

# TE MANUTUKUTUKU

TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

Paenga whāwhā/Haratua 1995

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## Ngai Tahu Claim Investigation Ends with Release of Report

### CONTENTS

Current Tribunal hearing programme

3

Goodwill behind resolution of claim

4

Important findings on the allocation of fishing quota

5

Proposed tourist route may exclude villagers

6

New claims registered

7

Concerns about the level of resources for the Tribunal

8

**A** recently released Waitangi Tribunal report brings to a conclusion the Tribunal investigation into the Ngai Tahu claim.

The Ngai Tahu Ancillary Claims Report 1995 confirms findings made in an earlier 1991 Tribunal report that the Crown had breached its Treaty obligations.

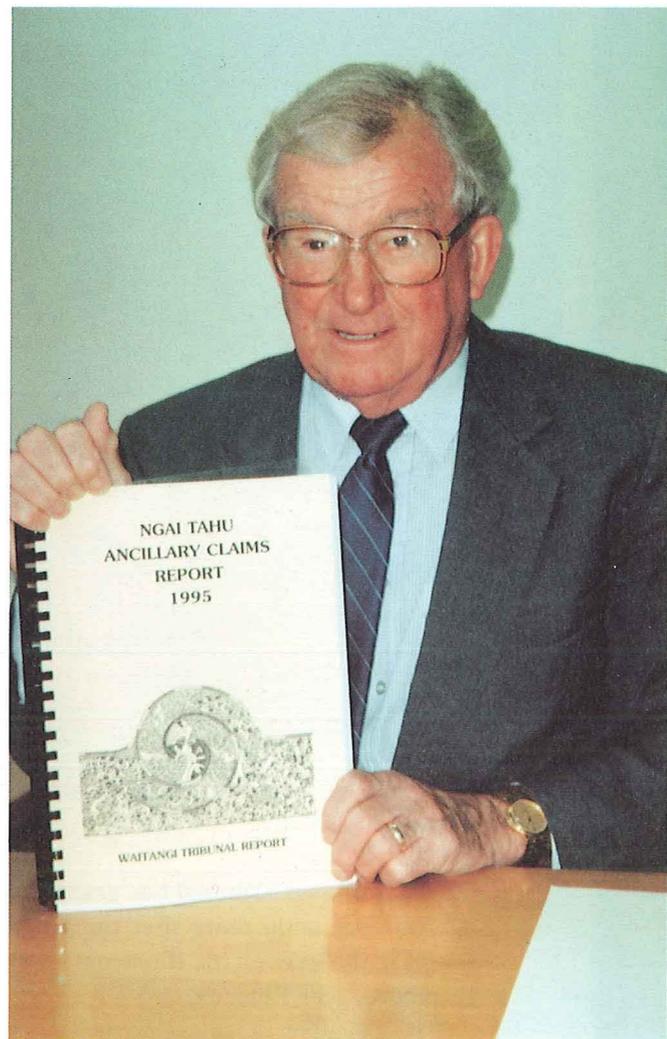
This had occurred during the period 1844–1864 by the Crown failing to set aside sufficient lands, from the 34.5 million acres originally held by Ngai Tahu, for the tribe's present and future needs.

The latest report shows how the 35,737 acres left in Ngai Tahu ownership by 1864 were further eroded by acquisitions for public works and by other statutory means.

In releasing the report, the presiding officer for the Ngai Tahu claim, Judge Ashley McHugh, said the "... South Island Landless Natives Act of 1906 set up to remedy the situation was but a cruel hoax which did little to relieve the grim reality of Ngai Tahu's landlessness".

The report investigates 100 ancillary claims on additional matters brought before the Tribunal during the hearing of the main claim in 1987–1990. Of these claims, 41 were found to breach Treaty principles, while 59 were not upheld, having been deferred or dismissed through a lack of sufficient information.

The report finds fault with the Public Works Act and recommends it be amended to give effect to the principles of the Treaty.



Judge McHugh with the newly-released Ngai Tahu Ancillary Claims Report.

The report also said that instead of the Crown obtaining freehold title to Maori land, it should acquire leases, licences or enter into a joint venture arrangement for land required for public purposes.

