

IN THE WAITANGI TRIBUNAL

WAI 2358

Wai 1968

Wai 898

Wai 2377

Wai 1480

Wai 762

Wai 1716

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

The Freshwater and Geothermal Inquiry

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**MEMORANDUM OF COUNSEL SEEKING LEAVE TO  
FILE WITNESS REPLIES OUT OF TIME**

**Date: 27 January 2017**

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<b>RECEIVED</b> Waitangi Tribunal
<b>27 Jan 2017</b>
Ministry of Justice WELLINGTON

**TamakiLegal**

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**Counsel Acting: Darrell Naden**

## MAY IT PLEASE THE TRIBUNAL

1. This Memorandum of Counsel is filed on behalf of the following claimants participating in the Freshwater and Geothermal Inquiry:
  - a. David Hawea, Chairman and Keith Katipa for an on behalf of Te Whanau ā Kai Trust (Wai 898);
  - b. Nuki Aldridge, for and on behalf of himself and on behalf of Ngāti Pakahi hapū (Wai 2377);
  - c. Noeline Potts (nee Henare) for an on behalf of Ngati Pahere, a hapū of Ngati Maniapoto (Wai 1480);
  - d. Evelyn Kereopa on behalf of Te Ihingarangi, a hapū of Ngati Maniapoto (Wai 762);
  - e. Ian Mitchell, for and on behalf of himself and on behalf of Te Uri Taniwha and Ngāti Hineira hapū , (Wai 1716); and
  - f. Reuben Porter on behalf of himself, his whanau and members of Kaitangata, Nga Tahawai and Whanau Pani hapū of Norhtland, Tutamoe Pa Claim (Wai 1968).

(“the Claimants”)

2. By Memorandum Directions dated 22 November 2016,<sup>1</sup> Chief Judge Isaac directed that all outstanding answers to questions of clarification for hearing week 1 and interested parties’ questions of clarification and cross-examination of witnesses be filed by Friday 9 December 2016.
3. On Monday 28 November 2016, Bennion Law filed questions of cross examination for hearing week 1 witnesses (“the cross questions”) and subsequently advised that replies were being sought from all tangata whenua witnesses who presented during hearing week 1. All of the Claimants presented evidence during hearing week 1.

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<sup>1</sup> Wai 2358, #2.6.3, Memorandum Directions of Chief Judge Isaac

4. By Memorandum Directions dated 19 December 2017,<sup>2</sup> Chief Judge Isaac granted Tamaki Legal an extension to file answers by Friday 3 February 2017.
5. On 14 December 2016, the applications for legal aid for all of the Claimants were refused by the Legal Services Commissioner. As noted in our Memorandum of Counsel dated 9 December 2016,<sup>3</sup> addressing the cross questions entails attendance time with the Claimants, associated travel costs and some document preparation. Without grants of aid, Counsel has been unable to undertake this work. In these circumstances, we respectfully seek leave to file witness replies at a later date when the grants of aid that have been sought are eventually approved.
6. In the event that the leave sought is granted, we submit that no party to this inquiry will be unduly prejudiced.

**DATED** at Auckland this 27<sup>th</sup> day of January 2017



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Darrell Naden  
**Counsel Acting**

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<sup>2</sup> Wai 2358, #2.6.6, Memorandum Directions of Chief Judge Isaac

<sup>3</sup> Wai 2358, #3.2.26 Memorandum of Counsel seeking leave to file Witness replies out of time