

WAITANGI TRIBUNAL

Wai 3555

CONCERNING

the Treaty of Waitangi Act 1975

AND

the Waipāoa Remedies Inquiry

**MEMORANDUM-DIRECTONS OF JUDGE MILROY CONCERNING THE
WAIPĀOA REMEDIES INQUIRY**

20 November 2025

Introduction

1. This memorandum-directions advises next steps on evidential and procedural matters following the judicial conference held on 18 September 2025 for the Waipāoa Remedies Inquiry (Wai 3555).
2. It also seeks parties view on a proposed site visit hearing to the area 16 – 20 February 2026.

Procedural history

3. On 24 July 2025, I announced a judicial conference for 18 September 2025 to discuss next steps for this inquiry. I invited submissions prior to the conference on various matters as follows (Wai 3555, #2.5.5 at [4]–[5] & [48]):
 - (a) Whether there are specific reasons for the Mangaorongo block to be included in this inquiry given that it has no Crown Forest Licensed (CFL) land, and, if so, what the geographical inquiry district should be.
 - (b) Provision in the interlocutory phase for filing of updated amended statements of claim when claimants are able to provide specific particulars regarding their customary interests, title and alienation experience of Waipāoa blocks, and, if it is to be included, the Mangaorongo block.
 - (c) Provision for the Crown to respond to amended statements of claim to inform hearing planning.
 - (d) Responding to any jurisdictional matters raised by the Crown in their statements of response.
 - (e) Nature and extent of research parties intend to file and likely filing dates.
 - (f) Update on claimant applications for CFRT funding.
 - (g) Any other relevant matters.
4. The following submissions were received:

Tūranga groups

- (a) Karen Feint KC, for the Mangatū State Forest (Wai 274) and the East Coast Raupatu (Wai 283) claim (Wai 3555, #3.1.29);
- (b) Bryce Lyall, Maithili Sreen and Hannah Swedlund, for the Mangatū No. 1 Block (Wai 499) and the Mangatū Block (Wai 874) claims (Wai 3555, #3.1.26);
- (c) Tom Bennion, Emma Whiley and Kudrat, for the Mangatū Block (Wai 507) claim (Wai 3555, #3.1.28);
- (d) Christopher Finlayson KC, Kelly Dixon, and Toni Talamaivao, for Patutahi, Muhunga and Other Lands and Resources (Te Whānau-A-Kai) (Wai 892) claim (Wai 3555, #3.1.33).

Ngāi Tai group

- (e) Eve Rongo, for the Torere (Wai 78) claim (Wai 3555, #3.1.27);

Whakatōhea groups

- (f) Tony Sinclair, for the Whakatōhea Raupatu (Wai 87) and the Turangapikitoi Hapu (Wai 1794) claims (Wai 3555, #3.1.30);
- (g) Michael Sharp, for Whakatōhea and Ngāti Muriwai of Ōmarumutu Lands and Resources (McMurtie) (Wai 2160) claim (Wai 3555, #3.1.15); and

Joint submission from counsel for claimants and the Crown

- (h) Joint memorandum of counsel for the Crown and 12 claimant groups from Craig Linkhorn and Daniel Hunt for the Crown, Karen Feint KC for Wai 274 and Wai 283, Bryce Lyall, Maithili Sreen and Hannah Swedlund for Wai 499 and Wai 874, Tom Bennion, Emma Whiley and Kudrat for Wai 507, Annette Sykes and Maia Te Hira and Jacki Cole for Wai 864, Raewyn Clark for Wai 1781, Michael Sharp for Wai 2160, Eve Rongo for Wai 78, Tony Sinclair and Brent Cunningham for Wai 87 and Wai 1794 (Wai 3555, #3.1.32).

Judicial conference agenda

- 5. On 12 September 2025, the following judicial conference agenda was issued to parties via e-mail from the Waitangi Tribunal's Registrar:
 - (a) Inclusion of the Mangaorongo block in this inquiry
 - (b) Amended Statements of Claim
 - i. Timelines for further filing
 - ii. Production of claim area maps by claimant groups
 - iii. Nature and extent of any (required) research
 - (c) Crown response to updated amended claims
 - (d) Update on CFRT funding
 - (e) Jurisdictional matters raised by the Crown
 - (f) Any other business
- 6. Submissions on these evidential and procedural matters are discussed below followed by decisions on next steps.
- 7. First, however, I address the specific procedural and evidential matters concerning claimants yet to confirm their interests in the Waipāoa blocks and participation in this inquiry, and requests for relevant evidence from other records of inquiry to be placed on the Wai 3555 record.

Claims yet to confirm interests in the Waipāoa blocks and file amended statements of claim for Wai 3555 inquiry purposes

Tūranga groups

Patutahi, Muhunga and Other Lands and Resources (Te Whānau A Kai) (Wai 892) claim

- 8. On 24 July 2025, I directed counsel for the Patutahi, Muhunga and Other Lands and Resources (Te Whānau A Kai) (Wai 892) claim to advise by 26 August 2025 whether the claimants wish to participate in this inquiry (Wai 3555, #2.5.5 at [32]).