## From the Director ...

**T**ēnā koutou. April and May have been busy months for the Tribunal and the Division.

At the end of April the *Ngai Tahu Ancillary Claims Report* was released. It covers the 117 separate issues from outside the major land claims or the fisheries claim that were raised with the Tribunal during the course of the Ngai Tahu hearings. The report's release brings to an end the detailed investigation into this claim. Copies of the report are available from our publishers, Brookers.

The publishing programme for this year is a busy one. We expect to release the Wai 55 report on the Whanganui-a-Orutu or Napier Inner Harbour claim in early June. Other Tribunal reports timetabled for completion this year are Wai 84 Turangi, Wai 414 Waipareira, Wai 212 Ikawhenua, Wai 143 Wellington Tenth's and Wai 167 Whanganui River. And eight of the 15 Rangahaua Whanui districts will also be reported on by the end of the year, along with at least one of the national theme reports.

Some of the more interesting issues arising out of recent Waitangi Tribunal hearings are explored later in *Te Manutukutuku*. These include a new perspective on the effect on land of Public Works Act takings and an examination of the 'mana moana' model of fisheries quota allocation. The latter subject has caused great debate amongst iwi, and it has now come under the scrutiny of the Tribunal.

I am happy to welcome two new staff to the Division, Niwa Kereama-Short and Wayne Poulain. They have the responsibility of tutoring staff in te reo and tikanga Maori. Their task will be to ensure the Division meets its Cultural Perspectives Plan objectives, particularly important in 1995, Maori Language Year.

Kāti ake nei. Tēnā anō koutou katoa.

**Buddy Mikaere**

*Director Waitangi Tribunal*

## Urgent Funding Granted Amid Fears



An overview of Haparangi.

**T**he Waitangi Tribunal has granted urgent research funding amid fears that the Crown may sell its shares in the trees on the Haparangi A4 block of land at Horohoro, near Rotorua.

The claim concerns the Crown acquisition of land and the shares of individuals (without the agreement of all owners) while the land was under state development.

The claimants want the Tribunal to tell the New Zealand Forestry Corporation to hold off selling the shares until their case is heard as "there is no protective scheme for Maori in respect of those assets".

Issues concerning the management of the land are also raised by the claimants. These include:

- land taken by the Crown for survey and rating costs;
- the requirement that individual owners pay survey and rating costs for the Rotomahana-Parekarangi consolidation scheme (part of the Whakarewarewa State Forest);
- the requirement that individual owners forgo their interests in the Rotomahana-Parekarangi lands and instead accept shares in the Haparangi land;
- payments to the Crown for its shareholdings but not to Maori owners;
- and the failure to adequately account and report to the Maori owners.

The Haparangi A4 owners, led by Tutanekai Taua Haira and three others, also claim to have an interest in the Whakarewarewa State Forest.

DEPARTMENT OF  
**JUSTICE**  
NEW ZEALAND

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## Final Settlement for Ngati Rangiteaorere

**N**gati Rangiteaorere, a sub-tribe of Te Arawa, plans a major redevelopment of its marae using the money paid in compensation by the Crown as part of the final settlement of their Waitangi Tribunal claim.

About 300 acres, known as Te Ngae Mission Farm, have also been returned to the hapu by the Anglican Church, a third of which is now leased to the New Zealand Forestry Corporation.

One of the claimants, Hiko Hohepa, says the compensation will be used to build a much-needed whareniui and wharekai, with the Government supporting their application for development subsidies.

Members of Ngati Rangiteaorere wish to live by the marae once the housing sub-division is complete and the prospect of nearby forestry work is another incentive.

"We were happy just to get the land back – we weren't thinking of compensation, but look at what it's doing for us. It's one way of bringing our people back," says Hiko.

The claim, filed in 1987, concerned land gifted to missionaries the year before the Treaty of Waitangi was signed. The claimants maintained the land had not been sold, yet in 1854 the Church Mission Society received a crown grant giving it title under the terms of a trust. This did not allow for the land to be returned should the mis-



Claimant, Hiko Hohepa.

sion station close, nor did it acknowledge the hapu's right to continue to use the land.

The claim also included lands taken for roading, land taken for survey costs, the Tikitere geothermal resource and the rating of Lake Rotorua.

