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| **IN THE WAITANGI TRIBUNAL** | **WAI 3325** |
| **CONCERNING** | the Treaty of Waitangi Act 1975 |
| **AND** | |
| **IN THE MATTER OF** | The Climate Change Priority Inquiry (Wai 3325) |

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# SYNOPSIS OF GENERIC CLOSING SUBMISSIONS RELATING TO MĀORI ENGAGEMENT

**Dated this 6th day of October 2026**

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Waitangi Tribunal
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WELLINGTON

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**MAY IT PLEASE THE TRIBUNAL**

## Introduction

1. These generic claimant submissions address the issue for determination: "How has the Crown engaged with Māori on climate change policies, in light of its Tiriti/Treaty obligations?"[1]

2. We submit that the Crown has and continues to fail to fulfil its Treaty/Tiriti obligations to consult with Māori over climate change issues. In doing so, the Crown has also failed to fulfil its obligations under s 3A of the Climate Change Response Act 2002 ("the CCRA").

3. In summary, these submissions are:

   (a) Past consultation has tended be a 'tick box' exercise of going through consultation procedure without properly taking into account the views of Māori.

   (b) Aotearoa New Zealand's First Emissions Reduction Plan and Climate Change Adaption Plan stated intention to create a platform for Māori climate action and for independent Māori representation on climate change issues. This led to the development of an independent Māori entity as *Māori Climate Platform* by 2023. However, the current National-led Government discontinued this and used the allocated funding for Government-controlled spending on Māori-related climate change projects which will not continue past 2027.

   (c) To date, Government consultation with Māori has largely been restricted to providing information and seeking feedback from the National Iwi Chairs Forum ("the NICF"). This approach fails to consult with Māori not associated with the NICF.

[1] Wai 3325, #1.4.3 at [3.5].

**Te Tiriti Obligations to Consult with Māori**

4. Other claimant counsel have filed separate generic claimant submissions on the Crown's te Tiriti obligations towards Māori in relation to climate change issues. We support those submissions.

5. Further, the Crown has the below obligations under te Tiriti to consult and otherwise engage with Māori regarding climate change issues, in accordance with the jurisprudence of past Tribunals.

6. Māori engagement at "an early stage of policy development is a crucial element" of partnership and good faith under the Treaty/te Tiriti.[2] The Crown's active protection of Māori interests under the Treaty/te Tiriti requires proactive and full consultation with Māori, and, where appropriate, decision-making by Māori.[3]

7. The responsibility to consult is elevated and must be targeted when the Crown does not know the specific impacts a legislative change may have on Māori.[4]

8. Crown consultation with Māori must be transparent to uphold the Crown's duty of good government. Transparency involves full communication of policies to Māori and keeping "Māori apprised of developments in this process as they occurred."[5]

**Engagement Provisions in the Climate Change Response Act 2002**

9. Section 3A of the CCRA refers to several provisions in the Act intended to "recognise and respect the Crown's responsibility to give effect to the principles of the Treaty of Waitangi". These include the following provisions relating to consultation with Māori:

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[2] Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal *Te Tinihanga o ngā Mātāpono* (Wai 3565, 2026) at p 158.
[3] Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal *Te Tinihanga o ngā Mātāpono* (Wai 3565, 2026) at p 23.
[4] Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal *Te Tinihanga o ngā Mātāpono* (Wai 3565, 2026) at p 30.
[5] Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal *Te Tinihanga o ngā Mātāpono* (Wai 3565, 2026) at p 160.

*(ad) with respect to sections 5ZG and 5ZI (which require the Minister to prepare and publish an emissions reduction plan), the Minister must include in a emissions reduction plan a strategy to recognise and* mitigate *the impacts on iwi and Māori of reducing emissions and must ensure that iwi and Māori have been adequately consulted on the plan.*

*(b) with respect to the following provisions (which relate to powers to make secondary legislation), before recommending the making of secondary legislation, under those provisions, the Minister must consult, or be satisfied that the chief executive has consulted, representatives of iwi and Māori that appear to the Minister or chief executive likely to have an interest in the secondary legislation:*

10. We support the submission in the Generic Submissions on te Tiriti obligations that s 3A of the CCRA is not definitive of the Crown's te Tiriti obligations concerning climate change.

