

Wai 3555: Crown Statement of Response to Wai 864 Amended Statement of Claim, dated 30 September 2025 (Wai 864, #1.1(g))

Para	Amended Statement of Claim	Crown response
<b>Introduction</b>		
<b>The claimants</b>		
1.	This Fifth Amended Statement of Claim is filed by the claimants, Russell Hollis (deceased), John Hata (deceased), Len Brown (deceased), John Brown, Antoinette Hata and Te Ringahuaia Hata, for and on behalf of the owners of Whakapaupakihi No. 2 block, Tairāwhiti District.	In respect of paragraph 1, the Crown: <ul style="list-style-type: none"> <li>- notes that the claim is brought on behalf of the collective group who are beneficial owners of the Whakapaupākihi 2 block, a block located in the North-Eastern Bay of Plenty inquiry district boundaries and subject to claims which are being inquired into by the Tribunal in that inquiry;</li> <li>- notes that the claimants' previous statements of claim made claims concerning only the circumstances of the Whakapaupākihi 2 block;</li> <li>- notes that by this amended statement of claim (dated 30 September 2025), the claimants seek to make claims about other land blocks listed at paragraph 89 of the amended claim, including the Mangatū 1 to 4 blocks and the Waipāoa blocks, on the basis that some of the beneficial owners of Whakapaupākihi 2 are said to have ancestral customary connections to those blocks by virtue of their belonging to hapū and iwi whose members claimed interests in those other land blocks;</li> <li>- says, in light of its responses to paragraphs 128 to 130 below, that the claimants do not appear to advance particularised claims about dealings in those other blocks and any prejudice the beneficial owners of Whakapaupākihi No 2 block are alleged to have suffered as a result of Crown actions or omissions in relation to those other blocks.</li> </ul>
2.	The following Statements of Claim have been filed:	In relation to paragraph 2, the Crown: <ul style="list-style-type: none"> <li>- notes that the Wai 864 claim as originally filed and subsequently amended in the amended pleadings in 2000, 2001, and 2024, made claims only concerning the ownership of the Whakapaupākihi 2 block and the acquisition by the Crown of the part of the block known as Moutohora Quarry in 1937;</li> <li>- notes that prior to this amended statement of claim (dated 30 September 2025) the claimants have not filed a statement of claim with the Waitangi Tribunal which addressed the Waipāoa or Mangatū lands, or lands other than Whakapaupākihi 2;</li> <li>- repeats its response to paragraphs 129 and 130 below that this amended claim document does not identify particular claims or prejudice relating to the Waipāoa blocks.</li> </ul>
(a)	Statement of Claim dated 17 July 2000 <sup>1</sup>	
(b)	Amended Statement of Claim dated 7 December 2000 <sup>2</sup>	
(c)	Amended Statement of Claim dated 10 September 2001 <sup>3</sup>	
(d)	Amended Statement of Claim dated 21 November 2013 (understood to not be on the Tribunal's file)	
(e)	Fourth Amended Statement of Claim dated 24 January 2024	
3.	The claimants are Māori.	The paragraph concerns a jurisdictional matter in respect of which the Tribunal would need to satisfy itself of during the inquiry.
<b>Whakapaupākihi No 2 Block</b>		
4–10		The paragraphs do not contain claims concerning the lands in the Waipāoa blocks and, instead, concern the title history and ownership of the Whakapaupākihi block which is located in the North-Eastern Bay of Plenty inquiry district. The Crown does not respond to these matters here as they do not concern the Waipāoa blocks.
<b>Whakapaupākihi 2 Trust</b>		
11–14		The paragraphs also do not concern the Waipāoa blocks and are not responded to for that reason.
<b>Beneficiaries of Whakapaupākihi 2 Trust</b>		
15–17		The paragraphs concern the beneficial ownership of Whakapaupākihi 2 and do not contain claims concerning the Waipāoa blocks.
18	The recognised iwi and hapū affiliations of those 5,323 individuals include: <i>Original owners at 1882</i> <ul style="list-style-type: none"> <li>• Ngāti Patumoana</li> <li>• Ngāti Ruatakenga</li> <li>• Ngāti Irāpuaia</li> <li>• Ngāti Ngahere</li> </ul>	To the extent a response is required, noting that paragraph 18 is referred to in paragraphs 87 and 88 of the amended statement of claim, the Crown says that the matters in paragraph 18 would need to be addressed by the claimants in evidence during the inquiry. The Crown further notes that it does not concern the Waipāoa blocks.

