I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI BEFORE THE WAITANGI TRIBUNAL

WAI 3470 WAI 3440

I TE TAKE O the Treaty of Waitangi Act 1975

IN THE MATTER OF

Ā AND

I TE TAKE O the Regulatory Standards Bill Urgent

IN THE MATTER OF Inquiry (Wai 3470)

Ā AND

E PĀ ANA KICONCERNING

Tētahi tono nā Eru Kapa-Kingi, Te Rawhitiroa Bosch, Anahera Mana-

Tupara, Nyze Manuel, Kiri Tamihere-Waititi and Hohepa Thompson mō ngā tāngata Māori i raro i te tāwharau

o "Toitū Te Tiriti"

BRIEF OF EVIDENCE OF PROFESSOR RAWINIA HIGGINS Dated 7 Haratua 2025



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BRIEF OF PROFESSOR RAWINIA HIGGINS

MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

- My full name is Rawinia Ruth Higgins, MNZM. I am a Professor of Māori Studies with expertise in Māori language revitalisation particularly language planning and policy, and tikanga Māori.
- I whakapapa to Tūhoe, Ngāi Tahu, Ngāti Ruapani ki Waikaremoana and Ngāti Kahungunu. However, I primarily identify as Tūhoe.

Relevant Background and Qualifications

- I hold undergraduate degrees from Te Herenga Waka–Victoria University of Wellington and postgraduate degrees including a PhD from the University of Otago.
- 4. I am a Principal Fellow of the Higher Education Academy (PFHEA), a Fellow of the Royal Society of New Zealand (FRSNZ) and in 2025 I was appointed a Member of the Order of Merit (MNZM) for services to Māori language, education and governance.
- I am currently serving as the Deputy Vice-Chancellor Māori and Kaitiakitanga at Te Herenga Waka Victoria University of Wellington, where I oversee strategic leadership for all things Māori across the University, Development and Alumni Relations Office and the Sustainability Office.
- 6. I was appointed as a member of the Waitangi Tribunal in 2013 and have served on a number of inquiries during my time. I am still serving on Wai 3400 Marine and Coastal Area Act Coalition Changes Urgent Inquiry, despite my term with the Tribunal concluding this year.
- 7. I am also the current Chair and Commissioner of Te Taura Whiri i te Reo Māori, The Māori Language Commission. I have previously held a number of governance/director roles for lwi, Crown entities and government advisory boards. With respect to Māori language entities, I have served on Te Māngai Pāho, Te Taura Whiri i te reo Māori (as a board member prior to my current role) and a foundational member of

- the Te Mātāwai board. I am also a Board member of the Reserve Bank of New Zealand.
- 8. In 2017 I was awarded the Waitī award for te reo and tikanga Māori in the annual Matariki awards. In 2020 I was awarded the Royal Society of New Zealand Pou Aronui award for advances in social policy and development related to Māori language revitalisation.
- I have been an academic for 31 years and published extensively on Māori language and culture. A copy of my CV is provided in the Document Bank as Document RH1.

Code of Conduct

- 10. I confirm that I understand and comply with the obligations in the Code of Conduct for Expert Witnesses as set out Schedule 4 of the New Zealand High Court Rules 2016. I undertake to provide objective, independent, and professional opinions and to assist the Court in a fair and transparent manner, in accordance with the ethical standards prescribed for expert witnesses.
- 11. I am familiar with the content of the Regulatory Standards Bill (RSB), the current state of te reo Māori and language revitalisation in New Zealand and the legislation and policy frameworks related to te reo Māori.
- 12. I confirm the issues I have been asked to address in this affidavit are within my area of expertise.

SCOPE OF EVIDENCE

- 13. I have been asked to comment on the RSB and the potential impacts it will have on te reo Māori and the revitalisation work that has occurred if passed in its current form.
- 14. This evidence covers the following:
 - (a) My experience in te reo Māori language revitalisation.
 - (b) Brief history of moments of impact for re reo Māori.
 - (c) Potential impacts on te reo Māori from the proposed RSB.

