

TE MANUTUKUTUKU

*Te Roopu Whakamana i te
Tiriti o Waitangi
Te Tari Ture*



*Waitangi Tribunal Division
Department of Justice
Newsletter*

Tuatoru Mache 1990

Number 3 March 1990

DIRECTOR'S COLUMN

I am very pleased to have taken up the position of Director of the Waitangi Tribunal Division as from Monday 15 January 1990, replacing Wira Gardiner who, as many of you will know, has moved on to the position of Chief Executive with the Iwi Transition Agency.

I come to the Tribunal Division with a recent work history in the private sector where I have been active in human resource management for the last seven years. I believe that that experience will serve me well in my work with the Tribunal. After all, human resource management involves dealing with people and in my very short time with the Tribunal, I have already found that one of the pleasing elements to the job is the amount of people involvement.

While this year is a significant one because it marks the 150th anniversary of the signing of the Treaty of Waitangi, it also marks the Tribunal's 15th birthday. The Tribunal came into being as a result of the Treaty of Waitangi Act in 1975. Many Maori people consider that the enactment of that legislation was a belated recognition of the need to address their grievances in a positive way.

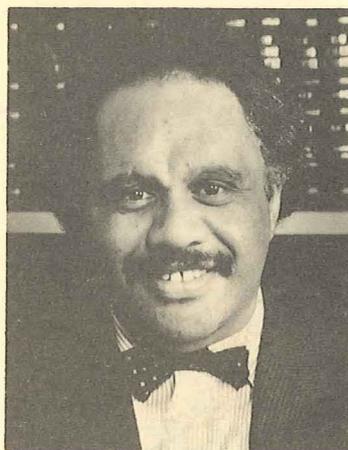
Now, after a decade and a half of existence, the Tribunal can look back with some satisfaction on its achievements.

I see 1990 as being a particularly challenging year. It will be a year where the Treaty and Treaty issues will be brought into sharp focus. Because of that focus we in the Division want to ensure that the integrity which marks Tribunal deliberations is maintained. We intend to do that by continuing to provide professional administration and assistance to the Tribunal and, just as importantly, claimants.

It is my firm intention that in 1990 the Waitangi Tribunal Division take a more active role in supporting the work of the Tribunal proper by facilitating the settlement of claims through alternative means. This could mean, for example, advising claimants on the use of mediation as one way of settling a claim.

In closing, can I take the opportunity to congratulate Tribunal member Sir Monita Delamere on his knighthood. We believe that the honour is a well-deserved one and I am sure that in offering our best wishes to Sir Monita we echo the sentiments of many people throughout the country.

Buddy Mikaere
Director
Waitangi Tribunal Division



Buddy Mikaere

THE CLAIMS REGISTER

As of March 1990, 114 claims have been registered. Over 38 percent of these claims are being prepared for programming, 25 percent are either before the Tribunal or have been reported to the Minister; the balance of 37 percent are awaiting assessment by the Tribunal staff.

Progress on specific claims

Ngai Tahu (Wai 27)

- Hearings completed. Reports being prepared.

Pouakani (Wai 33)

- Hearings completed. Reports being prepared.

Muriwhenua Land (Wai 45)

- The Tribunal's preliminary commissioned research report is completed and has been distributed to parties. Hearings will proceed when parties have notified the Tribunal of their readiness.

Waitomo (Wai 51)

- Currently in mediation.

Maunganui/Waipoua/Waimamaku (Wai 38)

- Hearing held at Whakamaharatanga Marae 26 February-3 March 1990. Claimants presented evidence on alleged grievances related to wahi tapu (sacred sites) and tiki (burial chests) at Waimamaku.

- The next hearing will be held on 23-27 April 1990. The date of 23 April is set aside for interested parties. The Crown will then respond to the Maunganui aspects of the claim and begin its response to the Waipoua aspects.

continued

Maoro (Wai 31)

- Two separate groups have lodged claims concerning this land in South Auckland.
- The Tribunal will shortly hold a brief hearing to determine whether it should refer to the Maori Appellate Court the question of who has the strongest claim to the land.

Te Ngae (Wai 32)

- (See opposite page for full report.)

