I TE ROOPU WHAKAMANA I TE TIRITI
IN THE WAITANGI TRIBUNAL

WAI 3565
WAI 1781
WAI 2214

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	Te Tinihanga o Ngā Mātāpono o te Tiriti – the Treaty Principles Reform Urgent Inquiry
AND	a claim by Tracy Hillier and Rita Wordsworth on behalf of themselves and for the benefit of the hapū of Ngāi Tamahaua (Wai 1781)
AND	the Wai 2214 claim by Margaret Mutu on behalf of herself, Te Rūnanga-a-Iwi o Ngāti Kahu Charitable Trust and Ngāti Kahu (Wai 2214)

JOINT MEMORANDUM OF COUNSEL
Dated this 18th day of May 2026

RECEIVED
Waitangi Tribunal
18 May 26
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL:

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1. This Joint Memorandum of Counsel is filed on behalf of:

   (a) Wai 2214, a claim by Professor Margaret Mutu on behalf of herself, Te Rūnanga-a-Iwi o Ngāti Kahu Charitable Trust and Ngāti Kahu; and

   (b) Wai 1781, a claim by Tracy Hillier and the late Rita Wordsworth on behalf of themselves and for the benefit of the hapū of Ngāi Tamahaua.

   Together referred to as ("the **Claimants**").

2. In Memorandum-Directions dated 6 Haratua 2026, the Tribunal granted the Wai 682 application for an urgent inquiry into the Crown's Treaty Principles Reform policy and further granted the Claimants' request to participate in the urgent inquiry as interested parties.[1]

3. By way of email from the Registrar dated 13 May 2026, the parties were informed that any evidence and submissions on the draft issues for urgent inquiry on behalf of the interested parties are to be filed no later than 4pm, Monday 18 May 2026.

Evidence

4. Counsel now file with this Joint Memorandum the following evidence of the Claimants:

   (a) The brief of evidence of Professor Margaret Mutu dated 18 May 2026; and

   (b) The brief of evidence of Tracy Francis Hillier dated 18 May 2026.

[1] Wai 3565, #2.5.001 at [4], [77], [155]; #2.5.001(a) at [10].

Submissions on draft issues for inquiry

5. Counsel have coordinated and reviewed the draft statement of issues filed by Counsel for Ngāti Hine (Wai 682) in this inquiry and wish to indicate the Claimants' broad support for the same subject to the following additional comments:

   (a) the Crown's decisions to amend and/or reform the subject provisions, should be inclusive of any decisions to repeal Treaty provisions and to set a presumptive maximum Treaty standard to be applied across legislation (present and future);

   (b) the Tiriti-consistency of the process the Crown has undertaken should be juxtaposed against the principle of good governance and the extent to which the Crown has met its own standards for policy and legislative development throughout this policy.

   (c) the opportunities for Māori to influence the proposed reforms, should be inclusive of opportunities to influence the design and direction of the policy as well as the substance of the proposed reforms, particularly in terms of the timing and scope of engagement.

6. Additionally, counsel observe the Cabinet paper records that a number of Acts and associated Treaty provisions have been excluded from the present review on the basis that they are subject to separate policy or legislative workstreams.[2] The paper indicates that these exclusions are intended to ensure that the overall objectives of the review, including standardisation and increased certainty, will be achieved through those parallel processes.

7. However, there has been no substantive disclosure of the content, scope, or status of those other workstreams. It is therefore unclear whether the Crown will apply the same standardisation approach, including the proposed "take into account"" ceiling, or what the

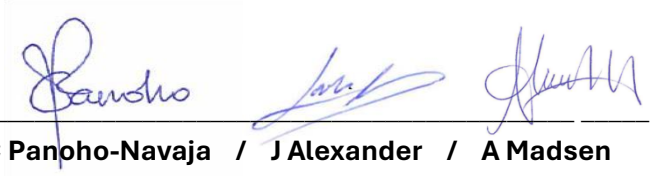
[2] Cabinet paper at [10], [37]-[41].

cumulative effect of the various processes across the statute book will be.

8. The Claimants identify this issue as a potential gap in the current statement of issues as it may be important for the Tribunal to understand the full policy context within which the present proposals sit. For example, depending on their scope and content, those workstreams may be material to understanding the overall direction and effect of the Crown's policy; and the absence of disclosure creates a risk that the present inquiry may proceed on an incomplete evidential basis.

9. The Claimants will abide the decision of the Tribunal and the Applicants for urgency on this matter and note it only for the purposes of assisting with the progression of this matter towards hearing.

Dated at Auckland this 18th day of May 2026



C Panoho-Navaja / J Alexander / A Madsen
Counsel for the Claimants