

**IN THE WAITANGI TRIBUNAL  
KEI MUA I TE ROOPU WHAKAMANA I TE  
TIRITI O WAITANGI**

**WAI 3310**

**WAI 2003**

**WAI 2911**

**WAI 3168**

**IN THE MATTER OF**

The Treaty of Waitangi 1975

**AND**

**IN THE MATTER OF**

The Education Services and  
Outcomes Kaupapa Inquiry

**AND**

**IN THE MATTER OF**

A claim by Cheryl Turner,  
John Klaricich, Harerei Toia  
(deceased), Ellen Naera, Fred  
Toi, Warren Moetara, Hone  
Taimona on behalf of Ngāti  
Korokoro, Ngāti Wharara, and  
Te Pouka hapū (Wai 2003)

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**JOINT MEMORANDUM OF COUNSEL**

*Dated this 21<sup>st</sup> day of November 2024*

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**This document is filed by:-**



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**RECEIVED**

Waitangi Tribunal

**21 Nov 24**

Ministry of Justice  
WELLINGTON

**AND**

**IN THE MATTER OF**

A claim by Lisa McNab and Katherine Clarke on behalf of themselves and all Māori mothers, and their tamariki and pēpi (Wai 2911).

**AND**

**IN THE MATTER OF**

A claim by Gilbert Paki on behalf of Kaiwhakarato Māori working in prisons, mauhere Māori and their whānau.

## MAY IT PLEASE THE TRIBUNAL

1. This Joint Memorandum of Counsel is filed for the Wai 3310 Education Services and Outcomes Inquiry (“**Education Inquiry**”), on behalf of the following:
  - a. Wai 2003, a claim by Cheryl Turner, John Klaricich, Harerei Toia (deceased), Ellen Naera, Fred Toi, Warren Moetara and Hone Taimona on behalf of Ngāti Korokoro, Ngāti Wharara and Te Pouka Hapū (“**Te Wahapu o Hokianga**”);
  - b. Wai 2911, a claim by Lisa Mc Nabb and Katherine Clarke on behalf of themselves and all Māori mothers, and their tamariki and pēpi; and
  - c. Wai 3168, a claim by Gilbert Paki on behalf of Kaiwhakarato Māori working in prisons, mauhere Māori and their whānau (together referred to as “**the Claimants**”).
2. In Memorandum-Directions dated 5 November 2024 (“**Memorandum-Directions**”), parties were directed to file submissions in advance of the judicial conference on 22 November 2024 regarding the following:<sup>1</sup>
  - a. The remaining issues to be heard and determined in the Education Inquiry;
  - b. Any priority matters demanding early attention; and
  - c. The readiness of the Claimants and Crown to proceed.
3. Further, per the Memorandum-Directions, the Tribunal will conduct the inquiry using the following broad contemporary themes as follows:<sup>2</sup>
  - a. Mātauranga Māori;
  - b. Primary and Secondary Schools;
  - c. Tertiary Education;
  - d. Curricula;
  - e. Education Finance; and
  - f. Te Reo Māori in the Education System.

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<sup>1</sup> Wai 3310 #2.5.5 at [27]

<sup>2</sup> Wai 3310 #2.5.5 at [15]

4. Her Honour Judge Mullins directed parties seeking to participate in this inquiry to file submissions on the above listed issues by **5 pm, 19 November 2024**.

### **Participation**

5. Accordingly, the Claimants mentioned in this memorandum seek to participate in the Wai 3310 Education Services and Outcomes Kaupapa Inquiry.
6. Counsel on behalf of the Claimants seek a Direction from the Tribunal confirming the abovementioned Claimants' participation in the Education Inquiry.
7. In reference to Memorandum-Directions at paragraph 18, Counsel confirms that the Claimants discussed in this memorandum are eligible to participate in the Education Inquiry.<sup>3</sup>
8. Counsel notes that the Wai 2911 Claimant mentioned in this memorandum is not included in the preliminary list of claims marked in Appendix A of the Memorandum-Directions.
9. Counsel have received instructions to represent the Wai 2911 Claimants in this inquiry and it is submitted that it is an appropriate claim for inclusion in this inquiry.
10. Counsel is awaiting further instructions from three other Claimants, one of which is listed in Appendix A, the Wai 2943 National Hauora Coalition Claim. Counsel will provide an update of any additional Claimants as soon as practicable.

### **Readiness to Proceed**

11. The Claimants mentioned in this memorandum will be in a better place to indicate their readiness once initial amended statements of claim have been finalised, however, other than preparing and filing evidence, the Claimants expect to be ready to proceed in keeping with all filing directions issued by the Tribunal.

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<sup>3</sup> Wai 3310 #2.5.5 at [18]

### **Priority Matters**

12. Counsel notes that at the present, the Wai 2003, Wai 2911 and Wai 3168 Claims are not, and do not involve priority matters. However, we support the proposal for claimants to hui-tahi and identify priority matters to assist with refining the scope and direction of the inquiry.

### **Judicial Conference**

13. Further, Counsel confirm attendance at the Judicial Conference scheduled for **22 November 2024** and will be available to speak further to the issues raised.
14. Unfortunately, counsel did not have confirmed instructions to file by the deadline, counsel therefore apologises for the delay in the filing of this Joint Memorandum and seeks leave of the same.

**DATED** at Auckland this 21<sup>st</sup> day of November 2024

Signature:



**Kelly Dixon / Lucy Tohill / Komal Singh**

Counsel for the Wai 2003, Wai 2911 and Wai 3168 Claimants