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 FORWARD PLANNING FOR THE REMAINING TŪĀPAPA HEARINGS

26 May 2022

He Maimai Aroha

Ko ngā hau ki Waitaha kua tū
Ko ngā haehae moana kua āio
Ahakoa he rangi mokopuna
He tiwhatiwha ka rere i ngā mata,
O Ngāi Tūāhuriri, o Ngāi Tahu whānui
O āu rahi, mai i Muriwhenua, ki Murihiku rāia
Mōhou e te Kahurangi, e te māreikura Dame Aroha Reriti-Crofts, e moe.

Introduction - He kupu arataki

1. Firstly, I wish to acknowledge the recent passing of Dame Aroha Reriti-Crofts, a long-time advocate for wāhine Māori and one of the original claimants in The Māori Women's (Wai 381) claim. Moe mai e te rangatira.

2. This memorandum-directions also addresses forward planning for the remaining tūāpapa hearings for the Mana Wāhine Kaupapa Inquiry (Wai 2700).

Background - He kupu whānui

3. On 5 April 2022, coordinating counsel filed an update on tūāpapa hearing location preferences and witness lists, including the capabilities of claimants to present via audio-visual link, and preferred methods for presenting evidence (Wai 2700, #3.1.577, #3.1.577(a), #3.1.577(b), #3.1.577(c), #3.1.577(d), #3.1.577(e) & #3.1.577(f)). The update also included submissions regarding the oversubscription of hearing time required for tūāpapa hearing five.

4. In memorandum-directions dated 26 April 2022, I proposed that, following engagement with claimants on preferred hearing locations, claimant counsel also engage with the remaining witnesses regarding a solution to the oversubscription of tūāpapa hearing five (Wai 2700, #2.5.71). I also noted my concerns regarding the undersubscription of hearing time for tūāpapa hearing six. I directed coordinating counsel to submit a further update by 2 May 2022.

5. On 2 May 2022, coordinating counsel advised that an audio-visual link hui ('zhui') was convened with claimant counsel who represent clients involved in tūāpapa hearings five and six on 29 April 2022 in order to discuss hearing planning matters; a list of attendees was appended to the memorandum as Appendix A (Wai 2700, #3.1.579, #3.1.579(a)). Counsel discussed venue preferences and how to resolve the oversubscription of tūāpapa hearing five and the undersubscription of tūāpapa hearing six. Potential venues for tūāpapa hearing five were listed at paragraph [5] of that memorandum.

6. Counsel sought leave to confirm by 11 May 2022 the availability of the proposed venues, and to identify one or two venues preferred by the majority of tūāpapa hearing five claimants. Counsel also sought leave to submit by the same date a further update on tūāpapa hearing six, including the identification of witnesses who may be able to move from their current designated list to tūāpapa hearing six if it is held in Te Waipounamu (Wai 2700, #3.1.579).

7. On 11 May 2022, coordinating counsel filed a further update on tūāpapa hearing planning accompanied by the following appendices (Wai 2700, #3.1.580):

    - Appendix A – Tūāpapa hearing four witness list (Wai 2700, #3.1.580(a))
    - Appendix B – Tūāpapa hearing five witness list (Wai 2700, #3.1.580(b))
    - Appendix C – Tūāpapa hearing six witness list (Wai 2700, #3.1.580(c))
    - Appendix D – All other evidence (Wai 2700, #3.1.580(d)).

8. Counsel confirmed that some witnesses have indicated an ability to present their evidence at tūāpapa hearing six in Te Waipounamu to help relieve the oversubscription of tūāpapa hearing five (Wai 2700, #3.1.580). Counsel noted that the nine witnesses presenting evidence for the Waitaha (Te Korako & Harawira) claim (Wai 1940) are only able to present during tūāpapa six on the basis that the hearing is held kanohi ki te kanohi in Te Waipounamu (Wai 2700, #3.1.580). Counsel indicated that a further two witnesses may be able to move from tūāpapa hearing five to tūāpapa hearing six and sought leave to confirm final witness numbers for tūāpapa hearing six by 24 May 2022.

9. In their memorandum of 11 May 2022, counsel reaffirmed previous submissions (from the Mana Wāhine judicial conference convened in January 2021) in support of Te Waipounamu wāhine Māori presenting their tūāpapa evidence in Te Waipounamu and proposed the following tūāpapa hearing six venues (Wai 2700, #3.1.580):

    a) Whakatū Marae in Nelson (preferred by the Mana Wāhine (Pihama and others) claim (Wai 2872))

    b) Ngā Hau e Whā Marae in Christchurch (preferred by the Waitaha (Te Korako & Harawira) claim (Wai 1940) and the Mana Wāhine (Tamati-Mullen Mack) claim (Wai 2924)).

10. Finally, coordinating counsel sought leave to file a final update on the preferred venues for tūāpapa hearing five by 13 May 2022 (Wai 2700, #3.1.580). The leave sought was granted and parties were advised on 13 May 2022 via email from the Waitangi Tribunal Registrar (the Registrar).

