Appendix B: Ngā Pātai Mō Ngā Pou Tikanga

1. All societies have laws which are informed, shaped, and constrained by their own norms, values and principles. Māori society was no different. Māori law or tikanga (the First Law of Aotearoa) is the legal order 'designed to regulate relationships, guide conduct, resolve disputes and maintain balance within the collective and with the wider world, both seen and unseen.'[1] It was and remains a system codified in whakapapa, ritual or kawa, stories, poetry, art, dance, or song.

2. The way laws govern the exercise of power is referred to as 'constitutionalism' in western legal thought. While applying such concepts to matters Māori is problematic, it is possible to take a broad approach to the word 'constitutionalism' and define its meaning for current purposes as the norms, values or principles of the Māori legal order that underpin the allocation and constraints on Māori political power, authority and leadership. It is the norms, values, or principles of Māori constitutionalism that claimants were asked to identify during the wānanga ā-rohe phase of Tomokia ngā tatau o Matangireia: the Constitutional Kaupapa Inquiry (Wai 3300).

3. The following questions emerged from the record of those six wānanga. We ask the pou tikanga of the Waitangi Tribunal to consider and discuss these questions.

    (a) What do you understand to be the source of Māori power and authority to govern and regulate their affairs, inter-actions, and resolve disputes?

    (b) Is mātauranga Māori and kōrero tuku iho (e.g. cosmology, settlement history, whakataukī, whakatauākī etc) important to identifying that source?

    (c) Where is authority located – in atua, rangatira, tohunga, kaumatua, hapū, iwi, ahi kā, marae, individuals, or the collective (hāpori)?

    (d) How important is knowledge of and ability to protect the spiritual realms, whakapapa, te reo Māori, Te Taiao, wāhi tapu, whenua, moana etc. to the determination of leadership?

    (e) What do wairua, ihi, tapu, noa, and mauri add to identifying the source of Māori authority, power and leadership?

    (f) What is the importance of whenua, rivers, lakes, seas, and natural resources to the allocation of power and authority or leadership?

    (g) Are ritenga, kawa such as rāhui, muru, raupatu, and utu performance measures of leadership, power, and authority? Traditionally and contemporarily?

    (h) Traditionally, who exercised power, authority and leadership, and who does so today?

        i. What are the similarities and differences? What are the possible reasons for these?

        ii. How do different levels of authority interact in Te Ao Māori?

        iii. Regarding authority, how do different types of interests interact within a rohe?

[1] P. Meredith (Wai 2200, #A253(a)) p 5.

iv. Traditionally, what did Māori sovereignty look like?

(i) How is authority, power, and leadership demonstrated today?

(j) What institutions of Te Ao Māori support the exercise of power, authority, leadership today – Kaumatua? Iwi? Hapū? Marae? Papakāinga?

(k) What is the importance of mana, mana atua, mana tupuna, mana rangatira, mana whenua, mana moana, mana tane, mana wahine, and mana ā-whānau to the allocation of power and authority, and do any of these constrain the exercise of power, authority, and leadership?

(l) What is the importance of rangatiratanga?

(m) Is the exercise of rangatiratanga the same as or different from the exercise of mana?

(n) How are acts of power, authority and leadership centred on the needs of whānau, wahine, tane, mokopuna and rangatahi?

(o) Do the principles such as kotahitanga, manaakitanga, tangata whenua status, ūkaipō, aroha, and āhurutanga, constrain the exercise of power, authority and leadership? If so, how?

(p) Does kaitiakitanga act as a constraint on the exercise of power, authority and leadership? If so, how?

(q) Do the pou think that the above questions were the right questions to ask from a Te Ao Māori perspective to understand and derive meaning from the principles of constitutionality that the claimants have identified?

4. A further list of questions filed by claimant counsel are attached as Appendix C and may assist the panel in any further interrogation of these issues, should time permit during discussion.