WAITANGI TRIBUNAL

Wai 3407

CONCERNING	the Treaty of Waitangi Act 1975
AND	a claim by Michelle Marino and David James Churton on behalf of themselves, their whānau, hapū and the Ngāti Tama Te Kaeaea Trust

MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 10 July 2024.

The claimant should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Michelle Marino and David James Churton on behalf of their whānau, hapū, and the Ngāti Tama Te Kaeaea Trust, and concerns climate change. The claimants allege that the Crown has breached the principles of the Treaty of Waitangi by failing to:

- respect, recognise and protect the right of Māori to exercise tino rangatiratanga, in accordance with tikanga Māori, over their own taonga, and their own environment and environmental development;
- actively protect and ensure Tiriti/Treaty compliant outcomes for Māori, in particular by jeopardising the right of current and future generations of Māori to pursue their rights to sustainably develop their lands and other taonga;
- engage with Māori in Tiriti/Treaty consistent ways when pursuing remedies and solutions for the climate change crisis; and
- actively protect the taonga and other interests of the claimants.

The claimant seeks a variety of relief, including findings, and recommendations that the Crown:

- acknowledge that it has not considered or protected Māori interests from the devastating effects of climate change;
- engage with and obtain the approval of the claimants, and interested Māori organisations, in relation to any climate change policies and enactments;
- formally apologise for the harm caused to the claimants, their whānau, hapū, iwi and urban communities, which acknowledges that the full responsibility for the prejudice which has befallen Māori sits with the Crown; and
- provide compensation for those detrimentally affected by the Crown's acts and omissions in relation to its climate response for all the harm and losses suffered.

The claimant may amend this claim at a later stage. In any case the Tribunal may require the claimant to prepare a fully particularised statement of claim before the claim can be heard.

The Tribunal currently runs district and kaupapa inquiry programmes in which claims are grouped either by district or by kaupapa (thematic) issue. Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations made in this claim are contemporary in nature. They pertain to climate change and as such may be best suited for consideration in Wai 3325, the Climate Change Priority Inquiry.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimant needs to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Treaty of Waitangi Act 1975). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimant also needs to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

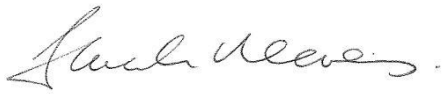
Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimant should check their telephone directory for contact details.

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

The Registrar is to send a copy of this direction to the claimant and to:

- Crown Law Office;
- Te Kahui Whakatau (Treaty Settlements), Office for Māori Crown Relations – Te Arawhiti;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri;
- Department of Conservation;
- Ministry for the Environment; and
- all those on the notification list for Wai 3325, the Climate Change Priority Inquiry.

DATED at Wellington this 15th day of August 2024



Judge Sarah Reeves
Deputy Chairperson
WAITANGI TRIBUNAL