

**WAITANGI TRIBUNAL**

Wai 3060

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

Te Rau o te Tika: the Justice  
System Inquiry

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**MEMORANDUM-DIRECTIONS**  
**ABOUT TE TŪĀPAPA O TE TIKA**

3 Āperira 2023

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## Introduction

1. In my memorandum-directions of 7 November 2022, I said that the next phase of Te Rau o te Tika, Te Tūāpapa o te Tika, will (a) inform and extend our understandings of the foundation principles of tikanga and justice that will be applied in this inquiry; and (b) help us understand how best to run an inquiry in a way that conforms with tikanga (Wai 3060, #2.6.11 at [28]).
2. The panel and the pou met in February to discuss how the events for Te Tūāpapa will proceed. For your information, I attach the notice that we will use to invite participation in the planned events. It contains the key information about logistics and content. This memorandum-directions elaborates upon the notice to describe what the pou and the panel envisage for this stage of the inquiry. If parties wish to comment, they may do so by memorandum.

## Te Tūāpapa o te Tika events

3. The attached notice describes the two topics that the wānanga will focus on, and explains that these are ALL that the events will focus on. It is important that claimants and other attendees grasp that these wānanga are not the occasion to lay down kōrero about experiences with the existing justice system, and that an opportunity to do that will follow. If participants stray into this area, they will be asked to focus instead on the conceptual issues comprised in Te Tūāpapa o te Tika. We are keen for persons who can speak on these topics to attend whether or not they are claimants.
4. We explain in the notice that the outcome of Te Tūāpapa o te Tika will be a paper in which the pou set out the matters traversed at the wānanga, and give the Tribunal the benefit of their views on the implications for this inquiry.

## Logistics

5. The wānanga will take place from **10am to 5pm** at venues in different parts of Te Ika a Māui/the North Island on four Saturdays in May and June 2023:
  - (a) Saturday, 6 May 2023 in Whakatāne at Mātaatua marae;
  - (b) Saturday, 13 May 2023 in Te Hiku o te Ika a Māui at Ōtiria marae;
  - (c) Saturday, 21 May 2023 in Ōtaki at Raukawa marae; and
  - (d) Saturday, 24 June 2023 in Tamaki Makaurau at Papakura marae.
6. The hau kāinga will pōwhiri manuhiri at **9am** on the day of each wānanga.
7. The pou and/or panel member(s) will lead the wānanga.

## Participation

8. As you see in the notice and as I said above, participation is not limited to claimants. We invite the assistance of claimants and their counsel in attracting the attendance of relevant others in the community where the events will be held. Our intention is to assemble all local knowledge on these questions of what is tika in terms of justice, and also in respect of running this inquiry.

9. Principally for the purpose of catering, but also to ensure that the planned venues are of a suitable size, we ask claimants and their counsel to help us ensure that those who plan to attend let the Registrar of the Tribunal know as early as possible. It is hard to know in advance how many will wish to attend. We would have liked to have circulated this memorandum-directions and the notice sooner, but it has taken time to tie down the logistics.
10. Intended participants may also seek further information from the Registrar. The contact details are in the notice.
11. The nature of the Te Tūāpapa o te Tika events is such that we invite the participation of lawyers as persons knowledgeable about tikanga, but not to speak on behalf of others. All those wishing to contribute kōrero to the wānanga speak for themselves about the tikanga that apply to the two topics set out in the notice.

### **A guide for kōrero**

12. The pou and members of the panel thought it would be helpful for those either intending to participate in one of the planned events or thinking about doing so, to have an idea of the kinds of kōrero we are expecting and are looking for. What follows is not intended to be prescriptive, but rather to act as a guide.
13. Our goal in Te Tūāpapa o te Tika is to arrive at an understanding of what mātauranga Māori will best guide us in thinking about the characteristics and practices of a justice system that is tika. We would like participants to direct their kōrero to addressing questions like these:
  - How was wrongdoing conceived in Māori communities of the past? What kind of behaviour was unacceptable, and why? How were wrongdoers treated? Who made the decisions, and how?
  - In that context, what was the role of the community? What was the role of the individual?
  - How much focus was there on the roots or causes of the wrongful behaviour?
  - Was there concern to look after the wrongdoer and/or the whānau? How was that expressed?
  - Was their concern to look after the victim(s) and/or the whānau? How was that expressed?
  - Can we synthesise concepts from the past? Can we apply them to create new possibilities for the present? If so, how?
  - Could/should the administration of justice provide for te whare tapawhā of Sir Mason Durie – hinengaro, whānau, tīnana, wairua? If so, how?
  - In the justice context, what is the role of the concepts of mana, manaakitanga, whakamā and ea?
  - As to process, is there a way that is tika that would allow this Tribunal to hear from claimants and move quickly to a report and recommendations?

- How do we look after witnesses to avoid trauma?

### **Accessibility provisions**

14. All Te Tūāpapa o te Tika wānanga will be livestreamed, but actual participation will be limited to those present at the venue.
15. We will send the link for livestreaming to those on the Wai 3060 distribution list. Tribunal staff will also liaise with the Department of Corrections to ensure those in prison can access the recordings of the events. There will be simultaneous Māori to English translations, live captioning, and New Zealand Sign Language interpretation at each event.
16. We arranged the event in Auckland on 24 June 2023 at Papakura Marae in response to a request on behalf of whānau whai kaha. The marae is near suitable accommodation, has reserved parking close by, flat grounds with an accessible entrance and exit, and a bathroom and room layout suited to service dogs and whānau wakatūru.

### **Funding available for claimants to attend Te Tūāpapa o te Tika**

17. You will all be aware of the content of our report in Whakatika ki Runga. In response, the Crown is putting in place a range of measures described in its memorandum of 17 March 2023, Wai 3060, #3.2.219. Some relate specifically to Te Tūāpapa o te Tika. Those intending to travel to Te Tūāpapa o te Tika events will want to contact the Ministry of Justice to ascertain exactly what is available to them and their co-claimants/supporters. The Crown's memorandum encourages parties to contact the Ministry of Justice for this purpose. The contact details are set out in the attached notice.
18. For your convenience, we attach the reimbursement form (which the Crown included in document Wai 3060, #3.2.219(b)) as an appendix to this memorandum-directions.

The Registrar is to send this direction to all those on the notification list for Wai 3060, Te Rau o te Tika: the Justice System inquiry.

He kupu ēnei nāku, otirā nā te Pae-Rukutātari nei.

**DATED** at Wellington this 3<sup>rd</sup> day of Āperira 2023



Judge Carrie Wainwright  
Presiding Officer

**WAITANGI TRIBUNAL**