

# THE WAITANGI TRIBUNAL

## TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

ANNUAL REPORT MATARIKI 2023–24  
PŪRONGO-Ā-TAU O TE MATARIKI 2023–24

(14 July 2023 – 28 June 2024)



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# INTRODUCTION



*Tīrama ana mai ngā whetū o te ata  
Ko Pūanga kei runga  
Ko Takurua kei te rāwhiti  
Koia ko Matariki e tiaho iho nei  
Matariki e ārau ana  
He tohu pai mō te tau hou  
Nō reira koutou katoa  
Nau mai haere mai  
Manawatia a Matariki e*

As we pass through another cycle of the Matariki and Pūanga star year, we take time to reflect on the year that was, whilst embracing our future.

We are deeply saddened by the passing of Professor Ngāpare Hōpa in April. Professor Hōpa was a member of the Waitangi Tribunal between 1989 and 1993. Nō reira e te mareikura, haere atu rā.

We also acknowledge the retirement of the Honourable Sir Douglas Kidd as a member of the Tribunal. Sir Doug served as a member for almost two decades between 2004 and 2023.

We reflect on the Tribunal's contribution for the 2023–24 year through our second annual report. It has been a busy year, demonstrating that the Tribunal's role has become more important than ever. For the first time we will also release our annual report in reo rua (English and te reo Māori).

This year the Tribunal released one kaupapa inquiry report, two priority reports, and one preliminary opinion. The Tribunal continued its work on the three remaining district inquiries, and its report writing for the Taihape and Te Paparahi o te Raki district inquiries. When completed by 2030, the Tribunal will have reported on 91 per cent of the land base of Aotearoa / New Zealand. The remaining 9 per cent of that land base has been settled by direct negotiations. As of 28 June 2024, in addition to the remaining three district inquiries, the Tribunal has eight kaupapa (thematic) inquiries underway.

The Kura Kaupapa Inquiry panel released its report in July 2024, just as this annual report was being finalised. It is the first report produced primarily in te reo Māori by the Waitangi Tribunal, and as such it marks a milestone in the Tribunal's history.

Since December 2023, the Tribunal has also received and granted a high number of applications for urgency. The Tribunal has conducted four urgent inquiries and issued three reports. This raft of urgent inquiries relates to the new Coalition Government's policies concerning:

- ▶ the repeal of section 7AA of the Oranga Tamariki Act 1989,
- ▶ the proposed amendment to the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021,
- ▶ the proposed Treaty Principles Bill and review of Treaty clauses, and
- ▶ te reo Māori in the public sector.<sup>1</sup>

Further detailed information is set out in the Urgent Inquiries section on pages 13–14.

Under the leadership of the Deputy Chairperson (Her Honour Judge Reeves), the Waitangi Tribunal released its first annual report (for 2022–23) and its revised *Guide to Practice and Procedure* published in both te reo Māori and English.

Turning to the future, we note the Waitangi Tribunal was established under the Treaty of Waitangi Act in 1975. We look forward to the year ahead with anticipation as we prepare to celebrate the Tribunal's fiftieth year and its contribution to reporting on and resolving Treaty of Waitangi claims, the settlement of those claims and the nation building that has emerged as a result.

For now, the Tribunal remains a specialist independent jurisdiction established to assist both Māori and the Crown regulate their relationship created by the Treaty of Waitangi / Te Tiriti o Waitangi. We continue to make decisions without fear or favour, affection or ill will. We also remain ready to cooperate with both parties to the Treaty / te Tiriti over our future.

I would like to conclude by thanking all the members, presiding officers and staff of the Waitangi Tribunal for another year of dedicated effort.

Nō reira e te iwi, Manawatia a Matariki.

Kaiwhakawā Matua Dr Caren Fox  
Tiamana / Chairperson

# THE YEAR IN REVIEW

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## Highlights

The 2023–24 year has been a time of transition for the Tribunal.

The second half of 2023 was heralded by a change in leadership with Chief Judge Dr Caren Fox's formal appointment as Chairperson of the Tribunal on 1 September 2023. Chief Judge Fox is an experienced leader within the Tribunal, having presided over multiple district and urgent inquiries over the past two decades. She continues to preside over the Porirua ki Manawatū District Inquiry and Tomokia Ngā Tatau o Matangireia: The Constitutional Kaupapa Inquiry.

Chief Judge Fox is supported in her role as Chairperson by Judge Reeves, who continues her work as Deputy Chairperson of the Waitangi Tribunal. Full biographical information about the current presiding officers and members of the Tribunal is set out below.

The Tribunal's renewed leadership coincided with the release of the updated *Guide to Practice and Procedure* in August 2023. The *Guide* is the formal practice note that outlines the processes and procedures for all actors in the Tribunal. The updated *Guide* streamlines and clarifies the Tribunal's processes and reflects the shift in the bulk of its work from mainly district inquiries to kaupapa inquiries. The *Guide* is available for download on the Tribunal's website in both Te Reo Māori and English.

As noted in the Chairperson's introduction, the 2023 elections have also brought increased activity for the Tribunal. At the end of the 2023 calendar year and start of 2024, the Tribunal received an influx of urgency applications for claims relating to the policies of the new Coalition Government. The influx of urgency applications is explained in further detail at page 28.

## Judicial Review

In connection with these urgency applications, the Tribunal was also involved in constitutionally significant litigation concerning its jurisdiction. The litigation arose out of the urgent inquiry into the government's repeal of section 7AA of the Oranga Tamariki Act 1989, which set out the duties of Oranga Tamariki's chief executive in relation to the Treaty. That Tribunal considered it necessary it hear evidence from the Minister for Children, the Honourable Karen Chhour. The Minister declined to do so voluntarily, and a summons was issued requiring her to provide evidence about the repeal. The

Crown judicially reviewed the summons. On 22 April 2024, the High Court found in favour of the Minister, holding that the summons was constrained by comity and that the evidence was not clearly necessary. On 13 May, the Court of Appeal overturned the High Court's decision, finding that the summons was lawful. The Court recognised the constitutional importance of the Tribunal given its statutory obligations and powers to issue summons. Comity did not limit the Tribunal's powers in this case as it was simply fulfilling its statutory duty and comity as reflected under section 6(6) of the Treaty of Waitangi Act 1975. Even if comity applied, it applied to the Crown as well as the Tribunal, and such a duty would involve the Minister voluntarily providing the requested information.<sup>2</sup>

## International Engagement

The Waitangi Tribunal and the Māori Land Court have hosted numerous international visitors since early 2023, including from Australia, Fiji, and the United States, all interested in the Tribunal's contributions to State–indigenous reconciliation and native land administration. In February 2024, Chairperson Chief Judge Fox and Deputy Chairperson Judge Reeves hosted the United States Ambassador to New Zealand, Tom Udall. The ambassador expressed admiration for the work of the Tribunal and shared his own experiences of working with Native American groups in his former roles as senator and attorney–general for New Mexico.

In October 2023 and February 2024, Chief Judge Fox, with other presiding officers and Tribunal members, hosted two delegations from Fiji, which included the Minister for iTaukei Affairs, the Honourable Ifereimi Vasu; the Minister for Lands and Mineral Resources, the Honourable Filimoni Vosarogo; the Fijian High Commissioner to New Zealand, Ratu Inoke Kubuabola; and the commissioner's First Secretary, Josua Tuwere. The delegations were interested in the Tribunal's role in the settlement of historical grievances, as well as the functions of the Māori Land Court, to inform their exploration of introducing similar processes in Fiji.

In early April 2023, the Wellington based judges hosted a cross-party select committee from the Queensland Legislative Assembly and, in late April 2023, then-acting Chairperson Judge Reeves hosted Queensland's Minister for Aboriginal and Torres Strait Islander Partnerships, the Honourable Craig Crawford. Like the Fijian delegation, the Queensland legislators sought insights into the Tribunal's role in





*Tribunal Chairperson and Māori Land Court Chief Judge Dr Caren Fox, United States Ambassador Tom Udall, and Tribunal Deputy Chairperson Judge Sarah Reeves in front of a mural by Robyn Kahukiwa*

Treaty settlements, its role as a truth and reconciliation body and also wanted procedural details about how Tribunal members are chosen and appointed. The select committee wished to apply this information to their own processes under their Path to Treaty Act 2023, which they were considering at the time of their visit. The Act, which passed into law in May 2023, provides for a First Nations Treaty Institute to prepare Aboriginal and Torres Strait Islander peoples for Treaty negotiations and for a Truth-telling and Healing Inquiry to hear and record the historical and ongoing impacts of colonisation for these groups.

The Tribunal has also hosted the following rōpū:

students from St Olaf College, Minnesota (February 2024); Churchill Fellow and member of the United Nations Permanent Forum for Indigenous Issues (Pacific) Hannah McGlade (November 2023); Eisenhower Fellow Christina Snider Ashtari (November 2023); the Tribal Affairs Secretary at the office of the California State Governor, Gavin Newsom (November 2023); students from the United Nations Youth Australia Aotearoa Leadership Tour (September 2023); Churchill Fellows Robyn Smith Walley and Jody Nunn from Reconciliation WA (July 2023); and Melbourne Law School staff and students (November 2023).



*Minister for iTaukei Affairs, Culture, Heritage, and Arts the Honourable Ifereimi Vasu with Chief Judge Dr Caren Fox at the Tribunal's offices, February 2024*

# ABOUT THE WAITANGI TRIBUNAL

## What?

Set up by the Treaty of Waitangi Act 1975, the Waitangi Tribunal is a permanent commission of inquiry. It makes recommendations on claims brought by Māori relating to legislation, policies, actions, or omissions of the Crown alleging breaches of the principles of the Treaty of Waitangi.<sup>3</sup>

## Who and Where?

The Tribunal has up to 20 members and is led by a chairperson, who is assisted in this role by a deputy chairperson. The Waitangi Tribunal Unit of the Ministry of Justice provides operational support to the Waitangi Tribunal. See page 8.

The Waitangi Tribunal and the Waitangi Tribunal Unit's offices are in Wellington, but hearings are held throughout Aotearoa at marae and any other appropriate venues.

## How?

### Claims

The Tribunal can hear claims submitted to it by any Māori who alleges they are or are likely to be prejudicially affected by any legislation, policies, actions, or omissions that were or are inconsistent with the principles of the Treaty.<sup>5</sup> The Tribunal must decide whether a claim is well-founded, that is, whether the act or omission complained of is in breach of Treaty principles. As part of that finding, the Tribunal must also decide if the breach has caused prejudice to the claimants. If it makes a prejudice finding, the Tribunal *may* then decide to make recommendations to the Crown to address or remove that prejudice. Once the Tribunal reports to the appropriate Ministers, in most cases, its role ends.

There are generally two types of claims. **Historical claims** are those that relate to matters that occurred before 21 September 1992.<sup>6</sup> **Contemporary claims** are those that relate to matters that occurred on or after 21 September 1992. Some claims can raise both historical and contemporary issues.

### Inquiries

As a commission of inquiry, the Tribunal's proceedings are by way of inquiry and report. This is done by either inquiring directly into a single claim or grouping related claims for joint inquiry. For the most part the Tribunal can make only non-binding recommendations. It is therefore up to the Crown to decide

## Jurisdiction: Past and Present

When the Tribunal was established in 1975, it could only inquire into claims about contemporary Crown actions or omissions from 10 October 1975 onwards. It was not until the Treaty of Waitangi Amendment Act in December 1985 that the Tribunal's scope was widened to consider claims about historical issues concerning Crown actions or omissions dating back to 1840. Since gaining retrospective jurisdiction in 1985, the Tribunal has prioritised inquiring into historical claims to support successive governments complete Treaty settlements with Māori.

The last historical Treaty claims were filed in 2008 following the historical claims deadline put in place in 2006 (historical claims are those that relate to matters that occurred before 21 September 1992).<sup>4</sup> Therefore, since 1 September 2008, the Tribunal has only been registering new contemporary claims. However, it continues to complete and progress current inquiries into historical claims (see section below on district inquiries).

As a commission of inquiry, the Tribunal draws its powers primarily from the Treaty of Waitangi Act 1975. The Tribunal's functions are clearly set out in section 5 of the Act. It can also rely on most of the powers under the Commissions of Inquiry Act 1908. If the claimants and/or the Crown believe the Tribunal has stepped outside its statutory boundaries, then they may challenge the Tribunal by way of judicial review in the High Court.

whether to accept the Tribunal's recommendations in full, in part, or not at all.

