

**BEFORE THE WAITANGI TRIBUNAL
TE ROOPUU WHAKAMANA I TE TIRITI O WAITANGI**

WAI 3327

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER Te Reo in the Public Sector Urgent Inquiry

AND of an application for interested party status by
**TE WHAKAKITENGA O WAIKATO
INCORPORATED**

**MEMORANDUM OF COUNSEL FOR TE WHAKAKITENGA O
WAIKATO INCORPORATED SEEKING LEAVE TO PARTICIPATE
AS AN INTERESTED PARTY IN ANY HEARING OF THE
WAI 3327 CLAIM**

8 March 2024

RECEIVED

Waitangi Tribunal

8 Mar 24

Ministry of Justice
WELLINGTON



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TEENAA, E TE TARAIPUNARA:

1. This memorandum of counsel is filed on behalf of Te Whakakitenga o Waikato Incorporated (**Te Whakakitenga**) in relation to Wai 3327 Te Reo in the Public Sector Urgent Inquiry.¹
2. The Deputy Chairperson granted urgency to the claims of Ngaai Te Rangi (Wai 3308), Ngaati Hine (Wai 682), and Nora Rameka (Wai 3077) on 1 March 2024.² The urgency relates only to the parts of those claim regarding use of te Reo Maaori in the Public Sector.
3. The claims were consolidated into an urgent inquiry under a new Wai number (Wai 3327) and inquiry name (Te Reo i te Kaawanatanga Tono Ohotata / Te Reo in the Public Sector Urgent Inquiry) by the Chairperson on 5 March 2024.³
4. Pursuant to clause 8 of Schedule 2 to the Treaty of Waitangi Act 1975 and s 4A of the Commissions of Inquiry Act 1908, Te Whakakitenga seeks leave to participate in the Wai 3327 Inquiry as an interested party, but solely in a watching brief capacity.

Te Whakakitenga o Waikato Incorporated

5. Te Whakakitenga o Waikato Incorporated:
 - (a) is the representative tribal authority for the iwi of Waikato Tainui, which has over 86,000 members affiliating to 68 marae and 33 hapuu;
 - (b) is the trustee of the Waikato Raupatu Lands Trust, the post-settlement governance entity for Waikato-Tainui for the purposes of the 1995 Waikato Raupatu Lands

¹ Wai 3327, #2.5.1 incorporating claims Wai 3307, Wai 682, Wai 3077, Wai 1194, Wai 1212, and Wai 1684.

² Wai 3308, #2.5.10.

³ Wai 3327, #2.5.1.

Settlement and the Waikato Raupatu Claims Settlement Act 1995; and

- (c) is the trustee of the Waikato Raupatu River Trust, the post-settlement governance entity for Waikato-Tainui for the purposes of the 2008/2009 Waikato-Tainui Waikato River Settlement and the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
- (d) on behalf of Waikato-Tainui, has a direct relationship with the Crown as a Treaty partner;
- (e) has developed Tikanga Ora Reo Ora as the strategy for Waikato-Tainui to reach its strategic objectives in relation to te reo Maaori and tikanga in accordance with Whakatupuranga 2050. The strategy:
 - (i) encourages the use and preservation of reo and tikanga;
 - (ii) is guided by an overall aim of “Whakahokia te reo ki ngaa tara aa-whare. Haapaingia te tikanga ki te tuanui o te whare”;⁴
 - (iii) is supported by a breadth of programmes including waananga aimed at different groups such as teachers, rangatahi, and those who uphold our pae; reo programmes; podcasts; and physical resources.

6. On 10 January 2024 Te Whakakitenga filed proceedings in the High Court seeking declarations regarding the rights and interests of Waikato-Tainui and the corresponding obligations and duties of the Crown in respect of those rights. In view of recent political statements by the Government threatening the place of Te Reo, the proceedings have a particular focus on that kaupapa in the first instance. In relation to Te Reo, Te Whakakitenga is seeking declarations that the Crown has

⁴ Let the language echo in our houses; restore high regard for cultural practices.

an active duty to protect Te Reo and that various threatened actions by the Crown deprioritising Te Reo or making it secondary to English would be in breach of (among other things) Te Ture moo te reo Maaori 2016 and the Crown's commitments in respect of te reo Maaori as a taonga.

Participation as an interested party in the urgent application

7. Te Whakakitenga supports the urgent inquiry and the position of the claimants.
8. Te Whakakitenga notes the references to the proceeding it has initiated in the High Court in the memoranda filed in relation to the urgency by the Crown⁵ and the claimants.⁶
9. In terms of clause 8 of Schedule 2 to the Treaty of Waitangi Act 1975 and s 4A of the Commissions of Inquiry Act 1908, Te Whakakitenga has, on behalf of the members of Waikato-Tainui as persons that will be adversely affected by the Crown's intended actions, an interest in the Wai 3327 Inquiry that is "apart from any interest in common with the public".
10. Te Whakakitenga seeks to support and assist the Tribunal in its consideration of the issues raised by the claims. It notes that it can provide clarity to the Tribunal on the matter of its High Court application to the extent that is required.
11. Te Whakakitenga accordingly seeks leave to be joined as an interested party to the Wai 3315 Claim in the limited capacity of:
 - (a) maintaining a watching brief; and
 - (b) being included on the distribution list for any documents filed, or memoranda directions issued, in respect of the Wai 3327 Inquiry.

⁵ Wai 3077, #3.1.3; Wai 682, #2.41

⁶ Wai 3308, #3.1.20; Wai 682, #2.44; Wai 3077, #3.1.8 & #3.1.8(a).

12. If joined as an interested party in this limited capacity, Te Whakakitenga does not intend to file evidence or make submissions. As such, there should be no prejudice to any party, or to the expeditious progress and consideration of the inquiry by the addition of Te Whakakitenga as interested party on the limited basis outlined in paragraph 11 above.
13. Should any matter arise in the course of the Inquiry which expressly relates to Waikato-Tainui and, more particularly, Te Whakakitenga's High Court proceedings, or if it appears that the position of Waikato-Tainui on any particular issue would assist the Tribunal, Te Whakakitenga shall seek further leave at that time to expand the nature of its participation as an interested party.

DATED this 8th day of March 2024



M M E Wikaira / R K Douglas
Counsel for Te Whakakitenga o Waikato