

# TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI Te MANUTUKUTUKU

Hakihea 1996

Number 39

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## Mohaka ki Ahuriri hearings

**Waitangi Tribunal hearings for the Mohaka ki Ahuriri inquiry began recently at Tangoio Marae, north of Napier, with over 200 people attending the five-day hearing of the Mohaka-Waikare confiscated lands claim (Wai 299).**

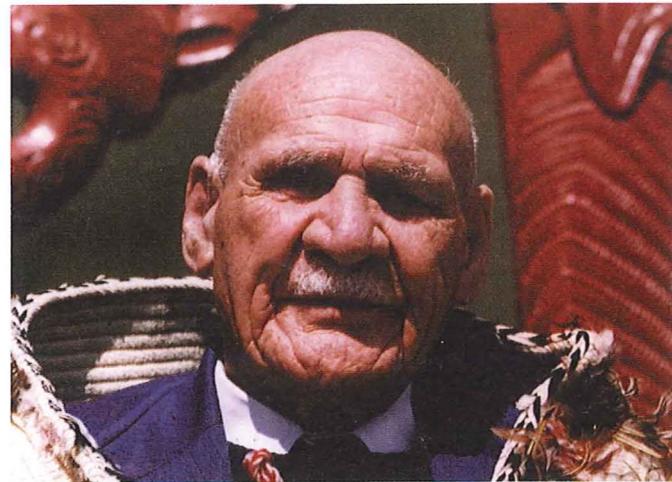
With more than twenty claims in this inquiry, the Mohaka hearings are expected to uncover a long and painful legacy of confiscation. Major Crown lands including Esk and Mohaka State Forests are being sought as remedies. The Waitangi Tribunal members presiding over the Mohaka ki Ahuriri hearings are: Judge Wilson Isaac (Presiding Officer), Professor Keith Sorenson, John Turei QSM, John Clarke, Roger Maaka and Dr Evelyn Stokes.

Wai 299 claimant counsel and Wellington barrister, Maui Solomon, explained that the Mohaka-Waikare claimants had been deprived of their traditional rights and land, followed by an extraordinary amount of upheaval. Mr Solomon highlighted the fact that the Mohaka-Waikare claim had been neglected due to the Crown's insistence to a 1925 Commission that the claim had not been a 'confiscation', and was therefore not subject to that commission's terms of reference.

Traditional evidence at the hearing came from those of the Tangoio, Arapaoanui, Tutira and other blocks of the eastern end of the confiscated region. Witnesses from Tarawera, Tatarakina and other inland blocks will appear at a second week-long hearing which is planned for 27-31 January 1997.

At least fourteen people gave evidence, including one of the oldest witnesses at a Tribunal hearing, Ngāti Tu chief Te Otene (Blue) Anaru. Wearing the traditional cloak he first wore at his ascension to chieftanship in 1922, he identified tribal land, boundaries and wāhi tapu of particular importance to the Mohaka-Waikare

inquiry. Mr Anaru's testimony supported evidence relating to Crown efforts to buy more land in various ways. His evidence included the sale of a block of land to the Crown by a man who was not the rightful owner.



Ninety-six year old kaumātua Te Otene (Blue) Anaru of Ngāti Tu at the hearing of the Mohaka-Waikare lands claim at Tangoio

Evidence also came from Victoria University historian, Richard Boast, who held that confiscation had been authorised by proclamation on 12 January 1867. This was based on the recommendation of Crown agent Donald McLean, who was also then the Superintendent of Hawke's Bay. Mr Boast's evidence outlined events leading up to the proclamation, including the 'so-called invasion by rebel Māori' in October 1866, the act that prompted the Crown to confiscate.

This inquiry is the first to use the Tribunal's casebook method, which aims to make the hearing process more efficient by reducing the delays between hearings. It requires all evidence to be submitted well in advance of the commencement of the hearing. That research is then compiled into a casebook. The first nine volumes of the casebook (Mohaka ki Ahuriri) were released in September 1995. Further volumes will follow in 1997.

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## From the Director

**T**he end of 1996 was the formal target for the conclusion of the Rangahaua Whānui project. I believe that will mark the end of the era of historical claims. At last decision-makers and people involved in historical claims will be able to put particular claims into the 'big picture'. Government decision-makers will have a clear idea of the total potential of historical land claims throughout the country.