In **district inquiries**, the Tribunal groups historical and contemporary claims to be heard concurrently within geographical areas called inquiry districts. For example, Te Paparahi o Te Raki: the Northland Inquiry considered claims within the Northland region.

In **kaupapa inquiries**, the Tribunal groups for concurrent inquiry claims that concern or relate to a particular nationally significant theme or 'kaupapa'. For example, the Mana Wāhine Kaupapa Inquiry will hear claims which allege prejudice to wāhine Māori as a result of Crown legislation, policies, practices, actions, or omissions.

## Monitoring the Crown's Progress in Addressing Waitangi Tribunal Recommendations ('Section 8I Reports')

The Tribunal's findings and recommendations make 'an important contribution to the relationship between Māori and the Crown, including the processes of settling Treaty claims' and 'provide a comprehensive starting point for engagement between the Crown and Māori on issues of importance to both parties.'<sup>8</sup>

Each year, the Minister for Māori Development is required to update Parliament on the Crown's progress in addressing Waitangi Tribunal recommendations. The updates cover a wide range of areas including health, te reo Māori revitalisation, taonga species protections, Treaty settlements and mandate issues.

Produced by Te Puni Kōkiri, the most recent section 8I report provides detailed updates on 36 Tribunal reports, including the following five Tribunal reports issued in 2021–22:

- ▶ *Haumarū: The COVID-19 Priority Report.*
- ▶ *Motiti: Report on the Te Moutere o Motiti Inquiry.*
- ▶ *The Mangatū Remedies Report 2021.*
- ▶ *The Priority Report on the Whakatōhea Settlement Process.*
- ▶ *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry.*

The section 8I report for 2021–22 has a particular focus on the Crown's response to Tribunal recommendations set out in the Wai 2575 *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (released in 2019), and the Wai 262 *Ko Aotearoa Tēnei: A Report into Claims concerning New Zealand Law and Policy Affecting Māori Culture and Identity* (released in 2011).

The section 8I report includes the current status (in progress, ongoing, settled, no further action, or partially settled) of all reports issued by the Waitangi Tribunal since the release of the Wai 1 report in 1978.

The most recent section 8I reports are available to download on Te Puni Kōkiri's website <https://tinyurl.com/yne29zb7>.

**Urgent inquiries** are where the Tribunal decides to urgently inquire into a claim or an urgent application for remedies. The Tribunal typically grants urgency to only a very small number of claims that meet the specific criteria.<sup>7</sup>

**Priority inquiries** are where the Tribunal has determined there are grounds to prioritise an inquiry into a claim, group of claims, or part of a claim, because of the importance of the claim issues raised and the prospect of significant and irreversible prejudice to Māori.



# MEMBERS OF THE WAITANGI TRIBUNAL

The Waitangi Tribunal has a chairperson and up to 20 members appointed by the Governor-General on the recommendation of the Minister for Māori Development. Members are appointed for their expertise and knowledge of the matters likely to come before them.<sup>9</sup>

The Chairperson of the Waitangi Tribunal at the completion of the period of this report is Chief Judge Dr Caren Fox of the Māori Land Court. Other judges

of the Māori Land Court, while not members of the Waitangi Tribunal, are able to serve as presiding officers of Tribunal panels. Legally qualified members may also be presiding officers.

A panel of between two and seven members is appointed to carry out an inquiry alongside a presiding officer. Each Tribunal panel must have at least one Māori member.<sup>10</sup>



*Waitangi Tribunal Members' Conference, James Cook Hotel, 8 March 2023*

*Back row from left: Basil Morrison, Dr Paul Hamer, Judge Aidan Warren, Dr Grant Phillipson, Derek Fox, Dr Ruakere Hond, and Herewini Te Koha*

*Middle row: Dr Monty Soutar, Judge Stephanie Milroy, Judge Rachel Mullins, Professor Rawinia Higgins, Dr Hana O'Regan, Kim Ngarimu, Professor Susy Frankel, and Ron Crosby*

*Front row: Judge Carrie Wainwright, Kevin Prime, Deputy Chief Judge Caren Fox, Chief Judge Wilson Isaac, Judge Sarah Reeves, Tā Pou Temara, Judge Craig Coxhead*

## Current Members (in Order of Appointment)

Chief Judge Dr Caren Fox Chairperson <i>Ngāti Porou</i>	Judge Sarah Reeves Deputy Chairperson <i>Te Ātiawa</i>
Dr Monty Soutar ONZM <i>Ngāti Porou, Ngāti Awa, Ngāi Tai, Ngāti Kahungunu</i>	Dr Robyn Anderson
Professor Tā Pou Temara <i>Ngāi Tūhoe</i>	Tania Simpson ONZM <i>Tainui, Ngāpuhi, Ngāi Tahu</i>
Basil Morrison CNZM JP	Ron Crosby
Dr Grant Phillipson *	Professor Rawinia Higgins <i>Ngāi Tūhoe</i>
Professor Linda Tuhiwai Smith CNZM <i>Ngāti Awa, Ngāti Porou, Tūhourangi</i>	Professor Thomas Roa <i>Ngāti Maniapoto, Waikato Tainui</i>
Kim Ngārimu <i>Ngāti Porou</i>	Prue Kapua <i>Te Arawa</i>
Dr Ruakere Hond <i>Taranaki, Te Ati Awa</i>	Professor Susy Frankel FRSNZ
Dr Paul Hamer	Kevin Prime ONZM, MBE * <i>Ngāti Hine</i>
Dr Hana O'Regan ONZM * <i>Kai Tahu</i>	Herewini Te Koha <i>Ngāti Porou, Ngāpuhi, Ngāti Tamatera</i>
Derek Fox * <i>Ngāti Kahungunu, Ngāti Porou</i>	Professor Emeritus David Williams
Dr Ann Parsonson *	Tim Castle *

\* These members no longer hold current warrants but continue to serve on their appointed panels.<sup>11</sup>

## Current Presiding Officers

Chief Judge Dr Caren Fox <sup>12</sup> <i>Ngāti Porou</i>	Judge Wilson Isaac <i>Ngāti Porou, Ngāi Tūhoe, Ngāti Kahungunu</i>
Judge Carrie Wainwright	Judge Stephanie Milroy <i>Ngāi Tūhoe, Ngāti Whakaue</i>
Judge Craig Coxhead <i>Ngāti Makino, Ngāti Pūkiao, Ngāti Awa, Ngāti Maru</i>	Judge Michael Doogan
Judge Miharo Armstrong <i>Te Whānau a Apanui</i>	Judge Damian Stone <i>Ngāti Kahungunu</i>
Judge Rachel Mullins <i>Ngāti Kahungunu, Kai Tahu</i>	Judge Terena Wara <i>Waikato, Ngāti Raukawa ki te Tonga</i>
Judge Te Kani Williams <i>Tūhoe, Whakatōhea, Ngāi Tai ki Tōrere, Ngāti Manawa, Ngāti Maniapoto, Tainui, Te Aupōuri</i>	Justice Layne Harvey * <i>Ngāti Awa, Rongowhakaata, Te Aitanga a Māhaki, Te Whānau-ā-Apanui, Ngāti Kahungunu ki Te Wairoa</i>

\* Justice Harvey, now a justice of the High Court, continues as presiding officer of the Taihape : Rangitikei ki Rangipō District Inquiry.



# THE WAITANGI TRIBUNAL UNIT

The Ministry of Justice provides operational support to the Tribunal through the Waitangi Tribunal Unit. This meets the statutory requirement of the Ministry of Justice to ‘furnish such secretarial, recording, and other services as may be necessary to enable the Tribunal to exercise its functions and powers’.<sup>13</sup>

The Unit delivers a comprehensive range of services to support the work of the Tribunal. This support includes administrative, inquiry planning, event management, registrarial, legal, research, and report-writing services.

The Waitangi Tribunal Unit has 65 staff at full capacity, spread across the Unit’s five teams: Inquiry Facilitation, Research Services, Report Writing, and Claims and Registrarial, along with the Director’s Office.

## Inquiry Facilitation

The Inquiry Facilitation Team advises on the planning and delivery of inquiry processes, provides claimants and Tribunal panels advice on inquiry process matters and facilitates the effective participation of all parties through inquiries up to the close of hearings.

## Research Services

The Research Services Team assists Tribunal panels to plan and implement casebook research programmes, undertakes Tribunal-commissioned research, provides quality assurance on research, mapping, and assists Tribunal panels to determine issues for inquiry.

## Report Writing

The Report-Writing Team supports the planning and delivery of Waitangi Tribunal reports, assists Tribunal panels to draft their reports, and manages report publication.

## Claims and Registrarial

The Claims and Registrarial Team consists of Claims Coordination and Registrarial.

### Claims Coordination

The Claims Coordination Team provides logistical support and advice relating to judicial conferences,



*Steve Gunson, Pae Matua (Director) of the Waitangi Tribunal Unit*



*Sandra Edmonds, Kaiwhakahaere Tuarua (Deputy-Director) of the Waitangi Tribunal Unit*

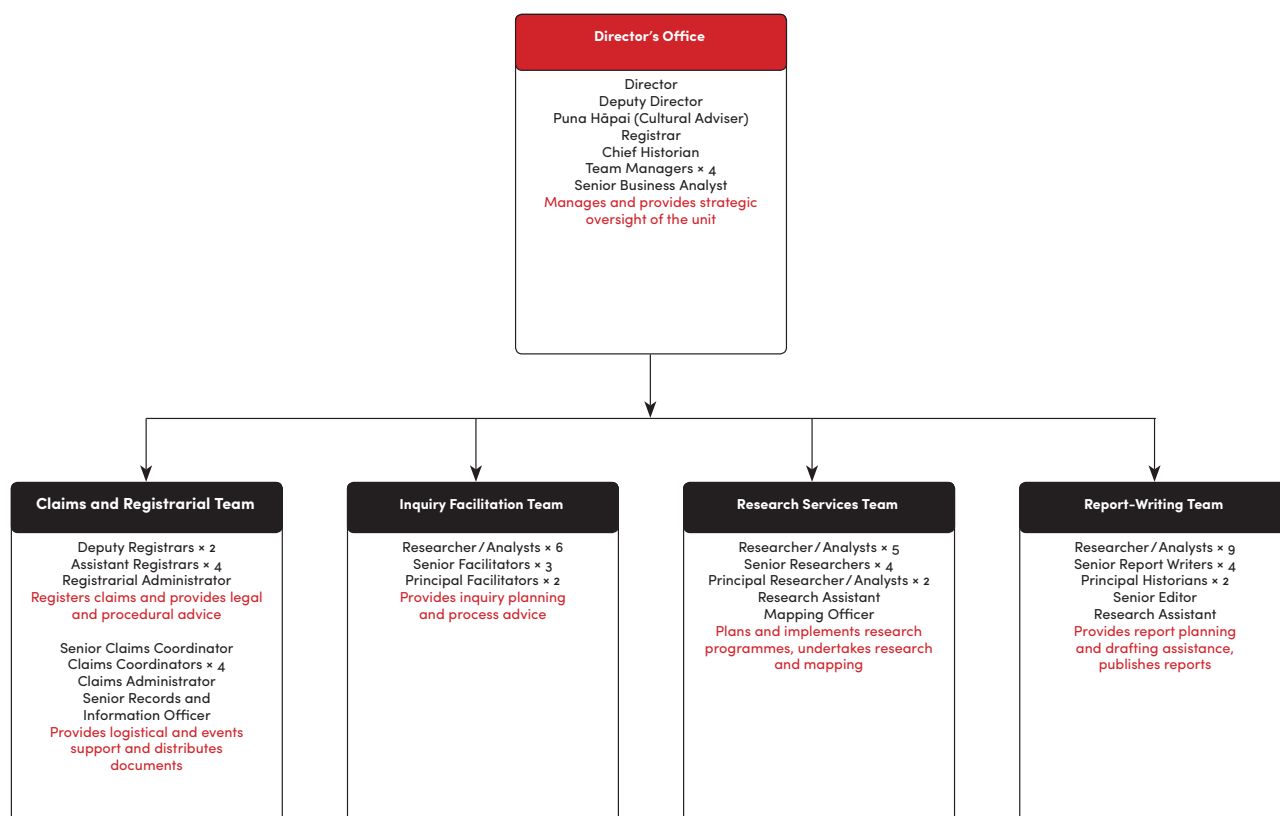
hearings, and Tribunal panel meetings. It helps inquiry participants engage effectively with Tribunal processes, maintains and distributes documents filed on the records of inquiry, updates key database systems, is a central point of contact and provides administration support for Tribunal members.

