Land bought back by Government

The Government has bought back land in Thorndon to use as part of the settlement for the Wellington Tenths Trust Claim (Wai 145). The announcement was made to the Waitangi Tribunal on 20 March during a hearing into the claim (Wai 571), which had been severed from the main claim.

Claimants had applied for the return of the Pipitea Street property adjoining the site of Pipitea Marae in Thorndon. The Treaty of Waitangi (State Enterprises) Act 1988 gave the Tribunal the power to make a binding recommendation for the return of this property as it was Crown land transferred to a state-owned enterprise under the State Owned Enterprises Act 1986.

A developer, who recently acquired the property from Government Property Services, was issued a resource consent by the Wellington City Council to erect a substantial three-storey building comprising eight townhouses which would have overlooked the marae area and been less than one metre from the marae boundary. In a memorandum dated 29 February the Tribunal had considered that ‘irreparable damage’ would have been done to the Pipitea Marae had the proposed building proceeded.

At a hearing in February the counsel for claimants, Mr P D Green, had outlined the broad historical basis for the Wellington Tenths claim, which dates back to the New Zealand Company’s dealings in Wellington last century, as well as outlining the site’s recent history under the management of Government Property Services. The Tribunal also received affidavits from

Professor Ngatata Love, Chairman of the Wellington Tenths Trust, Mr Morris Love, a member of the Trust’s Board of Trustees, and Mr William Cooper, Chairman of the Ngāti Poneke Marae Association.

According to the claimants, the property under dispute, known as ‘section 1’, forms part of the original Pipitea Pa site, which includes traditional areas of cultivation and urupa/wahi tapu. This whole area, including section 1, is classified as being of ‘outstanding significance’ in the Wellington City Council’s heritage list of Māori sites. The claimants maintained that people living in the proposed development would have had an invasive view onto the marae, which hosts many tangihanga, as well as being a venue used by government for hosting dignitaries. Professor Love considered the proposed development to be an ‘unbelievable affront to Māoritanga.’

Counsel for the Crown objected to urgency being granted. They submitted that claimants had not pursued other options, and that the dispute should more properly have been dealt with under the Resource

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I was born on a farm near Taneatua in the Bay of Plenty, a farm which had part of Te Hurepo swamp on it, the recognised boundary between Tūhoe and Ngāti Awa. In my early years on that farm I learned from two very wise Kaumātua, Tom Hunt, who was Buddy Mikaere's grandfather, and Dr Golan Maaka, uncle of Roger Maaka, a member of the Waitangi Tribunal. Tom worked on my father's farm, and Dr Maaka helped me through my various illnesses as a kid. Those two gentlemen taught me a tremendous amount about tikanga Māori even before I went to school.

I have been with the Waitangi Tribunal for two years as the Project Manager, ensuring that the necessary research is commissioned and that those responsible for preparing the research reports do so on time and within budget. In that capacity, I had the opportunity to work closely with, and learn from Buddy, and so, when he decided to resign, I was well placed to step into his position to ensure that the work continued to be done until a new Director could be appointed. I can reveal I have an application in for the position.

Kāore taku reo Māori i te tino matatua – my Māori language is not very fluent but that is not due to the quality of my tutors. Thirty years ago I was taught at night classes by none other than Dr Timoti Karetu at Wai-kato University, but te reo Māori is a living language, and if you don’t use it you tend to lose it. Until now I have had little opportunity to regularly use te reo Māori and so I am again taking lessons.

The Chairperson of the Waitangi Tribunal, Chief Judge Durie, has indicated that there is a need to get more research done in order to better prepare the cases for a number of claims in hearing. We are fortunate that at present most Tribunal activity is centred on the completion of a number of Tribunal reports. As a consequence there will probably be fewer hearings this year and we will be able to commission more research. This is vital if we are going to make any progress in preparing as many claimants as possible for hearings which are likely to commence later this year.

As we accelerate the research work the Tribunal is able to extend its assistance to an ever-widening group of claimants, so that the time elapsing between the lodging of a claim and the commissioning of research can in most cases be substantially reduced. Furthermore, due largely to the efforts of our Chairperson and our former Director, Government saw fit to allocate a further $500,000 to the Waitangi Tribunal. While to some this did not seem to be very generous, I know that the Tribunal can achieve a considerable amount of work from this increase in financial support.

Na Ian Shearer

continued from page 1

Management Act 1991, in forums other than the Waitangi Tribunal.

