

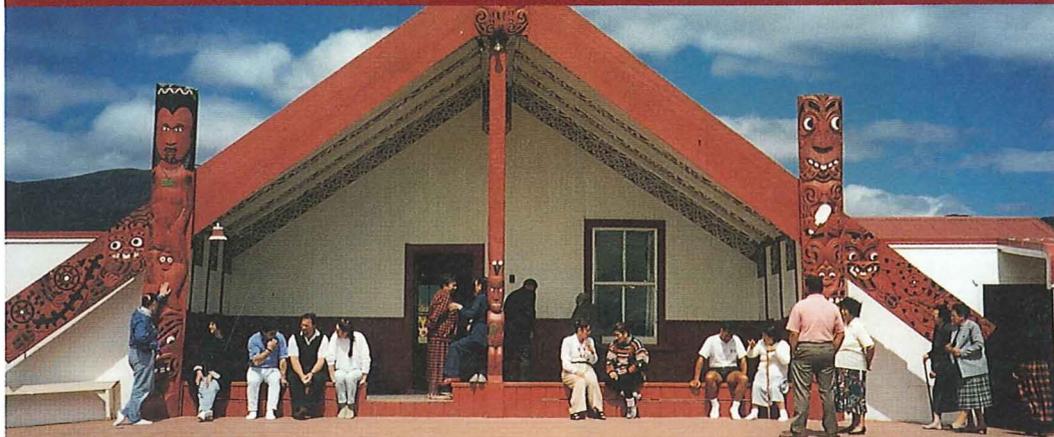
# TE MANUTUKUTUKU

TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI

Whiringa-a-rangi/Hakihea 1995

Number 35

November/December 1995



## Turangi Report finds Treaty of Waitangi was ignored

Claimants at Hirangi Marae, Turangi

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**The Treaty of Waitangi was all but ignored by the Crown in its recent dealings with Maori, according to the 436-page *Turangi Township Report* released by the Waitangi Tribunal in October 1995. The report, which centres on events during the 1960s, found 13 incidents of breaches of Treaty principles by the Crown.**

The report shows how the Crown was able to take claimants' ancestral land with the unqualified backing of the Public Works Act 1928 and the Turangi Township Act 1964, in order to construct the Turangi township. These acts gave the Crown authority to take claimants' land without notice to the owners or any right of objection. The report recounts how the Crown entered claimants' lands with bulldozers, without prior consent. The report concludes that it is not possible to reconcile these far-reaching statutory powers with the Crown's Treaty obligation to actively protect Maori rangatiratanga in and over their land.

At the heart of the Ngati Turangitukua claim lies the Crown's failure to honour many of their undertakings. A major grievance of the claimants is that the Crown took up to twice as much freehold land as it had assured owners it would take. The report also cites the Crown's failure to honour assurances given to Ngati Turangitukua that land required for industrial purposes

would be returned after ten to twelve years. Other dishonoured undertakings by the Crown to Ngati Turangitukua include: inadequate compensation; the erosion of an economic base; the desecration of sacred taonga; the failure to conserve waterways and fishing; and inadequate consultation of owners affected by Ministry of Works operations.

The report concludes that the claimants are clearly entitled to be compensated for the losses and injury they have suffered, a central element of which would be the return of Crown land. The Tribunal considers that in the interest of facilitating an early settlement, it would be appropriate for the claimants to enter into direct negotiations with the Crown. These negotiations should include outstanding ancillary claims as well as wider claims, and land vested in State enterprises in the area. The Tribunal is hopeful that a mutually satisfactory settlement will be reached without undue delay. If at any stage the parties are unable to reach agreement on the whole or any part of the matters in issue, the Tribunal is able to hear the question of remedies and make appropriate recommendations.

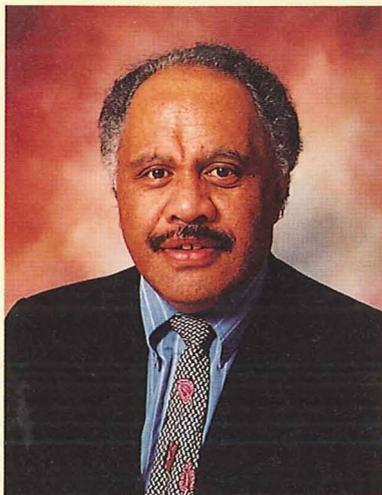
The report can be obtained from:

**GP Publications**  
**P O Box 12052, Wellington**  
**Tel: 04-473-7218**  
**Freefax: 0800-804-454**

## *Farewell from the former Director Buddy Mikaere*

**Tena koutou. After nearly six years as Director I leave the Tribunal with mixed feelings. It seems to me there is so much more that needs to be done and so much that could be done but those tasks need to now fall to someone else. I'm more than satisfied with the contribution I've been able to make but I think the time has come for some new blood to take over the Tribunal administration. I've found the Director's job to be a unique one requiring, among other things, sound administrative skills, a comprehensive knowledge of New Zealand history and an ability to operate effectively in two worlds, Maori and Pakeha. It's the last factor in particular which has made this job so interesting and absorbing because you have the opportunity to make a positive contribution to race relations in this country.**

I came into the Tribunal on the euphoria of the 1990 celebrations and in many ways that made my task easier. People were willing to listen, to participate and to make the Treaty work in a meaningful way. In 1990 we had just over ninety claims on the books, only seven of which had been dealt with. Who would have thought that just five



Buddy Mikaere

years later the claims would have mushroomed to nearly five hundred-and-fifty with just over a hundred of those through the Tribunal process? With a further twenty-plus claims in hearing and a further hundred-odd under research I think you can be satisfied that the Tribunal and the Division which services it, is operating as effectively and efficiently as present resources allow. So it should. Despite unfailingly achieving budget, year in year out, in the last few years the Tribunal administration has been subjected to intense scrutiny through a series of reviews and audits which have all come to the same conclusion: the present systems and processes are working well.

That's not to say that things can't be improved. As I write this, a further two review results are currently under consideration. But I've been a firm believer that in matters of improvement of quality or processes, the people doing the actual work are the ones best able to identify where improvements can be made. I hope that that philosophy holds true and that any changes to the way the Tribunal's work is carried out in future result from proper consultation with the people doing the job. The Tribunal is unique and deserves unique consideration.

There have been two highlights to my tenure as Director. The first has been the privilege of working with kaumatua like the late Sir Monita Delamere. Here was a man able to bridge the gap between the contemporary world and Te Ao Maori and I appreciated greatly his wisdom and advice. Haere koro, haere. The second highlight has been working with the various claimant groups. To the many claimants I have met in my time with the Tribunal, he mihi potopoto ki a koutou. I have enjoyed our contact. I have enjoyed the lively debate, the enthusiasm and doggedness you bring to your claims and sharing with you your joys and frustrations. Na reira e hoa ma, kia kaha.

I should also thank the others associated with the resolution of Treaty claims. Mostly I have found these working relationships rewarding and useful. It was always my hope that in the interests of effectiveness and the avoidance of duplication, there would be a greater degree of co-operation among the different groups and I leave it to my successor to continue to work towards that end. I think it's right that I should mention as well the Hon Doug Graham who, as Minister responsible for most of the activity in the Treaty claims area during my time, has been single-minded in his desire to pursue the resolution of claims. He deserves credit for that.

To the chairperson of the Tribunal, Chief Judge Eddie Durie, and the Tribunal members with whom I have worked, thank you for an interesting six years. I am honoured to have worked with you.

No one can do everything and I think the reason why the Tribunal has been able to meet an exacting work schedule, yet remain within budget, has been due to the efforts of a dedicated staff. I have been lucky to have had a group of mostly young New Zealanders with the skills and an awareness of the issues which has made working with them inspiring. I believe they have a special duty as well, which is to demonstrate that, more than any other organisation, the staff of the Waitangi Tribunal are able to reflect the Treaty in real terms. Despite the multi-ethnic mix of the Tribunal staff, the enthusiasm with which they have embraced the bicultural side of their working lives shows that it is possible to give practical expression to the partnership principles envisaged by the Treaty. And that is how it should be.

