

WAI 3327 – TE REO I TE KĀWANATANGA RUKU TĀTARI OHOTATA –
TE REO IN THE PUBLIC SECTOR URGENT INQUIRY
JUDICIAL CONFERENCE
HELD AT WAITANGI TRIBUNAL OFFICES, WELLINGTON
FRIDAY 5 APRIL 2024

Tribunal: Judge Te Kani Williams
Dr Paul Hamer
Dr Hana O'Regan
Professor Susy Frankel
Tā Pou Temara (Absent/Apologies)

Crown Counsel: Sebastian Bisley
Arnu Turvey
Grace Seeley

Claimant Counsel: Ihipera Peters
Aroha Herewini
Amber-Leigh Evans
Jessica Hita
Chelsea Terei-Tipene
Kalei Delamere-Ririnui
Matanuku Mahuika
Tara Hauraki
Amy Chesnutt
Ārama Ngāpō
Darrell Naden
Victoria Tumai
Ashley Johns
Rahera Douglas
Rox Soriano
Tania Te Whenua
Neuton Lambert
Jamee Miles

Interpreter: Paiheke McGarvey

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PLEASE NOTE: In recognising that the spelling of names, dialect, and kupu differ across hapū and iwi, we acknowledge that each kupu has a whakapapa that is valid. With respect of these differences, the following transcripts have been specified for continuity in our mahi. The dialectal variations have been transcribed verbatim.

**JUDICIAL CONFERENCE COMMENCES ON FRIDAY 5 APRIL 2024 AT
1.01 PM**

JUDGE TE KANI WILLIAMS:

Kia ora tātou. Kei konei kē tātou katoa? **Greetings. Are we all present?** Kei
5 te pai. Ko wai kei te whakatuwhera tō tātou hui? Kei a koutou pea te wā. **Who
is opening our proceedings? Perhaps you have the floor.**

(13:03) KIPA MUNRO: (MIHI)

Tēnā koe e te Kaiwhakawā. Ko Kipa Munro tēnei ki roto i te tari o Kaupare.
Kua tukuna tēnei hōnore ki a au hei tīmata tō tātou hui, nō reira e mihi kau ana
10 ki a koutou. E whakaaro noa atu me tīmata mātou tēnei hui, tō tātou nei hīmene
Whakaaria Mai. **Greetings your Honour. This is Kipa Munro speaking from
Kaupare Law offices. I have been given the honour – our sitting today,
and so I want to acknowledge you all. I must pay thought to begin this
hui of ours, we shall sing our hymn Whakaaria Mai.**

15 **HĪMENE (WHAKAARIA MAI)**

KARAKIA TĪMATANGA (KIPA MUNRO)

E te Kaiwhakawā, e tika ana tō tāua nei waka Mataatua mihi kau ana ki a koe,
mihi kau ana ki a koe nā koutou i tukuna tēnei hōnore ki a au hei tuwhera tēnei
huihuinga rangatira i roto i a tātou mō te reo te take. Nō reira, i mua taku
20 nohonga e te Kaiwhakawā, e whakaaro ana mātou kia mihi ake ki a tātou, ki a
tātou i roto i tēnei wāhanga o tātou i mua te huihuinga tīmatanga o tō tātou nei
hui. **Your Honour and the panel, I want to acknowledge our waka
Mataatua, I acknowledge you for you have given this honour to me to open
this noble gathering pertaining to te reo. And so, your Honour we were
25 considering thinking about how we can pay respect to everyone before
the gathering at the start of our hui.**

Nā runga i taku poto noa iho taku noho ki waenganui i a koutou, heoi anō,
waimarie i konei au i te tīmatanga o te hui, engari he hui anō tāku ki te oma atu,

engari i mua i taku omanga atu ko taku hiahia, ko taku hiahia kia tukuna atu tērā tono anō o tōku hapū a Ngāti Rēhia ki a koutou kia whakaarongia te tono kia hoki mai ki ahau, kia hoki mai ki roto i a mātou o Ngāti Rēhia, arā, ki raro i te tuanui o tō tātou nei whare o Whitiōra e whakahaere ēnei kōrero rangatira

5 kei waenganui i te motu. Me taku mōhio ake he tono ki roto i a koutou, ki roto i a koutou, ki roto i a koutou. Heoi anō, ko tāku hiahia ki te tukuna atu ā-waha ki a koutou tā mātou nei tono kia hoki mai koutou te Taraipiunara, koutou katoa ngā Kaiwhakawā ki roto i te kāinga o Ngāti Rēhia, arā, ki roto i Whitiōra. **I have brief time with you, but I am fortunate to be here at the start of the hui but**

10 **I have another hui to attend to that I need to rush to, but before I run away I want to make a request on behalf of Ngāti Rēhia my hapū for the request from the hapū to return, to return to us to Ngāti Rēhia underneath the roof of our house of Whitiōra for these proceedings to take place that are being discussed by the nation. And knowing also that you have received other**

15 **various requests. And so, I desire only to orally make that request for you the Tribunal to return, all of you the Judges, to return to the home of Ngāti Rēhia within Whitiōra.**

Nō reira, i runga i tēnā, mihi kau ana ki a koutou. E kite ana au kei roto i ngā

20 ringaringa hāpai, i roto i ngā ringa raupō i a koutou katoa tō tātou nei take kei te kōrerotia nei i te rā nei. Nō reira i runga i tēnā, hoinā anō ko tāku nei tū, hoinā anō ko tāku nei īnoi, hoinā ko tāku nei tono ki a koutou he whakaaro, he whakaaro noa iho. Nō reira i runga i tēnā e te Kaiwhakawā, e Te Kani, hoinō hari ana ki te tūtaki anō, te kite anō i a koe me tēnei mahi taumaha kua pā ki

25 runga i a koe, tēnei taumahatanga kua pā ki runga i a koe me tō tēpu, me tō tēpu katoa. Hoinā anō tēnei te tuku te mihi, tēnā koutou, tēnā koutou, ā, tēnā rā tātou katoa. **With that in mind, I want to thank you all. I can see that within the caring hands, it's within your hands to address the issues that we are discussing today. And so, with that in mind that's all I have to add,**

30 **and I stand and request you to consider, to only consider that request. And so, your Honour, Te Kani, we are delighted to see you again and this onerous task that has been bestowed upon you and your panel, and entire panel. And so, I want to acknowledge you, thank you, thank you one and all.**

WAIATA TAUTOKO

Ko tātou nā te pou e kōrerotia nei ki roto i tēnei karakia, ko te pou o te whakapono. Arā, te whakapono hāhi, engari te whakapono ki tō tātou reo me ōna nei tikanga e kaha nei tēnei kāwana ki te takahi, ki te **(Māori 13:10:20)** nui
 5 i ngā mea katoa kei mua i te aroaro i a tātou i te rā nei. Nō reira, i runga i tēnā pou whakapono, mihi kau tonu ana ki a tātou katoa, tēnā koutou, tēnā koutou, kia ora huihui mai anō tātou katoa. Tēnā rā tātou. **So the post that has been referred to in this karakia is the pillar of faith. The (inaudible 13:10:14) religious to church, Christianity, but to our language and our tikanga**
 10 **which this Government has made a strong effort to breach, trample upon and to cast aside, and so that is what is before the Tribunal today. And so with that pillar of faith in mind, I want to acknowledge everyone, thank you, thank you, thank you.**

(13:10) JUDGE TE KANI WILLIAMS: (MIHI)

15 Kia ora. I te tuatahi, kei te mihi atu ki a tātou e huihui mai nei i tēnei rangi. Mihi atu ki a koe Kipa e noho mai nā i roto i ngā āpiha o Kaupare Law, tēnā koe nāu i whakatuwhera tō tātou hui nō reira e mihi atu ki a koe i tēnei rā. **Firstly, I want to acknowledge everyone gathered here. I want to thank Kipa who is sitting with the counsel from Kaupare Law, and so I want to thank you**
 20 **for opening our proceedings today.**

Mihi atu ki a rātou mā kua mene atu ki te pō, arā, ko Judge Phil Recordon tētahi. Hoki atu rā koe e te rangatira ki te taha o tō hoa, tō tuahine a Carina, arā koutou mā e mene atu ki te pō, haere, haere, hoki atu rā. **I also want to acknowledge**
 25 **those who have passed to the world of death, Judge Phil Recordon is one, and alongside your friend, my sister, also Carina who passed away, and all of those who have passed to the world of death, farewell, farewell, rest in peace.**

30 Arā, ki a tātou te hunga ora, tēnā koutou, tēnā koutou e whakamine mai nei i tēnei rangi mā runga ipurangi mō tēnei huihuinga a te Rōpū Whakamana i te Tiriti. Ā, ki a koutou ngā mema o te Taraipiunara e noho mai nei i tēnei rangi,

arā ko tētahi ko koe Dr O'Regan, tēnā koe, ko Professor Susy Frankel, tēnā koe, arā ko Dr Paul Hamer, tēnā koe. Kāore a Tā Pou e noho mai ana i tēnei rangi, kei te ako ia i ngā tauira, nō reira mihi atu ki a ia. **And so to we the living, greetings, greetings as we have assembled here today through**

5 **online for this sitting of the Waitangi Tribunal. And to the members of the Tribunal sitting today, one is Dr O'Regan, Professor Susy Frankel, greetings, and Dr Paul Hamer, acknowledgements. Tā Pou is not – he is teaching students, the other panel member, but I want to acknowledge that member as well.**

10

Ki a koutou ngā kaikōrero, ngā manu tīoriori, ngā māngai o te ture o ngā kaikerēme, tēnā koutou, tēnā koutou, tēnā koutou katoa. Arā, ki a koutou ngā rōia mō te Karauna, āe, tēnā koutou, me ngā āpiha o te Rōpū Whakamana i te Tiriti e āwhina ana, e tautoko i a tātou ngā mema o te Taraipiunara, tēnā koutou,

15 **tēnā koutou, tēnā tātou katoa. To you the witnesses, the sweet singing (inaudible 13:11:57) and the legal counsel for claimants, greetings to you all. And also to the Crown counsel, acknowledgements to you also, and the staff of the Waitangi Tribunal assisting and supporting the members of the Tribunal, thank you, thank you all.**

20

Good afternoon. Before I take appearances, just a couple of matters I wanted to address before we kick off. Obviously you'd be aware that we have four members of the Tribunal appearing today. Myself, Dr O'Regan, Professor Susy Frankel and Dr Paul Hamer. Tā Pou is unavailable because he

25 is lecturing his students today.

