

WAITANGI TRIBUNAL

Wai 2336

CONCERNINGthe Treaty of Waitangi Act
1975**AND**an application for urgency by
Dr Timoti Karetu, Tina Olsen-
Ratana and Dame Iritana Te
Rangi Tawhiwhirangi, on
behalf of the Te Kōhanga Reo
National Trust Board**MEMORANDUM-DIRECTIONS OF DEPUTY CHIEF JUDGE C L FOX,
PREDISING OFFICER, SIR DOUGLAS KIDD AND KIHĪ NGATAI***Tēnā koutou katoa***Introduction**

1. This memorandum-directions concerns matters arising from the hearing held on 18 and 19 August 2011 in Wellington.

Mediation

2. The Tribunal raised the possibility of mediation between the parties, pursuant to clause 9A of the Second Schedule to the Treaty of Waitangi Act 1975. The Tribunal suggests that mediation between the parties of the Tripartite Agreement (the Te Kōhanga Reo National Trust Board, Te Puni Kōkiri and the Ministry of Education) would assist to re-establish an effective working relationship at the earliest possible date.
3. The mediation could address the Te Kōhanga Reo National Trust Board's concerns over the Early Childhood Education Taskforce Report, *An Agenda for Amazing Children*.
4. Due to the significance of the Tripartite Agreement the Tribunal expects that the representatives from Te Puni Kōkiri and the Ministry of Education who attend the mediation should be of sufficient seniority to be able to make reasonably significant decisions. This means at the Chief Executive level.
5. The Tribunal invites the parties to suggest suitable candidates for the role of mediator. The person should have knowledge of the Treaty of Waitangi, and Crown procedure and policy development. An understanding of Te Reo Māori would be helpful, although not essential as a co-mediator may be provided.

The Tribunal suggests a retired Judge or politician is the type of person who would have the required skills and attributes to fulfil this important position. A member of the Waitangi Tribunal, not hearing this claim, could be appointed to assist.

6. Any suggestions by the parties as to suitable candidates for the role of mediator are to be filed by midday, **Wednesday 31 August 2011**.
7. The Tribunal suggests that mediation should be conducted as soon as practicably possible. The Tribunal will require a report from parties on the outcome of mediation by midday, **Friday 16 September 2011**.

Further information sought from the Crown

8. Crown counsel, Mr Ben Keith, undertook to seek advice on whether an assurance that any future decisions on policy development or funding of Kōhanga Reo be deferred until after the Tribunal has ruled on the matter of urgency. The Tribunal would like an update from the Crown in their closing submissions due by midday, **Friday, 26 August 2011**.
9. The Tribunal also seeks further documents from the Crown which will assist it to reach its decision. These are to be filed with the Crown's closing submissions.
 - a) The Early Childhood Education Taskforce meeting notes as mentioned in the Early Childhood Advisory Committee minutes (Wai 2336, #A4, tab 11).
 - b) The notes of **REDACTED** as mentioned in the various Early Childhood Education Management Meeting Minutes (Wai 2336, #A4).
 - c) A copy of the updated funding rates utilised by **REDACTED** in providing evidence. The outdated figures were contained in the *Education Report: Funding provided to Te Kōhanga Reo National Trust over the period 2000-2010* (Wai 2336, #A4, tab 80).
 - d) Clarification of the statistics in **REDACTED** written brief of evidence (Wai 2336, #A3, paras 8-9) and discussed in her oral evidence. The Tribunal requires clarification of the figures and their meaning.
 - e) The date the Minister of Education, the Honorable Anne Tolley, received the Early Childhood Education Taskforce Report *An Agenda for Amazing Children*.
 - f) Any briefing papers or notes provided to the Minister in respect of the report, *An Agenda for Amazing Children*.

Filing of Closing Submissions

10. As agreed, both parties will file closing submissions. This is to include submissions as to what paragraphs of the second briefs evidence, filed by the applicants, irrelevant to the application for urgency (Wai 2336. #A5, #A6, #A7).
11. Due to the Tribunal's request to file further evidence the Tribunal directs the Crown to file closing submissions by **midday, Friday 26 August 2011**.
12. The closing submissions from counsel for the applicants should be filed by **midday, Friday 2 September 2011**.

The Registrar is to send a copy of this direction to all those on the notification list for Wai 2336, the combined record of inquiry for the Kōhanga Reo Urgency Inquiry.

DATED at Wellington this 19th day of August 2011.

A handwritten signature in black ink, appearing to read 'C. L. Fox', written in a cursive style.

Deputy Chief Judge Caren Fox
Presiding Officer
WAITANGI TRIBUNAL