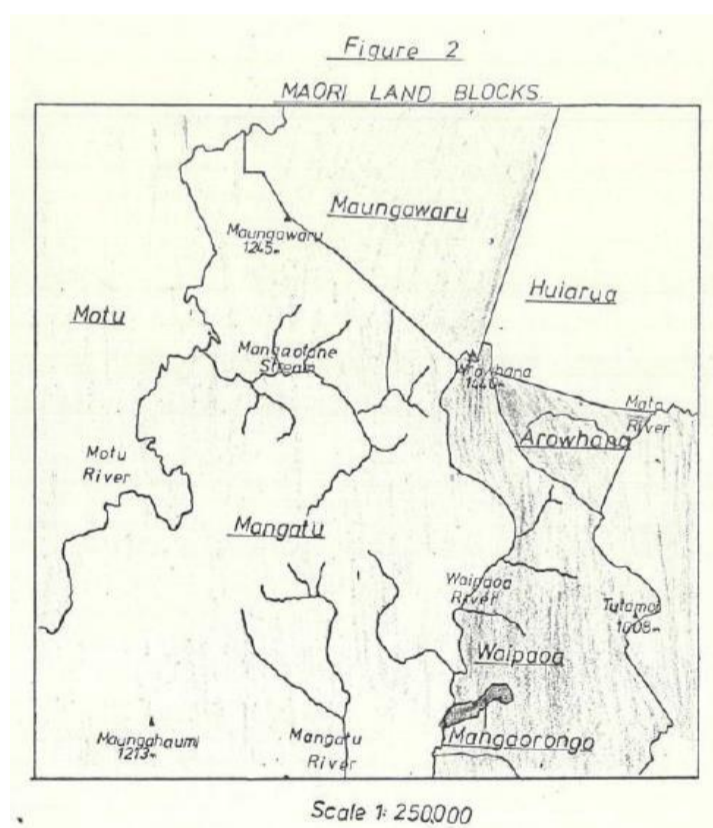
<sup>1</sup> Wai 864, 1.1.  
<sup>2</sup> Wai 864, 1.1(a)  
<sup>3</sup> Wai 864, 1.1(b)

<p><b>RECEIVED</b>  Waitangi Tribunal</p>
<p><b>3 Dec 2025</b></p>
<p>Ministry of Justice  WELLINGTON</p>