Morris Love

The three volumes of the national overview will be essential reading for all those involved in the area of land claims and should be required reading for all those who so readily exercise their right to have an opinion on these matters. Those who are looking for their particular claim's interest will have to delve into the district summary reports and the relevant reports on the wide range of national themes. There will be an enormous amount of contextual material available to all with more than a passing interest.

The next question many will ask is: 'where to from here?' The whole Rangahaua Whānui project demands a suite of policy responses by Government. Initially there should be a reconsideration of the overall framework for claims settlements. That work would look at whether the early estimates which informed the fiscal envelope policy still hold, or whether there is a need to instigate an early review. Rangahaua Whānui provides the opportunity to look at these matters more fundamentally and then formulate a policy informed with a comprehensive picture of the potential totality of claims.

It is time to look forward to what is still to be done. Although claims continue to be registered, the Tribunal's process of grouping claims for inquiry into districts with related histories and geography means the impact of the numbers becomes less relevant. In an inquiry it is not such a large leap to consider 25 claims instead of say 20. Experience to date with grouped inquiries is limited, but the fear claimants have that their particular claims will be subsumed in this process appears to be unfounded. The main difficulty is the need for all parties to be ready at approximately the same time. Timetable pressure does provide a discipline and a goal for parties to work towards. I have noticed the tendency for research and claims preparation to drift, especially where there is a flow of funds.

Inadequate funding of claims has always been an issue. Recently, the financial difficulties faced by the Crown Forestry Rental Trust and the push to get more claims to hearing by the Tribunal has put considerable pressure on available funding. There is no instant fix for these matters except for interested parties to actively pursue additional resources from the Government or to encourage claimants to be more creative in seeking funding. The Tribunal's district grouping approach to claims often highlights the gaps and inequities in the funding system. The Crown Forestry Rental Trust is the main funder of claims research, but their funding is conditional on the presence of a Crown forest and claim issues related to it. There is an outstanding need for a system to balance up the situation and ensure there are no gaps.

The end of 1996 will be remembered by Tribunal staff and members as a period of frantic activity for all, but the net result of the activity will not be to shift the goal posts, but in fact to put the goal posts in place. The whole Treaty claims area will at last have an overarching context and the challenge for claimants will be to fill in the detail as it relates to their claim.

It is time for a cup of tea. With summer and the approach of Waitangi Day 1997, it is an appropriate time to reflect on where we are going. The radical action has been the creation of a map of the claims terrain in an overall sense. Of course, how the parties use that map will be an interesting test of how robust and clear the map is. At least we know it is called the Rangahaua Whānui Project.

*Nō reira ngā mihi o te tau hou.*

**Morris Te Whiti Love**  
Director



DEPARTMENT FOR  
**COURTS**  
TE TARI KOOTI

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## Tribunal celebrates 21st birthday

**W**aitangi Tribunal staff held a small celebration on October 11, 1996, to mark the 21 years since the Tribunal's inception. Chief Judge Durie paid tribute to all of the members who have served on the Tribunal, and remarked on how much the organisation had grown since 1975.

On October 10, 1975, the Treaty of Waitangi Act was enacted by Parliament, and the Waitangi Tribunal was established. The Tribunal was originally made up of three members including the Chief Judge of the Māori Land Court as chairperson.

The first three members appointed to the Waitangi Tribunal were Chief Judge G Scott, (now Sir) Graham Latimer and Mr L H Southwick. The Tribunal could only inquire into breaches of the Treaty of Waitangi by the Crown from the date of enactment of the Treaty of Waitangi Act, that is, the 10th of October 1975. With such a

limited jurisdiction, the Tribunal did not receive many claims in its first few years. In 1981 the current Chair-

person of the Tribunal, Chief Judge E T J Durie, was appointed to the Tribunal.



Waitangi Tribunal members at the Motunui Waitara hearing, September 1992 (left to right): Judge Walter Max Willis, Sir Graham Stanley Latimer JP and Chief Judge Eddie Durie.