11. On 13 May 2022, coordinating counsel sought a further extension to file this update by 17 May 2022 due to delays establishing availability for some of the proposed venues for tūāpapa hearing five (Wai 2700, #3.1.581). The leave sought was further granted and parties were advised on 13 May 2022 via an email from the Registrar.

12. On 17 May 2022, coordinating counsel filed a final update on the preferred venue for tūāpapa hearing five as directed (Wai 2700, #3.1.582).

13. In summary, counsel noted that eleven witnesses scheduled to present at tūāpapa hearing five did not provide a venue preference or wished to remain neutral on the subject (Wai 2700, #3.1.582). Counsel also advised that fifteen witnesses had not provided instructions on venue preferences and that Sykes & Co had indicated they would file a separate memorandum on the venue preferences of their witnesses. At the date of this memorandum-directions, the Tribunal has not yet received any such memorandum.

14. Excluding the views of these outstanding fifteen witnesses, the final position on the two preferred and available venues confirmed at a claimant counsel "zhui" held on 17 May 2022 are:

    a) Waiwhetu Marae in Lower Hutt. This venue is preferred by twenty-one witnesses

    b) Te Awahou Nieuwe Stroom building ("TANS") in Foxton. This venue is preferred by ten witnesses.

15. On 24 May 2022, coordinating counsel filed a draft tūāpapa hearing four timetable accompanied by the following appendices (Wai 2700, #3.1.583):

    - Appendix A – Draft tūāpapa hearing four timetable (Wai 2700, #3.1.583(a))
    - Appendix B – Tūāpapa hearing five witness list (Wai 2700, #3.1.583(b))
    - Appendix C – Tūāpapa hearing six witness list (Wai 2700, #3.1.583(c)).

16. Counsel confirmed that four days of hearing time is required for witnesses to present their evidence at tūāpapa hearing four and several witnesses have requested to present their evidence on Monday 11 July 2022 (Wai 2700, #3.1.583).

17. Counsel also confirmed that a further witness has moved from presenting their evidence at tūāpapa hearing five to now presenting at tūāpapa hearing six. The proposed hearing time required for witnesses to present their evidence at tūāpapa hearing five is 5.1 days (Wai 2700, #3.1.583 (b)). The proposed hearing time required for witnesses to present their evidence at tūāpapa hearing six is 3.4 days (Wai 2700, #3.1.583 (c)).

Tūāpapa hearing four

18. The tūāpapa hearing four witness list filed on 11 May 2022 (Wai 2700, #3.1.580(a)) is now approved and **appended** to these memorandum-directions as **Appendix A**.

19. I confirm that tūāpapa hearing four will now be held over four days from **Monday 11 July to Thursday 14 July 2022 at Te Mānuka Tūtahi Marae, 105 Muriwai Drive, Whakatāne**.

20. Counsel are reminded of the following filing deadlines for tūāpapa hearing four:

Filing	Who	Filing date
Briefs of evidence for tūāpapa hearing four	Claimant counsel / unrepresented claimants	31 May 2022
Speaking notes, PowerPoint presentations and any other supporting audio-visual material for tūāpapa hearing four	Claimant counsel / unrepresented claimants	28 June 2022
Final hearing timetable for tūāpapa hearing four	Claimant co-ordinating counsel	5 July 2022

Tūāpapa hearing five

21. I now confirm that tūāpapa hearing five will be held from **Monday 22 August to Friday 26 August 2022 at Waiwhetu Marae, 21 Puketapu Grove, Lower Hutt, Wellington**.

22. I note that the latest witness list for tūāpapa hearing five indicates that a slight oversubscription of hearing time remains (Wai 2700, #3.1.580(b)). I also note that some of the indicated topics of evidence to be presented may potentially be out of scope for the tūāpapa hearings. Claimant counsel should confer with their clients to ensure the evidence being presented at tūāpapa hearing five is within the scope of the tūāpapa hearings and notify coordinating counsel of the general topic for each witness as soon as possible.

23. I direct coordinating counsel to file a finalised witness list for tūāpapa hearing five by **12pm, Tuesday 14 June 2022**.

Tūāpapa hearing six

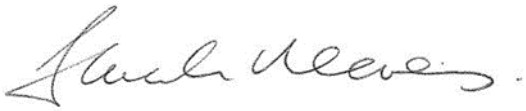
24. I now confirm that tūāpapa hearing six will be held in **Te Waipounamu the week beginning Monday 19 September 2022**. Tribunal staff are currently investigating the suitability and availability of Whakatū Marae in Nelson and Ngā Hau e Whā Marae in Christchurch as potential venues.

25. Claimant counsel for those witnesses presenting evidence in Te Waipounamu should liaise with their witnesses and notify coordinating counsel as soon as possible if there are any required changes to the tūāpapa hearing six witness list.

26. I direct coordinating counsel to file a finalised witness list for tūāpapa hearing six by **12pm, Tuesday 14 June 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 26th day of May 2022.



Judge S F Reeves
Presiding Officer
WAITANGI TRIBUNAL