Ngai Tahu Sea Fisheries Report Released

The Ngai Tahu Sea Fisheries report released on 11 August has been misreported by the media. This article will hopefully help to rectify that misinformation.

Tribal Recommendations

The Tribunal's recommendations proposed a negotiated settlement of the Ngai Tahu sea fishery grievance. It recommended that the settlement should include an additional percentage of quota to Ngai Tahu under the quota management system and the delivery mechanism should be the Maori Fisheries Act 1989.

The Tribunal also recommended:
- the return to Ngai Tahu of exclusive eel fishing rights in Waihora (Lake Ellesmere) and cancellation of existing eel fishing licences with compensation payment to the existing licence holders
- a change to the Fisheries Act 1983 to provide for certain mahinga kai reserves for iwi or hapu as proposed in the Sustainable Fisheries Report of the Ministerial Task Force, April 1992.

The report did not recommend that most of the South Island's fisheries be handed over to Ngai Tahu. It did not recommend that all the fisheries within 12 miles of the coast be returned to Ngai Tahu.

Entitlement to Sea Fisheries

The Waitangi Tribunal rejected the Ngai Tahu claim to 100% of all sea fisheries off their boundaries. The Tribunal found that Ngai Tahu has an exclusive treaty right to the sea fisheries surrounding the whole of their coastline to a distance of 12 miles or so. Ngai Tahu also has a Treaty development right, exclusive to the tribe, to a reasonable share of the sea fisheries off their coastline extending beyond the continental shelf and into deep water fisheries within the 200-mile exclusive economic zone.

The Tribunal found that it was not in a position to assess accurately the value of the sea fisheries to which Ngai Tahu is entitled. However, it was noted that appropriate allowance should be made for the serious depletion of the inshore fishery off the Ngai Tahu coastline when assessing the reasonable share of the Ngai Tahu entitlement.

There is a need for the Crown and Ngai Tahu to negotiate and reach a settlement by way of compromise. According to the report, circumstances such as public conscience, the nation's ability to meet the cost and the need for a permanent solution should be considered.

Treaty Breaches by the Crown

The Waitangi Tribunal has found that Ngai Tahu were prejudicially affected by the various acts and omissions, policies and statutes of the Crown relating to their sea fisheries. These breaches were inconsistent with the principles of the Treaty of Waitangi.

The failure of the Crown to provide adequate land resources directly affected the tribe, preventing the continuation of their thriving and expanding sea fishing activity.

A further serious breach was the assumed right of the Crown to dispose of Maori fisheries without consent or consultation with the iwi as if the fisheries were Crown property under the quota management system. The report is critical of the quota management scheme for its effect on Ngai Tahu Treaty rights.

Further breaches under the Article 2 guarantee of tino rangatiratanga were:
- a failure to protect and conserve the sea fisheries
- the Crown's assumption that non-Maori had equal rights with Maori in the whole of their fishery
- the Crown's wrongful assumption that it owned the oysters offered for sale by public tender (Sea Fisheries Act 1984)
the Crown’s failure to give statutory recognition of the Treaty in fisheries legislation. Undermining Ngai Tahu’s mana whenua and mana moana tribal rights resulted in material and cultural deprivation, the Tribunal noted.

The report also recorded that despite repeated requests from Ngai Tahu, the Crown refused to give effect to legislative provisions, in force between 1900 and 1962, which provided for the reservation of exclusive Maori fishing grounds.

The Ngai Tahu Sea Fisheries Report is available from: Brooker & Friend Ltd, PO Box 43, Wellington.
Tel: 0-4-385 6683 Fax: 0-4-385 7300

409 pages Price: $51.65 (incl GST and postage)

Waitangi Tribunal Conference

Members of the Tribunal and judges of the Maori Land Court gathered in Wellington at the end of June for the Waitangi Tribunal’s annual conference.

In the course of their work for the Tribunal, the 17 members, chairperson and Maori Land Court judges, meet only in small groups for the purpose of inquiring into claims.

The annual conference provides the opportunity for the Tribunal to discuss, as a whole, the issues that it faces.

This year the Tribunal invited several groups, whose functions and interests converge with its work, to participate in different sessions. Representatives of Federated Farmers, the Maori Fisheries Commission, Maruwhenua (Ministry for the Environment), and a panel of Maori affairs media representatives discussed matters of common concern with the members and exchanged information.

