

TE MANUTUKUTUKU

*Te Roopu Whakamana i te
Tiriti o Waitangi
Panui*



*Waitangi Tribunal Division
Department of Justice
Newsletter*

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DIRECTOR'S COLUMN 1992 – The Year in Review

Tena koutou

The 1992 year has been another strenuous one for the Waitangi Tribunal and its staff. The end of year statistics are:

▲ total registered claims	318
▲ total claims reported, withdrawn or no further inquiry	64
▲ claims in proceedings	29
▲ claims in report writing	3
▲ claims referred for mediation	5
▲ claims referred for negotiation	9
▲ claims referred for Maori Land Court inquiry	3
▲ claims in preparation	179
▲ claims awaiting action	26

At this time last year there were 261 registered claims.

The large number of claims in preparation includes those under research by claimants and reflects the funding available by the Crown Forestry Rental Trust in the research area.

As in previous years, the majority of the claims being dealt with by the Tribunal concern land issues. A significant number, however, are related to questions such as resource use and ownership. The 24 claims involving geothermal resources are the best example of this.

During the year, the Tribunal continued hearings of the large claims involving land in Muriwhenua and Taranaki. The Chairperson, Chief Judge Edward Durie, is presiding over both these claims. It is possible that the substantive inquiries into the claims may be completed in 1994.

Earlier this year, hearings were held concerning the disposal of surplus Railways land and, in October, objec-



Researcher Fiona Watson in the reorganised section for the record of documents

tions to the Crown-Maori settlement on fisheries (popularly known as the Sealords deal) were also considered.

The Tribunal completed its inquiries and issued reports concerning Wai 27 – Ngai Tahu fisheries, Wai 38 – Te Roroa, and Wai 119 – Mohaka River claims.

A number of mediations are still proceeding and the settlement of at least two of these is likely early in the new year.

Research

The resolution of grievances requires a solid base and it is research which underpins the work of the Tribunal. Research staff have had to cope with a heavy workload and some good results are being achieved. A number of

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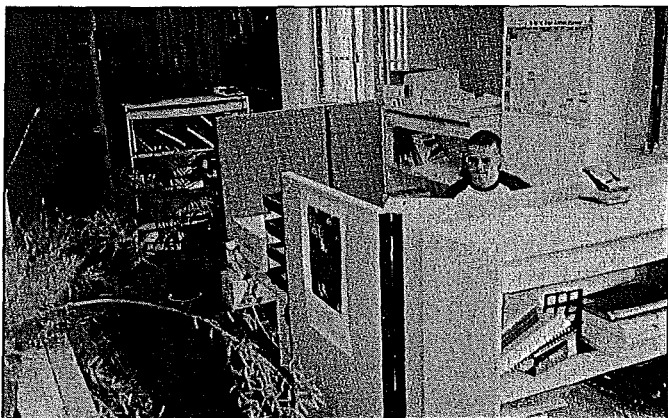
completed research reports are to be released shortly. In the new year, a start will be made on publishing these research reports as part of an on-going series designed to bring the research work to the attention of a wider audience.

Administration

The increase in the number of claims lodged has brought a corresponding increase in the 'paper war' and our administration and claims administration staff have responded well. The redesign of their work areas as well as the making of improvements to our systems for handling documentation have been particularly helpful. Both these areas will pilot productivity improvement projects into the new year designed to bring further efficiencies in time and effort as well as achieving cost savings. The 1991-92 budget was 1.16% underspent – an excellent result.



Records officer, Molly Kino (left) and administration officer Denise Traill in the refurbished administration area



Claims administrator Hemi Pou hard at work in the redesigned claims administration section

Agency liaison

A three-party project involving Tribunal staff, Victoria University and National Archives is beginning shortly to place the papers of completed claims on microfiche – the microfiche will be available to the Tribunal and to the public for purchase from Victoria University, Wellington, next year. The hard copy will be filed with National Archives. The project will make research material more readily available as well as creating more space in the Tribunal's storage area.

Public relations and information service

The need for information on the Tribunal and its work continues unabated. For example, Tribunal and staff members completed 52 speaking engagements during the year and circulation of our popular newsletter, *Te Manutukutuku*, increased to nearly 2700, and is still growing.