Kakanui Sewage (Wai 34) and Rangataua/Welch Bay (Wai 3)

- Withdrawn from register as a result of co-operation of local bodies with claimants.

Claimants' Meeting at Hawke's Bay

Tribunal Member Sir Monita Delamere and Tribunal staff will be visiting Napier on Friday 23 March and Saturday 24 March 1990 to discuss claims in the area.

A general meeting will be held on Friday night and meetings with each of the claimant groups will be arranged for Saturday.

Each claimant group, together with the Runanga o Ngati Kahungunu and associated Taiwhenua groups, and the Takitimu District Council have been invited.

The programme for Friday will be:

- The Tribunal hearing process.
- Research needs for claims generally. Common historical background to these claims, i.e. the Crown purchases in the 1850s and 1860s.
- The different options for settling claims: hearings, negotiation, mediation.
- Presentation of mapping materials provided by the Maori Land Information Office and an explanation of their purpose in research.

Department of Survey and Land Information and Maori Land Information staff will be present.

The claims involved are:

Whanganui o Orotu

Claimants are Te Otane Reti and others, and the claim concerns the Napier Inner Harbour area raised by the 1931 earthquake.

Rangaika Reserve

The claimant is Eru Smith and the area concerned was reserved from the sale of the Cape Kidnappers block.

Mangateretere Block

The claimant is Myrtle Rangiihu. This block is near Whakatu.

Ngati Pahauwera Mohaka River

This claim concerns a national water conservation order proposed for the river. The claimants have advised that they wish to raise issues about the Mohaka block.

Tataraakina Inc Tarawera Confiscation

This claim asks for the return of 2000 acres taken from 'rebels' in the 1860s.

The Raupatu Document Bank

Waitangi Tribunal staff are nearing completion of the Raupatu Document Bank which will consist of approximately 140 volumes (around 250 pages per volume) of published and unpublished material from government files, including many significant letters between Maori and Government, concerning land confiscations in Taranaki, Waikato, Tauranga-Moana, Opotiki, Whakatane and Tairāwhiti.

The document bank is not only valuable for research related to pre-hearing, but also because it gathers together and makes accessible tribally-related documents of interest to many Maori and Pakeha people throughout Aotearoa.

Access to the document bank will save unnecessary repetition of research and will reduce the demand on existing research facilities such as the National Archive. It will also help prevent the deterioration of the original documents, some of which have been consistently thumbed through in the last few years. Sixteen copies of the document bank are being produced.

At present the document bank is available to claimants at the National Archive, Turnbull Library, Victoria University of Wellington, Maori Land Information Office (Head Office, Department of Justice, Wellington), the Waitangi Tribunal office, Waikato University, University of Auckland, Auckland Public Library, Massey University and Canterbury University.

Copies are also held by the Taranaki Trust Board, the Taranaki Research Group Palmerston North, the Crown Law Office, the Treaty of Waitangi Policy Unit, Department of Justice and the Maori Research Centre, Waikato University.

If enough interest is expressed by others in purchasing the document bank, further sets may be made available. However, some details are yet to be finalised.

Please contact David Young at the office of the Waitangi Tribunal to register your interest.

Maori Land Court Appointment

The Division was very pleased to learn of the appointment of Mr Kemara (Kem) Tukukino to the position of Assistant Secretary/Chief Registrar of the Maori Land Court. Kem's appointment is effective from Monday 5 March 1990. Because of his experience in Maori Land Court matters and the close working relationship between that organisation and the Tribunal, Kem's appointment is most welcome. We offer him our sincere congratulations.

NGA PAIAKA

An old city council shed on the corner of Chaffers and Herd Streets in Wellington has been transformed into Nga Paiaka, a marae complex which will be celebrating Maoridom for five weeks until the beginning of April and possibly longer.

