

# Briefing

## Update of Wai 3307 Māori Health Authority claim and application for an urgent hearing

**Date due to MO:** N/A **Action required by:** 29 January 2024

**Security level:** IN CONFIDENCE **Health Report number:** H2024035158

**To:** Hon. Dr Shane Reti, Minister of Health

**Consulted:** Health New Zealand:  Māori Health Authority:

### Contact for telephone discussion

Name	Position	Telephone
John Whaanga	Deputy Director-General Māori Health, Māori Health	S9(2)(a)
Bernard Te Paa	GM Māori-Crown Relations, Māori Health	S9(2)(a)

### Minister's office to complete:

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Update of Wai 3307 Māori Health Authority Claim and application for an urgent hearing

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**Security level:** IN CONFIDENCE      **Date:** 26 January 2024

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**To:** Hon. Dr Shane Reti, Minister of Health

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## Purpose of report

1. This briefing provides you with an update of Wai 3307, the Waitangi Tribunal urgent hearing on the disestablishment of the Māori Health Authority and seeks your direction for the Crown memorandum required to be filed with the Waitangi Tribunal by Wednesday 31 January 2024.

## Summary

2. The Waitangi Tribunal has adjourned their decision on the application for an urgent hearing for the disestablishment of the Māori Health Authority. The Waitangi Tribunal has directed the Crown to file a memorandum that outlines the Crown's 'alternative plan' along with an assessment of those alternative plans against the principles of the Treaty.
3. We are proposing that the Crown's memorandum be based on the direction set by Cabinet [CAB-24-MIN-0002 refers] on this Government's intention to introduce legislation to the House of Representatives to amend the Pae Ora (Healthy Futures) Act 2022 that will disestablish the Māori Health Authority.
4. We advise that the memorandum should note that the Crown is currently not able to advise the Waitangi Tribunal on the full extent of the coalition Government's alternative plans, but will highlight the work underway such as strengthening the role of Iwi-Māori Partnership Boards, revising the role of the Hauora Māori Advisory Committee, and reviewing the settings for local planning, design, and delivery of health care (especially primary care).
5. The Waitangi Tribunal is seeking information about engagement with Māori on the coalition Government's alternative plan and when draft legislation will be introduced to the House of Representatives.
6. We advise it is possible to engage with Māori, including Iwi-Māori Partnership Boards and the Hauora Māori Advisory Committee, as the draft legislation proceeds through the House. However, there may be issues and risks with engagement as the decision to

disestablish the Māori Health Authority has already been made by the coalition Government.

7. We suggest that information on the date of the introduction of draft legislation to the House be provided to the Waitangi Tribunal as soon as the Legislation Programme has been confirmed for 2024.

## Recommendations

We recommend you:

- a) **Note** the Waitangi Tribunal has found the criteria for urgent hearing has been satisfied but further information is sought on the prejudice against Māori related to the Crown's plans for the future of Māori health. **Noted**
- b) **Note** the Waitangi Tribunal's has directed the Crown file a memorandum by 31 January 2024 that outlines the Crown's alternative plan for Māori health and an assessment of that plan against the principles of the Treaty. **Noted**
- c) **Agree** the basis of the Crown's memorandum to be filed with the Waitangi Tribunal is Cabinet's decision to the approach of disestablishing the Māori Health Authority and the advice provided to you by officials. **Yes/No**
- d) **Note** that the wider health system settings set out in the Pae Ora (Healthy Futures) Act 2022 should be considered by the Waitangi Tribunal alongside the coalition Government's approach to disestablishing the Māori Health Authority. **Noted**
- e) **Note** that any future changes to the wider health system settings is likely to be considered by the Waitangi Tribunal. **Noted**
- e) **Note** that the Ministry and Health New Zealand will continue to identify opportunities to consult with Māori on policy work programmes. **Noted**
- f) **Note** that it is possible to engage with Māori as the Bill to disestablish the Māori Health Authority progresses through the legislative process but there are associated issues and risks that must be managed and mitigated. **Noted**
- g) **Agree** to provide the Waitangi Tribunal with an accurate date in which you intend to introduce draft legislation to the House of Representatives once the Legislation Programme has been confirmed for 2024. **Yes/No**

- h) **Note** the Waitangi Tribunal will issue further directions for the procedure of the urgent hearing once they have confirmed to proceed with an urgent hearing. **Noted**



Dr Diana Sarfati  
**Director-General of Health**  
**Te Tumu Whakarae mō te Hauora**  
Date: 26 January 2024

Hon. Dr Shane Reti  
**Minister of Health**  
Date:



John Whaanga  
Deputy Director-General Māori Health  
**Māori Health**  
Date: 26/01/2024

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## Appendix 3 – Overview of wider system settings

It is important to note that any future changes to these wider health system settings may be considered by the Waitangi Tribunal.

### Intention of the Crown to give effect to the principles of the Treaty of Waitangi

1. Section 6 of the Pae Ora (Healthy Futures) Act 2022 (the Act) provides for the Crown's intention to give effect to the principles of the Treaty and requires the Minister of Health, the Ministry, and all health entities to be guided by the health sector principles for the purpose of improving the health sector for Māori and improving Māori health outcomes. This supports the health-system-wide duty to give effect to the principles of the Treaty.
2. Section 7 of the Act provides guiding principles for the health sector that are based on the principles of the Treaty as articulated by the Tribunal in the Wai 2575 Health Services and Outcomes Kaupapa Inquiry Stage One report *Hauora*. Additionally, the health sector principles have been developed to be relevant for all populations in New Zealand.

### Hauora Māori Strategy

3. Under sections 41 to 49 of the Act and as part of the health system transformation, a range of strategies have been developed to help guide the health system to achieving healthy futures for all New Zealanders. One of those strategies is a Hauora Māori Strategy.
4. Pae Tū is the current Hauora Māori Strategy, intended to ensure the reformed health system has strategic guidance in giving effect to the principles of the Treaty of Waitangi, improving Māori health equity, and enhancing long-term health outcomes for Māori. Pae Tū is an interim step ahead of a full review and refresh of He Korowai Oranga (2014), which will take place when Whakamaua: Māori Health Action Plan 2020-2025 is fully implemented.

### The Government Policy Statement on Health

5. The purpose of the Government Policy Statement on Health (GPS) is to set the priorities for the publicly funded health sector for a three-year period and clear parameters for the development of the three-year New Zealand Health Plan.
6. According to section 36 (1)(c) of the Act, the GPS must include the Government's priorities for engaging with and improving health outcomes for Māori.