Library acquisitions continue as well although not at the same level as last year. We were very pleased to obtain a full set of 19th century Maori language newspapers recently which should assist in providing a contemporary commentary on some of the matters being researched by the Tribunal. An agreement has been reached with the Hocken Library to obtain a complete set of the valuable Shortland papers.

Staff

Research manager Michael Belgrave was the recipient of a Fulbright Fellowship during the year. Michael travelled to Canada and the United States to study their claims resolution process and to have a look at how similar organisations deal with research material such as oral evidence. Tom Bennion, the Tribunal's legal officer, is also hoping to benefit from overseas experience. Tom is currently on the shortlist for an Anzac Fellowship.

To all our readers, our very best wishes for a safe and happy holiday break. Na reira e hoa ma, tena koutou, tena koutou, arohanui ki a koutou katoa. Pai marire.

A handwritten signature in black ink, reading "B. Mikaere".

Buddy Mikaere
Director

Muriwhenua Hearing

'We appear to have gone from the lamenting waters of Waitangi to the Sweetwater of a state-owned enterprise.' This was how claimant researcher Michael Nepia described the surplus land issue at the seventh hearing of the Muriwhenua land inquiry at the Te Rarawa marae, Pukepoto, from 30 November to 2 December.

He was referring to Tangone, a much disputed surplus land area near Kaitaia that is now part of Landcorp's Sweetwater Station.

Surplus land in Muriwhenua is the area not included in post-Treaty Crown grants to Pakeha and reserves to Maori, but supposedly within the boundaries of numerous pre-Treaty transactions between Maori and settlers. Muriwhenua claimants maintain that the Crown should have returned surplus land to Maori. Instead, the Crown acquired over 25,000 acres of surplus land for itself in the Muriwhenua area.

Also presenting reports were Lyndsay Head on the nature of pre-Treaty transactions and Anne Salmond on the Maori content of northern Treaty signings. Both researchers were commissioned by the Tribunal. Richard Boast, commissioned by the claimants, presented his report on the 19th century origins of the Crown's claim to surplus land.

In addition to surplus land, the nature of pre-Treaty transactions and whether the Crown sufficiently protected Maori interests in purchasing land, are also at issue in the Muriwhenua claim. The Tribunal will hear further evidence regarding Crown purchases at Taipa during the week of 8-11 March 1993.

New Claims Registered

WAI 312

Claimants: T Wikiriwhi and others for nga hapu o Ngati Whatua o Kaipara i te Tonga
Concerning: West Auckland lands
Region: Auckland
Received: 17 September 1992

WAI 313

Claimants: Mrs RR Hodgkinson
Concerning: Waimamaku land
Region: Hokianga
Received: 14 August 1992

WAI 314

Claimants: Marie Cooper for a delegation of Maori farmers
Concerning: Maori farming loans policy
Region: Bay of Plenty
Received: 2 September 1992

WAI 315

Claimants: ME Henare and others of Ngapotiki hapu
Concerning: Papamoa land
Region: Tauranga
Received: 7 October 1992

WAI 316

Claimants: Nirai Manahi on behalf of Ngati Waoku and others
Concerning: Horohoro State Forest
Region: Rotorua
Received: 22 October 1992

WAI 317

Claimants: Hamuera Mitchell and others on behalf of Ngati Whakaue
Concerning: Whakarewarewa and Horohoro State Forests
Region: Rotorua
Received: 5 October 1992

WAI 318

Claimants: Mereana Maria Amor and Rehua Piripi kuiti
Concerning: Whaiti Kuranui 2D4 and other blocks
Region: Putaruru; East Coast, North Island
Received: 23 October 1992

WAI 319

Claimants: K Potaka Dewes for Ngati Rangiteaorere and others
Concerning: Kaingaroa Forest
Region: Rotorua *Received:* 28 September 1992



*Nga mihi o te hou me o na manaakitanga katoa
na te Roopu Whakamana i te Tiriti o Waitangi*

*Seasons greetings to you all from the
Waitangi Tribunal and staff*

Waitangi Tribunal Christmas Closing Dates

The office of the Waitangi Tribunal will close for Christmas noon Tuesday 22 December 1992
and will open Tuesday 5 January 1993.

Staff Member Learns From Native American Claims Process

Dr Michael Belgrave, the Division's research manager visited the United States on a Fulbright Fellowship from May to July this year.

The Fellowship allowed Dr Belgrave to look at the way Native American claims were researched and presented in the Indian Claims Commission (which was disbanded in 1978) and the current procedure of the courts.

