

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

*He Tuhinga Ārahi Whānui tēnei i tukuna rā i raro
i te mana o Wāhanga 5(9) me (10) o te
Treaty of Waitangi Act 1975*



PAENGA-WHĀWHĀ 2024

E whakakapi ana tēnei *Tuhinga Ārahi* i ngā tuhinga ārahi e whai ake nei:

- ▶ ‘Mediation,’ 18 Mahuru 1990
- ▶ ‘Translations,’ 29 Pipiri 1991
- ▶ ‘Claim Terminology,’ 1 Hōngongoi 1991
- ▶ ‘Claim Priorities,’ 18 Hōngongoi 1991
- ▶ ‘Negotiations and Settlements,’ 22 Hereturikōkā 1991
- ▶ ‘State Enterprise and Education Lands,’ 5 Mahuru 1991
- ▶ ‘Procedure,’ 1 Whiringa-ā-rangi 1990
- ▶ ‘Relationships with Maori,’ 25 Huitānguru 1992
- ▶ ‘Legal Assistance,’ 25 Huitānguru 1992
- ▶ ‘Claims for the Return of State Enterprise, Education, Crown Forest and Railway Lands,’ 25 Huitānguru 1992
- ▶ ‘Casebook Method,’ Hereturikōkā 1996 (working draft)
- ▶ Ko ngā kapenga o mua katoa o te *Tuhinga Ārahi i ngā Tikanga me ngā Tukanga*, tae atu ki te kapenga kua whakahoutia i te marama o Hereturikōkā 2018.

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WĀHANGA 1: TE TĪMATANGA

TIROHANGA WHĀNUI

- 1.1 Ka ruku tātari te Rōpū Whakamana i te Tiriti o Waitangi ki ngā kerēme a ngāi Māori e pā ana ki Te Tiriti o Waitangi,¹ me ana mātāpono. He tūhāhā tana mana ā-ture i roto i Aotearoa. Kāhore ia i te mahihei kōti tautohe, ka mahi ia hei kōmihana ruku tātari e tuku ana i ngā tūtohutanga e pā ana ki te whakatinanatanga ā-ringa o Te Tiriti. E pērā ai, e herea ana te Taraipiunara kia aro ki ngā tuhinga reo Māori, reo Pākehā hoki o Te Tiriti, ā, mō ngā take o te Treaty of Waitangi Act 1975 ka riro i a te Taraipiunara te mana whakahaere kaupare ki te whakatau i te whakamāramatanga me te whakaaweawe o Te Tiriti e whakatinanahia ana i roto i ngā tuhinga e rua, me te whakatau i ngā take e puta ai i ngā rerekētanga o ēnei mea e rua.²
- 1.2 Kua whakawhanake te Taraipiunara i te ara mahi motuhake tauwhāiti e tika ana mō te āhua o ana mahi, ā, ko tēnei e whai ake nei he tuhinga ārahi ki ana tikanga, tukanga, whakahaere kerēme hoki. Heoi anō, mēnā e hiahia ana e ētahi āhuatanga, ka taea ngā tukanga, ngā tikanga tauwhāiti rānei e whakahuatia ana i konei, te panoni i ngā wā katoa e te Taraipiunara, mā te Hea, mā te Hea Tuarua, mā te Mana Whakahaere, mā tētahi mema rānei e mahi ana i raro i te kupu whakahau, me te mana whakahaere rānei o te Hea.
- 1.3 E whakakapi ana tēnei tuhinga ārahi i ngā tuhinga whakatau tikanga e rārangi ana i roto i te āpitihanga, ā, me pānui ngātahi me te ture e noho ana hei mana urungi, tae atu ki te Commissions of Inquiry Act 1908,³ te Treaty of Waitangi Act 1975, me ētahi atu whakaturetanga e whakamana ana i ngā whakataunga kerēme Tiriti.

1. Mō ngā take o te *Tuhinga Ārahi i ngā Tikanga me ngā Tukanga*, ina tuhia ana ‘Te Tiriti o Waitangi’ e hāngai ana ki ngā tuhinga e rua, hāunga he kōrero kē.
2. E whakatakotohia ana ngā tuhinga e rua i roto i te āpitihanga tuarua o te Treaty of Waitangi Act 1975.
3. Pērā i te wehenga 38(2) o te Inquiries Act 2013 me te āpitihanga 1, ko te Commissions of Inquiry Act 1908 te ture onāiane e hāngai ana ki te Rōpū Whakamana i te Tiriti o Waitangi.

TE WHĀINGA MATUA ME TE WAWATA

- 1.4 Ko te whāinga matua a te Rōpū Whakamana i te Tiriti o Waitangi kia whakapūmau i ngā mātāpono o Te Tiriti.⁴ Ka pēnā mā te mahi hei wānanga matua kia rongu, kia pūrongo hoki ki ngā kerēme Māori ki te Karauna e whakapae ana i ngā takahitanga o Te Tiriti, me te tāpae i te tukanga ‘pono me te whakamārie’ me ngā otinga tapatahi ki ngā kerēme.⁵ Ka tāpae ki te tatūtanga mau roa, tōkeke hoki o ngā kerēme o Te Tiriti me te whakahaumanu me te tautoko i te rangapū i waenga i te Māori me te Karauna. Ina mahi pērā ana, ka whai te Taraipiunara kia koke whakamua i te oranga o te hononga Māori–Karauna, ā, kia toitū hoki te papanga ā-tōrangapū, ā-pāpori, ā-ahurea hoki o Aotearoa.
- 1.5 Ko te wawata a te Rōpū Whakamana i te Tiriti o Waitangi ina whakamārire ai ngāi Māori me te Karauna, i raro i te wairua o ngā mātāpono o Te Tiriti o Waitangi, ka whakamanatia rātou ki te tūhono kia waihanganga i te āpōpō mā ngā tāngata katoa o Aotearoa. E whakapuakina ana tēnei i roto i te whakataukī a te Taraipiunara i titoa e Tā Hirini Moko Mead:

Te whakawhiti i tō tātou inamata ki te anamata hou

Tākiri te haeata, ka ao, ka awatea, horahia mai ko te ao mārama

Tākiri te haeata, ka ao, ka awatea, horahia mai ko te ao mārama

TE KĀKANO RUATANGA

- 1.6 Ka mahi te Rōpū Whakamana i te Tiriti o Waitangi hei rōpū kākano rua. He mema Māori, he mema tauwiwi hoki, e kopoua ai me te aro atu ki ‘te rangapū i waenganui i ngā rōpū e 2 o Te Tiriti’ me ō rātou ake āhuatanga whaiaro me ō rātou ‘mōhiotanga, wheako hoki mō ngā āhuatanga rerekē he nui te tūponotanga ka puta ki mua ki te Taraipiunara.’⁶ Me kua e iti iho i te kotahi te mema Māori i reira i te wā e noho ana te Taraipiunara.⁷ I te nuinga o te wā ka whaimōhio te tukanga o te Taraipiunara i roto i ngā ruku tātari. Ka āhei te tuku i ngā taunakitanga me ngā tāpaetanga (ā-tuhi, ā-waha hoki) ki te reo Māori, ki te reo Pākehā hoki (tirohia *ngā kōwae* 6.23–6.26).

4. He ōrite te whāinga matua me te wawata ki te whakahuatanga i roto i te Rōpū Whakamana i te Tiriti o Waitangi, *Strategic Direction, 2014–2025* (Te Whanganui-a-Tara: Rōpū Whakamana i te Tiriti o Waitangi, 2014).

5. E aro ana ki te matapaki i roto i *Wairarapa Moana ki Pouākani Inc v Mercury NZ Ltd* [2022] NZSC 142 ki [84], [137], e noho tūhāhā ana te Taraipiunara ki te mahi i tēnei mahi mā ana mema, ko ētahi he mātanga, ā, he hōhonu ō rātou māramatanga ki ngā mātāpono hāngai; ahakoa mātāpono Rātō mai, tikanga Māori mai rānei.

6. Treaty of Waitangi Act 1975, s 4(2A).

7. Ki te āpitihanga 2

WĀHANGA 2: TE TUKU I TE KERĒME

HE AHA TE KERĒME?

2.1 Ka whakatakoto a wehenga 6 o te Treaty of Waitangi Act 1975 he aha te kerēme. Ka kī te wehenga ririki (1):

- (i) Where any Maori claims that he or she, or any group of Maoris of which he or she is a member, is or is likely to be prejudicially affected—
 - (a) by any ordinance of the General Legislative Council of New Zealand, or any ordinance of the Provincial Legislative Council of New Munster, or any provincial ordinance, or any Act (whether or not still in force), passed at any time on or after 6 February 1840; or
 - (b) by any regulations, order, proclamation, notice, or other statutory instrument made, issued, or given at any time on or after 6 February 1840 under any ordinance or Act referred to in paragraph (a); or
 - (c) by any policy or practice (whether or not still in force) adopted by or on behalf of the Crown, or by any policy or practice proposed to be adopted by or on behalf of the Crown; or
 - (d) by any act done or omitted at any time on or after 6 February 1840, or proposed to be done or omitted, by or on behalf of the Crown,—
and that the ordinance or Act, or the regulations, order, proclamation, notice, or other statutory instrument, or the policy or practice, or the act or omission, was or is inconsistent with the principles of the Treaty, he or she may submit that claim to the Tribunal under this section.

2.2 E herea ana tēnei wehenga ririki i te toenga o wehenga 6 me ētahi atu whakaritenga ā-ture, ā, me pānui ngātahi ērā me tēnei. Kia mōhio mai nā ētahi whakaturetanga e whakamana i ngā whakataunga Tiriti e here ana i te mana ā-ture o te Taraipiunara ki te ruku tātari ki ētahi take tauwhāiti.⁸

TE WHAKAMĀRAMATANGA O 'KERĒME O MUA', 'KERĒME O NĀIANEI'

2.3 Ka ruku tātari te Taraipiunara ki ngā tūmomo kerēme e rua: ngā kerēme o mua me ngā kerēme o nāianei.

2.4 E whakamāramahia pēneitia ana te 'kerēme Tiriti o mua' i raro i te wehenga 2 o te Treaty of Waitangi Act 1975:

8. Hei tauria, te Ngāi Tahu Claims Settlement Act 1998.

a claim made under section 6(1) that arises from or relates to an enactment referred to in section 6(1)(a) or (b) enacted, or to a policy or practice adopted or an act done or omitted by or on behalf of the Crown, before 21 September 1992.

- 2.5 Ko te 'kerēme Tiriti o nāianeī' tētahi kerēme e puta mai ana, e hāngai ana rānei ki tētahi whakaturetanga i kōrerotia i roto i te wehenga 6(1)(a), (b) rānei i whakaturengia, tētahi kaupapa here, mahi rānei i whakapūmautia,⁹ tētahi mahi i mahia, i mahue te mahi rānei e te Karauna, e tētahi māngai o te Karauna rānei i muri iho i te 21 o Hepetema 1992.

NGĀ TEPENGA KI NGĀ KERĒME E TUKUNA ANA KI TE TARAIPUNARA

- 2.6 Me aro atu tētahi Māori, tētahi rōpū Māori rānei e hiahia ana ki te tuku i te kerēme ki te Taraipiunara ki ngā tepenga ā-ture:

- (a) I muri iho i te 1 o Hepetema 2008, kāore e taea e tētahi Māori te tuku i te kerēme ki te Taraipiunara mēnā he kerēme o mua taua kerēme, te whakahou rānei i te kerēme i tukuna kētia mēnā ehara taua kerēme i te kerēme Tiriti o mua, kāore i roto rānei i taua kerēme tētahi kerēme Tiriti o mua, mā te tāpiri i te kerēme Tiriti o mua.¹⁰
- (b) Kāore e taea e te Taraipiunara te tuku tūtohu kia whakahokia te puritanga Māori o tētahi whenua tūmataiti, te whiwhi a te Karauna i tētahi whenua tūmataiti.¹¹
- (c) Kāore e taea e te Taraipiunara te ruku tātari ki te hī ika arumoni, ngā tauranga ika arumoni rānei me ētahi whakaturetanga e hāngai ana. E tāpirihia ana hoki te whakaaetanga whakataunga take i waenga i te Karauna me ngāi Māori i te rā 23 o Hepetema 1992.¹²
- (d) Kāore e taea e te Taraipiunara te ruku tātari ki tētahi Pire i whakaurua ki te Whare Pāremata hāunga i tukuna te pire ki te Taraipiunara e ai ki te wehenga 8 o te Treaty of Waitangi Act 1975.¹³
- (e) Kāore hoki e taea e te Taraipiunara te ruku tātari, te whakatau otinga rānei e pā ana ki ngā whakaturetanga i rārangihia i roto i te āpitianga 3 ki te Treaty of Waitangi Act 1975.¹⁴
- (f) Kāore te Taraipiunara e whai ana i te mana ā-ture ki te tūtohu i te utu paremata, i te whakahoki rānei i te puritanga Māori o te

9. Ka taea te tāpiri ki te kerēme o nāianeī ngā whakapae e pā ana ki te haerenga tonutanga o te kaupapa here, te mahi rānei i whakaurua i mua i te 21 o Hepetema 1992.

10. Treaty of Waitangi Act 1987, wehenga 6 AA(1).

11. Kei te wehenga 6(4A).

12. Kei te wehenga 6(7).

13. Kei te wehenga 6(6).

14. Kei te wehenga 6(8)(a).

whenua e pā ana ki ngā whenua i raihanatia (i raro i te tikanga o te Crown Forest Assets Act 1989) ki te takiwā o Ngāi Tahu Whānui.¹⁵

- 2.7 E herea ana ngā kerēme katoa i rēhitiatia e te Rōpū Whakamana i te Tiriti o Waitangi ki ngā tepenga ā-ture i roto i te Treaty of Waitangi Act 1975.

MĀ WAI TE KERĒME E TUKU?

- 2.8 Ka whaimana tētahi Māori, tētahi rōpū Māori rānei, te tuku i te kerēme ki te Taraipiunara i raro i te Treaty of Waitangi Act 1975.¹⁶ Kāore he tikanga e whakature ana i te whakaaetanga a te iwi; otirā, me rongō te Taraipiunara ki te kerēme o tētahi tangata takitahi, o tētahi whānau, o tētahi hapū rānei, ahakoa te whakahē a ētahi atu tangata takitahi, whānau, hapū rānei.
- 2.9 Ahakoa kāore e taea te mōtika ā-ture ki te tuku kerēme te whakahē mēnā he Māori ngā kaikerēme, ka werohia pea te mōtika o aua kaikerēme kia tū hei māngai mō ētahi atu Māori. Ka aro atu pea te Taraipiunara ki aua wero, engari, kia mahia ana mahi, i te nuinga o te wā kāore e hiahiatia ana kia whakatau i ngā take māngai. Ka nui mēnā i tukuna te pānui tika ki ngā tāngata katoa, ā, ka whai wāhi rātou kia rangona. Nā reira, ka pānui te Taraipiunara i te kerēme ki ētahi atu tāngata e whakaarohia ana e ia ka whaipānga pea, ka pāngia rānei me ngā rōpū whakahaere hoki e pāngia ai pea.
- 2.10 Hei aha koa, kei roto i te mana ā-ture matawhānui o te Taraipiunara kia tūtohu ki te Karauna ngā tāngata e tika ai kia tae ki ngā hui whakawhiti kōrero whakataunga take, nā runga anō i te wheako o te Taraipiunara ki te whakarongo ki te kerēme me te mōhiotanga ki ngā rōpū whaipānga me tō rātou tūnga. He rerekē tēnei ki te kawenga a te Taraipiunara, ina tuku ana i ngā tūtohutanga whai mana kia whakahokia ngā whenua Ngahere Karauna i raihanatia, ngā whenua rānei i whakamaharatia i raro i ngā wehenga 8A ki te 8HJ o te Treaty of Waitangi Act 1975, kia tautuhi i te Māori, i te rōpū Māori rānei hei whiwhi i aua rironga.

TE TUKU I TE KERĒME

Tukanga

- 2.11 Ka āhei ngā kaikerēme te tuku kerēme o nāiane i ngā wā katoa. I muri i te 1 o Hepetema 2008, kāore e taea ngā kerēme o mua te tuku ki te Taraipiunara (tirohia *kōwae 2.6*).¹⁷

15. Kei te wehenga 6(8)(b).

16. Kei te wehenga 6(1).

17. Treaty of Waitangi Act 1987, wehenga 6AA(1). Waihoki, kei pōhēhētia, e kōrero ana tēnei rerenga kōrero ki te tuku i ngā kerēme hou rawa, kua ko te whakatakoto i ngā panoni ki ngā kerēme onāiane.

2.12 I te nuinga o te wā, me tuku ngā kerēme ki te Rēhita o te Taraipiunara mā te imēra ki w.T.Registrar@justice.govt.nz.¹⁸ Ko te tūmanako a te Taraipiunara kia whiwhi ki ngā kerēme mā te imēra. Heoi anō, ka taea e ngā kaikerēme te tuku i te kerēme mā te pōhi ki te wāhi noho e whai ake nei:

Te Rōpū Whakamana i Te Tiriti o Waitangi
DX SX 11237
Te Whanganui-a-Tara
Aotearoa

2.13 Me waitohu te kerēme e ngā kaikerēme, e tana rōia rānei.

2.14 Kāore he utu kia tuku i te kerēme, ā, kāore he puka tonu i tūtohua, engari me tutuki ngā kerēme i ngā paearu i whakatakotohia ki wehenga 6(1) o te Treaty of Waitangi Act 1975 (pērā i te herenga i raro i ētahi atu whakaritenga ā-ture). Kei runga i te pae tukutuku a te Taraipiunara tētahi puka kerēme tauira,¹⁹ ā, ka āhei te Rēhita te whakarato ki te kaikerēme, tana rōia rānei ki ētahi atu mōhiohio, ārahi hoki mō te tuku i te kerēme.

2.15 Kāore he herenga kia whakaotia te rangahau i mua i te tuku i te kerēme. Heoi anō, ka uiuitia pea ngā kaikerēme kia whakarato i ētahi atu mōhiohio mēnā kāore i te rawaka ngā mōhiohio i roto i te tauākī whakaraupapa nawe kia whakamanahia te rēhita.

2.16 Ina rēhitatia tētahi kerēme, ka whakaritea tētahi tohutoro e mōhiotia ana ki te ‘nama Wai’. Ka whakamahia anake te ‘nama Wai’ hei tautuhi i te kerēme. Ahakoa i whakaritea he ‘nama Wai’, ehara tēnei i te kōrero mō te tika o te kerēme, mō te raukaha māngai rānei o ngā kaikerēme kia tuku i te kerēme.

Whakamāramatanga o te ‘tuku’

2.17 E ai ki te Taraipiunara kua ‘tukua’ te kerēme ina whiwhi ai te Taraipiunara ki te kerēme. Ka whiwhia ngā kerēme katoa mā te imēra, mā te pōhi rānei i ngā wā mahi o te Taraipiunara, ā, e pērā ai te whakaritea o te rā whiwhi. Kāore i tukuna te kerēme i mua i te wā i whiwhia e te Taraipiunara.

NGĀ PANONITANGA KI TE KERĒME

2.18 Ki te kore e whakahau kē te Taraipiunara, ka āhei ngā kaikerēme te panoni i te kerēme i ngā wā katoa, tae noa ki te wā kua whakawākia, kua hipa rānei te wā kati kia whakatakoto i ngā whāititanga o te tauākī wha-

18. E hāngai ana ngā herenga whakatakoto a te Taraipiunara e whakahuatia ana ki *kōwae 5.1* ina hāngai ana.

19. <https://waitangitribunal.govt.nz/claims-process/make-a-claim>.

karaupapa.²⁰ Ina hiahia ana ngā kaikerēme te panoni i te kerēme i mua i te whakawākanga, i muri iho rānei i te wā kati kia whakatakoto i ngā whāititanga o te tauākī whakaraupapa, e hiahiatia ana te whakaaetanga a te Taraipiunara.

- 2.19** I muri iho i te 1 o Hepetema 2008, kāore e taea e tētahi Māori te tuku i te kerēme ki te Taraipiunara mēnā he kerēme o mua, e tāpirihia ana rānei he kerēme o mua; tērā rānei te whakahou i te kerēme i tukuna kētia ki te Taraipiunara mēnā ehara taua kerēme i te kerēme Tiriti o mua, kāore i roto rānei i taua kerēme tētahi kerēme Tiriti o mua mā te tāpiri i te kerēme Tiriti o mua.²¹
- 2.20** Ka taea te panoni tētahi tauākī whakaraupapa kia tauwhāiti ake, kia whakauru rānei i ētahi atu kerēme o nāianei mō te ruku tātari hāngai e whai wāhi atu ana te kerēme, i ngā wā katoa (ahakoa i tukuna te kerēme i mua, i muri iho rānei i te 1 o Hepetema 2008).
- 2.21** Ka taea ngā kerēme o mua i tukuna i te 1 o Hepetema 2008, i mua i taua rā rānei, te panoni i te katoa i raro i te wehenga 6AA o te Treaty of Waitangi Act 1975.²²
- 2.22** Ina tuku ana te rōia o te kaikerēme i ngā panonitanga o te tauākī whakaraupapa, me tuku hoki rātou i te manatu e whakatakoto ana i te whakaaweawe tūturu o te panonitanga o te tauākī whakaraupapa, mēnā e tāpiri ana te panonitanga i ētahi kerēme hou, e kapi katoa ana rānei i ngā putanga o mea, me pānui ngātahi rānei me ētahi atu panonitanga o te tauākī whakaraupapa, he whakaranunga rānei o ngā take.
- 2.23** Ina whakatau ai te Taraipiunara kāore i te mārāma mēnā he kerēme o mua, he kerēme onāianei rānei tētahi kerēme i tukuna i mua i te 1 o Hepetema 2008, ka whakaaro te Taraipiunara he kerēme o mua, he kerēme onāianei hoki. Ka taea te panoni tētahi kerēme kia tāpiri i ētahi atu taipitopito o mua.
- 2.24** Hāunga i whakawhiti te mana whakahaere kia whakahaere i te kerēme e te/ngā kaikerēme taketake, i te nuinga o te wā ka rēhita anake te Taraipiunara i te panoni ki te kerēme mēnā i waitohua e te tangata takitahi, ngā tāngata takitahi rānei i tuku i te kerēme taketake, e tō rātou rōia rānei. Ki te hiahia te(ngā) kaikerēme te whakamutu i te whakahaere o tētahi kerēme, ka āhei te(ngā) kaikerēme i ngā wā katoa te whakawhiti i te mana whakahaere ki te whakahaere i te kerēme ki (t)ētahi atu tāngata, mēnā e whakatutuki ai (t)aua tāngata i ngā herenga ā-ture (tirohia *ngā kōwae 2.8–2.10*).

20. Hāunga ngā mea e whakarārāngihia ana i roto i ēnei kōwae, e herea ana te āhua o te panoni i te tauākī whakaraupapa e te 'whakatōpūtanga, whakahiatotanga, me te māraurautanga' – tirohia *kōwae 3.20–3.25*.

21. Treaty of Waitangi Act 1975, wehenga 6AA(1).

22. Kei te wehenga 6AA(2).

2.25 Ina mate ai tētahi kaikerēme, ā, kāore i te mārāma nō wai te mana whakahaere kia whakahaere i te kerēme, ka mahi tahi te Taraipiunara me te/ngā rōpū kerēme, te rōia hoki/rānei ki te tautuhi i ngā kaikerēme i tapaina houtia, i tēnā kēhi, i tēnā kēhi, ā, ka whakaae pea ki te whānuitanga o te taunakitanga e tika ana ki te tautuhi i te tuakiri o ngā kaikerēme i tapaina houtia.

NGĀ KERĒME E PĀ ANA KI TE WHENUA TŪMATAITI

2.26 Ka whakamāramahia e te wehenga 2 o te Treaty of Waitangi Act 1975 te ‘whenua tūmataiti’ mō ngā take o taua Ture. Ka āhei ngāi Māori te tuku kerēme e pā ana ki te whenua tūmataiti, ā, ka āhei te Taraipiunara te ruku tātari ki aua kerēme.

2.27 Heoi anō, kāore e taea e te Taraipiunara te tuku tūtohu kia whakahokia te puritanga Māori o tētahi whenua tūmataiti; te whakawhiwhi rānei a te Karauna i te whenua tūmataiti. E herea ana tēnei tepenga ki ngā wehenga 8A ki te 8H me te 8HJ o te Treaty of Waitangi Act (e hāngai ana ki te mana o te Taraipiunara ki te whakaputa i ngā tūtohutanga whai mana mō te whakahokinga o ngā whenua i waitohungia – tirohia *ngā kōwae* 3.57–3.59).

NGĀ TONO KIA KAUA TE WHENUA, TE PĀNGA WHENUA RĀNEI E HEREA ANA KIA TĀMATATIA – WĀHANGA 8D O TE TREATY OF WAITANGI ACT 1975

2.28 Ko te kaupuri whenua, pānga rānei ki te whenua, e herea ana kia tāmataia ina tūtohua e te Taraipiunara, e āhei ana te tonono i raro i te wehenga 8D o te Treaty of Waitangi Act 1975 ki te tūtohutanga a te Taraipiunara kāore e herea ana te katoa, tētahi wāhanga o te whenua, kia tāmataia. E whakahuatia ana e te tuhinga whakatau tikanga i te *Tāpiritanga G* tēnei tukanga.