The counsel for the Crown had issued a memorandum on 1 March arguing that 'it is not possible to conclude that there is a "well-founded" claim in terms of the Treaty of Waitangi Act 1975 in relation to the original alienation of section 1 without predetermination of crucial aspects of the Waitangi Tribunal’s wider inquiry into the Wellington claims.' However counsel for the Crown also stated that ‘as urgency has already been accorded, the Crown will not oppose the claimants’ application for severance.’

The next hearing on the Wellington Tenths Trust Claim will be in mid-1996.
The staff of the Waitangi Tribunal invite submissions for the inaugural edition of a new interdisciplinary journal. To be published annually, the journal will provide a forum for researchers from a range of backgrounds to participate in debates on Treaty issues and cultural studies of New Zealand and international significance. The first issue will be available in the third quarter of 1996 and should be sent to:

The Research Journal
The Editor/Kaiwhakatikakupu
Waitangi Tribunal
P O Box 5022
Wellington

Any expressions of interest or enquiries can be made to the Editor, telephone: (04) 499 3666.
Ngāti Awa seek return of Mataatua from Otago Museum

The wanderings of Mataatua meeting house may soon be over, with the whare tupuna back amongst the Ngāti Awa people who built the house over 120 years ago. Negotiations between Ngāti Awa, the Crown and Otago Museum are taking place and may pre-empt the release of the Waitangi Tribunal report on the Ngāti Awa claim (Wai 46).

Built by local carvers between 1872 and 1874, Mataatua was opened in March 1875, several years after Crown militancy had resulted in massive land confiscations of Ngāti Awa territory. The building of the whare runanga symbolised that the mana of Ngāti Awa remained intact despite the Crown's actions. It stood halfway between Whakatane and Taneatua, and was in use as a traditional wharenui until 1879.

However the wanderings of Mataatua soon began. In 1879 the government obtained possession of the house through an unclear arrangement with Ngāti Awa. The house was dismantled and transported to Sydney for the Sydney Empire Exhibition. Some Ngāti Awa people had agreed to this but not to the subsequent excursion of the whare tupuna to Melbourne, and then to London. There it spent forty years in the cellar of the Kensington Museum before being transported to Dunedin for the 1925 South Seas Exhibition.

By the time it returned to New Zealand much of the artwork had been altered, and ownership was assumed by the government. However the ancestor did not return to its true home, instead it was housed in the Otago Museum, where it stands to this day.

Ngāti Awa have never relinquished ownership of the whare runanga, which is the oldest Ngāti Awa house still standing. The museum directors maintain that it should stay in Dunedin and have indicated that compensation would be required if Mataatua was to be returned to Ngāti Awa. This could lead to legal action over the ownership of the ancestor if negotiations break down.

The Tribunal has indicated that it will comment on the historical circumstances surrounding Mataatua in the interim report rather than make any findings on ownership of the whare tupuna.

13th Chatham Islands hearing

The 13th hearing for the Chatham Islands Claim was held at the Wellington District Court during 5-9 February. The Chatham Islands Claim (Wai 64) is a consolidation of claims involving claimants of Moriori and Māori descent.

The claim brought by Moriori is essentially 'for [the] recognition of a people and for the protection guaranteed to them by the Crown under the Treaty of Waitangi.' The claimants allege the grievances suffered by Moriori derive from two breaches of the Treaty by the Crown. The first breach was the failure to free Moriori from slavery until 1863. The second breach was through application of the '1840 Rule' by the Māori Land Court in 1870, under which Moriori occupation of the Chathams prior to 1840 was not recognised, and the subsequent refusal of the Crown to reconsider the land ownership issue, despite requests by Moriori.

The claim brought by the descendants of Ngāti Mutunga concerns the policy of the Crown to individualise iwi or hapū rights through the workings of the Māori Land Court; the ongoing effects of the land court system, which has hindered iwi economic and social development in the Chatham Islands; and the Crown's general administration of the Chatham Islands. One of the Ngāti Mutunga claims also concerns issues of self-government and self-determination.

Both the Moriori and the Ngāti Mutunga claims include conservation issues. Ngāti Mutunga are specifically seeking ownership and kaitiakitanga of Te Whaanga Lagoon.

