

OFFICIAL

Wai 2358, #2.6.112

Wai 3381, #2.5.1

IN THE WAITANGI TRIBUNAL

Wai 3381

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Geothermal Resources
(Ngāti Tūwharetoa and Ngā
Hapū o Ngāti Tūwharetoa)
claim

**MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON INVITING
SUBMISSIONS ON PRIORITY APPLICATION**

2 September 2024

Application for priority

1. This memorandum-direction addresses the application for a priority inquiry into the Geothermal Resources (Ngāti Tūwharetoa and Ngā Hapū o Ngāti Tūwharetoa) (Wai 3381) claim (Wai 3381, #3.1.2).

Application for Priority Hearing

2. On 30 August 2024, the Tribunal received an application for priority hearing from Karen Feint KC on behalf of Wai 3381 (Wai 3381, #3.1.2).
3. Counsel state that the decision to file their claim with the Tribunal this year, despite being active in the Wai 2358 inquiry since 2021, was due to increasing concern for the current coalition government's proposed legislative programme and policies. In particular, the proposed Fast-Track Approvals Bill and potential power generation projects (Wai 3381, #3.1.2 at [2]).
4. Counsel initially sought consolidation of their claim within stage three of the Wai 2358 inquiry, on the basis that the Tribunal would benefit from hearing evidence of ngā uri o Ngātoroirangi, and it would be the most efficient use of resources for all geothermal claims to be dealt with in the same inquiry (Wai 3381, #3.1.2 at [2]). This application was declined by the Presiding Officer of the inquiry on 14 August 2024 (Wai 2358, #2.6.108).
5. Before their application for consolidation was declined, Ngāti Tūwharetoa invited the Tribunal to hold the Wai 2358 hearings, scheduled for 9–13 December 2024, at Tāpeka Marae in Waihi. However, counsel now considers this places Ngāti Tūwharetoa in an 'awkward position'; they are hosting a hearing in relation to geothermal claims, but their own claim is not being heard. Counsel for Wai 3381 is concerned that now a further future hearing will have to be hosted in relation to Wai 3381's claim, requiring all parties and the Crown to present their evidence, already filed in Wai 2358, again (Wai 3381, #3.1.2 at [4]).
6. Counsel submits that this future hearing will require further cost to hear the same issues as the Wai 2358 inquiry, as well as the presentation of deeply personal kōrero of witnesses which is a source of deep mamae and not something they wish to repeat (Wai 3381, #3.1.2 at [4]).
7. Counsel for the applicants therefore seeks a priority inquiry into the Wai 3381 claim. In counsel's submissions the panel appointed to inquire into the Wai 3381 claim should sit jointly alongside the Wai 2358 inquiry panel in December at Tāpeka Marae, or alternatively be the same panel as the Wai 2358 inquiry, to avoid the duplication of time, effort and resources (Wai 3381, #3.1.2 at [5]).
8. Counsel has indicated that a hui of ngā hapū o Ngāti Tūwharetoa is planned for 14 September 2024 to discuss the outcome of their priority application and their continued level of participation in the remaining Wai 2358 inquiry (Wai 3381, #3.1.2).

Next steps

9. I direct parties to the National Freshwater and Geothermal Resources (Wai 2358) inquiry and the Crown to file submissions on the priority application of the Geothermal Resources (Ngāti Tūwharetoa and Ngā Hapū o Ngāti Tūwharetoa) (Wai 3381) claim no later than **12pm Friday, 6 September 2024**.


10. The applicant is to file submissions in reply by **4pm Tuesday, 10 September 2024**.

11. I realise it may be difficult for counsel to obtain instructions this week, but the tight timeframes are because the applicants have requested a decision, if possible, by 14 September 2024.

The Registrar is to send this direction to all those on the notification list for:

- Wai 3381, the Geothermal Resources (Ngāti Tūwharetoa and Ngā Hapū o Ngāti Tūwharetoa) claim; and
- Wai 2358, the National Freshwater and Geothermal Resources inquiry.

DATED at Wellington this 2nd day of September 2024

A handwritten signature in cursive script, appearing to read 'Sarah Reeves'.

Judge Sarah Reeves
Deputy Chairperson

WAITANGI TRIBUNAL