

IN THE WAITANGI TRIBUNAL

WAI 2700

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Mana Wāhine Kaupapa Inquiry  
(Wai 2700)

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MEMORANDUM OF COORDINATING COUNSEL FILING UPDATE ON JOINT  
RESEARCH COMMITTEE AND PLANNING FOR REMAINING TŪĀPAPA  
HEARINGS

Dated 19 March 2021

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Waitangi Tribunal

**19 Mar 2021**

Ministry of Justice  
WELLINGTON

## **MAY IT PLEASE THE TRIBUNAL**

1. This memorandum of counsel is filed by coordinating counsel for the Wai 2700 Mana Wāhine Kaupapa Inquiry.

### **Joint Research Committee Update**

2. In memorandum-directions dated 16 February 2021, the Presiding Officer, Her Honour Judge Reeves confirmed the claimant representatives of the joint research committee (“the committee”).<sup>1</sup>
3. On 3 March 2021, Kāhui Legal confirmed by email to coordinating counsel that Dixon & Co (Kelly Dixon, Aroha Herewini and Amy Chesnutt) were to be the Wai 381 representative on the committee. Additionally, Crown counsel confirmed that Ms Tukapua and Ms Gwynne would sit on the committee on behalf of Crown counsel and Dr Ngawati on behalf of the Joint Roopu. To avoid doubt, the committee has now been formed and consists of the following members:
  - a. Ripeka Evans - Claimant Representative.
  - b. Tania Rangiheuea - Claimant Representative.
  - c. Dr Moana Eruera - Claimant Representative.
  - d. Dr Linda Chalmers - Claimant Representative.
  - e. Dr Kathie Irwin - Claimant Representative.
  - f. Kararaina Te Ira - Claimant Representative.
  - g. Associate Professor Khylee Quince - Claimant Representative.
  - h. Tamaki Legal and Kāhui Legal – Joint Wider Claimant Community Claimant Counsel Representative.

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<sup>1</sup> Memorandum-Directions of the Presiding Officer Concerning Tuapapa Hearings dated 16 February 2021 (Wai 2700, #2.5.43) at [18].

- i. Dixon & Co – Wai 381 Claimant Counsel Representative.
  - j. Matewai Tukapua/Sarah Gwynne – Crown Counsel.
  - k. Nicola Ngawati – Ministry for Women/Joint Roopu.
4. Two hui have been held, on Friday 12 March and Thursday 18 March 2021.
5. The following appointments to the Executive have been made:
- a. Chairperson: Ripeka Evans
  - b. Deputy Chairperson: Dr Kathie Irwin
  - c. Treasurer: Tamaki Legal (Stephanie Roughton, Katherine Alty and Vanshika Sudhakar)
  - d. Secretary/Administration: Dixon & Co (Kelly Dixon, Aroha Herewini and Amy Chesnutt) and the Joint Roopu (Dr Nicola Ngawati).

#### **Joint Research Committee Casebook Submissions**

6. In memorandum-directions dated 7 December 2020, the Presiding Officer directed the joint research committee (the “committee”) to file their submissions on the exploratory scoping report by **12pm, Friday 19 March 2021**. In that same memorandum-directions, Her Honour noted that the Tribunal will review the proposed casebook projects, together with all submissions on the proposed casebook and issue a decision on the final research programme by **Friday 30 April 2021**.
7. As a result of initial discussions about the mahi required by the committee, it has been resolved that in order to progress its work efficiently, the committee is to hold a 1–2 day wānanga. At the wānanga, the committee intend to discuss the research needs of the claimant community, the Tribunal research programme, and the prioritisation of research, with the goal of moving towards the commissioning of claimant research. The committee

hopes the wānanga will take place before Easter, and if this is not possible, by the end of April.

8. At the second committee hui, Ms Walker presented the background to the pre-casebook discussion paper (“discussion paper”). Further discussion is required including submissions and/or feedback from the Joint Claimant counsel representatives on the claimants’ views of the discussion paper. Once these discussions take place, coordinating counsel believe the committee will be better placed to provide cogent submissions to assist the Tribunal. It has not been possible during the two hui already held to unpack the research needs in the Inquiry and it is intended that these discussions will take place at the wānanga. It is on this basis that the committee requests additional time to hold the wānanga before submissions on the proposed casebook are filed.
9. Accordingly, coordinating counsel seek leave for the committee to file its submissions after the wānanga has been held. If leave is granted, coordinating counsel will update the Tribunal on the date and venue of the wānanga, and a proposed filing date for the committee’s submissions by **5pm, 1 April 2021**.

### **Remaining Tūāpapa Hearing Arrangements**

#### *Hearing Week Four*

10. On 10 March 2021, Joanna Judge, Tara Hauraki and Natalie Coates, counsel for Wai 2260<sup>2</sup> filed a memorandum seeking a direction that:
  - a. tūāpapa hearing four be held in Whakatāne; and
  - b. tūāpapa hearing five be held in Ōtaki at Te Wānanga o Raukawa.

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<sup>2</sup> Mary-Jane Papaarangi Reid and Ripeka Evans.

11. Further, on 16 March 2021, Mr McGhie, counsel for Wai 2157<sup>3</sup> and Wai 836<sup>4</sup> submitted that his clients' preference is that the Lower North Island hearing be held at Whanganui, where Rere-o-Mako signed te Tiriti o Waitangi.
12. Coordinating counsel has engaged with the claimant community to ascertain the preferred venue location for hearing week 4. The current position on venue is still not clear, as:
  - a. 2 percent have indicated a generic location, that of Central North Island;
  - b. 7 percent have indicated Tauranga as their preferred venue;
  - c. 16 percent have indicated Rotorua as the preferred venue;
  - d. 20 percent have indicated a generic location, that of Bay of Plenty;
  - e. 20 percent have indicated no preference; and
  - f. 36 percent have indicated Whakatāne as a preferred venue.
13. To assist the Tribunal in choosing a venue that reflects the preference of the majority of claimants, coordinating counsel will liaise with claimant counsel to ascertain the preferred location of the remaining witnesses and update the Tribunal on venue preference for hearing week 4 by **5pm, Friday 16 April 2021**.
14. In relation to time required for hearing week 4, current indications are such that if the Tribunal sat until 6pm each day, a 5-day hearing week would be required. There are currently 46 witnesses proposed for hearing week 4, and in light of timing difficulties faced in the first two tūāpapa hearings, and in particular at Ngāruawāhia, coordinating counsel has allocated an additional 10 minutes for pātai and kōrero per witness for hearing week 4. This means that in addition to presentation time, pātai time would be 20 minutes per

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<sup>3</sup> Heeni Jayne Ranginui. Jenny Tamakehu-Ranginui and Hinemoa Ranginui.

<sup>4</sup> Patricia Henare and Vivienne Kopua.

individual witness and 30 minutes per panel. To assist the Tribunal, the current witness indications for hearing week 4 are **attached** as appendix “A”.

*Hearing Week Five/Six*

15. The Tribunal will be aware that coordinating counsel have engaged with claimant counsel in relation to obtaining witness indications for the Lower North Island and/or South Island tūāpapa hearings. A copy of the current witness indications for hearing week 5/6 are **attached** as appendix “B”.
  
16. There are currently 74 witnesses for the final tūāpapa hearing(s). If pātai time is on the same basis as hearing week 4, this is a total hearing time of 10 days, or 2 5-day hearing weeks. Given the discussion regarding the acknowledgement and accommodation of South Island claimants at the Judicial Teleconference on 13 January 2021, coordinating counsel have sought to identify those witnesses who are based in the South Island for the purpose of seeing if an equal split in time could be achieved that would allow for hearing week five to be in the Lower North Island, and hearing week six in the South Island. The current venue preferences for hearing weeks 5/6 are as follows:
  - a. 43 witnesses prefer a location in the Lower North Island, equating to 4.5 days hearing time; and
  - b. 21 witnesses prefer a location in the South Island, equating to 3.1 days hearing time; and
  - c. 12 witnesses have not indicated a preference as yet, equating to 1.5 days hearing time.
  
17. For the Lower North Island, claimant venue preferences are as follows:
  - a. 22 percent prefer Ōtaki;
  - b. 4 percent prefer Whanganui;
  - c. 1 percent prefer Wellington; and

- d. 31 percent have only provided a general preference for the Lower North Island.
18. Coordinating counsel intend to liaise with claimant counsel to obtain venue preferences from those who have not yet indicated their location preferences, in an effort to assist the Tribunal in planning purposes for the final tūāpapa hearing weeks and will provide an update to the Tribunal on venue preferences for hearing week 5/6 by **5pm, Friday 16 April 2021**.

**DATED at TAMAKI MAKAUROU this 19th day of March 2021**



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**Stephanie Roughton/Katherine Alty**

On behalf of coordinating counsel