The 13th hearing provided an opportunity for Ngāti Mutunga o Wharekauri counsel Kathy Ertel to cross-examine and respond to Crown evidence submitted by Fergus Sinclair at the 11th Chatham Islands hearing, regarding aspects of the workings of the Native Land Court and the application of the '10 Owner Rule' on the Chatham Islands. The hearing concluded with the closing submissions made by Ngāti Mutunga o Wharekauri.
Waitangi Day impressions

After the scenes of tension in Waitangi last year, the Government decided to move the official Waitangi day commemorations to the capital, with entry to the garden party at Government House restricted to invitation only. This was the first time since 1940 that the government had not been present at Waitangi.

Just as there are two texts of the Treaty there were two separate ceremonies commemorating the signing. The Waitangi Tribunal was represented at both locations. A delegation of three Tribunal staff, Roimata Minihinick (Ngāti Te Ata), Rowan Tautari (Ngāti Hine, Ngāti Wai and Nga Puhi) and Ralph Johnston (a researcher on the Taitokerau claims), travelled north to ensure that the Tribunal actively maintained its formal presence at Waitangi.

The day was characterised by positive discussion and debate on the Treaty from a range of participants at Te Tiriti o Waitangi Marae. It was planned that the day would begin with karakia in the wharenui at the national marae but these were held outside after police refused to unlock the wharenui. It was later reported in the media that Ngā Kaumātua o Nga Puhi Nui Tonu had attempted an occupation of the national marae. If that had been the case, it would have been the first occupation the Tribunal had helped to front!

It was unfortunate that the media portrayal of the day’s events at Waitangi focused exclusively on the sensational, without giving more insight into the motivations and discussions at Waitangi. In our opinion, the valuable merits of the day were obscured by coverage of the police blockade of Waitangi bridge and the eventual cancellation of the late afternoon commemorations at the national marae. Equally disappointing were comments from the Government that they would consider refraining from future commemorations at Waitangi.

An open and frank dialogue remains the key to a better understanding of Treaty issues.

Ralph Johnston

Tribunal seen as model internationally

Last year was a busy year at the Waitangi Tribunal for international visitors interested in its work on resolution of Māori land grievances. Most of the visitors were working in the area of indigenous rights to land and resources, and found many similarities between New Zealand’s experience and that of their own country.

- Early last year officials from the Northwest Territories Executive Council in Canada visited the Tribunal.
- In August the Joint Committee on Native Title from the Federal Parliament of Australia visited the Tribunal in conjunction with He Taonga te Reo, Māori language year. They were interested in indigenous land rights and the role of te reo Māori in the public service.
- Two Australian officials from Northern Territory visited in September: the Hon Stephen Hatton, Attorney-General and the state’s Minister for Constitutional Development, who was especially interested in land tenure issues and John Bailey, a member of the legislative assembly.
- Also visiting in September was Mr Alipate Qetaki from the Fijian Solicitor-General’s Office. This was part of a trip to study the administrative and judicial institutions which deal with Māori land, in preparation for a review of Fiji’s system for dealing with Native land title and disputes. Mr Qetaki intended to use the Waitangi Tribunal as a model for a Great Council of Chiefs that was to be held at the end of last year.
- Mr Kenichi Ikemoto, from the Graduate School for Area and Cultural Studies at Tokyo University, visited the Tribunal in November as part of his work on a Masters thesis on the Treaty of Waitangi. He was interested in questions relating to the role and limitations of the Waitangi Tribunal.

It is clear from this interest from overseas governments and individuals that the Tribunal is seen as an international model for people who are working in the field of indigenous land and resource grievances. With the Tribunal now on the Internet with a homepage on the WorldWide Web it is expected that international interest will increase even more in the future.
New senior Tribunal positions

Acting Research Manager and Senior Research Officers

The position of Research Manager has been revived after two years, during which time the duties were shared by the Director, Project Manager and consultant historians. The Research Manager is responsible for the quality of all historical research carried out by Waitangi Tribunal staff and external commissions. The Research Manager is also a member of the Rangahaua Whānui Advisory Group which controls, monitors, and assesses historical work for the Rangahaua Whānui project. A permanent appointment for the position will be made in October 1996.

Dr Grant Phillipson has been filling the position of Research Manager in an acting capacity since last October. Dr Phillipson spent 1992 as a Research Fellow at the MacMillan Brown Centre for Pacific Studies at Canterbury University. Previous to joining the Tribunal staff he worked as an historical researcher for the Crown Congress Joint Working Party, before taking up a position as an historical researcher with the Waitangi Tribunal.

