

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 3565

E PĀ ANA KI
CONCERNING

te Treaty of Waitangi Act 1975

Ā,
AND

Te Tinihanga o Ngā Mātāpono
o te Tiriti – the Treaty Principles
Reform Urgent Inquiry

HE WHAKATAUNGA MŌ TE TONO KIA TAIHOROTIA TĒTAHI RUKU TĀTARI

DECISION ON APPLICATION FOR URGENT INQUIRY

6 Haratua 2026

Hei tīmatanga kōrero / Introduction

1. This decision relates to the urgency application filed by Rewiti Paraone, Erima Henare, Pita Tipene, and Waihoroi Shortland on behalf of Te Rūnanga o Ngāti Hine (Wai 682, #2.114).
2. The application concerns the Crown's decision to repeal or amend Treaty principles enactments, following its review of references to the principles of the Treaty of Waitangi in legislation (the Review). In effect, the claimants allege the proposals have been made without regard to the applicants' right to exercise tino rangatiratanga, the Tiriti o Waitangi partnership, and the inequitable outcomes likely to impact Māori.
3. The applicants are seeking an urgent Tribunal inquiry, favourable findings and the recommendations listed in the statement of claim.
4. For the reasons that follow, the application for urgency **has** met the high threshold justifying the reallocation of the Tribunal's limited resources from existing inquiries to hold an urgent inquiry. The application for urgency is **granted**.

Whakataunga horopaki / Background

5. On 21 April 2026, the Tribunal received an amended statement of claim, an application for an urgent inquiry, and accompanying affidavits filed by Dr Season-Mary Downs and Chelsea Terei-Tipene on behalf of Rewiti Paraone, Erima Henare, Pita Tipene, and Waihoroi Shortland on behalf of Te Rūnanga o Ngāti Hine, or the Ngāti Hine Lands, Forests and Resources (Wai 682) claim (Wai 682, #1.1(an), #1.1(an)(i), #1.1(an)(ii), #2.114, #A14, #A15, #A15(a)).
6. On 22 April 2026, the Deputy Chairperson Judge Sarah Reeves directed the Crown and any interested parties to respond to the application for an urgent inquiry by no later than midday on 6 May 2026, and directed the applicant to file submissions in reply to those of the Crown and interested parties by no later than midday on 20 May 2026 (Wai 682, #2.116).
7. On 22 April 2026, the Tribunal received a memorandum of counsel from Tukau Law on behalf of the applicants requesting an expedited approach to filing deadlines for Crown and interested parties to respond by 27 April 2026, and the applicants to file reply submissions by 30 April 2026 (Wai 682, #2.117).
8. On 24 April 2026, the Tribunal received a memorandum of counsel for the Crown requesting an extension to file the Crown's response by 1 May 2026, in light of instructions that on current timeframes, proposed legislation would not be introduced to the House of Representatives before early-August 2026 (Wai 682, #2.118).
9. In response, on 24 April 2026, the Deputy Chairperson granted the Crown's extension request via email from the Waitangi Tribunal Registrar. The filing dates were therefore amended as follows:
 - (a) interested parties to respond to Wai 682's application for urgency by midday on 28 April 2026;
 - (b) the Crown to respond to Wai 682's application for urgency by 5pm on 1 May 2026; and
 - (c) Wai 682 to file submissions in reply to those Crown and interested parties by midday on 5 May 2026.

10. Parties were also directed to include, in their submissions, the utility of holding a further inquiry at this stage when the Tribunal has previously inquired into the removal of Treaty clauses and reported to the Crown with recommendations.
11. On 29 April 2026, the Deputy Chairperson referred the urgent application for determination to myself as Presiding Officer (Wai 682, #2.133).
12. The Tribunal has now received all submissions as directed at [9a] – [9c] above. These are outlined below.

Ngā kēreme me ngā tono ruku tātari ohotata / The claim and application for urgent inquiry

13. The applicants submit they are suffering or will suffer significant and irreversible prejudice arising from the proposals to repeal or amend Treaty provisions in legislation from (Wai 682, #2.114).
14. The applicants also maintain there is no alternative remedy available to them other than a Waitangi Tribunal hearing.
15. Lastly, the applicants submit they are ready to proceed to hearing and respectfully seek a timely inquiry and reporting while the issues are live. Counsel indicated that should this matter proceed to hearing, additional expert evidence can be adduced under urgent timeframes.

Ngā tāpaetanga tāpiri / Further submissions received

16. Between 23 April and 1 May 2026, the Tribunal received the following submissions in support of the urgent applications. All submissions received from the different parties included requests for interested party status.

Tamaki Legal memorandum (Wai 682, #2.119)

17. On 23 April 2026, the Tribunal received a memorandum of counsel from Tamaki Legal on behalf of the Toitū Te Tiriti Movement (Toitū Te Tiriti).
18. For the purposes of s 4A of the Commissions of Inquiry Act 1908, counsel submit that Toitū Te Tiriti have an interest in the inquiry apart from any interest in common with the public.
19. This is on the basis that there is a genuine risk of prejudice to themselves and to other Māori represented by Toitū Te Tiriti from the passage of the Bill or Bills relevant to the urgency application through breach of multiple Tiriti principles. Counsel also submit that Toitū Te Tiriti provides a rangatahi-led voice in this space and they seek to bring that unique perspective to this inquiry.
20. Toitū Te Tiriti endorses and supports the urgency application.
21. Counsel submit that Toitū Te Tiriti and Māori generally will suffer, or are likely to suffer, significant and irreversible prejudice due to the sweeping and all-encompassing nature of the proposed amendments to either repeal the relevant Treaty provisions altogether or to lessen them to a requirement that is no higher than to ‘take into account’ the principles of the Treaty of Waitangi.
22. Counsel also submit prejudice on account of a lack of consultation on significant legislative change to the effect of te Tiriti, and the weakening of te Tiriti in legislation.

23. Counsel submit that, in light of the circumstances outlined above and the proximity of these amendments due to be introduced to the House, there are no alternative remedies to contest these issues.
24. Counsel say that Toitū Te Tiriti are ready to proceed without the need for further research to be filed. Counsel indicate an intention to file submissions and discrete evidence on the impact of these proposed changes in support of the urgency application.

