IN THE WAITANGI TRIBUNAL	**WAI 3325**
CONCERNING	the Treaty of Waitangi Act 1975
AND **IN THE MATTER OF**	The Climate Change Priority Inquiry

GENERIC OPENING SUBMISSIONS ON CLIMATE IMPACTS ON MĀORI AND THE PRINCIPLES OF TE TIRITI O WAITANGI

Dated this 19th day of November 2024

RECEIVED
Waitangi Tribunal
19 Nov 24
Ministry of Justice
WELLINGTON

TE WHENUA LAW

Tania Te Whenua
Principal
P: 021 026 00026
E: tania@tewhenua.Māori.nz

CONTENTS

Contents

INTRODUCTION 3

Approach to these generic opening submissions 5

DECOLONISATION, MĀTAURANGA MĀORI AND THE CLIMATE CRISIS 6

THE GLOBAL CONTEXT: IPCC AR6 REPORT 7

Current status and trends 9

Observed warming and its causes 9

Future climate change impacts 10

Urgency of near-term integrated climate action 12

Equity and Inclusion 13

Finance, technology and international cooperation 14

Analysis of AR6 14

IMPACTS OF CLIMATE CHANGE ON MĀORI 17

The Interwoven nature of impacts on Māori 17

Common impacts of concern for Māori 19

Sea level rise 19

Flooding 20

Drought 21

Natural ecosystems and indigenous biodiversity 22

Spiritual and cultural impacts 23

Social and health impacts 24

Highest overall socio-economic risk 24

Adaptability risk 25

Number of risks in relation to socio-economic factors 25

Impacts on the Māori economy 26

The ETS system 28

THE RAUORA FRAMEWORK 32

THE NATIONAL ADAPTATION PLAN 2022 33

NATIONAL ADAPTATION PLAN REPORT ON CLIMATE ACTION FOR MĀORI 2022 35

Māori Submissions on the National Adaptation Plan 37

Embedding Te Tiriti across the climate response 37

Enabling better risk-informed decisions 39

Enabling mātauranga Māori in climate responses 39

Driving climate-resilient development in the right locations 40
Adaptation options including managed retreat 40
Embedding climate resilience across government 42
Future engagement during implementation 43
NATIONAL ADAPTATION PLAN HAS NOT BEEN ACTED UPON 43
KEY FINDINGS OF THE NATIONAL ADAPTATION PLAN ASSESSMENT 45
High priority areas for urgent action 45
Important areas of focus 47
CLIMATE COMMISSION RECOMMENDATIONS 48
Recommendation 2: Provide clarity on how adaptation costs will be shared and met 50
Recommendation 3: Ensure iwi/Māori can plan for and carry out adaptation action 51
Recommendation 4: Improve the science and research system to support good adaptation outcomes 51
Recommendation 5: Consider and address the distributional costs and impacts of climate change so that they do not fall unfairly on particular communities and groups 52
Recommendation 6: Prepare a strategy and plan to develop the climate adaptation workforce 52
Recommendation 7: Facilitate access, availability and sharing of resources, expertise and information 53
Recommendation 8: Make the direction, scale and pace of change required clear 53
Recommendation 9: Make improvements to support monitoring, and continual learning and improvement within a dynamic environment 54
PRINCIPLES OF TE TIRITI O WAITANGI 55
Rangatiratanga 55
Partnership 60
Case study: failure to partner on the Emissions Trading Scheme 62
Active Protection 63
Equity 68

INTRODUCTION

1. The first hearing of the present Climate Change Priority Inquiry is focused on thematic scene-setting for the claims and evidence from tangata whenua.

2. These generic opening submissions are filed on behalf of the claimant community generally and are intended as scene setting submissions to offer the Waitangi Tribunal an introduction to the claimants' position on two key issues for determination – the impacts of climate change on Māori and the Treaty principles that apply thereto as set out below:

3. What are the physical, spiritual, cultural, social, health, and economic impacts of climate change on Māori? This includes present impacts and likely impacts in the future, particularly:[1]

    a) What are the physical impacts of climate change, including severe storms, floods, sea level rise, drought, and other severe weather events, on Māori?

    b) What impacts is climate change having on the natural ecosystems and indigenous biodiversity of Aotearoa which Māori are kaitiaki for?

    c) What are the spiritual and cultural impacts of climate change on Māori?

    d) What are the social and health impacts of climate change on Māori?

    e) What are the economic impacts of climate change on Māori?

    f) What are the specific impacts of climate change on the Māori economy and Māori businesses, including but not limited to agricultural, forestry, horticultural, and fisheries industries?

    g) How have Māori forestry owners been impacted, including but not limited to those Māori who own small landholdings?

[1] Wai 3325, #1.4.3

h) What are the impacts of climate change on Māori in light of Treaty settlement arrangements, including but not limited to settlement arrangements concerning forestry and kaitiaki provisions?

i) Have Māori been disproportionately impacted by climate change, and if so in what ways?

4. What relevant Tiriti/Treaty principles should the Crown consider when addressing the impacts of climate change on Māori? What Tiriti/Treaty principles should the Crown apply when: [2]

a) Assessing physical, spiritual, cultural, social, health, and economic impacts?

b) Following and communicating the science and undertaking assessments of risk, particularly where intergenerational impacts are concerned?

c) Developing emergency management approaches following severe weather events caused or exacerbated by climate change?

d) Assessing impacts of climate change on Māori across multiple rohe within Aotearoa?

e) Complying with international climate instruments and developing domestic legislation and policies in light of relevant international jurisprudence?

f) Working with and resourcing Māori to mitigate and adapt to the impacts of climate change, including the degree of independence in those efforts from central and local government?

g) Working with Māori in relation to international instruments (including trade agreements in terms of whether they are Tiriti/Treaty compliant with respect to the climate change consequences of those agreements)?

h) Working with Māori to develop and implement climate change related policies?

[2] Wai 3325, #1.4.3

5. In considering these issues, we are reminded that the present inquiry is a priority one with a targeted scope on: [3]

   a) the physical, spiritual and socioeconomic impacts of climate change on Māori and the Crown's response;

   b) the relevant Tiriti/Treaty principles to be considered in climate change policy; and

   c) recommendations for how the Crown should meaningfully engage and consult with Māori.

Approach to these generic opening submissions

6. These opening submissions:

   a) Recognise that understandings of the climate crisis through the lens of te Ao Māori are grounded in fundamental concepts of tikanga and mātauranga Māori and the impacts of colonisation and its accompanying mode of extractive capitalism. Solutions to the crisis must therefore emanate from a decolonised Indigenous framework. Te Tiriti o Waitangi is central to discussions for a just transition in which Māori are able to exercise their tino rangatiratanga over decisions that affect them in the climate space and over their taonga.

   b) Give context to the extent of the global climate crisis through an analysis of arguably the most credible internationally accepted source of agreed western science on the matter, the Sixth Assessment Report of the United Nations Intergovernmental Panel on Climate Change.

   c) Consider some fundamental impacts of climate change on Māori through an analysis of fairly uncontroversial sources such as national and local government commissioned reports.

[3] Wai 3325, #1.4.3

d) Introduces the Rauora Framework as the Crown commissioned analysis to support the Crown to understand climate impacts and adaptation from a Māori lens.

e) Outlines the Crown's National Adaptation Plan as required under the Climate Change Response Act 2022 to address climate impacts in Aotearoa New Zealand, with particular focus on those that are relevant to Māori.

f) Summarises the Climate Change Commissions independent assessment of the Crown's actions and omissions in acting or failing to act on the National Adaptation Plan, the implications of those acts and omissions for Māori and the subsequent recommendations of the Climate Change Commission for the Crown as an important factor for the Waitangi Tribunal to assess the Crown's steps to address climate change.

g) Identifies fundamental conflicts of process and substance in how the climate crisis is conceived and addressed in the international domain of climate negotiations and trade and investment agreements.

h) It is intended that this overview provides insight into the impacts which are, or ought to be, known to the Crown and local authorities.

i) These are not intended as an exhaustive list of issues and sources. Throughout the course of this inquiry the Tribunal will hear evidence on the unique impacts of climate change being experienced by specific claimant groups, viewed through the lens of te Ao Māori.

j) Sets out the principles of the Te Tiriti o Waitangi that apply in respect of the impacts of climate change on Māori which are relevant in light of the Crown's approach as set out above and the breaches thereto.

DECOLONISATION, MĀTAURANGA MĀORI AND THE CLIMATE CRISIS

7. Any factual assessment of the climate crisis and its impacts on Māori through a Tiriti lens must begin with fundamental Māori beliefs, values and tikanga, sourced in whakapapa, be informed by mātauranga, and

enabling Māori to exercise the responsibilities and duties of kaitiakitanga for future generations.

8. The displacement of those values and practices through colonisation means that colonisation and the climate crisis are inextricably linked. Today's ecological crisis is playing out along colonial lines. Therefore, solutions to the crisis must emanate from a decolonised framework that confronts the capitalist economic model of exploitation of te Taiao.[4]

9. The centrality of Māori beliefs to understanding the climate crisis and identifying solutions was clearly articulated in the evidence of Anthony Whareraupo Olsen:[5]

> Mātauranga Māori offers solutions to these issues that may both mitigate the effects of climate change through increased community resilience as well as create benefits with flow-on effects throughout te ao Māori. The global response to climate change requires applying all the best knowledge available, including the perspectives of indigenous peoples. Indigenous peoples are not only among the most vulnerable to the impacts of climate change, they also may hold the solutions to adapting to it. Te Ao Māori calls for the protection and preservation of all that is culturally significant, to protect and preserve our taonga. The legacy of our ancestors, that we in turn leave for future generations, lies in the balance.

10. How these foundations of te Ao Māori relate to the Western scientific analysis and solutions to the climate crisis will be further developed in claimant evidence throughout the course of this inquiry.

THE GLOBAL CONTEXT: IPCC AR6 REPORT

11. Climate change is a global existential crisis.

[4] Wai 3325, Affidavit of Emily Tuhi-Ao Bailey dated 15 November 2024 at [10].
[5] Wai 3325 Affidavit of Anthony Whareraupo Olsen dated 22 October 2024 at [14] – [17].

12. To fully understand the impact of climate change on Māori it is therefore necessary to first consider the broadly accepted science on the nature and extent of climate change risks effecting the world as a whole.

13. Perhaps the most recognised source of current information is the Sixth Assessment Report of the United Nations Intergovernmental Panel on Climate Change (IPCC) released in August 2021 with the synthesis report released in 2023 (AR6).[6]

14. The IPCC was established in 1988 by the World Meteorological Organization and the United Nations Environment Programme. It is charged with assessing the most up-to-date scientific, technical and socioeconomic research on climate change. IPCC reports synthesise evidence and articles published either in peer-reviewed journals or other credible sources.[7]

15. The IPCC has been informing policy makers about the impacts of climate change since its establishment. Approximately once every six years since 1988, the IPCC produces a full assessment of the current state of scientific knowledge on climate change and what it means for the world. These major assessment reports have been published in 1990, 1995, 2001, 2007, 2013. Most recently, the Sixth Assessment Report was released in 2021 and synthesised in 2023.[8]

16. The IPCC has developed procedures for the preparation, review and approval of its assessment reports aimed at guarding their objectivity and ensuring all relevant information is considered. Report preparation and review involves large numbers of experts from most countries of the world.[9]

17. New Zealand participates actively in the IPCC. University and Crown Research Institute scientists routinely contribute as authors and reviewers

---

[6] *Climate Change 2023: Synthesis Report*. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi:10.59327/IPCC/AR6-9789291691647.001.

[7] *The Intergovernmental Panel on Climate Change* Taihoro Nukurangi NIWA https://niwa.co.nz/climate-and-weather/intergovernmental-panel-climate-change-ipcc#:~:text=New%20Zealand%20participates%20actively%20in,Special%20Reports%20and%20Methodological%20Guidelines.

[8] Ibid.

[9] Ibid.

of Assessment Reports, Special Reports and Methodological Guidelines.[10]

18. Below we set out the high-level findings of AR6, which the IPCC assert, "Based on scientific understanding, key findings [of AR6] can be formulated as statements of fact or associated with an assessed level of confidence using the IPCC calibrated language.[11]

19. It would be useful to understand whether the Crown concedes that AR6 and its findings represent the most credible and up to date science on the global impacts of climate change insofar as they also affect Māori.