Para	Amended Statement of Claim	Crown response
	<ul style="list-style-type: none"> <li>Ngāi Tamahaua</li> </ul> <p><i>Owners by way of marriage or succession in 1909</i></p> <ul style="list-style-type: none"> <li>Ngāti Patumoana</li> <li>Ngāti Ruatakenga</li> <li>Ngāti Irapuaia</li> <li>Ngāti Ngahere</li> <li>Ngāi Tamahaua</li> <li>Te Upokorehe</li> <li>Te Waimana, Tūhoe</li> <li>Wahia and Ngariki hapū</li> <li>Ngā Ariki Kaipūtahi</li> <li>Te Aitanga-a-Māhaki</li> </ul> <p><i>Current owners by way of purchases, succession or marriage as at 2024<sup>4</sup></i></p> <ul style="list-style-type: none"> <li>Ngāti Patumoana</li> <li>Ngāti Ruatakenga</li> <li>Ngāti Irapuaia</li> <li>Ngāti Ngahere</li> <li>Ngāi Tamahaua</li> <li>Te Upokorehe</li> <li>Ngā Ariki Kaipūtahi</li> <li>Te Aitanga-a-Māhaki</li> <li>Ngāti Porou</li> <li>Tūhoe</li> <li>Ngai Tai ki Tōrere</li> </ul>	
<b>Moutuhora Quarry / Motuhora Quarry</b>		
19–21		These paragraphs concern the location of the Moutuhora Quarry, which is also within the boundaries of the North-Eastern Bay of Plenty inquiry district, and the claimants' claim of uninterrupted mana over Whakapaupākihi 2, including the quarry land. The paragraphs do not concern the Waipāoa lands and are not responded to here.
<b>The Moutuhora Quarry Claim</b>		
22–86		The paragraphs concern the claimants' claims in relation to the Crown's compulsory acquisition of the Moutuhora Quarry land in Whakapaupākihi 2 in 1937. These claims do not concern the Waipāoa blocks and are being addressed by the Tribunal in the North-Eastern Bay of Plenty district inquiry. The Crown has filed a statement of response to the claims in the Wai 1750 inquiry (Wai 1750, #1.3.4) and does not respond to them here.
<b>The Mangatū and Waipāoa Crown Forest Lands claim</b>		
87	As set out in paragraphs [15] to [19] above, the beneficiaries of the Whakapaupākihi No 2 Trust are those people beneficially entitled to the Whakapaupākihi No 2 block. Per paragraph [18] above, those people whakapapa to a number of iwi and hapū <u>not limited to</u> Whakatōhea.	The Crown repeats its response to paragraph 18 set out above and otherwise says that the matters addressed in paragraph 87 will need to be addressed by the claimants in evidence during the inquiry.
88	On behalf of those they represent, the claimants assert rights and interests in the Mangatū and Waipāoa rohe by virtue of their whakapapa from each of the iwi and hapū identified in paragraph [18] above.	Regarding paragraphs 88 to 90, insofar as the paragraphs concern the Waipāoa blocks and a response is required, the Crown repeats its responses to paragraphs 18 and 87 above and says it understands the claimants will address the matter of their asserted customary interests in evidence during the inquiry.
89	The oral and traditional history of these iwi and hapū illustrates that they have non-exclusive customary interests in the following blocks, among others:	
89.1	Mangatū No 1–4;	
89.2	Whatatutu;	
89.3	Waipāoa;	
89.4	Waikohu Matawai; and	
89.5	Rangatira.	
90	The customary rights and interests exercised, and continue to be exercised include, but are not limited to:	

<sup>4</sup> Whakapapa research remains ongoing.

Para	Amended Statement of Claim	Crown response
90.1	The right to hunt and fish on the land or in the waters;	
90.2	The right to take natural resources from the land and waters, including digging and using minerals and quarry materials such as flints, clays, soil, sand, gravel rock and all other resources;	
90.3	The right to dispose of such resources by trade or exchange;	
90.4	The right to move about on the land or waters, or live on and erect dwellings on the land;	
90.5	The right to conduct ceremonies on the land; and	
90.6	The right to grant or refuse permission to any other person to do any of the above.	
91	The area within the Waipāoa and Mangatū catchments was originally the land of the Urewera tribes, divided into units using natural boundaries but with the passing of the Native Land Act 1862, artificial boundaries were imposed. <sup>5</sup>	Regarding paragraph 91, a response to the first part of the sentence up to “the Urewera tribes” is not required, and the Crown otherwise notes that operations under the Native Land Act 1862 did not occur within the area encompassed by the Waipāoa and Mangatū catchments.
92	The Māori Land Blocks of Mangatū, Arowhana Waipāoa and Mangaorongo form the main catchment area for the Mangatū[,] Motu, Mata and Waipāoa Rivers.	In relation to paragraph 92, to the extent a response is required, the Crown notes that: <ul style="list-style-type: none"> <li>- there was no block known by the name “Arowhana” in the vicinity of the Waipāoa and Mangatū blocks;</li> <li>- there is a high point located on the boundary between Waipāoa 1A1 and 1A2 named Arowhana, and Arowhana is also the name of a survey district in the vicinity of the Mangatū and Waipāoa blocks;</li> <li>- the Mata River catchment is not located within any of the named blocks;</li> <li>- the Mangatū block contains part of the Motu River catchment.</li> </ul>
93	The following maps depict the subdivision of the Māori land blocks in the area in the context of the abovenamed rivers, and the block subdivisions: <sup>6</sup>	In relation to paragraph 93, the Crown does not accept the maps shown in the claim depict the arrangement and boundaries of the blocks in the vicinity of Waipāoa and Mangatū blocks with sufficient accuracy and refers to the map entitled “Mangatū CFL Land” filed by the Crown in the Wai 3555 inquiry on 18 June 2025 (Wai 3555, #A1(c)).