### Registrarial

The Registrarial Team analyses claims submitted to the Tribunal for registration. It responds to public enquiries to undertake search requests for properties that may be subject to section 27B memorials under the State-Owned Enterprises Act 1986. It completes section 49 reports for Legal Aid, and assesses applications to the Tribunal for a recommendation that land no longer be liable to resumption under section 8D of the Treaty of Waitangi Act 1975. It also provides legal and procedural advice to presiding officers, Tribunal panels and Unit staff, manages urgency applications made to the Tribunal, and maintains oversight of the records of inquiry.

## The Director’s Office

Led by the Pae Matua/Director and the Kaiwhakahaere Tuarua/Deputy Director, the Director’s Office is responsible for the overarching management and strategic oversight of the Unit.



Tribunal staff accompany the Tribunal during a pōwhiri at Raukawa Marae in Ōtaki for the Porirua ki Manawatū District Inquiry in October 2023. Standing in the front from left are: Chief Judge Fox, Claims Co-ordinator Destinee Wikitōa, and Tribunal member Tania Simpson. In the second row from the right are Report Writers Mikayla Dempsey and Maddison Hagger.





*The Health Tribunal panel and staff stand to sing Karanga Rā (the Tribunal's mōteatea) in support of Ahorangi Tom Roa at a hearing of the disability phase for stage 2 of the Health Kaupapa Inquiry at the Copthorne Hotel, Wellington, March 2024. Front row from left: Ahorangi Tom Roa, Judge Damian Stone (presiding), Ahorangi Linda Tuhiwai Smith, Ms Tania Simpson. Back row: Tess Bartlett, Maddison Hagger (Report Writers); Kyra Maquiso (Senior Facilitator), Wiliame Gucake (Registrar), Meg Russell (Assistant Registrar), and Tori Watt (Claims Co-ordinator).*



*Tribunal staff, shown here seated behind the Tribunal panel at the Treaty Principles Bill urgent inquiry, provide essential support for inquiries. From left: Heaven-Leigh Teofilo (Claims Co-ordinator), Sophie Gordon (Deputy Registrar / Legal Adviser), Kyra Maquiso (Senior Facilitator), Don Rowe (Facilitator) and Arielle Tracey (Report Writer). Although not pictured, Alan Doyle (Sound Technician) and Paiheke McGarvey (simultaneous translator) are also present.*

# NAVIGATING OUR WAY FORWARD

## The Tribunal's Strategic Goals

In July 2014, the Tribunal announced its 10-year strategic direction to 2025. At the half-way point in 2020, the Tribunal re-adjusted its strategic goals (SG) as follows:

- ▶ **SG1:** Complete the final district inquiries by 2025.
- ▶ **SG2:** Complete or advance at least half of the 13 major kaupapa inquiries by 2025.
- ▶ **SG3:** Address the remaining historical claims that have fallen outside the district inquiry programme.
- ▶ **SG4:** Plan for addressing remaining contemporary claims that fall outside the kaupapa inquiries.
- ▶ **SG5:** Address claims granted urgency, including urgent applications for remedies.

The Tribunal's priorities were also re-adjusted to align with the updated strategic goals. In ranking order, they are:

- ▶ claims granted urgency, including applications for remedies granted urgency;
- ▶ claims participating in district inquiries;
- ▶ claims that relate to kaupapa issues;
- ▶ remaining historical claims not yet heard, settled, or included in Treaty settlement negotiations; and
- ▶ remaining contemporary claims not yet heard or settled.

## Progress against the Strategic Goals, 2014–25

As of 23 May 2024, the Tribunal has registered 3309 claims.<sup>14</sup> Seventy-one percent of these claims have been fully addressed or are currently under inquiry. A snapshot of the completion status of these claims by type, alongside the Tribunal's overall progress against the strategic goals, is set out below.

### **SG1: Complete the final district inquiries by 2025**

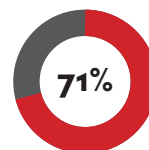
Five of the six district inquiries underway in 2020 remain in progress (see pages 16–20).

Eighty-two per cent of historical claims have had or are having their historical issues fully addressed by a Tribunal inquiry.

### **SG2: Complete or advance at least half of the 13 major kaupapa inquiries by 2025**

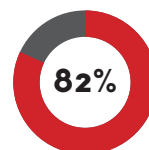
As of 28 June 2024, seven of the 13 scheduled kaupapa inquiries are currently underway. One kaupapa

### 3309 total registered claims



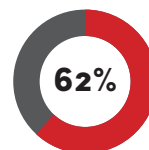
Fully addressed or currently under inquiry

### Historical claims



Fully addressed or currently under inquiry

### Kaupapa inquiries



Underway or complete

### Remaining historical claims



For inquiry by the standing panel

### Remaining contemporary claims



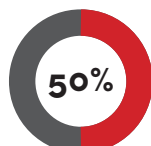
Claims whose contemporary issues have not been fully reported on; are not fully covered in current inquiries; and if not participating appear to lie outside the scope of current kaupapa inquiries

### Urgent inquiries



20 urgent inquiries completed since 2014

### Remedy inquiries



1 remedy inquiry completed 1 currently underway

### Remaining claims for inquiry



422 contemporary  
396 historical (for the Standing Panel)

inquiry has been completed. Five kaupapa inquiries are yet to commence (see page 20).

A total of 739 claims have participated in kaupapa inquiries to date, and 663 claims are participating in the seven kaupapa inquiries currently underway (see pages 20–25).

### *SG3: Remaining historical claims*

The number of remaining historical claims stands at 396.

Remaining historical claims make up 18 per cent of all historical claims in total.

### *SG4: Plan for addressing remaining contemporary claims that fall outside the kaupapa inquiries*

The current count of claims with remaining contemporary issues stands at 422. These comprise claims whose contemporary issues have not been fully reported on; are not fully covered in current inquiries; and if not participating appear to lie outside the scope of current kaupapa inquiries.

Initial scoping and preparatory work is underway. A final plan to address all remaining contemporary claims will be announced during the 2024–25 financial year.

### *SG5: Address claims granted urgency, including urgent applications for remedies*

Since 2014 the Tribunal has heard and reported on 20 urgent inquiries and completed 1 remedy inquiry.

One remedy inquiry is currently underway (see pages 14–16).

## The Tribunal's Future Direction

The Tribunal is currently developing a process to determine our new strategic direction, which will be released in 2025.



# OUR INQUIRY PROGRAMME

The Treaty of Waitangi/Te Tiriti o Waitangi is central to everything that the Waitangi Tribunal does. As a standing commission of inquiry, the Waitangi Tribunal is tasked with determining whether Crown actions or omissions are in breach of Treaty principles.

The Tribunal conducts inquiries into claims. It categorises inquiries in several different ways. The main categories are:

- ▶ Urgent Inquiries.
- ▶ Remedy Inquiries.
- ▶ Priority Inquiries.
- ▶ District Inquiries.
- ▶ Kaupapa Inquiries.

The Tribunal, drawing on staff advice, projects and then annually reviews how it will allocate research and other resources to claims and inquiries based on the Tribunal's *Strategic Direction 2020*.

## Urgent Inquiries

An urgent inquiry is where the Tribunal decides to urgently inquire into a claim, part of a claim, or a group of claims that are not currently scheduled for hearing. The Tribunal will grant an application for an urgent inquiry only in exceptional cases based on strict criteria. The criteria are explained in the *Guide to Practice and Procedure for the Waitangi Tribunal*.<sup>15</sup> See page 28 for a more detailed update on urgent inquiries.

### *Te Kura Kaupapa Māori Urgent Inquiry (Wai 1718)*

**Inquiry:** An urgent inquiry into the Crown's engagement with Te Rūnanga Nui and Kura Kaupapa Māori through the 'Tomorrow's Schools Reforms' process.

**Panel:** Judge Rachel Mullins is the presiding officer, with Professor Susy Frankel, Professor Rawinia Higgins, Derek Fox, and Herewini Te Koha as panel members.

**Status:** The *Kei Ahotea Te Aho Matua Report* was released on 26 July 2024, after the relevant time period for this report.

### *Te Reo i te Kāwanatanga Ruku Tātari Ohotata – Te Reo in the Public Sector Urgent Inquiry (Wai 3327)*

**Inquiry:** An urgent inquiry into the Crown's acts and omissions relating to the use of te reo Māori in the public sector, particularly arising from the current Coalition Government's policies.

**Panel:** Judge Te Kani Williams is the presiding officer, with Professor Susy Frankel, Professor Tā Pou Temara, Dr Ruakere Hond, and Dr Paul Hamer as panel members.

**Status:** Hearings were held the week of 10 June 2024. The inquiry is currently in the report-writing phase.

### *Treaty Principles Urgent Inquiry (Wai 3300)*

**Inquiry:** An urgent inquiry into the Crown's proposal to introduce a 'Treaty Principles Bill' and review the use of Treaty principles in legislation.



Ngāi Te Rangi stand during their waiata tautoko and claimant counsel are seated in the foreground at the Te Reo i te Kāwanatanga urgent inquiry, June 2024, Wellington

**Panel:** The urgent inquiry is being heard by the Constitutional Kaupapa Inquiry (Wai 3300) panel (see page 25).

**Status:** *Ngā Mātāpono/The Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on The Crown’s Treaty Principles Bill and Treaty Clause Review Policies* was released on Friday 16 August 2024, after the relevant time period of this report.

#### **Oranga Tamariki (Section 7AA) Urgent Inquiry (Wai 3350)**

**Inquiry:** An urgent inquiry into the repeal of section 7AA of the Oranga Tamariki Act 1989. Section 7AA sets out the duties of the chief executive of Oranga Tamariki in relation to the Treaty.

**Panel:** Judge Michael Doogan is the presiding officer, with Kim Ngarimu and Professor Tā Pou Temara as panel members.

**Status:** *The Oranga Tamariki (Section 7AA) Urgent Inquiry Report* was released on 10 May 2024 (see page 38).<sup>16</sup>

#### **Māori Wards and Constituencies Urgent Inquiry (Wai 3365)**

**Inquiry:** An urgent inquiry into the Crown’s proposed amendment to the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021. The amendment looks to reinstate the requirement for binding polls and requires local bodies hold a poll at the 2025 local elections on any Māori wards established without one.

**Panel:** Judge Sarah Reeves is the presiding officer, with Basil Morrison and Kevin Prime as panel members.

**Status:** The inquiry was heard on the papers and the panel released *The Māori Wards and Constituencies Urgent Inquiry Report* on 17 May 2024.

### **Remedies Inquiries**

A remedies inquiry can only occur after the Tribunal finds that a claim submitted to it under section 6 of the Treaty of Waitangi Act 1975 is well-founded. Remedies inquiries are generally initiated by an urgent remedies application which, if granted, will lead to a remedies inquiry being commenced. The Tribunal may, if it thinks fit, recommend to the Crown that action be taken to compensate for or remove the prejudice or to prevent other Māori from being similarly affected in the future. In such a case, the claimants may ask the Tribunal to make general recommendations or, if appropriate, binding recommendations in respect of Crown Forest Land, railways land, State-owned enterprise land, and/or land transferred to educational institutions.

#### **Renewed Muriwhenua Land Inquiry (Wai 45)**

**Inquiry:** The Muriwhenua district is the northernmost point of Aotearoa. Muriwhenua iwi include Ngāti Kahu, Te Paatu, Te Rarawa, Ngāi Takoto, Te Aupōuri, and Ngāti Kuri. The current inquiry is considering the claims of Ngāti Kahu, Te Paatu, and



Lead claimant counsel Tom Bennion at the urgent inquiry into the repeal of section 7AA of the Oranga Tamariki Act 1989, Wellington





*Crown counsel and Nicolette Dickson giving evidence at the urgent inquiry into the repeal of section 7AA of the Oranga Tamariki Act 1989, Wellington.*



*Secretary of Justice, Andrew Kibblewhite, giving evidence at the Treaty Principles urgent hearing in May 2024, Wellington*

remaining unsettled groups. The Tribunal originally completed a district inquiry into Muriwhenua land claims in the late 1990s. Following that, some groups within Muriwhenua settled their claims, while other claims remain. Ngāti Kahu claimant groups sought binding recommendations from the Tribunal for the return of certain land under the Treaty of Waitangi Act 1975. After extensive litigation including judicial review, the Tribunal has initiated a further district inquiry into the claims currently before it, to inform a remedies inquiry into whether binding recommendations should be made by the Tribunal.