### New Zealand Health Plan

7. The purpose of the New Zealand Health Plan (the Plan) is to give effect to the GPS provide a three-year costed plan for the delivery of publicly funded services by Health New Zealand and the Māori Health Authority.
8. Section 51 (h) ensures the Plan sets out how Health New Zealand and the Māori Health Authority will achieve the purpose of the Act, engage with Māori, protect Māori interests and aspirations, empower Māori to improve their health, and be guided by the health sector principles in the development and content of the Plan. The Plan provides an important and practical mode of delivering on the principles of the Treaty.

## Letters of Expectation, Statements of Intent and Statement of Performance Expectations

9. Letters of Expectations (LoE) are a mechanism for Ministers to outline their priorities and expectations of a statutory entity. LoE are intended to help the board of the statutory entity as it develops its strategic plan. It is also a reference document that a board can consult regularly as it considers its plan and activities to ensure they align with the Minister's expectations. LoE are reflected in the statutory entity's Statement of Intent (Sol) and Statement of Performance Expectations (SPE).
10. The Sol provides insight into the strategic direction of a statutory entity and how it will deliver services to New Zealanders.
11. The SPE sets out the statutory entity's performance expectations, providing a baseline for its performance assessment, and communicates its accountability to the New Zealand public. It also sets out its output classes, prospective financial statements and how it will assess its performance for the period the SPE is issued for.
12. This system of accountability could be used by you to ensure health statutory entities give effect to the principles of the Treaty.

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# Update on Wai 3307 Māori Health Authority Claim and application for an urgent hearing

## Background

1. On 14 December 2023, the Ministry provided you with a briefing on a statement of claim (Wai 3307) that was filed with the Waitangi Tribunal (the Tribunal) and the application for an urgent hearing concerning the Crown's intention to disestablish the Māori Health Authority [H2023034056 refers].
2. On 18 December 2023 Crown counsel filed a memorandum with the Tribunal opposing the application for an urgent hearing (attached as **appendix 1**). This memorandum outlined that an inquiry into the disestablishment of the Māori Health Authority would be premature and that the implications of the decision to inquire into this matter cannot yet be properly ascertained and evaluated until the Crown puts in place its alternative plans to address poor Māori health outcomes.
3. On Friday 19 January 2024, the Tribunal noted that the grounds for urgency were met, however further information would be sought from the Crown (attached as **appendix 2**).

## Update on the findings and decision of the Tribunal for Wai 3307

### The Tribunal has found that Māori will suffer, or likely to suffer, significant and irreversible prejudice through the disestablishment of the Māori Health Authority

4. The Tribunal describes the Māori Health Authority as a tino rangatiratanga-compliant model. It is likely that the Tribunal views the Māori Health Authority as the key mechanism in the health system where Māori can express tino rangatiratanga to achieve equitable health outcomes for Māori. This supports their finding in the *Hauora Report* that achieving equity will not be possible without tino rangatiratanga. The Tribunal also reiterates the principles to be adopted by the primary health care system as articulated in the *Hauora Report*.
5. The Tribunal held that it is indisputable that the proposed disestablishment of the Māori Health Authority represents an important current and pending Crown action and policy. Further, the claimants have no reasonable alternative remedy but to seek an urgent Tribunal inquiry.
6. The Tribunal found that the claimants are suffering, or will likely suffer, significant and irreversible prejudice through the proposed disestablishment of the Māori Health Authority. The Tribunal held that there are at least two bases on which the claimants can show prejudice. The first relates to process and the second relates to substance. In terms of process, Māori were not consulted on the proposal to disestablish the Māori Health Authority. In terms of substance, the Tribunal found that the policy announcement by the coalition Government to disestablish the Māori Health Authority before an alternative model is developed is problematic.

## **The Tribunal has adjourned their final decision of an urgent hearing pending further information provided by the Crown**

7. The Tribunal acknowledge that the claimants have satisfied the criteria for a hearing to be held under urgency. However, the Tribunal agrees with the Crown to the extent that the implications of the disestablishment of the Māori Health Authority should be properly ascertained and evaluated by reference to the coalition Government's alternative plans.
8. Accordingly, the final decision on the application for an urgent hearing is adjourned pending the receipt by the Tribunal of the Crown memorandum and further information as requested.

## **Directions of the Tribunal for the Crown**

9. The Tribunal has directed the Crown to file a memorandum by 31 January 2024 which provides detail as to:
  - a. How it intends to progress and engage with Māori on its alternative plans; and
  - b. The nature of those proposed alternative plans and the extent to which they are Treaty compliant and consistent with the principles outlined in the *Hauora Report*.
10. The Tribunal has also directed that the Crown should include information in the memorandum about:
  - a. When the coalition Government intends to introduce legislation into the House of Representatives to disestablish the Māori Health Authority; and
  - b. When the Crown will be able to provide the Tribunal with information about its alternative plans and how they are Treaty compliant, if it is unable to do so at the time of filing; and
  - c. Whether the Crown is prepared to give the Tribunal sufficient notice of its intention to introduce legislation into the House to enable the Tribunal to undertake an urgent hearing then.

## **The coalition Government's approach for the disestablishment of the Māori Health Authority**

11. On Tuesday 23 January 2024, Cabinet confirmed the approach for the disestablishment of the Māori Health Authority [CAB-24-MIN-0002 refers]. This included changing the approach of the health system in acknowledging communities' expertise, consolidating policy and operational functions, and reconsidering locality planning. The coalition Government also intends to continue the operation of Iwi-Māori Partnership Boards and the Hauora Māori Advisory Committee.
12. Officials seek your approval of the content described below to form the basis of the Crown's memorandum as directed by the Tribunal.

## **Acknowledging communities' expertise**

13. Māori involvement in the design and delivery of services for Māori is likely to mean more effective services that reach more people who need them. The coalition Government



intends to move decision-making closer to communities to allow the people who know their whānau and community best to guide service design and commissioning.

14. This places an expectation on the Ministry of Health and Health New Zealand to find opportunities for communities, including whānau, hapū and iwi to contribute to the design of services and activities that work for them.

