resources very quickly, without finding out the correct right-holders or obtaining their full and free consent. Partly as a result, the Crown's massive purchases of millions of acres were invalid in both British and Maori law, and inconsistent with the Treaty (see chs 3, 5).

In 1847, the Government purchased the Wairau block (around three million acres) from just three Porirua chiefs, chosen by itself, thus disenfranchising all the other Ngati Toa, Ngati Rarua, and Rangitane people. Then, in 1853, the Government extorted a cession of all Ngati Toa's interests in the South Island by an unfair manipulation. From 1854 to 1856, it used this cession (the Waipounamu purchase) to obtain the interests of all the other tribes without their free and full consent. These actions were in plain breach of the Treaty and its principles (see ch 5). As a result, Te Tau Ihu Maori lost almost all of their land by 1860.

We draw your particular attention to the point that one tribe – Ngati Apa – never gave even belated consent to these purchases, nor were they paid or allocated reserves, even though the Government was aware of their claims in Te Tau Ihu. They received a tiny reserve much later from the Native Land Court. This tribe has a unique grievance (see ch 5).

The Crown also granted land in Tasman and Golden Bays to the New Zealand Company and settlers in the 1840s, the Maori title to which had not been extinguished. This was in breach of the Treaty. It happened as a result of the Government's failure to inquire properly into the company's alleged title, a failure which the Crown admitted in our inquiry (see ch 4).

All the iwi of Te Tau Ihu suffered prejudice as a result of these and other Treaty breaches. Our findings are summarised in chapter 6.

We were assisted by a number of key admissions by the Crown. In particular, it conceded that it had failed to inquire properly into customary rights before buying land or confirming the New Zealand Company's title. It also admitted that its governors and officials had acted with a ruthless pragmatism that sidelined the Treaty and deliberately advantaged settlers over Maori. As a result, the Crown's purchases left Te Tau Ihu Maori in poverty, with insufficient land for them to farm or use their customary resources, foreclosing their options for either developing in the new economy or maintaining their customary way of life. These admissions were helpful in our deliberations.

We hope that you can negotiate an appropriate settlement with Te Tau Ihu Maori, in order to mitigate the prejudice and restore a proper Treaty relationship.

Heoi anō, nākū nā



W W Isaac

Deputy Chief Judge