BEFORE THE WAITANGI TRIBUNAL **WAI**

TE ROOPUU WHAKAMANA I TE TIRITI O WAITANGI

UNDER THE	Treaty of Waitangi Act 1975
IN THE MATTER	of a claim in respect of the Crown's policy to amend the Local Electoral Act 2001 and the Local Government Act 2002 in respect of Maaori wards and constituencies, by **Tukoroirangi Morgan** for and on behalf of Te Whakakitenga o Waikato Incorporated and for the benefit of the iwi of Waikato-Tainui and all Maaori residing in the rohe of Waikato-Tainui and the wider Waikato region
AND	an application for urgent inquiry

BRIEF OF EVIDENCE OF DONNA FLAVELL

IN SUPPORT OF URGENCY APPLICATION

6 MAY 2024

RECEIVED
Waitangi Tribunal
6 May 24
Ministry of Justice
WELLINGTON

WHĀIALEGAL

Solicitors acting
M M E Wikaira | M A Hori Te Pa | R K Douglas
P 027 646 7797 | 027 872 7131
E maia@whaialegal.co.nz | mariah@whaialegal.co.nz | rahera@whaialegal.co.nz
A PO Box 910, Wellington 6140
www.whaialegal.co.nz

Counsel
J P Ferguson
Barrister, Kookiri Chambers
P 021 489 478
E jamie@kokirichambers.nz
A PO Box 38100, Lower Hutt 5045

INTRODUCTION

1. Ko Donna Flavell tooku ingoa. He uri ahau noo Waikato (Ngaati Te Ata), Ngaapuhi (Ngaati Pakau) me Ngaati Ruapani.

2. I am the Tumu Whakarae, Chief Executive Officer of Te Whakakitenga o Waikato Incorporated (**Te Whakakitenga**).

3. I provide this statement in support of Tukoroirangi Morgan's application for urgency for and on behalf of Te Whakakitenga and for the benefit of the iwi of Waikato-Tainui and all Maaori residing in the rohe of Waikato and the wider Waikato region.

4. The application for urgency concerns the issue of the Crown's policy to:

   (a) reinstate the mechanisms for binding polls about the establishment of Maaori wards or constituencies; and

   (b) require councils that have established or resolved to establish Maaori wards or constituencies since 2021 to effectively disestablish those wards or constituencies.

MAAORI REPRESENTATION IN THE ROHE OF WAIKATO-TAINUI AND THE WIDER WAIKATO REGION

Before the 2021 amendments

5. Te Whakakitenga has established direct relationships with all local authorities in our rohe over the last two decades, and advocated for Maaori representation at local government levels for many years.

6. We were instrumental in the establishment of two Maaori constituencies on the Waikato Regional Council ahead of the 2013 local elections, called Ngaa Hau e Whaa and Ngaa Tai ki Uta.

7. Ngaa Hau e Whaa and Ngaa Tai ki Uta were established under the pre-amendment regime, and followed an extensive public consultation process and exhaustive advocacy by Te Whakakitenga and other Maaori advocate groups.

8. I am aware that in other areas of the country, the proposal for councils to establish Maaori wards have been voted down by a small portion of voters petitioning their councils to hold a binding poll, and then drumming up opposition support to win the majority vote. This does not seem fair. It means our hard-fought success with the Waikato Regional Council was not easily replicated across the country.

After the 2021 amendments

9. Since the 2021 changes to the Maaori wards and constituencies regime, about 45 councils have established or resolved to establish Maaori wards throughout New Zealand.

10. Eight of those councils are in the rohe of Waikato-Tainui and the wider Waikato region:

    (a) Hamilton City Council;

    (b) Hauraki District Council;

    (c) Matamata-Piako District Council;

    (d) Ootorohanga District Council;

    (e) Taupoo District Council;

    (f) Thames-Coromandel District Council;

    (g) Waikato District Council; and

    (h) Waipaa District Council.

11. With the already established constituencies at Waikato Regional Council, this is nine of 12 councils that have Maaori wards or constituencies in our rohe and the wider region.

12. Last year, Waikato Regional Council also resolved to keep Ngaa Hau e Whaa and Ngaa Tai ki Uta, as part of their six-year representation review.

13. This is a big win for our people – both for the individuals who were elected to serve on councils in the 2022 local elections, and for the people they represent. We expect to see greater participation for all Maaori in local government activities as a result.

14. The other three councils, Auckland City Council, South Waikato District Council and Waitomo District Council, recently resolved not to establish any Maaori wards in their districts.

15. The point is that local councils now have the ability to freely make the appropriate representation decisions for their areas, without being petitioned by opposition campaigners.

16. Overall, the 2021 changes and the establishment of Maaori wards by most local authorities in our rohe and the wider region has played a key role in addressing the issue of under-representation in local government of Maaori who whakapapa to Waikato, and all Maaori residing in the rohe of Waikato-Tainui and the wider Waikato region.

URGENCY

17. We are seeking an urgent inquiry because of the Minister of Local Government's announcement that the Government will be introducing a Bill to implement its policy, at the earliest by 20 May 2024.

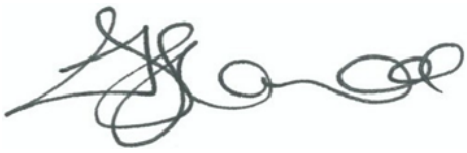
18. I understand that once the Bill is introduced the Tribunal will not be able to inquire. This claim will have to be heard urgently or not at all – if it is heard after the new Act is in effect, it will be too late.

19. If the Tribunal grants urgency, we are ready. We are already in the process of preparing evidence to present to the

Tribunal. I expect that evidence will provide greater detail of the work Te Whakakitenga has done directly with local government in our rohe, and the struggles that we have faced and successes we have achieved for fair representation.

20. We are also requesting that our claim is heard as part of the Maaori Wards and Constituencies Urgent Inquiry (Wai 3365), because they are about the same subject matter. I am aware that a timetable has already been set for that inquiry and we are prepared to meet it.

DATED this 6th day of May 2024



Donna Flavell
Tumu Whakarae | Chief Executive Officer
Te Whakakitenga o Waikato Incorporated