HOUSEKEEPING (13:12:41)

JUDGE WILLIAMS ADDRESSES COUNSEL – APPEARANCES (13:14:00)

(13:14) MS IHIPERA PETERS: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā koutou ngā mema o tēnei Rōpū Whakamana

30 i te Tiriti o Waitangi, ka nui te whakamānawa i a koutou i tēnei wā. Kei konei mātou nō te Tari o Kaupare Law. Ko Ihipera Peters tōku ingoa. Kei konei

mātou ko Ms Herewini, ā, ko Ms Evans anō hoki e whakakanohi ana i ngā kaikerēme e rua. Tuatahi, ko te Hapū o Ngāti Rēhia, ā, ko tā rātou tohu nama Wai 3077 i roto i tēnei ruku tātari ohotata. Tuarua, ko ngā tarahiti o Te Haupapa Kōhatu o Te Moutere o Motiti. E tautoko ana ngā mihi kua mihi i tēnei ata. **May it please your Honour and the members of the Waitangi Tribunal panel, I acknowledge you all today. We are present here for Kaupare Law. My name is Ihipera Peters and I am appearing alongside Ms Herewini and Ms Evans and we are representing two claims. Firstly, the hapū of Ngāti Rēhia and their Wai number is Wai 3077, the Wai number during this urgency hearing. And Haupapa Kōhatu, the Motiti Island claim. And so we endorse the acknowledgements previously acknowledged this morning.**

Ā, ki tō tātou kaikarakia i tēnei ata e hono ana te rangi ki te whenua, te whenua ki te rangi, e mihi ana ki a koe, Pāpā. Ā, ki a rātou hoki kua mene atu ki te pō, e kore rawa e warewaretia ki a rātou. Ā, ki a tātou te hunga ora kua huihui mai i tēnei ahiahi, e mihi ana ki a tātou katoa. Tēnā koe e te Kaiwhakawā. **To our elder who opened proceedings with a karakia binding the heaven to earth and the earth to the skies, and so I want to acknowledge our elder. And also those who have departed to the world of death, and so we must never forget them. And to we the living who have gathered this afternoon, greetings to us all. Thank you, your Honour.**

(13:15) MS JESSICA HITA: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā, otirā tēnā tātou katoa. Ko Ms Hita tēnei e kōrero ana. Kei konei māua ko Mrs Terei-Tipene nō te tari o Tūkau Law, ā, he māngai māua ko ngā kerēme e toru i roto i tēnei ruku tātari ohotata. Ko te kerēme tuatahi ko Ngāti Hine, ko Wai 682 tērā, ā, ko Te Kapotai, Wai 1464, me Te Rūnanga Nui o Te Aupōuri, ko te Wai 2831 tērā. Tēnā koutou. **May it please your Honour and greetings to everyone. Ms Hita speaking and I am appearing alongside Mrs Terei-Tipene on behalf of Tūkau Law and we are counsel for three claims during this urgency hearing. The first claim is made by Ngāti Hine, Wai 682, and Te Kapotai, Wai 1464, and Te Rūnanga Nui o Te Aupōuri, Wai number 2831. Thank you.**

(13:16) MS KALEI DELAMERE-RIRINUI: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā otirā tēnā koutou ngā mema o te Rōpū Whakamana i te Tiriti o Waitangi, ka nui te mihi ki a koutou. E tautoko hoki i ngā mihi kua mihia. E mihi hoki ana ki ngā kaitono, koutou e pīkau nei i tēnei kaupapa whakaharahara, tēnā koutou otirā tēnā tātou katoa. **May it please your Honour, greetings to the members of the Waitangi Tribunal, I want to acknowledge you all. And I also support the acknowledgements previously made and want to acknowledge the claimants, those who have** (inaudible 13:17:14) **of this most important issue, so greetings.**

10

Counsel's name is Ms Delamere-Ririnui. A, kua tae mai i tō mātou tari o Annette Sykes & Co ki te whakakanohi i te kerēme o Wai 1194, Wai 1212, he kerēme, he tono mō te hapū o Ngāti Te Rangiunuora, ā, otirā te iwi o Ngāti Pikiao. Kāre au i te pīrangī kia whakatōroa i ngā kōrero, engari he tuku anō hoki tēnei i ngā whakapāha o Ms Sykes, tē taea e ia te uru mai i tēnei wā, engari ko te manako nui ka tae mai a tōna wā. Āe, koirā noa iho, tēnā koutou.

15

Appearing from our Annette Sykes & Co office representing the claim Wai 1194, Wai 1212 a claim on behalf of Ngāti Te Rangiunuora and the iwi of Ngāti Pikiao. I do not wish to prolong my contribution, but I just want to express our apologies for Ms Sykes she is unable to join at this time but hopefully she will appear in due time. Thank you.

20

(13:18) MATANUKU MAHUIKA: (MIHI, APPEARANCE)

Tēnā koe e te Kaiwhakawā. Ko Mr Mahuika tēnei. Kei konei māua koe Ms Hauraki hei māngai kōrero mō Ngāi Te Rangi. Ki taku mōhio ko Ngāi Te Rangi te rōpū i tono atu ki te Rōpū Whakamana i te Tiriti kia noho tere ana ki te whai whakaaro e pā ana ki te reo. Nā reira, ko au hei kaitautoko me kī mō Ms Hauraki. Mā Ms Hauraki te nuinga o ngā kōrero e pā ana ki te kaupapa nei, engari kei konei au te tautoko atu i a ia e pā ana ki tēnei take nui o tātou. **Greetings your Honour. Mr Mahuika speaking and I am appearing alongside Ms Hauraki, counsel for Ngāi Te Rangi. I understand that Ngāi Te Rangi is the organisation that made a claim to the Waitangi Tribunal, lodged the claim for an urgency hearing pertaining to te reo. So, I am a supporter of Ms Hauraki and Ms Hauraki will lead our**

30

submissions in terms of this matter, but I am here to support her in relation to this major issue.

Nā reira, kia aroha mai, i wareware au te tuku mihi atu ki a Ngāti Rēhia, nā reira
 5 tēnā koe e te rangatira nāhau i whakatuwhera tō tātou huihuinga tēnei rangi,
 nāhau anō hoki, āe, i whakatuwhera te arawhata ki te Runga Rawa ana kia rite
 ai tēnei noho o te Rōpū Whakamana i te Tiriti. Nā reira, ki a koe e te
 Kaiwhakawā, koutou katoa te Rōpū Whakamana, ka nui ngā mihi atu ki a
 10 koutou otirā ki a tātou katoa e hui tahi nei i tēnei rā, e whai whakaaro, te
 wānanga ngātahi e pā ana ki tēnei kaupapa nui. Nā reira, tēnā koe e te
 Kaiwhakawā, koutou katoa. **Apologies, I forgot to acknowledge
 Ngāti Rēhia, and so thank you chief for opening our proceedings today
 and it was you (inaudible 13:19:15) for opening the way to the heavens so
 that – for this sitting of the Waitangi Tribunal. So to your Honour and the
 15 panel, acknowledgements, greetings to everyone gathered today to
 consider and to discuss together this major issue. So thank you
 your Honour and everyone.**

(13:19) MS AMY CHESNUTT: (MIHI, APPEARANCE)

Tēnā e te Kaiwhakawā, otirā tēnā koutou ngā mema o te Rōpū Whakamana i
 20 te Tiriti o Waitangi. Ko Ms Chesnutt ahau, ā, e whakakanohi ana au mō te
 Rōpū Wāhine Toko i te Ora, Wai 2959, me Geneva Hakaraia-Tino, Wai 3212.
 Tēnā koutou. **May it please your Honour and greetings to the members of
 the Waitangi Tribunal. I am Ms Chesnutt and I am appearing on behalf of
 a claim made by Rōpū Wāhine Toko i te Ora, Wai 2959, and
 25 Geneva Hakaraia-Tino, Wai 3212 claim. Thank you.**

(13:20) MS ĀRAMA NGĀPŌ: (MIHI, APPEARANCE)

Tēnā koutou katoa. He mihi tēnei ki te tēpu o te Taraipiunara. Ko Ms Ngāpō
 tōku ingoa. He māngai ahau mō te kaikerēme, ko Tākuta Rapata Wiri, he
 interested person anake. Nā reira, ka huri taku mihi ki a koutou katoa. Kia ora.
 30 **Greetings all. I want to acknowledge the Waitangi Tribunal panel. My
 name is Ms Ngāpō and I'm appearing on behalf of the claimant**

Tākuta Rapata Wiri who is an interested person only. And so, thank you all.

(13:20) MR DARRELL NADEN: (MIHI, APPEARANCE)

E te Kaiwhakawā, tēnā koe, otirā koutou ki ngā mema o te Rōpū Whakamana
 5 i te Tiriti o Waitangi, tēnā koutou. Ko tēnei te whakakanohi o ngā rōia mō ngā
 kiritaki o Tāmaki Legal. Ko Naden mātou ko Ms Tumai rāua ko Ms Johns kei
 konei. E whakarārangi ana ngā kiritaki i roto i te manatu rōia o 27 Maehe o
 tēnei tau, ko te manatu rōia document #3.1.006. Nō reira tēnā koe, tēnā koutou,
 tēnā koutou, tēnā tātou katoa. **Your Honour, greetings, and to the members
 10 of the Waitangi Tribunal greetings to you also. We are appearing on
 behalf of the clients of Tāmaki Legal. Naden alongside Ms Tumai and
 Ms Johns are appearing. Our clients are listed in the memorandum of
 27 March this year and that is document #3.1.0006. So thank you, thank
 you, thank you all.**

15 (13:21) MS RAHERA DOUGLAS: (MIHI, APPEARANCE)

E te reo karakia, nāu i whakaaio te moana kia eke pai ai tēnei waka ki uta, tēnā
 koe. Tēnā koe hoki te Kaiwhakawā, koutou ngā mema o te pae. Ko
 Rahera Douglas tēnei e whakakanohi ana i a Te Whakakitenga o Waikato, e
 mihi ana ki a tātou i tēnei ahiahi. **To the elder who conducted our karakia
 20 so that our waka can arrive safely to shore, and greetings to the Judge
 and the Panel. I am Rahera Douglas speaking, representing the claim of
 Whakakitenga Waikato, and greetings to everyone this afternoon, thank
 you.**

(13:21) MS ROX SORIANO: (MIHI, APPEARANCE)

25 Tēnā koe e te Kaiwhakawā, tēnā koutou e ngā mema o te Taraipiunara, otirā e
 ngā rōia, e ngā kaimahi mā, tēnā koutou. E ngā kaikerēme kei te mātakitaki
 mai ki te livestream, tēnā koutou, tēnā koutou katoa. Ko Rox Soriano tōku ingoa
 nō te tari o Mahoney Horner Lawyers. E whakakanohi au mō te kerēme
 Wai 1684, he interested party rātou. Ngā mihi ki a koutou. **May it please
 30 your Honour. Greetings to the members of the Waitangi Tribunal, to the
 counsel and staff, greetings. To the claimants watching the livestream,**

greetings to you all. My name is Rox Soriano appearing on behalf of Mahoney Lawyers. I am counsel for the claim Wai 1684 a claim made by an interested party. Thank you.

(13:22) MS TANIA TE WHENUA: (MIHI, APPEARANCE)

5 Tēnā koe e te Kaiwhakawā, huri noa tō tēpu rangatira, te pae, ngā mema o tēnei pānera mō te Taraipiunara, tēnā koutou. Ki aku hoa rōia, tēnā koutou anō hoki, te Karauna, ngā kanohi o te Taraipiunara, otirā tātou katoa kua huihui mai te whakamana tēnei kaupapa nui ki a tātou katoa, tēnā koutou. Tautoko au i ngā mihi kua mihia. Ko Te Whenua tēnei hei māngai mō ēnei kaitautoko i ngā
10 kaikerēme anō i konei. Ko Janice Panoho te kaihautū rāua ko Georgina Kerr, te kuia me te māngai anō hoki o Te Pūkenga Herenga Tikanga Mahi o ngā kaimahi Māori o rātou, arā kē ko te New Zealand Public Service Association. Interested parties noa iho e Pā, kia ora rawa atu. **May it please your Honour and to the panel, esteemed members of the Waitangi Tribunal. To my
15 fellow lawyers, greetings, and to the Crown and Waitangi Tribunal staff and to everyone gathered to (inaudible 13:22:51) this major issue for us and I want to support the acknowledgements made by it. Te Whenua speaking and I am counsel for those interested parties, for the claimants, Janice Panoho lead claimant along with Georgina Kerr, also
20 representatives of Te Pūkenga Herenga Tikanga Mahi of Māori workers, New Zealand Public Service Association. Interested parties Sir, thank you.**

(13:23) MR NEUTON LAMBERT: (MIHI, APPEARANCE)

25 Tēnā koe e te Kaiwhakawā, pai ki te kite i a koe anō me ngā kanohi i runga i te tēpu o te Rōpū Whakamana, nō reira tēnā koutou. Ko Lambert tēnei me taku hoa a Ms Miles nō Wackrow Panoho & Associates. Ko te kaikerēme a Margaret Mutu o Ngāti Kahu a Wai 2214 hei hunga whai pānga. Nō reira tēnei te mihi ki a koutou, kia ora. **May it please your Honour. It is great to see you again and the faces on the Waitangi Tribunal panel, greetings.
30 Lambert speaking and I am appearing alongside my friend Ms Miles from Wackrow Panoho & Associates. The claimant is Margaret Mutu of Ngāti Kahu, Wai 2214 as an interested party, so thank you.**

JUDGE WILLIAMS:

Kia ora. Are there any claimant counsel that I haven't called? Ka pai. I then turn to the Crown.

