OFFICIAL

IN THE WAITANGI TRIBUNAL

Wai 3300 **Wai 146**
Wai 81 **Wai 48**

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF Tomokia ngā tatau o Matangireia – the Constitutional Kaupapa Inquiry (Wai 3300)

BY Florence Amohia, on behalf of herself, her whaanau, and her hapuu of Ngaati Haaua

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MEMORANDUM OF COUNSEL REGARDING ELIGIBILITY ISSUES

Dated: 10 April 2026

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Waitangi Tribunal
10 Apr 26
Ministry of Justice
WELLINGTON

MAY IT PLEASE THE TRIBUNAL:

1. This Memorandum of Counsel ("MoC") is filed on behalf of:

- **a.** Florence Amohia, on behalf of herself, her whaanau, and her hapuu of Ngaati Haaua (Wai 48, 81, and 146) ("the Claimants"); and
- **b.** files submissions in regard to eligibility issues raised in the Memorandum Directions ("MD") dated 19 Poutūterangi 2026.

2. On 19 March 2026, Kaiwhakawā Matua Dr Caren Fox raised eligibility issues relating to a number of claims involved in the Wai 3300 Constitutional Kaupapa Inquiry ("the Inquiry") and directed relevant parties to file submissions by 6 April 2026.[1]

3. On 20 March 2026 the registrar, via email, informed parties that Her Honour directed that the filing date be updated to 7 April 2026 as 6 April 2026 was a public holiday.

4. On 7 April 2026 Counsel sought an extension until 10 April 2026 to file submissions.

5. On 8 April 2026, the Registrar, via email, notified parties that the extension sought had been granted.

6. The eligibility issues fall under three categories:

- **a.** issues in relation to settlement legislation;
- **b.** issues in relation to the consolidation of the claim in another inquiry; and
- **c.** issues in relation to scope.[2]

[1] Wai 3300, #2.6.84, Memorandum Directions dated 19 Poutūterangi 2026 at [10]-[12].
[2] Wai 3300, #2.6.84, Memorandum Directions dated 19 Poutūterangi 2026 at [6].

Wai 81 Claim

7. The Claimants Wai 81 claim was listed under the heading "List One: List of Claims Intending to Participate, with Issues Due to Settlement Legislation".[3]

8. The Wai 48, 81, and 146 Claims are included in s 15(3)(b) of the Ngāti Hāua Claims Settlement Act 2026 ("the Ngaati Haaua Act"):

> **15 Meaning of historical claims**
> ...
> (3) The historical claims include—
> (b) every other claim to the Waitangi Tribunal, including each of the following claims, to the extent that subsection (2) applies to the claim and the claim relates to Ngāti Hāua or a representative entity:
> (i) Wai 48—The Whanganui ki Maniapoto claim:
> **...**
> (iii) Wai 81—Waihaha and Other Lands claim:
> (iv) Wai 146—King Country Lands claim:[4]

9. The Tribunal's jurisdiction is extinguished under s 16 of the Ngaati Haaua Act:

> **16 Settlement of historical claims final**
> (1) The historical claims are settled.
> (2) The settlement of the historical claims is final, and, on and from the settlement date, the Crown is released and discharged from all obligations and liabilities in respect of those claims.
> (3) Subsections (1) and (2) do not limit Te Pua o Te Riri Kore.
> (4) Despite any other enactment or rule of law, on and from the settlement date, no court, tribunal, or other judicial body has jurisdiction (including the jurisdiction to inquire or further inquire, or to make a finding or recommendation) in respect of—
> (a) the historical claims; or
> (b) Te Pua o Te Riri Kore; or
> (c) this Act; or
> (d) the redress provided under Te Pua o Te Riri Kore or this Act.
> (5) Subsection (4) does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or implementation of Te Pua o Te Riri Kore or this Act.[5]

[3] Wai 3300, #2.6.84(a).
[4] Ngāti Hāua Claims Settlement Act 2026, s 15.
[5] Ngāti Hāua Claims Settlement Act 2026, s 16.

10. Counsel is aware that the Tribunal has accepted that in some exceptional instances settlement legislation ouster provisions, such as s 16 of the Ngaati Haaua Act ("Ouster Provisions") have not extinguished every single historical claim, for instance in the case of Military Veterans claims. Counsel submits that historical claims relating to tino rangitiratanga and sovereignty are exceptional and were not intended by Ouster Provisions to be extinguished.

11. Counsel seeks that the Tribunal direct the Crown to clarify its position as to whether or not Ouster Provisions extinguish the jurisdiction of the Tribunal to enquire into historical tino rangatiratanga and constitutional grievances.

Dated 10 April 2026

Nicholas Johnson
Counsel Acting