KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL **WAI 2200**

IN THE MATTER OF	**the Treaty of Waitangi Act 1975**
AND	
IN THE MATTER OF	**PORIRUA KI MANAWATŪ DISTRICT INQUIRY**

CROWN MEMORANDUM REGARDING HEARING SIX OF WIDER INQUIRY PHASE (CROWN EVIDENCE WEEK)

30 September | Hepetema 2026

Te Tari Ture o te Karauna
Crown Law

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MAY IT PLEASE THE TRIBUNAL:

1. This memorandum of counsel on behalf of the Crown concerns Hearing 6 of the Wider Inquiry phase scheduled for 14 to 18 December 2026, in which the Crown's evidence for the phase is scheduled to be heard.

2. The Tribunal has previously indicated that it wishes to hear evidence from the Crown in the Wider Inquiry phase on the topics of the Resource Management Act and its replacement legislation and on Public Works Act reform. Most recently, this was stated in the Tribunal's memorandum-directions of 1 December 2025.[1]

3. In its memorandum dated 11 August 2026, the Crown addressed the fact that Hearing 6 had been scheduled, at that time, for the week of 7 September 2026. The Crown explained that its ability to present evidence on reform of the Resource Management Act and its intended replacement and on Public Works Act reform was precluded by s 6(6) of the Treaty of Waitangi Act 1975 due to the Planning Bill, the Natural Environment Bill, and the Public Works Amendment Bill all then being before the House.[2]

4. The Crown's proposal in its 11 August memorandum was to adjourn the anticipated Crown hearing week in September and for the Crown to file an updating memorandum in the week of 5 October 2026 regarding the scheduling of Crown evidence. At that point, the Crown anticipated further information would be available about the progress of the Bills. However, in its memorandum-directions of 20 August 2026, the Tribunal directed that the Crown should file all the Crown evidence by 5pm Monday 5 October 2026, with no further extensions.[3]

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1 Memorandum-Directions (No 449) of Chief Judge Dr C L Fox concerning amended filing deadlines for the Ngāti Raukawa and affiliated groups phase and the forward programme for the Wider Inquiry phase (Wai 2200, #2.6.307, 1 December 2025) at [41].

2 Crown Memorandum regarding Crown Evidence for Wider Inquiry Stage (Wai 2200, #3.2.2044, 11 August 2026).

3 Memorandum-Directions (No 471) of Chief Judge Dr C L Fox regarding forward inquiry planning for the Wider Inquiry phase (Wai 2200, #2.6.329, 20 August 2026).

5. In terms of the Bills in question, the Crown can now advise:

    5.1 Following their second readings on 4 August 2026, the Planning Bill and the Natural Environment Bill proceeded through the Committee of the whole House, which concluded on 28 August 2026. The Bills passed their third reading on Tuesday last week, 22 September 2026. They are now awaiting Royal assent.

    5.2 The Transport and Infrastructure Select Committee had reported back on the Public Works Amendment Bill on 7 May 2026. The Bill came before the House two weeks ago, on 15 September 2026, for its second reading. In the same sitting, the Bill then proceeded through the Committee of the whole House and had its third reading under urgency. This Bill is now also awaiting Royal assent.

6. As such, by 5 October 2026, the jurisdictional obstacle in s 6(6) of the Treaty of Waitangi Act 1975 may have fallen away in relation to the subject matter of these pieces of legislation, if Royal assent is given by that time.

7. However, the enactment of the Public Works Amendment Bill within this term of Government is a very recent development. It has not been feasible for the Crown to brief evidence from officials on the new legislation by the specified 5 October 2026 date.

8. In terms of the Planning Bill and the Natural Environment Bill, the nature of the legislative process and the role of officials in relation to the process also mean that it has not been possible in practical terms for the Crown to prepare and finalise briefs of evidence from Crown witnesses addressing reform of the Resource Management Act and the replacement legislation by the specified 5 October 2026 date:

    8.1 The substantive contents of the Bills were still being settled in the Committee of the whole House stage during the course of August. The responsible Minister released Amendment Paper 709 in respect of the Planning Bill and Amendment Paper 710 in respect of the Natural Environment Bill on 20 August 2026, and Amendment

Paper 738 in respect of the Planning Bill on 21 August 2026, which was subsequently withdrawn.[4] The Opposition released 76 distinct amendment papers containing substantive amendments between 6 and 25 August 2026.

8.2 The House took both Bills through the Committee of the whole House under urgency, in a sitting that began on 25 August 2026 and continued through 26, 27, and 28 August 2026. The Planning Bill as reported from the Committee of the whole House runs to 737 pages and the Natural Environment Bill to 337 pages.[5]

8.3 The amendments made at the Committee of the whole House stage include amendments bearing on matters arising in this inquiry, including the ongoing status of Mana Whakahono ā Rohe agreements, iwi participation agreements, how the goal of providing for Māori interests is sought to be achieved, the protection of significant indigenous biodiversity, consideration of effects in the coastal marine area, and specific provisions in relation to specified conditions and matters of control in Rules LF-LW-R14 and LW-LF-R14 of the Manawatū-Whanganui Regional Council One Plan.

8.4 The framework established by the two Acts is not complete. The Acts establish a new, high-level legislative architecture, with the goals to be particularised and implemented through a series of interrelated national and regional instruments, including national policy direction, national standards, regional spatial plans, land use plans, and natural environment plans. The national instruments, in particular, will be important in determining how the statutory goals are achieved, including achieving the goal of providing for Māori

4 Planning Bill — Amendment Paper No 709 (Hon Chris Bishop, released 20 August 2026); Natural Environment Bill — Amendment Paper No 710 (Hon Chris Bishop, released 20 August 2026); Planning Bill — Amendment Paper No 738 (Hon Chris Bishop, released 21 August 2026, withdrawn).

5 Planning Bill 2025 (235—3) and Natural Environment Bill 2025 (234—3), as reported from the Committee of the whole House.

interests. The first national instruments are required within 12 months of Royal assent, with further national standards required within 18 and 21 months. Regional spatial plans and, subsequently, land use plans and natural environment plans will then be developed within statutory timeframes. Accordingly, while the legislative architecture is apparent, the substantive content and effect of the new framework will become clearer as these instruments are developed and its component parts are brought together.

8.5 The load on officials during this period has been considerable and they have lacked capacity to prepare detailed briefs of evidence for this inquiry at the same time as managing and advising on the passage of these significant pieces of legislation through the House. There has been insufficient time before 5 October to prepare and finalise briefs of evidence on these matters.

9. These issues are the same issues that have also been confronting Stage 3 of Wai 2358—the National Fresh Water and Geothermal Resources Inquiry, which is considering Māori rights and interests in geothermal resources and the Treaty consistency of the current law in respect of these resources. The approach that the Wai 2358 inquiry has taken is to hear the Crown evidence in two different hearing weeks. This week, from 29 September to 1 October 2026, the Crown is presenting evidence from witnesses from MBIE regarding the Crown's geothermal workstreams within the Resource Markets Branch of MBIE and the Crown's support of geothermal opportunities through MBIE-administered funds. A further hearing week is scheduled for the first quarter of 2027, likely in March, for the presentation of Crown evidence from MCERT witnesses on resource management issues, including the replacement legislation for the RMA, with the date for the filing of briefs of evidence still to be determined.

10. In light of the foregoing, the Crown respectfully advises that the Crown's evidence for the Wider Inquiry phase will be limited to evidence relating to

matters concerning Waka Kotahi. At Muaūpoko's request, the Crown intends to recall the Waka Kotahi Crown witnesses from the Ngāti Raukawa and affiliated groups phase, namely, Glen Prince, Lonnie Dalzell, and Emily Howitt and Mary O'Keefe. The Crown may also file and serve, by the 5 October 2026 date specified by the Tribunal, briefs of evidence on behalf of Waka Kotahi addressing matters raised by Muaūpoko claimants in the Wider Inquiry phase. Given the circumstances described above, the Crown does not intend to present evidence on the Resource Management Act and its replacement legislation or on Public Works Act reform.

11. Finally, the Crown respectfully observes that the Wai 2200 inquiry has not been the only opportunity for the Tribunal to consider and report to the Crown on resource management issues and the RMA. The Tribunal's reports on the subject matter date back to the Wai 304 *Ngawha Geothermal Resource Report* in 1993, and include Wai 1200 *He Maunga Rongo* (2008), Wai 262 *Ko Aotearoa Tēnei* (2011), and Wai 2358 *Stage 2 Report on the National Fresh Water and Geothermal Resources Claims* (2019), *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* (2023), as well as earlier reports in the Wai 2200 inquiry.

12. Moreover, aspects of the new planning and resource management legislation are the subject of existing or anticipated claims, the Tribunal reports on which will also serve to assist the Crown. These include:

    12.1 Stage 3 of Wai 2358, as already mentioned;

    12.2 Wai 682, the Ngāti Hine Lands, Forests and Resources claim, which involves an application for an urgent inquiry in respect of the status of Mana Whakahono ā Rohe agreements under the new legislation (which, until now, has been precluded by s 6(6) of the Act); and

    12.3 Wai 3450, the Natural Resources and Environmental Management Inquiry, which is on the kaupapa inquiry programme and is set to inquire into natural resources and environmental management

issues on the basis that they raise nationally significant issues that affect Māori as a whole in similar ways.

13. The Crown respectfully submits that Wai 3450 is the more appropriate forum for consideration of issues concerning the new planning and resource management framework that is to replace the RMA. Wai 3450 will provide an opportunity for the framework to be considered holistically and on a fuller evidential basis, including the national instruments that form a core component of the new system. Wai 3450 also does not preclude discrete aspects of the new legislation being considered in other inquiries where they arise within the particular scope of those inquiries.

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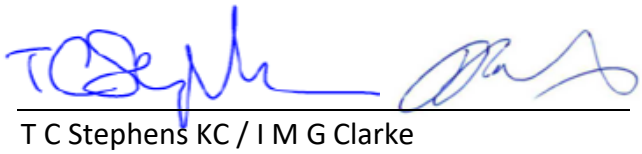

T C Stephens KC / I M G Clarke
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal

AND TO: Claimant Counsel