WAITANGI TRIBUNAL

Wai 3117

CONCERNING the Treaty of Waitangi Act 1975

AND a claim by Hohepa Maxwell, Muriwai Jones and Te Aururangi Davis on behalf of Ngai Tai iwi and Ririwhenua hapū

MEMORANDUM-DIRECTIONS OF THE DEPUTY CHAIRPERSON

The Registrar will please enter this matter on the register of claims and give it the next available Wai number. The register should note that the claim was received on 16 March 2022.

The claimant should please take note of the 'Wai' number reference at the top of the page. Please use this claim number in any communication with the Tribunal.

This claim is lodged by Hohepa Maxwell, Muriwai Jones and Te Aururangi Davis on behalf of Ngai Tai iwi and Ririwhenua hapū and concerns health services and outcomes. The claimants allege that the Crown has breached the principles of the Treaty of Waitangi by failing to:

- recognise, actively protect and give effect to the claimants' mana and tino rangatiratanga over their taonga, namely, their own people and health services;
- have an appropriate understanding of the health and disability needs of the people of Ngai Tai and Māori in general;
- adequately inform, equip, fund and support whānau who care for those with disabilities;
- actively protect and ensure the wellbeing and quality of life for Māori, Māori children and young people with disabilities;
- partner with Māori in the decision-making process for policies and practices regarding the disability services system;
- recognise and provide adequate services and facilities for rural Māori, isolated Māori communities, urban areas densely populate by Māori, and Māori with disabilities;
- provide for and accommodate kaupapa and tikanga Māori in the disability services system;
- prevent and address racism and institutional racism in the health and disability system and disparities between services provided to Māori and non-Māori;
- address issues for Māori in the New Zealand health system, including failing to:
    - collaborate with and include the claimants and Māori in the decision-making process;
    - ensure a sufficient level of cultural capacity;
    - provide appropriate and well-resourced Māori health care professionals;
    - accommodate for Matauranga Māori and rongoā in health care policy; and
    - prevent inequitable DHB funding, practices and policies, and implement effective legislation and policies to address inequality.

- properly recognise and address the mental health and addictions issues, including consulting with Ngai Tai (and Māori in general) in its development, design, and implementation of its services, policies and legislation concerning Māori mental health, addictions services, the health system, and intergenerational health issues and other associated health issues affecting Māori in Torere; and
- provide access to and the provision of services for basic elementary health matters, including eyesight and dental work, and nutrition services.

The claimants seek a variety of relief, including recommendations that:

- the Crown acknowledge that the full responsibility for ensuring the health and wellbeing of Māori remains with Māori;
- the Crown transfer the provision of Māori health services, along with the requisite funding, and technical support, where deemed necessary, to Māori;
- restitution, comprising the return of all decision-making in relation to Māori health services to Māori; and
- the Crown compensate for all losses suffered as a result of its conduct in depriving Māori of their rights and entitlements to tino rangatiratanga over the health services of their peoples.

The claimant may amend this claim at a later stage. In any case the Tribunal may require the claimant to prepare a fully particularised statement of claim before the claim can be heard.

The Tribunal currently runs district and kaupapa inquiry programmes in which claims are grouped either by district or by kaupapa (thematic) issue. Historical claims are those that raise grievances which arose before 21 September 1992. Contemporary claims have grievances that arose on or after that date. Some claims have both historical and contemporary grievances.

The allegations made in this claim are contemporary in nature. They pertain to health and as such may be best suited for consideration in Wai 2575, the Health Services and Outcomes kaupapa inquiry.

The claimant should also note that this claim is registered only insofar as it concerns contemporary allegations of Treaty breaches by the Crown.

When the time comes for the claim to be prepared for hearing, the Tribunal will decide whether there are any matters in the present claim that the Tribunal may not inquire into. The claimant needs to be aware that there are some matters that the Tribunal is not allowed to inquire into, such as any Bill that has been introduced into Parliament (unless the Bill has been referred to the Tribunal under section 8 of the Act). Also, when historical claims are settled, the settlement legislation usually forbids the Tribunal from inquiring further into the matters that have been settled.

The claimant also needs to be aware that the Tribunal does not make settlements. After the Tribunal has completed an inquiry into claims, it writes a report making recommendations to the Crown. It cannot tell the Crown what to do; it may only recommend that the Crown acts to address the negative consequences of its breaches of the principles of the Treaty.

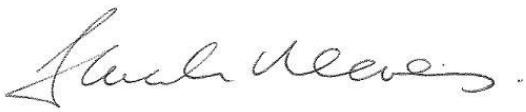
Legal Aid Services provides help for Waitangi Tribunal claimants. For advice on getting a lawyer or receiving funding, please contact Legal Aid Services at their Wellington central office or one of the local offices; the claimant should check their telephone directory for contact details.

Any questions about the contents of this document should be directed to The Registrar, Waitangi Tribunal, DX SX 11237, Wellington; phone (04) 914 3000, fax (04) 914 3001; email wt.registrar@justice.govt.nz.

The Registrar is to send a copy of this direction to the claimant and to:

- Crown Law Office;
- Te Kahui Whakatau (Treaty Settlements), Office for Māori Crown Relations – Te Arawhiti;
- Crown Forestry Rental Trust;
- Legal Aid Services;
- Te Puni Kōkiri; and
- all those on the notification list for Wai 2575, the Health Services and Outcomes kaupapa inquiry.

DATED at Wellington this 30th day of March 2022



Judge Sarah Reeves
Deputy Chairperson
WAITANGI TRIBUNAL