Kaupare Law memorandum (Wai 682, #2.120)

25. On 24 April 2026, the Tribunal received a memorandum of counsel from Kaupare Law on behalf of Ngāti Rēhia (Wai 1341) and Ngāi te Hapū (Wai 3374).
26. Pursuant to s 4A of the Commissions of Inquiry Act 1908, counsel submit that Ngāti Rēhia and Ngāi Te Hapū have an interest in the inquiry apart from any interest in common with the public.
27. Ngāti Rēhia and Ngāi Te Hapū endorse and support the urgency application.
28. Counsel submit that they will suffer, or are likely to suffer, significant and irreversible prejudice, as the nature and extent of how te Tiriti is recognised and provided for in legislation is of national importance. The scale of the proposed legislative changes is significant and will likely cause widespread harm and prejudice to Māori across the motu.
29. Counsel submit the urgent application does not seek to inquire into matters or claims already inquired into or reported on in *Ngā Mātāpono*. Rather, it concerns a materially different stage of the Crown's conduct. Further, counsel submit the Crown's intentions towards the implementation of imminent legislation constitute subsequent and further breaches of te Tiriti and its principles.
30. Counsel note the focal issue for an urgent inquiry at this juncture is not the Review process itself, but the substance and specificity of the proposed legislative changes.
31. Counsel submit that there is clear utility in the Tribunal assessing the inevitable prejudice arising from the proposed legislation that will formalise amendments to statutory references to the principles of the Treaty/te Tiriti.
32. Further, counsel submit a hearing is both necessary and justified as the Crown's conduct in respect of the Review has progressed toward imminent legislative implementation, presenting a concrete, immediate, irreversible risk of prejudice that was not, and could not have been, finally determined in earlier inquiries. Counsel submit that an urgent inquiry at this juncture would enable the Tribunal to assess the substance and consequences of the proposed legislative changes, consider evidence of likely harm as it crystallises, and ensure that the Crown's obligations under te Tiriti are properly scrutinised before that prejudice is entrenched in statute(s).

Whāia Legal memorandum for Te Puna Ora o Mataatua (Wai 682, #2.121)

33. On 24 April 2026, the Tribunal received a memorandum of counsel from Whāia Legal on behalf of Te Puna Ora o Mataatua (Te Puna Ora).
34. Pursuant to s 4A of the Commissions of Inquiry Act 1908, Te Puna Ora seeks leave to participate on the basis that Te Puna Ora's interests, particularly in relation to the Māori health sector, are distinct and materially different from those of the general public.
35. Te Puna Ora supports the urgency application.

36. Counsel submit that Te Puna Ora and its clients will also suffer, or are likely to suffer, significant and irreversible prejudice as a result of the Crown's pending actions or policies in relation to the Crown's proposed legislative reforms – particularly any further changes to the Pae Ora (Healthy Futures) Act 2022 (Te Pae Ora Act) and health-related legislation where those changes are to reduce the practical effect and implementation of the Crown's te Tiriti obligations. Counsel further note there is a live High Court proceeding regarding the disestablishment of Te Aka Whai Ora and the context of Māori health inequities, and further proposed amendments to Te Pae Ora Act are both relevant and urgent in this context.
37. Regarding no alternative remedies, Te Puna Ora agrees that none are available that would reasonably address the issues at hand, other than the Tribunal urgently hearing this claim.

Roimata Smail memorandum (Wai 682, #2.122)

38. On 28 April 2026, the Tribunal received a memorandum of counsel from Roimata Smail on behalf of Lady Tureiti Moxon, on behalf of Te Kōhao Health Limited and the National Urban Māori Authority (Wai 3351).
39. The claimant seeks leave to participate as an interested party in this urgency application. Counsel submit that the claimant has a direct and substantial interest in this claim, separate from any interest in common with the public.
40. The claimant seeks to support the urgency application by participating as an interested party.
41. Counsel submit that Māori are suffering, and will continue to suffer, serious and irreversible prejudice as a result of the Crown's actions.
42. Counsel submit that there is no alternative remedy available to address this prejudice, as the Crown has ignored the advice of officials and the findings and recommendations of this Tribunal, and has proceeded without meaningful consultation with Māori. Counsel further submit that it is clear that the Crown has already decided to proceed, and the limited consultation undertaken appears directed at enabling that decision to proceed rather than engaging in genuine partnership. Counsel submit that there is no alternative forum capable of addressing this issue at the level of Crown policy and legislative change, the Waitangi Tribunal is the only appropriate forum.
43. Counsel submit that a further inquiry can be conducted efficiently and possibly with less hearing time, as the Tribunal does not need to revisit foundational matters.
44. Counsel submit that the Crown has proceeded with the full knowledge of the consequences of weakening Treaty obligations in legislation, given the Tribunal's previous findings as to the inconsistency with te Tiriti and resulting prejudice of such actions. Counsel submit that this makes it more important that those actions are subject to scrutiny.

Dixon and Co memorandum (Wai 682, #2.123)

45. On 28 April 2026, the Tribunal received a memorandum of counsel from Dixon and Co Lawyers on behalf of the Māori Women's Welfare League Incorporated (Wai 2959).
46. Pursuant to s 4A of the Commissions of Inquiry Act 1908, the Māori Women's Welfare League (the League) seeks leave to participate as an interested party on the basis that it has an interest in the inquiry apart from any interest in common with the public.
47. The League supports the urgency application.

48. Counsel submit that the Crown's proposed repeal or amendment of Treaty provisions, and the move to require decision-makers to merely 'take into account' the Treaty of Waitangi will directly impact the League's operations, resulting in significant prejudice to its members and their whānau. Counsel submit this prejudice is compounded by consultation occurring after the fact, as late in the process as following Cabinet approval and only prior to the final approval of the proposed Bill.
49. Counsel submit that, as the Crown is 'doubling down' on its position to undermine the foundational significance of te Tiriti o Waitangi in legislation, an urgent hearing is necessary.

