OFFICIAL

IN THE WAITANGI TRIBUNAL
I TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

WAI 3325
WAI 3277

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 Rāhui Kātene on behalf of Ngāti Koata (Wai 3277)

CLOSING SUBMISSIONS FOR NGĀTI KOATA

DATED this 5th day of October 2026

RECEIVED
Waitangi Tribunal
6 Oct 26
Ministry of Justice
WELLINGTON

Oranganui Legal

PO Box 809, Paraparaumu 5254
Phone: 022 317 7527
Email: eve@oranganuilegal.com
Counsel Acting: Eve Kahuwaero Rongo | Amylee Temese

TABLE OF CONTENTS

INTRODUCTION 4
TE TIRITI O WAITANGI 5
Tino Rangatiratanga 5
Partnership 6
Active Protection 6
Equity 7
BREACHES 7
ISSUES 8
IMPACTS ON CLIMATE CHANGE 10
Physical impacts 10
Wai Māori and water security 12
Natural Ecosystems and Biodiversity 12
Spiritual and Cultural 14
Social and Health 15
Health National Adaptation Plan 16
Economic Impacts 17
Fisheries 18
Forestry 19
CROWN INACTION AND TE TIRITI BREACHES 20
Failure to adequately inform itself 20
Partnership 21
Resourcing rangatiratanga and iwi responses 22
Emergency Management 23
Taonga species 25
Takapourewa Frog 27
Wai 262 and Tiriti settlement relationships 28
Tuatara 29
Barriers to access and kaitiakitanga 31
International Instruments 32
CROWN'S CONDUCT 34
Local Government 34
Engagement 36

Emissions Trading Scheme 37
Exclusion of Agriculture 40
CONCLUSIONS 40
RECOMMENDATIONS 42

MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. These closing submissions are filed on behalf of Ngāti Koata ("the Claimants") in support of Wai 3277.

2. Ngāti Koata presented evidence on days one and two of Hearing Week Four. The Tribunal heard from:

    a. Ngawāiehu Webber and William Thomas Webber;[1]

    b. Pene Gieger and Laken Gieger;[2]

    c. Hemi Toia;[3]

    d. Dr Oliver Sutherland;[4] and

    e. Rāhui Kātene.[5]

3. Ngāti Koata gave evidence of severe weather events, intensifying coastal erosion, rising seas threatening wāhi tapu and kāinga, and risks to biodiversity and marine ecosystems that sustain their identity and economy. Their case concerns both the adequacy of the Crown's climate response and whether it protects Ngāti Koata's relationships with their taonga.

4. These submissions seek findings that the Crown has failed to take adequate and timely steps to assess and address climate risks to Ngāti Koata, to enable iwi-led responses, and to involve Ngāti Koata in decisions affecting their rohe. Those failures have left Ngāti Koata exposed to disproportionate harm and have impaired their exercise of rangatiratanga and kaitiakitanga.

5. The principles engaged are partnership, tino rangatiratanga, active protection and equity. The evidence shows that there are failures in the Crown's obligations to understand the risks, work with Ngāti Koata as a Tiriti partner,

---

[1] Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025
[2] Wai 3325, #A91 and A91 (a) Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025
[3] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025
[4] Wai 3325, #A93 and (a) Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025
[5] Wai 3325, #A94 and (a) Brief of Evidence of Rahui Katene, dated 9 May 2025

and provide practical support for Ngāti Koata to determine and implement their own responses.

6. Ngāti Koata adopt the generic claimant closing submissions including on Te Tiriti principles, climate science, climate impacts on Māori, adaptation, mitigation, biodiversity, emergency management, local government and forestry/ETS, to the extent relevant to and consistent with Wai 3277. These submissions build on that framework specifically for Ngāti Koata and identify the findings and recommendations sought.[6]

7. Wai 3277 is a contemporary claim concerning grievances arising after September 1992. The Statement of Claim remains the primary expression of the allegations, and includes whenua, fisheries, forestry, wai Māori, mauri, hauora and taonga species. The TSOI supplies the inquiry framework without replacing those allegations. The Ngāti Koata Tiriti settlement with the Crown and Wai 262 history is relied on as context for the Crown's continuing obligations, rather than to reopen settled historical claims.[7]

TE TIRITI O WAITANGI

Tino Rangatiratanga

8. An essential finding of the Waitangi Tribunal's Te Paparahi o Te Raki Stage one Report was:[8]

> Our essential conclusion, therefore, is that the rangatira did not cede their sovereignty in February 1840; that is, they did not cede their authority to make and enforce law over their people and within their territories…

---

[6] Wai 3325, #3.3.34 Generic Closing Submissions in Relation to Te Tiriti o Waitangi and Te Tiriti Principles, dated 25 September 2026; Wai 3325, #3.3.33 Generic Closing Submissions on Biodiversity, dated 23 September 2026; Wai 3325, #3.3.35 Generic Closing Submissions Relating to Climate Change Policy and Forestry, dated 25 September 2026; Wai 3325, #3.3.36 Local Government Generic Closing Submissions, dated 25 September 2026, Wai 3325, #3.3.37 Emergency Management Generic Closing Submissions, dated 25 September 2026, Wai 3325, #3.3.38 Generic Closing Submissions on Adaptation, dated 25 September 2026, Wai 3325, #3.3.39 Generic Closing Submissions on Climate Impacts on Māori, dated 25 September 2026. See also Wai 3325, #3.3.27, at [13], adopting generic openings.

[7] Wai 3277, #1.1.1 Statement of Claim, at [4]–[7], [37], [47]–[59]; Wai 3325, #1.4.3 Tribunal Statement of Issues, p 1.

[8] Waitangi Tribunal, *He Whakaputanga me te Tiriti the Declaration and the Treaty: The Report on Stage 1 of the Paparahi o Te Raki Inquiry* (Wai 1040, 2014) at p 527

9. The *Hauora* report states that[9]:

> the Treaty of Waitangi was based on the fundamental exchange of kāwanatanga, the right of the Crown to govern and make laws for the country, in exchange for the right of Māori to exercise tino rangatiratanga over their land, resources, and people. The Crown's right of kāwanatanga is not unfettered. The guarantee of tino rangatiratanga requires the Crown to acknowledge Māori control over their tikanga, resources, and people and to allow Māori to manage their own affairs in a way that aligns with their customs and values.[10]

Partnership

10. As the Tribunal states in Stage One of the Health Services and Outcomes Kaupapa Inquiry:[11]

> The Treaty established a relationship akin to a partnership and imposed on both Treaty partners an obligation 'to act towards each other reasonably and with the utmost good faith'.[12]

11. Partnership also recognises Māori rights to choose how they organise themselves and through which organisations they express tino rangatiratanga.[13] The power imbalance favours the Crown, which must ensure that Māori are not disadvantaged in that relationship.[14]

Active Protection

12. The principle of active protection arises from the Tiriti relationship and the exchange of kāwanatanga and tino rangatiratanga.[15] In the *Lands* case, the Court described the partners' responsibilities as analogous to fiduciary duties.

---

[9] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 28

[10] Waitangi Tribunal, *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates* (Wellington: Legislation Direct, 2017), p 21.

[11] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 27

[12] *New Zealand Māori Council v Attorney General* [1987] 1 NZLR 641 (CA), p [667]

[13] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 28

[14] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 28

[15] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 30

The Crown's duty "is not merely passive but extends to active protection of Māori people in the use of their lands and waters".[16]

13. The Privy Council observed that, where a taonga is in a parlous state, especially as a result of previous Tiriti breaches, the Crown may need to take "especially vigorous action for its protection".[17]

Equity

14. Article Three assures Māori the Crown's protection and equitable treatment. The principle of equity requires fairness and freedom from discrimination, whether conscious or unconscious.[18]

15. To meet its equity obligations, the Crown must both take reasonable steps to address inequity and actively inform itself about its occurrence.[19]

16. In this claim, the intensity of active protection and the measures required to achieve equity must reflect the risks the Crown knows Ngāti Koata face. Their coastal and isolated communities, dependence on marine and forestry assets, and responsibilities for vulnerable taonga species require tailored assessment and support. Ngāti Koata submit that acknowledging those differences without enabling an effective response breaches Te Tiriti.[20]

BREACHES

17. For the reasons developed below, Ngāti Koata seek findings that the Crown has breached the principles of:

---

[16] Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Report Stage 2, at page 12 citing *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 (CA) p [664]

[17] *New Zealand Māori Council v Attorney General* [1994] 1 NZLR 513 (PC) [Broadcasting Assets case] at 517.

[18] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at pp 33-34

[19] Waitangi Tribunal *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wai 2575, 2023) at p 34

[20] Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025, at [35]–[59]; Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [6]–[20], [49]–[53]; Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [30]–[41]; Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025, at [4]–[25]; Wai 3325, #3.3.34, Generic Closing Submissions in Relation to Te Tiriti o Waitangi and Te Tiriti Principles, dated 25 September 2026, at [6.17]–[6.20] and [7.58]–[7.69]; Wai 3325, #1.4.3, TSOI 2.3

a. Partnership, by failing to engage Ngāti Koata in genuine co-design of climate adaptation and mitigation policies affecting their rohe;

b. Tino Rangatiratanga, by undermining Ngāti Koata authority to determine and implement their own environmental management systems;

c. Active protection, by failing to take adequate steps to assess and address foreseeable risks to Ngāti Koata lands, waters, communities and taonga species; and

d. Equity, by failing to provide support and resources commensurate with Ngāti Koata's particular exposure and needs.

ISSUES

18. The Tribunal in its Statement of Issues (TSOI) posed the following questions concerning climate change:

    a. What are the physical, spiritual, cultural, social, health and economic impacts of climate change on Māori? This includes present impacts and likely impacts in the future.[21]

    b. What relevant Tiriti/Treaty principles should the Crown consider when addressing the impacts of climate change on Māori?[22]

    c. Has the Crown's conduct (including actions and omissions) in response to climate change been consistent with Tiriti/Treaty principles? [23]

    d. What recommendations should the Tribunal make in terms of how the Crown should conduct itself consistently with Tiriti/Treaty principles when forming future climate change policies?

