

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

TE MANUTUKUTUKU

Kia puta ki te whai ao ki te ao marama

From the world of darkness moving into the world of light

Issue 83



Waitangi Tribunal

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Ngā Mātāpono Report

ON Tuesday 5 November 2024, the Waitangi Tribunal released *Ngā Mātāpono/The Principles: Part II of the Interim Report of the Tomokia Ngā Tatau o Matangireia – The Constitutional Kaupapa Inquiry Panel on The Crown's Treaty Principles Bill and Treaty Clause Review Policies*.

Upon learning that the Crown intended to introduce the Treaty Principles Bill to Parliament a week earlier than previously signalled, the Tribunal took the unusual step of releasing the report immediately in draft pre-publication form in order to assist the Crown and the claimants. A typeset version of the report followed the next day. This reflects the increasingly nimble approach the Tribunal finds itself taking as it navigates urgent claims about impending political actions affecting Māori.

The part II report contains the Tribunal's analysis and findings on further evidence released since May 2024 on the policy development process for the proposed Treaty Principles Bill. The updated report responds to that evidence and confirms the findings and recommendations from the initial interim report (discussed below).

The Tribunal found that the Crown continued to breach the principles of the Treaty/te Tiriti in developing its policy in respect of the Bill. It further recommended that, if the Government did not abandon the Bill, and given the constitutional significance of the issue, the Bill should be referred to the Tribunal under



Ngā Mātāpono / The Principles

section 8(2) of the Treaty of Waitangi Act 1975.

Part II followed the release on Friday 16 August 2024 of the Tribunal's interim *Ngā Mātāpono/The Principles* report. That report concerned claims submitted to the Tribunal under urgency regarding Crown policies to progress a Treaty Principles Bill and, separately, to review legislative enactments referring to 'the principles of the Treaty of Waitangi' (the Treaty clause review).

The Tribunal heard the claims on 9 and 10 May 2024 at its offices in Wellington.

With respect to the Treaty Principles Bill policy, the Tribunal found that the

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From the Chairperson

I am pleased to report that we have achieved some significant milestones as 2024 draws to a close. All kaupapa inquiries have now been initiated, at least through the appointment of presiding officers and panels. This is an important advance and means that we can now start to scope out with more precision the work ahead of us.

In that regard, we have also begun to make progress with our new strategic direction, replacing the 2014–25 strategy and its 2020 update. A review group has been appointed and has made quick but considered progress on this. The new strategy will outline the steps we will take from 2025 to 2035 with both district and kaupapa inquiries, as well as with claims that fit into neither of these categories.

On 26 September, we launched the Tribunal's refreshed website. The changes made have not just improved the site's visual appeal but also greatly enhanced its effectiveness



and usability. It can now be toggled between te reo Māori and English.

The Tribunal has released four important reports since June. The first, *Kei Ahotea te Aho Matua*, was released in July and concerned consultation with kura kaupapa Māori on the Tomorrow's Schools review. In a first for the Tribunal, it was written entirely in te reo Māori. *Ngā Mātāpono* was released in August and was an interim report on the Crown's progression of a Treaty Principles Bill and its proposed review of Treaty clauses in existing legislation. (The final version was released

in November.) The *Takutai Moana Act 2011 Urgent Inquiry Stage 1 Report* was released in September and arose from the urgent inquiry into the Crown's policy process to amend the Marine and Coastal Area (Takutai Moana) Act 2011. Lastly, *Hautupua* came out in November and concerned the disestablishment of Te Aka Whai Ora. My thanks go to all panel members and staff who worked on these reports.

There has also been much activity at the Tribunal focused on events to mark our fiftieth anniversary in 2025. We have planned these to begin at Waitangi in February 2025, and we will have more information about them in our next edition.

Chief Judge Dr Caren Fox
Chairperson
Waitangi Tribunal



From the Director

TĒNĀ KOUTOU. E rere ana ngā wai o mihi ki te raki, ki te tonga, ki te rāwhiti, ki te uru; ki tuawhenua, ki tai, otirā ki a tātou katoa e noho nei i ngā tōpito katoa o te motu.

E tika ana kia mihia hoki te nui o ngā mahi kua tutuki i ngā puna katoa o te Taraipiunara i roto i ngā marama. Hei aha? Hei painga mō te iwi. He tika hoki te kōrero: nā te hoe ngātahi i ū pai ai te waka ki uta.

It has been another busy year for the Waitangi Tribunal Unit. As well as servicing a large number of urgent, priority, district, and kaupapa inquiries, we have been busy planning for the Tribunal's fiftieth anniversary in 2025.