9. On 18 September 2025, Christopher Finlayson KC, Kelly Dixon, and Toni Talamaivao submitted on behalf of the Wai 892 claimants (Wai 3555, #3.1.33). Counsel advised they had just been recently engaged to represent the Wai 892 claimants in these proceedings. Counsel said they have been unable to finalise a statement of claim as they were still waiting for instructions and documents from the named claimant. Counsel accordingly requested leave to file an amended statement of claim on 30 September 2025 and confirm the claimants interest in participating in this inquiry (Wai 3555, #3.1.33 at [2]–[3]).
10. At the judicial conference, Ms Dixon advised the Wai 892 claimants would seek to further amend their claim for Wai 3555 purposes after getting a ‘better view of the evidence’ when it became available.
11. On 12 November 2025, the Tribunal received the amended statement of claim from Wai 892, as directed above, which seeks to participate in the Wai 3555 inquiry and seek leave to file out of time. This has now been registered by the Tribunal (Wai 892, #1.1(f) & #2.141 & #2.142).
12. Accordingly, I grant the participation of the Wai 892, the Patutahi, Muhunga and Other Lands and Resources (Te Whānau-A-Kai) claim in this inquiry.
13. As part of the Tūranga-a-Kiwa Inquiry (Wai 814), the claims made by Te Whānau-A-Kai were found to be well-founded by the Tribunal. In *The Mangatū Remedies Report 2021*, the Tribunal made binding recommendations on the basis of their well-founded claims, for the Mangatū CFLL, accumulated rentals and compensation be returned to a mandated group that comprised of Te Aitanga a Māhaki, Ngāriki/Ngā Ariki Kaipūtahi and Te Whānau-a-Kai. I note that at this stage, whilst Te Whānau-A-Kai have well-founded claims, research is still required to show their relationship to the Waipāoa blocks.
14. Further, per my direction of 4 June 2025 (Wai 3555, #2.5.3), the Crown is in turn granted leave to file its response to the amended Wai 892 claim by no later than **5 pm, Wednesday 3 December 2025**.
15. The Wai 892 claimants will have the same opportunity as other claimants to further amend their statement of claim if, after research is completed, that appears necessary. The Crown will have the opportunity to respond to the final amended statement of claim four weeks later.

The Mangatū No. 1 Block (Wai 499) claim

16. On 24 July 2025, I directed counsel for the Mangatū No. 1 Block (Wai 499) claim to provide an update regarding the matter of the deceased named claimant and how the claimants wished to proceed with the claim by 7 August 2025 (Wai 3555, #2.5.5 at [15]–[16]).
17. On 8 August 2025, Bryce Lyall, Maithili Sreen and Hannah Swedlund advised that two whānau members had been chosen to be added as named claimants. Counsel said they were assisting the whānau with necessary administrative steps and sought an extension until 22 August 2025 to provide further update (Wai 3555, #3.1.35)
18. On 25 August and 11 September 2025, counsel for Wai 499 sought further extensions advising they hoped to finalise matters with the claimants ahead of the 18 September 2025 judicial conference (Wai 3555, #3.1.25 & #3.1.31). At the conference, Mr Lyall advised that counsel were still working with the potential named claimants and that they hoped to have the matter resolved by the end of September 2025.
19. At the conference, I directed counsel to file the amended Wai 499 claim by 30 September 2025. Nothing further has been received to date and I direct counsel to update the Tribunal on this matter by **5 pm, Wednesday 26 November 2025**.

Whakatōhea groups

Moutohora Quarry (Wai 864) claim

20. On 24 July 2025, I directed counsel for the Moutohora Quarry (Wai 864) claim to either file an amended statement of claim or advise the Tribunal if the claimants needed to undertake further research before providing the particulars of their customary interests, and any breaches of those interests, by 26 August 2025 (Wai 3555, #2.5.5 at [25] – [27]).
21. At the judicial conference, Ms Sykes informed the Tribunal that co-counsel for the Wai 864 claim, Jacki Cole, had instructed her to seek leave to file an amended Wai 864 claim and confirm participation in this inquiry by 3 October 2025.
22. At the conference, I directed counsel to file the amended Wai 864 claim by 30 September 2025. On 30 September 2025, the Tribunal received the amended statement of claim for Wai 864 confirming their interests in the Waipāoa and Mangatū CFL lands, as directed (Wai 3555, #2.52).
23. Accordingly, I grant the participation of the Wai 864, the Moutohora Quarry claim in this inquiry.
24. Further, per my direction of 4 June 2025 (Wai 3555, #2.5.3), the Crown is in turn granted leave to file its response to the amended Wai 864 claim by no later than **5 pm, Wednesday 3 December 2025**.
25. The Wai 864 claimants will have the same opportunity as other claimants to further amend their statement of claim if, after research is completed, that appears necessary. The Crown will have the opportunity to respond to the final amended statement of claim four weeks later.

Requests to place existing relevant research on the Wai 3555 record

26. As invited, several parties submitted requests for existing evidence to be placed on the Wai 3555 record of inquiry (Wai 3555, #2.5.5 at [45]). These requests are tabulated below (Wai 3555, #3.1.29 at [9], #3.1.26 at [14], #3.1.28 at [15] & #3.1.30 at [29]):

#	Existing evidence parties seek to place on Wai 3555 record
<i>Research requested by Mangatū State Forest (Wai 274) and the East Coast Raupatu (Wai 283) claimants</i>	
1	Merata Kawharu, 'Te Mana Whenua o Te Aitanga a Mahaki', 2000, (Wai 814, #A25).
2	Brief of Evidence of Bruce Stirling, 28 May 18 (Wai 814, #P7)
3	Brief of Evidence of Richard Meade, 29 May 18 (Wai 814, #P2).
4	Second Brief of Evidence of Richard Meade, 28 May 18 (Wai 814, #P6)
<i>Research requested by Mangatū No. 1 Block (Wai 499) and the Mangatū Block (Wai 874) claimants</i>	
5	Dr Grant Young, 'The Customary Interests of Ngariki Kaiputahi in the Mangatu Block and the Proceedings of the Native Land Court', 28 May 2018, (Wai 814, #P4)

#	Existing evidence parties seek to place on Wai 3555 record
<i>Research requested by the Mangatū Block (Wai 507) claimants</i>	
6	John Robson entitled 'Ngāriki Kaiputahi Mana Whenua Report', November 2000 (Wai 814, #A22)
<i>Research requested by Whakatōhea Raupatu (Wai 87) and Turangapikitoi Hapu (Wai 1794) claimants</i>	
7	Peter McBurney's report entitled 'Ngāti Muriwai Authority Trust Oral and Traditional History Report', January 2024 (Wai 1750, #A33)

Decision on requests for existing research to be transferred to the Wai 3555 record

27. Regarding the material counsel requested should be added to the Wai 3555 record of inquiry, I confirm all requests above are **granted** and will be added to this record of inquiry accordingly.

Responses to jurisdictional issues raised by the Crown including claims covered by the Whakatōhea Claims Settlement Act 2024

Whakatōhea groups

28. Two Whakatōhea claimant groups responded to the jurisdictional issues raised in the Crown responses to their statements of claim.

