

I TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI
IN THE WAITANGI TRIBUNAL

Wai 3300
Wai 605

In the Matter of the Treaty of Waitangi Act 1975

And

In the Matter of the Tomokia ngā tatau o Matangireia
(Wai 3300)

And

In the Matter of a claim by Dr Terence Lomax and Te
Rangimarie James Speight relating to the
Waimimiti Block (Wai 605)

AMENDED STATEMENT OF POSITION FOR WAI 605

Dated 20 February 2026

RECEIVED

Waitangi Tribunal

20 Feb 26

Ministry of Justice
WELLINGTON

Mahony Horner Lawyers

Counsel: Rox Soriano / Richard Gayfer / Style Tolefoa

PO Box 24515

Wellington 6142

04 974 4036 / 04 974 4206 / 04 974 4138

rox.soriano@mhlaw.co.nz / richard.gayfer@mhlaw.co.nz /

style.tolefoa@mhlaw.co.nz

TĒNĀ E TE TARAIPUUNARA
MAY IT PLEASE THE TRIBUNAL

1. My name is Dr Terence Lomax, and I am a named claimant for the Wai 605 claim, a claim by me and Te Rangimarie James Speight relating to the Waimimiti Block. I previously provided a statement of position, filed on 1 August 2025¹ and presented at te Wānanga Tuawhā on 21 August 2025.
2. I now provide this amended statement of position in response to the Crown's statement of position, filed on 11 December 2025² and presented via AVL on 13 February 2026. This amended statement of position does not replace my earlier statement and should be read in conjunction with it.
3. I would first suggest that paragraph [4] of the Crown's statement is problematic. Its statement that "*New Zealand is a modern liberal democracy*" is an assumption. There is no written constitution apart from British common law enacted into legislation (and inherited under the provisions of Article 3 of Te Tiriti), Te Tiriti and He Whakaputanga. The British Crown acknowledged He Whakaputanga, and proposed and signed Te Tiriti.
4. Te Tiriti would suggest that New Zealand is a Westminster democracy, where the Crown is head of state, Parliament makes recommendations to the Crown, Te Tiriti is still in force, the Crown assents to legislative recommendations, and Māori have a constitutional place under the provisions of Te Tiriti o Waitangi.
5. There has been no legal, legislated change to that situation that has been agreed to by Māori. Everything that the Crown is proposing is based upon this incorrect assumption, and many of the legislated changes made by the Settler Parliament are in breach of Te Tiriti (and therefore illegal and unconstitutional).
6. When the Crown goes on to say, "***In practice, political authority resides in all the people of New Zealand collectively who elect Members of Parliament***",³

¹ Wai 3300, #B31.

² Wai 3300, #B14(c).

³ At [4] (emphasis added).

they are appealing to a higher authority. They are conflating the role of Parliament (under settler rules) and the obligations of the Crown to abide by Te Tiriti. They are ignoring the constitutional role of Māori in New Zealand and stating that that is OK.

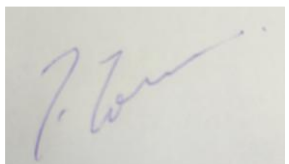
7. This is not a statement of fact, but a declaration of a legally unsupportable and wishful position where the Crown has opted out of its legal responsibility to govern under the provisions of Te Tiriti. If this wishful position goes away, the rest of the Crown's position has clay feet.
8. The Crown says at the end of paragraph [4] that "*the laws establishing our constitutional framework can change over time so that they remain effective and credible.*" This statement is the Crown giving itself the right to rewrite the understanding without complying with Te Tiriti. It is a blatant assumption that Parliament has the right to legislate out of existence, should it wish, the provisions of Te Tiriti. It is an abuse of position and a breach of Te Tiriti.
9. It is neither legally nor ethically valid for one party to unilaterally redefine a treaty between two parties, especially when it is done in the context of power imbalance and to the detriment of the non-consenting party. Queen Elizabeth II's admission in 1990 that Te Tiriti had been "*imperfectly observed*"⁴ certainly suggests that the Crown regarded itself as being bound by its terms.
10. The stated purpose of the Crown's statement is "*to provide a detailed statement of constitutional principles already identified by the Crown in relation to issues framed by the Tribunal and comments made by the claimants.*" This is factually incorrect. It is instead a statement of the Crown's wish for what our constitutional principles might be if it ignores the provisions of Te Tiriti.
11. The Crown's statement raises a number of issues that need clarification. For a start, the retention of tino rangatiratanga is guaranteed under Te Tiriti. Therefore, defining what tino rangatiratanga actually is needs some thought.

⁴ <https://www.rnz.co.nz/collections/treatyofwaitangi/audio/2533092/waitangi-day>

And it is on the various iwi groups to define that, not the government, as meaning may vary by dialect and rohe.

12. Then, there needs to be a discussion about what is important about tino rangatiratanga today that Māori wish to retain, and what the implications of that are.
13. There also needs to be a clarification around what the remedy is if the Crown has breached Te Tiriti in respect of tino rangatiratanga. Does it extend to retrospective Māori retention of "*their lands, forests and taonga?*" If not, why not?
14. If so, then does the right to individual Māori citizenship also include the right to retention of individually-owned Māori land that was taken, defrauded or stolen? If not, why do Māori miss out on their Article 3 rights to justice?
15. If the Crown is proposing to ask New Zealanders to vote on whether to retain or remove the Māori electorate seats – considering Pākehā have a majority of numbers that can pervert the intention of the outcome of the vote – surely this is an abuse of position. It is an attempt to undermine Te Tiriti in the same way that Te Tiriti was used to undermine He Whakaputanga. Heke fought his war for this very abuse, but 180 years later, we are still dealing with the same issues.
16. We are still yet to hear how the Crown is proposing to ensure that Māori have tino rangatiratanga rights going into the future. For now, I see the same patterns from the 1840s repeating, this time using democracy as a cover for the slow abolishment of Te Tiriti.

Dated at Motueka Valley this 20th day of February 2026



Dr Terence Lomax
Claimant for Wai 605