**IN THE WAITANGI TRIBUNAL**
**OF NEW ZEALAND** **WAI 2003**

**IN THE MATTER OF** the Treaty of Waitangi Act 1975

**AND**

**IN THE MATTER OF** Te Paparahi o Te Raki District Inquiry

**AND**

**IN THE MATTER OF** a claim by Cheryl Turner, John Klaricich, Harerei Toia (deceased), Ellen Naera, Fred Toi, Warren Moetara and Hone Taimona on behalf of Ngati Kororkoro Ngati Wharara and Te Pouka Hapu

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# JOINT BRIEF OF EVIDENCE OF HIKURANGI CHERRINGTON and JOHN WIGGLESWORTH

Dated this 27th day of March 2014

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**Instructing Solicitor:**
Tamatekapua Law
PO Box 75-015
Manurewa
AUCKLAND 2105
Tel (09) 268 1840
Fax(09) 268 1850

**Counsel Acting:**
Katharine Taurau
4 Pa Road
Kerikeri 0230
NORTHLAND
T: 021 63 60 64
E: kath.taurau@xtra.co.nz

## Introduction

1. This brief of evidence is given on behalf of Hokianga Health Enterprise Trust ("the Trust"), "Hokianga Health" or "Hauora Hokianga") by the Trust Chair, Hikurangi Cherrington, and Chief Executive Officer, John Wigglesworth.

2. Our evidence addresses two issues:
   a. The provision of health and social services to Māori in Hokianga;

   b. The involvement of the Trust in the Nga Puna Wai o Hokianga pilot project.

## Background to the Establishment of the Trust

3. Prior to 1992, Hokianga Health Services were administered by the Northland Area Health Board as a statutory 'Special Medical Area' (Section 117 Social Security Act 1964). Special Medical Areas were established in 1947 to provide services to remote communities, often socio-economically deprived and Māori, where the establishment of private general practice was not viable. They provided free primary health care, employed salaried general practitioners and district nurses and were often associated with a small rural hospital providing medical inpatient and maternity services.

4. Health services in the Hokianga had grown to reflect local tradition and identity, dating from Hokianga being the first Special Medical Area in New Zealand. This is discussed in a book by Kearns, Wilbert, Gesler, "*Putting Health into Place: Landscape, Identity, and Well-Being*".

5. In 1986 members of the Northland Health Services Advisory Committee considered the Hokianga model to be expensive and inefficient. However a Department of Health study subsequently corrected this view, in the report: *PRIMARY HEALTH CARE IN NORTHLAND: a comparative study of a special medical and a fee for service area*. This study showed the Hokianga Special Medical Area Service to be a cost

effective and efficient model of primary care, even with the inclusion of free medical services. Of particular note was the relatively low per capita cost of pharmaceuticals.[1]

6. In 1991 the Government Green and White Paper: "*Your Health and The Public Health"* proposed reforms which included the following: [2]

   a. A businesslike approach to healthcare with appointed boards of directors drawing on business as well as health expertise;
   b. Introduction of 'User Charges' for hospital services and pharmaceuticals;
   c. Separation of the funder and provider of health services;
   d. Development of primary care capitation funding models and primary care budget-holding;
   e. Smaller communities would be given the opportunity to take over their local hospitals and run them as community trusts.

7. Hokianga residents and community leaders, concerned about the impact of these reforms on the well-being of Hokianga people, formed the Hokianga Action Committee, chaired by kaumatua Chris Diamond of Waimamaku.

8. I can recall reading research undertaken by epidemiologist**,** Dr Judy Reinken of Omapere that demonstrated the inequity of introducing user charges for pharmaceuticals because of the very low cost per capita for Hokianga people compared to Northland and New Zealand. This research became the foundation of the community's argument to preserve free pharmaceuticals. Unfortunately I have not been able to find a copy of this research to attach to this brief.