Tony Sinclair for Whakatōhea Raupatu (Wai 87) and Turangapikitoi Hapu (Wai 1794) claims

29. Tony Sinclair, counsel for the Wai 87 and Wai 1794 claims acknowledged the Crown's submission that the 'area of interest' in the Whakatōhea and Te Tāwharau Deed of Settlement does not confine the settlement of the Wai 87 historical claims to within 'area of interests' boundaries' but submitted that (Wai 3555, #3.1.30 at [8]–[13]):

- (a) the claimants' interests in Waipāoa CFL lands lie outside the settled area;
- (b) the claimants' interests have not been fully researched, inquired into or heard by the Tribunal;
- (c) the May 2023 Whakatōhea and Te Tāwharau Deed of Settlement defines historical claims broadly to include claims arising from Te Tiriti, legislation, common law, fiduciary duty, or otherwise, relating to acts or omissions before 21 September 1992;
- (d) the Deed includes Wai 87 as a recognised claim;
- (e) the Waipāoa area lies outside the North-Eastern Bay of Plenty (Wai 1750) inquiry district;
- (f) the Crown's claim that 'the deed settles all claimant interests' is vague and lacks detail;
- (g) if the negotiating parties intended to include Waipāoa CFL lands in the Deed of Settlement, they should have expressly said so; and
- (h) the Crown, in the minimum, was obligated to inform the Wai 87 claimants of its intention to include Waipāoa in the Deed of Settlement.

30. In addition, counsel referred to the Crown's prior knowledge of Wai 87 claimants stated interests in the Mangatū CFL lands submitting that (Wai 3555, #3.1.30 at [14]–[15]):

- (a) the Crown had prior knowledge of the Wai 87 claimants amended claim to Mangatū and Waipāoa;
 - (b) the Crown and Whakatōhea negotiators were aware that Wai 87 claimants sought a discrete inquiry for Waipāoa which is outside the settled area;
 - (c) claimant submissions for an inquiry into Waipāoa were made prior to the conclusion of Te Tāwharau Crown settlement negotiations; and
 - (d) the Crown and Whakatōhea negotiators excluded express recognition of Waipāoa in settlement negotiations.
31. Counsel stated that the Tribunal granted this Waipāoa Remedies inquiry as a ‘fresh brand-new inquiry’ over a new area of interest, new issues, new historical oral and traditional evidence, and distinct from the Wai 1750 inquiry district (Wai 3555, #3.1.30 at [16]).
 32. Counsel recalled the decision of the claimants to pursue a dual pathway of Treaty settlement and submitted that the Crown and Whakatōhea negotiators were aware of the claimants’ intentions to claim CFL lands in Waipāoa (Wai 3555, #3.1.30 at [17]–[19]).
 33. Counsel noted the Whakatōhea Claims Settlement Act 2024 (the Act) affirms the finality of the settlement of historical claims, and submitted that, while the Act excludes the Tribunal’s powers to make recommendations on the historical claims, the Tribunal retains its interpretive powers (Wai 3555, #3.1.30 at [20]–[21]).
 34. Counsel submitted that the exclusion of the Tribunal’s recommendatory powers only concerns the Wai 1750 inquiry. Counsel added that the Whakatōhea negotiators did not negotiate Waipāoa CFL lands and neither did the Crown expressly state Waipāoa was included in the Deed of Settlement. Accordingly, counsel submitted the Tribunal’s jurisdiction is reserved regarding the Waipāoa Remedies inquiry (Wai 3555, #3.1.30 at [22]–[23]).
 35. Counsel submitted further that the claimants ought to be heard on their extant rights and interests based on natural justice, and that the Crown owes the Whakatōhea claimants a fiduciary duty based on a right to inquire into the Waipāoa CFL lands. Counsel accordingly submitted that the Crown’s opposition to the Whakatōhea claimants’ participation in this inquiry is ‘a moot point’ (Wai 3555, #3.1.30 at [24]–[27]).
 36. Finally, counsel submitted that, if the Tribunal requires further submissions on jurisdiction, the Tribunal should so direct after the completion of claimant evidence. Counsel further submit that the claimants require time to provide evidential material of their interests in Waipāoa (Wai 3555, #3.1.30 at [28]).

Michael Sharp for Whakatōhea and Ngāti Muriwai of Ōmarumutu Lands and Resources (McMurtie) (Wai 2160) claim

37. Michael Sharp, counsel for the Wai 2160 claimants, referred to their submissions filed for Wai 1750 district inquiry, that the Tribunal has jurisdiction to hear Ngāti Muriwai claims to the Mangatū CFL lands, and acknowledged the Crown’s response that some of the claims in this inquiry cannot be heard because they have been fully and finally settled under the Whakatōhea Claims Settlement Act 2024 (Wai 3555, #3.1.15 at [11]–[14]).
38. Counsel support the Wai 87 submissions on this matter stating further that even if the Crown was correct regarding the jurisdictional impact of the Whakatōhea settlement legislation, this does not bar all of the claims being brought in the Wai 3555 inquiry by Ngāti Muriwai (Wai 3555, #3.1.15 at [15]–[16]).

39. Counsel further submitted that while the Whakatōhea Claims Settlement Act 2024 refers to the Ngāti Muriwai Wai 2160 claim as one of the historical claims settled, the Act exempts claims not based on a Whakatōhea ancestor. Counsel noted that the Act defines Whakatōhea ancestor as ‘Muriwai’ or ‘Tutamure’, or any other recognised ancestor of named hapū groups, but that these do not include Ngāti Muriwai (Wai 3555, #3.1.15 at [17]).
40. Counsel submitted that the claims filed by the Ngāti Muriwai Wai 2160 claimants are based on both their Whakatōhea and Ngāi Tai whakapapa, noting that while Ngāti Muriwai as Panenehu did historically have interests in the Waipāoa CFL Lands, they were subsequently conquered by Ngāi Tai and from that point held these interests through Ngāi Tai tīpuna that Panenehu married into. Accordingly, counsel submitted that the claim brought by Ngāti Muriwai based on their Ngāi Tai whakapapa is not an historical claim settled by the Whakatōhea settlement legislation and can be heard in this inquiry (Wai 3555, #3.1.15 at [18]–[19]).

