

IN THE WAITANGI TRIBUNAL

Wai 2700
Wai 2743

IN THE MATTER

of the Treaty of Waitangi Act 1975

AND

IN THE MATTER

of the Mana Wāhine Kaupapa
Inquiry

AND

IN THE MATTER

a claim by **James Toopi Wikotu**, on
behalf of **his whānau**, and the
wahine of Te Upokorehe

**MEMORANDUM OF COUNSEL FILING FIRST AMENDED STATEMENT OF
CLAIM OF WAI 2743**

Dated: 21 September 2018

TamakiLegal
Barristers & Solicitors

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Waitangi Tribunal

21 Sep 2018

Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL

1. This memorandum is filed on behalf of James Toopi Wikotu, on behalf of his whānau, and the wahine of Te Upokorehe (“the Claimants”).
2. By way of Memorandum Directions¹ dated 9 July 2018, parties were directed to file any new or amended statements of claim by 12pm midday on Friday the 31st August 2018.² By Memorandum of Counsel, on 31 August 2018 Counsel sought an extension to filing a number of Statements of Claim including that of Mr Wikotu. By Memorandum-Directions³ dated 4 September 2018, His Honour granted a blanket extension to file any new or amended statements of claim and submissions on eligibility by 12pm, Friday 21 September 2018.
3. Accordingly, we attach for filing this Statement of Claim in relation to the Claimants’ Mana Wāhine claims. We apologise for the slight delay in filing and submit that no party to this Inquiry will be unduly prejudiced.
4. The Claimants wish to have this claim heard in the Mana Wāhine Kaupapa Inquiry.
5. This First Amended Statement of Claim addresses the issue of the Crown failure to actively protect the identity and culture of wahine Māori.

Eligibility

6. The Claimants rely on the eligibility criteria set out by the Chief Judge in the Health Policy and Services Kaupapa Inquiry⁴ to inform the eligibility of this claim in this inquiry. We summarise that criteria here:
 - a. Claims will be eligible where their grievances are a primary concern rather than consequences of grievances about other matters;⁵

¹ Wai 2700, #2.5.6.

² Wai 2700, #2.5.6, at 6.

³ Wai 2700, #2.5.7, at 4.

⁴ Wai 2575, #2.5.1

- b. That the claims address issues of national scale and significance;⁶
- c. The claim cannot relate to Crown acts or omissions prior to 21 September 1992 and form part of claims fully addressed in one or more historical treaty settlements of the Crown;⁷
- d. The claim must not have been fully heard and reported on by the Tribunal;⁸
- e. The claim must not have claims that have already been fully consolidated by Tribunal direction into district or kaupapa inquiries that are currently underway;⁹
- f. Claimants whose claims allege grievances on their own behalf as individual Māori or on behalf of non-tribal groups of Māori may be eligible to participate notwithstanding their actual or implied affiliation with tribal groups that have settled their Treaty claims with the Crown. The Tribunal will consider the eligibility of such claims on a case by case basis.¹⁰

7. We respond to each of the criteria in the order as listed immediately above:

- a. The Wai 2743 claim issues in this inquiry are primarily concerned with Mana Wahine issues. In particular, the Crown failure to actively protect the identity and culture of the Claimants.
- b. The issues canvassed in this First Amended Statement of Claim of Wai 2743 are of national scale and significance;
- c. The Wai 2743 claim does not relate to Crown acts or omissions prior to 21 September 1992, and does not form any part of a claim

⁵ Wai 2575, #2.5.1, paragraph 11

⁶ Wai 2575, #2.5.1, paragraph 12

⁷ Wai 2575, #2.5.1, paragraph 13(a)

⁸ Wai 2575, #2.5.1, paragraph 13(b)

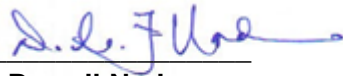
⁹ Wai 2575, #2.5.1, paragraph 13(c)

¹⁰ Wai 2575, #2.5.1, paragraph 15

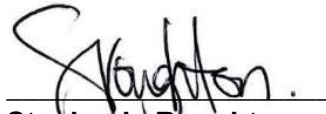
that has been settled by an historical treaty settlement of the Crown;

- d. The Wai 2743 claim has not been fully heard or reported on by the Tribunal;
 - e. The Wai 2743 claim is a contemporary claim which is currently being heard in the Housing Policy and Services Kaupapa Inquiry (Wai 2750); and
 - f. The grievances alleged in this claim are on behalf of the Claimant's whānau and hapū, which is a non-traditional tribal group.
8. Given the responses in paragraphs 6a. – 6f. above, we submit that this claim is eligible to participate in the Mana Wāhine Kaupapa Inquiry.

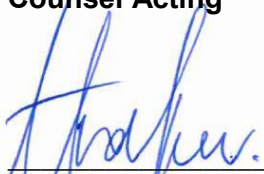
DATED at Auckland this **21st** day of **September 2018**



Darrell Naden
Counsel Acting



Stephanie Roughton
Counsel Acting



Hanamaraea Walker
Counsel Acting