

STRATEGIC SUMMARY DOCUMENTS WITH EXTRACTS FROM STATEGIC LETTERS27 May 91**PRIME MINISTER**

27 May 1991

Mr Kenn J Landaus
Managing Director
Nephrite Jade Ltd
PO Box 43
HAAST 7950

Dear Mr Landaus

Thank you for your letter on 2 April 1991 regarding the Waitangi Tribunal and the Ngai Tahu claim.

The present Government's policy on outstanding Maori grievances accepts that genuine grievances as a result of past government actions have occurred and should be redressed in a reasonable and practical fashion.

The Ngai Tahu report is a long and complex one. There is a great deal of information for the Government to digest before any decisions will be made. The Tribunal may express a view on how the Treaty should be applied, but that in itself is not binding. Some of the earlier recommendations of the Tribunal have been accepted by the Government, while others have not been acted on.

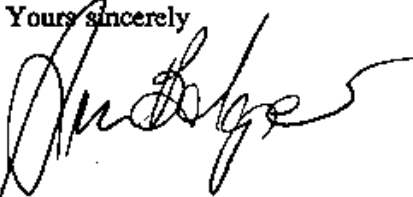
The Tribunal has a policy of taking into account the views of parties who may be affected by any decision of the Tribunal. **Anyone who is affected has the right to be heard by the Tribunal at the time the claim is being heard**, and I know that the Tribunal considered a wide range of opinions before preparing its report.

In this case, the Tribunal has made five recommendations in relation to greenstone. The rights of private parties, including those with existing mining or other licences and the owners of privately owned land, are expressly protected by the recommendations to ensure that their rights are not adversely affected.

The Crown has stated its commitment to the resolution of major Treaty grievances by the end of this century. It would be wrong to simply ignore problems which have occurred in the past and it is our policy to try to resolve them once and for all.

I do appreciate you taking the time to write.

Yours sincerely



Rt Hon J B Bolger
Prime Minister

14aug97 from KJL

Mining Licence 32 3021

This current licence expires on 22 December 1999.

Under Section 77 of the Mining Act 1971 and Section 107 of the Crown Minerals Act 1991, it is clear that I have a Right of Priority to obtain a further licence if application is made not later than 30 days before the licence expires.

As letters received from Ministers and your Ministry have stressed that existing licences will not be effected by the pending Ngai Tahu Pounamu Vesting Act, then it is understood my Right of Priority to obtain a further licence will remain unaffected.

As the licence area still contains approximately 80 tonnes of nephrite, I now intend to apply to the Ministry for a renewal of this licence pursuant to the above statutory procedures

Would you please have the appropriate application forms sent to me at the above address.

[cm7 oct97](#)

I note that you consider that section 77 of the Mining Act 1971 and section 107 of the Crown Minerals Act 1991 give you a right of priority to apply for a further mining licence for nephrite. Section 77 only gives holders of existing mining licences the right to apply for a new licence ahead of other people, it does not guarantee that such applicants will be granted a new mining licence. It is incorrect to assume that a right of priority to apply for a further mining licence gives you a right to have such a licence granted to you. The effect of section 77 is unchanged by the Ngai Tahu (Pounamu Vesting) Act except that ~~the definition of pounamu~~ licences with respect to pounamu (the definition of pounamu includes nephrite) in the takiwa of Ngai Tahu ~~will apply to Te Runanga of Ngai Tahu for a new licence rather than to the Crown~~ if you wish to apply for a renewal of your existing licence then you need to apply to Te Runanga o Ngai Tahu.

Prospecting Licence Application 31 2583 (K J Landaus) and Mining Permit Application 41 452 (K J Landaus and B J Radomski)

Before the Ngai Tahu (Pounamu Vesting) Bill was passed anyone who wished to extract or mine a Crown mineral such as pounamu was required to obtain a permit from the Minister of Energy in accordance with the Crown Minerals Act 1991. As a result of the Waitangi Tribunal report on the Ngai Tahu claim the Crown placed a moratorium on granting licences or permits for the extraction of pounamu. Since the moratorium was introduced no further licences or permits have been granted by the Crown.

[20may04pla](#)

Dear Mr Landaus

PROSPECTING LICENCE 31 2583 – K J LANDAUS

I refer to your letter of 12 May 2004 in which you have asked a series of questions relating to your prospecting licence application 31 2583 which was declined on 23 April 1998. The majority of these questions have been asked in one form or another in previous correspondence between yourself and the Ministry, however, I will respond to your questions in the order set out in your letter.

1 Your prospecting licence application was accepted for processing on 18 April 1989. As the application area included land administered by the Department of Conservation ("DOC"), the consent of the Minister of Conservation was required pursuant to section 26(4) of the Mining Act 1971. DOC advised that as the Waitangi Tribunal was currently deliberating on the Ngai Tahu claim, part of which dealt with the greenstone resource, the department considered that it would be inappropriate to make any decision in respect of this application until the final recommendation of the Tribunal had been made. The Waitangi Tribunal released its report and recommendations in 1991. One of the recommendations was that Crown owned pounamu in the Takiwa of Ngai Tahu should be returned to Ngai Tahu. As a consequence of these developments, and after receiving legal advice, the Crown decided not to issue any further licences or permits for pounamu pending settlement of Ngai Tahu's Treaty claims. Your application was therefore unable to be progressed beyond the preliminary stages until the promulgation of the Ngai Tahu (Pounamu Vesting) Act 1997 at which time it was declined.

2 Prospecting licence application 31 2583 could not be granted within the terms of section 109(1) because of the matters discussed above. Other mining privileges applications that were granted during this period were either much further advanced in the processing cycle or involved other minerals that were not subject to the pounamu moratorium.

3 You were never notified regarding a section 109 extension because there is no record that an extension was ever granted. You were however notified on a number of occasions of the reasons for the delay in processing. I note that you question why DOC did not lodge an objection. This reasons for this was because your application never reached the stage where it was advertised for objections and DOC never made a decision regarding consent prior to the Crown's decision to no longer grant mining

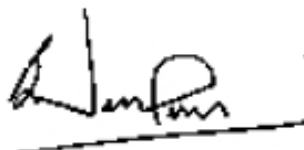
privileges for pounamu.

4 The Ngai Tahu (Pounamu Vesting) Act 1997 section 5 expressly states that notwithstanding anything in the Crown Minerals Act the Minister of Energy must not grant any permit under the Crown Minerals Act irrespective of whether an application was lodged prior to the enactment of the 1997 Act and any mining privilege pursuant to an application to which section 112 of the Crown Minerals Act relates. You will be aware that section 112 relates to existing applications under the Mining Act 1971. Your application was lodged under the Mining Act 1971 and subsequent declined under section 104A of that Act.

5 This query raises essentially the same as points addressed earlier in this letter. I refer you to my response to points 1 and 3 above.

6 Section 240A of the Mining Act does not apply to section 104A of the Act. The Secretary of Commerce declined your prospecting licence pursuant to section 104A of the Act under delegated authority from the Minister of Energy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Winfield', is written over a horizontal line.

Barry Winfield

[20may04](#)

Under the Official Information Act, can you therefore answer the following questions please?

1.

Why was my letter of 14 August 1997 to Crown Minerals requesting application forms for the statutory renewal of my ML 32 3021 denied actioning, given that it was received well before the 30 day compliance period set out in Section 77 (2) of the Mining Act 1971? Please note, Paul Stigley (Crown Minerals), in a letter dated 07 October 1997, stated I did not have a right to apply for a new license and Nick Crang (Legal Section), stated that it was the Ministry's view that it's actions were legally correct.

2.

What is the Ministry's current interpretation of Section 77(2) of the Mining Act 1971, as it related to this license?

3.

What is the Ministry's current interpretation of Section 43 of the Mining Act 1971, as it related to this license?

4.

If the Ministry eventually considered mineral ownership as the reason for refusing to recognise my rights accorded under the Mining Act 1971, then why did they not eventually consider the relevant clauses under Section 3 and Section 4 of the Ngai Tahu (Pounamu Vesting) Act 1997, that supposedly protect existing privileges and the rights to the respective minerals?

5.

Why was my attempt to apply for a renewal of an existing license eventually refused on the grounds of mineral ownership when the minerals actually belonged to me at the time I made and was refused application under statutory provisions?

6.

If the Ministry eventually considered mineral ownership as the reason for refusing to recognise my rights to renew this license, accorded under the Mining Act 1971, then why did they not eventually consider Section 43 of the Mining Act 1971?

7.

Why did the Ministry grant other mining licenses for a period of up to 42 years, yet refuse renewal of this mining license?

Please note that this license was denied the right of renewal approximately 2 years before its expiry date.

Yours sincerely

Kenn Landaus

[17jun04](#) from KJL

**Mining License 32 3021 (Mining Act 1971)
K.J. Landaus & S. McKay**

In your letter of reply dated 10 June 2004, you have confirmed the opinion as earlier stated by the Minister and the Ministry, that license applications could no longer be accepted for minerals classified as pounamu.

You also state that Section 43 of the Mining Act 1971 is no longer applicable because the above license has expired and the mineral is now vested with Te Runanga o Ngai Tahu.

Once again please appreciate that the timeline is important when considering these matters.

With regard to my attempt to apply for a new license under Section 77 of the Mining Act 1971.

This license remained current (an existing privilege) when I advised Mr Fowke, the Manager of Crown Minerals my intentions and requested application forms pursuant to Section 77 and Section 43 of the MA 1971, in August 1997, 28 months prior to the expiry date and two months prior to the enactment of the vesting Act.

Both by phone calls and in a letter of reply dated 7 October 1997, Mr Stigley, Permitting Manager, advised me that I would have to apply to Te Runanga o Ngai Tahu. His interpretation of Section 77, MA 1971 was to say at the least, unbelievable.

In a letter dated 6 May 1997, the Minister of Energy replying to Damien O'Connor on my behalf, stated that a mining license cannot be renewed and that the right of priority under Section 77 of the MA 1971 has not been preserved under the Crown Minerals Act 1991.

As you are aware, I hold many other letters that state the same things. In your letter of 10 June you basically advised me of the same.

It is considered as irrelevant that the application could be granted or declined for any particular mineral sought on the specific land.

The point is that my rights were denied by the Crown prior to the enactment of the Ngai Tahu (Pounamu Vesting) Act 1997 and the period 30 days prior to the expiry date of this license, thus causing extreme disadvantage to my accorded priority over other persons in legitimately applying for a new license.

I allege that a new application in the process would have further established my rights to have the new owners of any minerals applied for, consider this right and application in any future transaction of mineral ownership and the perhaps the rights thereof to mine or extract it.

Do you not consider, the Crown therefore have denied me the right to apply for a new licence on that land for whatever mineral I wished to mine by not responding to my written requests and by since refusing to recognise that these rights were also allowed for pursuant to the particular provisions in the Crown Minerals Act 1991 and the Ngai Tahu (Pounamu Vesting) Act 1997 regardless of the actual vesting of the mineral ownership.

22jun04 from KJL

Dear Mr Winfield

Te Runanga o Ngai Tahu - Applications to mine pounamu.

On behalf of the Ministry, can you please provide me with answers to the following questions?

1. Have the Crown ever entered into any agreement with Te Runanga o Ngai Tahu or any other party, that would give the owners of the pounamu minerals a legal responsibility, or a transitional obligation to allocate mining or access rights, subject to the provisions of the Ngai Tahu (Pounamu Vesting) Act 1997?

2. The Ngai Tahu (Pounamu Vesting) Bill stated that the Crown determined that it is quite appropriate that those seeking to extract pounamu in the future on the expiry of their existing rights, should be required to apply to Te Runanga o Ngai Tahu.

Letters to me, since 1996, from the Ministry and the Minister have also stated that I should apply to Te Runanga o Ngai Tahu not the Crown. I note there is no transitional provision within the vesting Act to this effect.

Can you please advise me if Te Runanga o Ngai Tahu have yet formulated a policy on any applications as such? They had not since I last contacted them.

3. Can you please inform me if Te Runanga o Ngai Tahu or anyone else who has been granted authority to them, have applied to the appropriate Minister for any access arrangements in relation to pounamu minerals since the enactment and amendments of the Crown Minerals Act 1991?

Yours faithfully

Kenn Landaus

cm12jul04ma

*License as per the Mining Act 1971.
The only comment ever made in regard to my effort to reapply for my Mining
License: Para. 1 below:*

I refer to your letter of 20 May 2004 in which you have asked a series of questions relating to your mining licence 32 3021 which expired on 21 December 1999. You have asked many of these questions in one form or another in previous correspondence between yourself and the Ministry, however, I will respond to your questions in the order set out in your letter.

1 The records show that on 7 October 1997 Mr Stigley responded to your letter of 14 August 1997 advising you that section 77(2) only gives licence holders a right of priority to apply for new licence ahead of other people. He went on to explain that section 77 of the Mining Act 1971 is unchanged by the Ngai Tahu (Pounamu Vesting) Act except that those with existing licences with respect to pounamu in the takiwa of Ngai Tahu will in future have to apply to Te Runanga o Ngai Tahu for a new licence rather than to the Crown. There is no record on file as to why an application form was not forwarded to you. I must assume that this was not actioned as the Pounamu Vesting Act was passed in the interim, on 25 September 1997, and that licence applications could no longer be accepted in respect of pounamu.

2 Section 77(2) of Mining Act 1971 can no longer be applicable to your licence. The enactment of the Ngai Tahu (Pounamu Vesting) Act 1997 vests ownership of pounamu in Te Runanga o Ngai Tahu. In other words, the Crown no longer owns pounamu and it cannot therefore grant you a mining right over that resource.

3 Section 43 of the Mining Act 1971 relates to existing mining privileges. As mining licence 32 3021 expired on 21 December 1999, the section is no longer applicable.

4 Section 4 of the Ngai Tahu (Pounamu Vesting) Act 1997 protects the rights of existing privilege holders while the privileges remain current. In your case, mining licence 32 3021 was unaffected by the passing of the Act and continued to have effect until it expired in December 1999. Thereafter, if you wished to continue mining pounamu, you were required to apply to Ngai Tahu as the new owner of the resource.

5 A mining licence confers an exclusive right on a licensee to occupy land for mining purposes and to mine for the minerals specified in the licence subject to certain conditions. While minerals remain in-situ they are still the property of the Crown as the

5 A mining licence confers an exclusive right on a licensee to occupy land for mining purposes and to mine for the minerals specified in the licence subject to certain conditions. While minerals remain in-situ they are still the property of the Crown as the

6 Section 43 of the Mining Act 1971 relates to protecting existing mining privileges. Your rights under the terms and conditions of mining licence 32 3021 remained unaffected, through the provisions of both section 43 of Mining Act 1971 and section 4 of the Ngai Tahu (Pounamu Vesting) Act 1997, up to its expiry in December 1999. As you are aware, from October 1997 the Crown could no longer issue a new licence as it was not the owner of the pounamu resource.

7 Other mining privilege applications that were granted around this period were either much further advanced in the processing cycle or involved minerals other than pounamu.

Yours sincerely



of the Ngai Tahu (Pounamu Vesting) Act 1997, up to its expiry in December 1999. As you are aware, from October 1997 the Crown could no longer issue a new licence as it was not the owner of the pounamu resource.

7 Other mining privilege applications that were granted around this period were either much further advanced in the processing cycle or involved minerals other than pounamu.