Other submissions regarding the approach to addressing jurisdictional issues

41. The joint submission from counsel for the claimants and Crown said that (Wai 3555, #3.1.32 at [11]–[12]):
 - (a) the parties support a comprehensive inquiry and hearing process that deals with the claims and associated legal issues, including the jurisdictional matters raised by the Crown.
 - (b) if claimants amend their claims in response to the Crown’s statements of response, claimants may address jurisdictional matters raised by the Crown;
 - (c) these matters will subsequently be addressed in legal submissions at hearing.
42. At the judicial conference Karen Feint KC confirmed that parties were in general agreement that issues regarding jurisdiction be raised and addressed during the comprehensive hearing, noting that there were two reasons for this. First, that parties consider that an understanding of the full evidence may be necessary for the Tribunal to reach its decision on jurisdictional matters. The second reason is because the parties do not wish to have this inquiry ‘derailed’ by a judicial review on preliminary issues that may keep this inquiry in limbo for several years.

Next steps concerning approach to jurisdictional issues

43. I agree with parties to the joint memorandum above.
44. This inquiry must continue to move with urgency and, in light of the necessity for many claimants to complete research before final amendments can be made, I confirm that we will address the jurisdictional issues raised during the substantive hearings.
45. Further, this inquiry will adopt the doctrine of *de bene esse*, to mitigate jurisdictional concerns. Accordingly, evidence will be accepted onto the inquiry record on a provisional or conditional basis until such time as determinations to their admissibility can be made, i.e., until firmer decisions regarding jurisdictional issues can be assessed and determined.
46. This Tribunal may have further directions in regards to how jurisdictional issues are managed in this inquiry before hearings, and we will let parties know in due course.
47. After confirming the approach to addressing the jurisdictional issues, I now address next steps for the evidential and procedural matters covered in submissions that concern progressing this inquiry.

Inclusion of the Mangaorongo block and the geographical inquiry district

Tūranga groups

Karen Feint KC for Mangatū State Forest (Wai 274) and the East Coast Raupatu (Wai 283) claims

48. Karen Feint KC, counsel for the Te Aitanga a Māhaki Wai 274 and Wai 283 claimants, submitted that Māhaki support including Mangaorongo block in this inquiry because it adjoins the Waipāoa area and is contextually relevant to the Waipāoa claims. Counsel added that the block was awarded to Māhaki hapū Ngāi Tamatea seemingly to 'enable purchase by the Crown' and that the block's history may be relevant to claims of Treaty breaches in the rohe (Wai 3555, #3.1.29 at [2]–[3]).
49. At the judicial conference, Ms Feint further submitted that the inclusion of the Mangaorongo block may be relevant not only for contextual purposes but also as a claim depending on the interpretation of what 'Crown Forest land' means.
50. Regarding the inclusion of Mangataikapua (a matter raised by John Kahukiwa, counsel for Wai 995 John Kahukiwa at the conference, see below), Ms Feint advised that the historian engaged by Māhaki has taken the approach of researching all the blocks surrounding the Waipāoa blocks on the basis that they may provide further information about customary interests. Ms Feint stated she wished to have more information on the Mangataikapua block to ascertain its importance to this inquiry, saying that it would be necessary to make a distinction between what is relevant for contextual purposes, and for the actual claim.

John Kahukiwa for Whānau a Te Rangiwhakataetaea (Wai 995) claim

51. John Kahukiwa, counsel for the Te Whānau a Te Rangiwhakataetaea (Wai 995) claimants, advised that in addition to including Mangaorongo block in this inquiry, the Wai 995 claimants were considering proposing the inclusion of Mangataikapua. Mr Kahukiwa submitted that this potential proposal is because Mangataikapua's western boundary is shared with Mangatū No. 1 block and its northern boundary is shared with the Waipāoa No. 2 block. Mr Kahukiwa submitted, accordingly, that Mangataikapua is adjacent to the Waipāoa blocks and he would inform the Tribunal in due course if his clients decide to request that Mangataikapua be included.
52. Mr Kahukiwa referred to a map on the Wai 1750 record that showed the location of Mangataikapua in relation to the Waipāoa blocks (Wai 1750, #3.1.433(a)).

Bryce Lyall, Maithili Sreen and Hannah Swedlund for Mangatū No. 1 Block (Wai 499) and the Mangatū Block (Wai 874) claims

53. Bryce Lyall, Maithili Sreen and Hannah Swedlund, counsel for the Wai 499 and Wai 874 claimants advised that Ngāriki Kaipūtahi seek to be heard having long asserted rangatiratanga over Mangaorongo and other blocks in the area (Wai 3555, #3.1.26 at [5]).
54. Counsel submitted that while the 'Mangatū State Forest' may not lie on the Mangaorongo block, the inclusion of the block in this inquiry is necessary because Crown actions or omissions concerning the Mangaorongo block relate to the Mangatū CFL land as follows (Wai 3555, #3.1.26 at [6]):
 - (a) Mangaorongo formed part of the rohe over which Ngāriki Kaipūtahi held mana whenua and including it provides context for understanding their rights and interests which extended to the CFL land.

- (b) Crown dealings in Mangaorongo were not isolated but interlinked with its actions concerning the CFL land and including Mangaorongo will 'make clear a pattern of alienation and dispossession' that undermined the claimants' tino rangatiratanga.
- (c) The prejudice experienced by the claimants due to Treaty breaches has damaged the claimants' relationship with the CFL land. The Tribunal's resumption jurisdiction is therefore engaged even if Mangaorongo itself does not contain CFL land because the Crown's conduct concerning Mangaorongo block contributed to the erosion of the claimants' relationship to the CFL land.

