

**TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI**

Wai 2358

**E PĀ ANA KI**  
**CONCERNING**

te Treaty of Waitangi Act 1975

**Ā,**  
**AND**

te National Freshwater and  
Geothermal Resources Inquiry

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**HE PĀNUI WHAKAHĀU A TE MANA WHAKAHAERE**  
**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER ADDRESSING**  
**HEARING ONE SUPPLEMENTARY FILING, HEARING TWO MATTERS, AND WIDER**  
**STAGE THREE PLANNING**

4 Noema 2024

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## Purpose

1. This memorandum-directions addresses the following matters in stage three of the National Freshwater and Geothermal Resources Inquiry (Wai 2358) (the stage three inquiry):
  - (a) hearing one supplementary filing;
  - (b) hearing two planning; and
  - (c) stage three inquiry planning matters.
2. An updated stage three inquiry timetable is **attached** as **Appendix A** to these directions.

## Supplementary filing following hearing one

### *Follow-up filing*

3. On 30 September 2024, I directed the New Zealand Māori Council (NZMC) to file by 14 October 2024 supplementary filing requested in relation to the briefs of evidence of Professor David Percy KC (#13), James Hill (#116), and Anne Kendall (#115) (Wai 2358, #2.6.115).
4. On 14 October 2024, counsel for the NZMC Donna Hall filed a memorandum along with supplementary material directed to be filed following hearing one (Wai 2358, #3.2.642). In the memorandum, counsel:
  - (a) requested an extension to file by 18 October 2024 the decisions referred to by Professor Percy in his brief of evidence or during cross-examination (counsel advised that further time was required owing to Professor Percy's heavy workload);
  - (b) noted that the Cultural Impact Assessments referred to at [12(c)] of Mr Hill's evidence are confidential and not to be made public, and accordingly sought leave to file these with the Tribunal confidentially; and
  - (c) requested an (unspecified) extension to file Ms Kendall's supporting documents once counsel has had an opportunity to discuss their procurement with Ms Kendall's previous legal representation.
5. I note that the supplementary evidence referred to at 4[a] above has since been received and has now been placed on the Wai 2358 record of inquiry as document Wai 2358, #13(c).
6. Staff are currently liaising with counsel regarding the filing of the confidential Cultural Impact Assessments.
7. In relation to 4[c] above, I grant the leave sought and confirm that counsel for NZMC should file this material as soon as possible, or by no later than **5 pm, Friday 15 November 2024**.

### *Questions in writing*

8. Following hearing one, counsel were directed to file responses to questions in writing from the Tribunal, Tamaki Legal, and the Crown by Tuesday 29 October 2024 (Wai 2358, #2.6.117(a)).
9. On 29 October 2024, counsel for NZMC filed responses to the Tribunal's questions for Professor David Percy and Dr Gregory Bignall (Wai 2358, #13(d) & #117(d)).

10. On 30 October counsel for NZMC filed answers to the Tribunal's questions for Brian Cox (Wai 2358, #16(b)).
11. I observe that counsel have yet to file responses to the questions in writing filed by Tamaki Legal (Wai 2358, #3.2.640(b)) and counsel for the Crown (Wai 2358, #3.2.641(a)).
12. I therefore direct counsel for the NZMC to file responses to these as soon as possible, or by no later than **5pm, Tuesday 19 November 2024**.

### **Hearing two planning**

13. In my directions of 9 October 2024, I confirmed that evidence unable to be heard at hearing one should now be heard at hearing two (scheduled for 9 to 13 December 2024) alongside the remaining claimant and interested party evidence that has yet to be heard (Wai 2358, #2.6.117 at [20]).
14. In the same directions, I thanked Annette Sykes and Ms Hall for their offer to coordinate hearing two, and indicated that Tribunal staff would liaise with counsel directly regarding the proposed hearing venue and related matters (Wai 2358, #2.6.117 at [24] and [25]).
15. On 21 October 2024, Ms Hall filed a memorandum advising that (Wai 2358, #3.2.643):
  - (a) due to workload reasons, Woodward Law will now assume the role of coordinating counsel for hearing two;
  - (b) proposed a hearing two venue; and
  - (c) requested that counsel provide indications of their hearing two witnesses for the purpose of drafting the hearing two timetable.
16. I thank Woodward Law for acting as coordinating counsel, and for their proposed venue. Following a venue check by Tribunal staff, I confirm that hearing two will take place at **Te Pākira marae at Hinganoa Drive, Whakarewarewa, Rotorua 3010**.
17. I wish to remind counsel that the primary purpose of hearing two is to hear the remaining evidence from hearing one as well as well as any outstanding evidence on the record.
18. I note for the purpose of the draft timetable, that each hearing day should commence at 9 am (excepting Monday 9 December 2024, which should start at the earlier time of 8:30 am to accommodate a pōwhiri, followed by morning tea).