In October, Puna Hāpai Candice Benson rolled out a unit-wide programme, *Kia Māori mai ngā Mahi*, to ensure that all staff are provided with baseline cultural capability training, and we transferred the Tribunal's magnetic media audiovisual collection

to Ngā Taonga Sound and Vision for digitisation.

As we countdown to the holiday period, I want to express my grateful thanks to all staff for their dedication, hard work, and perseverance this year.

Whakamaua te aroaro ki te anamata e hua ai ngā āheinga mā te Taraipiunara e kapo ake, e hāpai ake.

Steve Gunson
Pae Matua / Director
Waitangi Tribunal
Māori Land Court



Member News

Tā Pou Temara

We congratulate Tā Pou Temara on the receipt of the Te Mūrau o te Tuhi Māori Language Award at the 2024 Ockham New Zealand Book Awards in May.

Tā Pou won the award – a new category this year at the Ockhams – for *Te Rautakitahi o Tūhoe ki Ōrākau*, which concerns the involvement of his own Tūhoe people at the Battle of Ōrākau in 1864. The book was published by Auckland University Press in 2023 and is entirely in te reo Māori.

Tā Pou, an expert in Māori oratory and tikanga, was born in Ruatāhuna in 1948 and raised by his grandparents, Tamahou Tinimene and Pareraututu. While he was still an infant, his grandparents took him to live deep in the Urewera bush, in a clearing between Maungapohatu and Rūātoki, a long and difficult journey by horseback from Ruatāhuna.

One subject that the young Pou talked about with his elders was the Tūhoe participation in the fight alongside Rewi Maniapoto at Ōrākau near Te Awamutu, where for three days a contingent of around 300 Māori defenders (including women and children) withstood an attack by 1,400 British soldiers. In their defence and subsequent escape, more than half of the Māori force were killed.

Tā Pou was motivated to write *Te Rautakitahi o Tūhoe ki Ōrākau* to highlight the Tūhoe or Māori perspective on the battle, since most accounts had been written by Pākehā and based on Pākehā sources. In accepting his award, Tā Pou said, in his humble way, 'I am merely the hand that holds the pen that gives life to the Māori language.'

Tā Pou, who is a professor of Māori Philosophy at Te Whare Wānanga o Awanuiārangi, has been a Tribunal member since 2008.

Judge Nathan Milner

Judge Nathan Milner (Ngāti Porou, Ngāti Tahu) was sworn into the Māori Land Court on 30 July 2024. He holds an LLB and a Bachelor of Arts (Māori) with First Class Honours in Politics and International Relations from Te Herenga Waka/Victoria University of Wellington.

Judge Milner previously practised as a solicitor, senior associate, and special counsel at Kāhui Legal. He brings over 15 years of expertise in Māori land law, trusts law, estates, commercial and contract matters, the Māori Fisheries Act 2004, legislative development, and dispute management and resolution.

Judge Milner is well acquainted with the Māori Land Court and the Waitangi Tribunal, having previously served as a research counsel for the court and as an assistant registrar for the Tribunal Unit. Welcome and congratulations, Judge Milner.

New members

Two new members have been appointed to the Tribunal. **The Honourable Richard Prebble CBE** is by profession a lawyer and has practised law in New Zealand and Fiji. He served a total of 27 years in parliament, 18 of them for the Labour Party as the member for Auckland Central and nine for the ACT Party as first the member for Wellington Central and then as a list member.

In his time in government, Mr Prebble held many portfolios, including Police, State-Owned Enterprises, Transport, Pacific Island Affairs, Broadcasting, and Associate Finance.

After retiring from politics in 2005, Mr Prebble has held several directorships and been a consultant to the Asian Development Bank, the United

Nations Development Programme, and the World Bank. He is a business columnist for the *New Zealand Herald*.

Ken Williamson is a Fellow of the Insurance Brokers Association of New Zealand and has devoted a significant portion of his life to Hato Hone/St John and various community service organisations, including over 20 years with Te Whakaruruhau Māori Women's Refuge. He has also served as a governor on a diverse array of not-for-profit boards and acts as an independent director for several successful businesses in the distribution, manufacturing, engineering, and property-investment sectors. Mr Williamson's contributions to governance have earned him the title of Distinguished Fellow of the Institute of Directors.