Current status and trends

Observed warming and its causes

20. Human activities, principally through emissions of greenhouse gases, have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 in 2011-2020. Global greenhouse gas emissions have continued to increase, with unequal historical and ongoing contributions arising from unsustainable energy use, land use and land-use change, lifestyles and patterns of consumption and production across regions, between and within countries, and among individuals *(high confidence)*.[12]

21. Widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred. Human-caused climate change is already affecting many weather and climate extremes in every region across the globe. This has led to widespread adverse impacts and related losses and damages to nature and people *(high confidence)*. Vulnerable communities who have historically contributed the least to current climate change are disproportionately affected *(high confidence)*.[13]

---

[10] Ibid.
[11] "IPCC, 2023: Summary for Policymakers" In: *Climate Change 2023: Synthesis Report*. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, doi: 10.59327/IPCC/AR6-9789291691647.001, p 3.
[12] Ibid at [A1].
[13] Ibid at [A2].

22. Adaptation planning and implementation has progressed across all sectors and regions, with documented benefits and varying effectiveness. Despite progress, adaptation gaps exist and will continue to grow at current rates of implementation. Hard and soft limits to adaptation have been reached in some ecosystems and regions. Maladaptation[14] is happening in some sectors and regions. Current global financial flows for adaptation are insufficient for, and constrain implementation of, adaptation options, especially in developing countries *(high confidence)*.[15]

23. Policies and laws addressing mitigation have consistently expanded since AR5. Global GHG emissions in 2030 implied by nationally determined contributions (NDCs) announced by October 2021 make it *likely* that warming will exceed 1.5°C during the 21st century and make it harder to limit warming below 2°C. There are gaps between projected emissions from implemented policies and those from NDCs and finance flows fall short of the levels needed to meet climate goals across all sectors and regions *(high confidence)*.[16]

Future climate change impacts

24. Continued greenhouse gas emissions will lead to increasing global warming, with the best estimate of reaching 1.5°C in the near term in considered scenarios and modelled pathways. Every increment of global warming will intensify multiple and concurrent hazards (*high confidence*). Deep, rapid, and sustained reductions in greenhouse gas emissions would lead to a discernible slowdown in global warming within around two decades, and also to discernible changes in atmospheric composition within a few years (*high confidence*).[17]

25. For any given future warming level, many climate-related risks are higher than assessed in AR5, and projected long-term impacts are up to multiple times higher than currently observed *(high confidence)*. Risks and

[14] Maladaptation occurs when climate adaptation strategies create conditions that worsen climate impacts. See for example E. Lisa F. Schipper *Maladaptation: When Adaptation to Climate Change Goes Very Wrong* Environmental Change Institute, University of Oxford, Oxford, UK, https://doi.org/10.1016/j.oneear.2020.09.014.
[15] IPCC, 2023: Summary for Policymakers above n 11 at [A3].
[16] Ibid at [A4].
[17] Ibid at [B1].

projected adverse impacts and related losses and damages from climate change escalate with every increment of global warming *(very high confidence)*. Climatic and non-climatic risks will increasingly interact, creating compound and cascading risks that are more complex and difficult to manage (*high confidence*).[18]

26. Some future changes are unavoidable and/or irreversible but can be limited by deep, rapid, and sustained global greenhouse gas emissions reduction. The likelihood of abrupt and/or irreversible changes increases with higher global warming levels. Similarly, the probability of low-likelihood outcomes associated with potentially very large adverse impacts increases with higher global warming levels (*high confidence*).[19]

27. Adaptation options that are feasible and effective today will become constrained and less effective with increasing global warming. With increasing global warming, losses and damages will increase and additional human and natural systems will reach adaptation limits. Maladaptation can be avoided by flexible, multi-sectoral, inclusive, long-term planning and implementation of adaptation actions, with co-benefits to many sectors and systems (*high confidence*).[20]

28. Limiting human-caused global warming requires net zero CO2 emissions. Cumulative carbon emissions until the time of reaching net zero CO2 emissions and the level of greenhouse gas emission reductions this decade largely determine whether warming can be limited to 1.5°C or 2°C (high confidence). Projected CO2 emissions from existing fossil fuel infrastructure without additional abatement would exceed the remaining carbon budget for 1.5°C (50%).[21]

29. All global modelled pathways that limit warming to 1.5°C (>50%) with no or limited overshoot, and those that limit warming to 2°C (>67%), involve rapid and deep and, in most cases, immediate greenhouse gas emissions reductions in all sectors this decade. Global net zero CO2 emissions are

[18] Ibid at [B2].
[19] Ibid at [B3].
[20] Ibid at [B4].
[21] Ibid at [B5].

reached for these pathway categories, in the early 2050s and around the early 2070s, respectively.[22]

Urgency of near-term integrated climate action

30. Climate change is a threat to human well-being and planetary health (*very high confidence*). There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all (*very high confidence*). Climate resilient development integrates adaptation and mitigation to advance sustainable development for all and is enabled by increased international cooperation including improved access to adequate financial resources, particularly for vulnerable regions, sectors and groups, and inclusive governance and coordinated policies (*high confidence*). The choices and actions implemented in this decade will have impacts now and for thousands of years (*high confidence*).[23]

31. Deep, rapid, and sustained mitigation and accelerated implementation of adaptation actions in this decade would reduce projected losses and damages for humans and ecosystems *(very high confidence)*, and deliver many co-benefits, especially for air quality and health *(high confidence)*. Delayed mitigation and adaptation action would lock in high-emissions infrastructure, raise risks of stranded assets and cost-escalation, reduce feasibility, and increase losses and damages *(high confidence)*. Near-term actions involve high up-front investments and potentially disruptive changes that can be lessened by a range of enabling policies (*high confidence*).[24]

32. Rapid and far-reaching transitions across all sectors and systems are necessary to achieve deep and sustained emissions reductions and secure a liveable and sustainable future for all. These system transitions involve a significant upscaling of a wide portfolio of mitigation and adaptation options. Feasible, effective, and low-cost options for mitigation

[22] Ibid at [B6].
[23] Ibid at [C1].
[24] Ibid at [C2].

and adaptation are already available, with differences across systems and regions (*high confidence*).[25]

33. Accelerated and equitable action in mitigating and adapting to climate change impacts is critical to sustainable development. Mitigation and adaptation actions have more synergies than trade-offs with Sustainable Development Goals. Synergies and trade-offs depend on context and scale of implementation (*high confidence*).[26]

Equity and Inclusion

34. Prioritising equity, climate justice, social justice, inclusion and just transition processes can enable adaptation and ambitious mitigation actions and climate resilient development. Adaptation outcomes are enhanced by increased support to regions and people with the highest vulnerability to climatic hazards. Integrating climate adaptation into social protection programs improves resilience. Many options are available for reducing emission-intensive consumption, including through behavioural and lifestyle changes, with co-benefits for societal well-being (*high confidence*).[27]

35. Effective climate action is enabled by political commitment, well-aligned multilevel governance, institutional frameworks, laws, policies and strategies and enhanced access to finance and technology. Clear goals, coordination across multiple policy domains, and inclusive governance processes facilitate effective climate action. Regulatory and economic instruments can support deep emissions reductions and climate resilience if scaled up and applied widely. Climate resilient development benefits from drawing on diverse knowledge (*high confidence*).[28]

[25] Ibid at [C3].
[26] Ibid at [C4].
[27] Ibid at [C5].
[28] Ibid at [C6].

Finance, technology and international cooperation

36. Finance, technology and international cooperation are critical enablers for accelerated climate action. If climate goals are to be achieved, both adaptation and mitigation financing would need to increase many-fold. There is sufficient global capital to close the global investment gaps but there are barriers to redirect capital to climate action. Enhancing technology innovation systems is key to accelerate the widespread adoption of technologies and practices. Enhancing international cooperation is possible through multiple channels (*high confidence*).[29]

Analysis of AR6

37. A number or assertions emerge from the IPCC report.

38. Firstly, climate change is unequivocally caused by human activity, the legislative regulation of which within Aotearoa New Zealand has been usurped by the Crown.

39. Climate change is an immediate threat requiring urgent action now. In recognition of this, the New Zealand government declared a climate emergency and committed to emissions reductions in 2020.

40. Climate change is a threat to human well-being and planetary health. In Māori terms, the wellbeing of both are inextricably linked, and interdependent of a symbiotic nature.

41. Human-caused climate change is already affecting many weather and climate extremes causing loss and damages to nature and people in every region across the globe. A well-known example adduced in evidence before this Tribunal is cyclone Gabrielle which caused 11 deaths, left Māori communities such as those of Te Tairāwhiti isolated without food, power, roading and wifi for prolonged periods, inundated marae, whenua and whānau homes, has led to land erosion and unusable farm land, has negatively affected the economy, caused loss of urupā, has impacted the physical and psychological wellbeing of whānau, and even now almost two years on, the fate of Pōrangahau Marae in Hawkes Bay hangs in the

[29] Ibid at [C7].

balance as local trustees continue to negotiate with the Council non-existent options for managed retreat.

42. The upshot of all of this is that vulnerable communities who have historically contributed the least to current climate change are disproportionately affected. The vulnerability of Māori communities is discussed further below at paragraphs [134] to [150].

43. Thereby, the basis of the principle of equity alone, the Crown must take all reasonable steps to address disparities in climate impacts for example by enabling and empowering Māori to design and achieve our own climate adaptation plans. Māori know what works for Māori.

44. Limiting human-caused global warming requires net zero CO2 emissions. Every increment of global warming will intensify multiple and concurrent hazards. Every degree matters.

45. Deep, rapid, and sustained reductions in greenhouse gas emissions would lead to a discernible slowdown in global warming within around two decades, and also to discernible changes in atmospheric composition within a few years. However, there is a rapidly closing window of opportunity to secure a liveable and sustainable future for all. We need urgent action and we need it now.

46. Despite this, as advanced by Wai 3340, "Year on year New Zealand's GHG emissions have continued to increase or stay flat. This means that Aotearoa is one of the few developed economies whose GHG emissions have not started to decrease."[30]

47. The choices and actions implemented in this decade will have impacts now and for thousands of years. This heightens concern for Māori whose obligations and interests to protect Te Ao Māori, taonga Māori and future generations exists in perpetuity.

48. Maladaptation can be avoided by an inclusive approach. An example of maladaptation advanced in evidence before this Tribunal is the permanent forest policy of the Emissions Trading Scheme as discussed further at paragraphs [126] to [133] and through the submissions of my learned

[30] Wai 3340, #1.1.1 at [13].

friend Mr Mahuika for and on behalf of Wai 3287. What is needed to avoid the presumably unintended negative side effects of the ETS permanent forest policy on Māori is close and meaningful co-creation and co-design with Māori.[31]

49. Prioritising equity, climate justice, social justice, inclusion and just transition processes can enable adaptation and ambitious mitigation actions and climate resilient development. The challenges presented by climate change adaptation create a powerful opportunity to reset and rethink the way our extractive systems operate to be innovative and introduce indigenous ideologies towards a long-term sustainable system that truly benefits all.

50. Effective climate action is enabled by political commitment, well-aligned multilevel governance, institutional frameworks, laws, policies and strategies and enhanced access to finance and technology. It's not by locking Māori out but by locking Māori in that Aotearoa can plan most effectively for climate mitigation.

51. Enhancing international cooperation is possible through multiple channels. Māori have the capability and capacity to lead international cooperation. We are natural born diplomats or in common speak "relational as opposed to transactional." We have real value (and values) to add and have always been willing to work internationally in inclusive ways, Te Tiriti itself is one of the earliest example of this.

52. With respect to finance and capability, whilst it is generally agreed that, if climate goals are to be achieved, both adaptation and mitigation financing would need to increase many-fold, claimant evidence will reflect very different views on the pursuit of financialised and technological solutions to the climate crisis, the forms they might take, their effectiveness and the risks and costs associated with them, especially for Indigenous Peoples. Some view them as critical enablers for accelerated climate action.[32] Others view them as mechanisms used

[31] See for example Wai 3325, #A018 Affidavit of Chris Karamea Insley.
[32] IPCC, 2023: Summary for Policymakers above n 11 at [C7].

to avoid concrete steps to reduce emissions and thereby compounding the crisis emergency.[33]

IMPACTS OF CLIMATE CHANGE ON MĀORI

The Interwoven nature of impacts on Māori

53. In reviewing the literature regarding the impacts of climate change on Māori what emerges consistently is the starting point that - infringements to the natural environment are infringements to the physical, spiritual, cultural, social, health, and economic conditions of Māori themselves, so inherently interwoven and interconnected is Māori holistic wellbeing, cultural identity and economic sustainability to the natural estate due to their symbiotic and interdependent relationship.

54. Therefore, when the natural environment is existentially impacted it has a cascading impact on all aspects of Māori life, and consequently on the entirety of the sub-issues outlined for consideration by this Tribunal.

