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BEFORE THE WAITANGI TRIBUNAL **WAI 3565**
TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI **WAI 2499**

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF Te Tinihanga o Ngā Mātāpono o te Tiriti – the Treaty Principles Reform Urgent Inquiry

AND

IN THE MATTER OF a claim by **RAWIRI MCKREE JANSEN AND OTHERS** on behalf of themselves as individual Māori, Te Ohu Rata o Aotearoa and on behalf of all Māori generally

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BRIEF OF EVIDENCE OF DR GEORGE ROBERT LAKING

18 MAY 2026

RECEIVED
Waitangi Tribunal
19 May 26
Ministry of Justice
WELLINGTON

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E TE KAIWHAKAWĀ, TĒNĀ KOE.

I, Dr George Robert Laking, Medical Professional of Auckland say:

INTRODUCTION

1. My name is Dr George Robert Laking, I am a Medical Practitioner holding Vocational Registration in Internal Medicine (Medical Oncology) with the Medical Council of New Zealand.

2. He uri ahau nō Te Whakatōhea. Ko Ngāi Tamahaua te Hapū, ko Ōpape te marae, ko Ōpepe te awa, ko Tarakeha te maunga, ko Te Arautauta te waka taketake.

3. My professional qualifications include BMedSci (Otago, 1990), MBChB (Otago, 1992), PhD (London, 2005), MD (Manchester, 2007), Fellowship of the Royal Australasian College of Physicians (2007).

4. I am employed as a Medical Oncologist with Te Whatu Ora at Te Pūriri o Te Ora | Northern Region Cancer and Blood Service, where we are developing a new community-based model of cancer care.

5. I am also employed as an Associate Professor at Waipapa Taumata Rau the University of Auckland, in the School of Medical Sciences. My research activities include clinical trials of aids to quitting smoking and vaping.

6. My career has had numerous points of contact with health policy and professional ethics, including:

   (a) Membership of the Pharmacology and Therapeutics Advisory Committee of PHARMAC (2008—2016);
   (b) Board Member and Chair of Te Ohu Rata o Aotearoa | Māori Medical Practitioners' Association (2012—2015);
   (c) President Aotearoa New Zealand, the Royal Australasian College of Physicians (2020—2022);
   (d) Member of the Ministry of Health Smokefree 2025 Health Sector Advisory Group (2025)

7. I offer this evidence in my personal capacity, independently of my employment situations.

CHANGES TO TE TIRITI PROVISIONS PROPOSED BY CABINET

8. I provide this evidence in the Wai 3565 urgent inquiry into proposals agreed by Cabinet to repeal or amend Te Tiriti o Waitangi / Treaty of Waitangi (**"Te Tiriti"**) provisions in legislation (**"Reforms"**). My evidence focuses on the following aspects of the Reforms (as far as they appear to be confirmed) within my area of expertise:[1]

   (a) Proposed repeal of provisions referring to Te Tiriti principles in the Smokefree Environments and Regulated Products Act 1990 (s 3AB);

   (b) Proposed amendment to make more specific the broad Te Tiriti principles provision in the Data and Statistics Act 2022, s 14(a);

   (c) Proposed amendment to the Te Tiriti principles standard in certain operative enactments to no higher than 'take into account' including:

      i. Climate Change Response Act 2002;

      ii. Data and Statistics Act 2022;

      iii. Energy Efficiency and Conservation Act 2000;

      iv. Mental Health and Wellbeing Commission Act 2020; and

      v. Pae Ora (Healthy Futures) Act 2022.

9. I note Cabinet's agreement to the Minister of Justice advancing these proposals across groups including the Parliamentary Counsel Office, the National Iwi Chairs Forum, the Ministerial Oversight Group, and responsible other Ministers.

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[1] Waitangi Tribunal Decision on Application for Urgent Inquiry dated 6 May 2025 (Wai 3565, #2.5.1) at [152]; citing Additional Documents of the Crown dated 16 April 2026 (WAI 3565, #A2(a)) p 143. This was replaced by the unredacted materials: Appendices to Crown Memorandum of Counsel dated 15 May 2026 (Wai 3565, #3.1.35(a)).

Effects of proposed Reforms

Smokefree Environments and Regulated Products Act 1990 (s 3AB)

10. The Crown proposes to repeal section 3AB of the Smokefree Environments and Regulated Products Act 1990 ("SERPA"), which says in part:

> "In order to provide for the Crown's intention to give effect to the principles of te Tiriti o Waitangi (the Treaty of Waitangi), this Act—
>
> …(d) requires the Minister, before preparing regulations relating to requirements for smoked tobacco products, to consider the risks and benefits to Māori of regulating a constituent (including both users and non-users of smoked tobacco products).

11. The Tribunal has seen extensive evidence of the harm to health of Māori caused by tobacco.[2] This harm has been a constant since the start of colonisation in the 18th century. It is estimated to account for more than two years of shortfall in life expectancy for Māori compared with non-Māori non-Pacific New Zealanders.

12. The Tribunal has also seen extensive argument that the Crown's actions in relation to tobacco and the health of Māori are in breach of Te Tiriti o Waitangi.

13. Repeal of Section 3AB would be a further erosion of the policy environment as it relates to health of Māori, following on from extensive repeals to SERPA made in 2024.

14. As an oncologist who sees first-hand the catastrophic effect of tobacco on health of Māori, I oppose the repeal of s 3AB(d).

[2] See my previous brief of evidence in respect of SERPA dated 7 February 2024, Wai 3315 #A2. See also Walsh, Michael, and Karen Wright. "Ethnic inequities in life expectancy attributable to smoking." *NZ Med J* 133.1509 (2020): 28-38.

15. I perceive the Crown's stated aim as being one of simplifying legislation. In the case of s 3AB(d), the result of meeting this aim would be to erase a useful instrument for tobacco regulation.

16. This proposal by the Crown succeeds in neither taking into account Te Tiriti o Waitangi, nor taking into account the hauora purpose of SERPA Section 3AB subsection (d). A useful instrument for tobacco regulation will become the casualty of recklessly destructive drafting on the part of the Crown.

17. In my view, there is prejudice arising from the repeal of s 3AB(d). The severe impact of tobacco on Māori life expectancy mandates a comparably high standard of evidence for legislative retrenchment. Yet the Crown has provided no evidence that repeal of subsection (d) would improve health of Māori.

Data and Statistics Act 2022

18. I am aware that members of Te ORA have significant concerns with the jeopardy of Te Tiriti principles within the Data and Statistics Act 2022 (to reduce the Treaty standard to "take into account" and to make more specific the broad Te Tiriti principles provision in s14 of the Data and Statistics Act 2022.

19. Evidence about the health of Māori depends in large part on policy for recording, interpreting, and disseminating statistical data. This includes evidence on tobacco that I have referred to above.

20. Hauora Māori can be and has historically been demonstrably harmed to the extent that health statistics are absent, biased, or misrepresented. The nexus between health of Māori and health data is becoming increasingly strong, with the advent of artificial intelligence in health systems.

21. Hauora Māori continues to be jeopardised from many directions. Remediative action should be prioritised for Māori in relation to

achievable health gain. To identify such gain depends on access to reliable data and statistics. The proposed repeal enlarges the risk of policy inaction or miscalibration in respect of Māori health need.

22. Accordingly, legislative erosion in the data, statistics, and digital realms threatens further breaches of Te Tiriti.

Proposed amendment to reduce standard to one of 'take into account' the principles of the Te Tiriti

23. I note that Pae Ora (Healthy Futures) Act 2022 ("**Pae Ora Act**") is especially affected by the downgrading of status of Te Tiriti principles from "give effect" to "take into account".

24. I refer to the Regulatory Impact Statement issued by the Ministry of Justice on 13 November 2025 (the "**RIS**"). This reveals that "Option Five – Amend all Treaty standards to be no higher than 'take into account' was "a late addition proposed by the Minister of Justice".[3]

25. The RIS further says that "option Five has the potential for wide-ranging impacts on Māori social, cultural, economic, and environmental interests." I have not been able to identify any reference to health interests specifically within the RIS. The omission is significant.

26. I refer to Cabinet Office circular CO (24) 7: Impact Analysis Requirements, dated 16 December 2024 ("**CO (24) 7**"). Section 6.1 of CO (24) 7 says impact analysis seeks to ensure that "the nature and significance of the underlying problem or opportunity is properly identified, and is supported by available evidence."

27. A commonsense reading of CO (24) 7 is that "proper identification of the nature and significance of issues at stake" would require engagement with legislative purpose. Section 3 of the Pae Ora Act states that its purpose is health. There are aspects to health that do not readily reduce

[3] RIS, dated 13 November 2025, at page 89 of Appendices to Crown Memorandum of Counsel dated 15 May 2026 (Wai 3565, #3.1.35(a)).

to any of “social, cultural, economic, and environmental.” They should be looked at through a health lens.

28. I draw the attention of the Tribunal to the framing of policy impact in the RIS by the Crown. Framing can reveal things people think are important to address, or to avoid. The kaupapa of the Te ORA claim Wai 2499 is Hauora Māori. I assert that the Crown’s omission of health impacts for Māori from its framings of regulatory impact in the RIS is a failure of “proper identification of the nature and significance of issues at stake”. That is to say a failure of process even on the Crown’s own terms.

29. Given what we know about Māori health statistics and outcomes, this failure of government is incompatible with the Crown’s obligations to the health of Māori under Te Tiriti.

Te Tiriti adequacy of opportunities for Māori to influence the proposed reforms

30. I refer to the Principles of the Treaty of Waitangi Bill (the “**Bill**”) that was earlier advanced by a partner in the Coalition Government. It appears to have foreshadowed many of the current proposals.

31. Both the Tribunal and Parliament received extensive evidence as to the detrimental effects on Māori of that Bill if enacted.

32. None of that evidence seems to have been especially influential in respect of the current proposed reforms.

Dr George Robert Laking