**Panel:** Judge Carrie Wainwright is the presiding officer, with Tania Simpson and Dr Ruakere Hond as panel members.

**Status:** The inquiry is currently in the research phase (see page 26 for further details). Once further research reports are completed the Tribunal will proceed to hearings.

#### ***Mangatū Remedies Inquiry (Wai 814, Wai 1489)***

**Inquiry:** The inquiry concerns the application for binding recommendations from groups with well-founded claims in the Tūranga District Inquiry, namely Te Aitanga-ā-Māhaki, Ngā Uri o Tamanui, and Te Whānau ā Kai.

**Panel:** Judge Stephanie Milroy is the presiding officer, with Associate Professor Tom Roa, Dr Ann Parsonson, and Tim Castle as panel members.

**Status:** The Tribunal has completed hearings and issued its report. The Tribunal's determination is currently under judicial review, with the Court of Appeal hearing the appeal on 9 to 11 July 2024.

### **Priority Inquiries**

As explained at page 5, a priority inquiry is where the Tribunal has determined there are grounds to prioritise an inquiry into a claim because of the importance of the claim issues.

#### ***The Climate Change Priority Inquiry (Wai 3325)***

**Inquiry:** A priority kaupapa inquiry into climate change policy. The inquiry is focused on the physical, spiritual, and socioeconomic impacts of climate change on Māori and the Crown's response. The priority inquiry will also focus on the relevant Treaty principles to be considered in climate change policy and recommendations for how the Crown should meaningfully engage and consult with Māori.

**Panel:** Judge Stephanie Milroy is the presiding officer, with Professor David Williams, Prue Kapua, Basil Morrison, and Kevin Prime as panel members.

**Status:** The inquiry is currently completing interlocutory steps to finalise filing and planning for hearings.

### **District Inquiries**

The Tribunal has 37 inquiry districts nationwide. Much of the Waitangi Tribunal's focus over the past 20 years has been on completing the district inquiry programme, which was designed to group multiple claims (mostly historical) brought by Māori on a district basis for joint inquiry. The Tribunal has now completed its inquiries into the majority of the districts. Some districts have not had an inquiry due to the claimants choosing to negotiate a Treaty settlement directly with the Crown. The progress of district inquiries can be seen in figure 1. The remaining active district inquiries are described below.

#### ***Renewed Muriwhenua Land Inquiry (Wai 45)***

**Inquiry:** The Muriwhenua district is the northernmost point of Aotearoa. Muriwhenua iwi include Ngāti Kahu, Te Paatu, Te Rarawa, Ngāi Takoto, Te Aupōuri, and Ngāti Kuri. The current inquiry is considering the claims of Ngāti Kahu, Te Paatu, and remaining unsettled groups.

The Tribunal originally completed a district inquiry into Muriwhenua land claims in the late 1990s. Following that, some groups within Muriwhenua settled their claims, while other claims remain. Ngāti Kahu claimant groups sought binding recommendations from the Tribunal for the return of certain land under the Treaty of Waitangi Act 1975. After extensive litigation including judicial review, the Tribunal has initiated a further district inquiry into the claims currently before it, to inform a remedies inquiry into whether binding recommendations should be made by the Tribunal.

**Panel:** Judge Carrie Wainwright is the presiding officer, with Tania Simpson and Dr Ruakere Hond as panel members.

**Status:** The inquiry is currently in the research phase. Once further research reports are completed the Tribunal will proceed to hearings.

#### ***North-Eastern Bay of Plenty District Inquiry (Wai 1750)***

**Inquiry:** This is an inquiry into historical and contemporary claims relating to the north-eastern Bay of Plenty area where the Tribunal has not previously held a district inquiry. The inquiry consists of many of the historical Whakatōhea claims along with other groups in the district, including Ngāi Tai.

**Panel:** Judge Michael Doogan is the presiding officer, with Professor Tom Roa, Prue Kapua, Basil Morrison, Dr Robyn Anderson, and Dr Grant Phillipson as panel members.

**Status:** The final Ngā Kōrero Tuku Iho (oral and traditional evidence) hearing was held at the end of June 2023 and the Tribunal conducted a two-day takahi whenua (site visit) in February 2024. Two





*Taipa Beach, Muriwhenua*



*The North-Eastern Bay of Plenty Tribunal at a site visit for a Ngā Kōrero Tuku Iho hearing, Ōpōtiki, February 2024.  
From left: Ella Acheson (Facilitator), Te Riaki Amoamo (claimant), Dr Robyn Anderson, Ahurangi Tom Roa, Judge Michael Doogan (presiding), and Karen Feint KC (claimant counsel).*





*The North-Eastern Bay of Plenty Tribunal in front of the whareni Muriwai at Ōpape Marae, 2023.  
From left: Basil Morrison, Judge Doogan (Presiding), Dr Robyn Anderson, Professor Tom Roa, and Prue Kapua.*

Tribunal-commissioned research reports are currently underway and the Tribunal is planning two evidential hearings for the 2024–25 financial year.

#### **Taihape: Rangitikei ki Rangipō District Inquiry (Wai 2180)**

**Inquiry:** The Tribunal is currently inquiring into 46 claims as part of the Taihape: Rangitikei ki Rangipō district inquiry (Wai 2180). About a dozen of these claims have been made on behalf of the iwi, hapū and whānau of Mōkai Pātea: Ngāti Hauiti, Ngāti Tamakōpiri, Ngāti Whitikaupeka, Ngāi Te Ohuake, Ngāti Paki, and Ngāti Hinemanu.

**Panel:** Justice Layne Harvey is the presiding officer, with Professor Tā Pou Temara, Dr Paul Hamer, and Dr Monty Soutar as panel members.

**Status:** On 16 February 2024, the panel released their preliminary opinion on customary rights in the Kāweka and Gwavas Crown Forest Licensed Lands. The panel have received submissions from the Crown and claimants in response and will decide on next steps for this part of the inquiry. In January 2024 the panel also released *He Whenua Karapotia, He Whenua Ngaro: Priority Report on Landlocked Māori Land in the Taihape Inquiry District* (see pages 35–36). The panel is currently drafting its wider district inquiry report.

#### **Porirua ki Manawatū District Inquiry (Wai 2200)**

**Inquiry:** Approximately 117 claims are being inquired into as part of the Porirua ki Manawatū district inquiry (Wai 2200). The inquiry is focused on the claims of Muaūpoko, Te Ātiawa/Ngāti Awa ki Kāpiti and Ngāti Raukawa and affiliated groups, which include Ngāti Kauwhata, Ngāti Wehiwehi, Ngāti Tukorehe, Ngāti Whakitere, and the hapū of Te Reureu.<sup>17</sup>

**Panel:** Chief Judge Dr Caren Fox is the presiding officer, with Dr Monty Soutar, Tania Simpson, and Dr Grant Phillipson as panel members.

**Status:** The panel is completing in parallel its Ngāti Raukawa and affiliated groups and wider inquiry phases. Over the past year three hearings were held: one at Ōhau near Levin in late July–early August 2023, and two in Ōtaki in October 2023 and March 2024. In March 2024, the panel also released *The Kōpūtara Priority Report* (see the summary on pages 36–38). Two Tribunal-commissioned research reports are currently underway.

#### **Inquiry into Remaining Historical Claims (Standing Panel) (Wai 2800)**

**Inquiry:** This inquiry is being conducted by a standing panel which will inquire into remaining historical





*Claimant and former Tribunal Chairperson, Sir Edward Taihākurei Durie giving evidence during hearing week 16 at Raukawa Marae, Ōtaki, June 2024*

*Porirua ki Manawatū Tribunal member Dr Monty Soutar and claimant Andre Baker during a site visit in Ōtaki during hearing week 16 for the Ngāti Raukawa and affiliated groups hearing phase, June 2024*



*The Porirua ki Manawatū Tribunal panel in front of the Robyn Kahukiwa artwork at the Waitangi Tribunal Offices, Wellington, for an online hearing, week 17, July 2024. From left: Dr Monty Soutar, Tania Simpson, Chief Judge Fox, and Dr Grant Phillipson.*





Ōhope Beach

claims. Remaining historical claims are claims with historical grievances (regarding events prior to 22 September 1992) that have not yet been inquired into or settled, and which are not in (or about to be in) negotiations with the Crown.

**Panel:** Judge Terena Wara is the presiding officer, with Dr Robyn Anderson, Kevin Prime, Ron Crosby, and Dr Monty Soutar as panel members.

**Status:** The Standing Panel is currently undertaking a review of all relevant claims to determine how the inquiry can progress as efficiently as possible.

## Kaupapa Inquiries

Kaupapa (thematic) inquiries are not specific to any district. They deal with nationally significant claim issues affecting Māori as a whole or a section of Māori in similar ways. From the 1990s, the Tribunal prioritised the hearing of claims in district inquiries to assist the Crown and claimants in settling historical Treaty claims. As a result, some kaupapa claims have been waiting for many years to be heard. The kaupapa inquiry programme was initiated in 2015 and updated in 2019. The inquiry topics and order in which they have been scheduled for inquiry are:

1. Military veterans.
2. Health services and outcomes.

3. Marine and Coastal Area (Takutai Moana) Act 2011.
4. Mana wāhine.
5. Housing policy and services.
6. Justice system.
7. Constitution, self-government, and the electoral system.
8. Education services and outcomes.
9. Social services and social development.
10. Natural resources and environmental management.
11. Economic development.
12. Identity and culture.
13. Citizenship rights and equality.

Updates on kaupapa inquiries currently underway as at 28 June 2024 are set out below.

### **National Freshwater and Geothermal Resources (Wai 2358)**

**Inquiry:** The National Freshwater and Geothermal Resources Inquiry<sup>18</sup> concerns Māori proprietary rights in freshwater bodies and geothermal resources. Stage one of the inquiry looked at Māori rights and interests in freshwater. Stage two focused on the Crown's freshwater management regime and its reforms. Stage three will focus on Crown acts and omissions with respect to Māori rights and interests in geothermal resources.

**Panel:** Judge Wilson Isaac is the presiding officer, with Professor Tā Pou Temara, Dr Grant Phillipson, Ron Crosby, and Dr Robyn Anderson as panel members.

**Status:** The inquiry commenced stage three hearings in September 2024.

### **Military Veterans (Wai 2500)**

**Inquiry:** The Military Veterans kaupapa inquiry (Wai 2500) is hearing all claims involving past military service undertaken directly for or on behalf of the Crown in right of Aotearoa or, in earlier colonial times, for or on behalf of the imperial Crown in Aotearoa. This extends to all types of military service, whether operational or routine, whether in time of war or peace, and whether at home or abroad.

**Panel:** Judge Wilson Isaac is the presiding officer, with Professor Tā Pou Temara, Dr Grant Phillipson, Dr Monty Soutar, and Dr Hana O'Regan as panel members.

**Status:** Two hearing weeks were convened during the year to hear claimant evidence: one in February 2024 in Motatau, Northland, and one in May 2024 in Whāngārei. The fourth hearing week for the inquiry is planned for October 2024 in Whakatāne. The Tribunal will continue hearing claimant evidence before hearing Crown evidence.



New Zealand Defence Force, Petty Officer Chris Weissenborn

Lieutenant Colonel Glenn King (New Zealand Defence Force) and Matutaera Te Nana Clendon (claimant), Military Veterans hearing week 2 at Motatau Marae, February 2024

New Zealand Defence Force, Sergeant Vanessa Parker



Military Veterans hearing week 3 at Takahiwai Marae, Whangārei, May 2024





New Zealand Defence Force, Petty Officer Chris Weissenborn

*Military Veterans hearing week 2 at Motatau Marae, February 2024*



New Zealand Defence Force, Petty Officer Chris Weissenborn

*Military Veterans hearing week 2 at Motatau Marae, February 2024*





*The Health Tribunal. From left: Tania Simpson, Judge Damian Stone (presiding), Professor Linda Tuhiwai Smith, and Professor Susy Frankel.*

### **Health Services and Outcomes (Wai 2575)**

**Inquiry:** The Health Services and Outcomes inquiry is hearing all claims concerning grievances relating to health services and outcomes and which are of national significance. To date the inquiry has progressed on a phased and thematic basis, with health-related claim issues being heard in stages according to priority. Stage one, which concluded in March 2019, inquired into and reported on aspects of primary healthcare. Stage two covers three priority areas encompassing mental health (including suicide and self-harm), Māori with disabilities, and issues of alcohol, tobacco, and substance abuse for Māori.

**Panel:** Judge Damian Stone is the presiding officer, with Professor Linda Tuhiwai Smith, Tania Simpson, and Professor Tom Roa as panel members.