Whāia Legal memorandum on behalf of the National Iwi Chairs Forum (Wai 682, #2.124)

50. On 28 April 2026, the Tribunal received a memorandum of counsel from Whāia Legal on behalf of the National Iwi Chairs Forum (NICF).
51. Pursuant to s 4A of the Commissions of Inquiry Act 1908, NICF seeks leave to participate on the basis that its interests in the reform of Treaty references in legislation are distinct and materially different from those of the general public.
52. NICF supports the urgency application.
53. Regarding significant and irreversible prejudice, counsel submit this arises from:
- (a) the failure of the Crown to engage with iwi and hapū, directly breaching the Crown's obligations under te Tiriti – the very matter the Crown says the proposed reform is seeking to clarify;
 - (b) the proposed reform unilaterally eroding the Crown's te Tiriti obligations, as expressed in legislation, through the removal, consolidation and dilution of te Tiriti references;
 - (c) the fundamental subversion of the Crown's te Tiriti obligations, which undermines the ongoing work of iwi and hapū to protect the wellbeing interests of people, culture, language and te taiao;
 - (d) the impact of the proposed reform on the ability of iwi and hapū to exercise tino rangatiratanga over their inherent authority, as guaranteed under te Tiriti; and
 - (e) the impact on NICF, as a collaborative forum for iwi, and the significant damage to the iwi-Crown relationship.
54. NICF agrees that there is no alternative remedy available, other than the Tribunal hearing that would reasonably address the matters at issue.
55. Counsel note that in issuing the interim report of *Ngā Mātāpono* in 2024 (*Ngā Mātāpono – The Principles: Part I*),¹ the Tribunal expressly reserved its jurisdiction to reconsider issues traversed in that report should the Review proceed as planned and result in statutory amendments or repeals. Accordingly, counsel submit that now that Cabinet has taken decisions on the scope of the proposed amendments, there is a need for a further inquiry so that the full extent of the impacts of Cabinet's decisions on Māori interests can be the subject of focused inquiry and assessment.

¹ Waitangi Tribunal *Ngā Mātāpono – The Principles: The Interim 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, 2024) [*Ngā Mātāpono – The Principles: Part I*] at xviii.

56. I note that what this argument fails to recognise is that, in its concluding chapter 7 of *Ngā Matapono* released in October 2025 (*Ngā Mātāpono – The Principles: Part III*), the Tribunal concluded its inquiry into the Review and determined that any new matters would require a fresh application for urgency to be made.²
57. Counsel went on to outline that a further focused inquiry is particularly important in relation to:
- (a) the wider contextual analysis to the proposed repeal or amendment of Treaty provisions;
 - (b) the proposal to homogenise the Treaty standard for listed Acts (so that no higher standard than ‘take into account’ is used to indicate the strength of the Crown’s Treaty obligations under those Acts); and
 - (c) Cabinet’s decision that the approach to standardisation will be applied to other legislation projects currently underway, and to future legislation.

Whāia Legal memorandum for Te Whakakitenga o Waikato Incorporated (Wai 682, #2.125)

58. On 28 April 2026, the Tribunal received a memorandum of counsel from Whāia Legal on behalf of Te Whakakitenga o Waikato Incorporated (Te Whakakitenga).
59. Pursuant to s 4A of the Commissions of Inquiry Act 1908, Te Whakakitenga seeks leave to participate on the basis that Waikato’s interests in the reform of Treaty references in legislation, are distinct and materially different from those of the general public.
60. Te Whakakitenga supports the urgency application.
61. Regarding significant and irreversible prejudice, counsel submit this arises from:
- (d) the failure of the Crown to engage with iwi and hapū, directly breaching the Crown’s obligations under te Tiriti – the very matter the Crown say the Proposed Reform is seeking to clarify;
 - (e) the proposed reform unilaterally eroding the Crown’s te Tiriti obligations, as expressed in legislation, through the removal, consolidation and dilution of te Tiriti references;
 - (f) the fundamental subversion of the Crown’s te Tiriti obligations, which undermines the ongoing work of iwi and hapū to protect the wellbeing interests of people, culture, language and te taiao;
 - (g) the impact of the proposed reform on the ability of iwi and hapū to exercise tino rangatiratanga over their inherent authority, as guaranteed under te Tiriti; and
 - (h) the significant damage to the Waikato-Crown relationship.
62. Te Whakakitenga agrees that there is no alternative remedy available, other than the Tribunal hearing this claim, that would reasonably address the matters at issue.
63. Counsel reiterate the same submissions advancing the utility of further inquiry as per [54] – [57] above.

² Waitangi Tribunal *Ngā Mātāpono – The Principles: Part III 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, 2025) [*Ngā Mātāpono – The Principles: Part III*] at 50.

Woodward Law memorandum (Wai 682, #2.126)

64. On 28 April 2026, the Tribunal received a memorandum of counsel from Woodward Law on behalf of New Zealand Māori Council (Wai 3352).
65. Pursuant to s 4A of the Commissions of Inquiry Act 1908, the New Zealand Māori Council (NZMC) seeks to be included in the urgency applications as an interested party, due to having an interest apart from any interest in common with the public.
66. NZMC supports the urgency application.
67. Counsel submit that significant and irreversible prejudice arises as a result the Crown actions repealing and amending Treaty clauses within legislation. Counsel submit that the irreversible prejudice is aimed directly towards the Māori-Crown partnership itself – a partnership which sits at the heart of Aotearoa New Zealand’s social fabric, constitutional framework, and the nation’s founding. Counsel further submit that it is not clear how such harm inflicted by the Crown can be reversed.
68. Counsel submit that the new Cabinet decision to amend legislation and dilute down the Treaty standard in operative provisions marks a new position that was not previously reported on by the Tribunal. Counsel note that the Crown is effectively trying to avoid the political cost of outright repealing te Tiriti provisions while, at the same, diluting the Crown’s responsibility by ensuring that Crown decision makers have no greater responsibility in legislation than to ‘take into account’ te Tiriti.
69. Counsel submit that this effectively allows the Crown to implement broad sweeping constitutional reforms while arguing that te Tiriti remains within legislation. This specific action was not something considered in the previous reports and needs investigating into by the Tribunal.