(13:24) MR SEBASTIAN BISLEY: (MIHI, APPEARANCE)

5 E te Kaiwhakawā, tēnā koe. Ko Bisley ahau. Kei konei mātou ko Turvey, ko Seeley mō te Karauna. **May it please your Honour, I am Bisley and I am appearing alongside with Turvey and Seeley for the Crown.**

(13:24) JUDGE WILLIAMS: (NGĀ TAKE)

In terms of today's judicial conference, as you will be aware, we have gone
10 through those matters that I have asked for feedback from you all on. I suppose from my perspective, having reviewed the memorandum that have been filed by myself and the other members of the panel, we had a number of questions, but it strikes me that matters such as hearing planning and so on which are obviously key can't really be progressed until we understand what the Crown's
15 position is, what the Crown's position is in relation to the evidence that they propose to lead, the timing of that evidence, because that will obviously influence the timing by which we may or may not be able to hold a hearing. So, I am going to call on the Crown first to address us on those issues please.

(13:25) MR BISLEY: (RESPONSE)

20 Thank you, your Honour, and hopefully you have received the two Crown memoranda which have been filed, one, a very short one on 27 March and then a slightly longer one which goes some distance addressing some of those questions late last night.

(13:26) JUDGE WILLIAMS TO MR BISLEY:

25 Q. I haven't got the one last night, Mr Bisley. I did receive the short one. But if you filed an updated one in the evening then I haven't got that before me.

A. I see.

Q. So you have to talk to me about that.

A. I'm sorry, your Honour. That would've been a helpful one to see because what it does is it attaches a draft schedule which has been largely agreed with claimant counsel and which makes provision for a timetable which I think is now relatively helpfully clear between all of the parties as to the timing within which discovery will be given and then the timing for the various submissions of evidence.

Q. Perhaps just pause then, Mr Bisley.

JUDGE WILLIAMS ADDRESSES TRIBUNAL STAFF – COPY MADE AVAILABLE TO TRIBUNAL PANEL (13:26:51)

10 JUDGE WILLIAMS TO MR BISLEY: (CONTINUES)

Q. None of us have it, Mr Bisley. I hesitate to suggest that filing things the night before is unhelpful, so if we are wanting to get this matter dealt with expeditiously then perhaps don't leave it to the last minute.

A. Thank you, Sir, and I really do apologise for the late filing of that document. It was partly filed late in an attempt to reach agreement with claimant counsel which, as I say, has now largely been reached and so that may perhaps be of some assistance even if the document isn't before the Tribunal. Is perhaps the most useful thing to do for me to run through the proposed dates and just to briefly to them?

20 Q. Yes please. Away you go.

(13:27) MR BISLEY: (RESPONSE CONTINUES)

Thank you, Sir. The proposal at the moment is that the Crown – the first step that will be taken is that the Crown will provide discovery. Now, we have received a letter from Kaupare Law which sets out the categories of discovery that have been sought and we have circulated that amongst the Crown entities that may have responsive documents. Those documents are due in today and are being compiled and we have said to claimant counsel that we will provide discovery on 15 April. And that if we can in that timeframe which is necessarily fairly tight, we will provide discovery in any earlier tranches that can be managed, so if we have a set of documents which are clearly ready to go before 15 April then we will provide those by way of discovery early, although I expect

that any formal discovery provision will wait till the end. They will just get the documents and then a complete list at the end. So that is step number one.

5 The next step which has been agreed as between the parties is the claimants and interested parties will file their evidence on 10 May. That will give them three weeks from receipt of discovery to file their evidence. And I should interpolate there Sir that there has been some discussion of amended pleadings being filed in the interim, so the claimants from the timetable I received today have indicated that they wish potentially to file amended
10 pleadings on 22 April and the Crown has no objection to that.

JUDGE WILLIAMS TO MR BISLEY:

Q. Sorry, 26 April?

A. 22 April sorry, Sir, 22nd of April. So, 15 April for discovery, 22 April for amended pleadings. I should have said that first but I was looking at the
15 wrong timetable. Then 10 May for evidence.

MR BISLEY: (CONTINUES)

The next step is the Crown evidence and the date which is proposed and agreed is 24 May, which gives the Crown two weeks to carry out that process.

20 Now, the exact scope of that evidence, Sir, perhaps it's useful for me to say, remains a bit unclear because of course it's going to depend to some extent on the discovery documents which we are receiving today, but we do have I think some agreement on the length of time required for hearing, so that may assist the Tribunal.

25 **JUDGE WILLIAMS TO MR BISLEY:**

Q. Is that agreement, Mr Bisley, still around effectively one week?

A. Yes, Sir, that's correct.

MR BISLEY: (CONTINUES)

Then the next date we have an agreed timetable, Sir, is a date for further applicant and interested party evidence in reply which is proposed to take place on 31 May.

5 JUDGE WILLIAMS TO MR BISLEY:

Q. So that is further claimant evidence and interested party evidence on the 31st of May, correct?

A. That's exactly correct, Sir.

MR BISLEY: (CONTINUES)

10 The next step I have is a draft hearing timetable and cross-examination indications which are to be provided on 5 June.

JUDGE WILLIAMS:

Perhaps before we get to that, we still need to work out when a hearing date might be. I think the time, the scheduling that you have given now for the provision of evidence I think is helpful, well, it certainly is a good start before we take a further step. I see your memos now have just arrived in my mailbox, so I will just try and open that, shall I?

MR BISLEY:

20 Thank you, Sir, that would be helpful and I can come on to talk about the hearing week if that would suit. I think again there's agreement to a set of dates for that. There is an issue which I've described around exactly how long is required and of course it's subject to the Tribunal having availability in the proposed week which is the 10th to the 14th of June.

JUDGE WILLIAMS:

25 Yes. Well, just take a pause at that stage I think, Mr Bisley. Do any of the claimant parties have a view – well, let's go with the claimants first and perhaps we will start with Kaupare Law because you are, as I understand it, speaking as coordinating counsel on this matter. Are there any issues with what Mr Bisley has identified so far in terms of the timetabling?

(13:32) MS PETERS: (RESPONSE)

Tēnā koe e te Kaiwhakawā, ko Ms Peters tēnei. Ki te taha o te wātaka hukihuki, āe, e whakaae ana ki ngā kōrero kua puta i taku hoa mō te Karauna, te nuinga o ērā momo panonitanga ki taua wātaka hukihuki me te tuku atu hoki i ngā panonitanga ki ngā tauākī whakaraupapa ā te rā 22 o Aperira. **Your Honour, this is Ms Peters. In terms of the schedule, we agree with what was shared by my friend from the Crown, most of those amendments to that hearing schedule and also the amendments to the (inaudible 13:33:18) from the 22nd of April.**

10

He panonitanga anō tā mātou i a mātou e kōrero ana ki ngā rōia o ngā kaikerēme i te rā kua taha ake nei, engari e hāngai ana ki te wāhanga whakamutunga o taua wātaka hukihuki, arā e pā ana ki te wā ka tuku atu ngā paihere pukapuka hei tuku pātai ki ngā kaikōrero, ā, kāre e whakaae ki taua rā o te rā 5 o Hune, engari e whakaaro ana pai ake te rā 7 o Hune. **There's also amendments we propose as we were speaking to the claimant counsel yesterday, however that's in line with the filing of (inaudible 13:33:43) of the schedule, and the time when the documents will be (inaudible 13:33:52) to question the witnesses, we do not agree with the date of June 5 but we are thinking that it's better – that the 7th of June is more appropriate.** Mehemea ka tū mai **(Māori 13:34:06)** –

20

JUDGE WILLIAMS:

Taihoa ake tēnā, pea. **Hang on a minute.** I really just wanted to get up into further evidence being provided by 31 May and if there's no – well, provided there's agreement up to that point at least that's when I wanted to get to.

25

MS PETERS:

Āe, e whakaae ana te nuinga o ngā kaikerēme ki tērā. **Most of the claimants agree with that.**

JUDGE WILLIAMS:

30 Ka pai. Anyone else?

(13:34) MS TARA HAURAKI: (RESPONSE)

Tēnā koe, Sir. Apologies, I tried to unmute myself. Āe, we generally agree with the timetable that the Crown has proposed as Kaupare has said. The only matter that we had raised in our memorandum was the length of hearing time
5 required, and it will be clear **(inaudible 13:35:08)** from our memorandum that we had taken the view that this is a relatively specific and discrete issue. And in terms of the way the Tribunal has attended to these kinds of inquiries or similar, inquiries of similar scope, it's tended to do so in three to four days and we thought that that should be sufficient if the approach to evidence was as we
10 set out in our memorandum are highly focussed and that the parties that presented were identified by the claimants and the Tribunal as being required for questioning and cross-examination. But the view is that this shouldn't take more than four days, so it's a very discrete issue. And the principal concern for Ngāi Te Rangi is that it's dealt with efficiently and quickly and the quicker that
15 we or the less time we spend in hearing the quicker the Tribunal can get to hearing its report. That's all I wanted to say further on that.

(13:36) JUDGE WILLIAMS: (NGĀ TAKE CONTINUES)

Ka pai. When I get to that point in the conference you won't need to repeat that then, so kei te pai, Ms Hauraki. Anything else on the timetabling issues that
20 have been raised by the Crown so far just quickly? Anyone from the Tribunal panel? (no audible response) Ka pai.

The reason I paused there, Mr Bisley, is that it then comes to the suggestion I think about length of the hearing I guess and the timing for that hearing. Putting
25 lengths to one side, we have heard Ms Hauraki's position already, but in terms of timing what I can indicate is this, is that if, to all parties, if a hearing is sought on 10 June, that is possible, the proviso however is that due to budgetary constraints the only location that it could be held is Wellington. There will be no financial ability to hold the hearing either in the North or in Tauranga, so
30 that's one that I need you to consider.

The second issue is that is that it is also proposed, well, in the timetable that I had seen prior to the Crown's submission today was that there was a proposal

for closings to be held on the 26th and 27th of June. What I was going to indicate is that Tribunal members are not all available on those dates. So, from a practical perspective that's not feasible.

5 If parties wanted to consider, our **(inaudible 13:38:17)** starts in July, so if they want to consider a venue which is not the Waitangi Tribunal premises then we need to move it to July to hold a hearing and those dates in July that the Tribunal members would be available, of course that escapes me now that I'm about to talk about is I believe and **(inaudible 13:38:42)** correct me if I'm wrong – there
10 we go, 15 to 19 of July. That potentially impacts on the timing and location.

One of the issues I also wanted to raise with the parties in terms of location is that there is the potential to hold the hearing in Auckland at the Environment Court in Auckland. The reason why, in fact it's my suggestion, I
15 hold an **(inaudible 13:39:22)** to the Environment Court and I have sat there and it's a large court firstly, so it is capable of taking all **(inaudible 13:39:30)** and claimants and **(inaudible 13:39:34)** five or so on the bench. Secondly, it's in between Northland and Tauranga, and so if we have to travel at least we're meeting potentially in the middle. We have to check as to its availability for
20 the 15th of July and we've asked staff to do that as we speak, but I wondered whether or not there was an appetite for holding the hearing there rather than in Wellington or rather than someone's marae.

I do see Ms Sykes has expressed some concern about travelling north given
25 the roading situation that exists up there, I think it'll be a little tough on northland claimants that travel all the way down to Tauranga, so if **(inaudible 13:40:21)** to Auckland or Wellington I think there's positive in suggesting those as potential venues given the accessibility and availability. So that's a matter I wanted to discuss with you firstly in terms of timing and in terms of occasion.

30

I will come back to you Mr Bisley given that you've got your hand on the microphone at the moment and ask you **(inaudible 13:41:22)** of those issues, but I wondered if you had a view about what I've just expressed to you now.

(13:41) MR BISLEY: (RESPONSE)

Thank you, Sir. My view is probably that all or any of that could work. In terms of the hearing on 10-14 June, Crown has said that it doesn't take a position as to the location, so we are happy to appear wherever is required.

5

In terms of the proposed closing date, just touching briefly on hearing time. What we've indicated to claimant counsel is that we believe that the entire matter could be resolved in that week but we're open to have a later hearing date for closing submissions if that's the Tribunal's preference, so that may help to deal with that point. And we endorse comments made in relation to the **(inaudible 13:42:09)** of time by my friend Ms Hauraki.

10

In terms of hearing in July, perhaps it is most useful if I just make sure that I haven't got some other commitment, but I believe that it is also feasible. I have a hearing in the Court of Appeal on the 19th, so the July hearing would give me personally some difficulty, but if that's the hearing date then the Crown may have to find a way to work around that **(inaudible 13:42:32)**.

