

IN THE WAITANGI TRIBUNAL**WAI 2357****WAI 2358****WAI 996****IN THE MATTER OF** the Treaty of Waitangi Act 1975**AND****IN THE MATTER OF** An application for an urgent hearing by Sir Graham Latimer, Tom Murray, Taipari Munroe, Kereama Pene, Rangimahuta Easthope, Peter Clarke, Jocelyn Rameka, Eugene Henare, Nuki Aldrige, Ani Martin, Ron Wihongi, Eric Hodge, Walter Rika, Emily Rameka, Maanu Paul, Charles White and Whatarangi Winiata.

MEMORANDUM OF COUNSEL
9 May 2012

RECEIVED Waitangi Tribunal
9 May 2012
Ministry of Justice WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

- 1.** This Memorandum is filed on behalf of Mr. David Potter and Mr. Andre Paterson (“the Wai 996 Claimants”), the Claimants for Wai 996.
- 2.** The Wai 996 Claimants support the urgent application made by the New Zealand Maori Council and others in relation to the Sale of Power Generating State-Owned Enterprises Claim and the National Fresh Water and Geothermal Resources Claim (“the Wai 2357 and Wai 2358 Claims”).
- 3.** The Wai 996 Claimants are part of the Ngati Tionga Hapu of the Ngāti Rangitihī Iwi.
- 4.** This Memorandum responds to Memorandum-Directions of the Presiding Officer dated 27th April 2012¹ directing that the following information be filed by parties by midday today:

(a) submissions on stage 2 primary issues and any sub-issue matters; and

(b) list of case examples.

Submissions On Stage Two Issues and Sub-Issues

- 5.** The Wai 996 Claimants have no substantive submissions to make on the Stage Two Primary issues, nor any sub-issue matters, except for a minor amendment to paragraph 17(c). Counsel recommends the following additions, in bold and underlined below:

17 (c) If not, why not? In particular, is the current situation a consequence of past Treaty breaches that have already been identified in Waitangi Tribunal findings, **for instance**, in relation to water resources, geothermal resources, and natural resources more generally?

¹ Wai 2357, #2.5.19 and Wai 2358, #2.5.19.

6. These amendments broaden the issue question as there may well be relevant findings of the Waitangi Tribunal identified in relation to other matters that should be considered in the Tribunal's current inquiry. Counsel respectfully submits that this issue question should not be limited to Tribunal findings solely in relation to water, geothermal and other natural resources.

Specific Case Examples On Behalf of Ngati Rangitihī

7. The Wai 996 Claimants wish to include two of their waterways as case examples in these proceedings. Counsel has liaised with Counsel for the Claimants regarding these case examples.
8. The two case examples that the Wai 996 Claimants wish to include are:
 - (a) Kawerau Field (Onepu Springs) – Tarawera River Valley; and
 - (b) Lake Tarawera.

Kawerau Field (Onepu Springs) – Tarawera River Valley Case Example

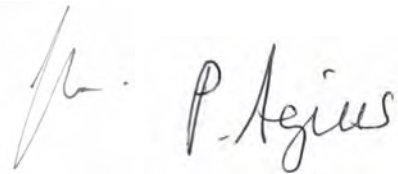
9. The Wai 996 Claimants have extensive interests in geothermal and fresh water resources at the Onepu Geothermal field, at Kawerau, which is located at the base of their Putauaki Maunga. The Tarawera River runs through this area.
10. Onepu was a life sustaining resource for the Ngati Rangitihī people – Ngati Rangitihī bathed in the hot pools and cooked food in the boiling water springs. The area was also used for its therapeutic qualities. For that reason, many of Ngati Rangitihī not only travelled there regularly, but also occupied this area on a semi-permanent basis for centuries. This area was also used for a Tohi rite, where the newborn baby is given its first bath and named.
11. The Onepu Springs form part of a wider connection to other geothermal fields within Ngati Rangitihī's rohe that are located near the base of significant volcanic peaks. This is why all Ngati Rangitihī carvings have four "peaks" on them, which symbolise the connection with four major geothermal resource fields within the

areas of the volcanic peaks of White Island, Mount Tarawera, Mount Putuauki, and Mount Tongariro.

Lake Tarawera Case Example

- 12.** Lake Tarawera is a significant resource for Ngati Rangitihi. Lake Tarawera provided a raft of resources to the Ngati Rangitihi people including vital food and sustenance, and washing and bathing resources. It was also used for travel, recreational purposes, and spiritual rituals. Ngati Rangitihi have various urupa in this area. Lake Tarawera also provided significant geothermal resources for the Ngati Rangitihi people, including the Pink and White Terraces, and Waimangu Valley.

Dated at Wellington this 9th day of May 2012

A handwritten signature in black ink, appearing to read 'Janet Mason/Priscilla Agius'. The signature is written in a cursive style with a large initial 'J' and 'P'.

Janet Mason/Priscilla Agius
Counsel for the Claimant