

# Briefing

## Wai 3307 Māori Health Authority Urgent Hearing and Crown Evidence

<b>Date due to MO:</b>	N/A	<b>Action required by:</b>	23 February 2023
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	H2024036431
<b>To:</b>	Hon Dr Shane Reti, Minister of Health		
<b>Consulted:</b>	Health New Zealand: <input type="checkbox"/> Māori Health Authority: <input type="checkbox"/>		

### Contact for telephone discussion

Name	Position	Telephone
<b>John Whaanga</b>	Deputy Director-General, Māori Health	S9(2)(a)
<b>Bernard Te Paa</b>	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 Withdrawn |  |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:

# Wai 3307 Māori Health Authority Urgent Hearing and Crown Evidence

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**Security level:** IN CONFIDENCE      **Date:** 22 February 2024

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

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## Purpose of report

1. This briefing informs you of the Waitangi Tribunal's decision for an urgent hearing for the disestablishment of the Māori Health Authority and provides an overview of the Crown's proposed opening submission and evidence.

## Summary

2. The Waitangi Tribunal has scheduled an urgent hearing to inquire into the urgency claims for the disestablishment of the Māori Health Authority.
3. The Crown is preparing opening submissions and evidence to file with the Waitangi Tribunal.
4. The Ministry of Health has confirmed the Deputy Director-General Māori Health as the supporting witness for the Crown.

## Recommendations

We recommend you:

- a) **Note** that the Waitangi Tribunal has scheduled an urgent hearing for the Wai 3307 Māori Health Authority and related claims on 29 February and 1 March 2024 at the Waitangi Tribunal Offices in Wellington. **Noted**
- b) **Note** the confirmed timetable and list of applicants and interested parties for the urgent inquiry. **Noted**
- c) **Note** the outline of the Crown's opening submission and drafted brief of evidence for the Crown. **Noted**

- d) **Note** that the Crown opening submission and evidence are due to the Waitangi Tribunal by 5pm Friday 23 February 2024. **Noted**
- e) **Note** that the closing submissions are scheduled to be filed no later than midday Monday 4 March 2024. **Noted**
- f) **Note** that the Ministry of Health will be providing final instructions to Crown Law no later than 10am Friday 23 February 2024 on the Crown's opening submission and evidence. **Noted**



Bernard Te Paa  
GM Māori-Crown Relations  
**Māori Health**  
Date: 21 February 2024

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

# Wai 3307 Māori Health Authority Urgent Hearing and Crown Evidence

## Context

1. You have been previously advised of Wai 3307 Māori Health Authority claim and applications for an urgent hearing (Wai 3307) [H2023034056 and H2024035158 refers].
2. On Friday 16 February 2024, the Waitangi Tribunal (the Tribunal) directed that it will hold an urgent hearing into Wai 3307, and three other claims concerning the same issue, with a view to reporting to the Crown on or before 8 March 2024. The direction of the Tribunal is attached as **Appendix One**.
3. On Thursday 22 February 2024, Crown Law will file a memorandum with the Tribunal advising them that the Government plans to introduce a bill to disestablish the Māori Health Authority on 27 February 2024. A draft memorandum is attached as **Appendix Two**.

## Procedure of the Tribunal for Wai 3307

4. The Tribunal has scheduled an urgent inquiry into Wai 3307 and related claims on Thursday 29 February and Friday 1 March 2024, at the Tribunal Offices in Wellington.
5. The focus of this inquiry will be whether the disestablishment of the Māori Health Authority is in breach of the principles of the Treaty of Waitangi?
6. The confirmed timetable for the urgent inquiry is attached as **Appendix Three**. A list of applicants and interested parties is attached as **Appendix Four**.
7. Crown evidence and opening submissions are currently due to be filed by 5pm Friday 23 February 2024. Closing submissions are due no later than midday, Monday 4 March 2024. The Ministry will provide final instructions to Crown Law no later than 10am Friday 23 February 2024 for the filing of the Crown's opening submission and evidence.
8. The Tribunal has directed that any requests for extensions for late filing cannot be accommodated and will not be granted.
9. Given the limited time available for hearing evidence, the Tribunal has directed that most briefs of evidence will be taken as read. The Tribunal will confirm which evidence will be heard and timetabling.
10. It is important to note that once the bill is introduced into the House of Representatives, the Tribunal will lose jurisdiction to inquire into Wai 3307 due to the subject matter being inextricably linked to the bill. As a result, it is expected that the Tribunal will not be able to proceed with the hearing on 29 February and 1 March. It is unclear at this stage whether the Tribunal will rescind the timetabling steps currently in place leading up to 29 February.

## The Crown's opening submission and evidence

### Opening submission

11. The Crown's opening submission will provide an overview of the Crown's evidence and substantive argument. The Crown will maintain its position that an inquiry by the Tribunal at this point breaches the principle of comity/non-interference.
12. In addition, it will submit that the Crown's obligations to act consistently with Treaty principles do not require it to maintain the Māori Health Authority and that it can meet its Treaty obligations in other ways.
13. Further, it is premature to consider at this point whether the disestablishment of the Māori Health Authority would breach the principles of the Treaty of Waitangi and any such inquiry should not be done in isolation of the wider health system context and other changes the Government might make.
14. The submissions will repeat the acknowledgement that, on a conventional assessment of impact and importance, the Crown's decision to disestablish the Māori Health Authority without consultation with the Treaty partner can be expected to result in a finding by the Tribunal that Treaty principles have been breached.

### Crown's evidence

15. A draft brief of evidence has been prepared (**Appendix Five**) with the Deputy Director-General Māori Health as the supporting witness. The draft brief of evidence highlights the wider health system context and demonstrates the various levers that are embedded in the health system that support the Crown to uphold the principles of the Treaty of Waitangi.

### Next steps

16. The Ministry will await for any feedback you may have before 10am Friday 23 February 2024 and provide you with any further advice if you request.

ENDS.

PROACTIVELY RELEASED

## Minister's Notes

PROACTIVELY RELEASED

**IN THE WAITANGI TRIBUNAL**

Wai 2575

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

the Health Services and  
Outcomes Kaupapa Inquiry

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**MEMORANDUM-DIRECTIONS OF JUDGE D STONE ON THE TE AKA WHAI ORA  
URGENT APPLICATION**

16 Huitanguru 2024

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## Purpose

1. This memorandum-directions addresses the Te Aka Whai Ora urgency applications and associated next steps.

## Background

2. The Wai 3307 urgent claim was lodged on 8 December 2023 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.<sup>1</sup>
3. 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. 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. They ask the Tribunal to recommend that the Crown do not disestablish Te Aka Whai Ora.
4. The Crown are opposed to the application (Wai 3307, 3.1.43).
5. On 19 January 2024, the panel confirmed the grounds for urgency are made out. However, the panel noted 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. Accordingly, the final decision on the application for urgent hearing was adjourned pending the receipt by the Tribunal of a Crown memorandum with particular further information by 31 January 2024 (Wai 3307, #2.5.3, at [49]).

### *Further information from the Crown*

6. On 1 February 2024, the Crown responded confirming that the Government plans to introduce a Bill to the House of Representatives by no later than 8 March 2024. If the Bill is passed, it is expected Te Aka Whai Ora will be formally disestablished by 30 June 2024 although practical achievement might occur earlier (Wai 3307, #3.1.39 at [3]).
7. Crown counsel submit the Pae Ora Healthy Futures Act 2022 will continue to promote the exercise of tino rangatiratanga by hapū and iwi towards achieving health equity for Māori and the active protection obligations owed by the Crown are expressly provided for (Wai 3307, #3.1.39 at [4] & [14]).
8. Crown counsel also submit that it would be premature for the Crown to articulate the full detail of the Government's plans when the details have not yet been worked through by Cabinet. Counsel indicates that the details will be released at an appropriate point in the future.
9. Counsel further submit much detailed work will be undertaken concerning the Pae Ora Healthy Futures Act 2022. That work, and the legislative engagement processes, continues. Counsel argues that the evaluation of that work against Treaty principles, the Tribunal's *Hauora report* and the legislation in force should not occur in the context of a narrow urgent inquiry.

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<sup>1</sup> Wai 3307, #1.1.1, #1.1.1(a), #3.1.1), #A1, #A1(a), #A2, #A2(a), #A2(b), #A3 & #A3(a).

10. The Crown also raise that the non-interference principle means the Tribunal should allow the legislative process to finish.

## Decision

11. The Tribunal has already granted urgency to these claims but adjourned them to receive further information from the Crown. Having now received a response from Crown counsel, the Tribunal must now decide how to proceed.