## A tribute to Hepora Young

He poroporoaki ki tētahi o ngā wāhine rangatira o te motu, anā ki a Hepora Young nō Te Arawa, i hinga i ngā rā o Tihema, ki tō rātau kāinga i Horohoro i te rohe o Rotorua.

Koia hoki tētahi o ngā reo kōrero mō Te Roopu Whakamana i te Tiriti o Waitangi.

Nō reira hoki atu, e te Whaea, mā ngā tapuwae i takahia ai e ō tātau tīpuna o ngā rohe o ngā mātā waka.

Ka nui te mamae, ka nui te tangi mōu ka haere i tēnei wā, engari ko te kupu tēnei he āwhina mō te hunga e pōuri ana. Nā Ihowa i homai, nāna hoki i tango, kia whakapaingia Tōna ingoa.

Nō reira e te Whaea,  
Te pounamu heitiki o te whare tangata  
Hoki atu, hoki atu - whakaoti atu i a koe.

Moe mai i roto i te Ariki.

Farewell our treasured possession  
We mourn the parting which for this  
while has left us bereft  
Because you join the great multitude  
who have gone before you  
So rest forever with all those blessed of  
the Father.

A word of sympathy from the Tribunal to the whānau of Hepora Young, who passed away on December 5, 1996.



Hepora Young

## *Tribunal represented at international conference on dispute resolution*

**T**he Waitangi Tribunal had a prominent presence at the Annual International Conference on Dispute Resolution which took place over four days at the end of last year in Anaheim, California, USA. *Focus on the Future: Leading the Way to Dispute Resolution in the 21st Century* was the 24th conference held by the Society of Professionals in Dispute Resolution (SPIDR). It was an extremely well-organised gathering, with over one hundred and forty sessions on issues related to dispute resolution being delivered over four days. There were several hundred attendees, mostly American, with some Australians, Canadians, and of course, four very noticeable people from Aotearoa.

Co-mediators John Turei QSM (Tribunal Member and Tuhoe elder) and David Hurley (Barrister/Solicitor) presented a session on the process issues of Intra-Cultural Mediation. The pair were accompanied by Sue Turei (kaikaranga) and Communications Manager, Vanessa Byrnes, who provided information about the Tribunal, and New Zealand in general,

for a broad professional audience.

Throughout the conference, Vanessa fronted an information booth about the work of the Waitangi Tribunal within a New Zealand context. This booth proved to be an invaluable point of contact for conference attendees to come and talk about the Tribunal's processes for resolving grievances. Through talking in this one-to-one way, many people became informed about the Tribunal's work.

The conference session *Waitangi Tribunal: Intra-Cultural Mediation* began with a pōwhiri, initiated by Linda Wishart (Te Manawa Māori) as kaikaranga for tangata whenua, with Sue Turei as kaikaranga for manuhiri, and John Turei as kaumātua. Participants at the session were invited to hongiri with speakers. It was an extremely moving welcome for everyone present.

