OFFICIAL

Wai 3565, #1.1.1
Wai 682, #1.1(an)

I TE RŌPU WHAKAMANA
I TE TIRITI O WAITANGI

WAI 682

KEI RARO I TE MANA o te ture o te Tiriti o Waitangi 1975

Ā

I TE TAKE O he kerēme nā Rewiti Paraone rātou ko Erima Henare, ko Pita Tipene, ko Waihoroi Shortland mō Te Rūnanga o Ngāti Hine mō ngā uri o Torongare and Hauhaua (Wai 682)

STATEMENT OF CLAIM

I tēnei rā i te 20 o Āperira 2026

RECEIVED
Waitangi Tribunal
21 Apr 26
Ministry of Justice
WELLINGTON

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LAW AND CONSULTANCY

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TĒNĀ, E TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI:

1.0 THE CLAIM

1.1 Ngāti Hine ("the claimants") say the Crown has breached te Tiriti o Waitangi and its principles by proposing to repeal or amend Treaty provisions in legislation, following its Review of References to the Principles of the Treaty of Waitangi in Legislation ("the Review").

1.2 The claim centres on the failure of the Crown to recognise and give effect to te Tiriti o Waitangi and its principles in making the legislative and policy amendments at issue. The claimants say the Crown has not upheld the Treaty partnership, failed to undertake meaningful engagement, and has not ensured that Māori perspectives, opposition, or rangatiratanga were appropriately incorporated into decision making processes. Additionally, the Crown has proceeded with the Review against recommendations from the Waitangi Tribunal in *Ngā Mātāpono – The Principles*.[1]

1.3 As a result, the claimants say they have been excluded from influencing changes, and that the resulting prejudice to them is immediate and ongoing.

2.0 NGĀTI HINE

2.1 Ngāti Hine is a tribe based in the Bay of Islands. Ngāti Hine tūpuna are signatories to He Whakaputanga o Nu Tireni and te Tiriti o Waitangi. Ngāti Hine therefore have a special relationship with te Tiriti, one that guarantees them the status and rights of a treaty partner.

2.2 Accordingly, the claimants say the Crown owes treaty duties and obligations in relation to their tribe, including to:

[1] Waitangi Tribunal, *Ngā Mātāpono/The Principles: Part III of the Report of the Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* (Wai 3300, October 2025).

(a) Recognise and provide for the exercise of their tino rangatiratanga over their people and matters of importance to them;

(b) Act in partnership, including genuine, informed and meaningful engagement on law and policy changes that impact their people; and

(c) Ensure law and policy achieves equitable outcomes for the claimants and Māori.

2.3 The claimants say the Review and subsequent proposals to repeal or amend Treaty provisions reduces and/or removes their Tiriti rights and interests, leaving them disempowered and marginalised in the operation and application of law and policy.

3.0 TE TIRITI O WAITANGI

3.1 In similar circumstances where a treaty provision was removed from legislation without engagement with Māori and proper regard for assessing the impacts of its removal, the *Oranga Tamariki (Section 7AA) Urgent Inquiry ("Oranga Tamariki")* Tribunal said that the Crown does not have a unilateral right to redefine or breach te Tiriti o Waitangi:[2]

> …once Ministers are sworn in and the government is formed, the executive so constituted are responsible for meeting the Crown's obligations to Māori under the Treaty of Waitangi. It is a Treaty of Waitangi, not a proclamation of Waitangi, and the Crown does not have a unilateral right to redefine or breach its terms. The obligation is to honour the Treaty and act in good faith towards the Treaty partner.

3.2 The Tribunal's attention is drawn to what was said by the *Oranga Tamariki* Tribunal because (from a comparative perspective) the

[2] Waitangi Tribunal, *The Oranga Tamariki (Section 7AA) Urgent Inquiry Report* (Wai 3350, 29 April 2024) at 13.

Crown has, again, acted without proper regard for its obligations to Māori under te Tiriti o Waitangi.