### *Non-interference Principle*

12. Non-interference is the principle that courts should not allow their processes to inhibit the free functioning of other branches like Parliament. The Crown contends the non-interference/comity principle means the Tribunal should await the conclusion of the legislative process before deciding whether an urgent inquiry is warranted.<sup>2</sup> Crown counsel cite a range of cases supporting this position.
13. The applicants submit the non-interference principle applies to the Courts, but not the Waitangi Tribunal.<sup>3</sup> A Bill starts with a policy which must be approved by Cabinet. Section 6(1)(c) of the Treaty of Waitangi Act 1975 confers jurisdiction on the Tribunal to examine any proposed policy. That jurisdiction ends when the Bill is introduced to parliament.
14. This is a common argument by the Crown. While we acknowledge the principle, we consider the applicant's argument to be correct. Our jurisdiction remains up and until the introduction of a Bill. Judge Isaac's directions in the Freshwater Inquiry comprehensively discuss this issue and the same approach is adopted by this panel. Our legislation is clear on its face that pursuant to section 6(6) of the Act our jurisdiction remains up and until a Bill is introduced to the House.<sup>4</sup> This position is supported by the Court of Appeal in *Attorney General v Mair*.<sup>5</sup> We are therefore not prevented from continuing to exercise our jurisdiction here.

### *Smokefree Act Repeal Applications*

15. On 29 January 2024 and 2 February 2024, the Tribunal received two urgency applications concerning the intention to repeal the Smokefree Environments and Regulated Products Amendment Act. Both applications have been referred to this panel for determination together.<sup>6</sup>
16. All filing has been received from the Wai 3315, Smokefree Aotearoa Urgent and Wai 3324, Smokefree Aotearoa (Te Huia) Urgent claims.

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<sup>2</sup> Wai 3307. #3.1.39 at [10].

<sup>3</sup> Wai 3309, #3.1.43.

<sup>4</sup> Wai 2358, #2.6.79. Examples where the Tribunal has undertaken inquiries where legislation was being developed or to be introduced were the Oranga Tamariki Urgent Inquiry (Wai 2915), the Foreshore and Seabed Urgent Inquiry (Wai 1071), claimants is the Reform of Te Ture Whenua Māori Act 1993 Inquiry (Wai 2478) and many settlement urgent inquiries particularly the Wairarapa Urgent Settlement Inquiry (Wai 3058) and the Whakatōhea Settlement Process (Wai 1750).

<sup>5</sup> [2009] NZCA 625.

<sup>6</sup> Wai 3315, #2.5.3 & Wai 3324, # 2.5.1.

17. The panel considers these applications should be dealt with separately from the Te Aka Whai Ora applications as they concern two separate issues. These applications will be determined in a separate determination to be released in due course.

#### *Urgent hearing*

18. The Tribunal will hold an urgent hearing to inquire into the urgency claims on **Thursday 29 February and Friday 1 March 2024**, at the Tribunal Offices in Wellington (**Level 2, 141 The Terrace**). An audio-visual link (AVL) will be provided for those who wish to participate in the hearing remotely.
19. The focus for this inquiry will be “whether the disestablishment of Te Aka Whai Ora / Māori Health Authority is in breach of the principles of the Treaty of Waitangi?”
20. Given the timeframes here, the Tribunal can only focus on the proposed disestablishment of Te Aka Whai Ora / Māori Health Authority. Accordingly, the Tribunal will not focus on the operations or the effectiveness of Te Aka Whai Ora or any issues arising from the proposal to disestablish it.

#### **Inquiry procedure**

##### *Timetable and attendance*

21. The confirmed timetable for the urgent inquiry is now **attached** as **Appendix B**. Given the short timeframes and the necessity for the Tribunal to issue its report on or before 8 March 2024, it is imperative that these deadlines be adhered to. Extension requests for late filing cannot be accommodated and will not be granted.
22. Parties should confirm their intention to participate at the urgent hearing via an e-mail to the Tribunal’s Registrar ([WT.Registrar@justice.govt.nz](mailto:WT.Registrar@justice.govt.nz)) by **5pm, Thursday 22 February 2024**. Parties should also indicate whether they wish to attend in person or remotely via AVL.

##### *Participation*

23. There are several parties to this application. Four claims have filed pleadings and will be the only full claimants to the inquiry. All the other parties will be interested parties. **Appendix A** outlines the relevant claims, their counsel and status in this inquiry.
24. Given our timeframes much of the evidence will be taken as read. Claimant and Crown counsel should indicate if there is particular evidence that should be tested and heard at the hearing. The Tribunal will confirm which evidence will be heard and timetabling.
25. Submissions by Claimant and Crown counsel will also be taken as read and with oral submissions being a synopsis of the salient points of their positions.
26. Given our timeframes evidence and submissions by interested parties will be taken as read, unless it becomes apparent that we should hear from particular witnesses.

### *Hearing protocols and cross-examination*

27. Any further claimant and interested party evidence, along with claimant and interested party opening submissions, should be filed by **5pm, Tuesday 20 February 2024**. I strongly encourage counsel to liaise with one another and to file jointly on any shared positions or submissions where possible, to prevent any duplication of material. Crown evidence and opening submissions are due by **5pm, Friday 23 February 2024**. Claimant and interested party reply evidence, if any, should be filed by **5pm, Wednesday 28 February 2024**.
28. To ensure the effective use of limited hearing time, opening submissions will be filed prior to hearing and taken as read, with any questions arising to be raised at the hearing. Closing submissions and claimant and interested party submissions in reply will be submitted orally at hearing, and should be filed in writing by no later than **midday, Monday 4 March 2024**.
29. Counsel for the claimants, interested parties, and the Crown should agree to a draft hearing timetable. The draft hearing timetable, which should include cross-examination indications and sufficient time for Tribunal questions, is due by **5pm, Tuesday 27 February 2024**. Cross-examination documents should also be filed by this date.
30. Counsel for the claimants and interested parties should work together to minimise any duplication of cross-examination. We are amenable to approaches that would allow this, such as the nomination of lead counsel, or for the Tribunal to begin questioning prior to counsel cross-examination (as was conducted in the Priority Inquiry into the Crown's COVID-19 Protection Framework (the COVID-19 Priority Inquiry) (Wai 2575, #2.6.75 at [17] – [19]). We expect such arrangements to be reflected in the joint draft hearing timetable.

### *Application of the Wai 2575 accessibility protocol*

31. On 21 September 2021, the Tribunal confirmed an accessibility protocol for phase one of stage two of the Health Services and Outcomes Kaupapa Inquiry (the disability inquiry) (the accessibility protocol) (Wai 2575, #2.6.59(a)).
32. During the COVID-19 Priority Inquiry hearing in December 2021, the Tribunal confirmed that it would comply with the accessibility protocol insofar as it was feasible within the tight timeframes of that inquiry (Wai 2575, #2.6.70 at [45]).
33. We note the participation of taangata whaikaha claimants as interested parties in this inquiry, and the relevance of this kaupapa to the taangata whaikaha and whaanau hauaa community. To this end, we confirm this urgent inquiry will adopt accessibility protocol measures to the extent that it is reasonably possible within the urgent timeframes as set out in Appendix B.
34. With the need to commence hearings by 29 February 2024, we indicate now that it will not be possible to translate documents into accessible formats. Accordingly, five-page summaries of key inquiry documents will not be mandatory. That said, to promote the accessibility of materials received, we would welcome five-page summaries of any briefs or submissions longer than 10 pages where possible.
35. Parties should include in their joint draft hearing timetable a roll call at the beginning of the hearing and five-minute breaks throughout the proceedings.

36. Tribunal staff are currently endeavouring to secure accessibility arrangements for the urgent hearing within short notice. Accessibility requirements of hearing attendees should be communicated when parties confirm their attendance. However, given the limited time available between now and the hearing, the Tribunal is unfortunately unable to guarantee that full accessibility arrangements will be possible. The Tribunal will provide an update on accessibility arrangements for the hearing, if any, in due course.

**Disclosure of interest**

37. Panel member Tania Simpson is a Trustee and Deputy Chair of the Waitangi National Trust Board along with Ngāti Hine applicants Pita Tipene, who is Chair of the Waitangi National Trust, and Waihoroi Shortland, the cultural advisor for the Board.

38. Minister Shane Reti, served as the elected representative of the opposition parties on the Waitangi National Trust Board and Minister Peeni Henare is also a current member of the Board, alongside panel member Tania Simpson.

39. I do not consider this to raise any real conflict of interests but disclose this connection to all parties.

The Registrar is to send this direction to all those on the notification list for Wai 2575, the Health Services and Outcomes Kaupapa Inquiry.

**I HAINATIA** ki Te Whanganui-aa-Tara i te 16<sup>th</sup> o Huitanguru i te tau 2024.



Kaiwhakawaa Damian Stone  
Tumuaki Pakirehua i te Health Inquiry

**TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI**  
**/ WAITANGI TRIBUNAL**

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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 DECISION TO  
INQUIRE URGENTLY**

**22 Hui-tanguru | February**

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**Te Tari Ture  
o te Karauna**  
Crown Law

Pouaka Poutāpeta PO Box 2858  
Te Whanganui-a-Tara Wellington 6140  
Waea Tel: 04 472 1719

**Whakapā mai:      Contacts:**

S9(2)(a)

**MAY IT PLEASE THE TRIBUNAL:**

1. This memorandum is filed in relation to the Tribunal's decision to grant an urgent inquiry into this claim and to timetable a hearing for 29 February and 1 March 2024.<sup>1</sup>
2. The Crown formally reserves its legal position on the Tribunal's decision that an inquiry now would not breach or cut across the legal principle of non-interference/comity.<sup>2</sup>
3. The Crown has previously advised that the Government plans to table a Bill to disestablish the Maaori Health Authority - Te Aka Whai Ora in the House of Representatives by no later than 8 March 2024.<sup>3</sup>
4. The inquiry timetable is based upon "the necessity for the Tribunal to issue its report on or before 8 March 2024".<sup>4</sup> It is apparent that the Tribunal has adopted the Crown's indication of the last potential date for the Bill's introduction as a deadline for issuing its report.
5. Counsel is instructed that, following the Cabinet Legislation Committee's consideration of the Bill today, it is the Government's intention to introduce the Bill on 27 February 2024.
6. If necessary, counsel for the Crown can attend, at short notice, a judicial teleconference with the Tribunal and claimants/counsel to discuss any matters arising.

22 Hui-tanguru | February

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Geoffrey Melvin

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<sup>1</sup> Wai 3307, #2.5.6 at [18].

<sup>2</sup> See Wai 3307, #3.1.39 at [10].

<sup>3</sup> Wai 3307, #3.1.39 at [2].

<sup>4</sup> Wai 3307, #2.5.6 at [21].

Counsel for the Crown

**TO:** The Registrar, Waitangi Tribunal

**AND TO:** Claimant Counsel

PROACTIVELY RELEASED



**Appendix B: confirmed inquiry timetable for the Te Aka Whai Ora (Maaori Health Authority) Urgent Inquiry (Wai 3307)**

As per the Tribunal's *Guide to Practice and Procedure* at 5.3, unless a different time is stated below, all documents are to be filed in the Tribunal's Registry by 5pm on the day they are due.

<b>Milestone</b>	<b>Date</b>	<b>Who</b>
Claimant and interested party evidence	Tuesday 20 February 2024	Claimants and interested parties
Claimant and interested party opening submissions		Claimants and interested parties
Parties attending to RSVP to <a href="mailto:WT.Registrar@Justice.govt.nz">WT.Registrar@Justice.govt.nz</a>	Thursday 22 February 2024	All parties
Crown evidence and opening submissions	Friday 23 February 2024	Crown
Joint draft hearing timetable	Tuesday 27 February 2024	All parties
Cross-examination estimates and documents		All parties
Final hearing timetable	Wednesday 28 February 2024	Tribunal
Any reply evidence		Claimants and interested parties
<b>Urgent hearing</b>	<b>29 February – 1 March 2024</b>	
Closing and any reply submissions presented orally at hearing	12pm, 4 March 2024	All parties
Deadline indicated by the Crown for introducing relevant legislation	<b>8 March 2024</b>	

**Appendix A**

**Applicants**

<b>No.</b>	<b>Applicants</b>	<b>Representation</b>	<b>Document #</b>
<b>1</b>	<u>Applicant – Wai 3307, Te Aka Whai Ora (the Māori Health Authority) Urgent claim</u> Janice Kuka and Lady Tureiti Moxon	<b>Roimata Smail Ltd</b>  Roimata Smail and Sepora Cassidy	Wai 3307, #1.1.1, #1.1.1(a), #3.1.1, #A1, #A1(a), #A2, #A2(a), #A2(b) & #A3
<b>2</b>	<u>Wai 682, the Ngāti Hine, Lands and Forests claim</u> Rewiti Paraone, Kevin Prime, Erima Henare, Pita Tipene and Waihoroi Shortland on behalf of Te Rūnanga Nui o Ngāti Hine me ngā uri o Torongare and Hauhaua	<b>Tukau Law</b>  Dr Season-Mary Downs, Chelsea Terei-Tipene and Heather Jamieson	Wai 3307, #3.1.2 Amended statement of claim
<b>3</b>	<u>Wai 1464, Te Kapotai claim</u> Te Riwhi Whao Reti, HauHereora, Romana Tarau, Karen Herbert, Edward Cook and Pearl Reti	<b>Tukau Law</b>  Dr Season-Mary Downs, Chelsea Terei-Tipene and Jessica Hita	Amended statement of claim
<b>4</b>	<u>Wai 1194 &amp; Wai 1212, the Taumanu Land claim &amp; the Ngā Uri o Ngā Tokotoru o Manawakotokoto Lands &amp; Resources claim</u> Colleen Skerrett-White, Timitapo Hohepa and Te Ariki Derek Morehu on behalf of Ngāti Te Rangiunuora and the iwi of Ngāti Pikiao	<b>Annette Sykes &amp; Co</b> Annette Sykes and Kalei Delamere-Ririnui	Wai 3307, #3.1.38 Amended statement of claim

**Interested Parties:**

<b>No.</b>	<b>Interested Party</b>	<b>Representation</b>	<b>Document #</b>
<b>1</b>	<u>Wai 2644, the Māori Health (New Zealand Māori Council) claim</u> Sir Taihākurei Durie and Rangi Wade on behalf of the New Zealand Māori Council	<b>Woodward Law</b> Donna Hall	Wai 3307, #3.1.3
<b>2</b>	<u>Wai 2912, the Health Services and Outcomes Kaupapa (Te Puna Ora o Mataatua) claim</u> Fiona Wiremu, Brian Simpson, Amohaere Tangitu, Karl Smith and Maanu Paul on behalf of Te Puna Ora o Mataatua and its Māori clients	<b>Whāia Legal</b> Horiana Irwin-Easthope and Raheera Douglas	Wai 3307, #3.1.5
<b>3</b>	<u>Wai 2619, the Māori disabled claim</u>	<b>Mahony Horner Lawyers</b>	Wai 3307, #3.1.6

	Dr Huhana Hickey on behalf of herself and other Māori disabled	Dr Bryan Gilling and Rox Soriano	
4	<u>Wai 2671, the Mental Health Services (Stevens) Claim</u> Jane Stevens on behalf of the late Nicky Taiaroa Macpherson Stevens, the Stevens whānau, Ngai Tahu and all Māori suffering from mental illness.	<b>Tamaki Legal</b> Stephanie Roughton	Wai 3307, #3.1.7
5	<u>Wai 2139, the Muaūpoko Lands and Resources (Greenland) claim</u> Timothy Tukapua and Dennis Greenland on behalf of Muaūpoko and the Muaūpoko Tribal Authority	<b>Bennion Law</b> Tom Bennion, Emma Whiley and Odette Ford Brierley	Wai 3307, #3.1.8
6	<u>Wai 3216, the Health Services and Outcomes (Raukawa-Tait) claim</u> Merepeka Raukawa-Tait on behalf of her whānau, hapū, iwi, whānau whānui and whāngai	<b>NL Lawyers</b> Ārama Ngāpō	Wai 3307, #3.1.9
7	<u>Wai 2634, the Smoking Healthcare Claim</u> Maraea Katene on behalf of herself and her whānau	<b>Oranganui Legal</b> Eve Rongo	Wai 3307, #3.1.10
8	<u>Wai 2109, Ngati Kapo (Tibble) Claim</u> Maaka Tauranga Tibble on behalf of himself and all Kāpō Māori (Māori blind, vision impaired, and deaf blind persons) and their whānau and Kāpō Māori Aotearoa/New Zealand Incorporated	<b>Rainey Collins</b> Peter Johnston, Devon Tesoriero, Alka Ahirao and Alex McCracken	Wai 3307, #3.1.11
9	<u>Wai 2745, the Unaffordable Housing (Munroe) Claim</u> Debbie Munroe on behalf of Waka of Caring	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.12
10	<u>Wai 2727, the Natural and Indigenous Healthcare Treatments claim</u> Tanya Filia on behalf of herself, her whānau and all Māori, concerning the availability of natural, indigenous and traditional rongoā Māori as part of the primary healthcare system.	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.13
11	Maia Honetana on behalf of her whānau	<b>Loader Legal</b>	Wai 3307, #3.1.14

		Brooke Loader and Shane Henderson	
12	<u>Wai 762, Waimiha River Eel Fisheries (King Country) claim</u> Te Urunga Aroha Evelyn Kereopa on behalf of herself, her whānau of Te Ihingaarangi, a hapū of Maniapoto	<b>Tamaki Legal</b> Stephanie Roughton	Wai 3307, #3.1.15
13	Natasha Willison-Reardon on behalf of Iwi me hapū Ki Marokopa, incorporating Ngāti Te Kanawa and Ngāti Kinohaku ki Marokopa, based in the rohe of Hapū Ki Marokopa Marae.	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.16
14	<u>Wai 3073, the Te Roopu Waiora Trust claim</u> Tania Kingi on behalf of Te Roopu Waiora	<b>Bennion Law</b> Tom Bennion, Emma Whiley and Odette Ford Brierley	Wai 3307, #3.1.17
15	<u>Wai 2499, Māori Health Disparities (Jansen, Laking &amp; Moke) claim</u> Dr David Jansen and others on behalf of Te Ohu Rata o Aotearoa	<b>Kāhui Legal</b> Matanuku Mahuika, Tara Hauraki and Paranihia Walker	Wai 3307, #3.1.18
16	<u>Wai 2003, Ngāti Korokoro, Ngāti Wharara and Te Pouka (Turner and Others) Resource Management claim</u> Cheryl Turner, John Klaricich, Harerei Toia, Hone Taimona, Ellen Naera, Fred Toi and Warren Moetara on behalf of the whānau of Ngāti Korokoro, Ngāti Wharara and Te Pouka hapū	<b>Dixon &amp; Co Lawyers</b> Kelly Dixon	Wai 3307, #3.1.19
17	Ngātiwai Trust Board	<b>Kāhui Legal</b> Tara Hauraki	Wai 3307, #3.1.20
18	Te Whakakitenga o Waikato Incorporated	<b>Kāhui Legal</b> Jamie Ferguson	Wai 3307, #3.1.21
19	<u>Wai 1341, Ngāti Rēhia Hapū claim</u> Nora Rameka on behalf of Ngāti Rēhia	<b>Kaupare Law</b> Ihipera Peters, Aroha Herewini and Amber-Leigh Evans	Wai 3307, #3.1.22
20	<u>Wai 2476, the Tohunga Suppression Act (Te Hira) claim</u> Byrar Te Hira on behalf of herself and her whānau	<b>Kaupare Law</b>	Wai 3307, #3.1.23

		Ihipera Peters, Aroha Herewini and Amber-Leigh Evans	
<b>21</b>	<u>Wai 2943, the National Hauora Coalition and all Māori claims</u> Dr Rachel Brown on behalf of the National Hauora Coalition	<b>Dixon &amp; Co Lawyers</b> Kelly Dixon	Wai 3307, #3.1.24
<b>22</b>	<u>Wai 2849, the Health Services and Outcomes (Lawrence) claim</u> Awhirangi Panehina Lawrence on behalf of herself, her whānau, and Ngā Uri o Ngatau me Pomana Honetua  <u>Wai 179, Māori Affairs Act and Burials and Cremations Act claim</u> Ruiha Collier, Colin Malcolm (deceased), Anne Davies and Huhana Seve on behalf of themselves and their extended whānau  <u>Wai 2848, the Health Services and Outcomes (Paul) claim</u> Pita Paul, on behalf of himself, his whānau, and hapū, and various Marae throughout Aotearoa  <u>Wai 2850, the Health Services and Outcomes (for Displaced Children) claim</u> Beverley Wiltshire-Reweti, on behalf of herself, and all Māori children that were displaced from their whānau, hapū and iwi under adoption and care of children legislation  <u>Wai 3111, the Health Services and Outcomes (Dally-Paki) claim</u> Nicola Dally-Paki on behalf of her whānau, hapū, iwi and whānau whānui	<b>Phoenix Law</b> Janet Mason, Lars Thompson and Niall Thurpp	Wai 3307, #3.1.25
<b>23</b>	<u>Wai 1531, Land Alienation and Wards of the State (Harris) claim</u> Te Enga Harris and Lee Harris on behalf of the Harris whānau	<b>Tamaki Legal</b> Stephanie Roughton and Siaosi Loa	Wai 3307, #3.1.26
<b>24</b>	<u>Wai 2713, Māori Nurses claim</u> Hineraumoa Te Apatu on behalf of Te Rūnanga o Aotearoa Tōpūtanga Tapuhi Kaitiaki o Aotearoa	<b>Anette Sykes &amp; Co Barristers &amp; Solicitors</b> Annette Sykes and Kalei Delamere-Ririnui	Wai 3307, #3.1.31
<b>25</b>	<u>Wai 2494, Racism Against Māori claim</u> Donna Awatere-Huata on behalf of herself and all Māori	<b>Anette Sykes &amp; Co Barristers &amp; Solicitors</b>	Wai 3307, #3.1.32

		Annette Sykes and Kalei Delamere-Ririnui	
<b>26</b>	<p><u>Wai 2831, the Marine and Coastal Areas (Tukutai Moana) Act (Te Aupōuri) claim</u> Te Rūnanga Nui o Te Aupōuri Trust</p>	<p><b>Tukau Law</b> Dr Season-Mary Downs, Chelsea Terei-Tipene and Majka Cherrington</p>	Wai 3307, #3.1.36
<b>27</b>	<p><u>Wai 3096, the Health Services and Outcomes (August) claim</u> Stephanie August on behalf of the late Robert Charles William James Farrar and her whānau</p> <p><u>Wai 1886, Ngāti Tara (Gabel) claim</u> Robert Gabel on behalf of Ngāti Tara</p> <p><u>Wai 2206, Nga Wahapu o Mahurangi (Ngati Whatua Ngapuhi) claim</u> April Grace on behalf of herself, her whānau, Ngā Wahapū o Te Rarawa o Kohai Settlement, and Te Hokingamai e te iwi o Ngāti Whātua Ngāpuhi nui tonu</p> <p><u>Wai 892, Patutahi, Muhunga and Other Lands and Resources (Te Whanau-a-Kai) claim</u> David Hawea on behalf of the Hawea whānau and the Te Whānau a Kai iwi,</p> <p><u>Wai 2890, the Mental Health (Huirama) claim</u> Tasilofa Huirama, the late Ziporah Grace Huirama (Esther Osborne), the Huirama/Osborne whānau, as members of Ngāti Ueoneone and Ngāti Tautahi of Ngapuhi</p> <p><u>Wai 2747, the Housing (Kearns) claim</u> John Kearns and Maeva Kearns on behalf of the Kearns whānau</p> <p><u>Wai 2869, the Mana Wāhine (Rogers) claim</u> Audry Okeroa Rogers, on behalf of herself, her whānau and members of Ngāti Koheriki</p> <p><u>Wai 2382, Tahawai (Aldridge) claim</u> Violet Eva Walker on behalf of herself, her whānau and Ngāti Uru</p>	<p><b>Tamaki Legal</b> Stephanie Roughton</p>	Wai 3307, #3.1.35

	<u>Wai 2778, the Marine and Coastal Area (Takutai Moana) Act (Watene) claim</u> Kahura James Watene on behalf of Tukōtukō and Ngāti Moe		
<b>28</b>	Korina Burne-Vaughn on behalf of Taukura Kauora o Tainui Trust	<b>Public Law Toolbox Chambers</b> Mai Chen and Caleb Saunders	Wai 3307, #3.1.37

PROACTIVELY RELEASED

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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 TO THE WAITANGI TRIBUNAL BY  
JANICE KUKA AND LADY TUREITI MOXON  
IN RESPECT OF THE PROPOSED  
DISESTABLISHMENT OF TE AKA WHAI ORA  
THE MĀORI HEALTH AUTHORITY**

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**BRIEF OF EVIDENCE OF JOHN NORMAN WHAANGA**

**23 February 2024**

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**Te Tari Ture  
o te Karauna**  
Crown Law

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Waea Tel: 04 472 1719

**Whakapaa mai: Contacts:**

S9(2)(a)





## **Introduction**

1. My full name is John Norman Whaanga.
2. I am the Deputy Director-General for Maaori Health at the Ministry of Health. I was appointed to this role in January 2019.
3. I am affiliated to Ngaati Raakaipaaka, Ngaati Kahungunu, and Ngaati Rongomaiwahine.

## **Scope of evidence**

4. This brief outlines the wider health system context that enables the Crown to give effect to the principles of the Treaty of Waitangi. This includes the legislative requirements of the Pae Ora (Healthy Futures) Act 2022 (the Act), current Government strategy and policy, and the commitments of the Government to meet the needs and aspirations of Maaori and improve health outcomes for Maaori.

## **Wider health system context**

### **Section 6 of the Pae Ora (Healthy Futures) Act 2022**

5. Section 6 of the Act sets out how the Crown will give to give effect to the principles of the Treaty of Waitangi and how the Minister of Health (the Minister), the Ministry, and all health entities will be guided by the health sector principles to improve the health sector for Maaori and achieve hauora Māori outcomes.
6. Section 6 supports the health system-wide duty to uphold the Crown's obligations under the Treaty of Waitangi.

### **Section 7 of the Pae Ora (Healthy Futures) Act 2022**

7. Section 7 of the Act provides guiding principles for the health sector that were guided by the principles of the Treaty of Waitangi as articulated by the Waitangi Tribunal in the Wai 2575 Health Services and Outcomes Kaupapa Inquiry Stage One report *Hauora*.
8. Additionally, the health sector principles have been developed to be relevant for all populations in New Zealand.

### **Pae Tuu Hauora Māori Strategy<sup>1</sup>**

9. 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 Maaori Strategy published in July 2023.
10. Pae Tuu is the current Hauora Maaori Strategy which provides the guiding framework by which health entities will uphold Te Tiriti and achieve Maaori health equity.
11. Pae Tuu is an interim step ahead of a full review and refresh of He Korowai Oranga: Maaori Health Strategy (2014), which will take place when Whakamaua: Maaori Health Action Plan 2020-2025 is fully implemented.

### **The Interim Government Policy Statement <sup>2</sup>**

12. The purpose of the Government Policy Statement on Health 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.
13. According to section 36 (1)(c) of the Pae Ora (Healthy Futures) Act 2022, the Government Policy Statement on Health must include the Government's priorities for engaging with and improving health outcomes for Maaori.
14. The current interim Government Policy Statement on Health has six priority areas, with two priority settings of achieving equity in health outcomes and embedding the Treaty of Waitangi across the health sector.

### **Whakamaua: Maaori Health Action Plan 2020-2025<sup>3</sup>**

15. Whakamaua: Maaori Health Action Plan 2020-2025 provides the health system with practical guidance to give effect to He Korowai Oranga: Maaori Health Strategy (2014).
16. Whakamaua: Maaori Health Action Plan 2020-2025 sets out four high-level

<sup>1</sup> <https://www.health.govt.nz/publication/pae-tu-hauora-maori-strategy>

<sup>2</sup> <https://www.health.govt.nz/publication/interim-government-policy-statement-health-2022-2024>

<sup>3</sup> <https://www.health.govt.nz/our-work/populations/maori-health/whakamaua-maori-health-action-plan-2020-2025>

outcomes, four objectives, and eight priority areas. The four high-level outcomes respond to important cultural, social, economic, and population health challenges. The four objectives are the basis for measuring and monitoring the progress of the plan over the five-year period towards achieving the four high-level outcomes. The eight priority areas are designed to ensure that available resources are used efficiently and effectively.

17. The actions of Whakamaua: Maaori Health Action Plan 2020-2025 are critical, in combination, to create the conditions necessary for a system shift in the short and medium term.

**Interim New Zealand Health Plan 2022: Te Pae Tata<sup>4</sup>**

18. The purpose of the New Zealand Health Plan is to give effect to the Government Policy Statement on Health by providing a 3-year costed plan for the delivery of publicly funded services by Health New Zealand and the Maaori Health Authority.
19. Section 51 (h) of the Pae Ora (Healthy Futures) Act 2022 identifies priority areas and actions points to build a transformed health system. This includes engaging with Maaori, protecting Maaori interests and aspirations, empowering Maaori to improve their health, and being guided by the health sector principles in the development and content of the Plan.
20. The Plan provides an important and practical mode of delivering on the principles of the Treaty of Waitangi.

**Ministry of Health Strategy and Strategic Intentions 2022-2026<sup>5</sup>**

21. *Developing the future Ministry of Health: Our strategy and strategic intentions 2022-2026* describes the Ministry of Health's intended role and functions and how the Ministry of Health will carry these out, both independently and in partnership with other entities.
22. The document specifies the critical priorities and intended actions that the Ministry of Health will focus on over the period to 2026 to fulfil its role. The

<sup>4</sup> <https://www.tewhātuora.govt.nz/publications/te-pae-tata-interim-new-zealand-health-plan-2022/>

<sup>5</sup> [https://www.health.govt.nz/system/files/documents/publications/strategic\\_intentions\\_2022\\_web.pdf](https://www.health.govt.nz/system/files/documents/publications/strategic_intentions_2022_web.pdf)

Ministry is committed to honouring its obligations under Te Tiriti of Waitangi and achieving equitable health outcomes for Maaori.

**Conclusion**

37. The transformation of the health system is about achieving equitable health outcomes for New Zealanders. Individual entities and strategies are not the end point. I have highlighted how responsibility for honouring obligations under Te Tiriti o Waitangi is embedded across the health system.

Signed: \_\_\_\_\_

John Norman Whaanga

Date: \_\_\_\_\_

PROACTIVELY RELEASED

**IN THE WAITANGI TRIBUNAL**

Wai 2575

**CONCERNING**

the Treaty of Waitangi Act 1975

**AND**

the Health Services and  
Outcomes Kaupapa Inquiry

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**MEMORANDUM-DIRECTIONS OF JUDGE D STONE ON THE TE AKA WHAI ORA  
URGENT APPLICATION**

16 Huitanguru 2024

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## Purpose

1. This memorandum-directions addresses the Te Aka Whai Ora urgency applications and associated next steps.

## Background

2. The Wai 3307 urgent claim was lodged on 8 December 2023 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.<sup>1</sup>
3. 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. 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. They ask the Tribunal to recommend that the Crown do not disestablish Te Aka Whai Ora.
4. The Crown are opposed to the application (Wai 3307, 3.1.43).
5. On 19 January 2024, the panel confirmed the grounds for urgency are made out. However, the panel noted 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. Accordingly, the final decision on the application for urgent hearing was adjourned pending the receipt by the Tribunal of a Crown memorandum with particular further information by 31 January 2024 (Wai 3307, #2.5.3, at [49]).

### *Further information from the Crown*

6. On 1 February 2024, the Crown responded confirming that the Government plans to introduce a Bill to the House of Representatives by no later than 8 March 2024. If the Bill is passed, it is expected Te Aka Whai Ora will be formally disestablished by 30 June 2024 although practical achievement might occur earlier (Wai 3307, #3.1.39 at [3]).
7. Crown counsel submit the Pae Ora Healthy Futures Act 2022 will continue to promote the exercise of tino rangatiratanga by hapū and iwi towards achieving health equity for Māori and the active protection obligations owed by the Crown are expressly provided for (Wai 3307, #3.1.39 at [4] & [14]).
8. Crown counsel also submit that it would be premature for the Crown to articulate the full detail of the Government's plans when the details have not yet been worked through by Cabinet. Counsel indicates that the details will be released at an appropriate point in the future.
9. Counsel further submit much detailed work will be undertaken concerning the Pae Ora Healthy Futures Act 2022. That work, and the legislative engagement processes, continues. Counsel argues that the evaluation of that work against Treaty principles, the Tribunal's *Hauora report* and the legislation in force should not occur in the context of a narrow urgent inquiry.

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<sup>1</sup> Wai 3307, #1.1.1, #1.1.1(a), #3.1.1), #A1, #A1(a), #A2, #A2(a), #A2(b), #A3 & #A3(a).

10. The Crown also raise that the non-interference principle means the Tribunal should allow the legislative process to finish.

### Decision

11. The Tribunal has already granted urgency to these claims but adjourned them to receive further information from the Crown. Having now received a response from Crown counsel, the Tribunal must now decide how to proceed.

### *Non-interference Principle*

12. Non-interference is the principle that courts should not allow their processes to inhibit the free functioning of other branches like Parliament. The Crown contends the non-interference/comity principle means the Tribunal should await the conclusion of the legislative process before deciding whether an urgent inquiry is warranted.<sup>2</sup> Crown counsel cite a range of cases supporting this position.
13. The applicants submit the non-interference principle applies to the Courts, but not the Waitangi Tribunal.<sup>3</sup> A Bill starts with a policy which must be approved by Cabinet. Section 6(1)(c) of the Treaty of Waitangi Act 1975 confers jurisdiction on the Tribunal to examine any proposed policy. That jurisdiction ends when the Bill is introduced to parliament.
14. This is a common argument by the Crown. While we acknowledge the principle, we consider the applicant's argument to be correct. Our jurisdiction remains up and until the introduction of a Bill. Judge Isaac's directions in the Freshwater Inquiry comprehensively discuss this issue and the same approach is adopted by this panel. Our legislation is clear on its face that pursuant to section 6(6) of the Act our jurisdiction remains up and until a Bill is introduced to the House.<sup>4</sup> This position is supported by the Court of Appeal in *Attorney General v Mair*.<sup>5</sup> We are therefore not prevented from continuing to exercise our jurisdiction here.

### *Smokefree Act Repeal Applications*

15. On 29 January 2024 and 2 February 2024, the Tribunal received two urgency applications concerning the intention to repeal the Smokefree Environments and Regulated Products Amendment Act. Both applications have been referred to this panel for determination together.<sup>6</sup>
16. All filing has been received from the Wai 3315, Smokefree Aotearoa Urgent and Wai 3324, Smokefree Aotearoa (Te Huia) Urgent claims.

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<sup>2</sup> Wai 3307. #3.1.39 at [10].

<sup>3</sup> Wai 3309, #3.1.43.

<sup>4</sup> Wai 2358, #2.6.79. Examples where the Tribunal has undertaken inquiries where legislation was being developed or to be introduced were the Oranga Tamariki Urgent Inquiry (Wai 2915), the Foreshore and Seabed Urgent Inquiry (Wai 1071), claimants is the Reform of Te Ture Whenua Māori Act 1993 Inquiry (Wai 2478) and many settlement urgent inquiries particularly the Wairarapa Urgent Settlement Inquiry (Wai 3058) and the Whakatōhea Settlement Process (Wai 1750).

<sup>5</sup> [2009] NZCA 625.

<sup>6</sup> Wai 3315, #2.5.3 & Wai 3324, # 2.5.1.

17. The panel considers these applications should be dealt with separately from the Te Aka Whai Ora applications as they concern two separate issues. These applications will be determined in a separate determination to be released in due course.

#### *Urgent hearing*

18. The Tribunal will hold an urgent hearing to inquire into the urgency claims on **Thursday 29 February and Friday 1 March 2024**, at the Tribunal Offices in Wellington (**Level 2, 141 The Terrace**). An audio-visual link (AVL) will be provided for those who wish to participate in the hearing remotely.
19. The focus for this inquiry will be “whether the disestablishment of Te Aka Whai Ora / Māori Health Authority is in breach of the principles of the Treaty of Waitangi?”
20. Given the timeframes here, the Tribunal can only focus on the proposed disestablishment of Te Aka Whai Ora / Māori Health Authority. Accordingly, the Tribunal will not focus on the operations or the effectiveness of Te Aka Whai Ora or any issues arising from the proposal to disestablish it.

#### **Inquiry procedure**

##### *Timetable and attendance*

21. The confirmed timetable for the urgent inquiry is now **attached** as **Appendix B**. Given the short timeframes and the necessity for the Tribunal to issue its report on or before 8 March 2024, it is imperative that these deadlines be adhered to. Extension requests for late filing cannot be accommodated and will not be granted.
22. Parties should confirm their intention to participate at the urgent hearing via an e-mail to the Tribunal’s Registrar ([WT.Registrar@justice.govt.nz](mailto:WT.Registrar@justice.govt.nz)) by **5pm, Thursday 22 February 2024**. Parties should also indicate whether they wish to attend in person or remotely via AVL.

##### *Participation*

23. There are several parties to this application. Four claims have filed pleadings and will be the only full claimants to the inquiry. All the other parties will be interested parties. **Appendix A** outlines the relevant claims, their counsel and status in this inquiry.
24. Given our timeframes much of the evidence will be taken as read. Claimant and Crown counsel should indicate if there is particular evidence that should be tested and heard at the hearing. The Tribunal will confirm which evidence will be heard and timetabling.
25. Submissions by Claimant and Crown counsel will also be taken as read and with oral submissions being a synopsis of the salient points of their positions.
26. Given our timeframes evidence and submissions by interested parties will be taken as read, unless it becomes apparent that we should hear from particular witnesses.



*Hearing protocols and cross-examination*

27. Any further claimant and interested party evidence, along with claimant and interested party opening submissions, should be filed by **5pm, Tuesday 20 February 2024**. I strongly encourage counsel to liaise with one another and to file jointly on any shared positions or submissions where possible, to prevent any duplication of material. Crown evidence and opening submissions are due by **5pm, Friday 23 February 2024**. Claimant and interested party reply evidence, if any, should be filed by **5pm, Wednesday 28 February 2024**.
28. To ensure the effective use of limited hearing time, opening submissions will be filed prior to hearing and taken as read, with any questions arising to be raised at the hearing. Closing submissions and claimant and interested party submissions in reply will be submitted orally at hearing, and should be filed in writing by no later than **midday, Monday 4 March 2024**.
29. Counsel for the claimants, interested parties, and the Crown should agree to a draft hearing timetable. The draft hearing timetable, which should include cross-examination indications and sufficient time for Tribunal questions, is due by **5pm, Tuesday 27 February 2024**. Cross-examination documents should also be filed by this date.
30. Counsel for the claimants and interested parties should work together to minimise any duplication of cross-examination. We are amenable to approaches that would allow this, such as the nomination of lead counsel, or for the Tribunal to begin questioning prior to counsel cross-examination (as was conducted in the Priority Inquiry into the Crown's COVID-19 Protection Framework (the COVID-19 Priority Inquiry) (Wai 2575, #2.6.75 at [17] – [19]). We expect such arrangements to be reflected in the joint draft hearing timetable.

*Application of the Wai 2575 accessibility protocol*

31. On 21 September 2021, the Tribunal confirmed an accessibility protocol for phase one of stage two of the Health Services and Outcomes Kaupapa Inquiry (the disability inquiry) (the accessibility protocol) (Wai 2575, #2.6.59(a)).
32. During the COVID-19 Priority Inquiry hearing in December 2021, the Tribunal confirmed that it would comply with the accessibility protocol insofar as it was feasible within the tight timeframes of that inquiry (Wai 2575, #2.6.70 at [45]).
33. We note the participation of taangata whaikaha claimants as interested parties in this inquiry, and the relevance of this kaupapa to the taangata whaikaha and whaanau hauaa community. To this end, we confirm this urgent inquiry will adopt accessibility protocol measures to the extent that it is reasonably possible within the urgent timeframes as set out in Appendix B.
34. With the need to commence hearings by 29 February 2024, we indicate now that it will not be possible to translate documents into accessible formats. Accordingly, five-page summaries of key inquiry documents will not be mandatory. That said, to promote the accessibility of materials received, we would welcome five-page summaries of any briefs or submissions longer than 10 pages where possible.
35. Parties should include in their joint draft hearing timetable a roll call at the beginning of the hearing and five-minute breaks throughout the proceedings.

36. Tribunal staff are currently endeavouring to secure accessibility arrangements for the urgent hearing within short notice. Accessibility requirements of hearing attendees should be communicated when parties confirm their attendance. However, given the limited time available between now and the hearing, the Tribunal is unfortunately unable to guarantee that full accessibility arrangements will be possible. The Tribunal will provide an update on accessibility arrangements for the hearing, if any, in due course.

**Disclosure of interest**

37. Panel member Tania Simpson is a Trustee and Deputy Chair of the Waitangi National Trust Board along with Ngāti Hine applicants Pita Tipene, who is Chair of the Waitangi National Trust, and Waihoroi Shortland, the cultural advisor for the Board.
38. Minister Shane Reti, served as the elected representative of the opposition parties on the Waitangi National Trust Board and Minister Peeni Henare is also a current member of the Board, alongside panel member Tania Simpson.
39. I do not consider this to raise any real conflict of interests but disclose this connection to all parties.

The Registrar is to send this direction to all those on the notification list for Wai 2575, the Health Services and Outcomes Kaupapa Inquiry.

**I HAINATIA** ki Te Whanganui-aa-Tara i te 16<sup>th</sup> o Huitanguru i te tau 2024.



Kaiwhakawaa Damian Stone  
Tumuaki Pakirehua i te Health Inquiry

**TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI**  
**/ WAITANGI TRIBUNAL**

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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 DECISION TO  
INQUIRE URGENTLY**

**22 Hui-tanguru | February**

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**Te Tari Ture  
o te Karauna**  
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Waea Tel: 04 472 1719

**Whakapā mai:      Contacts:**

S9(2)(a)



**MAY IT PLEASE THE TRIBUNAL:**

1. This memorandum is filed in relation to the Tribunal's decision to grant an urgent inquiry into this claim and to timetable a hearing for 29 February and 1 March 2024.<sup>1</sup>
2. The Crown formally reserves its legal position on the Tribunal's decision that an inquiry now would not breach or cut across the legal principle of non-interference/comity.<sup>2</sup>
3. The Crown has previously advised that the Government plans to table a Bill to disestablish the Maaori Health Authority - Te Aka Whai Ora in the House of Representatives by no later than 8 March 2024.<sup>3</sup>
4. The inquiry timetable is based upon "the necessity for the Tribunal to issue its report on or before 8 March 2024".<sup>4</sup> It is apparent that the Tribunal has adopted the Crown's indication of the last potential date for the Bill's introduction as a deadline for issuing its report.
5. Counsel is instructed that, following the Cabinet Legislation Committee's consideration of the Bill today, it is the Government's intention to introduce the Bill on 27 February 2024.
6. If necessary, counsel for the Crown can attend, at short notice, a judicial teleconference with the Tribunal and claimants/counsel to discuss any matters arising.

22 Hui-tanguru | February

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Geoffrey Melvin

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<sup>1</sup> Wai 3307, #2.5.6 at [18].

<sup>2</sup> See Wai 3307, #3.1.39 at [10].

<sup>3</sup> Wai 3307, #3.1.39 at [2].

<sup>4</sup> Wai 3307, #2.5.6 at [21].

Counsel for the Crown

**TO:** The Registrar, Waitangi Tribunal

**AND TO:** Claimant Counsel

PROACTIVELY RELEASED

**Appendix B: confirmed inquiry timetable for the Te Aka Whai Ora (Maaori Health Authority) Urgent Inquiry (Wai 3307)**

As per the Tribunal's *Guide to Practice and Procedure* at 5.3, unless a different time is stated below, all documents are to be filed in the Tribunal's Registry by 5pm on the day they are due.

Milestone	Date	Who
Claimant and interested party evidence	Tuesday 20 February 2024	Claimants and interested parties
Claimant and interested party opening submissions		Claimants and interested parties
Parties attending to RSVP to <a href="mailto:WT.Registrar@Justice.govt.nz">WT.Registrar@Justice.govt.nz</a>	Thursday 22 February 2024	All parties
Crown evidence and opening submissions	Friday 23 February 2024	Crown
Joint draft hearing timetable	Tuesday 27 February 2024	All parties
Cross-examination estimates and documents		All parties
Final hearing timetable	Wednesday 28 February 2024	Tribunal
Any reply evidence		Claimants and interested parties
<b>Urgent hearing</b>	<b>29 February – 1 March 2024</b>	
Closing and any reply submissions presented orally at hearing	12pm, 4 March 2024	All parties
Deadline indicated by the Crown for introducing relevant legislation	<b>8 March 2024</b>	

## Appendix A

## Applicants

No.	Applicants	Representation	Document #
1	<u>Applicant – Wai 3307, Te Aka Whai Ora (the Māori Health Authority) Urgent claim</u> Janice Kuka and Lady Tureiti Moxon	<b>Roimata Smail Ltd</b>  Roimata Smail and Sepora Cassidy	Wai 3307, #1.1.1, #1.1.1(a), #3.1.1, #A1, #A1(a), #A2, #A2(a), #A2(b) & #A3
2	<u>Wai 682, the Ngāti Hine, Lands and Forests claim</u> Rewiti Paraone, Kevin Prime, Erima Henare, Pita Tipene and Waihoroi Shortland on behalf of Te Rūnanga Nui o Ngāti Hine me ngā uri o Torongare and Hauhaua	<b>Tukau Law</b>  Dr Season-Mary Downs, Chelsea Terei-Tipene and Heather Jamieson	Wai 3307, #3.1.2 Amended statement of claim
3	<u>Wai 1464, Te Kapotai claim</u> Te Riwhi Whao Reti, HauHereora, Romana Tarau, Karen Herbert, Edward Cook and Pearl Reti	<b>Tukau Law</b>  Dr Season-Mary Downs, Chelsea Terei-Tipene and Jessica Hita	Amended statement of claim
4	<u>Wai 1194 &amp; Wai 1212, the Taumanu Land claim &amp; the Ngā Uri o Ngā Tokotoru o Manawakotokoto Lands &amp; Resources claim</u> Colleen Skerrett-White, Timitapo Hohepa and Te Ariki Derek Morehu on behalf of Ngāti Te Rangiunuora and the iwi of Ngāti Pikiao	<b>Annette Sykes &amp; Co</b> Annette Sykes and Kalei Delamere-Ririnui	Wai 3307, #3.1.38 Amended statement of claim

## Interested Parties:

No.	Interested Party	Representation	Document #
1	<u>Wai 2644, the Māori Health (New Zealand Māori Council) claim</u> Sir Taihākurei Durie and Rangi Wade on behalf of the New Zealand Māori Council	<b>Woodward Law</b> Donna Hall	Wai 3307, #3.1.3
2	<u>Wai 2912, the Health Services and Outcomes Kaupapa (Te Puna Ora o Mataatua) claim</u> Fiona Wiremu, Brian Simpson, Amohaere Tangitu, Karl Smith and Maanu Paul on behalf of Te Puna Ora o Mataatua and its Māori clients	<b>Whāia Legal</b> Horiana Irwin-Easthope and Raheera Douglas	Wai 3307, #3.1.5
3	<u>Wai 2619, the Māori disabled claim</u>	<b>Mahony Horner Lawyers</b>	Wai 3307, #3.1.6

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	Dr Huhana Hickey on behalf of herself and other Māori disabled	Dr Bryan Gilling and Rox Soriano	
<b>4</b>	<u>Wai 2671, the Mental Health Services (Stevens) Claim</u> Jane Stevens on behalf of the late Nicky Taiaroa Macpherson Stevens, the Stevens whānau, Ngai Tahu and all Māori suffering from mental illness.	<b>Tamaki Legal</b> Stephanie Roughton	Wai 3307, #3.1.7
<b>5</b>	<u>Wai 2139, the Muaūpoko Lands and Resources (Greenland) claim</u> Timothy Tukapua and Dennis Greenland on behalf of Muaūpoko and the Muaūpoko Tribal Authority	<b>Bennion Law</b> Tom Bennion, Emma Whiley and Odette Ford Brierley	Wai 3307, #3.1.8
<b>6</b>	<u>Wai 3216, the Health Services and Outcomes (Raukawa-Tait) claim</u> Merepeka Raukawa-Tait on behalf of her whānau, hapū, iwi, whānau whānui and whāngai	<b>NL Lawyers</b> Ārama Ngāpō	Wai 3307, #3.1.9
<b>7</b>	<u>Wai 2634, the Smoking Healthcare Claim</u> Maraea Katene on behalf of herself and her whānau	<b>Oranganui Legal</b> Eve Rongo	Wai 3307, #3.1.10
<b>8</b>	<u>Wai 2109, Ngati Kapo (Tibble) Claim</u> Maaka Tauranga Tibble on behalf of himself and all Kāpō Māori (Māori blind, vision impaired, and deaf blind persons) and their whānau and Kāpō Māori Aotearoa/New Zealand Incorporated	<b>Rainey Collins</b> Peter Johnston, Devon Tesoriero, Alka Ahirao and Alex McCracken	Wai 3307, #3.1.11
<b>9</b>	<u>Wai 2745, the Unaffordable Housing (Munroe) Claim</u> Debbie Munroe on behalf of Waka of Caring	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.12
<b>10</b>	<u>Wai 2727, the Natural and Indigenous Healthcare Treatments claim</u> Tanya Filia on behalf of herself, her whānau and all Māori, concerning the availability of natural, indigenous and traditional rongoā Māori as part of the primary healthcare system.	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.13
<b>11</b>	Maia Honetana on behalf of her whānau	<b>Loader Legal</b>	Wai 3307, #3.1.14



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		Brooke Loader and Shane Henderson	
12	<u>Wai 762, Waimiha River Eel Fisheries (King Country) claim</u> Te Urunga Aroha Evelyn Kereopa on behalf of herself, her whānau of Te Ihingaarangi, a hapū of Maniapoto	<b>Tamaki Legal</b> Stephanie Roughton	Wai 3307, #3.1.15
13	Natasha Willison-Reardon on behalf of Iwi me hapū Ki Marokopa, incorporating Ngāti Te Kanawa and Ngāti Kinohaku ki Marokopa, based in the rohe of Hapū Ki Marokopa Marae.	<b>Loader Legal</b> Brooke Loader and Shane Henderson	Wai 3307, #3.1.16
14	<u>Wai 3073, the Te Roopu Waiora Trust claim</u> Tania Kingi on behalf of Te Roopu Waiora	<b>Bennion Law</b> Tom Bennion, Emma Whiley and Odette Ford Brierley	Wai 3307, #3.1.17
15	<u>Wai 2499, Māori Health Disparities (Jansen, Laking &amp; Moke) claim</u> Dr David Jansen and others on behalf of Te Ohu Rata o Aotearoa	<b>Kāhui Legal</b> Matanuku Mahuika, Tara Hauraki and Paranihia Walker	Wai 3307, #3.1.18
16	<u>Wai 2003, Ngāti Korokoro, Ngāti Wharara and Te Pouka (Turner and Others) Resource Management claim</u> Cheryl Turner, John Klaricich, Harerei Toia, Hone Taimona, Ellen Naera, Fred Toi and Warren Moetara on behalf of the whānau of Ngāti Korokoro, Ngāti Wharara and Te Pouka hapū	<b>Dixon &amp; Co Lawyers</b> Kelly Dixon	Wai 3307, #3.1.19
17	Ngātiwai Trust Board	<b>Kāhui Legal</b> Tara Hauraki	Wai 3307, #3.1.20
18	Te Whakakitenga o Waikato Incorporated	<b>Kāhui Legal</b> Jamie Ferguson	Wai 3307, #3.1.21
19	<u>Wai 1341, Ngāti Rēhia Hapū claim</u> Nora Rameka on behalf of Ngāti Rēhia	<b>Kaupare Law</b> Ihipera Peters, Aroha Herewini and Amber-Leigh Evans	Wai 3307, #3.1.22
20	<u>Wai 2476, the Tohunga Suppression Act (Te Hira) claim</u> Byrar Te Hira on behalf of herself and her whānau	<b>Kaupare Law</b>	Wai 3307, #3.1.23

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		Ihipera Peters, Aroha Herewini and Amber-Leigh Evans	
<b>21</b>	<u>Wai 2943, the National Hauora Coalition and all Māori claims</u> Dr Rachel Brown on behalf of the National Hauora Coalition	<b>Dixon &amp; Co Lawyers</b> Kelly Dixon	Wai 3307, #3.1.24
<b>22</b>	<u>Wai 2849, the Health Services and Outcomes (Lawrence) claim</u> Awhirangi Panehina Lawrence on behalf of herself, her whānau, and Ngā Uri o Ngatau me Pomana Honetua  <u>Wai 179, Māori Affairs Act and Burials and Cremations Act claim</u> Ruiha Collier, Colin Malcolm (deceased), Anne Davies and Huhana Seve on behalf of themselves and their extended whānau  <u>Wai 2848, the Health Services and Outcomes (Paul) claim</u> Pita Paul, on behalf of himself, his whānau, and hapū, and various Marae throughout Aotearoa  <u>Wai 2850, the Health Services and Outcomes (for Displaced Children) claim</u> Beverley Wiltshire-Reweti, on behalf of herself, and all Māori children that were displaced from their whānau, hapū and iwi under adoption and care of children legislation  <u>Wai 3111, the Health Services and Outcomes (Dally-Paki) claim</u> Nicola Dally-Paki on behalf of her whānau, hapū, iwi and whānau whānui	<b>Phoenix Law</b> Janet Mason, Lars Thompson and Niall Thurpp	Wai 3307, #3.1.25
<b>23</b>	<u>Wai 1531, Land Alienation and Wards of the State (Harris) claim</u> Te Enga Harris and Lee Harris on behalf of the Harris whānau	<b>Tamaki Legal</b> Stephanie Roughton and Siaosi Loa	Wai 3307, #3.1.26
<b>24</b>	<u>Wai 2713, Māori Nurses claim</u> Hineraumoa Te Apatu on behalf of Te Rūnanga o Aotearoa Tōpūtanga Tapuhi Kaitiaki o Aotearoa	<b>Anette Sykes &amp; Co Barristers &amp; Solicitors</b> Annette Sykes and Kalei Delamere-Ririnui	Wai 3307, #3.1.31
<b>25</b>	<u>Wai 2494, Racism Against Māori claim</u> Donna Awatere-Huata on behalf of herself and all Māori	<b>Anette Sykes &amp; Co Barristers &amp; Solicitors</b>	Wai 3307, #3.1.32

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		Annette Sykes and Kalei Delamere-Ririnui	
<b>26</b>	<u>Wai 2831, the Marine and Coastal Areas (Tukutai Moana) Act (Te Aupōuri) claim</u> Te Rūnanga Nui o Te Aupōuri Trust	<b>Tukau Law</b> Dr Season-Mary Downs, Chelsea Terei-Tipene and Majka Cherrington	Wai 3307, #3.1.36
<b>27</b>	<p><u>Wai 3096, the Health Services and Outcomes (August) claim</u> Stephanie August on behalf of the late Robert Charles William James Farrar and her whānau</p> <p><u>Wai 1886, Ngāti Tara (Gabel) claim</u> Robert Gabel on behalf of Ngāti Tara</p> <p><u>Wai 2206, Nga Wahapu o Mahurangi (Ngati Whatua Ngapuhi) claim</u> April Grace on behalf of herself, her whānau, Ngā Wahapū o Te Rarawa o Kohai Settlement, and Te Hokingamai e te iwi o Ngāti Whātua Ngāpuhi nui tonu</p> <p><u>Wai 892, Patutahi, Muhunga and Other Lands and Resources (Te Whanau-a-Kai) claim</u> David Hawea on behalf of the Hawea whānau and the Te Whānau a Kai iwi,</p> <p><u>Wai 2890, the Mental Health (Huirama) claim</u> Tasilofa Huirama, the late Ziporah Grace Huirama (Esther Osborne), the Huirama/Osborne whānau, as members of Ngāti Ueoneone and Ngāti Tautahi of Ngapuhi</p> <p><u>Wai 2747, the Housing (Kearns) claim</u> John Kearns and Maeva Kearns on behalf of the Kearns whānau</p> <p><u>Wai 2869, the Mana Wāhine (Rogers) claim</u> Audry Okeroa Rogers, on behalf of herself, her whānau and members of Ngāti Koheriki</p> <p><u>Wai 2382, Tahawai (Aldridge) claim</u> Violet Eva Walker on behalf of herself, her whānau and Ngāti Uru</p>	<b>Tamaki Legal</b> Stephanie Roughton	Wai 3307, #3.1.35

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	<u>Wai 2778, the Marine and Coastal Area (Takutai Moana) Act (Watene) claim</u> Kahura James Watene on behalf of Tukōtukō and Ngāti Moe		
<b>28</b>	Korina Burne-Vaughn on behalf of Taukura Kauora o Tainui Trust	<b>Public Law Toolbox Chambers</b> Mai Chen and Caleb Saunders	Wai 3307, #3.1.37

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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 TO THE WAITANGI TRIBUNAL BY  
JANICE KUKA AND LADY TUREITI MOXON  
IN RESPECT OF THE PROPOSED  
DISESTABLISHMENT OF TE AKA WHAI ORA  
THE MĀORI HEALTH AUTHORITY**

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**BRIEF OF EVIDENCE OF JOHN NORMAN WHAANGA**

**23 February 2024**

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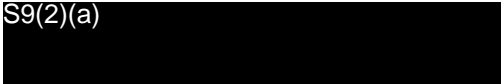


**Te Tari Ture  
o te Karauna**  
Crown Law

Pouaka Poutaapeta PO Box 2858  
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**Whakapaa mai: Contacts:**

S9(2)(a)



### **Introduction**

1. My full name is John Norman Whaanga.
2. I am the Deputy Director-General for Maaori Health at the Ministry of Health. I was appointed to this role in January 2019.
3. I am affiliated to Ngaati Raakaipaaka, Ngaati Kahungunu, and Ngaati Rongomaiwahine.

### **Scope of evidence**

4. This brief outlines the wider health system context that enables the Crown to give effect to the principles of the Treaty of Waitangi. This includes the legislative requirements of the Pae Ora (Healthy Futures) Act 2022 (the Act), current Government strategy and policy, and the commitments of the Government to meet the needs and aspirations of Maaori and improve health outcomes for Maaori.

### **Wider health system context**

#### **Section 6 of the Pae Ora (Healthy Futures) Act 2022**

5. Section 6 of the Act sets out how the Crown will give to give effect to the principles of the Treaty of Waitangi and how the Minister of Health (the Minister), the Ministry, and all health entities will be guided by the health sector principles to improve the health sector for Maaori and achieve hauora Māori outcomes.
6. Section 6 supports the health system-wide duty to uphold the Crown's obligations under the Treaty of Waitangi.

#### **Section 7 of the Pae Ora (Healthy Futures) Act 2022**

7. Section 7 of the Act provides guiding principles for the health sector that were guided by the principles of the Treaty of Waitangi as articulated by the Waitangi Tribunal in the Wai 2575 Health Services and Outcomes Kaupapa Inquiry Stage One report *Hauora*.
8. Additionally, the health sector principles have been developed to be relevant for all populations in New Zealand.

**Pae Tuu Hauora Māori Strategy<sup>1</sup>**

9. 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 Maaori Strategy published in July 2023.
10. Pae Tuu is the current Hauora Maaori Strategy which provides the guiding framework by which health entities will uphold Te Tiriti and achieve Maaori health equity.
11. Pae Tuu is an interim step ahead of a full review and refresh of He Korowai Oranga: Maaori Health Strategy (2014), which will take place when Whakamaua: Maaori Health Action Plan 2020-2025 is fully implemented.

**The Interim Government Policy Statement <sup>2</sup>**

12. The purpose of the Government Policy Statement on Health 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.
13. According to section 36 (1)(c) of the Pae Ora (Healthy Futures) Act 2022, the Government Policy Statement on Health must include the Government's priorities for engaging with and improving health outcomes for Maaori.
14. The current interim Government Policy Statement on Health has six priority areas, with two priority settings of achieving equity in health outcomes and embedding the Treaty of Waitangi across the health sector.

**Whakamaua: Maaori Health Action Plan 2020-2025<sup>3</sup>**

15. Whakamaua: Maaori Health Action Plan 2020-2025 provides the health system with practical guidance to give effect to He Korowai Oranga: Maaori Health Strategy (2014).
16. Whakamaua: Maaori Health Action Plan 2020-2025 sets out four high-level

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<sup>1</sup> <https://www.health.govt.nz/publication/pae-tu-hauora-maori-strategy>

<sup>2</sup> <https://www.health.govt.nz/publication/interim-government-policy-statement-health-2022-2024>

<sup>3</sup> <https://www.health.govt.nz/our-work/populations/maori-health/whakamaua-maori-health-action-plan-2020-2025>

outcomes, four objectives, and eight priority areas. The four high-level outcomes respond to important cultural, social, economic, and population health challenges. The four objectives are the basis for measuring and monitoring the progress of the plan over the five-year period towards achieving the four high-level outcomes. The eight priority areas are designed to ensure that available resources are used efficiently and effectively.

17. The actions of Whakamaua: Maaori Health Action Plan 2020-2025 are critical, in combination, to create the conditions necessary for a system shift in the short and medium term.

#### **Interim New Zealand Health Plan 2022: Te Pae Tata<sup>4</sup>**

18. The purpose of the New Zealand Health Plan is to give effect to the Government Policy Statement on Health by providing a 3-year costed plan for the delivery of publicly funded services by Health New Zealand and the Maaori Health Authority.
19. Section 51 (h) of the Pae Ora (Healthy Futures) Act 2022 identifies priority areas and actions points to build a transformed health system. This includes engaging with Maaori, protecting Maaori interests and aspirations, empowering Maaori to improve their health, and being guided by the health sector principles in the development and content of the Plan.
20. The Plan provides an important and practical mode of delivering on the principles of the Treaty of Waitangi.

#### **Ministry of Health Strategy and Strategic Intentions 2022-2026<sup>5</sup>**

21. *Developing the future Ministry of Health: Our strategy and strategic intentions 2022-2026* describes the Ministry of Health's intended role and functions and how the Ministry of Health will carry these out, both independently and in partnership with other entities.
22. The document specifies the critical priorities and intended actions that the Ministry of Health will focus on over the period to 2026 to fulfil its role. The

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<sup>4</sup> <https://www.tewhātuora.govt.nz/publications/te-pae-tata-interim-new-zealand-health-plan-2022/>

<sup>5</sup> [https://www.health.govt.nz/system/files/documents/publications/strategic\\_intentions\\_2022\\_web.pdf](https://www.health.govt.nz/system/files/documents/publications/strategic_intentions_2022_web.pdf)



Ministry is committed to honouring its obligations under Te Tiriti of Waitangi and achieving equitable health outcomes for Maaori.

**Conclusion**

37. The transformation of the health system is about achieving equitable health outcomes for New Zealanders. Individual entities and strategies are not the end point. I have highlighted how responsibility for honouring obligations under Te Tiriti o Waitangi is embedded across the health system.

Signed: \_\_\_\_\_  
John Norman Whaanga

Date: \_\_\_\_\_

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