
BEFORE THE WAITANGI TRIBUNAL

WAI 2358

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the National Fresh Water and Geothermal
Resources Inquiry

**FURTHER MEMORANDUM OF COUNSEL FOR THE CROWN
REGARDING TIMETABLE AMENDMENTS**

20 January 2017



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MAY IT PLEASE THE TRIBUNAL:

1. On 21 December 2017 the Crown filed a memorandum seeking timetable amendments to allow the Crown to file further evidence responding to issues raised in the first hearing week and evidence as yet to be filed by interested parties.¹ The Crown suggested that it would file all further evidence by 21 April 2017.
2. On 19 January 2017 counsel for the claimants responded to the Crown's request, agreeing to the Crown's request to file further evidence, but suggesting that it should be filed by 1 March 2017.
3. On 20 January 2017, Janet Mason, counsel for various interested parties and co-claimants filed a memorandum indicating (a) that her clients wish to sever their claim from the main claimants and (b) that they request an extension to 10 February 2016 to file expert evidence. Ms Mason indicated that her clients support the Crown's suggested timetable changes.
4. The Crown submits that these developments favour its request to amend the timetable and to file further evidence by 21 April 2017. The Crown is in the position of having to respond to both the main claimants' evidence as well as a new case theory and evidence that is as yet to be filed by the interested parties/co-claimants.
5. The co-claimants intend to sever their case and file an amended statement of claim that will reflect their distinct case theory by 31 January 2017.² They also seek an extension to file their expert evidence, covering a wide range of subjects, by 10 February 2017.
6. The main claimants would have the Crown file evidence in response to all of this by 1 March 2017 – less than three weeks later.
7. The Crown submits that this is unworkable, and that the prejudice to its case outweighs any prejudice to the claimants. If the Tribunal accepts the 1 March 2017 deadline suggested by the main claimants, the Crown would be

¹ Wai 2358, #3.2.34.

² Memorandum of Counsel Responding to Directions Regarding Crown's Proposed Timetable Changes, 20 January 2017 at [9] and [10].

forced to assemble its response to an as yet to be articulated case theory, and as yet to be seen evidence in support of it, in less than three weeks.

8. On the other hand, if the Tribunal accepts the Crown's suggested deadline of 21 April 2017, the only prejudice to the claimants is the possibility that they may wish to file further evidence and recall certain witnesses during the third hearing week. The Crown submits that such prejudice would be minor in comparison to the prejudice to the Crown entailed by a 1 March 2017 deadline.
9. The Crown therefore reaffirms its request to amend the timetable to allow it to file further evidence by 21 April 2017.

20 January 2017



J R Gough / D A Ward
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal
AND TO: Claimant Counsel