Reappointment

Congratulations to **Kevin Prime CNZM** (Ngāti Hine, Ngāpuhi, Ngāti Whatua, Tainui) on his October reappointment as a Tribunal member. Mr Prime was first appointed in 2021 and is currently serving on the panels for the Constitutional, Education, and Climate Change Kaupapa Inquiries. He also sits on the standing panel process for remaining historical claims.

Continuing members

We acknowledge the completion of the active warrants of members **Derek Fox**, **Dr Grant Phillipson**, and **Dr Hana O'Regan ONZM**. They will continue to serve on the panels to which they are currently appointed through to the conclusion of those inquiries, but we wish to take the opportunity now to recognise and thank them for their contributions and commitment to the work of the Tribunal. □

Staff Profiles

Candice Benson

Ko Tainui te waka

Ko Pirongia, ko Kakepuku ngaa maunga

Ko Waikato, ko Waipaa ngaa awa

Ko Ngaati Apakura me Ngaati

Maniapoto ngaa iwi

Ko Candice Benson taku ingoa

Noo Waikato ahau

Tiihei mauri ora!

Candice Benson was born in Te Papaioea/Palmerston North and was raised in Hamilton. As a young woman, she sought to reconnect with her whakapapa links to iwi in the Waikato region and took an early step on this journey by enrolling in a Bachelor of Māori and Pacific Development at Te Whare Wānanga o Waikato/the University of Waikato. Candice subsequently also completed Te Tohu Paetahi, an intensive year-long Māori language immersion diploma course. Her pouako during this period included Tribunal members Ahorangi Tom Roa and Ahorangi Tā Pou Temara.

Candice has spent her career largely in te reo Māori revitalisation, learning, and development and cultural capacity building. She worked previously with

Candice Benson



Te Mātāwai, an independent statutory entity established under the Te Ture mō te Reo Māori 2016 (Māori Language Act 2016) to protect, promote, and support the revitalisation of te reo Māori at a community level.

In early 2024, Candice joined the Waitangi Tribunal Unit as Puna Hāpai (Cultural Advisor – Te Ao Māori). She describes being drawn to this leadership role by her passion for te reo Māori me ōna tikanga katoa. A key priority for Candice as Puna Hāpai is developing initiatives that support the realisation of the unit's strategic goal to lift staff cultural confidence in Te Ao Māori.

Candice has already made progress toward this goal, running the *Kia Māori mai ngā Mahi* series of workshops in late 2024. These two-day sessions, attended by all unit staff, included collaborative discussions of Aotearoa New Zealand's colonial history and its legacies, as well as an overview of key ideas and principles relevant to tikanga and Te Ao Māori.

Candice lives in the rohe of Te Āti Awa in Upper Hutt. When not at work, she enjoys spending time with her teenage son, cooking, and experiencing nature.

Evald Subasic

Evald Subasic developed his passion for Aotearoa New Zealand's history while studying at Horowhenua College in Levin and Te Herenga Waka/Victoria University of Wellington. He started his journey in the Treaty sector in 2003 as a researcher at the Crown Forestry Rental Trust (CFRT), working mostly on the Central North Island Inquiry. After a short stint teaching a Foundation Studies course at Te Herenga Waka, Evald went on to work as an independent historian,



Evald Subasic

producing research reports and evidence for claimants participating in Tribunal district inquiries and for iwi in settlement negotiations with the Crown. In 2012, Evald returned to the CFRT, where, for the next nine years, he worked closely with claimants in the Te Paparahi o te Raki and Taihape: Rangitikei ki Rangipō Inquiries.

Evald joined the Waitangi Tribunal Unit in January 2022 as the manager of the Research Services Team. This group of professionals assess research needs for the Tribunal's inquiries, provide advice to presiding officers on how to best meet those needs, and produce the research and technical evidence to be heard by the Tribunal.

Evald notes that the Tribunal's ongoing transition from the historical-focused district inquiries to the more contemporary-focused kaupapa inquiries presents an exciting opportunity for the team to develop and refine new research approaches and methodologies.

Evald is a keen football supporter and has been involved with the game at a range of levels. He is a member of the Tribunal's long-running five-a-side indoor team, *Ahikarōa*. Travel is another of his passions. □

Kīngi Tūheitia's Tangi

THE death of Kīngi Tūheitia on 30 August was mourned across Aotearoa. The tangihanga held at Ngāruawāhia Marae in the days before Tūheitia's burial at Taupiri Maunga on 5 September represented an enormous logistical effort by the hau kāinga, as many thousands came to pay their respects.

Kīngi Tūheitia had reigned since the death of his mother, Te Arikinui Dame Te Atairangikaahu, in 2006, and his passing came little more than a week after the celebration marking the eighteenth anniversary of his Koroneihana.