TE WHAKAORANGA, TE UTU PAREMATA RĀNEI

2.29 I te tīmatanga o tētahi ruku tātari, kāore te Taraipiunara, i te nuinga o te wā, e here ai i ngā kaikerēme kia tino kōrero i te whakaoranga, te utu paremata rānei e rapua ana ina whai kiko te kerēme. Heoi anō, e kawataua ana te Taraipiunara i ngā kaikerēme kia kōrero mēnā rānei kei roto i te whakaoranga e rapua ana te hokinga mai o ētahi whenua, pānga ki te whenua rānei, e āhei ana te Taraipiunara te whakatau i te tūtohutanga whai mana.²³

2.30 Ka āhei te whakapuaki whānui, tauwhāiti rānei tētahi kerēme whenua pērā. Hei tauira:

23. Tirohia te Treaty of Waitangi Act 1975, wehenga ririki 8A–8H.

- (a) (a) 'e rapua ana te tūtohutanga i raro i ngā wehenga 8A ki 8HJ o te Treaty of Waitangi Act 1975 mō te whakahokinga o ngā whenua hinonga Kāwanatanga, mātauranga, ngahere Karauna, whenua rerewē hāngai katoa ki . . . [*Whakaahuatia te wāhi*]; tērā rānei
 - (b) (b) 'e rapua ana te tūtohutanga i raro i ngā wehenga 8A ki 8HJ o te Treaty of Waitangi Act 1975 mō te whakahokinga o . . . [*Whakaahuatia ngā whenua tauwhāiti*].
- 2.31** I tua atu i tōna mana ki te whakarite i ngā tūtohutanga whai mana e pā ana ki ēnei whakarōpūtanga o te whenua, kāore ngā tūtohutanga o te Taraipiunara e here ai i te Karauna.

WĀHANGA 3: TUKANGA WHĀNUI

TUKANGA MĀ TE RUKU TĀTARI

- 3.1** He rōpū mātanga te Rōpū Whakamana i Te Tiriti o Waitangi, ā, e kopoua ana ana mema mō ō rātou mātanga, mōhiotanga hoki ki ngā take he nui te tūponotanga ka whakaputaina i roto i ngā kerēme e tukuna ana ki taua Taraipiunara. He kōmihana ruku tātari tana mahi, ā, ko ana whakahaere-nga ā-ture mā te ruku tātari me te pūrongo. Ko tana mahi matua kia ruku tātari ki ngā kerēme i tukuna ki a ia mā ngāi Māori i raro i te wehenga 6 o te Treaty of Waitangi Act 1975 me te whakatau mēnā e whai kiko ana.
- 3.2** Ina whakatau te Taraipiunara e whai kiko ana tētahi kerēme, ka tūtohu pea ki te Karauna me mahi tētahi mahi kia tuku utu paremata mō te whakahāweatanga, kia whakakore rānei i te whakahāweatanga, kia kaua ētahi atu tāngata e pāngia pērā anōtia ā muri atu. Ki tā te Taraipiunara ina whakaurua mai tētahi kerēme ki te rēhita, he kerēme e ruku tātarihia ana.
- 3.3** He mana whakahaere ā-ture whānui tō te Taraipiunara ki te whakaurite i ōna ake tukanga, ā, ka āhei te whakahaere i tōna ake rangahau. Ina pūrongo ana i ngā kerēme, e rapu ana kia whakaputa i te pūrongo whānui, whaimana hoki me te whakarato i ngā tūtohutanga kia whaimōhio te Karauna, ā, kia arahina te Karauna i te whakatika i tētahi whakahāweatanga i kitea e te Taraipiunara – ahakoa mā te utu paremata, te whakahou ā-ture, ā-kaupapahere rānei, ētahi atu mahi whakatika rānei. Kia whakatutuki i tēnei, e whai ana ngā pūrongo a te Taraipiunara ki te tutuki i ngā tūmanako a ngā kaikerēme, ngā Minita o te Karauna hāngai, te hunga tūmatanui, otirā ngā whakatipuranga e heke mai nei, kua uruparehia ngā kaupapa katoa me mātai.
- 3.4** Ka whāia e te Rōpū Whakamana i te Tiriti o Waitangi i ngā tikanga o te matatika tūturu kia whakatūturu e whiwhi ai te hunga e āhei ana te tū ki tōna aroaro, me ngā tāngata katoa, i te nohoanga tōkeke. Heoi anō, kāore ngā tukanga e whakamahia ana ki ngā kōti matawhānui e hāngai ana i ngā wā katoa ki te mana ā-ture tūhāhā o te Taraipiunara.

WHAKARŌPŪTANGA RUKU TĀTARI

- 3.5** Ka whakahaere te Taraipiunara i ngā ruku tātari kia whaiwhakaaro ki ngā kerēme – tirohia *ngā kōwae 3.8–3.14*. He rerekē ngā ara e whakarōpūtia ai ngā ruku tātari. Ko ngā whakarōpūtanga e whakamahia ana e te Taraipiunara i te nuinga o te wā ko ngā ruku tātari ā-rohe, ngā ruku tātari ā-kaupapa, ngā ruku tātari ohotata, me ngā ruku tātari whakatika.

- 3.6 Ka marohi te Taraipiunara i muri i te aro atu ki te tohutohu a ngā kaimahi, ā, ka arotake ā-tau he pēhea e tuari i te rangahau me ētahi atu rauemi ki ngā kerēme me ngā ruku tātari i raro i te *Ahunga Rautaki 2020* a te Taraipiunara. Ka panoni pea te Taraipiunara i ana whakaarotau e pā ana ki ngā āhuatanga o te wā, i muri iho rānei i te rongō i ngā kaikerēme e rapu ana kia whakaarotauhia anōtia.
- 3.7 I te mutunga iho ko te āhua o te hanga o te ruku tātari e whakataua ana e te paewhiri a te Taraipiunara, engari me te aro atu ki ngā whakaaro o te hunga kaikerēme, Karauna hoki.

Ngā ruku tātari ā-rohe

- 3.8 I roto i ngā ruku tātari ā-rohe, ka whakarōpū te Taraipiunara i ngā kerēme o mua me ngā kerēme o nāianei kia whakawākia i te wā kotahi i roto i ngā rohe whenua e kīia ai ngā takiwā ruku tātari. I ētahi wā ka whakawākia ngā kerēme o nāianei e puta mai ai i ngā kerēme tūāpapa takiwā ki ngā ruku tātari ā-kaupapa, ohotata rānei.
- 3.9 Tirohia *Tāpiritanga C* e pā ana ki te tukanga a te Taraipiunara mō ngā ruku tātari ā-rohe.

Ngā ruku tātari ā-kaupapa

- 3.10 I roto i ngā ruku tātari ā-kaupapa, ka whakarōpūtia e te Taraipiunara kia ruku tātari i te wā kotahi ngā kerēme e pā ana, e hāngai ana rānei ki tētahi kaupapa tauwhāiti, arā, he kaupapa hira ā-motu e whakaaweawe ana i ngāi Māori katoa, tētahi wāhanga o ngāi Māori ki ngā āhua ōrite, ā, kāore anō kia tino whakawākia, pūrongohia, whakatauhia rānei.
- 3.11 Ko ētahi tauira o ngā ruku tātari ā-kaupapa ko ngā ruku tātari mō ngā Military Veterans, ngā Ratonga me ngā Putanga Hauora, me te kaupapa Mana Wāhine. E tāpirihia ana te manatu a te Hea e pā ana ki te hōtaka ruku tātari ā-kaupapa ki *Tāpiritanga B*, ā, ka whakahuatia te hōtaka ruku tātari ā-kaupapa a te Taraipiunara me te whakaraupapatanga e whakaritea ana.

Ngā ruku tātari ohotata

- 3.12 Ina whakatau te Taraipiunara ki te ruku tātari ohotata ki tētahi kerēme, he rōpū kerēme, te wāhanga rānei o tētahi kerēme, he ruku tātari ohotata tēnei. Ka tīmata ngā ruku tātari pērā ki te whakataunga ki te whakamana i te tono ki te Taraipiunara mō te nohoanga ohotata. Ka whakatakotohia te tukanga tono ki *ngā kōwae 3.35–3.38*. Ka whakamana te Taraipiunara i te tono mō te ruku tātari ohotata mō ngā kaupapa tino rerekē.

Ngā ruku tātari whakatika

- 3.13 Ka tū te ruku tātari whakatika ina whakatau te Taraipiunara he whai kiko tētahi kerēme, ētahi kerēme rānei. Ina kitea e te Taraipiunara e whai

kiko ana tētahi kerēme i tukuna mai i raro i te wehenga 6 o te Treaty of Waitangi Act 1975, ā, e whakaaro ana he mea tika i runga anō i ngā āhuatanga o te kēhi, ka āhei te Taraipiunara te tūtohu ki te Karauna me mahi kia hoatu utu paremata mō te whakahāweatanga, kia whakakore rānei i te whakahāweatanga kia kua ētahi atu tāngata e pāngia pērā anōtia ā muri atu.

- 3.14** Ki te pērā, ka āhei ngā kaikerēme te tonono ki te Taraipiunara kia whakatau i ngā tūtohutanga whānui, tērā rānei mēnā e tika ana, ngā tūtohutanga whai mana e pā ana ki ētahi whakarōpūtanga whenua. E āta whakamāramatia ana tēnei ki *ngā kōwae* 3.57–3.59. Tirohia hoki *ngā kōwae* 3.31–3.34 mō te tonono mō te ruku tātari whakatika ohotata.

TE WHAKAAROTAU

Te whakaarotau o ngā kerēme mō te ruku tātari

- 3.15** He rerekē ngā āhuatanga e puta ai te whakaarotau. I ngā wā i whakamahi te Taraipiunara i taua kupu i roto i te ruku tātari ā-rohe, ā-kaupapa rānei, ka noho whakaarotau ētahi take, kerēme rānei mō te nohoanga me te pūrongorongo. Kei te paewhiri o te Taraipiunara te kōwhitinga me pēhea, āhea hoki tēnei. He rerekē tēnei ki te tonono whakaarotau ina rapu ana te kaikerēme kia noho whakaarotau tana kerēme kia whakawākia e te Taraipiunara, ā, kāore anō kia uru ki te ruku tātari.
- 3.16** Ina whakarite ana kia whakamana i te whakaarotau ki ngā kerēme e whakaputa ana i tētahi take tauwhāiti, kia kua rānei e whakamana, ka āhei te Taraipiunara te aro atu ki:
- ▶ te rite o ngā kaikerēme kia ahu whakamua;
 - ▶ te wā e noho ana te kerēme ki te rēhita;
 - ▶ te wāteatanga o te wā nohoanga e taea ai e ngā āputa ki te whakawākanga o ngā ruku tātari hohe; me
 - ▶ ētahi atu āhuatanga hāngai.
- 3.17** Ina rapu ana te kaikerēme i te whakarerekē o te whakaarotau o tana kerēme me tonono ki te Taraipiunara me ngā take e rapua ana te whakarerekētanga. Me tuku i te tonono ki te Rēhita. Ka whakamana te Taraipiunara i ngā tonono pērā i ngā kēhi whakaharahara anake.

Te whakaarotau anō o te hōtaka ruku tātari ā-kaupapa

- 3.18** Ina rapu ana te kaikerēme i te whakarerekē o ngā whakaarotau o te Taraipiunara me tonono ki te Taraipiunara me te tuku take e rapua ana te whakarerekētanga e hiahia ana. Me urupare ngā tonono kia whakaarotau anō te ruku tātari ā-kaupapa i ngā paearu e whai ake nei:²⁴
- ▶ te whakakorenga o te āhei o te Taraipiunara ki te ruku tātari;
 - ▶ te whawhati tata o te *take*, whakatikahanga torohū rānei;

24. Pērā i te manatu a te Hea e pā ana ki te ruku tātari ā-kaupapa, 1 o Āperira 2015 ki [22].

- ▶ te taumahatanga o te takahi, o te whakahāweatanga i whakapaengia;
- ▶ te hiranga o te *take* ki ngā kaikerēme;
- ▶ te hiranga o te *take* ki ngāi Māori; me
- ▶ te hiranga o te *take* ki te motu.

3.19 Me tuku ngā tono ki te Rēhita kia hoatu ki te Hea. Ka whakamanahia ngā tono i ngā kēhi whakaharahara anake.

**TE WHAKATŌPŪTANGA, TE WHAKAHIAOTANGA,
ME TE MĀRAURAUTANGA**

- 3.20 Ko te tikanga a te Taraipiunara kia whakarōpū ngātahi i ngā kerēme hāngai kia ruku tātari i te wā kotahi. E here ai tēnei i te Taraipiunara kia whakatau mēnā he kerēme ‘whakatōpūtanga’, ‘whakahiatotanga’ rānei te kerēme i roto i te ruku tātari.
- 3.21 Mēnā he kerēme whakatōpūtanga, ka whakawākia ngā take katoa o te kerēme i roto i te ruku tātari kotahi, ahakoa he ruku tātari ā-rohe, ā-kaupapa, aha atu, aha atu. Nā te mea e whakaarohia ana ko te kerēme katoa e hāngai ana ki taua ruku tātari. Hei tauira, mēnā e hāngai ana anake tētahi kerēme ki ngā whenua me ngā take o mua tauwhāiti ki te Raki, ka whakatōpūtia, ka whakawākia anake ki te Ruku Tātari o Te Paparahi o te Raki (Taitokerau).
- 3.22 Ki te whakahiatohia te kerēme, ka whakawākia ētahi take anake o roto o taua kerēme ki tētahi ruku tātari tauwhāiti. Ka whakawākia ngā take e toe ana ki tētahi atu ruku tātari e hāngai ana ki aua take. Hei tauira, mēnā kei tētahi kerēme he take tauwhāiti e pā ana ki te whenua me ngā take o mua, ā, me ngā take whānui e pā ana ki ngā tautika-kore ā-hauora ki te rohe o te Tai Tokerau, ka whakahiatohia me te kōrerotia ki te Ruku Tātari o Te Paparahi o te Raki (Te Tai Tokerau) (Wai 1040) te Ruku Tātari ki ngā Ratonga me ngā Otinga Hauora (Wai 2575) hoki.
- 3.23 Ka mutu ana te whakatau a te Taraipiunara kua whakahiatohia tētahi kerēme, i te nuinga o te wā ka herea aua kerēme kia whai wāhi atu ki ruku tātari kē. Ina hiahia ana te kaikerēme te panoni i tana kerēme whakahiatotanga kia whakauru i ētahi atu whakapae i tua atu i te whānuitanga o tana ruku tātari, me mahi tēnei mā te kimi whakaaetanga ā-pepa ki Te Mana Whakahaere mēnā e haere tonu ana te ruku tātari, tērā rānei mēnā kua tuku pūrongo kē te Hea, te Hea tuarua rānei mō te kerēme.
- 3.24 I te nuinga o te wā i whakamahia te tukanga whakatōpūtanga me te whakahiatotanga mō ngā ruku tātari ā-rohe. I te nuinga o te wā, ka whai te Taraipiunara i te tukanga kia whakatau mēnā e māaurau ana ngā kerēme ki te whai wāhi atu ki te ruku tātari mō ngā ruku tātari ā-kaupapa me ngā ruku tātari ohotata. Ka arotake te mahinga māaurautanga a te Taraipiunara i ngā kerēme mō te hāngaitanga, ngā take mana ā-ture, ā, mēnā kua whakatōpūtia, kua whakahiatotia rānei i roto i ētahi atu ruku tātari, hei wāhanga o ngā mea e whakaarohia ana. Mēnā e māaurau ana,

e whakamanahia ōkawatia e whai wāhi atu ana tēnei kerēme ki te ruku tātari.

- 3.25** He ōrite te kerēme māraurau ki te whakahiatotanga. Ehara i te mea e herea ana te kerēme māraurau kia whai wāhi atu ki ētahi atu ruku tātari, ā, kāore e kore he take tūhonohono ki ngā ruku tātari ā-kaupapa nui ake i te kotahi.

NGĀ TONO E RAPU ANA I TE WHAKAAROARO OHOTATA A TE TARAIPUNARA.

- 3.26** Pērā i tērā i whakahuatia ki *kōwae 3.12*, me tīmata ngā ruku tātari ohotata, me ngā ruku tātari whakatika ohotata e te tono ki te Taraipiunara. E rua ngā āhuatanga e āhei ana te hunga te tono ki te whakaaroaro ohotata a te Taraipiunara:

- (a) *He tono mō te ruku tātari ohotata:* Ka āhei ngā kaikerēme, te Karauna rānei, te tono ki te Taraipiunara mō te ruku tātari ohotata ki tētahi kerēme, rōpū kerēme rānei, ki tētahi āhuatanga o te kerēme, tētahi rōpū kerēme rānei.
- (b) *Ngā tono mō te nohoanga whakatikahanga ohotata:* Ki te whakatauhia e te Taraipiunara he whai kiko te kerēme, engari kāore anō kia whakarite i ngā tūtohutanga whakaoranga, ka āhei ngā kaikerēme te tono kia wawe te hui anō a te paewhiri a te Taraipiunara ki te whakatau he aha ngā whakatikahanga kia tūtohu hei utu paremata, hei whakakore rānei, i te whakahāweatanga, hei aukati rānei te pānga anō ki ētahi atu tāngata ā muri atu, ki ngā takahi o Te Tiriti i kitea e te Taraipiunara he whai kiko.

TE PAERU MŌ NGĀ TONO E RAPU ANA I TE WHAKAAROARO RUKU TĀTARI OHOTATA A TE TARAIPUNARA

- 3.27** Ina whakatau ana kia whakamana i te whakaaroaro ohotata ki tētahi/ētahi kerēme, me whakarite te Taraipiunara i ngā paerua hei whakatau i te tuku tika o ana rauemi ki te rangahau, whakarongo, me te pūrongo ki ngā kerēme katoa kei mua i tana aroaro. Ka whakamana anake te Taraipiunara i te ruku tātari ohotata i ngā kēhi whakaharahara, ā, mēnā i tutuki ngā take tika mō te ohotata. Kāore e kore ka whakatōmuri ngā ruku tātari pērā i ngā ruku tātari hohe e haere ana, ā, me taurite ngā kerēme o te hunga e rapu ana i te ohotata ki ngā kerēme huhua e whai wāhi ana ki ngā ruku tātari hohe me ērā e whakaritea ana. Ko te tino whakaaweawe pea o te whakataunga ki te whakamana i te nohoanga ohotata ko te whakatārewatanga o tētahi ruku tātari onāiane.

He tono mō te Ruku tātari ohotata

- 3.28** Ina whakatau ana i te tono ohotata, ka aro atu te Taraipiunara i ētahi āhuatanga. He tino hira mēnā:

- (a) ka āhei ngā kaikerēme te whakaatu e pāngia ana, he nui rānei te tūponotanga e pāngia ai rātou, ki te tino whakahāwetanga putanga kore hei otinga o ngā mahi, kaupapa here rānei onāianei a te Karauna, e heke mai ai rānei.
 - (b) kāore he whakatikahanga kē, i raro i ngā āhuatanaga, e tika ana kia whakamahia e ngā kaikerēme; ā
 - (c) ka āhei ngā kaikerēme te whakaatu e rite ana rātou kia ahu whakamua wawe ki te nohoanga, i te nuinga o te wā me te kore whakata-koto o rangahau kē.
- 3.29** Ko ētahi atu āhuatanga hei whakaarotanga mō te Taraipiu-nara mēnā rānei:
- (a) e wero ana te kerēme, ngā kerēme rānei i te mahi, kaupapa here hira onāianei, e heke mai nei rānei, a te Karauna;
 - (b) kua whakamanahia te tono tāria e ngā kōti i te mea i tukuna e ngā kaikerēme ki te Taraipiu-nara te kerēme, ngā kerēme rānei, e kimi-hia ai te ohotata; ā
 - (c) kua whakatūturu ētahi atu take e tautoko ana i te ohotata.
- 3.30** I mua i tana whakataunga mō te tono ohotata, ka whakaaro pea te Taraipiu-nara mēnā e rata ana ngā hunga, ngā take, ngā mea e rua rānei ki ngā tikanga tatūtanga kē, pērā i ngā hui huawaere ōpaki, hui takawaenga ōkawa rānei i raro i te wāhanga 9A o te āpitihanga 2 ki te Treaty of Waitangi Act 1975.

Ngā tono mō te nohoanga whakatikahanga ohotata

- 3.31** Ka whakaaro anake te Taraipiu-nara i te tono mō te nohoanga whakati-kahanga ohotata i ngā wā kua tukuna kētia te pūrongo e whakamanahia ana te whai kiko o te/ngā kerēme a te kaitono.
- 3.32** Ina whakaaro ana te Taraipiu-nara kia whakamana i te tono mō te nohoanga whakatikahanga, kāore rānei, ka aro atu te Taraipiu-nara ki ētahi tūmomo āhuatanga. He tino hira mēnā:
- (a) ka āhei ngā kaikerēme te whakaatu e whakataumahatia ana, he nui rānei te tūponotanga e whakataumahatia rātou, ki te tino whakahāwetanga putanga kore ki te kore e tū tētahi nohoanga whakatikahanga.
 - (b) kāore he whakatikahanga kē, i raro i ngā āhuatanga, e tika ana kia whakamahia e ngā kaikerēme; ā
 - (c) ka āhei ngā kaikerēme te whakaatu e rite ana rātou kia haere wawe ki te nohoanga.
- 3.33** Ina aromatawai ana mēnā e pāngia ana ngā kaikerēme, he nui rānei te tūponotanga e pāngia ai ki te tino whakahāwetanga putanga kore ki te kore te nohoanga whakatikahanga e whakatūria, ka āhei te aro atu a Te

Taraipiunara ki ngā āhuatanga i whakatakotohia i *Haronga v Waitangi Tribunal*,²⁵ arā:

- (a) te rahi o te rōpū e whakakanohitia ana e ngā kaikerēme, ā, mēnā e āhei ana ngā kaikerēme te whakaatu i te tautoko mārama ki tā rātou tonu i tēnei rōpū;
- (b) te hononga i waenga i te whakatikahanga, ngā whakatikahanga rānei, e hiahiatia ana kia hoatu me te takahitanga, ngā takahitanga taketake rānei o Te Tiriti, tae atu ki, ina kimihia ana te whakahoki o te whenua hei whakatikahanga, mēnā he whai kiko te/ngā kerēme ki tēnei whenua i ara ake ai te tonu; ā
- (c) mēnā he hui whakawhiti kōrero onāiane i waenga i te Karauna me tētahi rōpū whakataunga take mana kōwhiri kia tutuki i te whakataunga e whakaaetia ana o te/ngā kerēme e whai kiko ana, mēnā e tata ana te whakakore i raro i te ture te mana ā-ture o te Taraipiunara kia kōrero ngā kaikerēme mō ngā whakatikahanga hei hua o ēnei hui whakawhiti kōrero.

3.34 I mua i tana whakataunga, ka whakaaro pea te Taraipiunara mēnā ngā hunga, ngā take, ngā mea e rua rānei, e rata ana ki ngā tikanga tatūtanga kē – tirohia *ngā kōwae* 3.49–3.53.

TE TUKANGA MŌ NGĀ TONO E KIMI ANA I TE RUKU TĀTARI OHOTATA

Ngā herenga tonu

3.35 Me whakatakoto tētahi tonu e kimi ana i te whakaaroaro ohotata a te Taraipiunara ki te Rēhita, ā, me tuku te tārua ki te Karauna (i te wā ehara te Karauna i te kaitono).²⁶

3.36 Kāore he puka i whakaritea mō te tonu. He tauira marohi e wātea ana ki te pae tukutuku a te Taraipiunara. E mōhio ana te Taraipiunara kāore pea ngā kaikerēme rōia kore i te mōhio ki ngā tuhinga ōkawa e whakamahia ana ki te tukanga whakawā, ā, e noho tāwariwari ana e pā ana ki te āhua o te whakatakoto i ngā tonu.

3.37 Me whakarite te tonu i ngā mōhiohio e whai ake nei:

- (a) Ngā take tauwhāiti e kimihia ana te ruku tātari ohotata, te nohoanga whakatikahanga ohotata rānei, e aro ana ki ngā āhuatanga e whakarārangihia ana i runga ake ki *ngā kōwae* 3.28–3.34.

25. *Haronga v Waitangi Tribunal* [2011] NZSC 53.

26. Ko te wāhi noho mō te tuku ki te Karauna ko: Treaty Team, Crown Law Office, P O Box 2858, Wellington 6140; email: treaty.teams@crownlaw.govt.nz.

- (b) Ae rānei, e hāngai ana te tono ki tētahi kerēme, rōpū kerēme katoa, e hāngai ana rānei ki tētahi āhuatanga o tētahi kerēme, rōpū kerēme rānei.
- (c) Ae rānei e rite ana ngā kaikerēme kia rangona tā rātou kerēme, me whakamahi, me whakaoti rānei i ētahi rangahau i te tuatahi. Mēnā e hiahiatia ana te rangahau, me whakahua te āhua me te whānuitanga o taua rangahau. Heoi anō, me mōhio he āhuatanga whakahē i te rite o te kaitono kia haere ki te nohoanga te hiahia ki te rangahau whānui.
- (d) He tangata, he rōpū rānei e whakapono ana ngā kaikerēme me whakamōhio e te Taraipiunara nā te mea e pāngia ana rātou e te tono.
- (e) Ētahi atu mōhiohio e hāngai ana ki te tono.

3.38 Ina tika ana, ā, ka āhei, me whakatakoto ngā tono me te(ngā) kōrero taurangi,²⁷ e pā ana ki ngā paearu hāngai mō ngā tono ohotata i whakahuatia i runga ake.²⁸

Te whakaaroaro a te Taraipiunara ki tētahi tono

- 3.39** I muri iho i te whiwhi ki te tono e kimi ana i te nohoanga ohotata a te Taraipiunara, ka whakatau te Hea, te Hea tuarua rānei i te tukanga hei whāinga, ā, ka whakahaere i te tukanga e whai ake nei.²⁹ Ka whakatau pea te Hea, te Hea tuarua rānei i te tono, ka tuku rānei i te mana whakaaroaro o te tono ki tētahi mema o te Taraipiunara, tētahi paewhiri Taraipiunara rānei.³⁰ Mēnā e tukuna ai te mana whakaaroaro mō te tono ohotata, i te nuinga o te wā ka tutuki hoki i a rātou ngā herenga o te Mana Whakahaere i raro i te Ture.³¹
- 3.40** Ko te tukanga whānui mā te mema, te paewhiri Taraipiunara e whakatau ana i te tono e kimi urupare i te Karauna, i te/ngā kaikerēme rānei,³² me te hunga e whai take ana (tirohia *ngā kōwae 3.67–3.72*). I ētahi wā, ka kimi te Taraipiunara i ētahi mōhiohio anō i ngā kaitono i mua i te

27. Ko ngā kōrero taurangi he ara hei tuku i ngā taunakitanga meka i mua i te aroaro a te Taraipiunara, kua ko ngā whakaaro, ngā tāpaetanga rānei.