- 15. I have read the briefs of evidence of Professor Jonathan Boston, Professor Andrew Geddis and Adjunct Professor Carwyn Jones. I have also read the joint brief of evidence of Eru Kapa-Kingi and Te Rawhitiroa Bosch, and the briefs for Lady Tureiti Moxon, Dr Hinemoa Elder and Tina Ngata. I will refer to some of these throughout my evidence.
- 16. I understand that the Statement of Issues (**SOI**) for this Inquiry has been confirmed as follows:¹
 - (a) Is the Crown's policy, and the process it has undertaken, in relation to the Regulatory Standards Bill (RSB) consistent with Te Tiriti o Waitangi and its principles (Treaty Principles)?
 - (i) What Treaty principles apply to the Crown's laws, policies, practices, actions and omissions in relation to the proposed RSB?
 - (ii) In the context of the proposed RSB, what are the Crown's duties and obligations to Māori arising from those Treaty Principles?
 - (iii) What is required by the Crown to give effect to these Treaty Principles in this context, including, in relation to engagement with Māori, and the process of developing the proposed RSB?
 - (iv) To what extent, if at all, are the Crown's laws, policies, actions and omissions in relation to the RSB inconsistent with Te Tiriti o Waitangi and its principles?
 - (b) To what extent, if any, are Māori suffering or likely to suffer prejudice as a result of the Crown's policy and process in relation to the RSB?
 - (c) What findings and/or recommendations should the Tribunal make about any prejudice suffered, or likely to be suffered, by Māori as a result of Crown conduct in relation to the RSB?

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¹ Tribunal Statement of Issues (TSOI): Regulatory Standards Bill, Wai 3470, #1.4.1, at [1]-[3] (**SOI**).

MY EXPERIENCE IN MĀORI LANGUAGE REVITALISATION

- 17. In 2010, Professor Poia Rewi and I were appointed Primary Investigators of the Ngā Pae o te Māramatanga funded Te Kura Roa value of the Māori language research project. This was the largest funded Māori language research project to examine both community and state responses to Māori language revitalisation. I led the community aspect of the project in collaboration with Te Kōhanga Reo National Trust and Te Ataarangi.
- 18. In 2011 I was appointed to the board of Te Māngai Pāho, the Māori Language Broadcast funding agency. I was also appointed by the Kōhanga Reo National Trust as the lead researcher for the Wai 2336 Kōhanga Reo Claim.
- 19. In 2013, Professor Poia Rewi and I developed the language revitalisation theory, ZePA (Zero-Passive-Active) in relation to how language use shifts depending on values. This was published in our co-edited book Te Hua o te Reo Māori: The Value of the Māori Language (2014: Huia Publishers) This theoretical model was later adopted by Te Māngai Pāho, Te Puni Kōkiri and Te Taura Whiri i te Reo Māori as part of their respective strategic approaches to language revitalisation.
- 20. In 2014, I was appointed the Chair of the Independent Māori Language Advisory Group to provide independent and expert advice on the then, Māori Language (Te Reo Māori) Bill. The findings of our report largely formed the current legislation, Te Ture mō te reo Māori 2016. Furthermore, our report outlined the policy framework that underpins the current Māori language revitalisation landscape, including but not limited to:
 - (a) Te Whare o Te Reo Mauriora as a framework for the legislative and policy framework of Te Ture mō Te Reo Māori 2016;
 - (b) The establishment of Te Mātāwai as an independent statutory body representing the interests of iwi Māori and te reo Māori;
 - (c) The design of the Maihi Māori, the Māori strategy led by Te Mātāwai with a primary focus on intergenerational language in whānau, hapū, iwi and Māori language groups;

- (d) The design of the Maihi Karauna, the Crown strategy that underpins the responsibilities of the Crown for Māori language revitalisation.
- 21. In 2015, I was appointed as a board member of Te Taura Whiri i te Reo Māori. I served on that board for one year before being moved by the then Minister for Māori Development, Hon Te Ururoa Flavell, to the establishment board of Te Mātāwai. This was based on my work in shaping the legislation and having a working knowledge of the intentions of Te Whare o Te Reo Mauriora.
- 22. During my term on Te Mātāwai we developed the Maihi Māori which outlined the strategic vision of 'Kia ūkaipō anō te reo' in line with the primary objective of intergenerational language transmission.
- 23. In June 2018, I was appointed the Chairperson and Commissioner for Te Taura Whiri i te Reo Māori, by Hon Nanaia Mahuta Minister for Māori Development. This was to support the Crown agencies with the development of the Maihi Karauna which had not been completed since the passing of Te Ture mō te Reo Māori 2016.
- 24. In 2025 I was reappointed as the Chairperson and Commissioner for Te Taura Whiri i te Reo Māori.

