

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

HE PĀNUI WHAKAHAU A TE MANA WHAKAHAERE

*MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER ADDRESSING
OUTSTANDING HEARING THREE MATTERS AND CROWN REFORM UPDATE*

17 Hakihea 2025

Purpose

1. This memorandum-directions addresses outstanding matters arising from hearing three of stage three of the National Freshwater and Geothermal Resources (Wai 2358) Inquiry, which was held at Wairakei Resort, in Taupō, from 15 to 19 September 2025.
2. I also respond to the Crown's update on recent local government and resource management reforms (Wai 2358, #3.2.806).
3. An updated stage three inquiry timetable is **attached** as **Appendix A**.

Post-hearing three matters

Background

4. In memorandum-directions of 4 November 2025, I directed counsel to file further post-hearing three documents and information by 21 November 2025 (Wai 2358, #2.6.142 at [4]).
5. Counsel were also directed to file responses to written questions from both the Crown and Tribunal panel member Dr Grant Phillipson by 12 December 2025 (Wai 2358, #2.6.142 at [36] & #2.6.142(b)).
6. The Tribunal subsequently received extension requests from:
 - (a) Victoria Tumai, Tui Henry and Mukti Rathod, counsel for the Ngāi Tahu Settlement (Waitaha ki te Waipounamu) (Wai 2460) claim, seeking leave to file by 12 December 2025 a second article referred to by Anthony Olsen in the footnotes of the maps shown on slide two of Mr Olsen's presentation (#174(b)) (Wai 2358, #3.2.799);
 - (b) Paul Harman, counsel for the Geothermal Resources (Savage Whanau Trust) (Wai 3457) claim, seeking leave to file by 5 December 2025 several documents relevant to paragraph [39] of Huia Pacey's evidence (#162) (Wai 2358, #3.2.801);
 - (c) Tara Hauraki, Tyler Paki and Rhianna Morar, counsel for Tūaropaki Trust, seeking leave to file by 5 December 2025 assorted post-hearing three filing and responses (Wai 2358, #3.2.797); and
 - (d) Tim Stephens KC, Grace Seeley and Anna McTaggart, counsel for the Crown, seeking leave to file by 5 December 2025 responses to matters arising from hearing week three, and written cross-examination questions for hearing three witnesses (Wai 2358, #3.2.800).
7. On 2 December 2025, I granted the extensions sought via an e-mail from the Waitangi Tribunal's Registrar and confirmed that counsel should proceed to file the above material and responses by no later than the dates specified.

The Proprietors of Taheke 8C and Adjoining Blocks Incorporated

8. On 3 December 2025, the Tribunal received a memorandum from Andrew Irwin and Matewai Tukapua, counsel for the Proprietors of Taheke 8C and Adjoining Blocks Inc providing an update on the three cultural impact assessments requested by Dr Phillipson (Wai 2358, #3.2.803).
9. Counsel note two of the three assessments requested were attached to the supplementary brief of evidence of John Vercoe (Wai 2358, #165(a)) and are subsequently already on the record of inquiry (Wai 2358, #3.2.803 at [3]).

10. Counsel further advise that the third assessment is a draft working document prepared for the hydro-electric power development on the Ōkere River as part of an application for approvals to be lodged with the Environmental Protection Agency (the EPA). This application has not yet been lodged with the EPA (Wai 2358, #3.2.803 at [3]).
11. Counsel accordingly seek leave to file the requested document once it is lodged with the EPA, which counsel say they expect will occur in the first quarter of 2026 (Wai 2358, #3.2.803 at [4]).

Crown post-hearing three filing

12. On 5 December 2025, the Tribunal received a memorandum of counsel from the Crown, Tim Stephens KC, Grace Seeley and Anna McTaggart, addressing post-hearing three filing requests (Wai 2358, #3.2.805).

Supplementary brief of evidence

13. Counsel reiterates their submission made during hearing three that the oral evidence of Florence Karaitiana and Kim Te Tua, (Wai 2358, #173 & #164) who are witnesses for the Geothermal Resources (Te Tua & Karaitiana) (Wai 3415) claim, addressed issues that arose in respect of the Ngāti Tūwharetoa Treaty Settlement. The Crown submits such issues were not covered in the briefs of evidence filed with the Tribunal (Wai 2358, #3.2.805 at [4]).
14. Counsel note, in particular, that Ms Karaitiana asserted that the Treaty claims of Te Roopu ō Tapuaeharuru – being ngā uri ō Kurapoto raua ko Tia (of Te Arawa waka) – were joined against their wishes with those of the Ngāti Tūwharetoa hapū. Counsel further submit that Ms Karaitiana asserted that these issues had been ignored at ‘Crown level’ (Wai 2358, #3.2.805 at [5]).
15. Crown counsel submit that, given such evidence was new to the Crown and made assertions about the Crown’s conduct, Ms Karaitiana should be directed to file a further brief of evidence that covers the above matters, and that the Crown should be granted leave to respond accordingly (Wai 2358, #3.2.805 at [6]).

Te Runanga o Ngai Tahu Act 1996

16. Crown counsel state they have no submissions to make as to whether the issues raised in the opening submissions for Ngāi Tahu Settlement (Waitaha ki te Waipounamu) (Wai 2460) claim pertained to the Te Runanga o Ngai Tahu Act 1996 or the Resource Management Act 1991 (RMA) and consider these are submissions are best left to claimant counsel (Wai 2358, #3.2.805 at [7]).
17. In response to Dr Phillipson’s question regarding public and private Acts of Parliament, Crown counsel submit there is no distinction between a private Act and other forms of legislation that is relevant in the current inquiry context (Wai 2358, #3.2.805 at [10]).