28. Nā te mea, he tono taupua tēnei e rangona ai nā runga i ngā pepa i te nuinga o te wā, kāore i te tika i te nuinga o te wā ngā kōrero taunaki, ā, me whakatakoto ngā rōia e whakakanohi ana i ngā kaikerēme i ngā kōrero taurangi i oatihia.

29. I te nuinga o te wā, ka tukua te whakataunga o ngā tono whitawhita ki te Hea Tuarua.

30. E aro ana ki *Baker v Waitangi Tribunal* [2014] NZHC 1177 ki [37] me te Treaty of Waitangi Act 1975, sch 2 cl 8(2).

31. Treaty of Waitangi Act 1975, Āpiti 2 cl 5(2).

32. E hāngai ana ki te kaikerēme hei kaitono, ki te Karauna rānei hei kaitono.

ahu whakamua. Kātahi ka whai wāhi te kaitono ki te urupare ki ngā tāpaetanga me te taunakitanga i whakatakotohia e ngā hunga hāngai. Ka whakatau te Taraipiunara i te tono ā muri i te whiwhi ki ngā tāpaetanga me ngā taunakitanga katoa.

- 3.41** Ina tukuna te tono mō te nohoanga whaktikahanga, mā te Hea, te Hea tuarua rānei e tuku i te whakataunga o taua tono, ina āhei ana, ki te paewhiri Taraipiunara i rongo, i ruku tātari ki te kerēme taketake. Mēnā kāore e taea e t/ētahi mema te noho tonu hei mema, ka kopoua ngā mema rīwhi ki te paewhiri i raro i ngā wāhanga 5AA to 5AE o te āpitihanga tuarua ki te Treaty of Waitangi Act 1975.
- 3.42** Ka whakataua pea te tono nā runga i ngā pepa, mā te whakatū rānei i te hui ā-kaiwhakawā kia rongo i ngā tāpaetanga a ngā kaikerēme me ētahi atu e whai pānga ana, tae atu ki te Karauna.

INA WHAKAMANAHIA TE TONO

Ngā ruku tātari ohotata

- 3.43** Ina whakamanahia te kerēme i te ohotata, ka whakahaeretia motuhakehia te ruku tātari ki taua kerēme i tua atu i ngā kerēme e rangona kētia, ā, me te kore whakarite i te paihere taunaki (tirohia *kōwae 4.7*). Ki te pēnei, ka whakataua te tukanga hei whai mā te Taraipiunara e whakarongo ana ki te kerēme. Heoi anō, i te nuinga o te wā, i runga anō i ngā āhuatanga i tautoko te whakamanatanga o te ohotata, e pai ana, e hiahiatia ana rānei kia tere rawa te rongo me te pūrongo a te Taraipiunara.
- 3.44** Nā reira, ka kawatau te Taraipiunara i ngā hunga, otirā ngā kaikerēme i kimi i te ohotata, kia rite, kia āhei hoki te mahi i ngā mea e tino āhei ana, i mua, i te wā hoki, o ngā nohoanga, ki te whakatairanga i te ruku tātari tere ki te kerēme ohotata, me te tere hoki o te pūrongo. Nā reira, ka tuku pea te Taraipiunara i te whānuitanga o ngā kupu whakahau tukanga. Ka tāpirihia pea:
- (a) ngā wātaka pākaha mō te whakatakoto i ngā taunakitanga me ngā tāpaetanga katoa i mua i te tīmatanga o ngā nohoanga;
 - (b) he whakarite pākaha i te wā nohoanga;
 - (c) waiho kia pānui kau ētahi, te katoa rānei o ngā kōrero taurangi me ngā tāpaetanga i whakatakotohia i mua i te nohoanga; me
 - (d) te uiui kōkirikiri anake me te tuku pānui whakamōhio ka pērā me te whakaaetanga a te Taraipiunara.
- 3.45** E whakaaweawetia te nohoanga o te kerēme ohotata e te hiahia kia tere, waihoki e rite ana te taera o te pūrongo a te Taraipiunara mō tētahi kerēme pērā. I te nuinga o te wā, ko te kawatau ka whakarāpopotohia ake ngā ihirangi o te pūrongo mō te kerēme ohotata i te pūrongo mō te kerēme ohotata kore, ā, ka arotahi ki te putanga o te ruku tātari a te Taraipiunara, tae atu ki ētahi tūtohutanga a te Taraipiunara.

Ngā nohoanga whakatikahanga ohotata

- 3.46** Ina whakamanahia te nohoanga whakatikahanga ohotata, ka whakatauhia te tukanga hei whai mā te paewhiri a te Taraipiunara.

Te tūhuratanga o ngā pukapuka i ngā ruku tātari ohotata

- 3.47** E whakahaeretia ana ngā ruku tātari ohotata i raro i ngā angawā whāiti nā te āhua o te(ngā) kerēme. Nā reira, e tino heipū ana te tūhuratanga o ngā pukapuka. Tirohia *ngā kōwae 5.22–5.27* mō te tukanga tūhura pukapuka i roto i ngā ruku tātari ohotata.

Te whakamutu i te tono mō te ohotata.

- 3.48** Ka āhei te kaitono te whakamutu i tana tono, i ngā wā katoa tae noa ki te wewetetanga o te whakataunga o tana tono. Me whakamōhio te kaitono i te Taraipiunara ā-puka, mā te Rēhita, o tana hiahia ki te whakamutu i te tono me te whakamārama mēnā e hiahia ana hoki ia ki te whakamutu i te kerēme hāngai, i te wāhanga anake e pā ana ki tana tono mō te ohotata, kāore rānei i te hiahia noa ki te ohotata.

HUI TAKAWAENGA

- 3.49** Nā te mea he wānanga e kimi ana ki te whakarato i te tatūtanga mau roa, tōkeke hoki o ngā kerēme Tiriti, e anga ana ki te whakahaumanu me te whakapūmau i te rangapū i raro i Te Tiriti, ka whakatenatena te Taraipiunara i te hui takawaenga hei huawaere i te tatūtanga o ngā kerēme ina tika ana. He tukanga e whakaaetia ana ngā hui takawaenga, ā, i te nuinga o te wā he matatapu i waenga i ngā hunga hāngai. Ka kōwhiri hoki pea ngā hunga ki te whakamahi i te tukanga tūāpapa tikanga i roto i te hui takawaenga mō ō rātou kerēme.

Hui takawaenga ā-ture

- 3.50** Ka āhei te Taraipiunara, i ngā wā katoa, te tuku i te kerēme ki te hui takawaenga i raro i ngā wāhanga 9A ki te 9D o te āpitihanga tuarua ki te Treaty of Waitangi Act 1975. Ahakoa ka āhei te hunga nō tētahi kerēme te tono ki te Taraipiunara kia tukuna te kerēme ki te hui takawaenga, ka āhei te Taraipiunara te kopou i tētahi kaitakawaenga me te kore kōrero ki ngā hunga, engari nā runga anō i te mōhio ka akoako te kaitakawaenga ki te hunga e pāngia ana i te tuatahi kia uru ki te hui takawaenga. Ka kopou pea te Taraipiunara i ngā hoa kaitakawaenga, ā, i kitea i ngā mahi i mua he mahi whaitake.
- 3.51** Ka whakahaere te kaitakawaenga, ngā kaitakawaenga rānei, i te tukanga hui takawaenga me te tautoko a ngā kaimahi a te Taraipiunara. Ka whakamahi pea ngā kaitakawaenga i te tikanga Māori hei huawaere i ā rātou hui takawaenga. Ka herea ngā hunga o te hui takawaenga kia uru ki te whakaaetanga kia noho ki te hui takawaenga e whakaaetia ai e ngā

hunga e rua, ā, e whakatakoto ana i ngā kupu o te hui takawaenga. Ka huawaere pea ngā kaitakawaenga i te hui tuatahi me ngā hunga me te tuku i ngā manatu hei whakahua i ngā whakamahere me te whakarite ki te hui takawaenga. Ka tono hoki pea te kaitakawaenga, ngā kaitakawaenga rānei kia whakatakoto ngā hunga i te whakahuatanga o ō rātou whakapae, ahakoa he mahi ngātahi, he motuhake rānei.

- 3.52** Kāore pea te Taraipiunara e whakaae ki te tuku i te kerēme ki te hui takawaenga mēnā ki tōna whakaaro he takarepa te pūranga o te ruku tātari onāiane. Ka tatari hoki pea kia whakatakotohia ētahi atu rangahau, ka kirimanahia rānei he rangahau māna, i mua i te whakatau kia tuku rānei i te kerēme ki te hui takawaenga. Ina tuku ana te Taraipiunara i te kerēme ki te hui takawaenga i raro i ēnei whakaritenga, ko te mahi a te kaitakawaenga he whakapau kaha kia tutuki i te whakataunga o te kerēme, o ētahi āhuatanga o te kerēme rānei.

Hui takawaenga tūmataiti

- 3.53** E āhei ana hoki tētahi hunga te marohi me te whai wāhi atu ki te hui takawaenga tūmataiti e pā ana ki ngā āhuatanga katoa o te kerēme. Kāore i te mahia tēnei hui takawaenga i raro i ngā whakaritenga o te Treaty of Waitangi Act 1975, ā, he whaiaro te huawaere mā ia hunga. Ka whakatenatena te Taraipiunara i te hui takawaenga mō ngā take i tīpakohia ina rite ana ia hunga te mahi i tāna ake hinonga. Ehara i te mea kei waenga i ngā kaikerēme me te Karauna te hui takawaenga tūmataiti; hei tauira, kei waenga pea i ngā rōpū kerēme e rua, neke atu rānei, kei waenga rānei i te rōpū kerēme me tētahi hunga kē (pērā i te kaupuri whenua tūmataiti). Ina marohitia he hui takawaenga tūmataiti, ka whakatārewa pea te Taraipiunara i te katoa, i tētahi wāhanga rānei o tana ruku tātari, ā, tuku whakaarotanga e tika ana ki ngā whakaaetanga e puta ai ina whakaotia ana i tana ruku tātari me tana pūrongo.

NGĀ HUI WHAKAWHITI KŌRERO WHAKATAUNGA TAKE

- 3.54** Ka whakataua pea ngā kerēme o mua mā te hui whakawhiti kōrero tōtika i waenga i ngā kaikerēme me te Karauna.³³ Kāore te Rōpū Whakamana i Te Tiriti o Waitangi i te whai wāhi atu ki aua hui whakawhiti kōrero, engari ka whakamōhio atu pea te pūrongo i tukuna e te Taraipiunara e hāngai ana ki te kerēme, te rōpū kerēme rānei i roto i ngā hui whakawhiti kōrero, i ngā hui whakawhiti kōrero.
- 3.55** Ka kōwhiri pea ngā kaikerēme ki te whakawhiti kōrero kē hei whakatau i ō rātou kerēme, o mua, o nāiane rānei, i ngā wā katoa. Nā reira, ka āhei ngā kaikerēme te kōwhiri kia whakawhiti kōrero e pā ana ki te

33. Mā Te Arawhiti/Tari o ngā Hononga Māori Karauna e whakawhiti kōrero hei māngai mō te Karauna mō te whakataunga o ngā kerēme o mua.

whakataunga take i mua i te ruku tātari a te Taraipiunara, ka āhei rānei i tētahi wāhanga o te ruku tātari a te Taraipiunara. Ka tatari kē pea rātou ki te tukunga o te pūrongo a te Taraipiunara me ngā otinga me ngā tūtohutanga, mēnā tērā ētahi.

- 3.56** Ka tohutohu te rōia a te Karauna, a te kaikerēme rānei, me te whākinga o te hunga kē, ki te Taraipiunara mā te manatu mēnā i tutuki i te whakataunga o te kerēme, ā, i uru ngātahi ki te whakaaetanga whakataunga take. Ka whakaurua ki te manatu he whakarāpopototanga o ngā kupu o te whakataunga, mēnā e āhei ana, ā, mēnā he whakataunga take i tētahi wāhanga, ka tohutohu mēnā e kimi ana te hunga i te ruku tātari ki ngā mea kāore anō kia whakataua.

KO NGĀ TŪTOHUTANGA WHĀNUI ME NGĀ TŪTOHUTANGA WHAI MANA

- 3.57** Pērā i whakahuatia ki *kōwae* 3.13, ka tuku te Taraipiunara i ngā tūtohutanga whānui, kāore e here ai i te Karauna, i te hunga kē rānei.³⁴ E tukuna ana ēnei tūtohutanga ina whakatau ana te Taraipiunara e whai kiko ana tētahi kerēme i tukuna, ā, nā reira, ka tūtohu pea ki te Karauna me mahi tētahi mahi kia tuku utu paremata mō te whakahāweatanga, kia whakakore rānei i te whakahāweatanga, kia kua ētahi atu tāngata e pāngia pērā anōtia ā muri atu.³⁵ He kupu whānui pea ā ēnei tūtohutanga, ka tūtohu rānei ki ngā kupu tauwhāiti te mahi mā te Karauna ki te whakaaro o te Taraipiunara.³⁶
- 3.58** Heoi anō, i ētahi wā, ka tūtohu te Taraipiunara i te whakahoki, kia tāmatatia rānei o ētahi whenua, ā, ka here ēnei tūtohutanga i te Karauna. Ka whakaturea te tikanga tāmatatia ki ngā wehenga 8A ki te 8HJ o te Treaty of Waitangi Act 1975. Ka whakarāpopoto tēnei wāhanga i aua whakaritenga. Koinei ngā whenua e āhei ai te Taraipiunara ki te tuku i te tūtohutanga whai mana:
- (a) Ko te whenua ngahere Karauna e herea ana e te raihana ngahere Karauna; ā
 - (b) ngā whenua i manatuhia, he whenua, he pānga rānei ki te whenua:
 - (i) whakawhitia ki te hinonga Kāwanatanga i raro i te wehenga 23 o te State-Owned Enterprises Act 1986, i tukuna rānei ki te hinonga Kāwanatanga e tētahi pānui i roto i te *Gazette* i raro i te State-Owned Enterprises Act 1986 e tukuna ana rānei ki te hinonga Kāwanatanga i raro i te Ōta ā-Kaunihera i raro i te wehenga 28 o te State-Owned Enterprises Act 1986;

34. Treaty of Waitangi Act 1985, wehenga 6(3).

35. Kei te wehenga 6(3).

36. Kei te wehenga 6(4).

- (ii) whakawhitia ki tētahi whakanōhanga i raro i te wehenga 207 o te Education Act 1989, e tukua ana rānei e tētahi whakanōhanga i raro i te Ōta ā-Kaunihera i waihangatia i raro i te wehenga 215 o te Education Act 1989; tērā rānei
 - (iii) he mea, i mua tata atu i te tuku ki te kamupene whakawhiti Karauna i raro i te wehenga 6 o te New Zealand Railways Corporation Restructuring Act 1990, i pupurhia e te Karauna.
- 3.59** Mēnā e whakataua ana e te Taraipiunara te tūtohutanga whai mana kia whakahokia, kia tāmatatia rānei te whenua, he hukihuki ana tūtohutanga katoa mō ngā rā e 90, he wā e uru ai pea ngā kaikerēme me te Karauna ki te hui whakawhiti kōrero ki te whakatau i te kerēme. Mēnā ka tutuki te whakataunga take i roto i ngā rā e 90, e herea ana te Taraipiunara ki te whakakore, panoni rānei tana tūtohutanga hukihuki kia whakaata i taua whakataunga. Ki te kore tētahi whakataunga take e tutuki i roto i ngā rā e 90, ka whaimana te tūtohutanga hukihuki hei tūtohutanga whakamutunga e here ai i te Karauna.

TE WHAKATĀREWATANGA O TĒTAHI RUKU TĀTARI

- 3.60** Ina kimi te kaikerēme, te Karauna rānei i te whakatārewatanga o tētahi ruku tātari hohe, hei tauira, kua whakaritea he nohoanga, e haere ana rānei he nohoanga, me whakamōhio wawe ki te Taraipiunara.
- 3.61** Ka herea pea e te Taraipiunara te putanga mai mō tētahi marohi kia whakatārewa i tētahi ruku tātari. Me tutuki i te Taraipiunara e whakaaetia ana te tono e ngā mema o te rōpū kerēme, ki te kore me whakatārewa pea i te ruku tātari me te whakamahinga tūrapatanga kore ki te mōtika o ētahi atu tāngata e whai take ana kia tuku i tō rātou ake kerēme, kia kimi rānei i te whakaaetanga kia kōrero e pā ana ki taua take.
- 3.62** Ina marohitia te whakatārewatanga, ka whaiwhakaaro te Taraipiunara ki ngā āhuatanga hāngai katoa, tae atu ki:
- (a) te waiaro o ētahi atu hunga ki te marohi;
 - (b) te roanga o te wā o te whakatārewatanga e whakaarohia ana;
 - (c) te āhua o te rangahau i kirimanahia e te Taraipiunara, e ngā hunga rānei;
 - (d) te ohotata o te kerēme; me
 - (e) te roa o te whakamōhio i tukuna ki hunga kē me te Taraipiunara (mēnā kua whakaritea he rā nohoanga).
- 3.63** Ina whakamanahia, ka whakatārewa te Taraipiunara ki te rā e herea ai ngā hunga kia whakarato i te whakahounga mō te tūnga o tō rātou kerēme, ka whakatārewa kē rānei me te kore whakarite i te wā ā muri atu.

TE WHAKAMUTU I TE KERĒME

- 3.64** Ka āhei te kaikerēme te whakamutu i te kerēme i ngā wā katoa mā te whakamōhio atu ā-pepa ki te Rēhita. Ina whakamutua ana tētahi

wāhanga anake o tētahi kerēme, me whakatakoto te kaikerēme i te panonitanga o te tauākī whakaraupapa me te tohutohu ā-pepa i te Taraipiunara o te wāhanga i whakamutua.

- 3.65** E herea ana e ngā aukatinga ā-ture, kāore te whakamutunga o te kerēme e whakaaweawe i te mōtika o tētahi atu Māori te tuku i te kerēme e pā ana ki taua take. Tirohia *kōwae 2.24* e pā ana ki te whakawhiti mana whakahaere hei whakahaere i te kerēme.

NGĀ KAIMAHI A TE TARAIPUNARA

- 3.66** Ahakoa e hiahiatia ana i ētahi wā kia kōrerorero ngā kaimahi a te Taraipiunara ki ētahi hunga, me ētahi atu tāngata e āhei ana ki te kōrero, kāore he mana a ngā kaimahi ki te here i te Taraipiunara. Ka kawea ngā whakataunga a te Taraipiunara e ngā kupu whakahau, e ngā manatu rānei e tukua ai e te Hea, e te Hea tuarua, e te Mana Whakahaere o tētahi ruku tātari, ētahi mema rānei e mahi ana me te mana whakahaere a te Hea, ka kawea rānei e ngā kaimahi i raro i te mana whakahaere o te Taraipiunara.

TE MŌTIKA KIA TAE Ā-TINANA ME TE HUNGA E WHAI TAKE ANA

- 3.67** E herea ana te Taraipiunara e te Commissions of Inquiry Act 1908 kia rongo i tētahi tangata e whakatūturu ana i tana:
- (a) pānga ki te ruku tātari i tua atu i tētahi pānga e ōrite ana ki te hunga tūmatanui; tērā rānei
 - (b) ka whakaaweawetia kinotia e ngā taunakitanga i mua i te Taraipiunara (tirohia wehenga 4A o te Commissions of Inquiry Act 1908).
- 3.68** E whakamanatia ana te Taraipiunara kia whiwhi hei taunakitanga ngā rawa, ki ōna ake whakaaro, e āwhina ki te whakamahi i ngā kaupapa kei mua i te aroaro (tirohia wehenga 4B o te Commissions of Inquiry Act 1908).
- 3.69** Ina kimi whakaaetanga ana tētahi tangata takitahi, rōpū rānei kia kōrero ki tētahi ruku tātari hei hunga e whai take ana me tonu ki te Taraipiunara, me te whakahua he pēhea tana tutuki i ngā paearu hāngai i raro i te wehenga 4A o te Commissions of Inquiry Act 1908, me te whānuitanga o te whai wāhi atu e kimihia ana ki te whakahaerenga ā-ture. Mā te whakaaetanga a te Hea, te Hea tuarua, te mema e mahi ana me te mana o te Hea, te Mana Whakahaere hāngai rānei, e whai wāhi ai hei hunga e whai take ana.
- 3.70** Nā reira, i te nuinga o te wā, ka whakatenatena te Taraipiunara i tētahi tangata e āhei ana ki te āwhina kia tae ā-tinana, kia tuku tāpaetanga rānei.
- 3.71** Ahakoa ehara rātou i te hunga nō te kerēme, ka āhei ngā tāngata e kimi ana kia kōrero te whakamōhio atu i taua whakaaro ki te Taraipiunara i ngā wā katoa, engari e mariu ana te Taraipiunara kia wawe te hoatu i te pānui ā-pepa ki te Rēhita ina āhei ana.

3.72 E hāngai ana te aweretanga ki te mōtika kia kōrero ina ara ake te pātai, i te whakahaeretanga o tētahi ruku tātari, e pā ana ki tētahi whenua e āhei ai te Taraipiunara te tuku i te tūtohutanga whai mana i raro i ngā wehenga 8A ki te 8HJ o te Treaty of Waitangi Act 1975. Ki te pēnā, ko te hunga anake e āhei ana ki te tae ā-tinana ki te kōrero ko ngā kaikerēme, te Minita Whanaketanga Māori, me ētahi atu Minita e whakamōhio atu e kimi ana rātou kia kōrero, me tētahi atu tangata Māori e whai take ana ki te ruku tātari.³⁷ E whakatūturu ana ēnei whakaritenga kia kua ngā kaupupuri whenua, tae atu ki te kaupupuri whenua tūmataiti i hoko i te whenua me te pānui ka tāmatatia pea, e wero i te nohoanga, te whaka-taunga rānei o tētahi kerēme e pā ana ki taua whenua.

TE TU MAI A TE ROIA, A TĒTAHI ATU MĀNGAI RĀNEI

3.73 Ka kī te wāhanga 7 o te āpitianga tuarua ki te Treaty of Waitangi Act 1975:

- (1) Any claimant or other person entitled to appear before the Tribunal may appear either personally or, with the leave of the Tribunal, by—
 - (a) A barrister or solicitor of the High Court; or
 - (b) Any other agent or representative authorised in writing.
- (2) Any such leave may be given on such terms as the Tribunal thinks fit, and may at any time be withdrawn.

3.74 Ahakoa mā te Taraipiunara te māngai e whakaae, ko te mariu a te Taraipiunara kia whai māngai ā-ture ngā kaikerēme, otirā ina mahi ana me ngā kaikerēme e whakawhirinaki ana ki ngā pūranga ā-pukapuka, ngā kerēme rānei e ara ake ai ngā take whīwhiwhi. Ina utu ai te Taraipiunara i te utu o te rangahau i kirimanatia e ngā kaikerēme, me kopou te rōia i te tuatahi, kia mahi tahi pea te kairangahau me te rōia, ā, kia whakarite te arotahi a te rangahau ki ngā take e whakahaua ana e te Taraipiunara.

3.75 Mēnā he māngai te rōia mō tētahi hunga, tangata rānei e whai mana ana ki te tae ā-tinana ki te Taraipiunara, ka noho te wāhi noho o te rōia hei wāhi noho mō te tukunga mō taua hunga, tangata rānei, ā, ka whakahaere te Taraipiunara i ana whakakakau ōkawa mā te rōia. Heoi anō, i ētahi wā, me whakapā tōtika atu te Taraipiunara, otirā ngā kaimahi a te Taraipiunara, ki ngā hunga, ētahi atu hunga rānei e whai mana ana ki te kōrero, otirā hei whakariterite mō ngā nohoanga.

3.76 Me whakamōhio atu ki te Rēhita mā te manatu mēnā he kopounga, he panoni rānei o te kaiwawao, rōia rānei, tētahi panoni rānei o te wāhi noho mō te tukunga. Me tuku te pānui pērā ki ngā hunga hāngai.

37. Tirohia te Treaty of Waitangi Act 1975, wehenga ririki 8C, 8HD, me 8HJ and *Wairapapa Moana ki Pouākani Inc v Mercury NZ Ltd* [2022] NZSC 142 at [140]–[158].

TE MANA WHAKAHAERE A TE KAIWAWAO, A TE RŌIA RĀNEI

- 3.77 Ina tū tētahi rōia, kaiwawao rānei hei māngai mō tētahi hunga, tangata rānei e whai take ana ki te tae ā-tinana, nā reira e tohutohu ana ia ki te Taraipiunara e mahi ana ia me te mana whakahaere a taua hunga, tangata rānei.
- 3.78 Ka waitohu pea te rōia, kaiwawao rānei i tētahi tuhinga e pā ana ki ngā whakahaerenga ā-ture kei te aroaro o te Taraipiunara hei māngai mō te hunga, te tangata rānei e whakakanohi ana ia, ki te kore e kōrerotia ana i roto i tēnei tuhinga ārahi.

RŌIA ĀWHINA

- 3.79 Ka āhei te Taraipiunara, i raro i te wāhanga 7A o te āpitihanga tuarua ki te Treaty of Waitangi Act 1975, te kopou i te rōia āwhina e pā ana ki ētahi whakahaerenga ā-ture i mua i te aroaro o te Taraipiunara. Ka whakarato pea aua rōia i ō rātou tohutohu mātanga mō tētahi kaupapa tauwhāiti, ārahi i ngā kaikōrero i kirimanatia e te Taraipiunara i ngā nohoanga, me te whakaatu i te taunakitanga hei māngai mō te Taraipiunara.

PŪTEA ĀWHINA RŌIA

- 3.80 Ka āhei ngā kaikerēme ki te Rōpū Whakamana i Te Tiriti o Waitangi te tono i te pūtea āwhina kiri tangata hei āwhina i a rātou ki te utu i ngā utu ā-ture kia aru i (t)ā rātou kerēme.³⁸ Heoi anō, kāore te Taraipiunara e whakarato ki ngā kaikerēme e kimi ana i te māngai ā-ture i ngā tūtohu ki ngā kaiwhakarato pūtea āwhina rōia.

NGĀ MANA WHAKAHAERE A TE TARAIPUNARA

- 3.81 Ahakoa kāore te Rōpū Whakamana i Te Tiriti o Waitangi i te whaimana kia hoatu i ngā utu whakahaere, kei te Taraipiunara ērā atu mana whakahaere a te kōmihana ruku tātari i raro i te Commissions of Inquiry Act 1908, tae atu ki ngā mana i raro i te Treaty of Waitangi Act 1975. Nā reira, ina tika ana ka pēnei te Taraipiunara:
- (a) ka tuku i te tāmāna e here ana i te kaikōrero kia tae ā-tinana i mua i te aroaro o te Taraipiunara;
 - (b) ka here i te whakaputanga mai o ngā tuhinga me ētahi atu pūranga hei mātautanga;
 - (c) he ōrite ngā mana whakahaere a te Kōti ā-Takiwā, ina whakamahi ana i tana mana ā-ture kiri tangata, ki te whakahaere me te whakapūmau i te rangimārie ki te ruku tātari;
 - (d) ka āhei te whakatārewa i ngā nohoanga me te wā nohoanga mō tētahi rōpū kaikerēme tauwhāiti;

38. Toro atu ki www.justice.govt.nz/courts/going-to-court/legal-aid.

- (e) ka āhei te kirimana i te rangahau hei tuku ki te Taraipiunara hei taunakitanga;
- (f) ka āhei te kopou pea i ngā rōia āwhina;
- (g) ka whakatau pea kia kaua e rongō i ētahi taunakitanga; ā
- (h) ka whakahē, ka whakamutu rānei pea te whakaaetanga o te rōia, tētahi atu kaiwhakarite, māngai rānei kia tae ā-tinana i mua i te aroaro o te Taraipiunara, ka tuku whakamanatanga rānei kia tae ā-tinana i raro i ngā herenga e tika ana ki tana titiro.

3.82 Kāore ō te Taraipiunara mana ki te tuku ōta tāria.

WĀHANGA 4: TUHINGA KERĒME

WĀHANGA RANGAHAU

- 4.1 I ētahi wā, e rangahaua whānuitia ana ngā kerēme i mua i te tuku ki te Taraipiunara, nā te āhua o te kerēme rānei, tē hiahiatia te rangahau. Heoi anō, i te nuinga o te wā e hiahiatia ana e ngā kerēme te waihanga me te tātari ki ngā mōhiohio e hāngai ana ki ngā whakapae, ā, i te nuinga o te wā e whakaotia ana tēnei i muri i te rēhitatanga a Te taraipiunara i te kerēme. Ka whakaotia te rangahau ki ngā ara e whai ake nei, ā, ehara i te mea ka awerehia tētahi, e ētahi atu:
- ▶ he mahi motuhake i te Taraipiunara, i rōpū kē rānei, te rangahau a ngā kaikerēme;
 - ▶ ka kimi pea ngā kaikerēme i te tahua rangahau i ngā rōpū pērā i te Crown Forestry Rental Trust – e pā ana ki ngā ruku tātari ā-rohe, me tiro rānei mēnā e wātea ana te tahua tari kāwanatanga Karauna;
 - ▶ i raro i te wāhanga 5A o te āpitihanga tuarua ki te Treaty of Waitangi Act 1975, ka whaimana te Taraipiunara ki te kirimana i ōna ake rangahau. Ka kirimana pea te Taraipiunara i tētahi tangata, ahakoa he mema nō ana kaimahi rangahau, ki te whakahaere i te rangahau mō te Taraipiunara. Ka whakaae kē pea, hei tāpirihanga rānei, mā tētahi kaikerēme e kirimana i te rangahau mō te kaikerēme e utua ana e te Taraipiunara.
- 4.2 Ka arotake ngā mema o ngā kaimahi rangahau a te Taraipiunara i ngā hiahia o ngā kerēme me ngā ruku tātari, ka kōrerorero me ngā kaikerēme me ngā tari e whakahaere ana i te rangahau, me te whakarato tohutohu ki te Taraipiunara e pā ana ki te rangahau ka kirimanahia pea e te Taraipiunara. Ina whakatau ana kia kirimanahia rānei te rangahau, ka tutuki i te Taraipiunara tērā he hiahia e taea te whakaatu, kāore e pūrua i ētahi atu rangahau, ka mahi e ngā tāngata me ngā pūkenga me te mātanga tika, ā, e pai ana ngā angawā hei whakaoti i te rangahau. I ētahi wā, ka kirimana te Taraipiunara i te rīpoata tiro-tiro i te tuatahi hei āwhina i te aromatawai o ēnei take.
- 4.3 Ka āhei hoki ngā kaikerēme te tuku i ngā marohi rangahau ki te Taraipiunara, ā, me kōrero ki te Tumu Kōrero Matua mō ētahi atu mōhiohio e pā ana ki ngā herenga me ngā tukanga hāngai a te Taraipiunara. Ka āhei te whakapā atu ki te Tumu Kōrero Matua mā te kōrerorero ki te Rēhita a te Taraipiunara ki ngā taipitopito whakapā e whakarārangiā ana i runga i te pae tukutuku a te Taraipiunara.

- 4.4 I mua i te kirimana i te rangahau, ka tuku te Taraipiunara i te kōwhiringa ki ngā hunga ki te kōrero e pā ana ki te rangahau e hiahiatia ai. Ka pēnā te Taraipiunara mā te pepa matapaki mō te paihere taunaki takamua i whakaritea i raro i te tirohanga a te Tumu Kōrero Matua, ā, e matapaki-hia ana ki te hui ā-kaiwhakawā. E pēnei ana te take o tēnei tukanga:
- ▶ te waihanga i te paihere taunaki e whakarato ana i te horanga taunakitanga rahi kia rongō i (te)ngā kerēme me te karo i te pūruatanga moumou (tirohia *ngā kōwae 4.7–4.9*); me te
 - ▶ kimi i te whakurunga a ngā hunga ki ngā taunakitanga rangahau e hiahiatia ana mō te paihere taunaki.
- 4.5 E herea ana ngā pūrongo rangahau i kirimanatia e te Taraipiunara ki ngā tukanga whakaū kounga a te whakahaere a te Taraipiunara i tirohia e te Tumu Kōrero Matua. Ka tukuna hoki ngā pūrongo hukihuki ki ngā hunga mō ā rātou kupu i mua i te whakahounga whakamutunga. Mēnā e tutuki ana te pūrongo i ngā kupu o te kirimana, ā, mēnā e pai ana e pā ana ki tana whānui me tana hōhonu, ka tohutohu te Tumu Kōrero Matua i te Taraipiunara i tutuki i te paerewa Tumu Kōrero Matua. Kātahi ka tuku te Mana Whakahaere i te whakahau kia whakauru te pūrongo ki te pūranga o te ruku tātari me te tuari ki ngā hunga hāngai.
- 4.6 Ahakoa ko te whāinga a te Taraipiunara kia oti te nuinga o ngā rangahau i mua i te tīmatanga o ngā nohoanga, ka tīmata ētahi atu rangahau, ā, ka whakatakotohia ki te Taraipiunara ā muri ake mēnā e tautuhia ai te hiahia.

NGĀ PAIHERE TAUNAKI

- 4.7 Ko te paihere taunaki he ara kia paihere ōkikotia ngā rawa taunakitanga matua mō tētahi ruku tātari ki tētahi whakaraupapatanga tauwhāiti kia ngāwari te tirotiro. I te nuinga o te wā ka waihanga te Taraipiunara i te paihere taunaki me ngā taunakitanga hangarau katoa e hiahiatia ana kia whai tūāpapa taunakitanga tika te Taraipiunara kia tīmata te nohoanga. Ka whakarato te Tumu Kōrero Matua i tētahi pepa matapaki mō ngā hunga e pā ana ki ngā mea e hiahiatia ana ki te paihere taunaki, ā, i muri i te rongō ki ngā tāpaetanga, ka whakahau te Mana Whakahaere kia whakaputaina te paihere taunaki mō te ruku tātari.
- 4.8 Ina whakaotia ana ngā pūrongo paihere taunaki, ka whakaurua ki te pūranga o te ruku tātari me te tuarhia ki ngā hunga. Ina oti ai te paihere taunaki, ka arotake tētahi mema o te Taraipiunara me te Tumu Kōrero Matua i ngā ihirangi o te paihere taunaki kia āhei te tohutohu i te Taraipiunara mēnā e kapi whānui ana i ngā take kerēme kia āhei ngā nohoanga te tīmata. Mēnā e hiahiatia ana, ka taea te rangahau anō te kirimana hei urupare i ngā āputa horanga i tautuhia. I te nuinga o te wā ka haere te Taraipiunara ki te nohoanga ā te wā e whakaotia ai te katoa, te nuinga rānei, o te paihere taunaki.

- 4.9 Kei roto i te paihere taunaki i te nuinga o te wā:
- ▶ ngā pūrongo rangahau me ngā kōrero taunaki e whakaratoa ana e ngā kaikerēme, ā, ka whakawhirinakitia ai;
 - ▶ ngā pūrongo rangahau i kirimanatia e te Taraipiunara me ngā pūrongo rangahau i whakaputaina e te Karauna;
 - ▶ ētahi atu pūrongo rangahau, tuhinga hoki e hāngai ana ki te ruku tātari, ki tā te Taraipiunara titiro; me
 - ▶ ētahi mōhiohio tauwhāiti i tonoa e te Taraipiunara kia whakaputaina e te Karauna hei whakauru ki te paihere taunaki (hei tauira, ngā tatauranga Karauna hāngai, ngā huinga raraunga rānei).

NGĀ KŌNAE TUHINGA ME NGĀ TUHINGA TAUTOKO

- 4.10 Ka whiwhi te Rōpū Whakamana i Te Tiriti o Waitangi i ngā tūmomo kōnae tuhinga e rua hei taunakitanga mō ana ruku tātari. Ko te tuatahi he kōnae tuhinga whānui; he whakahiatotanga o ngā tuhinga waiwai, i whiwhia i ngā mātāpuna whakatapoko katoa, e hāngai ana ki te kerēme, rōpū kerēme rānei, ki t/ētahi take i roto i tētahi kerēme. Ka āhei te Taraipiunara te kirimana i tētahi kairangahau kia whakahiato i te kōnae tuhinga whānui, ka tuku rānei te hunga i tōna ake. I te nuinga o te wā e mahia ana tēnei i ngā wāhanga tīmatanga o te ruku tātari.
- 4.11 Ko te tūmomo kōnae tuhinga tuarua he kōnae tuhinga tautoko, e haere tahi ana me te pūrongo rangahau. Kei roto ko ngā tuhinga tautoko matua katoa e whakawhirinakitia ana e te kairangahau i roto i te pūrongo, engari kāore i tāngia, he uaua rānei te whakatapoko. Me whakarite kuputohu, nama whārangi, me te whakatakoto i te taha o te pūrongo rangahau. Kāore e āpitihia ki ngā taunakitanga, ngā tāpaetanga rānei. Me kaua e whakauru ngā rawa e whai ake nei i roto i te kōnae tuhinga pepa tautoko:
- ▶ Ngā rawa i tāngia (pērā i ngā unuhanga i te *Appendix to the Journal of the House of Representatives* me ngā ture).
 - ▶ Ngā rawa mātāpuna matua e āhei ana ā-ipurangi (pērā i ngā atikara niupepa nō te pae tukutuku 'Papers Past' a Te Puna Mātauranga o Aotearoa).³⁹
 - ▶ Ngā rawa pūranga e aukatia ana i te whakatapoko tūmatanui (pērā i ngā kōnae i aukatingia i Te Rua Mahara o te Kāwanatanga).
 - ▶ Ko ngā rawa me ngā mōhiohio tūmataiti mō ngā tāngata takitahi (pērā i ngā tuhinga i whakaratoa ki te kairangahau i ngā tari kāwanatanga i raro i ngā kupu here i te whakatapoko). Ka wātea ngā mōhiohio pērā me te whakakore o ngā mōhiohio tūmataiti.

39. Heoi anō, mēnā he iti te tūpononga e āhei ana ngā mōhiohio i runga i te pae tukutuku ā muri atu, me whakatakoto ngā hunga i te tārua o ngā mōhiohio, te tuhinga rānei i te paetukutuku hāngai.

- 4.12 Kei tēnā kōnae tuhinga, kei tēnā kōnae tuhinga e whakaatu ana i te taitara o ia tuhinga, he tautuhinga o ngā ihirangi, me tana mātāpuna, wāhi rānei. Me whakatakoto te kōnae tuhinga pepa tautoko me te kuputohu me ngā nama whārangi (ina tika ana) i te hōputu e ōrite ana ki te pūrongo – i te nuinga o te wā he putanga tāhiko PDF ā, he mea mariu kia hono mā te hononga tāhiko mēnā he nui rawa. E noho haepapa ana te kaituhi kia whakahiato i te kōnae tuhinga pepa tautoko me te whakatūturu i te tika, ā, e taea ana te pānui ngā tārua o ngā tuhinga.
- 4.13 Nā runga anō i te rahi, ka āhei te whakarato ngā kōnae tuhinga ki ngā hunga ina tonoa mā te imēra ki WT_Requests@justice.govt.nz.
- 4.14 Ina whakaurua ana te kōnae tuhinga ki te pūranga o te ruku tātari, me kua ngā hunga, i roto i ā rātou taunakitanga, tāpaetanga rānei, e whakatakoto i ngā tārua o tētahi tuhinga i tāruatia ki te kōnae engari ka tohutoro kē i te tuhinga mā te tohu i te ingoa o te kōnae tuhinga, te pūranga o te ruku tātari me te nama o te whārangi. Ka pēnā kia karo i te pūruatanga o ngā tuhinga i runga i te pūranga o te ruku tātari.

MAHERE

- 4.15 Ina āhei ana, me tautoko tika ngā tohutoro matawhenua i roto i te taunakitanga (pērā i ngā tohutoro ki ngā poraka whenua, ngā ingoa wāhi rānei) e ngā mahere, e ētahi atu mōhiohio matawhenua rānei. Ka ruruku pea te Taraipiunara i te whakaputanga o ngā mahere kia whakaiti i te nama e hiahiatia ana ki te ruku tātari, whakapūmau i te ōritetanga o te tohutoro, me te whakatakoto i ngā whakahaere kounga.

PŪRANGA O TE RUKU TĀTARI ME TE TUARI TUHINGA

- 4.16 Ka pupuri te Taraipiunara i te pūranga o te ruku tātari mō ia kerēme. Ka whakarārangihia ngā pepa waiwai e pā ana ki te whakahaere o te ruku tātari a te Taraipiunara (te pūranga o ngā whakahaerenga ā-ture) me te taunakitanga, me ētahi atu mōhiohio kei mua i te aroaro o te Taraipiunara (te pūranga o ngā tuhinga). Ka whakaritea nahanahatia he kuputohu mō ngā mea katoa i runga i te pūranga. Ia te wā ka tuari te Taraipiunara i ngā tārua o te kuputohu o te pūranga o te ruku tātari.
- 4.17 Ina whakarōpū te Taraipiunara i ngā kerēme hāngai mō te ruku tātari kotahi, ka kōnanunanu i te pūranga o te ruku tātari o ia kerēme ki te pūranga kotahi o te ruku tātari.
- 4.18 Ka tāpirihia hoki ngā tuhinga ki te pūranga o te ruku tātari nā runga ano i te whakaaetanga, i te whakahau rānei a te Hea, te Hea tuarua, te Mana Whakahaere, te mema rānei e mahi ana me te mana whakahaere a te Taraipiunara, e whakawhirinaki ana ki ngā āhuatanga hāngai. Ina whakaaetia kia uru ki te pūranga, ka tukuna ki ngā tuhinga te tohutoro

pūranga o te ruku tātari hāngai me te tuarīhia ā-tāhiko ki ngā hunga mā te Taraipiunara. Kātahi ka āhei ngā tuhinga te whakatapoko mā te paetukutuku a te Taraipiunara.

- 4.19** Ka āhei hoki te tono i ngā tuhinga i ngā kuputōhu rānei ki te pūranga o te ruku tātari, otirā kāore i te wātea te tuhinga ki te paetukutuku, nā runga anō i te rahi, i ngā take hangarau rānei, mā te imērā ki WT_Requests@justice.govt.nz.
- 4.20** Wāhanga 1 o te pūranga, te pūranga o ngā whakahaerenga ā-ture, te wāhanga ture me te tukanga o te pūranga. Kei roto te katoa o ngā tuhinga e pā ana ki ngā whakapae, ngā tono, ngā tāpaetanga, me te whakahaere o te ruku tātari. Ka tāpirīhia ki roto te(ngā) tauākī whakaraupapa nawe me ētahi panonitanga, ngā manatu a te Taraipiunara, ngā kirimana rangahau, ngā manatu a ngā rōia, ngā kape tuhinga, ngā whakamāoritanga, me ngā pānui tūmatanui.
- 4.21** Wāhanga 11, te pūranga o ngā tuhinga, te wāhanga taunakitanga o te pūranga. Kei roto ngā tuhinga hei whakawhirinakitanga mā te Taraipiunara, ngā tuhinga me ētahi atu rawa taunakitanga i whiwhia, me ētahi atu tuhinga, tae atu ki ngā mātāpuna matua kāore i tāngia, e hiahia ana pea ngā mema o te Taraipiunara te tāpiri atu ki te pūranga ina haere ana ngā nohoanga ruku tātari. Nā reira, ka whakamōhio atu te pūranga o ngā tuhinga ki ngā hunga me ētahi atu o ngā raraunga kei mua i te aroaro o te Taraipiunara.
- 4.22** Ka whai nama ngā tuhinga i runga i te pūranga o te whakahaerenga ā-ture i roto i ngā pūtoi iti e ono e whai ake nei:
- ▶ e whakarārangi ana te pūtoi iti 1 i ngā tauākī whakaraupapa nawe me ētahi panonitanga, tae atu ki ngā tauākī whakaraupapa nawe whakamutunga, ngā whāititanga o te tauākī whakaraupapa nawe rānei, te(ngā) tauākī urupare a te Karauna, a ngā rōpū Karauna, a ngā hinonga Karauna rānei, me te(ngā) tauākī whakataungā take a te Taraipiunara;
 - ▶ ka whakarārangi te pūtoi iti 2 i ngā manatu, ngā kupu whakahau, me ngā whakataunga i tukuna e te Taraipiunara e pā ana ki te rehītatanga o ngā kerēme hou, te panoni o ngā kerēme, ngā hui ā-kaiwhakawā me ngā nohoanga, te rangahau i kirimanatia e te Taraipiunara me ētahi atu take;
 - ▶ e whakarārangi ana te pūtoi iti 3 i ngā tono, ngā tāpaetanga, me ngā manatu a ngā rōia mō ngā hunga ki te ruku tātari, tae atu ki ngā tāpaetanga tuwhera me ngā tāpaetanga whakakapi, me ngā tāpaetanga whakahoki;
 - ▶ e whakarārangi ana te pūtoi iti 4 i ngā kape tuhinga, ngā whakamāoritanga, me ngā hopunga oro;

- ▶ ka whakarārangi pūtoi iti 5 i ngā pānui tūmatanui e pā ana ki ngā hui ā-kaiwhakawā, ngā nohoanga, me te rārangi take mō ngā hui ā-kaiwhakawā me ngā nohoanga; ā
- ▶ e whakarārangi ana pūtoi iti 6 i ētahi atu pepa i whakatakotohia ki ngā whakahaerenga ā-ture kāore e uru ana ki ētahi atu o ērā atu pūtoi iti e rima.

4.23 E whakarōpūtia ana ngā tuhinga i runga i te pūranga o ngā tuhinga ki te pūtoi iti reta nama e pēnei ana:

- A1 Kōrero taurangi a te kaikerēme A
- A2 Kōrero taurangi a te kaikerēme B
- A3 ...
- B1 Kōrero taunaki a te kaikōrero Karauna
- B2 Pūrongo a te kaikōrero mātanga i kirimanatia e te Taraipiunara
- B3 ...

te mea, te mea.

4.24 *E whakaatu ana te Tāpiritanga A* i te tauira me pēhea e whakarite i ngā tuhinga me ngā mōhiohio i runga i te pūranga o te ruku tātari.

4.25 E hāngai ana ia reta ki tētahi wā, i te nuinga o te wā, i waenga i te mutunga o tētahi nohoanga me te mutunga o tētahi atu. Heoi anō, ka whakarite kē ngā ruku tātari rerekē i te pūranga o ngā tuhinga e pā ana ki ngā hiahia o te ruku tātari tauwhāiti. Tēnā, whakapā atu ki te Rēhita i te tuatahi mō ngā pātai e pā ana ki te pūranga o te ruku tātari.

4.26 Mēnā he nohoanga a te Taraipiunara i te wā kotahi, ka kōnanunanu te kuputohu ki te pūranga o te ruku tātari mō ia kerēme e rangona ana ki taua ruku tātari ki te kuputohu whānui, ka kīia he ‘pūranga ruku tātari i kōnanunanutia’.

WĀHANGA 5: TE WHAKATAKOTO ME TE TUKUNGA O NGĀ TUHINGA

KO NGĀ TUKUNGA WHAKATAKOTO ME NGĀ WĀTAKA WHĀNUI

- 5.1** Me whakatakoto ki te Rēhita ngā tuhinga katoa e whakatakotohia ana ki ngā whakahaerenga ā-ture a te Rōpū Whakamana i te Tiriti o Waitangi. E hāngai ana ngā wātaka whakatakoto, tukunga hoki ā te wā e whakaurua ana tētahi kerēme, ruku tātari rānei ki te hōtaka nohoanga, ā muri atu ka tuku te Mana Whakahaere i te whakahau e whakahua ana i ngā wātaka whakatakoto me te tukunga mō te ruku tātari i te nuinga o te wā.
- 5.2** Me whai ngā kupu whakahau e whakarite ana i ngā wātaka whakatakoto, tukunga hoki. Kei roto i ngā wātaka whakatakoto he whakaetanga kia tārua me te tuari te whakahaere a te Taraipiunara ki ngā mema o te Taraipiunara (ā, mēnā e hiahiata ana, ki ētahi atu e whai wāhi atu ki te ruku tātari) ā, kia whai wā ngā mema o te Taraipiunara, ngā hunga, me ētahi atu e whai take ana kia kōrero, kia āta whaiwhakaaro ki ngā rawa i mua i te tīmatanga o tētahi hui ā-kaiwhakawā, nohoanga rānei. Ki te kore e whāia ana ngā wātaka whakatakoto, tukunga hoki e whakahēngia ai pea te ruku tātari tōkeke, whāomo hoki. Ki te kimi tētahi kia kōtiti i te wātaka whakatakoto me tonu ki te Taraipiunara me ana take i te wā tōmua e āhei ana, ki tētahi hui ā-kaiwhakawā, nohoanga rānei, ā-pepa rānei mā te Rēhita.
- 5.3** Ki te kore te Taraipiunara e tuku whakahau kē, me whakatakoto ngā tuhinga ki te rēhita a te Taraipiunara hei te 5 karaka i te ahiahi i te rā i whakaritea.

RĀRANGI INGOA TUARI

- 5.4** Ka whakahiato te Taraipiunara i ngā wāhitau imēra hāngai katoa hei rārangi ingoa tuari mō tētahi ruku tātari, kerēme rānei. Ko te take o tēnei rārangi ingoa tuari hei tautoko i te whakatakoto me te tukunga ā-tāhiko o ngā tuhinga. E whakamahia ana hoki te rārangi ingoa tuari ki te tuari i ngā tuhinga i whakaurua ki te pūranga o te ruku tātari me ngā whakakakau a te Taraipiunara pērā i ngā kupu whakahau me ngā pānui.
- 5.5** E whakahaeretia ana ngā rārangi ingoa tuari e te Tira Ruruku Kerēme a te Taraipiunara, ā, he riterite te whakahou. Me whakamōhio atu ngā hunga ki te Rēhita, mēnā kāore rātou i te hiahia kia whai wāhi atu ki te rārangi ingoa tuari me te whakamahi i te rārangi ingoa tuari hou rawa ina whakatakoto me te tuku i ngā tuhinga.

