IN THE WAITANGI TRIBUNAL	**WAI 3310** **WAI TBC**
CONCERNING	the Treaty of Waitangi Act 1975
AND **IN THE MATTER OF**	the Education Services and Outcomes Kaupapa Inquiry (Wai 3310)
AND **IN THE MATTER OF**	A claim by Ripeka Lessels and O'Sonia Hotereni for and on behalf of themselves and New Zealand Educational Institute (NZEI) Te Riu Roa

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STATEMENT OF CLAIM

Dated this 20th day of December 2024

RECEIVED
Waitangi Tribunal
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Ministry of Justice
WELLINGTON

TE WHENUA LAW

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MAY IT PLEASE THE TRIBUNAL:

Introduction

1. This claim is brought by Ripeka Lessels and O'Sonia Hotereni for and on behalf of themselves and New Zealand Educational Institute (NZEI) Te Riu Roa (herein referred to as "the Claimants").

2. Ms Ripeka Lessels is the incoming Manukura of NZEI Te Riu Roa whilst Ms O'Sonia Hotereni is the NZEI Kuia.

3. NZEI Te Riu Roa is the professional organisation and union that represents the interests and issues of its nearly 50,000 members.

4. NZEI Members are employed as teachers and leaders in the early childhood education (ECE) and primary sectors (including Kura Kaupapa Māori and Wharekura), support staff in the early childhood, primary, intermediate, and secondary education sectors, school advisers employed by universities, and Learning Support staff employed by the Ministry of Education.

5. The main objective of NZEI Te Riu Roa is to advance the cause of quality public education generally while upholding and maintaining the just claims of its members individually and collectively.

6. NZEI Te Riu Roa is a values-led, Te Tiriti o Waitangi-based organisation.

7. This means that in all areas of work mokopuna Māori are considered first. This concept is called Mōku te Ao.

8. NZEI Te Riu Roa is one of the largest unions and professional bodies in Aotearoa and has a long history of playing a positive role in the education sector and on wider social issues affecting our members and the tamariki and whānau they serve.

9. Teachers, principals, and other staff employed in public schools have a unique relationship with the Crown.

10. Public schools are Crown Entities under the Crown Entities Act 2004 and are governed by Boards of Trustees.

11. Teachers are employed by Boards of Trustees, while their employment is covered by Collective Employment Agreements negotiated by the Secretary for Education.

12. Boards of Trustees have explicit obligations to 'give effect to Te Tiriti o Waitangi' as set out in section 127 of the Education and Training Act 2020.

13. Teachers work to the New Zealand Curriculum Te Marautanga o Aotearoa, which is promulgated by the Crown.

14. The Minister of Education has the power to issue curriculum statements under section 90 of the Education and Training Act 2020.

15. Curriculum statements are a form of secondary legislation as set out in Part 3 of the Legislation Act 2019.

16. To be registered and hold a current practicing certificate, teachers must meet the requirements of the Code of Professional Responsibility Ngā Tikanga Matatika, which sets out the high standards for ethical behaviour that are expected of every teacher; and the Standards for the Teaching Profession Ngā Paerewa, which describe the expectations of effective teaching practice.

17. The Code and Standards are issued by the Teaching Council Matatū Aotearoa, an independent statutory agency with legislated powers and functions that are set out in subpart 4 of the Education and Training Act 2020.

18. The Code of Professional Responsibility Ngā Tikanga Matatika, and the Standards for the Teaching Profession Ngā Paerewa, involve explicit obligations toward Te Tiriti, including 4.2 of The Code of Professional Responsibility Ngā Tikanga Matatika, and the inclusion of 'Te Tiriti o Waitangi partnership' as a standard within the Standards for the Teaching Profession Ngā Paerewa.[1]

19. Under Te Tiriti o Waitangi NZEI has an obligation to operationalise a system that recognises and uplifts Māori people and their identity.

[1] https://teachingcouncil.nz/assets/Files/Code-and-Standards/Our-Code-Our-Standards-Nga-Tikanga-Matatika-Nga-Paerewa.pdf

20. NZEI believe that a system based on Rangatiratanga centres children with rights to control their own aspirations and destiny and would work for all children through values of mutual benefit to society.

Principles of the Treaty of Waitangi

Partnership

21. The Claimants adopt the findings made in Stage 1 of Te Paparahi o Te Raki Inquiry ("the Wai 1040 Inquiry"), where the Tribunal states:[2]

> 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 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.

22. 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.

[2] 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.

23. A further cornerstone of the principle of partnership is the principle of mutual benefit or mutual advantage. In the Mangonui Sewerage Report, the Tribunal notes:[3]

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

24. 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".[4]

25. In the Waitangi Tribunal Hauora Report the Tribunal stated:[5]

> 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'.[6] The 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.[7] 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'.[8]
>
> Thus, the Treaty of Waitangi was based on the fundamental exchange of kāwanatanga, the right of the Crown to govern

[3] Waitangi Tribunal *Report of the Waitangi Tribunal on the Mangonui Sewerage Claim* (Wai 17, 1988) at 4.
[4] Waitangi Tribunal*, Ngāwhā Geothermal Resource Report* (Wai 304, 1993) at 137.
[5] Waitangi Tribunal*, Hauora Report* on Stage One of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575, 2023) at 27.
[6] *New Zealand Maori Council v Attorney General* [1987] 1 NZLR 641 (CA), p667.
[7] Treaty of Waitangi Act 1975, sch 1, arts 1, 2.
[8] Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wellington: GP Publications, 1998), pxxvi.

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.[9]

In the *Napier Hospital and Health Services Report*, the Tribunal stated that the duty of good faith conduct establishes 'the general character of the relationship' between Māori and the Crown.[10] Neither the right of Māori to manifest and direct their rangatiratanga nor the Crown's right to govern is absolute: 'each must be conditioned by the other's needs and the duties of mutual respect'. However, because the power imbalance in the Māori–Crown relationship favours the Crown, it is the Crown's Treaty responsibility to ensure that Māori are not disadvantaged in that relationship.[11]

Active Protection

26. It is well-founded that the Crown's duty of active protection is central to the principles of the Treaty of 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 in breach of the principles of the Treaty of Waitangi. The notion that the principle encompasses an obligation upon the Crown to take proactive steps to ensure that Māori interests and taonga are

[9] Waitangi Tribunal, *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates* (Wellington: Legislation Direct, 2017), p21.
[10] Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wellington: Legislation Direct, 2001), p66.
[11] Waitangi Tribunal, *Te Whanau o Waipareira Report*, ppxxvi, 16, 30.

protected was established by the Tribunal as early 1985 in the Manukau Report where it stated:[12]

> 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.

27. The duty of active protection is not limited to the protection of proprietal interests but extends to the protection of Māori themselves:[13]

> 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.

28. From a tikanga Māori perspective, nothing could be more sacrosanct than the intergenerational wellbeing of tāngata Māori and their whānau, hapū and iwi.

29. The Privy Council further noted that the duty of active protection requires vigorous action where a taonga is threatened, especially where its vulnerability can be traced to earlier breaches of the Treaty:[14]

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[12] Waitangi Tribunal *Report of the Waitangi Tribunal on the Manukau claim* (Wai 8, 1989) at 79.
[13] 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.
[14] *New Zealand Māori Council v Attorney General* [1994] 1 NZLR 513 (PC) [*Broadcasting Assets* case] at 517.

> … 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.

30. In the Hauora Report the Tribunal stated: [15]

> The principle of active protection also arises from the Treaty partnership, through the exchange of kāwanatanga and tino rangatiratanga.[16] This includes the Crown's obligation to protect actively Māori tino rangatiratanga, including the Māori right to autonomy.[17] Thus, in the modern context, the Tribunal has considered that the Treaty guarantee of tino rangatiratanga affords Māori, through their iwi, hapū, or other organisations of their choice, the right to decision-making power over their affairs.[18] As the Tribunal noted in the Ngāpuhi Mandate Inquiry Report, 'the capacity of Māori to exercise authority over their own affairs as far as practicable within the confines of the modern State' is key to the active protection of tino rangatiratanga.[19]
>
> The Tribunal has affirmed that the Treaty guarantee of tino rangatiratanga was a promise of active protection of Māori autonomy. In encompassing autonomy and self-government

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[15] Waitangi Tribunal, *Hauora Report* on Stage One of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575, 2023) at 30.
[16] Waitangi Tribunal, *The Whakatōhea Mandate Inquiry Report* (Wellington: Pre-publication version, 2018), p23; Waitangi Tribunal, *Tū Mai te Rangi!* p21; *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 (CA), p664.
[17] Waitangi Tribunal, *Tauranga Moana, 1886–2006: Report on the Post-Raupatu Claims*, 2 vols (Wellington: Legislation Direct, 2010), vol 1, p22; Waitangi Tribunal, *The Ngāpuhi Mandate Inquiry Report*, p23; Waitangi Tribunal, *Te Whanau o Waipareira Report*, p215.
[18] Waitangi Tribunal, *The Ngātiwai Mandate Inquiry Report* (Wellington: Legislation Direct, 2017), p27; Waitangi Tribunal, *Te Whanau o Waipareira Report,* p215; Waitangi Tribunal, *Ngāpuhi Mandate Inquiry Report*, p24; Waitangi Tribunal, *Turanga Tangata Turanga Whenua: The Report on the Turanganui a Kiwa Claims*, 2 vols (Wellington: Legislation Direct, 2004), vol 2, p739.
[19] Waitangi Tribunal, *The Ngāpuhi Mandate Inquiry Report*, p23.

> to the fullest extent possible, tino rangatiratanga is an equivalent term to mana motuhake.[20] Together, these statements provide clear indications of a Treaty-compliant partnership that recognises tino rangatiratanga adequately, including the Māori 'right to autonomy and self-government, and their right to manage the full range of their affairs in accordance with their own tikanga'.[21]
>
> However, the guarantee of tino rangatiratanga is not absolute and unqualified. Whilst the obligation is consistent, the Crown is not required to go beyond what is reasonable in the prevailing circumstances. What is reasonable will change depending on the circumstances that exist at the time.[22]

Participation and Equity

31. The obligations arising from partnership, and active protection give rise to the principle of participation and in particular, the principle that Māori are entitled to participate equitably alongside Pākehā from Crown policy and legislation. This requires the Crown to act fairly toward both Pākehā and Māori – the interests of settlers could not be prioritised to the disadvantage of Māori. Where Māori have been disadvantaged, the principle of participation and equity – in conjunction with the principles of partnership and active protection require that active measures be taken to restore the balance.

32. The Tribunal stated in the Hauora Report:[23]

> 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

[20] Waitangi Tribunal, *Tauranga Moana*, vol 1, p20; Waitangi Tribunal, *He Maunga Rongo: Report on the Central North Island Claims*, 4 vols (Wellington : Legislation Direct, 2008), vol 1, p172 ; Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi* (Wellington : Legislation Direct, 1996), pp6, 20.
[21] Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims – Pre-publication Version*, Parts I and II (Wellington: Waitangi Tribunal, 2018), p189.
[22] *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 (PC), p517.
[23] Waitangi Tribunal, *Hauora Report* on Stage One of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575, 2023) at 33.

privileges of British subjects.[24] The Tribunal has found that this article not only guarantees Māori freedom from discrimination but also obliges the Crown to positively promote equity.[25] 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. As the Tribunal states in its pre-publication report, *Te Mana Whatu Ahuru : Report on Te Rohe Pōtae Claims*, 'the Crown could not favour settlers over Māori at an individual level, and nor could it favour settler interests over the interests of Māori communities'.[26] Further, the Tribunal has found that the Treaty principle of equity obliges the Crown to 'meet a basic standard of good government', by acting in accordance with its own laws and ensuring that Māori rights and privileges as citizens have the protection of the law in practice.[27] To this end, in its inquiry into Te Rohe Pōtae claims, the Tribunal said that the Crown 'should be accountable for its actions in relation to Māori and subject to independent scrutiny'.[28]

In this way, the principle of equity is closely linked to the principle of active protection. Alongside the active protection of tino rangatiratanga is the Crown's obligation, when exercising its kāwanatanga, to protect actively the rights and interests of Māori as citizens. At its core, the principle of equity broadly guarantees freedom from discrimination, whether this discrimination is conscious or unconscious. Like active protection, for the Crown to satisfy its obligations under equity, it must not only reasonably ensure Māori do not suffer inequity but also actively inform itself of the occurrence of inequity.

