

**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 O TE MANA WHAKAHAERE**  
**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER REGARDING**  
**INTERESTED PARTY PARTICIPATION AND EVIDENCE FOR PRESENTATION AT**  
**HEARING TWO**

14 Whiringa-ā-rangi 2024

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## Hei tīmatanga kōrero / Introduction

1. This memorandum-directions addresses six requests for interested party status and the leave sought regarding their level of participation in the stage three inquiry. It also responds to requests to file further evidence to be presented in hearing two of stage three of the National Freshwater and Geothermal Resources (Wai 2358) Inquiry.

## Ngā tono hunga whaitake / Requests for interested party status

### *Kōrero whānui / Procedural background*

2. On 18 March 2021, I discussed the initiation of stage three of the Wai 2358 inquiry and directed parties with interested party status who wished to participate in the next stage of the inquiry to indicate in submissions (Wai 2358, #2.7.9 at [28]):
  - (a) that they wish to participate in stage three; and
  - (b) the nature of their interest in geothermal resources.
3. On 13 May 2021, I confirmed a list of parties granted interested party status in stage three of the inquiry. I also noted that this list was subject to amendment following any further leave granted (Wai 2358, #2.6.75 & #2.6.75(a)).
4. Since that time, I have addressed further requests for interested party status on a case-by-case basis, and most recently on 9 July 2024 (Wai 2358, #2.6.106 & #2.6.106(a)).

### *Wai 1699, the Tangonge (Kaitaia Lintel) claim & Wai 1701, the Te Rarawa (Piripi) claim*

5. On 13 September 2024, the Tribunal received a memorandum of counsel requesting interested party status in stage three of this inquiry on behalf of Haami Piripi, claimant of the Tangonge (Kaitaia Lintel) (Wai 1699) claim and the Te Rarawa (Piripi) (Wai 1701) claim (Wai 2358, #3.2.654).
6. Counsel advise that the claimant relies on his opening submissions filed on 12 July 2024 (Wai 2358, #3.3.109), and his brief of evidence filed on 26 April 2024 (Wai 2358, #127), to outline the nature of his interests in geothermal resources, specifically as set out in his opening submissions at paragraphs [10]–[17].
7. Mr Piripi was the Chairperson of Te Rūnanga o Te Rarawa and the Chief Executive of the Māori Language Commission. The Ngāwhā geothermal springs is a taonga in Te Rarawa's rohe (Wai 2358, #3.3.109).
8. In his brief of evidence, Mr Piripi further explains the traditional, cultural, spiritual, environmental and economic relationship he and those he represents has to Ngāwhā. This includes concerns regarding the geothermal power generation projects currently in place or planned (Wai 2358, #127).

### *Wai 3415, the Geothermal Resources (Te Tua & Karaitiana) claim*

9. On 30 August 2024, the Tribunal received a memorandum of counsel for Kim Te Tua and Florence Karaitiana on behalf of themselves and Te Roopu ō Tapuaeharuru seeking to participate in stage three of this inquiry as interested parties (Wai 2358, #3.2.627).
10. The claimants are uri of their tūpuna Kurapoto and Tia who, and their uri of their time, exercised kaitiakitanga in respect of the geothermal resources within their area or rohe where there has been rapid growth in the utilization of geothermal energy.

*Wai 1194, the Taumanu Land claim & Wai 1212, the Ngā Uri o Ngā Tokotoru o Manawakotokoto Lands and Resources claim*

11. On 21 and 25 October 2024, the Tribunal received memoranda of counsel for the Taumanu Land (Wai 1194) claim and the Ngā Uri o Ngā Tokotoru o Manawakotokoto Lands and Resources (Wai 1212) claim seeking interested party status in the stage three inquiry. Wai 1194 and Wai 1212 are brought on behalf of the descendants of the tupuna Te Rangiuuora I & II under the mantle of Ngāti Te Rangiuuora and other hapū of Ngāti Pikiāo (Wai 2358, #3.2.650, #3.2.651, #3.2.652 & #3.2.652(a)).
12. The Wai 1194 and Wai 1212 claimants have specific interests in geothermal issues as Ngāti Te Rangiuuora and Ngāti Pikiāo lands are situated over several geothermal fields known as Group 3 and Group 4 in the Bay of Plenty Regional Council Regional Plan (Wai 2358, #3.2.652 & #3.2.652(a)).
13. The request to file and present evidence for the stage three inquiry is addressed later in this memorandum-directions.

