

BEFORE THE WAITANGI TRIBUNAL

WAI TBA

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

of the Māori Arts Equity and
Wellbeing Claim

AND

IN THE MATTER OF

claims by **Rikirangi Gage**
and **Te Rita Papaesh** on
behalf of the Te Pūtahitanga
o Ngā Uru Whetu National
Māori Arts Coalition, in
respect of New Zealand
Government legislative
framework, fiscal policies
and practice pertaining to the
Māori Arts system

STATEMENT OF CLAIM**Dated this 18th day of September 2019**

RECEIVED Waitangi Tribunal
18 Sep 2019
Ministry of Justice WELLINGTON

Annette Sykes & Co
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MAY IT PLEASE THE TRIBUNAL

INTRODUCTION

1. This Statement of Claim is filed on behalf of the following claimants:
 - a) Rikirangi Gage of Te Whānau-a-Apanui, on behalf of all Māori, including himself and on behalf of Te Roopū Kapa Haka o Te Whānau-a-Apanui;
 - b) Te Rita Papaesh of Waikato-Maniapoto, Ngāti Porou and Ngāti Whakaue descent, on behalf of all Māori, including herself and on behalf of Te Kapa Haka o Te Haona Kaha;
 - c) Moana Jackson of Ngāti Porou and Ngāti Kahungunu descent, on behalf of all Māori and on behalf of Te Pūtahitanga o Ngā Uru Whetu Māori Arts Coalition;
 - d) Dr Ngarino Ellis of Ngāpuhi and Ngāti Porou descent, on behalf of all Māori and on behalf of Te Pūtahitanga o Ngā Uru Whetu Māori Arts Coalition;
 - e) Paora Sharples of Ngāti Kahungunu and Ngāti Porou, on behalf of all Māori, including himself and on behalf of Te Kapa Haka o Te Roopū Manutaki.
2. The Claimants make an application for an urgent inquiry into the prejudicial effects of the legislative framework guiding the institutional arrangements of the Crown's fiscal policies and investment of public funds into the New Zealand Arts, Culture and Heritage sector by the Crown and seek to be heard as part of the process of determination of that application.

JURISDICTION

3. The Claimants are Māori for the purposes of s 6(1) of the Treaty of Waitangi Act 1975¹.
4. The Claimants argue that they have been, continue to be and are likely to be prejudicially affected by Crown actions and policies which are in breach of Te Tiriti o Waitangi/ Treaty of Waitangi (“Te Tiriti/the Treaty”).

THE CLAIMANTS

5. Te Pūtahitanga o Ngā Uru Whetu is a national coalition of Māori advocates that works to protect, maintain, strengthen and amplify the arts, culture and heritage of indigenous Māori peoples. This includes achieving greater recognition, equity and equality for Maori artists and performers by promoting their rights, economic opportunities, cultural resilience and sovereignty over their taonga.
6. Te Kapa Haka o Te Whānau-ā-Apanui from the Mataatua rohe in the Eastern Bay of Plenty region was established by the kaumātua of the iwi. The group is now tutored by Rikirangi Gage.
7. The Kapa Haka group, Te Hāona Kaha, officially came together as a kapa haka in 2012. The group is from the Waikato-Maniapoto rohe. The descendants of Ngāti Apakura affiliate to Pūrekireki, Kahotea and Hui Te Rangiora marae.
8. The Kapa Haka group, Te Roopū Manutaki, was formed at Hoani Waititi by Dr Pita Sharples in 1968 as the founding tutor and leader. Te Roopū Manutaki is one of the longest standing kapa haka in New Zealand and have successfully won two Matatini competitions in 1975 and 1990.

THE CLAIM

9. The Claimants say that they are prejudicially affected by acts and omissions of the Crown in relation to the development and implementation of fiscal

¹ Treaty of Waitangi Act 1975, s 6(1).

policies and mechanisms affecting the traditional and contemporary Māori arts sector, including the funding of Māori Arts mediums which include but are not limited to Kapa Haka, Waka Hourua, Ngā Tākaro Māori, Mau Rākau, Tātai Arorangi, Tā Moko, Whakairo, Kowhaiwhai, Tāniko, Tukutuku, Raranga, Karanga, Whakairo, Whakaahua, Whakaata, Te Reo me onā Tikanga and Whakapapa.

