

IN THE WAITANGI TRIBUNAL  
TOMOKIA NGĀ TATAU O MATANGIREIA –  
THE CONSTITUTIONAL KAUPAPA INQUIRY

WAI 3300  
WAI 966

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

Tomokia Ngā Tatau o Matangireia – The  
Constitutional Kaupapa Inquiry (WAI 3300)

AND

a claim by the late Te Kerei Tiatoa (Gray  
Theodore), the late Pereme Porter, Rangimarie  
Maihi, Yohanan Thomas Theodore, Arena Napia  
Theodore, Murray Tauru Theodore, and William  
Gray Theodore on behalf of Ngāpuhi (the Ngāpuhi  
Te Tiriti o Waitangi claim) (WAI 966)

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**MEMORANDUM OF COUNSEL FILING RESPONSE TO THE CROWN'S STATEMENT OF POSITION**

**Dated 20 February 2026**

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**RECEIVED**

Waitangi Tribunal

**20 Feb 26**

Ministry of Justice  
WELLINGTON

**COUNSEL ACTING**

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**TE ĀRAHI LAW**  
LEGAL SPECIALISTS

## MAY IT PLEASE THE TRIBUNAL

1. This Memorandum of Counsel is filed on behalf of the late Te Kerei Tiatoa (Gray Theodore), the late Pereme Porter, Rangimarie Maihi, Yohanan Thomas Theodore, Arena Napia Theodore, Murray Tauru Theodore, and William Gray Theodore on behalf of Ngāpuhi (the Ngāpuhi Te Tiriti o Waitangi claim) (**Wai 966**) (“the Claimants”).
2. We refer to the instructions conveyed by email from the Assistant Registrar of the Waitangi Tribunal dated 13 February 2026, which outlined the opportunity for parties to file a reply to the Crown’s statement of position should they wish to do so **by 5pm, Friday 20 February 2026**.<sup>1</sup> A further email confirmed the deadline.<sup>2</sup>
3. The Claimants’ have viewed the Crown’s presentation held online on 13 February 2026<sup>3</sup> and acknowledge the Crown’s engagement with the themes identified by the Tribunal.
4. The Claimants’ wish to address one matter arising from the Crown’s statement, specifically at paragraph [106], which states:<sup>4</sup>

*“The Crown understands the inquiry is focused on current and future constitutional arrangements rather than investigating specific historical grievances.”*

5. While the Claimants’ acknowledge that this inquiry is focused on the present and future, they respectfully submit that historical grievances cannot be separated from the consideration of present and future constitutional arrangements. The history of Aotearoa forms part of its constitutional whakapapa. These matters are not isolated from today’s arrangements. They continue to shape how power, authority, rights and responsibilities are understood today.
6. The past helps explain the present. The themes being discussed in this inquiry developed through historical processes. This response is not intended to revisit specific historical grievances or expand the themes of the inquiry. Rather, it is to emphasise that history

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<sup>1</sup> Instructions conveyed by email from the Assistant Registrar of the Waitangi Tribunal on 13 February 2026 at 1.48pm.

<sup>2</sup> Further instructions conveyed by email from the Assistant Registrar of the Waitangi Tribunal on 18 February 2026 at 10.31am.

<sup>3</sup> The Crown’s presentation of its statement of position for the wānanga ā-rohe phase held via AVL On 13 February 2026 at 9am (Wai 3300, #4.1.14).

<sup>4</sup> Wai 3300, #B14(c) at [106].

provides necessary context for understanding how current constitutional arrangements came to exist. The present cannot be properly assessed without understanding the past.

**DATED** this 20<sup>th</sup> day of February 2026



**Chris Beaumont**  
Counsel for the Claimants



**Tekih Veikoso**  
Counsel for the Claimants