*Wai 533, the Whakarewarewa Geothermal Valley and State Forest claim*

14. On 11 November 2024, the Tribunal received a memorandum of counsel seeking interested party status in the stage three inquiry for Hokimatēmai Kahukiwa, a named claimant of the Whakarewarewa Geothermal Valley and State Forest (Wai 533) claim. The request is made on behalf of Ngāti Hurungaterangi, Ngāti Taeotu me Ngāti Te Kahu o Ngāti Whakaue (Wai 2358, #3.2.656).
15. Counsel submits that these three hapū of Ngāti Whakaue have interests in relation to their waiariki and ngāwhā that are of an historically extensive, unique, enduring and significant nature. Within the rohe of Ngāti Hurungaterangi, Ngāti Taeotu and Ngāti Te Kahu are significant geothermal resources that are ancestral and are taonga with material, cultural, spiritual, and medicinal benefits and purposes.
16. Counsel also seeks a level of participation above that of watching brief status. This request is addressed later in this memorandum-directions.

*Kupu whakataū / Decision*

17. The above parties meet the requirements set out in section 4A(1) of the Commissions of Inquiry Act 1908 as having an interest in this inquiry apart from any interest in common with the public.
18. Accordingly, I grant interested party status to the following parties:
  - (a) Wai 1699, the Tangonge (Kaitaia Lintel) claim;
  - (b) Wai 1701, the Te Rarawa (Piripi) claim;
  - (c) Wai 3415, the Geothermal Resources (Te Tua & Karaitiana) claim;
  - (d) Wai 1194, the Taumanu Land claim;
  - (e) Wai 1212, the Ngā Uri o Ngā Tokotoru o Manawakotokoto Lands and Resources claim; and
  - (f) Wai 533, the Whakarewarewa Geothermal Valley and State Forest claim.
19. Attached as **Appendix A** is an updated list of interested parties for stage three of the National Freshwater and Geothermal Resources Inquiry.

**Te tono ngā hunga whai take e kimi whakaaetanga ana kia kōrero / Interested party requests to be heard**

*Kōrero whānui / Procedural background*

20. Due to the increasing likelihood that further interested party requests would impact the inquiry timetable and result in prejudice to parties, on 17 July 2024, I directed that any requests for interested party status received after 30 August 2024 would receive watching brief status only (Wai 2358, #2.6.107).
21. During hearing one (held 9 to 11 September 2024), I adjourned the hearing two days early and scheduled the remainder to be heard on 5 and 6 November 2024.
22. Following the judicial conference of 26 September 2024, I vacated the 5 to 6 November hearing, agreeing with parties' submissions that it would be more efficient to hear outstanding hearing one evidence in hearing two (scheduled for 9 to 13 December 2024) alongside the other claimant and interested party evidence yet to be heard (Wai 2358, #2.6.117).
23. On 4 November 2024, I confirmed that hearing two will take place at Te Pākira Marae in Rotorua and reminded counsel that the primary purpose of the hearing is to hear the remaining evidence from hearing one as well as any outstanding evidence on the record (Wai 2358, #2.6.118).
24. The draft timetable for hearing two is due by 5 pm, Monday 18 November 2024 (Wai 2358, #2.6.117, #2.6.117(a) & #2.6.118(a)).