10. These acts and omissions are in breach of the principles of Te Tiriti/the Treaty and in particular, the Crown's Treaty obligations to take reasonable steps to address Māori cultural inequity and inequality. This is not just a moral obligation but one that arises from the failure to recognise the role of Māori art as an integral part of the social, cultural and economic life of hapū and iwi and the wider society of Aotearoa New Zealand.
11. The focus of this claim is on the legislative framework guiding the institutional arrangements of the Crown's fiscal policies and investment of public funds into the New Zealand Arts, Culture and Heritage sector comprising in the main, the following Acts:
 - a) The State Sector Act 1988 which sets out the governance, accountability, management and employment arrangements of relevant government departments, including the Ministry for Culture and Heritage and the Ministry for Māori Development;
 - b) The Public Finance Act 1989, including its most recent amendments, which sets out the financial responsibilities of government departments; including the Ministry for Culture and Heritage and the Ministry for Māori Development;
 - c) The Crown Entities Act 2004, including its most recent amendments, which sets out the establishment, governance, accountability and financial rules of existing and future Crown entities; including the New Zealand Film Commission, Arts Council of New Zealand Toi Aotearoa, Heritage New Zealand Pouhere Taonga, Museum of New Zealand Te

Papa Tongarewa Board, Te Reo Whakapuaki Irirangi (Māori Broadcasting Funding Agency), Te Taura Whiri I Te Reo Māori (Māori Language Commission).

- d) Arts Council of New Zealand Act 2014, which sets out the dissolution of the Te Waka Toi Committee and repealed the Arts Council of New Zealand Act 1994.
- e) Heritage New Zealand Pouhere Taonga Act 2014, which sets out the governance and functions of the New Zealand Historic Place Trust and the Māori Heritage Council along with the provisions related to the New Zealand Heritage List.
- f) Museum of New Zealand Te Papa Tongarewa Act 1992, which sets out the establishment, governance and functions of a National Museum.
- g) New Zealand Film Commission Act 1978, which sets out the establishment, functions, governance and funding arrangements of the New Zealand Film Commission.
- h) Broadcasting Act 1989, which sets out the establishment, functions and funding arrangements of Te Reo Whakapuaki Irirangi (Māori Broadcasting Funding Agency).
- i) Te Ture mo Te Reo Māori 2016 (Māori Language Act 2016), which repeals the Māori Language Act 1987 and Part 4A of the Broadcasting Act 1989 and establishes Te Mātawai.
- j) Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003, which sets out the establishment, service, governance and functions of Māori Television.

12. This claim is not a historical claim within the meaning of s 2 of The Treaty of Waitangi Act.² It relates to actions or omissions by or on behalf of the

² Treaty of Waitangi Act 1975, s 2.

Crown occurring after 21 September 1992 and is therefore a contemporary claim.

TE TIRITI O WAITANGI AND ITS PRINCIPLES

13. Without limiting Te Tiriti/the Treaty, the Claimants assert that the following are principles of the Treaty, each of which they say is relevant to their claim:
- a) tino rangatiratanga;
 - b) active protection;
 - c) partnership and reciprocity (acting towards each other reasonably, honourably and in good faith);
 - d) equity.

Tino rangatiratanga

14. The overarching principle of Te Tiriti/the Treaty acknowledges and protects Māori tino rangatiratanga and is a well-established principle in Treaty jurisprudence. It is defined as the “unqualified exercise of chieftainship and confirms and guarantees to Māori their property and other rights”³.

Active Protection

15. In accordance with Article II of Te Tiriti and the principle of active protection, the Crown is required to actively protect taonga Māori and Māori interests generally. Where adverse disparities in Māori arts funding between Māori and non-Māori are persistent and marked, the Crown is obliged to take appropriate legislative and policy measures to minimise their causes and effects.
16. The Tribunal has repeatedly stated that Article II of the Treaty requires that the Crown has a duty to actively protect taonga Māori. In the *Ko Aotearoa*

³ I. H. Kawharu, “Treaty of Waitangi - Kawharu Translation” (2011) Waitangi Tribunal – Te Rōpū Whakamana i te Tiriti o Waitangi. Retrieved from: <<http://www.waitangitribunal.govt.nz/treaty/kawharutrtranslation.asp%3E>>.

