

**IN THE DISTRICT COURT
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE
KI TĀMAKI MAKĀURAU**

**CRI-2020-004-009514
[2021] NZDC 20998**

WORKSAFE NEW ZEALAND
Prosecutor

v

**WHAKAARI MANAGEMENT LIMITED
ANDREW BUTTLE
JAMES BUTTLE
PETER BUTTLE
INSTITUTE OF GEOLOGICAL NUCLEAR SCIENCES LIMITED
NATIONAL EMERGENCY MANAGEMENT AGENCY
WHITE ISLAND TOURS LIMITED
VOLCANIC AIR SARAFIS LIMITED
AERIUS LIMITED
KAHU NZ LIMITED
INFLITE CHARTERS LIMITED
I D TOURS NEW ZEALAND LIMITED
TAURANGA TOURISM SERVICES LIMITED**
Defendants

Date: 22 October 2021

Appearances: K McDonald QC and S Symon for the Prosecutor
D Neutze for the Defendants Whakaari Management Limited,
A Buttle, J Buttle, P Buttle and I D Tours New Zealand Limited
G Gallaway and J Lill for the Defendant Institute of Geological
Nuclear Sciences Limited
V Casey QC for the Defendant National Emergency Management
Agency
R Raymond QC and G Nicholson for the Defendant White Island
Tours Limited
A Ross QC and I Rosic for the Defendant Volcanic Air Safaris
Limited
L Castle and S Lomaloma for the Defendants Aerius Limited and
Kahu NZ Limited
A Darroch for the Defendant Inflite Charters Limited

MINUTE OF JUDGE E M THOMAS (REDACTED FOR PUBLICATION)

Disclosure

[1] By 14 December 2021 WorkSafe is to:

- (a) provide a list of witnesses, and
- (b) complete disclosure other than expert briefs and material provided or referenced by expert witnesses.

[2] By 1 February 2022 WorkSafe is to:

- (a) file all formal written statements,
- (b) confirm any changes to briefs of evidences previously provided or confirm where there are no changes, and
- (c) complete disclosure in relation to its expert witnesses. That is subject to any reasonable delay caused by COVID-19 or international logistics.

Trial date

[3] This is confirmed for 10 July 2023. The current time estimate is four months. I anticipate that may change as time passes and the issues become clearer. The Ministry will begin its work now on evaluating different options for a potential venue. It is to factor in additional time to accommodate any unforeseen contingencies.

Trial venue

[4] We will have a hearing to determine the appropriate trial venue. That hearing will take place on 8 February 2022.

[5] The Ministry is to provide me and all counsel with a report or reports that clearly set out options for trial venue in Whakatane, Auckland and Tauranga. The report should include not only the suitability of a court room itself but also facilities for counsel, witnesses, victims, their families, members of the public, members of the media and security if required for all three potential options.

Next case review hearing

[6] We will adjourn this hearing to 22 March 2022.

Venues for each of the hearings other than trial

[7] Mr Neutze on behalf of his clients maintains his standing objection to hearings being conducted in the Whakatane District Court. He repeats the arguments that he has fairly made on previous occasions regarding the inconvenience and position that his clients are in. These are fairly and properly put.

[8] I have ruled on these arguments before. But that does not necessarily mean that they do not apply each and every time we consider a venue for a particular hearing and I welcome any position that Mr Neutze and his clients or anybody else wishes to take on venue at any time that we are setting down a hearing.

[9] However, for the same reasons that I have previously articulated, I rule that the hearings that we have set down today (apart from the trial) will take place in the Whakatane District Court.

ADDENDUM

[10] Following the hearing I met with Ministry officials to discuss a timetable for its report on potential trial venues in advance of the 8 February 2022 hearing. The Ministry has agreed to provide a report regarding options for Whakatane, Tauranga and Auckland by 14 January 2022.

[11] I failed to request of Mr Gowing that he provide an updated report in advance of the 8 February hearing. I make that request. The report need not be as extensive as

his last report. It would be to update the court regarding any material changes in view that have come to his attention, and to incorporate the possibility of a trial in Tauranga. It would be of great assistance if he could provide that report by 14 January 2022. If that causes him significant difficulty, I invite him to file a memorandum.

Judge EM Thomas

District Court Judge | Kaiwhakawā o te Kōti ā-Rohe

Date of authentication | Rā motuhēhēnga: 27/10/2021