The Americans have been dealing with these issues in a systematic fashion for longer than we have in New Zealand. Since the United States government established a Commission of Inquiry in 1946 to examine claims against it by Native American tribes, their lawyers, researchers and claimants have been looking at their history and interpreting their treaties.

In New Zealand there have been many occasions when Maori claims have been examined by one-off inquiries, but it is only since 1986 that we have been in the business of dealing with Treaty claims in a systematic fashion.

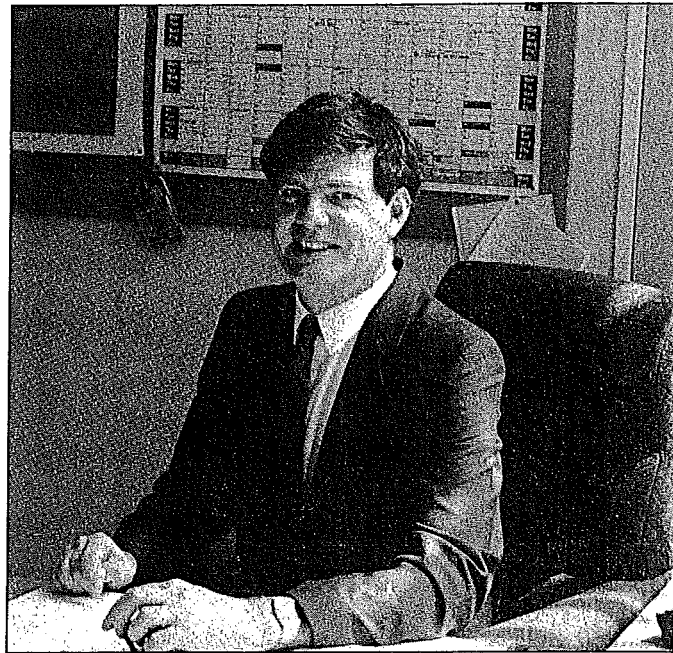
The trip to the United States was to see how academic evidence is treated in American courts and an attempt to find ways:

- ▲ of providing more efficient methods of preparing research
- ▲ of ensuring that Maori oral evidence can be presented without prejudice in a commission of inquiry setting.

Dr Belgrave found that New Zealand's claims resolution process has many advantages over procedures in the United States.

- ▲ While the Indian Claims Commission could make binding recommendations to pay compensation to Indian tribes for the taking of land, compensation was in monetary form only. There is far more flexibility in New Zealand's compensation agreements.
- ▲ There are consistent complaints in the United States that the Commission went about its task in a very legalistic fashion, adopting the procedure of the Court of Claims. There are also a large number of complaints about the inability of the Commission to allow claims to be amended. The Waitangi Tribunal has largely by-passed these problems through the extensive use of marae for hearings and by its ability to accommodate amendments to claims.
- ▲ The Commission had some powers to commission research but these were not used extensively. The Waitangi Tribunal, however, has used these powers to the fullest advantage.

In the United States, all claims had to be filed within five years of the establishment of the Commission in mid-1951. The Commission was supposed to take another five years to investigate these claims. In fact, it took over 25 years, and since the Commission has closed down



Research manager Dr Michael Belgrave

outstanding claims for compensation are still being heard in the Claims Court.

The problems of the Indian Claims Commission have continued into the present, with many of the Commission's decisions being seen as extinguishment of Indian rights. The legal process continues to deal with claims in an expensive and time-consuming way. Bringing relatively minor claims before the courts costs millions of dollars. The work of the Waitangi Tribunal is much more cost-effective and many Native American claimants and lawyers were envious of the Tribunal's system of enquiry when it was explained to them by Dr Belgrave.

Experience does bring its benefits, however, and Dr Belgrave noticed a very high level of professionalism among lawyers, researchers and claimants. The market for legal services for Native American issues is large enough to employ several fulltime practices, funded by fees, private subscription and the federal Government. Researchers can bring many years of experience into the court and Indian oral history is finally finding a place in court procedure.

However, it is clear, says Dr Belgrave, that the Waitangi Tribunal's procedure and its attempt to deal effectively with all forms of history, is a valuable way of addressing the claims of indigenous peoples. Would that there were available to claimants, the Tribunal and the Crown a small fraction of the resources being brought to bear in most North American Inquiries, he said.

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