Mahony Horner memorandum (Wai 682, #2.127)

70. On 28 April 2026, the Tribunal received a memorandum of counsel from Mahony Horner on behalf of several claimants.³
71. Counsel submit that the claimants have an interest in the urgency application apart from any interest in common with the public, pursuant to s 4A of the Commissions of Inquiry Act 1908.
72. The claimants support the urgency application into the Crown’s proposal to amend or repeal Tiriti provisions in legislation and further endorse the submissions made.
73. Regarding significant and irreversible prejudice, counsel submit that the proposal is inconsistent with te Tiriti and its principles and that it will likely have adverse effects to Māori, and that the Crown has progressed these fundamental legislative changes without engaging with the Claimants and have already and will continue to cause irreparable harm to the claimants and their relationship with the Crown.

³ Ngā Hapū o Whangaroa (Wai 58); Ngāti Hikitunga (Wai 113J); Dr Terence Lomax and Te Rangimarie James (Wai 605); Ngā Uri Tangata o Ngāti Kauwhata (Wai 972); Descendants of Whakaki and Te Hapū o Ngāti Kawau (Wai 1312); Ngātiuru and Te Whānaupani (Wai 1333); Ngā Hapū o Hīmatangi (Wai 1618); Descendants of Matenga and Haua Baker (Wai 1628); Muriwhenua Hapū Collectice (Wai 1662); Te Paatu and Te Uri o Ratima (Wai 1670); Te Hoia, Ngāti Ranimatamomoe, and Ngāti Rangimatakaka (Wai 1684); Ngāti Ruamahua (Wai 2389); Dr Huhana Hickey (Wai 2619); Whānau of Te Rito Foundation (Wai 2945); Taylor Curd (Wai 3069); and Toni Lee Jarvis (Wai 3430).

74. Counsel agree with the utility of a further inquiry set out by Kaupare Law at [29] – [32] above.
75. Counsel further submit that there is utility in a further inquiry given the absence of robust analysis on the impacts of the proposals and the potential and immediate impact on the harm caused to the claimants, together with the Crown's actions being in breach of the principles of te Tiriti o Waitangi.

Wackrow Panoho memorandum (Wai 682, #2.128)

76. On 28 April 2026, the Tribunal received a memorandum of counsel from Wackrow Panoho on behalf of Ngāi Tamahaua and Te Rūnanga-a-Iwi o Ngāti Kahu Charitable Trust (Wai 1781) and Ngāti Kahu (Wai 2214).
77. The claimants support the urgency application as filed and seek leave to participate as an interested party pursuant to s 4A of the Commissions of Inquiry Act 1908.
78. Counsel submit that the claimants have an interest in the urgency application apart from any interest in common with the general public, in that rangatira of the hapū and iwi they represent signed Te Tiriti o Waitangi in 1840, creating a Tiriti partnership. The rights which flow from this partnership are distinctly and materially different from any rights of the general public.
79. The claimants support the urgency application.
80. Counsel submit the claimants will suffer or are likely to suffer significant and irreversible prejudice if the proposed legislative amendments and, in particular, if the 'standardisation approach' is applied (to set the upper limit on the Crown's Tiriti obligations as being no more than an obligation to 'take into account' te Tiriti o Waitangi/the Treaty of Waitangi).
81. Regarding no alternative remedy, counsel submit that the Waitangi Tribunal has become the forum of last resort for Māori groups who are 'suffering at the hands of a brutal and unprincipled attack on their hard-fought rights'. Counsel further submit that the Tribunal is the only forum available to hear the claim and provide some assessment of the likely impacts of the Crown's decisions on Māori before legislation effecting those decisions is introduced to the House.
82. Counsel submit that the substantive changes and developments in the Crown's policy since the Tribunal's previous inquiry and the unprecedented attack on te Tiriti and Māori interests the policy now represents, necessitate a further inquiry be convened.
83. Counsel further submit that, now that the Crown has taken decisions on specific amendments and repeals, particular breaches and prejudice flowing from those amendments and repeals – which the Tribunal was not previously able to inquire into and report on – have become evident.
84. Counsel note that the current policy decisions represent a significant and fundamental change in the Crown's position since the Tribunal's previous inquiry.
85. Counsel note that the Crown has ignored the clear warnings and recommendations given by the Tribunal and 'doubled down' on the approach by introducing an upper limit on all Treaty provisions so as to 'promote the balanced consideration of all relevant factors in decision-making'.
86. Counsel submit that it is imperative that the Tribunal inquire into the new approach.

87. Counsel submit that the Executive cannot, by modern policy preference, rewrite the guarantees solemnly affirmed in te Tiriti o Waitangi. They further submit that any purported derogation can be seen as no more than a simple nullity with delusions of legitimacy. The Crown's present course is, in their view, unprecedented in its scale and candour.

88. The claimants respectfully seek an urgent interim report recommending the Government immediately refrain from implementing the impugned measures pending a full inquiry.

Tukau Law memorandum (Wai 682, #2.129)

89. On 28 April 2026, the Tribunal received a memorandum of counsel from Tukau Law on behalf of Te Rūnanga Nui o Te Aupōuri Trust (Wai 2831).

90. The claimants support the urgency application as filed and seeks to as an interested party. Counsel submit that Te Rūnanga Nui o Te Aupōuri Trust (Te Rūnanga) satisfies the test set out in s 4A(1) of the Commissions of Inquiry Act 1908 as:

- (a) signatories to te Tiriti, Te Aupōuri have rights under te Tiriti including the right to exercise rangatiratanga in relation to matters which concern them;
- (b) the Crown's proposals to repeal or amend Treaty provisions in legislation have been developed without the agreement of Te Aupōuri as a Tiriti partner;
- (c) the Crown's proposals will impact the recognition of Te Auōuri's Tiriti rights at law; and
- (d) Te Rūnanga participated in the Wai 3300 Treaty Principles Bill and Treaty Clause Review urgent inquiry as an interested party and continue to have an interest in the outcomes of the Crown's Treaty Clause Review policy.