TE WHAKATAKOTO ME TE TUKUNGA O NGĀ TUHINGA

- 5.6 E hāngai ana tēnei tukanga whānui ki te whakatakoto i te nuinga o ngā tuhinga ki te Taraipiunara. E whakahuatia ana te tukanga tauwhāiti hei whakatakoto i ngā tuhi rangahau me ngā mōhiohio hangarau ki *Tāpiritanga E*.
- 5.7 Me whai te whakatakotohia o ngā tuhinga i te tukanga e whai ake nei ki te kore e kīia, e panonihia rānei e te Mana Whakahaere hāngai:
- (a) Me whakatakoto ā-tāhiko ngā tuhinga katoa hei kōnae PDF mā te īmēra ki te Rēhita ki w.T.Registrar@justice.govt.nz;
 - (b) Ko te mariu a te Taraipiunara ko te whakatakoto ā-tāhiko engari ka whakaaengia hoki ngā tuhinga i whakatakoto ōkikotia mā te pōhi.
 - (c) Me whakatakoto te tuhinga mā te rārangi ingoa tuari ruku tātari hāngai.⁴⁰ e tuku ana ki ngā hunga katoa.
 - (d) Me waitohu ngā tuhinga me te nama i ngā whārangi, ā, me mārama hoki te nama i ngā kōwae kia ngāwari te tohutoro.
 - (e) Ina whakatakoto ana ngā hunga i ngā paihere tuhinga tautoko me whakatūturu he nama whārangi i runga i ngā paihere tuhinga, ā, me te kuputohu hāngai.
 - (f) Mēnā he nui rawa ngā tuhinga kia tuku mā te īmēra, e āhei ana te whakatakoto ki te Rēhita mā te pūmahara USB, hononga tāhiko rānei (pērā i Dropbox, i Sharepoint rānei).⁴¹
 - (g) Ina whakatakotohia tētahi tuhinga i muri i ngā hāora tari a te Taraipiunara (9 karaka i te ata ki te 5 karaka i te ahiahi, Mane ki te Paraire) i ngā rā hararei tūmatanui rānei (tae atu ki te Rā Huritau o Te Whanganui-a-Tara), ka kīia i whiwhia e te Taraipiunara i te rā i muri mai. Mēnā he tūreiti te whakatakoto a te rōia i ngā tuhinga, me kimi i te whakaaetanga hāngai i roto i tana īmēra whakatakoto, manatu rānei.
- 5.8 Ka whakaae pea te Rēhita o te Taraipiunara kia whakaaetia he whakatakotoranga e rerekē ana i ēnei tikanga whānui. Heoi anō, ka kapi anake te kōwhitinga a te Rēhita i te āhua o te whakatakoto, kaua ko ngā mana e whakaaorohia ana e noho nei ki te kōwhitinga o te Hea, o te Mana Whakahaere rānei (hei tauira, te tuku whakaroatanga).
- 5.9 Ka tārua me te tuari te Taraipiunara ki ngā kaikerēme e pāngia ana, te Karauna, me ētahi atu tāngata e whai take ana kia kōrero, ngā tuhinga katoa i whakaurua ki te pūranga o te ruku tātari e whai take ana rātou.

40. Ko te rārangi ingoa tuari te rārangi o ngā wāhitau īmēra hei tukunga e tukuna ai te katoa o ngā whakatakoto mō tētahi ruku tātari tauwhāiti.

41. Ko te tepenga o te tūmau īmēra a te Tāhu o te Ture e 25MB mō ngā tuhinga e āhei ai te whiwhi. Mēnā he nui ake ngā tuhinga tāhiko i tēnei me whakawehe ki ngā wāhanga, me tēnā wāhanga, me tēnā wāhanga, e tāpirihia ana ki te īmēra motuhake.

**KO NGĀ TUHINGA I WHAKAPUTAINA KI NGĀ HUI Ā-KAIWHAKAWĀ
ME NGĀ NOHOANGA I WHAKATAKOTOHIA I MURI IHO I TE WĀ I
WHAKARITEA**

- 5.10** Ka whakamōhio atu te Mana Whakahaere ki ngā hunga o te wā i whakaritea kia whakatakoto i ngā tuhinga katoa i mua i te hui ā-kaiwhakawā, te nohoanga rānei. I te nuinga o te wā, ina hiahia ana tētahi hunga, tētahi atu tangata rānei e whai take ana kia kōrero, ki te kimi i te whakaaetanga ki te whakatakoto i ngā tuhinga i muri atu i te wā i whakaritea me whakarato:
- ▶ he tārua mā ia mema o te Taraipiunara;
 - ▶ ngā tārua ōkiko e rua mō te pūranga o te ruku tātari; ā
 - ▶ mēnā kei roto i te reo Māori ngā tuhinga, tētahi whakapākehātanga me te rahi o ngā tārua e tika ana mō ngā mema o te Taraipiunara me te pūranga o te ruku tātari a te Taraipiunara;
 - ▶ ngā putanga tāhiko o ngā tuhinga, hei tukunga ki ērā atu hunga i runga i te rārangi ingoa tuari o te ruku tātari.

**TE AUKATI I TE WHAKATAPOKO KI, WHAKAMAHI RĀNEI I, NGĀ
MŌHIOHIO RAHIRAHI**

- 5.11** Ka kimi pea te hunga, te tangata rānei e whai mana ana ki te tū mai, kia whakahaumaru i ngā mōhiohio tino rahirahi, matatapu hoki/rānei mā te tono ki te Taraipiunara mō te whakahau e here ana i te whakatapoko ki, i te whakamahi rānei o aua mōhiohio (ngā mea e rua rānei). Ina whaiwhakaaro ana ki ngā tono pēnā, me aro atu te Taraipiunara ki ngā ture me ngā waeture e hāngai ana, ngā tikanga o te matatika tūturu me te wāhanga 5A o te āpitihanga tuarua ki te Treaty of Waitangi Act 1975.⁴²
- 5.12** Ahakoa ka herea te Taraipiunara e tētahi tikanga o te ture, herenga ā-ture, whakahau rānei a ngā kōti e hāngai ana, ehara te Taraipiunara e herea kētia ana e te whakahau nāna i whakarite kia aukati i te whakatapoko ki, te whakamahi o rānei, ngā taunakitanga. Ka āhei te whakamahi i te taunakitanga, e tika ana ki tāna titiro, mō te take o te whakahaere i tana ruku tātari ki, me te pūrongo mō, te/ngā kerēme e hāngai ana te taunakitanga, ahakoa ka mahi pērā me te aro atu ki te rahirahi o te taunakitanga.
- 5.13** Waihoki, me whakamōhio atu ki ngā kaikōrero, ahakoa ngā kupu whakahau a te Taraipiunara e aukati ana i te whakamahi, te whakatapoko rānei, ka haria pea ngā taunakitanga e tāpaetia ana ki te Taraipiunara ki mua ki te aroaro o ngā kōti i roto i te whakahaerenga ā-ture mō te arotake i

42. I raro i ngā tikanga o te matatika tūturu e whai mōtika ana ētahi rōia, te katoa rānei (me ā rātou kiritaki) ki te whakatapoko ki ngā taunakitanga me te whakamahinga hoki mō ngā take o te ruku tātari a te Taunakitanga, ā, i raro i te wāhanga 5A he mōtika tō tēnā hunga, tō tēnā hunga nō te whakahaerenga ā-ture, ki te whiwhi ki te tārua o te pūrongo i kirimanahia e te Taraipiunara.

tētahi whakataunga whakawā. Heoi anō, he whakahaumarū e hāngai ana i aua whakahaerenga ā-ture, i raro i ngā tikanga me ngā tukanga o ngā kōti tauwhāiti, mō te āhua o te whakamahi i ngā rawa e pā ana ki ngā whakahaerenga ā-ture.

- 5.14 E whakahuatia ana te tukanga mō te tonono i te matatapu ki *Tāpiritanga F*. Kāore e uru ngā tuhinga matatapu ki te pūranga tūmatanui o te ruku tātari.

TE WHAKATAPOKO TŪMATANUI KI NGĀ TUHINGA I RUNGA I TE PŪRANGA O TE RUKU TĀTARI

- 5.15 Ka āhei ngā mema o te hunga tūmatanui te whakatapoko me te tārua i te tuhinga i whakaurua ki te pūranga o te ruku tātari, engari e herea ana e ngā kupu whakahau a te Taraipiunara e aukati ana i te mahi me te whakatapoko, ngā whakaritenga o te Copyright Act 1994, me ētahi atu whakaritenga ā-ture, tikanga o te ture rānei.
- 5.16 E whakatapoko ana ngā tuhinga ki te pūranga o te ruku tātari i runga i te paetukutuku a te Taraipiunara.
- 5.17 Ina kimi ana tētahi kaikerēme i te whakatapoko ki tētahi tuhinga i whakaurua ki te pūranga o te ruku tātari o tētahi atu kaikerēme, ā, ehara ia i tētahi hunga o taua kerēme, i te tūmatanga ānō nei he mema o te hunga tūmatanui ia.

TŪHURATANGA O NGĀ TUHINGA

Tūhuratanga whānui

- 5.18 Kāore he tukanga tūhuratanga ōkawa i roto i te Rōpū Whakamana i Te Tiriti o Waitangi pērā i ngā kōti whānui. I ngā kēhi katoa, ka whakatenatena te Taraipiunara kia mahi tahi ngā hunga me ētahi atu e whai wāhi atu ki te ruku tātari e pā ana ki te tūhuratanga o ngā tuhinga e hāngai ana ki ngā kerēme e pāngia ana. He maha ngā Taraipiunara i whakatinana i ngā tukanga huranga ki te ruruku i te tūhuratanga o ngā tuhinga.
- 5.19 Ina hāngai ana ngā kerēme ki te kaupapa here inakwanei, onāiane rānei a te Kāwanatanga, me whakamahi ngā hunga me ētahi atu e whai wāhi atu ki te ruku tātari, i ā rātou mōtika i raro i te Official Information Act 1982 me te Local Government Official Information and Meetings Act 1987.
- 5.20 Ka whakatenatena te Taraipiunara i te mahi tahi ki te tūhuratanga pēnei o ngā tuhinga, engari i ngā āhuatanga e tika ana, ka whakamahi pea i ana mana i raro i te Treaty of Waitangi Act 1975 me te Commissions of Inquiry Act 1908 kia here ai te whakaputanga o ngā tuhinga.
- 5.21 Ina whakahau te Taraipiunara i tētahi hunga, i tētahi tangata kē ki te whakarato i ngā mōhiōhio katoa e pā ana ki tētahi take tauwhāiti e pupurihia ana e tētahi hunga, tangata rānei, ka āhei te whakaae i taua hunga, tangata rānei ki te whakatakoto i te rārangi kuputohu o ngā tuhinga hāngai, me te tohutoro pūranga, kōnae rānei mō ia tūemi, e whakamana

ana i a rātou e whai wāhi atu ki te ruku tātari te whakatau he aha ngā rawa e hiahiatia ana e rātou.

Te tūhuratanga mō ngā ruku tātari ohotata

- 5.22** Mēnā e whakahaeretia ana te ruku tātari ohotata i raro i te angawā whāiti rawa, ahakoa he aha te take, kāore pea e taea te whai i te tukanga tūhuratanga i whakahuatia i konei, ā, ka whakaaetia kētia tētahi putanga iti iho.
- 5.23** Ka kerēme ngā hunga i te matatapu, i te muna rānei e pā ana ki ngā tuhinga tauwhāiti i runga i ngā take kua roa e mōhiotia ana.
- 5.24** Waihoki, ka āhei ngā hunga te tono kia whakatakoto te Taraipiunara i ngā aukatinga ki te whakatapoko ki, te whakamahi rānei o ngā tau-nakitanga rahirahi, kia whakaurua rānei, ki te pūranga o te ruku tātari. E whakamāramahia ana te tukanga mō ngā tono pēnā ki *ngā kōwae 5.11–5.14* me te *Tāpiritanga F*. Kāore i katia ngā whakarōpūtanga o te rahirahi, ā, ka whakapau kaha te Taraipiunara i ngā wā katoa kia rahirahi ki te horopaki.
- 5.25** Ka āhua ōrite te whakahaerenga ā-ture o te tūhuratanga o ngā tuhinga i ngā ruku tātari ohotata a te Taraipiunara ki te huranga i roto i te whakawākanga kiri tangata. Ko te mea matua ko te arotahi ki ngā take e ruku tātarihia ana, me te whakaaro kia whakatūturu ko ngā tuhinga e whai kiko ana ki te ruku tātari a te Taraipiunara e wātea ana ki ngā kaiuru i te wā tika i mua i te nohoanga.
- 5.26** Ka pupuri tonu te Taraipiunara i te kōwhitinga e pā ana ki ngā taipitopito o te tukanga, engari e pēnei ana te whakaritenga o ngā tuhinga ka whakahaeretia ai i te nuinga o te wā:
- (a) Ā muri atu i te whakaurunga a ngā hunga, ka whakaputa te Taraipiunara i te tauākī whakataunga take.
 - (b) Kei roto i te hui ā-kaiwhakawā, ā, i muri atu i te whakaputanga o te tauākī whakataunga take, ka tautuhia, ka matapakihia hoki ngā whakarōpūtanga whānui o ngā tuhinga e whakaarohia ana e hāngai ana ki te ruku tātari. Ka whakarite ngā hunga i ā rātou rārangi o ngā tuhinga i raro i ngā whakarōpūtanga o ngā tuhinga i whakauritea he hāngai.
 - (c) He nui te wā e whakawāteahia ana kia whakatūturu:
 - (i) e whai wā ana te hunga me ngā tuhinga hei whakaputa (ko te nuinga kei te Karauna i te nuinga o te wā) kia tirotiro i ngā kōnae, me te āta tautuhi i ngā tuhinga hāngai katoa, me te whakarārangihia māramatia; ā
 - (ii) ka tukuna ngā tuhinga ki ngā kōpaki, ā, e whai nama piri tata, tūhāhā hoki ia whārangi kia ngāwari te kite me te tautuhi, otirā ki te nohoanga.
 - (d) Ina whakaratoa ngā rārangi, ka whakawātea ngā hunga i ā rātou

tuhinga kia mātaihia. E hāngai ana ki te rahinga, ka whakaratoa katoatia ngā tuhinga huranga ki ērā atu hunga me te Taraipiunara, e whakaaetia ai rānei te wāhi me te wā kia mātaihia, ā, e whakaratoa ana ngā tārua o ngā tuhinga ki ngā hunga pērā i te tonu.

(e) I muri i te mātai a ngā hunga, ka whakarato ngā hunga i mātaihia ā rātou tuhinga ki te Taraipiunara, mā te Rēhita, he tārua o ngā tuhinga hāngai e kimi ana rātou kia tukua i mua i te aroaro o te Taraipiunara, me ētahi atu tuhinga e kimi ai pea te Taraipiunara.

(f) Ka whakatakoto ngā hunga i ngā kōrero taunaki.

5.27 Ka ruruku ngā rōia i ā rātou mahi kia whakatūturu tikahia kāore te tukanga tūhuratanga i te tino whīwhiwhi, roa rawa rānei.

Ngā pukapuka muna, matatapu hoki/rānei

5.28 Mēnā he take mō te muna, te matatapu hoki/rānei e tautuhia ana e te Taraipiunara, i te taupatupatu rānei i waenga i te Karauna me ngā kaikerēme, ka mātai pea te Taraipiunara i ngā tuhinga ki te whakatau i te hāngaitanga, ā, mēnā i whakatūturuhia ngā kaupapa hāngai mō te muna, te matatapu hoki/rānei. Ka mātai anake te Taraipiunara mēnā he take pai e marohi ana kāore i āta whakamōhiohia te kerēme matatapu, muna rānei.

5.29 I muri i te mātai, mēnā e whakaaro ana te Taraipiunara kua whakamōhiohia ngā take mō te muna, te matatapu hoki/rānei, ka whakamōhio atu te Taraipiunara ki ngā hunga kua whakamōhiohia ngā take, ā, me kua e tuku i ngā rawa i tohea.

5.30 Mēnā kāore i whakamōhiohia ngā take mō te muna, te matatapu hoki/rānei, mō te katoa, mō tētahi wāhanga rānei, ka tuku pērā te Taraipiunara i te whakahau mō te tūhuratanga o ngā tuhinga, me ngā herenga hāngai. Ka tonoa pea ngā hunga kia tuku kōrero mō ngā herenga e piri ana ki te tūhuratanga o ngā tuhinga.

WĀHANGA 6: TE WHAKAHAERE I TE RUKU TĀTARI

NGĀ HUI Ā-KAIWHAKAWĀ

- 6.1** Ka whakatū pea te Taraipiunara i ngā hui ā-kaiwhakawā me ngā kaikerēme, te Karauna, me te hunga e hiahiatia ana, e tika ana rānei, ki tā te Taraipiunara titiro kia whakahaeretia ā-kēhi tana tukanga ruku tātari. Ka karangatia pea ngā hui ā-kaiwhakawā i mua i te tīmatanga o ngā nohoanga i tētahi ruku tātari, ā, puta noa i te whakahaerenga o te ruku tātari mō ngā take huhua.
- 6.2** Ka whakahaeretia pea ngā hui ā-kaiwhakawā e te Mana Whakahaere o tētahi ruku tātari tauwhāiti, me ētahi mema paewhiri i reira rānei. Ki te kore, ka whakahaeretia kētia ngā hui ā-kaiwhakawā e te Mana Whakahaere, tētahi mema rānei e mahi ana me te mana whakahaere o te Hea.
- 6.3** E tuwhera ana ngā hui ā-kaiwhakawā, ki te kore e pānuitia kētia. I ētahi wā, ka tū mamao ngā hui ā-kaiwhakawā mā ngā tikanga tāhiko ina tika ai. I te nuinga o te wā ka tuku te Taraipiunara i te pānui o te hui ā-kaiwhakawā ki ngā hunga, me ētahi atu tāngata e pāngia ana. Ka here pea te Taraipiunara i te nui o ngā tāngata e tae atu, tae atu ki ngā kaikerēme me ō rātou māngai, ā, i ētahi wā, mēnā e whakakanohitia ana ngā hunga me ērā atu tāngata e whai take ana e ngā rōia, ka herea te taenga ā-tinana ki ngā rōia anake.
- 6.4** Ka whakatenatena te Taraipiunara i ngā hunga me ētahi atu e whai wāhi atu ki te ruku tātari ki te whakatatū i ngā take tukanga e toe ana i mua i ngā nohoanga kia āhei te arotahi i te wā nohoanga ki te whiwhi i ngā taunakitanga me ngā tāpaetanga, kua ko ngā take tukanga. I te tuatahi, ko te hunga e whai take ana me whakamātau ki te whakatika i ngā take kei waenga i a rātou me te kore hāpaiora a te Taraipiunara. Heoi anō, ki te kore e tika tēnā, kāore e taea rānei, ka āhei tētahi hunga, tētahi atu tangata e pāngia ai rānei ki te Taraipiunara kia whakaritea he hui ā-kaiwhakawā.

RŌIA RURUKU

- 6.5** He tikanga māori kia whai tētahi ruku tātari i te rōia ruruku. Tērā pea neke atu i te rōia kotahi e mahi i te tūnga o te rōia ruruku. He mahi matua tā te rōia ruruku i te nuinga o ngā ruku tātari. I te nuinga o te

wā, mā tētahi o ngā rōia kaikerēme e puta ana i roto i te ruku tātari e tū hei rōia ruruku. E kopoua ana rātou ki te kōrerorero me ngā kaikerēme, ō rātou rōia, te hunga e whai take ana, te Karauna, ngā kaimahi a te Taraipiunara, me te Taraipiunara anō hoki mō ngā tūmomo take e hāngai ana ki te nohoanga – te whakamahere, te wātaka, te whakarite – me te whakaritenga o ngā whakautu tuku tahi, ngā marohi rānei pēnā i te whakahau a te Taraipiunara, i tīmatahia rānei e ngā hunga.

- 6.6 I te nuinga o te wā, ka whakaingoatia te rōia ruruku e ngā rōia kaikerēme i muri i ngā matapaki i waenga i a rātou. Mēnā e hiahiatia ana, mā te Taraipiunara te kopoutanga e whakamana. Ko te mariu a te Taraipiunara kia whakatau ngā rōia kaikerēme mā wai e mahi taua mahi, i ētahi wā mā te Taraipiunara kē e kopou te rōia ruruku, e marohi rānei mā wai te tūnga e mahi.

**TE WHAKARITE I NGĀ WĀ NOHOANGA, RĀ NOHOANGA,
ME NGĀ WĀTAKA.**

- 6.7 Ka whakatau te Taraipiunara he aha ngā rā nohoanga mō tētahi ruku tātari me te akoako ki ngā kaikerēme, ō rātou rōia me te Karauna. I te nuinga o te wā ka whakamōhio atu te Taraipiunara ki ngā hunga ngā rā nohoanga e wātea ana, ā, mā te rōia ruruku e kōrerorero me ngā kaikerēme me te Karauna ki te whakatūturu i tō rātou wāteatanga. Ka whakahau pea te Taraipiunara, i runga i tana kōwhitinga, kia panonihia te wātaka nohoanga e marohitia ana. Ka whakawātea hoki e te Taraipiunara i te maramataka nohoanga mō te tau i runga i tana pae tukutuku ki ngā hunga e hiahia ana ki te marohi i ngā rā nohoanga.
- 6.8 Mēnā ka kore e wātea ngā hunga kia tae atu ki te wā i whakaritea i roto i tētahi maramataka nohoanga, me kōrerorero ki te rōia ruruku hāngai me te whakamōhio wawe atu ki te Taraipiunara i te wā e āhei ana.
- 6.9 I te nuinga o te wā e mahia ana te ruruku o te wātaka nohoanga, tae atu ki te whakarite i te raupapatanga o ngā tāpaetanga rōia me ngā whakaaturanga kaikōrero, e te rōia ruruku me te akoako ki ētahi atu rōia kaikerēme, ngā kaikerēme tū rōia kore, ngā hunga, te Karauna, me ngā kaimahi a te Taraipiunara. Ka ruruku te Karauna i te wātaka nohoanga mō te wā nohoanga i tuarhia kia tāpae i ana taunakitanga me ana tāpaetanga.

TE WĀHI NOHOANGA

- 6.10 Ka whakapau kaha te Taraipiunara kia rongō ki ia rōpū kerēme ki tōna ake marae, ki te wāhi rānei i kōwhiria ai e ia, ā, e ai ki ana tukanga, ina hiahiatia ana. Ka noho pea ngā kaumātua tohutohu ki te taha o te Karauna, ā, i ētahi wā te taha o ngā rōia kaikerēme. He mahi matua tā ngā kaumātua me tēnei mahi e ārahi ana i ngā rōia, ā, i ētahi wā e kōrero

ana hei māngai mō rātou i roto i ngā whakahaerenga ā-ture. Ka tautoko te Taraipiunara i tēnei.

- 6.11** Ka akoako te Taraipiunara ki ngā kaikerēme me te rōia ruruku hāngai e pā ana ki te wāhi e tika ana mō tētahi nohoanga tauwhāiti. Ka marohi hoki pea te Karauna i te wāhi tika mō te nohoanga mō ōna ake taunakitanga, tāpaetanga hoki.
- 6.12** Heoi anō, i ngā wā katoa, ka whiwhi tonu te Taraipiunara ki te kōwhitinga hei whakatau e noho ki hea. I tua atu i ētahi atu kaupapa, me whakaaro te Taraipiunara e whakaae ai tētahi wāhi i te Taraipiunara kia mahi tika i ana mahi, ā, ka tutukihia ngā hiahia hauora me te haumarū, tae atu ki ngā tukanga hauora tūmatanui ina hāngai ana ērā.
- 6.13** Ka kōwhiria pea hoki te Mana Whakahaere kia whakatinana i ngā tukanga e tika ana mō te ruku tātari, hei tauira, te whakamahi i ngā tukanga tomopai pērā i te Ruku tātari Putanga me ngā Ratonga Hauora (Wai 2575).
- 6.14** I te nuinga o te wā e tuwhera ana ngā nohoanga ki te hunga tūmatanui. I ētahi wā, ka tū mamao ngā nohoanga ina tika ai. Kei te kōwhitinga o te Taraipiunara hāngai kia whakatau me pēhea e mahi te pāhotanga mataora o ngā takunetanga. Kei te Taraipiunara hoki te mana kia hui tūmataitihia, ā, ina hāngai ana te aukatinga ki ētahi taunakitanga tauwhāiti, ka herea pea ngā tāngata e āhei ana te tae mai ki tētahi wāhanga o te nohoanga e tāpaetia ai aua taunakitanga.

RAUPAPA O TE RUKU TĀTARI A TE TARAIPUNARA

- 6.15** Kāore he raupapatanga i whakaritea hei whakatau me pēhea te ruku tātari a te Taraipiunara, me ngā nohoanga hāngai e whakahaeretia ai. E wātea ana ki ngā kaikerēme me ō rātou rōia, tētahi atu māngai kaikerēme rānei te whakatau me pēhea e tāpae i tētahi kerēme. He mahi hoki tā te Karauna mō ngā wānanga e pā ana ki te raupapatanga o te ruku tātari. I te mutunga o te rā, kei te Taraipiunara te kōwhitinga.
- 6.16** Ka haere pēnei ai ngā wāhanga o te ruku tātari. Heoi anō, he tohu noa iho ngā tukanga, ā, ka panoni pea, nā runga anō i ngā āhuatanga me te momo o te ruku tātari. Hei tauira, kua whakaraupapatia ētahi ruku tātari ā-kaupapa kia arotahi ki ētahi take tauwhāiti.

Wāhanga 1: wāhanga takamua o te nohoanga

I ngā wāhanga tīmatanga o te ruku tātari, ka mahi tahi te Taraipiunara me ngā kaikerēme me te Karauna ki te whakatau i te whānuitanga o te ruku tātari me te tīmata i ngā hui ā-kaiwhakawā tuatahi mō te whakamahere nohoanga me te anga o te ruku tātari.

Ka mahi tahi te Taraipiunara me ngā hunga ki te aromatawai he aha te rangahau e hiahia ana ki te tautoko i te ruku tātari.

Ka whakahaere te Taraipiunara i ngā nohoanga whakatakoto horopaki – pērā i ngā nohoanga kōrero tuku iho, ngā nohoanga tūāpapa rānei – e āhei ana ngā kaikōrero te tāpae i ngā taunakitanga horopaki mō ā rātou kerēme e whakapiki ana i te māramatanga a te Taraipiunara.

Wāhanga 2: wāhanga nohoanga

Ka rongo pea te Taraipiunara i ngā kaikerēme, te hunga e whai take ana, ngā kaikōrero mātanga, ngā kairangahau i kirimanatia, me ngā kaikōrero a te Karauna.

Tāpaetanga whakataki: I te nuinga o te wā, kei roto i te wāhanga nohoanga o te ruku tātari ko ngā tāpaetanga whakataki a ngā rōia, a ngā hunga tū rōia kore rānei, i te tuatahi. I te nuinga o te wā, ka whakataki ngā tāpaetanga whakataki i te kēhi a te hunga ki te Taraipiunara me ētahi atu hunga.

Taunakitanga: Kātahi ka whai wāhi ngā kaikōrero i whakatakoto i te taunakitanga ki te tāpae i taua taunakitanga me te urupare i ngā pātai (tirohia ngā *kōwae 6.28–6.34*).