*Tāpaetanga a te Wai 1194 kerēme me te Wai 1212 kerēme / Submissions of Wai 1194 and Wai 1212*

25. The interested party requests for Wai 1194 and Wai 1212 were filed following the 30 August deadline. Counsel nevertheless seek leave to provide evidence and legal submissions in the stage three inquiry (Wai 2358, #3.2.652).
26. Following Te Kotahitanga o Ngāti Tūwharetoa's request seeking to withdraw their evidence, the Wai 1194 and Wai 1212 claimants note their concern that there is important information which the Tribunal may not have brought before it in evidence. The claimants therefore indicate that they can provide evidence that is general in nature and will seek to address Tribunal concerns raised at the 26 September judicial conference regarding completeness of evidence before the Wai 2358 panel to produce a geothermal report.
27. Counsel submit that granting this leave will not cause prejudice to any party. On the contrary, counsel submit that this would allow the Tribunal to receive and consider evidence of a kind which will assist the Tribunal in producing a thorough report into the issues identified as the questions for the stage three inquiry.
28. Counsel further submit that parties who had been expected to present evidence at hearing two have now advised that they will instead seek to present at stage three hearings in 2025/2026. They have been advised that only two counsel have replied to coordinating counsel's request seeking indications of which witnesses seek to present at hearing two.
29. Counsel indicate that Wai 1194 and Wai 1212 witnesses can fill half a day, ensuring the effective utilisation of hearing time and Tribunal resources. Should the claimants be granted leave, counsel submit that the location of hearing two is both culturally and logistically appropriate.

*Tāpaetanga a te Wai 533 kerēme / Submissions of Wai 533*

30. The interested party request for Wai 533 was also filed following the 30 August deadline. Counsel submits that whilst the request is late, the importance of the right to natural justice outweighs any inconvenience caused by their delay in approaching the Tribunal for inclusion (Wai 2358, #3.2.656).
31. Counsel submits that Ngāti Hurungaterangi, Ngāti Taeotu and Ngāti Te Kahu of Ngāti Whakaue were not part of the earlier stages of the inquiry and had not received notice from the Tribunal requesting that claims needed to be filed for stage three or that stage three focused on geothermal interests.
32. Wai 533 has no interest in disrupting the current inquiry timetable and notes that they can attend hearing two without disruption to the schedule. Counsel seeks for Wai 533's interests to be permitted to appear, and should the need arise, they be heard within the remainder of the stage three inquiry.
33. Counsel submit that it is in the interests of natural justice and the quality of the resulting Wai 2358 report and recommendations that Wai 533 be granted leave to participate in the inquiry at a level above watching brief status.

*Kōrerorero / Discussion*

34. In light of the revised scope and proposed extension of hearing programme, I am now minded to allow interested parties granted following 30 August 2024 to have a level of participation in the stage three inquiry more than that of watching brief status. The amount of participation will be decided on a case-by-case basis, particularly taking into account any disruption of the hearing timetable and prejudice to the current parties to the inquiry.
35. Having considered parties' submissions, I grant leave for Wai 1194, Wai 1212 and Wai 533 to participate in the stage three inquiry as interested parties, and the restriction of watching brief status will not apply.
36. I accordingly grant Wai 1194 and Wai 1212's request to file evidence and for this to be presented at hearing two. Counsel for Wai 1194 and Wai 1212 are to file evidence of a general nature by **5 pm, Wednesday 20 November 2024**.
37. I also direct counsel to confer with hearing two coordinating counsel to ensure their evidence is included in the draft timetable due by 18 November 2024.
38. Given this filing date is only 12 working days from the commencement of hearing two, leave is reserved for counsel to file any written cross-examination questions following the conclusion of the hearing, should they be unable to substantively engage with the evidence in the usual way.

