

IN THE WAITANGI TRIBUNAL

WAI 3555
WAI 78

IN THE MATTER OF

the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF

the Waipāoa Remedies Inquiry

AND

IN THE MATTER OF

a claim by Lucy Steel, Kaareen Hotereni and Ruahine
Te Moana brought on behalf of Ngāi Tai (WAI 78)

MEMORANDUM OF COUNSEL FOR WAI 78

Dated this 24th day of March 2026

RECEIVED

Waitangi Tribunal

25 Mar 2026

Ministry of Justice
WELLINGTON



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MAY IT PLEASE THE TRIBUNAL

Background

1. This memorandum of counsel is filed on behalf of Wai 78, a claim brought on behalf of Ngāi Tai and concerns the Waipāoa Remedies (Wai 3555) Inquiry.
2. On 24 July 2025, Her Honour Judge Milroy directed the Wai 78 claimants to provide further particulars of the Wai 78 claimants' customary interests in the Waipāoa Blocks and the alleged breaches of Te Tiriti that affected those interests by 26 August 2025.¹
3. Additionally, Judge Milroy went on to direct that if the Wai 78 claimants need to undertake further before providing the particulars of their customary interests and any breaches, counsel were directed to advise the Tribunal by 26 August 2025.²
4. On 26 August 2025, counsel for Wai 78 confirmed that further research is required before Ngāi Tai can provide the full particulars of their customary interest and Crown breaches. Counsel confirmed that the claimants were in the process of completing their application to become an approved client of the Crown Forestry Rental Trust, which was required for Ngāi Tai to be in a position to commission the required research.³

¹ Wai 3555, #2.2.005 at [22].

² Wai 3555, #2.2.005 at [23].

³ Wai 3555, #3.1.027 at [3].

Change of named claimants to Wai 78

5. On 8 August 2025, counsel for Wai 78 filed a memorandum to the North-Eastern Bay of Plenty (Wai 1750) District Inquiry, seeking to remove the existing named claimants, Hone Maxwell (dec), Joseph Maxwell, Muriwai Jones (dec), Te Aururangi Davis, O'Sonia Hotereni, Ashlee Mio and Ruahine Te Moana, and replace them with Lucy Steel and Kaareen Hotereni.⁴ The change of named claimants request followed a resolution made at a hui-a-iwi of Ngāi Tai.
6. Counsel for Wai 78 filed consent forms for all existing claimants except Ms Te Moana. Counsel requested that the Tribunal depart from its regular procedure and allow the amendment of the claim, as counsel had not been able to contact Ms Te Moana for over a year at the time the memorandum of counsel was filed.⁵
7. The Wai 1750 Tribunal received a submission in opposition to the request to remove Ms Te Moana.⁶

Decision of the Wai 1750 Tribunal concerning the named claimants of Wai 78

8. The Tribunal confirmed there was sufficient and appropriate information to direct the removal of five of the six named claimants and to replace them with two new named claimants.⁷

⁴ Wai 1750, #3.2.117.

⁵ Wai 1750, #3.2.207.

⁶ Wai 1750, #3.2.178, Wai 1750, #3.2.208, Wai 1750, #3.2.210.

⁷ Wai 1750, #2.6.050 at [18].

9. With respect to the position of Ms Te Moana, at the time of the Tribunal decision, the Tribunal concluded that she had disengaged from the claim. Therefore, the Tribunal decided to leave Ms Te Moana as a named claimant on the basis that if she continues to remain inactive, the two new named claimants will have clear authority to act and prosecute the claim. Judge Doogan stated that in the event of Ms Te Moana's re-engagement in the Wai 78 claim, future directions may be required at that time.

Current position of Wai 78

10. On 10 December 2025, the Tribunal received a memorandum from Ms Te Moana, seeking to confirm her ongoing status as a named claimant in the Wai 78 claim.

Crown Forestry Rental Trust

11. Counsel advises that the Wai 78 claimants are not in a position to become approved clients of Crown Forestry Rental Trust (CFRT), and are therefore unable to access CFRT funding for research concerning the Wai 3555 inquiry.
12. To become approved clients of CFRT, the named claimants must agree on the entity that will act as the client and receive the putea. The Wai 78 claimants have been unable to reach an agreement on this matter and therefore unable to apply for CFRT funding.

Tribunal Funding

13. Counsel respectfully seeks Tribunal assistance for the commission of a Ngāi Tai technical report for the purposes of the Wai 3555 inquiry.

14. Counsel advises that a similar funding request has been made to the North-Eastern Bay of Plenty (Wai 1750) District Inquiry, in which Ngāi Tai also participate. It is envisaged that a consolidated research report addressing both inquiries could be prepared in the interests of cost and time efficiency.

DATED at Ōhope Beach this 24th day of March 2026



Eve Kahuwero Rongo & Meg Lamont-Russell
Counsel for Wai 78