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[24] Treaty of Waitangi Act 1975, sch 1, art 3.
[25] Waitangi Tribunal, *The Napier Hospital and Health Services Report*, pp48, 62; Waitangi Tribunal, *Report on the Crown's Foreshore and Seabed Policy* (Wellington: Legislation Direct, 2004), p133; Waitangi Tribunal, *The Mohaka ki Ahuriri Report* (Wellington : Legislation Direct, 2004), p27; Waitangi Tribunal, *The Te Arawa Mandate Report* (Wellington : Legislation Direct, 2004), p94 ; Waitangi Tribunal, *The Offender Assessment Policies Report* (Wellington : Legislation Direct, 2005), p13 ; Waitangi Tribunal, *He Maunga Rongo*, vol 2, p428.
[26] Waitangi Tribunal, *Te Mana Whatu Ahuru – Pre-publication Version,* Parts I and II, p185.
[27] Waitangi Tribunal, *He Maunga Rongo*, vol 2, pp428–429.
[28] Waitangi Tribunal, *Te Mana Whatu Ahuru – Pre-publication Version*, Parts I and II, p189.

Crown Breaches of the Principles of the Treaty of Waitangi

33. In breach of the principles of the Treaty of Waitangi including the principles of partnership, protection and participation, the Crown is taking active policy steps to demote Te Tiriti o Waitangi from its centrality to New Zealand's education system.

Cuts to Te Ahu o Te Reo Māori

34. On 26 September 2024 the Minister of Education announced a $30m cut to Te Aho o Te Reo Māori, in order to direct funding toward mathematics resources.[29]

35. Te Ahu o te Reo Māori is a national initiative offering specialist courses catering to all levels of te reo Māori proficiency, in multiple regions throughout Aotearoa.

36. The primary aim of the initiative is to support the Māori language development of the education workforce and to enhance the educational experience and outcomes of students throughout Aotearoa.

37. The nationwide rollout of the initiative began in July 2021, following a pilot programme between May 2019 and July 2020 in four regions.

38. Since its launch, Te Ahu o te Reo Māori has created around 30,000 language acquisition opportunities for the education workforce and whānau attached to learning settings throughout Aotearoa.

39. Te Ahu o te Reo Māori also aligns with broader strategic goals related to Māori language revitalisation and education.

40. Specifically, it supports the objectives of the Maihi Karauna (the Crown's Strategy for Māori Language Revitalisation 2019-2023) by supporting the Crown to create the conditions for te reo Māori to be learned through our education system.

[29] https://www.beehive.govt.nz/release/supercharging-schools-teach-maths

41. It also aims to support the outcomes identified in Tau Mai Te Reo – the Māori Language in Education Strategy, and Ka Hikitia – Ka Hāpaitia, the Māori Education Strategy.

42. A recent Ministry of Education review of the programme captured in *Te Ahu o te Reo Māori Evaluation An integrated view of the Phase 1 and 2 reports* found it to be highly successful in meeting its aims and in its contribution to Māori language revitalisation.

43. The evaluation report noted that, 'in serving the education workforce, and particularly teachers, the ripple effect of this investment should not be underestimated. Simply put, the influence of teachers amplifies the impact of Te Ahu o te Reo Māori on Māori language revitalisation far beyond the obvious numbers of direct participants.'[30]

44. The cut was considered by cabinet on 2 September 2024. The accompanying cabinet paper noted that the programme had been 'a significant contributor to implementation of Maihi Karauna, the Crown's Strategy for Māori Language Revitalisation 2019–2023.'[31]

45. Despite this important strategic contribution towards te reo revitalisation the Government proceeded with the cut.

46. We are not aware of any external consultation taking place to inform the Government's position.

47. Furthermore, the Australian Associated Press fact check found justifications used by the minister for cutting the programme to be misleading.[32]

Proposed changes to the Education and Training Act 2020

48. Proposed changes to the Education and Training Act 2020 seek to downgrade the standing of Te Tiriti o Waitangi within the Education and

[30] Te Ahu o te Reo Māori Evaluation An integrated view of the Phase 1 and 2 reports July 2024, Ministry of Education, p.48.
[31] Plan for tackling maths achievement.
[32] https://www.aap.com.au/factcheck/nz-ministers-justification-for-axing-maori-language-program-misleads/

Training Act by making educational achievement the sole primary objective for school boards.

49. Current wording of section 127 of the Education and Training Act 2020 reads:

> **127** Objectives of boards in governing schools
>
> (1) A board's primary objectives in governing a school are to ensure that—
>
> (a) every student at the school is able to attain their highest possible standard in educational achievement; and
>
> (b) the school—
>
> i. is a physically and emotionally safe place for all students and staff; and
>
> ii. gives effect to relevant student rights set out in this Act, the New Zealand Bill of Rights Act 1990, and the Human Rights Act 1993; and
>
> iii. takes all reasonable steps to eliminate racism, stigma, bullying, and any other forms of discrimination within the school; and
>
> (c) the school is inclusive of, and caters for, students with differing needs; and
>
> (d) the school gives effect to Te Tiriti o Waitangi, including by—
>
> i. working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and
>
> ii. taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and

iii. achieving equitable outcomes for Māori students.

50. Thereby the proposed changes will remove or otherwise nominalise the obligation of public schools to give effect to Te Tiriti o Waitangi by working to ensure their plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and achieving equitable outcomes for Māori students.

Charter Schools

51. Legislation reestablishing charter schools was introduced as part the Education and Training Amendment Bill 2024 which passed into law in September 2025.

52. Unlike legislation covering mainstream public schools, legislation enabling charter schools includes no specific Te Tiriti obligation.

53. According to the Ministry of Education, 'there will be no formal requirement to ensure charter schools' plans, policies and curricula reflect local tikanga Māori, mātauranga Māori and te ao Māori, or to take reasonable steps to make instruction in tikanga Māori and te reo Māori'.[33]

54. Teachers in charter schools are also not required to be registered or hold a current practicing certificate, which excludes these workers from the requirements of the Code of Professional Responsibility Ngā Tikanga Matatika, and the Standards for the Teaching Profession Ngā Paerewa and Te Tiriti obligations therein.

55. Because of this the Regulatory Impact Statement states that 'charter schools could also reinforce existing inequities experienced by ākonga

[33] Ministry of Education, 'Departmental Disclosure Statement: Education and Training Amendment Bill', 12 June 2024, p.10. Accessed 15 July 2024: https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2024_66.pdf

Māori, particularly if a schools leadership lacks the skills needed to address Māori concerns and inequities.'[34]

Ka Ora, Ka Ako School Lunch programme

56. The Ka Ora, Ka Ako school lunch programme includes an iwi and hapū social procurement and partnership model.

57. A 2023 review of this procurement model concluded that, 'As it currently stands the model, operationalised by the Ministry of Education, gives substantial effect to a Tiriti-based model of working.' [35]

58. The 2023 evaluation further concluded that the iwi and hapū social procurement and partnership model:

    a) Gives substantial effect to a Te Tiriti o Waitangi based way of working;

    b) Provides an equitable opportunity for iwi and hapū to become suppliers for Ka Ora, Ka Ako;

    c) Supports the development of iwi and hapū capability and capacity at local levels;

    d) Supports rangatiratanga and the mana of iwi and hapū in looking after their own tamariki and rangatahi;

    e) Supports the development and/or strengthening of relationships between schools/kura and iwi/hapū;

    f) Has enabled iwi and hapū to respond to the needs of ākonga;

[34] Regulatory Impact Statement: Reinstating a New Zealand Model of Charter Schools, p.3.

[35] *HE KAI KEI AKU RINGA Evaluation of the Iwi and Hapū Social Procurement and Partnership Model, under Ka Ora, Ka Ako | The Healthy School Lunches Programme*. Mana Pounamu Consulting, Ministry of Education. 2023. p. 46.

https://web-assets.education.govt.nz/s3fs-public/2024-11/He-Kai-Kei-Ringa_Evaluation-Report-FINAL-.pdf?VersionId=dPZvQn9SYITbKJ.2yTafs3oKB7FjWjqa

g) Has increased trust between iwi and hapū and the Ministry of Education; and

h) Provides family-friendly employment opportunities for some whānau.

59. On 22 October 2024 the Government announced changes to the Ka Ora, Ka Ako school lunch programme, due to come into effect in January 2023.

60. The changes will mean that schools with Year 7+ learners are effectively prohibited from using the iwi and hapū social procurement and partnership model when giving effect to Ka Ora, Ka Ako school lunch programme.[36]

Changes to the New Zealand Curriculum / Te Marautanga Aotearoa

61. One in four children in our schools are Māori.

62. The significant majority of our tamariki Māori (93.5%) are in mainstream schooling.

63. This means that changes to the mainstream curriculum have a profound impact on ākonga Māori.

64. The Government has undertaken a significant reform of the curriculum for primary school age children following a review from a Ministerial Advisory Group (MAG) in late 2023 – early 2024.

65. Among the members of the MAG were individuals who have expressed open disdain for mātauranga Māori and the place of Te Tiriti o Waitangi in education.[37]

[36] https://www.beehive.govt.nz/release/smarter-healthy-school-lunches-programme-serves-130m-savings

[37] https://www.beehive.govt.nz/release/first-steps-100-day-plan-education-removing-distractions-and-teaching-basics-brilliantly

66. Following an initial review, the MAG and other curriculum writing teams redrafted the English learning area for Years 0-6 and the mathematics and statistics learning area for Years 0-8.

67. The mathematics learning area was open for consultation from 12 August to 9 September 2024, while the English learning area was open for consultation from 26 August – 20 September 2024.

68. In the draft English learning area for Years 0-6 and the draft mathematics and statistics learning area for Years 0-8, references to Te Tiriti o Waitangi are demoted from being central in the 2023 draft content to its near exclusion from the 2024 draft.

69. Te Tiriti references have been removed from both the Te Mātaiaho framework outline, the introduction and the English purpose statement.

70. The updated draft purpose statement has also removed all mention of mātauranga Māori, te ao Māori, Māori perspectives, bicultural Aotearoa.

71. Explicit references to mātauranga Māori have more generally been removed from the draft curriculum.

72. Under Mātairangi | The Guiding Kaupapa 'The overarching kaupapa, expressing the centrality of Te Tiriti o Waitangi and it's principles, and New Zealand's vision for education' has been replaced with 'The overarching kaupapa guiding the curriculum, based on the science of learning and ensuring excellent and equitable outcomes for students'.

73. Te Tiriti o Waitangi is not replaceable with a theory of learning. The insertion of 'science of learning' should not be at the expense of Te Tiriti o Waitangi.

Changes to Marsden Fund

74. On 4 September 2024, the Government announced changes to the Terms of Reference for the Marsden Fund, stipulating that approximately 50 percent of funds 'go towards supporting proposals with economic benefits to New Zealand', and disbanding the humanities and social sciences

panels meaning that research in these areas will no longer be supported by the fund.[38]

75. These two panels receive most of the proposals based on Māori knowledge, so this decision will reverse the progress that has been made in recent years towards funding for Māori research.

76. Of the 25 grants awarded by the fund for the 2024 round, 16 (64%) were for research that involved some form of Māori focus.[39]

Overall Recommendations Sought

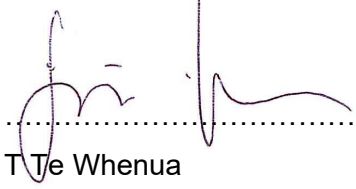
77. In these circumstances, the Claimant asks for the following findings:

    (a) That the claim is well founded.

    (b) That the Crown has and continues to breach its Te Tiriti o Waitangi obligations towards Māori by failing to uphold Te Tiriti o Waitangi within New Zealand's education system.

    (c) That the Crown take urgent steps to cease and revoke the policies set out within this statement of claim.

DATED this 20th day of December 2024



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T Te Whenua

Claimant Counsel

[38] https://www.beehive.govt.nz/release/marsden-fund-refocused-science-purpose

[39] https://www.royalsociety.org.nz/what-we-do/funds-and-opportunities/marsden/awarded-grants/marsden-fund-awards-2024/