Tom Bennion, Emma Whiley and Kudrat for Mangatū Block (Wai 507) claim

- 55. Tom Bennion, Emma Whiley and Kudrat, counsel of the (Wai 507) claimants advised that the Ngā Ariki Kaipūtahi seek to be heard on matters related to the Mangaorongo block because the Mangatū Crown Forest covers a large part of the area over which Ngā Ariki Kaipūtahi exercised rangatiratanga (Wai 3555, #3.1.28 at [12]).
- 56. Counsel emphasised that the Crown Forest extends over the north-east portion of the Mangatū No. 1 block, across Mangatū No. 2 block and into the Mangaorongo, Mangataikapua, and Waipāoa, which lands constitute 'the core lands' within the Ngā Ariki Kaipūtahi customary rohe (Wai 3555, #3.1.28 at [12]).

Whakatōhea groups

Tony Sinclair for Whakatōhea Raupatu (Wai 87) and Turangapikitoi Hapu (Wai 1794) claims

- 57. Tony Sinclair, counsel for the Wai 87 and Wai 1794 claimants, advised that they reserved their position until research confirms that Mangaorongo is an area of interest. Counsel stated that historical research and traditional evidence would provide accurate historical account of claimant use, occupation, and interests over the whole Waipāoa blocks (Wai 3555, #3.1.30 at [4]).
- 58. Counsel submit that to 'marginalise evidence' to CFL lands would render claimant evidence incomplete in the absence of contextual narrative across the Waipāoa landscape (Wai 3555, #3.1.30 at [4]).

Annette Sykes for Ngāti Ira o Waiōweka Rohe (Wai 558) and the Moutohora Quarry (Wai 864) claims

- 59. At the conference, Annette Sykes, counsel for Ngāti Ira o Waiōweka Rohe (Wai 558) claim and (with counsel Jacki Cole) the Moutohora Quarry (Wai 864) claim, confirmed that her clients would support the inclusion of Mangataikapua in this inquiry.

Joint submission from counsel for claimants and the Crown

- 60. In the joint submission from counsel for the claimant and the Crown, counsel advised that the claimants support including the Mangaorongo block in this inquiry and that the Crown does not oppose its inclusion (Wai 3555, #3.1.32 at [3]).

Next steps on including Mangaorongo block and geographical inquiry district

- 61. At the judicial conference, I informed parties that the Tribunal wished to settle the geographical scope of this inquiry as soon as possible and would invite parties to make submissions on the inclusion of Mangataikapua in this inquiry.
- 62. I thank the Crown for filing further technical title and alienation material regarding Mangaorongo block to assist parties (Wai 3555, #A4).

63. Parties who wish to file submissions on the inclusion of Mangatakapua and any other blocks in this inquiry should do so by **5 pm, Friday 12 December 2025**.
64. This Tribunal will confirm the geographical boundaries of this inquiry once submissions on Mangatakapua and other blocks have been received, and will advise of its decision in the New Year.

Nature and extent of required new research and CFRT funding

Tūranga groups

Feint for Mangatū State Forest (Wai 274) and the East Coast Raupatu (Wai 283) claims

65. On the matter regarding the nature and extent of research required, Ms Feint advised that Māhaki intend to file new technical expert evidence for this inquiry. This technical evidence will involve a historian providing evidence on the history of Waipāoa and an economist providing an update on Māhaki's historical losses and evidence on the compensation under Schedule 1 of the Crown Forests Assets Act 1989. Counsel advised that this technical evidence would be ready 'with approximately 3 months' notice of filing dates' (Wai 3555, #3.1.29 at [8]).

66. Ms Feint also advised that Māhaki were not currently utilising any CFRT funding.

Lyall, Sreen and Swedlund for Mangatū No. 1 Block (Wai 499) and the Mangatū Block (Wai 874) claims

67. Counsel for the Wai 499 and Wai 874 claimants advised that Ngāriki Kaipūtahi intend to conduct further research (Wai 3555, #3.1.26 at [13]).

Bennion, Whiley and Kudrat for Mangatū Block (Wai 507) claim

68. Counsel for the Wai 507 claim confirmed they had CFRT funding approved and were discussing with historian Anthony Pātete to undertake research for Ngā Ariki Kaipūtahi. At the conference, Mr Bennion advised that the researcher would be able to file a report in March 2026. (Wai 3555, #3.1.28 at [14]).

Ngāi Tai group

Eve Rongo for Torere (Wai 78) claim

69. Eve Rongo, counsel for the Wai 78 claimants, advised that Ngāi Tai required further research before they could provide full particulars of their customary interests and any Crown breaches. Counsel advised, however, that CFRT funding was still yet to be approved. This was partly due to Wai 78 claimants currently going through the process of amending the Wai 78 'named claimant', and having the named claimant confirmed on the claim is a prerequisite for CFRT to grant approved client status (Wai 3555, #3.1.27 at [3]–[4]).

70. Ms Rongo advised that the Wai 78 claimants have agreed to collaborate on research with Mr Sharp's Ngāti Muriwai (Wai 2160) claimants in view of their shared whakapapa.

Whakatōhea groups

Sinclair for Whakatōhea Raupatu (Wai 87) and Turangapikitoi Hapu (Wai 1794) claims

71. Counsel for the Wai 87 and Wai 1794 claimants advised they are engaging with CFRT regarding further research that will include a mapping block narrative to accurately reflect the claimants' area including identifying Mangaorongo. (Wai 3555, #3.1.30 at [29]).

72. Mr Sinclair advised that his clients are having difficulty securing a suitably qualified researcher saying one potential researcher has indicated they could only potentially complete a report by April or May 2026 at the earliest. Mr Sinclair added that his clients are compiling some oral and traditional evidence which they intend to file between February and April 2026.

Sharp for Whakatōhea and Ngāti Muriwai of Ōmarumutu Lands and Resources (McMurtie) (Wai 2160) claim

73. Michael Sharp, counsel for the Wai 2160 claimants, stated that the claimants filed their statement of claim on the basis that the research for Ngāti Muriwai is ongoing and that the right to make further amendments to the pleadings once the research is complete is reserved (Wai 3555, #3.1.15 at [7]).

74. Counsel advised that the claimants are discussing with CFRT for research to be provided through the CFRT Approved client the Ngāti Muriwai Authority Trust, and that a research report may be filed in the second quarter of 2026 (Wai 3555, #3.1.15 at [8]).

