WAI 1750 CROWN STATEMENT OF RESPONSE TO WAI 2728 THIRD AMENDED STATEMENT OF CLAIM DATED 1 DECEMBER 2025

Ngā Kaitono

Para	Amended statement of claim	Crown response
1	This third Amended Statement of Claim ("**ASOC**") is filed on behalf of Sharon Campbell for and on behalf of herself and her whānau, and for the benefit of ngā uri whakaheke a Rangihuatake rāua ko Haami Parehe, Patehepa Tāpono, Tipene Te Peha Tutaki Tamatea, rāua ko Hana Kone. ("**the Claimants**")	Paragraph 1 is noted.
Originating claim		
2	The original statement of claim dated 3 April 2018 sets out the originating claim, which have been amended by the first ASOC dated 12 December 2019,[1] and the second ASOC dated 2 February 2024.[2] Together, these statements of claims state that the Crown enacted legislation and policies in relation to the health sector that did not recognise or give effect to Te Tiriti o Waitangi ("**Te Tiriti**"), its principles or duties of the Crown to Māori including but not limited to:	Paragraph 2 is noted.
2.1	Education Ordinances Act 1847;	
2.2	New Lands Settlement Act 1863;	
2.3	Public Health Act 1900;	
2.4	Tohunga Suppression Act 1908;	
2.5	Health Act 1920;	
2.6	Others; and	
2.7	Policies that promoted large scale settlement of Pākehā and introduced disease to Māori communities.	
3	The Claimants claim that they have had an intergenerational association with various aspects of the mental health services sector. That association has comprised various interactions and degrees of involvement with mental health service providers and institutions over the years.	Paragraphs 4 to 6 are noted. The Crown responds to the particulars of the claims below, excluding, as noted below, any allegations that concern historical Treaty claim matters submitted contrary to s 6AA of the Treaty of Waitangi Act 1975.
4	The cumulative effect has been that the Claimants have been and continue to be prejudicially affected by Crown Ordinances, Acts, Regulation, Orders, Proclamations, Notices, or other Statutory Instruments, Policies, Practices, acts or omissions which were inconsistent with and in breach of the principles of Te Tiriti o Waitangi.	
5	The Claimants say that their experiences with the Health Sector and in particular the mental health sector have included but are not limited to:	
5.1	a lack of adequate access to health services;	
5.2	an ineptitude on the part of various health organizations that the Claimants have dealt with in firstly, the recognition of illness and secondly, the provision of services;	
5.3	ineffective support for Claimants and their whānau who are suffering from health-related issues;	
5.4	a failure to take into account Māori values and tikanga when dealing with the Claimants and their whānau; and	
5.5	a lack of consultation with whānau.	
6	The Claimants say that these failures have also resulted in detrimental impacts on the Claimants and their whānau quality of life and socioeconomic status. These negative experiences and issues faced by the Claimants are common amongst Māori throughout Aotearoa.	

[1] Wai 2728, #1.1.1(b), Wai 2575, #1.1.27.

[2] Wai 2728, #1.1.1(d), Wai 1759, #1.1.30.

Te Tiriti o Waitangi

Para	Amended statement of claim	Crown response
Te Whakatōhea		
7	On the 27th of May 1840, seven Whakatōhea chiefs placed their marks on the Treaty. The signatories were Tauātoro, Takahi, Āporotanga, Rangimātānuku, Rangihaerepō, Ake and Whākia. The latter signed the document a day after the others.[3]	The paragraph is accepted.
The Articles of Te Tiriti		
8 – 35		These paragraphs concern matters that may be the subject of legal submissions during the inquiry and are not responded to here.

Waging war

Para	Amended statement of claim	Crown response
36 – 56		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.

Raupatu

Para	Amended statement of claim	Crown response
57 – 71		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.

Rangatiratanga and Kāwanatanga

Para	Amended statement of claim	Crown response
72 – 78		The allegations are broadly expressed and are not defined with any particularity. To the extent that the allegations are intended to concern historical Treaty claims they are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975 and the Crown does not respond to them. To the extent the allegations are intended to concern contemporary claim matters they are not sufficiently particularised for the Crown to respond and as a result are more in the nature of submission.

Native Land Court

Para	Amended statement of claim	Crown response
79 – 87		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.

Local Government and Rating

Para	Amended statement of claim	Crown response
Breaches and particulars		
88 – 93		The allegations are broadly expressed and are not defined with any particularity. To the extent the allegations are intended to concern historical Treaty claims they are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975 and the Crown does not respond to them. To the extent the allegations are intended to concern contemporary claim matters arising after 21 September 1992 they are broadly expressed without factual particulars and are more in the nature of submissions and not responded to here.