The acting Research Manager will be assisted in his role by the internal promotion of three staff members to the position of senior research officers. The three staff members are Dr Giselle Byrnes, Dean Cowie and Dr Barry Rigby. Dr Byrnes will assume responsibility for new Tribunal research staff and will work with the Tribunal members who are writing the Muriwhenua report; Dean Cowie will also assume responsibility for new Tribunal research staff and will join several groups which oversee research; and Dr Rigby will assume management of external (non-Rangahaua Whānui) research.

Acting Registrar and Office Solicitor

In mid-October last year Geoff Melvin (BA, LLB(Hons)) moved from his role as the Tribunal’s legal researcher to become Acting Registrar and Office Solicitor. The Acting Registrar and Office Solicitor positions will be advertised and filled once a permanent Director is appointed.

As the Acting Registrar, Geoff is responsible for maintaining the Tribunal’s register of claims, the claims files and the records of inquiry for all claims, and for overseeing the Tribunal’s hearing programme. As the Acting Office Solicitor, he deals with legal matters that arise in the course of the Tribunal’s work.

Before joining the Tribunal staff in 1994, Geoff Melvin worked in the Privacy Commissioner’s Office and as a policy analyst on a legal/historical project in the former Treaty of Waitangi Policy Unit.

Māori Committee active at Waitangi Tribunal

Staff of the Waitangi Tribunal have formed a Māori Committee which sends two representatives to management meetings to adequately represent Māori in Tribunal management. Te Tangi a Te Riroriro, formed in late-1995, has defined the following objectives in a series of hui:

- achieve full and equal representation and participation in decisions being made by management of the Waitangi Tribunal;
- develop effective communication with the Tribunal;
- establish policy for the Tribunal about cultural perspectives;
- provide whanaungatanga through an open forum available to Māori staff members; and
- further develop the aims, aspirations and employment opportunities of Māori staff members within the Tribunal.

Te Tangi a Te Riroriro is an essential part of the management team,’ says Acting Director Dr Ian Shearer. ‘In carrying out the work of the Waitangi Tribunal it is vital that all staff fully endorse the principles of partnership and mutual understanding this committee will encourage.’

Te Tangi a Te Riroriro started 1996 with a hui to discuss issues such as tikanga and kawa to be used within the workplace and when visiting marae. The group will also be involved with other matters such as organising waiata for staff and participation in education resource kits and research journals.
Tribunal employs student workers

Over the university summer holidays the Waitangi Tribunal employed three students from Victoria University as full-time staff. Mark Larsen, Tama Potaka and Johanne Benseman were employed to work on specific projects and to aid permanent staff with ongoing responsibilities.

Mark Larsen is a fourth year law student and began working part-time at the Tribunal in 1994. He assists the Acting Director, the Research Manager and the Information Manager in performing their roles. Mark also updated the Waitangi Tribunal Library database and the Summary Register of Claims and researched and wrote a paper on tino rangatiratanga for Chief Judge Durie. Mark is originally from Tauranga and his recreational interests are rugby, touch rugby and cricket.

Tama Potaka is a third year student of law, politics and Māori. Tama's job was to assist in teaching te reo classes to the Tribunal staff. Tama worked on two specific projects: writing the text for an educational kit on the Treaty of Waitangi and researching and writing a paper on Treaty principles for Tribunal member Professor Orr. Tama is from Rata in the Rangitikei and is interested in rugby, touch rugby and Māori culture and education.

Johanne Benseman is a third year law and history student and is originally from Wanganui. Johanne assisted the Communications Manager and the Information Manager in their work, dealing with information requests from the public and writing articles for Te Manutukutuku and other publications. Johanne worked on several specific projects, including the rewriting of the Tribunal Handbook, compiling information packages for presentations, assisting in the stocktake of the library holdings and working with Tama on the writing and compilation of a resource kit on the Treaty of Waitangi. Her interests are in debating, drama, tramping and learning te reo and tikanga Māori.

Nita Zodgekar has joined the Tribunal as a contract researcher after completing her BA (Hons) in Social Policy in 1995. Nita is working on the Public Works project, the aim of which is to construct a database of Māori land taken for public works. It is anticipated that this database will be especially useful for Tribunal and claimant researchers. The first part of the project is to survey the New Zealand Gazette. The second part involves surveying other sources of information available from DOSLI, National Archives, Land Titles Office and the Māori Land Court. Following the gathering of this information, a pilot study will be conducted in one region. Nita enjoys travelling, reading on contemporary social issues and New Zealand literature, swimming and learning te reo and tikanga Māori.

### NEW CLAIMS REGISTERED

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