19. Under Issue One, these submissions address TSOI 1.1, 1.1.1, 1.2, 1.3, 1.4, 1.4.1, 1.4.2, 1.5 and 1.6: the present and future impacts on Ngāti Koata, including

[21] Wai 3325, #1.4.3 Tribunal Statement of Issues at [1]
[22] Wai 3325, #1.4.3 Tribunal Statement of Issues at [2]
[23] Wai 3325, #1.4.3 Tribunal Statement of Issues at [3]

settlement interests and disproportionate exposure. The principles applicable to assessing those impacts are addressed under TSOI 2.1.1 and 2.1.2.[24]

20. Under Issue Two, these submissions address TSOI 2.1.3, 2.1.5, 2.1.6, 2.1.8, 2.2.1–2.2.4 and 2.3: emergency management, international instruments, partnership, resourcing iwi-led responses, protection of communities and taonga, and the duties arising from disproportionate impacts.[25]

21. Under Issue Three, these submissions address TSOI 3.1–3.8, including the Crown's knowledge, local government, settlement arrangements, engagement and support for rangatiratanga. The ETS section addresses TSOI 3.9–3.13, including intergenerational land-use constraints, the relationship with settlement forestry and the exclusion of agriculture. The recommendations address Issue Four and TSOI 4.1–4.2.[26]

22. The claimant-specific issues are:

    a. Inadequate assessment and prevention of foreseeable harm to Ngāti Koata communities and taonga;

    b. Insufficient demonstrated planning and resourcing for climate-related health risks in isolated communities;

    c. Economic pressures and capacity barriers to iwi-led climate responses;

    d. Protection of whenua, wai Māori, moana, wāhi tapu and taonga species;

    e. Early and continuing partnership, including the existing DOC and Te Tiriti settlement relationships;

    f. ETS constraints on Ngāti Koata land-use choices and kaitiakitanga; and

    g. The Tiriti implications of the Crown's domestic and international climate response.

[24] Wai 3325, #1.4.3 Tribunal Statement of Issues, pp 2–3, TSOI 1.1–1.6 and 2.1.1–2.1.2.
[25] Wai 3325, #1.4.3 Tribunal Statement of Issues, pp 2–3, TSOI 2.1.3, 2.1.5, 2.1.6, 2.1.8, 2.2.1–2.2.4 and 2.3.
[26] Wai 3325, #1.4.3 Tribunal Statement of Issues, pp 3–5, TSOI 3.1–3.13 and 4.1–4.2.

IMPACTS ON CLIMATE CHANGE

23. The Ngāti Koata evidence establishes existing harm and foreseeable risks to communities, taonga species and ecosystems. The following sections identify those impacts while the later sections examine whether the Crown's assessment, engagement, resourcing and response meet its Tiriti obligations.

24. Crown witnesses acknowledged that Māori can face disproportionate climate impacts. For Ngāti Koata, the evidence demonstrates overlapping exposure through coastal location, isolation, fisheries and forestry interests, and responsibilities for vulnerable taonga. Ngāti Koata submit that TSOI 1.6 is answered affirmatively on that evidence, and that TSOI 2.3 requires a response proportionate to those risks. Mr Bolger accepted a material fisheries impact.[27]

25. The impacts evidence addresses TSOI 1.1, 1.1.1, 1.2, 1.3, 1.4, 1.4.1 and 1.4.2. Settlement-related impacts and disproportionate exposure are addressed under TSOI 1.5 and 1.6. Although organised under the following headings, the environmental, cultural, health and economic consequences are interconnected:[28]

    a. Physical Impacts

    b. Natural Ecosystems and Biodiversity

    c. Spiritual and Cultural

    d. Social and Health

    e. Economic impacts

Physical impacts

26. Ngāti Koata's coastal communities and whenua are exposed to flooding, erosion, sea-level rise, drought and severe weather. The claimant evidence

[27] Wai 3325, #4.1.11, p 363 (Jenna Rogers); Wai 3325, #4.1.10, p 698 (Dr Andrew Old), and pp 552–553 (Daniel Bolger); Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025, at [35]–[59]; Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [6]–[20], [49]–[53]; Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [30]–[41]. See also Wai 3325, #3.3.39, at [16]–[22]. See also Wai 3325, #3.3.39, at [16]–[22]

[28] Wai 3325, #1.4.3 Tribunal Statement of Issues, p 2, TSOI 1.1–1.6.

describes damage already experienced and the increasing difficulty of remaining safely connected to whenua, whānau and essential services.

27. The Webbers described experiencing what they called "one in a hundred year storms" repeatedly, including the August 2022 event that blocked access and damaged their property.[29] Pene and Laken Gieger described more severe drought, rainfall and storm surges.[30] These accounts illustrate lived experience; the statistical frequency and attribution of individual events depend on the scientific evidence. Dr Sutherland described erosion exposing kōiwi at Hautai and Greville Harbour and explained how sea-level rise and storm activity increase those risks.[31]

28. The claimant evidence connects these pressures to kaitiaki responsibilities. The Webbers describe respect for moana and whenua and protection for future generations.[32] Pene and Laken Gieger explain that warming and changing moisture conditions threaten native frogs and tuatara, while Dr Sutherland describes the demographic and habitat consequences.[33]

29. The Crown evidence identifies particular water-supply vulnerabilities for rural Māori communities relying on private or small communal systems, including drought, flooding and contamination risks compounded by limited resources.[34]

30. The First *National Adaptation Plan* identifies risks to Māori homes, infrastructure and sites of cultural significance. The Australasia assessment also identifies risks to the availability and quality of potable water for remote Māori communities.[35] These general assessments must be applied to the circumstances of Ngāti Koata communities, rather than treated as evidence that their particular needs have already been assessed.

---

[29] Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025 at [33]
[30] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [6]
[31] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [4] to [6]
[32] Wai 3325, #A90 Joint Brief of Evidence of William Thomas and Ngawāiehu Webber, dated 9 May 2025, at [4] and [8].
[33] Wai 3325, #A91, at [7]–[12]; Wai 3325, #A93, at [10]–[17].
[34] Wai 3325, #A119 Brief of evidence of Richard Ward, dated 30 September 2025 at [16]
[35] Wai 3325, #A132(a) [SMD.001.025] Australasia at page 1631 and 280 and Wai 3325, #A134(a) [MOH 001.1102] *Adapt and thrive: Building a climate-resilient New Zealand-Aotearoa New Zealand's First National Adaptation Plan* at page 29 and 1016

Wai Māori and water security

31. The Statement of Claim identifies existing water-supply pressure in the Marlborough Sounds and French Pass, and the particular vulnerability of communities without adequate reticulated supply. The Webbers' evidence of septic-system damage and contaminated floodwater demonstrates a related sanitation and health risk.[36]

32. Ngāti Koata seek a jointly developed assessment of drought resilience, drinking-water availability and quality, and wastewater failure risks for isolated communities. Planning should identify practical infrastructure needs and emergency water provision, with responsibilities, funding and implementation timeframes agreed with Ngāti Koata. This gives practical effect to active protection and equity without assuming that every community needs the same solution.[37]

33. The scientific evidence explains how warming intensifies heavy-rainfall risks. Dr Dean described increased atmospheric water-holding capacity and the estimated contribution of climate change to rainfall during Cyclone Gabrielle.[38] The Crown emergency-management and Australasia material also describes compounding risks from heavy rainfall, landslides, drought, fire and sea-level rise, including projected rainfall intensification in Marlborough.[39] Ngāti Koata rely on the generic science submissions for the detailed attribution evidence.

Natural Ecosystems and Biodiversity

34. Climate change impacts exacerbate existing pressures on Aotearoa New Zealand's ecosystems and biodiversity, including land-use change, habitat fragmentation and pollution.[40] Ecosystems are exposed to all climate change

[36] Wai 3277, #1.1.1 Statement of Claim, at [50]–[52]; Wai 3325, #A90, at [35]–[38], [50]–[55].
[37] Wai 3277, #1.1.1 Statement of Claim, at [50]–[52]; Wai 3325, #A91, at [49] and [54(e)]; #3.3.27, at [29(g)]. See also Wai 3325, #3.3.39, at [110]–[111]
[38] Wai 3325, #A132 Brief of Evidence of Samuel Martin Dean dated 25 August 2025 at [23]
[39] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [7] and Wai 3325, #A132 (a) [SMD.001.0025] *Australasia - Chapter 11* at page 1591 and 240
[40] Wai 3325, #A165 *2026 National Climate Change Risk Assessment for Aotearoa New Zealand* at page 63

hazards. Major threats to biodiversity are rising temperatures, changing precipitation and storm patterns.[41]

35. Ngāti Koata face increased pressure from invasive species whose ranges change as conditions warm. Dr Sutherland explains how this threatens biodiversity and complicates ecological restoration and customary management.[42] Pene and Laken Gieger described the effects on wetlands, lakes and taonga ecosystems.[43]

36. The national vulnerability evidence supports a need for targeted action. For Ngāti Koata, identifying susceptible taxa must lead to monitoring and adaptation measures that protect both species and the relationships through which Ngāti Koata exercise kaitiakitanga.[44]

37. Dr Sutherland explains that changes in water temperature and ocean currents affect inshore fish availability, spawning and migration.[45] Mr Bolger accepted that healthy ecosystems support climate resilience, while action for individual species remains necessary where there are particular concerns.[46]

38. The primary-sector evidence identifies climate-related biosecurity challenges.[47] Dr Sutherland explains that changing pest and weed ranges increase the burden on iwi-led conservation and biosecurity work.[48]

39. There has been investment in biosecurity protocols for Takapourewa, including quarantine checks, gear cleaning and restrictions on movement.[49] Pene and Laken Gieger describe unauthorised landings and other breaches that, in their experience, have not been adequately addressed.[50] Their proposed safeguards

---

[41] Wai 3325, #A165 *2026 National Climate Change Risk Assessment for Aotearoa New Zealand* at page 63
[42] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [15]-[16]
[43] Wai 3325, #4.1.8 Transcript for Hearing Week Four, Wellington, 13-17 October at page 29
[44] Wai 3325, #A165 *2026 National Climate Change Risk Assessment for Aotearoa New Zealand* at page [20] and Wai 3325, #A124 Joint Brief of Evidence of Kirstie Knowle's and Catherine Wilson, dated 29 September 2025 at [43]-[44]
[45] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [24]
[46] Wai 3325, #4.1.10 Hearing Week Six, Wellington, at page 565
[47] Wai 3325 #A121 (a) [MPI.0001.0152] *Mind the gaps: Synthesis and systematic review of climate change adaptation in New Zealand's primary industries* at page 28 and 45
[48] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [15]–[17]
[49] Wai 3325, #A91 Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025 at [42]
[50] Wai 3325, #A91 Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025 at [43]

include stronger enforcement and a Crown-resourced kaitiaki-led inspection programme.[51]

Spiritual and Cultural

40. Evidence has been presented throughout the inquiry on cultural impacts due to climate change. Ms Wilson's evidence identified additional risks of particular significance to Māori are risks to Māori social, cultural, spiritual and economic wellbeing and cultural heritage sites from loss and degradation of lands and waters, ongoing sea-level rise, changes in rainfall and drought.[52]

41. The degradation of wāhi tapu and culturally significant species limits the ability to practise tikanga and exercise rangatiratanga. Crown material recognises that climate change threatens ancestral coastal places, including marae, wāhi tapu and mahinga kai.[53] The Ngāti Koata evidence gives those risks concrete expression at Hautai, Greville Harbour and Takapourewa.[54]

42. Pene and Laken Gieger explain that the loss of taonga species threatens the associated stories, rituals and knowledge systems.[55] Dr Sutherland connects changes in fish availability to impacts on customary practice, food sovereignty and intergenerational knowledge.[56] Pene and Laken also explain that mātauranga requires continuing observation and presence in the environment.[57]

43. The scientific assessments identify adverse consequences for Māori cultural identity and wellbeing where access to cultural keystone species is lost.[58] Mr Ward's written answers are also relied on for the cultural consequences of

[51] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [45]–[48]
[52] Wai 3325, #A141 Brief of Evidence of Katherine Mary Wilson, dated 26 September 2025 at [50.1]
[53] Wai 3325, #A128 (a) [MFAT.002.1365] Ministry for the Environment. 2018. *Our Climate Your Say: Consultation on the Zero Carbon Bill*. Wellington: Ministry for the Environment at page 15 and 1860
[54] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025, at [4]–[9]; Wai 3325, #A91 Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [10]–[14] and [27]–[37].
[55] Wai 3325, #A91 Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025 at [11]
[56] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [24]-[25]
[57] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [12].
[58] Wai 3325, #A132 Brief of Evidence of Samuel Martin Dean, dated 25 August 2025 at [66] and Wai 3325, #A132 (a) [SMD.001.0025] *Australasia - Chapter 11* at p[1631], (Table 11.12) and [280]

environmental degradation.[59] These risks are reinforced by claimant evidence of interconnected environmental and cultural harm.

44. Ms Rawiri accepted that, apart from identifying marae in at-risk areas, Te Puni Kōkiri had not explored likely climate-hazard impacts on wāhi tapu or wider community resilience because relevant data was unavailable. She accepted that this limited the Crown's advice and its picture of the risks, and that assessment required work with Māori.[60] The cultural implications include disruption of mātauranga through lost connections with species and places.[61]

45. Ngāti Koata submit that these cultural relationships must shape assessment and adaptation decisions from the outset. An approach that identifies physical threats but fails to protect access, whakapapa connections and the transmission of mātauranga does not adequately protect the taonga relationship.

Mauri and identity

46. The mauri and hauora pleadings reflect the same interconnected harm. Dr Old accepted that the interruption to Ngawāiehu's relationship with the moana was a good example of effects on mauri ora and whānau ora, and that loss or degradation of Ngāti Koata whenua, moana and taonga would have significant mental and cultural wellbeing effects. Those concessions support treating harm to taonga relationships as environmental, cultural and health prejudice together.[62]

Social and Health

47. The evidence describes physical and mental-health pressures affecting kaumātua, kuia and their whānau, and the difficulty of remaining safely on whenua in isolated communities.

---

[59] Wai 3325, #A119(c) Responses to Questions in writing for Richard Ward, dated 29 April 2025 at [8]
[60] Wai 3325, #4.1.11, Hearing Week Seven, Wellington, at p 226
[61] Wai 3325, #A132 Brief of Evidence of Samuel Martin Dean, dated 25 August 2025 at [66]
[62] Wai 3277, #1.1.1, at [53]–[58]; Wai 3325, #4.1.10, pp 701–702 (Dr Andrew Old); #A90, at [32], [35]–[36] and [54]. See also Wai 3325, #3.3.39, at [239]–[242]

48. The Webbers described isolation, contaminated floodwater and loss of access to the moana following the August 2022 storm.[63] Ngawāiehu explained the importance of swimming to her wellbeing.[64] When counsel put their experience and anxiety about further heavy rain to Dr Old, he accepted that the example illustrated mental-health effects and anticipatory anxiety.[65] The *Hawke's Bay* flood-review material provides wider context for the pressures of repeated emergencies.[66]

49. The Crown health material identifies particular vulnerabilities for rural Māori and direct climate-hazard impacts including injury, illness and effects on mental health and wellbeing.[67] Those general risks must be considered alongside the Webbers' evidence of isolation and environmental disruption.

50. The health adaptation material recognises mental and spiritual harm associated with displacement and damage to lands, marae, urupā and resources.[68] Dr Old accepted the Webbers' storm experience as an example of climate-related mental-health harm.[69]

Health National Adaptation Plan

51. The Health National Adaptation Plan (HNAP) identifies a need to empower Māori with resources and autonomy to adapt.[70] Dr Old described health equity as a guiding principle and referred to the establishment of the Public Health Agency as an expression of resourcing that commitment.[71] The issue is whether those commitments translate into support proportionate to the climate-related risks faced by communities such as Ngāti Koata.

---

[63] Wai 3325, #A90 Joint Brief of Evidence of William Thomas and Ngawāiehu Webber, dated 9 May 2025, at [35]–[36] and [53]–[54].
[64] Wai 3325, #4.1.8 Transcript of Hearing Week Four, 13–17 October 2025, pp 17–18; #A90, at 32 and 54.
[65] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 701–702 (Dr Andrew Old, questions from Ms Rongo).
[66] Wai 3325, #A131 (a) [NEMA.001.0123] *Report of the Hawke's Bay Independent Flood Review* at page 22
[67] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 684–685 (Dr Andrew Old, rural Māori and climate-related health risks). see also Wai 3325 #A134 Brief of Evidence of Dr Andrew Old, dated 29 September 2025 at [19.1]
[68] Wai 3325 #A134 (a) [MOH.001.0151] Considerations for developing a Health National Adaptation Plan for New Zealand at p 20 and 126
[69] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, p 701.
[70] Wai 3325 #A134 (a) [MOH 001.1464] *Health National Adaptation Plan 2024-2027* at p 15
[71] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 689, 698

52. Professor MacMillan's evidence questions whether the resources allocated to implement HNAP actions have been adequately explained.[72] Dr Old confirmed that work started in 2022 and the plan was published in late 2024, with health-sector demands delaying progress.[73] He also accepted that policy commitments cannot be implemented effectively without equitable resourcing, but could not say whether funding was consistently allocated in proportion to need.[74]

53. The evidence establishes climate-related health vulnerability and a need for tailored support. Ngāti Koata seek a finding that the Crown has not demonstrated adequate planning and resourcing to meet their particular climate-related health risks, consistently with active protection and equity.

54. Ngāti Koata seek practical health and emergency planning for isolated communities, including psychosocial support, continuity of essential services and safe access during severe weather. Acknowledging inequity without showing how support will reach these communities leaves the identified risk unresolved.

Economic Impacts

55. Climate change threatens Ngāti Koata fisheries, aquaculture and forestry interests. These are assets through which Ngāti Koata support whānau and pursue intergenerational development. Active protection and equity require the Crown to understand those exposures and support adaptation without unnecessarily constraining rangatiratanga over their use.[75]

56. The Māori primary sector (agriculture, forestry and fishing) contributed $3.6 billion to New Zealand's GDP in 2023, playing a significant part in the Māori economy.[76]

57. Climate change increases risks of damage and adaptation costs for the primary sector. Māori are particularly exposed through the concentration of assets in

[72] Wai 3325, #A76(d) Affidavit of Alexandra MacMillan at [12]
[73] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 691
[74] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 698 (Dr Andrew Old).
[75] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [5]–[13], [16]–[41].
[76] Wai 3325, #A121 Brief of Evidence for Robyn Julie Collins, dated 30 September 2025 at [31]

climate-sensitive industries and the physical characteristics of much Māori land.[77]

58. Ngāti Koata's evidence demonstrates active efforts to manage those risks, alongside capacity and financial constraints. The Crown's response must support those efforts and Ngāti Koata's ability to make decisions for future generations.[78]

Fisheries

59. We heard evidence of ocean warming and marine heatwaves becoming stronger and more frequent. Māori are overrepresented in the fisheries industry. Māori now own or control the harvesting and processing of more than 40 percent of the annual catch entitlement (ACE) available in the industry. [79]

60. Ngāti Koata participate in commercial, customary and recreational fisheries, and in aquaculture. Hemi Toia describes effects from warming waters and changing conditions on those investments.[80] Dr Sutherland explains their dependence on the health and stability of marine ecosystems.[81]

61. The *Australasia* assessment identifies risks to Māori fisheries and aquaculture from warming and acidification, including changes in species distribution, productivity and yields, with medium confidence.[82] Marlborough Sounds material identifies increasing marine-heatwave risks.[83] The Crown bundle also describes cumulative ecological changes associated with sedimentation, marine heatwaves and harvesting pressures; those interacting pressures should not all be attributed to climate change alone.[84]

---

[77] Wai 3325, #A121 Brief of Evidence for Robyn Julie Collins, dated 30 September 2025 at [47] see also Wai 3325, #A120(b) Summary of Evidence of Robyn Julie Collins and Samuel Ross Keenan, dated 21 April 2025 at [10]
[78] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [26]–[41]; Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [18]–[20], [51]–[54].
[79] Wai 3325 #A139 (a) [MPI 004.3009] *Fisheries Assessment Plenary* at p [134] and [1900]. See also Wai 3325 #A139 Brief of Evidence of Daniel Bolger, dated 29 September 2025 at [37]
[80] Wai 3325 #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025 at [37]
[81] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [23]
[82] Wai 3325, #A132 (a) [SMD.001.0025] *Australasia - Chapter 11* at p [1631] and [280]
[83] Wai 3325 #A139 (a) [MPI 004.0763] *Marlborough Sounds Blue Cod Review* at [16] p [3] and [910]
[84] Wai 3325 #A139 (a) [MPI.004.0373] *Review of Sustainability measures for the 2024 October Sustainability round* at p [272] and [820]

62. Mr Bolger identified warming, marine heatwaves, storm-related material entering the water and acidification as climate-driven fisheries pressures.[85] He accepted that customary fisheries are tied to particular places and iwi cannot simply exercise those rights elsewhere when materially affected. He accepted a material impact for Ngāti Koata.[86]

Forestry

63. Climate change affects forests through pests, wildfire and extreme weather, with consequences for productivity and ecosystem functions.[87]

64. Māori forestry owners are exposed to severe wind and other climate-related hazards. The Crown evidence describes broken and uprooted trees and resulting value losses, including impacts on Māori forest land.[88]