75. Counsel advised that Ngāti Muriwai will, if possible, and as part of their research, prepare maps setting out the areas described in the Poverty Bay Land Titles Act 1874 as being included in the 1868 Deed of Cession and the area of land awarded to Te Aitanga a Māhaki in 1873. Counsel submitted that these maps would help clarify that the Waipāoa blocks were included in both these areas and therefore subject to the legislation (Wai 3555, #3.1.15 at [10]).

Sykes for Ngāti Ira o Waiōweka Rohe (Wai 558) and the Moutohora Quarry (Wai 864) claims

76. Ms Sykes advised that her clients have secured CFRT funding and identified a researcher to prepare their technical evidence, but the possible researcher concerned would not be able to start work until March 2026 at the earliest. Ms Sykes stated that the claimants wished to commission this specific researcher because of her familiarity with the parties and the rohe. Ms Sykes stated that an additional obstacle to research progress is that Archives New Zealand has been closed and this has required the claimants to make special arrangements to progress some research for the Whakatōhea groups. On that basis, Ms Sykes submitted that her clients were hopeful of completing their research by May 2026.

Clark for Ngai Tamahaua (Biddle) (Wai 1781) claim

77. Ms Clark, counsel for the Wai 1781 claim, advised that Ngāi Tamahaua were still in the process of securing CFRT funding and were discussing the possibility of producing technical research.

Joint submission from counsel for claimants and the Crown

78. The joint submission from counsel for claimants and the Crown advised that (Wai 3555, #3.1.32 at [8]–[9]):

- (a) the research for Te Aitanga a Māhaki was underway and could be completed within two to three months;
- (b) Ngā Uri o Tamanui claimants were working toward a similar timeframe for their research;
- (c) other claimants were taking steps to secure expert technical researchers and hope to file their research by the end of March 2026; and

- (d) Ngāi Tamahaua (Wai 1781) were still in the process of securing CFRT funding, and were taking steps towards completing their research in time.

Next steps on new research required

79. I note that there was general support among counsel in attendance for parties to proceed in filing their evidence by the same deadline rather than a staggered approach to evidence filing.
80. I direct counsel for parties who are still in the process of commissioning research to update the Tribunal on their progress by **5 pm, Wednesday 17 December 2025**.
81. I approve in principle the Crown's request to file its evidence four weeks (at the earliest) following receipt of all claimant evidence. Further updates may be called for in the New Year so that the Tribunal can determine a deadline for filing of all claimant evidence.

Production of claim area maps

82. Related to the matter of further new evidence to assist the Tribunal, at the conference, I asked if maps of relevant claim areas in relation to the Waipāoa blocks and Mangatū CFL lands could be provided.
83. Ms Feint advised that her Māhaki clients might update the maps they provided to the Tūranganui a Kiwa (Wai 814) inquiry and would aim to file these updated maps along with their research evidence. Ms Feint observed that it would be useful if CFRT or the Crown could fund the production of a map book that all parties could rely on.
84. Ms Sykes suggested that a process be immediately initiated to produce a map book by the CFRT rather than individual claimants producing their own maps; or alternatively for affiliated claimant groups to produce map books relating to their claimed interests. She stated that, that way, the map book becomes a common resource for the Tribunal that could be accessed and relied upon by all the parties. Ms Sykes advised that her clients would be willing to facilitate the production of such a map book. Ms Sykes requested the Tribunal should set a deadline for all map requests to be made by a specific date, noting that this would ensure that the parties can get a priority funding request with the CFRT.
85. Mr Bennion confirmed that himself and Mr Lyall had been asked by CFRT officials whether they needed to produce maps for this inquiry. Mr Bennion advised that he and Mr Lyall could coordinate producing the maps needed. Mr Bennion observed there would be two sets of maps – maps of all the blocks showing where the cession lines run while the second set of maps will show the specific locations of interests to each claimant groups. Mr Bennion suggested the Tribunal consider a date later in 2025 to produce the first set of maps which set out Crown information regarding boundaries and Native Land Court information. Mr Bennion suggested the production of the second set of maps be set for the first quarter of 2026.
86. Counsel for the Crown Craig Linkhorn stated there were a 'bunch of existing resources' and that the Crown could collaborate with claimant counsel towards producing maps for this inquiry if the Tribunal sets a date for parties to produce the maps.

Next steps on production of new maps

87. In regard to new maps, at the conference, I suggested a filing date for an initial set of maps to assist the Tribunal as 17 December 2025. I note there was no objection from counsel to this date. Accordingly, I direct counsel to confer and file maps showing areas of interest to each claimant group, together with general maps of use to all parties which

show general geographical and topographical features and, amongst other things, the relationship of the areas of interest to each other and to the block boundaries by **5 pm, Wednesday 17 December 2025.**

Amended statements of claim following receipt of new research so claimants are able to provide specific particulars regarding their customary interests, title and alienation experience of Waipāoa blocks

Tūranga groups

Feint for Mangatū State Forest (Wai 274) and the East Coast Raupatu (Wai 283) claims

88. Ms Feint submitted that the Māhaki claimants do not consider further particularisation of amended statements of claim, focused on factual matters to provide a causal link of the Waipāoa CFL land to a Treaty breach, is required for the Tribunal to proceed on remedies. Counsel stated that such further particularisation is not needed under current law but acknowledges the pendency of the Court of Appeal's judgment regarding the judicial review of the *Mangatū Remedies Report 2021* (Wai 3555, #3.1.29 at [4]).
89. Counsel advised the claimants support the submission by the Ngā Ariki Kaipūtahi (Wai 507) claimants (see below) that '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'. Counsel submitted that the Tribunal could proceed on that basis irrespective of a detailed history of the Waipāoa blocks (Wai 3555, #3.1.29 at [5]).
90. Counsel stated, however, that the claimants are prepared to file an amended statement of claim once the Waipāoa block research has been completed if particularising the Waipāoa grievances would assist the Tribunal (Wai 3555, #3.1.29 at [6]).
91. Counsel requested the Tribunal proceed to set down the hearings, so that the claimants have certainty on timing for amended statements of claim and completion of research (Wai 3555, #3.1.29 at [7]).