15

(13:42) JUDGE WILLIAMS TO MR BISLEY:

Q. Well depending on which date is identified that has potential flow-on ramifications for the timing or filing of opening submissions I assume, is that what you would anticipate?

20

A. Yes, Sir, I would. I think if we move the hearing back in July, what we're looking at, at the moment is a very, very pressed timeframe **(inaudible 13:42:56)** that could usually be slightly extended just to make sure that the issues are wilfully articulated with the benefit of that extra leeway.

25

Q. All right.

JUDGE WILLIAMS:

Well perhaps I will go to counsel then and see what their views are, but I thought I'd just ask, notwithstanding the length of a hearing which may be somewhere between hearing either two to four days to a week to potentially longer, and again I will come back to Kaupare Law to start with.

30

(13:43) DR PAUL HAMER TO MR BISLEY:

Q. Judge Williams, could I just ask the Crown one question before we move on? And it's about the timing of their evidence and just in perusing the Crown's memorandum that was filed late last night, I hadn't seen it until
 5 10 minutes ago, but I notice at 9.2.1 there's reference to the Crown intending, while they do not believe this is the most relevant issue they intend to call evidence as to the current level of use of te reo Māori, and I am conscious that the 2023 Census results to be released according to Stats New Zealand in May and in terms of the Crown intending to do this,
 10 it would seem strange if they didn't refer the latest Census results, and I'm just wondering how its timetable would work and with the Crown's schedule that they have set up for us earlier, including filing their own evidence by 24 May?

A. Yes, thank you, Sir. I'm not sure what the best way to work in the Census
 15 **(inaudible 13:44:27)** evidence would be. I absolutely agree that that material should be before the Tribunal and presumably will be available to everyone as soon as it comes out. That may be something which I can **(inaudible 13:44:37)** loosely take instructions from Crown or **(inaudible 13:44:40)** other separate **(inaudible 13:44:43)** may have a clearer understanding exactly what could be done around that than I do.
 20

Q. Ka pai.

JUDGE WILLIAMS:

Any of the other Tribunal members want to ask questions before having counsel? Kāo, okay. Handing it back to coordinating counsel Kaupare Law to
 25 start.

(13:45) MS PETERS: (RESPONSE)

Tēnā koe e te Kaiwhakawā. Hei tīmatanga, tēnā koe i ō whakamārama mai i ērā rā e wātea ana ngā mema o tēnei Rōpū Whakamana i te Tiriti o Waitangi. Ka kite koe i roto i tā mātou manatu rōia tuatahi ko te hiahia o te nuinga o ngā
 30 kaikerēme kia tū tēnei nohoanga i runga te marae, heoi i runga i tēnā ko te hiahia matua anō kia ruku atu ki tēnei ruku tātari ohotata kia kore e tōroa te wā kia tīmata tēnei kaupapa. **Thank you, your Honour. Firstly, thank you for**

your suggestions in terms of the dates (audio skips 13:45:20 to 13:46:10) when the members of the Tribunal are available, panel members. You see within our memorandum of counsel, it is the desire from most of the claimants for this sitting to take place on the marae, however with that
5 there is also a desire to dive into this urgency hearing and for the timetable to (inaudible 13:46:43).

Nō reira mehemea ko Pōneke, ko Whanganui-a-Tara te wāhi āhei kia tū tēnei nohoanga i runga **(Māori 13:46:52)** tērā pea koirā te **(Māori 13:46:59)** hei whai
10 kia tere ake te tīmata o tēnei kaupapa. Ā, e tika ana ngā tāpaetanga a taku hoa a Ms Hauraki mō tērā take. Te tino hiahia o ngā kaikerēme kia ruku atu ki tēnei kaupapa nui. E rongoa ana hoki tō pātai Dr Hamer e hāngai ana ki ētahi o ngā rīpoata ka puta ā te marama o Mei, me te tautoko hoki kia whakamōhio mai te
15 Karauna ki ngā momo kōrero taunaki i roto i ā rātou ake tīma. Engari i tēnei wā, e whakaaro ana te wātaka hukihuki kua whakatakoto ki mua i a koe, ā, kua kōrerohia tōku hoa mō te Karauna ki tērā. Ka āhei tonu kia uru atu ērā kōrero taunaki i aua rā tonu. Mēnā ka tū tēnei nohoanga a te marama o Hune.

And so, if a place in Wellington is the most appropriate place for this to take place in June, (inaudible 13:46:58). That is the plan for us to adhere
20 to so that we can quickly (inaudible 13:47:06) address. And we support the submissions of my friend Ms Hauraki pertaining to that issue. The desire of claimants to (inaudible 13:47:19) matter to commence. And we heard the question from Dr Hamer pertaining to the reports that will be released in May, and also support to inform the Crown about the
25 (inaudible 13:47:41) evidence (inaudible 13:47:45). At this time we are thinking about the draft timetable that was presented before you and has been mentioned by my friend from the Crown. And for that evidence to be – take place over those few day or dates, so if the hearing takes place in (inaudible 13:48:08).

30

Ki te taha o te marama o Hurae, me kōrero mātou a Kaupare ki ā mātou kiritaki anō kia whiwhi ngā tohutohu mō ngā tono. I rongoa koe i a Pāpā Kipa i te ata nei e kaha tonu atu ana ki te Rōpū Whakamana kua hoki atu ki waenganui o rātou, engari he kōrero anō tēnā mā mātou e whai ā muri i tēnei hui ā-
 Wai 3327 - Te Reo I Te Kāwanatanga Ruku Tātari Ohotata - Te Reo In The Public Sector Urgent Inquiry

kaiwhakawā nei. Engari i te taha o te wā hukihuki, te wātaka hukihuki, e whakaaro ana ko te tino hiahia o mātou **(Māori 13:48:49)** kia tīmata wawe me kī tēnei nohoanga, engari ka **(Māori 13:48:56)** ana i ngā kerēme i tēnei wā tonu. Tēnā koe e te Kaiwhakawā. **In terms of July, we of Kaupare need to**
 5 **speak with our clients again to receive claimant’s instructions. You heard the elder Kipa Munro today who is urging the Tribunal to return amongst the people of the North, but it’s something for us to follow up after this judicial conference. However, in terms of the draft timetable we are thinking the claimants really want this (inaudible 13:48:56) hearing to**
 10 **begin immediately as soon as possible which is (inaudible 13:49:01) the claimants at this moment in time. Thank you.**

JUDGE WILLIAMS:

Kia ora. Tūkau Law?

(13:49) MS HITTA: (RESPONSE)

15 Tēnā koe Sir. Ka tautoko au i te nuinga o te kōrero o tōku hoa nō Kaupare Law. He whakaaro anō tōku mō te inquiry timetable, ka tautoko mātou o Tūkau ka tū te nohoanga ā-tinana o Hune ki Pōneke, e pai ana tērā ki ā mātou kaikerēme. **Greetings Sir. I support most of what my friend said from Kaupare Law. I also have another proposal in terms of the inquiry timetable, we support,**
 20 **we of Tūkau Law, support for the sitting to take place in June in Wellington, so that’s fine with our claimants.**

Mō te nohoanga o te closing submission, Sir, me te take o te roanga o te nohoanga, ki ō mātou whakaaro – ka huri au ki te reo tuarua. **In terms of the**
 25 **sitting for closing submissions and the matter pertaining to the length of the hearing, our view is that – I will turn to English.**

In our thoughts, Sir, in terms of identifying the timespan of how much hearing time is required, I think we can find efficiency as the inquiry progresses and that
 30 can be things in relation to the submissions that are provided in Kāhui Legal’s memorandum in terms of the Tribunal identifying which witnesses it **(audio skips 13:51:09)** to hear from and also question. I think it’s a little bit difficult at

this stage of understanding how many witnesses will be presenting from both claimant and Crown counsel to determine for the duration of hearing week. But we do support at this stage a week should be provided for claimant submissions, file claimant evidence as well as additional time for closing submissions. And it's our preference again that the inquiry progresses as quickly as it can and ask that the next available date be provided for closing submissions if that is not in the June as proposed in the **(inaudible 13:51:47)** Sir.

JUDGE WILLIAMS:

10 Kia ora Ms Hita. Mr Mahuika?

(13:51) MR MAHIKA: (RESPONSE)

Sorry, Sir, I thought Ms Hauraki was going to be online. I will give it a go. Sir, it's an urgent inquiry. The preference is to do June if we can, July a possibility. And as the memorandum set out there are ways that we can proceed efficiently. 15 **(inaudible 13:52:23)** recent addition to this particular matter.

On the issue of closing submissions, I know it has become the practice of filing written closings and having a separate hearing for that, and very conscious though that this is an urgent claim in relation to te reo and **(inaudible 13:52:39)** 20 policy **(inaudible 13:52:43)**. Depending on the Crown evidence Sir, **(inaudible 13:52:44)** being implemented, so therefore proceed with a level of expedition I think is important here. And once upon a time we used to do closings only **(inaudible 13:52:53)** at the end of the hearing. So, we're not adverse to the idea of having written closings and formal presentations, but it is 25 a very focussed set of issues and we will be assisted by a culmination of what the Crown **(inaudible 13:53:07)** in discovery which will give some shape of the issues.

Also, what the Crown is prepared to concede in relation to te reo. We do have 30 a Te Reo Report, we have the two Māori Language Acts both of which emphasise the importance of te reo as a taonga. I'd like to think we're not revisiting those sorts of issues as part of this inquiry and we are very much

focussing on the policy that the Crown has established and that it is proposing to implement.

JUDGE WILLIAMS:

Thank you Mr Mahuika. Annette Sykes & Co?

5 **(13:53) MS DELAMERE-RIRINUI: (RESPONSE)**

Tēnā koe. I don't propose to expand any further, just supporting the points already raised, particularly regarding the proposed for June to continue. There is, I believe, will be support for Pōneke to be the proposed location so there should be no concern there. The preference is Tauranga, but at the same time
10 we would prefer it to proceed quicker.

In relation to the length of time of the hearing, we continue to support and argue that one week should be provided with additional time for closings, but also taking into consideration that depends on the scope of the issues and also the
15 extent of the evidence as stated by my friend of Tūkau. Nothing further Sir, thank you.

JUDGE WILLIAMS:

Ka pai, thank you. I will perhaps go to, given Mr Naden has filed a memo which is distinct from that of coordinating counsel in terms of hearing duration and the
20 position of interested parties, Mr Naden, perhaps you could speak to the issues now please?

(13:54) MR NADEN: (RESPONSE)

Yes, thank you. Your Honour, we're differing **(inaudible 13:54:52)** from the other groups with regards to 3-4 days or one week. We prefer to take an
25 approach where the evidence is **(inaudible 13:55:02)** a bit more in terms of its length and quantity in terms of number of witnesses envisaged and planned for and that the hearing time is set around that. And this submission Sir is said in light of numerous experiences with Tribunal hearings where we've just run out of time a lot for the presentation of evidence in particular.

30

For the presentation of **(inaudible 13:56:14)** set of opening submissions, your Honour, even, and I also say this as counsel for interested parties who in urgency of this nature, presentation of their evidence is likely to be the first to not be orally presented, and so it's for those reasons Sir if that can be seen as

5 a package of reasons why the preference is for a setting of two weeks of hearing time and that is pared back as the evidence manifests to what is actually required. And I understand there'll be logistical issues of extending two weeks of hearing time in circumstances where we're really pressed for time with all the other commitments that we have, but if there are two weeks there then they are

10 concrete in that respect and that if it should come to light that more time than one week is needed that two weeks is there, and if it's not the whole two weeks that is required, as I said earlier, the amount of actual hearing time required can be pared back but at that point.

15 So your Honour, in a nutshell, a formulaic approach to setting hearing time as opposed to the three to four days to one week given today.

Moving along in relation to hearing June being possible with a location in Wellington, we would need to talk with the clients but on its face it would be

20 agreeable if there certainly is **(inaudible 13:57:40)** assistance from the relevant Crown agencies as has happened with numerous other Tribunal hearings of late. Surely aware Sir. For witnesses if they are required to appear to **(inaudible 13:57:53)** by Crown agencies involved and it would be mostly **(inaudible 13:57:59)** actually essential actually for especially tangata whenua

25 witnesses and their **(inaudible 13:58:04)** in Wellington, your Honour.