65. Ms Collins and Mr Keenan describe physical limitations affecting much Māori land, including susceptibility to erosion, drought, excessive rain and wetness that constrain production and land-use choices.[89]

66. For Koata Limited, Hemi Toia described radiata pine as the commercially viable option under present market and growth conditions.[90] His evidence also identifies choices to reduce environmental impacts and restore culturally significant areas. This is evidence of commercial constraints alongside deliberate iwi choices, rather than a contention that radiata pine is appropriate everywhere.[91]

67. Ngāti Koata manage forestry with an intergenerational perspective.[92] Hemi Toia described nature-based approaches to rainfall, waterways and slash management, including willingness to reduce planted area where environmental responsibilities require it. He also said the August 2022 event

[85] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 551
[86] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 552–553.
[87] Wai 3325, #A165 *2026 National Climate Change Risk Assessment for Aotearoa New Zealand* at [267]
[88] Wai 3325, #A120 Brief of Evidence of Robyn Julie Collins and Samuel Ross Keenan, dated 21 April 2025 at [39], cited Scion *Forests and Climate Change – Wind Damage* (May 2012). [MPI.005.3648]
[89] Wai 3325, #A120 Brief of evidence of Robyn Julie Collins and Samuel Ross Keenan, dated 21 April 2025 at [36]
[90] Wai 3325, #A140 (a) [MFE.009.3842] Alt-f Reset: Examining the drivers of forestry in New Zealand at p 147 and 3519. See also Wai 3325, #A92 Brief of Evidence of Hemi Dion Toia, dated 9 May 2025, at [24]–[25].
[91] Wai 3325, #A92 Brief of Evidence of Hemi Dion Toia, dated 9 May 2025, at [24]–[36].
[92] Wai 3325, #A120 (a) [MPI 005.3502] Tū Mai Rā! Te Whānau o Tāne- Growing the total economic value of our national Māori forest- Summary of the consultation document National Māori Forestry Strategy 2040 at p 6 and 1951

caused minimal damage within Hira Forest itself, while erosion from neighbouring DOC land affected their land.[93]

68. These choices show that Ngāti Koata are already developing their own response. TSOI 1.4.2 and 3.6–3.8 require consideration of whether Crown systems enable that response, including technical support and funding for nature-based adaptation, without forcing Ngāti Koata to choose between environmental responsibilities and the income required to support whānau.[94]

CROWN INACTION AND TE TIRITI BREACHES

69. The question is whether the Crown's response adequately protects Ngāti Koata communities, whenua, waters and taonga relationships. Ngāti Koata submit that the record shows material gaps in assessment, engagement, resourcing and implementation.

Failure to adequately inform itself

70. The Crown has undertaken national risk assessment and other climate work. Ngāti Koata's complaint is that the Crown has not shown how that work adequately informs decisions about their particular exposure and taonga relationships. Knowledge of general Māori vulnerability does not dispense with the need to understand significant local risks when formulating policies that affect them.[95]

71. Ms Prebble said the methane-target advice addressed overall impacts and drew on other engagement, but was not based on particular rohe. She was unaware of any Ngāti Koata or Takapourewa analysis. Katherine Wilson was likewise unaware of a specific assessment for Ngāti Koata or specific engagement about their taonga species. She described invitations through regular pānui and

[93] Wai 3325, #A92 Brief of Evidence of Hemi Dion Toia, dated 9 May 2025, at [30]–[36], particularly [35].
[94] Wai 3325, #A92 Brief of Evidence of Hemi Dion Toia, dated 9 May 2025, at [23], [26]–[36] and [41]; Wai 3325, #1.4.3, TSOI 1.4.2 and 3.6–3.8.
[95] Wai 3325, #1.4.3, TSOI 3.2; Wai 3325, #4.1.10, pp 138–140 (Katherine Wilson); Wai 3325, #3.3.38, Generic Closing Submissions for Adaptation, dated 25 September 2026, at [129]–[132] and [136]–[140]; Wai 3325, #3.3.39, Generic Closing Submissions on Climate Impacts on Māori, dated 25 September 2026, at [79]–[86].

engagement depending on responses. Ms Harrison could not identify policy analysis specifically considering Ngāti Koata ecosystems, fisheries or taonga.[96]

72. Ms Rawiri accepted that missing data limited assessment of wāhi tapu and community resilience, and Dr Dean identified gaps in coordinated monitoring and long-term understanding of taonga-species responses. Ngāti Koata submit that the Crown must address those gaps with iwi, rather than use them to exclude cultural and ecological consequences from policy advice. The Crown has not adequately demonstrated an informed, coordinated response to the particular risks experienced by Ngati Koata, consistently with active protection and equity.[97]

Partnership

73. Partnership requires Ngāti Koata to have a meaningful opportunity to influence adaptation and mitigation decisions affecting their rohe while options remain open. The evidence below shows shortcomings in the timing, scope and practical accessibility of that participation.

74. The Cultural Impact Assessment (CIA) describes DOC progressing the Dynamic Adaptive Pathway Plan (DAPP) options for the Takapourewa frogs before involving Ngāti Koata from the outset. The CIA says that consultation at an advanced stage did not meet the partnership contemplated by the Takapourewa Operational Plan. Pene and Laken Gieger describe minimal engagement and treatment as stakeholders at key points.[98]

75. The Crown identified the Māori Climate Platform as a mechanism to build climate-response partnership and support Māori-led initiatives.[99] Gina Rangi accepted that a project addressing the taonga-species issues put to her would not have fitted the Platform funding criteria as administered that year.[100] Ngāti

---

[96] Wai 3325, #4.1.10 Transcript for Hearing Week Six, Wellington, 16-20 March, pp 89–90 (Rebecca Prebble), 138–140 (Katherine Wilson), and 611 (Kay Harrison).
[97] Wai 3325, #4.1.11 Hearing Week Seven, Wellington, p 226 (Paula Rawiri); #4.1.10, pp 648–649 (Dr Samuel Dean). See also Wai 3325, #3.3.38, at [139]–[144]; Wai 3325, #3.3.39, at [125]–[133]
[98] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 12–13 and 43; #A91, at [30]–[34]. See also Wai 3325, #A91, at [21] and [30]–[36]; #A91(a), pp 12–13 and 43.
[99] Wai 3325 #3.3.31, Opening Submission for the Crown dated 9 March 2026 at [55.1]. see also Wai 3325, #A162(b) Appendix H-Monitoring Report: Emissions Reduction (2025) at [2.3] p 29
[100] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p [231]

Koata submit that a general Māori funding mechanism is insufficient if it does not accommodate a demonstrated taonga-protection need.

76. The Climate Change Commission material raised concerns about the Platform's funding and continuity.[101] The filed generic adaptation closings identify that all available Māori Climate Platform funds had been allocated and that no alternative arrangements or future funding options had been outlined. Ngāti Koata rely on that material as evidence of uncertainty about continuing support for Māori-led adaptation.

77. The existence of the Platform and positive relationships with individual officials does not establish that Ngāti Koata's particular needs are met. The issue is whether partnership gives Ngāti Koata timely influence over decisions and durable support to act. Their evidence identifies gaps in both respects.

Resourcing rangatiratanga and iwi responses

78. Pene and Laken Gieger describe underfunded projects, short-term grants and voluntary or under-resourced conservation work. They also explain that repeated requests to attend hui and respond to plans can overwhelm limited iwi capacity. Apparent non-engagement may therefore reflect being swamped with demands, rather than an absence of interest.[102]

79. Under TSOI 2.1.6, 2.2.3 and 3.6–3.8, Ngāti Koata submit that the Crown must enable iwi to exercise rangatiratanga through adequate, durable support for their own priorities. Reliance on iwi knowledge and labour without corresponding staffing and resources can impair that authority. The finding sought is that the support demonstrated in this record does not adequately enable Ngāti Koata's climate adaptation and biodiversity work. The remedy is sustained funding for iwi-led planning, monitoring, research and implementation, with terms agreed in partnership.[103]

---

[101] Wai 3325, #A162(b) APPENDIX H-Monitoring Report: Emissions Reduction (2025) at [2.3] p 29
[102] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [15]–[20] and [51]–[53].
[103] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [18]–[20] and [51]–[54]; Wai 3325, #3.3.33, Generic Closing Submissions on Biodiversity, dated 23 September 2026, at [4]–[6], [113] and [129]–[130]; Wai 3325, #1.4.3, TSOI 2.1.6, 2.2.3 and 3.6–3.8. See also Wai 3325, #3.3.38, at [91]–[97], [144] and [197(c)]

Emergency Management

80. Ngāti Koata rely on the generic emergency-management closings for the national system context.[104] Their particular concern is the adequacy of planning and response for isolated coastal communities and the inclusion of taonga species in risk and recovery assessments.[105]

81. The Civil Defence Emergency Management (CDEM) system combines local delivery, regional planning and coordination, and national support. Its four components are reduction, readiness, response and recovery (the four Rs).[106] The Crown's duties must be assessed across all four components.

82. The Crown material identifies increasing pressures from more frequent and severe emergencies and from consecutive events.[107] The 2026 NCCRA Māori-risk assessment also identifies significant emergency-related vulnerability and capacity pressures.[108] For communities such as French Pass, interrupted transport and services magnify those risks.

83. The Crown remains responsible for taking adequate steps to protect Māori and enable their participation throughout emergency planning, response and recovery.[109] Devolution of delivery does not remove the Crown's Tiriti responsibilities for the adequacy of the framework and support.

84. Local relationships and knowledge are important to emergency management. The Government Inquiry into the Response to the North Island Severe Weather

[104] Wai 3325, #A136 (a) [DIA.002.0615] *Report of the Government Inquiry into the Response to the North Island Severe Weather Events* (2024) at [31]. See also Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [11]

[105] Wai 3325, #3.3.37, Emergency Management Generic Closing Submissions, dated 25 September 2026, at [1]–[10], [19]–[27] and [33].

[106] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [39] and [25]

[107] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [7] and [8]

[108] Wai 3325, #A165 *2026 National Climate Change Risk Assessment* at [19]

[109] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [12]

Events identified gaps in shared situational awareness across councils, NEMA and responders.[110]

85. Effective readiness depends on communities and agencies knowing what is expected before an emergency occurs. The inquiry material describes the value of existing relationships and readiness activities in enabling a strong response.[111]

86. *The Recovery Preparedness and Management Guideline* (DGL 24/20) recognises Māori resilience and concepts of wellbeing, and the relevance of Te Tiriti, kaupapa Māori, mātauranga Māori and tikanga Māori to recovery.[112] The issue for Ngāti Koata is whether those commitments are implemented in their communities and for their taonga.