Among the manuhiri at the tangi was a group of judges – including our own chairperson, Chief Judge Dr Caren Fox, and previous chairperson Justice Joe Williams – who were

welcomed on to Tūrangawaewae in the final pōwhiri on Wednesday 4 September. It was a chance for the judiciary to offer their condolences and to remember someone who had been, in Justice Williams' words, a king for all of Aotearoa.

Deputy Chief Judge Craig Coxhead was also welcomed onto the marae as part of the same pōwhiri, both as a judge and as part of the contingent representing the old boys of St Stephen's, the secondary school attended by Kīngi Tūheitia.

Aside from being represented in the judicial party, Tribunal members were involved in other important parts of the proceedings.

As a member of the King's Council of Twelve – Tekau-Mā-Rua – Tā Pou Temara was one of those who advised

on the selection of the new Māori monarch, Te Arikinui Kuini Nga wai hono i te po Pootatatu Te Wherowhero VIII. Prue Kapua and past Tribunal chair Tā Eddie Durie are also companion members of Tekau-Mā-Rua.

Dr Ruakere Hond spoke on behalf of Taranaki at the tangi and was interviewed by Radio New Zealand's *Morning Report* during their live broadcast. Professor Tom Roa, a past chair of the Waikato-Tainui parliament and executive, was also heavily involved in the week's events.

The Tribunal remembers Kīngi Tūheitia with fondness, including his agreement to the holding of hearings in the Mana Wāhine and Hauora Inquiries at Tūrangawaewae Marae. We wish Kuini Nga wai hono i te po a long and successful reign. □

Kīngi Tūheitia's casket is transported to Taupiri Maunga by waka. Photograph by Marika Khabazi.



Report on Kura Kaupapa Māori Claim



E haka ana ngā tamariki o Kura Kaupapa Māori kei te whakawātanga Kura Kaupapa Māori tamariki perform a haka at the hearing

I te 26 o Hūrae 2024, i puta i te Rōpū Whakamana i te Tiriti o Waitangi tōna pūrongo e kīia ana ko *Kei Ahotea Te Aho Matua* e pā ana ki te tono kōhukihuki i kawea e Te Rūnanga Nui, te māngai mō ngā whānau Kura Kaupapa Māori Te Aho Matua. E whakapae ana ngā kaitono kihai i tika te whai wāhitanga, te whai whakaarotanga atu a te Karauna ki Te Rūnanga Nui, ki ngā Kura Kaupapa Māori rānei i roto i te tukanga arotake me te whakahou i Ngā Kura o Āpōpō, mai i te tau 2018 ki te tau 2022.

Kua tuhia tēnei pūrongo ki te reo Māori. I hua ai tēnei whakatau whai muri i ngā wānanga ki ngā kaitono me te Karauna, me te whai tautoko i a rātau. Kua tāpirihia ki tētahi āpitihanga ngā upoko 3 ki te 7 kei roto i te reo

Pākehā o te pūrongo, kia mārama ake ai te pūrongo.

Ko te whakatau a te Taraipiunara, he maha ngā takahi a te Karauna i ngā mātāpono o te Tiriti e pā ana ki te noho rangapū me te whakamarumaruru i te wā o te arotake me te whakahou i Ngā Kura o Āpōpō. Kihai te tukanga a te Karauna i eke – mai i te whakatau ki te whakaara i te arotakenga i te tau 2018, tae noa ki te pūrongo mātauranga nō te Hereturikōkā 2022 i whakatakoto i ngā kōwhiringa mō te whakahou ki ngā Minita a Hipkins rāua ko Davis. Kei ngā upoko 4 me te 5 o te pūrongo ngā taipitopito mō ēnei kitenga, me te kōrero pono e hāngai ana. Ko tētahi āhuatanga i kitea e te Taraipiunara, kāore i ea te whai wāhi a ngā kaitono ki ngā mahi waihanga kaupapa here,

me te koretake rawa o te Karauna ki te whakamōhio atu ki te aronga o ngā mahi kaupapa here.