Arohanui

Buddy Mikaere

*Note: The position of Acting Director is currently being filled by Dr the Hon Ian Shearer. It is envisaged that a new Director will be appointed in early-1996.*

## Two new Tribunal members

### ROGER MAAKA

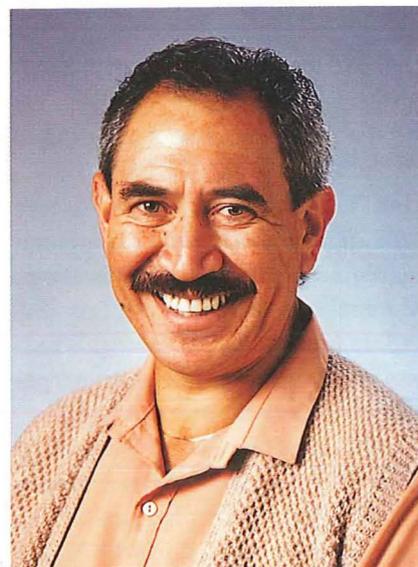
Mr Roger Maaka, a lecturer and former Head of Department in Maori Studies at the University of Canterbury, is the first of two new appointments to the Waitangi Tribunal. Mr Maaka replaces Sir Hugh Kawharu who retired from the Tribunal earlier in 1995.

Mr Maaka is of Ngati Kahungunu descent and is originally from Takapau in central Hawkes Bay. He was Head of Department at Canterbury between 1991 and 1994, and spent 1995 on sabbatical leave, teaching in the School of Native Studies at the University of Alberta in Canada, before returning to lecture at Canterbury.

Mr Maaka led the Kahungunu Association for some years and is a recognised expert on Ngati Kahungunu history, traditions and whakapapa.

Mr Maaka's research interests are in the area of modern Maori society. His publications include a study of the Maori aged, and an investigation of the impact of urbanisation and government on traditional and urban tribal structures.

He plays a significant role in the establishment of Matawaka, an umbrella group for North Island iwi in Christchurch. He is a member of the Board of Trustees for the Nga Hau e Wha national marae in Christchurch.



Roger Maaka

### JOHN CLARKE

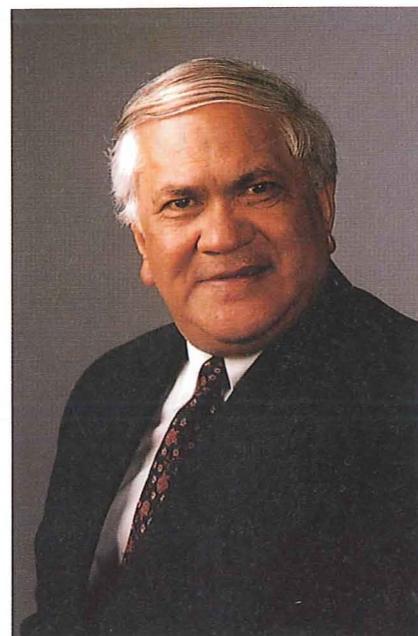
John Clarke is the second new member of the Tribunal. He has tribal affiliations to Ngapuhi and Ngati Porou and has been the Race Relations Conciliator since 1992. Before that he held other senior management positions in the public service, including Human Resources Manager for the Department of Justice, and was the Chief Executive of Manatu Maori/Ministry of Maori Affairs from its inception in 1989 to its disestablishment in 1991. Before that time he worked widely in the field of education, and was principal of Wellington High School and Community Institute, and of Ngata Memorial College.

In addition to these positions Mr Clarke has been involved with a number of other projects. In 1991 he was a crown negotiator for the Ngai Tahu claim. In the same year he was also a government representative to

the United Nations conference on indigenous peoples. In 1990 he advised the Irish Government and the National Museum of Ireland on the 1990 sesquicentennial celebrations and the staging of the *Te Ao Maori* exhibition. In 1988-89 he was also involved in the implementation of the new administrative structures for education under *Tomorrow's Schools*.

He was educated at Auckland Teachers' College and Victoria University. He has been a member of numerous community organisations and has a keen interest in all sports.

Members are appointed to the Tribunal by the Governor-General on the recommendation of the Minister of Maori Affairs, after consultation with the Minister of Justice. There are now seventeen members of the Waitangi Tribunal including the chairperson.



John Clarke

*Te Tari Kooti*

Department for  
**COURTS**



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## Funding increase for Rangahaua Whanui project