Tenei Report, the Tribunal made it clear that this duty extends to all forms of matauranga Māori that comprise taonga.⁴

Partnership

17. In accordance with Te Tiriti/the Treaty principle of partnership and reciprocity, the Crown and Māori are required to act reasonably toward one another, with the utmost good faith and with each party acknowledging the needs and interests of the other. This includes co-operation and the will to achieve mutual benefits. It also includes respect for each partner's aspirations and spheres of authority.

Equity

18. The obligations arising from kāwanatanga, partnership, reciprocity and active protection required the Crown to act fairly to both settlers and Māori – the interests of settlers could not be prioritised to the disadvantage of Māori. Where Māori have been disadvantaged, the principle of equity – in conjunction with the principles of active protection and redress – requires that active measures be taken to restore the balance.

Overriding Principles

19. An overriding principle of Te Tiriti/the Treaty is that the Crown should deal with Māori in an honourable and good faith way, and should ensure the protection and prosperity of Māori as a people including their economic, physical, spiritual and cultural wellbeing.

PRINCIPAL CAUSES OF ACTION

20. In breach of the principles of Te Tiriti/the Treaty as set out in paragraphs 14-19 above, and notwithstanding the fiscal policy objectives and mechanisms underpinning the Arts, Culture and Heritage sector, the legislative framework is prejudicial to the achievement of Māori arts outcomes and the advancement

⁴ Waitangi Tribunal, *Ko Aotearoa Tēnei Report*, (Wai 262, 2011) at 85.

(social, cultural and economic) of Māori arts providers and artists, including the Claimants.

21. The particular causes of action, which breach the principles of Te Tiriti/the Treaty and give rise to the Claimants' grievances are:
 - a) the Crown's failure to take reasonable steps to address Māori cultural inequity and inequality; and
 - b) the Crown's failure to protect the taonga of traditional and contemporary Māori arts and the exercise of tino rangatiratanga.

FIRST CAUSE OF ACTION – THE CROWN'S FAILURE TO TAKE REASONABLE STEPS TO ADDRESS MĀORI CULTURAL INEQUITY AND INEQUALITY

Breach

22. In breach of the principle of Te Tiriti/the Treaty, the legislative framework guiding the institutional arrangement of the Crown's fiscal policies does not adequately address or recognise the extent and nature of any inequity between Māori and non-Māori arts funding.
23. As a result, the legislative framework cannot address the particular needs of Māori, given the deep seated, structural problems of relevant Māori arts funding mechanisms.
24. The Claimants further say that the legislative framework fails to adequately resource Māori arts organisations and Māori artists, and in particular:
 - a) fails to address the disparity in resources between Māori and non-Māori arts agencies, providers and artists;
 - b) fails to take into account the diverse nature of the Māori arts agencies, providers and artists requiring arts services;
 - c) fails to ensure constant funding streams for services provided by government agencies and Māori arts agencies, providers and artists to

enable them to provide appropriate arts services to the Māori population;

- d) the current budget allocation formula relevant to the Arts, Culture and Heritage sector is based on incomplete and unreliable data that does not adequately account for access issues, the diverse arts needs of Māori and the social, cultural and economic benefits that accrue from Māori arts activities.

Particulars

- 25. Māori receive a significantly lower amount of arts funding as a group than non-Māori. The legislative framework does not fully address the constant under-funding of Māori arts providers and artists and as a result is failing to protect the multiple mediums in which Māori present their traditional and contemporary arts. This is reflected in the manner that present fiscal policies and mechanisms impact on the allocation of arts, culture and heritage funding and how associated services are finally utilised.

Case Study Analysis: Te Matatini Kapa Haka Aotearoa

- 26. The flagship event for Māori is the Te Matatini National Kapa Haka Festival, which is staged biennially and brings together top teams from New Zealand and Australia. The festival is considered one of the biggest indigenous performing arts festivals in the South Pacific. The festival is regarded as the ‘premiere Māori cultural performing arts festival’ and represents the world’s largest showcase of Māori performing arts.
- 27. Te Matatini Kapa Haka Aotearoa (Te Matatini) has emerged as an integral interface between Māori culture and the world. As stated by Te Matatini’s chief executive, Kapa Haka “is our place to stand and express who we are and it is now part of the fabric of our national identity”. After four decades of working to preserve the traditional Māori performing arts, Te Matatini is now reaching a critical mass in terms of its audience share in the Performing Arts sector. It is also delivering audience and participation numbers for both live and broadcasted Kapa Haka performances that are greater than those of

the New Zealand Symphony Orchestra (NZSO) and the Royal New Zealand Ballet (RNZB) combined. This is significant given the Society operates with only a fraction or 8.05% (\$1.948 million) of the performing arts budget, while the NZSO receives over 60% (\$14.646 million) and the RNZB receives over 22% (\$5.384 million).⁵