55. The interconnected nature of climate change impacts on Māori was highlighted in the Bay of Plenty Regional Council Climate Risk Assessment 2022:[34]

> Climate change is likely to have significant impacts on Māori. Within all hui and workshops, a common theme arose, that identified Māori as kaitiaki (guardians) of the whenua, who will therefore be impacted by risks posed to the natural environment to which they have an innate connection.
>
> This connection is primarily through the spiritual realm and Ngā Atua Māori (Māori Gods), in particular the children of Papatūānuku (earth mother) and Ranginui (sky father) including but not limited to, Tāwhirimātea (god of the weather and wind), Tāne Mahuta (god of the forest), and Tangaroa

[33] Wai 225, #A015 Affidavit of Ema Maria Bargh dated 21 October 2024, exhibit F; "Indigenous environmental justice" at page 411.
[34] Tonkin Taylor *He tirohanga Māori ki ngā tūraru mō te āhuarangi ki roto o Te Moana-a-Toi Perspectives on climate change risks to Māori in the Bay of Plenty* In: Bay of Plenty Regional Council Risk Assessment Appendix C Bay of Plenty Regional Council 2022, p 22.

(god of the sea, lakes, rivers, and creatures that live within them).

Ngā Atua Māori guide and give tohu (indicators) to Māori - such as when is best to collect kai, and how future seasons and weather patterns may change, e.g. severe drought.

A common theme within the workshop was that Māori maintain a critical concern for Papatūānuku and recognise the fragility of our ecosystems and the disruption that humans can cause.

56. Northland Regional Council also distinguish climate impacts on Māori in that they are: [35]

a) felt on the atua or spiritual level.

b) informed by Te Ao Māori which is underpinned by interconnectedness to the natural world through whakapapa to Ranginui (Sky Father) and Papatuanuku (Earth Mother).

c) denote a multi-generational responsibility to both tupuna and generations yet to be born.

57. The complex, interconnected nature of the impacts of climate change is also reflected in AR6 which "recognizes the interdependence of climate, ecosystems and biodiversity, and human societies; the value of diverse forms of knowledge; and the close linkages between climate change adaptation, mitigation, ecosystem health, human well-being and sustainable development, and reflects the increasing diversity of actors involved in climate action."[36]

[35] Northland Regional Council *Impacts of Climate Change for Māori* https://www.nrc.govt.nz/environment/climate-action/climate-change-in-northland/impacts-of-climate-change-for-Māori/

[36] IPCC, 2023: Summary for Policymakers above n 11, p 3.

Common impacts of concern for Māori

Sea level rise

58. Sea level rise presents a significant concern for hapori Māori, particularly those residing in coastal areas. [37]

59. The physical consequences of sea level rise include the erosion of beaches, coastal inundation, and the loss of marshes and wetlands. Coastal inundation refers to the flooding of typically dry, low-lying coastal land. [38]

60. This inundation brings about various effects, such as the flooding of roads, walking paths, and reserves, infrastructure damage, and the degradation of drinking water due to saltwater intrusion. [39]

61. Additionally, it has significant implications for the social, cultural, and spiritual wellbeing of communities, as it can lead to the loss of land, cultural sites, and the displacement of communities. [40]

62. Approximately 14 per cent of Māori households are in areas highly susceptible to coastal inundation due to projected sea level rise. [41]

63. In terms of projected area exposure to coastal inundation, the Waikato region has the greatest number of at-risk areas affected while Northland has the greatest number of households (1,956) and marae (30) within the affected areas. [42]

64. Within the top 30 at risk areas, there are a total of 58 marae and 5,838 Māori households. [43]

65. The Hauraki Plains South and North are projected to have the largest surface areas among the top 30 affected areas, measuring 100 square kilometres and 94 square kilometre, respectively whereas the Waikato

[37] Te Puni Kokiri *Understanding climate hazards for hapori Māori* Wellington 2023, p 27.
[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] Ibid, p 22.
[42] Ibid.
[43] Ibid.

region exhibits the largest projected flood area exposed to sea level rise (458.8 km2). [44]

66. The areas projected to be most exposed have a relatively higher proportion of older Māori households, potentially affecting their adaptive capacity. [45]

67. The findings highlight that the challenges are more pronounced for older Māori households, necessitating greater adaptability measures. It underscores the need for targeted strategies, well planned interventions, and continuous assessments to safeguard the resilience and wellbeing of this group.[46]

Flooding

68. Flooding has significant direct and indirect impacts on people's health and wellbeing. As evidenced by the extreme weather events of early 2023, it can cause extensive physical damage to employment sites, personal property, and critical infrastructure, including homes, roads, and utilities.[47]

69. Additionally, flooding can result in displacement, disruptions to families, community facilities, and essential services.[48]

70. In the worst cases, it poses a significant threat to human life. [49]

71. The aftermath of such damage can lead to prolonged displacement, loss of belongings, and emotional distress for affected individuals and families. The social and psychological effects can be profound, enduring, and wide-ranging. [50]

72. 86 per cent of Māori households are in areas exposed to some level of flooding. [51]

---

[44] Ibid.
[45] Ibid.
[46] Ibid.
[47] Ibid, p 24.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.

73. The areas with a flooding risk of at least half a square kilometre have a slightly higher proportion of Māori households (37 per cent) compared with all households (34 per cent). [52]

74. Among the top areas at high flood risk (95%+ area flooded) there are 4,761 Māori households and 6 marae exposed to flooding. [53]

75. The regions with the highest number of Māori households in this list are in Auckland, Bay of Plenty, Canterbury, Gisborne, Hawke's Bay, Manawatū-Whanganui, Otago, Southland, Tasman, Waikato, and Wellington regions. [54]

76. The majority of high-risk areas exposed to flooding have at least one area of heightened risk associated with health, poverty, and justice, surpassing the average level of risk. [55]

77. This indicates that communities facing higher exposure to flooding may also be more vulnerable due to their heightened socio-economic risk. [56]

78. On the other hand, the average adaptability risk for households in these exposed areas is generally lower than average suggesting higher resilience than average. [57]

Drought

79. Heatwaves, extreme hot days, and droughts are projected to affect a substantial number of Māori households in the future. [58]

80. Approximately 86 per cent of Māori households are located in areas projected to experience an increase in the frequency and intensity of extreme hot days. [59]

[52] Ibid.
[53] Ibid.
[54] Ibid.
[55] Ibid.
[56] Ibid.
[57] Ibid.
[58] Ibid.
[59] Ibid.

81. All Māori households are expected to experience an increase in the number of heatwave days, with 93 per cent potentially seeing a rise of 10 per cent or more. [60]

82. Nearly all Māori households are situated in areas projected to experience some level of increase in the drought indicator. [61]

83. The Bay of Plenty, Otago and Gisborne are most at risk to experience projected heatwave days in the future. [62]

84. Otago and Canterbury are projected to experience extra hot days with Otago, Marlborough, Canterbury predicted to be most at risk of experiencing drought. [63]

Natural ecosystems and indigenous biodiversity

85. Native flora and fauna will come under threat as the environment alters: their habitats will change, putting them at risk from exotic and invasive species. [64]

86. Other expected impacts include changes in biodiversity, ecosystem function, waterways and coastal systems. [65]

87. The inseparable links between Māori and te taiao mean all these changes will have cultural and personal effects for Māori. [66]

88. The effects of climate change on ecosystems have direct implications for iwi/hapū spiritual connection to taonga and whakapapa, as well as practical issues such as food security. [67]

89. Climate change may result in Māori being unable to enjoy the customary use of their whenua. [68]

---

[60] Ibid.
[61] Ibid.
[62] Ibid.
[63] Ibid.
[64] Northland Regional Council *Impacts of Climate Change for Māori* above n 35.
[65] Ibid.
[66] Ibid.
[67] Ibid.
[68] Ibid.

90. Climate change is likely to impact not only Ngā Atua Māori and the guidance which they instil, but the tohu they send. [69]

91. This has the potential to create physical, spiritual and cultural implications for Māori. [70]

92. Climate change also threatens culturally significant land, taonga species and resources, thereby impacting the perpetuity of Mātauranga and Tikanga Māori. [71]

Spiritual and cultural impacts

93. Risks to cultural practices can include implications for intergenerational knowledge sharing, and cultural rituals and ceremonies. [72]

94. This, in turn, can lead to cultural and spiritual wellbeing impacts as well as impacts on tikanga, kawa (protocols) and te reo Māori (the Māori language).[73]

95. Loss of mauri and connectedness can occur as tribal narratives and histories are deeply connected to the environment.[74]

96. According to the Northland Regional Council Climate Change Risk Assessment:

97. Many hapū have strong cultural and historic affiliations with coastal areas that will be affected by climate change, through sea level rise.[75]

98. Climate change is likely to threaten the cultural taonga that hapū whakapapa to, as they are frequently located by coasts, and rivers at risk of flooding. [76]

---

[69] *He tirohanga Māori ki ngā tūraru mō te āhuarangi ki roto o Te Moana-a-Toi Perspectives on climate change risks to Māori in the Bay of Plenty* above n 34. p 2.
[70] Ibid.
[71] Ibid.
[72] Ibid, p 6.
[73] Ibid.
[74] Ibid.
[75] Northland Regional Council *Impacts of Climate Change for Māori* above n 35.
[76] Ibid.

99. This includes cultural infrastructure such as marae and urupā, and places of cultural significance such as wāhi tapu and archaeological sites.[77]

100. In some places, other traditional uses of the land (such as gathering food) will come under increased pressure. Maara kai (planting seasons) are constantly shifting because of climate change. [78]

Social and health impacts

101. The socio-economic impacts of climate change on Māori were recently considered in the 2023 report of Te Puni Kōkiri, *Understanding climate hazards for hapori Māori*.[79]

102. Undertaken in accordance with NZs national adaptation plan with the object to "Assess socio-economic and climate vulnerability for Māori."[80] The study measured seven climate hazards (sea level rise, extreme hot days, wet spells, heatwave days, flooding, drought, extreme rainfall) against six socio-economic risk indicators to quantify their overall effect on Māori households (SA2s).[81]

Highest overall socio-economic risk

103. The study found that the areas most susceptible to the impacts of climate change due to their high socio-economic risk are Auckland, Manawatū-Whanganui, Gisborne, Waikato, Hawke's Bay, Bay of Plenty, and Northland.[82]

104. Northland emerged as the region with the highest average overall socio-economic risk, followed by Gisborne, Bay of Plenty, Manawatū-Whanganui, Hawke's Bay, and Waikato.[83]

---

[77] Ibid.
[78] Ibid.
[79] *Understanding climate hazards for hapori Māori* Te Puni Kōkiri above n 37.
[80] Ibid, p 11.
[81] Ibid, p 8.
[82] Ibid.
[83] Ibid.

Adaptability risk

105. Northland, Waikato, Bay of Plenty and Hawke's Bay regions are identified as the regions most at risk in terms of their adaptability risk index. Thames Coast and Pirongia Forest in Waikato, Oponae in the Bay of Plenty and Waipoua Forest and Hokianga North in Northland have been identified as the top five areas in terms of adaptability risk.[84]

Number of risks in relation to socio-economic factors

106. The Auckland region has the highest number of climate risks in relation to socio-economic factors. [85]

107. This can be attributed to high concentrations of Māori households in the region facing challenges relating to poverty, health disparities, justice and protection and adaptability issues. Within the area that is most at risk there are 3,324 Māori households and four marae.[86]

108. Some whānau Māori, especially those in more isolated areas, experience significant differences in incomes. This can reduce their capacity to afford the costs of protecting against, avoiding, and recovering from natural hazards and extreme weather events.[87]

109. Many Māori communities aren't serviced by reticulated water or sewage systems. The prohibitive cost of repairing and maintaining these systems can increase health risks. [88]

110. Māori are largely employed in primary industries, which are vulnerable to likely weather extremes such as extended droughts, flooding, salt water in water tables, and tidal inundation. This may directly impact whānau incomes.[89]

---

[84] Ibid, p 17.
[85] Ibid.
[86] Ibid.
[87] Northland Regional Council *Impacts of Climate Change for Māori* above n 35.
[88] Ibid.
[89] Ibid.

Impacts on the Māori economy

111. In 2018, the Māori economy gross greenhouse gas (GHG) emissions were 8.1 million tonnes of carbon dioxide equivalent (Mt CO2-e). [90]

112. This accounts for 11.2 percent of New Zealand's total emissions profile. Taking a split-gas approach, the Māori economy makes up 8.9 percent of New Zealand's long-lived GHG emissions and is 13.8 percent of total short-lived GHG emissions (i.e. methane). [91]

113. However, the Māori economy's share of New Zealand's gross domestic product (GDP) is 6.4 percent. [92]

114. As such, the Māori economy is overrepresented in New Zealand's emissions profile. [93]

115. This overrepresentation is in terms of both long-lived GHG emissions and methane emissions, although long lived GHG emissions are overrepresented to a lesser extent. [94]

116. The overrepresentation in methane emissions is largely due to the Māori economy's activities in the agriculture sector. [95]

117. Māori collectives (this includes both collectives constituted under Te Ture Whenua Māori and iwi) are heavily invested in agriculture, especially sheep and beef, and dairy. [96]

118. Since collectives are responsible for managing assets for the benefit of their members, challenges they face in the transition to a low emissions economy may negatively impact Māori whānau. [97]

---

[90] *Māori economy emissions profile: climate change mitigation impact on the Māori economy* BERL 2021, p i.
[91] Ibid.
[92] Ibid.
[93] Ibid.
[94] Ibid.
[95] Ibid.
[96] Ibid.
[97] Ibid.