**Status:** Hearings for claims relating to disability issues is nearly complete and planning for the next phase of the inquiry into mental health, alcohol and addictions is underway. A discrete priority inquiry into the Crown's disestablishment of Te Aka Whai Ora – the Māori Health Authority will be held at a later date.

### **Mana Wāhine (Wai 2700)**

**Inquiry:** The Mana Wāhine kaupapa inquiry is hearing claims which allege prejudice to wāhine Māori

as a result of Treaty breaches by the Crown. These claims extend across many fields of Crown policy, practice, acts and omissions. They raise both historical and contemporary issues.

**Panel:** Judge Sarah Reeves is the presiding officer, with Dr Ruakere Hond, Dr Robyn Anderson, Kim Ngarimu, and Professor Linda Tuhiwai Smith as panel members.

**Status:** The research programme for the inquiry is almost complete, with hearings to recommence in early 2025 once the interlocutory processes are completed.

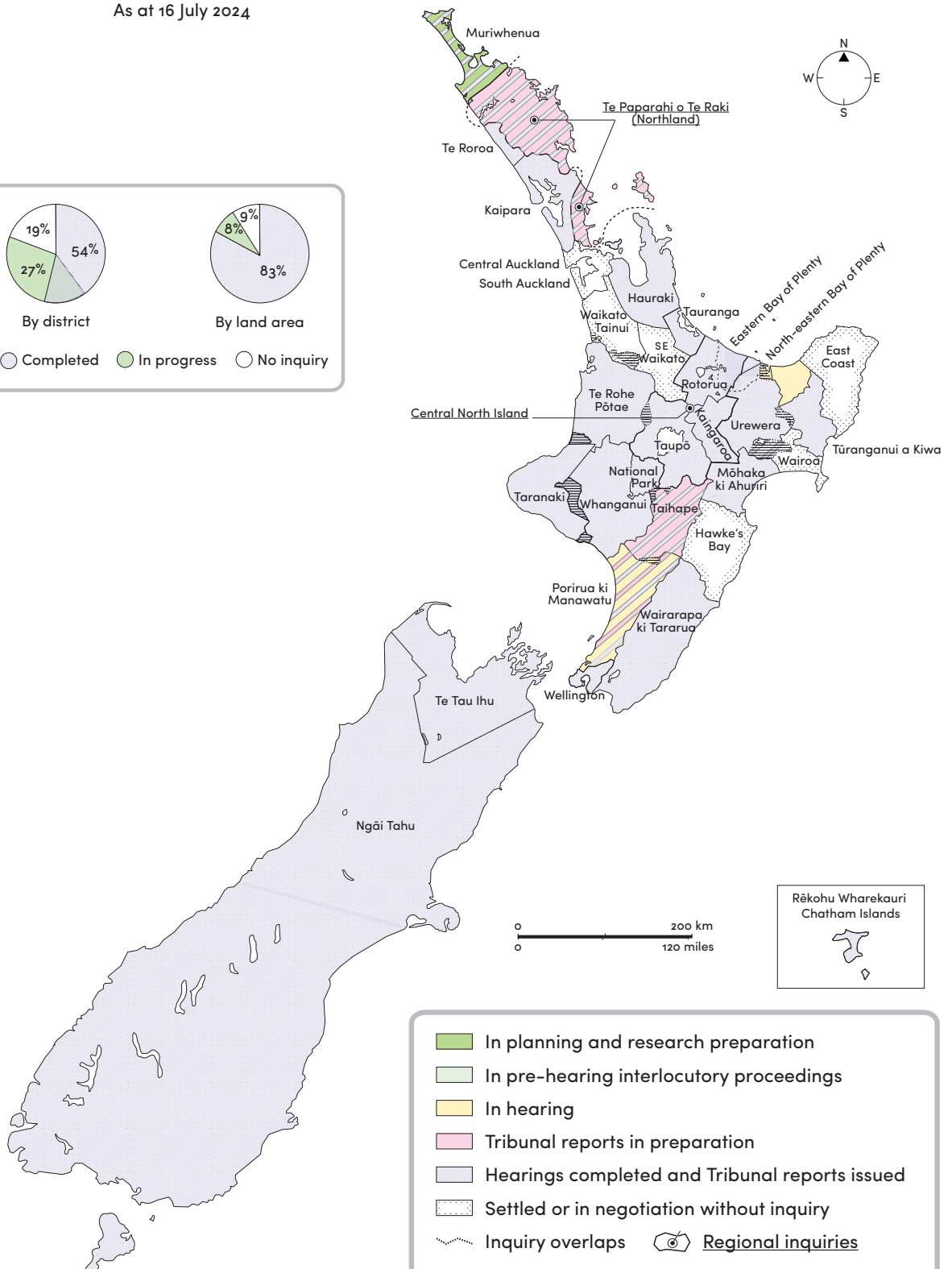
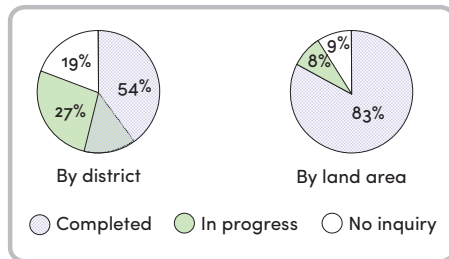
### **Housing Policy and Services (Wai 2750)**

**Inquiry:** The Housing Policy and Services inquiry is hearing claims with grievances concerning housing policy and services. Many of the claims which raise grievances in relation to housing issues have been brought on behalf of whānau, hapū and iwi from across the nation. In May 2023 the Tribunal released *Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness*. Stage two of the inquiry will consider all remaining claims issues.

**Panel:** Judge Craig Coxhead is the presiding officer, with Dr Paul Hamer, Prue Kapua, Kim Ngārimu, and Basil Morrison as panel members.

# PROGRESS IN WAITANGI TRIBUNAL DISTRICT INQUIRIES

As at 16 July 2024



Waitangi Tribunal Unit, 16 July 2024, KW-NH

*Progress in Tribunal District Inquiries. The Tribunal has conducted inquiries in 30 districts, covering 83 per cent of Aotearoa's land area.*

**Status:** The stage two research programme is nearly complete, and the Tribunal will recommence hearings on all remaining claim issues once its interlocutory processes are completed.

#### ***Te Rau o te Tika – The Justice System (Wai 3060)***

**Inquiry:** Te Rau o te Tika is an inquiry into claims relating to the justice system. The Tribunal commenced with a priority inquiry (Whakatika ki Runga) and report into claimant funding released in February 2023.

**Panel:** Judge Carrie Wainwright is the presiding officer, with Dr Hana O'Regan, Dr Ruakere Hond, and Dr Paul Hamer as panel members.

**Status:** The Tribunal is finalising its guidelines that will outline a tikanga for justice to inform how the inquiry should be conducted in accordance with tikanga Māori. These guidelines have been developed with pou tikanga (tikanga experts) – Ruth Smith, Paraone Gloyne, Rahui Papa and Moe Milne. Shortly the inquiry's research programme will get underway.

#### ***Tomokia ngā tataua o Matangireia – Constitutional (Wai 3300)***

**Inquiry:** The inquiry concerns claims that raise issues relating to the constitution, sovereignty and self-government, the electoral system and local government.

**Panel:** Chief Judge Dr Caren Fox is the presiding officer, with Prue Kapua, Professor David Williams, Kevin Prime, Dr Monty Soutar, and Dr Grant Phillipson as panel members.

**Status:** In December 2023 the four pou tikanga (experts in tikanga) produced a report on a tikanga and Treaty-compliant process for the Inquiry. Two initial wānanga were held with parties to discuss the report in February and March 2024. The panel will hold further wānanga with parties to hear their feedback on the report and to discuss the design of the inquiry.

#### ***The Education Services and Outcomes Kaupapa Inquiry (Wai 3310)***

**Inquiry:** The inquiry concerns a broad range of matters relating to the public education system, the Kaupapa Māori education system and other issues relating to primary and secondary school education, tertiary education, curricula and education finance issues.

**Panel:** Judge Mullins is the presiding officer, with Dr Monty Soutar, Dr Paul Hamer, Kevin Prime, and Ron Crosby as panel members.

**Status:** A review of relevant claims is underway to determine the scope of the inquiry.

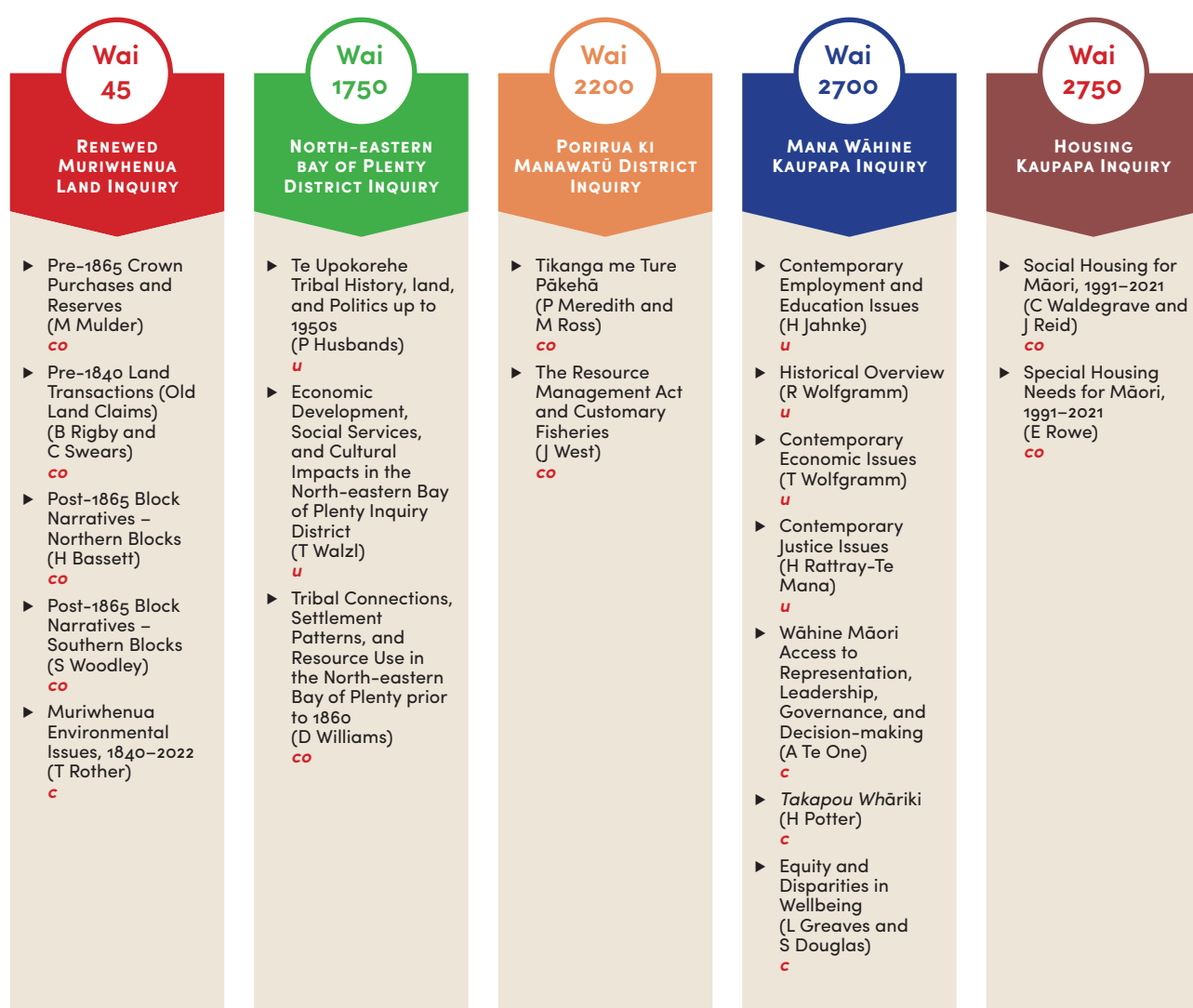


# TRIBUNAL-COMMISSIONED RESEARCH

Research for Tribunal inquiries can be commissioned by the Tribunal, claimants, the Crown, or third parties. Technical research (research undertaken by experts) is often carried out by Tribunal staff or by contractors commissioned by the Tribunal, Crown Forestry Rental Trust researchers commissioned on behalf of claimants (for district inquiries), and researchers commissioned by the Crown.