87. Ms Rogers and Mr Hindriksen describe the critical role of Māori in emergency responses. Crown material recognises effective iwi responses to the 2023 events, while also identifying gaps in formal participation within local emergency-management structures.[113]

88. *The Risk Assessment Guidance for CDEM Group Planning* (DGL 23/22) recognises Māori perspectives, taonga and mātauranga in assessing risk. Ms Rogers confirmed that taonga is for iwi and hapū to determine and accepted its importance in risk assessment.[114]

89. Ms Rogers could not say whether Marlborough authorities had undertaken the relevant assessment for Ngāti Koata. She did not concede that taonga species were excluded. She explained that things communities value, including taonga, should be identified before an event and carried into recovery planning.[115]

---

[110] Wai 3325, #A131 Joint Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025, at [41]. See also Wai 3325, #A136 (a) [DIA.002.0615] *Report of the Government Inquiry into the Response to the North Island Severe Weather Events* (2024) at [36] p 13 and 308

[111] Wai 3325, #A136 (a) [DIA 002.0615*] Report of the Government Inquiry into the Response to the North Island Severe Weather Events* at [49] and p 44 and 339

[112] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [59.3]

[113] Wai 3325, #A131 Joint Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025, at [86]. See also Wai 3325, #A131 (a) [NEMA.001.2701] *Strengthening New Zealand's emergency management legislation* at [54] p 14

[114] Wai 3325, #4.1.11, Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 388–389 (Jenna Rogers, questions from Ms Temese).

[115] Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 388–389.

Ngāti Koata submit that the Crown must show how that guidance translates into assessment and preparedness for their taonga and isolated communities.

90. The Crown evidence identifies a need to strengthen the legislative and regulatory framework, Māori participation and emergency-management resourcing.[116] Ms Rogers also accepted that isolated communities need plans and agreed with findings of disproportionate Māori impacts. She described policy work and developing capability as part of the Crown's response.[117]

91. The Webbers' experience demonstrates the consequences of disrupted access and sanitation in an isolated community. Ngāti Koata seek adequate provision across reduction, readiness, response and recovery, including pre-event risk assessment with iwi, communications and safe access, water and sanitation resilience, and support for taonga protection. Post-event assistance alone does not establish that those foreseeable needs have been adequately planned for.[118]

Taonga species

92. Ngāti Koata submit that active protection requires adequate assessment, monitoring and adaptation for the vulnerable taonga species they protect, together with support for their kaitiaki relationships.

93. Small populations of rare and threatened species are already vulnerable to extreme events such as erosion and floods, which are likely to increase in frequency in the future. Climate change is likely to exacerbate and interact with existing pressures, as well as alter existing habitats, making them unsuitable for the species that depend on them. [119]

---

[116] Wai 3325, #A131 Brief of Evidence of Jenna Rachel Rogers and Dwain Gerard John Hindriksen, dated 26 September 2025 at [16] and [51] cited New Zealand Government "*Strengthening Emergency Management: A Roadmap for Investment and Implementation*" (2025) p 13. [NEMA.001.2701]. see also [51.1] - [51.3]

[117] Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 357–364 (Jenna Rogers and Dwain Hindriksen)

[118] Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025, at [35]–[59]; Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 385–389; Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [49]–[54]

[119] Wai 3325, #A124 (a) [DOC.001.0730] Brumby A; Marshallj; Murray T; O'donnell C; Richards R (2025) *Trait-based climate change vulnerability assessments of terrestrial taxa in Aotearoa New Zealand* at p 6 and 621

94. Dr Sutherland identifies changes in temperature affecting reproductive processes as a significant risk to taonga species. Changes in temperature and moisture also threaten habitat suitability.[120]

95. Pene and Laken Gieger explain that the species Ngāti Koata protect embody whakapapa and identity.[121] Dr Sutherland describes the rare and endemic invertebrates of Takapourewa, their ecological interdependence and their vulnerability to changing conditions.[122]

96. The environmental reporting material identifies specialised characteristics and habitat requirements of species such as tuatara, frogs and lizards that constrain their capacity to adapt.[123]

97. DOC's assessment covered 1,145 terrestrial taxa, including bats, birds, herpetofauna, plants and invertebrates, and identified 65% as highly vulnerable to climate change by 2090. Many already face pressures from habitat loss and introduced predators.[124] The generic adaptation and climate-impacts closings address that assessment. Ngāti Koata rely on it as context for the particular risks to Takapourewa.[125]

98. Professor Macinnis-Ng identifies existing inadequacies in management of threatened and at-risk species, with increasing pressure as severe climate events become more frequent.[126]

99. Professor Macinnis-Ng identifies limits on conservation funding and the need for a different approach.[127] Dr Dean identifies gaps in understanding climate effects on taonga species.[128] In oral evidence he said he was unaware of a

---

[120] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [10]
[121] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [27]–[29].
[122] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [14] (A93(a))
[123] Wai 3325, #A141 (a) [MFE.008.0531] *Our environment 2025 – New Zealand's Environmental Reporting Series* at p 29
[124] Wai 3325, #A124 Brief of Evidence of Kirstie Knowles and Catherine Wilson at [43] – [44]. See also Wai 3325, #A124 (a) [DOC.001.0730] BRUMBY A; MARSHALLJ; MURRAY T; O'DONNELL C; RICHARDS R (2025) *Trait-based climate change vulnerability assessments of terrestrial taxa in Aotearoa New Zealand* at p 6 and 621
[125] Wai 3325, #3.3.38, Generic Closing Submissions for Adaptation, dated 25 September 2026, at [186]; #3.3.39, Generic Closing Submissions on Climate Impacts on Māori, dated 25 September 2026, at [42]–[45].
[126] Wai 3325, #A69(h) Responses of Professor Macinnis-Ng to Tribunal questions in Hearing Eight at p 4
[127] Wai 3325, #A69(h) Responses of Professor Macinnis-Ng to Tribunal questions in Hearing Eight at p 5
[128] Wai 3325, #A132 Brief of Evidence of Samuel Martin Dean, dated 25 August 2025 at [64]

coordinated national programme to monitor those responses and identified a lack of long-term understanding and data.[129]

100. Ngāti Koata submit that the Crown's climate response must connect national science and monitoring with iwi priorities and responsibilities. Fragmented information and short-term funding cannot adequately address the intergenerational risks identified for these taonga.

Takapourewa Frog

101. Hamilton's frog depends on moist microhabitat, including for respiration through its skin.[130] Dr Sutherland explains that changing temperature and moisture may exceed its ecological tolerance.[131] Pene and Laken Gieger describe drying habitat and risks to survival.[132]

102. The CIA and the Gieger evidence describe the frogs as taonga linked to kōrero tuku iho and mana whenua responsibilities. Their decline would threaten Ngāti Koata's kaitiaki relationship and represent cultural as well as ecological loss.[133]

103. The CIA records warming and drying trends from climate data collected on Takapourewa over approximately 50 years, and describes the threat posed by drought and habitat drying to the frogs.[134] Wider environmental reporting and climate-extinction research support concern about amphibian vulnerability, but the local habitat evidence is the foundation for the Ngāti Koata finding sought.[135]

104. Section 4 of the Conservation Act 1987 requires the Act to be interpreted and administered so as to give effect to Tiriti principles. Ngāti Koata submit that its application here requires active protection of the kaitiaki relationship and

---

[129] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 648–649.
[130] Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [8].
[131] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025 at [13]
[132] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [8]
[133] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change* at p [6]. See also Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [31]
[134] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change* at p [24]
[135] Wai 3325, #A141 (a) [MFE.008.0531] Our *environment 2025 – New Zealand's Environmental Reporting Series* at p [23]. See also Wai 3325, #A69(i) "B": Urban, M.C., 2024. Climate change extinctions. Urban, *Science* 386, 1123-1128 at p [1]

genuine partnership in planning for the frogs. The CIA identifies deficiencies in that approach and calls for urgent joint work.[136]

Wai 262 and Tiriti settlement relationships

105. The Crown's relationship with Ngāti Koata is also informed by Wai 262 and te Tiriti settlement arrangements. The Statement of Claim links this claim to John Hippolite's Wai 262 mahi. The CIA records the trustees' statutory-adviser role for Takapourewa, the DOC protocol and the jointly prepared Operational Plan. Those arrangements recognise an existing relationship and specific mechanisms for input into species management. Ngāti Koata are not merely an interested stakeholder seeking an invitation to consult.[137]

106. The Operational Plan's objectives include partnership, thriving taonga species, protected access, knowledge transfer and continuing monitoring. The CIA says DOC's advanced planning before involving Ngāti Koata did not meet that intended partnership. Ngāti Koata seek a finding that climate planning must make those relationships effective in practice by including iwi from the outset and protecting continuing kaitiakitanga, including when translocation options are considered.[138]

107. The CIA seeks urgent support for Ngāti Koata to redevelop mātauranga ā-iwi and maramataka knowledge of the frogs, with time for intergenerational observation and learning. It supports in situ protection and a safety population within the rohe, with out-of-rohe translocation considered only if necessary and with Ngāti Koata's express agreement and continuing relationship protected.[139]

---

[136] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change* at p [32]

[137] Wai 3277, #1.1.1 Statement of Claim, at [5] and [37]; Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 12–17; Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014, ss 150–151 (statutory advisers).

[138] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 12–13 and 43–44; Wai 3325, #A91 Joint Brief of Evidence of Pene and Laken Gieger, dated 9 May 2025, at [30]–[36]; Wai 3325, #1.4.3, TSOI 1.5 and 3.4.

[139] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 42–44, recommendations 1–11

Tuatara

108. Tuatara are the last surviving members of the order Rhynchocephalia. Their protection has significance for global biodiversity as well as for Ngāti Koata's particular taonga relationship.[140]

109. Dr Sutherland's appendix identifies Takapourewa as a tuatara stronghold, with approximately 50,000 animals.[141] The environmental reporting material also identifies wider threats to indigenous reptiles.[142] The concentration of tuatara on Takapourewa makes the island's protection particularly important.

110. The Claimants say that if current warming trends persist tuatara populations could face demographic imbalance, with cascading effects on Ngāti Koata's role as kaitiaki and on the ecological health of Takapourewa.[143]

111. Tuatara have temperature-dependent sex determination. Higher incubation temperatures produce a greater proportion of males. In a warming climate, male bias and long generation times can threaten population viability.[144]

112. Associate Professor Tonkin described the temperature sensitivity of tuatara eggs, male-biased hatchlings and the vulnerability of isolated island populations. He said that the effect had been modelled, but to his knowledge had not yet been detected.[145] His qualification should be read alongside Dr Sutherland's evidence of present risk. Ngati Koata seek a finding concerning a serious foreseeable threat requiring action.

