
KEI MUA I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL

WAI 3310

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Education Services and Outcomes
Kaupapa Inquiry

**MEMORANDUM OF COUNSEL FOR THE CROWN
IN PREPARATION FOR JUDICIAL CONFERENCE ON 22 NOVEMBER 2024**

19 November 2024



**Te Tari Ture
o te Karauna**
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E TE RŌPU WHAKAMANA I TE TIRITI O WAITANGI - MAY IT PLEASE THE TRIBUNAL:**Hei tīmatanga – Introduction**

1. This memorandum sets out the Crown’s preliminary comments on:¹
 - (a) the remaining issues to be heard and determined in this inquiry;
 - (b) any priority matters demanding early attention; and
 - (c) the readiness of the claimants and Crown to proceed.

Ko ngā take e toe ana – Remaining issues

2. The Tribunal has signalled that, based on preliminary assessments, it intends to conduct this inquiry using the following broad contemporary themes:²
 - (a) matauranga Māori;
 - (b) primary and secondary schools;
 - (c) tertiary education;
 - (d) curricula;
 - (e) education finance; and
 - (f) te reo Māori in the education system.
3. The Crown takes no issue with that list of themes.
4. Ultimately, of course, the remaining issues to be heard and determined will depend on the claims accepted for the inquiry, and the full nature and extent of those issues will become clearer once the claims to be heard in the inquiry have been fully amended and particularised by the claimants. No doubt the Tribunal will continue to refine the issues for this inquiry as the list of claims are amended and particularised.

¹ Wai 3310, #2.5.5, Memorandum-Directions of the Presiding Officer Regarding Next Steps for the Inquiry, at [27].

² Wai 3310, #2.5.5, Memorandum-Directions of the Presiding Officer Regarding Next Steps for the Inquiry, at [15].

5. As the Tribunal has noted, some of the topics may have been the subject of Tribunal inquiries or are the subject of inquiries that are underway. The Tribunal will want to be mindful of overlaps with other inquiries and work out a way to address those so as to avoid unnecessary duplication of effort and costs.
6. The Tribunal has also indicated there will be an assessment of the claims that are considered to be eligible to participate in this inquiry.³ The Crown has not undertaken an analysis of the preliminary list of claims identified by the Tribunal as relevant to this inquiry. It would like to be heard, at the appropriate time, on the eligibility of all claims seeking to participate in this inquiry before decisions on eligibility are made by the Tribunal.
7. For its part, the Crown will be assisted most in this inquiry by a focus on present and future decisions, rather than historically-focussed findings.

He take mātua – Any priority matters

8. The Crown does not point to any matters that demand early attention.
9. At the time of filing, the Crown has received some memoranda posing certain issues for priority.⁴ The Crown proposes to seek directions at the judicial conference as to timetabling for the filing of any Crown responses to these applications.

E takatū ana – Readiness to proceed

10. The Crown is able to proceed with the inquiry. It is able to assist and participate in the necessary preparatory work to be completed before hearings can commence.

He pūtea ā-kaikerēme – Claimant funding

11. The Crown acknowledges that claimants will be keen to understand what claimant funding will be available from the Crown to assist their

³ Wai 3310, #2.5.5, Memorandum-Directions of the Presiding Officer Regarding Next Steps for the Inquiry, at [18].

⁴ Those filed on behalf of Wai 1456/2332 (seeking priority for Māori boarding schools), Wai 3067 (seeking priority for claims concerning the establishment of schools by tribes in the rohe of other tribes) and Wai 2058 (seeking priority for the removal of Te Tiriti and Tiriti history from the curriculum).

participation in this inquiry. The Ministry of Education will be taking steps to distribute information about claimant funding for this particular inquiry to claimants soon. In the meantime, any requests for claimant funding may be guided by the Ministry of Justice's policy, *Claimant funding in Waitangi Tribunal kaupapa inquiries: Interim common claimant funding policy for lead agencies*.⁵

19 November 2024



A K Irwin
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal

AND TO: Claimant Counsel

⁵ [Interim-Common-Claimant-Funding-Policy.pdf](#).