The final settlement – excluding tribal claims for the geothermal resource and Rotorua lakes now before the Tribunal – included:

- a payment of \$760,000 to Te Ngae Farm Trust on behalf of Ngati Rangiteaorere, as well as another \$50,000 towards negotiation costs;
- a rate free status for Lake Rotorua, with the Crown paying over \$12,000 in outstanding rates; and
- the return of Whakapoungakau block 7 and slivers of land surplus to highway requirements next to block 7.

### WAITANGI TRIBUNAL CURRENT HEARING PROGRAMME (as at 5 May 1995)

These dates are subject to change.

<b>25-26 May</b>	Wai 64 Chatham Islands, at Wellington	<b>19-23 Jun</b>	Wai 334 Otamarakau, Wai 275 Tahunaroa and Waitahanui, at Otamarakau
<b>29 May–2 Jun</b>	Wai 339 Hiwarau, Wai 386 Matahina and Wai 225 White Island, at Opotiki	<b>24-28 July</b>	Wai 449 Kiwifruit Marketing, at Auckland
<b>12-16 Jun</b>	Wai 143 Taranaki, at Taranaki	<b>21-25 Aug</b>	Wai 145 Wellington Tenth, at Wellington

## Claim Resolved Through Goodwill

**A** Waitangi Tribunal claim by the Otamatea Maori Trust Board on the Tuhirangi Block in Northland has been withdrawn as an act of reconciliation and goodwill.

This follows successful talks late last year between the Trust Board and the present-day landowners, Robert and Judith Larsen.

The Trust Board, who were representing the interests of Te Uri o Hau, had lodged a claim with the Tribunal after the Larsens put their farm up for auction.

The Trust Board said it had no quarrel with the Larsens, who had bought the property in 1965 and had a clear title, but were claiming the orig-

inal sale of the land in 1895 was an unresolved breach.

Te Uri o Hau chiefs had gifted the land to the Gittos missionary family in 1862 so that they could live among their Maori parishioners. The Gittos then sold the land in 1895 when they moved to Auckland.

Trust board kaumatua Reverend Taki Marsden who facilitated the negotiations on the claim said that the missionaries had legal title when they sold the land, but they had "transgressed the code of honour imprinted upon the Maori cultural imperative of the gift".

But he also said that "Te Uri o Hau is honour-bound to acknowledge that

the missionaries may not have been fully aware of that code of honour. Where there is doubt, we must bow to that doubt."

Both the Trust Board and the Larsen family plan to establish an annual scholarship for one Maori and one Pakeha student as a demonstration of goodwill.

The Trust Board's decision to withdraw the claim would remove uncertainty over the title and would allow the Larsens to proceed with their sale.

Reverend Marsden said the reconciliation of Tuhirangi should be an example for other people to follow.



From left: Trust board chairman Russell Kemp, Robert and Judith Larsen, and Rev. Marsden.

Photo credit: NZ Herald

## Findings on Fisheries Allocation

**The Waitangi Tribunal has made important findings on preliminary issues about the fisheries allocation claim (Wai 447) made by a number of northern groups that are led by Te Runanga o Muriwhenua and the Area One Consortium.**

The basis of the claim is that the Treaty of Waitangi Fisheries Commission has not acted correctly in the way it has gone about developing a system for the allocation of Maori fishing quota.

The Commission, which holds the quota on behalf of Maori until an allocation system is put in place, has proposed several options for allocation.

Included among them is the mana moana, or coastline, model which proposes iwi ownership of fish resources off the coastline of that iwi. This model would see a larger share of assets going to southern coastal tribes and a smaller share to populous northern tribes.

The mana moana model in particular is opposed by the northern groups who, some months ago, took a case to the High Court in an attempt to delay allocation going ahead.

The High Court action was followed by a claim to the Tribunal in which the claimants argue that allocation should not go ahead because the Commission has yet to decide how to identify who should get the assets; how Maori who list no tribal affiliation in the latest census are to benefit; or whether Treaty grievances are best addressed by delaying allocation for the meantime.

The Tribunal allowed the claim to be lodged but said that before it could begin hearings it had to determine whether, in fact, it had the power to inquire into the fishing claim.

The Tribunal raised three main issues:

- Were the acts, omissions or proposed policies of the Fisheries Commission those made by or on

behalf of the Crown?

- Is the Tribunal prevented from entering this inquiry, or from making recommendations, by section 6(7) of the Treaty of Waitangi Act; inserted as section 40 of the Treaty of Waitangi (Fisheries Claim) Settlement Act 1992?
- Should the Tribunal decline to inquire into the claim on the grounds that an adequate remedy might more appropriately be found elsewhere?

Meanwhile, recent developments have added to the complexity of the claim.

Another claim (Wai 485) about fisheries allocation has been brought by a group representing certain urban Maori interests. These claimants say

that urban Maori have Treaty rights which neither the Fisheries Claims Settlement Act nor the Commission have taken into account.

*The urban claim adds a new dimension "not previously considered and challenges the Act itself".*

The Tribunal says the urban claim adds a new dimension "not previously considered and challenges the Act itself".

The two claims – Wai 447 and Wai 485 – are being considered together.

The Tribunal has yet to decide on preliminary issues and whether it has the jurisdiction to hear both or either claim.

## Interesting New Evidence

**The Teko horticulturist, Rangikawea Tiki Dick Hunia, raised an interesting new issue during the hearing of the Wai 248 claim, which was being heard as part of the wider Wai 46 Central Bay of Plenty investigation.**

Mr Hunia, of Ngati Awa, was giving evidence on the Omataroa-Rangitaiki Number 2 Block, for which he is a trustee.

The claim centres on the compulsory taking of land under the Public Works Act 1928. The land was taken in 1968 for use in the building of a dam and involved the removal of core material, rocks and topsoil. In 1977 just over 69 hectares of the stripped land was re-vested with the Maori owners.

The claimants are seeking the return of the remaining land and compensation for the loss of the core value of the land, the topsoil.

Dick Hunia has been a horticulturist since 1947 and his knowledge of topsoil is extensive. "I specialise in topsoil because that is my future, without it you haven't got anything."

He told the Tribunal that there are areas of land stripped of topsoil where nothing grows. He explained how despite the inability to use the land productively, the owners were still required to pay rates.

Mr Hunia said it would normally take around a thousand years for the leaves, the weeds and anything that the wind blows onto an area to form into topsoil.

Mr Hunia said the trustees would like to restore the land as a sustainable resource and economic base for their community, but it will take money and time.

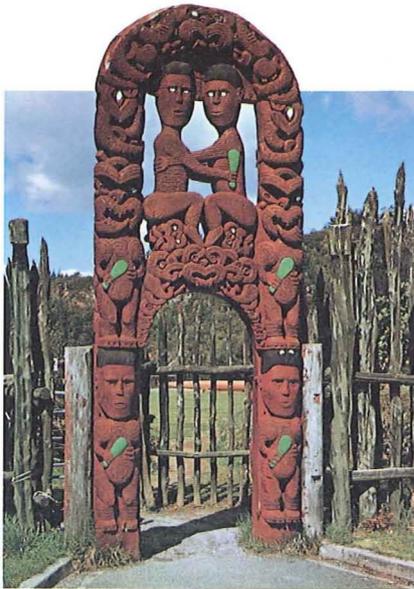
He said the real issue related to topsoil and without it you can't make a living.

## Changes to Tourist Route May Affect Villagers

**T**he claimants under Wai 183 have requested urgent mediation, or an inquiry by the Waitangi Tribunal, into an alleged attempt by the New Zealand Maori Arts and Crafts Institute to exclude them from Rotorua's lucrative tourism industry.

In a new claim filed late last year, the claimants say a proposed amendment to the tourist route by the Institute, a statutory government body, will have immediate adverse effects on village incomes because tourists will shop at the Institute instead of the village.

The claim also alleges that the Crown isolated the villagers from the tourist trade by establishing the Institute away from and in competition with the village, and by employing staff from outside their community.



Carved gateway at Institute.

The claimants, led by Robert Piripi and the Rahui Trust, have already filed two claims on the ownership of Whakarewarewa Village and the acquisition of thermal reserve lands. Issues about the access and status of certain roads and walkways have been included in the new claim.

Compensation sought by claimants includes a return of land; control of the thermal reserve, village roadways, walkways and ancestral lands on which the Institute stands; a ban on future Crown development in the area without their approval; and the reinstatement of the villagers in the tourist trade.

Some villagers with an interest in the land and their supporters have taken direct action by occupying the site. They allege that changes to legislation governing the Institute will detrimentally affect their claims to return control of the thermal reserve. The Tribunal has indicated that it is not prepared to hear claims while potentially illegal occupations are continuing.