Ngā tāpaetanga whakakapi: Kātahi ka whakatakoto ngā hunga hāngai katoa i ngā tāpaetanga whakakapi. Ka whakarāpopoto ēnei tāpaetanga i te kēhi a te hunga, ā, i te nuinga o te wā ka arotahi ki ngā tūtohutanga (whakatikahanga rānei) e kimihia ana e ngā hunga i te Taraipiunara.

Ngā tāpaetanga whakahoki: Kātahi ka whai wāhi ngā hunga kerēme ki te whakatakoto tāpaetanga hei urupare ki te taunakitanga a te Karauna me ana tāpaetanga whakakapi.

Tērā pea ka rangona 'nā runga i ngā pepa' ngā tāpaetanga whakakapi, whakahoki: hoki. Ko te tikanga o tēnei kāore he nohoanga ā-tinana, ā, ka whakatau te Taraipiunara i runga i ngā tuhinga i whakatakotohia.

Wāhanga 3: whaimuri i te nohoanga me te wewete i te pūrongo

I muri iho i te whakaotinga o te wāhanga nohoanga, ka tuhi te Taraipiunara i tana pūrongo hukihuki. Ka kimi hoki pea te Taraipiunara i ētahi atu tāpaetanga i ngā hunga i tēnei wā mēnā e hiahiatia ana.

TE WHAKAATURANGA O TE TAUNAKITANGA

- 6.17 Kei ngā nohoanga, me oati/whakaū ngā kaikōrero i ā rātou tauākī ā-pepa, kātahi ka kōrero whānuitia ki ngā take i whakarewahia i roto. Me kua te mahi whānui kia whakarato i ngā puka ā-pepa o ngā taunakitanga e ārai ai te tuku taunakitanga ā-waha a ngā kaumātua pērā i ngā kōrero tuku iho.⁴³ Ina whakamahi ana ngā kaikōrero i ngā tuhinga hukihuki hei ārahi,

43. E mōhiotia ana ko te kōrero tuku iho he hītori, he pūrākau o mua, he tukunga ihotanga, he tukunga ihotanga ā-waha, he 'kōrero i tukuna ihotia e ngā tūpuna hei kōrero noa (ngā kōrero tutuku a ōu tūpuna) ā, kāore i pāngia e ētahi atu kāore i te whai wāhi ki taua kōrero' (Wai 898, #3.1.251).

me whakarato ngā tuhinga (me ngā ata whakaaturanga mēnā e mahia ana) ki te Taraipiunara.

- 6.18** Ko te kawatau me whakarāpopoto, me kōrero rānei ngā kaikōrero mātanga ki ngā pūrongo, kua ko te pānui katoatia ā-waha. I te nuinga o te wā he herenga a te Taraipiunara kia whakaputa ngā kaikōrero pērā i te whakarāpopototanga ā-pepa o ā rātou taunakitanga e whakamahia ai i te nuinga o te wā kia tāpae i te whakarāpopoto ā-waha o ā rātou taunakitanga. Ka whakarite pea te Taraipiunara i te tepenga wā mō te whakaaturanga o ngā whakarāpopototanga me ngā taunakitanga a ētahi atu kaikōrero.

NGĀ OTINGA – NGĀ WHAKATIKAHANGA

- 6.19** I ētahi ruku tātari, ka tuku pea te Taraipiunara i te pūrongo hukihuki i te wāhanga waenga o ngā whakahaerenga ā-ture, i te wā e haere tonu ana ngā whakahaerenga ā-ture, i te wā rānei e noho tārewa ana.
- 6.20** Hāunga tērā, ina oti ai ngā nohoanga, ka whaiwhakaaro te Taraipiunara mēnā e whai kiko ana te kerēme, ā, ka tuku i te pūrongo mō ngā otinga meka me te whakamāramatanga. Ka uru pea ki te pūrongo ngā tūtohutanga, ētahi atu rangahau rānei, ā, e hiahitia ana pea ngā nohoanga mō ngā whakatikahanga i mua i te whakataunga a te Taraipiunara i ngā tūtohutanga taipitopito.

NGĀ NOHOANGA MATATAPU

- 6.21** Ka tono pea ngā hunga kia whakatūria e te Taraipiunara ngā wāhanga matatapu i te wā o te nohoanga, i te nuinga o te wā mēnā he kaikōrero ā rātou e tuku ana i te taunakitanga tino rahirahi. I roto i te wāhanga matatapu, e matapaetia ana me tae ā-tianana anake ngā tāngata e hiahitia ana. I te nuinga o te wā ko te kaikōrero me ngā tāngata tautoko, tō rātou rōia, te rōia mō te Karauna, te Taraipiunara me ngā kaimahi a te Taraipiunara anake ka tae ā-tinana ki te rūma. Ka whakaae te Taraipiunara i te katoa e tae ā-tinana ana i te wā o te wāhanga matatapu, e whakawhirinaki ana ki ngā āhuatanga.
- 6.22** He matatapu te whakaurutanga o te kape tuhinga mō te wāhanga matatapu ki te pūranga o te ruku tātari, ā, kāore he tūhuratanga i tua atu o ngā wāhanga o ētahi mōhiohio, tuhinga rānei e tūhuratia ana, e rangona ana rānei i te wā o ngā wāhanga matatapu. Ka aukatia te pāpāhotanga tūmatanui, te hopunga kē rānei o ēnei wāhanga, tae atu ki te pāhotanga mataora, ngā hopunga whaiaro me te kawepūrongo pāpāho. Me tuku wawe i ngā tono mō ngā wāhanga matatapu ki te Taraipiunara. Ka aro atu te whakataunga a te Taraipiunara ki ngā take tūmataiti o tētahi tangata, ētahi tāngata rānei, ngā herenga o te matatika tūturu me te hiahia ki te tuwheratanga me te kōataata o ana tukanga.

TE REO MĀORI I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

- 6.23** Ka whakaū te Taraipiunara i te reo Māori hei reo taketake, hei reo ōkawa hoki o Aotearoa, waihoki he taonga nō te iwi Māori me tētahi reo e uaraitia ana e te motu.⁴⁴ Ka tautoko te Taraipiunara i te whakakōrero o te reo Māori e ngā kaiwhakauru katoa i ngā tukanga a te Taraipiunara (tae atu ki ngā mema o te Taraipiunara, ngā kaikerēme, ngā rōia, ngā kaikōrero me ngā hunga e whai take ana) ā, i roto i ngā tuhinga ā-pepa me ngā ihirangi ā-waha katoa (tae atu ki ngā tāpaetanga me ngā taunakitanga). Ka tīmata te Taraipiunara ki te whakaaro e whakamahia ana te reo e ngā kaikōrero ki ngā nohoanga, ā, ka whakarato i te kaiwhakawhiti reo Māori ki te whakarato i te whakamāoritanga tukutahi i ngā takunetanga a te Taraipiunara.⁴⁵
- 6.24** Ina whakatakoto ana ngā hunga i ngā tuhinga ki te reo Māori, kāore rātou e herea ana kia whakarato i te whakapākehātanga, heoi anō, ka tonoa rātou i te tuatahi kia pērā, mēnā e hiahia ana rātou kia noho tā rātou ake whakapākehātanga ki te pūranga o te ruku tātari.
- 6.25** Ki te whakatau te hunga hāngai, te kaikōrero rānei, e hiahia ana rātou ki te tuku i tō rātou ake whakapākehātanga, me wawe te whakatakoto ki te Taraipiunara. Ka whakaurua te whakapākehātanga ki te pūranga o te ruku tātari me te mea taketake i roto i te reo Māori.
- 6.26** Ki te whakatau te hunga hāngai, te kaikōrero rānei, kāore e taea, kāore rātou i te hiahia rānei ki te tuku i tō rātou ake whakapākehātanga, me wawe te whakamōhio atu ki te Taraipiunara. Kātahi ka whakarato te Taraipiunara, me te akoako ki te hunga hāngai me tana rōia, te whakapākehātanga o te tuhinga. Ina whakaotia te whakapākehātanga, me whai wāhi te hunga hāngai kia arotake i te whakapākehātanga mō te tika, ā, ka āhei te whakarato whakahoki kōrero. Ka whakaurua te whakapākehātanga ki te pūranga o te ruku tātari me te mea taketake i roto i te reo Māori.

NGĀ KAIWHAKAMĀORI Ā-WAHA ME NGĀ WHAKAMĀORITANGA

- 6.27** Me whakatapoko ngā whakahaerenga ā-ture a te Taraipiunara ina āhei ana. I whakarato ngā Taraipiunara o mua i te whakamāoritanga Reo Rotarota, ā, i ruruku i ngā tuhinga kia whakamāoritā ki ngā hōputu tomopai. Ina herea ana, ā, e tika ana, me whakamōhio atu ā-pepa te hunga hāngai ki te Taraipiunara, mā te Rēhita, o tana hiahia ki te whakamāoritanga, ki ngā ratonga whakamāori hoki/rānei. I te mutunga o te rā, kei te kōwhitinga a te Taraipiunara hāngai e ruku tātari ana ki te(ngā) kerēme.

44. Te Ture mō Te Reo Māori (Māori Language) Act 2016, wehenga 3(2)(a).

45. Kei te wehenga 7(3).

TE UIUI KŌKIRIKIRI

- 6.28** E mōhio ana te Taraipiunara ka āhei te uiui kōkirikiri te āwhina i tana tukanga uiui. Ehara te Taraipiunara i te kōti ā-ture, ā, ko tana mana ā-ture matua he tūtohutanga. Nā reira, ā, he ōrite ki ngā herenga o te matatika tūturu, ka here, ka aukati pea rānei te Taraipiunara i te uiui kōkirikiri i ētahi wā.⁴⁶ Heoi anō, ka noho tonu te mōtika ki te uiui kōkirikiri, ā, me whakatūpato i ngā kaikōrero katoa ina tū rātou ki te tuku taunakitanga, tērā pea he ruku tātari whakatika te otinga.
- 6.29** E whakawhirinaki ana te whānuitanga o te uiui kōkirikiri ki te āhukatanga o ia ruku tātari, ā, me aro atu ngā rōia, me te noho whakaute hoki, ki te wānanga e tū ai ngā pātai. Kāore pea te pātai ā-waha e whai kiko i te takiwā o te Taraipiunara i ngā wā katoa. Ina hiahiatia ana te āta uiui i te rangahau, te riro rānei i taipitopito anō, tērā pea e whakaaengia ana e te Taraipiunara, i tua atu i te uiui kōkirikiri, te wā mō ngā pātai ā-tuhi me ngā urupare. I aua wā, me whakatakoto ngā pātai ā-tuhi ki te Taraipiunara.
- 6.30** Ina noho ana te Taraipiunara ki te marae, ā, e whai ana i te kawa o te marae, e tika ana pea kia kaua te rōia e pātai tōtika ki te kaumātua, engari kia kōrero i te tauākī o te whakapae pea me te tono i te kaumātua kia urupare ki taua tauākī. I te nuinga o te wā ka taea ngā raruraru e pā ana ki te taunakitanga whaiaro i runga i te marae te whakarite i roto i te tohe ā-ture e pā ana ki te hohonu o te whakaarotanga. Ka here pea te Taraipiunara i te uiui kōkirikiri, otirā mēnā kāore i te tika te ia o ngā pātai i aua āhukatanga. Mēnā he tika ake, ka whakahau kē pea te Taraipiunara kia tuku ā-pepa ngā pātai.
- 6.31** Kia whakatairanga i te rere herekore o te taunakitanga me te matapaki, ka mariu pea te Taraipiunara e karangatia anō ai ētahi kaikōrero tauwhāiti ki te uiui kōkirikiri i muri iho i te tāpae i te tirohanga whānui o te ruku tātari, ā, kua tautuhia ngā take.
- 6.32** Ina kimi whakaaetanga ana te rōia kia karangatia anōtia ētahi kaikōrero ā tōna wā, me whakamōhio atu ki te Taraipiunara ngā kaikōrero e rapua ana kia karangatia anōtia me te kōrero he aha tana take, me te tohutohu te take kāore e taea te whakamahi i te taunakitanga mā te karanga i ngā whakaaro kē.
- 6.33** Ka hiahia pea ngā mema o te Taraipiunara ki te pātai ki ngā kaikōrero, ā, me whakarite ngā rōia e whakaritea ai te wā tika mō ēnei pātai.
- 6.34** Mēnā kāore e hiahiatia ana te uiui kōkirikiri, ka whakawāteahia pea te kaikōrero i te tae mai ki ngā nohoanga.

46. *Badger v Whangarei Refinery Expansion Commission of Inquiry* [1985] 2 NZLR 688.

HEA

- 6.35 Ka tū hei Hea ngā mema rerekē o te Taraipiunara, me te whakaaetanga o te Mana Whakahaere, hei taura ka tū pea hei Hea te mema tumu kōrero o mua mō te whakaaturanga o ngā taunakitanga o mua.

NGĀ KAPE TUHINGA ME NGĀ ORO

- 6.36 I te nuinga o te wā ka tuhia e te Taraipiunara ngā hui ā-kaiwhakawā me ngā nohoanga katoa. I muri atu i ngā takunetanga pērā, ka wewete te Taraipiunara i ngā kape tuhinga hukihuki kia arotakehia e ngā hunga me te whakatakoto i ngā whakatikatika. Me whakatakoto ngā hunga i ēnei whakatikatika ki te Rēhita hei tuhinga motuhake, hei tāpiritanga rānei ki tā rātou manatu whakatakoto. Me noho ngā whakatikatika ki te āhua o te tēpu e tohutoro ana i te wāhanga tauwhāiti i roto i te tuhinga, ā, i te kapa ōrite whakaatu i te whakatika hāngai. Kāore pea ngā kape tuhinga e wātea ana mō ngā nohoanga katoa o mua o te Taraipiunara, otirā ngā mea nō ngā tau tōmua o te Taraipiunara.
- 6.37 Ka pāho mataoratia me te hopu whakaata hoki te Taraipiunara o ana whakahaerenga ā-ture. Ko te tikanga o te pāhotanga mataora o tētahi nohoanga, hui ā-kaiwhakawā rānei a te Taraipiunara, hei whakarato i te whakatapoko pai ake mō ngā kaikerēme. Tirohia *ngā kōwae 6.40–6.42* mō te tono kia whakamahi i ngā hopunga pāhotanga mataora.
- 6.38 Ka pupuri hoki te Taraipiunara i ngā rīpene oro mō ngā whakahaerenga ā-ture maha a te Taraipiunara. Mēnā e wātea ana i runga i te pūranga o te ruku tātari, ka āhei tētahi tangata takitahi te tono kia āhei ki tētahi rīpene kōrero, ētahi rānei, ki te Taraipiunara mā te tuhi ki te Hea mā te imēra ki w.T.Registrar@justice.govt.nz, e whakahuatia ana i ngā take mō te tono me te whakamahinga e whakaarohia ana mō ngā rīpene kōrero. Ka whakatau te Hea mēnā ka whakamanahia te tono.

TAKAHI WHENUA

- 6.39 I ētahi wā ka whakahaere te Taraipiunara i te takahi whenua i te wā o te ruku tātari. Ka uru ki roto ki te takahi whenua ko te haerenga ki ngā takiwā whakahirahira ki tētahi kerēme, pērā i ngā pā me ngā wāhi tapu. Me tuku ngā kaikerēme, ā rātou rōia rānei i te pānui tika ki te Taraipiunara o te takahi whenua e marohitia ana. Ka whakahuatia te tukanga mō te tono ki te Taraipiunara kia takahi whenua kia *Tāpiritanga D*.

NGĀ TONO A TE HUNGA PĀPĀHO, TANGATA TAKITAHIRĀNEI KI TE HOPU, KI TE WHAKAMAHI RĀNEI I NGĀ HOPUNGA O NGĀ NOHOANGA.

- 6.40 I te nuinga o te wā ka pāhotia mataoratia e te Taraipiunara ana nohoanga. Ka whakaaetia pea e te Taraipiunara te hunga pāpāho me ngā tangata

takitahi kia hopu i ngā whakahaerenga ā-ture, ā, mō te hunga pāpāho, te pāpāho mā te kawepūrongo, ngā hōtaka take onāiane me ngā atikara. Ka whakatakoto pea te Taraipiunara i ngā herenga mō te whakamahinga o ngā hopunga ki te hunga e whakamanahia ana.

- 6.41** Ko ngā rōpū whakahaere pāpāho me ngā tangata takitahi e kimi ana kia hopu, ki pāho hoki/rānei i ngā whakahaerenga ā-ture a te Taraipiunara (i te whakatapoko rānei ki te hopu i te pāhotanga mataora a te Taraipiunara o tētahi nohoanga) me kimi i te whakaaetanga a te Mana Whakahaere i te tuatahi o te ruku tātari hāngai. E mahia ana tēnei mā te tuku i te puka tono e wātea ana ki te pae tukutuku a te Taraipiunara,⁴⁷ i ngā kaimahi a te Taraipiunara rānei i ngā nohoanga. Ka āhei te imēra te puka ki te Rēhita ki w.T.Registrar@justice.govt.nz ka hoatu ā-ringatia ki ngā kaimahi a te Taraipiunara ki ngā nohoanga. Mēnā e āhei ana, me kaua e iti iho i te rā mahi kotahi i mua i te rā hei hopu i te hopunga te tuku i ngā tono; kāore pea ngā tono tōmuri e whakamanahia ana.
- 6.42** E pēnei ana te whakamanahia o ngā tono:
- (a) Me whakaae te Mana Whakahaere i mua i te hopunga. Ka tohutohu pea te Mana Whakahaere i a rātou i te nohoanga kei reira te hunga pāpāho, te hopunga o te nohoanga, te whakamahi rānei i te kiriata pāhotanga mataora rānei.
 - (b) Me tautuku te hopunga ki ngā kupu whakahau hāngai katoa a te Taraipiunara, tae atu ki ngā kupu whakahau e here ai i te whakamahinga, me te whakatapoko ki, ngā taunakitanga, ngā tāpaetanga tauwhāiti rānei.
 - (c) Me mahi te hopunga kia kaua e raweke i te whakahaere o ngā whakahaerenga ā-ture, te noho muna o ngā matapaki i waenga i ngā mema o te Taraipiunara me ngā kaimahi a te Taraipiunara, te noho muna rānei o ngā matapaki a ngā rōia ki a rātou anō, ki ētahi kiritaki, kaikōrero anō hoki.
 - (d) Me whakamahi te hopunga kia whakaatu i te horanga tika, tōkeke, hangarite hoki o ngā whakahaerenga ā-ture tika me ngā hunga me ētahi atu tāngata e whai atu ana.
 - (e) Ka whakakāhore pea te kaikōrero i te hopunga o tana āhua, kupu taurangi, ngā mea e rua rānei. Mēnā e hiahiatia ana, ka whakatauhia te whakakāhoretanga e te Mana Whakahaere, e te Hea rānei.
- 6.43** Ahakoa ka tuku tauākī ki te hunga pāpāho te hunga e whai wāhi atu ana ki ngā whakahaerenga ā-ture i te wā o ngā whakahaerenga ā-ture, ka akiaki te Taraipiunara i te tūpatō me te whakatōngā kia kaua e tutū te puehu i ngā āhuatanga rahirahi e pā ana ki ngā ruku tātari a te Taraipiunara.

47. www.waitangitribunal.govt.nz/applications/media-applications.

TE WHAKAMUTUNGA

- 6.44 Kua kōrerotia kētia, he whānui te kōwhitinga a te Taraipiunara kia whakatau i ana tikanga, tukanga hoki, ā, ka āhei te panoni i ngā wā katoa ngā tikanga me ngā tukanga tauwhāiti e whakahuatia ana ki konei. Nā reira, ka tuku pea te Hea i ngā kupu whakahau, ngā tuhinga whakatau tikanga, ngā tukanga rānei hei tāpiri, hei tautuku rānei i ngā wāhanga o tēnei Tuhinga ārahi i ngā tikanga me ngā tukanga ina tika ana.

I TOHUA KI TE RĀ ki te Whanganui-a-Tara i te rā 21 o Hereturikōkā i te tau 2023



Kaiwhakawā Sarah Reeves
Tiamana Whakakapi
Te Rōpū Whakamana i Te Tiriti o Waitangi

TĀPIRITANGA A

KUPUTOHU KI TE PŪRANGA O TE RUKU TĀTARI

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI KUPUTOHU KI TE PŪRANGA O TE RUKU TĀTARI WAI [NAMA] TE [INGOA O TE KERĒME]

WĀHANGA I: PŪRANGA O NGĀ WHAKAHAERENGA Ā-TURE

Ko ngā rā tuhinga:

- ▶ Mō ngā tuhinga i waihangatia e te Taraipiunara, te rā i waitohua.
- ▶ Mō ngā tuhinga i whakatakotohia ki te Taraipiunara, te rā i whiwhia.

Me pēnei te āhua o ngā rā dd mmm yy (hei taura, 27 Hune 98).

1 NGĀ KERĒME

1.1 Ngā tauākī whakaraupapa nawe

1.1.1 Wai:

Te rā o soc:

Te rā i whiwhia:

Kaikerēme:

Hei māngai mō:

E pā ana ki:

1.2 Ngā tauākī whakaraupapa nawe whakamutunga

1.3 Ngā tauākī whakataunga whakautu

1.4 Ngā tauākī whakataunga take

1.5 Ngā tauākī whakaraupapa whānui whakamutunga

2 MANATU, KUPU WHAKAHAU, ME NGĀ WHAKATAUNGA A TE TARAIPUNARA

2.1 Te rēhita i ngā kerēme hou

2.2 Te panoni i ngā tauākī whakaraupapa nawe

2.3 Ngā kirimana rangahau mō te Rōpū Whakamana i Te Tiriti o Waitangi

2.4 Ngā tono wehenga 8D

2.5 Wāhanga takamua o te nohoanga

2.6 Wāhanga nohoanga

2.7 Wāhanga whaimuri o te nohoanga

2.8 Ētahi atu take

3 NGĀ TĀPAETANGA ME NGĀ MANATU A NGĀ HUNGA

- 3.1 Wāhanga takamua o te nohoanga
- 3.2 Wāhanga nohoanga
- 3.3 Te huaki, te whakakapi, ā, hei urupare
- 3.4 Wāhanga whaimuri o te nohoanga
- 3.5 Ētahi atu take

4 NGĀ KAPE TUHINGA ME NGĀ WHAKAMĀORITANGA

- 4.1 Ngā kape tuhinga
- 4.2 Ngā whakamāoritanga
- 4.3 Ngā hopunga oro

5 NGĀ PĀNUI TŪMATANUI

- 5.1 Ngā hui ā-kaiwhakawā
- 5.2 Ngā nohoanga
- 5.3 Ngā rārangi take mō ngā hui ā-kaiwhakawā me ngā nohoanga

6 ĒTAHI ATU PEPA I ROTO I NGĀ WHAKAHAERENGA Ā-TURE

- 6.1 I whakatakotohia e ngā hunga
- 6.2 Ētahi atu tuhinga

WĀHANGA II : PŪRANGA O NGĀ TUHINGA

- * Ka noho muna te tuhinga, ā, kāore i te wātea ki te hunga tūmatanui hāunga e whakaae ai te Taraipiunara
- LE Pupurihia ana te tuhinga ki te whare pukapuka a te Rōpū Whakamana i Te Tiriti o Waitangi
- E tohu ana te tīwae nohoanga he nohoanga i tāpaetia te tuhinga hei taunakitanga

HE WHAKAOTINGA HOU RAWA O TE PAIHERE TAUNAKI, [TE RĀ]

Tuhinga Kaituhi Taitara me te rā I whakatakotohia e Rā whakatakoto Nohoanga

APPENDIX B

MANATU A TE HEA E PĀ ANA KI TE HŌTAKA RUKU TĀTARI Ā-KAUPAPA

Waitangi Tribunal

CONCERNING The Treaty of Waitangi Act 1975

AND The kaupapa inquiry programme

MEMORANDUM OF THE CHAIRPERSON CONCERNING THE KAUPAPA INQUIRY PROGRAMME

27 March 2019

Tēnā koutou katoa

Introduction

- 1** In my memorandum of 1 April 2015 I set out the Waitangi Tribunal’s kaupapa inquiry programme, detailing the proposed order in which inquiries into claims raising issues of national significance would be heard. The order of inquiries as listed under that programme is attached as Appendix A.
- 2** The purpose of this memorandum is to inform all claimants and the Crown of amendments and updates to the Waitangi Tribunal’s kaupapa inquiry programme, as set out below. The revised inquiry programme is attached as Appendix B.
- 3** The memorandum also outlines some refinements to the process that the Tribunal will follow in scheduling and commencing kaupapa inquiries. It is not intended to replace the process set out in the April 2015 memorandum, but rather to refine and update it so as:
 - (a)** to enable pressing contemporary issues to be prioritised for rapid inquiry where early reporting would make a significant difference;

- (b) to outline preliminary steps that the Tribunal will usually take before commencing a listed or new kaupapa inquiry; and
- (c) to clarify the Tribunal's approach to including specific and local claims that relate to the issues of national significance with which kaupapa inquiries are concerned.

