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 PROFESSOR JOANNE BAXTER

18 MAY 2026

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Waitangi Tribunal
19 May 26
Ministry of Justice
WELLINGTON

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E TE KAIWHAKAWĀ, TĒNĀ KOE.

I, Professor Joanne Baxter, Medical Professional of Dunedin say:

INTRODUCTION

1. My full name is Joanne Mary Baxter. My iwi are Ngāti Apa ki te Rā Tō and Ngāi Tahu.

2. I am a vocationally registered medical practitioner and Public Health Medicine Physician. I currently work as an independent consultant in Māori Health and Public Health and am an honorary Professor of Māori Health at the University of Otago. Previous roles include Group Manager for Health Workforce Delivery in Te Whatu Ora, Professor of Māori Health and Dean of the Dunedin School of Medicine.

3. I have a prior clinical background in psychiatry, including experience working in Māori mental health services in the Waikato, Wellington and Otago regions.

4. I am a member of Te Ohu Rata o Aotearoa (**Te ORA**), the Māori Medical Practitioners Association.

5. In Māori health research, my focus is on:

   (a) Māori mental health and suicide;

   (b) Health inequity – the nature and patterns of inequalities and contributions and solutions to eliminating inequity;

   (c) Māori health workforce development

CHANGES TO TE TIRITI PROVISIONS PROPOSED BY CABINET

6. The Wai 3565 proceeding is an urgent inquiry into the Crown's proposals to repeal or amend Te Tiriti o Waitangi / Treaty of Waitangi ("**Te Tiriti**") provisions in legislation ("**Reforms**"). Due to the time constraints I will focus on the proposal to introduce a bill in this Parliamentary term to amend the Te Tiriti principles standard in the Pae Ora (Healthy Futures) Act 2022 (**Pae Ora Act**) to no higher than 'take into account'.

Pae Ora (Healthy Futures) Act 2022

7. As a Public Health Medicine Physician, and member of Te ORA, I believe strongly, that the proposed amendment to the Pae Ora Act is prejudicial to Māori. The proposed amendment fails to consider the requirement for strong legislative support to ensure current effective solutions to Māori health outcomes are supported, or to ensure future initiatives and health solutions will be permitted.

8. The Pae Ora Act provided for the establishment of the Māori Health Authority, Iwi Māori Partnership Boards, and Māori roles within key decision-making committees and others. The repeal of legislation to disestablish Te Aka Whai Ora in 2024 significantly reduced these provisions, with minimal opportunity for Māori to meaningfully influence the repeal process.

9. The proposal to now potentially amend this legislation further, so the standard is no higher than "taking account of Te Tiriti" substantially weakens the capacity for this amended legislation to uphold Te Tiriti o Waitangi. Likely consequences of the amendment include reducing allowance for Māori participation in decision-making processes and greatly weakened legislative support for the development and support of solutions aimed at addressing inequity.

10. Māori health statistics and research into inequity have highlighted that taking a 'one-size-fits-all' approach to health and health care, does not address inequities in Māori health outcomes. Tailored, culturally aligned solutions provide valuable contributions to addressing inequity. Enhancing the performance of health services for Māori through improved cultural safety and culturally competent health professionals are also key.

11. A range of Māori health solutions, spanning from health promotion and prevention, effective primary and secondary care and culturally responsive service delivery are required. Māori expertise and Māori partnerships and involvement have positively influenced successful changes in health and health care delivery.

12. The proposed amendment has 'consistency' as its rationale. This simply does not make sense and sits in contrast to the rationale underpinning the Pae Ora Act health legislation, which had built on decades of work to provide

a legislative platform that would support solutions to improving Māori health ie. a legislative framework that would underpin health sector effectiveness for Māori.

13. The development of a coherent legislative and policy response to Māori health inequity has been incremental and decades in the making. In 1984, Hui Whakaoranga was held at Hoani Waititi Marae. At that hui, Māori health and community leaders came together with Government health officials to highlight Māori health need and signal a commitment to work collaboratively to improve Māori health and address significant health inequities.

14. At Hui Whakaoranga, Māori health leaders presented approaches for improving Māori health. This included the need for action across the full spectrum of health, from addressing the determinants of health and strengthening health promotion and prevention, through to ensuring health services were responsive to Māori needs and perspectives. The importance of pursuing solutions that were effective for Māori was strongly emphasised.

15. Over the following 40 years, a wide range of policies, strategies, and initiatives have been implemented in response to these stark inequities and unequal outcomes. These actions have involved substantial evidence-based policy development, alongside increased Māori participation in governance, representative, relationship, and advisory roles.

16. These initiatives have spanned the health sector and include, but are not limited to: Māori health workforce development; kaupapa Māori mental health and primary care service development and delivery; incorporation of mātauranga Māori and Māori models of care into health service delivery; and training across the wider health sector in cultural competence and cultural safety. Māori leadership and participation across the health sector, including in governance, has been critical to these developments.

17. These initiatives have benefited not only Māori, however the population more widely. Evidence includes the Covid-19 pandemic response where the Māori health provider sector played a pivotal role in high needs communities including through whānau support, preventive measures, testing and vaccination.

18. Research evidence reinforces the value of Māori led health solutions, including evidence of improved access to health services and Māori health outcomes. Over time, the incorporation of Te Tiriti o Waitangi into health legislation has strengthened the legislative and policy foundation on which the health sector, and other relevant sectors act in relation to Māori Health.

19. Should this amendment proceed, there will be significant risks to Māori health. Merely "taking account" of Te Tiriti, in health legislations provides no guarantees that Māori expertise and Māori focussed solutions will be assured and is a significant step backwards. It further provides no assurance that current solutions for Māori health outcomes that are currently in place, will continue to be supported.

20. In summary, I believe the proposed amendment to the Pae Ora legislation constitutes a clear breach of Te Tiriti o Waitangi including breaches in Kawanatanga, Tino Rangatiratanga and Oritetanga. It is inconsistent with principals outlined in the Wai 2575 claim and fails across all 5 principles – Tino Rangatiratanga, Equity, Active Protection, Options, Partnership.

Professor Joanne Baxter