OFFICIAL

IN THE WAITANGI TRIBUNAL

Wai 3565
Wai 3321

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	Te Tinihanga o Ngā Mātāpono o te Tiriti – the Treaty Principles Reform Urgent Inquiry
BY	Apihaka Mack, on behalf of herself, her whānau, and Ngāti Awa Tōputōnga Tai Kapiti

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MEMORANDUM OF COUNSEL ACCOMPAYING APPLICATION FOR AN URGENT HEARING INTO THE CROWN'S DECISION TO REMOVE TREATY CLAUSES IN LEGISLATION

Dated 8 May 2026

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Counsel Assisting: Nicholas Johnson

RECEIVED
Waitangi Tribunal
11 May 26
Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL –

1. This Memorandum of Counsel ("MoC") is filed:

a. on behalf of Apihaka Mack, on behalf of herself, her whānau, and Ngāti Awa Tōputōnga Tai Kapiti ("the Claimants"), that they represent under the Wai 3321 claim ("the Claim") in the Constitutional Kaupapa Inquiry; and

b. accompanies an application seeking an urgent hearing into the Crown's policy of introducing legislation that will affect Te Tiriti o Waitangi/the Treaty of Waitangi clauses ("Treaty Clauses") in legislation ("the Application").

2. This Application is made following the Waitangi Tribunal's indication in *Ngā Mātāpono* that:

> we consider that we have now adequately reported on both issues. The Treaty Principles Bill has been voted down and the Treaty clause review is significantly advanced. We do not consider that further reporting on the review would be appropriate within the ambit of this urgent process – any further claims about the repeal or amendment of Treaty clauses as a result of this particular review would need to be the subject of fresh applications to the Chairperson for urgency or priority.[1]

3. The Waitangi Tribunal Practice Note, *Te Tukanga Taihoro (an Expedited Urgent Inquiry Process)* ("Urgency Practice Note"), states that, in deciding an application for urgency, the Tribunal has regard to a number of factors ("the Urgency Criteria").[2] Of Particular importance is whether the Claimants can demonstrate:

a. that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions, omissions or policies;

b. that there is no alternative remedy that, in the circumstances, it would be reasonable for the Claimants to exercise; and

[1] Waitangi Tribunal *Ngā Mātāpono: The Principles* (Wai 3300, 2025) at 50.
[2] Wai 3535, #2.5.1(a).

c. the Claimants are ready to proceed urgently to a hearing or (if appropriate) decision on the papers, without the need of further research or evidence to be filed.[3]

4. The Application meets the Urgency Criteria.

Dated: 8 May 2026

Janet Mason
Counsel Acting

[3] Wai 3535, #2.5.1(a) at [6].