119. Land use characteristics of Māori freehold land mean that these landowners may have more limited options and face challenges in terms of land use change. [98]

120. Māori freehold land has high forest coverage, but a large portion was planted before 1990, rendering this land ineligible for earning emissions trading units. [99]

121. The land owner is also likely to be liable to pay carbon credits if deforestation occurs and the area is not replanted into forest. [100]

122. The implication is that it may be expensive to change the land use of pre-1990 forest land Māori are overrepresented in lower-skilled jobs, which are likely to be lower-income. [101]

123. This may provide a barrier for transition to the low emissions economy Māori SMEs make up almost all of the Māori asset base for transport, construction, and manufacturing. [102]

124. The transition towards a low emissions economy is likely to require significant capital expenditure for these Māori SMEs, which also face access to capital barriers. [103]

125. However, based on the composition of the Māori economy, there are opportunities for: [104]

    a) Reducing emissions from high emissions industries, (i.e. primary sector, manufacturing, and transport)

    b) Expanding low emissions industries (i.e. education and training, and health and social sector)

    c) Creating and growing industries that are transition-aligned (i.e. ETS, bioeconomy, renewable and distributed energy, low emissions food,

[98] Ibid.
[99] Ibid.
[100] Ibid.
[101] Ibid.
[102] Ibid.
[103] Ibid.
[104] Ibid.

manufacturing using circular economy principles, blue economy, and sharing economy).

The ETS system

126. The Emissions Trading Scheme (ETS) has a significant impact on Māori through the controls it places on land use in order to "offset" carbon emissions and meet the Crown's international obligations pursuant to the UNFCCC (United Nations Framework Convention on Climate Change).

127. All over Aotearoa, as a result of various Crown policies and actions, large tracts of Māori land were devoted to forestry in the 20th century. These forest lands became subject to the ETS when it came into force in 2008.

128. The ETS treats forests differently depending on when they were established and whether they are exotic or indigenous forest.[105] "pre-1990 forest land" refers to exotic forest land which was forested in 1990.[106] Many Māori are owners in such land. Carbon credits cannot be earned for it, yet owners are likely liable for emissions if forests are felled and not replanted.[107] While an allocation of carbon credits was made as "compensation" for this, this does not fairly compensate for the restriction in land use.

129. This has proved to be a significant impediment to Māori exercising kaitiakitanga over their forests, effectively locking many Māori into continued pine forestry as the only viable option.

130. Māori forest owners have also been disadvantaged by the instability of the price for carbon credits (a result of government decision-making about the market), and the burden of dealing with the complexity of the scheme.

131. By contrast, indigenous forest land which was forested in 1990 is outside the ETS altogether.[108]

---

[105] Ibid., p 5.
[106] Ministry of Primary Industries "Pre-1990 forest land" https://www.mpi.govt.nz/forestry/forestry-in-the-emissions-trading-scheme/about-forestry-in-the-emissions-trading-scheme-ets/pre-1990-forest-land/ accessed on 18 November 2024.
[107] Ibid.
[108] Ibid.

132. Indigenous Peoples have consistently voiced opposition to colonial, capitalist proposals to "save nature by commodifying its life giving and life sustaining capacities,"[109] and instead have consistently reiterated more holistic and relationship relationships based on Indigenous legal traditions, which aim to live in balance with the planet.[110]

133. It is unclear whether carbon markets such as the ETS reduce carbon emissions at all, or instead justify continued carbon emissions.[111] At the same time, the displacement of Indigenous Peoples from "carbon sinks" has been a feature of carbon markets since their early days.[112] The exclusion of Māori control over forestry land under the ETS is an example of this.

Disproportionate impacts on Māori

134. Hapu/iwi populations have increased vulnerabilities to climate change because of a number of compounding factors; and while there are of course variations, many hapu/iwi populations:[113]

    a) Live 'close to the land' in terms of sustenance, relationship and identity;

    b) Live close to the coast, or in isolated, often impoverished communities;

    c) Already feature disproportionately high in ill-health statistics (both physical/mental);

    d) Experience weakened social cohesion arising from colonisation and deliberate incursion on Māori social structures, leadership, land

[109] Wai 225, #A015 Affidavit of Ema Maria Bargh dated 21 October 2024 at exihibit F: "Indigenous Environmental justice" and exhibit E: "Grounding our work in what has come before: a review of Indigenous-led climate Declarations and reports"
[110] Wai 225, #A015 Affidavit of Ema Maria Bargh dated 21 October 2024 at exihibit F: "Indigenous Environmental justice"
[111] Affidavit of India Logan-Riley, at exhibit C: "Blue Herrings: Carbon Markets and the Empty Promises of Blue Carbon"; see also affidavit of Professor Maria Bargh at exhibit D: "The Risks and Threats of Nature-based Climate Solutions for Indigenous Peoples",
[112] Ibid.
[113] *Brief summary document: insight to the Rauora Indigenous Worldview Framework for the National Climate Change Adaptation Plan* Ihirangi 2021 at [10].

base, economy, language, culture and education by the colonial State;

e) May have poorer access to expertise, data, intel and information relating to climate change;

f) May have poor existing physical infrastructure (roading, water, sewerage etc) within their tribal territories;

g) Have multiply owned land base with restrictions on use, or have been permanently alienated from large tracts of their traditional homelands and territories once used to sustain their people;

h) Are heavily invested in primary industries that will be highly impacted by either climate disruption or by mitigation measures (i.e. targeted emissions reduction measures to be implemented);

i) May already have a high volume of inadequate housing;

j) May already be experiencing environmental stress, water source pollution, degradation (Waiapu), over allocation (Turanga) or the impacts of diversion (Waikato);

k) Are likely to be less proximate to national and regional decision making/policy setting; and

l) Still, overall, constitute a demographic minority; often with a small home base population with the majority hapu/iwi population disbursed through urbanisation (as a colonisation policy); creating detachment/engagement challenges where there are large pockets of socially and culturally disconnected tribal citizens.

135. This is reaffirmed in *Understanding climate hazards for hapori Māori* which states that, despite Māori households having similar exposure to climate hazards as the overall population, they are projected to face greater risks due to a higher proportion of Māori households at risk related to poverty, health disparities, justice and protection concerns.[114]

[114] *Understanding climate hazards for hapori Māori* Te Puni Kōkiri above n 37, p 12.

136. Flooding already affects a significant number of Māori households, with 86 per cent of households located in flood-exposed SA2 areas.[115]

137. Heatwaves, droughts, and extreme rainfall are projected to affect the greatest number of Māori households in the future, with almost all Māori households expected to experience some increase in these climate hazards.[116]

138. As of 2021, approximately 14 per cent of Māori households were situated in SA2 areas projected to experience at least 0.5 square kilometres of coastal inundation with a future sea level rise of 50cm.[117]

139. The majority of SA2s exposed to flooding have at least one area of heightened risk associated with health, poverty, and justice, surpassing the average level of risk. This suggests that communities exposed to flooding may also be the most susceptible to the impacts of flooding based on their socio-economic risk.[118]

140. Hapori Māori have potentially higher resilience to future climate change based on one aspect of socio-economic risk – the adaptability risk index. This is partly attributed to the younger age composition of the Māori population. [119]

141. On the other hand, other socio-economic risk indices covering other aspects of resilience (poverty, health and justice and protection) were higher than average for hapori Māori, suggesting higher susceptibility to the impacts of climate change.[120]

142. However, the areas projected to experience changes in sea level rise and extreme rainfall events have a relatively higher proportion of older Māori households, indicating potentially lower resilience in adapting to these events.[121]

[115] Ibid.
[116] Ibid.
[117] Ibid.
[118] Ibid.
[119] Ibid.
[120] Ibid.
[121] Ibid.

143. This compounds the impacts on Māori as elders are considered a treasured anchor to Te Ao Tawhito authentic Māori ways of seeing and being including traditional knowledge systems nurturing mātauranga, tikanga and reo Māori.

144. Thus, climate change can exacerbate existing inequities/vulnerabilities within communities.[122]

145. Within the Bay of Plenty Region for example many socio-economically deprived areas will also be exposed to coastal and flooding hazards. [123]

146. Generally, these communities have limited ability to respond (i.e. poor access to transport, lack of reserve food supplies, inequitable distribution of infrastructure etc.), therefore increasing their vulnerability. [124]

147. Exacerbation of existing inequities is likely to lead to increased mental health impacts and could affect social cohesion. [125]

148. Within the Northland Region, historically many hapū were forced out of traditional lands to occupy sub-optimal areas, such as river or coastal floodplains. [126]

149. This means flooding, coastal erosion, storm surges and regular tidal inundation are more likely to affect Māori communities. [127]

150. Unless emissions reduction policies are developed in true consultation with tangata whenua, and reflect mātauranga Māori, the policies themselves may have the potential to disproportionately affect Māori.[128]

THE RAUORA FRAMEWORK

151. The Rauora Framework was commissioned by the Ministry for the Environment in 2021 to provide scope for the Indigenous Worldview

[122] *He tirohanga Māori ki ngā tūraru mō te āhuarangi ki roto o Te Moana-a-Toi Perspectives on climate change risks to Māori in the Bay of Plenty* above n 34, p 4.
[123] Ibid.
[124] Ibid.
[125] Ibid.
[126] Northland Regional Council *Impacts of Climate Change for Māori* above n 35.
[127] Ibid.
[128] Ibid.

Framework to underpin the National Climate Change Adaptation Plan (NAP).

152. In the context of these generic opening submissions, the Rauora Framework provides a useful starting point to consider climate change and it's impacts on Māori from a Māori lens particularly because the Rauora Framework has been acknowledged as the basis for collaborative climate decision making between the Crown and Māori by Te Manatū mō te Taiao, the Ministry for the Environment.[129]

153. The Rauora Framework was developed by Ihirangi, a foundational group of Māori climate and environmental experts. Ihirangi is supported by the National Iwi Chairs Forum and provides some operational capacity to the Pou Take Ahurangi, the National Iwi Leadership Group for Climate. Ihirangi does not speak for, or represent, all Māori, all iwi; nor does it purport to represent indigenous collective rights holders.[130]

154. The Rauora model centralises interconnection, collectivity, holistic wellbeing and intergenerational equity within a changing environmental dynamic. [131]

155. A copy of the Rauora Framework is included in the Bundle of Documents for these generic opening submissions at document 1.

THE NATIONAL ADAPTATION PLAN 2022

156. The impacts of climate change on Māori and associated Tiriti based responses were considered and by Te Manatū mō te Taiao when compiling New Zealand's National Adaptation Plan 2022.

[129] *Ngā mahi āhuarangi mō ngāi Māori: Te Mahere Urutaunga ā-Motu, Climate action for Māori: The national adaptation plan* The Ministry for the Environment Te Manatū mō te Taiao 2022, p 3.
[130] *Brief summary document: insight to the Rauora Indigenous Worldview Framework for the National Climate Change Adaptation Plan* Ihirangi above n 113, p 3.
[131] Ibid at [12].

157. Under the 5ZS(1) of the Climate Change Response Act 2002 the Minister for Climate Change is required to prepare a national adaptation plan in response to each national climate change risk assessment.[132]

158. In accordance with section 5ZS(2) the national adaptation plan must set out:[133]

(a) the Government's objectives for adapting to the effects of climate change; and

(b) the Government's strategies, policies, and proposals for meeting those objectives; and

(c) the time frames for implementing the strategies, policies, and proposals; and

(d) how the matters in paragraphs (a) to (c) address the most significant risks identified in the most recent national climate change risk assessment; and

(e) the measures and indicators that will enable regular monitoring of and reporting on the implementation of the strategies, policies, and proposals.

159. The national adaptation plan may include any other matter that the Minister considers relevant.[134]

160. In preparing a national adaptation plan, the Minister must take into account the following:[135]

(a) economic, social, health, environmental, ecological, and cultural effects of climate change, including effects on iwi and Māori:

(b) the distribution of the effects of climate change across society, taking particular account of vulnerable groups or sectors:

(c) New Zealand's relevant obligations under international agreements:

[132] The Climate Change Response Act 2002, section 5ZS.
[133] The Climate Change Response Act 2002, section 5ZS(2).
[134] The Climate Change Response Act 2002, section 5ZS(3).
[135] The Climate Change Response Act 2002, section 5ZS(4).

(d) any information received as a result of requests made under section 5ZW:

(e) any relevant advice or reports received from the Commission:

(f) the ability of communities or organisations to undertake adaptation action, including how any action may be funded:

(g) scientific and technical advice.

161. The Minister may also take into account any other matter that the Minister thinks is relevant or appropriate.[136]

162. In preparing a national adaptation plan, the Minister must undertake public consultation on the draft plan.[137]

163. The government released Aotearoa New Zealand's first national adaptation plan in 2022.

164. In doing so Te Manatū acknowledged, "Aotearoa is already experiencing the unavoidable effects of climate change. However, the severity with which we will feel climate change impacts can be lessened if we do all we can to limit warming and act now to adapt, live and thrive in a more damaging climate." [138]

NATIONAL ADAPTATION PLAN REPORT ON CLIMATE ACTION FOR MĀORI 2022

165. Below we set out in full the key aspects of *National Adaptation Plan Report on Climate Action for Māori* which gleans from the national adaptation plan specific impacts of climate change on Māori along with Te Manatū's proposed remedial steps.[139]

166. Although NAP does not present a full picture of the climate impacts and concerns of Māori which will be presented to the Tribunal over the course

[136] The Climate Change Response Act 2002, section 5ZS(5).
[137] The Climate Change Response Act 2002, section 5ZS(6).
[138] Te Manatū mō te Taiao 2022 https://environment.govt.nz/news/national-adaptation-plan-released/
[139] *Ngā mahi āhuarangi mō ngāi Māori: Te Mahere Urutaunga ā-Motu, Climate action for Māori: The national adaptation plan* The Ministry for the Environment Te Manatū mō te Taiao 2022, above n 129.

of the Inquiry, we submit that it provides a useful starting point for understanding the impacts which the Crown is both aware of, and which in recent years the Crown has sought to plan for.

167. It would be useful to understand whether the Crown concedes that *National Adaptation Plan Report on Climate Action for Māori* and its findings continue to represent a baseline for accepted impacts of climate change on Māori along with a baseline for steps considered by the Crown as necessary to address them in accordance with Te Tiriti.

168. The *National Adaptation Plan Report on Climate Action for Māori* states:[140]

> Everyone is affected by climate change. Some communities, including Māori, are disproportionately impacted and are particularly vulnerable – for example, because of existing socio-economic inequities or where they live.
>
> Many Māori live in coastal, rural and remote areas, and climate change will affect their homes, infrastructure and sites of cultural significance – including marae, urupā, wāhi tapu and mahinga kai.
>
> In regions like Tairāwhiti, recent rainfall events and widespread flooding and road slips have left coastal communities isolated causing issues around access to food, medical supplies and outside help. Many local marae have suffered significant damage and part of an urupā was washed out to sea.
>
> Climate change impacts will also affect the forestry, seafood and primary sectors – which are major areas of investment and employment for Māori. All of these sectors will need to change how they operate.
>
> Climate change may also create economic opportunities, such as increased agriculture and horticulture productivity in new

[140] *Ngā mahi āhuarangi mō ngāi Māori: Te Mahere Urutaunga ā-Motu, Climate action for Māori: The national adaptation plan* The Ministry for the Environment Te Manatū mō te Taiao 2022, above n 129, p 2.

> places, new fisheries species, more business and employment opportunities in sustainable sectors and new tourism offerings.
>
> Investing in climate resilience can reduce risks for some businesses and open up new technologies and markets.

Māori Submissions on the National Adaptation Plan

169. During consultation on the draft adaptation plan, submitters who identified as Māori or iwi/hapū let the Crown through its agents know: [141]

    a. the importance of kaitiakitanga

    b. that Māori communities are increasingly vulnerable to the impacts of climate change

    c. Māori communities face significant, varied challenges when responding to climate change

    d. the importance of embedding Te Tiriti across the plan

    e. they supported the acknowledgement of the Rauora Framework in the plan

    f. that a stronger partnership with Māori is needed on the development and decision-making processes of climate actions specific for iwi, hapū, and Māori.

Embedding Te Tiriti across the climate response

170. With respect to Te Tiriti obligations the Report goes on to state: [142]

> We need to ensure an equitable transition for Māori, led by Māori, to uphold their rights and interests under Te Tiriti o Waitangi. That will require building Crown–Māori relationships

[141] Ibid, p 2.
[142] Ibid.

and capability to work together as equal partners on our climate response.

The Government will work together with Māori to support Māori to engage in kōrero about adaptation and to explore adaptation options for Māori.

These options will be led by Māori. A key action in the plan (and in the emissions reduction plan) is to establish a platform for Māori climate action (action 3.3).

That platform will support Māori to define, measure and implement a national Māori climate strategy and action plan. It will provide a space to build more equal partnership and improve knowledge and data to help Māori plan for climate change. It will activate kaupapa Māori, tangata whenua solutions that build climate resilience and support Māori through the transition.

The Government recognises that Māori have a worldview that sits outside western interpretations.

The Rauora framework – in chapter 1 of the plan – brings together Māori values and principles into an indigenous worldview of climate change.

The Rauora framework will help facilitate its work in partnership with Māori.

How the Rauora framework will inform our adaptation journey will be established in partnership with Māori through the platform for Māori climate action.

Enabling better risk-informed decisions[143]

171. With respect to climate risk-informed decisions the Report goes on to state: [144]

> One of the Government's priorities is to provide information about climate change threats, alongside guidance and tools that can help us respond to those threats. This can help Māori understand and assess the risks they face and develop suitable adaptation strategies and solutions. Key actions that will ensure the right information, tools and guidance are available include:
>
> Action 3.2 Design and develop risk and resilience and climate adaptation information portals: these portals will make information on social and equity risks available to the public. They will also help assess the vulnerability to climate change of Māori and other impacted groups.
>
> Action 3.10 Assess socio-economic and climate vulnerability for Māori: social and climate data will be collected and analysed to determine how to strengthen resilience for Māori communities.
>
> Action 3.27 Develop a framework for assessing exposure and vulnerability of taonga/cultural assets to climate change.

Enabling mātauranga Māori in climate responses

172. With Report acknowledges the importance of mātauranga in Aotearoa's climate response and commits to the following actions: [145]

> Action 3.7.6 Produce guidance on integrating mātauranga Māori into adaptive planning and working with mana whenua.

[143] Ibid, p 3.
[144] Ibid.
[145] Ibid.

> Action 3.21 Develop mātauranga Māori indicators of climate impacts on the natural environment.
>
> Action 3.24 Produce new tools and guidance specific to mātauranga Māori and mātauranga indicators.

Driving climate-resilient development in the right locations

173. The Report further acknowledges the importance of infrastructural planning for Māori: [146]

> Buildings and infrastructure have a long lifespan. Decisions we make today about how and where we develop really matter. It is a priority for the Government that we improve our planning and infrastructure investment systems to guide climate-resilient development in the right locations.

174. With respect to infrastructure and Māori the report recommends:

> Action 4.1 Reform the resource management system: the future resource management system proposes a more effective role for Māori in the plan making process, as well as a national Māori entity to provide oversight at the national level. The future resource management system also proposes requiring decision makers to "give effect to" to the principles of Te Tiriti, replacing the existing requirement to only "take into account" those principles.
>
> Action 4.4 Embed adaptation in funding models for housing and urban development, including Māori housing: existing funding programmes will be updated to consider the costs of existing and future climate hazards. New funding programmes may be created if gaps are identified.

Adaptation options including managed retreat

175. Managed retreat is acknowledged in the report as a key issue facing Māori: [147]

[146] Ibid.
[147] Ibid, p 4.

Many communities are already under threat from natural hazards. Successfully adapting will be vital as climate impacts worsen. Some people and communities may have to alter how and where they live.

One option is managed retreat, which may be necessary to reduce or eliminate exposure to intolerable risk. It's a carefully planned and managed process of relocating assets, activities and sites of cultural significance away from at-risk areas.

Other options can include protecting our assets from risk as much as possible or adapting our way of living to accommodate the risk.

The plan will support Māori to understand the adaptation options available through actions such as:

Action 5.1 Pass legislation to support managed retreat: this legislation will address the complex issues around retreating from at-risk areas exposed to climate hazards. We know there are significant implications for Māori communities, which are more sensitive to natural hazards and climate impacts because of the proximity of housing, infrastructure, marae, urupā, pātaka kai and wāhi tapu to the coast and other at-risk areas. This legislation will be developed alongside Māori to build a system that protects and preserves what Māori see as important. A new managed retreat system will consider issues including the Crown–Māori partnership, Māori land, treaty settlement legislation, takutai moana legislation, and iwi environmental management plans.

Action 5.7 Reduce and manage the impacts of climate hazards on homes and buildings: this will help building owners, renters and new home builders to understand and assess their adaptation options, including through guidance, and tools such as a building risk assessment framework.

Action 5.8 Support kaitiaki communities to adapt and conserve taonga/cultural assets.

Embedding climate resilience across government

176. The report acknowledges the need for climate responses to be embedded across government which has direct implications for Māori: [148]

> The Government will embed climate resilience across all of its strategies and policies. The following chapters in the plan have actions relevant to Māori.
>
> Chapter 6: Natural environment supports the protection of taonga species and freshwater, including through the following actions:
>
> Action 6.3 Implement Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020.
>
> Action 6.4 Implement the proposed National Policy Statement on Indigenous Biodiversity.
>
> Action 6.7 Implement the National Policy Statement for Freshwater Management 2020.
>
> Chapter 7: Homes, buildings and places focuses on ensuring homes, buildings and places in Aotearoa are resilient in the face of climate change, including through the following actions:
>
> Action 7.2 Partner with Māori landowners to increase the resilience of Māori-owned land, homes and cultural sites.
>
> Action 7.3 Partner with Māori to support Māori-led approaches to adaptation planning.
>
> Chapter 9: Communities includes resources and support for Māori communities to adapt to a changing climate, including through the following actions:
>
> Action 9.3 Develop the emergency management workforce.

[148] Ibid.

> Action: 9.6 Building community resilience through social cohesion.
>
> Action 9.9 Expand current funding for proactive community resilience.
>
> Chapter 10: Economy and financial system aims to create equitable climate resilient economies, including through the following actions:
>
> Action 10.5 Deliver the Māori agribusiness extension programme.
>
> Action 10.17 Support Māori small business resilience and transitions.

Future engagement during implementation

177. Finally, the report acknowledges the need for targeted engagement with Māori as NAP is implemented into the future: [149]

> As the plan is implemented, more targeted engagement with different stakeholders, including Māori, will take place.
>
> Inclusive engagement, particularly with those disproportionately affected by climate change, will help ensure actions lead to equitable climate resilience.
>
> We are taking the same approach with the implementation of the emissions reduction plan and encouraging engaged and active public participation.

NATIONAL ADAPTATION PLAN HAS NOT BEEN ACTED UPON

178. The National Adaptation Plan has not been acted upon, and instead the Government and its agents are taking steps in direct contravention of the

[149] Ibid, p 5.

recommendations directly intended to protect Māori from the impacts of climate change.

179. An obvious example of this is the present Government's disestablishment of the Interim Māori Ministerial Advisory Committee appointed in 2022 by former Minister for Climate Change Hon. James Shaw to establish the Māori Climate Platform which will be spoken about in future hearings in evidence by Interim Māori Ministerial Advisory Committee member Ms Lani Kereopa, who is also a claimant for Wai 3825.

180. The establishment of the Māori Climate Platform is a key recommendation of both the National Adaptation Plan (action 3.3) and the Emissions Reduction Plan which the present government has now abandoned.

181. A comprehensive report of the Climate Change Commission assessing adaptation progress under the National Adaptation Plan entitled *Progress report: National Adaptation Plan - Assessing progress on the implementation and effectiveness of the Government's first national adaptation plan* was recently published in August 2024.[150]

182. These independent assessments are required under the Climate Change Response Act 2002 to evaluate the implementation and effectiveness of the national adaptation plan and build into a series of snapshots that will form a picture over time of how Aotearoa New Zealand is tracking towards its climate change adaptation goals.[151]

183. The assessment demonstrates that the key issues that Māori are facing with respect to addressing climate change are symptoms of a broader more endemic problem.

184. The Crown is patently failing to adequately plan for an address climate adaptation across Aotearoa as a whole. This necessarily impacts Māori. It also precludes partnership and undermines the ability for Māori to adapt in accordance with Te Tiriti o Waitangi and tikanga Māori.