**Required Standard of Engagement with Māori**

11. **Anthony Cole**, the founding director of Te Toi Ōhanga: the New Zealand Institute of Māori Economic Development and Innovation, gave evidence that Crown engagement with Māori about climate change policy and planning required not mere consultation, but "co-design"[6] that "would have provided the Māori Treaty/Te Tiriti partner an opportunity to *be part of the **design,** focus, and priorities of* a climate change response."[7]

12. **Anthony Cole** contrasted this co-design approach which would have been compliant with the Treaty/te Tiriti with the reality of the Crown's climate response, being "a carbon-offset assisted, business-as-usual, low risk, economically efficient response, aimed at avoiding climate change risk for New Zealand's largest export earner" that did not

[6] Brief of Evidence of Dr Anthony Owen Cole me onā Tīpuna (Wai 3325, #A84) at [90].
[7] Brief of Evidence of Dr Anthony Owen Cole me onā Tīpuna (Wai 3325, #A84) at [92], emphasis in original.

afford “the Māori Treaty/Te Tiriti partner … the attention they deserve and need.”[8]

13. In light of the evidence of **Anthony Cole** and the Crown’s duty of consultation under te Tiriti as established in the Tribunal’s jurisprudence, we submit that the Crown was obligated to proactively and fully consult with Māori at an early stage of climate policy development.

14. While the Crown may not have always been obligated to do so at the level of co-design, its engagement with Māori regarding climate policy should still have extended to decision-making by Māori in certain climate areas, including the management of taonga species.

**Māori Climate Platform**

15. Aotearoa New Zealand’s First Emissions Reduction Plan included a commitment to establish a Māori Climate Platform, and specifically:[9]

16. **James Shaw** gave evidence of his role as Climate Change Minister from 2017 to 2023 in establishing the **Māori Climate Platform**. He gave evidence that in October 2023, Cabinet agreed to the Oho Mauri Trust operating “as a mechanism for Māori representation and partnership in the climate response, and funder of Māori climate action over the longer-term.”[10]” Cabinet agreed to a budget of “$18m over the 23/24, 24/25 and 25/26 years and a further $10m for 26/27 and further ‘outyears’.”[11]The Trust was to have a primary function to build the capacity of local Māori groups around the country to respond to climate change. A secondary function was to inform the Government’s climate change policy based on this practical

[8] Brief of Evidence of Dr Anthony Owen Cole me onā Tīpuna (Wai 3325, #A84) at [100].
[9] Ministry for the Environment *Aotearoa New Zealand’s First Emissions Reductions Plan* (2022) at p 52.
[10] Brief of Evidence of Hon. James Peter Edward Shaw Dated 26 June 2025 (Wai 3325, #A115) at [17].
[11] Brief of Evidence of Hon. James Peter Edward Shaw Dated 26 June 2025 (Wai 3325, #A115) at [20].

experience of working on the ground with Māori groups around the country.[12]

17. **Anne Haira and Gina Rangi**, employees of the Ministry of the Environment ("MfE"), gave the Crown evidence on the establishment of and later changes to the Māori Climate Platform by the subsequent National-led Government. Their evidence was that the Minister in May 2026 negotiated a work program with Pou Take Āhuarangi and on 31 July 2024, announced that the agreements with Oho Mauri Trust were to be terminated and the MfE was to carry out delivery of the Māori Climate Platform.[13]

18. The current government has made several cuts to the initial funding allocation of funding for the Māori Climate Platform and has not allowed for funding beyond 2026/27. Specifically:

    (a) In the 2024 Budget, the $10 million funding for 'outyears' was removed as part of its baseline savings exercise.[14]

    (b) In the 2025 Budget, $5 million was taken back from remaining funding.[15]

    (c) **James Shaw** noted in his answers to questions in writing that in Budget 2026, the Government had allocated the remainder of the funding for the Māori Climate Platform to be spent during the 2027 year and announced that no decision had been made on funding beyond this.[16]