[3] Ranginui Walker, Opotiki-Mai-Taiwhiti: capital of Whakatohea, Penguin, Auckland, 2007, p. 59.

Para	Amended statement of claim	Crown response
Māori Participation in Local Government		
94 – 99		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.
100	Historical non-participation of Māori in local government to a large extent still continues today.	The Crown does not respond to "Historical non-participation of Māori in local government" which is a historical claim matter. The remainder of the allegation appears to concern contemporary claim matters (arising after 21 September 1992) but is in the nature of a submission and not responded to here.
101	There is no dedicated tangata whenua seat on the local government bodies.	The paragraph is broadly expressed (for example, "the local government bodies" is not particularised as to the specific bodies referred to) and for that reason is difficult to respond to. The Crown will engage with this matter during the inquiry to the extent it concerns a contemporary Treaty claim and matters arising after 21 September 1992.
102	Legislation provides for only limited consideration of Māori concerns in relation to local government decision-making.	The paragraph concerns matters that are to be addressed in submissions and is not responded to here.
103	Under the Resource Management Act 1991, local authorities are required to:	To the extent the paragraphs mean to concern contemporary Treaty claim matters arising after 21 September 1992, the Crown responds that: - In relation to paragraph 104, the Crown accepts that s 6 of the Resource Management Act 1991 states, in part: **Matters of national importance** In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to manging the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: … (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; - In relation to paragraph 105, accepts that s 7 of the Resource Management Act 1991 states, in part: **Other matters** In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to— (a) kaitiakitanga; … - In relation to paragraph 106, accepts that s 8 of the Resource Management Act 1991 states: **Treaty of Waitangi** In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
104	recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;	
105	have particular regard to kaitiakitanga; and	
106	take into account the principles of the Treaty of Waitangi.	
107	The Local Government Act 2002 requires local authorities to:	The Crown accepts that s 81 of the Local Government Act 2002 states: **81 Contributions to decision-making processes by Māori** (1) A local authority must—
107.1	establish and maintain process to provide opportunities for Māori to contribute to the decision-making processes of the local authority;	
107.2	consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and	

Para	Amended statement of claim	Crown response
		(a) establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; and (b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and (c) provide relevant information to Māori for the purposes of paragraphs (a) and (b).
107.3	provide relevant information to Māori for those purposes.	
Rates		
108	The rating regime affords little to no benefit to Māori land and land owners.[4]	The paragraph is a matter for submissions and is not responded to here.
109	Historically, rates valuations failed to account for an inability to generate income from some Māori land or that Māori land cannot easily be sold.	The Crown does not respond as the allegation concerns historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.
110	Rates charges have been used by the Councils as threats against Māori landowners in order to influence local government initiatives such as leasing or resource consent applications.[5]	The paragraphs are expressed broadly and without particulars of the allegations such as, for instance, the "threats" by councils referred to in paragraph 110 and the "policy" reerred to in paragraph 111. To the extent the allegations are intended to refer to historical Treaty claims matters the Crown does not respond for the reasons set out in its response to paragraph 109 above.
111	The rating regime has seen the development of policy that prescribes that the non-payment of rates can lead to the eventual alienation of whenua Māori. This is a system that has been imposed by the Crown upon Māori landowners without their approval or consent.	

Cultural Issues

Para	Amended statement of claim	Crown response
Breaches		
112	The Crown, in breach of the principles of Te Tiriti:	To the extent the allegations are intended to refer to historical Treaty claims the Crown does not respond as the allegations are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975. The Crown responds to the particulars which appear intended to address contemporary Treaty claims allegations as set out below.
112.1	has failed in its duty of good faith to actively protect waahi tapu and other sites of cultural significance within the rohe of the Claimants.	
112.2	has failed in its duty to actively protect te reo Māori and tikanga Māori as taonga within the iwi of Te Whakatōhea.	
112.3	has failed in its duty to ensure that the mana of wāhine Māori is upheld.	
Waahi tapu		
113	The Claimants assumed that their sacred sites would remain undisturbed regardless of the legal status of the land; however, the Crown exhibited no real regard to the protection of waahi tapu during the period of extensive Crown land acquisition between the 1870s and 1900.	The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.
114	The Crown's focus was on cutting up the land into rural sections for family farming. The result was a transfer from the Crown into private ownership of a multitude of sites which Māori had an association including pā and kāinga sites, cultivation sites, burial sites, and spiritual sites.	
Te Reo Māori		
115 – 122		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.
123	Linguistic silencing of te reo Māori in general and near extinction of tribal dialects, te reo o Te Whakatōhea in particular, became the norm within their whānau and hapū which the Claimants assert processes of assimilation and colonisation were designed to achieve and which impacted on the roles of mothers and nurturers to the detriment of the intergenerational capture of mātauranga Māori by whānau and hapū members with many across several generations	To the extent the allegations are intended to concern historical Treaty claims the Crown does not respond as the claim allegations are contrary to s 6AA of the Treaty of Waitangi Act 1975. To the extent the allegations concern contemporary Treaty claim matters arising after 21 September 1992 it is difficult for the Crown to respond without particulars of the allegations.

