

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 3060

CONCERNING

the Treaty of Waitangi Act 1975

AND

Te Rau o te Tika: the Justice
System Inquiry

MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER
CONCERNING INQUIRY PLANNING AND
FIXTURES FOR THE 2025/2026 FINANCIAL YEAR

25 September 2025

Introduction

1. This memorandum-directions addresses planning for Te Rau o te Tika. It focuses especially on planning and resourcing of further He Rau Kōrero Tara ā-Whare events as part of Te Tāhū o te Rau, the phase of Te Rau o te Tika in which we inquire into criminal justice matters. It also explains that, so that we can report earlier on critical criminal justice matters, we propose to split Te Tāhū o te Rau in two. Thus, I now:
 - (a) update the critical path for this inquiry, including the split into two of Te Tāhū o te Rau;
 - (b) confirm resourcing for the 2025/2026 financial year;
 - (c) propose events for the current financial year; and
 - (d) seek information from parties to assist planning.

The strategic plan and decisions about this inquiry

2. On 2 July 2025, Chief Judge Dr Caren Fox released the Waitangi Tribunal's *Strategic Direction 2025-2035*, outlining the Tribunal's strategic goals for delivering its inquiry work programme over the next 10 years. This document sets 2033 as the target for completion of Te Rau o te Tika.
3. When we realised that the report on Te Tāhū o te Rau would not be released until 2033, we decided that we had to change our initial plan to have only one comprehensive report. We now intend to report first on criminal justice, and subsequently on civil justice.
4. This means that we are splitting Te Tāhū o te Rau in two. The criminal justice part is now called Te aronui o te tāhū, and the second, the civil justice part, is called Te tuarongo o te tāhū.
5. The split reflects our belief that we must report on Te aronui o te tāhū as soon as possible, and certainly before 2033. What we have already seen and heard about the serious effects on te iwi Māori of the criminal justice system dictates this sense of urgency – which claimants have of course emphasised from the outset. We only wish that it were possible to hear and report comprehensively on Te aronui o te tāhū more quickly.
6. Another reason for reporting first on criminal justice and separately and subsequently on civil justice is the sheer dimension of the inquiry – the number of claims and the quantity of evidence on which we must report. As the chart below shows, our report on Te aronui o te tāhū is scheduled for completion in 2029, and the second report on Te tuarongo o te tāhū for completion in 2033.
7. Ordinarily, we would have consulted with parties about this change in the organisation of the inquiry. However, the nature of the strategic planning exercise was such that it was advantageous for us to move early to earmark the resources necessary to advance Te aronui o te tāhū to production of a report in 2029. Also, we did not consider that parties would oppose our inclinations in this regard.
8. Accordingly, the critical path for the remainder of this inquiry out to 2033 looks like this:

Te aronui o te tāhū – criminal justice phase	
Oct 2024 – Sep 2026	Criminal justice research programme

May 2025 – Apr 2026	He Rau Kōrero Tara ā-Whare (presentation of experiential evidence at community locations)
Aug 2026 – Mar 2027	Interlocutory processes
Apr 2027 – Dec 2027	Hear technical evidence (at six five-day hearings)
Jan 2028 – Mar 2029	Write report for Te aronui o te tāhū
Te tuarongo o te tāhū – civil justice phase	
Jul 2027 – Jun 2029	Civil justice research programme
Jan 2029 – Jun 2029	Interlocutory processes
Jun 2029 – Dec 2029	He Rau Kōrero Tara ā-Whare (presentation of experiential evidence at community locations)
Jan 2030 – Oct 2030	Interlocutory processes
Nov 2030 – Oct 2031	Hear technical evidence
Nov 2031 – Jun 2033	Write report for Te tuarongo o te tāhū

Progress to date in Te Tāhū o te Rau

9. We are currently in Te aronui o te tāhū, the criminal justice part of Te Tāhū o te Rau. Two activities are in train: experts are writing reports on various research topics and we are partly through He Rau Kōrero Tara ā-Whare.
10. He Rau Kōrero Tara ā-Whare, where we meet at community locations to hear about people's encounters with the justice system, began with four events in May and June of this year. There are more speakers who wish to present their experiences to us. We have yet to hear from kaikōrero who are in custody, and we are working with Corrections on how that will work. There are possibly also others who are not in custody who wish to be heard.
11. Before He Rau Kōrero Tara ā-Whare began, I outlined in various memoranda-directions the protocols that would apply, including those for the written record of what was said. We are now in the process of finalising the record for our events in May and June of this year, and access to that record.

