

**IN THE WAITANGI TRIBUNAL**

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

the Te Rohe Pōtae District Inquiry  
(Wai 898)

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**MEMORANDUM-DIRECTIONS OF JUDGE D J AMBLER**  
**CONCERNING EXTENSION REQUESTS AND OTHER MATTERS**  
**9 MARCH 2015**

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Tēnā koutou,

## **1. Introduction**

1.1. This memorandum-directions addresses the late filing of Crown follow-up matters from hearing week 17, various extension requests received by counsel relating to claimant replies to the Crown closing submissions, and other matters.

## **2. Crown follow-up matters from hearing week 17**

2.1. At hearing week 17, I directed Crown counsel to file their follow-up matters from that hearing week by Friday 27 February 2015.

2.2. On Monday 2 March 2015, Geoff Melvin and Amy Williams (Crown) filed a memorandum, along with two appendices addressing the follow-up matters from hearing week 17 and sought leave to file these out of time. Counsel advised that due to difficulties with Crown Law's IT system, they were unable to confirm instructions in time.

2.3. The leave sought is granted. The documents have now been added to the record as #3.4.313 and #3.4.313(a).

## **3. Extension requests**

3.1. In my previous memorandum-directions dated 18 February 2015 (#2.7.1), I extended the filing date for claimant counsel to file submissions in reply to Crown closing submissions from 27 February 2015 to 9 March 2015. Following this direction, a number of parties have filed memoranda seeking further extensions for various reasons. I briefly list these below:

a) On Monday 2 March 2015, Kirikaiahi Mahutariki and Matanuku Mahuika (Wai 329, 1584) filed a memorandum seeking an extension to file reply submissions until Monday 23 March 2015 due to exceptional personal circumstances arising from the illness and subsequent death of Mr Mahuika's father (#3.3.1281).

b) On Monday 2 March 2015, Annette Sykes (Wai 440, 1100, 1352) filed a memorandum seeking an extension to file reply submissions until Monday 30 March 2015 on the basis that their claims relate to War and Raupatu and the

Ohaki Tapu and that the counsel responsible for those submissions have sought an extension until the 23 March 2015 (#3.3.1282).

- c) On Friday 6 March 2015, Tavake Afeaki / David McCarthy / Winston McCarthy (Wai 537, 587, 827, 845, 1309, 1455, 1823) filed a memorandum seeking an extension to file claimant specific reply submissions until Monday 16 March 2015. Counsel submit that an extraordinary case load in other inquiries, an unforeseen case load with private clients and urgent new instructions received over the past month has contributed to the requirement of an extension.
  - d) On Friday 6 March 2015, Maui Solomon (Wai 366, 1064, 478, 1803, 426) filed a memorandum seeking an extension until Wednesday 11 March 2015. Mr Solomon submits that he has been engaged in field work away from the office for the past 3 weeks and has not had an opportunity to prepare submissions.
  - e) On Monday 9 March 2015, Hemi Te Nahu and Chris Beaumont (Wai 2017, 1944) filed a memorandum seeking an extension until Wednesday 11 March 2015. Counsel advise that the claimants have been unavailable to review and respond to the submissions and are therefore still awaiting feedback.
  - f) Ms Mary Paki, an unrepresented interested party has sought an extension to file submissions in reply by Monday 16 March 2015.
- 3.2. Due to the exceptional personal circumstances, the leave sought by Ms Mahutariki and Mr Mahuika is granted. Counsel are to file their reply submissions **by 12pm, Monday 23 March 2015.**
- 3.3. The extension requests of other counsel are largely due to problems counsel face in managing their workload. That is not a good reason for compromising the Tribunal's work programme. Nevertheless, there has been some delay in the filing of follow-up matters by the Crown and some counsel may need to review the generic reply submissions before filing claimant-specific reply submissions. Therefore I will grant an extension to all counsel and Ms Paki to file claimant-specific reply submissions **by 12pm, Monday 16 March 2015.**

4. As for Ms Sykes' request to file submissions a further week after Ms Mahutariki and Mr Mahuika file their submissions, I accept there is sense in counsel having the opportunity to review those submissions before filing on the particular generic topics. Therefore counsel may file claimant-specific reply submissions in relation to the Ohaaki Tapu and the Aukati topics **by 12pm, Monday 30 March 2015**. All other claimant-specific submissions are due by 16 March 2015, as stated above.

**5. Jurisdiction of the Tribunal regarding Raupatu claims**

5.1. At hearing week 17, I directed both claimant and Crown counsel to file a joint memorandum on the Crown approach to the jurisdiction of the Tribunal to inquire into raupatu claims of those iwi or hapū who are listed in the Waikato Raupatu Claims Settlement Act 1995 and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

5.2. On Friday 20 February 2015, Tom Bennion filed a memorandum advising that Crown counsel had prepared a draft memorandum further clarifying the Crown stance on the issue and that it would be filed in final form by the Crown within the following week. Affected claimant counsel sought leave to comment further, if necessary, once the final memorandum was filed.

5.3. On Monday 2 March 2015, Mr Melvin and Ms Williams addressed the Raupatu matter within their memorandum regarding follow-up matters from hearing week 17. They have clarified that the Crown accepts the jurisdictional test as the Tribunal has previously stated, and that the matters set out in paragraphs 75 and 82.2 to 82.7 of the Crown's closing submissions (#3.4.310(e)) do not relate to the question of jurisdiction but whether a claim is well-founded and whether the Tribunal should make a recommendation.

5.4. Claimant counsel have yet to respond to this submission. Claimant counsel need to respond to the Crown's submission. I direct that they do so **by 12pm, Monday 16 March 2015**.

The Registrar is to send this direction to all those on the notification list for Wai 898, the combined record of inquiry for Te Rohe Pōtae District Inquiry.

**DATED** at Whangarei on this 9<sup>th</sup> day of March 2015.



Judge D. J. Ambler  
Presiding Officer

**WAITANGI TRIBUNAL**