91. The claimants support the urgency application.

92. Regarding significant and irreversible prejudice, Te Rūnanga say Te Aupōuri are and will continue to suffer prejudice as a result of the Crown's proposals which seek to impact and/or weaken the recognition of te Tiriti/the Treaty at law. Counsel further submit that this prejudice is significant and will continue to grow as the Crown progresses, introduces, and/or enacts its legislative amendments.

93. Counsel submit that the Crown's proposals represent a significant development in the Crown's treaty Clause Review policy. Counsel further submit that there is new information available to both the claimants and the Tribunal which has not yet been considered or reported on by the Tribunal.

94. In this respect, to understand the Crown's proposals, counsel submit that the impact the proposals will have on Māori, and the extent to which they might breach te Tiriti, a further urgent hearing is necessary.

Kōkiri Chambers memorandum (Wai 682, #2.130)

95. On 28 April 2026, the Tribunal received a memorandum of counsel from Kōkiri Chambers on behalf of Waitaha te Iwi ki te Waipounamu (Wai 3418).

96. Waitaha te Iwi ki te Waipounamu support the urgency application and seek to participate as an interested party.

97. Pursuant to s 4A of the Commissions of Inquiry Act 1908, counsel submit that Waitaha te Iwi ki te Waipounamu has a direct interest in these proceedings apart from any interest in common with the public.
98. Counsel submit that there is considerable utility in an inquiry, as the Tribunal will be able to assess the cumulative effect of the Crown's changes to Treaty clauses and any prejudice cause to provide timely findings before further statutory entrenchment occurs.
99. Counsel further submit that an inquiry now allows the Tribunal to produce a report on the Crown's proposed decisions 'before the concrete sets'.

Annette Sykes & Co memorandum (Wai 682, #2.131)

100. On 28 April 2026, the Tribunal received a memorandum of counsel from Annette Sykes & Co on behalf of Ngāti Pikiao (Wai 1194) and Te Tokotoru a Manawakotokoto (Wai 1212).
101. The claimants support the urgency application for an urgent hearing as filed and seek leave to participate pursuant to s 4A of the Commissions of Inquiry Act 1908. Counsel submit that the claimants have an interest in the application apart from any interest in common with the general public.
102. The claimants support the urgency application.
103. Regarding significant and irreversible prejudice, the claimants say they are likely to suffer if the proposed repeal or amendment of Treaty provisions proceeds, including the adoption of the 'standardisation approach'.
104. Regarding no alternative remedy, counsel submit that the Tribunal is the only forum capable of urgently inquiring into the impacts of the proposed changes.
105. Counsel submit that there is clear utility in the Tribunal conducting an urgent inquiry given the advanced stage of Crown decision-making and the immediate risk of prejudice.

Corban Revell memoranda (Wai 682, #2.132)

106. On 28 April 2026, the Tribunal received a memorandum of counsel from Corban Revell on behalf of Ngāti Torehina ki Mataka (Wai 1508 / Wai 1757).
107. Counsel submit that Ngāti Torehina Ki Mataka has an interest in the inquiry apart from any interest in common with the public and thus satisfies s 4A of the Commissions of Inquiry Act 1908.
108. The claimants support the urgency application.
109. Regarding significant and irreversible prejudice, the claimants state that 'they are suffering or are likely to suffer significant and irreversible prejudice' from the outcome of the Review as a 'pending Crown action'. Ngāti Torehina ki Mataka too affirms the prejudicial significance of the Kawana's proposal in breaching and undermining their obligations under te Tiriti o Waitangi across 23 legislative references.
110. Regarding no alternative remedy, counsel submit that there is none in these circumstances that would be reasonable to exercise. Counsel submit that an urgent inquiry into the proposals to extensively revise Treaty provisions in legislation is necessary for relief of their claim, and the window to launch an inquiry is soon closing before these legislative changes are introduced to the House.

Phoenix Law memoranda (Wai 682, #2.134)

111. On 29 April 2026, the Tribunal received a memorandum of counsel from Phoenix Law on behalf of Wai 3317, Wai 3320, Wai 3343, Wai 3316, Wai 3318, and Wai 3321.
112. Pursuant to s 4A of the Commissions of Inquiry Act 1908, counsel submit that the claimants are entitled to be heard because they have an interest in the inquiry apart from any interest in common with the public.
113. Counsel note that all listed claimants were applicants in the urgent inquiry into the Crown's actions and policies relating to the Treaty Principles Bill, and the review of legislative enactments referring to the principles of the Treaty of Waitangi.
114. The claimants support the urgency application being heard and support the grounds upon which the urgency application has been made.
115. The claimants acknowledge that the Tribunal has previously inquired into matters concerning the removal and amendment of Treaty clauses, including through the Wai 3300 Treaty Principles Bill urgent inquiry. However, counsel submits the present circumstances are materially distinguishable and justify a further inquiry.
116. Counsel submits that the issues before the Tribunal have moved from a prospective and evaluative stage to one of immediate implementation, where the effects of the Crown's decisions are no longer speculative but imminent.

Te Mata Law (Wai 682, #2.135)

117. On 30 April 2026, the Tribunal received a memorandum of counsel from Te Mata Law on behalf of Dr Mere Kepa on behalf of Te Parawhau Hapu Te Patuharakeke o Te Parawhau Hapu (Wai 3481).
118. Counsel submit that the claimant supports the urgency application and seeks leave to participate pursuant to s 4A of the Commissions of Inquiry Act 1908 on the basis that they have an interest in the urgency application apart from any interest in common with the general public.
119. The claimants support the urgency application.
120. Regarding significant and irreversible prejudice, counsel submit that the claimants are likely to suffer significant irreversible prejudice if the proposed repeal or amendment of Treaty provisions proceeds.
121. Regarding no alternative remedy, counsel submit that there is none and that the Tribunal is the only forum capable of urgently inquiring into the impacts of the proposed changes. Counsel further submit that given the advanced stage of Crown decision-making and the immediate risk of prejudice, this enhances both the merits of the urgency application and the claimant's need to participate.