Lyall, Sreen and Swedlund for Mangatū No. 1 Block (Wai 499) and the Mangatū Block (Wai 874) claims

92. Counsel for the Wai 874 claimants acknowledged the Crown's contention that it could not 'meaningfully respond' to the Wai 874 claim because the pleadings lacked sufficient particularisation regarding the claimants' interests in the Waipāoa blocks and events leading to the alleged prejudice. They, however, submitted that (Wai 3555, #3.1.26 at [8]–[11]):
 - (a) the amended statement of claim acknowledges the need for further research and to amend the claim as research becomes available;
 - (b) the Wai 874 pleadings are sufficiently particularised for this inquiry to proceed since Ngāriki Kaipūtahi have clearly articulated the basis of their grievances, the prejudice suffered, and the redress sought;
 - (c) further delay would unfairly prejudice the claimants; and
 - (d) claim particularisation can be refined as the inquiry progresses, enabling the Crown to respond contemporaneously to any amendments.

Bennion, Whiley and Kudrat for Mangatū Block (Wai 507) claim

93. In regard to the Crown's response that the Wai 507 claim lacks particularisation and the Crown lacks knowledge of the claimants' customary interest in the Waipāoa blocks along with any particular prejudice suffered, counsel for Wai 507 replied that, since 1995, the Ngā Ariki Kaipūtahi claimants have sought the return of all Mangatū CFL Land, including the Waipāoa blocks, within their traditional rohe as a remedy (Wai 3555, #3.1.28 at [5]).
94. In response to the Crown's comment that the Tribunal's *Mangatū Remedies Report 2014* was quashed by the High Court and the Court of Appeal, counsel submitted that (Wai 3555, #3.1.28 at [6]–[7]):
- (a) the 2014 report was quashed because the courts considered that the Tribunal wrongly deferred to the Crown's Treaty settlement policy in determining that no financial compensation should be awarded under the Crown Forest Assets Act 1989; and
 - (b) Ngā Ariki Kaipūtahi's independence as an iwi was never questioned.
95. Counsel for Wai 507 acknowledged the earlier Crown proposal that more time be set aside for claims to be further amended, and for the Crown to file updated statements of response and any applicable Treaty breach concessions, but submitted that (Wai 3555, #3.1.28 at [8]–[9]):
- (a) this remedies inquiry follows a district wide inquiry and report which has covered the major issues in this region, including the majority of the land under Crown Forest licence;
 - (b) the Crown has provided nearly 900 pages of block history for this block;
 - (c) the Tribunal is inquisitorial in nature, and full procedural requirements in the courts, such as amended statements of claim and further particulars, are not required in an inquiry of this nature;
 - (d) the Crown can respond as the inquiry develops as well as make any immediate concessions on general issues relevant to the block such as threatened confiscation, forced cession and the introduction of the Native Land Court to the region; and
 - (e) the particulars provided (in the claims) are sufficient for the Tribunal to proceed to hearing and pleadings can be amended when research is completed.

Joint submission from counsel for claimants and the Crown

96. On the matter of timing around filing amended statements of claim, counsel for the claimants and the Crown jointly submitted that (Wai 3555, #3.1.32 at [4]–[6]):
- (a) claimants prefer a process that allows them to update their amended statements of claim as the inquiry progresses and research permits rather than setting down specific timetabling for an amended pleadings process;
 - (b) the Crown does not oppose the claimants' proposal and will respond to any amended statements of claim after they are filed; and
 - (c) the Tribunal may to set down a close date for pleadings, such as deadline for final amended statements of claim and Crown responses.
97. Counsel advised they have been informed that the Court of Appeal judgment on the appeals from the judicial review of the *Mangatū Remedies Report 2021* would not be available until mid-October 2025 (Wai 3555, #3.1.32 at [13]). Counsel said the parties did not consider that this delay would prevent the Tribunal from progressing this inquiry,

though they are mindful of the Presiding Officer's comments that parties would take time to consider the judgment and decide next steps after its release (Wai 3555, #3.1.32 at [14]).

Next steps on amended statements of claim and Crown responses

98. There is a clear consensus that parties should be able to amend their claims as their research progresses. We also note that the judgment of the Court of Appeal regarding the *Mangatu Remedies Report* has now been issued and parties, as well as the Tribunal, will wish to consider how that judgment affects the claims in this inquiry.¹
99. At the conference, I pointed out that this would mean that the final day for claimants to amend their statements of claim would be the same filing date for claimant evidence and that the filing of the Crown response and evidence would be four weeks after the claimant filing deadline. Mr Linkhorn confirmed that the Crown could work with that timeline.
100. I confirm that the final day for filing amended statements of claim will be the same day for filing all claimant evidence. The Tribunal will set a specific deadline when it has sufficient information from parties on the delivery timeframes on their new research and the consequent further claim amendments. I support in principle that Crown responses should be filed four weeks after the receipt of the final amended statements of claim.

Scheduling of hearings

101. Regarding the scheduling of hearings in this inquiry, counsel for claimants and the Crown jointly stated that (Wai 3555, #3.1.32 at [15]):
- (a) the parties prefer a comprehensive hearings process where the claims of all claimants are heard over one or two weeks;
 - (b) the parties consider it efficient to hear all claims and evidence relating to the Waipāoa blocks in a single hearing process;
 - (c) parties will be available for a hearing in the final quarter of the current financial year, provided the research outcomes referred to above have been achieved.
102. Counsel, accordingly, requested the Tribunal to indicate if it could hold hearings this financial year and the available hearing dates (Wai 3555, #3.1.32 at [15]).
103. At the conference Ms Feint advised that inquiry parties have agreed to all proceed 'together' regarding the filing and presentation of evidence. She noted that if some claimants file their evidence ahead of others, other claimants may be disadvantaged by delays to filing their evidence. Ms Feint further observed, however, that the progress of the inquiry would be affected by the delivery of all parties' research because some claimants may not be ready to cross-examine other claimant witnesses until they have completed their own research.
104. Ms Feint submitted that the most efficient procedure for hearing will be for every party to proceed at once so the Tribunal can hold one comprehensive hearing that involves the same deadline for all parties to file their evidence and any evidence-in-reply.
105. Ms Feint advised that Māhaki wished to have this inquiry underway as soon as reasonably possible submitting that setting filing deadlines would ensure that parties have

¹ *Estate of Eric John Tupai Ruru v Attorney-General* [2025] NZCA 597.

a target to work to and advised that the Tribunal could set filing deadlines for the first quarter of 2026.

106. Ms Feint clarified that the two weeks of hearing indicated in the parties' joint memorandum need not be consecutive but noted that parties would work with any hearing timelines the Tribunal decides upon. She suggested, for example, that all evidence could be heard in one week and closing submissions heard in the second week.

107. At the conference, Mr Linkhorn, submitted that the Crown would need a minimum of four weeks from the receipt of claimant technical evidence for the Crown to file its own evidence. Counsel, however, advised that the Crown would file statements of response as soon as it can, should the Tribunal be considering setting a date for close of pleadings.

108. Regarding setting down the inquiry for hearing, Mr Linkhorn submitted that, while the Crown would prefer proceeding to hearing as soon as possible, counsel understood some claimant groups are facing challenges with certain preliminary aspects of their hearing preparation. Mr Linkhorn, accordingly, submitted that the Crown would abide the decision of the Tribunal.

Next steps on scheduling hearings

109. In regard to scheduling hearings, more certainty on the nature and receipt of new evidence for all claimant parties is needed to inform the setting down of specific hearing dates. I, however, propose an initial site-visit hearing in February 2026 subject to parties views.

Proposed initial site-visit hearing

110. The Tribunal would like to commence the hearings process by conducting a site visit to the Mangatū CFL lands, in particular to important locations within the Waipāoa lands. The Tribunal is available to conduct such a site visit in the week of 16 – 20 February 2026, subject to resourcing approval.

111. To facilitate the site visits and for coordination purposes, I invite parties to make submissions regarding how the Tribunal should proceed by **5 pm, Friday 16 January 2025**.

Request for mediation on customary rights and interests

112. During the conference Ms Sykes requested the Tribunal consider conducting a two-day mediation on customary rights and interests. Ms Sykes submitted that, when there is a dispute regarding the customary rights and relationships in a particular rohe, such disputes usually affect the way substantive hearings are conducted. Ms Sykes noted that such disputes may extend the time required for the Tribunal to conduct its hearings and a prior mediation between parties has the potential to ensure that the substantive hearings do not exceed the two weeks currently proposed by the parties.

113. Ms Sykes suggested this mediation should take place after parties have filed their evidence for this inquiry and before the substantive hearing, or in the minimum, after parties file sufficient evidence to give confidence to the facilitators of the mediation that there are no notional interests but that there are actual subsisting customary rights and interests.

114. Ms Sykes further submitted that mediation would allow for whakapapa evidence to be presented in a sensitive way and not be subjected to the rigours of cross-examination. Ms Sykes stated that whakapapa evidence can be of better use than cross-examination

especially where customary interests are in dispute. Ms Sykes stated that, without such mediation, she was not confident that the Tribunal could complete its hearing in this inquiry within two weeks.

115. Mr Sinclair advised the Tribunal that his Wai 87 and Wai 1794 clients have instructed him that there was merit in Ms Sykes request for a mediation process as part of this inquiry.
116. Mr Kahukiwa submitted that the idea of a mediation process is a good suggestion and advised that his clients would be amenable to a mediation process, noting that from experience that much of what is said about traditions can be misconceived and mediation can be a good way of traversing those matters.
117. Ms Feint submitted that her Wai 274 and Wai 283 Māhaki clients did not at present support the Tribunal conducting a mediation process. She advised that while her clients are not outrightly rejecting a mediation proposal, they wish first to see the evidence before deciding on mediation. Ms Feint said her clients' position is that they do not consider that the matter of customary interests is as complex as Ms Sykes thinks. Ms Feint suggested that the mediation option can develop on 'the side independent of the inquiry planning process' because even after evidence is filed, there will still be some time before the hearing.
118. Mr Bennion supported the submission from Ms Feint and noted that, while mediation was not formally accepted at the moment, it was also 'not off the table'. Mr Bennion stated that the parties seemed to all agree that, even if mediation would be considered, at least all evidence should first be filed. He added that another option that could be considered is a discussion among kaumatua towards narrowing issues. Mr Lyall confirmed that, prior to the judicial conference, his and Mr Bennion's clients had agreed on this.
119. Counsel for the Crown, Mr Linkhorn, submitted that the proposal for a mediation appears to be a 'carefully calibrated proposal' to meet both evidential requirements (should the full hearing need to proceed without a successful outcome from the mediation) and make space for the possibility that the mediation will deliver an efficiency gain for the Tribunal's work. Mr Linkhorn suggested that the Tribunal should provide room for parties to further explore the proposal for mediation and for the mediation to possibly occur.

Next steps on mediation proposal

120. I informed counsel that there was still some time to go before the deadline for filing evidence in this inquiry. I consider that it is reasonable for all claimant groups to have the research concerning customary interests available before any decisions are made about whether it would be helpful, and provide a more efficient hearing process, to engage in discussions about claimants' customary interests outside of the hearings. Those discussions could be by facilitated hui, wānanga or a more formal mediation pursuant to clause 9A of Schedule 2 of the Treaty of Waitangi Act 1975. The Tribunal will call for further submissions on this matter once all claimant evidence is filed. In the meantime I encourage counsel for parties to continue to consult among themselves and with their clients regarding the proposal for discussions regarding customary interests outside of the hearings.

The Registrar is to send this direction to all those on the notification list for Wai 3555, the Waipāoa Remedies Inquiry.

DATED at Hamilton this 20th day of November 2025

A handwritten signature in black ink, appearing to read 'S. Milroy', written in a cursive style.

Judge Stephanie Milroy
Presiding Officer

WAITANGI TRIBUNAL