<sup>5</sup> R. D Black Rivers of Change, Early History of the Upper Waipāoa and Mangatū Catchments, 1951, at p 4: <https://webstatic.niwa.co.nz/library/BlaRDRive.pdf>

<sup>6</sup> Ibid at pp 6 – 7.

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	<p style="text-align: center;"><i>Figure 3</i> BLOCK SUBDIVISION</p> <p style="text-align: center;">Scale 1:250000</p>	
94	In the 1860s, Te Kooti Arikirangi arrived in the Waioweka area.	Paragraph 94 does not concern the Waipāoa lands or blocks and is therefore not responded to.
95	The alliances forged between ancestors of many of the hapū and iwi of the Whakapaupākihi No 2 beneficiaries and Te Kooti saw them supporting Te Aitanga-a-Māhaki relations against the Crown's attacks on Waerenga-a-Hika and its aftermath, including the terrible events at Ngātapa.	The Crown does not respond as the paragraph does not concern the Waipāoa blocks and notes that the parties will come to address the relevance of wider contextual matters like this during the inquiry.
96	As noted in [18] above, Te Aitanga-a-Māhaki and Ngā Ariki Kaipūtahi are among the list of current owners of Whakapaupākihi No 2 by way of purchases, succession or marriage as at 2024 and have been since at least 1909.	In relation to paragraphs 96 to 99 the Crown repeats its response to paragraphs 18 and 87 above.
97	Following armed invasion of their traditional territories in and around Opotiki which culminated in the Battle of Te Tarata, many Māori moved deep into the hinterlands of the Waioeka Gorge and south-eastern Tūranga area for refuge. This included the ancestors of many of the hapū and iwi of the Whakapaupākihi No 2 beneficiaries.	
98	During this period, these people strengthened their customary interests in the Mangatū and surrounding lands. Whakapapa alliances were further strengthened as well as customary use of the forests, rivers, streams and natural resources.	
99	These practices continue to this day.	
<b>Te Tiriti o Waitangi and its Principles</b>		
100–127		The paragraphs address Treaty principles as discussed in Tribunal reports and court judgments. These are matters for legal submissions (they do not concern factual allegations relating to the Waipāoa lands) and are not responded to here.
<b>Crown breaches</b>		
128	Through its acts and omissions set out and described in this Amended Statement of Claim, the Crown has breached the following principles of Te Tiriti o Waitangi:	The paragraphs are expressed broadly and do not identify allegations of Crown breach in relation to the Waipāoa lands or blocks. To the extent the claimants do intend to raise allegations of breach concerning the Waipāoa blocks, the Crown seeks particulars of these matters so that it can provide a response in an amended statement of response.
128.1	The principle of active protection;	
128.2	The principle of partnership;	
128.3	The principle of economic protection;	
128.4	The principle of equity;	
128.5	The principle of consultation; and	
128.6	The principle of redress.	
129	The Crown has failed to meet its duty to remedy past Treaty breaches.	
<b>Prejudice</b>		
130	As a consequence of the Crown's breaches as set out in this Amended Statement of Claim, the claimants and all of those people they represent have suffered and continue to suffer serious prejudicial effects including:	In relation to paragraph 130, the claimants have not identified any prejudice in relation to the Waipāoa blocks. Should a response be required the paragraph is not accepted.
130.1	loss of rangatiratanga, mana motuhake and kaitiakitanga of their whenua;	

