

# OFFICIAL

IN THE WAITANGI TRIBUNAL

Wai 1130 # 3.1.16(a)

Wai 903 # 3.1.14(a)

**UNDER**

the Treaty of Waitangi Act 1975

**AND**

**IN THE MATTER**

of a claim by **PATRICIA HENARE** and  
**VIVIENNE JOAN PIRIHITA KOPUA**

Claimants

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## MEMORANDUM OF COUNSEL FOR CLAIMANTS

Dated 12 July 2004

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**MEMORANDUM OF COUNSEL FOR CLAIMANTS****MAY IT PLEASE THE TRIBUNAL:**

1. This Memorandum of Counsel for the Claimants is submitted in order to explain the current situation of the Wai 836 claimants.
2. In particular, this Memorandum addresses:
  - The Claimants' existing claim (Wai 836) relating to the Whanganui District;
  - The fact that the Claimants are today submitting an Amended Statement of Claim which additionally relates to the National Park Inquiry; and
  - The status of the Claimants' claims in light of their funding difficulties.

**Nature of Claim**

3. The Claimants are the mandated representatives of Nga Whanau Uenuku Tuwharetoa. They are one of a number of claimants involved in the current Whanganui District Inquiry (902). Their claim now relates to Makotuku/Raetihi Block VI, which is part of Ohakune township; part of Ruapehu (Whakapapa side); and Block Ohuto (south of Ohakune).
4. When the Claimants filed their claim with the Registrar of the Tribunal, it was noted that they had asked for assistance with research and the Directions from the Tribunal in May 2000 stated that this issue would be addressed in the preparation of the research case book for the inquiry in the Whanganui District.
5. The Directions from the Tribunal also noted that before the claim could advance to a hearing, the Tribunal would require an amended statement of claim that fully particularised the claim in terms of section 6 of the Treaty of Waitangi Act 1975.
6. The Claimants believed they had submitted an amended claim but understand that cannot now be traced.

7. Since that time the claimants have been seeking ways to obtain funding. These are particularised below.
8. The Claimants are in an unusual position in that they do not have turangawaewae or a marae and in particular they have no funding and no other means of gaining funding.

#### **Nature of the Problem**


9. The claimants have been seeking for a number of years to obtain funding from one or either of the Crown Forestry Rental Trust (“CFRT”) or the Office of Treaty Settlements (“OTS”). Under the current CFRT policy the claimants were encouraged to cluster with other central claim groups. The claimants did indeed cluster with other groups in the Whanganui District to form the Central Claims Cluster (“CCC”), the main participants being Wai 555 under the Chairmanship of Robert Cribb.
10. The Central Claims Cluster as this group became known is currently in receipt of funding from the CFRT.
11. Despite the claimants’ attempts to successfully cluster with the CCC they have found themselves unable to do so.
12. Since that time they have been struggling to (a) find funding from any source and (b) form an alternative cluster. Despite these attempts they have been unsuccessful to date.
13. We are currently acting for the Claimants on a *pro bono* basis.

#### **Current state of play**

14. We are aware that the CFRT is currently in the process of completing the historical research on the Whanganui District claims area. It is our understanding that the casebook will be completed around now with an aim to commence the hearings on the Whanganui District claims at the end of the year.

15. At this stage the Wai 836 claimants are, regrettably, nowhere near ready for those hearings in terms of preparation. For example, the Amended Statement of Claim has only just been filed. The delay was mainly due to lack of funding but is also due to the valuable time lost in joining and then leaving the CCC and the problems which stemmed from these events. The amended claim seeks inclusion in relation to the National Park Inquiry as well (please refer to the Makotuku/Raetihi Block VI claim).
16. It is our understanding that the hearings can only proceed at the pace of the slowest claimant and at this time, and for the foreseeable future due to the lack of funding, the slowest claimants are Wai 836.
17. We are of the opinion that the Tribunal needs to be aware of these issues and if possible, could make some kind of direction on the unsatisfactory situation which has developed. The Claimants understandably would like to be able to participate fully at the hearings. This seems like a very distant and unlikely prospect at this time considering their lack of funding and their unsuccessful attempts of recent years to obtain such funding.
18. The Claimant request research assistance. Once that is given, they will be able to file a full Amended Statement of Claim in accordance with the Tribunal's direction.

Dated this 12th day of July 2004



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**Matthew Andrews**  
Counsel for the Claimants

TO: The Crown Law Office  
AND TO: Office of Treaty Settlements