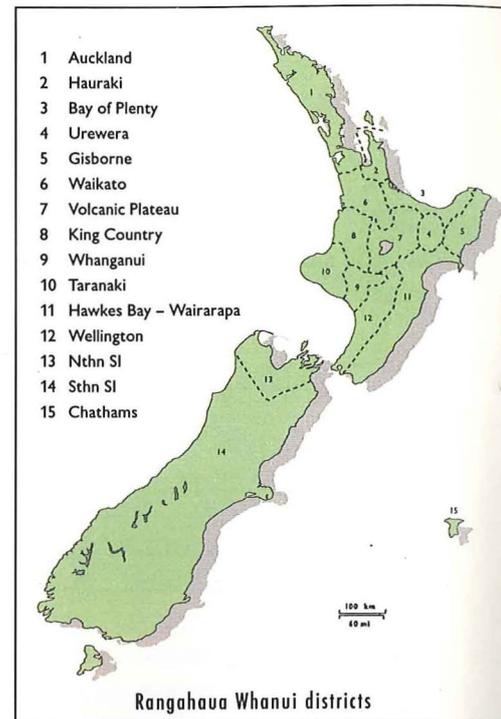
A \$500,000 funding increase was recently granted in order for the Tribunal to complete the Rangahaua Whanui (Broad Search) project that it has been working on for the past two years. According to the Acting Tribunal Director Dr the Hon Ian Shearer the increase in funding is 'a major help in completing important reports and research. The money will enable the Tribunal to fast track a major research project which will help iwi in the preparation of their claims.'

The objective of the Rangahaua Whanui project is to advance inquiry into Tribunal claims, by providing a national overview of the broad historical context in which claims are made. Research is grouped into fifteen districts, with research on national themes including Native Committees, Maori Land Councils, Old Land

Claims and Crown Reserves also being undertaken. Basic data is being researched and collated on comparative iwi resource losses, the impact of loss and alleged causes. The Tribunal anticipates that the release of the Rangahaua Whanui district reports will speed up the researching of claims, as a broad overview of the history of Maori/Crown relations in each district will be available.

There will be \$400,000 for the 1995/96 financial year for the completion of research on both district and national themes. In addition to this research, the Tribunal will present interim reports on the Taranaki claim, the Taemaro claim (part of Muriwhenua) and the Ngati Awa claim.

The remaining \$100,000 will be allocated in the 1996/97 financial year for the completion of the national overview, which will complete the



Rangahaua Whanui project. In addition to this, the Tribunal report on the Whanganui River claim will be presented.

## Kiwifruit Marketing Report finds that claim is not well founded

The 38-page *Kiwifruit Marketing Report 1995* released in November found that the regulation of export trade is a legitimate exercise of kawanatanga under article one of the Treaty of Waitangi. The claimants had argued that the right to export kiwifruit is a taonga that has the protection of article two of the Treaty.

The claim (Wai 449) challenged the Primary Products Marketing Act 1953 and the Kiwifruit Marketing Regulations 1977, which give the New Zealand Kiwifruit Marketing Board a monopoly over the export of kiwifruit to all foreign markets except Australia. The claim was lodged by Mrs Marata Norman of Ngati Moko and Mr Wi Parera Te Kani of Ngai Tukairangi, on behalf of their whanau, hapu and iwi, late in 1994,

and was granted urgency on the ground that if the claimants' Treaty rights were proved to have been breached, they would have been unfairly locked into a regime that may have caused them substantial economic damage.

Although the claimants argued that they had experienced undue restriction of their Treaty rights to exercise their rangatiratanga because of the New Zealand Kiwifruit Marketing Board's single desk marketing policy, the Tribunal's report finds that this is a narrow definition of rangatiratanga. The report found that the regulation of export trade is a legitimate exercise of kawanatanga, which clearly envisaged the capacity of governments to pass laws to structure and regulate trade.

The need for consultation also fig-

ures significantly in the report's recommendations. While the Tribunal considers that the steps taken to consult with Maori kiwifruit growers prior to the establishment of the marketing board were sufficient, the report also states that there has been inadequate recognition of Treaty obligations by the marketing board since that time.

The report can be obtained from:

**GP Publications**  
**P O Box 12052, Wellington**  
**Tel: 04-473-7218**  
**Freefax: 0800-804-454**

For further information please contact:

**Vanessa Byrnes**  
**Communications Manager**  
**Waitangi Tribunal**  
**Tel: 04-499-3666**  
**Fax: 04-499-3676**

## Waitangi Tribunal creates database on the worldwide web

**T**he Waitangi Tribunal database is now available through the Internet on a homepage which contains basic information on the Waitangi Tribunal and the full reports database, including interlocutory (provisional) decisions by the Tribunal.

Users will find the homepage of the Waitangi Tribunal at:

<http://www.kete.co.nz> or  
<http://202.14.100.10>.

It is possible to search in any of the reports for a report title, a name, or any other word or expression. A mouse is used to navigate through the database and to retrieve relevant pieces of text which can then be printed out.

Basic information on the Waitangi Tribunal, such as details relating to the Treaty and how to complete a claim, can be freely accessed through the worldwide web by Internet users.

There are charges for gaining access to more comprehensive information. Access to the full database, including reports and interlocutory decisions, is available for a \$50 per month subscription charge or by usage at \$3 per search or \$2 per view. There are also associated charges for e-mail messages at a standard \$3.50 per megabyte.

Site licenses are available for unlimited access to the database for multiple users at a rate of \$3000 per annum, with a discounted rate of \$2100 per annum for educational institutions (all costs quoted are GST exclusive).

The process of obtaining information from a report for both claimants and the Tribunal will be streamlined as claimants and other interested parties will have instant access to the material. One of the advantages of having Tribunal reports available in

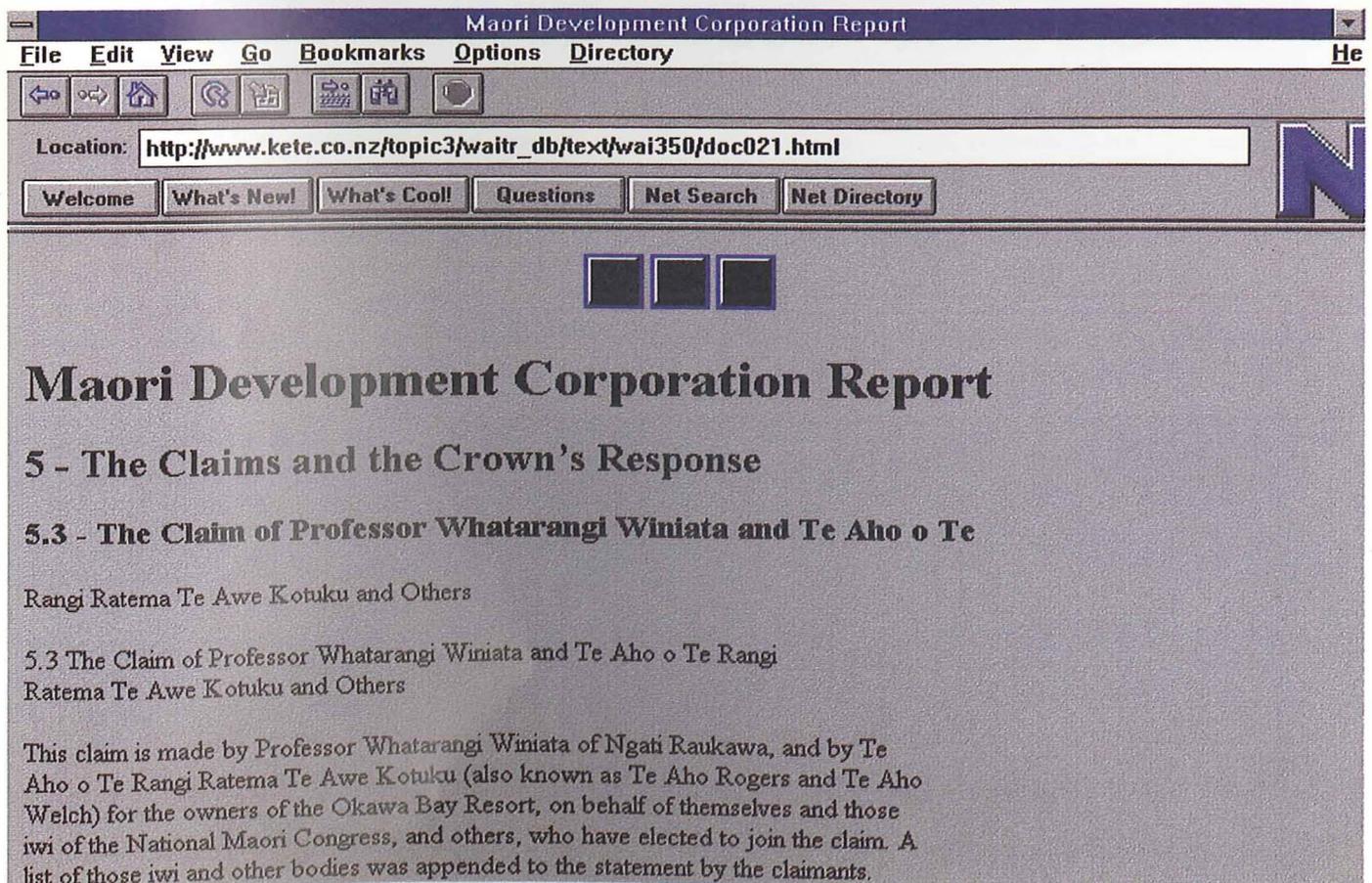
*The process of obtaining information from a report for both claimants and the Tribunal will be streamlined as claimants and other interested parties will have instant access to the material*

the new format is when users wish to access only part of a report, they may do so quickly, and will not have to purchase the whole report.