19. Evidence given in this inquiry has criticised Government policy regarding the Māori Climate Platform:

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[12] Brief of Evidence of Hon. James Peter Edward Shaw Dated 26 June 2025 (Wai 3325, #A115) at [22].
[13] Brief of Evidence of Anne Haira and Gina Rangi (Wai 3325, #A118) at [163]-[170].
[14] Letter from Ministry for the Environment to Tania Te Whenua (13 August 2025) (obtained under Official Information Act 1982 request to Ministry for the Environment).
[15] Letter from Ministry for the Environment to Tania Te Whenua (13 August 2025) (obtained under Official Information Act 1982 request to Ministry for the Environment).
[16] Responses to Questions in Writing from the Hon. James Peter Edward Shaw Dated 22nd June 2026 (Wai 3325, #A115(a)) at p 3; Te Ao Māori News *Māori Climate Platform funding axed in Budget* (3 June 2026).

(a) **James Shaw** in his evidence refers to the current government terminating the agreement with the Oho Trust to establish the Māori Climate Platform and the subsequent policy of using the funds budgeted to the platform for climate change related projects for Māori as approved by the Government. His view is that this is inconsistent with the approach agreed by the Government in the Emissions Reduction Plan, which was for a Māori-led response to climate change. He further noted that the change in approach had not been reflected in the second Emissions Reduction Plan.[17]

(b) **Anne Haira and Gina Rangi** in their evidence initially maintained that the Labour Government had not intended to establish a standalone Māori entity to lead Māori climate change initiatives and as such the reset of the Māori Climate Platform was in line with original intentions. However, they later conceded that a standalone independent entity as intended in the First Emissions Reduction Plan has yet to be established.[18]

(c) **James Shaw** in his answers to questions in writing stated that the current Government reducing the previously allocated funding for Māori Climate Platform and not continued funding beyond Budget 26.[19]

(d) **Dayle Takitimu** gave evidence that the Māori Climate Platform was effectively a unilateral creation of the Crown made to "run over" the rights of iwi and hapū,[20] and that the Crown's preferred structure of the Platform as a trust created

[17] Brief of Evidence of Hon. James Peter Edward Shaw Dated 26 June 2025 (Wai 3325, #A115) at [23].
[18] Transcript of Hearing Week 6 of Wai 3325 – Climate Change Priority Inquiry (Wai 3325, #4.1.10) at pp 249–250.
[19] Responses to Questions in Writing from the Hon. James Peter Edward Shaw Dated 22nd June 2026 (Wai 3325, #A115(a)) at p 3.
[20] Brief of Evidence of Dayle Takitimu in Support of Statement of Claim (Wai 3325, #A101) at [91]-[104].

constitutional issues for the Māori membership having "genuine accountability to iwi and Māori".[21]

**Undue Focus on Consultation with the National Iwi Chairs Forum**

20. There has been a tendency for the Government to focus engagement with Māori concerning climate change issues upon the NICF and its climate change forum Pou Take Āhuarangi.

21. The NICF is made up of chairs of around 70 iwi groups many of whom have entered into treaty settlements with the Crown. This Tribunal in its Te Tinihanga o ngā Mātāpono report commented that consultation with the NICF is not intended to replace or usurp the Crown's responsibilities to consult with individual iwi and hapu.[22]

22. Evidence has been heard in this inquiry about Crown consultation and other engagement with the NICF over the period of New Zealand's Climate Change policy efforts:

    (a) **Chris Karemea Insley** provided evidence that he was the lead advisor on the Climate Change Iwi Leaders Group.[23] He provided evidence that over the preceding decade the consultation with the Crown over climate change issue had been inadequate. He particularly referred to the Government not acting on issues raised by the ILG about floods of international credits crashing the price of domestic carbon units.