Annual Report Summary

Following is a summary of the Waitangi Tribunal’s 1991–92 activities.

During the 1991–92 year there was a 34.7% increase in the number of registered claims from 216 to 291. The more important statistic, however, was the clearance rate on claims. Up to June 1991, the Tribunal had dealt with a total of 29 claims which had either been reported or withdrawn. This year 24 further claims (giving a total of 51) are in these categories or are regarded as being closed to further inquiry unless the matter is raised again by the claimants. Admittedly, most of these claims are single-issue claims.

Tribunal Servicing

In the 1991-92 financial year, members of the Tribunal recorded over 400 sitting days, much lower than in previous years. This reflects the 1991 change whereby the Tribunal’s now deals with more claims through short judicial conferences rather than formal hearings. The benefit is that research and other issues are dealt with prior to formal hearings which, as a consequence, should be much shorter than is currently the case. The Tribunal, of course, continues to recognise the importance of the hearing as a public forum for claims.

Statistics (as at 30 June 1992)

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<tr>
<td>registered</td>
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<td>reported/withdrawn or no further inquiry</td>
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<td>referred for Maori Land Court inquiry</td>
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<tr>
<td>under research (either Tribunal or claimant)</td>
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<td>awaiting initial assessment or deferred at claimant request</td>
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Tribunal staff completed a total of 17 exploratory and other research reports during the year, and assisted with the writing, editing and production work associated with four major Tribunal reports, three of which are due for release in the next financial year. The major production project completed during the year was the Wai 38: Te Roroa report.

Hearings and conferences were held on:

WAI 27 Ngai Tahu fisheries
WAI 30 Tainui (Waikato River Dam)
WAI 38 Te Roroa
WAI 45 Muriwhenua
WAI 48 Whanganui ki Maniapoto
WAI 86 Waikareao Estuary
WAI 102 Te Tau Ihu o Te Waka
WAI 116 Taemaro
WAI 119 Mohaka
WAI 143 Taranaki
WAI 145 Wellington Tents
WAI 153 Geothermal
WAI 200 Haui
WAI 235 Crown Forest Assets
WAI 261 Auckland Hospital Endowment land – Dommett Avenue
WAI 264 Railway Lands
WAI 276 Sylvia Park land.
Public Information
The work of the Tribunal continues to attract a high public profile. This is reflected in the number of media contacts throughout the year - 39% were from radio, 44% print and 17% television. Public inquiries on a wide range of topics totalled 222. Tribunal members and staff completed about 52 speaking engagements during the year.

The Tribunal re-issued its information booklet during the year in response to a continuing demand and a reprint may already be required. The other major publication for 1991, Claims to the Waitangi Tribunal written by WH Oliver, has been selling steadily. The resource kits for schools have become increasingly popular and the circulation of our bi-monthly newsletter Te Manutukutuku has increased.

New Claims Registered

WAI 288
Claimants: T Rangitakatu for Te Runanga o Ngati Kahu
Concerning: Kaingaroa forest
Region: Murupara
Received: 25 May 1992

WAI 289
Claimants: Sam Moeke for Ngati Porou
Concerning: Hauraki and Coromandel goldfields agreement
Received: 25 May 1992

WAI 290
Claimants: Harry Martin and Lucy Reuben for the Ngati Mahana people of Whakaaratamaiti
Concerning: Compulsory acquisition of Whakaaratamaiti block during the First World War.
Region: Putaruru
Received: 12 May 1992

WAI 291
Claimants: Marie Oldridge, Kimiora Tito and Druis Bennett as descendants of Te Tirarau of the hapu of Parawhau and Uriroroi
Concerning: Allotment E 57 Maungakaramea parish
Region: Whangarei
Received: 24 April 1992

WAI 292
Claimants: Hoana Karekare and Mei Matiu for the Awarua Karena Wiki whanau
Concerning: Te Kao lands and waterways
Region: Northland
Received: 11 May 1992

WAI 293
Claimants: Bonita Morehu for the Haira whanau
Concerning: Horohoro State Forest
Region: Rotorua
Received: 23 April 1992

WAI 294
Claimants: Harry Pomare for Te Uri o Hau
Concerning: Pouo lands
Region: Dargaville, Northland
Received: 19 June 1992

Legal Aid for Claimants

The introduction of the Legal Services Act 1992 means that claimants can no longer seek legal aid from the Tribunal. Claimants must now request legal aid from:

Wellington District Sub-Committee,
Legal Services Board, High Court,
PO Box 1091, Wellington
Attention: Mr N Uesi, Deputy Registrar

The Waitangi Tribunal Division still has a responsibility to provide legal advice and to ensure that claimants are assisted in presenting their claims.

New Zealand Document Exchange
The Waitangi Tribunal has joined New Zealand Document Exchange Ltd. Our number is DX 8101.
Forward Programme for 1992-93
(as at 1 July 1992)

In hearing
- WAI 143: Taranaki raupatu
  Research and hearings continuing. Two further hearings
  before end of 1992 (September to mid-November).
- WAI 45: Muriwhenua land claims
  Research and hearings continuing. At least one further
- WAI 38: Te Roroa
  Reported. Further short hearing on remedies to be sched-
- WAI 145: Wellington Tenths
  Request for urgent resumption of hearing to hand. Tri-
  bunal decision awaited.

Ready to go to hearing
- WAI 55: Te Whanganui a Orutu
  Research completed. Hearing (one-week hearing) to be scheduled

Report writing
- WAI 119: Mohaka
- WAI 27: Ngai Tahu ancillary claims
- WAI 32: Pouakani

In preparation but requiring hearing/conference
- Bay of Plenty Raupatu claims
  Tribunal research completed. Claimant research continu-
  ing. Claimant liaison needed prior to judicial conferences
  and possible programming for initial hearings first half
  1993.
- WAI 102: Te Tau ihu o te waka a Maui claims
  Claimant research continuing. Claimant liaison needed
  prior to judicial conference and possible programming for
  initial hearing in first half 1993.
- WAI 64: Chatham Islands claims
  Research continuing. Judicial conference needed to ascer-
  tain further research requirements. Possibility of going to
  hearing second quarter 1993.
- WAI 153: Geothermal claims
  Judicial conference needed to discuss possibility of a
  hearing on one or two of these claims. Possible hearing
  first half 1993. Claimant research continuing.
- WAI 201: Wairoa ki Wairarapa claims
  To judicial conference to ascertain further research
  requirements – first half 1993.

Mediations
- WAI 116: Taemaro
  One further mediation meeting second half 1992. (Possibility of being joined to Wai 45
  Muriwhenua for full Tribunal hearing.)

STAFF NEWS
The Waitangi Tribunal welcomes Hemi Pou of Nga Puni, who has been
appointed to the position of claims administrator.
Hemi came to the Waitangi Tribunal in March
on secondment from the Tribunals Division. His
current responsibilities in-
clude the Muriwhenua, Mohaka and Ngai Tahu claims.

Students Murray Hemi of Ngati Kahungunu ki Wairarapa and Kiritahi Takiari of Te Atihaunui-a-Paparangi and Tainui join the Tribunal’s staff during
University holidays. Kiritahi is studying law and Maori
at Victoria University; Murray is completing an MSc in
resource management at Lincoln College. He has a BA
Maori from Canterbury.

- WAI 95: Stephens Island
  One further mediation meeting second half 1992. (Likely to be sent to full Tri-
  bunal hearing.)
- WAI 51: Waitomo
  Further meeting required to final-
- WAI 86: Waikareao Estuary
  Further meeting(s) re-
  quired to resolve representation dispute and finalise agree-
- WAI 200: Hauai
  Further meeting(s) required to try and resolve current impasse. Second half 1992.

On-going research
- WAI 48: Rohe Potae claims (Whanganui ki Maniapoto)
  Te Niho o te ika claims (Whanganui ki Porirua)
  Over 60 claims are being dealt with by small claims
  research unit. Hearings or other related activities may be
  needed depending on the content of the exploratory
  reports.

If you want to receive your own copy of Te Manutukutuku, please fill in this form.
Your name will be added to the mailing list.

Name ____________________________

Return this form to the Information Manager,
Waitangi Tribunal, PO Box 5022, DX 8101
Wellington / Te Whanganui-a-Tara

Please advise the Waitangi Tribunal Division of any changes of address.