TE REO MĀORI MILESTONES

- 25. The revitalisation of te reo Māori has been the primary focus of Māori language policy since the 1980s. This was largely in response to efforts by Māori communities to ensure that te reo Māori endured as a living language and in recognition of te reo as a taonga. The following outlines some of the key milestones that were achieved in support of these efforts:
 - (a) 1972 The Māori Language Petition, signed by 30,000 people was presented to Parliament that called for courses in Māori language and culture to be offered in all New Zealand schools.
 - (b) 1973 Dr Richard Benton conducts the single largest sociolinguist survey of Māori language use. The research identified 'drastic measures must be taken to revive te reo Māori usage and keep it alive for future generations'.

- (c) 1975 The first Māori language week is held. Whakatipuranga Rua Mano is initiated as a tribal strategy with a language focus by Ngāti Raukawa.
- (d) 1978 Rūātoki School becomes the first bilingual school in New Zealand.
- (e) 1979 the establishment of Te Ataarangi, an initiative aimed at supporting adults with the use of te reo Māori in homes and communities. Dun Mihaka is refused the right to use te reo Māori in courts including the Court of Appeal. This would become part of the Wai 11 Māori language claim in 1985.
- (f) 1981 Te Hui Whakatauira, a national gathering of Māori leaders was held resulting in the germination of Te Kōhanga Reo. Te Wānanga o Raukawa in Ōtaki is established.
- (g) **1982** The first Kōhanga Reo opens in Wainuiomata.
- (h) **1983** Ngā Kaiwhakapūmau i te reo Māori establish the first Māori radio station, Te Upoko o Te Ika.
- (i) 1984 Naida Glavish's use of 'kia ora', as a tolls operator, causes public debate about the use of te reo and the status of te reo in public policy.
- (j) 1985 the first Kura Kaupapa Māori was established at Hoani Waititi Marae. It was not formally recognised as an educational institution until the enactment of the Education Act 1989. The Wai 11 Te Reo Māori claim is lodged by Ngā Kaiwhakapūmau i te Reo Māori under Huirangi Waikerepuru.
- (k) 1986 The Waitangi Tribunal published the Report of the Te Reo Māori Claim (Wai 11).
- (I) 1987 The Māori Language Commission Te Taura Whiri i te Reo Māori was set up under the Māori Language Act 1987 to promote the use of Māori as a living language and as an ordinary means of communication.

- (m) 1989 The broadcasting assets case was lodged to prevent the transfer of broadcasting assets to a new state-owned enterprise until provisions for Māori were secured. This case would later go to the Privy Council in London in 1993.
- (n) 1993 Te Māngai Pāho is established following the aforementioned litigation over broadcasting assets. Te Māngai Pāho is the Māori language broadcasting funding agency.
- (o) 2004 The Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 was passed followed by the launch of Māori Television in 2004, marking an important step in Māori language media representation.
- (p) **2008** Māori Television launch their second channel, Te Reo.
- (q) 2011 Te Paepae Motuhake released the Te Reo Mauriora on the state of the Māori language.
- (r) 2015 The Māori Language Advisory Group is established to provide expert advice on the Māori Language (Te Reo Māori) Bill.
- (s) **2016** the enactment of Te Ture mō te Reo Māori Language Act 2016 (**Te Ture mō te Reo Māori**), affirming Te Reo Māori's official status and setting out a framework for its revitalisation. Te Mātāwai was established under this Act to represent the interests of Iwi and Māori to support language revitalisation. This is the second bilingual Act but the first in which te reo Māori has precedence.

Te Ture mō Te Reo Māori

26. Te Ture mō Te Reo Māori plays a significant role in the revitalisation of te reo Māori by providing a strong legal framework to support the use, growth and status of te reo. Predicated on language policy and planning theory, the legislation was designed to support both micro (Maihi Māori) and macro (Maihi Karauna) approaches to language revitalisation under Te Whare o te Reo Mauriora. This is recognised in the legislation by:

- (a) Affirming te reo as a taonga under Te Tiriti o Waitangi and recognising te reo as an official language of New Zealand ensuring its use in public and legal settings;
- (b) Establishing Te Mātāwai to act as the kaitiaki for te reo Māori. As an independent statutory body, Te Mātāwai leads the revitalisation efforts on behalf of whānau, hapū, iwi and community groups;
- (c) Establishing a partnership between Te Mātāwai and the Crown with shared responsibilities for language revitalisation. This is articulated through the Maihi Māori and the Maihi Karauna as a means to bring better coordination and focus on the objectives of language revitalisation at both a micro (intergenerational) and macro (societal) level;
- (d) Promoting the visibility and normalisation of te reo Māori across society which contributes to attitudinal changes that encourage the wider use and support for te reo Māori;
- (e) Te Taura Whiri i te Reo Māori and Te Mātāwai have commissioned a range of evaluation reports that have examined the activities that have been developed since the enactment of Te Ture mō te Reo Māori 2016, including:
 - (i) Te Whare o te Reo Mauriora Formative Evaluation 2021/2022.
 - (ii) He Ara Poutama mõ te Reo Māori Forecasting te reo Māori speakers in Aotearoa New Zealand.
 - (iii) Maihi Karauna Monitoring Report 2023-2040.
- 27. In essence, Te Ture mō Te Reo Māori 2016 established the infrastructure needed for long-term intergenerational te reo Māori language revitalisation.

Regressive te reo Māori policies by Coalition Government

- 28. Despite achieving these hard-fought milestones, te reo Māori is again "at risk" as a result of actions that the present coalition government has already started to implement, arising from commitments made in the New Zealand First Coalition agreement with the National Party.² These changes have included:
 - (a) Several government Ministers ordering their departments to stop using te reo Māori.
 - (b) Ministries asking staff to stop using te reo Māori in briefing papers and communicate primarily in English.
 - (c) Withdrawal of Te Ahu o Te Reo funding for te reo Māori courses for teachers.³
 - (d) Attempting the removal of long-standing bonuses in collective employment agreements for government staff who can demonstrate proficiency in te reo Māori.⁴
 - (e) Significant funding cuts for Whakaata Māori resulting in job losses.⁵
- 29. A substantial challenge lies ahead for us to ensure that the progress we have made in the revitalisation of te reo Māori is preserved, and that we continue to ensure the transmission of te reo Māori for future generations.

² See Coalition Agreement between the National Party and the New Zealand First Party, 54th Parliament, 24 November 2023. Copy provided in the Document Bank as Document **CW4**.

³ Radio New Zealand, "Te Reo Māori Teacher Training Cut by \$30m to Fund Maths Resources", dated 26 September 2024, accessed at https://www.rnz.co.nz/news/political/529086/te-reo-maori-teacher-training-cut-by-30m-to-fund-maths-resources (Document CW7).

⁴ Radio New Zealand, "Te Reo Māori: Govt Seeks to Halt Extra Pay for Public Servants Fluent in the Language", dated 6 December 2023, accessed at https://www.rnz.co.nz/news/political/504003/te-reo-maori-govt-seeks-to-halt-extra-pay-for-public-servants-fluent-in-the-language (Document RH2).

⁵ Lillian Hanly / Radio New Zealand, "Funding Cuts Could See 'Significant Change' for Whakaata Māori", dated 18 September 2024, accessed at

https://www.rnz.co.nz/news/political/528337/funding-cuts-could-see-significant-change-for-whakaata-maori (Document CW5) and Radio New Zealand, "Job Cuts Confirmed at Whakaata Māori", dated 27 September 2024, accessed at https://www.rnz.co.nz/news/national/529120/job-cuts-confirmed-at-whakaata-maori (Document CW6).