In relation to our closings and the 15th to the 19th of July is proposed by the Tribunal and **(inaudible 13:58:15)** of earlier submissions to date Sir about expedition **(inaudible 13:58:16)** expedition being **(inaudible 13:58:21)** with an

30 urgent inquiry **(inaudible 13:58:21)**, I do note Sir that **(inaudible 13:58:23)** legislation pending that might otherwise wipe out the Tribunal's jurisdiction for a hearing a matter of this nature and at least that. And although expedition is important, also important Sir is **(inaudible 13:58:35)** hearing, is one that where parties are given a full **(inaudible 13:58:37)** opportunity to put their case to you

and the other members of the Tribunal, Sir. And so, there is this tension between expedition and adequate hearing time that I make reference to. So if closings are 15-19 July then that can be agreed with and because although expedition is important, so too is adequate hearing opportunity.

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Lastly, Sir, the potential to hold the hearing in Auckland, of course, Sir, we're based in Auckland so just on that front we'd be most agreeable on this end, but I understand it's closing submissions **(inaudible 13:59:19)**, and if that is a prospect then that'll be supported your Honour. Other than if there are questions those are submissions for this point, Sir, thank you.

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(13:59) JUDGE WILLIAMS: (INDICATION)

Yes, thank you Mr Naden. I suppose what I can indicate to all is the Tribunal members have met and what must take priority are those claimants who have successfully sought urgency in this application. So the evidence of claimants and obviously the evidence of the Crown takes first priority. That said, I'm sympathetic to and we are sympathetic to the position of interested parties and we think scope does need to be found for interested parties. But I can say now, saying the same thing 20 times is not persuasive. Saying the same thing once and with support speak loudly than having it done 20 times, and so there does need to be a consideration, from my perspective, in any event that if evidence is to be presented for example from interested parties then it would be of more valuable if they were presenting evidence on the distinct issues as opposed to the main issues which will already be covered by the main claimants.

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The focus of this inquiry is narrow and is restricted and I don't anticipate needing to go far and wide in order to address the issue which the **(inaudible 14:01:38)** chairperson has identified as appropriate for the urgent hearing, so to that extent it should not take a great deal of time. I express some disquiet I suppose that three days is going to be sufficient. I don't think two weeks is required. Let me put it that way. So somewhere in between there is what I think might work best and I've taken it on board and I think the members they will say if they disagree that if the desire is for an expeditious hearing to be held in June in

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Wellington is, whilst not perfect, is acceptable, then it is likely that we will probably proceed on that basis. The question then becomes for how long?

5 And so, what I can also indicate is that I'm not a big fan of long and extensive opening submissions. Opening submissions are designed to introduce your client, introduce the claim and the witnesses that are going to present the evidence for your application. They are in my view designed to provide an extensive review of the background to all matters relevant to the claim. That's a matter for closing. So I don't consider that long and extensive opening
10 submissions are particularly helpful. I leave that obviously to you as to how you might present your cases, but I think it might be helpful for me to indicate that at this point in time. Yes, Mr Naden?

(14:03) MR NADEN: (RESPONSE)

Thank you. Your Honour, wholeheartedly agree with **(inaudible 14:03:10)** in
15 relation to repetitive evidence not being of interest to the Tribunal. Sir, I'd like to assure the Tribunal that evidence that the interested parties whom we represent seek to **(inaudible 14:03:18)** orders in our view **(inaudible 14:03:19)** way are supplementary and distinct and that submission **(inaudible 14:03:25)** made, your Honour. There is an **(inaudible 14:03:27)** supplementary evidence
20 for interested parties and, your Honour, the point taken, is wholly taken about brief openings presented to your Honour, but **(inaudible 14:03:36)** the filed document may be a little longer. Is that an approach that his Honour **(inaudible 14:03:45)**

(14:04) JUDGE WILLIAMS: (INDICATION)

25 Haven't finalised a view on that yet, Mr Naden, but all I suppose will indicate not only to you but to all parties is that opening submissions should really be a format I've expressed. In terms of indication, that would be a slightly different issue. Sorry, Mr Mahuika, you wanted to say something?

(14:04) MR MAHUIKA: (RESPONSE)

30 Sir, I think you've largely covered the point that I was going to make which is that I appreciate the position of the interested parties but, you know,

Ngāi Te Rangi was one of the claimants that sought and obtained urgency and on very specific set issues. Ngāi Te Rangi's preference would be to have a hearing in Tauranga, but because of the urgency of this, is agreeable to have a hearing in Wellington so that this matter can be progressed and wouldn't want it to be delayed by other parties having matters that they wish to raise. No matter how legitimate, but this is not commentary on those issues, but urgency has been granted for the claims that Ngāi Te Rangi brought and Ngāi Te Rangi would like to have that claim heard expeditiously please Sir.

JUDGE WILLIAMS:

10 Yes, thank you, Mr Mahuika. I have gone to Mr Naden in terms of the interested parties, are there any other counsel for interested parties that want to address me on these issues? Kia ora.

(14:05) MS NGĀPŌ: (RESPONSE)

Tēnā koe. My instructions from Dr Wiri is to support the position of Ngāi Te Rangi, Sir. He is an interested party and I've heard your Honour's comments as to opening submissions, location and my instruction has been quite clear that he is filing **(audio skipped 14:06:11)** interested party status in support of Ngāi Te Rangi and he does – will seek leave to file further evidence but that would also be done in consultation with claimants of Ngāi Te Rangi as well, Sir.

(14:06) JUDGE WILLIAMS TO MS NGĀPŌ:

Q. It would be his position that he'd be happy to take it as read or...?

A. Yes, claimant counsel haven't taken that conversation to that issue but it would've been my submission that evidence should be taken as read.

25 Q. Thank you.

A. Any cross-examination he would make himself available, Sir.

Q. Yes, that's helpful, thank you.

JUDGE WILLIAMS:

Anyone else? Kia ora, Ms Chesnutt.

(14:06) MS CHESNUTT: (RESPONSE)

Kia ora Sir. I only want to make a very brief comment and that is our clients are interested parties and see their role very squarely. **(inaudible 14:06:56)** in support of four applicants who have been granted urgency and are content with the evidence that they file being taken as read but simply that it is part of the record. However, should the Tribunal or the Crown wish to hear from any of the witnesses which our clients intend to call, that there be an ability for witnesses who are unable to travel to appear via AVL should the hearing be up in Auckland. Our clients are predominately based in Wellington so that would be convenient, but we are entirely in the hands of the claimants as to the preferred venue of course that the Tribunal **(inaudible 14:07:28)**. That is the only comment I wanted to raise, Sir.

JUDGE WILLIAMS:

Kia ora Ms Chesnutt. Ms Douglas, you had your hand up?

15 **(14:07) MS DOUGLAS: (RESPONSE)**

Thank you, Sir. We, Waikato support the position of Ngāi Te Rangi. We would like to indicate that we are intending to file one brief of evidence and we are happy for that to be taken as read. We are interested parties and happy to support claimants with this issue, Sir.

20 **JUDGE WILLIAMS:**

Kia ora, thank you, that's helpful. Anybody else?

(14:07) MS TE WHENUA: (RESPONSE)

Tēnā koe, Sir, Ms Te Whenua here. Kia ora. We represent the New Zealand Public Service Association in the matter as interested parties. We understand from the joint memorandum of counsel filed on behalf of the claimant counsel and interested parties that it has been agreed that interested parties, that claimant counsel at least agree that interested parties may provide evidence where it supports the claims and we haven't yet had further coordinating conversations as to the nature and extent of evidence which the

claimants would appreciate being brought forward by interested parties although we are having dialogue over that as we speak.

5 The New Zealand Public Service Association believes that we have distinct evidence that will support not only the application but also the Tribunal to inquire into the issues at hand, in particular the matters arising around the Te Reo Māori Allowance and bargaining of the Collective Agreement with respect to not only the historic – the history of bringing that clause into the collective but the attitudes toward present bargaining and the likely future
10 implications of those for the Reo Māori Allowance. So there are some fairly distinct and significant evidence that can be brought by the Public Service Association and, in addition, at present inquiring with the members as to the breadth and stead of the policy within the Public Service Sector and working with the claimants on just what exactly the types of
15 questions might support the claimants with the evidence that they wish to bring. So, I raise that Sir only with respect to my claimants as interested parties are in support of the preferences of the claimants around evidence, but we do have evidence which we believe will support this inquiry and we are willing to present.

20 The Public Service Association has key offices in both Auckland and Wellington and I'm sure we'll have no issues with either of the locations being proposed. Kia ora.

JUDGE WILLIAMS:

Well it sounds, Ms Te Whenua, like you and your clients would be bringing a
25 distinct position which I think is helpful. Any other interested party counsel want to address any of these issues?

(14:10) MR LAMBERT: (RESPONSE)

Tēnā koe Sir, Mr Lambert speaking. Tēnā koe. Yes, we tautoko ngā kōrero a
tō mātou hoa o Kaupare Law **support the comments of our friend from**
30 **Kaupare Law**. We think to advance matters expeditiously will be the best option. In terms of our **(inaudible 14:11:19)** as interested parties, we agree with yourself Sir that the evidence should be targeted and specific, and I

hesitate to say it this way, but to fill the gaps or supplement so that it's not repetitive, Sir. And in terms of presenting, our client, if there is any time available, would be happy to present, however, if the option is to have the evidence taken as read then he pai tēnā hoki **that's also fine**. Kia ora.

5 **JUDGE WILLIAMS:**

Kia ora Mr Lambert. Anyone else before I turn to the panel members?

(14:11) MS SORIANO: (RESPONSE)

Kia ora Sir. Rox Soriano tēnei. In terms of our client's position, Sir, the intention of the interested parties **(inaudible 14:12:01)** is always to support the applicants. So in terms of the evidence that we are looking at bringing, it is to support and supplement that and hopefully be distinct as well. Fully support the submissions made by our friends at Kaupare and at Tūkau in terms of the timetable, the hearing date and the time sought, Sir, and we can indicate at this stage that claimants are happy for the evidence to simply be on the record unless of course you Sir are minded to have them present their evidence at hearing.

In terms of the venue, Sir, we are one of the claimants obviously supporting the hearing being on a marae, but we obviously will abide by the Tribunal's decision on that matter. The claimant's preference of course is if it needs to be expeditious and it needs to be held in Wellington then we are kei te pai with that, Sir. Thank you.

JUDGE WILLIAMS:

Thank you Ms Soriano. Do the panel members want to speak to this issue?
25 Dr Hamer?

(14:13) DR PAUL HAMER: (RESPONSE)

The only thing I'd say is that I was quite interested in the submission made by Mr Mahuika when he wondered out loud what the Crown would be going to concede I think was the word that Mr Mahuika used in the knowledge that we have had Acts of Parliament recognising the status of te reo as a taonga and

Mr Mahuika hoped that we weren't going to have to revisit any of that. And I think this is, from my perspective, a very important point that as soon as we know where the Crown accepts the jurisprudence of the last several decades that had been built up in courts and Tribunal about the reo, that will enable us to be much more streamlined than the approach we take in this inquiry. So that's just my observation at this stage, Judge.

JUDGE WILLIAMS:

I'm just trying to bring up the statement of issues that has been filed by the Crown because I haven't seen it yet. Okay, I'm not sure if there's an answer there either.

DR PAUL HAMER:

That statement I've just had a look at myself as well seemed to leave it open as to which principles apply to the claims in question and what Crown's obligation might be.

JUDGE WILLIAMS:

Yes, I did notice that, thank you, Dr Hamer. Dr O'Regan, did you have anything you wanted to say at this point?

(14:14) DR HANA O'REGAN: (RESPONSE)

Nothing really to add, Judge, beyond my support for the position of the Tribunal that you've already put forth in terms of the timing. I'm in agreement with your views on that and how that would apply. But like Dr Hamer, I'm interested to see what this kaupapa – the Crown's position is.

JUDGE WILLIAMS:

Kia ora. Professor Frankel?

PROFESSOR SUSY FRANKEL:

Kia ora. No, nothing to add at this point. I think **(inaudible 14:15:03)** covered.

