KEI MUA I TE RŌPŪ WHAKAMANA I TE TIRITI **WAI 2575**
BEFORE THE WAITANGI TRIBUNAL **Wai 1536**

I TE TAKE O	**TE TURE O TE TIRITI O WAITANGI 1975**
IN THE MATTER OF	**THE TREATY OF WAITANGI ACT 1975**
ME	
AND	
IN THE MATTER OF	**THE HEALTH SERVICES AND OUTCOMES KAUPAPA INQUIRY**
ME	
AND	
I TE TAKE O	**NGĀ KERĒME O MARY-ANNE TAPU BAKER MŌ NGA URI O MAIKUKU RĀUA KO HUATAKAROA, ARA KO KAITEKE TE KEMARA I, TE RUKI KAWITI, HONGI HIKA, NGATI RAHIRI ME NGATI KAWA**
IN THE MATTER OF	**CLAIMS BY MARY-ANNE TAPU BAKER ON BEHALF OF THE DESCENDANTS OF MAIKUKU RĀUA KO HUATAKAROA, NAMELY KAITEKE TE KEMARA I, TE RUKI KAWITI, HONGI HIKA AND NGĀTI RAHIRI AND NGATI KAWA**

HE WHAKAPĀ TUHINGA

MEMORANDUM OF COUNSEL

TĒNEI RĀ 13 O PUTOKI-O-TAU 2017

DATED THIS 13th DAY OF MARCH 2017

RECEIVED
Waitangi Tribunal
14 Mar 2017
Ministry of Justice
WELLINGTON

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MEMORANDUM OF COUNSEL

MĒNĀ KA PAI KI TE RŌPŪ WHAKAMANA I TE TIRITI
MAY IT PLEASE THE TRIBUNAL

1. This Memorandum of Counsel is filed on behalf of the Wai 1536 claimants, being Dr Mary-Anne Baker on behalf of the descendants of Maikuku and Huatakaroa, namely Kaiteke Te Kemara I, Te Ruki Kawiti, Hongi Hika and Ngāti Rahiri and Ngāti Kawa, and is filed in response to the Memorandum-Directions of Presiding Officer dated 21 December 2016[1] directing counsel to file submissions by 13 March 2017 in relation to the following issues:

    i. Which claimants wish to have their health grievances heard in the inquiry;

    ii. Questions of eligibility;

    iii. Whether the claimants and the Crown are ready to proceed;

    iv. Whether there are matters that should have priority;

    v. Whether any other organisations wish to participate as interested parties and on what basis;

    vi. What existing evidence is likely to be available and what additional evidence may be required; and

    vii. What inquiry process the Tribunal should adopt in preparing the evidence, setting the issues, and hearing and reporting on the claims.

The Wai 1536 Claim

2. Counsel confirm that the Wai 1536 claimants wish to have their claim heard in the Wai 2575, Health Services and Outcomes Kaupapa Inquiry.

[1] Wai 2575, #2.5.2.

The claimants are Māori, have health concerns and fit within the criteria for inclusion in this inquiry as set out in the Memorandum-Directions dated 30 November 2016.[2]

3. The Wai 1536 claim has not been heard by the Tribunal on these health-related issues to date, there is no settlement that would prevent this claim from being heard in this Inquiry and

4. Counsel advise that we are currently working with the claimants on an Amended Statement of Claim.

5. Counsel advise that the claimants are ready to proceed and have their claim heard as part of this inquiry.

Principal Issues

6. The principal issues the claimants seek to have addressed in this inquiry will be included in the Amended Statement of Claim, but generally are as follows:

    a) Visible and invisible praxis relating to rongoa Māori has not been upheld as a taonga;

    b) The lack of implementation of traditional Māori ways of caring and living with full support;

    c) Legislating the claimants away from their resources;

    d) Legislating the claimants into restricted use of their resources;

    e) The Crown's failure to recognise ritenga and tikanga as separate yet inter-dependent disciplines of wellbeing;

    f) The Crown's failure to support pharmacy services to protect Māori health and wellbeing;

[2] Wai 2575, #2.5.1.

g) That rongoa Māori is not known or taught as a side-by-side medication regime;

h) That the exploration into the use and institution of rongoa Māori into practice is lacking;

i) Traditional remedial foods have not been researched;

j) Palliation is not treated as a priority right by the Crown;

k) Taitokerau Māori are dying earlier than non-Māori;

l) The Crown does not recognise the aging Māori kaumatua and kuia as a taonga;

m) There is a lack of education and understanding on the persona of Māori in terms of characteristics, cultural identification and powers;

n) There is a lack of acceptance of be-ing Māori in terms of tradition, cultural fit and culture;

o) There is a failure to see Māori traditions as a valid native science;

p) There is a lack of acceptance and education around the pathways for Māori in terms of care;

q) There is a lack of understanding that tikanga invades every part of Maoritanga and is in the hinengaro of a Māori;

r) Limited analyses has been carried out around what constitutes care and when care should cease; and

s) The education curriculum does not cover cosmogony, thogeny, anthropogeny including wairua.

Matters of Priority

7. Counsel have no submissions to make on this issue.

Other organisations

8. We have no submissions to make on this point.

Existing Evidence

9. Counsel adopt the submissions made by Lyall and Thornton in their 13 March 2017 Memorandum of Counsel at paragraphs 23 – 30.

Inquiry Process

10. Counsel adopt the submissions made by Lyall and Thornton in their 13 March 2017 Memorandum of Counsel at paragraphs 31 – 35.

Conclusion

11. Counsel look forward to further discussion with the Tribunal on these matters at the upcoming judicial conference.

12. Counsel apologise for the slight delay in filing and seek leave for the same.

Dated this 13th Day of March 2017
Kei Tamaki Makaurau,

Tavake Barron Afeaki | Rebekah Jordan | Siaosi Tofi
Claimant Counsel

To: The Registrar of the Waitangi Tribunal

To: Learned Crown & Claimant Counsel – The Health Services and Outcomes Kaupapa Inquiry