I kitea e te Taraipiunara e rua ngā huarahi nui i takahi ai ngā whakaritenga kaupapa here a te Karauna i ōna here Tiriti ki ngā Kura Kaupapa Māori Te Aho Matua whai muri i te whakahou i Ngā Kura o Āpōpō. Tuatahi, kihai te Karauna i whakatinana i te rautaki me ngā kaupapa here e hāngai ana ki te whakatika i ngā hiahia o ngā Kura Kaupapa Māori, he mea takahi i ngā mātāpono o te noho rangapū, te whakamarumaruru, te wairua tōkeke me te kōwhiringa. Tuarua, i kitea e te Taraipiunara he mea takahi ngā whakaritenga onāianei i ngā mātāpono Tiriti o te noho rangapū me te wairua tōkeke nā te mea kāore Te Rūnanga

Nui – te māngai mō ngā whānau Kura Kaupapa Māori Te Aho Matua – i whai mana ki ngā whakatau whakamutunga mō ngā kaupapa here e pā ana ki ngā Kura Kaupapa Māori.

Nā ngā takahitanga a te Karauna i whakahāwea nuitia ngā kaitono, me te mea anō kāore i ngā kaitono te mana e tika ana kei a rātau i raro i te rangapū mahitahi o te Tiriti, ki te waihanga i ngā kaupapa here e hāngai ana ki ngā Kura Kaupapa Māori Te Aho Matua.

Hei whakatika i tēnei hēnga he maha ngā tūtohunga a te Taraipiunara, tae atu ki te tohutohu kia mahitahi te Karauna me ngā kaitono ki te waihanga i ngā kaupapa here mō ngā Kura Kaupapa Māori Te Aho Matua ki ngā kaupapa pēnei i te hanga whare, te tautoko i te marau, me te whakamahere whatunga. Mō te pae tawhiti, e tūtohu ana te Taraipiunara kia ū te Karauna ki te whakatū i tētahi rōpū mātauranga whaimana motuhake – ko te tikanga ka waihangatia tōna korahi me āna mahi ki te taha o te hunga whaipānga Māori, tae atu ki ngā kaitono. Kei te upoko 7 te roanga ake o ngā taipitopito mō ngā tūtohunga a te Taraipiunara.

ON 26 July 2024, the Waitangi Tribunal released *Kei Ahotea Te Aho Matua*, a report on the urgent claim bought by Te Rūnanga Nui and the Kura Kaupapa Māori Te Aho Matua whānau it represents. The claimants allege that the Crown did not sufficiently involve or consider Te Rūnanga Nui or Kura Kaupapa Māori in the Tomorrow's Schools review and reform process from 2018 to 2022.

The report has been produced in te reo Māori. This decision was made following discussion with, and support from, the claimants and the Crown. English versions of chapters 3 to 7 are included as an appendix, to assist in understanding of the report.

The Tribunal found that the Crown breached Treaty principles of partnership and active protection in several instances during the Tomorrow's Schools review and reform. It found



Ka tiro atu ngā tamariki mokopuna o Te Kura Kaupapa Māori o Hoani Waititi Marae me a rātau kaiako hei matapihi ki te ao Kura Kaupapa kaiako and tamariki looking through the window of the Hoani Waititi wharenui at the first Kura Kaupapa Māori (Dewes) Urgent Inquiry hearing

the Crown's process throughout lacking – from the decision to initiate the review in 2018 to the August 2022 education report that provided Ministers Christopher Hipkins and Kelvin Davis options for reform. These findings, and the relevant factual narrative, are set out in detail in chapters 4 and 5 of the report. A consistent theme that the Tribunal found was the insufficient involvement of the claimants in key policy development steps, and very poor communication from the Crown on the direction of policy work.

The Tribunal found that the Crown's policy arrangements in the wake of the Tomorrow's Schools reforms breached the Crown's Treaty obligations to Kura Kaupapa Māori Te Aho Matua in two critical ways. First, the Crown had failed to implement bespoke policy and strategy to address the needs of Kura Kaupapa Māori, in breach of the principles of partnership, active protection, equity, and options. Secondly, the Tribunal found that current arrangements breached Treaty principles of partnership and

active protection because the power to make final decisions on policy settings affecting Kura Kaupapa Māori was not shared with Te Rūnanga Nui, who act on behalf of Kura Kaupapa Māori Te Aho Matua whānau.

The Crown's breaches caused considerable prejudice to the claimants, including not having the powers they should, under the Treaty partnership, to shape policy applicable to Kura Kaupapa Māori Te Aho Matua.

To remedy this harm, the Tribunal made several recommendations, including that the Crown work with the claimants to develop specific policies for Kura Kaupapa Māori Te Aho Matua in areas like property, curriculum support, and network planning. In the longer term, the Tribunal recommended that the Crown commit to establishing a stand-alone kaupapa Māori education authority – the precise scope and functions of which are to be developed with Māori stakeholders, including the claimants. More details of the Tribunal's recommendations can be found in chapter 7. □

Takutai Moana Urgency Report

ON 13 September 2024, the Waitangi Tribunal released the *Takutai Moana Act 2011 Urgent Inquiry Stage 1 Report*.

The Marine and Coastal Area (Takutai Moana) Act 2011 replaced the Foreshore and Seabed Act 2004, restoring customary interests in the takutai moana extinguished by the 2004 Act, instituting statutory tests and awards to recognise those interests, and providing for public access to these areas. Under the 2011 Act, Māori can obtain legal rights recognising their customary interests in the form of customary marine title (CMT). Section 58 of the Act sets out the statutory test that applicant groups must meet to be awarded CMT.

In 2021, the High Court awarded CMT to a range of applicant groups in the Bay of Plenty in *Re Edwards (Te Whakatōhea No 2)* – the first case to address competing applications for CMT over the same area. The decision had implications for some 200 other applications that were already before the High Court. Disagreeing over who should be awarded CMT, two groups within Te Whakatōhea appealed the decision. The case split the Court of Appeal in 2023, with the majority decision of Justices Cooper and Goddard stating that section 58 does allow

for ‘shared exclusivity’ and that two groups might meet this test. Justice Miller dissented, stating that this would make the section 58 test ‘very much easier to meet’. Following the 2023 general election, the National–New Zealand First coalition agreement committed to amend the Act to overturn the Court of Appeal’s decision and ‘make clear Parliament’s original intent’.

In June 2024, the Tribunal received applications for an urgent inquiry into ‘Te Arawhiti’s mismanagement of the Takutai Moana financial assistance scheme’ and the proposed amendments to the Act. On 23 July 2024, Presiding Officer Judge Miharo Armstrong granted the claims urgency.

Two days later, the Minister of Justice, Paul Goldsmith, announced the Government’s intention to amend the Act, including its preamble, section 4 (purpose), section 7 (Treaty of Waitangi provision), section 58 (test for CMT), and section 106 (burden of proof). Judge Armstrong therefore decided to stage the inquiry, with stage 1 focusing on the proposed amendments and stage 2 focusing on Te Arawhiti’s funding. Hearings for stage 1 were held in the Tribunal’s offices in Wellington from 26 to 28 August 2024.

The stage 1 report found that the

Crown had breached Treaty principles during the legislative amendment process and that the proposed amendments were themselves inconsistent with the Treaty. To remedy these breaches and give effect to Treaty principles, the Tribunal recommended that the Crown:

- ▶ halt its current efforts to amend the Takutai Moana Act;
- ▶ make a genuine effort at meaningful engagement with Māori; and
- ▶ focus its engagement on the perceived issues of permissions for resource consents, rather than interrupting the process of awarding CMTs.

The Tribunal stated that the Crown’s actions were such a gross breach of the Treaty that, if the amendments were to proceed, it would be an illegitimate exercise of *kāwanatanga*. The Tribunal cautioned the Crown that to proceed on its current course would significantly endanger the Māori–Crown relationship.

Minister Goldsmith introduced the amendment Bill to the House on 23 September 2024.

The panel in this urgent inquiry consisted of Judge Miharo Armstrong (presiding), Ron Crosby, Professor Rawinia Higgins, and Professor Tā Pou Temara. □

Kāweka and Gwavas Forest Lands

As we outlined in the last issue of *Te Manutukutuku*, in February 2024 the Taihape panel issued a preliminary opinion on claims by the Ngāti Hinemanu me Ngāti Paki Heritage Trust to customary interests in the Kāweka and Gwavas Crown forest licensed lands. The trust had

sought an urgent inquiry to preserve its claimed interests in the lands.

After considering further submissions from the parties, the panel issued its final decision on 8 October 2024. That decision confirmed the conclusion that the panel had reached in its preliminary opinion, which was

that there was insufficient evidence before it to sustain the trust’s claim to a customary right, deriving from the ancestor Punakiao, in the Kāweka and Gwavas Crown forest licensed lands.

This decision brings the Tribunal’s consideration of these matters to a close. □

The Kaupapa Inquiry Programme

SINCE the last issue of *Te Manutukutuku* in June 2024, the chairperson initiated all remaining scheduled kaupapa inquiries:

- ▶ the Natural Resources and Environmental Management Inquiry (Wai 3450);
- ▶ the Social Services and Social Development Inquiry (Wai 3460);
- ▶ the Identity and Culture Inquiry (Wai 3500); and
- ▶ the Economic Development Inquiry (Wai 3550).

Owing to the nature of the issues raised, the claims concerning citizenship rights and equality, which were to be the subject of the final remaining scheduled kaupapa inquiry, have been transferred to Tomokia ngā tatau

o Matangireia – the Constitutional Kaupapa Inquiry (Wai 3300) for hearing and consideration.

An updated table with further details on the Tribunal’s kaupapa inquiry programme and links to more information is set out below.

The chairperson has also outlined several innovations and processes for commencing or progressing kaupapa inquiries in a timely manner. These innovations include:

- ▶ The use of wānanga and pou tikanga to identify the principles underpinning an inquiry and to assist the Tribunal and parties to refine the scope of the inquiry.
- ▶ The conducting of tūāpapa hearings to lay foundational evidence, such

as hearing claimant and expert evidence on important tikanga principles, values, norms, or themes for an inquiry.

- ▶ The holding of early evidential hearings to enable the Tribunal to hear from Crown, claimant, or Tribunal witnesses on important and pressing issues while procedural and interlocutory matters are being addressed. Such evidence may be contextual and may address, for example, the structural framework and policy settings of Crown systems and processes.

More information about kaupapa inquiries and the chairperson’s memorandum on these innovations can be found on the Tribunal’s website. □

Inquiry	Indicative issues in registered claims
Māori Military Veterans (Wai 2500)	Discrimination, recognition, disproportionate risk of harm, inadequate care and rehabilitation, land alienation, farm resettlement and economic opportunity, welfare and entitlements, cultural practices
Health Services and Outcomes (Wai 2575) —Stage 1: Primary healthcare system —Stage 2: Priority issues – mental health; disabilities; alcohol, tobacco, and substance abuse	Health system, hospitals, primary healthcare, funding equity, access to healthcare Rongoā, Māori healthcare design and provision Provision for the disabled, rehabilitation, elder care and rest homes, mental health, smoking, gambling, alcohol and drug abuse, HIV and AIDS public health, health promotion, occupational health, poor health status and outcomes
Takutai Moana (Wai 2660) —Stage 1: Process issues —Stage 2: Legislation, policy, and practice <i>Stages 1 and 2 have been completed</i>	Funding of High Court and Crown engagement processes for the recognition of Māori rights Treaty consistency of the Marine and Coastal Area (Takutai Moana) Act
Mana Wāhine (Wai 2700)	Discrimination against women, gender status, services for women, refugees
Housing Policy and Services (Wai 2750) —Stage 1: Māori homelessness —Stage 2: Other housing issues	Homelessness Adequacy of urban and rural housing provision, State housing

Inquiry	Indicative issues in registered claims
Justice System (Wai 3060)	
—Stage 1: Whakatika ki Runga	Criminal justice system, corrections
—Stage 2: Te Tūāpapa o te Tika	Legal aid, barriers to accessing courts, colonial justice system, the Supreme Court and Privy Council
—Stage 3: Te Tāhū o te Rau	Māori land law, succession, court procedure and costs
Tomokia ngā tatau o Matangireia – Constitutional (Wai 3300)	
—Constitution, sovereignty, self-government	Constitutional law, sovereignty, provision for the exercise of Māori self-government, citizen and human rights, equality, racial discrimination
—Electoral system, representation	Electoral regime, national political representation
—Local government	Representation in local and specialised bodies
Education Services and Outcomes (Wai 3310)	
—Public education system	Primary and secondary schools, tertiary education, curricula, education finance
—Kaupapa Māori education	Kura kaupapa and wānanga
Climate Change Priority (Wai 3325)	
	Physical, spiritual and socioeconomic impacts
Social Services and Social Development	
—Social services and social development	Processes of impoverishment, urbanisation policy and impacts, welfare provision, social development
—Child protection, family well-being	Child protection, family well-being
Economic Development	
—Māori forestry and emissions trading	Carbon taxation, emissions trading scheme, impact on Māori forestry
—Taxation, institutions, autonomy	Taxation, rates, rating, land valuation, land tax, death duties, control of taxation and revenue, Māori economic development institutions and law
Identity and Culture	
—Identity	Adoption, guardianship, wards, whāngai, custody and access control, coronial law and practices, burials, genetic modification
—Material culture	Mokomokai, artefacts, heritage, museum collections, archives, monuments, films and audiovisual works
Natural Resources and Environmental Management	
—Environmental management	Resource Management Act 1991, climate change mitigation
—Mineral and atmospheric resources	Minerals (surface, underground, offshore), atmospheric resources
—Coastal marine resources	Regulation of fishing, water quality, pollution, marine reserves, customary fishing, whales, dolphins, impact of pollution and run-off on coastal marine resources, impact of commercial overfishing on customary resources

The Tribunal Online

New-Look Website

In July 2023, the Tribunal began a project to update and refresh its website. The new website went live on 26 September and is visually engaging, user friendly, and intuitive, allowing users to track inquiry progress and search for information, documents, and reports more effectively and efficiently. A key consideration behind the redesign work is the new language-toggle component for the website to be accessible in te reo Māori.

