

IN THE WAITANGI TRIBUNAL

WAI 1040

WAI 1385

IN THE MATTER OF The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF Te Paparahi o Te Raki (Wai 1040)

AND

IN THE MATTER OF A Claim by Frank Rawiri and Bobby
Newson on behalf of themselves and
Ngā Tauria Tawhito o Hato Petera

AND

IN THE MATTER OF The Roman Catholic Bishop of
Auckland

**MEMORANDUM OF COUNSEL SEEKING LEAVE TO RESPOND TO
THE MEMORANDUM OF COUNSEL FOR THE ROMAN CATHOLIC
BISHOP OF AUCKLAND AND MEMORANDUM-DIRECTIONS
REGARDING THE CLAIMS MADE IN WAI 1385**

Dated: 5 December 2012

RECEIVED

Waitangi Tribunal

5 Dec 2012

Ministry of Justice

WELLINGTON

TamakiLegal

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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. This memorandum is filed on behalf of Frank Rawiri, Bobby Newson and Ngā Taurira Tawhito o Hato Petera, the named claimants for Wai 1385.
2. We refer to the Memorandum of Counsel filed by Counsel for the Roman Catholic Bishop of Auckland,¹ the response by the Crown at the request of the Tribunal² and the Memorandum-Directions³ given on the matter.

Leave Sought to Respond

3. We seek leave to respond to the Memorandum of Counsel for the Roman Catholic Bishop and the summary of our clients claims as stated in the Memorandum-Directions.
4. There are concerns amongst the claimants that their Treaty claims have not been described accurately in the course of this exchange and they wish to correct any misunderstanding.

Response on Behalf of the Claimants

5. The Claimants for Wai 1385 make their claim against the Crown in relation to a Crown Grant and subsequent events relating to that Grant of land and how it was utilised, or not, for the given purpose.
6. They do not allege that the Catholic Church was the agent of the Crown. Nor do they allege that the Catholic Church engaged in actions which breached the principles of the Treaty or prejudicially affected the Claimants.
7. We acknowledge that the conduct of the Catholic Church is described and included to the extent necessary to complete the historical narrative relevant to the offending actions of the Crown.
8. We also note that there were allegations of this kind against the Catholic Church contained in the Statement of Claim dated 27 March 2007⁴(the Statement of Claim).

¹ Wai 1040 #3.1.826.

² Wai 1040 #3.1.827.

³ Wai 1040 #2.5.136.

⁴ Wai 1040 #1.1.163.

9. This Statement of Claim, as filed, no longer represents the claims which the Claimants allege. Any allegations against the Catholic Church have been removed and the claims the Claimants make are properly represented in the Amended Statement of Claim dated 30 September 2011(the Amended Statement of Claim).⁵
10. It is our understanding that the Tribunal will consider the issues and claims as articulated in the Amended Statement of Claim, not the earlier version. In particular we do not anticipate dealing with any opposition to the earlier Statement of Claim as it has been rendered moot by the more recent version.

Dated at Auckland this 5th day of December 2012.



Darrell Naden
Counsel Acting



Cameron Hockly

⁵ Wai 1040 #1.1.163(a).