### **Consolidation of policy, monitoring and operational functions**

15. Consolidation of policy and monitoring functions will allow the Ministry to focus on improving outcomes, without needing to coordinate across multiple agencies.
16. Consolidation within Health New Zealand of operational functions including responsibility of design and delivery of the health system for the whole population will ensure the full range of perspectives can be considered in developing effective services that respond to the needs of the people who use them. The coalition Government intends for a Māori health operational division to be established in Health New Zealand to ensure the business continuity of Māori health providers and services.

### **Iwi-Māori Partnership Boards**

17. While provisions relating to localities are being revised, the wider functions of the Iwi-Māori Partnership Boards remain relevant to ensuring planning and commissioning decisions respond to local need and circumstances.
18. The provisions requiring the health sector to engage with the boards and support them in their own engagement with Māori will remain, with the responsibility sitting with Health New Zealand.
19. The coalition Government intends to revise the current legislative arrangements for localities. Localities were intended to allow the specific needs and aspirations of a particular community to be identified and met, with robust engagement with the community concerned. The aim was to support localism and encourage integration between public services that can address wellbeing outcomes for communities.
20. In practice, implementation has been slow and there is a lack of clarity for communities and the health workforce. Therefore, legislative deadlines will be removed from the Pae Ora (Healthy Futures) Act 2022 to allow time to reconsider arrangements for local engagement and decision-making to ensure they best support community involvement and improved health outcomes.
21. To this extent, Iwi-Māori Partnership Boards will no longer be involved in the development of locality plans. However, the Crown intends to engage with Iwi-Māori Partnership Boards in the review of local planning and the design and delivery of health care.

### **Hauora Māori Advisory Committee**

22. **S9(2)(g)(i)**  
[Redacted text]

23. The Committee is intended to continue to take a role in monitoring and advising on system performance and outcomes in respect to Māori health, at the regional and local level.

## **Assessing Treaty compliance of the coalition Government's approach to disestablishing the Māori Health Authority**

24. The Tribunal requires the Crown to assess whether the nature and extent of the coalition Government's alternative plan for Māori health is Treaty compliant and consistent with the principles as outlined in the *Hauora Report*. This analysis is provided below and is intended to be included in the Crown's memorandum as directed by the Tribunal.
25. The Treaty compliance of the coalition Government's approach to disestablishing the Māori Health Authority should be considered in the broader context of the health system. The Māori Health Authority was one component of wider system settings. Regardless of the structures put in place, addressing disparities in Māori health outcomes through increased health system responsiveness and accountability remain enduring aims of the whole health system.
26. It will be important for the Tribunal to consider these wider system settings established by the Pae Ora (Healthy Futures) Act 2022 (the Act) and the ongoing Māori-Crown relationships that are being retained in the health system. This includes the Crown's commitment to the Treaty in section 6, the health sector principles, the Hauora Māori Strategy, the Government Policy Statement on Health, the New Zealand Health Plan, Letters of Expectations, Statements of Intent, and Statement of Performance Expectations. An overview of each of these are attached as **appendix 3**.
27. If there are any future changes to these wider system settings, the Tribunal is likely to take those changes into consideration.

### **Self-determination of Māori in the health system**

28. The Iwi-Māori Partnership Boards are the key mechanism for Māori to express tino rangatiratanga in the health system. This key mechanism will be retained by the coalition Government, with the support of the boards shifting from the Māori Health Authority to Health New Zealand.
29. The coalition Government's intention to move decision-making closer to communities and the retention of Iwi-Māori Partnership Boards enables whānau, hapū and iwi to exercise tino rangatiratanga in the design, delivery, and monitoring of the health system.

### **Engagement with Māori in the health system**

30. The coalition Government intends to shift the system's focus of centralised engagement approaches with Māori to localised engagement approaches. Part of this is achieved through retaining Iwi-Māori Partnership Boards and their role to engage with Māori in the health system.
31. This is further supported by the coalition Government's intention to review the legislative settings for locality planning to ensure local need is understood and met through robust engagement, and service design and delivery.

32. Engagement with Māori has also enhanced monitoring of health services delivered to Māori through the Hauora Māori Advisory Committee and Iwi-Māori Partnership Boards, alongside the Ministry of Health.
33. Furthermore, the expectations of engagement with Māori placed on the Ministry of Health and Health New Zealand ensures that opportunities are identified in future work undertaken in the health system. These expectations of engagement with Māori are also evident in key health documents, such as the Government Policy Statement on Health, and supported by existing engagement pathways, including iwi accords and relational agreements.

### **Active protection of Māori interests in the health system**

34. The revised role of the Hauora Māori Advisory Committee provides independent monitoring on the health system performance and outcomes in respect to Māori health, at a regional and local level. The Ministry of Health will continue to provide national level monitoring on the health system's performance for Māori.
35. The wider system settings that contribute to the Crown's role of actively protecting Māori interests include the Crown's commitment to the Treaty in section 6, the health sector principles, the Hauora Māori Strategy, the Government Policy Statement on Health, the New Zealand Health Plan, Letters of Expectations, Statements of Intent, and Statement of Performance Expectations.
36. The revised role of the Hauora Māori Advisory Committee and the wider health system settings ensures that the Crown is well positioned to act to the fullest extent practicable to achieve equitable health outcomes for Māori.

### **Providing options and equitable health outcomes for Māori in the health system**

37. It is anticipated that moving decision-making closer to communities, the revision of locality planning, and the retention of Iwi-Māori Partnership Boards will result in clearer understanding of the local Māori health needs. This in turn will enable better service design and delivery to achieve equitable health outcomes for Māori.
38. The wider system settings also provide a focus for the health system to achieve equitable health outcomes for Māori.
39. This approach aligns with the Tribunal's finding in the *Hauora Report* that equity will not be possible without tino rangatiratanga of Māori health.

### **Engagement with Māori on the coalition Government's alternative plans for Māori Health**

40. The Tribunal has requested information of when the coalition Government intends to engage with Māori on its alternative plans for Māori health.
41. There may be opportunity for Māori to provide submissions on the Bill through the Select Committee process.

42. S9(2)(h)



S9(2)(h)

43. Additionally, the Ministry is planning engagement with Iwi-Māori Partnership Boards as part of their development and the development of the Government Policy Statement on Health.
44. Other opportunities for engagement will be identified as the Ministry progresses work on localities and other key policy work programmes.

### **Providing the Tribunal with sufficient notice of the Crown's intention to introduce legislation**

45.

S9(2)(h)

46. The Crown has indicated to the Tribunal that legislation must be introduced to the House by 8 March 2024 to meet the deadline of the coalition Government's 100-day plan. Introduction of draft legislation has not yet been confirmed in the legislative programme, however, it is intended for the draft legislation to be introduced in the week of 19th, following Cabinet confirmation of Legislation Cabinet Committee minute (assuming this committee established by then).

47.

S9(2)(h)

### **Procedure of the urgent hearing**

48. Subject to Crown filing further information, the Tribunal will determine when an urgent hearing occurs. Accordingly, the Tribunal will expect the parties to be ready and able to do all that is reasonably possible, before and during the hearings, to promote the rapid inquiry into, and reporting of, the urgent claim.
49. To this end, the Tribunal may issue a range of procedural directions, including:
  - a. Strict timetables for the filing of all evidence and submissions before the hearing begins,
  - b. Strictly prescribed hearing time,
  - c. Taking as read some or all affidavits, briefs of evidence and submissions filed before the hearing, and
  - d. Cross-examination only with advance notice and by leave of the Tribunal.

50.

S9(2)(h)

51.

52.

According to the current Cabinet Officer Circular<sup>2</sup>, it is intended that this advice will be proactively released within 30 business days of Cabinet's decision. Officials recommend providing this advice to the Tribunal in good faith in advance of the proactive release.

53.

Officials further recommend that the Māori health briefing to the incoming Minister [H2023032865 *Issues and opportunities for Hauora Māori*] is also provided to the Tribunal to provide context for the advice considered by Cabinet.

### Next steps

54.

The Ministry will discuss your direction on the Crown's memorandum at the meeting with Ministry officials on Monday 29 January 2024.

55.

The Ministry will provide you with a draft Crown memorandum. If time does not allow the Ministry to provide a draft memorandum, the Ministry will provide you with the Crown memorandum filed with the Tribunal.

56.

The Ministry will provide you with an update of the Tribunal's final decision regarding the application for an urgent hearing and any further advice you may request.

ENDS.

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S9(2)(h)

<sup>2</sup> CO (23) 4: Proactive Release of Cabinet Material: Updated Requirements

## Minister's Notes

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**KEI MUA I TE AROARO O TE ROOPUU WHAKAMANA  
I TE TIRITI O WAITANGI**

**BEFORE THE WAITANGI TRIBUNAL**

**WAI 3307**

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**IN THE MATTER OF**

**the Treaty of Waitangi Act 1975**

**AND**

**IN THE MATTER OF**

**a claim by JANICE KUKA and LADY TUREITI  
MOXON on behalf of themselves, the  
governors, managers, staff and Maaori  
cared for by Maaori owned Primary Health  
Organisations and Maaori Providers with GP  
clinics**

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**MEMORANDUM OF COUNSEL FOR THE CROWN IN RESPONSE TO APPLICATION  
FOR URGENT INQUIRY**

**18 Hakihea | December 2023**

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**Te Tari Ture  
o te Karauna**  
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S9(2)(a)

## MAY IT PLEASE THE TRIBUNAL:

### Introduction

1. On 8 December 2023, Janice Kuka and Lady Tureiti Moxon, (the **applicants**) on behalf of themselves and all Maaori, including Maaori-owned Primary Health Organisations (**Maaori PHOs**) and Maaori Providers with GP Clinics (**Maaori Providers**), submitted to the Tribunal a claim regarding the Government's proposal to disestablish Te Aka Whai Ora (the **Maaori Health Authority**).<sup>1</sup>
2. Accompanying the claim were affidavits of Janice Kuka<sup>2</sup> and Lady Tureiti Haromi Moxon,<sup>3</sup> together with a memorandum seeking an urgent inquiry into the claim.<sup>4</sup>
3. On 11 December 2023, the Tribunal registered the claim as Wai 3307 and referred the determination of the application for urgency to the presiding officer of the kaupapa inquiry into Maaori health services and outcomes (Wai 2575). On 12 December 2023, his Honour, Judge Stone, directed the Crown to respond to the application for an urgent hearing by 4:00 pm on 18 December 2023.<sup>5</sup>

### Tribunal's urgency criteria

4. The Tribunal will grant an urgent hearing only in exceptional cases that warrant the diversion of the Tribunal's resources from the Tribunal's other inquiries and priorities.<sup>6</sup>
5. The three key criteria the Tribunal considers in determining whether to grant an urgency application are whether:
  - 5.1 the applicants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies; and

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<sup>1</sup> Wai 3307, #1.1.001.

<sup>2</sup> Wai 3307, #A002.

<sup>3</sup> Wai 3307, #A001.

<sup>4</sup> Wai 3307, #3.1.001.

<sup>5</sup> Wai 3307, #2.5.002.

<sup>6</sup> *Guide to the Practice and Procedure of the Waitangi Tribunal* (August 2023) at [3.27].



- 5.2 there is no alternative remedy that, in the circumstances, it would be reasonable for the applicants to exercise; and
- 5.3 the applicants can demonstrate that they are ready to proceed urgently to a hearing, generally without the need of further research to be filed.<sup>7</sup>

### **Background**

6. The Maaori Health Authority was established on 1 July 2022 by s 17 of the Pae Ora (Healthy Futures) Act 2022. The Authority's functions are set out in s 18 of that Act. These include:
  - 6.1 jointly developing and implementing a New Zealand Health Plan with Health New Zealand;
  - 6.2 improving service delivery and outcomes for Maaori at all levels of the health sector;
  - 6.3 commissioning kaupapa Maaori services and other services developed for Maaori in accordance with the New Zealand Health Plan;
  - 6.4 providing policy and strategy advice to the Minister on matters relevant to Hauora Maaori;
  - 6.5 monitoring, in cooperation with the Ministry and Te Puni Kokiri, the performance of the publicly funded health sector in relation to hauora Maaori;
  - 6.6 collaborating with relevant entities for the purpose of improving the capability and capacity of the health workforce in relation to hauora Maaori; and
  - 6.7 undertaking and supporting research relating to health.
7. Following the General Election on 14 October 2023, a new government was sworn in on 27 November 2023.

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<sup>7</sup> *Guide to the Practice and Procedure of the Waitangi Tribunal* (August 2023) at [3.28].