IMPACTS OF THE RSB ON TE REO MĀORI

- 30. I have reviewed the RSB Consultation Documents (**Consultation Documents**)⁶ provided by the Ministry for Regulation (**Ministry**) as part of the public consultation process that ran from 19 November 2024 to 13 January 2025. The RSB purports to ensure that new and existing regulations are based on "good law-making principles" and economic efficiency. I will not discuss these principles in detail as they are addressed by other witnesses.
- 31. As detailed by Dr Jones and Professor Geddis in their briefs, the RSB will create a legal framework that will allow the systematic removal of all legislative provisions that provide funding and support specifically for te reo Māori and block the introduction of new provisions. This outcome will be achieved through the set of "Anti-Treaty Principles" in the RSB as Dr Jones put it, including the sub-principle that "all people are equal before the law" (Formal Equality Principle).
- 32. As Lady Tureiti Moxon observes in her brief, the Formal Equality Principle embedded in the RSB ignores our long history of colonisation that has resulted in significant inequities for Māori in health, language and many other areas. Substantive equity on the other hand demands that the Crown continue to support and fund te reo Māori revitalisation in order to provide redress for its past actions and omissions that almost drove our language to extinction.
- 33. Te reo Māori is a taonga, as affirmed and protected by Te Tiriti o Waitangi (**Te Tiriti**). Currently there is no Te Tiriti Settlement between the Crown and Māori for te reo Māori. However, it could be argued that the establishment of Te Taura Whiri i te Reo Māori, Te Māngai Pāho and Whakaata Māori are as a result of Waitangi Tribunal Claims (as outlined above). This point is significant because Treaty Settlement legislation is excluded from reviews under the RSB, however other legislation, including the Acts that established these bodies, is not.
- 34. I agree with Dr Jones's conclusion that the Formal Equality Principle can be applied to all existing legislation to enable the removal of

⁶ See Documents JB2-JB5.

policies that provide funding and support for Treaty rights. In my view this is very likely to include legislation that supports te reo Māori revitalisation on the basis that opponents could argue that such programmes are "race-based" and are therefore inconsistent with the Formal Equality Principle.

35. Given this context an inevitable outcome that any review of *Te Ture mō Te Reo Māori* by a new Regulatory Standard's Board would result
in the legislation being found to be inconsistent with the Formal
Equality Principle. It is my opinion that *Te Ture mō Te Reo Māori* is
clearly at risk of being repealed if the RSB is passed in its current form.

FLOW ON EFFECTS AND IMPLICATIONS

- 36. If Te Ture mō Te Reo Māori were to be repealed, this would have significant and wide-reaching consequences for the status, support and survival of te reo Māori in Aotearoa New Zealand. Not only would it undermine the efforts of the past, but it would be detrimental to the future state of te reo Māori. The following are some of the key flow-on effects and implications:
 - (a) Loss of legal recognition of te reo Māori as a taonga. Te reo Māori is legally protected as a taonga under the Act, consistent with the principles of Te Tiriti o Waitangi and affirmed by the Waitangi Tribunal (Wai 11). Repealing the Act would remove this statutory protection, undermining Crown obligations and recognition of the language's value.
 - (b) Dismantling or weakening of Te Mātāwai. The Act established Te Mātāwai as the independent Māori-led organisation responsible for revitalising te reo Māori at the iwi and community level. A repeal could mean loss of community-led governance in language revitalisation efforts, reverting control to central government, which may not prioritise Māori aspirations. Furthermore, it would likely make revitalisation efforts less culturally grounded and less effective. Without legislative mandate, this could leave gaps in the language ecosystem that is vital for intergenerational language transmission.

- (c) Reduced Crown responsibility and co-ordination. The Act sets out the Crown's role and obligations in revitalising te reo Māori, including coordination across government agencies. Without it, there would be less accountability for government departments to include and promote te reo in policy, education, broadcasting and public life. Repeal would likely reduce these efforts limiting exposure and normalisation of the language in everyday life.
- (d) Undermining symbolic and practical status of te reo Māori.

 The Act contributes to normalising te reo Māori as an official language alongside English and NZ Sign Language. A repeal would likely undermine public confidence, potentially leading to:
 - Decreased use of te reo Māori in public services and signage;
 - 2. A drop in funding for language initiatives;
 - 3. Māori speakers may feel undervalued or threatened, leading to disengagement or language shift.
 - Fewer incentives for institutions to uphold or expand te reo Māori provisions;
 - 5. If broader societal support weakens, whānau may feel less confident or see less value in maintaining the language, slowing transmission to the next generation.
- (e) Impact on education and public broadcasting. The current framework influences the inclusion of te reo Māori in schools, tertiary education, and public broadcasting, including Whakaata Māori. A repeal could weaken mandates that encourage investment in Māori medium education, teacher training, and Māori content production for broadcasting.
- (f) **Negative cultural and social signalling**. Such a repeal would send a strong symbolic message of devaluation of Māori culture, language and identity in Aotearoa. This could further erode trust between Māori communities and the Crown. It could also ignite

social and political protest, as te reo Māori is central to Māori identity and tino rangatiratanga. Furthermore, it would discourage future generations from learning and valuing the language, and themselves. Repealing Te Ture mō Te Reo Māori would undermine decades of progress, discourage allies, and harm the sense of momentum and purpose that revitalisation efforts depend on.

