TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 3553

E PĀ ANA KI *CONCERNING*	te Treaty of Waitangi Act 1975
Ā *AND*	te Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry

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HE PĀNUI WHAKAHAU O TE MANA WHAKAHAERE

MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER FOLLOWING THE URGENT HEARING

21 Āpereira 2026

Te Aronga / Purpose

1. This memorandum-directions:

    (a) confirms the final amended issues for inquiry, arrangements for closing submissions and further Crown updates following the judicial conference held on 17 April 2026, during the urgent hearing of the Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry (Wai 3553), held from 15 to 17 April 2026; and

    (b) addresses procedural and evidential matters arising from the urgent hearing.

2. An updated list of filing milestones is **attached** as **Appendix A.**

Judicial conference

3. On 14 April 2026, one day prior to the commencement of the urgent hearing, the Tribunal received a memorandum from counsel for the Crown on the Treaty References Review in relation to the Education and Training Act 2020 (the Act) (Wai 3553, #3.1.57). Counsel advised, among other matters, that Cabinet has taken decisions to review other Treaty provisions in the Act, with the intention to introduce a bill implementing amendments this Parliamentary term (Wai 3553, #3.1.157 at [4] & [6]).

4. On 17 April 2026, I convened a judicial conference to discuss post-hearing matters and next steps in light of the Crown's update on the Treaty References Review.

5. After discussing the Crown's memorandum with parties, I confirmed the following next steps, via e-mail from the Waitangi Tribunal Registrar (the Registrar), the same day:

    (a) Counsel for the Crown to file a memorandum **as soon as possible** regarding any significant policy or legislative developments should, or as they occur, and to do so on an ongoing basis; and

    (b) to notify the Tribunal and parties, **at least 48 hours prior** to the introduction of the bill to the House.

Proposed amendments to Issues for Inquiry

6. Claimant counsel proposed filing amended issues for inquiry to broaden the scope of this inquiry to include the additional provisions being reviewed in the Act and as outlined in the Crown's memorandum dated 14 April 2026 (Wai 3553, #3.1.157 at [4])

7. On 17 April 2026, via e-mail from the Registrar, I directed parties to file a joint memorandum with their proposed amendments to the issues for inquiry by the end of the day.

8. Dr Season-Mary Downs, Chelsea Terei-Tipene and Jessica Hita filed the proposed amended issues of inquiry on behalf of claimant counsel (Wai 3553, 3.2.8 & #3.2.8(a)) the same day. Counsel submit that the Crown agrees to the inclusion of the proposed amendments.

9. I now **attach** the final issues for inquiry as **Appendix B**.

Questions in writing arising from the urgent hearing

10. On 17 April 2026, via e-mail from the Registrar, I directed:

    (a) parties to file any questions in writing for witnesses at the urgent hearing by **12 pm, Tuesday 21 April 2026**; and

(b) witness responses to any questions in writing to be filed by **12 pm, Thursday 23 April 2026.**

11. On 20 April 2026, the Tribunal received a memorandum of counsel for the Crown regarding the amendment of 'New Zealand Curriculum – Te Mātaiaho' to 'National Curriculum' in the proposed issues of inquiry filed by claimant counsel (Wai 3553, #3.2.9). Counsel note the Crown's consensus on the proposed amendments and accordingly submit that the Tribunal may wish to consider identifying aspects of Te Marautanga o Aotearoa in their post-hearing questions for Crown witnesses.

12. I accordingly **attach** the panel's post-urgent hearing questions in writing as **Appendix C**. The Tribunal records its disappointment that key Crown witness Ms Cleaver had to leave during cross-examination. While we had run over time, this was a hearing held under urgency where parties and the Tribunal must be nimble in order to adjust to the continuingly changing landscape. There is an expectation Crown witnesses make themselves available.

Staged reporting

13. Ms Sykes sought an interim report dealing with the further amendments to the Act under the Treaty Clause Review. I advised parties that the Tribunal would consider that request.

14. On 17 April 2026, the Tribunal received a memorandum from counsel for the Crown advising the deadline for the Crown's consultation with the National Iwi Chairs Forum (NICF) in relation to the Treaty Clause Review is 24 April 2026. Counsel advise the NICF was verbally offered the option of an extra week at the Ministry of Justice's meeting with NICF lead technicians on 14 April (Wai 3553, #3.2.7). We are not aware whether NICF will take up the extra week for consultation. If claimant counsel are in a position to update the Tribunal on this, it would be appreciated.

15. Having considered the above, the panel now confirms that this Tribunal will report on the following staged basis:

    (a) Stage one report will cover the broader changes to the Act contemplated in the Cabinet Paper 'Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps' SOU-25-SUB-0184; and

    (b) Stage two report will cover matters related to the Section 127(1)(d) legislative amendments and the National curriculum.

16. The Tribunal is committed to moving swiftly on this, I will advise parties of the reports' publication dates in due course.