3.3 The appropriate starting point for treaty interpretation in respect of the issues before this Tribunal is Article 2. Fundamental to this interpretation are the Crown's duties to foster tino rangatiratanga and ensure its laws and policies are just, fair and equitable, and give effect to treaty rights and guarantees.[3]

3.4 The Tribunal has placed a high threshold on instances where the Crown acts contrary to its duty to make decisions and develop policies that do not adequately recognise treaty rights and guarantees:[4]

> We accept that it might well be the case that in some situations the Crown must balance its treaty obligations to Māori against the interests of other sections of the community – for instance, in exceptional circumstances, such as war, or in the interests of public safety, or in matters involving the national interest. But even so, as the Tribunal has found in the past, such a balancing exercise must not be undertaken 'without restraint'; that is, it must not diminish the authority of tribes and hapū. And in the absence of such exceptional circumstances, the Crown had and has no right to impinge on the rights of Te Raki hapū and iwi to make their own decisions.

3.5 The Crown's decision to continue with the Review and then make subsequent decisions to repeal or amend treaty provisions in legislation are an inappropriate exercise of its authority, one which undermines the claimants tino rangatiratanga and the partnership under te Tiriti.

3.6 Both te Tiriti partners must be able to exercise their respective authorities as well as meet their partnership obligations in relation to any Crown decisions and policies concerning the place of te Tiriti/the

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[3] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry, Part I* (Wai 1040, 22 December 2022) at 69.

[4] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry, Part I* (Wai 1040, 22 December 2022) at 61.

Treaty and its principles in legislation. In respect of the principle of partnership, the Tribunal have said:[5]

> the Crown cannot unilaterally decide what Māori interests are or what the sphere of tino rangatiratanga encompassed – that is for Māori to negotiate with the Crown. Instead, in the spirit of partnership, the Crown has a duty to engage with Māori (rather than merely consult) on how it should recognise rangatiratanga and, where agreed, give effect to it in New Zealand law. Likewise, the Crown is obliged to include Māori in decision-making around the operation of law in Māori communities, or in cases where Māori are impacted".

3.7 In addition to rangatiratanga and partnership, Article 3 guarantees Māori equitable treatment. In its provision for equity, the Crown is to ensure that measures are developed and implemented in partnership with Māori and are both culturally and legally appropriate.[6]

3.8 In this context, the principle of equity is particularly relevant where the Review and proposed legislative changes are going to significantly impact Māori and their Tiriti rights and interests, all of which the claimants say is targeted and discriminatory.

4.0 PARTICULARS

4.1 In September 2024, Cabinet agreed to a review of references to the Treaty principles in legislation.[7]

4.2 The review focussed on provisions in 23 laws, administered by 13 government agencies.[8] See **Appendix "A"**.

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[5] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry, Part I* (Wai 1040, 22 December 2022) at 62.
[6] Waitangi Tribunal, *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry, Part I* (Wai 1040, 22 December 2022) at 68.
[7] Cabinet Paper "Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps" SOU-25-SUB-0184 at [4]. Referred to as CAB paper in following footnotes: 10-11, 13.
[8] Ministry of Justice "Review of legislation including reference to the principles of the Treaty of Waitangi" (January 2026) <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/review-of-legislation-including-reference-to-the-principles-of-the-treaty-of-waitangi/>.

4.3 Treaty settlement legislation was excluded from the review as well as other legislation that raises similar issues to treaty settlement legislation where provisions might form the basis of specific Crown Māori agreements. Also excluded are private Acts, laws that the Government intends to repeal and replace, or will be reviewed in a separate but parallel process.[9] See **Appendix "B"**.

4.4 In May 2025, Cabinet agreed to establish a Ministerial Oversight Group and an Advisory Group to advise Ministers on whether to retain, amend, or repeal references in legislation to the treaty principles, and on engagement.[10]

4.5 The Advisory Group delivered its final report on 8 August 2025.[11]

4.6 On 13 November 2025, the Regulatory Impact Statement "Providing certainty on legislative references to the Treaty of Waitangi" was prepared by the Ministry of Justice.[12]

4.7 In or around December 2025, the Cabinet Paper "Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps" SOU-25-SUB-0184 was submitted to the Cabinet Social Outcomes Committee Cabinet for consideration ("CAB Paper").[13]

4.8 In February 2026, the CAB Paper was submitted to Cabinet for consideration.[14]

4.9 On 23 February 2026, Cabinet agreed to a number of proposals to repeal or amend treaty provisions, including:

(a) That section 536A(1) of the Education and Training Act 2020 should be amended or repealed so that dispute resolution