28. The table below illustrates that over the 2018-19 financial year Te Matatini received the lowest appropriation at \$1.948 million, while the NZSO received the most at \$14.646 million, followed by the RNZB (\$5.384 million) and the New Zealand Music Commission (NZMC) (\$2.228 million).

Performing Arts Service Providers	2016/17	2017/18	2018/19	% of budget
Crown entities	(\$000)	(\$000)	(\$000)	
New Zealand Symphony Orchestra (NZSO)	\$13,446	\$14,646	\$14,646	60.51%
Non-Government Organisations				
Royal New Zealand Ballet (RNZB)	\$4,384	\$5,384	\$5,384	22.24%
New Zealand Music Commission (NZMC)	\$1,578	\$1,578	\$2,228	9.20%
* Te Matatini (TM)	\$1,248	\$1,948	\$1,948	8.05%
Total	\$20,656	\$23,556	\$24,206	100%

Budget Policy Statement 2019

29. The Budget provides an annual opportunity to review New Zealand's performance across some high-level indicators, place the Government's programme within the context of the economic and fiscal outlook, set out the Government's strategy for the future and draw links to specific actions that have been, or will be, taken.⁶ A wellbeing approach is supposed to ensure that the broad range of factors that matter to New Zealanders are central to the Government's definition of success and drive in decision making. This wellbeing framework is planned to be embedded into public policies.

⁵ Ministry for Culture and Heritage, *Crown Entity funding*, Retrieved from: <https://mch.govt.nz/funding-nz-culture/agencies-we-fund/crown-entity-funding>.

⁶ New Zealand Treasury, *Budget Policy Statement 2019*, Retrieved from: https://www.parliament.nz/resource/en-NZ/SCR_84973/6cf9e9f8f457fddff88d5a82262aba47fc7e5cd1.

Reforms

30. The intention for this Government is to amend the Public Finance Act 1989 to ensure that broader framing is used in the development of the Budget. To support this, the Treasury will be required to report on current and future wellbeing outcomes at least every four years. The idea is that this will provide a comprehensive picture of how New Zealand is performing over time and can be used by the Government to identify areas needing attention.⁷
31. The Government also intends on amending the State Sector Act 1998 and Crown Entities Act 2004 to make it easier for the Public Service to mobilise quickly around the priorities of any Government to improve the wellbeing of New Zealanders.⁸ The broad policy of the bill is to provide for greater integration and accountability of the State services.

Budget priorities

32. The priorities for Budget 2019 have been chosen using the Treasury's Living Standards Framework ("LSF"), evidence from sector-based experts and the Government's Science Advisors, and collaboration among public sector agencies and Ministers. They are focussed on the outcomes New Zealanders want to achieve and all Ministers and agencies will be collectively responsible for delivering the priorities.⁹
33. The Government has identified five Budget Priorities for Budget 2019:¹⁰
 - a) Creating opportunities for productive businesses, regions, iwi and others to transition to a sustainable and low-emissions economy
 - b) Supporting a thriving nation in the digital age through innovation, social and economic opportunities

⁷ At 5.

⁸ At 5.

⁹ At 7.

¹⁰ At 1.

- c) Lifting Māori and Pacific incomes, skills and opportunities
 - d) Reducing child poverty and improving child wellbeing, including addressing family violence
 - e) Supporting mental wellbeing for all New Zealanders, with a special focus on under 24-year-olds.
34. In determining whether initiatives align with the priorities, they will be assessed using the LSF to ensure wellbeing is at the heart of Budget 2019. The elements of the LSF include the domains of current wellbeing, the capitals that combine to generate current and future wellbeing and risk and resilience¹¹.
35. Among non-Māori, a state of wellbeing was said to be connected to a quality of life, a state of contentment or happiness, a sense of dignity and choice, genuine opportunity for personal control and self-determination, freedom from oppression and the right to participate in a safe, positive and functional society. Among Māori however, the concept of wellbeing is irrevocably connected to the resolution of land and sovereignty issues, balance between physical and spiritual realms, and the protection of Maori identity.¹²
36. There are four models that aim to express Māori wellbeing which include, Te Whare Tapawha, Te Wheke, Te Roopu Awhina o Tokanui and Nga Pou Mana.¹³ The *Nga Pou Mana* report suggest a notion that there are four pre-requisites for wellbeing including whanaungatanga (family), ngā taonga tuku iho (ancestral treasures), te ao tūroa (Māori estates) and tūrangawaewae (ancestral land).¹⁴

¹¹ At 7.

¹² Stephanie Palmer “Hōmai te waiora ki ahau: A tool for measurement of wellbeing among Māori, the evidence for construct validity” (2004) 33 JOP 50 at 50.

¹³ Harmsworth GR, Awatere S 2013. “Indigenous māori knowledge and perspectives of ecosystems” in Dymond JR ed. *Ecosystem services in New Zealand – conditions and trends*. Manaaki Whenua Press, Lincoln, New Zealand 274 at 278.

¹⁴ Above n 12 at 51.

37. There is a significant disparity in the standards of living of population groups in New Zealand. Māori have lower average wellbeing across many areas compared with other groups of New Zealanders. The Crown have a responsibility to take all possible action to protect the wellbeing of Māori by reducing any inequity and inequality in all areas, including the Māori Arts sector. The Arts, Culture and Heritage sector has an important role in supporting and providing opportunities for the development of Māori art and cultural expression.
38. The issue that needs to be considered is whether Budget 2019 and the Living Standards Framework adequately takes into account the differences between Māori and non-Māori wellbeing. Despite Māori arts being an ancestral treasure and te reo Māori and tikanga being key components of Māori wellbeing, it is difficult to determine whether Māori Arts, Culture and Heritage will be prioritised according to the LSF.

Auditing

39. The legislative framework does not provide for an adequate auditing of and imposition of accountability structures and mechanisms by the Crown to ensure that government agencies are taking all possible action to reduce inequity in Māori arts and to promote positive Māori Arts sector outcomes.
40. The Ministry for Culture and Heritage is in a period of change and development of new indicators of success for the strategic priorities have been set. Previously, financial performance was a key concern for the Government and in some ways, the most important determinant for assessing an organisation's risk profile and financial health. In order to meet the expectations of the Government, all shortfalls and surpluses needed to be reasonably justified and there was to be no unappropriated expenditure.¹⁵

¹⁵ Ministry for Culture and Heritage, Tā te Tumuaki Rīpoata - Chief Executive's Report 2017/18. Retrieved from <https://mch.govt.nz/sites/default/files/projects/G.10%20MCH%20Annual%20Report%20and%20Strategic%20Intentions%202017-18.pdf>.

41. In assessing the financial performance of the Ministry for Culture and Heritage, the case study analysis of Te Matatini illustrates the nature and extent of inequity resulting from the failure of the Ministry to achieve funding parity for Māori Arts agencies. It is apparent that the legislative framework is not adequately monitoring the disproportion in funding provided to the Māori arts sector, nor is it actively ensuring that the Māori arts sector is financially sustainable. Just under \$323 million was invested into the Arts, Culture and Heritage portfolio over the 2017-18 financial year. Te Matatini Society Inc is the only national Māori arts organisation directly funded under the Vote Arts, Culture and Heritage budget. However, the public investment received by Te Matatini represents around 0.6% of all funding allocated under the VACH budget. Approximately \$364 million was secured by the Ministry in Budget 2019 but despite the Government's wellbeing policy focus, the percentage of public investment into Te Matatini declined to 0.53% of the overall VACH appropriation.
42. The Ministry, in collaboration with Statistics New Zealand are working on a wider set of wellbeing measures that will form the "Indicators Aotearoa" framework. The set of indicators will go beyond economic measures, such as gross domestic product (GDP), to include wellbeing and sustainable development. This is intended to be a measurement tool to assist with the development and evaluation of cultural projects and interventions. The indicators cover New Zealand's current wellbeing, future wellbeing (what we are leaving behind for future generations), and the impact New Zealand is having on the rest of the world. Under these dimensions are a list of topics and indicators developed to measure wellbeing.
43. The Claimants rely on statistical evidence, case studies and comparative analyses to be produced as evidence which includes data to illustrate this structural inequity along with a review of current funding arrangements in place for Māori arts agencies, providers and artists. This includes existing government appropriations but is not limited to Vote Arts, Culture and Heritage, Vote Māori Development, Vote Internal Affairs and Vote Business, Science and Innovation.