8. On 29 November 2023, the Government announced its 100 Day Action Plan (the **Action Plan**). The Action Plan includes the Government's intention to introduce legislation to disestablish the Maaori Health Authority.<sup>8</sup>
9. The applicants submit that the policy to disestablish the Maaori Health Authority is inconsistent with the principles of the Treaty of Waitangi and will prejudicially affect Maaori, including Maaori PHOs, Maaori Providers and Maaori cared for by those organisations.<sup>9</sup>

#### **Applicants' grounds for urgency**

10. The applicants seek an urgent inquiry on the following grounds:
  - 10.1 The Tribunal has a very short period to inquire into the matter and make recommendations. This is because the Government has expressed its intention to introduce legislation within 100 days of the Action Plan's announcement and the 100-day period ends on Friday 8 March 2023).<sup>10</sup>
  - 10.2 The Tribunal is the only forum to which the applicants can apply that can review the proposal to pass legislation disestablishing the Maaori Health Authority. Therefore, no alternative remedy is available.<sup>11</sup>
  - 10.3 The applicants, and those on whose behalf they seek the urgent inquiry, are likely to suffer significant, irreversible prejudice because of the proposal to disestablish the Maaori Health Authority. In particular, the applicants submit that the disestablishment of the Maaori Health Authority will result in the loss of the potential to improve health standards for Maaori

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<sup>8</sup> Wai 3307, #A003.

<sup>9</sup> Wai 3307, #1.1.001.

<sup>10</sup> Wai 3307, #1.1.001 at [24]-[25]. While pursuant to section 6(1)(c) of the Treaty of Waitangi Act 1975, the Tribunal has the jurisdiction to inquire into any policy, existing or proposed to be adopted by or on behalf of the Crown, this jurisdiction ceases once the policy is introduced as legislation (Wai 3307, #1.1.001(a)).

<sup>11</sup> Wai 3307, #3.1.001 at [12]-[13].

significantly and the situation will revert to that which the Tribunal found unacceptable in the *Hauora* report.<sup>12</sup>

- 10.4 The applicants can proceed urgently to a hearing and no research is required for the claim to be heard.<sup>13</sup>
- 10.5 The claim is likely to require only one day of hearing time for the Tribunal to hear all the applicants' and the Crown's evidence and submissions. The applicants anticipate that up to one further day will be required to accommodate any interested party evidence and submissions.<sup>14</sup>

### **Crown's response to urgency application**

11. The Crown opposes the applicant's urgency application.
12. An inquiry at this stage into the proposal to disestablish the Maaori Health Authority would be premature.
13. The Crown is well-informed about the poor health outcomes that Maaori as a population group experience<sup>15</sup> and it accepts that there is need to address those poor outcomes. However, in doing so the Crown is able to choose from a range of Treaty-consistent options, provided it does so reasonably and in good faith.<sup>16</sup> The operation of the Maaori Health Authority is not the only way to improve health outcomes for Maaori and, in the present administration's view, there are more effective ways to do so.
14. The intention to promote legislation to disestablish the Maaori Health Authority is not the product of a policy process that officials have undertaken. Rather, the decision has been made by the Government at the political level following political parties campaigning on this issue ahead of the recent General Election and as a result of the coalition

<sup>12</sup> Wai 3307, #3.1.001 at [4]-[5].

<sup>13</sup> Wai 3307, #3.1.001 at [14]-[15].

<sup>14</sup> Wai 3307, #3.1.001 at [20]-[22].

<sup>15</sup> For example, the Crown has the benefit of the Tribunal's *Hauora* report, issued in 2021, and the reports commissioned by the previous administration into the health system generally.

<sup>16</sup> *Attorney-General v New Zealand Maori Council* [1991] 2NZLR 129 at 135 (per Cooke J).

agreements the National Party has entered into with ACT New Zealand and the New Zealand First Party. It is acknowledged that there has not been a consultation process with the Treaty partner leading up to the decision.

15. The improvement of health outcomes for Maaori will be a strong focus of the Government. The new Minister of Health has stated in an interview reported by *The New Zealand Herald* that, “The dream I have for Māori is to lift pretty much every health metric we have to the level we have for non-Māori”.<sup>17</sup> However, the Government is not yet in a position to articulate in detail how it will do so.
16. Ministers will take decisions in 2024 on how a restructured health system, with the Maaori Health Authority disestablished, will achieve improved health outcomes for Maaori. The Government will also decide how it will engage with Maaori before it makes future decisions. It will have available to it Tribunal’s *Hauora* report, including the Tribunal’s findings on the merits of the Crown’s proposal in 2021 to establish a Maaori Health Authority.<sup>18</sup>
17. As matters stand, the Tribunal could not meaningfully assess what the implications of the Maaori Health Authority’s disestablishment for Maaori health outcomes would be. It follows that an urgent inquiry on the timetable the applicants propose would have limited (if any) utility as the Tribunal would not be able to consider in any detail the Government’s strategy for improving health outcomes for Maaori.

### **Conclusion**

18. Conducting an urgent inquiry at this stage into the decision to disestablish the Maaori Health Authority would be premature as the implications of that decision cannot be properly ascertained and evaluated until the

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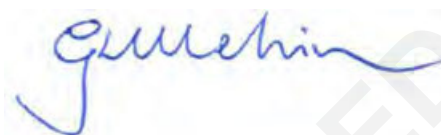
<sup>17</sup> Joseph Los’e “Shane Reti’s Martin Luther King moment for Maori health, and his plans to make that dream reality”, *The New Zealand Herald*, 7 December 2023, <https://www.nzherald.co.nz/kahu/shane-retis-martin-luther-king-moment-for-maori-health-and-his-plans-to-make-that-dream-reality/NNHA6PUCTJA6TA7BSUYAOLLJKE/>.

<sup>18</sup> See, generally, ch 10 of the *Hauora* report.

Government puts in place its alternative plans to address poor Maori health outcomes.

19. The application for urgency should therefore be declined.

18 Hakihea | December 2023



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G Melvin / I Yu  
Counsel for the Crown

**TO:** The Registrar, Waitangi Tribunal  
**AND TO:** Claimant Counsel

PROACTIVELY RELEASED

**TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI**

Wai 3307

**E PĀ ANA KI**  
CONCERNING

te Treaty of Waitangi Act 1975

**Ā,**  
AND

an application for an urgent hearing by Janice Kuka and Lady Tureiti Moxon on behalf of the governors, managers, staff and Māori cared for by Māori owned Primary Health Organisations and Māori Providers with General Practitioner clinics

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**TE WHAKATAUNGA MŌ TE TONO OHOTATA**

**E PĀ ANA KI TE AKA WHAI ORA**

19 Hānuere 2024

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## Hei tīmatanga kōrero / Introduction

1. This decision concerns an application for urgent hearing by Janice Kuka and Lady Tureiti Moxon (the applicants), on behalf of the governors, managers, staff and Māori cared for by Māori-owned Primary Health Organisations (PHO) and Māori Providers with General Practitioner (GP) clinics (Wai 3307, #1.1.1, #1.1.1(a) & #3.1.1).
2. The application concerns the Crown's intention to disestablish Te Aka Whai Ora, the Māori Health Authority, as outlined in the 100-day plan released by the coalition Government on 29 November 2023.
3. The applicants seek findings that the disestablishment of Te Aka Whai Ora is likely to prejudicially affect Māori and is inconsistent with the principles of the Treaty of Waitangi (Wai 3307, #3.1.1 at [57]). They ask the Tribunal to recommend the Crown do not disestablish Te Aka Whai Ora.

## Ko te hātepe ture o te tono nei / Procedural history

4. On 8 December 2023, counsel for the applicants, Roimata Smail, filed a statement of claim and an application for urgent hearing with supporting documents (Wai 3307, #1.1.1, #1.1.1(a), #3.1.1), #A1, #A1(a), #A2, #A2(a), #A2(b), #A3 & #A3(a)).
5. On 11 December 2023, the Deputy Chairperson registered the claim and referred the determination of the urgency application to Judge Stone, as Presiding Officer of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575), along with the panel members of that inquiry (Wai 3307, #2.5.1).
6. On 12 December 2023, I directed the Crown and any interested parties to make submissions in response to the application for urgency by 18 December (Wai 3307, #2.5.2).
7. On 18 December 2023, Geoffrey Melvin, for the Crown, filed a response opposing the application (Wai 3307, #3.1.28).
8. On 20 December 2023, the applicants filed their submissions in reply (Wai 3307, #3.1.29).
9. Between 18 to 22 December 2023, the Tribunal received 29 requests to participate as interested parties and claimants (Wai 3307, #3.1.2 - #3.1.37). These parties and their submissions are included as **Appendix A**.
10. All parties listed in Appendix A meet the requirements set out in section 4A of the Commissions of Inquiry Act 1908 as having an interest in these proceedings part from any interest in common with the public. These parties are subsequently granted interested party status.

## Horopaki i te kereme / Background in the claim

11. The applicants were one of the six lead claimants in stage one of the Wai 2575 inquiry, which resulted in the Tribunal's *Hauora* report. The applicants provide an outline of the relevant *Hauora* findings and recommendations in document Wai 3077, #A3 at 14 – 23.

12. On 29 November 2023, the new coalition Government announced its 100-day plan, which included the intention to introduce legislation to disestablish Te Aka Whai Ora, less than a year and a half after its establishment.
13. In the *Hauora* report the Waitangi Tribunal found that the primary healthcare funding model disadvantaged Māori organisations, and consequently, the Māori patients enrolled with these organisations. The Tribunal also said the Crown breached its Treaty of Waitangi obligations by failing to design and administer the primary healthcare system to address Māori health inequities and by failing to give effect to tino rangatiratanga. The Tribunal noted that the prejudice suffered by Māori because of the Crown's failure to uphold the Treaty is extensive.
14. The applicant says that the Tribunal recommended the establishment of a Māori Health Authority to address these inequities and to bring about transformational change for Māori.

### **Ngā tāpaetanga a ngā Kaitono / Applicants' submissions**

15. The applicants submit that the disestablishment of Te Aka Whai Ora would mean that Māori will continue to be particularly impacted by racism and stereotyping in primary healthcare, and experience a significantly lower standard of health, including significantly shorter lives than non-Māori (Wai 3307, #3.1.1).
16. They submit that the disestablishment of Te Aka Whai Ora would mean that there will no longer be a Māori body with express objectives to:
  - (a) ensure that planning and service delivery in the health sector respond to Māori aspirations and needs;
  - (b) design, deliver and arrange health services to achieve the best possible outcomes for Māori;
  - (c) promote Māori health;
  - (d) undertake the functions set out in s 19 of the Pae Ora (Health Futures) Act 2022 ('the Act'); and
  - (e) engage with Māori to find out their health aspirations and needs and report back to them, support iwi-Māori partnership boards or jointly prepare the Hauora Māori Strategy (ss 20, 21 and 42 of the Act).
17. Since its establishment, Te Aka Whai Ora has taken over the monitoring of new and existing contracts for primary health outcomes and services. The applicants submit this reduces the disproportionate burden of auditing carried out by Māori PHOs and Providers, which frees up their capacity to improve standards of health.
18. The applicants submit that Te Aka Whai Ora's new contracts for Māori PHOs and Providers have the potential to be better targeted to improve Māori health. The applicants further submit Te Aka Whai Ora's contracts can better targeted to what Māori PHOs and Providers offer as opposed to non-Māori organisations. Moreover, the contracts can be less burdensome in terms of auditing.



19. Finally, the applicants submit that the Tribunal is the only available forum to review the proposed policy, there is no alternative remedy and they are ready to proceed urgently to hearing.

#### **Ngā tāpaetanga a te Karauna / Crown's submissions**

20. The Crown opposes the application for urgency. Counsel for the Crown submits an inquiry into the proposal to disestablish Te Aka Whai Ora would be premature. Counsel submit that the implications of the decision to inquire into this matter cannot yet be properly ascertained and evaluated until the Crown puts in place its alternative plans to address poor Māori health outcomes (Wai 3307, #3.1.28).
21. Counsel submit the Crown is well-informed about the poor health outcomes that Māori experience and accepts there is a need to address this. Counsel for the Crown submit the operation of Te Aka Whai Ora is not the only way to improve Māori health outcomes and there are more effective ways to do so. However, the Crown is not yet in a position to articulate in detail how it plans to improve health outcomes for Māori.
22. The Crown acknowledges there has not been a consultation process with the Treaty partners leading up to the decision to promote policy to disestablish Te Aka Whai Ora.
23. Crown counsel advises that the coalition Government will make decisions in 2024 on how a restructured health system will achieve improved health outcomes for Māori. The Government will then decide how it will engage with Māori.
24. Counsel submits that the Crown will have the Tribunal's *Hauora* report available to it, including the Tribunal's findings on the merits of the Crown's proposal in 2021 to establish a Māori Health Authority.
25. Additionally, counsel submits the intention to promote legislation to disestablish Te Aka Whai Ora is not the product of a policy process that officials have undertaken. The decision has been made at the political level following political parties campaigning on this issue ahead of the recent General Election and as a result of the agreements establishing the coalition Government.
26. Counsel for the Crown therefore submits the application for urgency should be declined.

#### **Ngā tāpaetanga whakahoki o te Kaitono / Applicant's submissions in reply**

27. The applicants submit that the Crown's 100-day plan only includes one commitment for Māori Health, and that is to disestablish Te Aka Whai Ora. The Tribunal can assess whether disestablishing Te Aka Whai Ora on its own will cause significant and irreversible prejudice for Māori (Wai 3307, #3.1.29).
28. The applicants submit the Crown should not be able to rely on its failure to have a plan for Māori health to avoid scrutiny for disestablishing the central Māori health focussed feature of the current structure, being Te Aka Whai Ora.
29. The applicants say further that the Crown has provided no evidence to suggest that any health restructure in contemplation by the coalition Government be more effective than Te Aka Whai Ora at improving Māori health outcomes.

30. The applicants submit that because the Crown concedes the decision to disestablish the Māori Health Authority was political, any restructure will not be based on the Treaty principles and is likely to be significantly less effective than Te Aka Whai Ora.
31. The applicants say a Māori Health Authority was recommended by the Tribunal and was based on Treaty principles and the claimants' call for tino rangatiratanga. This recommendation was adopted in the 2019 Health and Disability System Review and was implemented through legislation which was subject to public scrutiny through a select committee process. The applicants submit there is no indication from the Crown that any such rigorous or transparent process is contemplated to develop a restructure of the health system.
32. The applicants submit the Tribunal should inquire into the disestablishment of Te Aka Whai Ora, particularly given that the decision to do so was made to gain popular support for a political party during an election. The applicants refer to the *Haumarū report*, which stated that the Crown has a moral and ethical duty to defend Māori against unreasonable public backlash.
33. The applicants submit the election promise to disestablish Te Aka Whai Ora goes beyond pandering to the public to avoid backlash. This promise was intended to create backlash against Māori, by creating a false impression of special treatment of Māori as a means to gain votes.
34. The applicants note that the Crown makes no arguments regarding the other two urgency criteria regarding alternative remedies and the readiness to proceed urgently to hearing.

### **Whaimana / Jurisdiction**

35. The Tribunal has jurisdiction to inquire into this claim, pursuant to section 6(1)(c) of the Treaty of Waitangi Act 1975. Section 6(1)(c) of the Treaty of Waitangi Act 1975 states the Tribunal can inquire into any policy or practice adopted by or on behalf of the Crown or proposed to be adopted by or on behalf of the Crown which is likely to prejudicially affect any Māori or Māori group.

### **Urgency Criteria**

36. The Tribunal's *Guide to Practice and Procedure* states the following with regards to applications for an urgent hearing:

In deciding an urgency application, the Tribunal has regard to a number of factors. Of particular importance is whether:

- The claimants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions or policies;
- There is no alternative remedy that, in the circumstances, it would be reasonable for the claimants to exercise; and
- The claimants can demonstrate that they are ready to proceed urgently to a hearing.

Other factors that the Tribunal may consider include whether:

- The claim or claims challenge an important current or pending Crown action or policy;
- An injunction has been issued by the courts on the basis that the claimants have submitted to the Tribunal the claim or claims for which urgency has been sought; and
- Any other grounds justifying urgency have been made out.

Prior to making its determination on an urgency application, the Tribunal may consider whether the parties or the take or both are amenable to alternative resolution methods, such as informal hui or formal mediation under clause 9A of schedule 2 to the Treaty of Waitangi Act 1975.

## **Kōrerorero / Discussion**

37. An application for an urgent hearing will only be granted in exceptional circumstances where the applicant can demonstrate that the Tribunal should prioritise a new urgent inquiry and redirect its limited staff and resources from its programme of current inquiries to do so. The threshold is high, and the application will fail if the criteria set out above are not satisfied.
38. The threshold for urgent inquiries is higher than the threshold for granting a priority inquiry. Previously, Tribunal priority inquiries have prioritised specific claims within an existing work programme of an inquiry. I note that on 23 November 2021, the Wai 2575 panel granted a priority hearing on Crown Covid-19 policy, within the existing Health Services and Outcomes Kaupapa inquiry (Wai 2575, #2.6.70).
39. It is indisputable that the proposed disestablishment of Te Aka Whai Ora represents an important current and pending Crown action and policy. Further, the claimants have no reasonable alternative remedy but to seek an urgent Tribunal inquiry into this proposal. They are clearly ready to proceed. These factors weigh in favour of us granting urgency to this application. Indeed, Crown counsel does not seem to argue otherwise.
40. The key ground for urgency, therefore, is whether the claimants can demonstrate that they are suffering, or are likely to suffer, significant and irreversible prejudice as a result of the proposed disestablishment of Te Aka Whai Ora. On this, we have half the picture. The coalition Government plans to disestablish Te Aka Whai Ora by 8 March 2024.<sup>1</sup> That much is clear. Crown counsel has confirmed that the improvement of health outcomes for Māori will be a strong focus of the coalition Government. However, the coalition Government is not yet in a position to articulate how that will be achieved. We are therefore in the difficult position of assessing prejudice without knowing exactly what the coalition Government will do.
41. In the *Hauora Report*, we found that achieving equity will not be possible without tino rangatiratanga of hauora Māori.<sup>2</sup> To reiterate, we recommended the following principles be adopted for the primary health care system:

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<sup>1</sup> This is 100 days after the date of the coalition agreement signed by the current coalition Government.

<sup>2</sup> Ibid, p 179.

