
KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA
I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL

WAI 2358

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the National Fresh Water and Geothermal
Resources Inquiry

MEMORANDUM OF COUNSEL FOR THE CROWN

5 Hakihea | December 2025



**Te Tari Ture
o te Karauna**
Crown Law

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Waitangi Tribunal

8 Dec 25

Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL:

1. In this memorandum, the Crown responds to directions dated 4 November 2025, to file responses to matters arising during hearing week three and any written cross-examination questions for hearing week three witnesses by Friday 21 November 2025.¹
2. By memorandum dated 21 November 2025, the Crown sought an extension to 5 December 2025 to file these responses. The extension was granted by email from the Registrar on 2 December 2025.
3. The Crown has been directed to file the following:
 - 3.1 A memorandum providing further detail on the content of the additional brief of evidence sought from Ms Karaitiana and Ms Te Tua, along with a clear explanation as to why counsel considers that such information is required.
 - 3.2 A memorandum addressing whether the issues raised in submissions by claimant counsel were with the Resource Management Act 1991 (RMA) or rather the Te Runanga o Ngai Tahu Act 1996 (TRONT Act), as well as whether or not there was a necessary distinction between public and private Acts of Parliament that needed to be considered.
 - 3.3 Questions in writing arising from hearing three.

Supplementary evidence

4. In oral evidence during the third hearing week, witnesses for Wai 3415, Ms Karaitiana and Ms Te Tua gave evidence on issues that had arisen in respect of the Ngāti Tūwharetoa Treaty settlement. This evidence was not covered in the briefs of evidence of the two witnesses and was new to the Crown.²

¹ Wai 2358, #2.6.142 and #2.6.142(a).

² Brief of evidence of Florence Karaitiana, dated 24 April 2025 (Wai 2358, #173); Brief of evidence of Kim Te Tua, dated 25 April 2025 (Wai 2358, #164). Counsel note that there is reference to this assertion at [8] of Ms Karaitiana's brief and [4] of Ms Te Tua's evidence.

5. In particular, Ms Karaitiana asserted that the Treaty claims of Te Roopu ō Tapuaeharuru, being ngā uri ō Kurapoto rāua ko Tia (of Te Arawa waka), were joined with those of the hapū of Ngāti Tūwharetoa, against their wishes. She further asserted that the issue had been ignored at ‘Crown level’.
6. Given that the evidence adduced was new to the Crown and made assertions about the Crown’s conduct, counsel respectfully request that a brief is filed covering this matter for the Crown to be able to respond accordingly.

Te Runanga o Ngai Tahu Act 1996

7. The Crown does not make any submissions on whether the issues raised are with the RMA or the TRONT Act. The Crown considers that to be a matter for claimant counsel to address.
8. However, the Crown wishes to address the question of whether there is a relevant distinction between public and private Acts of Parliament that needs to be considered in this context.
9. Private Acts are passed for the benefit of particular individuals or legal persons (in this case, to dissolve existing entities in favour of a new governance entity to receive and administer Treaty settlement redress) and so are not passed for the public interest. Private Acts are in effect, a legislative privilege or exception under the general law, granted to private persons.
10. Nevertheless, the TRONT Act is an Act of Parliament and an Act which binds the Crown.³ Section 6(a) of the Treaty of Waitangi Act also gives broad jurisdiction to the Waitangi Tribunal to consider “any Act”. In the Crown’s submission, there is no distinction between a private Act and other forms of legislation that is relevant in the current context.

³ Te Runanga o Ngai Tahu Act 1996, s 3.

Questions in writing

11. The Crown files questions in writing for the following witnesses who either gave, or were scheduled to give evidence, during hearing week three:
 - 11.1 Evelyn Forrest
 - 11.2 Susan Woodley
 - 11.3 Marianne Parker
 - 11.4 Deborah Kissick
12. In respect of the first brief of evidence of Marianne Parker,⁴ Ms Parker records that the purpose of that brief was to place two resource consent documents on the record of inquiry, being:
 - 12.1 Resource Consent dated 16 May 2019.
 - 12.2 Resource Consent (Change to Conditions) dated 3 October 2022.
13. The Crown has reviewed the document #I21(a) on the Tribunal's website. It appears to be the appendices to the brief of evidence of Dianne Ruawhare, rather than the appendices to the first brief of evidence of Ms Parker. Counsel respectfully request that this is reviewed by the Tribunal and updated accordingly should that be required.
14. Due to competing commitments, including the release of the Tribunal's interim report on the draft geothermal strategy, counsel have not yet had the opportunity to prepare questions for Dr Paul Siratovich. The Crown

⁴ Brief of evidence of Marianne Parker, dated 27 March 2024 (Wai 2358, #121).

accordingly seeks leave to ask questions in writing of Dr Siratovich, and if granted, to file those on or before 12 December 2025.

5 Hakihea | December 2025



T Stephens KC / G Seeley / A McTaggart
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal

AND TO: Claimant Counsel