I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI **Wai 3565**
IN THE WAITANGI TRIBUNAL **Wai 3069**

In the Matter	of the Treaty of Waitangi Act 1975
And	
In the Matter	of the Te Tinihanga o Ngā Mātāpono o Te Tiriti – the Treaty Principles Reform Urgent Inquiry (Wai 3565)
And	
In the Matter	of a claim by Taylor Curd, on behalf of himself, his whānau, hapū and iwi (Wai 3069)

BRIEF OF EVIDENCE OF TAYLOR CURD

Dated 18 May 2026

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Waitangi Tribunal
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WELLINGTON

Mahony Horner Lawyers
Counsel: Rox Soriano / Dr Bryan Gilling / Richard Gayfer
PO Box 24515
Wellington 6142
04 974 4036 / 04 974 4028 / 04 974 4206
rox.soriano@mhlaw.co.nz / bryan.gilling@mhlaw.co.nz /
richard.gayfer@mhlaw.co.nz

TĒNĀ E TE TARAIPIUNARA
MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. My name is Taylor Curd. I am the named claimant for the Wai 3069 claim. I provide this brief of evidence for the Wai 3565: Te Tinihanga o Ngā Mātāpono o Te Tiriti – the Treaty Principles Reform Urgent Inquiry.

2. I have previously offered to the Tribunal, for its consideration, my experience of recovery from a traumatic brain injury sustained in 2017, with regard to the mismanagement by the Accident Compensation Corporation (**ACC**) of my claim which is otherwise legislated to manage my claim to reduce the impact of my injury on both myself and the community.[1]

3. The purpose of this brief is to offer the Tribunal my perspective informed by lived experience of specific Treaty provisions in relation to the scope of this Inquiry. My evidence directly addresses:

    a. the effect of repeals of Treaty principles provisions on the Crown's obligations under te Tiriti and on the rights of Māori recognised therein;

    b. the differences in legal meaning and effect between specific Treaty rights versus the proposed "*take into account*" amendments;

    c. the real prejudice to claimants beyond the impact on mana, rangatiratanga, and the principle of partnership; and

    d. the Treaty adequacy of opportunities for Māori to influence the proposed reforms.

4. My evidence offers two lenses:

    a. through the Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002 (**Code**); and

    b. through the health-responsible authorities made independent from

[1] Brief of Evidence of Taylor Alexander Curd, 14 June 2023 (Wai 2575, #J14).

te Tiriti by the Health Practitioners Competence Assurance Act 2003 (**HPCA Act**).

5. When I refer to te ao Māori, Māori cultural safety and competence et cetera, it should be noted that these are the various ways in which I experience te Tiriti principles that have or have not been implemented.

6. I understand that not all of this evidence is directly in scope for this urgent Inquiry, however, what I hope to put forward by providing this evidence is the fact that when there is weakened te Tiriti obligations, or where it's completely absent, there is a tendency for Crown and Crown-adjacent agencies to meet the bare minimum, which in my mind, is extremely harmful. In contrast, where there is a direct obligation to te Tiriti, the outcomes are much better.

CODE OF ACC CLAIMANTS' RIGHTS

7. Right 3 of the Code states:

> You have the right to have your culture, values, and beliefs respected.
>
> (a) We will be respectful of, and responsive to, the culture, values, and beliefs of Māori.
>
> (b) We will be respectful of, and responsive to, all cultures, values, and beliefs.

8. This Code is established under Part 3 of the Accident Compensation Act 2001. While public consultation in its preparation was required, there were no groups specified (including Māori). Engagement was limited to those whom the then Minister considered it necessary to hear from to ensure a wide range of views.

9. The right is direct and clear: "*You **have** the right*…" and "*We **will***…".

10. Over the course of my recovery, this is the only clause that has helped me to push for Māori services, and cultural safety for Māori, as I accessed the health system through ACC. From 2020, when I first pushed on this clause, I now have access (albeit not perfectly) to:

a. rongoā Māori;

b. Māori case management (Hāpai Teams);

c. protection under the ACC Kawa Whakaruruhau Cultural Safety Policy;

d. exploring a Māori resolution process; and

e. exploring an integrated Māori healing pathway.

11. Significantly, since gaining access to rongoā through ACC via Right 3, everyone in the country can now access it. Statistics show it has equal uptake for both Māori and non-Māori, with great outcomes across the board as a health service, and ACC reporting that it is "*a healing system that works*". This demonstrates how advocating for specific Māori rights through strong Treaty provisions can benefit all New Zealanders by removing systemic barriers to effective healthcare.

