

Decision No. 1/83
Bro. 55 to 107/81

Before the Broadcasting Tribunal

In the matter of The Broadcasting Act 1976, and in the matter of an application by the BROADCASTING CORPORATION OF NEW ZEALAND for the renewal of television and sound radio warrants: B. H. Slane, Chairman. Lionel R. Sceats, Member.

INTERIM DECISION

THE Corporation's application concerns all the television warrants and most of the sound radio warrants held by the Corporation. The warrants not affected are those which have been granted to the Corporation since 1 February 1977. The Broadcasting Act which came into force on that day provided for the Tribunal to issue warrants to the Corporation's existing stations (other than television relay stations) established and operated by the Corporation at that date. This the Tribunal proceeded to do and each of the warrants was for a term of 5 years in accordance with section 72 of the Act.

Thus the warrants in respect of stations established and operated by the Corporation at 1 February 1977 continued in force until 31 January 1982. Section 72 also provides that where an application for renewal has been made but not disposed of before the date of expiry of the warrant it continues in force until the application is disposed of unless the Tribunal, with the approval of the Minister, otherwise directs.

Applications were filed by the Broadcasting Corporation so the stations have continued to operate under the existing warrants.

Section 81, Broadcasting Act 1976, provides that the renewal of a warrant shall take effect for the same period as the original term of the warrant renewed, except that if the Tribunal is of the opinion that the holder of the warrant has been or is in breach of any condition of his warrant, the Tribunal may grant a warrant to take effect for such shorter period as it thinks fit.

Section 81 (3) provides that a renewal shall be granted by the Tribunal, unless it is of the opinion that sufficient grounds exist for the revocation of the warrant and the holder of the warrant has been notified accordingly.

There are no grounds for the revocation of the warrants and therefore the warrants are required in terms of the Act to be renewed.

In the case of each of the warrants there was no evidence that the holder of the warrant had been in breach of any condition of the warrant and no submission was made that on these grounds the warrant should be renewed for a shorter period than 5 years.

Submissions were made to us in respect of some warrants that, for other reasons, the warrant ought to be renewed for a shorter period. The Tribunal finds that it has no power to renew the warrants for a shorter period than 5 years other than because of a breach.

All the applications will therefore be granted with a renewal for a term of 5 years in each case.

Section 81 (4) provides that subject to section 71 (2) the Tribunal may of its own motion amend or revoke any of the terms and conditions of the warrant or add any new terms and conditions which, in its opinion, are necessary in the public interest.

It was argued that the duration of the warrant was a term of the warrant itself which could be amended by the Tribunal and a shorter term of renewal granted. The Tribunal considers that this would be an abuse of the procedure for renewal. The Act specifically provides the basis on which a full term renewal is to be granted and the circumstances in which that can be departed from. To depart from it for other reasons would not be a correct application of the Act.

In the course of renewals the Tribunal invited and received a number of submissions from private individuals and organisations in a number of areas in New Zealand. The Tribunal held extensive hearings and in respect of every sound radio station individual evidence was given as to the performance of that station and its future by a witness from Radio New Zealand. In the case of television warrants the Director-General of Television New Zealand and a number of senior executives presented evidence and many of them were cross-examined.

Submissions were made as to specific amendments which we were urged to make to the warrants. Apart from that aspect the occasion was one for some general review of the performance of the station which would give an opportunity for members of the public and interested organisations to make submissions in an impartial forum. This would be supplementary to the normal political accountability under the Act.

This procedure has been approved by the High Court. It is now provided for in regulation 16 (7) inserted by Broadcasting Regulations 1977 (Amendment No. 5) (S.R. 1981/295) which provides that the Tribunal should be entitled publicly to review the general conduct of the station, and should not be confined to considering whether or not breaches of conditions have occurred. The Tribunal will in its final decision consider some of the matters raised by the persons who made submissions. For practical and administrative reasons the Tribunal considers it appropriate to indicate at this stage that the warrants are renewed.

In that final decision we shall also traverse the submissions that were made seeking amendments to the warrants by the addition of new conditions relating to such matters as programme formats, musical content and programme content. The submissions made had varying degrees of merit and we will examine them in our final decision.

At this stage it is sufficient to say that the Tribunal did not find there were sufficient grounds for any amendment to any of the terms and conditions of the warrants. The statutory provisions enabling the addition of new terms have not been satisfied i.e., that the new term or condition be "necessary in the public interest". There will therefore be no amendments made to the warrants.

Those who have gone to the trouble to make submissions suggesting amendments should not consider that this is a reflection on the desirability of the proposals made, but simply an indication of the limits of the Tribunal's power in relation to the amendment of broadcasting warrants by the addition of new terms and conditions.

Dated the 24th day of January 1983

Signed for the Tribunal:

B. H. SLANE, Chairman.

Declaring Additional Maori Freehold Land to be Included in a Maori Reservation

PURSUANT to section 439 (2) of the Maori Affairs Act 1953, the Maori freehold land described in the Schedule hereto, is hereby declared to be included in the existing Maori reservation known as Nuhaka 2C2W262 constituted by notice dated 16 September 1977 and published in the *New Zealand Gazette*, No. 99, 22 September 1977, page 2554.

SCHEDULE

HAWKE'S BAY LAND DISTRICT

ALL that piece of land, situated in Block VIII, Nuhaka Survey District, and described as follows:

Area m ²	Being
379	Nuhaka 2C2W36B as created by a partition order of the Maori Land Court dated 28 February 1939.

Dated at Wellington this 4th day of February 1983.

B. S. ROBINSON, Deputy Secretary for Maori Affairs.

(M.A. H.O. 21/1/394; D.O. 8/3/218)

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Canceling the Reservation of Maori Freehold Land

WHEREAS by Order in Council dated 8 April 1936 published in *Gazette*, No. 29, 16 April 1936, p. 759, the land described in the First Schedule hereto was set apart as a Maori reservation for the purpose of a meeting place for the common use and benefit of the owners thereof: