OFFICIAL

Wai 3565, #3.1.7
Wai 682, #2.122

IN THE WAITANGI TRIBUNAL

WAI 682
WAI 3351
WAI 3300

IN THE MATTER The Treaty of Waitangi Act 1975

AND

IN THE MATTER he kerēme nā Rewiti Paraone rātou ko Erima Henare, ko Pita Tipene, ko Waihoroi Shortland mō Te Rūnanga o Ngāti Hine mō ngā uri o Torongare and Hauhaua (Wai 682)

MEMORANDUM ON URGENCY ON BEHALF OF INTERESTED PARTY LADY TUREITI MOXON

DATED 28 APRIL 2026

RECEIVED
Waitangi Tribunal
28 Apr 26
Ministry of Justice
WELLINGTON

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MAY IT PLEASE THE TRIBUNAL:

1. This memorandum is filed on behalf of Lady Tureiti Moxon (**claimant**) as the Wai 3351 claimant on behalf herself, the whānau, staff and governors of Te Kōhao Health Limited (**Te Kōhao**), a Māori Health provider of which she is Managing Director, and all Māori, and on behalf of the National Urban Māori Authority (**NUMA**) which advocates for Mātāwaka (Māori who do not reside in their traditional tribal lands) which is over 80% of all Māori and which provides services through seven affiliated urban Māori authorities across Aotearoa, including Te Kōhao.

2. This memorandum is filed in support of the application for urgency filed by the Wai 682 claimants, and Lady Moxon seeks to support by participating as an interested party.

3. This memorandum responds to the Tribunal's direction that interested parties address:

   3.1 whether the criteria for an urgent inquiry are met; and

   3.2 the utility of holding a further inquiry in light of previous Tribunal findings regarding Treaty clause reform.

STANDING AS AN INTERESTED PARTY

4. The claimant seeks leave to participate as an interested party in this urgent inquiry should urgency be granted.

5. Treaty principles clauses across legislation have had a role in all of the claimant's claims and are central to the issues raised in this proceeding.

6. The claimant previously participated as an interested party in the Treaty Principles Urgent Inquiry as an interested party under her claim Wai 3351 which she is advancing within the Constitutional Kaupapa Inquiry.

7. In that context, she addressed the proposed rewriting of Treaty principles by way of a Treaty Principles Bill and the impact such changes would have across all legislative frameworks.

8. In those proceedings, the claimant relied on evidence she had previously filed, including in Wai 1315 (Stage One of the Wai 2575 Hauora Inquiry), which demonstrated the consequences of removing Treaty obligations in practice.[1]

9. That evidence showed that when the Ministry of Health directed in 2006 that references to te Tiriti were not be included in contracts and policy, Māori providers, despite being the benchmark within the primary health sector,[2] were:

   9.1 undermined in decision-making; [3]

   9.2 forced to compete on unequal terms with non-Māori providers;[4] and

   9.3 progressively displaced from service delivery. [5]

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[1] Wai 3300 #3.1.077 and #3.1.077(a) which filed the Brief of Evidence of Lady Tureiti Moxon for Stage One of the Wai 2575 Health Inquiry Wai 2575, #A011, on the constitutional inquiry. As the appendices to the brief were lengthy, they were not included but are on the Wai 2575 record of inquiry.

[2] *Hauora* Report 2023, page 156, "Crown witnesses nonetheless agreed with the *claimants* that Maaori primary health organisations and providers are innovative and have achieved impressive improvements in Maaori health outcomes despite the limitations of the primary health care system. They broadly agreed that these organisations should be considered benchmarks for the approaches and performance of the rest of the sector.

[3] Wai 3300 #3.1.077(a) at [73.1] and [80]: The removal of all references to Te Tiriti o Waitangi and its principles from all new policies and contractual arrangements, so Te Tiriti was made invisible to those with decision-making powers in the DHB.

[4] Wai 3300 #3.1.077(a) at at [73.3] and [146]: Instead of working with Māori Providers to agree services to improve Māori health, forcing them into a contestable contracting process where larger non-Māori Providers could invest significant funds to get the contract.

[5] Wai 3300 #3.1.077(a) at [73.4], [84], [92] and [133]: Disinvestment in Māori Provider contracts, where the amount they would receive to continue to do the same work was to be significantly reduced going forward; and Wai 3300 #3.1.077(a) at [138]: The loss of by Māori for Māori contracts. Both Waikato DHB and the Ministry of Health ended

10. In the Hauora Inquiry, the Tribunal ultimately found that this contributed to systemic inequities and poorer health outcomes.[6] In real terms:

    10.1 systemic inequities means a lower standard of healthcare for Māori than others, and

    10.2 poorer health outcomes means unnecessary suffering and early death of Māori people.

11. The claimant's participation in the Wai 3300 Treaty Principles Urgent Inquiry and the Wai 2575 Hauora Inquiry and the evidence relied on, directly addresses what happens when Treaty obligations are removed or weakened, and the prejudice that follows for Māori. That shows the real-world consequences of the planned diminishing of te Tiriti clauses that is the subject of this claim by Ngāti Hine.

12. It is submitted that the claimant therefore has a direct and substantial interest in this claim, separate from any interest in common with the public.

URGENCY

13. It is submitted that the criteria for an urgent inquiry are met.

Serious and Irreversible Prejudice

14. Māori are suffering and will continue to suffer serious and irreversible prejudice as a result of the Crown's actions.

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multiple contracts they had with Māori Providers to deliver services to Māori. Those contracts were given to non-Māori Providers instead.

[6] *Hauora* Report 2023, page 151, "All parties variously agreed that the severity and persistence of health inequity Maaori continue to experience indicates that the health system is institutionally racist and that this, including the personal racism and stereotyping that occur in the primary care sector, particularly impacts on Maaori.

15. The Crown has completed its review of Treaty clauses and has decided to proceed with repealing and amending those clauses across multiple pieces of legislation.

16. The issue is no longer whether the Crown will act. The Crown has decided to act, and implementation is now underway.

17. As set out above, the claimant has already provided evidence of what happens in the real world when te Tiriti obligations are ignored. In the arena of health, diminishing te Tiriti leads to worse outcomes for Māori, including preventable, unnecessary suffering and early death. It is submitted that preventable, unnecessary suffering and early death is significant, irreversible prejudice.

18. A recent demonstration of this, is the Crown's decision to divert funding from bowel screening of Māori and Pasifika aged 50-57 (because they are at higher risk of bowel cancer) to all 58-60 year olds.

19. The Crown quantified that around 273 Māori and Pacific lives will be lost that would have been saved under the previous approach. But the Crown considered that this was justified based on cost and aggregate outcomes, and did not consider equity or Te Tiriti obligations relevant.

20. Lady Moxon filed a complaint with the Human Rights Commission a copy of which is attached to this memorandum. The Crown declined to engage in mediation and the next step is to take the complaint to the Human Rights Review Tribunal. This is direct evidence from the Crown that when te Tiriti is ignored, Maori will die.

No Adequate Alternative Remedy

21. There is no adequate alternative remedy available to address this prejudice.

22. The Crown has ignored the advice of officials, as well as the findings and recommendations of this Tribunal, and has proceeded without meaningful consultation with Māori.

23. It is clear that the Crown has already decided to proceed. The limited consultation undertaken appears directed at enabling that decision to proceed, rather than engaging in genuine partnership.

24. There is no alternative forum capable of addressing this issue at the level of Crown policy and legislative change. The Waitangi Tribunal is the only appropriate forum for this claim.

The Claim is Ready to be Heard

25. It is submitted that the claim is ready to be heard.

26. Crown documents already before the Tribunal show the decisions made. Ngāti Hine has filed evidence. Lady Moxon relies on the evidence she previously highlighted in the Treaty principles urgency[7] and her complaint to the Human Rights Commission, attached to this memorandum.

27. The issues are clear and the resulting prejudice is immediate and foreseeable. The Tribunal is familiar with the issue and therefore will be ready to proceed without delay.

UTILITY OF FURTHER INQUIRY

28. There is clear utility in holding an urgent inquiry.

The Tribunal is already familiar with the issues

[7] Wai 3300 #3.1.077 and #3.1.077(a).

29. The Tribunal has already inquired into the Treaty Principles Bill and Treaty clause review and is familiar with the issues and the consequences of weakening Treaty obligations.

30. As a result, a further inquiry can be conducted efficiently and possibly with less hearing time, as the Tribunal does not need to revisit foundational matters.

The Crown's conduct must be subject to scrutiny

31. The Crown has proceeded with a policy to weaken Treaty obligations in legislation, despite the Tribunal's previous findings as to its inconsistency with te Tiriti and the prejudice that will result.

32. The Crown therefore proceeds with full knowledge of the consequences of its actions. That makes it more important, not less, that those actions are subject to scrutiny.

33. Such conduct should not be allowed to proceed unchallenged.

34. It is submitted that where the criteria for urgency are met, as they are here, the Tribunal has a responsibility to inquire.

Date: 28 April 2026

R N Smail
Counsel for the claimant