The electronic format will also allow easy access for international users. The Tribunal's work is being looked at as a model of a grievance resolution body by countries such as South Africa, Australia, Canada and Fiji.

For further information contact:

**Electronic Text**  
**Telephone 09-846-6454**  
**Fax 09-846-6432**



Maori Development Corporation Report

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Location: [http://www.kete.co.nz/topic3/waitr\\_db/text/wai350/doc021.html](http://www.kete.co.nz/topic3/waitr_db/text/wai350/doc021.html)

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## Maori Development Corporation Report

### 5 - The Claims and the Crown's Response

#### 5.3 - The Claim of Professor Whatarangi Winiata and Te Aho o Te Rangi Ratema Te Awe Kotuku and Others

Rangi Ratema Te Awe Kotuku and Others

5.3 The Claim of Professor Whatarangi Winiata and Te Aho o Te Rangi Ratema Te Awe Kotuku and Others

This claim is made by Professor Whatarangi Winiata of Ngati Raukawa, and by Te Aho o Te Rangi Ratema Te Awe Kotuku (also known as Te Aho Rogers and Te Aho Welch) for the owners of the Okawa Bay Resort, on behalf of themselves and those iwi of the National Maori Congress, and others, who have elected to join the claim. A list of those iwi and other bodies was appended to the statement by the claimants.

## Welcome to new staff

Several new staff members have recently joined the Waitangi Tribunal.

**Heather Bassett** joins the research team and is working on the Tauranga Moana claims. Before coming to the Tribunal, Heather spent two years with the Crown Forestry Rental Trust, producing the Maori Land Legislation Database. Heather has a BA (Hons) in History from Waikato University.

**Kate Riggir** joins the staff as editorial assistant, and will be working with Dominic Hurley, editing Tribunal reports. With a background in publishing and editing, Kate has a BA in English Literature and Geography from Victoria University.

**Dominic Wilson** has recently taken up the new position of Chief Judge's Research Counsel. Dominic grew up in Auckland, and completed a Masters degree in Anthropology at Auckland University. Dominic also has a law degree which was begun at Auckland but completed at Otago University.

Before coming to the Tribunal, Dominic had previously worked at the Wellington Regional Council, and the Museum of New Zealand as a researcher into Moriori fishing, as part of the Chatham Islands claim.

**Campbell Duncan** has started work as a research officer, and is

working on the Taranaki claim (Wai 143). Campbell grew up in Palmerston North and gained his Bachelor of Arts with Honours degree in History at Massey University, before moving to Wellington where he completed a Law Honours degree at Victoria University.

He has previously worked for the Crown Forestry Rental Trust and at Chen and Palmer where he also worked on the Chatham Islands claim.

**Janine Hayward** has also joined the Tribunal staff as a research officer, and she is assisting Professor Alan Ward in his work on the Rangahaua Whanui National Overview.

Janine completed a Bachelor of Arts in Politics and English at the University of Canterbury, and gained Honours in Politics at Victoria University, before going on to finish her PhD in Politics at Victoria. Janine's thesis is entitled 'In Search of a Treaty Partner - Who or What is the Crown?'

Another recent appointment to the Tribunal staff is Communications Manager **Vanessa Byrnes**. A graduate of the University of Waikato (MA Hons I) and Te Kura Toi Whakaari o Aotearoa/New Zealand Drama School, Vanessa replaces the previous manager Tina Watson. Among her responsibilities at the Tribunal are publication of *Te Manutukutuku* and Tribunal reports, and facilitating powhiri and international visits.

*The staff and members of the Waitangi Tribunal wish you a Merry Holiday Season and a Happy New Year*



The Tribunal staff

## New publisher for Waitangi Tribunal reports

**T**he Waitangi Tribunal recently announced that the publication contract with Brooker's Booksellers and Publishers has been completed and that as from 1 January 1996 GP Publications will be publishing and distributing all Tribunal reports. This includes both reports that have been previously released, and future reports.

