

**IN THE WAITANGI TRIBUNAL**

**WAI 3310  
WAI 3311**

**IN THE MATTER** of the Treaty of Waitangi Act 1975  
**AND** the Education and Services Outcomes Inquiry  
**AND** a claim made by Lee Timutimu on behalf of himself and Māori in the Digital Technologies Industry

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**MEMORANDUM OF COUNSEL  
RESPONDING TO MEMORANDUM DIRECTIONS WAI 3310 2.5.005**

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

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**RECEIVED**

Waitangi Tribunal

**22 Nov 24**

Ministry of Justice  
WELLINGTON



**WACKROW PANOHO**

**& ASSOCIATES**

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**MAY IT PLEASE THE TRIBUNAL:**

1. This memorandum of counsel is filed on behalf of Lee Timutimu as named claimant for the Wai 3311 claim. (“the Claimant”).
2. This memorandum is filed further to the memorandum directions dated 5 November 2024 (Wai 3310, 2.5.005) and dated 14 November 2024 (Wai 3310, 2.5.006) wherein the Tribunal has set down a judicial conference to occur on 22nd November 2024 following the hearing of evidence of Ta Hirini Moko Mead.
3. The Tribunal has invited submissions on the following matters:<sup>1</sup>
  - a) the remaining issues to be heard and determined in this inquiry
  - b) any priority matters demanding early attention
  - c) the readiness of claimants and the Crown to proceed.
4. Counsel respectfully, seeks leave to file this memorandum out of time. Due to the tight timeframes and capacity at this time of year, counsel has been unable to seek full instructions from the Claimant in time for the judicial conference. However, this memorandum intends to set about some preliminary viewpoints in case it is of assistance to the Tribunal in its forward planning.

**Eligibility of Wai 3311**

5. As noted at paragraph 20 of the directions dated 5th November 2024, the Wai 3311 claim has sought to be aggregated for participation in the Education and Services Outcomes Inquiry. The basis upon which the Claimant is seeking to participate includes that some (but not all) of the claims contained in the statement of claim dated 20 December 2023 involve the interface between Te Tiriti and Crown obligations to Māori with regard to Māori in the digital technology sector, upskilling and education pathways, and the role of digital technology in enhancing and recognising Mātauranga Māori.
6. In particular, the Wai 3311 claim raises the following specific allegations:

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<sup>1</sup> Wai 3310, 2.5.005 at para 27.

- a) The Crown failure to include, support and provide meaningful learning and career pathways for Māori in the digital and technology space resulting in under-representation;
  - b) The New Zealand Education System promoting ākonga Māori being streamed away from STEM (science, technology, engineering, mathematics) subjects at high school;
  - c) The Crown failure to actively protect Māori ability to pathway into subjects that are future focused, economically viable and enhance the overall wellbeing of Māori on par with non-Māori;
  - d) The Crown implementation of plans and policies to promote new technologies curricula while failing to ensure socio-economic realities of Māori are accounted for such that there is a lack of accessibility to essential new learning.
7. Mr Timutimu is Māori and his claim raises issues of national significance to Māori and complies with s6(1) of the Treaty of Waitangi Act 1975.

#### **Scope of the Inquiry**

8. Counsel broadly supports the scope of the inquiry themes set out in paragraph 15 of the directions dated 5 November 2024 noting the tribunal proposes to adopt a flexible approach to these themes which is supported in order to account for some of the nuance and specific claim issues being raised by parties.
9. Counsel does not seek any particular issue to be prioritised, noting that a number of issues are overlapping and involve an assessment of the overarching policy, and legislative framework within which the education system operates, through to the implementation of policies, plans and the Crown's practices and conduct.
10. Before determining any priority, issue or staging of the education inquiry, counsel consider it may be helpful for the Tribunal to have a final list of any claims seeking to participate so that an exercise can be undertaken to review the claims and any commonality between them for the purposes of planning the next steps in the inquiry.

11. Given the limited scope of counsel's instructions at this juncture, counsel respectfully seeks leave for Ms Bobbi Walker to observe the hearing and judicial conference via the livestream link to monitor any matters arising in order to report to the Wai 3311 claimants.

**Dated at Auckland:** 21 November 2024.



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**C Panoho-Navaja / B Walker**

Counsel for Wai 3311