TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Wai 3325

E PĀ ANA KI te Treaty of Waitangi Act 1975
CONCERNING

Ā, te Climate Change Priority Inquiry
AND

HE PĀNUI WHAKAHAU A KAIWHAKAWĀ STEPHANIE MILROY

MEMORANDUM-DIRECTIONS OF JUDGE STEPHANIE MILROY FOLLOWING HEARING EIGHT OF PRIORITY INQUIRY AND OTHER MATTERS ARISING

8 Hune 2026

Purpose

1. This memorandum-directions:

    (a) addresses procedural and evidential matters arising from the evidence presented at hearing eight of the Climate Change Priority (Wai 3325) inquiry held between 25 and 29 May 2026, in particular:

        (i) filing requested during the course of the hearing; and

        (ii) questions in writing.

    (b) addresses matters discussed at the judicial conference held on 28 May 2026 during hearing eight; and

    (c) records the Tribunal's formal acknowledgement of the assistance provided to the Climate Change Priority (Wai 3325) inquiry by He Pou Rangi Climate Change Commission (the Commission).

2. An updated list of filing milestones is **attached** as **Appendix A**.

Filing requested during hearing eight

3. Hearing eight of the Wai 3325 inquiry was held in-person and via audio-visual link (AVL) from 25 to 29 May 2026 at the Waitangi Tribunal Offices in Wellington.

4. During hearing eight, several matters were raised that require further filing.

5. I now address the materials that remain outstanding at the time of writing. I direct the relevant counsel to file the materials and information detailed at [6] to [26] below by **5 pm, Thursday 11 June 2026**.

Evidence of Siobhan Routledge (Wai 3325, #A129)

6. On 25 May 2026, Siobhan Routledge, Director, Aviation and former Acting Deputy Chief Executive, Policy Group, at the Ministry of Transport (MoT), presented evidence on behalf of the Crown.

7. Tom Bennion, counsel for the Mangatū Block (Wai 507), the Muaūpoko Lands and Resources (Greenland) (Wai 2139) and the Taranaki Climate Justice (Wai 3262) claims, asked Ms Routledge whether MoT's lack of any performance measure for resilience and security outcomes is a gap to be filled. Ms Routledge advised that she was not aware of any relevant work underway and would confirm accordingly.

8. In addition, Mr Bennion asked whether the government ceased work on the National Light Vehicle Kilometres Travelled Reduction Plan concurrent to its cessation of the first Emissions Reduction Plan (ERP). Ms Routledge advised that she would need to confirm.

9. Tribunal panel member Prue Kapua asked Ms Routledge what percentage of new vehicles are electric. Ms Kapua further asked by which date MoT expects to have an additional 2,000 electric vehicle chargers on stream. Ms Routledge advised that she would need to confirm these points.

10. Tribunal panel member Basil Morrison asked whether there has been any exponential growth of hydrogen-fuelled vehicle take-up. Mr Morrison further asked how the Regional Transport Plan interacts with a regional council's engagement with the New Zealand Transport Authority, local authorities and other agencies. Mr Morrison finally asked whether electric bicycle charging stations are being implemented under regional transport plans. Ms Routledge advised that she could confirm these points and provide more information to the Tribunal.

11. Tribunal panel member Professor David Williams asked which states constitute the 'lead jurisdictions' referred to in Ms Routledge's summary evidence (Wai 3325, #A129(b) at [40]), with a particular interest on whether China is included. In that context, I subsequently asked Ms Routledge to clarify what is meant by 'close to' lead jurisdictions. Ms Routledge advised that she could provide the Tribunal with a list of such jurisdictions and a clearer definition of 'close to'.

12. In addition, I asked when the Land Transport Clean Vehicle Standard Amendment Bill (No 2) is anticipated to become law. I then asked Ms Routledge to clarify the expectation of 'future target over-achievement' referred to in her brief of evidence (Wai 3325, #A129 at [57]). I also asked for further clarification on why modelling indicated that removal of the Clean Vehicle Discount Scheme would not affect the transport sector's contribution to the first emissions budget, as noted at paragraph 64 of her evidence. Finally, I asked Ms Routledge whether reference to Māori and The Treaty of Waitangi in the Land Transport Act 1998 would be affected by the proposals to standardise. Ms Routledge advised that she would provide fuller answers to these questions in writing.

13. Counsel for the Crown are to file Ms Routledge's responses to the information sought above.

Supplementary evidence of Professor Timothy Naish (Wai 3325, #A25(b))

14. On 27 May 2026, Timothy Naish, Professor of Earth Sciences at the Antarctic Research Centre, Victoria University of Wellington, presented evidence on behalf of the Emissions Trading Scheme (Wai 2607) claim.

15. Tribunal panel member Kevin Prime, asked Professor Naish what actions central and local government, and also individuals, should take to best contribute toward decreasing greenhouse gas emissions. Professor Naish advised that there are several relevant documents targeted towards New Zealand citizens and offered to make these available to the Tribunal.

16. Professor Williams asked Professor Naish to clarify whether the graph in the final slide used in his presentation (Wai 3325, #A25(e)) should read '19' rather than '9' for the figure pertaining to China. In addition, Professor Williams asked Professor Naish whether a trillion is equal to one thousand million times one thousand million. Professor Naish offered to confirm this information in writing.

17. Counsel for Wai 2607 are to file Professor Naish's written responses to the matters above, along with any relevant documents.

Reply evidence of Dr Ivo Geoffrey Bertram (Wai 3325, #A5(e))

18. On 27 May 2026, Dr Ivo Geoffrey Bertram, presented his reply evidence on behalf of the Wai 2607 claim.

19. During re-examination, Michael Sharp, counsel for the Wai 2607 claim, advised that two academic papers on future damages referred to by Dr Bertram and authored by Martin Weitzman and William (Bill) Nordhaus respectively could be filed with the Tribunal. Counsel are to file the relevant documents referenced by Dr Bertram.

Evidence of Dr Richard Meade (Wai 3325, #A151)

20. On 27 May 2026, Dr Richard Meade, Principal Economist at Cognitus Economic Insight, presented his evidence on behalf of the Climate Change (Te Taumata) (Wai 3287) claim.

21. Judge Milroy asked if Dr Meade could provide a written response with further information on the potential scope of a Climate Change Commission and the functions that might appropriately be delegated to such a body. Dr Meade confirmed that he could provide a fuller answer. Counsel for Wai 3287 are to file Dr Meade's written response to this matter.

Reply evidence of Dr Anthony Cole (Wai 3325, #A84(e))

22. On 28 May 2026, Dr Anthony Cole, Founding Director at Te Toi Ōhanga: the New Zealand Institute of Māori Economic Development, presented his evidence on behalf of the Wai 2607 claim, the Climate Change (Wairoa Māori Committee) (Wai 3412) claim, the Climate Change (New Zealand Māori Council) (Wai 3413) claim and the Climate Change (Matiti Māori Committee) (Wai 3414) claim.

23. Grace Seeley, counsel for the Crown, noted that information pertaining to non-disclosure agreements provided orally by Dr Cole was new to the Crown and requested for this information to be filed. I confirmed that counsel for Wai 2607, Wai 3412, Wai 3413 and Wai 3414 should file this with the Tribunal.

Reply evidence of Professor Catriona Macinnis-Ng (Wai 3325, #A69(d))

24. On 29 May 2026, Catriona Macinnis-Ng, Professor of Ecology at the University of Auckland, presented her reply evidence on behalf of the Climate Change (Skerrett-White) (Wai 3281) claim.

25. Mr Prime asked Professor Macinnis-Ng which rare and threatened species are being managed by the Department of Conservation and how many trees have been planted under the One Billion Tree Programme. Professor Williams then asked if there was any research data on the fire risk to forests, particularly pine, in New Zealand. Professor Macinnis-Ng advised that she could provide fuller answers in writing.

26. Counsel for the Wai 3281 claim are to file Professor Macinnis-Ng's written responses to the matters above.

Questions in writing

27. In memorandum-directions dated 21 May 2026, I granted leave for Annette Sykes and Sam Vincent, counsel for the Climate Change (Ngā Toki Whakarururanga) (Wai 3395) claim, to put any additional questions, beyond those asked at hearing eight, in writing to Mr Morton. I noted that a filing date would be advised at a later stage (Wai 3325, #2.6.30 at [18] and [20]).

28. Over the course of the hearing, several counsel sought leave to file their outstanding questions in writing.

29. On 25 May 2026, Umar Kuddus, counsel for claimants listed in Wai 3325, #3.2.266, sought leave to put further written questions to Ms Routledge.

30. On 28 May 2026, Nixon Fong, counsel for the Crown, sought leave to put one further written question to Dr Meade arising from his PowerPoint presentation.

31. On 29 May 2026, Jeremy Prebble, counsel for the Crown, sought leave to put further written questions to Professor Alexandra MacMillan.

32. Accordingly, leave is granted for:

    (a) the counsel specified above to file any questions in writing arising from hearing eight by **5 pm, Wednesday 10 June 2026**; and

    (b) counsel to file responses to the questions in writing arising from hearing eight by **5 pm, Wednesday 17 June 2026.**

Judicial conference

33. On 28 May 2026, as indicated in my earlier memorandum directions dated 22 May 2026 (Wai 3325, #2.6.32 at [19]), I convened a judicial conference to discuss several matters which had arisen as pertaining to the Wai 3325 inquiry.

Leave sought to vacate and reschedule hearing nine

Background

34. Hearing nine was initially scheduled to occur between 15 and 19 June 2026 for the purposes of hearing closing submissions (Wai 3325, #2.6.22 at [12]–[13]). In memorandum-directions dated 8 May 2026, I directed (Wai 3325, #2.6.29 & 2.6.29(a)):

    (a) claimant counsel to file closing submissions by 26 May 2026; and

    (b) counsel for the Crown to file closing submissions by 2 June 2026.

35. On 21 May 2026, the Tribunal received a joint memorandum from claimant coordinating counsel and counsel for the Crown seeking leave for hearing week nine to be vacated and rescheduled (Wai 3325, #3.2.344 at [5]).

36. Counsel submitted that the current date would not allow adequate time for full closing submissions to be prepared and exchanged due to the requirement for hearing transcripts

in preparing submissions. Counsel further noted that parties face significant competing demands from concurrent urgent inquiries and fixtures (Wai 3325, #3.2.344 at [4]).

37. In memorandum-directions dated 22 May 2026, I advised that the Tribunal will be required to seek resourcing for hearing nine should it proceed in the new financial year (2026/2027), as no resources are presently allocated for hearings beyond 30 June 2026. I advised that this matter would be further discussed at the judicial conference, with parties to advise on how they wish to proceed if resources cannot be allocated for hearing nine to be held in the 2026/2027 financial year (Wai 3325, #2.6.32 at [17]–[19]).

Additional submissions

38. During the judicial conference, Mr Prebble reiterated that the hearing scheduled for hearing nine should be vacated, and proposed September or a later date for the rescheduled hearing.

39. In addition, Mr Prebble advised that he would seek instruction on whether the Crown is able to fund hearing nine, and indicated that, if so, that would be the preferred course over submissions being filed solely in written format.

40. Bryce Lyall, claimant coordinating counsel, advised that he had conferred with claimant counsel who broadly agree that it would be difficult to maintain the current June hearing fixture. Counsel submitted that filing dates for submissions should be set, with the understanding that these may later be adjusted if the Crown is able to fund hearing nine.

41. I noted that transcripts from hearing four onwards were still being processed and would be completed after the Treaty Principles Reform Urgent (Wai 3565) inquiry transcripts, which might assist in setting filing dates. In response to my query as to whether the Crown might provide funding for a private transcription service if required, Mr Prebble indicated he could make that inquiry.

Decision

42. Having considered parties' submissions above, I confirm that hearing nine, scheduled for15 to 19 June 2026, is to be **vacated**.

43. I reiterate my preference that closing submissions be presented orally at a hearing, rather than by way of written submissions.

44. I direct claimant coordinating counsel and counsel for the Crown to liaise and advise on appropriate revised dates for filing closing submissions by **5 pm, Monday 13 July 2026**.

45. I direct counsel for the Crown to advise whether the Crown is able to fund hearing nine and/or a private transcription service for the remaining hearing transcripts by **5 pm, Monday 6 July 2026**.

Statutory bar on greenhouse gas emissions-related tort claims

Background

46. On 12 May 2026, counsel for the Crown filed a memorandum advising the Tribunal that

Cabinet had agreed to a targeted reform of greenhouse gas emissions-related torts (Wai 3325, #3.2.334 at [2]–[4]).

47. I accordingly instructed Tribunal staff to contact the Crown to see whether any further details could be provided regarding the decision to introduce a statutory bar on greenhouse gas emissions-related tort claims. In particular:

    (a) when the government anticipates introducing a bill;

    (b) whether any advice from officials has been received by the government in relation to the proposal;

    (c) whether there has been or will be any consultation with Māori; and

    (d) any other relevant information.

48. Mr Fong informed staff that there has been advice to the government from officials on the reform, however, counsel did not have instructions on the other questions.

49. During hearing eight, on 25 May 2026, Mr Fong confirmed that the Crown intends to publicly release key documentation relating to the reform, which is likely to address the questions raised. Counsel advised that the Crown would file the relevant documents with the Tribunal on release.

50. On 26 May 2026, the Crown filed a bundle of relevant documents with the Tribunal (Wai 3325, #A164).

Submissions

51. At the judicial conference, Mr Bennion, counsel for the Wai 507, Wai 2139 and Wai 3262 claims submitted that the above matter is unprecedented and raised concerns about the rule of law. He proposed that the Crown make the relevant disclosures and that the parties return to the Tribunal in one week should any further orders or information be required. He also indicated he may seek an interim report given the nature of the issue.

52. Mr Prebble, agreed claimant counsel may request information from the Crown and return to the Tribunal if necessary. He submitted that the matter should not be the subject of a preliminary report or urgent inquiry, as it is not central to the issues, and could instead be addressed in the final report. He noted that any diversion of the Tribunal's resources would warrant hearing from the parties.

53. I indicated that any proposal would need to be put formally and asked Mr Bennion about a filing timeframe. Mr Bennion proposed filing within a week if the required information was not provided. Counsel for the Crown sought one week to respond, which I confirmed.

Decision

54. I direct counsel for the Wai 507, Wai 2139 and Wai 3262 claims to file written submissions on this matter by **5 pm, Friday 12 June 2026**. Counsel for the Crown is to file its response by **5 pm, Friday 19 June 2026.**

Treaty clause review – the Climate Change Response Act 2002

Background

55. On 24 November 2025, counsel for the Crown filed a memorandum advising that Cabinet had, in September 2024, decided on a review of legislation containing references to Treaty principles, including section 3A of the Climate Change Response Act ('CCRA'), however, no decisions or amendments to any legislation had been made (Wai 3325, #3.2.230 at [7]).

56. On 12 March 2026, the Crown filed a further memorandum advising the Tribunal that Cabinet decisions had now been made which would require the amendment of section 3A of the CCRA (Wai 3325, #3.2.285 at [5]–[6]). On 10 April 2026, counsel for the Crown filed a cabinet minute and paper, both concerning the review of references to the principles of the Treaty of Waitangi in legislation, alongside a table of proposed changes to legislation (Wai 3325, #A154).

Submissions

57. Mr Lyall submitted that he wished to focus on the specific proposed amendment to the CCRA, rather than the treaty clause review as a whole, which is being addressed in the Treaty Principles Reform Urgent (Wai 3565) inquiry. He noted that this issue could be addressed in closing submissions once the Wai 3565 report is available.

58. Mr Prebble submitted that the relevant documents had already been filed and that the matter could be addressed in closing submissions. When I asked whether anything further needed to be filed, Mr Prebble indicated he could take instructions and would benefit from directions identifying the specific information required.

59. Mr Bennion confirmed he would review the materials and return to the Tribunal after the Wai 3565 hearing, at which point he would be better placed to identify any further information required.

60. I observed that any additional evidence would need to be provided in writing and directed counsel to confer and advise the Tribunal of their position.

Decision

61. I direct claimant counsel to advise the Tribunal of any additional relevant Crown evidence and to file the materials specified regarding the CCRA Treaty clause review by no later than **5 pm, Monday 15 June 2026.**

Acknowledgement to He Pou Rangi Climate Change Commission

62. In my memorandum-directions dated 15 April 2026, I confirmed that the Tribunal considers it would be useful for the Commission – and the Parliamentary Commissioner for the Environment (the Commissioner) – to provide certain evidence in writing to the Tribunal (Wai 3325, #2.6.26 at [18]–[19]).

63. On 5 May 2026, I released a set of questions finalised by the Wai 3325 panel for the

Commission and the Commissioner (Wai 3325, #2.6.28(a)), noting that their evidence would be provided on a good-faith basis and therefore there would be no opportunity for parties to cross-examine representatives from either the Commission or the Commissioner's office (Wai 3325, #2.6.28 at [10] & [14]).

64. On 22 May 2026, Andrew Irwin, Sarah Leslie and Joanna Judge, counsel for the Commission filed the Commission's responses to the Tribunal's questions along with additional information that they advised may be considered useful for the inquiry (Wai 3325, #A162(a)) as directed (Wai 3325, #2.6.28 at [11]–[13]).

65. On behalf of the Wai 3325 panel, I thank the Commission for its assistance in relation to this inquiry. The Tribunal appreciates the preparation of the detailed material supplied in response to the Tribunal's questions, including the provision of that material in good-faith and within such a short timeframe.

Me tuku atu te Kairēhita i tētehi kape o tēnei whakahau ki ērā ki te rārangi whakamōhio mō Wai 3325, the Climate Change Priority Inquiry.

The Registrar is to send this direction to all those on the distribution list for Wai 3325, the Climate Change Priority Inquiry.

WHAKAPŪMAUTIA ki Kirikiriroa i te 8 o Hune 2026

Kaiwhakawā Stephanie Milroy
Te Mana Whakahaere
TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI