In the Waitangi Tribunal **Wai 2575**

In the Matter of the Treaty of Waitangi Act 1975

And

In the Matter of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575)

Memorandum of Counsel in Response to Memorandum-Directions Wai 2575 #2.5.2

Dated 13 March 2017

RightLaw
Lawyers
11 Kaihu Street
Northcote
Auckland 0627
094809450
021303923
gesharrock@rightlaw.nz

RECEIVED
Waitangi Tribunal
13 Mar 2017
Ministry of Justice
WELLINGTON

May it please the Tribunal

1. This Memorandum of Counsel is filed in response to the Memorandum-Directions of the Presiding Officer, dated 21 December 2016 (Wai 2575, #2.5.2) ("the Directions") which directs Counsel for claimants to file submissions on claims concerning health issues by 13 March 2017.

2. This memorandum responds to the questions asked at paragraph 14 of the Directions.

Claimants who wish to have their health grievances heard

3. The following is a list of claimants who have to date instructed Counsel that they wish to be heard and participate in the Health Kaupapa Inquiry. All the claimants are Maori, have health concerns and fit within the criteria for inclusion in this inquiry as set out in the Memorandum Directions dated 30 November 2016 (Wai 275, #2.5.1).

    (a) Marama Stead Wai 121 1450 and 2108();

    (b) Joseph Kingi 884 and 1841;

    (c) Rihari Dargaville Wai 2179

(the "Claimants")

4. Counsel advise that we are either filing amended statements of claim or the claims are already including relevant health claims.
5. Counsel also advise that instructions are pending on a small number of additional claims and seek leave to make further submissions as soon as possible upon receipt of these instructions, if necessary.

6. Counsel support and adopt the submissions made by Lyall and Thornton regarding the general issue of eligibility in their Memorandum of Counsel dated 13 March 2017 at paragraphs 6-13.

Issues raised by the Claimants

7. The principal health concerns raised by the Claimants include, but are not limited to, the Crown failing to:

(a) recognise Maori systems and methods of healthcare;

(b) support traditional Maori methods of healthcare allowing Maori to continue their tikanga and way of life, rather than a Crown imposed western system of healthcare that did not consider Maori needs;

(c) provide whanau-focused approaches in the provision of healthcare;

(d) ensure that Maori are meaningfully represented and consulted in the decision making processes in relation to health;

(e) provide adequate forms of support to ensure Maori can participate equitably with non-Maori at all levels of health decision-making;

(f) address institutionalised racism and racial privilege within the healthcare system;

(g) connect Maori with the correct services to prevent the worsening of health outcomes;

(h) meet the needs of those Maori living in deprived areas, who suffer from poorer health in general;

(i) address issues of adequate housing;

(i) prevent the introduction of foreign diseases such as measles, dysentery, sexually transmitted diseases, rheumatic fever, tuberculosis, typhoid fever, influenza, and whooping cough;

(j) identify and treat Maori with preventable illnesses;

(k) effectively provide care for Maori with mental health disorders such as depression, bipolar disorder, dementia, addiction and dependence on drugs and alcohol;

(I) actively prevent the rate of suicide in Maori and in particular Maori youth, increasing the gap between Maori and non-Maori suicide rates;

(m) adequately address the health costs of smoking, drinking and abuse of drugs, and the health issues relating to dependency;

(n) effectively provide care for Maori disabled;

(o) prevent or stop the abuse of Maori, including Maori disabled, in institutions such as, but not limited to:

(j) residential care facilities;

(ii) prisons; and

(iii) special education schools.

(p) address poverty and other underlying causes of ill health;

(q) record, monitor and respond to reasons for the growing disparity in provision of heath care for Maori and non-Maori;

(r) provide support and create a safe environment within the healthcare sector for transgender Maori; and

(s) ensure Te Tiriti is applied and upheld in all parts of the health care sector

Claimants and Crown ready to proceed

8. Counsel do not support immediately proceeding to a full inquiry as in our view at this stage there is insufficient evidence to proceed to a full inquiry.

9. That said, the Claimants wish preparations for the inquiry to be advanced with all deliberate speed. As with Wai 2500, there are claimants who could provide oral evidence prior to a second round of hearings that would include written and technical material.

10. Counsel also submit that the identification of technical material presently available should be advanced by the Tribunal as quickly as possible so that further required technical research can be commissioned at the earliest opportunity. In this regard, Counsel also support and adopt the submissions by Lyall and Thornton at paragraphs 23-30. There is to be noted substantial reports on disparity of Maori health outcomes from among others the University of Otago.

Matters of priority

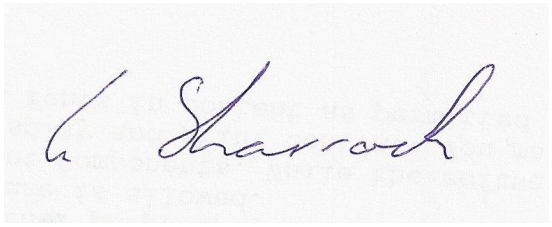
11. Counsel submits that all matters in this kaupapa inquiry are of equal importance and therefore no matters should have priority.

Organisations as interested parties

12. The Claimants represented by Counsel are participating in this inquiry as individual claimants rather than as part of an organisation. Counsel is not opposed however, to the representation of health organisations, particularly Maori health providers, in this inquiry.

13. In filing this memorandum to meet the Tribunal's timeframe, Counsel reserve the right to edit and make additions to the issues at hand upon the receipt of more information.

Dated at Wellington this 13th day of March 2017



Gerald Sharrock

Counsel for the Claimants