9. Following sustained community action in 1991 and 1992, the Hokianga Health Enterprise Trust was formed to manage a pharmaceutical budget-holding contract

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http://www.moh.govt.nz/notebook/nbbooks.nsf/0/1277C9C96FCF11F94C2565D7000E4424/$file/Primary%20health%20care%20in%20Northland.pdf

[2] Your Health and The Public Health, A Statement of Government Health Policy 1991, Minister of Health, Simon Upton, pages 3 & 4
www.moh.govt.nz/notebook/nbbooks.nsf/0/534EB5F6CAB407A14C2565D7000DED29/$file/87765.pdf

on behalf of Hokianga residents enabling free pharmaceuticals to be continued in Hokianga.

**Hokianga Health Enterprise Trust 1992**

10. The Trust's Deed objectives include, "ensuring equity of services within Hokianga" and, "to gain an equitable share of health care funding to provide health services within and by the Hokianga community".

11. Today the Hokianga community consists of approximately 6,400 residents who are registered with Hauora Hokianga, 75% of whom are Māori.

12. The Trust provides a comprehensive range of integrated health services to the population that resides within an area specifically defined by the geographic boundaries of the old Hokianga County Council. These boundaries are traditionally described in Māori society via whakatauki that link the mountains that surround the Hokianga River.[3]

13. The Trust is the only significant Government or non-Government organisation that provides services to Hokianga as a distinct community. The Ministry of Social Development for example, considers North and South Hokianga as two separate areas, connected to larger communities in the Far North and mid North respectively.

14. The Trust board consists of between 24 and 30 members, 20 of whom are democratically elected by the communities of the ten 'clinic areas'. These clinic areas broadly correspond with distinct Hokianga communities and historical settlements. Two additional members are selected by staff and up to six co-options can be made by the Trust for skills or representational balance. The Trust deed specifically requires that the Trust membership be majority Māori.

15. Over the years Māori proportional membership of the Trust board has been between 60% and 75% and the three Chairmen to date have all been Māori, the late Chris Diamond of Waimamaku, the late Joe Topia of Panguru and the current chairman, Hikurangi Cherrington of Waimamaku.

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[3] Hokianga Health Enterprise Trust Annual Report 2013, p 4
www.hokiangahealth.org.nz/Annual_Report_2013/Hokianga_Health_Annual_Report_2013.pdf

16. The Trust's health service is named Hauora Hokianga or Hokianga Health and is considered by the Ministry of Health today as a Māori Health provider. Hauora Hokianga is a member of the Te Pu o Te Wheke, Whanau Ora alliance and is a founding member of Healthcare Aotearoa.

17. The Trust includes within its philosophy a commitment to Tino Rangatiratanga and the European moral principle of subsidiarity. The papal encyclical *Quadragresimo Anno* in 1941 restated this principle as follows:[4]

- *It is an injustice, a grave evil and a disturbance of right order for a larger and higher organisation to arrogate to itself functions which can be performed efficiently by smaller and lower bodies".*

18. The Trust provides services under the kaupapa Māori framework Te Whare Tapa Wha, which believes that health is a four sided concept: the spiritual (taha wairua), the psychological (taha hinengaro), the physical (taha tinana), and social (taha whanau).

**Funding**

19. The Hokianga Special Medical Areas was effectively removed under the Health and Disabilities Services Act 1993.

20. In 1993, the Trust successfully negotiated the transfer of the assets and liabilities of the previously Crown operated Hokianga Health services into its Trust. This included the title of all of the lands, building and plant along with significant staff liabilities. The net equity of this transaction was $1,366,437 and occurred on 1st July 1993.

21. In 1993, service contracts were negotiated with the Crown Health Enterprises Establishment Unit and in that first year of operation an operational deficit of $179,865 was incurred.

22. In 1994, the Trust received a Ministry of Health Licensing Report for its hospital service requiring over 40 improvements to the facility in order to maintain the Trust's license to

[4] http://issuu.com/mhtag/docs/catholic_social_teaching_from_a_social_science_per (page 105)

provide hospital services. This effectively required the upgrade and rebuild of the entire facility.

23. The Trust drew up a twenty year plan for capital improvements and negotiated timelines for corrective action with the Ministry of Health. However the Crown refused to fund any aspect of the cost of the upgrades, only agreeing in 1995 that the Trust should be funded in such a manner that would allow modest operational surpluses for the purposes of funding the required facility upgrades.

24. By 2013, a significant proportion of the capital plan had been completed. These projects were exclusively funded by the Trust, local community fundraising, and small grants.

25. Between 1993 and 1997, the Trust did not receive any financial support from the Crown's health funding agencies to cover inflationary cost pressures. Again between 1997 and 2003, the Trust despite many unsuccessful attempts at negotiation with successive Crown agencies, the Regional Health Authority, the Health Funding Authority and Northland District Health Board, received no baseline increase in the contract amount, despite significant cost increases over this period due to inflation.

26. In 2000, the Trust and the Health Funding Authority (HFA) engaged in negotiations in relation to the financial sustainability of the Trust. The HFA agreed that they would investigate if there was a funding inequity and if shown to be the case that Hokianga residents were receiving less per capita funding in comparison to other communities and services, the contract funding would be adjusted accordingly.

27. The research undertaken by the HFA concluded that the Trust received a fair contract price for its services with the exception of the acute inpatient hospital service, which was approximately $1 million underfunded and the pharmaceutical contract which was $700,000 underfunded on a per capita basis. However, the HFA did not act in faith with the agreement and contract amounts were not adjusted.

28. In 2001 the responsibility to administer Hokianga's health contracts transferred from the HFA to the newly formed Northland District Health Board (NDHB). The then Trust chairman, Joe Topia and CEO, John Wigglesworth visited the Minister of Health in Wellington to

request assistance in upholding the commitment that had been made by HFA. The Minister referred the Trust to NDHB.

29. NDHB believed that they were not obliged to uphold the agreement made with HFA and the contract rolled over in 2001 with no increase in contract funding.

30. In 2003, Northland DHB cancelled the Trust’s pharmaceutical budget holding contract. This contract despite being underfunded on a per capita basis had contributed moderate and regular cash surpluses for the Trust which were utilised to support the hospital upgrade programme. Free pharmaceuticals however have continued to be available to Hokianga residents.

31. In 2003, financial relief was made available by the Crown for primary health care with the implementation of the Primary Health Care Strategy 2001. This was a result of a more equitable and fairer funding mechanism for primary health care. The Trust formed the Hauora Hokianga Integrated Primary Health Organisation.

32. In 2008, the Trust received a $500,000 funding increase from NDHB for the acute medical hospital service.

**Maori Health Provider**

33. In 1996 the HFA established the Māori Health Directorate. The Trust subsequently sought recognition as a Māori Health provider which was a pre-requisite for access to new Crown investments that were being made by the HFA specifically targeted to address health inequalities for Māori populations.

34. The Trust did not receive any funding for Māori specific services until 2011.

35. In 2007, the Trust submitted to the Ministry of Health that it met the criteria for acceptance as a Māori health provider, which was defined by the Crown as:

- *“a provider of health and disability services to a Māori, but not exclusively Māori community”*
- *“a provider that is owned and governed by Māori”*

36. In 2010 the Ministry of Health finally explained their rationale: that technically there was no statement in the Trust deed that could ensure the electing of a majority non-Māori board and this was the problem with the Trust being accepted as a Maori health provider.

37. The Trust changed its deed to ensure majority Māori ownership in 2010 and received recognition as a Māori health provider in 2011. The Trust acknowledges the support of Northland DHB in attaining this recognition.

38. In 2010, the Trust was asked by the Crown to give up its role as a Primary Health Organisation (PHO), which it accordingly did and subsequently merged with Te Tai Tokerau PHO. The Trust felt it had little choice but to relinquish its autonomy as a PHO despite its very successful PHO model. The result was a loss of funding and control, but without the promised efficiency gain.

**Current position**

39. Between 2009 and 2012, the Trust's received no funding increases from the Crown for cost pressures for most of its larger service contracts.

40. In 2010, Northland DHB agreed to undertake an equity study of the overall health funding allocation for Hokianga residents compared to other parts of Northland. NDHB also agreed that if inequity is demonstrated by the study, then NDHB would fund a pathway to achieve equity.

41. The NDHB study showed that Hokianga was the least equitably funded community in Northland. NDHB, following a peer review however determined that the study was not sufficiently accurate to provide the basis for funding allocation and therefore it was not able to acknowledge the inequity and did not respond with funding the pathway to equity.

42. The Trust provides the Hokianga public hospital service under contract to NDHB on behalf of the Crown, yet it is considered by the Ministry of Health to be a private hospital, because it is not owned by the Crown. This means that the hospital records that the Trust submits to the NZ Health Information Service do not have the same priority that public hospital records

receive. The result is that the data for hospital services published in official documents in NZ and Northland do not include the inpatient data of Hokianga patients.

43. In 2014, Northland DHB agreed to work with the Trust to incorporate the inpatient data within its own reporting systems.

44. Only since has 2013 Hokianga (Rawene) Hospital been recognised as one of Northland's public hospitals on NDHB official website and documents.

45. As a result of concerns expressed by the Trust about the sustainability of Hokianga Hospital services following operational deficits in 2011/2012 and 2012/13, NDHB agreed to undertake a Model of Care Review of the Hokianga Health services.

46. This study undertaken by Health Partners was completed in early March 2014. As an outcome of the review, NDHB has agreed to provide a more sustainable future funding pathway for the Trust including a base level increase, cost pressure adjustments and a five year contract.

47. The review showed that:
    a. The Trust and Hokianga Health provide an effective service that meets the best practice described by international and national literature for rural health care;

    b. There are very high health needs in the Hokianga Māori population – with significantly high rates of cardio vascular disease and diabetes;

    c. Hokianga has higher rates (than other practices in Northland) of attendances at GP and nurse consultations for Māori and very high CVD screening and diabetes check rates for Māori. These are good measures of accessible primary care, particular outstanding and rare for high needs Māori and rural communities in NZ;

    d. Very low attendance rates at NDHB emergency services for the Hokianga population;

    e. In comparison to NDHB's Dargaville Hospital (the most close in kind local service to HHET's acute medical inpatient service), the Trust's Hokianga hospital service cost $360,000 less per annum, adjusted for patient days.

48. Over the last twenty years, the Trust has demonstrated the cost effectiveness of its primary health care model that it inherited from the former Hokianga Special Medical Area. It achieves most of the objectives of the Primary Health Care Strategy 2001 and the current "Better, Sooner, More Convenient" policies of the Ministry of Health that seek the transformation of health services towards more responsive and integrated models.

49. Hauora Hokianga's success is built upon the foundation of its ownership by community, the protection of values that are appropriate to its Māori community, and the adoption of Māori models of health care such as Te Whare Tapa Wha and Whanau Ora. This achievement of the maintenance and development of the Hokianga Model of Care is today a taonga for both Hokianga Māori and the minority non-Māori population.

50. The Trust has consistently sought protection and partnership from the Crown both for the sustainability of its health care services, and for equity for the people of Hokianga.

51. The opportunity of the devolution of the hospital services to Hokianga Health Enterprise Trust presented by the 1991 health reforms created a two edge sword – on one hand, Hokianga Health Enterprise Trust's successful and progressive development of the integrated Hokianga health service model of care and on the other, the burden of fiscal responsibility for a public hospital service that everywhere else in New Zealand is considered to be the full fiscal responsibility of the Crown.

**Social Services in Hokianga**

52. In 2011, the Trust demonstrated to Northland Community Response Forum and the Ministry of Social Development (MSD) that the Hokianga community has a very inequitable access to Crown funded community social services. Analysis of the MSD website, www.contractmapping.co.nz suggests that Hokianga residents receive the highest per capita funding in New Zealand. However upon investigation, only eight of the 116 social service providers listed actually provided services to Hokianga people. We refer to the Submission to Northland Community Response Forum: Analysis of Community Support Services funded in the Hokianga Area, Hauora Hokianga February 2011, a copy of which is attached in appendix A.

53. Despite this analysis, there have been no subsequent improvements in the availability of social services to the Hokianga community.

54. In 2011, the Trust joined six other agencies including Te Runanga a Iwi o Ngapuhi to form Te Pū o Te Wheke Whanau Ora Collective.

**The Pākanae Water Board**

55. The Trust and Pākanae Water Board Incorporated established a close working collaboration following events that occurred after the Hokianga floods in 1999. These isolated floods devastated a number of communities, including Pākanae.

56. Following the floods, the Medical Officer of Health in Northland expressed concerns about the poor quality of drinking water at Hokianga marae where food and shelter was provided for many residents. He recommended to the Ministry of Health that they consider funding improvements to the drinking water in Hokianga.

57. The Trust was offered a contract to facilitate the design and installation of the treatment plants by the Ministry of Health in 2000. The project was named Nga Puna Wai o Hokianga.

58. The Trust offered each community of Hokianga the opportunity to upgrade their marae facilities and if they wished, an opportunity to develop a treated community water supply. Two communities: Pākanae and Whirinaki and all 36 marae had installed facilities by 2002.

59. Nga Puna Wai o Hokianga won the prestigious NZ Health Innovation Award in 2003 in its inaugural year. The project greatly influenced the development of the Ministry of Health's Drinking Water Assistance Programme (DWAP)[5].

60. The success of Nga Puna Wai o Hokianga was due to the close method of engagement with the communities and ensuring that they were in control of, and took responsibility for, their own projects. All of the korero with community was held at marae and largely in Te Reo Māori. Engineers were contracted by the Trust to assist the communities to find solutions.

61. The Trust has since assisted three more Māori communities in Hokianga under DWAP to install community drinking water facilities at Waima, Matihetihe and Panguru. At Pākanae marae and Otaua marae, the Trust assisted the communities to design, fund and install specifically designed waste water treatment plans.

[5] See page 100, Appendix J to the Brief of Evidence of C L Turner dated 24 March 2014, Wai 1040, #L2

62. These projects all demonstrate the Trust's successful application and adherence to the principle of 'subsidiarity'[6].

63. In contrast to the approach taken by the Trust, the Far North District Council (FNDC) in 1999 expressed their reluctance to the Ministry of Health to become involved with improving drinking water supplies in the Hokianga[7]. As a result of their attitude and ambivalence to Hokianga communities, FNDC has not installed a single water or waste water treatment system in Hokianga since the Local Government amalgamation reforms in 1989.

**Concluding Remarks**

64. Hokianga Health Enterprise Trust thanks the Waitangi Tribunal for the opportunity to present this brief of evidence on behalf of the claimants. We believe that the evidence that we have presented here has relevance for tangata whenua throughout the whole rohe of Hokianga.

65. For the community for whom we serve, the journey taken by the Trust since 1992 towards sustainability, self determination and equity has had many challenges and set-backs, but it has also been at times successful and rewarding.

66. The Trust acknowledges the recent progress made with Northland DHB and can now hope for a more sustainable funding pathway the ongoing battle to justify itself than has been the case in the past.

67. The journey towards a brighter future will continue for the Trust. The experience of Nga Punawai o Hokianga has shown that the pace towards achieving equity in health and social outcomes for Māori will quicken if and when the aspirations of the Crown and its agencies are aligned with the aspirations of Tangata Whenua.

Hikurangi Cherrington and John Wigglesworth

Hokianga Health Enterprise Trust

[6] See page 99, Appendix J to the Brief of Evidence of C L Turner dated 24 March 2014, Wai 1040, #L2

[7] See page 100 ,Appendix J to the Brief of Evidence of C L Turner dated 24 March 2014, Wai 1040, #L2

27 March 2014