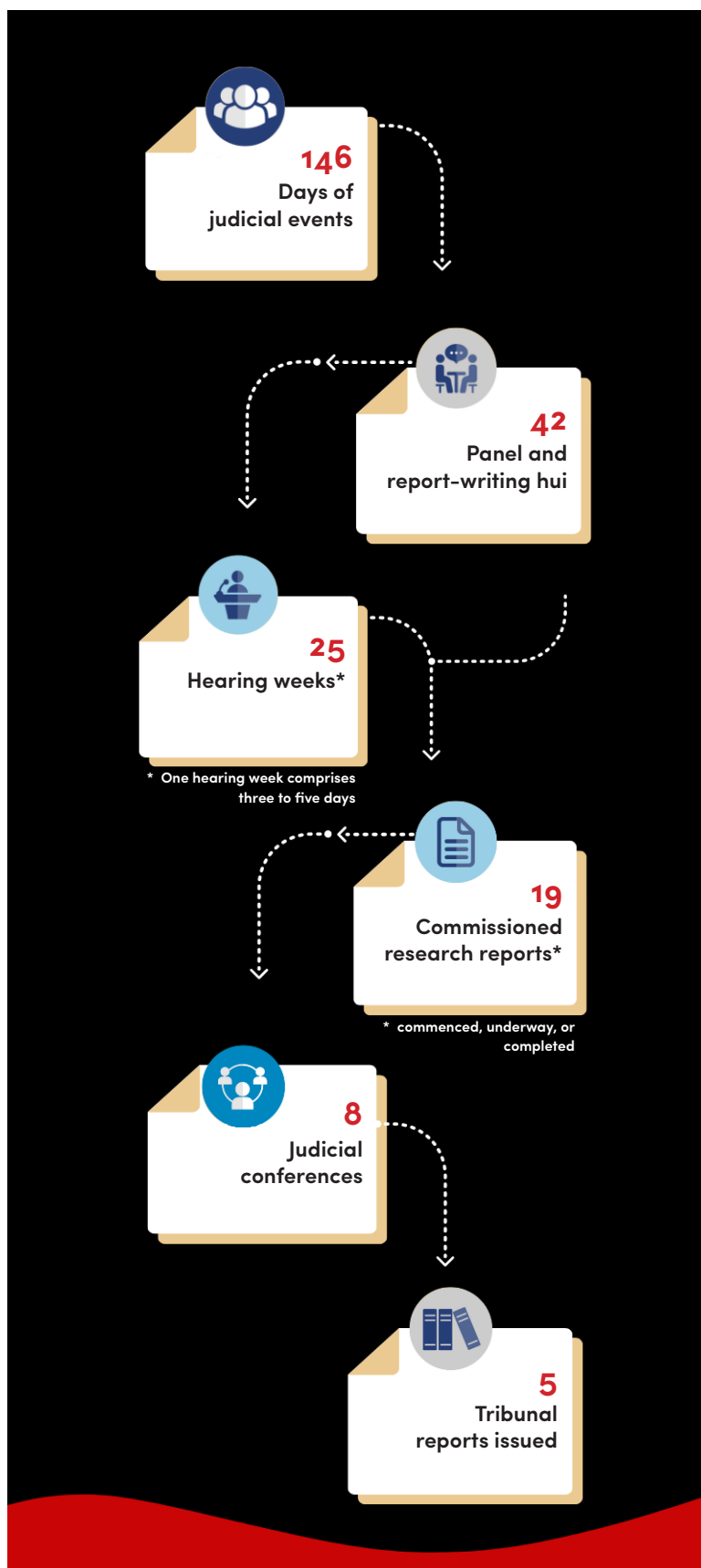
Significant activity across the Tribunal's commissioned research programme continues for district and kaupapa inquiries. As shown in the diagram below, 19 commissioned research reports were commenced (nine), were underway (five), or were completed (five) during the 2023–24 financial year.<sup>19</sup>

## TRIBUNAL-COMMISSIONED RESEARCH, 2023–24



**u** = underway    **co** = commenced    **c** = completed

# TRIBUNAL ACTIVITIES, 2023–24



## UPDATE ON URGENCIES

As noted, the 2023–24 year has seen a sharp rise in applications for urgency, both received and granted, compared to recent years. This year alone, the Tribunal received 20 applications on behalf of 46 claims, of which several participated in multiple applications. By way of comparison, in 2022–23 applications on behalf of 10 claims were determined and one granted, and in 2021–22, applications on behalf of 40 claims were determined with one granted.

The period December 2023 to June 2024 saw the Tribunal receive 19 applications for urgency, all of which concerned the policies of the new Coalition Government formed in November 2023. From this cluster of applications, 16 were granted and grouped into five urgent inquiries. These inquiries concerned:

- ▶ the disestablishment of Te Aka Whai Ora – The Māori Health Authority,
- ▶ the repeal of section 7AA of the Oranga Tamariki Act 1989,

- ▶ the proposed amendment to the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021,
- ▶ the proposed Treaty Principles Bill and review of Treaty clauses, and
- ▶ te reo in the public sector.

Inquiries into Oranga Tamariki and Māori Wards have been completed and reported on.<sup>20</sup> The inquiry into te reo in the public sector is in report writing. The urgent inquiry into the proposed disestablishment of Te Aka Whai Ora ended when legislation was introduced in February 2024, and the matter is now being dealt with as a priority issue within the Health Services and Outcomes Kaupapa Inquiry.

A further group of 24 applications concerning the Marine and Coastal Area (Takutai Moana) Act 2011 funding issues and proposed legislative amendments were received in June 2024. All were granted an urgent hearing while this annual report was being finalised.



*Te Reo i te Kāwanatanga Ruku Tātari Ohotata Hearing, 10 June 2024*



## UPDATE ON INNOVATIONS

### Te Kete Pūputu: The Online Guide to the Mana Wāhine Tūāpapa Evidence

In May 2024 the Tribunal officially launched ‘Te Kete Pūputu : The Online Guide to the Mana Wāhine Tūāpapa Evidence’. ‘Te Kete Pūputu’ (conveying a closely woven basket) captures the kōrero of over 100 witnesses who presented during the tūāpapa hearings phase of the Mana Wāhine inquiry in 2021 and 2022. Witnesses’ kōrero is organised using four key themes of the hearings: stories of atua whāea and how they shape the lives of wāhine today; the relationship between wāhine and tāne in traditional

Māori society; the mana and rangatiratanga of wāhine in pre-colonial society; and wāhine authority over whenua, whakapapa, whānau, whai rawa, and mātauranga.

Encompassing images and videos from the hearings, the online guide allows users to explore and navigate the mātauranga themselves. Te Kete Pūputu is available on the Mana Wāhine Kaupapa Inquiry page on the Tribunal’s website or at <https://tinyurl.com/4tmwzdn5>.



*The Tribunal at Tūrangawaewae Marae, Ngāruawāhia at the second tūāpapa hearing for the Mana Wāhine inquiry, February 2021*



## Tomokia Ngā Tatau o Matangireia: The Constitutional Kaupapa Inquiry

For Tomokia Ngā Tatau o Matangireia – the Constitutional Kaupapa Inquiry, the Tribunal hosted a series of wānanga with parties in February and March 2024 at Waitangi Treaty Grounds and Waipatu Marae, Hastings, respectively. A central focus of

the wānanga was the pou tikanga's December 2023 *Tomokia ngā tatau o Matangireia Report*. The wānanga were facilitated by four pou tikanga appointed by the Tribunal to help design, along with the claimants and the Crown, the Tribunal's process for the inquiry.

### Te Reo Māori

The Tribunal has been increasing use and access to te reo Māori across a broad range of its processes and documents as well as inquiry-related activities, hearings, and reports. Mātanga Reo (Māori language specialists) were engaged to assist the Kura Kaupapa Māori urgent inquiry (Wai 1718) panel produce the first Tribunal report in te reo Māori. The report, *Kei Ahotea te Aho Matua*, was released on 26 July 2024.

Hearings for the Kura Kaupapa Māori urgent inquiry and the recent urgent inquiry into Te Reo in the Public Sector (Wai 3327) were also primarily conducted in te reo Māori. The Tribunal's standard practice is to ensure that a te reo Māori interpreter

provides simultaneous translation of te reo Māori into English at all Tribunal events.

In terms of Tribunal documentation, a te reo Māori version of the updated *Guide to Tribunal Practice and Procedure* was issued in April 2024. A glossary of key Tribunal terms in te reo Māori was also produced. The te reo and English versions of the *Guide to Practice* and the glossary are available on the Tribunal's website.

Most content on the Tribunal's refreshed website is also bilingual and was translated into te reo by the team of linguists at the Department of Internal Affairs. This year the annual report has been produced in both te reo and English.



Kura Kaupapa kaiako and tamariki looking through the window of the Hoani Waititi wharehau at the first Kura Kaupapa Māori (Dewes) Urgent Inquiry hearing

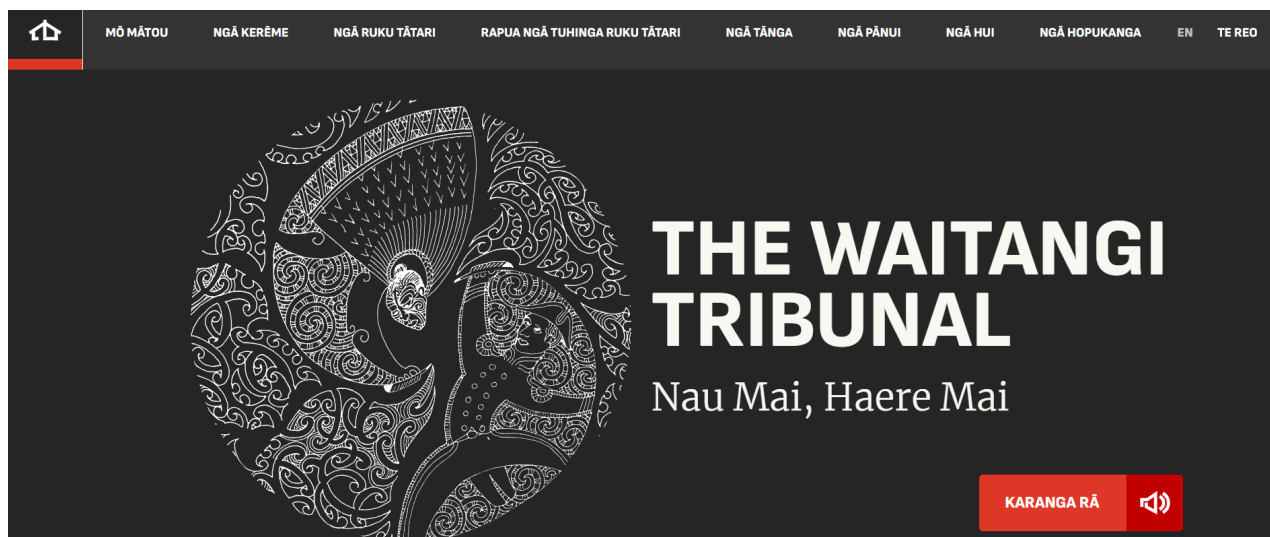
## Refreshed Waitangi Tribunal Website

The Waitangi Tribunal's website provides a wide range of information and documentation about the Tribunal, its membership and the current inquiry work programme. It is also a trusted source of information about the Treaty. For the six months ending 30 June 2024, the Tribunal's website had over 4.4 million views and 1.1 million users from New Zealand and across the world. These metrics underline the fact that the Tribunal's website is a highly trusted and accessed source of information about the Treaty and Treaty claims process. Parties, stakeholders and the wider public can also view and download official inquiry documents and publications about the Tribunal and its work. All Waitangi Tribunal reports are available for download on the website.

In 2023, a project commenced to update and refresh the Tribunal's website. Digital design agency Alpherio, in partnership with Tātou consultancy, developed a refreshed Tribunal website design and

layout strongly influenced by concepts of mana tangata and kaitiakitanga. Development for the site commenced in July 2023 and was completed over 12 months. The project was managed by the Ministry of Justice Digital team in collaboration with the Tribunal Unit.

A major objective of the website redesign was to make the site more user friendly and intuitive, particularly when searching the very large digital repository of Waitangi Tribunal inquiry documents, including Tribunal reports, research reports and general content across the site. The ability for users to access content in te reo Māori and English was another major objective of the refresh. As noted above, the website is fully bilingual and users can toggle between both languages. New features of the website include a place to access livestream recordings and view upcoming inquiry events, such as hearings and judicial conferences.





# THE TRIBUNAL'S FIFTIETH ANNIVERSARY

The tenth of October 2025 will mark 50 years since the Waitangi Tribunal was established by the Treaty of Waitangi Act 1975.

The anniversary marks a significant milestone in Aotearoa/New Zealand's recent history and has been identified by the Crown as one of the major national historical anniversaries for 2025 under the theme 'Mana Māori Motuhake – Māori rights and Representation'. In 2023, the Tribunal set up a steering committee to plan and deliver a range of projects and events to appropriately mark the fiftieth anniversary, and several of these projects are well underway.

These include a videography/oral history project that will feature videoed interviews with key individuals involved in the work of the Tribunal over the past 50 years. Manatū Taonga Ministry for Culture and Heritage have agreed to provide access to view archival interviews conducted as part of their *Te*

*Tai Whakaea* project to supplement interviews the Tribunal will conduct.

A large-format 'coffee table' book is also in progress. This will address the history of the Tribunal and its wider impact over 50 years and will be richly illustrated with photographs from the Tribunal's archive. The book is aimed at a general audience and is being written by members and senior Tribunal staff. A publisher has been secured and drafting of content is well underway.

Te Herenga Waka Victoria University will host a fiftieth anniversary conference in October 2025 at the new Living Pā at the Kelburn Campus. Further details will be forthcoming in 2025.

Updates on fiftieth anniversary projects and other events will be released as we move closer to the anniversary date. If you would like to receive these updates, please email [WT.50years@justice.govt.nz](mailto:WT.50years@justice.govt.nz) with 'subscribe' as the subject line.



# SUMMARIES OF REPORTS RELEASED 2023–24

A summary of reports released in 2023–24 follows. Since the report *Kei Ahotea te Aho Matua* of the Kura Kaupapa Urgent Inquiry (Wai 1718) was released on

26 July 2024, after the relevant time period of this report, its summary has not been included here.

## Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry: Stage 2 Report

On 5 October 2023, the Waitangi Tribunal released the Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry: Stage 2 Report.

The Marine and Coastal Area (Takutai Moana) Act was introduced in 2011 to replace the controversial Foreshore and Seabed Act 2004. The Act restores customary interests in the foreshore and seabed extinguished under the 2004 Act, institutes statutory tests and awards to recognise those interests, and provides for public access to these areas. Under the Act, Māori can obtain legal rights recognising their customary interests in the form of either customary marine title or protected customary rights. The Act provides two application pathways for this purpose. Māori can apply to the High Court for a recognition order or engage directly with the Crown. They may also do both. In either pathway, applications for customary rights had to be filed by the statutory deadline of 3 April 2017.

The Tribunal received 92 claims for its inquiry into the Treaty compliance of the Act and its supporting arrangements, and a further 80 parties were granted interested party status. The inquiry had priority designation, acknowledging the importance of the customary rights at stake and the immediacy of the Act's alleged impacts on Māori. The claims were heard in two stages. The stage 1 report, released in 2020, found that some aspects of the procedural and resourcing arrangements supporting the Act breached the Treaty and prejudicially affected Māori.

The stage 2 report considered whether the Act itself breaches Treaty principles and causes prejudice to Māori. The Tribunal found Māori have been and will likely continue to be prejudiced by aspects of the Act that breach Treaty principles. In particular, the Tribunal found that the Act is not Treaty compliant because (among other reasons):

- ▶ the Crown failed to allow properly informed and meaningful participation for Māori during the consultation process;
- ▶ the Act does not provide for a fair and reasonable statutory test for customary marine title (an interim finding, as the Court of Appeal is currently considering how the relevant provisions should be interpreted);

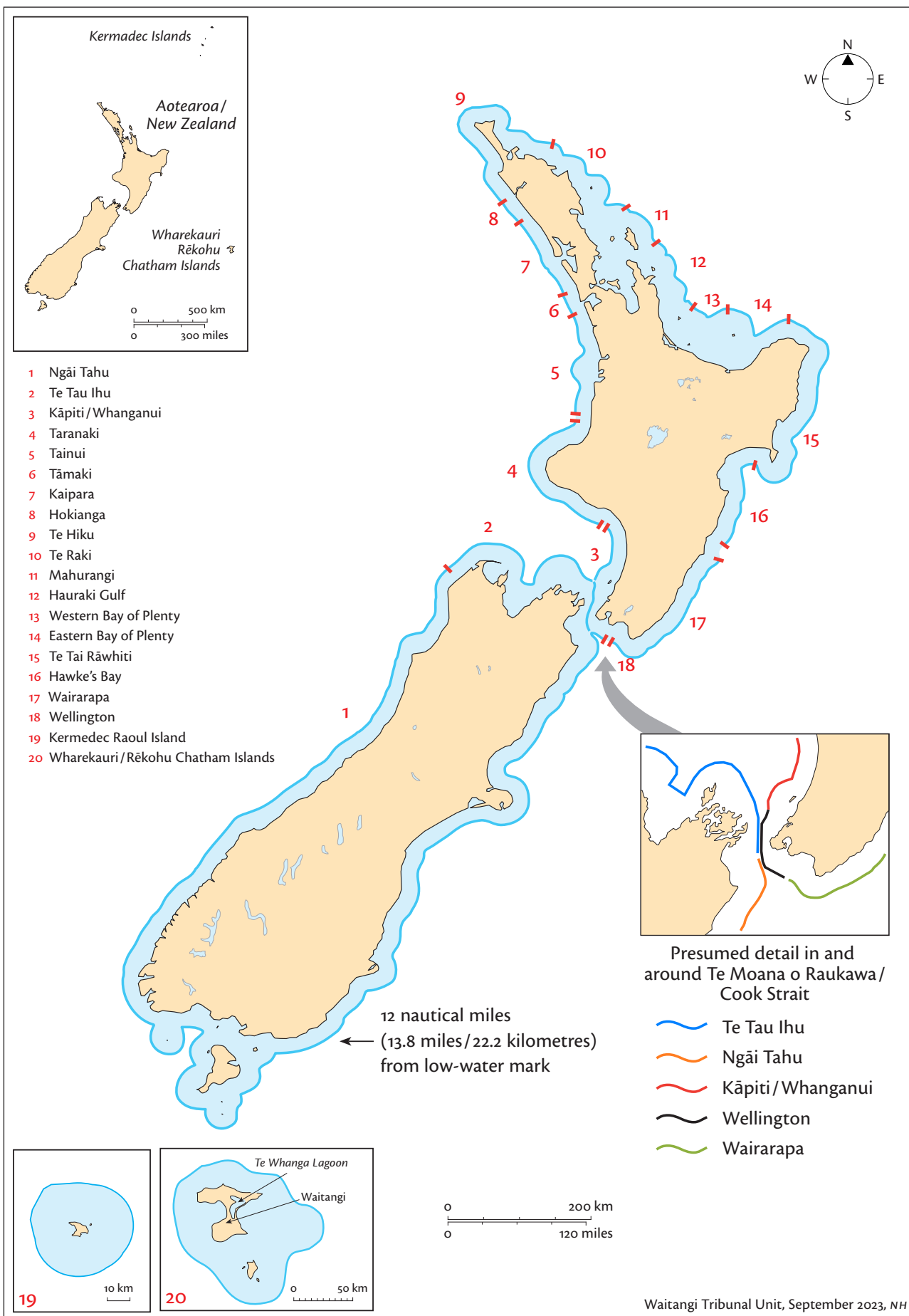
- ▶ the statutory deadline was not and is not justified by any policy considerations that meet the standard of acting reasonably and in good faith toward Māori;
- ▶ the Act gives Māori no choice between having their applications under the Act heard in the High Court or the Māori Land Court;
- ▶ certain exceptions to the scope of protected customary rights are unreasonable;
- ▶ the exceptions of accommodated activities and deemed accommodated activities undermine the permission rights (certain regulatory rights available to customary marine title holders);
- ▶ the wāhi tapu protection right does not allow Māori to effectively protect wāhi tapū and wāhi tapu areas; and
- ▶ the Act vests reclaimed land in the Crown, thus extinguishing Māori customary rights and preventing the grant of a customary marine title and protected customary rights without compensation.

Overall, the Tribunal found the rights under the Takutai Moana Act do not sufficiently support Māori in their kaitiakitanga duties and rangatiratanga rights and fail to provide a fair and reasonable balance between Māori rights and other public and private rights. As a consequence, the Act is in breach of the Treaty.

To give effect to Treaty principles, the Tribunal recommended the Crown make targeted amendments to the Act. Specifically, the Tribunal recommended that the Crown (among other points):

- ▶ improve the statutory test for customary marine title (subject to the outcome of appeals following the High Court's *Re Edwards (Te Whakatōhea No 2)* judgment);
- ▶ repeal the statutory deadline;
- ▶ allow applicants the ability to transfer their applications between the High Court and the Māori Land Court with both having concurrent jurisdiction;
- ▶ repeal specific exceptions to the scope of protected customary rights;
- ▶ repeal specific exceptions to the scope of permission rights;





- ▶ increase the scope of the Act's compensation regime;
- ▶ decouple the wāhi tapu protection right from the customary marine title regime; and
- ▶ compensate affected iwi, hapū, and whānau for all reclaimed land vested in the Crown.

The Tribunal's report emphasised that these recommendations should be implemented as a package to restore a fair and reasonable balance between Māori interests and those of the wider public in te

takutai moana. The Tribunal warned against the Crown 'cherry-picking' select recommendations, as selective implementation would not restore the balance required by the principles of the Treaty.

The release of the stage 2 report brings to a close the Marine and Coastal Area (Takutai Moana) Act Inquiry.

The panel comprised Judge Miharo Armstrong (presiding), Ron Crosby, Professor Rawinia Higgins, and Professor Tā Pou Temara.

## He Whenua Karapotia, He Whenua Ngaro: Priority Report on Landlocked Māori Land in the Taihape Inquiry

Landlocking affects Māori land nationally but is a particularly acute problem in Taihape, where more than 70 per cent of remaining Māori land holdings are landlocked – exceeding 50,000 hectares. Māori have no legal or physical access to these lands, despite retaining ownership of them. In its report, the Tribunal finds that the Crown allowed Māori land in Taihape to become landlocked and has failed to remedy the problem, breaching Treaty principles and causing long-term prejudice.

The Tribunal concludes that flaws in the Crown's native land legislation caused landlocking in the inquiry district. In the decades before 1912, when most landlocking in Taihape occurred, the Crown did not require the Native Land Court to preserve access to Māori land as it was partitioned. Upon the sale or lease of a partition with road access, therefore, blocks of Māori land lying beyond it usually became landlocked. From 1886, Māori land owners could apply for access to their lands as they passed through the court or within five years thereafter. These provisions were ineffective in practice, however, as they still gave the court discretion on whether to grant access and required Māori owners to pay the significant cost of creating any access granted. The Tribunal finds that the Crown's general failure to address the risk of landlocking in its native land legislation before 1912 breached the Treaty principles of active protection, partnership, and equity. Moreover, the Crown's expectation that Māori land owners apply to the court to retain access to their own land, and pay for it, undermined the Treaty guarantee of 'full exclusive and undisturbed possession' of land. Māori should not have had to take such steps to retain access, the Tribunal argues, because the risk of landlocking arose from legislation imposed on them, not actions they had taken.

The Tribunal also finds that the Crown's attempts to remedy landlocked Māori land through legislation have been flawed and ineffective, breaching Treaty principles. From 1912, the Native Land Court (and later Māori Land Court) could order retrospective access to landlocked Māori land. But if the

neighbouring land to be crossed had left Māori ownership before 1913, the court had no power to order access, or could do so only with the neighbouring owner's consent. This restriction in the law effectively removed the court's ability to restore access to landlocked Māori land in Taihape, which had almost entirely become landlocked – as neighbouring land was sold – before 1913. As a result of these measures, Māori of the inquiry district had no legal avenue to unlock their land for over sixty years. The Crown conceded that its remedies in this period were ineffective and prioritised European land owners' interests to the disadvantage of Māori land owners, breaching Treaty principles.

Since 1975, the Crown has tried to improve its remedies, but they have remained ineffective for owners of landlocked Māori land in Taihape, the Tribunal finds. From 1975, Māori owners could seek access via the Supreme Court (now the High Court) without the need for any other landowner's consent, but this remedy was very costly to pursue. In 1993, Te Ture Whenua Māori Act provided a less expensive pathway for Māori land owners to seek access via the Māori Land Court but reimposed a requirement for the neighbouring landowner's consent. This requirement was removed in 2002, but the neighbouring owner could simply appeal to the High Court. From 2020, appeals could finally be heard in the more accessible Māori Appellate Court. Despite these changes, no Māori land owners in Taihape have successfully used these remedies to unlock their land. The Crown's longstanding failure to provide effective remedies breaches several Treaty principles, including the principle of redress, the Tribunal finds.