---

[150] *Progress report: National Adaptation Plan - Assessing progress on the implementation and effectiveness of the Government's first national adaptation plan* He Pou a Rangi Climate Change Commission August 2024.
[151] Climate Change Response Act 2002, s 5ZU.

KEY FINDINGS OF THE NATIONAL ADAPTATION PLAN ASSESSMENT

185. Climate change risks are significant and rising and remain insufficiently addressed by adaptation action in Aotearoa New Zealand. The Commission finds limited evidence that the first national adaptation plan is driving adaptation at the scale or pace needed.[152]

186. The widespread impacts of climate change in Aotearoa New Zealand have increasing costs across the economy, the environment and society. Proactive action is needed to make communities safer and better places to live and work as the climate changes. However, there is limited evidence that the first national adaptation plan is driving adaptation to climate change at the scale or pace needed.[153]

High priority areas for urgent action

187. Clarifying roles, responsibilities and processes for planning and decision-making will help Aotearoa New Zealand appropriately respond to adaptation challenges and opportunities.[154]

188. Existing legislative, planning, and decision-making frameworks are not well-suited to planning for and dealing with changing and uncertain risks from climate change. [155]

189. The lack of a clear and coherent national framework for adaptation planning and implementation has significant and wide-ranging flow-on effects. [156]

190. The recent announcement of the Finance and Expenditure Committee to develop an adaptation framework is an encouraging development. [157]

---

[152] *Progress report: National Adaptation Plan - Assessing progress on the implementation and effectiveness of the Government's first national adaptation plan* He Pou a Rangi Climate Change Commission above n 150, p 13.
[153] Ibid.
[154] Ibid, p 14.
[155] Ibid.
[156] Ibid.
[157] Ibid.

191. Clearly setting out how the costs of adaptation and climate-related losses will be shared, and how they will be paid for, will help enable Aotearoa New Zealand to adapt in a more efficient, fair and equitable way. [158]

192. There is currently no national funding framework for climate adaptation, and no clarity around how adaptation costs will be met. Adaptation in Aotearoa New Zealand is delayed because it is not clear how it will be paid for. [159]

193. Progress in developing a national funding framework for adaptation has been slow, but recent developments are encouraging. For adaptation to be effective, there needs to be more focus on funding prevention and risk avoidance. New instruments for investing public funds and leveraging private investment in adaptation are also needed.[160]

194. Ensuring iwi/Māori retain rangatiratanga and can adapt their communities in a way that is consistent with their tikanga, and aligned with their whakaaro tau (priorities) will make adaptation efforts more effective. [161]

195. Rangatiratanga is important across all facets of climate change response, but it is particularly important in adaptation. Current legislative arrangements are impacting the ability of some iwi/Māori to exercise rangatiratanga and mana motuhake as they adapt and build resilience to climate change. [162]

196. Data, information and decision-support tools that are high quality, readily accessible and underpinned by science and research are important for enabling decision makers to effectively understand and manage climate risks. [163]

197. Data, information and decision-support tools are critical for understanding climate risks, what they mean for communities, sectors, or local businesses, and how to adapt to them. [164]

---

[158] Ibid.
[159] Ibid.
[160] Ibid.
[161] Ibid.
[162] Ibid.
[163] Ibid.
[164] Ibid.

198. There is progress under the first national adaptation plan on actions that could increase the availability and accessibility of data and information, and provide tools and guidance for supporting risk-informed decision-making. However, underlying issues with the science and research system need to be addressed. [165]

199. For all New Zealanders to thrive as the country adapts to climate change, it will be important to consistently consider and address equity of impacts (including costs) so that they are not experienced unfairly by particular communities and groups. [166]

200. The impacts from climate change will not be distributed evenly. At the same time, decisions around adaptation and dealing with loss are often being made in an ad hoc and reactive way. [167]

201. The first national adaptation plan does not strongly focus on supporting equity or on addressing how impacts are spread across different regions, sectors, communities and generations. Without a clearer and more direct focus on issues of equity, it may fall through the cracks. [168]

202. To support communities around Aotearoa New Zealand to adapt to the impacts of climate change, more people with the right knowledge, skills and expertise right across the adaptation planning and implementation process will be needed. [169]

203. Having access to people with the necessary knowledge, skills and expertise is critical to support adaptation planning and action. The first national adaptation plan is driving some progress in addressing this issue. Some important gaps remain. [170]

Important areas of focus

204. The first national adaptation plan does not present a clear and coherent plan of action to drive change at the scale and pace required. A more

[165] Ibid.
[166] Ibid, p 15.
[167] Ibid.
[168] Ibid.
[169] Ibid.
[170] Ibid.

strategic approach to adaptation planning, and to the development of all national adaptation plans, is needed. [171]

205. Clearer links are needed between climate change risk and impacts, long-term adaptation strategy, and actions in the plan. Timeliness and urgency need to be carefully considered in plans. [172]

206. Our assessment has identified some improvements that can be made to national adaptation planning to support effective monitoring, transparency, and continual learning and improvement within a dynamic environment. [173]

207. Some aspects of the first national adaptation plan support accountability and effective monitoring. There are several areas where future plans could be improved: [174]

    a) The national adaptation plan can be made a living document.

    b) More precise and outcomes-focused goals and objectives can be identified.

    c) The delivery milestones for actions in the plan could be made clearer.

    d) Specific, measurable outcome targets and milestones could be included in the plan.

CLIMATE COMMISSION RECOMMENDATIONS

208. The following recommendations are taken directly from the Climate Change Commission's Progress Report:[175]

209. **Recommendation 1: Enable effective local adaptation planning and action[176]**

[171] Ibid.
[172] Ibid.
[173] Ibid.
[174] Ibid.
[175] Ibid, p 16.
[176] Ibid.

210. **We recommend that, in the adaptation framework, the Government set out:** [177]

a) **a clear legislative mandate for adaptation planning and action at the local level.** The adaptation framework needs to include legal requirements and statutory backing that enables local government to make effective, risk-informed decisions around land use and the natural and built environment that can be implemented.

b) **clear roles and responsibilities at national and local levels.** This includes setting out the respective roles of central and local government, as well as others making decisions on climate adaptation including communities, iwi/Māori, private property owners, insurers and financial institutions.

c) **clear and inclusive processes and methods for adaptation planning and decision-making.** This includes setting out standard processes for key aspects of adaptation planning and action, and how decisions will be made with respect to those processes. This is important for ensuring that approaches across the country meet a consistent standard of robustness, while being appropriate within their local contexts.

211. **We recommend that each of these elements be set out for the following specific processes and areas:** [178]

a) **local community adaptation planning.** This includes guidance on how to account for local values and risk thresholds to inform adaptation planning, and clarity around the respective roles and responsibilities of regional councils, territorial authorities, private property owners and iwi/Māori in local community adaptation planning processes and implementation.

b) **planning for managed retreat.** This includes specifying the circumstances under which managed retreat is considered as an adaptation option, how it should be planned for, and the powers for

[177] Ibid.
[178] Ibid.

enabling retreat, such as the acquisition and retirement of land, and withdrawal of infrastructure services.

c) **the development, collection and communication of risk information.** This includes the factors set out in Recommendation 4.

Recommendation 2: Provide clarity on how adaptation costs will be shared and met[179]

212. **We recommend that the adaptation framework set out clearly:** [180]

a) **how the costs of local adaptation planning and implementation will be shared.** This includes between central government, regional councils and territorial authorities, as well as private property owners. This must include clarity around how costs will be shared for:

i. adaptation *planning* (including community planning processes)

ii. the *implementation and monitoring* of adaptation actions, including pre-emptive actions and post-event responses.

b) **how costs of climate-related losses will be addressed and met.** This includes clarity around how both public and private losses will be addressed, and the principles that will guide decisions around compensation. This should include clarity around the costs associated with managed retreat.

213. **To meet future adaptation costs, we recommend that the adaptation framework also set out:** [181]

[179] Ibid, p 17.
[180] Ibid, p 17.
[181] Ibid.

a) **new targeted funding and financing instruments (public and private)** to enable and drive pre-emptive adaptation at the scale needed

b) **how targeted financial instruments could support adaptation**

c) **how private investments can effectively account for risks arising from climate change while supporting inclusive and equitable processes and outcomes.**

Recommendation 3: Ensure iwi/Māori can plan for and carry out adaptation action[182]

214. **We recommend that the legislative framework and institutional arrangements for adaptation include a range of decision-making and funding models, established by central and local government in partnership with iwi/Māori, so that iwi/Māori can plan, carry out and participate in adaptation processes in line with their tikanga and whakaaro tau (priorities).**

Recommendation 4: Improve the science and research system to support good adaptation outcomes[183]

215. **We recommend that the Government develop a research strategy for climate adaptation and its data and information needs and set out a plan for enabling the science and research system to deliver high-quality data and information for public benefit, and to support good climate adaptation outcomes.** This includes: [184]

a) investing in increasing the availability and accessibility of high-quality data, information and decision-support tools relevant to climate adaptation

[182] Ibid.
[183] Ibid, p 18.
[184] Ibid.

b) reviewing the revenue model for publicly funded science and research to better support public benefit

c) exploring how best to provide continuity in funding for important climate change research and ongoing data and monitoring needs

d) reviewing how public-good science and research funded by the Government is made publicly available.

Recommendation 5: Consider and address the distributional costs and impacts of climate change so that they do not fall unfairly on particular communities and groups[185]

216. **We recommend that the Government put in place tools and measures to consistently consider and address distributional impacts and inequities in all adaptation measures.** This includes: [186]

a) developing tools for assessing and understanding the impacts of adaptation policies and measures across different communities and groups

b) implementing targeted measures and ongoing processes to address distributional impacts and inequities resulting from climate impacts and adaptation.

Recommendation 6: Prepare a strategy and plan to develop the climate adaptation workforce[187]

217. **We recommend that the Government prepare a strategy and plan to develop workforce needs related to climate adaptation, and identify the skills and capacity to be developed through the education system, across key professional bodies, and within the science and research system.** This should include the needs for: [188]

[185] Ibid.
[186] Ibid.
[187] Ibid.
[188] Ibid.

a) iwi/Māori involvement in adaptation design, planning and implementation

b) local community adaptation planning and engagement

c) emergency preparedness and response.

Recommendation 7: Facilitate access, availability and sharing of resources, expertise and information[189]

218. **We recommend that the Government investigate options to pool and coordinate information and resources to facilitate access, availability, and sharing of expertise and information to support local adaptation planning and action. [190]**

Recommendation 8: Make the direction, scale and pace of change required clear[191]

219. **We recommend that, in all national adaptation plans, the Government: [192]**

a) identify measurable, time-bound and outcomes-focused targets for adaptation, to make the direction, pace and scale of change needed clear, and help to drive action needed – this should include targets for the short, medium and long term, and cover all outcome areas of the national adaptation plan

b) clearly communicate how and to what extent the package of actions in the plan will address the risks identified through the national climate change risk assessment

c) describe how the package of actions in the plan aligns with adaptation principles and will avoid maladaptation.

[189] Ibid.
[190] Ibid.
[191] Ibid, p 19.
[192] Ibid, p 19.

Recommendation 9: Make improvements to support monitoring, and continual learning and improvement within a dynamic environment[193]

220. **We recommend that the Government: [194]**

a) **update the table of actions from the national adaptation plan every two years**, recognising that climate impacts, and Aotearoa New Zealand's adaptation response, need to be dynamic

b) The updated table of actions should reflect updated milestones for when actions will be delivered, as well as discontinued actions.

c) Delivery milestones for adaptation actions should be clear and specific. This is important for providing clarity and transparency around when these actions will be delivered.

d) **establish a transparent process for updating the table of actions**, which may require enabling changes to legislation

e) **make national adaptation plan goals and objectives specific, measurable, timebound and outcomes-focused** so they can be effectively monitored against. Goals and objectives should have associated outcomes-focused targets for different timeframes – short, medium and long term.

Although these recommendations fall short of the range of

221. Although these recommendations fall short of the full spectrum of levers that are required by Māori to meet their full aspirations as advanced within this Tribunal, for example in creating a mechanism through which Māori can exercise rangatiratanga in the making of international commitments, they form a useful reference point for the Tribunal to assess whether the Crown is doing enough to meet its Tiriti obligations toward Māori.

222. If we focus in on the core recommendation affecting Māori, to "create a legislative framework and institutional arrangements…so that iwi/Māori can plan, carry out and participate in adaptation processes in line with

[193] Ibid.
[194] Ibid.

their tikanga and priorities" we submit that the Crown not taking adequate steps to meet this recommendation or any of the recommendations.

223. The Crown is simply not doing enough, and this flies in the face of Te Tiriti o Waitangi.

PRINCIPLES OF TE TIRITI O WAITANGI

Rangatiratanga

224. From the outset it is important to note that the exercise of Rangatiratanga was the established form of sovereign authority pre-existing Te Tiriti o Waitangi in Aotearoa.

225. Rangatiratanga was accepted in its entirety by Britain, France and America under He Whakaputanga o te Rangatiratanga o Nu Tireni - the Declaration of Independence of the United Tribes of New Zealand 1835.

226. Rangatiratanga was further reaffirmed in Te Tuarua (Article Two) of Te Tiriti o Waitangi.

227. The endurance of Rangatiratanga was noted in Stage 1 of Te Paparahi o Te Raki Inquiry ("the Wai 1040") where the Tribunal states:[195]

> Our essential conclusion, therefore, is that the rangatira did not cede their sovereignty in February 1840; that is, they did not cede their authority to make and enforce law over their people and within their territories, rather, they agreed to share power and authority with the Governor. They and Hobson were to be equal, although of course they had different roles and different spheres of influence. The detail of how this relationship would work in practice, especially where the Māori and European populations intermingled, remained to be negotiated over time on a case-by-case basis. But the Rangatira did not surrender to the British the sole right to make and enforce law over Māori. it was up to the British, as

[195] Waitangi Tribunal *He Whakaputanga me te Tiriti the Declaration and the Treaty: The Report on Stage 1 of the Paparahi o Te Raki Inquiry* (Wai 1040, 2014) at 527.

> the party drafting and explaining the treaty, to make absolutely clear that this was their intention. Hobson's silence on this crucial matter means that the Crown's own self-imposed condition of obtaining full and free Māori consent was not met.

228. Accordingly, Te Tiriti o Waitangi envisaged a partnership where rangatiratanga would continue to subsist alongside kawanatanga, enabling both the Crown and Rangatira to exercise mana over their own people (and interests) in accordance with their own tikanga.

229. As expressed by the Tribunal in the Hauora Report:[196]

> The Crown's right of kāwanatanga is not unfettered. The guarantee of tino rangatiratanga requires the Crown to acknowledge Māori control over their tikanga, resources, and people and to allow Māori to manage their own affairs in a way that aligns with their customs and values.

230. The principle of Rangatiratanga including the extension of the exercise of authority over "all that is treasured" both "tangible and intangible" was most recently expressed in *Ngā Mātāpono* report of the Waitangi Tribunal Inquiry into the Treaty Principles Bill 2024 which states:[197]

> Tino rangatiratanga is the mana or full chiefly authority over properties and people within a particular kinship group, all that is treasured, and access to resources. It involves pre-existing sovereign authority, expressed as self-government and autonomy and 'extends to matters both tangible and intangible that [Māori] value'. Rangatiratanga limits the Crown's right to govern and is itself limited by obligations to manage rights between hapū and with neighbouring iwi, obligations of kaitiakitanga, and obligations as partners to the Treaty/te Tiriti.

---

[196] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023), p 28.
[197] Waitangi Tribunal *Ngā Mātāpono the Principles the interim report of the Tomokia ngā tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty clause review policies* pre-publication version (Wai 3300: 2024), p 70.

231. The Tribunal then goes on to highlight the notion of rangatiratanga as expressed within both Te Raki stage 2 and Te Rohe Pōtae which serve to further underscore the principle that rangatiratanga guarantees to Māori the exercise of mana and authority over taonga:[198]

> The Te Raki stage 2 Tribunal (2023) observed:[199] The Tribunal has long emphasised that the treaty guaranteed the rights of Māori to exercise their tino rangatiratanga (full authority) over their lands, their villages, and all their taonga, and in each inquiry has assessed Crown actions and omissions in light of this principle of tino rangatiratanga.
>
> The Te Rohe Pōtae Tribunal (2023) explained further:[200] Our conclusion is that the Treaty guaranteed to Māori their tino rangatiratanga. This was a guarantee that Māori would be able to continue to exercise full authority over lands, homes, and all matters of importance to them. This, at a minimum, was the right to self-determination and autonomy or self-government in respect of their lands, forests, fisheries, and other taonga for so long as they wished to retain them. That authority or self-government included the right to work through their own institutions of governance and apply their own tikanga or system of custom and laws.

232. Counsel submits that rangatiratanga applies in the context of the present inquiry, and that where rangatiratanga applies it applies as a priority principle, so fundamental is it to the Treaty based partnership between the Crown and Māori and the interrelationship between the exercise of kawanatanga and rangatiratanga.

233. The Tribunal within the Constitutional Kaupapa Inquiry hearing on the Crown Treaty Principles Bill and Treaty Review Clause states:[201]

---

[198] Ibid.
[199] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga : The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*, 3 vols (Lower Hutt : Legislation Direct, 2023), vol 1, p 39
[200] Waitangi Tribunal, *Te Mana Whatu Ahuru : Report on Te Rohe Pōtae Claims*, 6 vols (Lower Hutt : Legislation Direct, 2023), vol 1, p 183
[201] Waitangi Tribunal *Ngā Mātāpono the Principles the interim report of the Tomokia ngā tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles*

> Kāwanatanga is the right to govern and to make laws for the 'good order and security' of the country. Kāwanatanga must be exercised in accordance with the principle of good government and in a way that actively protects and does not diminish rangatiratanga.
>
> The Te Rohe Pōtae Tribunal noted that kāwanatanga was:[202]
>
> to be used for the protection of Māori interests, and in a manner that was consistent with Māori views about what was beneficial to them. It was therefore not the supreme and unfettered power that the Crown believed it to be; rather, it was a power that was conditioned or qualified by the rights reserved to Māori.
>
> Building on its key stage 1 finding that Te Raki Māori did not cede sovereignty in 1840, the Te Raki stage 2 Tribunal did not consider:[203]
>
> the authority granted to the Crown – kāwanatanga – as a superior authority, an overarching power to govern, make, and enforce law, albeit 'qualified' by the require meant to give effect to treaty guarantees, including the right of Māori to exercise tino rangatiratanga.

234. In breach of the principle of rangatiratanga the Crown has usurped full control of legislative, regulatory and policy creation undermining the ability of Māori to make decisions to protect themselves, their communities and the taonga from the impacts of climate change domestically, and in the international domain.

235. The application of rangatiratanga does not stop at the shores of Aotearoa. Just as Māori never ceded sovereignty to the Crown in the domestic sphere, it also never ceded the fundamental exercise of mana that is involved in treating with other nations.[204] The Waitangi Tribunal in the wai

---

Bill and Treaty clause review policies pre-publication version (Wai 3300: 2024) above n 197, p 71.

[202] Waitangi Tribunal, *Te Mana Whatu Ahuru*, vol 1, p 196

[203] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga*, vol 1, p 61

[204] Wai 3325, #A014 Affidavit of Jane Kelsey dated 21 October 2024 Exhibit A Brief of evidence of Moana Jackson.

2522 inquiry on the Trans-Pacific Partnership Agreement acknowledged this is an outstanding issue arising from the Wai 1040 inquiry and is a matter that remains to be considered in depth by the Tribunal.

236. Just as the climate crisis is a global phenomenon that manifests itself at home in Aotearoa New Zealand, so are international agreements that can constrain the options available to address the crisis, in particular in ways that meet the Crown's Tiriti obligations and ensure Māori can exercise their responsibilities and duties, and rights and interests, under Te Tiriti.

237. There is growing awareness of the potential impacts of free trade agreements in furthering practices that harm the ecosystem and intensify the climate crisis, promote and normalise new extractive and exploitive practices for profit, and prevent alternative solutions sources in Indigenous knowledge, traditions and practices.[205] However, the connection between these agreements and the domestic manifestations of the climate crisis, described above, is still not well understood, especially as these agreements are technical and complex and commonly negotiated in secret.[206]

238. International investment agreements are a further source of risk to effective and Tiriti-compliant mitigation measures, especially when enforceable by foreign investors through controversial investor-state dispute settlement (ISDS) processes. The Crown has recognised these risks, with successive governments rejecting the inclusion of ISDS in future agreements. But those risks remain in existing agreements.[207]

239. The Crown has further failed to enable the exercise of rangatiratanga by failing to adopt and enact the recommendations of the National Adaptation Plan. This includes by:

    a) Failing to adopt a legislative framework and institutional arrangements for adaptation including a range of decision-making and funding models, established by central and local government in partnership with iwi/Māori, so that iwi/Māori can plan, carry out and

[205] Wai 225, #A015 Affidavit of Ema Maria Bargh dated 21 October 2024 at [28] – [38].
[206] Wai 3325, #A014 Affidavit of Jane Kelsey dated 21 October 2024 at [33], [61] – [67].
[207] Wai 3325, #A014 Affidavit of Jane Kelsey dated 21 October 2024 at [110] – [113].

participate in adaptation processes in line with Māori tikanga and whakaaro tau (priorities).[208]

b) Failing to ensure that iwi/Māori can plan for and carry out adaptation action in accordance with obligations of kaitiakitanga.[209]

240. In the context of climate change, tino rangatiratanga includes the right for tangata whenua to continue traditional practices in the face of an ever-changing environment.

241. As such the denial of the exercise of rangatiratanga when Māori are facing an existential crisis such as climate change puts at risk the enduring sacred relationship that whānau, hapu and iwi have with their traditional territories and the natural environment. Autonomy and control cannot be exercised in respect of taonga and whenua if those taonga and that whenua are eroded and cease to exist.[210]

242. It also fractures the spiritual integrity of the relationship which in turn maintains and protects, according to tikanga and traditional mātauranga, the holistic manner in which the whānau, hapu and iwi live in balance with their rohe, and by which the balance between the hapū, the natural world and the spiritual realm is maintained for the purpose of holistic wellbeing.

Partnership

243. Fundamentally aligned to the exercise of the principles of kawanatanga and rangatiratanga is the principle of partnership.

244. As the Tribunal expressed in Stage 1 of the Health Kaupapa Inquiry:[211]

> The Treaty established a relationship akin to a partnership and imposed on both Treaty partners an obligation 'to act towards each other reasonably and with the utmost good faith'.[212] The

[208] *Progress report: National Adaptation Plan - Assessing progress on the implementation and effectiveness of the Government's first national adaptation plan* He Pou a Rangi Climate Change Commission above n 150, p 17.
[209] Ibid.
[210] Ibid at [20].
[211] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) above n 196, pp 27 – 28.
[212] *New Zealand Māori Council v Attorney General* [1987] 1 NZLR 641 (CA), p 667.

> principle of partnership itself is expressed through the necessary balancing of the concepts of kāwanatanga and tino rangatiratanga expressed in articles 1 and 2 of the Treaty.[213] In the Te Whanau o Waipareira Inquiry, the Tribunal concluded that partnership 'serves to describe a relationship where one party is not subordinate to the other but where each must respect the other's status and authority in all walks of life'.[214]
>
> Thus, the Treaty of Waitangi was based on the fundamental exchange of kāwanatanga, the right of the Crown to govern and make laws for the country, in exchange for the right of Māori to exercise tino rangatiratanga over their land, resources, and people. The Crown's right of kāwanatanga is not unfettered. The guarantee of tino rangatiratanga requires the Crown to acknowledge Māori control over their tikanga, resources, and people and to allow Māori to manage their own affairs in a way that aligns with their customs and values.[215]

245. In breach of the principle of partnership the Crown is failing to adequately invest in mahi ngātahi – deep democracy to address the risks posed by climate change to Māori.[216]

246. This includes failing to adequately partner at a national level with Māori in the design and development of climate legislation and policy and at the international level by failing to empower Māori to effectively participate in decisions that directly affect them pursuant to both Te Tiriti and the UNDRIP.

247. This is reinforced within the Rauora Framework which the Crown through their own agents have acknowledged and which states: [217]

---

[213] Treaty of Waitangi Act 1975, sch 1, arts 1, 2.
[214] Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wellington: GP Publications, 1998), p xxvi.
[215] Waitangi Tribunal, *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates* (Wellington: Legislation Direct, 2017), p 21.
[216] *Brief summary document: insight to the Rauora Indigenous Worldview Framework for the National Climate Change Adaptation Plan* Ihirangi above n 113, p 11.
[217] Ibid at [26].

a) Whilst the Crown may have their national level objectives for climate policy, so do hapu/iwi. There is an ability to align on agreed aspirations/commitments, standards, definitions, scope, and negotiate the prioritisation of particular cultural imperatives.

b) It is possible for all Treaty partners to jointly commit to a holistic, indigenously inclusive approach to creating a world class national adaptation framework that empowers, resources and fosters local design, delivery and resilience – at its essence it is a cultural shift model.

c) The requirement for the Crown to partner with Māori in the development and implementation of policy is especially relevant where Māori are expressly seeking an effective role in this process. The requirement is heightened where disparities in outcomes exist.