GP Publications aims to distribute the reports widely in order to make the Tribunal reports more accessible to the public. They will increase the retail availability of the reports by distributing them in bookshops in the major centres and provincial cities, including Bennetts Government bookshops. Bookshops and schools in areas covered by a report, or which may be interested in a report soon to be released, will be kept informed of relevant details.

GP Publications will operate a free fax number to enable direct ordering of reports on **0800 804 454**. Ordered reports will be dispatched overnight and a catalogue with up-to-date price lists for reports will be available on request.

GP Publications will be using the latest digital printing technology in publishing the reports. This allows high quality documents to be printed and bound in a shorter period of time than they have been in the past. It is envisaged that with the new partnership with GP Publications, the Waitangi Tribunal's reports will now be more widely available to the general public.

**GP Publications**  
P O Box 12052, Wellington  
Tel: 04-473-7218  
Freefax: 0800-804-454

## NEW CLAIMS REGISTERED

Wai No.	Claimant	Concerning
527	Heke Morris & Tanira Te Rohu Te Au	Paki Paki School House, Hastings (consolidated with Wai 201)
528	John Klaricich	Local Government Act 1974 and the Local Government Commission's decision to divide the Hokianga Ward into 2 parts
529	Paraone Lake and Haumoana White	Mokau Mohakatino Block Claim, Taranaki (consolidated with Wai 143)
530	Patara Peremana and others on behalf of Nga Uri o Whawhakia	Nga Uri o Whawhakia land and resources, Waikato
531	Eru George	Horohoro State Forest, south of Rotorua (grouped with Wai 293, 316, 317, 391, 438, 443, 444, 547)
532	W S P McDonald and others	Mahurangi Omaha Pakiri and Mangawhai Districts in Hauraki Gulf Islands (consolidated with Wai 406)
533	Te Au Nikora and others	Whakarewarewa Geothermal Valley and Whakarewarewa State Forest (grouped with Wai 153, 233, 268, 282, 312, 453)
534	Georgina Martin	Disposal of Surplus Crown Lands (grouped with Wai 218, 535, 538)
535	Rongoherehere Wetere	Ngati Maniapoto Lands and Resources in the South Waikato and King Country Districts (grouped with Wai 518, 534, 538)
536	Ashley K Apatu	Pakowhai Native Reserve and Ngaruroro Riverbed (consolidated with Wai 201)
537	Richard Tamihana	Waikato Raupatu Lands, Waikato River, Onewhero Forest, Church Mission Society, Raglan Harbour and Fisheries (consolidated with Wai 406)
538	Ivy Waitangi Kapua (née Broughton)	Ngati Whaita lands, Waikato (grouped with Wai 514, 534, 535)
539	Emari Emily Nikora and Nga Kohanga o Raukawa	Establishment of a kura kaupapa Maori at Matarewa Primary School, Tokoroa, Waikato
540	Kihi Ngatai	Ngaiterangi lands, Tauranga/Bay of Plenty (consolidated with Wai 215)
541	Judith Tito	Maori Customary Title, Aotearoa
542	Huriana Lawrence	Te Kapuamatotoro lands, Gisborne, Hawkes Bay and South Island (consolidation with Wai 201)
543	Ruth Harris	Loss of lands and other resources of Rangitane ki Manawatu within Te Whanganui a Tara (aggregated with other Wellington Tenths claims for hearing of Wai 145)
544	K P Tobin	Takahue School, Kaitaia
545	Jessica Hutchings	Restructuring of National Archives under the Archives Act 1957, Aotearoa
546	Tureiti Stockman	Ngati Tapu lands, Tauranga
547	Lance Waaka and Garth Banks	Patetere, Huihuitaha and Pokaiwhenua, Waikato (grouped with Wai 293, 392, 443, 531)
548	Sydney Hayward Murray	Takahue No 1 Block, Kaitaia (grouped with Wai 544)
549	Rudy Taylor and Haakopa Tangihaere Te Whata	Ngapuhi land and resources, Auckland (grouped with Wai 12, 128, 295, 302, 320, 352, 409, 421, 435, 450, 504, 520)
550	Joe Malcom and Ben Hohepa	Rotoehu Forest, Rotorua (consolidated with Wai 46)
551	George Searancke	Ngati Ngawhero land blocks, Kihikihi, Waikato
552	Lewis Turahui	Ahitahi/Araukuku hapu, Taranaki (consolidated with Wai 143)
553	Andrew Kaponga Erueti	Araukuku claim, Taranaki (consolidated with Wai 143)
554	Hune Rapana, Colin Richards & Richard Manuauate Pirere	Marotuku and Ruapehu Survey districts, Taupo (grouped with Wai 48)
555	Mark Kono Cribb and Larry Ngakaota Ponga	Taumatamohoe block, Whanganui (grouped with Wai 167)
556	Edwin Daniel Vaihai Ormsby	Umukaimata block, Waikato (grouped with Wai 483)
557	Mita Hoera O'Brien	Te Kaokaoroa o Patetere lands, Waikato (grouped with Wai 255 & 290)
558	Hone John Kameta on behalf of himself and Ngati Ira o Waioeka	Ngati Ira o Waioeka, Bay of Plenty, East Coast