Planning next steps in Te aronui o te tāhū

12. Now that budgeting for the 2025/2026 financial year is finalised, I can confirm that eight event days are available to this inquiry for the financial year ending 20 June 2026. We intend to use these days for the experiential evidence of those in prison, and also for site visits. We think it will be possible to intersperse hearing days in prisons with prison site visits and also visits to non-custodial programmes and initiatives in the community. We will also fit any remaining kōrero of those not in custody around our prison events and site visits.
13. To plan the eight days, we now need to gather information from you about:
 - (a) Kaikōrero (not in custody) who are yet to be heard in He Rau Kōrero Tara ā-Whare;
 - (b) Kaikōrero who are in custody; and

- (c) whether the parties are keen for us to visit any particular facilities, and if so which and why.

Kaikōrero (not in custody) who have not yet been heard in He Rau Kōrero Tara ā-Whare

14. I ask counsel now to tell us the name of any kaikōrero who did not present to us in May and June, and who still wishes to be heard as part of He Rau Kōrero Tara ā-Whare. Please tell us the kaupapa of the kōrero, its likely duration, and in what part of the country the kaikōrero lives. I remind counsel of the nature of the kōrero in He Rau Kōrero Tara ā-Whare. We are not seeking speakers' opinions; we want rather to hear about their personal experiences, or those of their whānau.

Kaikōrero in custody

15. Counsel have informed us that 32 people in custody wish to present their kōrero to us. This number exceeds earlier indications and presents a few challenges. However, we continue to work with Corrections on logistical and other requirements for hearings in prison and thus far the signs are encouraging. At this stage, it seems likely that it will be possible to hear kōrero at one prison at least, and possibly one other. The hearing or hearings in prisons will take place in the first half of 2026. Counsel for the 32 kaikōrero will please outline in a memorandum:

- (a) Whether we should anticipate that the release date of any of the kaikōrero is likely to affect our planning for them to present to us at a custodial facility; and
- (b) The name of each kaikōrero, what they wish to speak about, and for how long.

16. The description of the content can be in fairly broad terms and should not give rise to issues about confidentiality. However, in the event that there are concerns in this regard, counsel may file their memorandum directly with the Tribunal's Registrar noting its confidentiality.

Site visits

17. The panel wishes to visit a range of custodial and non-custodial facilities, programmes and justice system processes during Te aronui o te tāhū. Appendices **A** and **B** list sites, programmes, and other processes that are germane to the inquiry. There are many more of course, but the number of event days available is always a constraint.

18. As regards site visits,

- (a) beyond the places listed, are there places we should go or other things we should see?;
- (b) Counsel may wish to indicate if there are any "must-see" items in our lists, as it may not be possible for us to see them all;
- (c) the Crown may wish to include site visits in its presentation of evidence in Te aronui o te tāhū. If that is so, then any such places would not be included in the Tribunal's own programme. Crown counsel should inform us about this;
- (d) for the Tribunal to visit courts in person may be problematical. The Tribunal will make its own inquiries to ascertain what scope there may be. Otherwise, the Crown may hold video footage of criminal court processes or perhaps other resources that we could view? Crown counsel will please inquire and let us know. I also seek feedback

from the Crown on the possibility of our seeing non-court justice processes in action, such as those listed in Appendix B.

Next steps

19. All memoranda relating to the topics discussed above are to be filed no later than **5pm, 8 October 2025**.

20. To recap briefly, the memoranda will address:

- (a) Kaikōrero yet to be heard in He Rau Kōrero ā-Tara Whare with accompanying detail;
- (b) Kaikōrero in custody with accompanying detail;
- (c) Any Crown plans to include site visits in its evidence for Te aronui o te tāhū, with information about what and where;
- (d) Which sites, programmes, processes and courts should be prioritised for panel visits;
- (e) Crown feedback on any difficulties that might arise concerning potential visits listed in Appendix B.

WHAKAPŪMAUTIA kei Ōmarumutu i te 25 o te Mahuru 2025



Judge Carrie Wainwright
Kaiwhakawā

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