4 Wai 1750, #A26, Local Government and Māori Land Rating Issues Report, 1871-2021, Suzanne Woodley at p 38.

5 Wai 1750, #A26, Local Government and Māori Land Rating Issues Report, 1871-2021, Suzanne Woodley at p 28.

Para	Amended statement of claim	Crown response
	unable to converse in their native tongue, their tribal dialects or even aware of the rich tapestry of their hapū and tribal histories.	
124	As of the 2013 census, only 30% of Whakatōhea could hold a conversation about everyday things in te reo Māori, in comparison with 18.4 percent of the total population of Māori descent.[6] In 2018, 23.9% of the Māori population in the Opotiki district could speak te reo Māori.[7]	The paragraph is accepted.
125	The struggle to revitalise te reo me ōna tikanga and tribal dialects continues but it is a struggle that is connected to the struggle to restore the status and mana of wahine and kuia as repositories of knowledge and language in their own right.	The paragraph is noted and does not appear to require a response by the Crown.
126	The intergenerational transmission of te reo Māori and tikanga Māori to descendants of Ngāti Rua and the other hapū of Te Whakatōhea has been significantly weakened by the historical harm that has been exerted by the Crown. Language loss and trauma is a contemporary issue that many uri deal with on a daily basis. With the loss of language and the trauma suffered as a result, there are inevitable consequences such as loss of knowledge systems, loss of customary practices, loss of cultural confidence and identity.	To the extent the allegations are intended to concern historical Treaty claims the Crown does not respond as the claim allegations are contrary to s 6AA of the Treaty of Waitangi Act 1975. To the extent the allegations concern contemporary Treaty claim matters arising after 21 September 1992 it is difficult for the Crown to respond without particulars of the allegations.
Mana wāhine & The Denial of Tohunga		
127 – 129		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.

Social – Socio-economic Detriment

Para	Amended statement of claim	Crown response
Breaches		
130 – 135		To the extent the allegations are intended to refer to historical claims the Crown does not respond as the allegations are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975. Insofar as the paragraphs are intended to address contemporary Treaty claim matters arising after 21 September 1992, the paragraphs are expressed as submission. The Crown responds to the particulars which appear intended to address contemporary Treaty claims allegations as set out below.
Particulars ***Māori political disempowerment at a local and central level***		
136 – 145		The Crown does not respond as the allegations concern historical Treaty claims that are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975.
Social Displacement		
146		To the extent the allegations concern historical Treaty claims they are submitted to the Tribunal contrary to s 6AA of the Treaty of Waitangi Act 1975 and the Crown does not respond. To the extent to the allegations are intended to address factual matters which arise after 21 September 1992 the matters are not sufficiently particularised for the Crown to respond.
Healthcare services		
147 – 151		The allegations are broadly expressed and not defined with any particularity to identify the extent to which they are intended to refer to historical Treaty claim matters (arising before 21 September 1992) or contemporary Treaty claim matters (arising after 21 September 1992). To the extent that the allegations are intended to refer to historical Treaty claim matters the Crown does not respond as the claim allegations are submitted to the Tribunal contrary to s 6AA of the Treaty

6 Statistics New Zealand "Iwi Individual profile: Whakatohea" (2013) www.stats.govt.nz at 7.

7 Statistics New Zealand "2018 Census Place Summaries: Opotiki District" (2018) www.stats.govt.nz.

Para	Amended statement of claim	Crown response
		of Waitangi Act. To the extent the allegations are intended to refer to contemporary claim matters arising after 21 September 1992 the Crown is not able to respond without further particulars and will seek to engage with those allegations during the inquiry. The Crown also notes that the claimant's allegations relating to the health system that are not specific to this inquiry district may be more suitably addressed in the Wai 2575 kaupapa inquiry, and that the Tribunal is inquiring into aspects of the Wai 2728 claim in the first phase of the second stage of the Wai 2575 inquiry concerning disability claims. The Tribunal is currently in report writing for that phase of the Wai 2575 inquiry.