Bennion Law (Wai 682, #2.136)

122. On 30 April 2026, the Tribunal received a memorandum of counsel from Bennion Law on behalf of Muaūpoko Tribal Authority (Wai 2139).
123. Counsel submit that Muaūpoko Tribal Authority (MTA) seeks to join these proceedings as an interested party pursuant to s 4A of the Commissions of Inquiry Act 1908 having set out their interest in these proceedings apart from any interest in common with the public.

124. The claimants support the urgency application.
125. Regarding significant and irreversible prejudice, counsel submit that the prejudice arising out of the proposals are considerable and, in their memorandum, outline several specific examples of the prejudice arising from a 'standardised Treaty clause'.

Loader Legal memoranda (Wai 682, #2.137)

126. On 1 May 2026, the Tribunal received a memorandum of counsel from Loader Legal on behalf of a number of claimants listed at [1] of this memorandum.
127. The Claimants seek leave to participate as interested parties to the urgency application and as interested parties with substantive participation rights, including the ability to file targeted submissions and evidence and to appear at any hearing if urgency is granted.
128. The claimants support the urgency application.
129. Counsel submit that the claimants are likely to suffer significant and potentially irreversible prejudice if the Crown proceeds with the proposed repeal, amendment, or standardisation of Treaty provisions without proper inquiry.
130. Regarding no alternative remedy, counsel submit that there is none and that the Tribunal is the appropriate forum to urgently inquire into whether the Crown's proposed approach is consistent with te Tiriti o Waitangi and its principles.

Ngā tāpaetanga a te Karauna / Crown's submissions

131. The Crown opposes the application for urgency (Wai 682, #2.138).
132. The Crown outlines how the application focuses on the adequacy of Crown engagement, the process of decision-making on the proposed amendments, and the claim that the Crown has proceeded with the review 'against the recommendations' of the Tribunal in *Ngā Mātāpono – The Principles: Part III*.
133. With reference to s 5 of the Treaty of Waitangi Act 1975 (the Act), the Crown submits it is not a function of the Tribunal to inquire into or monitor the Crown's adoption (or not) of prior Tribunal recommendations. Further, citing s 6 of the Act, the Crown submits the Tribunal's jurisdiction is recommendatory, and the Tribunal's role is to inquire into an act, omission, policy, or practice of the Crown, and to present findings and recommendations to the Crown if necessary.
134. The Crown submits that the principal concern articulated by the applicants and the relief sought are addressed by prior Tribunal recommendations. To inquire into the Crown's compliance with the recommendations in *Ngā Mātāpono* would be to suggest that the Tribunal's jurisdiction is more directive than provided by s 6 of the Act.
135. The Crown submits that the claim, in effect, asks the Tribunal to undertake a supervisory role over Crown steps following Tribunal recommendations. Crown counsel note that the Tribunal has previously declined to assume any such role, referring to the Trans-Pacific Partnership Agreement (Wai 2522) Inquiry, where the Tribunal said it was inappropriate for the Tribunal to become a form of oversight or monitoring of proposals.⁴

⁴ Wai 2522, #2.7.30 at [62]; and Wai 2522, #2.7.33 at [89].

136. The Crown submits that should the Tribunal not accept that the inquiry sought is outside its function, there would nevertheless be no utility in the Tribunal holding a further inquiry into the issue raised by the claim.
137. The Crown notes that the claim says the review has proceeded against the Tribunal's prior recommendations and the claimants have not been given an opportunity for meaningful consultation on Cabinet's decisions. Crown counsel submit there is no utility in the Tribunal holding a further inquiry for the purpose of reiterating prior Tribunal findings and recommendations.
138. The Crown is aware and has had the benefit of the Tribunal's reporting recommendations, and notes that the Minister of Justice, the Hon Paul Goldsmith, explicitly acknowledged those recommendations in proposing to Cabinet the decisions taken in February 2026.

Ngā tāpaetanga whakahoki o ngā Kaitono / Applicant submissions in reply

139. On 5 May 2026, the Tribunal received the applicants' reply submissions. The applicants submit that the process of Crown engagement with Māori on Cabinet decisions, and the consultation on the outcomes of the Review, are only part of the claim made by Ngāti Hine. The other component of the claim is the inclusion of Māori in decision-making, including the substance of those decisions and their impact on Māori (Wai 682, #2.139).
140. Regarding the Tribunal's function, counsel submit the Crown has interpreted the claim as asking for an inquiry into the adequacy of Crown engagement on Cabinet's recent decisions on the basis this has occurred against the prior recommendations of Tribunal. However, counsel submit that the claim made by the applicants is not asking the Tribunal to inquire into or monitor the Crown's adoption, or not, of Tribunal recommendations.
141. Further, counsel submit that the issues raised in this claim are not the same issues previously raised, as they are time-specific from the Tribunal's last report in October 2025 to today. They submit that these issues go to process and substance, including the distinct lack of transparency over the outcome of the Review, the substantial progression and decisions to repeal and amend Treaty provisions in legislation. Counsel further submit that the substantial progression made was only discovered through the applicant's participation in other inquiries, resulting in the filing of an urgency application.
142. Counsel submit that the issues are not confined to engagement and involvement in the Review process, as the Crown proposes. Rather, they submit that the issues go to process and substance over the last six months, of which there is now new and relevant information available, and proper analysis can be undertaken to assess the nature and extent of impacts and prejudice to Māori. As these issues are new and live, counsel submit that these issues require the Tribunal's consideration, findings, and recommendations.
143. Counsel also note that the Crown has indicated the Minister of Justice's intention to proactively release Cabinet material relevant to the 23 February 2026 decision, but no such date for release has been provided. Counsel submit this is a continuation of the lack of transparency over the nature and extent of changes the Crown proposes to make to Treaty provisions in legislation following the Review.
144. Regarding utility of a further inquiry at this, counsel submit that the Tribunal has previously inquired into and reported on information available at the time of reporting in August 2024 and October 2025 respectively. Counsel submit that, since then, proposals and subsequent decisions as set out in Cabinet materials dated February 2026 represent a significant development in the Crown's progression of the Review policy.

