TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 2358

E PĀ ANA KI te Treaty of Waitangi Act 1975
CONCERNING

Ā, te National Freshwater and
AND Geothermal Resources Inquiry

HE PĀNUI WHAKAHAU A TE MANA WHAKAHAERE

MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER RESPONDING TO REQUESTS FROM COUNSEL AND RELEASING THE FINAL TIMETABLE FOR HEARING FOUR OF THE STAGE THREE INQUIRY

21 Hepetema 2026

Purpose

1. This memorandum-directions addresses matters arising in relation to hearing four of stage three of the National Freshwater and Geothermal Resources (Wai 2358) Inquiry (the stage three inquiry).

2. In particular, I:

   (a) respond to a request from counsel for the Crown for the evidence of Justine Cannon to be taken as read;

   (b) respond to a request from counsel for the Waimiha River Eel Fisheries (King Country) (Wai 762), Tongariro Power Development Scheme Lands (Wai 1196), Kerikeri Inlet and Lake Omapere Waterways (Mitchell) (Wai 1716), Ngāti Pahaki (Aldridge) (Wai 2377), and Waitaha ki te Waipounamu (Wai 2460) claims to appear and cross-examine Maria Botes via audio-visual link (AVL); and

   (c) release the final hearing four timetable.

Request for updated brief of evidence of Justine Cannon to be taken as read

Background

3. In my memorandum-directions dated 3 August 2026, I directed Crown counsel to file the Crown's supplementary evidence and mini-opening submissions for hearing four by 28 August 2026 (Wai 2358, #2.6.150 at [19]).

4. On 28 August 2026, counsel for the Crown, Tim Stephens KC and Grace Seeley, filed a memorandum seeking an extension to file the Crown's supplementary evidence and mini-opening submissions by 1 September 2026 (Wai 2358, #3.2835). On 31 August 2026, I granted the extension sought and confirmed this by way of an email from the Waitangi Tribunal's Registrar.

Crown counsel's memorandum

5. On 1 September 2026, Mr Stephens KC and Ms Seeley filed a memorandum and the briefs of evidence of witnesses Maria Botes, Katherine MacNeill, Dr Alan Coulson and Robert Pigou, and Justine Cannon (Wai 2358, #3.2.836, #J17, #J17(a), #J14(c), #J14(d), #J3(a), #J1(a) & #J1(b)).

6. Counsel state that, since Ms Cannon's 2024 brief of evidence was filed (Wai 2358, #J1), many of the Crown's geothermal workstreams at the Ministry of Business, Innovation and Employment (MBIE) have been consolidated and the Geothermal Strategy has been developed and launched. These workstreams are undertaken by the Resource Markets Branch headed by Ms MacNeill (Wai 2358, #3.2.836 at [6]).

7. Counsel further state that the Crown's support of New Zealand's new superhot geothermal opportunity is being provided through the Regional Infrastructure Fund, which comes under the responsibility of Mr Pigou (Wai 2358, #3.2.836 at [7]).

8. Counsel advise that the brief of evidence of Ms Cannon is therefore short, high-level, and contextual only, with the key areas in which MBIE plays a significant role being addressed by the other Crown witnesses. Counsel also advise that Ms Cannon's evidence overlaps with evidence to be presented by witnesses from the Ministry for Cities, Environment, Regions and Transport at hearing five (Wai 2358, #3.2.836 at [8]).

9. In light of the reasons provided by counsel, the Crown seeks leave for Ms Cannon's evidence to be taken as read, and any questions to be filed in writing following the hearing (Wai 2358, #3.2.836 at [8]).

Decision

10. Given the reasons outlined above at [6]–[8], I grant the leave sought by counsel for the Crown for Ms Cannon's evidence to be taken as read. Any questions, should they arise, may be put to Ms Cannon following the conclusion of hearing four.

Request for counsel to cross-examine via AVL

11. On 14 September 2026, Adam Crawford, counsel for the Waimiha River Eel Fisheries (King Country) (Wai 762), Tongariro Power Development Scheme Lands (Wai 1196), Kerikeri Inlet and Lake Omapere Waterways (Mitchell) (Wai 1716), Ngāti Pahaki (Aldridge) (Wai 2377), and Waitaha ki te Waipounamu (Wai 2460) claims filed a memorandum seeking leave to appear at hearing four via AVL (Wai 2358, #3.2.840).

12. Given uncertainties on whether counsel from Mr Crawford's firm, Tamaki Legal, can attend in-person at hearing four as initially intended, counsel wishes to cross-examine Crown witness Maria Botes via AVL, and seeks leave to do so (Wai 2358, #3.2.840 at [4]–[5]).

Decision

13. I grant the leave sought by counsel for Mr Crawford to appear via AVL for the purpose of cross-examining Ms Botes.

Final timetable for hearing four of the stage three inquiry

Background

14. In my memorandum-directions dated 3 August 2026, I directed counsel for the Crown to confer with inquiry parties and file by 8 September 2026 a draft hearing timetable for hearing four. To assist in this process, I advised that the suggested timings should be inclusive of cross-examination requirements (Wai 2358, #2.6.150 at [20]).

15. On 8 September 2026, Mr Stephens KC and Ms Seeley filed a draft timetable for hearing four. Counsel noted that the draft timetable utilised 29 and 30 September only, and remained subject to timing indications from claimant counsel and the Tribunal (Wai 2358, #3.2.838 & #3.2.838(a)).

16. Having observed that counsel did not appear to have conferred with parties, I therefore instructed Tribunal staff to contact counsel for the Crown and direct them to do so before filing a revised draft hearing timetable.

17. On 14 September 2026, Tania Waikato and Victoria Tumai filed a memorandum on behalf of several claimants and interested parties. Counsel advised that, following a hui with other claimant counsel, there was a general consensus that the full three days would be required for hearing four on the basis that the cross-examination estimates included in the Crown's initial draft timetable were 'insufficient' (Wai 2358, #3.2.839 at [6]).

18. On 16 September 2026, Mr Stephens KC and Ms Seeley filed a revised draft hearing timetable reflecting claimant counsel timing requests for cross-examination (Wai 2358, #3.2.843 & #3.2.843(a)).

Final hearing timetable

19. I thank counsel for their coordination efforts and confirm that the revised draft timetable is suitable.

20. The Tribunal has made a modest number of further reference and typographical amendments.

21. The final timetable for hearing four is now **attached** as **Appendix A**.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 2358, the National Freshwater and Geothermal Resources Inquiry.

The Registrar is to send a copy of this direction to all those on the distribution list for Wai 2358, the National Freshwater and Geothermal Resources Inquiry.

WHAKAPŪMAUTIA ki Te Tairāwhiti i te 21 o Hepetema 2026

Kaiwhakawā W W Isaac
Te Mana Whakahaere
TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI