

IN THE WAITANGI TRIBUNAL

Wai 2800

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Inquiry into Remaining
Historical Claims

AND

Te Aute College claims (Wai
1456 & Wai 2332)

**MEMORANDUM-DIRECTIONS OF JUDGE WARA REGARDING AN
APPLICATION FOR PRIORITY**

12 January 2026

Introduction

1. This memorandum-direction address the application for priority hearing of claims filed by Gary Meroiti and Julian Wilcox of the Te Aute College claims (Wai 1456 & Wai 2332) (Wai 2800, #3.1.34 & #3.1.34(a)).
2. The applicants seek a priority hearing of their claims so that their grievances can be properly and promptly addressed for the future benefit of 'Te Tāhuhu ki te Rangi'.

Procedural history

3. On 25 September 2025, the Tribunal received a memorandum of counsel filed by McCaw Lewis on behalf of the applicants seeking (Wai 2800, #3.1.34):
 - (a) consolidation of both the Wai 1456 and Wai 2332 claims within the Inquiry into Remaining Historical Claims (Wai 2800); and
 - (b) for the priority hearing of the Wai 1456 and 2332 claims.
4. Counsel notes that the application made by the applicants is also made for – and is supported by – past and present students of Te Aute College, Hato Paora College and St Stephens School, which are collectively known as 'Te Tāhuhu ki te Rangi'.
5. The claims concern the historical and ongoing financial and educational prejudice of Te Aute College, as well as Te Tāhuhu ki te Rangi as a whole. The grievances relate to the 'wrongful and illegal' actions of the Anglican and Catholic Churches, that the applicants submit, have been ongoing since the inception of Te Tāhuhu ki te Rangi school trusts and endowments.
6. The applicants allege the Crown's 'blind eye' and failure to intervene acquiesced and actively assisted the churches. Further, the applicants submit that these historical and contemporary ongoing failures to protect the school trusts, and beneficiaries of the school trusts, have breached te Tiriti o Waitangi (Wai 2800, #3.1.34 at [8(a)–(k)]).
7. Notably, on 18 December 2024, both claims were identified as preliminarily eligible for participation in the Education Services and Outcomes Kaupapa Inquiry (Wai 3310) (Wai 3310, #2.5.5 & #2.5.5(a)).
8. The Presiding Officer of the Wai 3310 inquiry sought submissions in the inquiry regarding the prioritisation of any issues for hearing (Wai 3310, #2.5.5 & #2.6.1). The applicants made several submissions regarding the prioritisation of their claims as well as issues regarding Māori boarding schools for inquiry (Wai 3310, #3.1.6, #3.1.6(a)–(b), #3.2.13).
9. The Wai 3310 panel has not had the opportunity to address these submissions, and on 2 July 2025 the Chairperson of the Tribunal released its *Strategic Direction: 2025* –

2035.¹ Significantly, the Wai 3310 inquiry is now one of several inquiries delayed to start until 2030 as a result of the Tribunal's priority to complete other inquiries already in train.

10. Consequently, the applicants are concerned – given the 'dire situation' for Te Tāhuhu ki te Rangi schools – that the delay will continue to impact the economic viability of Te Tāhuhu ki te Rangi, lead to ongoing issues with governance, and increase the risk of Tīpene being closed due to its inability to accommodate the required roll increases set out in the Charter School Agreement for 2026.

Participation in Wai 2800

11. Due to their concerns above, the applicants have felt the need to 'consider all other options for the hearing of their claims'.
12. The applicants note that Wai 1456 is partially settled under the Heretaunga Tamatea Claims Settlement Act 2018, however only insofar as the grievances affect Heretaunga Tamatea. The Act does not address the grievances which exist outside Heretaunga Tamatea.
13. The applicants have had unsuccessful attempts of engagement with the Crown since March 2008. While they remain open to discussions with the Crown, in the absence of any present engagement, their immediate concern is that their claims are heard and a report is issued by the Tribunal.
14. The applicants reference the Tribunal's findings made in relation to other similar school trusts and endowment lands at Pāpāwai, Kaikōkirikiri and Whakarewa which have resulted in positive Crown interventions and action.²
15. While the applicants acknowledge that the request is not strictly in line with the initial purpose of the Wai 2800 Inquiry and the 'fast-track process' established by the Tribunal, the applicants submit it remains generally aligned with the intention of this inquiry and the Tribunal's overarching jurisdiction.

Criteria for prioritisation of claims for inquiry

16. The *Guide to the Practice and Procedure of the Waitangi Tribunal (2023)* sets out the different instances where priority can occur. For the priority inquiry into a specific claim or issue that is already currently within an inquiry, the Tribunal may have regard to the following criteria:³

- (a) the readiness of the applicants to proceed;

¹ Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal, *Strategic Direction: 2025 – 2035* (3 July 2025) [Strategic Direction 2025–2035](#).

² Waitangi Tribunal, *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims* (Vol III) (Wai 785: 2008); Waitangi Tribunal, *The Wairarapa ki Tararua Report* (Vol I) (Wai 863: 2010).

³ Waitangi Tribunal, *Guide to the Practice and Procedure of the Waitangi Tribunal (2023)* at [3.15] – [3.17].

- (b) the time that a claim has been outstanding on the register;
- (c) the availability of hearing time allowed by gaps in the hearing of active inquiries; and
- (d) any other relevant factors.

17. Upon receipt of an application for priority in line with the criteria above, the Tribunal will only grant such applications in exceptional cases.

Readiness of applicants to proceed

18. The applicants submit they are ready to proceed to hearing without delay as they have undertaken extensive research over more than 20 years, and have assembled documentary evidence in support of the claims including four comprehensive historical reports.⁴
19. Further, the applicants are compiling further evidence of past pupils like Tā Hirini Moko Mead and Tā Mason Durie, Stan Pardoe as a past member of the Te Aute Trust Board and Ereatarea Tutehuinga Niania. The applicants state that other past pupils of Te Tāhuhu ki te Rangi can provide evidence in support, if needed.

Time that a claim has been outstanding on the register

20. The Wai 1456 claim was filed in 2007 regarding historical grievances stemming back over 170 years. While aspects relating to Heretaunga Tamatea have been settled, the balance of claims remains extant.
21. The applicants submit that the continued wait to be heard risks placing those affected at a disadvantage compared to their Heretaunga Tamatea whanaunga.

Availability of hearing time

22. The applicants submit that any priority hearing of their claims will not unduly delay or adversely affect the hearing of other claims. The applicants consider any hearing can be completed in one week, acknowledging the Tribunal's current hearing timetable as well as the aforementioned completed research, collection and collation of evidence, and the reports produced.
23. Further, in the applicants' submissions, the Tribunal's familiarity with the claims (having previously heard similar claims).⁵ Further, the applicants state that the Tribunal's previous findings that are relevant and applicable to the claims, that the applicants state that Crown has previously accepted and acted on, will assist in narrowing the issues before the Tribunal.

⁴ Wai 3310, #A1 – #A4.

⁵ Waitangi Tribunal, (Wai 785: 2008); Waitangi Tribunal, (Wai 863: 2010).

Other relevant factors: ongoing prejudice

24. If the claims are not heard until 2030, the applicants submit that the delay poses significant risks for Te Tāhuhu ki te Rangi schools, including the risk of closure, due to the ongoing financial and educational prejudice suffered by the schools, and the rapid decline in the school rolls as a result of the Private Schools Conditional Integration Act 1975 (and the subsequent Education and Training Act 2020).
25. The applicants highlight that several schools have already been closed under this legislation, and this risk is now present for Te Tāhuhu ki te Rangi due to the already 'severely comprised education viability of the schools', the 'increased political tension' in the education sector, and the Minister of Education's public statements regarding charter schools (Wai 2800, #3.1.34).⁶

Discussion

Wai 2800 Inquiry into Remaining Historical Claims

26. The Wai 2800 Inquiry into Remaining Historical Claims was set up in September 2018 to hear any remaining historical Treaty claims with outstanding historical claim issues that have not yet been heard or resolved, and that claimants still wish to bring before the Tribunal.
27. In the Tribunal's latest *Strategic Direction: 2025–2035*, the Wai 2800 inquiry is set to conclude by 2030.
28. In memorandum-directions dated 12 January 2026 (Wai 2800, #2.5.17), I and my panel outlined a new approach to addressing claims that raise remaining historical issues. This new approach will enable the inquiry to meet the timeframes set out in the *Strategic Direction* and conclude by 2030. We indicated that the inquiry will:
 - (a) adopt a new, nation-wide approach to addressing outstanding historical claims based on eligibility, claimant intention to proceed, readiness to be heard, and the complexity of claims issues (Wai 2800, #2.5.17 at [5]-[7]); and
 - (b) focus on outstanding historical issues that are discrete or local in nature and do not fall within the ambit of an existing kaupapa inquiry. Where a claim raises nationally significant outstanding historical issues that fall within the scope of an existing kaupapa inquiry, those claims will generally be heard within the relevant kaupapa inquiry (Wai 2800, #2.5.17 at [8]).
29. Claimants with claims filed on or before the statutory deadline for historical claims (on 1 September 2008), have been directed to file responses by 11 May 2026 indicating whether they intend to participate in this inquiry to have any remaining historical issues heard.

⁶ Justin Hu "Education Minister deflects charter school questions to Seymour" (10 August 2025) 1news <https://www.1news.co.nz/2025/08/10/education-minister-deflects-charter-school-questions-to-seymour/>.

30. This panel is prioritising an efficient and rapid inquiry process which will enable this Tribunal to meet the goal of completing its inquiry by 2030. This Tribunal has initiated a pānui process in order to fully understand the breadth of claims which remain unheard, and continue to seek litigation of their claim in the Tribunal, the responses of which will inform the ongoing structure of the inquiry plan.
31. It does not appear that the nature of this inquiry, from the latest memorandum-direction and the *Strategic Direction*, will meet the needs of the applicants nor the specific elements of their priority application.
32. Consolidation and aggregation are the processes undertaken by the Tribunal, largely now only terms used in district inquiries, in determining whether whole or part aspects of a claim will be heard by an inquiry:⁷
 - (a) a claim is consolidated within an inquiry when all the issues within the claim will be heard in a single inquiry; and
 - (b) a claim is aggregated within an inquiry when only some of the issues within that claim fall within a particular inquiry, while the remaining issues are heard in another relevant inquiry.
33. Further we note that while the Wai 1456 claim may contain outstanding historical allegations, the Wai 2332 claim is contemporary, and would therefore not be eligible to participate in the Wai 2800 inquiry.

Decision

34. For the reasons outlined above, the request for consolidation of the Wai 1456 and Wai 2332 claims in this inquiry are declined. We do not seek to determine the priority application, as the panel convened for the Wai 2800 inquiry.
35. However, we acknowledge the significance and impetus placed on having these claims heard, therefore, we **refer** this application to the Chairperson or Deputy Chairperson of the Tribunal to determine next steps.

⁷ Waitangi Tribunal, *Guide to the Practice and Procedure of the Waitangi Tribunal* (2023) at [3.20] – [3.25].

The Registrar is to send this direction to all those on the notification list for:

- Wai 2800, the Inquiry into Remaining Historical Claims; and
- Wai 1456, the Te Aute College claim; and
- Wai 2332, the Te Aute College claim.

DATED at Rotorua this 12th day of January 2026

A handwritten signature in blue ink, appearing to read 'T M Wara', written in a cursive style.

Judge T M Wara
Presiding Officer

WAITANGI TRIBUNAL