

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 2700

E PĀ ANA KI
CONCERNING

te Treaty of Waitangi Act 1975

Ā,te Mana Wāhine Kaupapa
Inquiry**AND**

HE PĀNUI WHAKAHAU O TE KAIWHAKAWĀ REEVES
MEMORANDUM-DIRECTIONS OF JUDGE REEVES ADDRESSING WIDER
INQUIRY PLANNING26 Hōngongoi 2024

Hei tīmatanga kōrero / Introduction

1. This memorandum-directions addresses various inquiry planning matters in the Mana Wāhine (Wai 2700) Kaupapa Inquiry, in particular:
 - (a) updates on the research programme for the inquiry; and
 - (b) a judicial conference to discuss forward inquiry planning matters.

Updates on the research programme

2. In memorandum-directions dated 25 May 2023, I directed Waitangi Tribunal Unit staff, the Crown and the Joint Research Committee (JRC) to provide quarterly research updates (Wai 2700, #2.5.94 at [53]).
3. On 1 February 2024, I further directed that quarterly updates should continue to be filed until all research in this inquiry has been completed (Wai 2700, #2.5.97 at [10]).
4. Most recent updates were due by 28 June 2024. I thank parties for the helpful updates provided thus far.
5. On 27 June 2024, Kāhui Legal filed a joint memorandum of counsel for Kāhui Legal and Tāmaki Legal on behalf of the Joint Research Committee (JRC). Counsel requested a brief extension to file their quarterly update until 5 July 2024, due to the passing of a close whānau member of one of its members (Wai 2700, #3.1.831).
6. I note that no subsequent quarterly research update from the JRC has yet been received.
7. I therefore direct the JRC to file their quarterly research update by **5 pm, 7 August 2024**.
8. On the basis of these updates, I anticipate that all Waitangi Tribunal-commissioned research will be completed by the end of October 2024 and that all research currently underway by the JRC will be completed by the end of December 2024.
9. Following the completion of the Tribunal-commissioned research, a casebook review will be undertaken by the Tribunal Unit's Chief Historian to assess whether the reports and material submitted provide a sufficient evidential foundation for the Tribunal to inquire into the claims before it.
10. I signal that the casebook review is currently scheduled to be completed in November 2024.
11. Given the research programme is now well advanced, it is therefore timely to resume forward planning for the remainder of this inquiry.

Judicial conference

12. On 1 November 2022, I issued memorandum-directions in response to submissions received on forward inquiry planning. In summary, I observed at that time that (Wai 2700, #2.5.88 at [7]–[9]):

- (a) commencing hearings prior to completion of the casebook would potentially compromise the ability of the Tribunal to thoroughly inquire into the claims, given it would not have a sufficient evidential base;
 - (b) final statements of claim are generally filed subsequent to completion of the research casebook, with the Crown's response to the claims to follow after the claims have been fully particularised; and
 - (c) while there are instances where parties have prepared and filed draft statements of issues alongside the production of research, the Tribunal will not be in a position to confirm the final statement of issues until the casebook has been completed and final statements of claim have been filed.
13. On 13 October 2023, I indicated in memorandum-directions that I would seek parties' views on inquiry design matters in early 2024. I further indicated that I would convene a judicial conference and/or wānanga for this purpose. At that time, I signalled my intention that hearings would commence in late 2024 (Wai 2700, #2.5.95 at [8]).
14. I now confirm that a half-day judicial conference to discuss forward inquiry planning will be held at **11 am, 30 August 2024**, and will take place via AVL.
15. Those who wish to participate should RSVP by email to the Tribunal's Registrar (wt.registrar@justice.govt.nz) by **5 pm, 23 August 2024**.

Inquiry planning

16. I also signal here my revised view on the matters outlined at [12].
17. It is critical we strike the right balance between inquiry efficiency and the need for comprehensiveness. I acknowledge that [12] outlines my view in 2022 as to how the inquiry should proceed. However, I consider that the significant passage of time required to progress the inquiry to the next stage justifies adopting a more streamlined approach to our remaining inquiry milestones.
18. It will also be useful for inquiry planning purposes for coordinating counsel to be confirmed for the wider inquiry. In this regard joint submissions are preferred, where possible.
19. I accordingly direct counsel to file submissions on the following inquiry planning matters, including the amended approach I now propose and set out further below, by **5 pm, 23 August 2024**. These submissions will then be discussed at the forthcoming judicial conference.

Claim particularisation

20. On 13 October 2022, claimant counsel filed a joint memorandum indicating they were progressing various interlocutory matters and had begun work particularising statements of claim (Wai 2700, #3.1.747).
21. It would be useful for counsel to provide an update on the progress claimants have made thus far in particularising their claims.
22. I indicate now that I am minded to set a filing deadline for parties to amend and particularise their claims, should they wish to, following the completion of the Tribunal research programme.

23. I will then set a further and final filing deadline following the conclusion of the wider research programme (including any further research identified as necessary by the casebook review). This will allow claimants a final opportunity to amend and particularise their claims in light of this wider research, should they wish to.
24. I note that conventional Tribunal process, as reflected at [12] above, provides opportunity for the Crown to respond to claims following claim particularisation in advance of finalising the issues for inquiry.
25. It would be useful for the Crown to indicate in submissions its timeframes for providing its response to the claims filed.

Statement of issues

26. Claimant counsel also advised in this memorandum that they had developed a draft statement of issues that they intended to forward to the Crown for its consideration in 'due course'. Counsel indicated that a 'final version' would then be provided to the Tribunal for determination, following the Crown's review and any further amendments arising out of discussions between parties (Wai 2700, #3.1.747 at [7](a)).
27. It will be helpful if coordinating counsel could provide an update on the status of the draft statement of issues and whether the Crown has had an opportunity to provide feedback as anticipated. It will also be useful to receive an indication as to when parties anticipate being able to provide the resulting joint draft statement of issues to the Tribunal.
28. I note that current inquiry timings mean that claims may not now be fully particularised in advance of hearings commencing later this year. I therefore suggest it may be pragmatic to finalise the statement of issues on the basis of the initial claim particularisation exercise signalled at [20] above and I invite parties to address this possibility in submissions in advance of the judicial conference.

Structure and sequencing of hearings

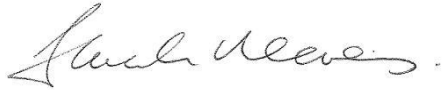
29. The scope for this inquiry was confirmed on 22 July 2020 (Wai 2700, #2.5.24 & #2.5.24(a)). There are four pou to frame the inquiry, namely:
 - (a) Rangatiratanga: The iho of ngā wāhine and how the position of wāhine Māori has been excluded from decision-making, from the time of the signing of Te Tiriti o Waitangi.
 - (b) Whenua: The way that wāhine Māori have been treated in relation to whenua.
 - (c) Whakapapa/whānau: The oranga and intergenerational wellbeing of wāhine Māori and their whānau.
 - (d) Whai rawa: The way that wāhine Māori have been treated in relation to the economy and enterprise.
30. On 30 March 2023, claimant counsel filed a joint memorandum advising that there was broad support among the claimant community for a thematic and chronological hearing structure (Wai 2700, #3.1.803). Counsel seek flexibility within this structure to enable witnesses to present their evidence in ways and locations that are convenient and appropriate to them in order to rationalise both time and resources.

31. On 25 May 2023, I indicated that I agreed broadly with counsels' proposal, but noted that there remained much detail to be worked through regarding how a flexible thematic and chronological hearing structure will operate in practice (Wai 2700, # 2.5.94).
32. I now invite parties to file any further submissions on what the wider inquiry phase might look like. In particular, it would be helpful for counsel to confer and file submissions on inquiry design matters, alongside a suggested hearing plan that includes:
 - (a) the number of hearing weeks envisaged;
 - (b) any proposed structure; and
 - (c) the claims to be heard in each week.
33. It would also be useful if counsel could identify the claims that overlap, or potentially overlap, with other kaupapa inquiries.
34. The suggested hearing plan should take into consideration my intention to commence hearings in late-2024 (Wai 2700, #2.5.95 at [8]).
35. The Tribunal is tentatively available to consider hearing dates in the following weeks:
 - (a) 18 – 22 November 2024; and
 - (b) 16 – 20 December 2024.
36. Given current timings however, I am aware that the November hearing dates may no longer be suitable.
37. I also now advise that a total of two five-day hearings have been approved for the Mana Wāhine Inquiry for this financial year. This should also be considered when drafting the suggested hearing plan.
38. Finally, I wish parties to consider whether there may be utility in:
 - (a) holding broadly one hearing for each of the thematic pou; and
 - (b) holding a remedies hearing at the conclusion of the hearing programme on any possible recommendations sought.
39. I anticipate that the time required to hear the evidence regarding each pou may vary, so it will likely be necessary to manage any under- or over-allocations of hearing time to ensure each hearing is effectively utilised.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 2700, te Mana Wāhine Kaupapa Inquiry.

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

WHAKAPŪMAUTIA ki Pōneke te 26 o te Hōngongoi 2024.



Kaiwhakawā Reeves
Tumuaki Pakirehua

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