**He tono anō e kimi whakaaetanga ana kia whakatakoto he taunakitanga anō kia kōrero i te nohoanga tuarua / Requests to file further evidence for presentation at hearing two**

*Te tono o te New Zealand Māori Council / Request of the New Zealand Māori Council*

39. On 11 November 2024, counsel for the New Zealand Māori Council filed a memo seeking leave to file the following further evidence encompassing (Wai 2358, #3.2.653 & #3.2.655):
  - (a) brief of evidence of Hone Tarawhiti (#144);
  - (b) brief of evidence of Lani Kereopa (#145);
  - (c) brief of evidence of Aroha Bray (#146);

- (d) witness statement of Anaru Te Rakau Te Amo (#147);
- (e) witness statement of Dr Kingi Robert James Wiri and Pirimi Te Whiunga Tait (#148);
- (f) report: Te Mana o te Ngāti Rangitahi (#149); and
- (g) draft systems management plan for Ngāti Rangiteaorere's Tikitere geothermal system (#150).

40. Counsel refer to Wai 1194 and Wai 1212's participation in hearing two, and seek leave to file the above material on the same basis. I grant leave for this evidence to be heard during hearing two and the material has accordingly been placed on the Wai 2358 record of inquiry.

41. Counsel further request such leave be extended to all other counsel in the inquiry who seek to be heard during hearing two.

*Te tono o te Tūhourangi Tribal Authority / Request of the Tūhourangi Tribal Authority*

42. On 12 November 2024, the Tribunal received a memorandum on behalf of the Trustees of the Tūhourangi Tribal Authority (Tūhourangi) (Wai 2358, #3.2.657). Counsel for Tūhourangi seek leave to:

- (a) file a statement of claim and evidence of out of time; and
- (b) participate and have this evidence heard in hearing two.

43. Counsel seek leave to have claimant specific evidence heard in hearing two on the basis that the fixture is in Rotorua and is a principal marae of Tūhourangi. Their participation in hearing two is therefore considered to be both culturally and logistically appropriate.

44. Counsel propose filing a statement of claim by 20 November 2024 alongside evidence intended to be heard at hearing two.

45. Counsel submit that the 2.5 weeks afforded prior to hearing will allow parties sufficient time to review and consider the evidence and prepare any questions for the witnesses. Counsel further indicate that they are currently liaising with coordinating counsel to ensure effective use of hearing time and that Tūhourangi's participation will have minimal interruption to the preparation of the hearing two timetable.

46. Counsel indicate that that Tūhourangi's contemporary grievances arise from, and concern, their whānau, hapū and iwi's ability to actively protect and advance their ways of life. This includes the sustainable and responsible use of the geothermal resource in several geothermal fields.

*Kōrerorero / Discussion*

47. Counsel have advised that there may be unallocated hearing time remaining for hearing two. I agree that the full week should be utilised for efficient use of the Tribunal's time and resources.

48. In relation to Tūhourangi's request, I also acknowledge their relationship with Te Pākira Marae, the venue for hearing two, and their readiness to proceed. I accordingly grant leave for the Tūhourangi Tribal Authority to file and present specific evidence relevant to their geothermal interests. Counsel are to confer with coordinating counsel regarding the allocated hearing time for this evidence.

49. I also grant leave for any further evidence to be filed and presented at hearing two from parties to the stage three inquiry, provided that counsel confer with coordinating counsel with sufficient time for the draft timetable to be filed by 5 pm, Monday 18 November 2024.

50. The further evidence, from Tūhourangi and other parties, is due by no later than **5 pm, Wednesday 20 November 2024.**

51. Leave is also reserved for counsel to file any written cross-examination questions regarding this evidence following the conclusion of the hearing, should they be unable to substantively engage with the evidence in the usual way due to the short timeframe.

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 a copy of this direction to all those on the distribution list for Wai 2358, the National Freshwater and Geothermal Resources Inquiry.*

**WHAKAPŪMAUTIA** ki Ahuriri i te 14 o te Whiringa-ā-rangi 2024



Kaiwhakawā W W Isaac  
Te Mana Whakahaere

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