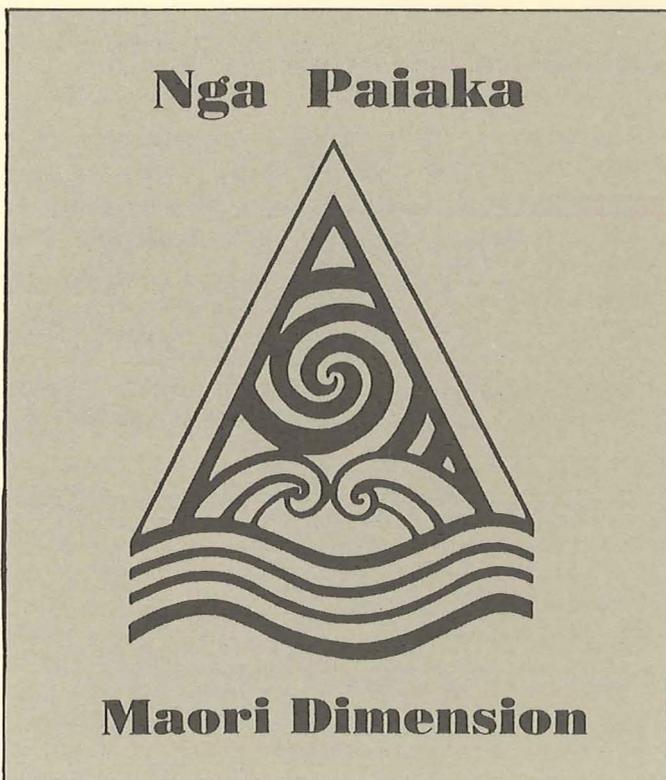
Nga Paiaka is offering a combination of artistic expression, entertainment and food; as well as being a centre for learning about various agencies (governmental and other). The Department of Justice has created a display which explains the work of the Waitangi Tribunal, the Maori Land Court and the Maori Land Information Office. The Tribunal's wall display features facsimiles of the Treaty of Waitangi, an explanation of the meaning of the Treaty, a description of the Tribunal's process and a case study: The Orakei (Bastion Point) claim.

Give-away booklets have been produced to compliment the wall display: These are titled *The Treaty of Waitangi and the Waitangi Tribunal, A Guide to Making a Claim to the Waitangi Tribunal* and *Orakei (Bastion Point) - A Case Study of a Claim to the Waitangi Tribunal*. The booklets can also be requested from the Tribunal's office.

Tribunal staff attending the display at Nga Paiaka are finding that along with answering questions and providing information to the public, they are also learning from knowledgeable visitors - information exchange on the Treaty and the work of the Tribunal is, it seems, a two-way process.

Wellington's Sesqui carnival was originally to have had a Maori component within it. But as a result of differences between the Sesqui production team and the Maori organisers involved in the project, it was decided that the Maori dimension should have an independent role. With separate funding from the Wellington City Council and the 1990 Commission, Nga Paiaka was established and is now aligned to the International Festival of the Arts.

Nga Paiaka is open daily from 10.00 am to 10.00 pm Sunday to Thursday and 10.00 am to 12.00 pm Friday to Saturday; not to be missed if you can make it.



TE NGAE CLAIM (WAI 32)



Sir Monita Delamere, Professor Keith Sorrenson and Judge Hingston at the Te Ngae Hearing, Rotorua, December 1989.



Paora Maxwell (Commissioned Researcher), Hine Henry (Committee Clerk), Shonagh Kenderdine (Crown Counsel), Te Aho Welsh (Claimant), Professor Keith Sorrenson (Tribunal Member).

The Te Ngae claim filed April 1987 has been brought by members of the Ngati Rangiteaorere Tribe of Rotorua whose tupuna transferred the land in question to the Church Missionary Society after the church had established a mission in the area in 1836.

The Crown subsequently granted the Society title to that land in trust upon terms that did not provide for the return of the land to Ngati Rangiteaorere. When the mission station ceased to exist, the church leased the land and used the rents in fulfilment of the trust.

The claimants ask that the Crown transfer the title to the land from the church to a Ngati Rangiteaorere Trust Board.

An addition to the original claim was filed on April 1989 concerning a block called Whakapoungakau 4C which contains Lake Rotokawau within it. The claimants say that a Maori Land Court decision in 1924 indicated that the lake and slopes surrounding it should be reserved for them and that this has not been properly done. Surveys have nibbled away parts of the land for farming and access has been severely restricted.

