IN THE WAITANGI TRIBUNAL

WAI 1040
Wai 620
Wai 1508
Wai 1757
Wai 2026
Wai 2239
Wai 2072

In the matter of	The Treaty of Waitangi Act 1975
And	
In the matter of	Wai 1040, Te Paparahi o Te Raki
And	
Concerning	Te Waiariki, Ngati Korora, Ngati Taka Pari Wai 620, 2026, 2239; Ngati Torehina ki Mataka Wai 1508, 1757; and Te Ihutai Ki Orira Wai 2072

MEMORANDUM OF COUNSEL
(Regarding the Tribunal's development of a draft statement of issues)
Dated the 17th day of May 2012

RECEIVED
Waitangi Tribunal
17 May 2012
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

Introduction

1. On behalf of Wai 620, 2026, 2239, 1508. 1757 and 2072, this memorandum sets out counsels two (2) brief supplementary submissions to the Tribunal intended to assist members in their consideration of articulating and releasing a draft statement of issues, having now heard from parties.

First Submission

2. As to the Crown's concessions thus far, which admit that the principles of Te Tiriti were breached, and as Counsel has highlighted in relation to land retention which is at the heart of the common intention of Te Tiriti, and for the reason that such concessions will not be retracted (Wai 1040, #3.1.768 p4, Para 13), it is submitted that the Tribunal may consider that the fulfilment of the jurisdictional obligations that appear to remain for it under Section 6 of the Treaty of Waitangi Act 1975 (**the Act**) in relation to such matters of concession are as follows:

    2.1 Who precisely was prejudicially affected?

    2.2 What was the nature and extent of the prejudice, and more particularly, how precisely were Counsel's clients prejudiced?

    2.3 Ought the Crown be recommended to action to remedy the prejudice?

    2.4 If so, what action is appropriate, in respect of:

(a) compensation; and/or

(b) removal (of the prejudice); and/or

(c) prevention.

2.5 Whether any of the remedies available under Sections 8A, 8HB, and/or 8HJ of the Act might be included in the Tribunals deliberation as to appropriate remedial action?

Second Submission

3. It would useful to have an opening in the timetable just prior to the commencement of hearings to revisit the Tribunal's statement of issues. By that time it is hoped that we will have the benefit of this Tribunal's Stage 1 findings, as well as the circulation of evidence briefs. This will allow any refinement of the issues, or perhaps more drastic modifications. Leave is sought in that regard.

Dated this 17th day of May 2012.

J P Kahukiwa
Counsel for Wai 620, 2026, 2239, 1508. 1757 and 2072