

**IN THE WAITANGI TRIBUNAL
EDUCATION SERVICES AND OUTCOMES KAUPAPA INQUIRY**

**WAI 3310
WAI 2109**

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

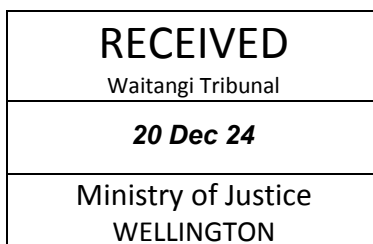
IN THE MATTER of the Education Services and Outcomes Kaupapa Inquiry (Wai 3310)

AND

IN THE MATTER of a claim by Kahurangi Fergusson-Tibble and the late Maaka Tauranga Tibble for themselves and on behalf of all Kaapoo Maaori (Maaori blind, vision impaired and deaf blind persons) and their whaanau and Kaapoo Maaori Aotearoa/New Zealand Incorporated (Wai 2109)

**MEMORANDUM OF COUNSEL FILING SUBMISSIONS REGARDING
PRIORITISATION**

Dated: this 20th day of December 2024



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MAY IT PLEASE THE TRIBUNAL

1. This memorandum of counsel is filed for the Wai 2109 Kaapoo Maaori claim, a claim by Kahurangi Fergusson-Tibble and the late Maaka Tauranga Tibble for themselves and on behalf of all Kaapoo Maaori (Maaori blind, vision impaired and deaf blind persons) and their whaanau and Kaapoo Maaori Aotearoa/New Zealand Incorporated (“**the Kaapoo Maaori Claimants**”).
2. This memorandum responds to the memorandum-directions of Judge R Mullins issued following the hearing and judicial conference dated 3 December 2024, inviting counsel to file further submissions outlining any issues they believe should be prioritised within this inquiry by 5pm, Friday 20 December 2024.¹
3. Accordingly, the Kaapoo Maaori Claimants seek to have their claim given priority within the Wai 3310 inquiry.

Prioritisation of the Wai 2109 Kaapoo Maaori claim

4. As indicated in the further statement of claim, a core aspect of the claim is that kaapoo Maaori and their whaanau have been made invisible to the Crown.²
5. Evidence will also be presented in this inquiry, by the Kaapoo Maaori Claimants, describing how they have and continue to be marginalised and fall through the gaps as a result of Crown acts and omissions. As a group they are doubly disadvantaged due to being taangata whaikaha and Maaori.
6. The Kaapoo Maaori Claimants have significant concerns about being pushed to the back of the queue as a result of any prioritisation process.
7. Additionally, as noted in the Wai 2109 memorandum of counsel dated 19 November 2024, many of the Wai 2109 claimant witnesses are elderly and/or unwell.³
8. Indeed, a number of key kaapoo Maaori pakeke potential witnesses have already passed since the filing of the Wai 2109 claim. These include the named claimant, the late Mr Maaka Tauranga Tibble.


¹ Memorandum-directions of presiding Office Judge Mullins following the hearing – he tumu herenga koorero – and judicial conference of 22 November 2024, dated 3 December 2024 (Wai 3310, #2.6.1).

² Further Statement of Claim Wai 2109, dated 20 November 2024, (Wai 2109, #1.1.1(c)) at [14].

³ Memorandum of counsel filing submissions on issues for the Wai 3310 Inquiry, dated 19 November 2024 (Wai 3310, #3.1.8) at [10].

9. As indicated previously, the Kaapoo Maaori Claimants ask that the hearing of the Wai 2109 claim be expedited through the commissioning of urgent and targeted research regarding the access to and education of taangata whaikaha Maaori (including kaapoo Maaori and their whaanau).⁴
10. Accordingly, the Kaapoo Maaori Claimants seek for their claim to be prioritised within this inquiry.

Dated this 20th day of December 2024



A handwritten signature in blue ink, appearing to read 'D Chong / A Benefield', is written over a horizontal line. The signature is cursive and somewhat stylized.

D Chong / A Benefield

Counsel for the Wai 2109 Claim

⁴ Memorandum of counsel filing submissions on issues for the Wai 3310 Inquiry, dated 19 November 2024 (Wai 3310, #3.1.8) at [11].