

APPENDIX B

WAI 2700 MANA WĀHINE KAUPAPA INQUIRY

TŪĀPAPA HEARINGS PLAN

INTRODUCTION

1. On 19 June 2020, a number of claimant counsel filed a paper¹ setting out the proposed approach for these hearings (the **Tūāpapa Hearings Paper**) which was later supported by the Tribunal.² This plan adopts and updates that paper and provides further detail.

WHAT

Overview

2. These hearings will set the tūāpapa (foundation) for the Inquiry. They will cover the tikanga as it relates to wāhine Māori and the Māori understanding of wāhine in te ao Māori.
3. The hearings will frame the Inquiry from a Māori perspective to ensure the essential nature of wāhine Māori is at the centre of the Inquiry.
4. Over the course of the Inquiry, the hearings will assist in demonstrating the unrelenting, systemic and interrelated acts and omissions of the Crown since the Crown denied wāhine Māori signing te Tiriti o Waitangi, which have caused the negation of wāhine Māori mana motuhake and rangatiratanga over their whenua, taonga, mātauranga, hearts, bodies, minds, beliefs, and physical and metaphysical relationships resulting in the effects of today's inequities.
5. The evidence from these hearings will form the baseline from a Māori perspective against which Crown breaches of Te Tiriti o Waitangi can be considered for the balance of the Inquiry.³

Te Arataki – guide to evidence

6. Te Arataki is a guide for witnesses to prepare for and present evidence at the hearings.

¹ Wai 2700, #3.1.227(b). See Wai 2700, #3.1.227(a) for the claimant counsel in support of Wai 2700, #3.1.227(b).

² Wai 2500, #2.5 at [26].

³ See Wai 2500, #2.5 at [27].

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Waitangi Tribunal

19 Nov 2020

Ministry of Justice
WELLINGTON

7. The approach to evidence at the hearings will combine the presentation of formal briefs of evidence (to frame themes identified below) with less formal kōrero where possible (particularly to allow for the rangatira/kuia voice, specialist kōrero and storytelling).
8. Therefore, because of the nature of these hearings and to enable witnesses to frame their evidence as they see fit, Te Arataki is a guide intended to serve as a prompt for the preparation of witnesses and evidence and not a strict statement of issues.
9. The four broad themes that these hearings will cover are:
 - (a) atua whāea and tipuna whāea and the blueprint for mana wāhine;
 - (b) te ira wāhine and te ira tangata – the relationality and balance of wāhine and tāne for the good of all;
 - (c) te mana o te wāhine in Te Ao Māori, Māori society and rangatira wāhine; and
 - (d) wāhine rangatiratanga over whenua, whakapapa / whānau, whai rawa and mātauranga.
10. It is likely that all themes will be touched on at each of the three/four hearings with a specific focus on each rohe and their stories where each hearing is held (North, Central North Island, Lower North Island, South Island). It is acknowledged that there is significant overlap in these themes.
11. The following are a series of questions that provide additional guidance on the themes. These are not intended to be binding but are posed as prompts.

Atua whāea and tipuna whāea and the blueprint for mana wāhine

12. Questions to address:
 - (a) Who are our atua whāea?
 - (b) What are the characteristics and stories of our atua whāea?
 - (c) What lessons can we learn from traditional narratives?
 - (d) Have these stories been reconstructed over time? If so, how?

- (e) How do either the traditional or reconstructed stories provide a blueprint for the mana and status of wāhine Māori in pre-1840 Māori Society and contemporary society?

Te ira wāhine and te ira tangata – the relationality and balance of wāhine and tāne for the good of all

13. Questions to address:

- (a) What are the key tikanga concepts (e.g. tapu, mana, noa, manaaki etc) and how are they relevant to wāhine / tāne?
- (b) What was the relationship between wāhine and tāne in traditional Māori society?
- (c) What were the different roles played?
- (d) How did mātauranga and tikanga promote balance between wāhine and tāne?

Te mana o te wāhine in Māori society and rangatira wāhine

14. Questions to address:

- (a) What does “mana wahine” mean?
- (b) What are examples of the expression of mana wahine in traditional Māori society?
- (c) Who were wāhine Māori rangatira?
- (d) What are their stories?
- (e) Who were the rangatira wāhine who signed Te Tiriti o Waitangi in this rohe? Why did they sign?
- (f) Who were the rangatira wāhine who were prevented from signing? Why were they prevented from signing?
- (g) What is the significance of te whare tangata for the mana of wāhine?

Wāhine rangatiratanga over whenua, whakapapa / whānau, whai rawa and mātauranga

15. Questions to address:

- (a) What is the relationship of wāhine to the whenua?
- (b) What was the status and role of wāhine within their whānau, hapū and communities and with respect to the maintenance and protection of the mana of their communities, whānau and hapū?
- (c) What is the significance of te whare tangata?
- (d) What rights and responsibilities did wāhine Māori exercise over land and all natural resources inherent in the land including, forests, waterways and indigenous flora and fauna.
- (e) How was knowledge transferred and what role did wāhine Māori play as the keepers of tapu knowledge?
- (f) How were resources held and managed in Māori society?
- (g) How did this knowledge and the access to resources enhance the mana of wāhine?
- (h) What was the tapu and mana of wāhine Maori and how was this given effect to, protected, and restored?
- (i) What was the tikanga in relation to the whānau, including traditions around birthing, menstruation, and other aspects of wāhine health?
- (j) How were tamariki Māori cared for within the whānau and hapū structure, and in particular, how were decisions around whāngai made?
- (k) What was the role and status of wāhine Māori in the care and wellbeing of tamariki and whānau?

WHEN AND WHERE

16. It is important that the hearing locations reflect the mana wāhine kaupapa. A unique and significant way to reflect mana wāhine is to hold the hearings across the motu in locations that broadly reflect the rohe where Te Tiriti o Waitangi was signed by wāhine Māori. This view was supported by a number of claimants and the Tribunal in the Tūāpapa Hearings Paper.
17. Sites where wāhine Māori signed Te Tiriti o Waitangi include:

- (a) Waitangi and Kaitaia: Marama; Ereonora; Ana Hamiu; Te Marama; Takurua
 - (b) Waikato: Hoana Rautoto; Te Wairakau;
 - (c) Whanganui, Waikanae and Port Nicholson: Te Rere o Maki; Rangi Topeora; Te Kehu; Kahe Te Rau-o-Te-Rangi; Ngaraurekau; and
 - (d) Rangitoto: Pari.
18. These sites broadly align with: the upper North Island; central North Island; lower North Island and/or South Island.
19. The Tribunal has confirmed that the first hearing will be held in Northland at the Turner Centre in Kerikeri from 3-5 February 2021.
20. The Tribunal has directed that the second hearing will be held in a location in the central North Island from 24-26 February 2021. At this stage, suggestions for the second hearing are:
- (a) Tauranga Moana marae in Tauranga;
 - (b) Whāngārā Marae or Hauti Marae; and
 - (c) Te Puia / Te Aronui-a-Rua Marae in Rotorua.
21. The Tribunal has indicated that one or two further hearings may be held in July, November or December 2021 and that one of these should be held in the South Island.

WHO AND HOW

Nature of hearings and role of counsel

22. The nature of the hearings will depart from formal processes and the role of counsel and will be more akin to oral hearings such as those that took place in the Military Veterans Kaupapa Inquiry and Ngā Kōrero Tuku Iho hearings.
23. Claimant counsel and Crown counsel will not file or present opening submissions and the Crown will not file or present evidence (however it may provide a written statement of the Crown's position at the outset).

24. The evidence will be presented by claimants and their witnesses and will combine the presentation of formal briefs of evidence (to frame the issues identified above) with less formal kōrero (particularly to allow for the rangatira/kuia voice, specialist kōrero and storytelling).
25. There will be no formal cross-examination of witnesses. Instead, the presentation of evidence will be followed by a mana enhancing pātai session led by the Tribunal. The Crown will have the opportunity to pose questions to the witnesses in a non-adversarial way.

Role of claimants and witnesses

26. The predominant and opening voices in these hearings will be those of the claimants and wāhine Māori who wish to participate.
27. Evidence at the hearings will ultimately be determined by claimants. However, it is envisaged that this will not solely consist of the presentation of formal briefs of evidence. Creative ways which capture less formal kōrero are encouraged (particularly to allow for the rangatira/kuia voice, specialist kōrero and storytelling to come through). For example, it may be that oral evidence is given by a facilitated panel of wāhine.
28. Evidence can also be taken as read or presented via AVL depending on the funding available, or due to other limitations on attendance. Livestream should be made available for all of the hearings except for those aspects for which claimants have sought and been granted a right of confidentiality.
29. The intention is that mana wāhine experts, rangatira and mana whenua, and whānau of the Te Tiriti signatories from or near the rohe where a hearing is held will lead the tikanga, kawa and evidence at that hearing. However, they will be supported by mana wāhine experts from outside the broader rohe where appropriate and practicable.
30. It is also intended that, where possible, claimants and witnesses attend the hearing closest to them. Therefore, claimants and witnesses only need to go to one hearing, unless their expertise is required at more than one hearing or unless the claimant group is a national group representing mana whenua who intend to participate across New Zealand.

Coordination and timetabling of oral evidence

31. The approach to the presentation of oral evidence at the hearings will be as inclusive as practicable and hearing time should be shared equally among those claimants who wish to present their evidence. However, it is acknowledged that the number of witnesses that present orally is limited by the hearing time allocated to the hearings.
32. It is envisaged that key expert witnesses will likely cover the broad themes.
33. As an initial step, claimants who wish to present oral evidence at the hearings should circulate the following information to claimant counsel via email:
 - (a) who will present the evidence;
 - (b) which hearing they will present at; and
 - (c) a very high level summary of their evidence and what key themes or matters they may cover.
34. Following the initial circulation of witnesses, claimant counsel will meet to discuss the coordination of evidence, including any duplication and possible collaboration.
35. Claimants will then confirm their proposed witnesses to present oral evidence and coordinating counsel will draft and circulate hearing timetables.

POSSIBLE TIMETABLE

Date	Step
6 Nov 2020	Draft Tūāpapa Hearings Plan circulated by coordinating counsel
18 Nov 2020	Claimants to file Tūāpapa Hearings Plan
23 Nov 2020	Claimants to circulate proposed witnesses for the presentation of oral evidence
27 Nov 2020	Claimant counsel telehui to discuss coordination of proposed oral evidence (i.e. duplication and possible collaboration)
4 Dec 2020	Claimants to confirm proposed witnesses for the presentation of oral evidence
11 Dec 2020	Draft Tūāpapa Hearings One and Two timetables circulated by coordinating counsel
18 Dec 2020	Timetable for Tūāpapa Hearing One due
20 Jan 2021	Tūāpapa Hearing One written evidence due
22 Jan 2021	Final timetable for Tūāpapa Hearing Two due
3-5 Feb 2021	Tūāpapa Hearing One (Turner Centre, Kerikeri)
10 Feb 2021	Tūāpapa Hearing Two Claimant evidence due
24-26 Feb 2021	Tūāpapa Hearing Two (Central North Island)
5 March 2021	Crown to seek leave to file evidence in reply to Tūāpapa Hearings One and Two
12 March 2021	Judicial Conference to discuss next steps and timetabling for remainder of Inquiry
July/Nov/Dec 2021	Tūāpapa Hearing Three / Four (Lower North Island / South Island)