KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL **WAI 3513**

IN THE MATTER OF	**the Treaty of Waitangi Act 1975**
AND	
IN THE MATTER OF	**an application for urgent inquiry by John Ruddock**

JOINT BRIEF OF EVIDENCE OF ANDREW ROBERT JACKSON AND TANYA LYNN HARVEY

RECEIVED
Waitangi Tribunal
15 Sep 25
Ministry of Justice
WELLINGTON

Te Tari Ture o te Karauna
Crown Law

Pouaka Poutāpeta
Te Whanganui-a-Tara
Waea

PO Box 2858
Wellington 6140
Tel: 04 472 1719

Whakapā mai: **Contacts:**

Instructed barrister: Tim Smith
tim.smith@chambers.co.nz

Simon Barr / Zoe McCoy
Simon.Barr@crownlaw.govt.nz / Zoe.McCoy@crownlaw.govt.nz

We, Andrew Robert Jackson and Tanya Lynn Harvey of Wellington, public servants state:

Introduction

Andrew Jackson

1. I am currently employed as Deputy Secretary Policy at the Ministry of Education (the **Ministry**). In this role, I lead Te Pou Kaupapahere | Policy. I am responsible for strategic, funding, and regulatory policy advice and analysis across the education system, covering Early Childhood, Schooling and Tertiary Education, including Kaupapa Māori, Māori Medium and Pacific education. Relevant to this proceeding, Schooling policy includes enrolment and attendance, and international students.

2. I have over 20 years of experience in public policy and operations and previously worked in other areas of the public service before starting at the Ministry in 2017.

Tanya Harvey

3. I am a Director of Education for the Ministry in Auckland (North and West region) and have been employed by the Ministry since January 2018.

4. In my role as Director, I lead the delivery of Ministry services across the region by co-ordinating and facilitating organisational and sector efforts to create an education system that raises achievement for all New Zealanders. I am accountable for the performance of the area to deliver responsive solutions in order to raise the local education priorities and goals.

5. I am a Chartered Accountant, hold an MBA from the University of Auckland, and have been involved in the education sector for over 25 years.

Scope of evidence

6. The purpose of this brief is to set out the relevant law and policy relating to enrolment at school by anyone who is not a domestic student and explain the response of the Ministry to the request we received about Mr Ruddock's children.

7. I address the following matters in this brief of evidence:

7.1 Eligibility to enrol in New Zealand schools under the Education and Training Act 2020 (the **Act**).

[redacted]
Confidential

Eligibility to enrol in New Zealand schools under the Act

8. Every person between the ages of 5 and the first of January following their 19th birthday has an entitlement to free enrolment and free education at any State or Charter school if they are a domestic student.[1]

9. A domestic student is a New Zealand citizen, a person who holds a residence class visa under the Immigration Act 2009 or a person described in the Education (Domestic Students) Notice 2023 (the **Gazette Notice**).[2] Categories of persons who are treated as domestic students under the Gazette Notice include persons who hold student visas and who meet other criteria[3] and persons unlawfully in New Zealand who hold an unexpired approval from the Ministry confirming they meet certain criteria.[4]

10. Students who are not domestic students are, by default, international students.[5] International students have no automatic entitlement to education in New Zealand[6] and are not entitled to receive free education.[7]

11. Section 519(9) of the Act allows principals of schools the discretion to have an international student receive tuition in their school for no more than 28 consecutive days without the consent of the school's board and without paying fees for international students. The schools do not receive funding

1 Section 33(1), Education and Training Act 2020.
2 Section 10(1), Education and Training Act 2020.
3 See for example, category 'k', Gazette Notice.
4 Category 'n', Gazette Notice.
5 Definition of 'international student', section 10(1), Education and Training Act 2020.
6 Section 519-523.
7 Section 521.

from the Ministry for the provision of this tuition.[8] [redacted]

12. The Secretary for Education has a discretion to extend the 28-day eligibility and fee-waiver period to enable an international student to continue receiving tuition at a school.[9] The Secretary would usually only exercise the discretion in a specific case where concrete steps were being taken to secure an appropriate visa that would allow further study.

[redacted]

8 Section 550(3) of the Act expressly prohibits the Minister from granting funding to a school for an international student.

9 Section 519(9).

[redacted]

Signed: _____

Andrew Robert Jackson

Date:

Signed: _____

Tanya Lynn Harvey

Date: