TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 2750

E PĀ ANA KI *CONCERNING* the Treaty of Waitangi Act 1975

Ā, *AND* the Housing Policy and Services Kaupapa Inquiry

HE MANATŪ WHAKATAU NĀ KAIWHAKAWĀ MATUA TUARUA COXHEAD

MEMORANDUM-DIRECTIONS OF DEPUTY CHIEF JUDGE COXHEAD RELEASING THE TRIBUNAL STATEMENT OF ISSUES FOR STAGE TWO, AND CONFIRMING NEXT STEPS

23 Pipiri 2026

Purpose

1. This memorandum-directions:

    (a) releases the Tribunal Statement of Issues (TSOI) for stage two of the Housing Policy and Services Kaupapa (Wai 2750) inquiry (the stage two inquiry) (Wai 2750, #1.4.6); and

    (b) confirms the evidential and procedural steps that remain to be taken prior to the commencement of hearings in late 2027.

2. An inquiry timetable, which records key inquiry milestones, is **attached** as **Appendix A**.

Tribunal Statement of Issues

Background

Initial draft Statement of Issues and particularised claims

3. On 2 December 2022, the Tribunal received an initial draft statement of issues (SOI) for stage two from claimant coordinating counsel (Wai 2750, #3.2.347, #3.2.347(a) & #3.2.347(b)). The draft was provided prior to the completion of the inquiry milestones that normally precede confirmation of the Tribunal's issues for inquiry.

4. A further two iterations to the draft claimant SOI were filed between March 2023 and May 2024 (Wai 2750, #3.2.374(b) & #1.4.3).

5. This work was undertaken due largely to the early stage of the Tribunal's interlocutory process, and the Crown's view that both the claims (as then articulated), and the draft SOI, lacked the specificity needed to enable a Crown response (Wai 2750, #2.6.60 & #3.2.424).

6. Tribunal commissioned reports on whenua Māori issues (and by extension, the Tribunal's research casebook) were completed in December 2024.

7. I thereafter invited the claimants to file (Wai 2750, #2.6.64 at [5] & [8]):

    (a) any further amended or particularised statements of claim (covering all claim issues) by 12 March 2025; and

    (b) an amended draft claimant SOI, reflecting the Whānau Kāinga research and associated claims, by 2 April 2025.

8. Counsel for the Crown were then directed to file a response to the revised draft claimant SOI by 23 April 2025 (Wai 2750, #2.6.64 at [9]).

Revised draft SOI

9. Following a series of extension requests, the revised draft claimant SOI was filed on 14 April 2025 (Wai 2750, #3.2.461, #1.4.4 and #1.4.4(a)). The Crown's response, which includes suggested amendments to the draft claimant SOI, followed on 23 May 2025 (Wai 2750, #3.2.464, #1.4.5 & Wai 2750 & #1.4.5(a)).

10. These final draft iterations indicate that the (Wai 2750, #3.2.464 at [8]):

    (a) parties now broadly agree on the articulation of the stage two inquiry issues; and

    (b) Crown considers the final draft SOI to be articulated at a sufficient level of specificity.

Joint memorandum dated 23 September 2025

11. On 23 September 2025, I issued a memorandum-directions in response to a joint memorandum received from claimant coordinating counsel and counsel for the Crown (Wai 2750, #2.6.68).

12. Counsel sought an early confirmation of stage two hearing dates, and any interlocutory steps needed before the commencement of stage two hearings, so that such information could be considered for hearing planning purposes (Wai 2750, #3.2.467 at [10]).

13. To assist with forward planning efforts, and in response to counsel's memorandum, I indicated on 23 September 2025 that the Tribunal (Wai 2750, #2.6.68 at [9]):

    (a) was actively deliberating on the TSOI and related next steps for stage two;

    (b) intended to issue the TSOI before the end of 2025;

    (c) would inform all parties of any other steps needed before commencing hearings; and

    (d) in light of the Waitangi Tribunal's revised *Strategic Direction 2025 – 2035* (the *Strategic Direction*), the Tribunal would now not be proceeding to stage two hearings until at least October 2027.