113. The scientific material describes modelling under which an island population could produce all-male hatchlings by the mid-2080s without effective

---

[140] Wai 3325, #A124 (a) [DOC.001.0730] Brumby A; Marshallj; Murray T; O'donnell C; Richards R (2025) *Trait-based climate change vulnerability assessments of terrestrial taxa in Aotearoa New Zealand* at p 6 and 621

[141] Wai 3325, #A93(a) *Some of the most significant taonga species from Takapourewa*, compiled by Oliver Sutherland, June 2023, "Tuatara", p 2.

[142] Wai 3325, #A141 (a) [MFE.008.0531] *Our environment 2025 – New Zealand's Environmental Reporting Series* at p 23

[143] Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025, at [12]

[144] Wai 3325, #A132 (a) [SMD.001.0001] Keegen et al, 2022. Current knowledge and potential impacts of climate change on New Zealand's biological heritage. New Zealand Journal of Ecology 46(1) at pp [11]-[12]. See also Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, at [10]–[12].

[145] Wai 3325, #4.1.9 Transcript for Hearing Week Five, Wellington, 24-28 November 2025, at p 278

adaptation.[146] Ngāti Koata rely on it as evidence of a serious risk requiring timely assessment and action.

114. Ms Knowles and Ms Wilson's brief refers to a prediction of all-male clutches for one Marlborough Sounds island population under extreme regional climate change.[147] In oral evidence Ms Knowles accepted tuatara's specific vulnerabilities and the temperature/sex relationship.[148]

115. Translocation may support conservation, but it raises questions about access, continuing kaitiakitanga and disease risks.[149] Ms Casey said she was unaware of the tuatara translocated to Tai Rāwhiti and of monitoring within the work her team had undertaken after Cyclone Gabrielle.[150] Dr Dean accepted limits on Ngāti Koata's options when the island and disease risks were put to him.[151]

116. Island populations cannot simply migrate naturally to cooler locations where the sea and predator risks prevent movement.[152] DOC's written answers describe disease risks, limited knowledge and little population benefit from ordinary return to Takapourewa, while contemplating return in limited catastrophic-loss circumstances.[153] The issue is how adaptation protects both species survival and Ngāti Koata's continuing relationship. Translocation is not a complete cultural remedy.

117. Dr Dean expressly accepted that tuatara are at risk from climate change and that Ngāti Koata have a particular interest in climate policy.[154] Ms Knowles

---

[146] Wai 3325, #A132 (a) [SMD.001.0001] Keegen et al, 2022. Current knowledge and potential impacts of climate change on New Zealand's biological heritage. New Zealand Journal of Ecology 46(1) at p [12] and [217]

[147] Wai 3325, #A124 Brief of Evidence of Kirstie Knowles and Catherine Wilson, dated 29 September at [103], cited Miller et al., *Securing the Demographic and Genetic Future of Tuatara through Assisted Colonization*, Conservation Biology, Volume 26, No. 5, 790-798, 2012. [e]

[148] Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 280–282 (Kirstie Knowles and Catherine Wilson).

[149] Wai 3325, #A94(a) Exhibit "A", Scott Jarvie, Trevor H. Worthy, Frederik Saltre, R. Paul Schofield, Philip J. Seddon, Alison Cree, "*Using Holocene fossils to model the future: Distribution of climate suitability for tuatara, the last rhynchocephalian"* at p [10]

[150] Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 322–323 (Katrina Casey, questions from Ms Temese).

[151] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 645–646 (Dr Samuel Dean).

[152] Wai 3325, #A132 (a) [SMD.001.0001] Keegen et al, 2022. Current knowledge and potential impacts of climate change on New Zealand's biological heritage. New Zealand Journal of Ecology 46(1) at p 12

[153] Wai 3325, #A124 (c) Responses to Questions in Writing for Kirstie Knowles and Catherine Wilson at [45.1] - [45.2], [46]-[46.1]

[154] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 643–646 (Dr Samuel Dean).

likewise accepted the specific vulnerability and acknowledged a valued relationship with Ngāti Koata, but referred detailed translocation and disease questions to specialists.[155]

118. Ngāti Koata submit that the Crown must connect specialist knowledge, species-management decisions and durable iwi support, and show how it is protecting kaitiakitanga for tuatara, frogs and the wider Takapourewa ecosystem.

119. Ngāti Koata seek a finding that the response demonstrated in this record does not adequately protect these taonga relationships or enable iwi-led conservation and adaptation. The required response must protect species survival and continuing cultural relationships together.

Barriers to access and kaitiakitanga

120. Pene and Laken Gieger describe the disrepair of the Takapourewa tramway as a practical barrier to carrying gear, food and materials for kaitiaki work. The physical burden and difficulty of access can deter participation and affect those with physical limitations.[156]

121. Access is necessary for observation, customary practice and the transmission of mātauranga. The NCCRA and other Crown material recognise risks from loss of access to taonga species.[157] The CIA connects active protection of kaitiaki relationships with a reasonable degree of control over mātauranga.[158] For Ngāti Koata, safe access to Takapourewa is therefore part of an effective climate-adaptation response.

122. Ngāti Koata seek Crown funding to repair the tramway or provide a suitable safe alternative, and to co-develop enforceable biosecurity arrangements with

---

[155] Wai 3325, #4.1.11 Transcript of Hearing Week Seven, 28 April–1 May 2026, pp 280–282 (Kirstie Knowles and Catherine Wilson).

[156] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [38]-[40]

[157] Wai 3325, #A165 *2026 National Climate Change Risk Assessment for Aotearoa New Zealand* at p 19. See also Wai 3325, #A132 (a) [MPI.004.2056] He huringa āhuarangi, he huringa ao: a changing climate, a changing world at p [v] and [141]. See also Wai 3325, #3.3.39, at [139]–[147]

[158] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change* at p [35] cited Waitangi Tribunal. Waitangi Tribunal Report, 2011. *Ko Aotearoa Tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity*. Te Taumata Tuatahi. Wellington, New Zealand: Legislation Direct. p 127.

DOC and relevant authorities. Pene and Laken Gieger's proposed measures include a resourced kaitiaki-led inspection programme, signage, enforcement and consideration of a 500-metre marine exclusion zone. The particular legal mechanism and boundaries should be worked through with Ngāti Koata, rather than assumed to be within DOC's sole power.[159]

International Instruments

123. New Zealand is party to the UNFCCC, Kyoto Protocol and Paris Agreement, and has participated in international climate negotiations since 1990.[160] Ngāti Koata rely on the generic climate and mitigation closings for the wider international framework.

124. The Crown characterises climate change as a global problem requiring collective action.[161] Dr Dean explained the significance of global emissions while accepting that New Zealand must do its part and can choose ambitious action.[162]

125. Mr Murray describes New Zealand emissions as approximately 0.15% of global emissions.[163] Former Minister James Shaw's statement illustrates why a small national share is not a sufficient answer to the need for collective action:[164]

> New Zealand is a small country, and our emissions are less than one percent of global emissions, but size is not an excuse for inaction. If you add up all the countries who contribute less than one percent, we collectively contribute almost a quarter of global climate pollution.

126. Mr Murray's evidence emphasises the limits of a single country's effect on global climate.[165] Ms Haira accepted that climate change is significant for Māori and that Māori have an interest in the response.[166] These propositions do not

[159] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [38]–[48] and [54(c)–(d)].
[160] Wai 3325, #A128 Brief of Evidence of Helen Joan Plume, dated 26 September 2025 at [9]
[161] Wai 3325, #3.3.31 Opening Submissions for the Crown at [9]
[162] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p [644]
[163] Wai 3325, #A127 Brief of Evidence of Kieran Murray at [33]
[164] Wai 3325 #A43 Brief of Evidence of DR James Every-Plamer KC at [36]
[165] Wai 3325, #A127 Brief of Evidence of Kieran Murray at [33]
[166] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, p 189 (Anne Haira).

resolve whether New Zealand's own response meets its obligations to Ngāti Koata.

127. New Zealand's share of global emissions does not remove the Crown's duties within its own sphere of action. Those duties include an adequately informed mitigation response, adaptation and protection of vulnerable taonga relationships, and meaningful Māori participation. Ngāti Koata submit that the adequacy of those measures must be assessed against their demonstrated exposure and needs.

128. Ngāti Koata accept that global cooperation is necessary. The Crown nevertheless retains responsibilities to act domestically and internationally in a manner consistent with Te Tiriti.[167] Collective causation does not answer the demonstrated shortcomings in engagement, local assessment and support for adaptation.

129. The Crown's climate response needs to be assessed in light of international instruments and the relevant Tiriti principles. Ngāti Koata rely on that framework to support rights to participation, self-determination and protection of taonga relationships. A separate breach of an international instrument requires identification of the particular obligation and conduct. It is not established merely by the existence of climate harm.

130. Ms Hallum explains that UNDRIP is not a binding treaty, while recognising its relevance to interpreting Tiriti principles and its expression of existing human-rights obligations and aspirations concerning Indigenous Peoples.[168] Ngāti Koata rely on that interpretive relevance.

131. Evidence provided from Dr Claire Charters concludes that the repeated use of the Declaration in domestic legal forums, from Parliament, to Cabinet, to the courts, to tribunals and in the public consciousness, contributes to the gradual internalisation of norms within New Zealand law.[169]

---

[167] Wai 3325, #A127 Brief of Evidence of Kieran Murray at [33]
[168] Wai 3325, #A137 Brief of Evidence of Victoria Louise Hallum, dated 29 September at [95], [100]
[169] Wai 3325, #A81(i) Reply Evidence of Dr Claire Charters at [72]

132. The Tribunal in its Ko Aotearoa Tēnei report described UNDRIP as "perhaps the most important international instrument ever for Māori people."[170]

133. The relevant finding is that the Crown's response has not adequately protected Ngāti Koata's participation, rangatiratanga and taonga relationships against the identified climate risks. International instruments reinforce that Tiriti analysis.

CROWN'S CONDUCT

134. The remaining conduct issues concern how national policy is implemented locally, whether Ngāti Koata can influence decisions in time, and whether the ETS enables their environmental and intergenerational land-use aspirations. Pene and Laken Gieger describe the gap between Crown commitments and their experience of participation and support.[171]

Local Government

135. Local authorities have important natural-hazard planning and implementation responsibilities.[172] Mr Barker explained that DIA's role includes support and facilitation rather than routine direct reporting. He was unaware of recent DIA guidance specifically on climate adaptation engagement with iwi Māori.[173]

136. The Webbers gave positive evidence about Marlborough District Council's assistance after the August 2022 storm, including offers of help, welfare contact and information about available support.[174] They described the Council as "marvellous" and said:

> they came in and told us about the sort of services that was open to us and to hurry up and let them know what our needs were.

[170] Waitangi Tribunal Ngā Mātāpono – The Principles: Interim Report on the Treaty Principles Bill and Treaty Clause Review Policies (2024) at p 50, cited Waitangi Tribunal, Ko Aotearoa Tēnei: Te Taumata Tuatahi, p [233]
[171] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [22]
[172] Wai 3325, #A136 Brief of Evidence of Paul Barker, dated 30 September 2025 at [66]
[173] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, p 517.
[174] Wai 3325, #A90 Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025 at [55]

137. Pene and Laken Gieger describe inadequate planning and infrastructure protection for small vulnerable communities, including damage to septic systems and homes.[175] The Crown evaluation concerning Westport provides wider policy context, but does not prove what planning occurred in French Pass.[176]

138. Crown material recognises that climatic exposure, limited resources and under-representation in decision-making can compound community vulnerability.[177] For Ngāti Koata, the practical test is whether national direction and support help local authorities respond to the isolation, cultural relationships and capacity constraints established in this record.

139. Ms Rogers accepted that local authorities should plan and work with rural isolated communities, including having arrangements known before emergencies occur.[178] Pene and Laken Gieger describe staff turnover requiring Ngāti Koata repeatedly to rebuild council relationships and explain the iwi's history and priorities.[179]

140. The Crown is responsible for adequate national guidance, support and accountability within a devolved system. The question is whether the Crown's framework and conduct adequately enable Tiriti-consistent outcomes. Ngāti Koata submit that the assessment, capacity and continuity gaps identified here require a more effective Crown response.[180]

141. The Council's assistance after the storm should be recognised. It does not resolve whether the Crown's framework ensured adequate pre-event assessment, infrastructure resilience and iwi participation. The planning question is distinct from the quality of individual officials' help during recovery.

---

[175] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [49]

[176] Wai 3325, #A136 (a) [DIA 001.0407] *Proactive release: DIA evaluation of the Westport flood resilience proposal incorporating a Tokin + Taylor technical review* at [7] p [6] and [11]

[177] Wai 3325, #A132 (a)[SMD.001.0388] *Our atmosphere and climate 2023 -New Zealand's Environmental Reporting Series* at p [48] and [640]

[178] Wai 3325, #4.1.11, Transcript for Hearing Week Seven, Wellington, 23 April – 1 May at p [363]

[179] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [50]

[180] Wai 3325, #3.3.36, Local Government Generic Closing Submissions, dated 25 September 2026, at [19]–[23] and [67]–[68]

Engagement

142. The evidence identifies shortcomings in early participation and in the capacity of Ngāti Koata to influence climate decisions. The principal examples are the DAPP process, national policy engagement and the absence of direct engagement on the methane-target change.

143. Pene and Laken Gieger describe exclusion from key frog-recovery discussions and a CIA requested after DOC had advanced its planning options.[181] Hemi Toia said he was unaware of Crown outreach on the larger strategic climate response.[182] The Gieger evidence describes engagement after decisions and the sense of being an afterthought.[183] Ms Prebble's evidence separately confirms no direct engagement on the particular national policy proposals discussed.[184]

144. Ms Prebble's brief describes Ministers deciding against public consultation on the particular amendments, on the basis that it was not statutorily required.[185] In oral evidence she confirmed no direct engagement with Te Tiriti partners or others on the methane-target policy, although advice drew on other engagement.[186] Ngāti Koata submit that the absence of a statutory consultation requirement does not resolve what Tiriti partnership required.

145. Crown advice recognised that engagement may be appropriate and that changing the 2050 methane target *and* later *policies* could *have disproportionate impacts on Māori.*[187] Against that acknowledged significance, reliance on earlier general engagement did not give Ngāti Koata an opportunity to address the particular options while they were being developed.

146. Katherine Wilson described invitations through regular pānui to PSGEs and said engagement depended on who responded. She was not aware of specific

---

[181] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [21]
[182] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025 at [46]
[183] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025 at [36]
[184] Wai 3325. #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 84
[185] Wai 3325, #A150 Brief of Evidence of Becky Prebble at [12]
[186] Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, pp 89–90.
[187] Wai 3325, #A150 Brief of Evidence of Rebecca Jane Prebble on the 2025/2026 Climate Change Response Act 2002 Amendments, dated 18 February 2026 at [23]. See also Wai 3325, #A159(a) Hearing week 6 Written questions for MfE witnesses at p 23. See also Wai 3325, #A150 (a) [MFE.015.0001] Briefing: Final policy Decisions on the 2050 target, dated 30 May 2025 at [54] p 13

engagement with Ngāti Koata on their taonga risks.[188] That describes an invitation process, it does not establish that Ngāti Koata's particular concerns were understood or accommodated.

147. The Crown has engaged through PSGEs, Pou Take Āhuarangi and the National Iwi Chairs Forum. Ms Harrison's written answers distinguish that engagement from the need for consultation to be broadly open.[189] Ngāti Koata submit that national engagement cannot *be* assumed *to* provide a mandate to speak for their particular taonga relationships or replace appropriately directed participation by Ngāti Koata.

148. Crown material identifies Tiriti-breach risks from inadequate engagement and protection of present and future Māori generations.[190] Katherine Wilson nevertheless could not identify Ngāti Koata-specific risk assessment or engagement about their taonga.[191]

149. The record shows a gap between general commitments to engagement and the influence Ngāti Koata describe having at critical stages. Their limited capacity also matters. An unanswered invitation is not, without further inquiry, evidence that partnership opportunities were adequate.[192]

150. Meaningful partnership requires participation while options can still be influenced, with support sufficient for Ngāti Koata to engage. In the DAPP and methane-target examples, the timing and scope of participation fell short of that standard. Ngāti Koata seek findings and recommendations for early, continuing and properly resourced engagement.

Emissions Trading Scheme

151. Māori landowners face development constraints and can be particularly exposed to forestry and climate-policy settings.[193] For Ngāti Koata, the issue is

[188] Wai 3325. #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 139
[189] Wai 3325, #A133 (c) Kay Harrison's Response to Questions in Writing at [57], [59]
[190] Wai 3325, #A141 Brief of Evidence of Katherine Mary Wilson, dated 26 September 2025 at [50.4]
[191] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at pp 138–140 (Katherine Wilson).
[192] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [51]–[53]; Wai 3325, #4.1.10 Transcript of Hearing Week Six, 16–20 March 2026, p 139.
[193] Wai 3325, #A121 Brief of Evidence of Robyn Julie Collins, dated 30 September 2025 at [34]. Wai 3325, #A148 Brief of Evidence of Hemi Smiler at [105]

whether the ETS adequately recognises their cultural priorities and future choices for the whenua, alongside commercial forestry.

152. Crown material estimates that about 30% of plantation forestry is on Māori land and anticipates an increasing share.[194] Much Māori land is in Land Use Capability classes 6–8, with associated physical and economic constraints.[195]

153. The NZ ETS is intended to support emissions reductions and New Zealand's international obligations, 2050 target and emissions budgets.[196] Its design and operation must also be assessed for Tiriti compliance.

154. The ETS prices covered emissions through obligations to surrender NZUs and provides returns for eligible forestry removals.[197] Forestry obligations depend on the land's history, eligibility and the activity undertaken. Harvesting and deforestation are not interchangeable, and the financial consequences of changing land use must be identified for the particular land.

155. Crown evidence acknowledges barriers and Māori concerns about the ETS, including the exposure of steep forestry land to storms and erosion.[198] The question for Ngāti Koata is whether those acknowledged constraints are adequately addressed in the choices available to them.

156. Māori engagement material records concern that financial consequences of changing forest land use can constrain future generations' choices.[199] Those concerns are directly relevant to Ngāti Koata's aspiration to restore culturally significant coastal land.

157. The Māori forestry strategy material records concerns that ETS design does not adequately reflect Māori circumstances or participation.[200] Ngāti Koata's

---

[194]Wai 3325, #A140(a) [MFE.007.1675] Ministry for the Environment. 2024. *New Zealand's second emissions reduction plan (2026–30): Discussion document*. Wellington: Ministry for the Environment at p [82] and [351]

[195] Wai 3325, #A121 (a) [MPI.002.0457] He Waka Eke Noa - Primary Sector Climate Action Partnership - Recommendations for pricing agricultural emissions - Report to Ministers (2022) at p [18] and [767]. Wai 3325, #A148 Brief of Evidence of Hemi George Smiler, dated 29 September 2025 at [180]

[196] Wai 3325 #A140 Brief of Evidence of Bryan Smith and Simon Mandal-Johnson, dated 29 September 2025 at [16]

[197] Wai 3325, #A140 Brief of Evidence of Bryan Smith and Simon Mandal-Johnson, dated 29 September 2025 at [18], Wai 3325, #A120 Brief of Evidence of Robyn Julie Collins and Samuel Ross Keenan, dated 21 April 2025 at [267], [275]

[198] Wai 3325 #A140 Brief of Evidence of Bryan Smith & Simon Mandal-Johnson, dated 29 September 2025 at [27], [54]

[199]Wai 3325, #A140 (a) [MFE.009.0505]- *Consultation with Māori on Climate Change: Hui Report* at p [27] and [979]. Wai 3325, #A148 Brief of Evidence of Hemi George Smiler, dated 29 September 2025 at [182]

[200] Wai 3325- #A120 (a) [MPI 005.3502] *Tū Mai Rā! Te Whānau o Tāne- Growing the total economic value of our national Māori forest- Summary of the Consultation Document National Māori Forestry Strategy 2040* at p [6] and [1951]

particular example is Elaine Bay, rather than a claim that every Māori forest faces the same liability.

158. Hemi Toia explained Ngāti Koata's intention to pull back radiata forestry at culturally significant Elaine Bay after harvest.[201] He identified potential ETS liability, but also a 15-year transition period and provisions that might allow retirement or offsetting without liability. His expectation was that returning the whenua to a more appropriate use could be managed without economic cost under the ETS.[202]

159. In oral evidence Hemi Toia identified cost and slower growth as barriers to indigenous forestry.[203] The claimant-specific question is whether advice, transitional arrangements and incentives give Ngāti Koata a practical path to their desired land use.

