

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
ADDRESSING REQUESTS CONCERNING CLOSING SUBMISSIONS AND
SUPPLEMENTARY EVIDENCE FOR THE DISABILITY INQUIRY

1 Noema 2024

Purpose

1. This memorandum-directions addresses:
 - (a) extension requests received for parties to file closing submissions for the disability phase of stage two of the Health Services and Outcomes Kaupapa inquiry (Wai 2575) (the disability inquiry); and
 - (b) a Crown request to file supplementary briefs of evidence, and an associated request for confidentiality.

Claimant extension requests

2. Claimant and interested party closing submissions were due on 16 September 2024 (Wai 2575, #2.6.187(a)).
3. On 13 September 2024, Phoenix Law filed a memorandum requesting an extension until 23 September 2024 to file closing submissions on behalf of Wai 2849, Wai 2704, Wai 996, Wai 179 and Wai 2848 (Wai 2575, #3.2.1143).
4. On 16 September 2024 the Tribunal received extensions requests from:
 - (a) Whaaia Legal, on behalf of the Health Services and Outcomes (Te Puna Ora o Mataatua) (Wai 2912) claim by 18 September 2024 (Wai 2575, #3.2.1144);
 - (b) Annette Sykes & Co, on behalf of the Mana Wahine (Cooper-Puru) (Wai 2933) claim, the Maaori Nurses (Wai 2713) claim and the Racism against Maaori (Wai 2494) claim by 18 September 2024 (Wai 2575, #3.2.1146); and
 - (c) Dixon & Co Lawyers on behalf of the Ngaati Korokoro, Ngaati Wharara and Te Pouka (Turner and Others) Resource Management (Wai 2003) claim by 19 September 2024 (Wai 2575, #3.2.1147).
5. On 16 September 2024, I granted an extension for the above parties to file these closing submissions by 12pm on 18 September 2024 via email from the Registrar.
6. Also on 16 September 2024, Kaupare Law, on behalf of the Ngaati Reehia Hapuu (Wai 1341) claim, filed an extension request (Wai 2575, #3.2.1150).
7. On 17 September 2024, the following counsel filed extension requests:
 - (a) Woodward Law, on behalf of the Maaori Health (New Zealand Maaori Council) (Wai 2644) claim (Wai 2575, #3.2.1155); and
 - (b) Wackrow Panoho & Associates, on behalf of the Te Roopu Taurima (Wai 2734) claim, the Ngaai Tamahaua (Biddle) (Wai 1781) claim, the Te Paatu Land & Resources (Wai 1176) claim, the Maaori Stroke Sufferers (Wai 2736) claim and the Health Services and Outcomes (Grant-Mackie) (Wai 3243) claim (Wai 2575, #3.2.1154).
8. On 17 September 2024, via email from the Registrar, I granted an extension for all outstanding closing submissions to be filed by 5pm on 18 September 2024, unless otherwise specified.
9. All claimant and interested party closing submissions have now been received and sent to third-party contractors for translation into alternative accessible formats.

Crown requests regarding closing submissions and supplementary evidence

Extension request for closing submissions

10. The Crown was directed to file its closing submissions by 30 September 2024 (Wai 2575, #2.6.187(a)).
11. On 25 September 2024, counsel for the Crown filed a memorandum seeking an extension to file the Crown's closing submissions (Wai 2575, #3.2.1183). Counsel noted that several extension requests were granted for claimant and interested party closing submissions. Additionally, the Crown requires additional time to review the volume of claimant counsel submissions received. The Crown sought an extension until 7 October 2024.
12. This request was granted via email from the Registrar on 30 September 2024.
13. On 7 October 2024, the Crown filed a five-page summary of its closing submissions alongside a memorandum requesting a further extension until 11 October 2024 (Wai 2575, #3.2.1191).
14. This request was granted via email from the Registrar on 9 October 2024. The five-page summary of the Crown's closing submissions has been sent to third-party contractors for translation into alternative accessible formats.
15. The Tribunal received the Crown's closing submissions on 14 October 2024 (Wai 2575, #3.3.138).

Supplementary evidence

Harsh Vardhan evidence

16. On 14 October 2024, upon filing the Crown's closing submissions, Crown counsel sought leave to file the supplementary evidence of Harsh Vardhan, noting that this addresses a recent announcement on Fetal Alcohol Spectrum Disorder (FASD) initiatives (Wai 2575, #3.2.1192 at [4]).

Ben O'Meara evidence and Crown request for confidentiality

17. In their 14 October 2024 memorandum, counsel for the Crown sought leave to file a further brief of supplementary evidence for Ben O'Meara, noting that the purpose of this brief is to provide the Tribunal with additional documents relating to the independent review of the disability support system (Wai 2575, #3.2.1192 at [6]).
18. On 17 October 2024, counsel for the Crown filed the supplementary evidence of Mr O'Meara along with an associated document bundle containing redactions (Wai 2575, #3.2.1199). Crown counsel note that the documents in the bundle were identified in the course of an Official information Act request, and had not been identified in preparing the earlier joint brief of evidence on the independent review of the disability support system (Wai 2575, #3.2.1199 at [3]).
19. The Crown seeks confidentiality in respect of limited parts of the document 'Information request - Independent Review Panel recommendations' (the Information Request document) at pages 19, 20 and 26 of the bundle of supporting documents. Confidentiality is sought for the following reasons (Wai 2575, #3.2.1199 at [4]):

- (a) Parts of the exhibit relates to the financial position of third parties and is subject to an obligation of confidence; and
 - (b) Parts of the document are commercially sensitive, and their release would prejudice the ability of the Crown to effectively carry out commercial negotiations in the public interest.
20. The Crown seeks directions from the Tribunal restricting the dissemination of this information, strictly for the purposes of this inquiry only, to counsel who may in turn show it to named claimants where the named claimant is not associated with a provider of Disability Support Services (DSS). Where the named claimant is associated with a DSS provider, the Crown requests that the Tribunal's directions permit description in abstract terms of what is covered by the relevant parts of the document to their claimant client.

Decision

21. Firstly, I confirm that the supplementary brief of evidence of Mr Vardhan has been added to the Wai 2575 Record of Inquiry as document #N15(d).
22. The supplementary evidence of Mr O'Meara and the redacted bundle of supporting documents have also been added to the Wai 2575 Record of Inquiry as documents #N17(h) and #N17(i) respectively.
23. Crown counsel's request for confidentiality of the redacted version of the Information Request document, is **granted**.
24. Counsel's proposed terms for the confidentiality of the Information Request document, at [19] above, are **accepted**. Namely, if a named claimant is not associated with a DSS provider, the confidential information held in the redacted version of the Information Request document may be disclosed to them by their counsel. If the named claimant is associated with a DSS provider, the confidential information may be disclosed to named claimants by their counsel in **abstract terms only**.
25. If counsel seek further clarification regarding the terms of confidentiality as granted in this direction, they may seek clarification from Crown counsel.

I HAINATIA i Te Whanganui-aa-Tara i te 1 o ngaa raa o Noema 2024.



Judge Damian Stone
Presiding Officer

WAITANGI TRIBUNAL