Crown memorandum dated 2 December 2025

14. On 2 December 2025, the Tribunal received a memorandum from counsel for the Crown, Nick Whittington, Daniel Kleinsman, and Tanuvi Garimella (Wai 2750, #3.2.471).

15. Counsel advised they were grateful for the above indications and said that the release of the TSOI would enable the progression of both hearing planning and the Crown's discovery process (Wai 2750, #3.2.471 at [2]).

16. The Crown noted, however, that (Wai 2750, #3.2.471 at [4]):

    (a) the above directions did not 'indicate precisely' when the Tribunal would inform parties of next steps;

    (b) it would be helpful for such an indication to occur alongside the TSOI, when it was issued; and

    (c) such indications would allow parties to prepare for, and mitigate, any difficulties associated with the intended thematic nature of the stage two hearings.

Process for finalising TSOI and remaining interlocutory steps

17. On 12 December 2025, I issued a memorandum-directions in response to the above and indicated that (Wai 2750, #2.6.69 at [8] – [11]):

    (a) I agreed that releasing the TSOI, alongside substantive memorandum-directions on next steps, was a sensible and efficient approach;

    (b) the Tribunal would proceed on this basis; and

    (c) while finalisation of the TSOI was significantly advanced, the panel would not now be in a position to issue this, alongside the necessary directions, before the Tribunal's scheduled end-of-year shutdown.

18. I accordingly confirmed that the Tribunal would issue the final TSOI, alongside directions on next steps, as soon as possible in early 2026 (Wai 2750, #2.6.69 at [11]).

Joint memorandum dated 22 May 2026

19. On 22 May 2026, the Tribunal received a further joint memorandum from claimant coordinating counsel and counsel for the Crown (Wai 2750, #3.2.473).

20. Counsel requested an update regarding when the Tribunal would issue the stage two TSOI, along with the associated memorandum-directions.

21. Counsel advised that such an indication would 'greatly assist the parties in their preparation for the stage two hearings beginning in 2027' (Wai 2750, #3.2.473 at [6]).

Timeframe for releasing TSOI and associated directions

22. On 8 June 2026, I confirmed via an e-mail from the Waitangi Tribunal's Registrar (the Registrar) that the Tribunal was now in the final stages of finalising the TSOI.

Confirmed issues for inquiry

Summary of submissions

23. The draft SOI is largely structured around the four pakitara that comprise the stage two thematic scope. These being:

    (a) Whenua Māori – covering use and development of Māori land for housing.

    (b) Te Ao Kāinga – covering housing policy, practice and regulation of the housing market.

    (c) Whānau Kāinga – covering social housing and the provision of 'public housing' by central and/or local government.

    (d) Hauora – covering the relationship between poor physical and mental health (and other socio-economic factors) and housing.

24. The claimants note that the draft SOI (Wai 2750, #1.4.4 at [1] – [6]):

    (a) is primarily written in the present tense, but encompasses Crown acts and omissions, both past and present;

    (b) includes local government issues;

    (c) situates accessible housing under the Hauora pakitara (the claimants consider this 'best reflects the breadth of accessibility issues', notwithstanding whānau hauā/ tāngata whaikaha views that accessibility is not 'inherently' a health issue per se);

    (d) reflects a degree of thematic overlap, particularly for whenua Māori issues; and

    (e) is structured with a lead question under each pakitara that focuses on the nature of the relevant Crown obligations to Māori, before moving to a series of discrete questions and related subcategories.

25. The Crown advises it supports the draft claimant SOI on the basis that the Crown considers it now appropriately addresses the main issues for inquiry but submit that a small number of amendments are required. These are reflected in the Crown's further amended draft (Wai 2750, #3.2.464 at [8] – [10] & [13]).

26. The Crown says that its amendments seek to (Wai 2750, #3.2.464 at [13]):

    (a) enhance specificity and avoid repetition;

    (b) promote consistency and clarity of issues; and

    (c) focus inquiry into matters directly relevant to Crown policy or practice.

27. The Crown further notes, for completeness, that the Tribunal will also need to ensure it does not inquire into matters, including in relation to historical land loss, that have already been inquired into and reported on (Wai 2750, #3.2.464 at [16]).

Discussion

28. I acknowledge counsel for their considerable effort in drafting and agreeing the issues for stage two.

29. The Tribunal panel has now had an opportunity to properly consider parties' final amendments, and to make any necessary adjustments we feel are needed to ensure that the stage two issues for inquiry are sufficiently clear and explicated.

30. We agree with the Crown's submissions that the revised SOI appears largely to capture the main issues for inquiry at stage two, and that it is sufficiently particularised for the purposes of inquiry.

31. The Crown's suggested amendments do also appear to enhance the overall clarity of the final draft SOI in the ways suggested at [26] above.

32. In general, we observe that all inquiry issues appear to be appropriately canvassed, and to a sufficient depth as to enable inquiry discipline going forward. As it did in stage one, the TSOI operates to clarify, in general terms, the confirmed scope of our inquiry (Wai 2750, #1.4.1). It operates as a guideline for parties, and indicates the issues which the Tribunal wishes to address in the course of stage two.

33. We also consider the TOSI provides a useful basis for ensuring:

    (a) a shared inquiry focus is maintained across inquiry workstreams and activities; and

    (b) that all material filed for the record is appropriately framed by the confirmed issues for inquiry (thus enhancing inquiry efficiencies and helping to rationalise the finite resources of both the Tribunal and parties).

34. We accordingly adopt the Crown's draft, with additional Tribunal amendments, as the TSOI for stage two, and direct that the Registrar place the TSOI on the record as document Wai 2750, #1.4.6.

35. Broadly, these amendments:

    (a) provide a more detailed preamble designed to explain the function of the TSOI, both in general, and more specifically in the context for stage two;

    (b) signal the more comprehensive inquiry of homelessness envisaged for stage two, including in relation to other claim issues, as was indicated in *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry in Māori Homelessness (Kāinga Kore)*;

    (c) organise for ease of reference the document into four distinct sections, with a table of contents included for increased accessibility;

(d) delete some sections that appeared to be unnecessarily duplicative; and

(e) provide, by way of footnotes, additional explanatory material where deemed appropriate by the panel.

36. In relation to homelessness, we note the Crown's comments summarised at paragraph [27] above. It is unclear whether the Crown was specifically referencing our stage one inquiry. In any event, and for clarity, I remind parties that we were clear in *Kāinga Kore* that we would need to return to the theme of homelessness in the next stage of our inquiry.

37. As I have previously indicated, local government issues have been included in the TSOI. Parties will be able to make submissions during hearings as to how and why (or why not) the Tribunal should consider local government issues and its role within Māori housing. The Tribunal will address those submissions in its final report (Wai 2750, #2.6.56 at [13]).

Next steps in interlocutory process

Background

38. As has been indicated elsewhere, the Tribunal has undertaken an internal planning process to set the timeframes and resourcing for all active inquiries over the next five-to-10 years (Wai 2700, #2.6.5 at [4] & Wai 2700, #2.6.7 at [5] – [6]]).

39. Under the Tribunal's revised *Strategic Direction*, and as I noted in my directions dated 23 September 2025, the stage two inquiry is now scheduled to commence hearings in approximately October 2027 (Wai 2750, #2.6.68 at [9]).

40. Under these revised arrangements, the stage two inquiry:

(a) has been allocated a total of six hearing weeks in which to complete our hearing phase;

(b) hearings are anticipated to commence in late 2027, and conclude by July 2029; and

(c) our report is scheduled to be released by July 2031, thereby concluding proceedings for stage two, and this inquiry more generally.

Initial observations

41. These revised timeframes are challenging but achievable with the commitment of all parties.

42. I note at the outset that:

(a) increased collaboration will be needed by all parties, and between the claimants and the Crown in particular, to ensure key milestones are met, and more broadly, that hearing and inquiry processes still allow for both adequate participation and the proper testing of evidence;

(b) claimant coordinating counsel will need to play a significant role in ensuring that claimant evidence is sufficiently focused and, to safeguard our limited hearing time, any unnecessary duplication is avoided;

(c) all evidence (as I indicate below) will need to be taken as read, with a process for written questions and answers provided for those witnesses not required to appear at hearing;

(d) to avoid timing slippage, the Tribunal will need to take a much firmer stance on the granting of extension requests, with extensions granted only where there are genuinely exceptional circumstances that warrant the granting of extra time;

(e) to ensure the Tribunal's limited resources are utilised to inquire into only those claims that remain unresolved between the claimants and the Crown, parties may wish to explore alternative arrangements for the resolution of claims, such as through mediation; and

(f) the Tribunal will consider suggestions for any additional process enhancements, whether they be in relation to hearings or the operation of the wider inquiry.

43. I consider the long lead-in time to the commencement of hearings presents ample opportunity to maximise hearing efficiencies.

44. Parties will also have much greater time than might otherwise have been the case for:

(a) the Crown to consider whether any concessions should be made in response to the claims;

(b) the Crown to complete its discovery process;

(c) a revised hearing plan, and ideally individual hearing timetables, to be produced (with some leeway reserved to accommodate claimant participation and witness availability); and

(d) any amended hearing processes and procedures to be consulted on and confirmed.

Next steps

Crown response to the claims

45. I have previously directed that the Crown should file its statement of response to the claims eligible to participate in these proceedings as a step prior to finalising the stage two issues for inquiry (Wai 2750, #2.6.56 at [8] – [9]).

46. The parties have indicated that the Crown's response should now follow the release of the TSOI (Wai 2750, #3.2.467 at [10]).

47. I agree that the production of the Crown's response, while unorthodox in terms of timing, is still highly desirable.

48. Given the steps that remain prior to the commencement of hearings, I anticipate that meaningful engagement from the Crown in response to claims is likely to:

(a) further refine the issues that remain for inquiry as part of stage two (particularly in the event that significant concessions are made); and

(b) will, irrespective of whether concessions are given, assist in the production of focused and high-quality evidence and submissions.

49. The Crown should accordingly confer as necessary and file the Crown's statement of response to the claims, along with any concessions arising, by no later than **5pm, Friday 31 July 2026**.

50. I anticipate that the above timeframes will allow ample time for the Crown to consult as necessary with Ministers and to seek appropriate instructions, particularly as pertains to Crown concessions.

51. Given the approaching general election and ensuing caretaker period – during which Ministers are expected to act with restraint in decision-making – I encourage the Crown to prioritise consultation, to ensure that opportunities for inquiry efficiencies are not lost due to constraints on obtaining appropriate instruction.

Discovery

52. The Crown has indicated that the provision of the TSOI for stage two will allow for the commencement of the Crown's discovery process (Wai 2750, #3.2.471 at [2]).

53. I encourage the parties to confer as necessary and to do so at pace, so that the production of evidence can get under way as soon as possible.

54. I note that the scope of requests may be adjusted in light of any revised inquiry scope should the Crown make any Treaty concessions in the meantime.

Accessibility

55. The confirmed issues include issues of accessibility, and other matters where the experience of whānau hauā / tāngata whaikaha will presumably be a central focus.

56. The Tribunal is accordingly mindful of the diverse participants before us.

57. I therefore direct claimant coordinating counsel to confer and advise by no later than **5pm, Friday 14 August 2026** any accessibility requirements needed for the Tribunal's hearing phase, and for the remainder of the stage two inquiry.

58. Parties may wish to consider the application of the disability protocol as utilised in disability phase of the stage two Health Services and Outcomes Kaupapa (Wai 2575) inquiry.

59. Parties should be aware that the application of some accessibility measures may necessarily need to be subject to Tribunal resourcing, and – if agreed – will require the cooperation of all parties.

Revised hearing plan

60. Parties will be aware that a total of 174 claims are eligible to participate in these proceedings (Wai 2750, #2.6.67 & #2.6.67(a)).

61. Claimant coordinating counsel have most recently indicated that, at least on the basis of conventional inquiry processes, a total of 16 hearings may be required to complete the stage two hearing phase (Wai 2750, #3.2.439, #3.2.43.9(a) & #3.2.439(b)).

62. The application of the revised *Strategic Direction*, which allocates six hearings for stage two, means that such an involved hearing process will not now be possible.

63. I therefore direct claimant coordinating counsel to confer with counsel for the Crown and file by no later than **5pm, Wednesday 16 September 2026** a joint memorandum that provides an initial revised stage two hearing plan in light of these directions.

64. I signal now that, in order to safeguard our limited hearing time, I am likely to seek the production of draft timetables well in advance of the commencement of the stage two hearings.

Hearing and evidential processes

65. As I have indicated, the constraints within which we all must work necessarily mean that all stage two evidence will need to be taken as read.

66. In this regard, the Tribunal intends to broadly adopt the processes currently applied by the Tribunal in the wider inquiry phase of the Mana Wahine Kaupapa (Wai 2700) inquiry.[1]

67. The specific aspects we wish to adopt would see:

    (a) all evidence filed taken as read and considered by the Tribunal;

    (b) a draft hearing plan submitted for approval well in advance of each hearing fixture;

    (c) the Tribunal to confirm, with input from claimant counsel and counsel for the Crown, along with reference to the draft hearing plan, those witnesses required to appear at hearing for questioning;

    (d) all opening submissions filed taken as read with counsel permitted to provide a brief summary of submissions at hearing;

    (e) the majority of the hearing time reserved for the purpose of cross-examination and Tribunal questions;

    (f) cross-examination permitted only with advance notice and by leave of the Tribunal;

    (g) the Crown invited to file any written questions of clarification in advance of each hearing; and

    (h) the use of 'lead counsel' to coordinate witness cross-examination, with counsel to identify any further specific counsel who wish to put claim-specific questions to witnesses.

68. This Tribunal also intends that:

    (a) witnesses may provide a short opening statement (no longer than ten minutes) to situate any evidence called in the context of the inquiry issues, should they wish;

    (b) in keeping with my previous directions, and where possible, hearings be conducted on a thematic basis (with allowances made for witness availability and/or funding constraints) (Wai 2750, #2.6.60 at [23]);

    (c) hearings commence with whenua Māori issues;

    (d) a written question-and-answer process be available for questions to be put to witnesses who are not required to appear before the Tribunal; and

    (e) the claimants have an opportunity to file any evidence in reply to the Crown (at this stage, I anticipate that this material will be heard in the usual way, subject to above process and there being sufficient hearing time available).

Feedback and any additional procedural suggestions

69. Counsel may provide any initial feedback regarding the content of these directions, should they wish to do so.

70. Claimant coordinating counsel should collate any such feedback and file this, preferably jointly with counsel for the Crown, by no later than **5pm, Friday 6 July 2026**.

[1] Wai 2700, #2.5.11, #2.6.5, #2.6.7, #2.6.14 & #2.6.14(a).

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 2750, the Housing Policy and Services Kaupapa Inquiry.

The Registrar is to send a copy of this direction to all those on the distribution list for Wai 2750, the Housing Policy and Services Kaupapa Inquiry.

WHAKAPŪMAUTIA ki Te Whanganui-a-Tara i te 23 o te Pipiri 2026

Kaiwhakawā Matua Tuarua C T Coxhead
TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI