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

BEFORE THE WAITANGI TRIBUNAL **WAI 3561**

IN THE MATTER OF	**the Treaty of Waitangi Act 1975**
AND	
IN THE MATTER OF	**a claim by JESSE THOMPSON on behalf of himself**

CROWN RESPONSE TO APPLICATION FOR URGENCY

20 March 2026

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WELLINGTON

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MAY IT PLEASE THE TRIBUNAL:

Introduction

1. On 3 March 2026, a statement of claim and associated application for urgency was filed by Jesse Thompson on behalf of himself.[1] Mr Thompson then filed an amended statement of claim on 5 March 2026.[2]

2. On 6 March 2026, the Tribunal directed the Crown to respond to the application for an urgent hearing by midday 20 March 2026.[3]

3. The Crown opposes the application for an urgent inquiry.

4. In summary, the Crown submits:

   4.1 The claim relates predominantly to acts or omissions of Christchurch City Council and Environment Canterbury, rather than to acts or omissions of the Crown or to acts or omissions on behalf of the Crown. Local authorities are not the Crown and do not act on behalf of the Crown. The Tribunal does not therefore have jurisdiction to undertake much, perhaps all, of the inquiry the claimant seeks.

   4.2 To the extent the Tribunal might have jurisdiction to inquire into an aspect of the claim, such as the allegation that "the Crown has presided over a multi-site infrastructure collapse",[4] it is difficult to identify the Crown act or omission the claimant takes issue with, why he does so, and the prejudice that has arisen from any such Crown act or omission. In this application, exceptional circumstances justifying the granting of an urgent inquiry do not exist. The lack of detail also strongly suggests the claimant is not ready to proceed urgently to a hearing.

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1 Wai 3561, #1.1.1; the application for an urgent inquiry was made via the associated email from Mr Thompson to the Tribunal Registry on 3 March 2026.

2 Wai 3561, #1.1.1(a). These submissions address the amended statement of claim.

3 Wai 3561, #2.5.1 at [3].

4 See Mr Thompson's 3 March 2026 email lodging an application for an urgent inquiry, under "Grounds for Urgency" at [1].

Tribunal's urgency criteria

5. The Tribunal will grant an urgent hearing only in exceptional cases that warrant the diversion of the Tribunal's resources from the Tribunal's other inquiries and priorities.[5]

6. The three key criteria the Tribunal considers in determining whether to grant an urgency application are whether the claimant can demonstrate:[6]

   6.1 that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions, omissions or policies;

   6.2 that there is no alternative remedy that, in the circumstances, would be reasonable for the claimant to exercise; and

   6.3 that they are ready to proceed urgently to a hearing or (if appropriate) decision on the papers, without the need of further research to be filed.

7. Other factors that the Tribunal may consider include whether:[7]

   7.1 the claim challenges important current or pending Crown actions, omissions, or policies;

   7.2 an injunction has been issued by the courts on the basis that the claimant has submitted to the Tribunal the claim or claims for which urgency has been sought; and

   7.3 any other grounds justifying urgency have been made out.

The claim and grounds for urgency asserted

8. According to the claim documentation, the claim arises from a series of wastewater discharge events in Canterbury in early 2026:

   8.1 on 10 January 2026, a blockage caused wastewater to overflow into Lyttelton Harbour at Corsair Bay Beach;[8]

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5 Waitangi Tribunal "Te Tukanga Taihoro: An Expedited Urgent Inquiry Process" (August 2025) (Wai 3561, #2.5.1(a)) at [5].

6 Wai 3561, #2.5.1(a)) at [6].

7 Wai 3561, #2.5.1(a)) at [7].

8 Christchurch City Council "Wastewater overflows" https://ccc.govt.nz/services/water-and-drainage/wastewater/wastewater-overflows/confirmed-wastewater-overflows; the statement of claim referred

8.2 on 7 February 2026, wastewater was discharged from a damaged Christchurch City Council sewerage pipe into Te Waipapa / Diamond Harbour;[9] and

8.3 on 17 February 2026, it appears a wastewater overflow event occurred at Sandy Beach, Governor's Bay.[10]

9. The claimant appears to be concerned about:

9.1 the design of pump stations in the Christchurch City Council's wastewater scheme at Simeon Quay, Lyttelton and Corsair Bay;[11]

9.2 Environment Canterbury's regulatory role in regard to these pump stations;[12]

9.3 the Christchurch City Council's engagement with the public and hapū regarding wastewater overflow events in early 2026;[13]

9.4 the Christchurch City Council's management of its own assets, including funding decisions;[14] and

9.5 the Christchurch City Council's running of the Christchurch Wastewater Treatment Plant at Bromley and its future plans for it.[15]

10. The claimant seeks a variety of relief, including recommendations that:[16]

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instead to a major failure at "Sandy Point" in February 2026 (Wai 3561, #1.1.1(a) at [II(3)], and Mr Thompson's 3 March 2026 email lodging an application for an urgent inquiry referred to the "Governor's Bay incident".

9 Environment Canterbury Regional Council "Whakaraupō, Te Waipapa Diamond Harbour and Bays wastewater discharge event" (18 February 2026) <https://www.ecan.govt.nz/get-involved/news-and-events/2026/environment-canterbury-on-site-at-wastewater-discharge-into-diamond-harbour-te-waipapa>.

10 Christchurch City Council "Wastewater overflows" <https://ccc.govt.nz/services/water-and-drainage/wastewater/wastewater-overflows/confirmed-wastewater-overflows>.

11 Wai 3561, #1.1.1(a) at [II(1)].

12 Wai 3561, #1.1.1(a) at [II(2)].

13 Wai 3561, #1.1.1(a) at [II(3) – (4)].

14 Wai 3561, #1.1.1(a) at [II(5)].

15 Wai 3561, #1.1.1(a) at [III].

16 Wai 3561, #1.1.1(a) at [IV]. While the "Remedy" sought by the claimant is not framed as recommendatory, the Crown assumes that for the purpose of a potential Waitangi Tribunal Inquiry the claimant seeks Tribunal recommendations addressed at the relevant decision-makers.

10.1 the Christchurch City Council immediately transfer all regulatory control of harbour water assets to a hapū-led authority under the Resource Management Act 1991 (**RMA**), s 33;

10.2 the Christchurch City Council (presumably) is fully liable to the hapū-led authority (presumably) for the costs of addressing the wastewater overflow events;

10.3 the Christchurch City Council divert 35 per cent of Lyttelton Port Company shares to the hapū-led authority; and

10.4 the Christchurch City Council is liable under s 338 of the RMA as long as analogue systems remain in operation at its wastewater pumps.

11. The claimant puts forward a number of bases which he says justify urgency. These, too, are not explained in any depth. However, in summary, the claimant has requested that the claim be heard with urgency owing to:[17]

11.1 irreversible prejudice caused by an alleged "multi-site infrastructure collapse" in the Christchurch wastewater system, presided over by the Crown, and Christchurch City Council's delay notifying hapū;

11.2 "Administrative subversion" whereby the Christchurch City Council allegedly misclassified sewage infrastructure; and

11.3 an "Obstruction of justice" whereby Environment Canterbury transferred parts of Mr Thompson's Local Government Official Information and Meetings Act 1987 request to Christchurch City Council.

The Crown opposes the granting of urgency

12. The Crown opposes the application for an urgent inquiry.

13. In terms of the events the claimant refers to and their location, the Christchurch City Council administers the relevant wastewater infrastructure, and Environment Canterbury Regional Council is

[17] See Mr Thompson's 3 March 2026 email lodging an application for an urgent inquiry, under "Grounds for Urgency".

responsible for environmental regulation. The Crown itself has no particular knowledge of the events beyond that provided by the claimant and made publicly available by those two councils. The lack of detail in the claim makes it difficult to determine the Crown actions, omissions, or intended actions the claimant take issue with, or why, or the bases on which urgency is sought.

The Tribunal does not have jurisdiction to inquire into most, perhaps all, of the claim

14. Under the Treaty of Waitangi Act 1975, s 6(1)(c) and (d), the Tribunal has jurisdiction to consider claims by any Māori that they have been, or are likely to be, prejudicially affected by any policy or practice adopted by or on behalf of the Crown,[18] or any act or omission by or on behalf of the Crown.[19] It is settled jurisprudence that, in terms of those provisions, local authorities are not the Crown and do not act on behalf of the Crown.

15. In the Tauranga Moana District Inquiry, the Tribunal agreed that local councils are not agents of the Crown and that the Crown, not local government, is the Treaty partner.[20] In the Māori Wards and Constituencies Urgent Inquiry, the Tribunal referenced the Tauranga Moana District Inquiry and expanded:[21]

> The Tribunal's jurisdiction is to evaluate the acts and omissions of the Crown against the principles of the treaty – 'the Crown' here meaning central government. … The Tribunal can evaluate the Crown's monitoring of local government, and the legislative framework the Crown creates for local government, but not individual decisions made at the local government level.

16. The core of Mr Thompson's claim appears to concern policies or acts or omissions of the Christchurch City Council or Environment Canterbury Regional Council, or both.[22] These appear to be "individual decisions made

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18 Under The Treaty of Waitangi Act 1975, s 6(c).

19 Under The Treaty of Waitangi Act 1975, s 6(d).

20 Waitangi Tribunal *Tauranga Moana, 1886–2006 : Report on the Post-Raupatu Claims* (Wai 215, 2010) (vol 1) at 386–387, 476. The Tribunal noted, however, that the Crown cannot avoid its Treaty duties by delegating functions to local authorities.

21 Waitangi Tribunal *The Māori Wards and Constituencies Urgent Inquiry Report* (Wai 3365, 2025) at p 15; See also Waitangi Tribunal *Mangonui Sewerage Report* (Wai 17, 1988) at p 35: Rather than the Mangonui County Council, which promoted a sewerage scheme, the claim necessarily concerned "the arrangements the Crown has made, or has omitted to provide, for the protection of Māori treaty interests in the provision of public schemes".

22 Indeed, the Christchurch City Council is named as Respondent in the statement of claim: Wai 3561, #1.1.1(a), under "I. Preamble: the doctrine of culpable blindness".

at the local government level", which are outside the Tribunal's jurisdiction. This is underscored by the recommendations Mr Thompson seeks as relief. It is difficult to understand how these recommendations could practically be made to the Crown, or how the Crown could implement them.

Possible claim within the Tribunal's jurisdiction does not justify urgency

17. Because of the way in which the claim is drafted, it is unclear if there is an aspect of the claim that concerns Crown policies, acts or omissions in monitoring local government, or the legislative framework the Crown has created for local government. The Tribunal would have jurisdiction to inquire into such a claim, and this may be suggested in Mr Thompson's application for urgency where he states that "the Crown has presided over a multi-site infrastructure collapse".[23]

18. However, no detail is provided as to how the Crown has "presided" over the local government decision making which is the primary subject of the claim. No specific Crown policies, actions or omissions, or their likely effects, are referred to or explained in a meaningful way. Accordingly, if such a claim is made, it is difficult to understand and respond to. The generalised nature of this aspect of the claim also suggests the claimant is not in a position to proceed urgently to a hearing.

19. On the information before it, the Crown respectfully submits the Tribunal cannot be satisfied that the urgency criteria are satisfied.

Alternative remedies exist

20. Additionally, alternative pathways in which the claimant may reasonably raise his concerns are available.

21. In matters such as these, which relate to local authority decision-making, the claimant's primary avenue for redress is via engaging directly with the

[23] See Mr Thompson's 3 March 2026 email lodging an application for an urgent inquiry, under "Grounds for Urgency".

Christchurch City Council or the Environment Canterbury Regional Council, or with both.[24]

22. Members of the public also have the option to write to the Minister for the Environment to request an investigation into local government actions under the Resource Management Act 1991.[25]

23. If necessary, environmental disputes can be heard, including on an urgent basis, in other fora such as the Environment Court.

Conclusion

24. The application for urgency does not present an exceptional case which meets the relevant criteria, and which warrants the diversion of the Tribunal's resources to conduct an urgent inquiry.

25. For the reasons set out above, the Crown submits the Tribunal does not have jurisdiction to inquire into most, if not all, of the claim. The one aspect of the claim that might be within the Tribunal's jurisdiction does not raise issues that meet the high threshold required for urgency. The application for urgency should, for these reasons, be declined.

26. The Crown submits this application can be determined on the papers.

20 March 2026

Geoffrey Melvin / Lachlan Ewing
Counsel for the Crown

TO: The Registrar, Waitangi Tribunal

AND TO: Claimant Counsel

[24] See, for example, the Environmental Protection Authority "Reporting land, air or water pollution" < https://www.epa.govt.nz/industry-areas/compliance-monitoring-enforcement/rma-enforcement/reporting-pollution/>, where, concerning its role in Resource Management Act enforcement, the Environmental Protection Agency recommends complaints about pollution should first be made to local council.

[25] Resource Management Act 1991, s 24A.