160. The Crown evidence estimates a deforestation surrender cost of approximately $40,000 per hectare at the prices and assumptions used in that evidence.[204] That is not a current price quotation or a calculation of Koata Limited's liability. It illustrates why land-use choices can carry substantial financial consequences, subject to forest classification, exemptions, offsets and the relevant rules.

161. Mr Smith and Mr Mandal-Johnson describe the ETS as an opportunity for returns where production forestry may be inappropriate or uneconomic.[205] Mr Smith also explained its emissions-accounting purpose and accepted that Māori participants can be motivated by economic opportunities.[206] An available return does not resolve whether the scheme accommodates Ngāti Koata's cultural and intergenerational priorities.

162. Ngāti Koata submit that the ETS must adequately accommodate rangatiratanga, kaitiakitanga and intergenerational land-use choices. The concern includes weak incentives for indigenous restoration and the treatment

[201] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025 at [26]
[202] Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025 at [27]
[203] Wai 3325, #4.1.8, Transcript for Hearing Week Four, 13-17 October at p 97
[204] Wai 3325, #A120 Brief of evidence of Robyn Julie Collins and Samuel Ross Keenan, dated 21 April 2025 at [302]
[205] Wai 3325 #A140 Brief of Evidence of Bryan Smith & Simon Mandal-Johnson, dated 29 September 2025 at [27]
[206] Wai 3325, #4.1.10, Transcript for Hearing Week Six, Wellington, 16-20 March at p 273

of existing indigenous forest, rather than a blanket exclusion of all indigenous forests. Elaine Bay demonstrates why cultural restoration aspirations, potential liabilities and available transition pathways must be considered together.[207]

Exclusion of Agriculture

163. TSOI 3.13 asks whether excluding agriculture from the ETS is consistent with Tiriti obligations. The Crown evidence describes the long-running debate, earlier proposals for surrender obligations, and agriculture's removal from the scheme in 2024.[208] Ngāti Koata rely on the generic mitigation closings for the detailed history and policy analysis.[209]

164. The Crown evidence identifies agriculture as a major share of national greenhouse-gas emissions and biogenic methane as a major contributor to warming.[210] That contribution is relevant to whether the overall mitigation response adequately protects Ngāti Koata's climate-sensitive communities and taonga.

CONCLUSIONS

165. Ngāti Koata submit that the evidence establishes shortcomings in the Crown's assessment of particular risks, early engagement, support for iwi responses and implementation of protection for communities and taonga relationships. The existence of national policies and helpful individual responses does not resolve whether those measures meet the needs of Ngāti Koata.

Prejudice and causal connection

166. The prejudice is cumulative and intergenerational. The Webbers' evidence establishes disrupted access, sanitation harm and anxiety. The Gieger evidence establishes increased demands and barriers to kaitiaki work. Sutherland identifies threatened wāhi tapu, marine resources and species relationships.

---

[207] Wai 3325, #3.3.35, Generic Closing Submissions Relating to Climate Change Policy and Forestry, dated 25 September 2026, at [35]–[40]; Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [26]–[29]
[208] Wai 3325, #A121 Brief of Evidence of Robyn Julie Collins, dated 30 September 2025 at [60], [93], [210]
[209] Generic mitigation closing submissions (25 September 2026), section on agriculture; #1.4.3, TSOI 3.13.
[210] Wai 3325, #A121 Brief of Evidence of Robyn Julie Collins, dated 30 September 2025 at [38]

Toia describes economic exposure and constraints on culturally directed land-use choices. Those effects impair wellbeing, customary practice, the transmission of mātauranga and the capacity to make decisions for future generations.[211]

167. Ngāti Koata do not attribute every storm, loss or ecological change solely to the Crown, nor submit that New Zealand could alone prevent global warming. Their case is that inadequate assessment, delayed or insufficient participation, and insecure support compound vulnerability and make an effective iwi response harder. The DAPP timing, capacity demands and gaps in demonstrated local assessment provide the particular connection between Crown conduct and impairment of Ngāti Koata rights.[212]

168. Climate-related stress and environmental disruption affect the mental and cultural wellbeing of Ngāti Koata whānau, including those in isolated communities. The Crown has not demonstrated adequately tailored planning and resourcing for those risks.

169. Ngāti Koata's own initiatives show both capability and the constraints on exercising it. Insecure resources, participation after options have advanced, and practical access barriers impair iwi-led responses. Active protection must therefore encompass both the survival of taonga species and the continuing exercise of Ngāti Koata kaitiakitanga and rangatiratanga.

170. The global nature of climate change does not diminish the need for a Tiriti-consistent domestic response. The international framework supports the Crown's responsibility to contribute to mitigation and protect Indigenous participation and taonga relationships. The Ngāti Koata findings sought concern the particular Tiriti shortcomings proved in this record.

---

[211] Wai 3277, #1.1.1 Statement of Claim, at [59]; Wai 3325, #A90 Joint Brief of Evidence of William Thomas Webber and Ngawaiehu Webber, dated 9 May 2025, at [35]–[59]; Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [10]–[20], [30]–[54]; Wai 3325, #A93 Brief of Evidence of Dr Oliver Sutherland, dated 9 May 2025, at [4]–[26]; Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [26]–[41]

[212] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [30]–[36], [38]–[54]; Wai 3325, #4.1.10 Transcript for Hearing Week Six, Wellington, 16-20 March, pp 89–90 and 138–140; Wai 3325 #1.4.3, TSOI 3.1.1–3.1.3

171. For these reasons, Ngāti Koata seek a finding that Wai 3277 is well founded in respect of the failures identified above, and that those failures breach partnership, tino rangatiratanga, active protection and equity. The recommendations should address the particular prejudice and the steps required for Ngāti Koata to participate in and implement effective responses.

RECOMMENDATIONS

172. Ngāti Koata respectfully seek findings and recommendations that:

a. Find Wai 3277 well founded, including failures of adequate assessment, early and meaningful partnership, support for rangatiratanga, and active protection of Ngāti Koata communities and taonga relationships;

b. Recommend that the Crown co-develop adaptation and mitigation responses with Ngāti Koata from the outset, grounded in tikanga, mātauranga ā-iwi and the iwi's priorities, with agreed responsibilities and implementation timeframes;

c. Recommend sustained Crown funding for iwi-led restoration, climate adaptation and biodiversity work, including staffing, planning, monitoring, research and implementation, rather than reliance on short-term project grants;[213]

d. Recommend that DOC give practical effect to the existing Tiriti settlement, protocol and operational-plan relationships, including Ngāti Koata participation at the earliest stage of species-management and adaptation decisions;[214]

e. Recognise Ngāti Koata's rangatiratanga and continuing kaitiaki relationships, and recommend support for mātauranga, maramataka

[213] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [54(b)] and [56]
[214] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 12–13 and 43–44; #A91, at [54(d)]; #3.3.27, at [29(d)]

and intergenerational learning, with species translocation options developed jointly and the CIA's conditions addressed;[215]

f. Recommend that the Crown work with Ngāti Koata and other relevant Te Tauihu iwi on a regional climate body with iwi leadership and agreed shared decision-making arrangements;

g. Recommend Crown funding and joint planning for infrastructure resilience and emergency capacity in isolated communities, including French Pass and Rangitoto, covering access, communications, safe locations, drinking-water security, wastewater resilience and psychosocial support;[216]

h. Recommend legislative and policy settings that enable tikanga and mātauranga Māori to inform climate governance, and ETS transition advice and support that address Ngāti Koata's environmental restoration and future land-use aspirations;[217]

i. Recommend an audit of climate-related expenditure and funding criteria to assess whether Māori and iwi-led initiatives receive support commensurate with identified risks and needs, with the results discussed with affected iwi;

j. Recommend a process with Ngāti Koata to identify and address loss and impairment attributable to the established Crown failures, including appropriate restoration and redress;[218]

k. Further, recommend Crown funding to repair the Takapourewa tramway or provide a suitable safe alternative access arrangement, developed with Ngāti Koata;[219]

---

[215] Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 42–44, recommendations 1–11; #3.3.27, at [29(e)]

[216] Wai 3325, #3.3.27 Ngati Koata Opening submissions, at [29(g)]; Wai 3325, #A91 Transcript for Hearing Week Six, Wellington, 16-20 March, at [49] and [54(e)]; Wai 3277, #1.1.1 Statement of Claim, at [50]–[58]

[217] Wai 3325, #3.3.27 Ngati Koata Opening submissions, at [29(h)]; Wai 3325, #A92 Brief of Evidence of Hemi Toia, dated 9 May 2025, at [26]–[36]

[218] Wai 3325, #3.3.27 Ngati Koata Opening submissions, at [29(j)]; Wai 3277, #1.1.1 Statement of Claim, at [59] and [61]

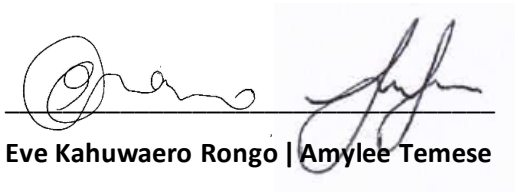
[219] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [38]–[41] and [54(c)]

l. Recommend that the Crown, DOC and relevant authorities co-develop and resource enforceable Takapourewa biosecurity arrangements with Ngāti Koata, including kaitiaki-led inspections, public information and appropriate enforcement, and assess the proposed marine exclusion zone and the legal mechanism required;[220]

m. Recommend continuity agreements and institutional records for Crown and council relationships with Ngāti Koata, so that staff turnover does not repeatedly reset participation, knowledge and agreed priorities; and[221]

n. Recommend coordinated, iwi-led assessment and long-term monitoring of risks to Ngāti Koata communities, wāhi tapu and taonga species, with national and regional adaptation plans making specific provision for Ngāti Koata priorities and reporting jointly on implementation.[222]

DATED at Paraparaumu this 5th day of October 2026



Eve Kahuwaero Rongo | Amylee Temese

Counsel for Ngāti Koata

[220] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [42]–[48] and [54(d)]
[221] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [50] and [54(f)]; Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, p 44, recommendation 12
[222] Wai 3325, #A91 Brief of Evidence of Pene Gieger and Laken Gieger, dated 9 May 2025, at [54(b)] and [54(e)]; Wai 3325, #A91(a) *Ngāti Koata Cultural Impact Assessment on DAPP for Takapourewa Frogs in Response to Climate Change*, pp 43–44; Wai 3325, #4.1.10 Transcript for Hearing Week Six, Wellington, 16-20 March, pp 89–90, 138–140 and 648–649