

BEFORE THE WAITANGI TRIBUNAL

**WAI 3300
WAI 2872**

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

Tomokia ngā tatau o
Matangireia (Wai 3300)

AND

IN THE MATTER OF

a claim by **Dr Leonie Pihama,
Angeline Greensill, Mereana
Pitman, Hilda Halkyard-
Harawira and Te Ringahuia
Hata** (Wai 2872)

MEMORANDUM OF COUNSEL SEEKING PARTICIPATION

Dated at Rotorua, on this 16th day of April 2024

RECEIVED

Waitangi Tribunal

16 Apr 24

Ministry of Justice
WELLINGTON



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TĒNĀ E TE TARAIPUNARA

1. This Memorandum of Counsel is filed on behalf of Wai 2872 Dr Leonie Pihama, Angeline Greensill, Mereana Pitman, Hilda Halkyard-Harawira and Te Ringahuia Hata.

(“the Claimants”).

Procedural history

2. The Tribunal has received multiple applications concerning current or pending Crown actions or policies arising from new and developing policy initiatives by the Coalition Government.¹
3. Under cl 5(9) of the Second Schedule to the Treaty of Waitangi Act 1975, the Tribunal “may regulate its procedure in such manner as it thinks fit”. This discretion is subject to two qualifications; that the procedure must be within the relevant statutory regime, and that the principles of natural justice must be observed.²
4. On 25 January 2024, Deputy Chairperson Judge Reeves confirmed that applications for urgent hearing relating to te reo Māori, as opposed to the proposed Treaty Principles Bill, will be dealt with by herself in her capacity as Deputy Chairperson.³
5. On 5 February 2024, Chief Judge Fox directed interested parties to respond to the application for an urgent hearing in respect of the Government’s intention to abolish te Tiriti redress measures through policy found in the Coalition Agreements between National-NZ First and National-ACT (“the Coalition Agreements”), and the 100-day plan by no later than midday, 9 February 2024.⁴
6. This Memorandum of counsel is filed accordingly, and counsel respectfully seek leave to file out of time.

¹ Wai 3300, #2.5.10 at [4].

² Wai 3300, #2.5.10 at [5].

³ Wai 3300, #2.5.6.

⁴ Wai 3300, #2.5.7, Wai 3316, #2.5.1, Wai 3317, #2.5.1, Wai 3318, #2.5.1,

7. In a memorandum-directions dated 10 April 2024, Her Honour Kaiwhakawā Mātua Dr C L Fox directed that the Tribunal was satisfied that the grounds for urgency are made out.

Seeking to participate in Wai 3300 Treaty Principles Urgent Inquiry

8. The Claimants seek leave to participate in the Wai 3300 Tomokia ngā tataou o Matangireia Inquiry as an interested party. This request was also set out in the joint memorandum of counsel dated 9 April 2024. Counsel wish to expand on this request in this memorandum of counsel.

The WAI 2872 Claim

9. This claim is originally brought before the Wai 2700 Mana Wahine Inquiry. The statement of claim dated 26 November 2018 which particularises their issues pertaining to the Wai 2700 inquiry.⁵ The claim arose as a result of several extenuating factors that have contributed to the loss of mana and dignity of wāhine. The flow on implications have been felt by Māori across the various spectrum of Māori society with extreme impacts on the institutions of whānau and hapū severing whakapapa connections of wāhine Māori from the land, water and resources and other Taonga.
10. The Wai 2872 claimants say that that the detrimental impacts of Crown policies and practices on the mana of our wāhine Māori is an attack on their particular status as kaitiaki of Te Ao Māori and Papatūānuku who assures the future survival of all. The decimation of the relationships between wāhine Māori and Papatūānuku have wrought significant prejudice in the health; wellbeing; survival and rejuvenation of whānau, hapū and iwi and their social institutions and demands an urgent inquiry.

⁵ Wai 2872, #1.1.1.

The Claimants position regarding urgent inquiry

11. The Claimants argue that they will suffer significant and irreversible prejudice as a result of the process and policies being implemented at rapid speed by the recently formed Coalition Government.
12. The Claimants say that hapū, iwi and Māori generally, will suffer significant and irreversible prejudice as a result of the Coalition Government's policies. Such prejudice includes:
 - a) An undermining of mana and rangatiratanga;
 - b) Removal and/or diminishment of the rights of Māori under te Tiriti in legislation;
 - c) Denigration of the rights and position of Māori in the institutional arrangements and constitutional division of power;
 - d) The back-pedaling of the incremental progress which Māori have fought decades to achieve; and
 - e) The denial of justice to Māori on an issue which so clearly undermines their rangatiratanga, mana, and partnership under te Tiriti.
13. Furthermore, the claimants remind that the constitutional importance of Te Tiriti o Waitangi / the Treaty of Waitangi as the founding document of Aotearoa-New Zealand, and the administrative and legal duties to respect it as so, in the development and implementation of policy options and outcomes that impact on the Article II and Article III rights of hapū and iwi that are intrinsic to their identity.

Conclusion

14. The Claimants support the application for urgency and seek to participate in the urgent inquiry as a interested party.

DATED at Ōpōtiki on this 16th day of April 2024



Annette Sykes



Kalei Delamere-Ririnui

Counsel for the Claimants