

**BEFORE THE WAITANGI TRIBUNAL
WELLINGTON**

WAI

IN THE MATTER OF

The Treaty of Waitangi Act 1975

AND

a claim by Cletus Maanu Paul

AND

the New Zealand Maori Council

STATEMENT OF CLAIM

Dated 28 May 2014



Kathy Ertel & Co
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Mt Cook
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Counsel acting: Kathy Ertel

Introduction

1. This claim concerns the Crown's proposed Te Reo Mauriora Strategy. The Claimant is Maori and brings this claim on behalf of himself and all Maori.
2. The claimant is also the co-chair of the New Zealand Maori Council ("NZMC") and files this claim on behalf of NZMC being a group of Maori representing all Maori by virtue of s.18 of the Maori Community Development Act 1962.
3. Te Reo Maori is a taonga and is protected under Article 2 of the Treaty of Waitangi.
4. The use of Te Reo Maori has been in decline and continues to decline. It is an official language of New Zealand.

Background

5. The NZMC is empowered by s18 of the Maori Community Development Act:

To consider and discuss such matters as appear relevant to the social and economic advancement of the Maori race:

(b) To consider and, as far as possible, give effect to any measures that will conserve and promote harmonious and friendly relations between members of the Maori race and other members of the community:

(c) To promote, encourage, and assist Maoris—

(i) To conserve, improve, advance and maintain their physical, economic, industrial, educational, social, moral, and spiritual well-being;

(ii) To assume and maintain self-reliance, thrift, pride of race, and such conduct as will be conducive to their general health and economic well-being;

- (iii) To accept, enjoy, and maintain the full rights, privileges, and responsibilities of New Zealand citizenship;*
- (iv) To apply and maintain the maximum possible efficiency and responsibility in their local self-government and undertakings; and*
- (v) To preserve, revive and maintain the teaching of Maori arts, crafts, language, genealogy, and history in order to perpetuate Maori culture:*

6. In the past the NZMC has taken litigation in the General Courts to protect and promote Te Reo Maori.
7. In the past the NZMC has negotiated with the Crown to put into effect governance and policy measures to protect and promote Te Reo Maori.
8. On 15 July 2010 the Minister of Maori Affairs appointed a Panel of 7 people (“**Panel**”) to inquire into the state of the Maori Language. In April 2011 the Panel issued its Report. The Report contains recommendations on the restructure of the governance entities responsible for the promotion and advancement of Te Reo Maori.
9. The Government has not consulted with the NZMC over the inquiry into the Maori Language nor the terms of reference for the Panel or its subsequent report.

The status quo

10. Currently, the Maori Language Commission¹ and Te Mangai Paho² are responsible for the promotion and protection of the Maori Language. While these institutions are statutory based they have the support of Maori and where to a large extent agreed with Maori following Court action taken by the New Zealand Maori Council and others.

¹ Established by the Maori Language Act 1987

² Established by the Broadcasting Amendment Act 1993

11. Specifically the functions of the Commission are:

- (a) To initiate, develop, co-ordinate, review, advise upon, and assist in the implementation of policies, procedures, measures, and practices designed to give effect to the declaration that the Maori language is an official language of New Zealand;
- (b) Generally to promote the Maori language, and, in particular, its use as a living language and as an ordinary means of communication;
- (c) Issue certificates of competency in the Maori language;
- (d) To consider and report to the Minister upon any matter relating to the Maori language that the Minister may from time to time refer to the Commission for its advice; and
- (e) Such other functions as may be conferred upon the Commission by any other enactment.

12. Specifically the function of Te Mangai Paho is to promote Maori language and Maori culture by making funds available, on the terms and conditions that it thinks fit, for broadcasting; and producing programmes for broadcasting; and archiving programmes.

13. In 2009 the Government allocated \$596,052,023 to Maori Language. The bulk of this money (84.25%) is controlled and allocated by the Ministry of Education. There is no requirement on the Ministry of Education to ensure that the funds it allocates are actually spent on Maori language programmes.

Crown's restructuring proposal

14. The Crown has accepted the recommendations of the Panel and intends to appoint:

- (a) a Minister for the Maori Language;
- (b) a national board called Te Matawai consisting of 9 people; and
- (c) nine regional boards called Runanga a Reo.

15. The Minister will have over-riding authority for Maori Language revitalisation and will control the government's budget for Maori Language.
16. Maori will elect the members of Te Matawai. Te Matawai will work with Runanga a Reo to implement national strategy to revitalise the Maori Language.
17. The policy is silent on the amount of funding that will be allocated to Te Matawai.

The Claim

18. The Government is required by Article 2 of the Treaty to protect Te Reo Maori.
19. The Government is required by Article 3 of the Treaty to ensure that Maori learners are taught in their native language.
20. The Government has failed to protect Te Reo Maori by not ensuring that a co-ordinated approach to revitalising the language is implemented.
21. The Government has undertaken a reform process and has failed to adequately consult with Maori concerning this highly important toanga, Maori Language. Specifically the government has not directly consulted with the NZMC one of the litigants in the Court proceedings that resulted in the formation of the Maori Language Commission and Te Mangai Paho.
22. The Government has breached the principles of the Treaty in that it has failed to:
 - (a) Ensure that hapu have tino rangatiritanga over Maori Language;
 - (b) Ensure that any reform of Maori Language governance and policy is led by Maori; and

- (c) Properly consult with Maori over the new policy it intends to implement.

23. The claimant seeks the following recommendations:

- (a) That the Government not implement its new policy on Te Reo Maori unless and until Maori have been adequately resourced to lead any reforms; and
- (b) That the Government fund and consult with Maori on the terms of reference for any reforms to the governance and policy concerning Te Reo Maori.

This statement of claim is filed by the claimant whose address for service Kathy Ertel & Co 26 Bidwill Street, Mt Cook, Wellington 6021 or emailed to kle@klelaw.com.