### **Stage three inquiry planning matters**

#### *Updated stage three inquiry timetable*

19. In my directions of 9 October 2024, I acknowledged the support expressed at the 26 September 2024 judicial conference for specific hapū or iwi claims in relation to their geothermal resources to be heard during stage three of this inquiry (Wai 2358, #2.6.117 at [28]).
20. I directed Paul Majurey to confer with inquiry parties, including the Crown, and to file a joint draft inquiry timetable that accommodates this proposed revised scope for the stage three inquiry (Wai 2358, #2.6.117 at [32]).
21. On 15 October 2024, counsel filed a joint memorandum that proposed a revised timetable for stage three as directed (Wai 2358, #3.2.639 & #3.2.639(a)).
22. Counsel advised the following parties intend to file specific claims:

- (a) Ngāti Tahu Ngāti Whāoa Iwi Collective / Tauhara North No.2 Trust;
- (b) Savage Whānau Trust;
- (c) Tūhourangi Tribal Authority; and
- (d) Anthony Whareraupo Olson, Te Urunga Aroha Evelyn Kereopa, Merle Ormsby, Tiaho Pillot, and Daniel Ormsby.

23. The proposed stage three timetable as agreed between parties suggests:

- (a) hearing three is held on 8 to 12 September 2025 to hear specific claims evidence and claimant reply evidence, including various filing milestones leading up to this hearing; and
- (b) hearing four is held on 6 to 10 October 2025 to hear Crown evidence.

24. I thank counsel for their efforts and confirm the inquiry will adopt the filing milestones for stage three. Hearing dates will be subject to Tribunal availability and resourcing, and directions confirming hearing dates will be released in due course.

25. **Attached as Appendix A** is an updated inquiry timetable for stage three that reflects counsel's proposals and the further filing dates set out below.

*Accommodating new statements of claim*

26. The updated stage three timetable provides that statements of claim for specific hapū or iwi claims relating to geothermal areas and resources are to be filed by 6 December 2024. Evidence in support of these specific claims is due to be filed by 28 March 2025. Depending on the number of claims and the amount of supporting evidence filed, this may give rise to further hearing requirements.

27. On 15 December 2023, I confirmed the stage three issue questions that guide this stage of the inquiry (Wai 2358, #2.6.96 at [10]). On 9 October 2024, in light of the discussion to revise the scope of stage three, I observed that an additional question, or questions, could be added following the filing of specific hapū or iwi claims (Wai 2358, #2.6.117 at [31]).

28. Accordingly, I direct parties to file by **5 pm, Friday 7 February 2025** a joint memorandum that:

- (a) outlines any further stage three hearing requirements resulting from the new specific claims; and
- (b) suggests any additions or amendments to the existing stage three questions for the Tribunal's consideration.

29. Parties should note that the Tribunal's jurisdiction does not permit it to make declarations as to rights and interests in geothermal resources.

*Interested party evidence*

30. On 17 October 2024, Andrew Irwin filed a memorandum on behalf of interested party the Proprietors of Taheke 8C & Adjoining Blocks Inc (Wai 2358, #3.2.644).

31. Counsel advise his client no longer wishes to file evidence to be heard at hearing two, and intend to file reply evidence to be heard at hearing three in 2025, alongside that of Tauhara North.

32. I thank counsel for their update which is duly noted.

*Crown update on further evidence and state of government reforms*

33. On 9 October 2024, following a request from claimant and interested party counsel at the 26 September 2024 judicial conference, I directed the Crown to file an update on their intended stage three evidence and the state of government reforms in the resource management space, including regarding the proposed 'fast-track' approval process (Wai 2358, #2.6.117 at [44]).
34. On 23 October 2024, counsel for the Crown filed a memorandum and accompanying Cabinet paper regarding the replacement of the Resource Management Act 1991 (Wai 2358, #3.2.646 & #J11).
35. The Crown advises that it expects to be able to file comprehensive supplementary evidence on the resource management reforms in the first half of 2025.
36. The Crown indicates its intentions to seek leave to file evidence on the collection of data on geothermal resources, including greenhouse gas emissions, in the first quarter of 2025.
37. I direct the Crown to confirm, as soon as possible, by what date the above evidence can be filed.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 2358, the National Freshwater and Geothermal Resources Inquiry.

*The Registrar is to send this direction to all those on the distribution list for Wai 2358, the National Freshwater and Geothermal Resources Inquiry.*

**WHAKAPŪMAUTIA** ki Tairāwhiti i te 4 o te Noema 2024



Kaiwhakawā W W Isaac  
Te Mana Whakahaere

**TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI**