

THE  
EAST COAST  
SETTLEMENT REPORT



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WAI 2190

WAITANGI TRIBUNAL REPORT 2010



The cover design by Cliff Whiting invokes the signing of the Treaty of Waitangi and the consequent interwoven development of Māori and Pākehā history in New Zealand as it continuously unfolds in a pattern not yet completely known

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Waitangi Tribunal

Te Rōpū Whakamana i te Tiriti o Waitangi

Kia puta ki te whai ao, ki te mārāma

The Honourable Dr Pita Sharples  
Minister of Māori Affairs

and

The Honourable Christopher Finlayson  
Minister for Treaty of Waitangi Negotiations

Parliament Buildings  
WELLINGTON

18 May 2010

E ngā Minita, tēnā kōrua

Enclosed is *The East Coast Settlement Report*, the outcome of an urgent Waitangi Tribunal hearing held in Wellington from 14 to 16 December 2009.

This hearing resulted from the Crown recognising the mandate of Te Rūnanga o Ngāti Porou (TRONP) to negotiate and settle historical Ngāti Porou Treaty of Waitangi claims. The three main claimants in our inquiry assert they represent Ruawaipu, Uepohatu, and Te Aitanga-a-Hauiti. All submit that they, and those they claim to represent, are not Ngāti Porou, and TRONP therefore has no valid mandate to represent them in settlement negotiations. These negotiations have progressed to a point that the Crown proposes introducing settlement legislation in September 2010. Once enacted, the proposed legislation would, *inter alia*, prevent the Waitangi Tribunal from inquiring into historical Ngāti Porou Treaty claims covered by the TRONP mandate, including those of the claimants in our inquiry. The claimants therefore successfully sought an urgent Tribunal hearing, with the aim of securing a recommendation that the Crown delays the Ngāti Porou settlement until their historical claims have been inquired into by the Waitangi Tribunal.

Level 2, 141 The Terrace, Wellington, New Zealand. Postal: DX SX11237  
Caltex Tower, 141 The Terrace, Te Whanganui-ā-Tara, Aotearoa. Pouaka Poutāpeta: DX SX11237  
Phone/Wāea: 04 914 3000 Fax/Wāea Whakaahua: 04 914 3001  
Email/E-mēra: [information@waitangitribunal.govt.nz](mailto:information@waitangitribunal.govt.nz) Web/Ipurangi: [www.waitangitribunal.govt.nz](http://www.waitangitribunal.govt.nz)



TRONP, as a secondary party to these proceedings, asserts that those identifying as Ruawaipu, Uepohatu, and Te Aitanga-a-Hauiti are Ngāti Porou. The Crown has submitted that TRONP has a valid mandate to negotiate all Ngati Porou historical claims within the East Coast inquiry district. We did not inquire into matters of tribal identity, but instead focused on the actions of the Crown in recognising TRONP's mandate.

Having assessed the evidence and arguments of all parties, we have not recommended that the Crown delay settlement with TRONP as requested by the claimants. We concluded that the potential prejudice of delaying such a significant settlement would outweigh any possible prejudice to the claimants from having their claims settled without their specific consent. We were also not convinced that the claimants commanded significant support compared with the support demonstrated by TRONP. We were mindful of the fact that both the Crown and TRONP have suggested ways in which at least some of the claimant's concerns might be addressed.

However, we also noted flaws in the process followed by the Crown in recognising TRONP's mandate. While we did not consider that these flaws were so serious as to warrant recommending delaying settlement, we were concerned that they should not be repeated when the Crown seeks to negotiate and settle Treaty claims with other groups. With the goal for settling all historical Treaty claims having been brought forward to 2014, it is possible that further shortcuts will be taken and the durability of settlements put at risk. In such circumstances, new applications for urgency will almost inevitably be lodged with the Waitangi Tribunal. We have therefore recommended a number of changes to the Crown's mandate policies to enhance the durability of future settlements. We urge the Crown to adopt these recommended changes and ensure they are reflected in official documents outlining Crown settlement policy.

Heoi ano e ngā rangatira, anei rā ngā whakaaro o te Roopu Whakamana i te Tiriti o Waitangi hei āta titiro, hei whakarau kakai, hei wānanga mā kōrua.

Nāku noa

Judge Craig Coxhead  
Presiding Officer

ABBREVIATIONS

CA	Court of Appeal
CFRT	Crown Forestry Rental Trust
ch	chapter
doc	document
ed	edition
J	justice (when used after a surname)
MICOTOWN	Minister in Charge of Treaty of Waitangi Negotiations
MFTOWN	Minister for Treaty of Waitangi Negotiations
no	number
OTS	Office of Treaty Settlements
p, pp	page, pages
para	paragraph
ROI	record of inquiry
sess	session
TPK	Te Puni Kōkiri
TRONP	Te Rūnanga o Ngāti Porou
v	and
vol	volume

‘Wai’ is a prefix used with Waitangi Tribunal claim numbers.

Unless otherwise stated, footnote references to claims, papers, and documents are to the Wai 2190 record of inquiry, a copy of which is available on request from the Waitangi Tribunal.