# Educational resources for schools

Copies of the Waitangi Tribunal resource kits that proved so popular when first released have become available for schools and interested groups to order in time for the beginning of the 1996 school year.

The Tribunal has published four resource kits, based on land and environmental pollution claims to the Waitangi Tribunal, that deal with issues related to the Treaty of Waitangi and the rights guaranteed to Maori with the signing of the Treaty in 1840. Each kit also contains discussion on specific issues pertaining to the land loss or resource pollution that form the basis of each claim. The kits have all been produced in conjunction with an education advisory group, and have all been successfully trialled in the classroom.

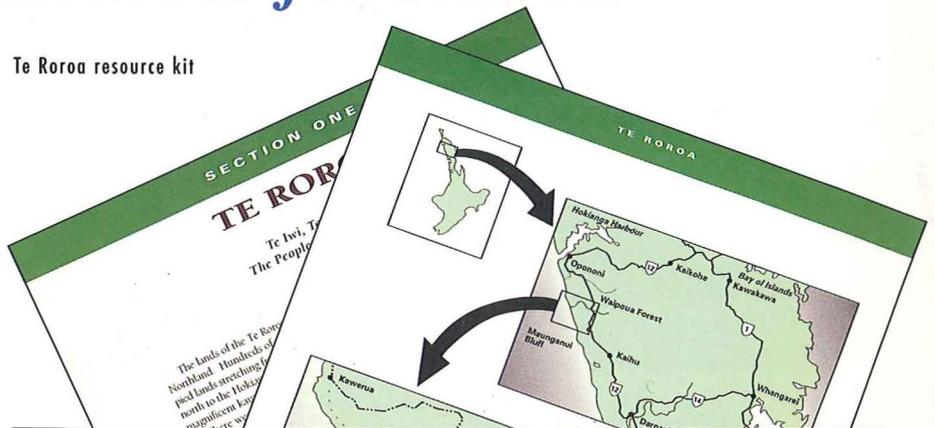
*The kits have all been produced in conjunction with an education advisory group, and have all been successfully trialled in the classroom*

The resource kits are attractively presented, printed in colour with illustrations and photographs, and can be used for fourth form social studies, senior school history, geography, legal and cultural studies. The Treaty issues covered by the resource kits will be compatible with the ongoing social studies curriculum developments, and will remain important to the education of secondary school students for some time.



Each kit contains a classroom set (30 copies) of the resource, teacher's notes and student exercises.

Te Roroa resource kit



Maunganui Bluff, a key feature of the Maunganui block (from Te Roroa resource kit)

Photo: N W Hogg

**Those resource kits available from the Waitangi Tribunal are:**

Set One	Kaituna	Environmental pollution claim, Rotorua
Set Two	Motunui-Waitara	Environmental pollution claim, Taranaki
Set Three	Te Roroa	Historical land loss claim, Northland
Set Four	Orakei	Historical land loss claim, Auckland

**Order Form**

Name: .....

Address: .....

Telephone: .....

- Please send me:  copies of Kaituna resource kit, at \$35 each  
 copies of Motunui-Waitara resource kit, at \$35 each  
 copies of Te Roroa resource kit, at \$37.50 each  
 copies of Orakei resource kit, at \$37.50 each  
 (all prices include GST)

I enclose a cheque for \$..... made out to the Waitangi Tribunal.

OR

Please send an account to this address: .....

Post orders to: Information Manager, Waitangi Tribunal  
 P O Box 5022, WELLINGTON