SECOND CAUSE OF ACTION – THE CROWN’S FAILURE TO PROTECT THE TAONGA OF TRADITIONAL AND CONTEMPORARY MĀORI ARTS

Breach

44. In accordance with Te Tiriti/the Treaty principles tino rangatiratanga and protection, the Crown is required to acknowledge Māori control over Māori tikanga, taonga, resources and people, and to manage their own affairs in a way that aligns with their customs and values.
45. The legislative framework guiding the institutional arrangement of the Crown’s fiscal policies breaches te Tiriti/the Treaty principle because it does not adequately protect traditional and contemporary Māori arts as a taonga.
46. The Crown has also failed to protect the exercise of tino rangatiratanga by precluding Māori participation in the development of Arts, Culture and Heritage fiscal policy and mechanisms.

Particulars

47. The Tribunal has generally adopted a broad definition of taonga, in accordance with the Māori text of the Treaty which requires that the Crown has a duty to actively protect taonga Māori. The Ngawha Geothermal Tribunal defined a taonga as a ‘valued possession, or anything highly prized,’ noting that taonga may include ‘any material or non-material thing having cultural or spiritual significance for a given tribal group’.¹⁶
48. Māori arts are inextricably linked to te reo Māori and mātauranga Māori and is a taonga. Identity, language, and culture are important expressions of how to actively promote the principle of protection. Protection in the context of the arts includes:
 - a) valuing, validating and protecting local knowledge;

¹⁶ Waitangi Tribunal, *Ngawha Geothermal Resource Report*, (Wai 304, 1993), at 20.

- b) normalising te reo Māori;
- c) learning and including tikanga sector-wide; and
- d) equity for Māori arts funding allocations.

49. The Privy Council in the *Broadcasting Assets* case noted that:¹⁷

Again if as is the case with the Māori language at the present time, a taonga is in a vulnerable state, this should be taken into account by the Crown in deciding the action it should take to fulfil its obligations and may well require the Crown to take especially vigorous action for its protection.

- 50. Māori are disproportionately under-represented in relation to the fiscal policies, funding mechanisms and overall government investment into the Māori arts sector which has a prejudicial impact on the potential of Māori arts agencies, providers and artists to participate in the social, cultural and economic life of Aotearoa New Zealand nationally and internationally.
- 51. The legislative framework operated by the Crown excludes Māori from a real and meaningful role in the development of Arts, Culture and Heritage fiscal policy and mechanisms, with the result that Māori designed solutions to address inequity issues and to foster positive Māori arts sector development outcomes are ignored or not adequately addressed.
- 52. Māori culture is a key foundation of Aotearoa New Zealand's identity, and therefore recognising Māori as partners is critical to further developing a thriving New Zealand culture. As part of this process, the Ministry and the cultural sector must ensure that Māori are fully engaged in decisions affecting Māori culture and heritage. There is extensive knowledge that only Māori will have of Māori cultural heritage. Māori therefore offer a unique indigenous perspective for planning, policy, decision-making and other activities such as projects.

¹⁷ *New Zealand Maori Council v Attorney-General* [1994] 1 NZLR 513 (PC) [*Broadcasting Assets case* (PC)] at 520.

53. The legislative framework is convoluted and fraught as it does not provide for a harmonized approach or culturally responsive Arts, Culture and Heritage sector able to promote a vibrant Māori arts sector as a valuable contributor to Māori economic life and wellbeing in its widest sense to include, inter alia, social, cultural and educational benefits.
54. The legislative framework fails to provide for enduring and lasting improvement in the Māori arts sector as it does not adequately address the relationship between other social conditions (i.e. Status of Māori art). This is reflected in the manner that present funding arrangements provide for greater investment into non-Māori arts than Māori arts.