145. Accordingly, counsel submit:

- (a) that the Cabinet Paper and Cabinet Minute (dated February 2026) and the surrounding policy work including the Advisory Group's Report and the Regulatory Impact Statement are new to the Tribunal (and have not been considered or reported on in *Ngā Mātāpono*;
- (b) the Cabinet paper and Cabinet Minute (dated February 2026) and the surrounding policy work provide the Tribunal with an opportunity to inquire into and report on the process and substance of the review and the proposed next steps since the Tribunal last reported in October 2025;
- (c) decisions have now been made which provide a clear direction on the way that treaty clauses will be reduced and deprioritised in legislation;
- (d) the prejudice to Māori discussed in *Ngā Mātāpono* is now being crystallised and can be properly assessed in light of the information that has been disclosed, enabling the Tribunal to make specific findings and recommendations as to prejudice;
- (e) commentary in the media illustrates that this is an issue of national (and international) importance whereby treaty and constitutional experts alongside tribal leaders have raised concerns, and politicians have sought to push on in the face of opposition; and
- (f) any findings and recommendations of the Tribunal will be valuable to the claimants.

146. Counsel add that the unique jurisdiction of the Tribunal to inquire into the Treaty consistency of the Crown's actions and inactions means that a Tribunal inquiry is the only option of recourse available to them.

147. Counsel submit that the rate at which the Crown is proposing to repeal or amend Treaty provisions in legislation following its review, together with the lack of transparency in its process and broad ranging prejudice that Māori will suffer as a result, require such an inquiry to be carried out under urgency.

Ngā uiuinga tuatahi / Preliminary issues

148. The Tribunal will only grant an urgent inquiry into an eligible claim in exceptional cases and only once adequate grounds for urgency have been made out. There are a range of factors for granting urgency, but the important ones are discussed below:

149. In 2025, the Tribunal issued a new and standardised procedure for the management of urgencies, *Te Tukanga Taihoro: An Expedited Urgent Inquiry Process*, which maintains the criteria noted above, and informs the urgency process should this application be granted.⁵

Does the Tribunal have jurisdiction to hear this claim?

150. Addressing first this preliminary issue, I consider the Tribunal has jurisdiction to inquire into this claim, pursuant to s 6(1)(a) of the Act. The subject matter of this claim has not been covered by the Waitangi Tribunal in *Ngā Mātāpono – The Principles: Part III*. While the Crown is correct to contend that it is not a function of the Tribunal to inquire into or monitor the Crown's adoption (or not) of prior Tribunal recommendations, granting urgency in this case will not result in such a review. Rather, the Tribunal will be inquiring into new

⁵ Waitangi Tribunal, *Te Tukanga Taihoro: An Expedited Urgent Inquiry Process* (2025): [Practice-Note-Te-Tukanga-Taihoro-Urgency-Inquiry-Process.pdf](#).

acts, omissions, policies, and practice of the Crown as it is required to do pursuant to s6 (2) of the Treaty of Waitangi Act 1975.

151. The proposals and subsequent decisions set out in official papers and the Cabinet Minute “Review of References to the Principles of the Treaty of Waitangi in Legislation: Next Steps” dated 23 February 2026 (noting the substantial redactions) represent a significant change in the Crown’s progression of its Treaty Clause Review policy. These documents were first filed in the Education and Training Amendment Act and Te Mātaiaho (Wai 3555) Urgent Inquiry before being placed on this record of inquiry (Wai 3553, #A52; 682, #A15(a)).
152. The claim relates to the decisions gleaned from a combination of the redacted Cabinet Minute CAB-26-MIN-0048.01 filed by Tukau Law, and a letter addressed to the National Iwi Chairs Forum dated 2 April 2026 filed by Whāia Legal in this inquiry.⁶ It appears that Cabinet has agreed to:⁷
- (a) repeal provisions referring to Treaty principles in the:
 - (i) Education and Training Act 2020 (s 536A(1));
 - (ii) Energy Efficiency and Conservation Act 2000 (s 6(d));
 - (iii) Land Transport Management Act 2003 (s 4);
 - (iv) Organic Products and Production Act 2023 (ss 4 and 5(1)(b)); and
 - (v) Smokefree Environments and Regulated Products Act 1990 (s 3AB);
 - (b) repeal Treaty principles provisions that supposedly duplicate the effect of other provisions in their parent Acts, e.g., Crown Pastoral Land Act 1998, s 84(b), which it was claimed duplicates the effect of s 5; and the Plant Variety Rights Act 2022, s 54, which it was claimed duplicates the effect of s 4;
 - (c) make more specific broad Treaty principles provisions in two statutes, namely the Data and Statistics Act 2022, s 14(a), and Hazardous Substances and New Organisms Act 1996, s 8;
 - (d) introduce a Bill in this Parliamentary term to amend the Treaty principles standard in operative enactments identified in 10 statutes to no higher than ‘take into account’;
 - (e) invite the Minister of Justice to issue drafting instructions to the Parliamentary Counsel Office;
 - (f) note the Minister of Justice’s intention to consult the National Iwi Chairs Forum following Cabinet approval and prior to the final approval of the Bill;
 - (g) authorise the Minister of Justice, in consultation with the Ministerial Oversight Group and the Minister responsible for each Act, to make further decisions, in line with the policy decisions agreed to by Cabinet and for the Minister of Justice to make any further minor and technical issues arising during drafting of the Bill; and
 - (h) apply the standardisation approach to future legislation (unless it is inappropriate to do so) ‘to ensure that the benefits of increased certainty across the statute book is

⁶ Wai 682, #A15(a) & #2.124(a).

⁷ Wai 3553, #A52; Wai 682, #A15(a) p 143.

maintained' and to use the Cabinet approved standard form descriptive provision as the presumed preference unless inappropriate in the circumstances.

153. Therefore, the decision to grant urgency is not a decision to monitor the Crown's adoption (or not) of prior Tribunal recommendations, as those recommendations did not relate to these specific repeals or to a Bill of the type described in the 23 February 2026 Cabinet Minute.

Utility of a further inquiry

154. I accept the submissions of the applicants and interested parties that there is utility in granting the application for urgency as it is the Tribunal's role under s 6 of the Act to inquire into any act, omission, policy, or practice of the Crown, and to present findings and recommendations to the Crown if necessary. The Crown has not had the benefit of the Tribunal's expert Treaty assessment of the decisions it made on 23 February 2026.

