IN THE WAITANGI TRIBUNAL

WAI 2575

WAI 3307

IN THE MATTER The Treaty of Waitangi Act 1975

AND

IN THE MATTER of a claim to the Waitangi Tribunal by Janice Kuka and Lady Tureiti Moxon in respect of the 30 June 2024 commencement of the Pae Ora (Disestablishment of Maaori Health Authority) Amendment Act 2024

MEMORANDUM SEEKING LEAVE TO RESPOND TO CROWN UPDATE

DATED 7 SEPTEMBER 2026

RECEIVED
Waitangi Tribunal
8 Sep 26
Ministry of Justice
WELLINGTON

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1. This memorandum is filed on behalf of the Wai 3307 claimants Ms Kuka and Lady Moxon (**claimants**), seeking leave to respond to the Crown memorandum and appendix by 5pm on Thursday 10 September 2026 (**Crown memo**).

2. The Crown memo arose from the Wai 3568 priority application, not from any request by the Wai 3307 claimants.[1]

3. On 11 August 2026, the Tribunal declined the Wai 3568 application but directed the Crown to file updating information which it said was not to be evaluative information, submissions or evidence on the effectiveness of these developments.[2]

4. On 3 September 2026, the Crown memo was filed (including an appendix).[3] It is not limited to identifying legislative and structural changes. It contains submissions and evaluation about the effect of those changes which the claimants dispute.

5. By way of one example only, the Crown states that the amendments create "a new connection between local Maaori health priorities and national decision-making".[4] This submission is disputed. In reality, IMPBs are now one step further from national decision-makers: IMPBs now only advise HMAC which advises the Minister and Health NZ. HMAC has no decision-making power,[5] no staff or budget,[6] meets with the Minister only six or

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[1] Wai 2575, #3.2.1293, *Memorandum of Counsel Regarding Application for Priority Hearing*, dated 7 July 2026, at [1]–[5] (also filed as Wai 3568, #3.1.1); Wai 2575, #3.2.1297, *Memorandum of Claimants Regarding New Priority Hearing for Wai 3568*, dated 24 July 2026, at [3]–[5].
[2] Wai 2575, #2.6.210, *Memorandum-Directions of the Wai 2575 Panel Determining Wai 3568 Application for a Priority Hearing*, dated 11 August 2026, at [50]–[56], particularly [53]–[55].
[3] Wai 2575, #3.2.1301, *Memorandum of Counsel Providing Updating Information on Health System Settings*, dated 3 September 2026; and Wai 2575, #3.2.1301(a), *Appendix 1 to the Crown Memorandum Providing Updating Information on Health System Settings*.
[4] Wai 2575, #3.2.1301(a), *Appendix 1 to the Crown Memorandum Providing Updating Information on Health System Settings*, dated 3 September 2026, at 4.
[5] *Healthy Futures (Pae Ora) Act 2022*, ss 17, 30(1)(b) and 89; Wai 2575, #3.2.1284, *Memorandum Regarding Pae Ora Act Changes Announcement*, dated 19 June 2025, at [4], [7]–[9] and [12]–[13]; Wai 2575, #3.3.198, *Closing Submissions on Behalf of Janice Kuka and Lady Tureiti Moxon*, dated 29 May 2025, at [86].
[6] Wai 2575, #4.1.029, *Transcript of Stage Two of the Te Aka Whai Ora (Maaori Health Authority) Priority Inquiry Hearing Held from 26 to 29 May 2025*, at 214–215 (Judge Stone questioning John Whaanga). Mr Whaanga confirmed that HMAC had no staff of its own, that the Ministry provided

seven times a year[7] and the Crown presented no evidence that HMAC had ever successfully influenced a decision in favour of hauora Maaori.[8]

6. It is submitted that allowing the claimants until Thursday to respond is appropriate. It would be contrary to natural justice for the Tribunal to consider the Crown's submissions and evaluative material, filed following the Wai 3568 application, in its report on Wai 3307 without first giving the Wai 3307 claimants an opportunity to respond.

7. Counsel has already taken initial instructions and is preparing a memorandum in response to the Crown memo. A short period is required to complete that work and obtain final instructions from the claimants. The claimants respectfully ask that leave be granted and that their response be received and considered before the report is finalised.

DATED this 7th day of September 2026

R N Smail
Counsel for the Claimants

secretariat support, and that, although funding was available to obtain additional advice or expertise, he did not think there was a set amount.

[7] Wai 2575, #4.1.029, *Transcript of Stage Two of the Te Aka Whai Ora (Maaori Health Authority) Priority Inquiry Hearing Held from 26 to 29 May 2025*, at 281–282 (Stephanie Roughton questioning John Whaanga); Wai 2575, #3.3.198, *Closing Submissions on Behalf of Janice Kuka and Lady Tureiti Moxon*, dated 29 May 2025, at [8.2.3].

[8] Wai 2575, #3.2.1284, *Memorandum Regarding Pae Ora Act Changes Announcement*, dated 19 June 2025, at [10]; see also Wai 2575, #3.3.198, *Closing Submissions on Behalf of Janice Kuka and Lady Tureiti Moxon*, dated 29 May 2025, at [86].