TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 2750

E PĀ ANA KI te Treaty of Waitangi Act 1975
CONCERNING

Ā, the Housing Policy and Services Kaupapa Inquiry
AND

HE MANATU WHAKAHAU NĀ KAIWHAKAWĀ MATUA TUARUA COXHEAD

MEMORANDUM-DIRECTIONS OF DEPUTY CHIEF JUDGE COXHEAD PROVIDING UPDATE ON ARRANGEMENTS FOR JUDICIAL CONFERENCE AND ADDRESSING CROWN STATEMENT OF RESPONSE

23 Hepetema 2026

Purpose

1. This memorandum-directions:

   (a) provides an update on the arrangements for the judicial conference scheduled for 13 October 2026 in light of possible counsel availability issues; and

   (b) responds to leave sought by counsel for the Crown to file the Crown's statement of response by 14 December 2026 (Wai 2750, #3.2.481 at [8]).

2. An updated stage two inquiry timetable is **attached** as **Appendix A**.

Update on arrangements for judicial conference

Background

3. In my memorandum-directions dated 2 September 2026, I confirmed my intention to convene a judicial conference to hear submissions on forward inquiry planning for stage two of the Housing Policy and Services (Wai 2750) Kaupapa Inquiry (the stage two inquiry), including accessibility requirements and the possible impact of reduced hearing time on these proceedings (Wai 2750, #2.6.71 at [43]).

4. Before setting a date for the judicial conference, I advised that the Tribunal first wished to understand with greater precision parties' views on what they consider to be the minimum viable requirements for the stage two inquiry hearing phase. I therefore directed claimant coordinating counsel to confer with counsel for the Crown and to provide further and more detailed submissions on these matters by 7 October 2026 (Wai 2750, #2.6.71 at [43]).

5. In my memorandum-directions dated 14 September 2026, I confirmed that the judicial conference would take place at the Waitangi Tribunal's offices, Level 2, Fujitsu Tower, 141 the Terrace, Wellington, on Tuesday 13 October 2026 (Wai 2750, #2.6.72 at [8]).

6. Accordingly, I released a timetable and agenda for the judicial conference and advised that an audio-visual link would be provided for those who wish to participate remotely (Wai 2750, #2.6.72(a) & #2.6.72 at [8]).

Counsel availability issues

7. I am aware that there may be counsel engaged in the stage two inquiry who may also be involved in the High Court proceedings relating to the Marine and Coastal Area (Takutai Moana) Act 2011.

8. Despite our best efforts to reschedule the judicial conference, the Tribunal has been unable to find a date which accommodates panel availability and does not overlap with other scheduled Tribunal events. It is also important, as I have advised previously, that momentum is maintained if we are to complete this inquiry within the timeframes afforded under the Tribunal's *Strategic Direction 2025-2035* (Wai 2750, #2.6.71 at [48]).

9. I accordingly confirm that the judicial conference will proceed as planned on **13 October 2026.**

10. As noted at [4] above, the parties have already been afforded an opportunity to file written submissions on what they consider to be the minimum viable requirements for the stage two inquiry phase in advance of the judicial conference, by 7 October 2026 (Wai 2750, #2.6.71 at [43]).

11. In consideration of counsel who may be involved in the High Court proceedings referred to at [7] above, I now confirm that the judicial conference will be recorded and remain available via a closed link to the recorded livestream. Parties will have full access to the

recording for the purpose of viewing the judicial conference, as well as the draft hearing transcript which will be circulated in due course.

12. I further confirm that claimant coordinating counsel and counsel for the Crown may file any further submissions arising from the discussions held at the 13 October 2026 judicial conference. These submissions should be filed by no later than **10 working days from the distribution of the draft judicial conference transcript**.

Crown statement of response

Background

13. In my memorandum-directions dated 2 September 2026, I granted leave for the filing date for the Crown's statement of response, originally set for 31 July 2026, to be deferred (Wai 2750, #2.6.71 at [68]).
14. Accordingly, I directed counsel for the Crown to update the Tribunal on the Crown's progress towards the completion of its statement of response to the stage two claims, including its proposed form and a suggested revised filing date, by 17 September 2026 (Wai 2750, #2.6.71 at [69]).

Crown memorandum

15. On 17 September 2026, Messrs Whittington and Kleinsman filed a memorandum updating the Tribunal on the matters noted at [14] above as directed (Wai 2750, #3.2.481).
16. Counsel submit that the Crown has undertaken an 'extensive examination' of the statements of claim, and is now conducting a 'pakitara-based analysis' to address the matters raised in the Tribunal Statement of Issues (TSOI) (Wai 2750, #1.4.6). Counsel consider that the Crown's pakitara-based analysis will helpfully inform engagement with the issues raised, and also the Crown's evidence by enabling a more substantive response (Wai 2750, #3.2.481 at [4] – [5]).
17. Counsel advise that a meeting was held between counsel for the Crown and claimant coordinating counsel in Auckland on 3 September 2026 to discuss the minimum viable requirements for the hearing phase of the stage two inquiry, approaches to discovery, and the Crown's statement of response (Wai 2750, #3.2.481 at [2]).
18. Counsel note that, at the meeting between the Crown and coordinating counsel, the Crown raised its initial preference for filing pakitara-based responses to the stage two claims on a staged basis during 2027. Counsel, however, understand that claimant counsel would collectively prefer for the Crown to file a conventional statement of response to all issues as soon as possible, and for any concessions or responses to be filed at a later date, if and when such concessions or responses arise (Wai 2750, #3.2.481 at [6] – [7]).
19. Counsel accordingly propose to file the Crown's statement of response by 14 December 2026 and seek a direction accordingly (Wai 2750, #3.2.481 at [8]).
20. Counsel further submit that, due to what counsel identify as 'constraints created by the upcoming General Election', the Crown is likely to be limited in its ability to produce any concessions by 14 December 2026. Counsel note, however, that the Crown will continue its analysis of claims and issues, and consideration of concessions as appropriate, including as evidence is presented and tested during the stage two inquiry (Wai 2750, #3.2.481 at [9]).

Decision

21. I have considered the Crown's request.
22. I confirm that counsel for the Crown should file the Crown's statement of response by no later than **5 pm, Monday 14 December 2026.**
23. I further confirm that the Tribunal would welcome any Crown concessions by the same date, and as they arise in the course of these proceedings.

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 Rotorua i te 23 o te Hepetema 2026

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