[9] Ministry of Justice "Review of legislation including reference to the principles of the Treaty of Waitangi" (January 2026) <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/review-of-legislation-including-reference-to-the-principles-of-the-treaty-of-waitangi/>.
[10] CAB paper at [4].
[11] CAB paper at [4].
[12] Wai 682 - He Kōrero Taunaki a Moe Milne.
[13] CAB paper.
[14] Wai 3553, Transcript of cross-examination of Ministry of Justice officials at Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry, ROI #TBC.

service operators, which are private entities, do not have Treaty requirements;[15]

(b) an amendment that in situations where a "Treaty standard" is needed, which indicates the strength or nature of the Treaty obligation, no higher standard than "take into account is used."[16]

4.10 Cabinet also invited the Minister of Justice to issue drafting instructions to give effect to the decisions;[17] and noted that the Minister of Justice proposes introducing amending legislation to give effect to the outcome of the Review within this Parliamentary term.[18]

4.11 At this stage, the claimants only have a redacted copy of the CAB paper and CAB Minute provided through their participation in Wai 3553 Education and Training Amendment Act and Te Mātaiaho Urgent Inquiry.

4.12 Perusal of the CAB paper and CAB Minute reveals the Crown has agreed to repeal or amend treaty provisions across a range of legislation and government agencies. These legislative changes directly impact Māori and how their treaty interests are recognised and given effect to.

Consultation

4.13 Consultation is limited to the National Iwi Chairs Forum on Cabinet's decisions following Cabinet approval and prior to final approval of the Bill.[19]

4.14 No other meaningful consultation process has been provided to Ngāti Hine, Māori or the general public.

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[15] Cabinet Minute "Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps" (23 February 2026) CAB-26-MIN-0048.01 at [11]. Referred to as CAB Minute paper in following footnotes: 16-19.
[16] CAB Minute at [16].
[17] CAB Minute at [26].
[18] CAB Minute at [30].
[19] CAB Minute at [21].

Other processes

4.15 There is an indication from the Crown that legislation excluded from the Review includes private Acts, laws that the Government intends to repeal and replace, or will be reviewed in a separate but parallel process.[20]

4.16 The claimants have no clarity or purview over of what the "separate but parallel process" is or entails.

5.0 PREJUDICE

5.1 The proposed legislative changes undermine the mana of te Tiriti and the promise of partnership where it diminishes Māori identity and their cultural perspective.

5.2 The claimants say they are directly impacted by the Crown's failure to uphold the Tiriti partnership in making these significant legislative changes. By removing and/or amending Tiriti obligations without genuine engagement, consultation, or shared decision-making, the Crown has denied the claimants the ability to exercise tino rangatiratanga over matters that materially affect them – their whānau and hapū.

5.3 The claimants also say that the widespread opposition to the Review itself, including an urgent Waitangi Tribunal inquiry, demonstrates the extent of the Crown's failure to actively protect Māori interests or uphold the Tiriti partnership.

6.0 REMEDIES

6.1 The claimants seek:

(a) A finding that their claim is well founded;

[20] Ministry of Justice "Review of legislation including reference to the principles of the Treaty of Waitangi" (January 2026) <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/review-of-legislation-including-reference-to-the-principles-of-the-treaty-of-waitangi/>.

(b) An apology to the claimants and Māori for the prejudicial impacts identified in this claim;

(c) A finding that the Crown has breached te Tiriti o Waitangi by progressing the Review and proposed next steps from the Tribunal's findings in *Ngā Mātāpono* on 22 October 2025 to today;

(d) A recommendation that the Crown does not proceed with the proposed changes to legislation;

(e) That the Crown pause and work in partnership with Māori in respect of references to the principles of te Tiriti o Waitangi/the Treaty of Waitangi in legislation; and

(f) A broader recommendation that the Crown work with Māori to restore the Crown Māori relationship in terms of the treaty and ensure that any future law and policy change is done in accordance with the principles of te Tiriti.

I TĒNEI RĀ, te rā 20 o Āperira 2026

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Rōia mo Ngāti Hine (Wai 682)