TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 3325

E PĀ ANA KI the Treaty of Waitangi Act 1975
CONCERNING

Ā, the Climate Change Priority Inquiry
AND

MEMORANDUM-DIRECTIONS OF JUDGE STEPHANIE MILROY CONCERNING FORWARD HEARING PLANNING AND ARRANGEMENTS FOR OUTSTANDING EVIDENCE

16 September 2025

Purpose

1. This memorandum-directions:

    (a) records my response to a request from Tukau Law concerning the evidence of Waihoroi Shortland (Wai 3325, #3.2.158) for the Ngāti Hine Forestry Trust (Wai 2397) claim;

    (b) records my response to the leave sought by Crown counsel to file its evidence out of time (Wai 3325, #3.2.166);

    (c) responds to claimant coordinating counsel's memorandum dated 4 September 2025 on forward hearing planning matters (Wai 3325, #3.2.163);

    (d) confirms next steps concerning the proposed economic evidence of Dr Richard Meade; and

    (e) confirms leave sought by Bryce Lyall for the evidence of David Tong to be heard on behalf of (Wai 3325, #3.2.161):

        i. Te Waimate Taiamai ki Kaikohe Claims Alliance (Wai 421 and others);

        ii. the Ngāti Ruapani ki Waikaremoana Climate Change (Wai 3278) claim;

        iii. the Ngāti Porou ki Hauraki Climate Change (Wai 3288) claim; and

        iv. Te Upokorehe Future Generations Climate Change (Wai 3279) claim.

Tukau Law and Consultancy memorandum

2. On 1 September 2025, the Tribunal received a memorandum from Majka Cherrington, counsel for the Ngāti Hine Forestry Trust (Wai 2397) claim (Wai 3325, #3.2.165).

3. Counsel referred to witness Waihoroi Shortland (Wai 3325, #A21), who was scheduled to present evidence at hearing one (and subsequently hearing three) but was unable to do so on both occasions due to illness.

4. Given the above, counsel now seeks leave for Mr Shortland's evidence to be taken as read and for any questions to be put to him in writing.

5. On 4 September 2025, I granted the leave sought and communicated this via an e-mail from the Waitangi Tribunal's Registrar (the Registrar). Parties are to file any written questions of cross-examination for Mr Shortland by no later than **5 pm, Tuesday 30 September 2025.**

6. I now confirm that counsel for Ngāti Hine should then provide Mr Shortland's response to any written questions received by no later than **5 pm, Thursday 16 October.**

Crown evidence

7. In my memorandum-directions dated 18 August 2025, I confirmed that the Crown should file its evidence by 29 August 2025 (Wai 3325, #2.6.13 at [5]).

8. On 29 August 2025, counsel for the Crown filed 16 briefs of evidence and sought leave to file the balance, along with updated versions of all briefs – complete with document identifiers – as soon as possible, in the week of 1 September 2025 (Wai 3325, #3.2.166).

9. On 5 September 2025, I granted the leave sought via an e-mail from the Registrar and confirmed that counsel for the Crown should file the above material by 5 September 2025.

10. I note that despite the Crown's indications above, this further material had not been received at the time of writing.

11. Counsel should therefore proceed to file the balance of its evidence, complete with document identifiers, as soon as possible, and by no later than **5 pm, Tuesday 23 September 2025**.

12. I indicate for the record, and in the interests of efficiency, that only the finalised Crown documentation will be placed on the record.

13. The Crown should also file **by the same date** a memorandum that indicates the amount of hearing time the Crown expects to require to hear its evidence**.**

Claimant coordinating counsel's submissions on forward hearing planning

14. In my memorandum-directions dated 18 August 2025, I directed claimant coordinating counsel (coordinating counsel) to file by 14 and 26 September 2025 respectively (Wai 3325, #2.6.13 at [16] & [18]):

    (a) an agreed list of hearing four claimant witnesses (in intended order of appearance); and

    (b) the confirmed volume of intended reply evidence, including how such material should be accommodated within the remaining hearing phase.

15. On 3 September 2025, coordinating counsel sought an extension to file submissions on the above by 4 September 2025, on the basis that further discussions were needed among claimant counsel (Wai 3325, #3.2.164).

16. On 4 September 2025, the Tribunal received a memorandum from coordinating counsel providing (among other things) (Wai 3325, #3.2.163):

    (a) an agreed list of witnesses for both hearings four and five (Wai 3325, #3.2.163(a)); and

    (b) an indication regarding claimant reply evidence (including on potential hearing arrangements).

17. I thank counsel for their agreed list of hearing four and five claimant witnesses.

18. Counsel say regarding witnesses for hearings four and five that (Wai 3325, #3.2.163 at [2] – [4]):

    (a) the balance of tangata whenua evidence will be completed in the first half of hearing four;

    (b) expert evidence will be 'added' in the remainder of hearings four and five; and

    (c) such estimates remain 'tight', subject to Crown cross-examination and Tribunal question requirements, and the possibility that 'some evidence' may still be admitted 'by consent'.