Education

Para	Amended statement of claim	Crown response
Breaches		
152	Contrary to the principles of active protection, equity and options, the Crown has failed to provide the Claimants with adequate access to educational opportunities within the rohe of Te Whakatōhea.	Paragraph 152 is a submission as to breaches of the Treaty by the Crown and is not responded to here. The Crown will seek to engage with these matters as they are addressed by the claimants during the inquiry.
Particulars		
153	Until this very day, there is no kaupapa Māori educational institution for secondary school aged tauira in the rohe of Te Whakatōhea. The tauira who attend the various local primary schools, such as Te Kura o Ōmarumutu, Te Kura o Waioweka, Ōpōtiki Primary School, have no other choice but to attend Ōpōtiki College if they wish to attend secondary school in the rohe of Te Whakatōhea.	In relation to paragraph 153, the Crown: - accepts that there is currently no standalone Kaupapa Māori educational institution for secondary school-aged students in Ōpōtiki; - notes further that Ōpōtiki College offers Level 2 Māori-medium education through its Maurua programme, under which 51 to 80 per cent of the curriculum, which equates to 12.5 to 20 hours per week, is delivered in te reo Māori; - notes further in relation to the Maurua programme at Ōpōtiki College: o the programme has been in place since 2019/2020 and provides te reo Māori education and Te Ao Haka to students in years 9 to 13; o Maurua was established to support students transitioning from Kaupapa Māori education into secondary schooling; o other specialist subjects are taught in English due to challenges in recruiting suitably qualified staff, and the Crown understands the College and its Board work actively to address this; - notes further that there are declining secondary school level enrolments in Ōpōtiki that may contribute to sufficiency of roll numbers for a standalone Kaupapa Māori Education / Māori-Medium Education school institution; - notes further that the nearest wharekura offering Level 1 Māori-Medium Education (80 to 100 per cent of the curriculum taught in te re Māori, equating to 20 to 25 hours per week) for Years 1 to 13 are: o Te Kura Kaupapa Māori o Te Orini ki Ngāti Awa; o Te Wharekura o Ruatoki; and o Te Kura o Te Whānau-a-Apanui.

Para	Amended statement of claim	Crown response
154	Many students are forced to travel to other towns/cities such as Whakatāne, Ōmaio, Gisborne, Rotorua and Tauranga to access a quality, kaupapa Māori education. Although there has been ongoing advocacy for a Wharekura in the Ōpōtiki district, none has been established to date.	In relation to paragraph 154, the Crown: - regarding the first sentence, refers to its response to paragraph 153 above and is not able to respond regarding the numbers of secondary school level students who choose to access kaupapa Māori education outside of Ōpōtiki, and understands this may be a matter the claimants wish to address in evidence; - understands that the Ōpōtiki College Board is taking steps aimed to ensure that College becomes the preferred choice for local families and whānau; - regarding the second sentence, notes that the Ministry of Education has not received any applications to establish a new wharekura in the Ōpōtiki area.
155	The Crown, through the Ministry of Education regulates the establishment and administration of public schools. By failing to adequately support the sole secondary school in the Ōpōtiki district, the Crown continues to fail in addressing the educational needs of the Claimants, which has forced them seek educational opportunities outside of Te Whakatōhea's rohe.	Regarding paragraph 155, the first sentence is accepted. Regarding the second sentence, the Crown does not respond insofar as the sentence is a submission as to Treaty breach. The Crown notes that the Ministry of Education provides support to Ōpōtiki College and works closely with the Board of Trustees of Ōpōtiki College to identify and support Māori educational priorities.
156	There are various studies and reports to support the notion that students educated through kaupapa Māori institutions outperform their mainstream counterparts,[8] yet Te Whakatōhea is without such an institution for their ranga tahi.	In relation to paragraph 156 and the part up to "their mainstream counterparts", the Crown accepts that the statement is consistent with data obtained by the Ministry of Education, and will engage with this matter further during the inquiry. The Crown refers to its responses to paragraphs 153 to 155 above in relation to the remainder of the paragraph.

Prejudice and Relief sought

Para	Amended statement of claim	Crown response
157 – 167		The Crown will respond to allegations of prejudice in submissions during the inquiry, insofar as the allegations concern contemporary Treaty claim matters. The Crown does not respond to the relief pleaded.

8 Kaupapa Māori students more likely to get NCEA merit and excellence endorsements | RNZ News.