12. This journey I have walked alongside ACC has been horrific and life-altering to say the least. Before 2020 it was a much harsher reality, even though the same clause existed. There was no cultural safety nor Māori services. There was a Māori Team, though they could only offer guidance within an otherwise health- and mana-trampling service. This is not just about me trying to access an ethereal 'cultural safety' for Māori, karakia and sharing pepeha – this is about trying to access a recovery pathway that actually helps me recover, building the relationships that are critical to that, and getting off the ACC scheme that I am otherwise trapped on.

13. So, what was the catalyst for the changes at ACC since 2020? An ACC client gaining a voice was only possible through the clarity of Right 3 of the Code of ACC Claimants' Rights. Having a voice within my own recovery has always been the sticking point with ACC, and this clarity gave it to me. Of course, the other rights give me access and a voice in their respective areas.

14. The agent in the power position (ACC) can always ignore those without power (claimants). When there is disagreement, I have only ever been able to gain a voice through the Code and through the subsequent complains

process, which can only investigate a breach through a Code Investigation. In this way, the voice I gain is never mine, but through the language of the oppressor's Code.

15. To be clear, ACC has no Tiriti provision in its governing legislation, the Accident Compensation Act 2001. This therefore means I cannot make a complain about systemic issues outside the limited scope of the Code – complaints about te Tiriti compliance and obligations through principles raised by the Tribunal. My voice, my concerns and my story are filtered through this. Nothing else hits ACC's ears. This demonstrates why strong Treaty provisions matter. They are often the only avenue for Māori voices when things go wrong, or when things don't go Māori. This is why I have previously turned to the Tribunal and to the Ombudsman for help.

16. Imagine if Right 3 did not exist, or simply required ACC to "*take into account*" cultural considerations. Well, we don't have to imagine.

17. Right 2 of the Code states:

> You have the right to be treated fairly, and to have your views considered.
>
> (a) We will treat you fairly.
>
> (b) We will listen to you and consider your views.
>
> …

18. Whenever I have raised this right, ACC simply states that they have considered my views. Even when pressed for clear explanation, ACC does not respond other than to say they have considered my views and then proceed as if I had said nothing at all. This right means nothing in practice for me. It does not give me voice. It only seems to serve as a mechanism to be officially ignored without consequence because the bar is so low and the wording so vague; it is not grounded in anything substantive.

19. I have better success if ACC staff aren't aware of this right and I don't raise or use it. This 'right' is actually harmful – it gives ACC a procedural shield to hide behind while ignoring everything I say. It legitimise dismissal in a way

that having no right at all would not. At least then, ACC couldn't claim that they had met their obligations to listen.

20. The contrast between Rights 2 and 3 within the same Code demonstrates how specificity of language matters even within a single document. This pattern becomes even starker when comparing the Code to the health system I must navigate through ACC.

HPCA ACT AND ACCESSING HEALTHCARE

21. Section 118(1)(i) of the HPCA Act provides that one of the functions of each health authority appointed in respect of a health profession is:

> *to set standards of clinical competence, cultural competence (including competencies that will enable effective and respectful interaction with Māori), and ethical conduct to be observed by health practitioners of the profession*[.]

22. In contrast to the language of ACC's Code, this clause is much weaker. The result is that cultural safety and competence across responsible authorities (**RAs**) is inconsistent and reliant on the goodwill of those who lead them. My personal experience of practitioners has varied widely among RAs:

    a. Nursing Council of New Zealand – good.

    b. New Zealand Psychologists Board – OK.

    c. Physiotherapists Board of New Zealand – not good.

    d. Medical Council of New Zealand – the worst.

23. A look into the level at which each of these recognises and integrates te Tiriti principles and how they embed Māori culture and safety into their competencies correlates to my experience. All operate under the same HPCA s 118 requirement, yet their interpretations range from barely mentioning our culture to comprehensive Treaty frameworks. This shows how vague legislative language leads to inconsistent protection and the unsure care I have experienced over and over again.

24. When I have made complaints to professional bodies, trying to have a voice in my care when I have been ignored, these organisations do not have the appropriate clauses that I can easily call on for cultural safety issues to be heard. Nor are practitioners held to such a standard that they would deliver this to me naturally in their service. It is often up to the goodwill of an individual practitioner or finding a rare Māori service provider which embeds te Tiriti.

25. In addition, Right 1(3) of the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996 provides:

> Every consumer has the right to be provided with services that take into account the needs, values, and beliefs of different cultural, religious, social, and ethnic groups, including the needs, values, and beliefs of Māori.

26. Again, complaints to the Health and Disability Commissioner (**HDC**) have not been taken seriously. It took me many years and a few rounds of the ACC complaints process for ACC to eventually hear my cultural complaints. I did not have the energy to achieve this with the HDC as well. I imagine the stakes are also too high for practitioners, e.g. loss of license.

27. These experiences across both ACC and health systems reveal a clear pattern about what makes Treaty provisions effective in practice.

28. I also acknowledge that the professional bodies I have listed above are classified as independent statutory authorities and so can operate however they see fit. But in my view, it has parameters of operation. It has a governing legislation, the HPCA, which is set up by the Crown. It could be strengthened to include better Tiriti provisions and accountability mechanisms, given that a large demographic of health service users, like me, are Māori.

THE SYSTEMIC PATTERN

29. My experience reveals that even where good clauses exist, meaningful implementation depends on four critical elements:

    a. Strong, clear wording that creates enforceable rights/ability for

voice (what we are discussing);

b. Māori staff who can interpret these rights/voice properly in te ao Māori;

c. Leadership that supports and empowers te ao Māori approaches and staff; and

d. Systems that do not constrain or filter Māori voices through colonial frameworks.

30. Weakening Treaty language to "*take into account*" would remove even the foundation level of protection that Right 3 provides and would likely result in more agencies adopting minimal approaches rather than comprehensive Treaty frameworks.

31. This systemic view reflects what I see from the policy level, but the reality on the ground tells a fuller story.

BOTTOM-UP EXPERIENCE

32. In both of these spaces, it is easy to see what these agencies under the Crown say about te Tiriti. Experiencing what this actually means is much different.

33. Where there is no te Tiriti clause, or where it is weak, I as a Māori citizen cannot have a voice that is Māori. I cannot advocate for Māori services and I am therefore colonised to be Pākehā through the services I receive under the Crown.

34. Where clauses do exist, and they are strong enough, they are not enough on their own. There must be a Māori (or culturally safe and competent) person there to hear me. And, more importantly, there must be a leader above them, and a system in which they both work, that allows for a Te Ao Māori view to be honoured and practiced.

35. My lived experience demonstrates the real difference between specific rights and vague obligations. The contrast between these examples hopefully illustrates how Treaty language specificity directly impacts the

care and voice that Māori can access. Moving to weaker "*take into account*" language would undermine the gains fought for since 2020 and remove meaningful opportunities for Māori to influence the systems that affect our lives.

36. Strong te Tiriti wording must be used across all levels of our institutions.

SUMMARY

37. Through my lived experience as a Māori ACC claimant recovering from a traumatic brain injury, I have experienced:

    a. How strong Treaty provisions create enforceable Crown obligations that protect Māori rights. Right 3's clear language enabled me to access rongoā, Māori case management, and cultural safety policies. In contrast, the weaker provisions of the HPCA Act allow RAs to avoid substantive Treaty obligations resulting in inconsistent and often culturally unsafe care.

    b. The fundamental difference between enforceable rights and discretionary language. Right 3's specificity gave me voice and leverage when ACC ignored my cultural needs, while "*take into account*" language in health settings has meant that my cultural safety depends on practitioner goodwill.

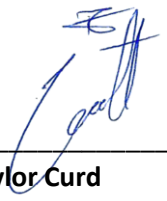
    c. Real prejudice beyond impacts on mana and rangatiratanga, including: unsafe healthcare that caused further harm after injury; inability to access culturally appropriate healing; being forced into Pākehā-only services that colonised my recovery; years of fighting for basic cultural safety; and the filtering of my voice and my story through colonial complaint processes that strip away my lived reality. A protracted recovery and the needless loss of a decade of my life.

    d. How meaningful opportunities for Māori influence depend entirely on strong Treaty language as the foundation. Without Right 3's clear language, I would have had no mechanism to advocate for change

within ACC's systems. Weakening Treaty provisions to "*take into account*" language would eliminate the very pathways through which Māori can influence the systems that affect our lives.

38. Strong te Tiriti wording across all Crown institutions is not just policy; it is the difference between having a voice and being silenced; between cultural safety and cultural harm; and between healing and further trauma.

Dated at Te Whanganui-a-Tara this 18th day of May 2026



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Taylor Curd
Named Claimant for Wai 3069