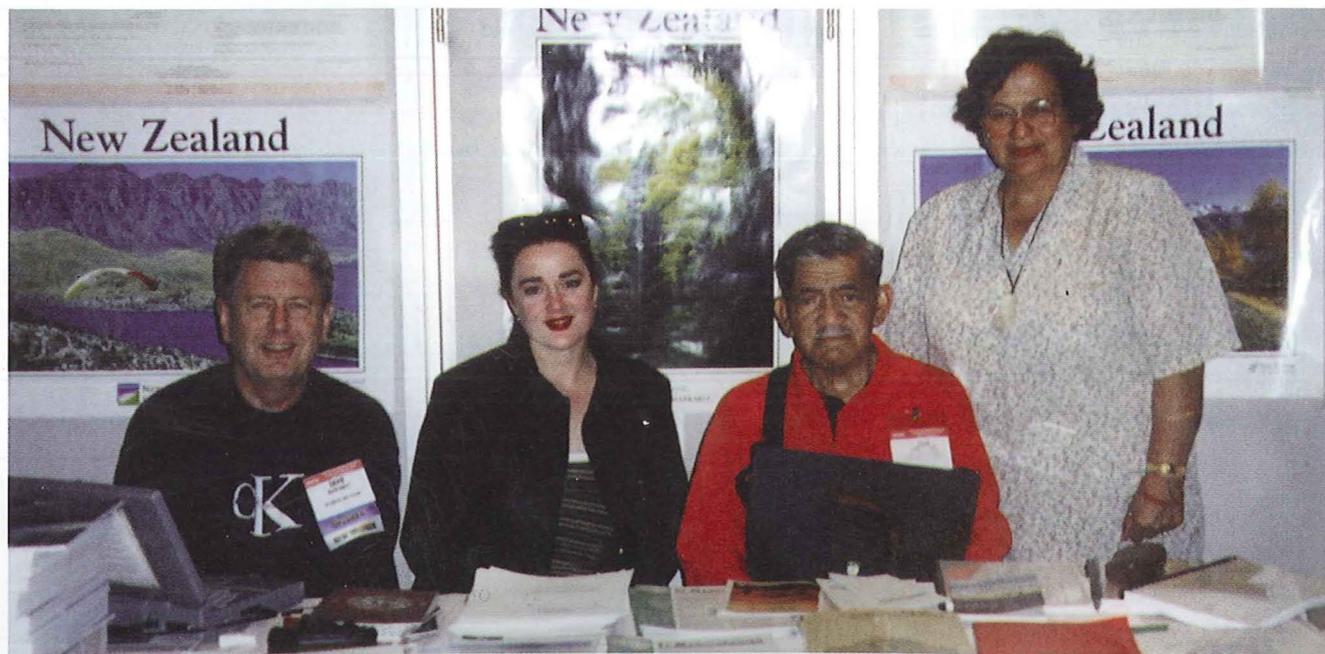
Vanessa Byrnes then spoke briefly on the scope and nature of the Waitangi Tribunal's work. David Hurley and John Turei addressed the issues facing an independent mediator when facilitating a negotiation in a different culture and at times a different lang-

uage. Both referred to their experiences as co-mediators for the Ngāti Pikiāo and Ngāti Makino dispute.

The level of discussion about New Zealand's settlement processes and intentions to address grievances was extremely encouraging, and for that reason alone there was immense value in the Tribunal's presence at this conference. Some encouraging messages that we are in a sense unique, gave the impression that New Zealand was at the forefront of the international field of grievance resolution.

Highlights for the Tribunal delegation included meeting Janet Reno, Attorney General for the USA; dinner at the NZ Consulate-General Jim Howell's residence in Brentwood; an approach to include the Tribunal's work in UCLA's legal course in mediation, settlement, and dispute resolution processes; John Turei being asked to perform the closing karakia for the entire conference; and the continuous stream of warm American hospitality.

Conference papers and information are available from the Waitangi Tribunal library. This year's conference will take place in Orlando, Florida, October 1997.



At the dispute resolution conference (left to right): David Hurley, Vanessa Byrnes, John Turei QSM, and Sue Turei.

# Rangahaua Whānui working papers available

**T**he first of the Rangahaua Whānui National Theme reports are now available from the Waitangi Tribunal for interested claimants and other parties at \$10 each. All Rangahaua Whānui District and National Theme reports can be obtained from the Editor, Waitangi Tribunal, PO Box 5022, Wellington. Here are summaries of the recently released reports:

**National Theme K report: *Māori Land Councils and Māori Land Boards: A Historical Overview, 1900 to 1952*, by Dr Donald Loveridge.**

Māori Land Councils were set up in 1900 to help Māori 'make use' of their lands, and especially to make more land available to settlement through leasing. The councils were to be chaired by a government-appointed European, but also had Māori members, some of whom were elected. Māori refused to vest land in the councils at a rate fast enough to satisfy settler demand, so from 1905 the councils became Māori Land Boards. In 1907, government took power to vest Māori land compulsorily in the boards, for leasing or sale if it was not being put to profitable use. Also, the Māori and elective components were abolished, and in 1913 the boards became the local Māori Land Court judge and registrar. A great deal of Māori land was sold or leased under the boards in the early decades of the twentieth century, some of it compulsorily. This report will be of assistance to claimants who lost a significant amount of land between 1900 and 1933.

**National Theme N report: *Gold Mining: Policy, Legislation, and Administration*, by Dr Robyn Anderson.**

This report examines the laws which governed gold and 'royal' minerals in New Zealand, including the common law contention that all royal metals belonged to the Crown, and the statutes which have been passed to implement Crown ownership of, or access to, such minerals. Dr Anderson focuses on two case studies: the Taitapu gold field in the northern South Island, and the Hauraki gold fields, both of which involved the Crown in making arrangements to mine gold on Māori land. The report will be of special interest to claimants in those regions, and to those interested in the Treaty issues surrounding gold and minerals.

**National Theme Q report: *The Foreshore*, by Richard Boast.**

This is one of two reports dealing with waterways. Mr Boast is an historian and lawyer. He covers the history of Māori and Crown claims to own the foreshore from 1840, and deals with landmark court cases, including 'In re Ninety Mile Beach'. He concludes that the Crown's title to the foreshore may be uncertain in some districts, both from a Treaty and a strictly legal point of view.

**National Theme S preliminary report: *The Native Townships Act 1895*, by Suzanne Woodley.**

Native Townships were set up to provide towns for settlers in areas where Māori refused to sell land. At first the land continued to be owned by Māori and was leased to settlers. The Government administered the leases and sometimes consulted Māori about setting up a town and laying out the sections. Under an amending act of 1910, the Crown set about creating perpetual leases for settlers or buying up the sections and selling them to set-

tlers. Townships were set up under this system at Tokaanu, Te Kuiti, Parata, Ohotu, Te Puia, Pipiriki, Rotoiti, Otorohanga, Taumarunui, and Kaiwhata. There were other townships but Ms Woodley was unable to find much evidence about them. This report will be of particular relevance to claimants who have one of the above-named townships in their rohe.

The following reports in the Rangahaua Whānui series are also available:

District 1: *Auckland*

R Daamen, P Hamer and B Rigby (\$20)

District 7: *The Volcanic Plateau*

B J Bargh (\$17)

District 8: *The Alienation of Māori Land in the Rohe Potae*

C Marr (\$15)

District 9:

*The Whanganui District*

S Cross and B J Bargh (\$15)

District 11a: *Wairarapa*

P Goldsmith (\$15)

District 11b: *Hawke's Bay*

D Cowie (\$20)

District 11c: *Wairoa*

J Hippolite (\$15)

District 12:

*The Wellington District*

Dr R Anderson and K Pickens (\$20)

District 13:

*The Northern South Island (Parts 1 & 2)*

Dr G A Phillipson (\$17 & \$10)

(Prices subject to change as reports are reprinted.)

All reports available from the Editor, Waitangi Tribunal, phone: 499 3666 ext 885.

## HEARING SCHEDULE

(These dates may change)

27-31 January 1997

Mohaka ki Ahuriri Hearing  
Napier

3-5 February 1997

Turangi Township Remedies  
Hearing

## *Tribunal information services review under way*



(Left to right) Joanne Tuffield, Brett Sinclair, Michelle Edgerley, Morris Love

Michelle Edgerley, librarian at National Office, Department for Courts, has completed the first stage of a project to investigate how information services are working within the Waitangi Tribunal. The joint-venture project between the Department for Courts and the Waitangi Tribunal will produce recommendations for future best practice for information services within the Tribunal.

Michelle is working with Brett Sinclair, Library and Information Coordinator, in investigating the information needs of all Waitangi Tribunal employees. Morrie Love, Director of

the Waitangi Tribunal is project sponsor, and Joanne Tuffield, National Information Services Manager, Department for Courts, is project manager.

The first stage involved interviewing staff members to find out what information they need and how it can best be provided. Representatives from all work groups were interviewed, including researchers working outside the Tribunal's offices.

The next part of the project is to investigate library administrative procedures. Michelle will compare these results with people's interview responses and recommend future

options for managing information.

Michelle's previous library work has been at the Department of Justice as Law Librarian, and at Te Puni Kōkiri as Database Development Librarian. She has Scottish and English ancestry and grew up in Taurarunui and Hamilton. Michelle completed a Master of Arts (Hons) concentrating on New Zealand Literature at Waikato University, and a Diploma in Library and Information Services at Victoria University of Wellington. Michelle is married to Rodney Ford of Ngāti Raukawa ki Kāpiti, and has two Siamese cats.

## *Waitangi Tribunal Open Day 1997*

You are invited to the Waitangi Tribunal's biennial open day on Friday 7 February 1997, 8.30am – 4.30pm, at the Tribunal premises at Level 3, Seabridge House, 110 Featherston St, Wellington. The aim of this day is to promote understanding of the Waitangi Tribunal's role and services, and the nature of work

being done at present.

Planned activities include:

- Static displays
- explanations of the registration, research, administration, hearing, and law pertaining to particular claims
- guided tours of the Tribunal offices and library

- exhibitions from publishers and electronic media

We ask that groups are kept to a maximum of 30. For further information please contact Vanessa Byrnes, Communications Manager, Waitangi Tribunal, PO Box 5022, Wellington, ph: (04) 499-3666, fax: (04) 499-3676.

## New staff members

**Rachael Willan** has joined the Waitangi Tribunal as a contract researcher. Rachael was brought up in Hawera, Taranaki, and traces her family back to Switzerland, Ireland and England.



Rachael Willan

She attended Victoria University and has a BA (Hons) in History. Rachael has worked for the Crown Forestry Rental Trust on land administration and a history of Māori land purchases between 1900-1930. Over the past six months Rachael has been a commissioned researcher on the Tauranga claims for the Waitangi Tribunal and has continued to research the Otamataha lands in central Tauranga.

**Moko Mataa** joined the Waitangi Tribunal in March 1996, working alongside staff in the Claims Administration



Moko Mataa

Section. Moko's other duties include assisting the Acting Office Solicitor/Registrar with various projects and supporting the Administration Officer. Moko is from Wellington, and is of European and Cook Island ancestry. Moko attended Porirua College where he achieved top honours in Geography, English, History and Short-hand (Teeline). He also completed several tourism courses in which he excelled. Moko aims to study for a Bachelor of Commerce and Administration in International Tourism at Victoria University. His intended career is to become a cabin crew member on an international airline.

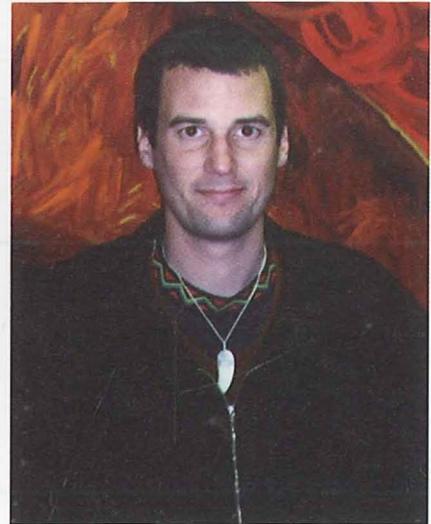
**Dr Janine Hayward** is the Associate Researcher for Rangahaua Whānui at the Waitangi Tribunal. Since joining the Tribunal last year, she has been assisting Professor Alan Ward on the National Overview Report, along with a team of commissioned researchers working on the National Themes and Districts volumes. Janine is from Christchurch and has Scottish, Irish and English ancestry. She completed a BA in Politics and English Literature at Canterbury University, before moving to Wellington and gaining a BA (Hons) in Public Administration and a PhD in Political Science from Victoria University. Janine's doctoral thesis is entitled 'In Search of a Treaty Partner: 'Who or What is the Crown?' Janine



Dr Janine Hayward

has spent one year in England and France, and hopes to spend 1998 in Canada in the Department of Political Science at the Simon Fraser University in Vancouver, working on post-doctoral or commissioned research.

**Paul Hamer** has returned to the Waitangi Tribunal as senior report writer, after living overseas for the past 16 months. Paul was brought up in Wellington, and gained his BA at Victoria University. He studied at Canterbury University for one year, graduating with a BA (Hons) in History before returning to Victoria to complete



Paul Hamer

his Masters. Paul's thesis is entitled 'Nature and Natives: Transforming and Saving the Indigenous in New Zealand'. After finishing his MA, Paul worked on Treaty claims at the Treaty of Waitangi Policy Unit, and advising the Minister on settlement of claims and Treaty policy. While working as a researcher for the Waitangi Tribunal, Paul wrote part of the Auckland District Rangahaua Whānui report, and also worked on hearings and reports for the Māori Electoral Option claim; Whanganui River claim; Turangi Township claim and the Ngāi Tahu Ancillary Claims Report. He is currently assisting Tribunal members in writing the Mohaka ki Ahuriri report.

