

**TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI**

Wai 3300

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

Tomokia ngā tatau o Matangireia  
– the Constitutional Kaupapa  
Inquiry

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**MEMORANDUM-DIRECTIONS OF CHIEF JUDGE DR C L FOX CONFIRMING  
THE TIMETABLE FOR WĀNANGA TUATAHI AND ADDRESSING EXTENSION  
REQUEST**

27 Whiringa-ā-rangi 2024

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## **Purpose**

### 1. This memorandum-directions:

- (a) releases the final timetable for the first wānanga ā-rohe for the Tomokia ngā tatau o Matangireia – the Constitutional Kaupapa Inquiry (Wai 3300), scheduled for 2 to 3 December 2024; and
- (b) grants a Kaupapa Law extension request to participate in the first wānanga and file a statement of position on behalf of the Constitutional (Matahaere and Others) (Wai 3374) claimants.

## **Timetable for the first wānanga ā-rohe**

- 2. Per the inquiry timetable, parties were directed to file a joint draft timetable for the first wānanga by 22 November 2024 (Wai 3300, #2.6.19(a)).
- 3. The Tribunal received two memoranda in response to its directions, the contents of which are outlined below.

### *Tamaki Legal joint memorandum*

- 4. On 22 November 2024, the Tribunal received a joint memorandum filed by Darrell Naden and Ashley Johns on behalf of the counsel and claimants at Appendix A of the memorandum (Wai 3300, 3.2.150 & #3.2.150(a)). The joint memorandum appends the draft timetable for the first wānanga ā-rohe (Wai 3300 #3.2.150(b)) and addresses a number of logistical matters.

### Proposed wānanga approach and draft timetable

- 5. Claimant counsel propose 15 minutes be reserved for each claimant to present their kōrero, with time reserved in each of the hearing blocks for discussion about what has been or is being presented. Counsel suggest any kōrerorero may be heard towards the end of each hearing block or interspersed throughout the wānanga. Counsel submit that the how this discussion proceeds will largely depend on how the wānanga is moving at the time.
- 6. The draft timetable allocates time for the Crown to present its statement of response on the afternoon of 3 December 2024, followed by a final hearing block dedicated to an 'all-in discussion' amongst the parties regarding the themes and issues that have been raised during the wānanga.
- 7. Counsel emphasise the draft timetable is indicative only and should be seen as a guide to how the wānanga could proceed.
- 8. Counsel further notes that not all claimants can attend for the duration of the wānanga, and claimant attendance has been accounted for in the scheduling of claimant participation.

### Appointment of wānanga facilitator

- 9. Counsel proposes that, in order to promote fluidity of discussion but without compromising the ability of each scheduled claimant's ability to present their kōrero, a wānanga facilitator may be appointed, who could prompt the statement of position presentations to ensure adherence to the appropriate kawa and enable all voices to be heard.

10. Counsel suggest the wānanga facilitator exercise their discretion in determining whether allowing additional time for certain claimants would be conducive to the overall objectives of the wānanga whilst ensuring the timetable is managed in a manner that allows for all claimants to present.
11. Counsel proposes that Tribunal member Derek Fox, or another member of the Wai 3300 panel, would be appropriately qualified to be appointed as facilitator.

#### Floating microphones

12. Counsel further suggests that several floating microphones be made available to claimants in order to facilitate the fluidity of the wānanga.

#### Hau kāinga protocols

13. Counsel from Tamaki Legal met with the hau kāinga to discuss venue protocols and to seek their broad agreement to the proposed wānanga approach. The hau kāinga agreed to starting the pōwhiri process at 8:30am on Monday 2 December 2024 to ensure sufficient time for the substantive phase of the wānanga.
14. The hau kāinga considered it appropriate for wānanga participants to take the lead during the substantive phase of the wānanga, including with respect to any opening or closing remarks, given that the hau kāinga is not directly involved in the substantive wānanga process. Counsel also sought input from the hau kāinga on appointing a suitable facilitator, however the hau kāinga considered the claimants and the Tribunal would be best placed to determine such appointment.

#### *Woodward Law memorandum*

15. On 22 November 2024, the Tribunal received a memorandum filed by Donna Hall on behalf of the Constitutional (New Zealand Māori Council) (Wai 3352) claim (Wai 3300, #3.2.151).
16. Counsel supports the proposal for the appointment of a facilitator and the arrangement of the sessions as outlined in the draft wānanga timetable, but do not agree with the draft timetable as a whole.
17. Counsel submit that the allocation of 15 minutes for each claimant attending, whether or not they have filed a statement of position, is unfair to those who have filed comprehensive statements. Counsel submit the statements that have been are evidence of carefully considered views which have been circulated to all claimants in advance of the wānanga.
18. The New Zealand Māori Council anticipates 10 of its members will attend the wānanga including the two co-chairs and deputy chair of the national body, and the chair of the Auckland District Māori Council. The two co-chairs will speak to all three of the statements filed on behalf of the New Zealand Māori Council, while other members will speak in the time allotted or will join the general discussion.
19. Counsel further suggests that, subject to the preference of the hau kāinga, Lady Tureiti Moxon should open the wānanga and be afforded an hour of speaking time. Failing that, the New Zealand Māori Council would be prepared to lead.

#### **Decision**

##### *Final timetable for the first wānanga ā-rohe*

20. The final timetable for the first wānanga ā-rohe is now **attached** to this memorandum-directions as **Appendix A**.
21. The final timetable amends the draft timetable filed by Tamaki Legal as follows:
- (a) New Zealand Māori Council is now scheduled to present first.
  - (b) Lady Tureiti Moxon's presentation is set to follow the New Zealand Māori Council's presentation.
  - (c) Presentations on the first day have been re-ordered to ensure that those who have filed statements of positions are scheduled to present first.
22. I am happy to adopt the suggested approach for each hearing block to include both presentations and kōrerorero. I also agree to a fluid approach to the wānanga, and that the timings and manner in which discussions proceed will largely depend on the needs of the parties at the time. Generally, each speaker will be allocated 15 minutes, save for the New Zealand Māori Council – whose speakers will be allocated a total of 30 minutes.
23. Further, Derek Fox will be appointed as wānanga facilitator.
24. Finally, I confirm that floating microphones will be made available.

#### **Kaupare Law memorandum**

25. On 22 November 2024, the Tribunal received a joint memorandum filed by Ihipera Peters, Aroha Herewini, and Amber Evans on behalf of the Wai 3374 claim (Wai 3300, #3.2.149).
26. In their 16 October 2024 memorandum, counsel advised that the Wai 3374 claimants wished to participate in the Eastern wānanga ā-rohe (Wai 3300, #3.2.100). Counsel now advise the claimants wish to participate in the Ngāruawāhia wānanga. The named claimants include kaumātua and kuia of Motiti Island who have expressed a desire to attend a wānanga at the soonest opportunity. Counsel have discussed timetabling with coordinating counsel and confirm the claimants can be accommodated.
27. Accordingly, counsel sought an extension to file the claimants' statement of position by Monday 25 November 2024.
28. The extension sought was granted, however the Tribunal is yet to receive a statement of position on behalf of Wai 3374.

**WHAKAPŪMAUTIA** ki Te Whanganui-a-tara i te 27 o Whiringa-ā-rangi 2024



Kaiwhakawā Mātua Dr C L Fox  
Tumuaki

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