Questions in writing

18. Crown counsel append questions in writing for hearing three witnesses as directed (Wai 2358, #3.2.805(a)).
19. Counsel advise, however, that, due to competing commitments, questions in writing for Dr Paul Siratovich (Wai 2358, #178) have not yet been prepared. Counsel accordingly seek leave to file any questions for Dr Siratovich on or before 12 December 2025 (Wai 2358, #3.2.805 at [14]).

Decision

20. I thank counsel for the above submissions and confirm the following in response.
21. I confirm counsel for the Proprietors of Taheke 8C and Adjoining Blocks should file the remaining cultural impact assessment as soon as possible after it has been submitted to the EPA. If this has not yet occurred by the end of March 2026, counsel should update the Tribunal accordingly.
22. I have considered the Crown's request and confirm that counsel for Ms Karaitiana and Ms Te Tua should file a supplementary brief of evidence covering the novel evidence adduced at hearing three. Counsel should file the requested supplementary brief by no later than **5 pm, Friday 30 January 2026**.
23. I further confirm that counsel for the Crown may file any evidence in response to the supplementary brief of evidence by no later than **5 pm, Friday 20 February 2026**.
24. I also confirm that counsel for the Crown may file any written questions for Dr Paul Siratovich by no later than **5 pm, Friday 23 January 2026**.
25. I note that, at the time of writing, the Tribunal had not received the outstanding post-hearing three filing requested of both Tūaropaki Trust and the Ngāi Tahu Settlement (Waitaha ki te Waipounamu) (Wai 2460) claimants.
26. Should this filing remain outstanding, I confirm that respective counsel for Tūaropaki Trust and the Ngāi Tahu Settlement (Waitaha ki te Waipounamu) (Wai 2460) claim should file this material as soon as possible, and by no later than **5 pm, Friday 23 January 2026**.
27. I further note that several other post-hearing matters remain outstanding. Respective counsel have not sought an extension regarding this material.
28. I accordingly confirm that all outstanding post-hearing three filing, included any outstanding responses to Crown or Tribunal questions, must be filed by **5 pm, Friday 23 January 2026**.

Crown update on legislative reforms

29. On 9 December 2025, the Tribunal received a memorandum of counsel for the Crown that provided an update on the Crown's local government and resource management reforms (Wai 2358, #3.2.806).

Proposal to reform local government

30. Counsel advise that the Government announced a proposal to reform and simplify local government on 25 November 2025, alongside a consultation process in relation to the proposed reforms (Wai 2358, #3.2.806 at [2]).
31. Counsel advises the proposal involves two steps (Wai 2358, #3.2.806 at [3]):
 - (a) Rather than electing regional councillors, mayors of territorial authorities will collectively form a Combined Territories Board (CTB). The CTB will become responsible for all the current regional councils' roles and obligations. Counsel state alternative options are also proposed which involve the appointment of one or more Crown Commissioners to lead or join the CTB.
 - (b) The CTB will then develop a 'Regional Reorganisation Plan' that will address how councils across a region can 'more effectively and efficiently' work together. The plan will map all council functions within a region and recommend a model for each function.

Counsel advise the plan would require consultation, be examined independently by the Local Government Commission, and be approved by the Minister for Local Government.

32. The Crown advises the Government proposes to review regional council roles and functions to identify those that should remain in place as a local function and those that may be centralised or discontinued (Wai 2358, #3.2.806 at [4]).
33. If agreed, counsel states the proposed model would remove all regional constituencies, including the Māori and general constituencies, since it will remove the election of regional councillors. Mayors of territorial authorities within a given region would instead have the local democratic mandate to govern regional councils through their membership of the CTB (Wai 2358, #3.2.806 at [5]).
34. Counsel for the Crown highlight the proposed model would accordingly ‘nullify’ two local Acts which provide for Māori representation (Wai 2358, #3.2.806 at [5]), namely:
 - (a) Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2011; and
 - (b) Canterbury Regional Council (Ngāi Tahu Representation) Act 2022.
35. The Crown advises public consultation on the proposed local government reforms is open until 20 February 2026 (Wai 2358, #3.2.806 at [6]).

Resource management reforms

36. The Crown also reiterates that the Government intends to replace the Resource Management Act 1991 with two Bills (Acts, once enacted): the Planning Bill, and the Natural Environment Bill. Counsel advise the Bills were expected to be introduced to the House on the day of filing (i.e. 9 December 2025) (Wai 2358, #3.2.806 at [7]–[8]).
37. Crown counsel state Cabinet has also agreed that legislation should be introduced, and passed under urgency in 2025, to extend the expiry date of certain resource consents that are set to expire before 31 December 2027, as well as reinstating and extending certain recently expired resource consents where an application for renewal has been made. These consents would be extended until 31 December 2027, after which any further extensions would be subject to the provisions of the new Acts, once passed (Wai 2358, #3.2.806 at [9]).
38. Crown counsel further advise the CTBs, proposed under the Government’s local government reforms, will be central to the initial implementation of the new resource management system as it relates to geothermal resources (Wai 2358, #3.2.806 at [12]).

Further Crown updates

39. The Crown confirms it will continue to update the Tribunal as more information on the above reforms become available and further notes ‘the Tribunal will of course be able to examine the Treaty-consistency of any legislation once enacted by Parliament’ (Wai 2358, #3.2.806 at [13]).

Response

40. I acknowledge the Crown's update as summarised above.
41. I reiterate my expectation that the counsel for the Crown will keep the Tribunal and parties fully apprised of relevant legislative and policy developments as they occur.
42. Such updates should be filed in a timely manner and without delay.

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 Te Whanganui-a-Tara i te 17 o te Hakihea 2025



Kaiwhakawā W W Isaac
Te Mana Whakahaere

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI