

**Tomokia ngā tatau o Matangireia**

*Tākina te kawa, ko te kawa kia ihi  
Tākina te kawa ko te kawa kia wana  
Tākina te kawa, ko te kawa kia tika  
Tākina te kawa, ko te kawa kia pono  
Tākina te kawa, ko te kawa kia mau  
Tākina te kawa, ko te kawa kia ū*

Tākina te kawa, ko te kawa rā ia i takea mai i a Ranginui e tū iho nei, ka uhia iho ki runga i a Papatūānuku e takoto ake nei! He kawa ka horahia ki runga i tēnei wānanga hanga tūāpapa whakairinga whakaaro, tikanga here tangata, kaupapa hautū ara e koke whakamua ai te ao Māori.

Tātou i heke mai i ngā kāwai rangatira i kauhoratia ai tēnei motu taurikura mai tawhiti roa, i tawhiti pāmamao, i poua ai tōna kōrero, takoto te pai, takoto te pai.  
Kāti rā kia koutou ka toko ake ki te whakapūmau i te Mana Motuhake kua takoto hei takapau horanui mo Te Whakaputanga ā te Whakaminenga o ngā Rangatira o Aotearoa, i tāmāua ai ki ngā mātāpono o Te Tiriti o Waitangi hei paihere i a tāua i te Manawhenua me te Karauna o Ingarangi, rūmene mai rā tātou he mahi māu me timata.

He mea kia hua ai ko tōna mauri ake! Ko te mauri o runga, Ko te mauri o raro,  
He mauri Atua! He mauri Whenua! He mauri Tangata!  
He mauri ka tohia ki tenei kōwhiringa e āhei ai te iti me te rahi, ngā maunga kōrero, ngā awa whakahī, ngā moana whakaterere waka, ngā puna waiora o te motu, kia kotahi mai koutou, tomokia ngā tatau o Matangireia!

Tēnā kia hangā e tātou he Whare mā runga i ngā papa pounamu ā ō tātou tūpuna.

Ko tōna Tāhuhu ko Te Tiriti o Waitangi.

Ko te Pou Kaiāwha, ko te Whakaputanga ā ngā Rangatira o Niu Tīrani.

Ko te Pou Tokomanawa hei ngā Tikanga o taku Ao Māori.

Ko te Pou Tūārongo hei ngā Ture o te Motu.

Ko te Tekoteko o te whare nei kō Io Matua Kore.

Ko tōna Kōruru ko Ranginui e tū iho nei.

Ko te Mahau ko Papatūānuku e takoto ake nei.

Ngā Maihi, ko Te Whakaminenga Māori me te Whare Pāremata o Aotearoa.

Ko ngā amo, ko au ko te Tangatawhenua, ko koe ko te Tangata Tiriti.

Ko te Pare me whakairo ki te Mana Motuhake o ōku tūpuna me te Mana Kāwana.

Ko ōna kōrero, “tomo mai koutou nō tua i te taumata moana kia hangaia e tāua he āhuru mōwai mō te hunga ka whai muri mai”.

I roto, e whā ngā pou whakairo kei ia kokonga, hei hiki i te tuanui o te whare. I mua ko te Pou Taraiti me te Pou Taranui kei ia taha. I muri ko te Pou o te Tika me te Pou o te Whakapono. Koia ēnei ko ngā pou i hangaia ai te tūāpapa i noho ā iwi tahi ai tātou i tēnei motu.

Heoi anō rā, kei ahau kei te Tangatawhenua te taumata kōrero o te “Taraiti”, kei a koe kei te Tangata Tiriti te “Taranui”. Ko ngā kōwhaiwhai kei ngā heke o te whare, ko ngā mātāpono o Te Tiriti o Waitangi, tumu here i te iwi o Aotearoa kei tētahi taha, ko te Kawenata Nui o Ingarangi, te kaupapa here ā ture i te Karauna me tōna iwi ki tētahi.

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Waitangi Tribunal

**15 Dec 23**Ministry of Justice  
WELLINGTON

## He Kōrero Whakataki

E te Kaiwhakawā Matua, e ngā mema o te Tira Kōwhiri o Te Roopu Whakamana i te Tiriti o Waitangi nā koutou te wero, heoi anō rā, e whai ake nei ko te hua o te mānuka i hikina ake e mātou te hunga i tohia e koutou hei hanga tūāpapa mo te whare e nohoia ai e tēnei kōwhiringa. Heoi anō rā, nō mātou te maringa nui ki te tuku kupu whakataki hei hora i te mea kua oti i a mātou ki mua i ō koutou aroaro hei tokonga atu pea i tēnei kaupapa whakahira.

The challenge has been worthy as it was invigorating. It left us in awe of the potential for change that is momentous and inspiring. It directed us back to a future envisioned, that might allow us to reset the chimes of time and ring in another opportunity to deliver on the promise of nationhood signed in 1840 by two sovereign nations, which to date, remains unfulfilled.

The Tribunal established Pou Tikanga and Pou Ture with the task of proposing a tikanga-centred framework within which the Tribunal might conduct the Constitutional Kaupapa Inquiry, Wai 3300, and a process through which the possibilities for constitutional change and related claims might be considered, and through which other kaupapa inquiries might be conducted in the future. The framework we propose is built upon the construct of the whareniui. In this instant the house or whare, we endeavour to fashion can be viewed as “Matangireia” here upon this whenua, these lands. It is our ambition that the inquiry should inspire all involved in the inquiry to the highest reaches of endeavour, even unto the highest upper echelon or taumata of the heavens as our tūpuna perceived it.

“Tomokia ngā tatau o Matangireia” is the name brought forward for the inquiry as well as the process we seek to present. As a process it is an invitation to step over the threshold of the house we are building and by that action invoke customs and protocols shaped over countless generations that might guide the Tribunal in its engagement with claimants and other contributors to this inquiry. This naming also represents reclamation of an ancient name, Matangireia, which more recently has been ascribed to a parliamentary select committee room. Whilst the select committee room will continue as Matangireia, it is fitting that this name, Matangireia, finds further application and relevance to this inquiry.

This inquiry will find the Tribunal in the familiar territory of presenting itself in the peoples’ domain. Marae and whareniui are the most likely venues. The Tribunal has a long history of hearing claims on marae, and in whareniui, and of wānanga. We envisage that the inquiry will take the form of a wānanga from the outset. With that in mind we are confident that in the transition towards a more tikanga-centred approach to the way in which the inquiry is heard, nothing is lost in respect of legislative requirements. In presenting this framework and process, through this inquiry, the Tribunal and claimants can create the archetype upon which constitutional change can grow and prosper.

*Nō reira e ngā rangatira, i runga i ngā whakaaro o mātou i totoro ki te tārai i te āhua o te whare e manakotia nei e tātou katoa, he whare hei tohe i te rokohanga nui rawa a te ao Māori mai rāno i te orokōhanganga o ngā kawenata tapu i waitohua e o tātou tūpuna ēnei 183 tau ki muri. Toko atu rā koutou, tomokia ngā tatau o Matangireia.*

## Whakairinga Whakaaro – Constitutional Kaupapa Inquiry (Wai 3300)

This report builds upon the acknowledgements and statements provided above by outlining a tikanga-centred process to be instigated for the purposes of this Inquiry, Wai 3300. This process is to be known as “Tomokia ngā tatau o Matangireia”. The report builds upon the foundations or “kaupapa” of the whare, and in keeping with tikanga-centred processes, allows sufficient room for tangata whenua to determine the overall shape of that process. Tomokia ngā tatau o Matangireia responds to insights gleaned over time that suggests the need for recalibration to occur between “ture-centred” processes and “tikanga-centred” processes. The shift to a Constitutional Kaupapa Inquiry which by nature is thematic, inquires upon issues that affect tangata whenua and that are not necessarily specific to any one district. However, it is expected that wānanga into those inquiries will be led by the home people of each marae venue within their respective takiwā or rohe.

### Kaupapa - Inquiry Themes

This then leads us to the central themes of inquiry. From the outset, the panel, which comprises Pou Tikanga and Pou Ture, have been guided by confirmation of the following inquiry themes, which encompass:

- a) Tino Rangatiratanga, Mana Motuhake, Autonomy, and Self-governance
- b) Kāwanatanga
- c) Constitutional Legitimacy and Sovereignty
- d) Parliamentary Sovereignty and Systems
- e) Tikanga Tuku Iho me ngā Ture Pākehā
- f) Electoral Rights and Systems
- g) Local Government and Te Tiriti o Waitangi
- h) National Models of Māori Self-Government; and
- i) NZ Bill of Rights Act 1990 (NZBORA), United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Te Tiriti o Waitangi.

It is important to note here that the Tribunal as a function of its legal powers and as noted by Pou Ture, can commission Pou Tikanga to prepare evidence. This provision is consistent with tikanga, whereby important detail, narratives, accounts, and information are transmitted orally and predominantly by way of wānanga settings.

### Tikanga and Ture

In this regard we revisit the respective concepts of “ture” and “tikanga” as both terms are central to this report and to the key recommendation of instigating a wānanga process for hearings. In distinguishing between ture and tikanga, ture is a transliteration. A transliteration occurs where a word or term used predominantly in the English language is converted into a Te Reo Māori form based on sound and intonation, so that the converted word sounds like the English word and carries a similar meaning. The word “ture” is a transliteration of the Hebrew term “torah”. The concept of torah was understood to have had connotations with The Old Testament. As Christianity was introduced throughout Te Moana-nui-a-Kiwa in the early to mid-1800s, torah was seen to be indicative of Western rules and laws that are prescribed or imposed upon wider constituencies of people by a perceived higher level of authority or authoritative power.<sup>1</sup> This

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<sup>1</sup> In this context, we are conscious of the recent publication of the Study Paper of Te Aka Matua o te Ture / the New Zealand Law Commission entitled *He Poutama* (NZLC SP24).

is in contrast to indigenous concepts such as tapu and noa, mana, mauri, ihi, wehi and wana, whereby there is an immutable connection between the forces and energies of tangata (people) and the respective forces and energies of whenua (land), wai (bodies of water), rangi (sky), te kāhui tupua (the supernatural realm), te kāhui atua (the divine realm) and te kāhui ariki (the sovereign realm). By further contrast to ture, tikanga can be understood to be akin to sets of actions, practices or behaviours that are determined, shaped, and influenced by kaupapa tuku iho (guiding principles or values passed on from one generation to the next). Kaupapa tuku iho help to ensure that whānau, hapū, iwi and hapori can live and interact positively and harmoniously with one another, across the wider environment, and with a high level of conscious awareness of guiding principles of high importance and criticality to local collective identity or mana. Tikanga are therefore understood to emerge or arise from kaupapa as authentic and demonstrative expressions of kaupapa tuku iho. To offer one example, if the predominant kaupapa tuku iho is one of manaakitanga, one would expect to see expressions of manaakitanga manifest in certain situations. The marae in this regard offers an important example, whereby the process of manaaki manuhiri, particularly upon conclusion of the pōhiri, is demonstrated through endorsed sets of actions, practices and behaviours that are consistent with the principle of manaakitanga.

Of some contention is the extent to which modern post-colonial interpretations of tikanga may have been influenced through subsequent biblical and or judicial connotations such as “right or wrong”, “good or evil”, “truthful or sinful”. Often, the word “tika” is used and applied in such contexts. Irrespective of the extent to which more modern interpretations of tikanga may have evolved or are perceived, it is still possible to grasp hold of the central inference of tikanga, which in essence, are sets of kaupapa-informed actions, practices and behaviours that are endorsed and promoted by whānau, hapū, iwi and hapori. It is the people who determine the application of tikanga, and it is the people who decide whether tikanga remain relevant and applicable or not in any given set of circumstances. To this end, tikanga, unlike kawa (certain rituals and protocols) have a level of fluidity and flexibility. Kawa, by contrast, are enacted within the realm and domain of specific atua, known as an “Iho Atua”. During encounters between manuhiri and tangata whenua upon the marae ātea, the Iho Atua is derived through the mana of Tūmataunga. Kawa generally, are highly ritualised protocols with little room for adjustment or inaccuracy.

In terms of tikanga, perhaps the most recent and widespread example of tikanga being readily adapted was during the peak period of COVID 19 here in Aotearoa, where marae chose not to maintain the tikanga of hongī and harirū. Whilst that adaptation took some time to get used to, marae quickly became accustomed to the new tikanga which sought to best protect the wellbeing of all participants. As the overall risk and prevalence of COVID 19 has subsided, marae have deemed it appropriate to reinstate the tikanga of hongī and harirū. Indeed, the marae remains the most important cultural bastion of tikanga within Te Ao Māori, whereby all people are expected to interact and engage in ways that are *consistent* with tikanga. Within the context of the Constitutional Kaupapa Inquiry, the marae is also seen as the most appropriate venue for this process to be enacted.

It is also useful in this regard to consider other uses of the base word “tika”, such as “whakatika”, which implies to rise, to establish or to erect. There are well known narrative references to the term whakatika throughout many hapū and iwi accounts of the separation story of the primordial parents, Ranginui and Papatūānuku. “Ka whakatika mai a Tāne ki te whakawehewehe i ōna mātua, ka taea e ia” (Tāne arose to separate his parents and thus was successful). Whakatika, in this context, illustrates the active nature of tikanga and the way in

which tikanga emerge figuratively, and literally from the ground up, from kaupapa. Reference to tikanga in this way also encompasses the process and pattern of whaikōrero - of speakers rising, then others rising to add and respond to kaupapa. And this is consistent with wānanga, whereby participants take turns to whakatakoto or lay down their insights, thoughts, and suggestions.

Therefore, the shift for this Constitutional Kaupapa Inquiry from a principally ture-based process to more of a tikanga-based process is highly significant. The shift would emphasise tikanga-informed processes which in turn are an extension of kaupapa tuku iho. Our intention is towards lesser reliance upon litigiously adversarial and legalistic styles of hearing relevant inquiries, and deliberately prioritising a “wānanga” style. It is helpful to consider the distinction between the two systems. The “Westminster” judicial process as adapted in Aotearoa-New Zealand tends to be by nature, adversarial. The wānanga process works in an opposite fashion and is primarily constructivist by nature as opposed to reductionist. Of further importance is the transformative dimension of wānanga. Wānanga are not simply processes by which to reach consensus or agreement about a particular facet of emergent knowledge or mātauranga. Rather, wānanga embody tikanga-centred processes that imbue within all participants a commitment to a *transformative process*, thus taking participants through the associated phases of *Te Kore ki Te Pō ki Te Whaiao ki Te Ao Mārama*. Frameworks that deliberately draw upon tikanga, kaupapa, and wānanga in essence acknowledge potentiality and the processes needed to arrive at a point where māramatanga, or enlightenment, is sufficient for a transformative outcome to have emerged.

Wānanga tend often to be conducted under initial consensus and agreement that upon conclusion, a particular issue, challenge, or opportunity will have been sufficiently explored in order to arrive at an outcome or action (or set of outcomes or actions) that is unanimously endorsed. The judicial system, on the other hand, seeks to emphasise legal processes where contention, doubt, or a lack of sufficient evidence in legal terms can influence final outcomes. Legalistic and adversarial approaches, over time and on occasion, have tended to diminish the weighting and importance of whānau, hapū, and iwi oral traditions and narratives. In terms of marae settings, it is once again important to highlight that a wānanga is not a constituent part of the pōhiri process itself, however, kaikaranga and kaikōrero within the pōhiri may allude to the kaupapa or take of the wānanga. The pōhiri structure, again, is dictated by kawa, or ritual and protocols, pertaining to the local iwi, hapū and marae, and many kawa account for a degree of adversarial interaction. The rituals of pōhiri therefore are generally governed on the marae ātea within the authority of Atua, for example, Tūmataunga and to some extent Tāne.

There are of course some iwi, for example Te Ātiawa and Taranaki, where interaction is governed instead by the authority or mana of the Atua Rongo, in ways that are consistent with the values and principles of “rongomau” and “maungārongo”. In any case, the pōhiri is an important and necessary part of any marae encounter and provides the opportunity for the home people to layout to manuhiri their expectations for the wānanga that is to follow. Our Pou Tikanga support the inclusion of a tikanga-informed process for the Inquiry, whereby the marae is the centerpoint for the wānanga and that the wānanga process is the most appropriate way for associated kōrero to be presented. It allows tangata whenua the opportunity to set the shape for initial exchanges, and in doing so, ensures that the home people can whakatakoto, or lay down, the tone and context for the wānanga that is to follow the pōhiri.

## Wānanga

Here we are seeking a transformational change for how the Tribunal not only comes onto a marae, but how the whole inquiry is heard. The inquiry is a wānanga from the outset.

In terms of entering the whare, once inside, all participants will have already interacted and connected within the kawa of the pōhiri, including tikanga such as hohou te rongo, harirū, hongī and with tikanga associated with manaakitanga such as partaking in kai and so on. This then enables wānanga participants to enter the whareniui to participate in wānanga under the guidance and tikanga of the home people, and in a state of mauri tau. This of course will look somewhat different for each host marae as each has their own sets of unique and distinctive tikanga that reflect their own kaupapa tuku iho. In accordance with tikanga, the home people will set the kaupapa of the wānanga from the outset by inviting selected speakers from the marae to open the kōrero. It is up to the marae to determine the speakers, extending to all who may be nominated by the marae to kōrero.

Within the opening kōrero, it is expected that the terms of engagement for the wānanga will become more apparent. Within many whareniui, the kopaiti, or taraiti of the whare, is the part occupied by the home people, and kopanui, or taranui, is customarily the larger part of the whare left over to be occupied by manuhiri. For this process, Pou Tikanga have also discussed leaving “te roro o te whare” or the back end in the centre of the whare, to certain representatives of Pou Ture, in acknowledgement of their mana. The presiding officer and other Tribunal panel members, for example, may be located there alongside their key support people, including administrative and research staff, whilst lawyers, would be located in the kopanui or taranui side of the whare. Once the initial kōrero for the wānanga have been outlined and detailed by the opening speakers, it would be expected that all subsequent speakers would follow by contributing in constructive ways to the desired outcome of the wānanga. It is here that one would expect to see quite marked differences in the way that an outcome or consensus is reached. The wānanga setting prioritises what is known more commonly as “Te Whare Kōrero” or “Te Whare Wānanga”, in other words the house in which constructive, exploratory, and inquisitive kōrero takes place to fulfil the purpose or overarching goal of the wānanga. To this extent there is a high reliance on those guiding or overseeing the wānanga to ensure a positive and definitive outcome is reached. In wānanga settings this is generally the role of the person or people who open, facilitate, and close the wānanga (as discussed earlier).

The timeframe of the wānanga is best determined by the way in which each kōrero is presented and extended upon by subsequent speakers. This may take the course of a day and night, or something either side of that timeframe, but regardless, it is generally expected that participants will agree in principle to allow sufficient time for the wānanga to run its due course.

Embracing the wānanga concept for the whole inquiry, we are seeking transformative change in respect of all processes so that the Tribunal can intrinsically respect the mana of whānau, hapū and iwi. This includes questions as to how evidence is heard, who hears it, who records it, what happens to it. It also raises issues as to the nature of the Tribunal’s responsibility to listen, to see and to hear, for how the Tribunal conveys what it has heard and seen, and how the Tribunal’s report will be published.

## **He Kōrero Whakakapi**

In wānanga settings, and for this Constitutional Kaupapa Inquiry, once the desired outcome or goal of the wānanga has been reached or attained, participants will signal this in a range of ways that may also include karakia and waiata. Such gestures are ways of supporting the outcome and leading further endorsement through mediums such as karakia, waiata and so on, and these are important signs of tohu that the process has reached the stages of Te Whaiao ki Te Ao Mārama. It is then over to those overseeing the ture components of the inquiry to determine how those outcomes might be usefully considered.

*Tomokia ngā tatau o Matangireia* brings forward an important opportunity to give greater cognisance to tikanga so that the mana of kōrero tuku iho and kaupapa tuku iho can take greater precedence within the Tribunal's inquiries.

*Tomo mai koutou nō tua i te taumata moana kia hangaia e tāua he āhuru mōwai mō te hunga ka whai muri mai.*