The claim began hearing on 4-7 December 1989 at both the Mataikotare Marae and at the Maori Land Court, Hapapa Street, Rotorua. The Tribunal heard evidence from two researchers commissioned to investigate the claim. Paora Maxwell presented a report on the church property and Bill Patrick gave evidence based on an investigation of Maori Land Court records.

Since the hearing, further discussions have been held between claimants and Crown; claimants and church; and negotiations between Kiwi Ranch (owners of land adjoining Lake Rotokawau) and the tribe, which may lead to further clarification of the issues under consideration by the Tribunal.

A further hearing will be scheduled in the near future.

Te Ngae is being heard by Judge Hingston, Sir Monita Delamere and Professor Keith Sorrenson.

LEGISLATIVE COMMENT

FORESTRY CLAIMS

Parliament has passed the Crown Forests Assets Act 1989. This Act allows the Crown to sell its forest assets while protecting claims by Maori to the Waitangi Tribunal.

The Act provides that the Crown may sell Crown forestry licences. These licences, however, convey no interest in the land itself on which the timber grows. Cutting rights only are given, and these are for a set period.

The Act also provides that, if a forestry claim before the Waitangi Tribunal is successful, the Tribunal may recommend the return of the land on which the forest grows, to Maori. The Crown is obliged to implement this recommendation and must notify the licence holder to give them a period of grace to harvest the trees and then to vacate the land. Then the Crown returns the land to the claimants.

The legislation guarantees that licences will contain a number of protective covenants. These are to protect conservation values and wahi tapu sites. As with the legislation concerning State-Owned Enterprise lands and claims before the Waitangi Tribunal, the owners of Crown forestry licences (or Ministers of the Crown) may apply to the Waitangi Tribunal to have the land title cleared of the memorial provision.

TAIAPURE - LOCAL FISHERIES (Maori Fisheries Act 1989)

As part of a settlement that the Government has reached with Maori tribes concerning fisheries, Parliament has passed the Maori Fisheries Act 1989. The main purpose of the Act is to set up a Maori Fisheries Commission that will administer 10 percent of the national fishing quota that will be given back to Maori.

Part IIIA of this Act amends the Fisheries Act 1983 and provides for areas to be set aside for management having regard to Maori values.

Coastal areas that have customarily been of special significance to any iwi or hapu either as a source of food or for spiritual or cultural reasons may come under this special management regime. The purpose, according to the Act, is to make better provision for the recognition of rangatiratanga, and of fisheries rights secured to Maori, by Article 2 of the Treaty of Waitangi.

These fisheries under special management will be called taiapure - local fisheries.

The Act provides that any person may submit to the Director-General of Fisheries a proposal for the establishment of a taiapure - local fishery. This proposal is then considered by a special tribunal set up under the Maori Land Court.

After making its inquiry into the proposal, the special tribunal makes a recommendation to the Minister of Agriculture and Fisheries who may then approve the establishment of the fishery.

Taiapure - local fisheries will, it is hoped, allow special Maori values in coastal fisheries to be protected, and allow Maori groups and authorities to have a major say in the management of these areas, working in conjunction with the Ministry of Agriculture and Fisheries, that is, the Crown. These fisheries cannot, however, be set aside for exclusive Maori use.

This Act may have implications for a number of fisheries claims currently before the Waitangi Tribunal. Further information about the operation of this Act can be obtained from the Ministry of Agriculture and Fisheries.

RESOURCE MANAGEMENT BILL 1989

The Government has recently introduced a Bill which, when passed into law, will greatly change resource management law in New Zealand. The Bill contains a number of provisions which will have significant effects on Maori use of resources, the recognition of Maori values, and issues raised in claims before the Waitangi Tribunal.

An important provision in the Bill is clause 6 which states:

In achieving the purpose of this Act all persons who exercise functions and powers under this Act have a duty to consider the Treaty of Waitangi.

This provision will apply to the Crown and to the numerous local authorities who are required to make resource management decisions under the proposed Act.

The Bill deals with land use, town and country planning, the use of coastal areas, mining and geothermal rights, water conservation, and many other matters.

It is envisaged in the Bill that iwi authorities will have a large measure of influence in resource management in the future through iwi management plans.

The Bill states that it is intended to come into effect in July 1990. A useful summary of the Bill is available from the Ministry of Maori Affairs.

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Name _____ Address _____

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