- (g) International and Tiriti obligations. A repeal may be seen as contravening Te Tiriti o Waitangi, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and international human rights norms. It could lead to legal challenges and reputational damage for Aotearoa New Zealand.
- 37. The repeal of Te Ture mō Te Reo Māori would likely lead to a regression in the revitalisation, visibility, and status of te reo Māori, damage Māori-Crown relations, and weaken the infrastructure designed to protect and grow the language. It would be seen not just as a policy change, but a profound step backwards in honouring Te Tiriti o Waitangi and indigenous rights.
- 38. Without financial aid and legislative support, te reo Māori would be at serious risk of decline, undoing decades of revitalisation work and potentially leading to:
 - (a) Loss of intergenerational transmission. Language revitalisation is a three-generation initiative. It is widely known that it takes one generation to lose a language but three generations to restore it. Without the support in homes, Kōhanga Reo, Kura Kaupapa and whānau based initiatives te reo Māori would struggle to survive naturally. Over time, we could expect fewer tamariki learning the language and the numbers of fluent speakers would reduce dramatically.
 - (b) **Decline of Māori medium education**. Kōhanga Reo, Kura Kaupapa Māori, and Wharekura rely on targeted funding, teacher development, and curriculum support. Without financial backing,

- these institutions would struggle to operate or maintain quality, limiting access for Māori families wanting immersion education.
- (c) Collapse of Māori Media and Broadcasting. Whakaata Māori, iwi radio, and other Māori-language media are heavily statefunded. Without funding, these would shrink or disappear, meaning fewer te reo Māori programmes, news, entertainment, and cultural storytelling all vital for visibility and everyday use.
- (d) **No Public Sector Use or Obligations**. Legislation like *Te Ture mō Te Reo Māori* ensures government agencies recognise and use te reo Māori. Without it, agencies would likely drop bilingual signage, forms, services, and language plans. The public would see and hear te reo Māori less often, making it feel marginalised.
- (e) Undermining the Mana of the Language. Te reo Māori's status as a taonga under Te Tiriti o Waitangi gives it legal and moral weight. Without legislative protection, its official status becomes symbolic at best, and its mana (prestige) would be eroded. This would demoralise speakers and learners and potentially spark protest or political conflict.
- (f) Reduction in Learning Opportunities. Community classes, wānanga, and resources like apps, textbooks, and language promotion often rely on public funding. Without this support, access to learning te reo Māori would become more difficult and unequal, especially for lower-income Māori communities.
- (g) Language Shift and Attrition. In sociolinguistics, unsupported minority languages tend to undergo language shift, where speakers gradually stop using the language in favour of the dominant one (English). Te reo Māori could slowly return to the margins, surviving only in symbolic or ceremonial use.
- 39. Without financial support and legislative protection, te reo Māori would likely:
 - (a) Lose visibility, vitality, and functionality in public and private life;
 - (b) See a dramatic decline in new speakers and fluent users; and

- (c) Be at serious risk of becoming endangered again, despite decades of efforts to restore it.
- 40. My overall view is that the RSB framework is designed to be prejudicially slanted against any legislation that promotes and supports the revitalisation of te reo Māori.
- 41. The prejudice that Māori are likely to suffer in relation to te reo Māori if the RSB is passed is extremely far-reaching and could result in the eventual loss of our efforts of the past five decades. As stated earlier, it only takes one generation to lose a language and three to restore it. Let's not allow the RSB framework be the mechanism to remove te reo for the next generation.
- 42. For these reasons, it is my strong view that the entire RSB should be terminated immediately.

DATED this 7th day of Haratua 2025

Professor Rawinia Higgins MNZM