19. Regarding reply evidence, counsel advises that:

    (a) such material could be filed by 12 December 2025; and

    (b) the claimants prefer that any such evidence be heard in hearing eight (May 2026), with an additional hearing (hearing nine) to follow for the purpose of closing submissions.

20. Counsel's submissions are noted; however, the Tribunal requires further planning information in the first instance.

21. In compliance with my previous direction (Wai 3325, #2.6.13), coordinating counsel should please file by **5 pm, Tuesday 23 September 2025** a further memorandum that sets out an estimation of the anticipated volume of reply evidence. Counsel should also specify the likely range of hearing time required to hear this material, should the Tribunal decide to proceed in this way.

Proposed evidence of Dr Richard Meade

22. In my memorandum-directions dated 18 August 2025, I directed claimant coordinating counsel to file by 3 September 2025 an update on the status of Dr Richard Meade's proposed commissioned economic evidence and indicate how Dr Meade's evidence could be accommodated within the remaining hearings for this inquiry (Wai 3325, #2.6.13 at [16(b)].

23. The Tribunal has received submissions on the proposed filing of Dr Meade's evidence from:

    (a) counsel for the Climate Change (Te Taumata) (Wai 3287) claim (Wai 3325, #3.2.160);

    (b) counsel for the Crown (Wai 3325, #3.2.166); and

    (c) claimant coordinating counsel (Wai 3325, #3.2.163).

Kāhui Legal memorandum

24. On 3 September 2025, counsel for the Wai 3287 claimants advised that Legal Aid Services had asked whether other claimants, or the Tribunal, had requested the commissioning of similar economic expert evidence (Wai 3325, #3.2.160).

25. Counsel advised that they would respond to Legal Aid Services by 5 September 2025 and advise the Tribunal of the outcome.

26. I note that this update had not been received at the time of writing and should now be supplied as a matter of priority, and by no later than **5 pm, Friday 19 September 2025**.

Crown memorandum

27. In Crown counsel's memorandum of 29 August 2025, counsel advised that the Crown has prepared a draft brief of evidence on economic matters but considers it premature, at this stage, to finalise such material without first receiving and responding to Dr Meade's evidence (Wai 3325, #3.2.166 at [3]).

28. Counsel said the Crown will proceed to file its own evidence in the event Dr Meade's evidence does not proceed (Wai 3325, #3.2.166 at [5]).

Claimant coordinating counsel's memorandum

29. In coordinating counsel's memorandum dated 4 September 2025, counsel acknowledged the Crown's submissions above but noted that the claimants have already filed several briefs of economic evidence, and that such witnesses should be allowed to respond to the Crown's expert evidence (Wai 3325, #3.2.163 at [7]).

30. To assist, counsel submit that the claimants do not object to the Crown filing a supplementary brief of economic evidence, in response to Dr Meade's, should the latter evidence ultimately be commissioned (Wai 3325, #3.2.163 at [9]).

Decision

31. I have considered the above submissions and, in keeping with my directions at [11], I tend to agree with coordinating counsel's views that it is important for the claimants to receive the balance of the Crown's evidence, including on economic matters, as soon as possible.

32. I accordingly direct the Crown to file its economic evidence as soon as possible, and by no later than **5 pm, Tuesday 23 September 2025.**

33. I further confirm the Crown may file a supplementary brief of evidence, in response to the evidence of Dr Meade, should the latter evidence proceed and should the Crown, upon review, consider such a course of action is necessary.

Evidence of David Tong

34. In my memorandum-directions dated 22 January 2025, I directed that all remaining claimant evidence should be filed by 28 April 2025 (Wai 3325, #2.6.3 at [4]).

35. On 3 September 2025, Bryce Lyall sought leave to file the evidence of international climate policy and law expert David Tong on behalf of the claimants set out at [1(e)] above (Wai 3325, #3.2.161).

36. Counsel submitted that (Wai 3325, #3.2.161 at [4] to [7]):

    (a) Mr Tong's evidence is targeted and relevant to the inquiry (counsel says it summarises his findings and research on the incompatibility of new oil and gas expansion with the Paris Agreement's objectives);

    (b) due to his schedule, Mr Tong did not have the capacity to file his evidence prior to the deadline;

    (c) Mr Tong's evidence could be presented at hearing five (November 2025), leaving the Crown with several months to consider his evidence and, if required, file evidence in response; and

    (d) there remains further claimant expert evidence yet to be filed (counsel refers to the proposed evidence of Dr Meade as outlined above).

37. I grant leave for Mr Tong's evidence to be placed on the record and note counsel's indication that Mr Tong's evidence can be heard at hearing five. I confirm that counsel should proceed as suggested.

38. I further confirm that counsel for the Crown may file any evidence in response to the evidence of Mr Tong by no later than **5 pm, Friday 12 December 2025.**

DATED at Hamilton this 16th day of September 2025

Judge Stephanie Milroy
Presiding Officer
WAITANGI TRIBUNAL