- (a) The guarantee of tino rangatiratanga, which provides for Māori self-determination and mana Motuhake in the design, delivery, and monitoring of primary health care.
  - (b) The principle of equity, which requires the Crown to commit to achieving equitable health outcomes for Māori.
  - (c) The principle of active protection, which requires the Crown to act, to the fullest extent practicable, to achieve equitable health outcomes for Māori. This includes ensuring that it, its agents, and its Treaty partner are well-informed on the extent, and nature, of both Māori health outcomes and efforts to achieve Māori health equity.
  - (d) The principle of options, which requires the Crown to provide for and properly resource kaupapa Māori primary health services. Furthermore, the Crown is obliged to ensure that all primary health care services are provided in a culturally appropriate way that recognises and supports the expression of hauora Māori models of care.
  - (e) The principle of partnership, which requires the Crown and Māori to work in partnership in the governance, design, delivery, and monitoring of primary health services. Māori must be co-designers, with the Crown, of the primary health system for Māori.<sup>3</sup>
42. During Stage One of the Health inquiry, the Crown accepted that Māori health outcomes are inequitable, and the primary health care framework was inadequate for Māori. Crown counsel has reconfirmed that the Crown accepts there is a need to address the poor health outcomes that Māori as a population experience. In response to these inadequacies, in our *Hauora Report*, we called for a primary health care sector which empowers tino rangatiratanga.<sup>4</sup> We issued an interim recommendation in 2019 that the Crown commit to exploring the concept of a stand-alone Māori primary health authority. Following our interim recommendation, the Crown confirmed the establishment of such an authority, which was to become Te Aka Whai Ora. Then, in our final *Hauora Report* in 2021, we acknowledged that the establishment of a Māori health authority was a significant, positive development and recommended finally that the Crown and the Stage One claimants continue working together on the operational details of Te Aka Whai Ora to achieve “a tino rangatiratanga-compliant model”. Accordingly, our focus has always been on the establishment of a tino rangatiratanga-compliant model – “tino rangatiratanga of hauora Māori is necessary to pursue health equity”.<sup>5</sup> It is against this background that we assess whether the claimants have demonstrated that they are suffering, or will likely suffer, significant and irreversible prejudice.
43. There are at least two bases on which the claimants can show prejudice. The first relates to process. The second relates to substance.

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<sup>3</sup> Waitangi Tribunal, *Hauora Report*, p 180.

<sup>4</sup> Waitangi Tribunal, *Hauora Report*, p 183.

<sup>5</sup> *Ibid*, p 160.

44. The Treaty guarantee of tino rangatiratanga provides for Māori self-determination and mana Motuhake in the design, delivery, and monitoring of primary health care. It is axiomatic that this extends to decisions on the disestablishment of Te Aka Whai Ora. In terms of process, the claimants complain that Māori were not consulted on the proposal to disestablish Te Aka Whai Ora. Crown counsel concedes this point. Crown counsel says this decision is not the product of a policy process undertaken by Crown officials. Rather, it is a political decision of the coalition Government at the political level following campaigning during the recent 2023 General Election and the subsequent coalition agreements. This argument seems to suggest that Treaty compliance is subject to election promises. Whatever the case, the fact that Māori have not been consulted on the disestablishment of Te Aka Whai Ora means that the claimants can demonstrate that they are suffering, or will likely suffer, prejudice.
45. In terms of substance, the policy announcement by the coalition Government to disestablish Te Aka Whai Ora before an alternative model is developed is problematic. Crown counsel argues that “there are more effective ways” to improve health outcomes for Māori, yet concedes that the coalition Government is not in a position to articulate how. In general terms, it is difficult to understand how the coalition Government can be sure that there is a more effective way to improve health outcomes for Māori without knowing what that way is. In Treaty terms, the disestablishment of a tino rangatiratanga-compliant model for something unknown is, on its face, prejudicial.
46. We are therefore satisfied that the claimants are suffering, or will likely suffer, significant and irreversible prejudice through the proposed disestablishment of Te Aka Whai Ora. The grounds for urgency are made out.
47. Crown counsel argues that the application for urgency should be declined because the implications of the decision to disestablish Te Aka Whai Ora cannot be properly ascertained and evaluated until the coalition Government puts in place its alternative plans to address poor Māori health outcomes. We disagree. As noted, the disestablishment of Te Aka Whai Ora in itself is sufficient to satisfy the grounds for urgency. We also note the Crown’s acknowledgement that there has not been a consultation process with Treaty partners leading up to the decision to promote policy to disestablish Te Aka Whai Ora, and its intention to engage with Māori only after it has been decided how a restructured health system will achieve improved health outcomes for Māori. That said, we acknowledge that full nature and extent of any prejudice must be assessed against the coalition Government’s alternative plans (whatever they may be). Thus, we agree with Crown counsel to the extent that the implications of the disestablishment of Te Aka Whai Ora should be properly ascertained and evaluated by reference to the coalition Government’s alternative plans.
48. Finally, we simply note at this stage the Treaty obligation for the Crown to partner with Māori in the development and implementation of policy, especially where Māori are expressly seeking an effective role in that process. Further, we note the requirements for the Crown to partner with Māori is heightened where disparities in outcomes exist.<sup>6</sup>

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<sup>6</sup>Ibid, pp 28 – 29.

## Kupu whakatau / Decision

49. The applicants satisfy the grounds for urgency. However, the implications of the disestablishment of Te Aka Whai Ora should be properly ascertained and evaluated by reference to the coalition Government's alternative plans. Accordingly, the final decision on the application for urgent hearing is adjourned pending the receipt by the Tribunal of the Crown memorandum and further information referred to below.
50. The Crown is directed to file a memorandum by **31 January 2024** which provides details as to:
- (a) how it intends to progress and engage with Māori on its alternative plans; and
  - (b) the nature of those proposed alternative plans and the extent to which they are Treaty compliant and consistent with the principles outlined in the *Hauora Report*, particularly those included at [40] above.
51. Crown counsel should include information regarding:
- (a) When the coalition Government intends to introduce legislation into the House of Representatives to disestablish Te Aka Whai Ora;
  - (b) When the Crown will be in a position to provide the Tribunal with information about its alternative plans and how they are Treaty compliant, if it is unable to do so at the time of filing; and
  - (c) Whether the Crown is prepared to give the Tribunal sufficient notice of its intention to introduce legislation into the House to enable the Tribunal to undertake an urgent hearing then.

*The Registrar is to send a copy of this direction to counsel for the applicant, Crown counsel and those on the notification list for Wai 3307, Te Aka Whai Ora (Māori Health Authority) Urgent Claim.*

**DATED** at Whanganui-a-tara this 19<sup>th</sup> day of Hānuere 2024.



Judge Damian Stone  
Presiding Officer

**WAITANGI TRIBUNAL**



Tania Simpson  
Tribunal Member

**WAITANGI TRIBUNAL**



Professor Linda Tuhiwai Smith  
Tribunal Member

**WAITANGI TRIBUNAL**



Professor Tom Roa  
Tribunal Member

**WAITANGI TRIBUNAL**



Professor Susy Frankel  
Tribunal Member

**WAITANGI TRIBUNAL**

PROACTIVELY RELEASED