248. At a local level the Crown are in further breach of the principle of partnership by failing to enable Māori communities to make climate decisions which are tikanga based, specific to their needs, and equipped with science, technology, industry, research, workforce, and mātauranga.

249. The actions, investment and ability to meet local level needs depends on the ability for the Treaty partnership to flex to recognise community diversity, hapu/iwi relationship with their territories, the primacy of the indigenous flora and fauna estate, and its dependency on mātauranga Māori for restoration/survival.[218]

Case study: failure to partner on the Emissions Trading Scheme

250. In breach of the principle of partnership the Crown is operating an Emissions Trading Scheme which is maladaptive and results in harm to Māori through:

a) Disincentivising restoration of indigenous forest

b) Incentivising afforestation of exotic forests

c) Locking Māori land use into permanent exotic forests

[218] Ibid, p 12.

d) Financially penalising Māori for changing land use despite that it may be more beneficial to both the natural environment and Māori communities

e) Excluding from the trade system established, pre-1990 native forest of which commercially disadvantages many Māori land blocks.

f) Has harmful effects on the environment such as erosion and slash related pollution such as Te Tairāwhiti.

Active Protection

251. It is well founded that the Crown's duty of Active Protection is a cornerstone principle of the Te Tiriti o Waitangi. The principle recognises that the Crown is no longer at liberty to merely "smooth the pillow of the dying race" or to sit on its hands and turn a blind eye to serious levels of harm suffered by Māori as a result of Crown created legislation and institutions which were neither designed by us or designed to serve us.

252. The notion that the principle encompasses an obligation upon the Crown to take proactive steps to ensure that Māori interests and taonga are protected was established by the Tribunal as early 1985 in the Manukau Report where it stated:[219]

> The Treaty of Waitangi obliges the Crown not only to recognise the Māori interests specified in the Treaty but actively to protect them. The possessory guarantees of the second article must be read in conjunction with the preamble (where the Crown is "anxious to protect" the tribes against envisaged exigencies of emigration) and the third article where a "royal protection" is conferred. It follows that the omission to provide that protection is as much a breach of the treaty as a positive act that removes those rights.

253. The duty of Active Protection is not limited to the protection of proprietal

[219] Waitangi Tribunal *Report of the Waitangi Tribunal on the Manukau claim* (Wai 8, 1989) at 79.

interests but extends to the protection of Māori themselves:[220]

> The Tribunal's conception of the Māori interests to be protected go beyond property and encompass tribal authority, Māori cultural practices and Māori themselves, as groups and individuals. The Tribunal has endorsed a holistic reading of the Treaty and presents the principle of protection as a theme fundamental to the entire document, which is explicitly referenced in the Preamble and Article III, and which is not confined to Article II matters.

254. The Privy Council further noted that the duty of active protection extends to taonga, requiring vigorous action where a taonga is threatened, especially where its vulnerability can be traced to earlier breaches of the Treaty:[221]

> … if as is the case with the Māori language at the present time, a taonga is in a vulnerable state, this has to be taken into account by the Crown in deciding the action it should take to fulfil its obligations. This may well require the Crown to take especially vigorous action for its protection. This may arise, for example, if the vulnerable state can be attributed to past breaches of the Crown of its obligations and may extend to the situation where those breaches are due to legislative action.

255. The Crown has known about the looming impacts of Climate Change on Māori communities since at least 1988 when the IPCC was established and began informing policy makers about the impacts of climate change in the form of written reports which the Crown's own agents and Research Institutes actively contribute to.

256. Despite knowing about the impacts of climate change on Māori for decades, the Crown is failing to act with sufficient urgency to address

---

[220] Te Puni Kōkiri/Ministry of Māori Development *He tirohanga o kawa ki te Tiriti o Waitangi, the principles of the Treaty of Waitangi as expressed by the courts and the Waitangi Tribunal* Wellington 2001, at 95.
[221] *New Zealand Māori Council v Attorney General* [1994] 1 NZLR 513 (PC) [*Broadcasting Assets* case] at 517.

climate change in a manner that actively protects Māori rights and interests, including by failing to:

a) take adequate steps to ensure that New Zealand bears its fair share as a developed nation in reducing greenhouse emissions so as to keep global temperature rises below dangerous levels.

b) accelerate ecological restoration and protection within a Tiriti measurement frame that prioritises indigenous estate; the progeny of Ranginui and Papatuanuku.[222]

c) give effect to a more holistic approach, moving from a resource management approach to a mauri balancing approach as opposed to "the masters of the universe, dominion over all things, mentality transposed into New Zealand law from biblical origins."[223]

d) Manaaki mātauranga Māori as expressed within the Rauora Framework:[224]

The totality of an indigenous lens requires a step away from cherry picking palatable values (like manaakitanga, kaitiakitanga etc) and instead requires an understanding of the entire customary system in which those values are housed. An understand of mana atua, mana whenua, mana moana, mana tangata is intrinsically understood within the context of whakapapa, whanaungatanga and tikanga.

Likewise, the cultural toolkit that is utilized to maintain systems of cohesion and environmental interaction are also intrinsically interconnected to each other; and need to be understood within their natural context before being exported or appropriated into government policy devoid of that context that gives them such rich meaning and applicability.

Additionally, it is critical that an indigenous lens must be applied to the definition of core concepts. 'Sustainability' and 'environmental

[222] *Brief summary document: insight to the Rauora Indigenous Worldview Framework for the National Climate Change Adaptation Plan* Ihirangi above n 113, p 9.
[223] Ibid, p 10.
[224] Ibid.

limits' have much stronger, and textured, characteristics in an indigenous world because of their integral positioning at the core of indigenous ethos/praxis.

A working definition of "Indigenous science" is "that body of traditional environmental and cultural knowledge unique to a group of people which has served to sustain that people through generations of living within a distinct bioregion."

All of this is founded on a body of practical environmental knowledge which is learned and transferred through generations of a people through a form of environmental and cultural education unique to them.

Indigenous science is really Indigenous knowledge and may also be termed "traditional ecological knowledge" (TEK) since a large proportion of this knowledge served to sustain Indigenous communities and ensure their survivability within in the environmental contexts in which Indigenous communities were situated.

Hoki Whenua Mai:

Where vulnerabilities have been created through colonial practices that fell short of the Crown's obligations under Te Tiriti o Waitangi a conscious, concerted effort to remove or mitigate those vulnerabilities needs to be made.

Dispossession of ancestral estate has meant many Māori are without land or the ability to occupy communal land.

Notwithstanding, the Crown remains in possession of large tracts of reserve land taken from hapu/iwi estates that could be restored to local control to alleviate some of the pressures climate disruption will bring.

Advance Constitutional Transition to reaffirm Te Tiriti o Waitangi

Much work has been undertaken recently in the constitutional reform space, and the seminal Matike Mai Aotearoa report and

workstreams has provided guidance on realigning the constitutional relationship in Aotearoa/NZ to better reflect the legitimate place of indigenous peoples, and their systems, upon this land.

Shift economic control to communities

Communities need to be empowered to design and deliver their own climate solutions. The role of central government can support that, with robust information, data and technology.

Local connection is essential to buy in, to ownership of both the issues and the solutions.

Whakapiki oranga o te wai ki uta, ki tai

Freshwater quality and allocation needs to be addressed with an oranga lens.

It is critically important to any viable climate change preparedness that fresh water is prioritised and protected for present and future generation's needs.

Climate disruption will already create severe weather systems and will likely impact on international trade.

The ability to preserve, maintain access to, and maintain the environmental integrity of fresh water sources will be imperative to New Zealand's ability to continue to be self-governing, and within that, for hapu/iwi to have any viable chance at manifesting self-determination.

Relocalise economies, production and consumption

Economies need to be relocalised, and models of production and consumption need to be reviewed to reduces waste, excess and impact; and also to reposition communities to positions of strength rather than exposed vulnerability.

Seeing capitalism and colonialism as structural forces generating exploitation and ecocide is of critical importance as we need to be

able to acknowledge that colonial capitalism will not and cannot solve the crises it is causing.

Divest from extractive industries and other demonstrably problematic practices

Every major international climate agreement, including those that New Zealand is a party to (Kyoto/Paris) recognise the need for carbon emissions to be urgently reduced.

The single biggest contributors to carbon emissions are the fossil fuel, extractive industries and agribusiness. These industries need urgent regulation, particularly around their present and future impact, and they also need to be required to invest in the restoration of eco-systems they have been enabled to profit from whilst degrading them.

This practice is simply an anathema to an indigenous lens that would see those directly responsible for negative impact censured, required to take responsibility, and required to stop.

257. Moreover, the climate impacts that Māori are facing now can be traced back to earlier Crown acts and omissions. An example of this is the Crown's land alienation practices and the introduction of the Crown's land tenure system which locked Māori into marginal often vulnerable parcels of land and precludes the ability for Māori to live at one with the environment, precluding for example the Māori customary practice of managed retreat in response to weather events and environmental trends.

Equity

258. The obligations arising from partnership, give rise to the principle that Māori are entitled to participate equitably in the benefits of Crown policy alongside Pākehā.

259. The principle of equity, or the obligation of the Crown to act fairly as between Māori and non-Māori, derives from the British citizenship rights granted to Māori by article three of the Treaty.

260. Like the duty of active protection, it can require positive intervention by the Crown to address disparities. As stated by the Tribunal in Stage 1 of the Health Kaupapa Inquiry:[225]

> A further condition of the Treaty relationship is the Crown's duty to act with fairness and justice to all citizens. Article 3 of the Treaty confirms that Māori have all the rights and privileges of British subjects.[226] The Tribunal has found that this article not only guarantees Māori freedom from discrimination but also obliges the Crown to positively promote equity.[227] It is through article 3 that Māori, along with all other citizens, are placed under the protection of the Crown and are therefore assured equitable treatment from the Crown to ensure fairness and justice with other citizens.

261. The essential point of the principle of equity is that, at the time of the signing of the Treaty, none of the basic rights and privileges of British subjects were limited by race.

262. Where the interests of settlers were prioritised to the disadvantage of Māori, the principle of equity required active measures to restore the balance.

263. A further cornerstone of the principle of equity is the principle of Mutual Benefit or Mutual Advantage. In the Mangonui Sewerage Report, the Tribunal notes:[228]

> The basic concept was that a place could be made for two people of vastly different cultures, of mutual advantage, and where the rights, values and needs of neither would necessarily be subsumed…It is obvious however that to

---

[225] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) above n 196, p 33.
[226] Treaty of Waitangi Act 1975, sch 1, art 3.
[227] Waitangi Tribunal, *The Napier Hospital and Health Services Report*, pp 48, 62 ; Waitangi Tribunal, *Report on the Crown's Foreshore and Seabed Policy* (Wellington : Legislation Direct, 2004), p 133 ; Waitangi Tribunal, *The Mohaka ki Ahuriri Report* (Wellington : Legislation Direct, 2004), p 27 ; Waitangi Tribunal, *The Te Arawa Mandate Report* (Wellington : Legislation Direct, 2004), p 94 ; Waitangi Tribunal, *The Offender Assessment Policies Report* (Wellington : Legislation Direct, 2005), p 13 ; Waitangi Tribunal, *He Maunga Rongo*, vol 2, p 428.
[228] Waitangi Tribunal *Report of the Waitangi Tribunal on the Mangonui Sewerage Claim* (Wai 17, 1988) at 4.

achieve the objective, compromises on both sides are required and a balance of interests must be maintained.

264. The underlying premise is that both partners signed the Treaty expecting to benefit from the arrangement. This principle requires that "the needs of both cultures must be provided for and compromise may be needed in some cases to achieve this objective".[229]

265. Though climate change may be affecting all New Zealanders, the impacts of climate change on New Zealanders are not being felt equitably by all. New Zealand's most vulnerable communities are and will continue to bear a disproportionate burden of the adverse effects of climate change.

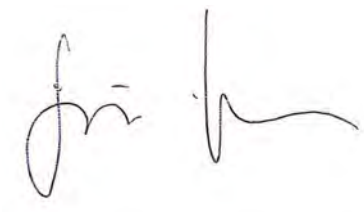
266. This invariably means that the failures on the part of the Crown to take adequate steps to address climate change are affecting Māori in a disproportionately damning way as compared to non-Māori.

267. Therefore, the inadequacy of the Crown's current climate response is in and of itself a breach of the principle of equity.

268. As such the Crown has been and continues to be in breach of the principles of Te Tiriti o Waitangi in the manner set out above.

May it please the Tribunal these are the Generic Opening Submissions for the Claimants on the impacts of climate change on Māori and the applicable principles of Te Tiriti o Waitangi thereto.

DATED this 19th day of November 2024



……..
Tania Te Whenua
Claimant Counsel

[229] Waitangi Tribunal, *Ngāwhā Geothermal Resource Report* (Wai 304, 1993) at 137.