However, the Tribunal has approved an urgent research grant and a research report is underway.

## Te Reo Maori Kaiako Appointments

**A**s part of the Waitangi Tribunal Division's commitment to He Taonga te Reo and its own Cultural Perspective Plan the Division has employed two part-time tutors to teach te reo Maori, tikanga Maori and waiata.

*Ko Mataatua tāku waka, ko Tairahia tāku maunga, ko Hine-mataroa tāku awa, ko Te Rewarewa tāku marae. Ko Te Mahurehure te hapū, ko Te Purewa te tangata, ko Tuhoe te iwi.* Niwa Kereama-Short was born and educated in Ruatoki. She has two children, Te Uru Hina and Te Hau Okiwa. In 1987 Niwa completed Te Ataakura, a course designed to certify native speakers in teaching te reo Maori at secondary school level. She has since taught at Wellington East Girls High, Te Kuratini o Te Whanga-nui-a-Tara and Victoria University.



Niwa and Wayne think it's good that departments are opening their doors and training their staff in things Maori, especially in Maori Language Year.

Wayne Poulain (Ngati Porou and Ngati Kahungunu) grew up in Hawke's Bay. He completed a diploma in Maori Studies at Victoria University and has also studied and

toured overseas with Whitireia Polytechnic's performing arts group. Until recently he held a cultural advisory position at Te Kuratini o Te Whanga-nui-a-Tara.

## NEW CLAIMS REGISTERED

Wai No.	Claimant	Concerning
Wai 461	Te Aonui M Kapua and the other trustees of the Tuaropaki Trust	Mokai Geothermal Resource Claim, Taupo
Wai 462	Joe Oneroa and Margaret Tahere	Maungataniwha and Raetea Forests, Kaitaia
Wai 463	Joseph Rua	Rating and Valuation of Maori Land Claim, Aotearoa
Wai 464	Gavin Caird and other Block trustees	Pakirarahi No 1C Block Claim, Coromandel
Wai 465	Linda Grey	Maungatapu and Kaitimako Claim, Tauranga
Wai 466	Kerei Anderson	Kerikeri Inlet Islands Claim, Kerikeri
Wai 467	Noel Akapita and Robert Gray	Tongariro National Park Claim, Tongariro
Wai 468	Morley Paikea Powell	Nga Puhi Lands Claim, South Auckland to north of Hokianga Harbour
Wai 469	E Chambers	Lands and Fisheries of Ngati Awa, northern South Island
Wai 470	Hariata Ewe and Te Warena Taua for Te Kawerau a Maki Trust and Iwi	Kawerau a Maki Tribal Territory Claim, Auckland, North Auckland
Wai 471	Sam Pickering Te Hira Waiti	Te Tuma Kaituna Lands Claim, Te Puke
Wai 472	Miria Tauariki	Waikowhitihiti Block (Otorohanga Town Hall) Claim
Wai 473	Tom Hemopo	Provision of Health Services Claim, Napier-Hastings
Wai 474	Michelle Marino	Kaiwharawhara and Heretaunga Land Claim, Wellington
Wai 475	Remehio Te Maunga Mangakahia	Whangapoua Forest Claim, Coromandel
Wai 476	Horomona Parata Heperi	Ohau 3 Claim, Levin
Wai 477	Ian Proctor	Te Reo Maori Tax Legislation Claim, Aotearoa
Wai 478	Roy Matengaro Haar	Pukepoto A6 Block Claim, Taumarunui
Wai 479	Charlese Anthony Lawrence	Taumatamakuku 2B2N2 and 2A2 Blocks Claim, Northland
Wai 480	Sir Hepi Te Heu Heu on behalf of Ngati Tuwharetoa Maori Trust Board	Tongariro/Taupo Conservancy Claim, Taupo
Wai 481	Charles Maheni Cotter	Ruakuturi Valley Claim, Waikaremoana
Wai 482	Colin Clark	Te Runanga o Ngai Tahu Bill Claim (No.2), South Island
Wai 483	Muriel Hine Mafi	Umukaimata-Waiaraia Block Claim, Otorohanga
Wai 484	Gary Robert Dyal	Rangitoto Tuhua 64 0 2B Claim, Te Kuiti
Wai 485	Manukau Urban Maori Authority and others representing urban Maori	Urban Maori Fisheries Allocation Claim, Aotearoa
Wai 486	Susan Miles	Section 13 of the Maori Affairs Act 1953 Claim, Aotearoa
Wai 487	Kay Tandy	Hauturu (Little Barrier Island) Claim
Wai 488	T O'Sullivan	Tataraakina C Block Claim, Northern Hawkes Bay
Wai 489	Toa Haere Faulkner (Ngati Kuku of Ngai Te Rangi)	Whareroa Blocks and Fishing Rights Claim, Tauranga
Wai 490	John Takakopiri Asher (Kuraui hapu of Ngati Tuwharetoa)	Tokaanu Hot Springs Reserve, Tokaanu
Wai 491	Nigel Baker and others	Tataraakina C Block Claim, Mohaka
Wai 492	Tuau Ahiroa Kemp (Ngati Rehia)	Koropiro Pa Claim, Kerikeri
Wai 493	Tom Waho and others	Hokio Native Township, Hokio Boys School and Waitare Forest Claim, Levin
Wai 494	Taka o te Rangi Taka (Ngati Kohiriki)	Ngati Kohiriki Lands Claim, Maramarua
Wai 495	Mahuta Pitau Williams	Marutuahu Tribal Lands Claim, South Auckland, Hauraki, Western Bay of Plenty
Wai 496	Matiu Tarawa	Tamaki East Girls College and other lands within Tamaki-makaurau Claim, Auckland
Wai 497	Toahaere Faulkner	Bay of Plenty Polytechnic, Tauranga
Wai 498	Casmahilla King	Kaikoura Land Claim, South Island
Wai 499	Tanya Rogers	Mangatu No.1 Block (now 1,3 and 4 Blocks), Gisborne
Wai 500	Harvey Karaitiana	Tauhara Middle Number 1 Block, Taupo

## Concerns About Resource Allocation Available for Claims

**C**oncerns have been raised about the level of resources available to the Waitangi Tribunal for the hearing of claims. A large number of requests have been made for early and urgent funding and the Tribunal has been criticised when it has proceeded with other cases.

In a recent memorandum concerning the Ngai Tahu claim, Tribunal chairperson, Chief Judge Edward Durie pointed out that, with almost 400 claims awaiting Tribunal investigation, an overview of the claims as a whole needs to be maintained when allocating Tribunal resources. The chairperson therefore declined proposals for further hearings on the Ngai Tahu claim because of previous Tribunal resource allocations to Ngai Tahu and the need to provide fairly for all.

For these and other reasons the Tribunal rearranged its research funding programme in 1993 to institute the Rangahaua Whanui project. Under this scheme the country has been divided into 15 districts, and researchers have been commissioned to provide overviews of the claims in each district and an assessment of the current circumstances of the iwi in each area. The intent of this programme is to ensure that as far as possible all claims are advanced together.

The memorandum states, "More is achieved at less cost if claims are adequately researched with evidence compiled in research reports and document banks prior to substantive hearings."

The cost of hearings is relatively expensive and such an approach helps to narrow the issues at pre-hearing

conferences. As a result, the Tribunal has mainly directed funds to research and conferences, and has sought to reduce hearing time. It has proceeded with hearings only when the research evidence is complete.

The Rangahaua Whanui project, which also includes generic studies on several national overview themes, is just under two years from completion. In the interim several claims, both historic and contemporary, are being heard.

The need for fairness between Maori as a general principle for crown action was stressed by the Tribunal in both the *Fisheries Report* (1992) and *Maori Development Corporation Report* (1993), and this same approach has been adopted in considering access to the Tribunal and resource allocations.

## Challenge by Urban Trust



The Waitangi Tribunal recently completed hearings on the claim by an urban Maori trust that challenges government policy over the funding of social services. Pictured are counsel for Te Whanau o Waipareira Trust, George Tuhura (left) and Joe Williams, during the cross-examination of the Crown's counsel in Auckland recently. A report on this is expected to be out later this year.

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**Te Manutukutuku**

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**WAITANGI TRIBUNAL PUBLICATIONS**

The Waitangi Tribunal has published many reports, resource kits and research information. These include: reports on specific claims, occasional publications on issues, and research reports.

A list of publications is available from the Communications Manager, Waitangi Tribunal, PO Box 5022, Wellington.