(14:15) JUDGE WILLIAMS: (INDICATION)

Kia ora, thank you. Perhaps if I can indicate that for those witnesses whose evidence is happy to be filed and taken as read, I personally don't propose to call them to give any evidence. If counsel are requiring their attendance to be cross-examined and only for that purpose then I won't be encouraging of that evidence, that would be purely to cross-examine on those components of their evidence that is being – that is at issue. If the Crown and counsel have yet to identify a cross-examination list because they are yet to identify who the witnesses are, so that's obviously got difficulties in terms of timing. But as a general I suppose comment from me, if your witness has filed evidence that will be taken as read they will be on record and won't be required to present their evidence unless specifically requested for cross-examination. Hopefully that is helpful.

All right. While still on this issue, Ms Peters, you have in your coordinating I think – no sorry, in your memorandum on behalf of Ngāti Rēhia have sought more than one translator to be present to assist the inquiry and there is of course no issue about the fact that your claimants wish to speak in Māori predominately and there is no obligation to file or present evidence and file evidence in Māori. There is also no obligation to file evidence in English as well. I suppose the precautionary note that we make is that if you don't then leave **(inaudible 14:17:52)** of what is filed up to us and that may not be the same as what the clients intend if you don't file your own evidence, I just signal that as a matter they may want to consider.

25

But secondly, can you I suppose just expand for me why, let's say the hearing is for four days, why you are looking for an additional translator?

(14:18) MS AROHA HEREWINI: (RESPONSE)

Tēnā koe e te Kaiwhakawā, ko Ms Herewini tēnei. Āe, e tū atu ana ahau mō tēnei kaupapa. Ka mutu, ki ōku whakaaro ka whai hua atu a whakamārama ki ngā tukanga nei kua kōrerohia kē nei mātou. Engari ko te whakaaro matua kei roto i ēnei tāpaetanga ko te hiahia me te whāinga o Ngāti Rēhia kia **(Māori 14:18:44)** te reo, kia pūmau te reo Māori ki runga i ēnei whakahaerenga

o tēnei ruku tātari. Nō reira, ka noho ko tēnei hei te whāinga matua. Ana ko ēnei tāpaetanga me ēnei whakaaro he mea āwhina i tērā āheinga, he mea āwhina i tērā whakatinanatanga, ā, he mea āwhina anō hoki i ngā tukanga ārahi a te Rōpū Whakamana. **Thank you, your Honour, Ms Herewini speaking.**

5 **Yes I am speaking on this matter. And in my view, my explanation will be beneficial in terms of the processes that (inaudible 14:18:37) memoranda. But the main thought within the submissions is the desire and the objectives of Ngāti Rēhia so that the language is highly placed in this urgency hearing. And that is the main aim. And so these submissions**
10 **and these views are in place to assist that indication and also assist in the guiding principles of the Tribunal.**

So my last concern was just acknowledging that the protocols were put forward to assist in giving effect to the Tribunal's existing guides to practice and
15 procedure, and just noting he mea hou tēnei nē **it's a new thing.** Kua whakahoungia ngā tukanga ārahi e te Rōpū Whakamana i te Tiriti i te marama o Akuhata i tērā tau. Nō reira, kāore anō kia tūāpapa māhau i tēnā āheinga. **They (inaudible 14:19:26) have been (inaudible 14:19:31) of the Treaty principles (inaudible 14:19:33) month of August last year. And so those**
20 **(inaudible 14:19:37).**

Nō reira, te taha ki tētahi anō kaiwhakapākehā, ka noho motuhake tana mahi ki ngā tuhinga. Ko ērā tuhinga tāpae **(Māori 14:19:49)** Rōpū Whakamana i mua i te nohoanga. I ngā tau ka whakaūngia ki te wātaka hukihuki nē. **And**
25 **so, (inaudible 14:19:38) in terms of another translator, they are strictly for the written documents. Those submissions will be presented to the Tribunal before the sitting. In the years –** So, evidence, submissions, ērā mea **those sorts of things.** Ka āwhinatia tērā kaiwhakapākehā i ērā mahi, ka noho motuhake ki ērā. Koirā te mea tuatahi. **To assist the interpreter during**
30 **their work so they can work (inaudible 14:20:12).**

Ka mutu, kia mōhio he mea āwhina tēnei i ērā mea kua kōrerohia nei e au. Mehemea ki te whakaaro te Rōpū Whakamana e pai ana mā te kotahi tangata e pīkau i ērā mahi, kei te Rōpū Whakamana tērā mana nē, engari e whai
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whakaaro ana ki te taumahatanga o ērā mahi ki tētahi tangata anake e whakawhiti reo i te nohoanga, e whakapākehā i ngā kōrero a **(Māori 14:21:31)** pātai atu ki a rātou. Koirā. **And so, just to inform that this is to assist all those things that have already been mentioned. If the Tribunal can**
 5 **consider for one person to take that role and that's up to the Tribunal, has that authority, (inaudible 14:21:22) doing the difficulties in that (inaudible 14:21:26) for only one person to do during the sitting, translating everything that was said.**

10 Hopefully Sir that assists in answering your question of clarification. Engari, hei āpiti ki tērā **and to add to that**, I think in terms of the leaving interpretation to the Tribunal, I just wanted to note in terms of 6.26 of the Tribunal guided a lot of process in which there will be an exchange between the translator and the author and ensuring that what is ultimately provided as English translation is in
 15 fact that is an accurate translation of the te reo Māori tuinga. I think one addition to that Sir is just to ensure the, just te kōwhiringa o te kaituhi. **(inaudible 14:22:22)**. If for example, for whatever reason they are unable or do not wish to provide an English translation, they also be allowed the choice as to whether those translations are provides as translations of their own or
 20 whether ka waiho mā ērā tuinga whakapākehā hei tuinga o te Rōpū Whakamana. That still enables ēnei take to make sure that everyone has a copy of the translation, natural justice issues are aware, have knowledge, are able to understand the evidence that's put forward as well as te noho pūmau ki te reo Māori **remaining (inaudible 14:23:09)**.

25

Yes. Koirā te take, koinā ōku tuinga **that's the reason (inaudible 14:23:14)**. If you don't have any questions on that issue, Sir, there was one other tono from Ngāti Rēhia as well.

JUDGE WILLIAMS:

30 I will come back to that. Clear as mud thank you, Ms Herewini. I suppose I wonder does the Crown have a view about that particular position?

(14:23) MR BISLEY: (RESPONSE)

Kia ora. Thank you, Sir. No. In our memorandum we have abided on that point. We've only observed that if there's a requirement to file translated versions of all the documents and they affect timing, I dear say they can be
5 overcome, Sir.

JUDGE WILLIAMS:

Thank you. Anyone else on this issue? All right. Ms Herewini, we will give that some consideration and that will obviously be reflected in directions that come out from us. Sorry, what was that Ms Herewini?

10 **(14:24) MS HEREWINI: (RESPONSE)**

Tēnā koe, Sir. **Thank you, Sir.** If I may, he tono anō hei whakaarohanga mā te Rōpū Whakamana **I wish for the Tribunal to consider.** Ko tērā tōku tono, īnoi kia tuku te rīpoata ka whakaritea e te Rōpū Whakamana ki roto i te reo rua. He īnoi tērā hei whakaarotanga noa mā koutou. **That is the**
15 **(inaudible 14:24:17) when we provide, file the reports, that the Tribunal has that in both languages. That's (inaudible 14:24:30).**

(14:24) JUDGE WILLIAMS: (STATEMENT OF ISSUES)

Kia ora Ms Herewini. All right, we will move on. Statement of Issues. I haven't had the opportunity to have any real consideration to the Statement of Issues
20 that has now been provided by you, Ms Bisley, but if you talk to that briefly please that would be helpful. I assume this has been developed after engagement with the claimant counsel?

(14:24) MR BISLEY: (RESPONSE)

Tēnā koe, Sir, yes that's absolutely correct. We sent the statement of issues to
25 claimant counsel and I have spoken about it with claimant counsel yesterday and today and i think there are some agreements as well. Perhaps the starter point, Sir, relates to a question raised I think by Professor Hamer which is that the Crown is intending to make concessions about the past findings of the Tribunal, the status of te reo Māori as a taonga. I don't have formal instructions
30 on that, Sir, I am not in a position to make any formal positions at this point.

I think it's fair to say that I don't anticipate the instructions to argue a different position to that, but I simply can't confirm a formal Crown position until I have the opportunity to take instructions from the Crown on it.

5 **(14:26) JUDGE WILLIAMS TO MR BISLEY:**

Q. Is that **(inaudible 14:26:31)**, Mr Bisley, will it be prior to you filing evidence or at the same time?

10 A. I hope it would be before we file evidence, Sir. So the evidence is currently set down for 24 May and I am certainly hoping to be in receipt of clear instructions in early May, that is the timetable to which I'm working.

15 Q. Yes. Well given those indications, I think today that the preference is for a June hearing. It's a reluctant preference I might add for a June hearing to be held in Wellington. We then come back to you and create a timetable I think Mr Bisley which talks about opening submissions being filed on 5 July with a final hearing timetable and cross-examination, what bundles indications following that, have I got that correct?

20 A. Yes, Sir, that's correct. So my understanding of the agreed timetable and perhaps claimant counsel can correct me if I've misunderstood, is that hearing timetable and cross-examination, opening submissions would be filed on the 5th of June and then final hearing timetable and cross-examination **(inaudible 14:27:40)** on the 7th of June which will be the Friday before the hearing starts Monday.

Q. Yes.

25 A. With the hearing take place on the 10th, Sir. And the Crown has indicated that it agrees with the hearing procedure which was set out in the Kāhui Legal memorandum at paragraph 7 which I think has already been discussed.

30 Q. Can I just step back slightly, Mr Bisley, when we're talking about the statement of issues, I know that Mr Naden for his claimants there they had a different view, well, wanted to add a component for example to the Crown Statement of Issues which perhaps had been canvassed in the

earlier iteration provided by claimant counsel. Had you run this statement of issues by Mr Naden?

A. No, Sir, I haven't. I have briefly addressed the two issues which were raised in memorandum, but I haven't spoken to Mr Naden. The memorandum attached to the statement of issues the Crown proposed, although that's certainly something which I think is able to be discussed and I have indicated both to claimant counsel that what I tried to do in my draft statement of issues is to capture really the fact this inquiry by virtue of its urgent timing really needs to be tightly focussed on policies of the Coalition Government. And that really is the Crown's overarching submission. So **(inaudible 14:28:57)** asked to achieve that. But when we went to the claimant proposed statement of issues, we wondered whether there was one part of it which sort of suggested that those issues have been opened up a bit and I think in fact none of us really **(inaudible 14:29:12)** everyone agrees needs to be tightly focussed in order to be dealt with urgently, so probably just a question about how best to capture that in writing.

Q. Yes.

A. So should I explain the thinking on that, Sir, would that be helpful?

Q. Yes, I think that would be helpful.

(14:29) MR BISLEY: (RESPONSE CONTINUES)

Thank you, Sir. So the starting point, I think all of the statements of issue agree. Be the statement **(inaudible 14:29:31)** to the focus of the inquiry in the position on urgency, which is helpfully set out at the top, and perhaps we can just start with the Kāhui Legal memorandum on 27 March, it's set out at the top, where the policies of Coalition Government **(inaudible 14:29:42)** the status and use of te reo Māori in the Public Sector are in breach of principles of the Treaty of Waitangi. So that's what we're looking at.

Now, the **(inaudible 14:29:49)** Sir in relation to issue 1 in that same statement of issues which says: "What the current policies, practices, acts and omissions of the Crown to limit the status and the use of te reo Māori in the Public Sector." And the issue there Sir I think is that this issue needs to be read and applying Wai 3327 - Te Reo I Te Kāwanatanga Ruku Tātari Ohotata - Te Reo In The Public Sector Urgent Inquiry

to the policies stating the coalition government, which **(inaudible 14:30:07)** pointed the urgency provision and secondly, that the word omissions also has the potential to open up a very broad scope inquiry because of that, considering all of the things that the Crown hasn't done to advance te reo at times. We're
5 potentially looking at something which is more akin to Wai 262 then to a tightly focused inquiry just on the process of the coalition government.