The Tribunal concludes that the key flaw in the Crown's remedies is that they have continued to place the huge cost of restoring access on the owners of landlocked Māori land themselves. As well as being ineffective, this approach has treated owners of landlocked Māori land no differently than owners of general land seeking to access landlocked land they have purchased. In this respect, the Crown's remedies breach the principle of equity.





*Looking across Ruahine Forest Park toward landlocked Māori land in Te Kōau A, in the east of the Taihape inquiry district, during a Tribunal visit to Big Hill Station in February 2020*

The Tribunal finds that lack of ready access to much of their remaining land base has caused significant prejudice to whānau and hapū of the Taihape district, undermining their opportunities for economic development, ability to exercise kaitiakitanga, and intergenerational transmission of mātauranga relating to these lands.

To remedy landlocking in the Taihape district, the Tribunal recommends the Crown establish a contestable fund to which Māori owners of landlocked land can apply to achieve access. The fund would pay for access that may be granted by the Māori Land Court, including any compensation payable to neighbouring

landowners. The Tribunal stresses that funds for this purpose should not be taken from the sum set aside to settle the district's historical claims.

The Tribunal received 46 claims in the Taihape district inquiry. Hearings took place from 2016 to 2021. This report precedes the Tribunal's main report on the broader Taihape: Rangitikei ki Rangipō district inquiry.

The Taihape panel comprises Justice Layne Harvey (presiding), Professor Tā Pou Temara, Dr Monty Soutar, and Dr Paul Hamer. Sir Douglas Kidd (now resigned) and the late Dr Angela Ballara were former members of the panel.

## The Kōpūtara Priority Report

The report concerns a claim about the Crown's failure to grant title or access to the Kōpūtara reserve. This reserve is located at Lake Kōpūtara near Foxton and Hīmatangi Beach. It was set aside from the 240,000-acre Rangitikei–Manawatu purchase in 1870 but

the claimants did not receive a title until 1964 or physical access until 2016. The Crown conceded that it breached the Treaty when it failed to grant title in a timely manner, and the Tribunal also found other breaches of Treaty principles.



*Lake Kōpūtara near Foxton*

The Wai 1932 claim was led by Kōpūtara trustees Annabel Mikaere and Patrick Seymour. It was brought on behalf of the hapū Ngāti Parewahawaha, Ngāti Pareraukawa, Ngāti Kikopiri, Ngāti Tūranga, and Ngāti Tukorehe. The Kōpūtara trustees claimed that they were denied legal title and/or access to their own land and treasured resources for almost 150 years, during which time the environment of the reserve and lake was severely degraded.

The Crown accepted that it failed to provide the Kōpūtara reserve with access when it granted all the land surrounding the reserve to private owners. The Crown also acknowledged that this impacted the claimants' economic, social, and cultural well-being and their ability to exercise ownership and kaitiakitanga. Depriving the claimants of access also disrupted their cultural relationship with the lake and reserve.

The Tribunal found that the Crown's failure to provide access when it alone had the power to do so was a breach of the principles of the Treaty. The prejudicial result was that the claimants had no legal access until 1998 and no physical access until 2016. The Crown covered the trustees' legal fees in the 1980s in a long-running litigation to obtain access. The Crown accepted at that time that it should compensate the claimants and fund the construction of a right of way,

but it failed to do either. The Tribunal found that this further breached Treaty principles.

The Crown also accepted that it negatively affected the environment of the reserve and Lake Kōpūtara while the claimants were locked out. The Himatangi Drainage Scheme was established and funded by the Crown. It over-drained the lake and contributed to serious sand drift. The Crown also accepted that the Army's use of the reserve as a live shell range in the 1940s and 1950s worsened the sand drift.

The Tribunal found that the Army's damage to the reserve, the deficient legislative framework, and the excessive drainage before and by the Himatangi Drainage Scheme were key factors in the degradation of the reserve and lake. The Kōpūtara owners were further disadvantaged because they had no title when the Himatangi scheme was established and could not take action to stop sand drift even once they obtained a title due to their lack of access. The Tribunal found that the Crown failed to protect the reserve's environment and contributed actively and significantly to the environmental degradation of the reserve and lake, in breach of Treaty principles.

The Tribunal found that the claimants suffered significant prejudice from these Treaty breaches. They lost access to the mahinga kai of the reserve and of Lake Kōpūtara, lost their ability to act as kaitiaki,



and lost the ability to transmit customary knowledge to later generations. The claimants were also significantly prejudiced by the high degree of damage to the reserve and to their taonga, Lake Kōpūtara.

Overall, the Tribunal concluded that the Kōpūtara claim was well-founded. To remove or mitigate the

harm caused by the Crown's breaches, the Tribunal made several recommendations that can be found in chapter 5 of the report.

The panel is comprised of presiding officer Chief Judge Dr Caren Fox and members Dr Grant Phillipson, Tania Simpson, and Dr Monty Soutar.

## Oranga Tamariki (Section 7AA) Urgent Report

On 10 May 2024, the Tribunal released *The Oranga Tamariki (Section 7AA) Urgent Inquiry 10 May 2024 Report*. It built on the Tribunal's interim report, which was released on 29 April due to uncertainty about the date that relevant legislation would be introduced to the House.

The inquiry concerned claims submitted to the Tribunal under urgency regarding the Crown's policy to repeal section 7AA of the Oranga Tamariki Act 1989. The section imposed specific duties on Oranga Tamariki's chief executive to provide a practical commitment to the principles of the Treaty of Waitangi. This commitment included setting and reporting on expectations and targets to reduce disparities for tamariki Māori and entering into strategic partnerships with Māori and iwi organisations.

The Tribunal previously reported on section 7AA and other provisions of the Oranga Tamariki Act in its 2021 report *He Pāharakeke, he Rito Whakakikīnga Whāruarua: Oranga Tamariki Urgent Inquiry*.

The claimants and interested parties argued that the Government's policy to repeal section 7AA breached the Crown's Treaty duties. In addition, they claimed that the Government had failed to consult with Māori and the Crown's strategic partners over the policy decision. An urgent hearing was held on 12 April at the Tribunal's offices in Wellington. The panel – Judge Michael Doogan (presiding), Kim Ngarimu, and Ahorangi Tā Pou Temara – heard from three Oranga Tamariki officials, including the Ministry's acting chief executive, Darrin Haimona.

In its May report, the Tribunal emphasised that, regardless of coalition agreements, 'once Ministers are sworn in and the government is formed, the

executive so constituted are responsible for meeting the Crown's obligations to Māori under the Treaty of Waitangi'. The Tribunal said, 'It is a Treaty of Waitangi, not a proclamation of Waitangi, and the Crown does not have a unilateral right to redefine or breach its terms.'

The Tribunal found that the Government's decision to repeal section 7AA had come about without proper regard to its obligations to Māori under the Treaty of Waitangi. It also found that the Cabinet decision to repeal section 7AA, in the absence of good faith dialogue and engagement with its iwi and Māori partners, was a clear breach of the article 2 guarantee to Māori of tino rangatiratanga over kāinga, the principle of active protection, and the principle of partnership. The Tribunal concluded that these breaches operated to cause significant prejudice to tamariki and whānau Māori.

The Tribunal recommended that the Government stop the repeal of section 7AA to allow for a periodic review of the legislation and policy, which is provided for under section 448B of the Oranga Tamariki Act. As a first step in this review, the Tribunal recommended that the Crown enter good faith dialogue with all its strategic partners and the Māori organisations with which it had a relationship. The Tribunal also recommended that the Crown consider the proposals for legislative amendment set out in *He Pāharakeke* and that it retains both the section 7AA requirement to develop strategic partnerships with Māori and iwi organisations and the requirement for Oranga Tamariki to focus on reducing disparities for tamariki Māori by setting and publicly reporting on expectations and targets.

## Māori Wards and Constituencies Report Urgent Inquiry Report

On 17 May 2024, the Waitangi Tribunal has released *The Māori Wards and Constituencies Urgent Inquiry Report*.

The report concerns claims submitted to the Tribunal under urgency regarding the Crown's proposed repeal of amendments made to the Local Electoral Act 2001 by the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021. The 2021 amendment Act removed the previous

requirement that binding local polls be held following a council's decision to establish a Māori ward or Māori constituency. The Government intends to reinstate the need for binding polls on Māori wards and require councils that have established a Māori ward or constituency without one since 2021 to hold a poll.

The claimants and interested parties say that the 2021 amendments have significantly increased Māori

representation in local government. They argued that the Government's policy to effectively repeal the 2021 amendment Act breaches the Crown's Te Tiriti o Waitangi/Treaty of Waitangi obligations. Moreover, they claim, the proposed repeal will prejudicially affect Māori, by leading to a reduction in dedicated Māori representation, exposing Māori communities to racism and abuse and damaging their relationships with the Crown.

In its report, the Tribunal finds that the Crown has breached the Treaty principle of partnership by prioritising coalition agreement commitments and completely failing to consult with its Treaty partner or any other stakeholders. The Crown has failed to adequately inform itself of its Treaty obligations and has failed to conduct adequate Treaty analysis during the policy development process, in breach of its duties to act reasonably and in good faith. It has inadequately defined the policy problem as restoring the right of the public to make decisions about Māori wards and constituencies, when no other type of ward or constituency requires a poll, in breach of the principle of equity.

In addition, the Tribunal finds that the Crown has failed to actively protect Māori rights and interests by ignoring the desires and actions of Māori for dedicated local representation, and it finds breaches of the principles of mutual benefit and options. Combined, these Treaty breaches operate to cause significant prejudice to Māori.

The Tribunal recommends that the Crown stop the amendment process to allow proper consultation between the Treaty partners with a view to agreeing how Māori can exercise their tino rangatiratanga to determine dedicated representation at the local level. The Tribunal draws the Government's attention to the existing provisions in the Local Electoral Act 2001 for representation reviews that would better enable councils to seek public views on all wards and constituencies at the same time, including Māori wards or constituencies.

The panel is comprised of presiding officer Judge Reeves and members Basil Morrison and Kevin Prime.

## ENDNOTES

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1. A further urgent inquiry into the disestablishment of Te Aka Whai Ora – the Māori Health Authority was granted in 2023–24, but ultimately not heard following the introduction of the Pae Ora (Disestablishment of Māori Health Authority) Amendment Bill in February 2024. Lastly and for completeness, following the conclusion of the 2023–24 year an urgent inquiry into the Marine and Coastal Area (Takutai Moana) Act 2011 was also held. This report was released in September 2024.
2. *Minister for Children v Waitangi Tribunal* [2024] NZHC 931; *Skerret-White v Minister for Children* [2024] NZCA 160.
3. Treaty of Waitangi Act 1975, s 5.
4. Treaty of Waitangi Amendment Act 2006.
5. Treaty of Waitangi Act 1975, s 6.
6. Since 1 September 2008, no new historical claims can be filed.
7. The Tribunal is still required, at a later time, to hear claims that are not granted urgency.
8. Te Puni Kōkiri, *Waitangi Tribunal Claims Update: Section 8I Report, 1 July 2021 to 30 June 2022* (Wellington: Te Puni Kōkiri, 2022), p 5.
9. Treaty of Waitangi Act 1975, s 4.
10. Treaty of Waitangi Act 1975, sch 2, cl 5.
11. Treaty of Waitangi Act 1975, sch 2, cl 1.
12. Chief Judge Dr Caren Fox was appointed Chairperson in September 2023.
13. Treaty of Waitangi Act 1975, s 4(5).
14. The figure of 3,309 is the total number of claims registered since the Tribunal was established in 1975.
15. Waitangi Tribunal, *Guide to Practice and Procedure for the Waitangi Tribunal 2023*, (Wellington: Waitangi Tribunal, 2023), pp 13–14.
16. The panel issued its interim report on 29 April 2024.
17. The claims of Ngāti Toa, Rangitāne, and Ngāti Apa are settled.
18. The National Freshwater and Geothermal Resources Inquiry commenced in 2012 and predates the official kaupapa inquiry programme.
19. This does not include research commissioned by claimants, the Crown, or third parties.
20. For completeness, *Ngā Mātāpono – The Principles: The Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on the Crown's Treaty Principles Bill and Treaty Clause Review Policies* was also released on 26 August 2024, outside the 2023–24 year.