

IN THE WAITANGI TRIBUNAL

WAI 3060

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

The Justice System Kaupapa Inquiry
(Wai 3060)

AND

IN THE MATTER OF

Claimants listed in Appendix A

**MEMORANDUM OF COUNSEL
DATED 8 OCTOBER 2025**

RECEIVED

Waitangi Tribunal

8 Oct 25

Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

1. This joint memorandum of counsel (“JMOC”) is filed on behalf of claimants listed in Appendix A (“the claimants”) who are involved in the Wai 3060 Justice Inquiry (“Inquiry”).
2. This JMOC is filed in response to Judge Wainwright’s memorandum directions dated 25 September 2025¹ (“the directions”) whereby her Honour sought information regarding:
 - a. Kaikōrero yet to be heard in He Rau Kōrero ā-Tara Whare;
 - b. Kaikōrero in custody; and
 - c. Site visits, including visits to prisons.
3. Accordingly, counsel addresses each of the above topics below.

Kaikōrero To Be Heard

4. The directions confirmed that eight days are available to this Inquiry for the financial year ending 20 June 2026. The current intention is that these days will accommodate remaining kōrero from non-custodial claimants, experiential evidence from those in custody, and site visits to prisons and other locations relevant to the Inquiry.
5. Counsel seeks clarification as to whether this will be the final opportunity, within *Te Aronui o te tāhū*, for claimants who are not expert witnesses to present evidence. Should that be the case, there may be additional claimants not listed below who wish to do so
6. Acknowledging the time constraints and the importance of hearing kaikōrero from claimants in custody, counsel seeks leave for any kaikōrero unable to present in person at a He Rau Kōrero ā-Tāra Whare event, to have the option to file evidence in writing. Counsel notes that a similar process was adopted in the Royal Commission of Inquiry into Abuse in State Care (“RCI”), whereby many survivors submitted witness statements that spoke to their lived experience, but did not present these in person.

¹ #2.6.48 Memorandum-directions dated 25 September 2025.

7. To assist with the Tribunal's planning, we outline below the kaikōrero wanting to present; the kaupapa of their kōrero, estimated duration and rohe:

Wai number	Kaikōrero	Kaupapa	Duration	Rohe
Wai 3134	Warren Te Hei	Prison and re-integration	45 minutes	Pōneke
Wai 2641	Rex Timu	Gangs and the justice system	45 minutes	Hastings
Wai 3061	Phillip Warner	Police violence	45 minutes	Hastings
Wai 3210	Peter Kaa	Prisons and tikanga	30 minutes	Wellington
Wai 2624	Dave Ratu	Alcohol and the justice system	45 minutes	Tamaki Makaurau
Wai 31876	Patricia Walsh	Intergenerational and systemic challenges in the justice system and wāhine imprisonment	45 minutes	Gisborne
Wai 3078	Diane Wright	Remand and the denial of bail due to homelessness	45 minutes	Levin

8. Counsel notes that our claimant, Warren Te Hei (Wai 3134), has recently been released from prison and due to parole conditions, is unable to leave the Wellington region.

Kaikōrero in Custody

9. Counsel represents two claimants currently in custody who wish to present their kōrero to the Tribunal.
 - a. Wai 3200 - Michael Lihou
 - b. Wai 3202 - Michael Wallace(“custodial claimants”)
10. Counsel has previously signalled a willingness to work with the Tribunal, Crown and other counsel to facilitate meaningful engagement for claimants in custody², and counsel continue to maintain that position.
11. Counsel can confirm that neither of our custodial claimants have a scheduled release date that would affect the Tribunal’s planning or their presentation at a custodial facility.
12. To assist with the Tribunal’s planning, we outline below the custodial claimants kaupapa of their kōrero, estimated duration and prison location:

Wai number	Kaikōrero	Prison	Kaupapa	Duration
Wai 3200	Michael Lihou	Rimutaka Prison	Prisons, solitary confinement, parole board.	60 minutes
Wai 3202	Michael Wallace	Rimutaka Prison	Criminal courts, prisons, parole board, criminal courts.	60 minutes

² Wai 3060, #3.2.301 at 26-27

Site Visit - Rimutaka Prison

13. At paragraph 18(a) of the directions, her Honour seeks counsel's feedback on potential custodial and non-custodial facilities, programmes and justice system processes to be visited during Te aronui o te tāhū.
14. At Appendix A of the directions³, Her Honour included a list of corrections facilities for potential site visits ("the proposed list"). While several prisons are included in the proposed list, Rimutaka Prison, where our custodial claimants are currently held, and where claimant Mr. Te Hei served ten years, is not included.
15. Counsel respectfully submits Rimutaka Prison in Upper Hutt, Wellington be considered as a facility for a potential site visit and provides the following submissions.
16. Rimutaka Prison is the second largest men's Corrections facility in New Zealand, with an approximate population of 1,240. Applying the national average Māori male prison population of 52.5% gives roughly 650 Māori in custody.⁴
17. Rimutaka Prison houses men across all levels of custody, from high security to rehabilitation and care. It includes multiple high-security and segregation units, several low-security units for mainstream and voluntary segregation prisoners, and specialist areas. It also contains the country's only High Dependency Unit, which provides care for men with significant health, disability, or age-related needs.⁵
18. Rimutaka should be considered as a site visit for the Tribunal as it contains the full range of custodial experiences within one facility. From high security and segregation through to rehabilitation and specialist care. Visiting Rimutaka Prison would show how different levels of custody operate day to

³ Wai 3060 #2.6.048(a)

⁴ Department of Corrections *Prison Facts and Statistics – June 2025* (30 June 2025) Department of Corrections
https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_facts_and_statistics_-_june_2025.

⁵ Office of the Inspectorate *Rimutaka Prison Inspection Report* (December 2023) at 9–10
<https://inspectorate.corrections.govt.nz>.

day; and how access to programmes, cultural engagement and rehabilitation opportunities differ.

19. Furthermore, it contains the country's only High Dependency Unit, providing the opportunity to understand how Corrections manages men with serious health, disability or age related needs, and whether cultural and wellbeing needs are being met for Māori in that environment.⁶
20. The proposed site visit list only includes prisons with dedicated Māori Focus Units.
21. Rimutaka previously had a Māori Focus Unit named the Te Tirohanga rehabilitation pathway ("Te Tirohanga"), however it was recently closed. Te Tirohanga aimed to reduce reoffending by providing a rehabilitation pathway founded on a Kaupapa Māori therapeutic environment.⁷
22. Including Rimutaka would provide a useful comparator where a Māori Focus Unit is not currently operating, allowing for a balanced assessment.⁸
23. Rimutaka does operate Te Whare Manaakitanga, a Special Treatment Unit for men convicted of violent offences, which includes a cultural component encompassing Māori culture and te reo Māori. However, it is only available to a small cohort.⁹
24. Our custodial claimants have indicated there are little to no opportunities to engage in te reo or tikanga at Rimutaka prison, which they say is prejudicial to their rehabilitation and identity as Māori.
25. Lastly, Rimutaka's proximity to Wellington reduces travel time and costs for the Tribunal and is more widely accessible due to its proximity to a large city.

⁶ Ibid, at 10.

⁷ Ibid, at 35.

⁸ Ibid, at 35.

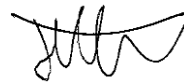
⁹ Ibid, at 15 and 35.

DATED at Auckland on this 8th day of October 2025



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To: The Registrar, Waitangi Tribunal and Crown Law Office, and those on the notification list for the Wai 3060 Justice System Kaupapa Inquiry.