(inaudible 14:31:19). How I have tried to capture that, Sir, in my proposed statement of issues, which you will **(inaudible 14:31:26)** scope of inquiry, is to
10 identify the three categories **(inaudible 14:31:30)** which has been raised at present, which are the requirements for people like service departments have their primary name in English and communicate primarily in English, except always specifically related to Māori, and secondly te reo Māori allowances. I think the omission that's referred to Sir, is the **(inaudible 14:31:45)** which is
15 **(inaudible 14:31:46)** in the statement's claim.

Now, I have said to both, Millar and friends, all the claimants when I speak to them, it may have been I have simply missed something and something else ought to go in that list, that maybe that there is a better way to deal with this,
20 that I have a list, but the overarching issue is to ensure that the scope of enquiry doesn't involve for a **(inaudible 14:32:02)** examination, of every respect in which the coalition government's failed to take active steps to protect Māori in that time. It's a focus on the coalition government and the policies probably to the extent that those are reflected in the various coalition agreements.

25 **JUDGE WILLIAMS:**

All right. Well, I am asking counsel, I assume you have had engagements with coordinating counsel on this and that you have got broad agreement from them in respect of this statement of issues, is that what you are saying Mr Bisley?

MR BISLEY:

30 Probably, I haven't gotten quite that far Sir. I have spoken to Kaupare Law about it and perhaps to leave it to my learned friend to indicate whether there is broad agreement, although I think there is agreement on

(inaudible 14:32:41) that the inquiry is limited. I also discussed it with Ms Hauraki and I think they are in agreement is probably on similar terms.

5 There were questions as to whether a revised statement of issues would be able to be provided to me in advance of this hearing, but just in light of the urgency and the rush that everyone has been in, that hasn't been possible in the end. I haven't seen that and I don't want to make any assumptions about what it might contain.

JUDGE WILLIAMS:

10 All right. Ms Peters?

(14:33) MS PETERS: (RESPONSE)

Tēnā koe e te Kaiwhakawā. Katahi anō mātou ka kite i tērā whakarārangi o ngā take nā te Karauna inanahi nei. Kua kōrero mātou ki te nuinga o ngā rōia, ngā kaikerēme, ki te kimikimi i ngā mea e whakaae ana. I tēnei wā, a kore e
15 whakaae te nuinga ki taua rārangi noa o ngā take i te mea, tuatahi ake, kāore e whakaae ki te whakakorengia o ngā kupu “omissions”, ngā hapa. **Your Honour, we have just sent that Statement of Issues from the Crown yesterday. We have spoken with most of the claimant counsel to find whether they agree or not at this time. They do not agree, most do not**
20 **with that statement of issues because, firstly, they do not agree with taking out that word “omissions”.**

JUDGE WILLIAMS:

Āe.

MS PETERS: (CONTINUES RESPONSE)

25 I te mea he mea nui ngā hapa a te Karauna i roto i tēnei kaupapa. Ka mutu, ko tērā kupu kei roto i te pire mō Te Tiriti o Waitangi, a ko te Wāhanga tuaono, nō reira hāngai anō ki tēnei kaupapa. Koirā te take i whakarārangihia i roto i tā mātou manatu rōia tuatahi, terenga ngā kaupapa here, ngā ritenga, ngā mahi me ngā hapa a te Kāwanatanga kua **(Māori 14:34:24). Because it, the Crown**
30 **made several omissions in terms of the matter. And also, that term is in**

the bill pertaining to the Treaty of Waitangi in Part 6, and also relevant to this matter. That is the reason why we list it in our memorandum of counsel. The statement (inaudible 14:34:25), the acts and omissions of our Government. Ana, the policies, practices, acts and omissions. Nō reira, 5 āe, ki a mātou nei, me noho pū ērā kupu ki roto i taua wā i whakatau ngā take. So we believe that those terms should remain in that statement.

JUDGE WILLIAMS:

Cut the stone short Ms Peters, the answer is no you do not agree, so it is a work in progress nē?

10 **MS PETERS: (CONTINUES)**

Āe, āe, e tika ana e te Kaiwhakawā. Ā, hei tāpiri atu ki tērā, e (inaudible 14:34:54) ana te nuinga o ngā take kua rārangi mai i roto i te Manatu Rōia a Kāhui. He āhua panonitanga ki te take tuatoru kua rārangi mai, e kī ana ki reira: **Yes, that's correct, Your Honour. In addition to that, most** 15 **of the issues that are laid out in the Memorandum of Counsel. (inaudible 14:35:11) amendments to the third issue listed which states:** "Our current policies, practices, acts and omissions of Crown consistent with the Crown's existing legislative obligations in respect of te reo.

JUDGE WILLIAMS:

20 Āe.

MS PETERS: (CONTINUES)

A, ki a mātou nei, kāore e whakaae ki taua whakawhāiti, me kī, ki aua ture noa iho, ki ngā legislative obligators, engari e tautoko ana i ngā – (Māori 14:36:24) i roto i ngā – i te take tuatoru kua tukuna i roto te Manatu Rōia tuatahi, te take 25 tuatoru. **Our position is that we do not agree with the narrowing, (inaudible 14:36:18), however we support the sentence in the third issue which was filed in the Memorandum of Counsel in terms of the third (inaudible 14:36:37).** Limiting status and use of te reo Māori and its customs in the Public Sector.

30

I tua atu i tērā, kotahi anō pea taku tāpaetanga mō tēnei take. Ka haere
(inaudible 14:36:54) te reo Māori me ōna tikanga, nō reira i kite ai tonu i ngā
 take i whakarārangi mai a Kāhui. Kua tangohia te reo me kī, me ōna tikanga,
 nō reira e tāpae mātou kia noho pū te reo Māori me ōna tikanga i roto i ngā take
 5 ka rārangi mai mō tēnei kaupapa. **Apart from that we have just one other
 submission in terms of this matter, that is in terms of how the Māori
 language goes together with its traditions, and you will see within the
 terms that are listed by Kāhui Legal, the (inaudible 14:37:07) has been
 removed in terms of reo and its traditions – in terms of that te reo Māori
 10 me ōna tikanga (inaudible 14:37:17).**

JUDGE WILLIAMS:

Okay, ka pai. So, it sounds like more time is required in order to formulate
 hopefully an agreed position from claimants before then trying to find an agreed
 position with the Crown, I guess, on this statement of issue. Tika ana tēnā
 15 **agreed?**

(14:37) MR MAHUIKA: (RESPONSE)

:Yes, Sir, in the sense that I am not sure that there is a lot of difference between
 us and the Crown, and I take my friend's point about omissions. The
 Statement of Issues was drafted to reflect the statutory language as much as
 20 anything, and that's what the Treaty of Waitangi Act says. We were more open
 in terms of practices and policies that my friend, who actually identified what
 they, and the reason for that is that we will know more about what those
 practices and policies are once we get discovery. We have been really more
 open-ended as to what they might be because we are reflecting to learn more
 25 about them through this process. **(inaudible 14:38:10)** that there are public
 statements, you know my friend has picked up on some of things that
 happened.

JUDGE WILLIAMS:

Yes. Thank you Mr Mahuika. I was going to say that it would be helpful to have
 30 that discovery completed on 15 April which then might assist with finalisation of
 the statement of issues, perhaps a few days later, I don't know, the 19th, 20th,

or something along those lines, of course I don't have my diary in front of me. Mr Bisley, would you have a comment about that?

(14:38) MR BISLEY: (RESPONSE)

Thank you, Sir. I think that is really helpful and I agree with the approach of my
5 friends. Yes, I do think that we need to see the discovery. The discovery
request from Kaupare Law is the one to which are responding
(inaudible 14:38:50). And I can understand that other issues might be raised,
but all within this overarching focus of the inquiry, which is within the policies of
coalition government and breach of Treaty **(inaudible 14:38:58)** principles of
10 the Treaty of Waitangi. I'm certainly open to **(inaudible 14:39:02)** that
post-discovery, Sir.

(14:39) JUDGE WILLIAMS: (QUESTION)

Yes, look I do not think we should lose sight of the fact that the Statement of
Issues is really just there to help guide the evidence which is to be put to the
15 Tribunal. It is not a bonding document, and it is not a statement which is, you
know, you have to follow religiously, so really it is intended to guide and help
focus the evidence on which is just to present in respect of what the focus is of
the inquiry. I think it would be helpful if post-discovery, which you have
identified Mr Bisley, is 15th of April, hopefully by 19th of April an agreed
20 statement of issues could be filed, by you and with consent of claimant counsel.
Perhaps if I indicate that. Is there anyone that takes issue with that particular
program of statement of issues?

(14:39) MS CHELSEA TEREI-TIPENE: (RESPONSE)

Āe, kia ora Sir. Mrs Terei-Tipene here. Aroha mai. Just in relation to whether
25 if we come to a place where we can't agree, which often can happen, is it your
understanding that we will submit what we are agreeable on and what we don't
agree on, that we will provide that to you and you will make the final decision in
relation to that?

JUDGE WILLIAMS:

30 Yes, that is probably what we will **(inaudible 14:40:16)** Ms Terei.

MS TEREI-TIPENE:

Ka pai, thank you Sir.

(14:41) JUDGE WILLIAMS: (CROWN FUNDING)

5 Anyone else? Okay. Crown funding. Ms Sykes has asked and I've heard other
counsel online ask about the ability for Crown to fund the participation of
witnesses et cetera. Mr Bisley, you may have put this in your memo, I do not
know, if you have not then you have not, but are you able to give us any
indications on the ability for Crown funding?

(14:41) MR BISLEY: (RESPONSE)

10 I have put it in my memo, Sir, so I can speak on it briefly. I've taken instructions
quickly on this as we have been going. My understanding at the minute, and
anyone correct me if this understanding is incorrect but these are my
instructions, is that there haven't yet been any applications for funding so they
haven't been considered. Now given that, I think it will probably, sensibly, the
15 appropriate course is for applications to be made and then the Crown can
consider those in a rapid timeframe.

(14:42) JUDGE WILLIAMS TO MR BISLEY:

Q. Is there a policy of the Crown that they could rely upon in order to say if
that is the policy that is what will guide an application for funding?

20 A. Oh, I am just not sure, Sir but I can certainly get an indication about that
to claimants and interested parties.

Q. Yes, look I think that will helpful Mr Bisley because in absence of it, you
are likely to drown them.

A. Thank you, Sir.

25 (14:43) JUDGE WILLIAMS: (SUMMONS)

All right. We have covered statement of issues and discovery. The next issue
I have on our program is a matter which was raised the other day, Ms Peters,
which is your application in relation to summoning the Chief Executive of
Te Taura Whiri i te Reo. Did you want to speak to your application on that now?

(14:43) MS HEREWINI: (RESPONSE)

Tēnā koe e te Kaiwhakawā, ko Ms Herewini anō tēnei. Mā māua tahi e kōrero ki ērā tāpaetanga. Ehara i te mea ka kōrero, ka āta pānui i tērā tono tāmana.

Kei mua i a koe te whānuitanga o tērā tono, engari ko te ita, e tāmana ana mātou – e tono ana kia tāmana te Rōpū Whakamana i te Tumu Whakarae o Te Taura Whiri ki tae mai ki te Rōpū Whakamana ki te tuku i ētahi kōrero taunakitanga ki roto i āna mahi, ā, i ana mōhioranga ki roto i Te Taura Whiri i te Reo Māori. **Thank you, Your Honour, Ms Herewini speaking. Both of us will speak on that. We will not read that (inaudible 14:43:22). But (inaudible 14:43:24), so we applied (inaudible 14:43:33) that the Tribunal summons the Chief Executive of Taura Whiri, Māori Language Commission to appear before the Tribunal to give evidence in terms of his work, his role and his knowledge of the Māori Language Commission.**

Kua whakaaro mātou, e te Kaiwhakawā, kāore e kore he mea āwhina, ka āwhina ana kōrero, āna taunakitanga hei māngai mō Te Taura Whiri i te Rōpū Whakamana i roto i ngā whiriwhiringa kōrero, ngā whakataunga take a te Rōpū Whakamana. Nō reira koirā te aronga matua. I hua mai te whakaaro kia tuku i tēnei tono tāmana ki a koe e te Kaiwhakawā, i runga i ngā whakawhitinga a te tono OIA. **The main view, your Honour, is (inaudible 14:43:54) this evidence will assist in terms of representatives of the Māori Language Commission and for the Waitangi Tribunal and the (inaudible 14:44:13) Tribunal. And so that's our main focus. And the view (inaudible 14:44:20) to file that (inaudible 14:44:21) to you your Honour, (inaudible 14:44:23) from the OIA (inaudible 14:44:26).**

So, we have filed and submitted an OIA request with Te Taura Whiri, and it's just to provide context in the process in which **(inaudible 14:44:35)** the applications.