RELIEF SOUGHT

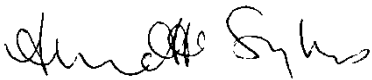
55. The claimants seek the following relief. They reserve the right to amend the relief sought in order to particularise it, following the presentation and testing of the evidence:
 - a) A finding that the legislative framework is prejudicially affecting Māori and is inconsistent with the principles of the Treaty of Waitangi;
 - b) A recommendation that the Crown implement changes to the legislative framework in order to better deliver arts services and positive outcomes (i.e. social, cultural and economic benefits) for Māori and substantially reduce and ultimately eliminate inequity and inequality. The process of change and the outcomes should have the following features:
 - i) The introduction of amendments that provide for enhanced recognition of the Māori-Crown relationship and explicit reference to the Treaty of Waitangi across the legislative framework;
 - ii) The requirement and obligation of chief executives and their agencies to consider (and report on) how they will give effect to Treaty principles in delivering arts services;

- iii) The annual reporting of budgetary appropriations that illustrate how much funding is directly allocated to Māori arts agencies, providers, artists and performers which is clearly differentiated from internally designed and implemented Ministry projects and initiatives; and
 - iv) The increased monitoring of relevant government agencies to support shared functions and services, greater reporting flexibility, and stronger leadership in honouring the Treaty at system, sector and departmental levels.
- c) A recommendation that new legislation should be developed in partnership with Māori that promotes the principles of the Treaty of Waitangi, including greater equity across the arts sector, including but not restricted to:
- i) The establishment of a new independent Māori Arts Body able to promote policy outcomes and implement a sector-wide investment and development strategy by Māori for Māori that is explicitly designed to improve the Māori arts sector outcomes in a measurable way;
 - ii) The equitable allocation of resources from the Vote Arts, Culture and Heritage, Vote Internal Affairs, Vote Education and Vote Business, Science and Innovation appropriations to increase financial support for Māori arts agencies and providers to deliver arts services to Māori and the establishment of a new Māori Arts Body; and
 - iii) The establishment of a new Māori arts Fund and appropriation aligned with Vote Māori Affairs to allocate funding to Māori arts agencies and providers accountable directly to the Māori Arts Commission, working with but not directly accountable to central government agencies.

- d) A recommendation to harmonise relevant legislation to include appropriate amendments that enable the active protection, retention and growth of contemporary and traditional Māori arts including but not limited to:
 - i) providing for new funding arrangements and increased financial autonomy for Māori arts agencies and providers; and
 - ii) providing for new accountability and monitoring arrangements away from central government oversight.

- e) A recommendation for the creation of a new appropriation for the Māori arts sector that recognises the diversity of traditional and contemporary Māori arts and provides a mechanism for the design and implementation of fiscal policies and an investment strategy that includes but is not limited to;
 - i) the findings of a review carried out by the Crown, together with Māori, of all Māori arts related funding;
 - ii) the reallocation of existing public funds from the Vote Arts, Culture and Heritage, Vote Internal Affairs, Vote Business, Science and Innovation and Vote Education appropriations into a separate Māori Arts sector appropriation;
 - iii) achieving greater equity for the Māori arts sector by ensuring that Māori arts agencies and providers are adequately resourced to address the needs of Māori; and
 - iv) enabling an investment framework which allows Māori arts agencies and providers to opt in or out of receiving their funding under the new appropriation regime.


DATED at Rotorua this 18th day of September 2019



Annette Sykes



Rebekah Jordan



Jordan Bartlett
Counsel for Claimants

TO: The Registrar, Waitangi Tribunal, Wellington
AND TO: The Crown Law Office
AND TO: Claimant Counsel for the Claimants involved in the Toi Māori Arts
Equity and Economic Outcomes Inquiry.

This **STATEMENT OF CLAIM** is filed by **ANNETTE SYKES, REBEKAH JORDAN** and **JORDAN BARTLETT**, Counsel for the Claimants, of the firm Annette Sykes & Co.

The address for service on the abovenamed Claimants is the offices of Annette Sykes & Co. 8 – Unit 1 Marguerita Street, Rotorua 3010.

Documents for service on the abovenamed Claimant may be left at the address for service or may be:-

- a) posted to the solicitor at Annette Sykes & Co., PO Box 734, Rotorua 2010;
or
- b) transmitted to the solicitor by fax on (07) 460 0434.