Oral Closing submissions

17. The Tribunal anticipated hearing closing submissions on 17 April 2026. However, these had to be vacated to accommodate further Crown evidence from Ministry of Justice witnesses on the Treaty Clause Review in relation to the Act.

18. On 17 April 2026, I confirmed that a one-day hearing will be held **Tuesday 28 April 2026**, at the **James Cook Hotel, 147 The Terrace, Wellington,** for oral closing submissions. I directed:

    (a) Crown and claimant counsel to liaise and file a timetable for the urgent hearing of closing submissions, by **5 pm, Wednesday 22 April 2026**; and

    (b) parties to file an outline of their oral closing submissions by **12 pm, Friday 24 April 2026.**

19. In light of our decision to do staged reporting, parties should include all matters in the amended issues for inquiry when filing the outline of their oral closing submissions. It would assist the Tribunal to hear oral arguments on all issues at the hearing.

20. I accordingly direct parties to file full written submissions, as they pertain to those further amendments under the Treaty Clause Review, by no later than **4 pm Wednesday 29 April 2026.**

21. Parties are to file full written closing submissions, as they relate to 'Section 127(1)(d) legislative amendments' and 'National curriculum' of the Tribunal's amended issues for inquiry by **5 pm, Friday 1 May 2026**.

Transcript of the urgent hearing

22. The Tribunal is aware of the importance of providing parties with a hearing transcript in a timely manner. I confirm that the Tribunal is working urgently to have the transcripts completed and will make them available to parties as soon as possible.

Filing requested during the urgent hearing

23. During the urgent hearing, several matters were raised that require further filing. I direct the relevant counsel to file the materials and information detailed below by **5 pm, Thursday 30 April 2026**.

Bruce Jepsen and Therese Ford (#A4(a))

24. In reference to [10] of Mr Jepsen and Ms Ford's joint supplementary brief of evidence, I queried whether anything came out of their discussions with the New Zealand Education Institute (NZEI) Te Riu Roa regarding the lack of consultation on Marautanga o Aotearoa.

25. The witnesses advised that the joint response was by a collective of peak bodies led by NZEI Te Riu Roa and the New Zealand Principals' Federation and that a joint statement was released into the sector. In addition, Ms Ford advised that some Rangatira in the Māori medium undertook and shared an analysis on the changes to the Act to assist people in making informed submissions on the current consultation. Mr Jepsen and Ms Ford advised that they would be able to provide the joint statement and analysis to the Tribunal. Counsel is to file the relevant materials.

Ellen MacGregor-Reid (#A42)

26. Ms Terei-Tipene, referring to [21.1] of Ms MacGregor-Reid's evidence, asked how the Ministry of Education (the Ministry) informs its understanding in respect of its Treaty obligations to be able to give Ministers free and frank advice.

27. Ms MacGregor Reid advised that external Treaty experts provide both herself and other members of her team with extensive training on Te Tiriti. She advised that documentation on how these instructors are selected, and how the Ministry informs itself of its Treaty obligations, could be filed.

Pauline Cleaver (#A44)

28. Annette Sykes queried whether kura that follow both Te Marautanga o Aotearoa and the New Zealand Curriculum receive funding from both streams of curricula. Ms Cleaver advised that documentation regarding this could be filed.

29. Dr Downs observed that the evidence provided by the Crown on research equity within education was broad and not specific to Māori. Counsel accordingly asked whether the Crown has any evidence that distinguishes and addresses Māori inequity in education.

Ms MacGregor-Reid clarified that the Ministry's work has been informed by the 'Best Evidence Synthesis' and includes a wide range of evidence, including research specific to Māori inequity. Counsel sought that this evidence be filed.

Andrew Jackson (#A43)

30. Jamie Ferguson sought information on any advice that the Ministry had provided to the Ministry of Justice on the development of the Cabinet Paper 'Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps' SOU-25-SUB-0184 (Wai 3553, #A52, pp 1 -13)', subject to redactions, be filed with the Tribunal. Mr Jackson advised that he would be happy to work with Crown counsel on producing this information.

31. Mr Ferguson sought the appendices to the 'Report: The Treaty References Review and relevant clauses in the Education and Training Act 2020' dated 17 September 2025, subject to redaction, be filed with the Tribunal. Mr Jackson advised that he would be happy to work with Crown counsel on producing these papers.

Andrew Kibblewhite and Caroline Greaney (#A54)

32. Ms Sykes noted inconsistencies in the redactions of Cabinet material provided in this urgent inquiry and in the Climate Change Priority Inquiry (Wai 3325). Ms Greaney advised this was due to the redactions being done by different teams, and particularly under pace in this inquiry. Counsel sought that Ms Greaney review the discrepancies in redactions and file submissions explaining the differences with the Tribunal.

33. Counsel for the Crown is to file the materials listed from [27] to [32] above.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 3553, the Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry.

The Registrar is to send a copy of this direction to all those on the distribution list for Wai 3553, the Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry.

WHAKAPŪMAUTIA ki Kirikiriroa i te 21 o te Āpereira 2026

Kaiwhakawā R Mullins
Te Mana Whakahaere
TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI