

IN THE WAITANGI TRIBUNAL
KEI MUA I TE RŌPU WHAKAMANA I TE TIRITI O WAITANGI

WAI 3555
WAI 274, 283

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF the Crown Forest Assets Act 1989

AND

IN THE MATTER OF claims to the Waipāoa Blocks (part of
the Mangatū State Forest)

MEMORANDUM OF COUNSEL
FOR TE AITANGA A MĀHAKI CLAIMANTS
2 September 2025

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RECEIVED

Waitangi Tribunal

2 Sep 2025

Ministry of Justice
WELLINGTON

Tēnā, e Te Rōpu Whakamana i te Tiriti o Waitangi

1. This memorandum is filed by counsel for Te Aitanga a Māhaki (Wai 273/284) (**Māhaki**) in response to the Tribunal directions dated 24 July calling a judicial conference on 18 September (Wai 3555, #2.5.5). Counsel apologises to the Tribunal for filing this memorandum late, having inadvertently overlooked the deadline whilst attending a hearing (not coincidentally, junior counsel Ms Haradasa recently departed Thorndon Chambers to study overseas).

Mangaorongo block

2. Māhaki support the Mangaorongo block being included in the inquiry even though it is not Crown forest licensed land.
3. The block largely lies within the external boundaries of the Waipāoa area, and therefore it is contextually relevant to the Waipāoa claims. The block was awarded to Ngāi Tamatea (a hapū of Māhaki), with only two individuals named as owners, seemingly to enable completion of purchase by the Crown. While research has not been completed yet, the fact that the Crown purchased the block suggests that its history may be relevant to the claims of Treaty breach in the area.

Filing amended statements of claim/ Crown response

4. The Crown's response to all claims (not just those of Māhaki) is that further particularisation is required in order to identify the factual matters by which it is said that the loss of some of the Waipāoa lands occurred in breach of the principles of the Treaty of Waitangi (Wai 3555, #1.4.2). That stance is driven by the Crown's legal position that in order for the claim to "relate to" CFL land there must be a direct causal link between the claim and the CFL land the subject of the claim: in other words, that the CFL land has to be acquired in breach of the Treaty for the Tribunal to be able to order resumption pursuant to s8HB of the Treaty of Waitangi Act 1975. The Tribunal will be aware that this position does not represent the law as it currently stands, having been rejected by the Tribunal in the *Mangatū*

Remedies Report 2021, and again by the High Court on judicial review (with a Court of Appeal judgment pending).

5. Accordingly, it is not accepted that further particularisation is *required* in order for the Waipāoa remedies inquiry to proceed. Resumption is being sought on the basis that the Crown has undermined the tino rangatiratanga of Māhaki in breach of te Tiriti o Waitangi, which has resulted in devastating social, spiritual, and economic prejudice, including the loss of most land in the rohe. As Mr Bennion has submitted in his memorandum dated 27 August, this inquiry follows the district-wide Tūranga inquiry and report which has covered most major issues in the region, including the CFL land, and made findings on Tiriti breach which are equally applicable to the Waipāoa blocks. The Tribunal can proceed on that basis irrespective of the detailed history of the Waipāoa blocks.
6. Having said that, however, Māhaki are prepared to file an amended statement of claim once the Waipāoa block research has been completed if it would assist the Tribunal to have the Waipāoa grievances particularised. This step would be relatively straightforward, amounting to providing detail to flesh out the history of these blocks, and ought not to delay the hearings in any way.
7. Māhaki seek that the Tribunal proceed to set down the hearings, so that the claimants have certainty on timing for amending statements of claim and completion of research (and noting that experts tend to work to filing deadlines for completing work).

Nature and extent of research parties intend to file

8. Māhaki are intending to file expert evidence from a historian (in relation to the history of the Waipāoa blocks) and an economist (updating the research on the historical losses of Māhaki and providing evidence on the compensation under the first schedule to the Crown Forests Assets 1989). This will be ready with approximately 3 months' notice of filing dates.
9. Māhaki also request that the Tribunal place on the Wai 3555 record of inquiry the following technical expert reports from the Tūranga Wai 814 record of inquiry:

9.1. Evidence of Dr Merata Kawharu (Wai 814, #A25).

9.2. Evidence of Bruce Stirling (Wai 814, #P7);

9.3. Evidence of Dr Richard Meade (Wai 814, #P2 and #P6).

Crown Forestry Rental Trust funding

10. CFRT was literally established to fund Crown forest claims. Nonetheless, counsel is instructed that the application process has proved so time-consuming and bureaucratic that Māhaki have determined not to proceed further with the funding process at this point in time until the CFRT Chair responds to the concerns raised by Te Aitanga a Mahaki Trust.
11. Counsel can respond to any other relevant issues at the judicial conference on 18 September.

Dated 2nd September 2025

A handwritten signature in blue ink, appearing to read 'Karen Feint', written in a cursive style.

Karen Feint KC
Counsel for Te Aitanga a Māhaki (Wai 274/ 283 claimants)