BACKGROUND – AN EMERGING CONTEMPORARY FOCUS

- 4 In its *Strategic Direction, 2014–2025*, the Tribunal recognised that as well as claims currently being heard in district inquiries, a number of unheard claims lodged with the Tribunal raised historical and contemporary grievances concerning issues of national significance ('kaupapa issues'). Two of the Tribunal's strategic goals were to commence inquiry into claims relating to high-priority kaupapa issues by 2020 and to substantially advance or complete the hearing of claims relating to other kaupapa issues by 2025.
- 5 Since issuing the *Strategic Direction*, the Tribunal has commenced or taken steps to commence five kaupapa inquiries, under which claims raising issues of national significance have been grouped for hearing. The inquiries are:
 - (a) the Māori Military Veterans inquiry (Wai 2500);
 - (b) the Health Services and Outcomes inquiry (Wai 2575);
 - (c) the Marine and Coastal Area (Takutai Moana) Act inquiry (Wai 2660);
 - (d) the Mana Wahine inquiry (Wai 2700); and
 - (e) the Housing Policy and Services inquiry (Wai 2750).
- 6 In addition to these inquiries the Tribunal has continued its hearings in the National Freshwater and Geothermal Resources inquiry (Wai 2358), which commenced prior to the formal kaupapa inquiry programme being established.
- 7 The Tribunal's experience to date in four of the five kaupapa inquiries (Māori Military Veterans being a partial exception) is that most claimants who have sought to participate have put greater emphasis on the contemporary elements of their claims, with some requesting that they be heard ahead of historical grievances. More specifically, in some cases claimants have proposed that the Tribunal give priority to the early hearing and reporting of claims alleging significant actual or potential prejudice from current Crown policy and practice.
- 8 As a part of its commitment to progressing high-priority kaupapa claims, the Tribunal is giving due weight to this emerging preference when reviewing the sequencing of kaupapa inquiries and the targeting of issues within inquiries. It may not always be appropriate to start an inquiry where the Crown is already engaging with Māori and develop-

ing policy that may address the issue complained of. In general, however, while taking due account of historical antecedents and context that are a part of some kaupapa claims, the Tribunal will prioritise pressing contemporary claim issues where Tribunal inquiries may make a substantive contribution to strengthening the Crown–Māori Treaty partnership.

PRIORITISING CONTEMPORARY KAUPAPA ISSUES

Sequencing kaupapa inquiries

- 9 The Tribunal's approach to setting the order of inquiries for hearing is set out in paragraph 22 of the April 2015 memorandum. It identifies six criteria to be taken into consideration. These are, in summary:
 - (a) removal of the Tribunal's ability to inquire;
 - (b) the immediacy of the take or potential remedy;
 - (c) the seriousness of the alleged breach or prejudice;
 - (d) the importance of the take to claimants;
 - (e) the importance of the take to Māoridom; and
 - (f) the importance of the take to the nation.
- 10 These criteria continue to apply, with the stronger focus on contemporary kaupapa issues giving additional weight to the immediacy of the take or potential remedy. This will require the Tribunal to be flexible and responsive in reordering the inquiry programme as and when claimant and Crown priorities change. Greater flexibility may also be required in determining and scheduling the issues to be heard and reported on within the inquiries.
- 11 The Tribunal will therefore keep the order of kaupapa inquiries under review and adjust it as appears appropriate, informing parties when it does so. The Tribunal will also consider applications by claimants or the Crown to amend the inquiry programme so as to make an earlier start on a listed kaupapa inquiry that focuses mainly on contemporary issues.

Inquiry topics and kaupapa issues

- 12 The April 2015 memorandum signalled the Tribunal's preference for the thematic topic set down for a kaupapa inquiry to have a broad scope so that related claim issues could be grouped for concurrent hearing, noting:

This will help to promote efficiency in the conduct of kaupapa inquiries and to enable faster completion of the programme as a whole. It will reduce the fragmentation and duplication of effort by the Tribunal and the inquiry parties across multiple inquiries. It will also assist the Tribunal to consider all aspects of the issue, enabling an inquiry to consider related matters together and to deliver more comprehensive findings and recommendations.

- 13 The purpose of a kaupapa inquiry, however, is not to conduct a general exploration of all aspects of its thematic topic or of the totality of Māori experience of Crown actions and omissions. Rather, it is to investigate and make findings on the Treaty breaches and prejudice alleged by the claimants in respect of the kaupapa issue or issues of national significance that fall within the scope of that topic. Kaupapa issues may themselves be broadly or narrowly defined and may be given differing levels of priority by claimants.

Targeted inquiries into contemporary issues

- 14 The original programme of 11 inquiries was organised under broad thematic topics that grouped related issues set out in existing claims on the Tribunal's register. I also indicated, however, that the Tribunal would be prepared to take 'a more targeted approach where appropriate to the nature of the issue, to the grievances raised and remedies sought, or to circumstances requiring a fast inquiry process for particular claims.'
- 15 This targeted approach has since taken practical effect:
- (a) The Housing Policy and Services inquiry was severed from the broader kaupapa inquiry into Social Services, Social Development and Housing claims, and proposed for early inquiry. The basis for doing so was that housing had become a major current issue in Crown policy and practice that affected Māori generally and significantly, and had been the subject of an application for urgency. The Tribunal has recently consulted affected claimants and the Crown on whether a separate inquiry should proceed.
 - (b) Claims about the Marine and Coastal Area (Takutai Moana) Act were given priority for a targeted kaupapa inquiry in view of the claimants' allegations that imminent prejudice would arise from the Crown's process for recognising Māori rights under this Act.
- 16 The Tribunal will continue to take a proactive approach to consulting affected claimants and the Crown on contemporary matters that may merit an early and rapid kaupapa inquiry. As indicated in the April 2015 memorandum, claimants or the Crown may also apply at any time for a targeted inquiry.

Prioritising issues within inquiries

- 17 Recent experience in kaupapa inquiries suggests an active interest on the part of many claimants and the Crown in dealing first with issues they consider to be pressing, in particular matters of current Crown policy and practice. This has led to Tribunal panels organising their inquiries into stages so as to give early attention to issues seen as important for early reporting by claimants and/or the Crown.

- 18 Exemplifying that approach, in the Health Services and Outcomes inquiry the Tribunal is hearing two national claims concerning primary healthcare in stage 1 and has signalled that it will hear claims concerning three health sectors (mental health; smoking, alcohol and substance abuse; and Māori with disabilities) in stage 2, before proceeding with other claim issues.
- 19 There may be kaupapa inquiries where a staged approach or early, selective reporting is not appropriate. In general, however, my expectation is that issues concerning current Crown policy and practice will be given priority where there is SUBstantial claimant support and readiness for early hearing and reporting, provided that doing so would remain relevant alongside any Crown-initiated policy development or inquiry process under way.

THE UPDATED KAUPAPA INQUIRY PROGRAMME

- 20 As indicated above, five kaupapa inquiries are under way. Next to commence will be the Constitution, Self-government and Electoral System inquiry. This inquiry was delayed so as to minimise overlaps with the hearing of claims about constitutional issues, autonomy and tino rangatiratanga in the four active district inquiries, in particular the Te Paparahi o Te Raki inquiry, where hearings and closing arguments have now concluded.
- 21 The order of future inquiries is also adjusted so as to bring forward two that focus in part on major fields of current Crown policy and action and may require targeted inquiry processes should the parties propose particular issues to prioritise. They are:
- (a) the Education Services and Outcomes inquiry; and
 - (b) the Social Services and Social Development inquiry.
- 22 These and other changes are listed in the updated inquiry programme (see Appendix B).

THE UPDATED KAUPAPA INQUIRY PROGRAMME

- 23 The pace at which the kaupapa inquiry programme advances is necessarily conditioned by the resources available to progress Tribunal inquiries. As the Tribunal has many calls on its resources, the *Strategic Direction, 2014–2025* laid down a general framework of priority settings for balancing the allocation of such resources across its inquiry programme. It specified that resources are to be prioritised, in ranking order, to the hearing of:
- (a) urgent inquiries, including remedies proceedings granted urgency;
 - (b) historical claims, principally completion of the final district inquiries;

- (c) kaupapa inquiries; and
- (d) contemporary claims not heard in other inquiries.

- 24 At present and for the next few years, the Tribunal's resources are likely to be heavily committed to urgent and district inquiries. Beyond the three kaupapa inquiries already under way and the two about to commence, the Tribunal's ability to progress the next inquiries in the kaupapa inquiry programme is accordingly limited.
- 25 Scheduling the start of a kaupapa inquiry will therefore depend in part on sufficient resources being available. Given current constraints, for any proposed new kaupapa inquiry the Tribunal will give priority to targeted, rapid inquiries into pressing contemporary issues concerning current Crown policy and action where the claimants can demonstrate their readiness to go to hearing.

PREPARING FOR UPCOMING KAUPAPA INQUIRIES

- 26 The April 2015 memorandum indicated that the first formal step in starting a kaupapa inquiry would be the appointment of a Presiding Officer and panel. This has been the Tribunal's standard practice for non-urgent inquiries.
- 27 Depending on the circumstances in each case, the standard practice may change. The Tribunal's experience in several kaupapa inquiries to date has been that extensive preparatory and consultative work has required a lengthy start-up phase. The two preliminary steps outlined below are intended to shorten the time required and prepare the way for the start of each inquiry listed in the inquiry programme. These steps will be initiated at the discretion and under the auspices of the Chairperson prior to the appointment of a Presiding Officer and panel to conduct the inquiry.

Claimants intending to participate

- 28 The first preliminary step concerns claimant participation. For a forthcoming kaupapa inquiry, the Tribunal will:
- (a) distribute a provisional list of claims registered with the Tribunal that appear to relate to the inquiry's kaupapa issues and request the claimants to indicate whether they wish to participate in the inquiry; and
 - (b) request any claimants intending to participate:
 - (i) to particularise or otherwise amend their claims; and
 - (ii) to identify any issues that they consider the Tribunal should prioritise for early inquiry.
- 29 Once appointed, the Tribunal panel conducting the inquiry will undertake the formal aggregation and consolidation of claims as participants in the inquiry.

Exploratory scoping report

- 30 The second preliminary step is designed to assist the planning of the inquiry. For each inquiry listed in the inquiry programme, the Tribunal would commission an exploratory scoping report as a preliminary step. The precise terms of reference for the report would depend on the topic and context of the inquiry, but would normally be expected to provide:
- (a) a preliminary outline and analysis of statements of claim likely to fall within the scope of the inquiry and of the kaupapa issues to which they appear to relate;
 - (b) an indication of whether and to what extent any such issues concern current Crown policy and practice; and
 - (c) a brief description and select, annotated bibliography of the main evidential resources in the public domain that are likely to be relevant to the identified kaupapa issues.
- 31 The purpose of the scoping report would be to provide claimants, the Crown and, when appointed, the Tribunal panel with information that would help to expedite the planning of the inquiry and to identify principal issues.

STARTING NEW UNLISTED KAUPAPA INQUIRIES

- 32 Preliminary steps will also be taken for proposed new, unlisted kaupapa inquiries. The April 2015 memorandum provided for additions to be made to the kaupapa inquiry programme in circumstances:
- (a) where a kaupapa issue included in a future listed inquiry is severed and set down for an earlier targeted inquiry;
 - (b) when claim issues emerge that cannot be accommodated within the inquiries listed in the programme, in particular:
 - (i) issues that a Tribunal kaupapa inquiry panel decides to exclude from the scope of its inquiry; and
 - (ii) new kaupapa issues for which the claimants request a separate inquiry.
- 33 Where an early start to a proposed new kaupapa inquiry is requested, the Tribunal will conduct a preliminary round of interlocutory proceedings under the auspices of the Chairperson to consult the affected claimants and the Crown. The purpose of the proceedings is to assist the Tribunal in determining whether the proposed inquiry should commence and if so, when, on which main issues and in what manner.
- 34 Matters that the Tribunal will take into consideration may include:
- (a) clarifying the range of issues that the claimants and the Crown propose to include in the kaupapa inquiry;
 - (b) establishing whether the issue or issues satisfy the threshold test for starting a kaupapa inquiry (see below);

- (c) identifying which claims the claimants want the Tribunal to hear, in particular any pressing contemporary claim issues concerning current Crown policy and practice;
- (d) confirming claimant and Crown readiness to proceed, including claimant access to adequate resources to prepare their claims for hearing.

35 A decision to add and prioritise a new kaupapa inquiry may lead to delay for claims due to be heard later in the inquiry programme. The Tribunal will therefore take due account of any consequential impacts.

AN INCLUSIVE APPROACH TO CLAIMANT PARTICIPATION

36 The April 2015 memorandum set out a three-part threshold test that must be met for each of the issues proposed for inclusion in a kaupapa inquiry:

The kaupapa inquiry programme is designed to provide a pathway for the hearing of nationally significant claim issues that affect Māori as a whole or a section of Māori in similar ways. These thresholds – national significance, Māori widely affected, similarity of experience of the Crown policy or action complained of – must normally be met for a kaupapa inquiry to be constituted.

37 At the same time, it signalled an inclusive approach that was intended to ‘enable claimants to bring before the Tribunal all eligible claims for which they seek a hearing on kaupapa issues’. The participation of claims raising specific and local issues in a kaupapa inquiry is further clarified below.

‘Nationally significant claim issues’

38 The April 2015 memorandum states that the first part of the threshold test for starting a kaupapa inquiry is that a claim or claims raise one or more issues of national significance. This threshold may be met either by one or more national claims or by a group of claims about the same issue taken together.

39 Once the Tribunal is satisfied that the national significance threshold has been met, any claimant whose claim relates to the issue, including specific and local claims brought on behalf of individuals, whanau, hapu and other groups, may seek to participate in the subsequent kaupapa inquiry. Claims are not required to meet the threshold individually. If admitted to the inquiry, it should be clearly understood that the claims will be heard as part of the nationally significant kaupapa issue on which the inquiry will focus.

'Māori widely affected'

- 40 The second part of the threshold test for constituting a kaupapa inquiry concerns the extent to which claims that relate to the kaupapa issue in question are brought on behalf of Māori generally or the section of Māori affected by the issue.
- 41 At its simplest, this threshold may be met by a single claim brought on behalf of all Māori said to have suffered prejudice as a result, provided that the claimant is a member of the affected group. The threshold may also be met by a group of claims brought on their own behalf by individuals and groups that, taken together, can be regarded as representing most of the affected Māori, as was the case in the Māori Military Veterans inquiry.

'Similarity of experience of the Crown policy or action complained of'

- 42 The third part of the threshold test extends to the hearing of specific and local claims that relate to a kaupapa issue being heard in the inquiry. Such claims play an important role in kaupapa inquiries in providing local context, case examples and representative Māori experience of the national issue under examination.
- 43 The focus of a kaupapa inquiry in which specific and local claims participate will be on the shared Māori experience of the kaupapa issue or issues concerned. The Tribunal will hear and report on such claims on the basis that the claimants assert that they have been affected in similar ways in respect of the Treaty breaches alleged.

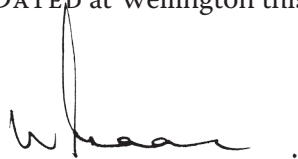
Alternative inquiry options

- 44 Not all claimants whose grievances relate to a kaupapa issue may wish to have them heard in a kaupapa inquiry, in particular where they arise from distinct local circumstances. As indicated in the April 2015 memorandum, the Tribunal will provide alternative inquiry pathways for historical and contemporary claims that remain to be heard outside of the district and kaupapa inquiry hearing programme. A standing panel process for remaining historical claims has recently been started and a process for remaining contemporary claims will commence once the district inquiries have been completed. The Tribunal is committed to fulfilling its statutory obligation to inquire into all the claims before it.

The Registrar is to send this memorandum to the Crown and all claimants with registered claims and to place an electronic copy on the Tribunal's website for public information.

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

DATED at Wellington this 27th day of March 2019

A handwritten signature in black ink, appearing to read 'W Isaac', with a small dot at the end.

Chief Judge W W Isaac
Chairperson
Waitangi Tribunal

TĀPIRITANGA C

TIKANGA RUKU TĀTARI Ā-ROHE

E 37 ngā takiwā a te Taraipiunara puta noa i te motu. E whakarōpūtia ana ngā kerēme o mua me ngā kerēme o nāiane i roto i tētahi takiwā, ētahi rānei, mō te ruku tātari kotahi. Tae noa ki ināiane, neke atu i te 90 ōrau te whenua o te motu e kapi ana i ngā ruku tātari a te Taraipiunara i whakaotia, e haere tonu ana hoki.

TE WHAKATAU I TE WHĀNUITANGA O TE TAKIWĀ

Ina whakatau ana i te whānuitanga o tētahi takiwā ruku tātari tauwhāiti, ka whārite te Taraipiunara i ētahi āhuatanga tae atu ki:

- ▶ ko ngā ōritetanga o ngā kerēme (pērā i ngā mahi a te Karauna, ngā rau-emi rānei e hāngai ai ngā kerēme);
- ▶ te rahi matawhenua o te takiwā;
- ▶ te nama o ngā kerēme hei whakarongo i roto i te takiwā; me
- ▶ ngā hononga a ngā iwi ki tētahi wāhi.

Ahakoia kei te Taraipiunara te whakataunga whakamutunga, ka tono te Taraipiunara ki ngā kaikerēme me te Karauna ki te tuku tāpaetanga mō te anga o te takiwā ruku tātari ina marohitia ana. Waihoki, i te wā o ngā nohoanga, te whakarite ki ngā nohoanga, ka whakaaro pea te Taraipiunara me arotake te whānuitanga o te takiwā kia aro atu ki ngā inaki ā-iwi, ngā hononga tūpuna, me ngā nekehanga ā-hītori.

I te nuinga o te wā kāore te Taraipiunara e tīmata ana i ngā nohoanga i roto i te takiwā ruku tātari tae noa ki te wā:

- ▶ kua tautuhia ngā take matua i whakarewangia e ngā kerēme (ina āhei ana i mua i te tīmatanga o ngā nohoanga);
- ▶ kua oti, whakatakotohia, ā, whakaurua hoki te rangahau nui, tika hoki e kapi ana i ngā take matua i tautuhia ki te pūranga o te ruku tātari a te Taraipiunara; ā
- ▶ kua whakahiato i te rangahau o te tūāpapa taunakitanga matua hei paihere taunaki mō te ruku tātari.

Kia mōhio mai:

- ▶ ka whakahē pea te Taraipiunara kia kōrero tētahi rōpū kaikerēme tauwhāiti e rite ana ki te ahu whakamua i mua i te wā kua whakaotia te rangahau mō ētahi atu kerēme i roto i te takiwā ruku tātari ōrite me te whakahiato ki tētahi paihere taunaki mō taua takiwā; ā

- ▶ ina whiwhi ai ki ngā rawa mō te paihere taunaki, ka āhei te Taraipiunara, mēnā ki ōna whakaaro kāore he tūāpapa tika i whakaratoa e te rangahau kia rongo i te kerēme, ngā kerēme rānei e hāngai ana, te whakatārewa i te nohoanga o te kerēme, ngā kerēme rānei ina mahia ana he rangahau anō.

TE TUKANGA WHAKAAROTAU

Ina whakatau ana te raupapatanga e whakaurua ai ngā takiwā ruku tātari ki te hōtaka nohoanga, ka aro atu te Taraipiunara ki:

- ▶ te whakaarotau i tukuna e te Taraipiunara ki ngā takiwā me te āhuetanga raupatu;
- ▶ te rite o ngā kaikerēme kia ahu whakamua; tae atu ki ngā rangahau e haere tonu ana mā te Taraipiunara, te Crown Forestry Rental Trust, ngā mea e rua rānei;
- ▶ ētahi inaki me ngā takiwā e rangahau ana ināianei, kei rō nohoanga rānei;
- ▶ ngā otinga o te pūrongo Rangahaua Whānui *National Overview* e pā ana ki te nui o te ngaronga whenua, rauemi hoki ina whakatairite ai, ā, nōnahea aua ngaronga;
- ▶ te mariu a ngā kaikerēme kia uru ki te tukanga a te Taraipiunara (ina mōhiotia ana); ā
- ▶ ētahi atu āhuetanga hāngai.

TĀPIRITANGA D

NGĀ ARATOHU HEI TONO I TE TAKAHI WHENUA

Mēnā ko te whakaaro ka takahi whenua i te wā o tētahi nohoanga, me tuku te rōia, tētahi atu māngai a tētahi kaikerēme rānei e marohi ana i te takahi, ki te Rēhita he marohi me ngā taipitopito e whai ake nei, kia kaua e nui ake i te 10 rā mahi i mua i te tīmatanga o te nohoanga hāngai, hāunga he rerekē te kōrero a te Mana Whakahaere:

- ▶ te(ngā) whenua, wāhi rānei hei takahanga;
- ▶ te take o te takahi whenua me ngā painga mā te ruku tātari;
- ▶ te roanga o te takahi whenua;
- ▶ ka noho te takahi whenua ki tētahi wā o te wātaka i te wā o te nohoanga;
- ▶ he pēhea te whakahaere a te takahi whenua, tae atu ki:
 - ▷ te tūmomo waka;
 - ▷ he pēhea e tukuna ai te kōrero, ā, mā wai; ā
 - ▷ he aha ngā wā whakatā mō te kai, mō te paramanawa rānei, mēnā tērā ētahi.
- ▶ e kawatauhia ana kia toro atu a wai ki te takahi whenua;
- ▶ he utu whakahaere mō te takahi whenua e tonoa ai te Rōpū Whakamana i Te Tiriti o Waitangi ki te utu, kia tāpae atu rānei (me te āta tauwhāitihia aua utu whakahaere);
- ▶ te tangata me whakapā atu ngā kaimahi a te Taraipiunara e pā ana ki ngā whakariterite mō te takahi whenua (arā, he rōia o te kaikerēme, kaikerēme rānei hei whakapā atu, ā, mēnā ko te mea tuarua, te ingoa o te tangata);
- ▶ mēnā e whakawhirinaki ana te takahi whenua ki ngā āhuatanga huarere tauwhāiti, ā, mēnā, āe, ka ahatia mēnā kāore e pērā aua āhuatanga;
- ▶ mēnā ko tētahi wāhanga o te takahi whenua he uru ki te whenua tūmataiti, whenua rānei e herea ana kia whai whakaaetanga kia uru, ā, ki te pērā, mēnā i whiwhia te whakaaetanga;
- ▶ mēnā e tū tētahi pōwhiri i te wā o te takahi whenua; ā
- ▶ ētahi atu mōhiohio e hāngai ana ki te marohi.

Ina whiwhi ai ki te marohi, ka whakaarohia e te Taraipiunara, ā, ina āhei ai whakaatu mēnā e rata ana kia whakahaere i te takahi whenua pērā i marohitia

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

ai. E hiahiatia ana pea te matapaki mō ngā take tauwhāiti. Ki te kore te rōia e whakarato ana i te marohi hei te wā i whakaritea, he nui te tūponotanga kāore te Taraipiunara e whakahaere ai i te takahi whenua.

TĀPIRITANGA E

TE WHAKATAKOTO I NGĀ PŪRONGO RANGAHAU, I NGĀ TUHINGA TAUTOKO, ME ĒTAHI ATU RAWA

E hāngai ana tēnei tukanga ki te whakatakoto i ngā rangahau pūrongo, āna tuhinga tautoko, me ētahi atu rawa taunakitanga a ngā hunga me ētahi atu hunga e āhei ana ki te kōrero. Kāore e kapi ana i te whakatakoto i ngā tāpaetanga, ngā tuhinga tautoko rānei.

Kāore pea e taea te whakatakoto i ngā rangahau pūrongo me ngā kōnae tuhinga tautoko ki te hōputu tāhiko anake. Me kimi tohutohu a te Rēhita te hunga e whakatakoto ana i aua tuhinga. Me whakatakoto ngā pūrongo rangahau me ngā tuhinga tautoko katoa ki te Rēhita ki te hōputu pepa, herekore, me te taha kotahi o te whārangi. Heoi anō, e whakatenatenahia ana ngā kaituku katoa ki te whakatakoto i a rātou pūrongo ki te hōputu kōnae tāhiko.

E pēnei ana te tukanga hei whakatakoto mōhiohio i roto i tēnei whakarōpūtanga:

- ▶ whakawhitia te putanga tāhiko o ngā taunakitanga ā-tuhi, ngā mōhiohio rānei ki te kōnae PDF; ā
- ▶ whakarato i ngā putanga tāhiko o te taunakitanga kāore i te pai mō te whakawhitanga PDF i roto i ngā hōputu kōnae taketake:
 - ▷ ripanga ki te hōputu Microsoft Excel;
 - ▷ tūtohi pātengi raraunga, taupānga rānei ki te hōputu Microsoft Access;
 - ▷ ngā whakaaturanga tītohunga ata ki te hōputu Microsoft Powerpoint;
 - ▷ ngā ata ki te hōputu jpg, tif rānei;
 - ▷ GIS raraunga whakamahere i roto i te hōputu MapInfo, ArcView shape rānei;
 - ▷ ngā rawa oro, ataata hoki ki te hōputu matihiko e mōhiohia whānuita ana, mēnā e āhei ana;
 - ▷ tētahi atu hōputu e tika ana.

Ka mutu ana tēnā me imēra ngā mōhiohio ki te Rēhita mā te imēra, te hononga tāhiko rānei. Ka tukuna kētia pea te pūmahara USB me ngā mōhiohio i runga ki te Rēhita.

Ka tohutohua ngā kaituku kia āta mahi ina whakawhiti ana i ngā tuhinga taunakitanga tāhiko ki te Rēhita mā te imēra nā te mea, nā runga anō i te nui o te kōnae ka whati pea te whakawhitinga angitu.

Mēnā kāore e tika ana ētahi rawa kia whakaatuhia i runga i te pepa, pērā i ngā taonga totoka, ngā whakaaturanga whakairoiro nui, ngā hopunga ataata rānei, me whakatakoto ki te hōputu e tino whaihua ana. Ki te whakaaro tētahi tangata ki te whakatakoto i ngā rawa pērā me akoako ki te Rēhita mō te puka tika mō te whakatakoto me te whakaputu i ngā rawa taunakitanga, ā, mō te whakaatu ki te nohoanga.

Me whai nama whārangi, me whai kuputohu hoki ngā tuhinga tautoko e tāpirihia ana ki ngā pūrongo rangahau, ngā kōnae tuhinga rānei e whakatakotohia tūhāhātia, kia ngāwari te tohutoro i roto i ngā whakahaerenga ā-ture. Tirohia *ngā kōwae 4.10–4.14* o te *Tuhinga Ārahi* e pā ana ki te kuputohu me te nama whārangi o ngā kōnae tuhinga.

TĀPIRITANGA F

TE TUKANGA HEI TUKU I NGĀ TUKANGA MŌ TE NOHO MUNA

E hāngai ana tēnei tukanga i te nuinga o te wā e kimi ana ngā hunga i ngā kupu whakahau mō te noho muna i te Taraipiunara e pā ana ki ngā tuhinga i whakatakotohia, ka whakatakotohia rānei ki te Taraipiunara, i te nuinga o te wā nā te āhua rahirahi o ngā mōhiohio. He motuhake tēnei tukanga i te tukanga tūhuratanga i whakahuatia ki *ngā kōwae 5.18–5.27*.

E hāngai ana hoki te tukanga ina kimi ana te kaitono i te wā noho muna ki tētahi nohoanga, ka tonu i muri atu rānei mō ngā kupu whakahau mō te noho muna e pā ana ki ngā tauākī a tētahi kaikōrero i roto i te kupu taurangi ā-waha.

Ina kimi ana i te ōta mō te noho muna, me whakatakoto te kaitono i te tonu mō te noho muna me te whakahua i ngā take mō te noho muna e kimihia ana. Me pēnei te tonu:

- ▶ me whakatakoto i mua noa atu i te nohoanga hāngai, ki te kore, i te wā tōmua rāwa;
- ▶ ina tika ana, haere tahi ai me tētahi putanga kāore anō kia whakakorehia o te tuhinga hāngai i whakatakoto ki te Rēhita o te Taraipiunara me te tuku ki te Karauna, ā, me te putanga whakakore i tukuna ki te rārangi ingoa tuari;
- ▶ tautuhi i ngā aukatinga tauwhāiti e kimihia ana mō ngā tuhinga; me
- ▶ te whakahua me pēhea ngā mōhiohio e whakaputu ana ki te pūranga o te ruku tātari me te Taraipiunara i muri atu i te nohoanga, ā, me pēhea e whakamahi ai ngā tonu ki te whakatapoko i aua mōhiohio.

Kātahi ka whakarato pea te Taraipiunara i ngā kōwhiringa mā ngā hunga kia tuku kōrero mō te tonu mō ngā kupu whakahau mō te noho muna me te kōwhiringa kia urupare te kaitono ki ētahi tāpaetanga mēnā e tika ana.

Kātahi ka whakatau te Taraipiunara i te tonu, me te whakahua i ngā aukatinga hāngai mēnā e whakamanahia ai te tonu.

Mēnā i whakahau te Taraipiunara me noho muna ngā mōhiohio:

- ▶ me whāki anake ngā mōhiohio matatapu i raro i ngā kupu whakahau a te Taraipiunara, ā, ki te kore e kīia kētia;
- ▶ ko te putanga tūmatanui (i whakakorea) o te tuhinga e wātea ana ki te hunga tūmatanui me te whakaputu ki te pūranga o te ruku tātari; ā
- ▶ me whakaputu ngā mōhiohio e noho muna nei ki te pūranga o te ruku tātari hei tuhinga muna e tāpirihia ana ki te putanga tūmatanui, ā, kia

kaua e wātea ana ki te hunga tūmatanui. Ka puta te tuhinga ki te pūranga o te ruku tātari hei tuhinga pānui e whakamōhio ana ki ngā hunga e noho muna ana te tuhinga.

Mēnā i whakahau te Taraipiunara me noho muna ngā mōhiohio, ki te kore e whakahau kē ana te Taraipiunara:

- ▶ me whakaaro kua pānuitia kētia ngā taunakitanga a te kaikōrero e noho muna ana tana tuakiri, me tuku rānei i tana taunakitanga ki te wāhanga muna o te nohoanga rānei;
- ▶ me whakaputa anake te kaikōrero e noho muna ana tētahi wāhanga o tana taunakitanga, e hāngai ana ki ngā whakahau a te Taraipiunara, ngā mōhiohio muna i tētahi wāhanga muna me te toenga o ngā taunakitanga ki te wāhanga tuwhera; ā
- ▶ me kimi whakaaetanga te rōia e hiahia ana ki te uiui i te kaikōrero e noho muna ana tana tuakiri, e noho muna ana rānei tētahi wāhanga, te katoa rānei, o ana taunakitanga, i te Mana Whakahaere. Mēnā e whakaarohia ana kua pānuitia kētia te taunakitanga a te kaikōrero, me whakatakoto ngā rōia i ngā pātai ā-pepa mā te kaikōrero i mua i te nohoanga hāngai. Mēnā e tuku taunakitanga ana te rōia i roto i te wāhanga muna, kāore e herea ana te rōia kia whakatakoto i ngā pātai ā-pepa i mua. Me hoatu te kaikōrero i ngā whakautu ki ētahi pātai ā-pepa ruku tātari whakatika me te kore tautuhi i tana tuakiri. Hei taura, e tika ana pea ki te whakamahi i ngā reta o te ingoa o te kaikerēme. Me whakamahi ēnei tautuhinga e ngā hunga i roto i ngā tuhinga katoa.

Kei pōhēhē tētahi:

- ▶ ka pāngia anake ngā tuhinga i whakatakotohia ki te Taraipiunara mō te kaupapa o te ruku tātari a te Taraipiunara e te ōta muna, ā, kāore e pāngia ana ngā tārua o ngā rawa i whiwhia e ngā tāngata takitahi, ngā rōpū whakahaere rānei i wāhi kē, e taua ōta muna; ā
- ▶ kāore tētahi mea i roto i tēnei Tukanga e aukati ana i te āhei a te hunga ki te tuku ki te wāhi tūmatanui ō rātou ake mōhiohio muna. Heoi anō, mēnā ka tuku tētahi hunga i ō rātou mōhiohio muna ki te wāhi tūmatanui, me whakamōhio wawe te hunga ki te Taraipiunara, ā, me whaiwhakaaro te Taraipiunara mēnā e tika ana kia whaimana tonu ngā kupu whakahau mō te noho muna i whakahaungia ai.

Engari, ā, he mea tino nui tēnei mō te kupu taurangi ā-wāha, ki te kore e tino mōhio te rōia tae noa ki te tīmatanga o taua taunakitanga he āhua rahirahi taua taunakitanga, ka āhei te rōia te tonu mō ngā aukatinga whakatapoko, whakamahi rānei, i te wā o te whakaaturanga, i te mutunga rānei, o te taunakitanga a te kaikerēme. Me tāpiri ki taua tonu ngā take mō te tonu, ā, ka āhei te Taraipiunara, mēnā e tika ana, te tonu mō ngā tāpaetanga a ngā rōia mō te hunga e pāngia ana, ētahi atu tāngata rānei e whai take ana kia kōrero.

APPENDIX G

HE TONO KIA KAUA TE WHENUA, PĀNGA WHENUA RĀNEI, E HEREA ANA KIA TĀMATATIA

Section 8D of the Treaty of Waitangi Act 1975

GENERAL

- 1 The owner of land or an interest in land that is subject to resumption on the recommendation of the Waitangi Tribunal may apply to the Tribunal under section 8D of the Treaty of Waitangi Act 1975 for a recommendation that the whole or part of the land or interest in land be no longer subject to resumption.
- 2 The Tribunal's power to make a recommendation under section 8D is discretionary. The discretion may be exercised only if there is no claim in relation to the land or interest in land or, where there is a claim, only if all the parties to the claim have informed the Tribunal in writing that they consent to the making of a recommendation that the land or interest in land be no longer subject to resumption (see section 8D(1)(b)(ii) of the Treaty of Waitangi Act 1975).
- 3 There is no fee for making an application.

FORM OF APPLICATION

- 4 Applications pursuant to section 8D of the Treaty of Waitangi Act 1975 should be addressed to:

The Registrar
Waitangi Tribunal
DX SX11237
Wellington

While section 8F of the Treaty of Waitangi Act sets out certain information that must be provided with an application, there are no prescribed forms of application. However, the attached forms 1 and 2 may serve as guides. A virgule (/) indicates an option. Options that do not apply should be deleted.

- 5 Where an application concerns an interest in land, the phrase ‘interest in land’ should be substituted for the word ‘land’ wherever it appears.
- 6 A separate application for each piece of land or each interest in land is required, but one application may serve for several titles where a building, farm, subdivision, or other enterprise is constituted on more than one title.
- 7 A general description of the land to assist lay identification should be provided (eg, Raupo Post Office or Murphy Station, Raupo).
- 8 A locality diagram or map is useful in all cases, and is essential where the tribal district is not known to the applicant. Many claims do not give precise legal descriptions of the areas of land that they cover, so the map should not only pinpoint the land but also indicate the wider locality.
- 9 A photocopy search of the title is preferred to a summarised manual search, with a copy of the title diagram showing closed roads and accretions. Any leases should be searched for purchase rights, and attention should be drawn to any deferred payment licences (see section 27B(2) of the State-Owned Enterprises Act 1986).
- 10 To enable the Tribunal to decide which persons may be adversely affected by the application, the applicant should provide information on:
 - ▶ How the Crown acquired the land and, if it was from Māori, from whom and when this was done.
 - ▶ Whether the land is ‘closed road’, has been the site of a native church or school, or was Crown land reserved for Māori.
 - ▶ Any deed, instrument, statute, or ordinance whereby the Māori customary title purports to be extinguished.

SERVICE AND NOTICE OF THE APPLICATION

- 11 There are no prescribed forms of individual service or public notice, but the attached forms 3, 4, and 5 may serve as guides.
- 12 The application should be accompanied by a memorandum giving reasons for the directions considered appropriate. This memorandum should refer to the persons proposed for service and the newspapers proposed for public notice. It may be appropriate to serve notice on local Māori trust boards, local Māori committees of the New Zealand Māori Council, district Māori councils, Māori incorporations, Māori land trusts, runanga, marae committees, and other bodies representative of Māori hapu or iwi in the district of the land to which the application relates. Particulars of these may be obtained from Te Puni Kokiri (the Ministry of Māori Development) or the district office of the Māori Land Court. Generally, a small local newspaper and one major district newspaper should be suggested for the public notice. The Tribunal usually requires the public notice to be published once in the *Gazette* and twice

in each newspaper, with the second notice appearing not more than seven days after the first.

- 13 Any claims already submitted to the Tribunal that relate or that might relate to the land should be noted briefly in any public notice (see form 5). The note should quote the Wai number for the claim, the claimant or claimant group involved, and the name of the claim. For example:

Wai 100, Hauraki Māori Trust Board, Hauraki claim

Applicants may request the Registrar to provide details of claims submitted to the Tribunal that relate or that might relate to the applicant's land.

- 14 If the supply of the above details would be overly onerous in a particular case, the applicant may omit them from the memorandum provided they draw the omission to the Tribunal's attention when the application is submitted. However, before it issues directions for notice and service, the Tribunal may direct that the applicant provide some or all of the information omitted.

TRIBUNAL DIRECTIONS FOR SERVICE AND NOTICE

- 15 The Tribunal will send the applicant a copy of its directions for service and public notice of the application in accordance with sections 8F and 8G of the Treaty of Waitangi Act 1975. If the applicant wishes to make submissions on these directions, they should be filed with the Registrar within two weeks of the date of the directions. If possible, any questions about the directions should in the first instance be directed to the Registrar.
- 16 Service should be effected by registered post.
- 17 In a situation where service cannot be effected, the applicant should as soon as possible file with the Tribunal a memorandum seeking further directions. The memorandum should set out the steps that have been taken in respect of the particular service that could not be effected.

FINAL TRIBUNAL CONSIDERATION OF THE APPLICATION

- 18 The Tribunal will notify the applicant of any claims relating to the application that have been received within the notice period or any advice received from existing claimants that their claim relates to the applicant's land or interest in land and, if it does, whether or not the claimants consent to the making of the recommendation sought.
- 19 If, at the end of the notice period, it appears to the applicant that there are no claims affecting the application and that the Tribunal may proceed to make a recommendation under section 8D of the Treaty of Waitangi Act 1975, the applicant should file with the Tribunal a memorandum

requesting that it make the recommendation. The memorandum should recite both the steps that have been taken to that date and the matters referred to in section 8D. Proof that service was made and notice given in accordance with the Tribunal's directions should be provided by filing with the Tribunal an affidavit or declaration exhibiting *Gazette* and newspaper extracts showing the dates on which the public notice was published and receipts for the delivery of the private notice by registered mail.

- 20 On receipt of the memorandum referred to in paragraph 18, the Tribunal will decide whether or not to make the recommendation sought and shall cause a sealed copy of its decision and any recommendations to be served on:
- ▶ the applicant;
 - ▶ the Minister of the Crown for the time being responsible for the administration of the Survey Act 1986;
 - ▶ the Minister of Māori Affairs; and
 - ▶ such other persons as the Tribunal thinks fit (see section 8H of the Treaty of Waitangi Act 1975).
- 21 The Minister responsible for the administration of the Survey Act 1986 will then issue a certificate to the effect that the land or interest in land is no longer subject to resumption and will lodge that certificate with the relevant District Land Registrar. (Where the land or the land in which the interest in land exists is not subject to the Land Transfer Act 1952 and instruments relating to the land or the interest in land are not registrable under the Deeds Registration Act 1908, the certificate will instead be lodged with the office of the chief surveyor.) The District Land Registrar or the Chief Surveyor, as the case may be, will then undertake the necessary steps to give effect to the certificate (see section 8E of the Treaty of Waitangi Act 1975).
- 22 No appearance is required for the formal consideration of an application unless the Tribunal directs otherwise.
- 23 This practice note replaces that issued on 5 September 1991 entitled 'State Enterprise and Education Lands'.

DATED at Wellington this 7th day of September 1997



Deputy Chairperson

FORM 1

APPLICATION THAT LAND OR INTEREST IN LAND BE NO LONGER SUBJECT TO RESUMPTION

The Registrar
Waitangi Tribunal
DX SP11237
Wellington

[General description of land]

I/ WE *[Name of owner(s)]*, APPLY

FIRSTLY, pursuant to section 8D(1) of the Treaty of Waitangi Act 1975, for a recommendation that the land or interest in land described in the schedule attached be no longer subject to resumption.

AND SECONDLY, pursuant to sections 8F and 8G of the Treaty of Waitangi Act 1975, for directions as to service and public notice.

I/ WE SUBMIT THAT the following directions are considered appropriate:

- ▶ That a notice in the form marked 'A' attached* and a copy of the application be served on: *[List names and addresses of claimants to receive this notice]*.
* Form 3, 'Private Notice to Claimants'
- ▶ That a notice in the form marked 'B' attached[†] and a copy of the application be served on: *[List names and addresses of persons to receive this notice]*.
† Form 4, 'Private Notice to Māori Who May Have an Interest'
- ▶ That a notice in the form marked 'C' attached[‡] be advertised in the *Gazette* and *[List names of newspapers in district and number of times application to be advertised in each newspaper]*.
‡ Form 5, 'Application that Land or Interest in Land be No Longer Subject to Resumption'

UPON THE GROUNDS that the land or interest in land described in the schedule attached has been:

Strike out those
options that
do not apply

- ▶ transferred from the Crown to a State enterprise under section 23 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by a notice in the *Gazette* under section 24 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by an Order in Council made under section 28 of the State-Owned Enterprises Act 1986 *or*
- ▶ transferred to an institution within the meaning of section 159 of the Education Act 1989 under section 207 of that Act *or*
- ▶ vested in such an institution by Order in Council made under section 215 of the Education Act 1989 *or*
- ▶ vested in a Crown transferee company pursuant to section 6 of the New Zealand Railways Corporation Restructuring Act 1990

and

- ▶ that the applicant is the owner of the land.

AND UPON THE FURTHER GROUNDS set out in the memorandum of [Name of person submitting memorandum] attached.

DATED at this day of 20

[Signature and name of solicitor or agent]

Solicitor/Duly authorised agent

FORM 1

**SCHEDULE OF
THE LAND OR INTEREST IN LAND**

Location (street address):

General description:

Land registry district:

Māori Land Court district:

Tribal district (if known):

Legal description:

THIS APPLICATION is filed by [*Name of solicitor or agent*], solicitor/agent for the applicant, whose address for service is [*Address for service, including telephone and fax numbers*].

(No backing sheet required)

FORM 2

WAITANGI TRIBUNAL

Memorandum

IN THE MATTER of an application pursuant to section 8D of the Treaty of Waitangi Act 1975 by *[Name of owner(s)]* for a recommendation that *[General description of land]* be no longer subject to resumption.

I am the solicitor/agent for *[Name of applicant]*, who has applied for a Tribunal recommendation that land at *[Location of land]* be no longer subject to resumption under:

- ▶ section 27B of the State-Owned Enterprises Act 1986 *or*
- ▶ section 212 of the Education Act 1989 *or*
- ▶ section 39 of the New Zealand Railways Corporation Restructuring Act 1990.

[State the reasons requiring the application to be made.]

Attached to this memorandum are:

- ▶ *[A photocopy of the title(s), where available.]*
- ▶ *[A title diagram and locality plan.]*

[Advise whether any leases contain purchase rights, and draw attention to any deferred payment licences: see section 27B of the State-Owned Enterprises Act 1986.]

[Advise whether any wahi tapu are recorded by the New Zealand Historic Places Trust, are disclosed on town plans, or are known to the applicant.]

The history of this land, as far as can be ascertained, is as follows:

- ▶ The land was acquired by the Crown by *[State how land was acquired]*.
- ▶ A brief history of the land is *[Set out history of land, noting major transfers]*.
- ▶ The land is in the area of a claim(s) to the Tribunal by *[Name of claimant(s)]*, which is/are registered as Wai *[Claim number(s)]*.

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

- ▶ *[Recite any other particulars that will enable the Tribunal to decide which persons may be adversely affected by the application.]*

The directions set out in the application are appropriate for the following reasons:

[Give reasons why named groups and persons should receive notice and why newspapers named have been chosen to advertise application.]

The services and notices suggested will be sufficient to bring the application to the attention of all persons who may be adversely affected.

DATED at this day of 20

Signed: *[Name of solicitor or agent]*
Solicitor/agent for the applicant

(No backing sheet required)

FORM 3

PRIVATE NOTICE TO CLAIMANTS THAT LAND OR INTEREST IN LAND BE NO LONGER SUBJECT TO RESUMPTION

The Treaty of Waitangi Act 1975
The State-Owned Enterprises Act 1986

This notice concerns land at [*Location of land*] and Māori claims under the Treaty of Waitangi Act 1975.

Read this notice carefully. It may affect your right to ask for the return of certain former Crown lands in settlement of a claim to the Waitangi Tribunal.

If you do not fully understand this notice, you should get legal advice or contact the Waitangi Tribunal at the address given below.

The land at [*Location of land*] is described in legal terms as [*Legal description of land*].

The land was once owned by the Crown. It was:

- ▶ transferred to a State enterprise under section 23 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by a notice in the *Gazette* under section 24 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by an Order in Council made under section 28 of the State-Owned Enterprises Act 1986 *or*
- ▶ transferred to an institution under section 207 of the Education Act 1989 *or*
- ▶ vested in an institution under section 215 of the Education Act 1989 *or*
- ▶ vested in a Crown transferee company under section 6 of the New Zealand Railways Corporation Restructuring Act 1990.

} Strike out those
options that
do not apply

There is a special notice or 'memorial' on the certificate of title for the land which provides that, if the Waitangi Tribunal so recommends, the land shall be resumed by the Crown and returned to Māori ownership (see sections 27A and 27B of the State-Owned Enterprises Act 1986 *or* sections 212 and 213 of the Education Act 1989 *or* section 39 of the New Zealand Railways Corporation Restructuring Act 1990).

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

The current owner of the land, [*Name of current owner*], has applied to the Waitangi Tribunal to have this memorial removed. The application has been made under section 8D of the Treaty of Waitangi Act 1975 and a copy of that application is attached.

You have a claim to the Waitangi Tribunal that may relate to this land. Its reference is Wai [*Relevant Wai number*].

You should notify the Registrar of the Waitangi Tribunal in writing before the day of 20 whether you are making a claim that relates to this particular land and, if so, whether you consent to the memorial being removed so that this land be no longer subject to resumption by the Crown and be no longer available for return to Māori ownership on the recommendation of the Waitangi Tribunal.

If you do not notify the Registrar before the day of 20, the Tribunal may recommend that the land be no longer subject to resumption, upon which the memorial will be removed.

Advice that you are making a claim that relates to this land, or written consent to the removal of the memorial, should be posted to:

The Registrar
Waitangi Tribunal
DX SX11237
Wellington

or delivered to:

The Registrar
Waitangi Tribunal
Level 7
Fujitsu Tower
141 The Terrace
Wellington 6011

This notice has been sent to the following people, who may be affected by it:

[*Names of all persons to whom private notices in forms 3 and 4 have been sent.*]

You may pass this notice on to any other Māori or Māori group that you consider may be affected.

For further information, contact the Tribunal Registrar at the address set out above, or phone 4 914 3000.

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

Signed: [*Signature of solicitor or agent*]

for: [*Name of applicant*]

DATED at this day of 20

Signed by: [*Name and contact address of solicitor or agent*]

FORM 4

PRIVATE NOTICE TO MĀORI WHO MAY HAVE AN INTEREST

The Treaty of Waitangi Act 1975
The State-Owned Enterprises Act 1986

This notice concerns land at [*Location of land*] and Māori claims under the Treaty of Waitangi Act 1975.

Read this notice carefully. It may affect your right to ask for the return of certain former Crown lands in settlement of a claim to the Waitangi Tribunal.

If you do not fully understand this notice, you should get legal advice, or contact the Waitangi Tribunal at the address given below.

The land at [*Location of land*] is described in legal terms as [*Legal description of land*].

The land was once owned by the Crown. It was:

- ▶ transferred to a State enterprise under section 23 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by a notice in the *Gazette* under section 24 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by an Order in Council made under section 28 of the State-Owned Enterprises Act 1986 *or*
- ▶ transferred to an institution under section 207 of the Education Act 1989 *or*
- ▶ vested in an institution under section 215 of the Education Act 1989 *or*
- ▶ vested in a Crown transferee company under section 6 of the New Zealand Railways Corporation Restructuring Act 1990.

Strike out those options that do not apply

There is a special notice or 'memorial' on the certificate of title for the land, which provides that, if the Waitangi Tribunal so recommends, the land shall be resumed by the Crown and returned to Māori ownership (see sections 27A and 27B of the State-Owned Enterprises Act 1986 *or* sections 212 and 213 of the Education Act 1989 *or* section 39 of the New Zealand Railways Corporation Restructuring Act 1990).

The current owner of the land, [*Name of current owner*], has applied to the Waitangi Tribunal to have this memorial removed. The application has been made under section 8D of the Treaty of Waitangi Act 1975 and a copy of that application is attached.

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

If no claim about this land is made to the Registrar before the day of 20 , the Tribunal may recommend that the land be no longer subject to resumption and the memorial will be removed.

Any claim in relation to this land should be posted to:

The Registrar
Waitangi Tribunal
DX SX11237
Wellington

or delivered to:

The Registrar
Waitangi Tribunal
Level 7
Fujitsu Tower
141 The Terrace
Wellington 6011

Section 6 of the Treaty of Waitangi Act 1975 sets out the grounds for making a claim.

This notice has been sent to the following people who may be affected by it:

[Names of all persons to whom private notices in forms 3 and 4 have been sent.]

You may forward this notice to any other Māori or Māori group that you consider may be affected.

For further information, contact the Tribunal Registrar at the address set out above, or phone 4 914 3000.

Signed: *[Signature of solicitor or agent]*

for: *[Name of applicant]*

DATED at this day of 20

Signed by: *[Name and contact address of solicitor or agent]*

FORM 5

**APPLICATION THAT LAND OR INTEREST
IN LAND BE NO LONGER SUBJECT TO
RESUMPTION**

The Treaty of Waitangi Act 1975
The State-Owned Enterprises Act 1986

This notice concerns land at [*Location of land*] and Māori claims under the Treaty of Waitangi Act 1975.

The land at [*Location of land*] is described in legal terms as [*Legal description of land*].

The land was once owned by the Crown. It was:

- ▶ transferred to a State enterprise under section 23 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by a notice in the *Gazette* under section 24 of the State-Owned Enterprises Act 1986 *or*
- ▶ vested in a State enterprise by an Order in Council made under section 28 of the State-Owned Enterprises Act 1986 *or*
- ▶ transferred to an institution under section 207 of the Education Act 1989 *or*
- ▶ vested in an institution under section 215 of the Education Act 1989 *or*
- ▶ vested in a Crown transferee company under section 6 of the New Zealand Railways Corporation Restructuring Act 1990.

} Strike out those options that do not apply

There is a special notice or ‘memorial’ on the certificate of title for the land which provides that, if the Waitangi Tribunal so recommends, the land shall be resumed by the Crown and returned to Māori ownership (see sections 27A and 27B of the State-Owned Enterprises Act 1986 *or* sections 212 and 213 of the Education Act 1989 *or* section 39 of the New Zealand Railways Corporation Restructuring Act 1990).

The current owner of the land, [*Name of current owner*], has applied to the Waitangi Tribunal to have this memorial removed. The application has been made under section 8D of the Treaty of Waitangi Act 1975.

Any Māori person who considers that they, or any group to which they belong, has a claim to make to the Waitangi Tribunal about this land should submit their claim to the Tribunal before the day of 20 .

TUHINGA ĀRAHI I NGĀ TIKANGA ME NGĀ TUKANGA

Section 6 of the Treaty of Waitangi Act 1975 sets out the grounds for making a claim. Claims may be posted to:

The Registrar
Waitangi Tribunal
DX SX11237
Wellington

or delivered to:

The Registrar
Waitangi Tribunal
Level 7
Fujitsu Tower
141 The Terrace
Wellington 6011

[Add the following paragraph only if claims have already been submitted.]

The following claims have already been submitted to the Tribunal and may relate to this land: *[Provide 'Wai' number, name of claimant or claimant group, and name of claim].*

If no claim about this land is made to the Waitangi Tribunal before the day of 20 , the Tribunal may recommend that the land be no longer subject to resumption by the Crown and that it be returned to Māori.

Dated at this day of 20

Inserted by: *[Name and contact address of solicitor or agent]*