

**IN THE WAITANGI TRIBUNAL**

Wai 2750

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

the Housing Policy and  
Services Inquiry

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**MEMORANDUM-DIRECTIONS OF JUDGE C T COXHEAD FOLLOWING  
JUDICIAL CONFERENCE HELD ON 21 OCTOBER 2019**

4 November 2019

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## Hei tīmatanga kōrero – Introduction

1. On 21 October 2019, a judicial conference for the Wai 2750 Housing Policy and Services Inquiry was held at the Waitangi Tribunal Unit offices in Wellington. The purpose of the judicial conference was to discuss the inquiry planning issues set out in my previous memorandum-directions dated 27 August 2019 (Wai 2750, #2.5.10).
2. This memorandum-directions addresses matters arising from the judicial conference, including:
  - (a) the eligibility of claims to participate in this inquiry;
  - (b) research;
  - (c) funding issues; and
  - (d) planning hui proposed by counsel.

## Ko te māraurautanga o ngā tono – Eligibility of claims

3. At the judicial conference, counsel for the Crown, offered to update the Crown's previous submissions as to claim eligibility dated 31 July 2018 (Wai 2750, #3.1.99). This would be helpful. Counsel for the Crown are to file updated submissions with regards to eligibility by no later than **midday, Monday 23 December 2019**.
4. Where eligibility to participate in this inquiry is in any doubt, claimants are to file submissions in reply stating their case for inclusion by no later than **midday, Monday 9 March 2020**.
5. Following receipt and consideration of Crown and claimant submissions, the Tribunal will make the final determination regarding claim eligibility for this Inquiry. Parties will be advised of the Tribunal's decision via a future memorandum-directions.
6. The purpose of this inquiry is to hear all outstanding claims with grievances concerning housing policy and services. However, not all claims will be eligible to participate. The Chairperson as presiding officer for Wai 2500 the Military Veterans Kaupapa Inquiry, in a memorandum-directions dated 25 September 2014 (Wai 2500, #2.5.1) set out principles for the exclusions to participation in an inquiry. The principal exclusions are as follows:
  - (a) Housing policy and services grievances that form part of claims fully addressed in one or more Treaty settlements with the Crown. Once settlement legislation has been enacted, the Tribunal's jurisdiction to inquire into such claims is removed.
  - (b) Claims with housing policy and services grievances that have previously been fully heard and reported on by the Tribunal. Where the Tribunal has completed its inquiry, it cannot hear the claims for a second time.
  - (c) Claims whose remaining housing policy and services grievances have already been consolidated into a current district inquiry. The Tribunal is not able to conduct parallel inquiries into the same claims.

## **Mahi rangahau – Research**

### *Pre-casebook discussion paper*

7. Tribunal research staff are currently preparing a pre-casebook discussion paper. This discussion paper will identify research into the four broad themes for the inquiry identified in my memorandum-directions of 27 August 2019 (Wai 2750, #2.5.10). In addition, the discussion paper will also include a bibliography of secondary source material and will identify relevant archival material.
8. The pre-casebook discussion paper will be distributed to parties upon its completion, and submissions will be invited.

### *Tribunal findings and recommendations on housing-related issues*

9. At the judicial conference, claimant counsel requested a summary of past Tribunal findings and recommendations on housing-related issues. In light of the obvious interest, I have requested Tribunal Research Services staff collate relevant findings and recommendations.
10. A preliminary review shows that twelve Tribunal reports make findings on the Crown's duties concerning housing-related issues. Three reports have made specific recommendations. Some of the most relevant quotes have been excerpted and put into a brief paper. The paper is to be added to the record of inquiry as Wai 2750, #6.2.1.
11. This brief paper collating the Tribunal's findings and recommendations on housing themes to date does not have the status of evidence.

### *Crown annotated bibliography*

12. Crown counsel advised that the Crown will prepare an annotated bibliography of reports prepared by various Crown departments and agencies. The Crown is instructed to file an update by **midday, Monday 25 November 2019** setting out the process and methodology for the proposed annotated bibliography and a projected completion date.
13. It would be helpful if the Crown could confirm two aspects of its methodology, namely: will historical material be covered in the annotated bibliography, i.e. both pre- and post-1992? And will the bibliography include former agencies that covered aspects of housing policy or services, or only current agencies?
14. I note that such a bibliography would no doubt be of use to the Tribunal and parties. In particular I expect that the bibliography will be useful for the pre-casebook discussion paper. I thank the Crown for its assistance in this regard.

### *Crown statistics on housing*

15. At the judicial conference, Crown counsel indicated that the Crown held a range of statistical information related to Māori housing issues and offered to assemble this information to assist the Tribunal.

16. On 23 October 2019, the Crown filed a memorandum of counsel listing all ongoing and planned projects being undertaken by the Crown to compile relevant statistical data (Wai 2750, #3.1.166). The first project is the Māori data stocktake which is likely to be completed and filed on the record of inquiry in February 2020. This update is helpful.

### **Ko te taha pūtea – Funding issues**

17. Funding for claimant participation in Tribunal kaupapa inquiries has been raised as a concern across several inquiries. At the judicial conference, Crown counsel noted that Te Arawhiti had been charged with investigating this matter further for the Crown. I understand that officials have put a work programme in place to consider the issue of funding for claimants moving forward.

18. Counsel for the Crown is directed to file an update regarding funding issues for kaupapa inquiries by **midday, Monday 25 November 2019**.

### **He hui – He wānanga**

19. At the judicial conference, claimant and Crown counsel indicated a strong desire to hold a series of planning hui for this inquiry outside the Tribunal's formal process. This is an excellent initiative and I encourage counsel and claimants to wānanga as proposed. Crown counsel noted that the Crown may be willing to fund a planning wānanga.

20. In addition to any other matters counsel wish to discuss among themselves, it would be useful from the Tribunal's perspective if broad agreement could be reached on the following:

(a) The overall design of the inquiry.

(b) What aspects of housing policy and services should be heard first.

(c) If homelessness or "immediate housing needs" should be heard first, what would the scope of that be?

(d) The sequencing of inquiry issues.

(e) Whether a ngā kōrero tuku iho process should be employed and, if so, how that would best take place.

21. Counsel are directed to file a joint memorandum updating the Tribunal on the agreed outcomes following the planning hui by no later than **midday, Thursday 30 April 2020**.

22. While the Tribunal will not be directly involved in the proposed hui, Tribunal Unit staff may be able to attend as observers if that would be of assistance to parties.

The Registrar is to send this direction to all those on the notification list for Wai 2750, Housing Policy and Services Inquiry.

**DATED** at Rotorua this 4<sup>th</sup> day of Whiringa-ā-rangi 2019

A handwritten signature in black ink, appearing to read 'C. T. Coxhead', written in a cursive style.

Judge C T Coxhead  
Presiding Officer

**WAITANGI TRIBUNAL**