Interested party status

155. The interested party status applications listed at [16] – [130] are **granted** as per the email from the Waitangi Tribunal Registrar on 1 May 2026. I confirm the current list of interested parties at **Appendix A**.

Paearu ruku tātari ohotata / Urgency criteria

156. I address of the criteria that must be established before I may grant urgency.

Have the applicants demonstrated that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies?

157. Under this heading, the applicants say that due to Crown actions: Māori are unable to give effect to Treaty guarantees in terms of tino rangatiratanga and partnership; the Crown is unilaterally determining law and policy changes impacting Māori at every level – whānau, hapū, and iwi; there is damage to the Treaty relationship between Māori and the Crown requiring restoration and resolution; there is also damage to the claimants and Māori as they claim emotional stress and impacts to wairua arising from the proposed changes; there is a lack of cultural perspective, identity and wellbeing of Māori in the development and application of law and policy; and legislative and policy settings will no longer provide Māori with treaty protections, entrenching inequity and inequality.

158. On its own, this list seems very general, but when coupled with the very real examples provided by counsel for the interested parties, there are real concerns about the impact on Māori. There are concerns also for iwi/hapū who have not yet settled their claims with the Crown who depend on statutory enactments recognising Treaty principles to deliver Treaty outcomes for their communities. Counsel for the interested parties also gave examples of prejudice that will exist due to potential changes to the Climate Change Response Act 2002, the Energy Efficiency and Conservation Act 2000, the Environment Act 1986, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Land Transport Management Act 2003, the Local Government Act 2002, Pae Ora (Healthy Futures) Act 2022, the Mental Health and Wellbeing Commission Act 2020, and the Education and Training Act 2020.

159. Therefore, I find that the applicants and interested parties have demonstrated that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies.

Have the applicants demonstrated that there is no alternative remedy that, in the circumstances, it would be reasonable for them to exercise?

160. I find there is no alternative legal forum to have the issues heard and a Tribunal inquiry is the only option for recourse available to them. In addition, I agree with the applicants and interested parties that:

- (a) The Review has been completed and, as of 23 February 2026, Cabinet has agreed to a number of proposals to repeal and amend Treaty provisions. The Cabinet Minute dated 23 February 2026 also noted that the Minister of Justice proposes introducing amending legislation to give effect to the outcome of the Review within this Parliamentary term. Therefore, there is only a narrow and critical window in which the Tribunal's assistance can be provided.
- (b) A focused and urgent inquiry and report, containing targeted findings and recommendations, can address the claim issues for the parties before the proposed amendments are introduced into the House.

Have the applicants demonstrated that they are ready to proceed urgently to a hearing?

161. The applicants and interested parties submit they are ready to proceed urgently to hearing. Therefore, the new stringent filing requirements of the *Te Tukanga Taihoro: An Expedited Urgent Inquiry Process* will apply.

Other considerations

162. I note another factor weighing in favour of granting urgency is that the claim challenges an important current or pending Crown action or policy. Whether repeals or changes to operative Treaty principles clauses in enactments will reduce Crown obligations guaranteed by the Treaty of Waitangi/Te Tiriti o Waitangi or nullify Māori Treaty rights can only be determined by a hearing of the issues.

Te Whakataunga me Ngā tohutohu / Decision and directions

163. The application for urgency is **granted**. This urgent inquiry will be called Te Tinihanga o Ngā Mātāpono o te Tiriti – the Treaty Principles Reform Urgent Inquiry (Wai 3565). A new record of inquiry will be established for this inquiry.

164. I appoint Derek Fox, Dr Paul Hamer, and Kevin Prime to hear the urgent issues for inquiry, with myself as Presiding Officer.

Filing milestones

165. The Crown is directed to file unredacted versions of the documents in Wai 3553, #A52, Wai 682, #A15, the list of the 10 statutes to be amended and any other relevant Cabinet Minutes by **4pm, Wednesday 13 May 2026**. Should the Crown be unable to provide this material, it should file a memorandum advising the Tribunal of the same by no later than **12pm, Tuesday 12 May 2026**.

166. Counsel for the claimants and interested parties are to file submissions and evidence for the claimants and interested parties by **4pm, Friday 15 May 2026**.

167. The Crown is to file its response evidence and submissions by **4pm, Wednesday 20 May 2026**.

168. All parties are to file submissions on the draft issues for urgent inquiry noted at [170] below by **4pm, Friday 22 May 2026**.

169. Reply evidence and submissions for the claimants and interested parties are to be filed by **4pm, Monday 25 May 2026**.

Draft issues for urgent inquiry

170. Subject to refinement from the parties via submissions filed by 4pm on Friday 22 May 2026, the draft issues to be addressed at hearing should be:

- (a) The rationale for the decisions made by Cabinet on 23 February 2026.
- (b) The effect of the repeals of Treaty principles provisions proposed on the Crown's obligations under the Treaty of Waitangi/Te Tiriti o Waitangi and on the rights of Māori therein recognised.
- (c) The differences in legal meaning and effect between the 10 operative Treaty principles enactments and the proposed amendments to those enactments by a Bill that will set the standard to one of 'take into account' the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.
- (d) Any evidence of real prejudice to the claimants and interested parties from the repeals and proposed amendment Bill beyond the impact on mana, rangatiratanga and the partnership principle.
- (e) The Treaty adequacy of opportunities for Māori to influence the proposed reforms.

171. Further memorandum-directions will be issued finalising the issues for hearing, and a hearing date as soon as possible.

The Registrar is to send a copy of this direction to counsel for the applicants, Crown counsel and those on the notification list for:

- Wai 3565, Te Tinihanga o Ngā Mātāpono o te Tiriti – the Treaty Principles Reform Urgent Inquiry; and
- Wai 3300, Tomokia ngā tatau o Matangireia, the Constitutional Kaupapa Inquiry.

WHAKAPŪMAUTIA ki Te Whanganui-a-Tara i te 6 o te Haratua 2026



Kaiwhakawā Matua Dr C L Fox
Tumuaki

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI