OFFICIAL

IN THE WAITANGI TRIBUNAL

WAI 3325
WAI 3361

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	the Climate Change Priority Inquiry (WAI 3325)
AND	
IN THE MATTER OF	A claim by Thomas Henry for and on behalf of the Ōtāhuhu Māori Wardens concerning the role of Māori Wardens in responding to Climate Change emergencies (Wai 3361)

CLOSING SUBMISSIONS ON BEHALF OF THOMAS HENRY

Dated 5 October 2026

RECEIVED
Waitangi Tribunal
5 Oct 26
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL

Introduction

1. These closing submissions are filed on behalf of Thomas Henry (Wai 3361). They are made in support of, and should be read with, the generic closing submissions filed for the Claimants, in particular the Emergency Management Generic Closing Submissions (the **Generic EM Submissions**) and the Local Government Generic Closing Submissions (the **Generic LG Submissions**). They address the issues raised by Mr Henry's evidence under clauses 2.1.3, 2.1.6, 2.2.1 and 3.3 of the Tribunal Statement of Issues dated 20 August 2024 (the **TSOI**).[1]

2. TSOI 2.1.3 asks what Tiriti/Treaty principles the Crown should apply when "[d]eveloping emergency management approaches following severe weather events caused or exacerbated by climate change". TSOI 2.2.1 asks what the Crown's duties and obligations to Māori arising from those principles are in terms of "[s]upporting Māori to plan for and respond to emergencies relating to severe weather events caused or exacerbated by climate change".

3. TSOI 2.1.6 asks what Tiriti/Treaty principles the Crown should apply when "[w]orking with and resourcing Māori to mitigate and adapt to the impacts of climate change, including the degree of independence in those efforts from central and local government".

4. TSOI 3.3 asks: "With regard to local government, has the Crown provided local authorities with sufficient guidance, direction, and support to mitigate and address the impacts of climate change on Māori (including their physical, spiritual, cultural, social, health, and economic needs and aspirations) at a local level?"

5. Mr Henry's evidence was filed on 21 October 2024.[2] Dr Stephen Knight-Lenihan gave expert evidence for Mr Henry and Ms Mereana Peka (Wai 2821) on local government and climate adaptation.[3] That evidence is directed principally to TSOI 3.3 and is also relevant to TSOI 2.1.6.

[1] Final Tribunal Statement of Issues for the Climate Change Priority Inquiry Wai 3325 #1.4.3 at [2.1.3], [2.1.6], [2.2.1] and [3.3].
[2] Brief of evidence of Thomas Henry Wai 3325 #A13.
[3] Brief of evidence of Stephen Knight-Lenihan Wai 3325 #A61.

Background

6. Mr Henry is Ngāpuhi. He is a Māori Warden in Ōtāhuhu and Chair of the Tāmaki Makaurau District Māori Wardens.[4] He lives in Papatoetoe and has significant whānau networks throughout Tāmaki Makaurau. He has a strong background with Māori Wardens during emergencies, and increasingly during climate emergencies.[5]

7. His claim concerns the role of Māori Wardens in responding to climate change emergencies. It alleges that the Crown has failed to support the role of Māori Wardens, and of Māori generally, in responding to climate change emergencies and in adaptation, and that the actions in the first national adaptation plan concerning Māori have not been implemented. The actions pleaded are Action 3.3, the platform for Māori climate action, and Action 3.4, under which the Crown is to work with communities, including iwi and Māori, to make emergency preparedness part of everyday life. The claim alleges breach of the principles of tino rangatiratanga, active protection, partnership and equity, on the basis that the special status of Māori Wardens is not recognised in climate change emergency response and adaptation planning.[6]

8. Mr Henry describes the Auckland Anniversary Weekend floods and Cyclone Gabrielle in 2023 as very traumatic for his community. During both events he and other Māori Wardens became closely involved in animal welfare and management, which is the focus of his evidence. He also considers that Māori Wardens should be involved in command operations when an emergency occurs.[7]

9. During 2024, Mr Henry and Ms Peka facilitated a series of climate change hui of Māori Wardens. The report of those hui is annexed to Ms Peka's evidence.[8] The hui were hosted by the Turehou Māori Wardens, principally at Te Pupu Tahi Tanga, the Wardens' office in Ōtara. They considered the role of Wardens in disaster preparedness, including animal management.[9]

[4] Brief of evidence of Thomas Henry, above n 2, at [2]–[3]; Transcript of Hearing Week One Wai 3325 #4.1.3 at 467:11–14.
[5] Brief of evidence of Thomas Henry, above n 2, at [4].
[6] Statement of Claim of Thomas Henry Wai 3361 #1.1.1 (Wai 3325 #1.1.35) at [2]–[3], [13]–[14] and [17]–[21].
[7] Brief of evidence of Thomas Henry, above n 2, at [6] and [8]–[9].
[8] Brief of evidence of Thomas Henry, above n 2, at [5].
[9] Turehou Māori Wardens Climate Change Hui (July to October 2024) Outcomes Report (21 October 2024) Wai 3325 #A11(a) [Outcomes Report] at [3], 5, 7 and 11.

Māori Wardens in the 2023 emergencies

10. During the Auckland Anniversary Weekend floods and Cyclone Gabrielle, Māori Wardens were called out to support communities, including in Māngere.[10] Mr Henry's evidence is that Wardens were called on because they are trusted by their hapori and kaumātua, which allowed them to go into homes and engage with whānau in a way that other services could not.[11]

11. The Wardens' role was not confined to Tāmaki Makaurau. Wardens also went to support affected communities in Wairoa after Cyclone Gabrielle. Mr Henry's evidence is that some areas there could be reached only by helicopter, and that it was not known whether anyone remained in them.[12]

12. The Wardens did this with what they had. Mr Henry described food being taken out to Māngere in the Wardens' own small cars, "because that's all we had".[13] The Wardens' hui recorded that more could have been done had the Wardens been resourced, and that without funding their volunteers are placed under too much pressure.[14]

13. Ms Rogers, for NEMA, accepted that Māori Wardens are commonly activated early in emergencies.[15] The Crown's failure to recognise or resource that role is addressed in the Generic EM Submissions, which the Claimant adopts.[16]

[10] Transcript of Hearing Week One, above n 4, at 467:16–25.
[11] Brief of evidence of Thomas Henry, above n 2, at [9]; Transcript of Hearing Week One, above n 4, at 468:7–16.
[12] Transcript of Hearing Week One, above n 4, at 469:14–31.
[13] Transcript of Hearing Week One, above n 4, at 469:5–13.
[14] Outcomes Report, above n 9, at 5 and 10.
[15] Transcript of Hearing Week Seven Wai 3325 #4.1.11 at 390:12–18; Joint brief of evidence of Jenna Rogers and Dwain Hindriksen Wai 3325 #A131 at [14].
[16] Generic closing submissions on Emergency Management (25 September 2026) Wai 3325 #3.3.37 at [13] and [31]–[32].

Animal welfare and evacuation

14. During both 2023 events, many elderly people would not evacuate because they could not take their pets with them. Some kaumātua who needed medical care would not seek it because they would not leave a dog at home, sometimes because the animal was not registered.[17] In his oral evidence, Mr Henry explained that for those people their pets "are just like whānau".[18] In those cases, the welfare of the animal was a condition of the welfare of the person.

15. The response worked where relationships already existed. The SPCA and Auckland Council animal management worked with Māori Wardens to microchip, register and vaccinate animals, and Wardens especially assisted kaumātua. Mr Henry describes the Cyclone Gabrielle response between the Wardens and the SPCA as a collaborative relationship that worked under stress, which he attributes to connections made before the emergencies.[19]

16. Mr Henry also identifies what did not work:[20]

    a. many people are cautious about dealing with Council animal management, even during an emergency, especially where an animal is not registered;

    b. animal management and SPCA facilities are at full capacity, with no space to house animals in a further emergency;

    c. Wardens need ongoing training in handling frightened dogs, which often bite, because an open wound in floodwater carries a risk of infection;

    d. farm animals in rural Auckland need specialist vehicles, and in 2023 animals were carried some distance by floodwaters; and

    e. Wardens want to be involved in animal management in climate emergencies, but need training and resources to do so effectively.

17. Care for animals is part of the emergency welfare function,[21] and regional emergency management plans must now provide for the management of animals in an emergency.[22] As the Generic EM Submissions set out, the

[17] Brief of evidence of Thomas Henry, above n 2, at [12].
[18] Transcript of Hearing Week One, above n 4, at 467:21–25.
[19] Brief of evidence of Thomas Henry, above n 2, at [10] and [13]–[14].
[20] Brief of evidence of Thomas Henry, above n 2, at [16]–[20].
[21] Transcript of Hearing Week Seven, above n 15, at 359:22–27.
[22] Emergency Management Act 2026, s 98(1)(m).

Emergency Management Act 2026 does not mention Māori Wardens, and NEMA is aware of no dedicated Crown funding for them.[23]

18. The Claimant submits that the Crown has not discharged its duty to support Māori to plan for and respond to climate-related emergencies. Regional plans must provide for animals in advance, but the Wardens who did that work in 2023 appear only as an offer of assistance once an emergency has begun.[24] The framework therefore plans for the function but not for the trust on which, on Mr Henry's unchallenged evidence, a kaumātua's decision to evacuate may turn.[25]

19. The Crown has known since 2017 that Wardens are among the first activated in an emergency.[26] Active protection required it to plan and resource for that role before the next emergency. Instead, it continues to rely on Wardens to fill that role, without dedicated funding, when the emergency arrives.

National adaptation plan

Action 3.3: Māori Climate Platform

20. The Crown's response to Action 3.3 was the Māori Climate Platform, which He Pou a Rangi describes as the main mechanism for meeting the Government's obligations to iwi and Māori in adaptation.[27] As the Generic EM Submissions and Generic LG Submissions set out, all of its funds have been allocated and there are no plans to replace it.[28] He Pou a Rangi is concerned at the Treaty implications for the Crown of having no suitable replacement. It warns that the gap may lead to over-reliance on local government, which itself lacks clarity about the role of iwi and Māori in local adaptation planning.[29] Those consequences are addressed in the Generic LG Submissions, which the Claimant adopts.[30]

21. The Claimant submits that TSOI 2.1.6 is engaged here. Mr Henry's evidence identifies Māori-led preparedness that Wardens are ready to carry out,

[23] Generic EM Submissions, above n 16, at [17] and [31]–[32]; Transcript of Hearing Week Seven, above n 15, at 391:15–23.
[24] Emergency Management Act 2026, s 98(1)(l).
[25] Transcript of Hearing Week One, above n 4, at 470:3–5.
[26] Generic EM Submissions, above n 16, at [13].
[27] He Pou a Rangi Climate Change Commission Progress Report: National adaptation plan assessing progress on the implementation and effectiveness of the Government's first national adaptation plan Wai 3325 #3.2.383(a) [Progress Report] at 60 and 121.
[28] Generic EM Submissions, above n 16, at [26]; Generic closing submissions on Local Government (25 September 2026) Wai 3325 #3.3.36 at [52].
[29] Progress Report, above n 27, at 121.
[30] Generic LG Submissions, above n 28, at [52], [55] and [58].

including training with Council animal management teams, helping whānau practise evacuating with their animals, and storing animal supplies at Te Pupu Tahi Tanga.[31] Wardens do not wait for direction from central or local government. As Mr Henry put it, they are "just going to go out there and do it anyway".[32] The issue is resourcing. With the Platform no longer funding new projects, and no dedicated funding for Wardens, that preparedness depends on contestable funds and on the priorities of individual councils.[33] Tino rangatiratanga is not given effect by leaving Māori to act independently without the means to do so.

Action 3.4: Emergency preparedness

22. Under Action 3.4, the Crown is to work with communities, including iwi and Māori, to make emergency preparedness part of everyday life.[34] He Pou a Rangi records the action as still active and focused on creating and sharing information.[35] The delays in implementing the emergency management actions in the plan are addressed in the Generic EM Submissions.[36] NEMA's annual public education advertising budget is around $800,000, which NEMA accepts limits what can be achieved.[37]

23. Mr Henry's evidence shows the limits of information alone. During the 2023 emergencies, free microchipping, registration and vaccination of pets was available, but this was not well known. Mr Henry proposes that Wardens let their communities know they can help with animals in an emergency, and help whānau practise preparing their animals for evacuation.[38]

24. The Claimant submits that Action 3.4 has not been implemented as it was framed. It was to be delivered with iwi and Māori, and to make preparedness part of everyday life. What the Crown has delivered is information, on a budget NEMA itself describes as modest. The Crown identified no work under Action 3.4 with Māori Wardens, although Wardens are the everyday presence through which preparedness reaches kaumātua.

[31] Brief of evidence of Thomas Henry, above n 2, at [22], [24] and [26].
[32] Transcript of Hearing Week One, above n 4, at 469:1–3.
[33] Transcript of Hearing Week Seven, above n 15, at 391:15–23; Generic LG Submissions, above n 28, at [71]–[72].
[34] Statement of Claim of Thomas Henry, above n 6, at [14].
[35] Progress Report, above n 27, at 101 and n xxvii.
[36] Generic EM Submissions, above n 16, at [14].
[37] Joint brief of evidence of Jenna Rogers and Dwain Hindriksen, above n 15, at [130].
[38] Brief of evidence of Thomas Henry, above n 2, at [13] and [23]–[24].

Local government

25. TSOI 3.3 is addressed in the Generic LG Submissions, which the Claimant adopts. In short, the Crown has not given local authorities guidance on how to address the impacts of climate change on Māori, has not directed them to do so, and has neither supported nor monitored them in doing it.[39]

26. The emergency work Wardens did in 2023, and the work Mr Henry proposes, is carried out alongside Council animal management, whose facilities are full and whom many in the community are wary of dealing with. What worked in 2023 depended on relationships between Wardens and those teams that were formed before the emergency.[40]

27. NEMA accepts that engagement between local emergency management and Māori varies between regions, is sometimes ad hoc, and depends on each council's resources, and that it has limited capacity to help councils understand the Māori networks in their region. There is no formal route by which Māori can raise a council's failure to engage.[41] Dr Knight-Lenihan identified the absence of any central guidance on best practice with a Māori focus.[42]

28. The Claimant submits that, for Wardens, the answer to TSOI 3.3 is no. Whether Wardens are part of a council's emergency arrangements, including the animal arrangements each regional plan must contain, depends on relationships with particular council teams and on that council's resources. The Crown identified no guidance to councils on working with Māori Wardens, and no mechanism exists to check whether they do.[43] The relationships that worked in Tāmaki Makaurau in 2023 are therefore not assured there in the next emergency, or anywhere else.

Prejudice

29. The Claimant submits that Mr Henry, Māori Wardens and the communities they serve have been prejudiced by the Crown's failure to recognise and resource the Wardens' role. The Wardens are left to respond to emergencies without the training or resources they need, at risk to themselves. Their capacity to prepare kaumātua and whānau before an emergency goes unused. What worked in 2023 still depends on individual relationships rather

[39] Generic LG Submissions, above n 28, at [33], [47], [58] and [62].
[40] Brief of evidence of Thomas Henry, above n 2, at [10], [14], [16]–[17], [22] and [25].
[41] Generic EM Submissions, above n 16, at [20]–[22].
[42] Generic LG Submissions, above n 28, at [26].
[43] Generic EM Submissions, above n 16, at [31]; Generic LG Submissions, above n 28, at [59]–[62].

than any standing arrangement, and kaumātua remain at risk of not evacuating because of their animals.

30. That prejudice is continuing. Climate change will make severe weather events more frequent and more severe, and their effects on communities last well beyond the emergency response.[44]

Findings sought

31. The Claimant adopts the findings sought in the Generic EM Submissions and the Generic LG Submissions.[45] The Claimant further seeks findings that the Crown has failed to:

    a. recognise or resource the role of Māori Wardens in emergency preparedness and response, including in the arrangements for animals, despite relying on that role in 2023;

    b. replace the Māori Climate Platform, its response to Action 3.3 of the first national adaptation plan, or otherwise provide continuing funding for Māori-led preparedness;

    c. implement Action 3.4 of the first national adaptation plan with iwi and Māori, including Māori Wardens; and

    d. ensure that the Wardens' place in local emergency arrangements rests on a standing arrangement, rather than on the resources and priorities of individual councils.

32. The Claimant also seeks findings that those failures are inconsistent with the principles of partnership, active protection, tino rangatiratanga and equity, that the claim is well founded, and that Mr Henry and Māori Wardens have been prejudiced as a result.

[44] Brief of evidence of Thomas Henry, above n 2, at [28]–[29]; Generic EM Submissions, above n 16, at [7].
[45] Generic EM Submissions, above n 16, at [33]; Generic LG Submissions, above n 28, at [67]–[68].

Recommendations sought

33. The Claimant seeks recommendations that the Crown:

a. recognise the role of Māori Wardens in emergency management, in the Emergency Management Act 2026 or instruments made under it;

b. develop, with Māori Wardens, NEMA and local authorities, a national framework for the Wardens' emergency management role, including standing protocols agreed before emergencies occur;

c. provide Māori Warden organisations with direct and continuing funding for emergency preparedness, rather than relying on voluntary effort or reimbursement after the event;

d. fund training and equipment for Wardens in emergency animal welfare, developed with Council animal management teams and the SPCA;

e. ensure that the arrangements for animals in regional emergency management plans provide for the Wardens' role;

f. replace the Māori Climate Platform with continuing funding for Māori-led preparedness that Māori Warden organisations can access; and

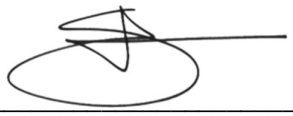
g. issue national guidance to local authorities on working with Māori Warden organisations in emergency management.

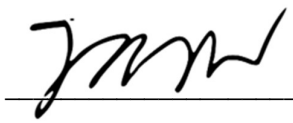
Conclusion

34. In answer to TSOI 2.1.3, the Claimant submits that the Crown should apply the principles of partnership, active protection, tino rangatiratanga and equity when developing emergency management approaches. In answer to TSOI 2.2.1, those principles require the Crown to plan for and resource the role of the Māori organisations it relies on in emergencies before those emergencies occur, rather than calling on them once an emergency has begun.

35. The Crown relied on Māori Wardens during the 2023 emergencies, including to reach kaumātua who would not leave their animals. It has since reformed the emergency management system without giving Wardens any defined role in it. No replacement for the only dedicated funding for Māori-led climate action has been identified, and it identified no work with Wardens under Action 3.4. It has left the Wardens' place in local arrangements to individual councils. The Crown continues to depend on Māori Wardens in climate-related emergencies while providing neither the recognition nor the resourcing that dependence requires.

Dated at Tāmaki Makaurau this 5th day of October 2026





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