

IN THE WAITANGI TRIBUNAL

Wai 2700

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Mana Wāhine Kaupapa Inquiry

**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER REGARDING THE
RESEARCH PROGRAMME FOR THE MANA WĀHINE INQUIRY**

30 April 2021

Purpose

1. This memorandum-directions confirms the Waitangi Tribunal commissioned research reports for the Mana Wāhine Kaupapa Inquiry and outlines next steps for the research programme.

Casebook for this inquiry

The exploratory scoping report

2. On 31 July 2020, I issued a memorandum-directions releasing the exploratory scoping report (the 'Chief Historian's pre-casebook research discussion paper') (Wai 2700, #6.2.1) for the Mana Wāhine Kaupapa Inquiry (Wai 2700, #2.5.25). Existing research was scoped concurrently with the statements of claim pertaining to this inquiry. Three broad themes were identified:
 - (a) protection of the role, status and knowledge of wāhine Māori;
 - (b) equity and disparities in outcomes and well-being for wāhine Māori; and
 - (c) representation and access to leadership, governance and decision-making roles for wāhine Māori.
3. Based on an analysis of the claims and existing research, the exploratory scoping report proposed four research projects. These proposals were designed to address gaps in the research while minimising duplication of information. The following four research projects were proposed:
 - (a) Overview Report 1: Focussing on the theme of protection and the impacts of Crown actions, policy, practice and legislation on the ability of wāhine Māori to exercise rangatiratanga over their role, status and knowledge from 1840 to 1950.
 - (b) Overview Report 2: Focussing on the theme of equity and the impact of Crown policies, practices and legislation on disparities in outcomes and well-being for wāhine Māori from 1950 to c.2000.
 - (c) Contemporary justice issues: As a case study regarding equity and disparities in outcomes and well-being) for the period 1990 to 2018.
 - (d) Representation and access to leadership opportunities for wāhine Māori: Examining the effects of Crown policies, practices and legislation on the ability of wāhine Māori to access leadership, governance, political and decision-making roles, particularly in the state sector.
4. An additional Crown statistics project was also recommended for the period 1950 – 2018.

Feedback on the exploratory scoping report

5. Claimant feedback on the exploratory scoping report was received in a number of written submissions (Wai 2700, #3.1.278; Wai 2700, #3.1.283; Wai 2700, #3.1.284; Wai 2700, #3.1.285; Wai 2700, #3.1.287; and Wai 2700, #3.1.288) and through discussion at a judicial conference held on 5 October 2020.

6. The submissions showed general support for the four proposed research projects recommended in the exploratory scoping report, with some further research requests.
7. Stephanie Roughton proposed further supplementary research specifically into wāhine health, education, Oranga Tamariki, employment, as well as prostitution and mental health issues. Ms Roughton also proposed research on alternative relief, which was supported by Dr Bryan Gilling and Tara Hauraki at the judicial conference.
8. Tania Te Whenua raised concern that the proposed research did not specifically cover employment and that there should be a separate, distinct report on the experiences of discrimination and inequity faced by wāhine Māori in employment.
9. Catherine Leauga proposed a separate report that goes beyond employment issues to cover the economic position of wāhine Māori generally. Ms Leauga submitted that this report could cover issues such as the contribution of wāhine Māori to the labour market and improving the lives of wāhine Māori on low incomes.
10. Donna Hall proposed that the issue of hegemonic masculinity should be covered in the research.
11. The majority of further research requests from claimants could fall within the existing proposed casebook projects. On 26 March 2021, I noted the requests for additional research into employment and economic issues for wāhine Māori and indicated that the Tribunal would take this into account when issuing its final decision on the research programme (Wai 2700, #2.5.45 at [36]).

Joint research committee

12. On 7 December 2020, I directed the joint research committee to file their submissions on the exploratory scoping report by 19 March 2021 (Wai 2700, #2.5.36). I noted that the Tribunal would then review the proposed casebook projects together with all the submissions on the proposed casebook and issue a decision on the final research programme by 30 April 2021.
13. On 19 March 2021, Ms Roughton and Katherine Alty filed a memorandum on behalf of coordinating counsel providing an update on the joint research committee (Wai 2700, #3.1.410). Counsel advised that the committee intends to hold a 1-2-day wānanga 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. Counsel submitted that further discussion was required on the exploratory scoping report and requested additional time to hold the wānanga before filing submissions on the proposed casebook. Counsel sought to update the Tribunal on the date and venue of the wānanga, and a proposed filing date for the committee's submissions, by 1 April 2021. I approved this extension on 25 March 2021 (Wai 2700, #2.5.45).
14. I also noted that granting a further extension for the joint research committee to file submissions on the proposed casebook would delay confirmation of the Tribunal's research programme and the start of the Tribunal-commissioned research projects by several months. To avoid such a delay, I suggested that an alternative option was for the Tribunal to proceed as originally planned and issue its final decision on the casebook by 30 April 2021. I noted that subject to resourcing, the Tribunal may direct that additional research projects be added to the Tribunal's research programme following receipt of submissions from the joint

research committee. I also advised that there will be further opportunity to comment on the scope of Tribunal-commissioned research projects when draft project briefs are distributed to parties.

15. On 1 April 2021, Mses Roughton and Alty filed a memorandum providing this update as directed (Wai 2700, #3.1.412). Counsel advised that the joint research committee sought leave to file submissions on the exploratory scoping report and the research programme more generally by 30 April 2021. Counsel also confirmed that the wānanga would be convened on 17 and 18 April 2021 at the Kāhui Legal Offices in Wellington.
16. On 9 April 2021, I granted the leave sought and confirmed that I would adopt the alternative option outlined at [14] (Wai 2700, #2.5.45). I also confirmed that the Tribunal would issue a decision on the casebook by 30 April 2021.
17. On 30 April 2021, Mses Roughton and Alty and Natalie Coates, Tara Hauraki and Joanna Judge filed a memorandum seeking a further extension for the joint research committee to file submissions on the research programme until 5pm, 26 May 2021 (Wai 2700, #3.1.415). Counsel submit that further time is required to understand, grapple with and distil the remaining research needs of the claimants and to plan how the joint research committee can address these needs in the context of the available research, expertise and funding. The joint research committee intends to convene another one-day wānanga on 12 May 2021 to undertake gap analysis and enable the filing of comprehensive submissions on the exploratory scoping report and its approach to addressing claimant research needs.
18. Finally, counsel noted that the Tribunal is due to issue its final decision on the exploratory scoping report on 30 April 2021 and submitted that a further extension would therefore not cause significant delay to the Tribunal's research programme.
19. The Tribunal panel are convening a hui on Friday 21 May 2021 and I consider that it would be a valuable opportunity to discuss the submissions at this time. I therefore direct co-ordinating counsel to file the above submissions by **12pm, Wednesday 19 May 2021**. I acknowledge that this does not leave a lot of time following the wānanga on 12 May 2021.
20. While I have granted this extension, I intend to proceed with finalising the research programme as originally indicated.

Decision

21. I confirm that the four research projects outlined in paragraph 3 of these directions will be commissioned by the Waitangi Tribunal. The Tribunal will also commission a further two research projects, as requested by claimant groups:
 - (a) Employment related issues: Focussing on the experiences of discrimination and inequity faced by wāhine Māori in employment contexts.
 - (b) Contemporary economic issues: Focussing on the impact of Crown policies, practices and legislation on wāhine Māori.
22. I will await submissions from the joint research committee to finalise the full casebook for this inquiry, including specific time periods for the two additional research reports. Requests for additional research projects will also be subject to resourcing.

Timeframes for the research programme

23. Waitangi Tribunal Unit staff will circulate draft project briefs for the six research projects commissioned by the Tribunal to parties for their feedback. This will occur within the next few months. Once feedback is received, the project briefs will be finalised and commissioned by the end of 2021. Factoring in the timeframes for these steps in the research programme, I anticipate that the six research projects will be completed by late 2022.

The Registrar is to send this direction to all those on the notification list for Wai 2700, the Mana Wāhine Kaupapa Inquiry.

DATED at Wellington on this 30th day of April 2021



Judge S F Reeves
Presiding Officer

WAITANGI TRIBUNAL