

IN THE WAITANGI TRIBUNAL

Wai 2575

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Health Services and
Outcomes Kaupapa Inquiry

**MEMORANDUM-DIRECTIONS OF JUDGE D STONE REGARDING THE
REPRESENTATION OF RAUKURA HAUORA O TAINUI TRUST**

2 Mahuru 2021

Introduction

1. This memorandum-directions addresses the participation of Raukura Hauora o Tainui Trust (the Trust) in stage one of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575).

Background

2. On 9 June 2021, Mai Chen filed a memorandum on behalf of the Trust regarding the Māori Primary Health Organisations and Providers (Wai 1315) claim (Wai 2575, #3.2.335). Counsel submit the Wai 1315 claim made by Taitimu Maipi was on behalf of himself and the Trust. Counsel updated the Tribunal that Mr Maipi is no longer Kaihautuu of the Trust, and no longer represents the Trust in any claims before the Tribunal.
3. On 30 July 2021, Ms Chen filed an application on behalf of the Trust seeking recognition as a claimant in Wai 1315 and an accompanying affidavit and exhibits of Korina Burne-Vaughn (Wai 2575, #3.2.336, #B35 & #B35(a)). Counsel reiterated the submissions above and submitted that the Trust has been shut out of discussions between the Wai 1315 claimants and the Crown. The Trust therefore seeks a Tribunal direction that it can be recognised as a claimant in Wai 1315 in its own right and be heard if the Tribunal decides to review the interim recommendations.
4. On 20 August 2021, Ms Chen filed a further memorandum on behalf of the Trust (Wai 2575, #3.2.337). Counsel reiterated their position that the Trust is a party to Wai 1315, as that claim was made by Mr Maipi on behalf of the Trust. Counsel submit that the Trust must be given an opportunity to be heard in respect of the *Sapere Report* submitted by the stage one claimants, should the Tribunal exercise its right to review the implementation of the interim recommendations.
5. Counsel further submits the Trust is in discussions with a number of other major Māori health providers, with a view to jointly requesting an opportunity to be heard by the Tribunal in respect of the matters to which the *Sapere Report* relates.

Decision

Raukura Hauora o Tainui Trust as a Wai 1315 claimant

6. Paragraph 3.4 of the Waitangi Tribunal's *Guide to Practice and Procedure* states that 'unless authority to prosecute the claim has been duly transferred by the original claimant or claimants, the Tribunal will generally register an addition or an amendment to a claim only if it has been signed by the same individual or individuals who submitted the original claim.' However, the position of the Trust is that the Tribunal should direct that it can be added as a named claimant as its interests, which were originally represented by Mr Maipi in stage one, are no longer being represented through Wai 1315. On a more procedural point, the Trust itself cannot be a named claimant to Wai 1315 and would require one or more persons to be named claimants on behalf of the Trust (such as Ms Burne-Vaughn) (Treaty of Waitangi Act 1975, ss 2 and 6).
7. I therefore direct the named claimants for Wai 1315 to file submissions regarding the addition of a representative of the Trust as a Wai 1315 named claimant by no later than **midday, Wednesday 15 September 2021**.

Raukura Hauora o Tainui Trust response to the Sapere Report

8. Regardless of whether a representative of the Trust should be added as a named claimant, the Trust is entitled to be heard as an interested party as it 'has an interest in the inquiry apart from any interest in common with the public' (Commissions of Inquiry Act

1908, s 4A). The Trust may submit on the *Sapere Report* as it has a direct interest in the underfunding of Māori primary health organisations and providers.

9. I therefore direct the Trust to file a response to the *Sapere Report* on the underfunding methodology by no later than **midday, Monday 27 September 2021**. This is in line with the date the Tribunal expects the Crown to submit its response to the *Report*.

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

I HAINATIA i Te Whanganui-ā-Tara i te 2nd o ngā rā o Mahuru 2021



Judge Damian Stone
Presiding Officer

WAITANGI TRIBUNAL