30

On receipt of documents recurring, as part of that OIA process, conversations are due between our firm and Te Taura Whiri in terms of the nature of those OIA documents.

Ka mutu, i tuku mātou i te whakaaro kia pēnei te tuku, kia tuku i tētahi tāmana
 ōkawa ki mua i a koe. **And we also provided views to a filing aspect, a
 formal (inaudible 14:45:01).** The response from te Tumu Whakarae i runga i
 te hiahia **the CEO in terms of (inaudible 14:45:04)**, so our understanding at
 5 least of his desires to remain impartial and independent in their kōrero that they
 provide. So, we did think that was the most appropriate way to address that
 evidence before the Tribunal, so conversations have been had and the proposal
 was put to Mr Apanui in which he had indicated, if required to do so and if
 summons to do so, to present evidence, that he will be willing and make himself
 10 available for that, and we've set out in the memorandum and the application the
 grounds for that, Sir.

JUDGE WILLIAMS:

I suppose my concern Ms Herewini is where you say at paragraph 7 of your
 memo that your summons seeks the production of documents, papers and
 15 records in the possession and under control of Te Taura Whiri witnesses. That
 could be massive or it could be small, I have got no idea. And the concern
 arises in terms of the timing of things and the availability of that information, is
 it information that you don't already have or is it potentially new information
 which you will all be seeking, and if so, is there a timeframe by which you can
 20 indicate to us that will be consistent with the proposed timetable to provide
(inaudible 14:47:09) the Crown at this point in time? Keeping in mind we are
 looking potentially at hearing in June.

MS HEREWINI: (CONTINUES)

Āe, tēnā koe. Ki taku mōhio, ka kore e maha ngā tuhinga o ēnei
 25 **(Māori 14:47:22)** kei a Te Taura Whiri. **Thank you. To my understanding,
 there will not be a lot in this document of Te Taura Whiri, Māori Language
 Commission.** So, my understanding at least is there not an extensive amount
 in which Te Taura Whiri hold that was **(inaudible 14:47:34)** in terms of what
 has been discussed with the timetable, Sir.

30

I just note, in terms of my paragraph, the paragraph that you did reference, it
 was also in the context of documents and reports that ka hāngai ki tēnei

kaupapa, tēnei ruku tātari **relevant to this urgency (inaudible 14:47:54)**. Mea rawa ake ka whakatauria hei mātaki mā Te Rōpū Whakamana. **Matters that will be (inaudible 14:47:58)**. Obviously, within relevant and **(inaudible 14:48:01)** relevant to the scope of the inquiry Sir.

5 **JUDGE WILLIAMS:**

All right, thank you. Is there anyone else respond to this Mr Bisley, did you have a view?

(14:48) MR BISLEY: (RESPONSE)

Thank you, Sir. I do have a view. I will set that out briefly in a memorandum.

10 The position for, unfortunately, the position for the Crown, Sir, I think is this, we haven't been party to the OIA process or the discussions that we had with the Te Taura Whiri and so we don't know anything about that. And we haven't had much of an opportunity to discuss this with my learned friend, this morning.

15 When I spoke to her then, I indicated to her that the grounds of intention at the moment is to call a witness from Te Taura Whiri, but at this age, because the discovery hasn't been finished and because we haven't been able to brief them, we don't know who that is or who will be best to appear to address the issue which is relevant to the Tribunal, that may be the Chief Executor, it may be a
20 board member, it maybe somebody else, we just don't know.

My proposal Sir was that once everyone had had an opportunity to carry out a discovered and to take instructions on brief, with Te Taura Whiri, We would then know whether there was any need for a summons to take place. My
25 learned friend gave an indication given the timetable with providing our evidence on 24th of May, which is only three weeks before the hearing begins, that might be a bit late.

How I would propose to address that is for Crown to advise, as soon as
30 reasonably possible, following **(inaudible 14:49:23)** discovery, who it proposes to call from Te Taura Whiri and what evidence they will give, and maybe that

just **(inaudible 14:49:29)** with the need for a summons. If summons is required then that will also leave us with time to argue over.

JUDGE WILLIAMS:

Ms Herewini, that seem to be a sensible approach.

5 **(14:49) MS HEREWINI: (RESPONSE)**

Āe tēnā koe e te Kaiwhakawā. E **(Māori 14:49:44)** i ō whakaaro. Ko te māharahara, tētahi o ngā māharahara ko te wā ki a te Tumu Whakarae, kia whakarite i āna kōrero. I runga i ngā whakaaro o aku hoa. **Thank you Judge. Following on from your views, one of the concerns is the time for the CEO to arrange his evidence. In terms of my friends.** Friday 24th of May is the date in which evidence is provided by the Crown, that leaves it for three weeks but the purpose in which the summons were sought it was to provide certainty and sufficient time for Te Tumu Whakarae me tana Kāhui Tautoko atu kia āta whakarite i āna taunakitanga **Chief Executive and his (inaudible 14:50:17) to**
10 **organise evidence.** That was also one of the main reasons to front foot the nature of this evidence in the calling of this evidence Sir.
15

JUDGE WILLIAMS:

I suppose what Mr Bisley is indicating is that well look, if he complied an earlier indication not the 24th of May but at a time prior to that about, once discovery
20 **(inaudible 14:51:28)** of course, that who from Te Taura Whiri – Well, firstly, they are going to call a witness from Taura Whiri and certainly that might be – you can then make an assessment as to whether or not your application for summons is still required. So, it is the timeframes which I accept will be very special and truncated if we were looking at 24 May, but I think Mr Bisley is
25 indicating a timeframe or perhaps if you can give us a further indication of timeframe that might assist.

MR BISLEY:

Thank you, Sir. Well, discovered is current proposed to be provided on the 15th of April.

JUDGE WILLIAMS:

Correct.

MR BISLEY:

Perhaps if I said three weeks after that, it should give us time to get a pretty
5 clear understanding of whether – I expect that we will be getting somebody, but
where they are and if so, who that is, which will perhaps on the 7th of May, by
my very live maths without a calendar in front of me.

JUDGE WILLIAMS:

The 6th of May.

10 **MR BISLEY:**

The 6th of May, there we go, and that still leaves a further two weeks before the
Crown's evidence actually comes in, and just under, just over a month before
the hearing.

JUDGE WILLIAMS:

15 Ms Herewini, do you want to take some time to consider?

MS HEREWINI:

E pai ana tērā. **That's fine.** Ko te mea nui **most important**, in terms of
your Honour's indications that the sooner the better, those indications are
provided to us, that will be of assistance Sir.

20 **JUDGE WILLIAMS:**

Ka pai. Thank you, Ms Herewini. Does anyone else want to comment on this
particular issue?

MR MAHUIKA:

No, I'm happy with the approach proposed by my friend, Sir, in relation to
25 evidence from Te Taura Whiri.

JUDGE WILLIAMS:

Ka pai.

MR NADEN:

Your Honour, kei konei. Just a solution in support of summons, Your Honour, and that was all.

JUDGE WILLIAMS:

5 Okay, thank you Mr Naden. Anyone else? Ka pai. All right. I think largely we have gone through the matters, not even 3 o'clock yet, that I anticipated that we needed to cover off given that the direction that I issued.

I will just ask my Tribunal members if there are any matters that they want to
10 address the counsel on. Dr O'Regan is saying no. Dr Hamer?

DR PAUL HAMER:

Thank you, Judge. None occur to me at the moment.

JUDGE WILLIAMS:

Ka pai. And Professor Frankel?

15 **PROFESSOR SUSY FRANKEL:**

Thank you. Likewise, just as with everyone waiting to see some of the further detail which we can't know at this stage, so no further questions.

(14:54) JUDGE WILLIAMS: (FURTHER MATTERS)

Ka pai. On that basis, are there any other matters that claimant counsel want
20 to raise before we bring our conference to a conclusion? Yes, from NL Lawyers. Kia ora.

(14:54) MS NGĀPŌ: (RESPONSE)

Yes, Ms Ngāpō. I just wanted to know whether or not Mr Bisley could advise
25 who the lead agency is for this particular kaupapa, because the Ministry of Justice issued a claimant funding on Waitangi Tribunal kaupapa inquiries information last year, and the first question is who the lead agency is, and I don't know.

So, when he advised the Tribunal that he hadn't received any funding applications from my claimant's perspective, it's because we don't know who the lead agency to whom those applications are made. One of the difficulties we have in the other urgent inquiries, and policy inquiries, is that every single lead agency has a completely different kaupapa and requirement, so I wondered whether or not he would just be able to advise us of who the lead agency is so those applications and that process can be commence Sir. Thank you.

JUDGE WILLIAMS:

10 Thank you, Ms Ngāpō. Mr Bisley?

(14:56) MR BISLEY: (RESPONSE)

Kia ora. Look that seems like a very sensible question and so what I suggest, I think I have said that I intended to indicate both with claimant and interested party counsel about policy that might be in place around funding. Perhaps that is the right place for an identification of the lead agency which I believe it is Te Puni Kōkiri, but I could be mistaken.

JUDGE WILLIAMS:

Ka pai. Thank you for that. Anybody else? Very good. Well, I want to thank everyone for being in attendance today. I think it has been a helpful conference in order to try and provide a pathway forward to us convening a hearing. We will issue a direction following the judicial conference when we manage to gather together and put our heads together to knock together what we think we got out of the conference, so we will do that as soon as we can. Could I ask Mr Mahuika to close us off for the day, given that I think Mr Munro has.

25 **MIHI/ KARAKIA WHAKAMUTUNGA (MATANUKU MAHUIKA)**

HEARING CONCLUDES: 2.59 PM

Notes of Evidence Legend

National Transcription Service

Indicator	Explanation
Long dash –	<p>Indicates interruption:</p> <p>Q. I think you were – <i>(Interrupted by A.)</i></p> <p>A. I was – <i>(Interrupted by Q.)</i></p> <p>Q. – just saying that – <i>(First dash indicates continuation of counsel’s question.)</i></p> <p>A. – about to say <i>(First dash indicates continuation of witness’ answer.)</i></p> <p>This format could also indicate talking over by one or both parties.</p>
Long dash (within text)	<p>Long dash within text indicates a change of direction, either in Q or A:</p> <p>Q. Did you use the same tools – well first, did you see him in the car?</p> <p>A. I saw him through – I went over to the window and noticed him.</p>
Long dash (part spoken word)	<p>Long dash can indicate a part spoken word by witness:</p> <p>A. Yes I definitely saw a blu – red car go past.</p>
Ellipses ... (in evidence)	<p>Indicates speaker has trailed off:</p> <p>A. I suppose I was just... <i>(Generally witness has trailed off during the sentence and does not finish.)</i></p> <p>Q. Okay well let’s go back to the 11th.</p>
Ellipses ... (in reading of briefs)	<p>Indicates the witness has been asked to pause in the reading of the brief:</p> <p>A. “...went back home.”</p> <p>The resumption of reading is noted by the next three words, with the ellipses repeated to signify reading continues until the end of the brief when the last three words are noted.</p> <p>A. “At the time...called me over.”</p>
Bold text (in evidence)	<p>If an interpreter is present and answering for a witness, text in bold refers on all occasions to the interpreter speaking:</p> <p>Q. How many were in the car?</p> <p>A. There were six.</p> <p>Q. So six altogether?</p> <p>A. Yes six – no only five – sorry, only five. <i>(Interpreter speaking – witness speaking – interpreter speaking.)</i></p>
Bold text in square brackets (in evidence)	<p>If an interpreter is present and answering for a witness, to distinguish between the interpreter’s translation and the interpreter’s “aside” comments, bold text is contained within square brackets:</p> <p>Q. So you say you were having an argument?</p> <p>A. Not argue, I think it is negotiation, ah, re – sorry. Negotiation, bartering. [I think that’s what he meant] Yeah not argue.</p>