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130.2	marginalisation of the claimants and those they represent within their own ancestral lands;	
130.3	economic loss;	
130.4	loss of economic opportunity;	
130.5	enduring economic hardship.	
<b>Crown concession of Treaty breach</b>		
131–133		These paragraphs recite the Crown acknowledgement in the Whakatōhea Deed of Settlement regarding the acquisition of the Moutohora Quarry land and the relief sought by the claimants for their claims in relation to the quarry. These matters do not concern the Waipāoa blocks and are not responded to here and, insofar as they are within the Tribunal’s jurisdiction, are being addressed in the Wai 1750 district inquiry. For the avoidance of doubt, the Tribunal does not have jurisdiction to inquire into the Deed of Settlement or Crown acknowledgements in the Deed, as a result of s 15 of the Whakatōhea Claims Settlement Act 2024.
<b>Relief Sought – Mangatū and Waipāoa lands</b>		
134	The claimants seek the following:	<p>In relation to paragraph 134 the Crown:</p> <ul style="list-style-type: none"> <li>- repeats its responses to paragraphs 2, 129 and 130 above;</li> <li>- says that to the extent the Wai 864 claims in the claim document relate to Whakatōhea: <ul style="list-style-type: none"> <li>o the Tribunal does not have jurisdiction to inquire into them in this inquiry (Wai 3555) or to make recommendations in respect of them;</li> <li>o the Tribunal’s jurisdiction in respect of the Wai 558 historical claims that relate to Whakatōhea is limited to inquiring into and reporting on the claims in the Wai 1750 district inquiry and to make findings but not recommendations on the claims;</li> </ul> </li> <li>- says that to the extent the Wai 864 claims in the claim document relate to other groups whose historical claims are settled, including Tūhoe and Ngāti Porou, the Tribunal does not have jurisdiction to inquire into them or to make recommendations in respect of them, by operation of finality clauses in the settlement legislation for those groups (s 15 Tūhoe Claims Settlement Act 2014 and s 13 Ngāti Porou Claims Settlement Act 2012);</li> <li>- otherwise does not respond to the relief sought and will address that matter through evidence and submissions in the inquiry.</li> </ul>
134.1	Findings of fact that:	
134.1.1	their claim is well-founded;	
134.1.2	the claimants and those they represent have suffered, or will suffer, prejudice as a result of the Crown’s acts and omissions concerning Mangatū and/or	
134.1.3	the Crown’s acts and omissions concerning Mangatū and/or Waipāoa lands have been and continue to be in breach of Te Tiriti o Waitangi and its principles.	
134.2	Recommendations that:	
134.2.1	Pursuant to Sections 8A-8H(j) of the Treaty of Waitangi Act 1975 the Crown should return directly to the Claimants in a manner which appropriately recognises those hapū/whānau that have a direct interest in the land all relevant Crown land, together with any improvements thereon, including:	
(a)	Reserved land and conservation land;	
(b)	Land held by any State-Owned Enterprise;	
(c)	Land held under the Public Works Act;	
134.2.2	Pursuant to section 36 Crown Forest Assets Act 1989, the Crown include the Whakapaupākihi No. 2 Trust in any return of the Mangatū and/or Waipāoa lands and pay compensation in accordance with the First Schedule of the Crown Forest Assets Act.	
<b>Amendments to this claim</b>		
135	The claimants reserve the right to make any amendments to this claim they perceive necessary throughout this District Inquiry.	The paragraph is noted, and the Crown seeks leave to amend its response as necessary.