IN THE WAITANGI TRIBUNAL

	Wai 898
Wai 74	Wai 1409
Wai 1497	Wai 1498
Wai 1898	Wai 1974
Wai 1975	Wai 1976
Wai 1978	Wai 2086
Wai 2070	Wai 2271

Under **The Treaty of Waitangi Act 1975**

In the Matter of **Claims in Te Rohe Potae Inquiry District (Wai 898)**

MEMORANDUM OF COUNSEL ON APPLICATION FOR LEAVE FOR SITE VISIT DURING WEEK 3
8 FEBRUARY 2013

INSTRUCTING SOLICITOR
Lisa Tregenza
Sanders Tregenza Law
Barrister and Solicitor
PO Box 23490
Hunters Corner
Manukau
Ph: 09 278 2237

COUNSEL ACTING
Yashveen Singh - Barrister
Totara Chambers
33A Everglade Drive
Goodwood Heights Manukau 2105
P: 09 262 3736
M: 021 296 7033
Email: yash@totarachambers.co.nz

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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. This Memorandum of Counsel is filed in response to the memorandum-directions dated 31 January 2013 (Wai 898, #2.6.6).

2. This Memorandum of Counsel is filed on behalf of the following claimants, (Wai 74, Wai 1409, Wai 1497, Wai 1498, Wai 1898, Wai 1974, Wai 1975, Wai 1976, Wai 1978, Wai 2070, Wai 2086, and Wai 2271 ('The Claimants').

3. The claimants are members of the Te Haurauru Claimant Collective Cluster ('THCCC') who will present their evidence during hearing week 8 that will be held in Otorohanga. The location of the hearing week will render a site visit to Kawhia impracticable.

APPLICATION FOR LEAVE

4. This memorandum of counsel is to inform the Tribunal of the proposed site visit on Sunday 3 March 2013 and to seek leave.

PREVIOUS DISCUSSIONS ON SITE VISIT

5. On Wednesday 23 January 2013, counsel along with two claimants from the list of claimants above attended the Hearing Organising Committee hui ('The Hui') in Hamilton.

6. Two representatives from the Hearing Organising Committee and a representative from the Claimant Counsel Co-ordinating Committee were at this hui.

7. The proposed site visit was raised and discussed and we were directed to raise this matter with the Tribunal.

8. On Monday 28 January 2013, we met with our claimants at Rakaunui Marae.

9. Representatives from the Waitangi Tribunal, Crown Forestry Rental Trust and the Hearing Organising Committee ('The Team') also visited Rakaunui Marae the same day and we took the opportunity to discuss the site visit with the team.

10. We were advised to raise this with the Tribunal formally.

11. On 29 January 2013, we informed a representative of the Claimant Counsel Co-ordinating Committee of the Memorandum of Counsel we were going to file in relation to the site visit and also sent a draft copy.

12. On 31 January 2013, we filed a memorandum of counsel to inform the Tribunal of the intention to have a site visit and later that same day, the Tribunal issued directions seeking more information.

SITES, SIGNIFICANCE AND THE RELATION TO THE CLAIMS

13. The claimants would like to take the Tribunal to the following sites:

    a. **WAIPUNA (Wai 2271)**

       Through the actions of the Native Land Court and the Crown purchasing policy the claimants no longer exercise mana whenua over their traditional rohe. The urupa on this block illustrates this point very clearly. There was a house and later a dog kennel built on this urupa. While the house and the dog kennels have been removed, the foundation of the building remains and claimants have recent photographs of the dog kennels with dogs in them.

    b. **RAKAUNUI NATIVE SCHOOL SITE (Wai 1409, Wai 1978)**

       Despite the land being taken in 1909, and a Crown commitment to return the land in the spirit of the gift of the land, the Maori Land Court decided to vest the land in one individual.

c. HAUTURU SCHOOL BLOCK (Wai 1898)

Education reserve of 3 acres. No native school was established despite of claimant invitation and setting aside of land.

d. TANUKU (Wai 1498)

Tanuku was a wahi tapu. The block was cut in half when the Crown took the land and built roads on it. The land is now in private ownership and a monument is on the block to mark its significance. The monument is on a hill and it is not expected that the Tribunal walk up that hill. The monument is visible from the road. We also have photographs that will be in the booklets.

e. MATAIWAKA (All Claimants)

Burial site of Ngutu, Te Waaraki and Tuhoe Potiki. This is very close to Waipuna.

f. LANDLOCKED LAND- AWAROA A2E- SCENERY PRESERVATION (1497)

In 1911 the Scenery Preservation Board recommended that land in Awaroa A2E should be acquired for scenery preservation purposes and surveying of the area began. Despite opposition and the report by the Inspector of Scenic Reserves that the complainant had a legitimate grievance, the land was eventually taken with insufficient compensation. Other prejudices arise from this taking as well.

g. OTHER SITES OF SIGNIFICANCE (All Claimants)

There are a number of wahi tapu sites that are no longer accessible by the claimants. Several wahi tapu, urupa, and other taonga sites important to Ngati Ngutu have been desecrated. Claimants will point them out during the site visit.

14. We have inserted Wai numbers beside each site that will be visited to show the amended statement of claim that the claim is in. The sites that have 'All claimants' are the sites where all the claimants listed in this memorandum of counsel have interest in.

15. The site visit, especially Waipuna highlights the prejudice resulting from Crown actions. Presenting evidence of the prejudice on Waipuna during the hearings will not have the same effect as witnessing it.

16. Other claimants may have interest in the sites that our claimants would like to take the Tribunal to and the claimants that we act for acknowledge those interests.

BOOKLETS

17. In preparation of the site visit, we have already taken relevant photographs for the booklet that would be provided during the site visit.

18. Once leave is granted we will begin compiling the booklet.

19. We have informed Crown Forestry Rental Trust about our application of leave for the site visit and hope to start discussions on funding soon.

ACCESS

20. The site visit will require the Tribunal to be on privately owned land and the claimants will get permission from the owners to be on those properties prior to the site visit.

TIME NEEDED FOR SITE VISIT

21. The site visit will take about 3 hours and is possible to complete during daylight.

22. Mr Fred Herbert will be the spokesperson and will lead the site visit.

TRANSPORT

23. It is expected that the powhiri will be well attended and there will be a number of buses required to take people to and from these sites.

FUNDING

24. Funding will be needed for the booklets and transport and we ask the Tribunal to make recommendations that will assist in securing funding from Crown Forestry Rental Trust.

DATED this 8th day of February 2013

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Yashveen Singh
(Counsel for Claimants)

To: The Registrar, Waitangi Tribunal, Wellington
And To: The Crown Law Office
And To: Counsel for Claimants in the Te Rohe Potae Inquiry District