## NEW CLAIMS REGISTERED

Wai No.	Claimant	Concerning
604	Peter Tukiterangi Clarke and another	Runanga 2C2B1 and 2C2B2 blocks, Taupo (grouped for inquiry with Wai 398, 445, 500, 575, & 592)
605	Terence D Lomax and another	Te Waimimiti block, Bay of Islands (grouped for inquiry with Wai 128)
606	Philma Anne Phillips and others	Te Pua 2B block, Kaikohe
607	Jane Du Feu and others	Te Atiawa/Ngāti Awa ki te Tau lhu land and resources, Northern South Island (consolidated with Wai 102)
608	Lyndhurst O'Donnell	Tataraakina No 9 block, Napier (grouped for inquiry with Mohaka ki Ahuriri claims)
609	Anne Colgate and others	Paraparaumu airport (grouped for inquiry with Wai 612)
610	Angela Margaret Harmer	Omarunui lands, Hawkes Bay
611	Christopher Joseph Tangitu	Ngāti Ranginui claim, Tauranga (consolidated with Wai 215)
612	Kaye Tini Korehe Rowe	Paraparaumu airport (consolidated with Wai 609)
613	Harold Wilfred Petera	Ngaitoko-a-lwi, land and resources, Northland (grouped for inquiry with Wai 45)
614	Isaac Kuila	Land at Te Maika, Kawhia Harbour
615	Rangikaiamokuru Hiini	Tapuika lwi land and resources, Te Puke (grouped for inquiry with Wai 368)
616	Pura Turner	Te Pukenui No 2 block and Te Kuiti No.1B and No 2B blocks, Waikato/Te Kuiti (grouped for inquiry with Wai 483, 556, 630)
617	Marie Nixon	Parish of Taupiri
618	Anthony William Olsen	Ngā Hapū o Waitaha o Rakaihautu, Kāti Mamoe claim for Te Wai Pounamu
619	Hare Pepene and others	Land and resources in Ngāti Kahu o Topongare and Te Parawhau, Northland
620	Mitai R Paraone Kawiti and others	Te Waiariki/Ngāti Korora hapū land and resources, Whangarei/Bay of Islands
621	Rangi Paku	Land and resources in the Ngāti Kahungunu ki Wairoa rohe (grouped for inquiry with Wai 36, 33)
622	Rangimarie Te Maiharoa	Waitaha rohe, South Island – Southern Alps, high country, rivers, lakes etc
623	John Hanita Paki	Land and resources in Mua te Tangata and Muaupoko rohe (grouped for inquiry with Wai 52, 624)
624	John Hanita Paki and others	Kemp Hunia Trust, Horowhenua (grouped for inquiry with Wai 52, 623)
625	Denise Anne Katete Egen	Unitech Institute of Technology, Auckland
626	Awhina Freda Andrews	Te Kohanga No 1 block, Te Tai Tokerau (grouped for inquiry Wai 45)
627	Albert Eden	Tataraakina claim, Napier (grouped for inquiry with Mohaka ki Ahuriri claims)
628	Makere Rangitoheriri	Tahorakuri No 2 block, Northern Taupo
629	Delia Kahu Subritzky	Rangatira A143 block, Taupo (grouped for inquiry with Wai 398, 445, 500, 575, 592)
630	Kawekehu Wehi	Ngāti Rereahu rohe, King Country (grouped for inquiry with Wai 483, 556, 616)
631	Tanenuiarangi Te Awe Awe	Land and resources in Rangitane ki Manawatu (grouped for inquiry with Wai 52)
632	Garry Hooker	Te Kopuru and Aratapu blocks, Whangarei
633	Graeme Neho	Ngāti Kuri rohe, Te Tai Tokerau (grouped for inquiry with Wai 45)

**BEST WISHES FOR 1997 FROM THE STAFF OF THE WAITANGI TRIBUNAL**