

WAI 2490 REVISED STATEMENT OF ISSUES

From 2009 to the present:

1. Predetermination

1.1. To what extent, if any, was the Crown's approval of the Tūhoronuku Deed of Mandate pre-determined?

2. Crown engagement with Tūhoronuku

2.1. To what extent, if any, was the Crown's decision to engage with Tūhoronuku's mandate strategy, and eventually recognise their mandate, influenced by a view that the organisation and leadership of Tūhoronuku made it the most convenient party to engage with?

2.2. To what extent, if any, were the Crown's decisions to engage with and support Tūhoronuku influenced by a view that Tūhoronuku were ready and willing to settle historical claims when others were less so?

2.3. Has the Crown's level of involvement working with Tūhoronuku on the mandate been appropriately proactive? At any point has the Crown intervened too much in the mandating process?

2.4. How does the Crown measure Tūhoronuku's compliance with the conditions of their mandate?

2.5. What, if any, circumstances would lead to the Crown revoking the mandate? Have the Crown adequately communicated these thresholds?

3. Large Natural Grouping Policy

3.1. To what extent, if any, was the Crown's decision to engage with, and support, Tūhoronuku influenced by Tūhoronuku's likely support for the settlement of Ngāpuhi's historical claims as one "large natural grouping"?

4. Timing

4.1. To what extent, if any, did the Crown's goal to settle all historical Treaty claims by 2014 influence their support for Tūhoronuku?

5. Engagement with Ngāpuhi

5.1. What communications and meetings did the Crown have with hapū and other groups about its process with Tūhoronuku?

5.2. To what extent did the Crown consider the position of hapū and its obligation to actively protect the ability of hapū to exercise rangatiratanga?

5.3. Was the Crown's conduct towards hapū and other groups in opposition to Tūhoronuku fair and reasonable?

5.4. To what extent, if any, does the amended mandate address the concerns of the Wai 2490 claimants?

6. Options

- 6.1. To what extent did the Crown seek and consider alternative models to Tūhoronuku?
- 6.2. To what extent, if any, were Ngāpuhi consulted on alternative models?
- 6.3. What did the Crown do to facilitate or mediate competing views within Ngāpuhi?
- 6.4. How did the Crown respond to the outcomes of facilitation and/or mediation?

7. Funding

- 7.1. Was the Crown's funding of the mandating process fair and reasonable and conducted in good faith?

8. Elections

- 8.1. Given the sustained opposition to the mandate, is the Crown correct to continue to accept the results of the first vote regarding whether Ngāpuhi was ready to settle?
- 8.2. To what extent do the provisions for the nomination and election of hapū kaikorero protect hapu rangatiratanga and allow it to be exercised?

9. Withdrawal

- 9.1. To what extent, if any, are the provisions for the withdrawal of claims and/or hapū kaikorero in the Deed of Mandate fair?

10. Representation

- 10.1. To what extent do the Wai 2490 claimants represent the groups on whose behalf the Wai 2490 claims are made?
- 10.2. To what extent, if any, will historical claims be negotiated and/or settled without the consent of the groups on whose behalf those claims are made? And would this amount to extinguishment?
- 10.3. In its application of the settlement process, has the Crown actively protected the rights and interest of those who have filed claims?
- 10.4. In the process of hapu definition for Ngāpuhi, to what extent did the Crown seek the input of hapu, including those opposed to the Tūhoronuku mandate?

11. Settlement and relationships

- 11.1. To what extent can the mandate process be said to be open, fair and transparent enough to produce a robust and enduring settlement?
- 11.2. To what extent, if any, have the Crown's actions or omissions impacted on whakawhānaungatanga/relationships within Ngāpuhi? And to what extent is the Crown culpable for any negative impact?

12. Breaches and remedies

- 12.1. Do any of the Crown's policies, practices, actions and omissions breach the principles of the Treaty of Waitangi?
- 12.2. Have the claimants been prejudiced by any such breaches? How?
- 12.3. As to remedies, how might any prejudice be remedied?