

WAITANGI TRIBUNAL

Wai 2358

CONCERNING

the Treaty of Waitangi Act 1975

ANDthe National Fresh Water and
Geothermal Resources Inquiry**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER**

1. On 13 October 2014, I convened a teleconference to hear from parties participating in Stage Two of this inquiry. Appended to this memorandum-directions is the attendance list.
2. The purpose of this teleconference was set out in para 8 of my memorandum-directions of 1 October 2014 (Wai 2358, #2.5.50)

Evidence and information about the proposed reforms

3. At the teleconference, Mr Richard Fowler QC, claimant counsel, submitted that the Crown's report (Wai 2358 #3.1.234(a)) does not provide sufficient information to enable the Stage Two issue question to be confirmed, or for the claimants to prepare their evidence. Counsel for interested parties, Ms Janet Mason and Mr Darrell Naden, argued that the Stage Two issue question was too narrow in any case.
4. For the Crown, Mr Jason Gough responded that the report constitutes what is currently known as to the proposed reforms, which are likely some years away from completion. Further information would not be available until senior Ministers had met with Iwi chairs at Waitangi on 5 February 2015. The Crown does not envisage filing any further evidence until after the claimants' evidence has been received, 'in the usual way'.
5. After some discussion, the parties agreed that Crown counsel would meet with counsel for the claimants and for interested parties before the 5 February 2015 meeting to discuss the inquiry, the next steps, and the Crown's position on Māori residual proprietary rights in water.

The issue of a Crown undertaking

6. At the conference, the claimants continued to seek an undertaking that the Crown would not introduce legislation affecting their rights in water prior to the claim being heard, or – in the alternative – that any such legislation would be referred to the Tribunal under section 8 of the Treaty of Waitangi Act 1975.
7. Mr Gough responded that he had no instructions as to whether such undertakings would be given by the Crown. He undertook, as Crown counsel, to advise parties and the Tribunal as soon as he knew of any proposed legislation. In his view, the only likely legislation in the

near future could be the 2013 proposed reforms to the Resource Management Act, which had already been signalled last year, and which might be reintroduced this year.

Position of counsel for Trust Power and Ngāi Tahu

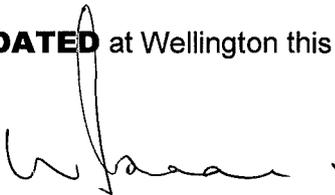
8. Justine Inns, counsel for Te Rūnanga o Ngāi Tahu, and Bridget Bailey, counsel for TrustPower Limited, advised that their instructions are to maintain a watching brief.

The Tribunal's directions

9. I direct the Crown to file an update following the meeting between Ministers and the Iwi Leaders at Waitangi. The Crown is to file this update no later than **midday on 6 March 2015**. Claimant counsel and interested parties may make any submissions in response by **midday on 3 April 2015**.
10. After receipt of these submissions, the Tribunal will consider the next steps for this inquiry.

The Registrar is directed to send a copy of this direction to counsel for the claimants, Crown counsel and all those on the distribution list for Wai 2358, the National Fresh Water and Geothermal Resources Inquiry.

DATED at Wellington this 20th day of October 2014



Chief Judge W W Isaac
Presiding Officer

WAITANGI TRIBUNAL

Wai 2358: National Fresh Water and Geothermal Resources Inquiry
13 October 2014 Teleconference
Attendees List

Panel:

Chief Judge W W Isaac

Dr Grant Phillipson

Counsel:

<i>Counsel in order of appearance</i>	<i>Representing</i>	<i>Wai number of claimants and interested parties</i>
Richard Fowler Matthew Smith Donna Hall Rebecca Jordan	Claimant Counsel	On behalf of NZ Maori Council
Jason Gough Liam McKay Kate Stone	On behalf of the Crown	
Janet Mason (Pacific Law)	Interested Parties	<p>Haami Piripi, Chairperson of the Te Rūnanga o Te Rarawa on behalf of Te Rarawa. Tangonge (Kaitaia Lintel) claim (Wai 1699).</p> <p>Haami Piripi, Chairperson of the Te Rūnanga o Te Rarawa on behalf of Te Rarawa on behalf of Te Rarawa. Te Rarawa (Piripi) Claim (Wai 1701).</p> <p>David Potter and Andre Paterson on behalf of Ngāti Tionga hapū of Ngāti Rangitihī. Ngāti Rangitihī Inland and Coastal Land Blocks claim (Wai 996).</p> <p>Fredrick C Allen of Te Atiawa iwi and trustee for Te Upoko O Te Ika in the Te Kahui Rongoa Trust. The Protection of Indigenous Flora & Fauna (Allen) claim (Wai 740).</p> <p>Michelle Marino and Errol Churton for descendants of Taringa Kuri (Te Kaeaea) (Wai 377).</p>
Justine Inns (Ocean Law)	Interested Party	Te Rūnanga o Ngāi Tahu
Darrell Naden (Tamaki Legal)	Interested Parties	<p>Harry and Evelyn Kereopa on behalf of Te Ihingarangi a hapū of Ngāti Maniapoto (Wai 726).</p> <p>Morehu McDonald on behalf of Ngāti Hinerangi and the Ngāti Hinerangi Trust Board (Wai 1226).</p> <p>Te Enga Harris on behalf of Wiremu Hemī, Harris and Meri Otene whānau and on behalf of Ngāti Rangī, Ngāti Here, Ngāti Tupoto, Ngāti Hohaitoko, Ngāti Kopuru, Te Rarawa and Ngāti Uenuku. Land Alienation and Wards of the State (Harris) Claim) (Wai 1531).</p> <p>Rueben Taipari Mare Porter on behalf of himself, his whānau and members of Kaitangata, Ngā Tahawai and</p>

<i>Counsel in order of appearance</i>	<i>Representing</i>	<i>Wai number of claimants and interested parties</i>
		<p>Whānau Pani hapū of Northland. Tutamoe Pa Claim (Wai 1968).</p> <p>Piriwhariki Tahapeehi on behalf of Ngāti Mahanga, Ngāti Tamaoho and Ngāti Apakura. (Tahapeehi) Lands Claim (Wai 1992).</p> <p>The combined claim of Chappy Harrison on behalf of the Harihona whānau and Ngāti Tara, and Robert Gabel on behalf of the descendants of Ngāti Tara, a hapū of Ngāti Kahu. Ngāti Tara (Gabel) Claim (Wai 2000).</p> <p>Mona Thompson and Ron Wi Repa on behalf of themselves, Ngāti Rakai, Ngāti Waimauku, Ngāti Waikorara, Ngāti Mihi, Ngāti Waioara, and Ngā Uri o Pehira Keepa and Ngā Uri o Wi Repa. Te Kaha Hapū (Thompson and Wi Repa) Claim (Wai 1962).</p>
Bridget Bailey (Holland Beckett Lawyers)	Interested Party	Trust Power Limited