    (b) In a further affidavit dated 29 March 2023, Mr Insley stated that the quality of Government consultation had not changed and continued to amount to 'tick boxing'. He specifically raised issues about the Government not listening to Māori over

[21] Brief of Evidence of Dayle Takitimu in Support of Statement of Claim (Wai 3325, #A101) at [115].
[22] Te Rōpū Whakamana i te Tiriti o Waitangi | Waitangi Tribunal *Te Tinihanga o ngā Mātāpono* (Wai 3565, 2026) at p 162.
[23] Affidavit of Chris Karamea Insley Dated 29th August 2017 (Wai 2607, #A5).

concerns about the proposal to end the permanent forestry category under the ETS.[24]

(c) **Dayle Takitimu** in her brief of evidence dated 12 May 2025 and at hearing week three of this inquiry on Thursday 29 May 2025 provided evidence of her involvement with NCIF engagement with the Crown during 2020 to 2024.[25] Ms Takitumu's evidence was that 'very little traction' was made.[26]

(d) **Anne Haira and Gina Rangi**, employees of the MfE, provided evidence that after the National-led Government in 2024 discontinued arrangements with Oho Mauri Trust, it entered into a working agreement with Pou Take Āhuarangi to advise on allocating the Māori Climate Change Platform funding.[27]

23. However, unlike the earlier periods of Government engagement with the NICF when those involved were able to provide critical analysis of the quality of the engagement, the inquiry has not heard evidence of the quality of engagement with the NICF since the Climate Change Platform was restructured in 2024.

24. Coordinating Counsel have filed memoranda setting out how they had approached members of the NICF and Pou Take Āhuarangi about providing evidence to the Tribunal setting out the nature of their recent engagement with the Crown, but this invitation was not taken up.[28]

25. It is not clear why evidence was not provided. However, evidence has been heard from **Anthony Cole** that recently in his role as being a New Zealand Māori Council representative on a climate change consultation group they were required by the Government to sign

[24] Affidavit of Chris Karamea Insley in Support of Application for Priority Hearing dated 29th March 2023 (Wai 2607, #A11).
[25] Brief of Evidence of Dayle Takitimu in Support of Statement of Claim (Wai 3325, #A101) at [18] to [175].
[26] Brief of Evidence of Dayle Takitimu in Support of Statement of Claim (Wai 3325, #A101) at [175].
[27] Brief of Evidence of Anne Haira and Gina Rangi (Wai 3325, #A118) at [163]-[170].
[28] Memorandum of Claimant Coordinating Counsel Seeking Summons of Pou Take Āhuarangi Witnesses dated 13 May 2026 (Wai 3325 #3.2.335).

confidentiality and nondisclosure agreements.[29] **India Logan Reilly** also gave evidence that in her involvement with the NICF and international conferences she was required to sign "gag orders".[30]

26. It is notable that amongst all the Māori groups represented before the inquiry, little evidence was able to be provided about the nature and quality of current engagement with the Crown.

**Conclusion**

27. The Crown has failed to discharge its obligations under the Treaty/te Tiriti to engage with Māori concerning its climate responses and policy development.

28. This approach of the Crown is shown to be inconsistent with the Treaty/te Tiriti when measured against the standard established by the Tribunal's jurisprudence.

29. The Crown while initially establishing the Māori Climate Platform as an independent Māori entity through which consultation with the Crown would take place then proceeded to disestablish the platform.

30. The Crown's failure to meaningfully consult with Māori beyond the NICF has also placed the Crown in breach of its obligations.

31. Overall, the Crown has failed under te Tiriti to actively protect Māori interests, to work in partnership with Māori, and has jeopardised the honour of the Crown in the context of the Treaty/Tiriti principle of good government.

[29] Hearing Week 8 Speaking Notes by Dr Anthony Owen Cole me onā Tīpuna with Oral Elaboration in Italics (Wai 3325, #A84(g)) at p 11.
[30] Transcript of Hearing Week 5 of Wai 3325 – the Climate Change Priority Inquiry (Wai 3325, #4.1.9) at pp 421–422.

DATED this 6th day of October 2026

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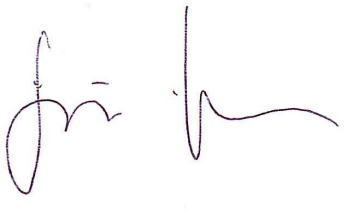
Michael Sharp
Claimant Counsel



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