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IN THE WAITANGI TRIBUNAL **WAI 2374**

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	a claim by Sir Graham Latimer on behalf of himself and the hapū of Te Paatu; Mr Haami Piripi on behalf of himself and the iwi of Te Rarawa; Mr David Potter and Mr Andre Paterson on behalf of themselves and hapū of Ngāti Rangitihi; Ms Michelle Marino and Mr Errol Churton for and on behalf of themselves and the descendants of Tāringa Kuri (Te Kaeaea); and Mr Russell Kemp on behalf of himself and the hapū, marae and whānau of Te Uri o Hau

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MEMORANDUM OF COUNSEL

22 November 2012

RECEIVED
Waitangi Tribunal
23 Nov 2012
Ministry of Justice
WELLINGTON

Pacific Law Limited
Barristers & Solicitors
200 Willis Street
PO Box 27400
Marion Square
Wellington 6141
Tel: (04) 384 1304
Fax: (04) 384 1404
Counsel Acting: Janet Mason

MAY IT PLEASE THE TRIBUNAL

1. This Memorandum of Counsel responds to the Memorandum filed today by Counsel for the Crown in relation to the request made by Counsel at the judicial conference which was convened on the 15th of November ("the JC") to file an amended Statement of Claim.

2. The Memorandum-Directions of Her Honour dated 16 November (Wai 2374, #2.5.15) stated, at paragraph 5:

> In her submissions presented at the judicial conference, Ms Mason also sought leave to file an amended statement of claim (Wai 2374, #3.1.37). These amendments contain new allegations which vary significantly from the original statement of claim, and which will require further consideration as to whether an urgent hearing is required. As I stated during the judicial conference, the best approach would be for Ms Mason to re-file all these amendments as a new claim, accompanied by a separate application for urgency.

3. As set out above, at the JC Counsel had sought leave to file an amended Statement of Claim in accordance with instructions received from the Wai 2374 Claimants to add four new causes of action (see paragraphs 184 – 195 of Wai 2374, #3.1.37).

4. In the excerpt quoted at paragraph 2 above, Her Honour states that "the best approach is to re-file all these amendments as a new claim, accompanied by a separate application for urgency".

5. Counsel's understanding from her Honour's oral statements was that although the "approach" was to re-file these particular amendments as a new claim, they would still be classified as amendments to the existing Statement of Claim. This was because the addition of each of the four new causes of action, all of which raised complex matters, would require separate and substantive submissions and analysis as against the Tribunal's criteria for urgency. Consequently, it was best to "re-file these **amendments** as a new claim" [emphasis

added]. The additional new causes of action would then be considered and, if urgency was granted, heard, all together with the causes of action in the current Statement of Claim as they were all intertwined and were all allegations against the Crown's practices and policies in relation to legal aid for Maori.

6. Certainly, it was not Counsel's understanding that there was to be an entirely separate claim with its own number and hearing timetable.

7. In the Memorandum filed yesterday, Counsel advised, at paragraph 3(c), that Counsel was working towards filing the amendments to the Statement of Claim and the requisite accompanying material prior to the end of 2012.

8. Counsel further advises that Senior Counsel is currently in the process of being engaged as Co-Counsel, subject to approval from Legal Aid Services, to assist with the substantive amount of work that is required to bring these proceedings before the Tribunal.

9. Given the issues raised in the Memorandum filed by Counsel for the Crown today, Counsel respectfully seeks clarification from Her Honour as to the intended process for the filing of the amendments to the Statement of Claim.

. **Dated** 22 November 2012

Janet Mason
Counsel for the Claimants