

IN THE WAITANGI TRIBUNAL

Wai 2575

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Health Services and
Outcomes Kaupapa Inquiry

**MEMORANDUM-DIRECTIONS OF THE PRESIDING OFFICER CONCERNING
SCOPE, ELIGIBILITY, AND PLEADING ISSUES IN THE STAGE TWO INQUIRY**

1 May 2020

Introduction

1. This memorandum-direction addresses issues concerning scope, eligibility and pleading issues in relation to stage two of the Health Services and Outcomes Kaupapa Inquiry (the inquiry) relating to disabilities.

Scope, eligibility and pleading issues

2. In a recent memorandum-direction I endorsed a suggestion by Crown counsel that the parties continue discussions concerning the above matters. As an interim step, I directed the Crown to file a memorandum updating the Tribunal by 29 April 2020 on the outcome of those discussions.¹
3. The Crown have filed a memorandum and updated the Tribunal.² They advise that during the past two weeks discussions have taken place with a majority of claimant counsel representing approximately 25 of the approximately 40 claims proposed to be heard during the disabilities phase of the stage two inquiry.
4. Crown counsel have indicated that the discussions have been useful in refining the scope and eligibility issues the Tribunal might be required to rule on in due course. They also advise that some claimant counsel have agreed to provide more details concerning their clients' respective claims. The Crown acknowledge that they have not be able to have discussions with all claimant counsel to date but are endeavouring to do so. Furthermore, they are waiting to hear back from some counsel as to whether they and/or their clients will be able to provide more detailed pleadings. Crown counsel have stated an intention to continue to work with claimant counsel on these issues and propose to further report back to the Tribunal by 29 May 2020.³
5. I reiterate what I said in my direction of 17 April 2020 that the more detail that can be agreed to between counsel at this stage the better.⁴ I am happy for those discussions to continue in the interim. I direct the Crown to update the Tribunal by **midday, Friday 29 May 2020** on the outcome of the discussions that are to take place over the next month or so.
6. If it is apparent by the end of May 2020 that the discussions have been taken as far as they can on these issues it would be useful to know:
 - a) what has been agreed too;
 - b) what further pleadings the Tribunal can expect to be filed, and by when; and
 - c) what issues are outstanding and require determination by the Tribunal.
7. If certain matters require determination by the Tribunal then Crown counsel, after obtaining input from claimant co-ordinating counsel, should outline a proposed timetable for the filing of submissions.

Other matters

8. The Crown and the Stage One claimants are due to file a joint memorandum by 1 June 2020 updating the Tribunal on work being undertaken towards implementing the interim recommendations made in *Hauora-the Report on Stage One of the Health Services and*

¹ Wai 2575, #2.6.23 at [10].

² Wai 2575, #3.2.210.

³ Wai 2575, #3.2.210 at [16].

⁴ Wai 2575, #2.6.23 at [9].

Outcomes Kaupapa Inquiry.⁵ I note that 1 June 2020 is a public holiday. I amend the filing date to **midday, Tuesday 2 June 2020**.

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

DATED at Hamilton this 1st day of May 2020

A handwritten signature in black ink, appearing to be 'S R Clark', written in a cursive style.

Judge S R Clark
Presiding Officer
WAITANGI TRIBUNAL

⁵ Wai 2575, #2.6.23 at [13].