Deputy Chairperson Judge Reeves emphasised the importance that the website plays in access to information:

What a great day this is. The Waitangi Tribunal's website provides a wide range of information and documentation about the Tribunal, about its membership, and the current inquiry work programme. The website is also a highly trusted and accessed source of information about the Treaty and Treaty claims processes. The metrics show that, for the six months ending 30 June 2024, the website had over 4.4 million views and 1.1 million users from Aotearoa New Zealand and across the world.



The refreshed homepage of the Tribunal's website

The livestream launch commenced with karakia led by Dr Ruakere Hond and then featured a panel session with Judge Reeves, Dr Hond, Judge Alana Thomas, Sandra Edmonds, and Kesaia Walker. There were acknowledgements and mihi to all staff and agencies involved in the redesign and development, along with a demonstration of the website.

Te Manutukutuku

This issue will be the last regular edition of *Te Manutukutuku* printed in hardcopy. We have decided that we can serve our readers most efficiently

by supplying future issues in digital format only. Please note that the distribution of the magazine will remain unchanged and that most subscribers will not have to take any action – the magazine will be delivered automatically to their registered email address.

If you are not a current subscriber but would like to be or if your email address has or may have changed since you originally signed up, please email WaitangiTribunal@justice.govt.nz.

For your convenience, the QR code below will take you to the *Te Manutukutuku* page on the Tribunal's website, where you will find a link to the above email address. □



Fiftieth Anniversary Events

THE date of 10 October 2025 will mark 50 years since the Waitangi Tribunal was established by the Treaty of Waitangi Act 1975. Work on a number of events and projects to appropriately mark the fiftieth anniversary are well underway. These include:

▶ A videography project featuring interviews with key individuals who have been involved in the work of the Tribunal over the past 50 years.

▶ A large-format illustrated book covering the Tribunal's history and its wider impact over the last 50 years and featuring selected images taken from the Tribunal's photographic archive.

▶ An exhibition commemorating the anniversary that will be launched at Te Kōngahu Museum of Waitangi at the Waitangi Treaty Grounds in February 2025.

▶ An anniversary conference that will be hosted at the new Living Pā on the Kelburn Campus of Te Herenga Waka / Victoria University of Wellington in October 2025.

Updates on these anniversary projects and other events will be released closer to the time. If you would like to receive these updates, please email wT.50years@justice.govt.nz, with 'subscribe' as the subject line. □

Crown, by a range of actions and omissions that are set out in the report, breached the Treaty principles of partnership and reciprocity, active protection, good government, equity, redress, and the article 2 guarantee of rangatiratanga.

If enacted, the Tribunal found, the Bill would reduce the constitutional status of the Treaty/te Tiriti, remove its effect in law as currently recognised in Treaty clauses, limit Māori rights and Crown obligations, hinder Māori access to justice, impact Treaty settlements, and undermine social cohesion.

On the Treaty clause review policy, the Tribunal found that the Crown breached the Treaty principles of partnership, active protection, equity, redress, good government, and the article 2 guarantee of rangatiratanga. It found that the policy was predetermined and would result in amendments to or repeals of Treaty clauses.

This would reduce Treaty/Tiriti protections for Māori, affecting the rights of Māori to access justice to have their Treaty/Tiriti rights realised. The Crown further failed to engage with Māori on this policy.

The Tribunal concluded that the two policies, considered jointly, were consistent with an alarming pattern of the Crown using the policy process and parliamentary sovereignty against Māori instead of meeting the Crown's Treaty/Tiriti obligations. The combined impacts of the policies are or will be highly prejudicial to Māori.

The Tribunal made the following recommendations:

- ▶ The Treaty Principles Bill policy should be abandoned.
- ▶ The Crown should constitute a Cabinet Māori-Crown relations committee that has oversight of the Crown's Treaty/Tiriti policies. The Tribunal did not consider it appropriate that these matters be

considered by the Social Outcomes Cabinet Committee.

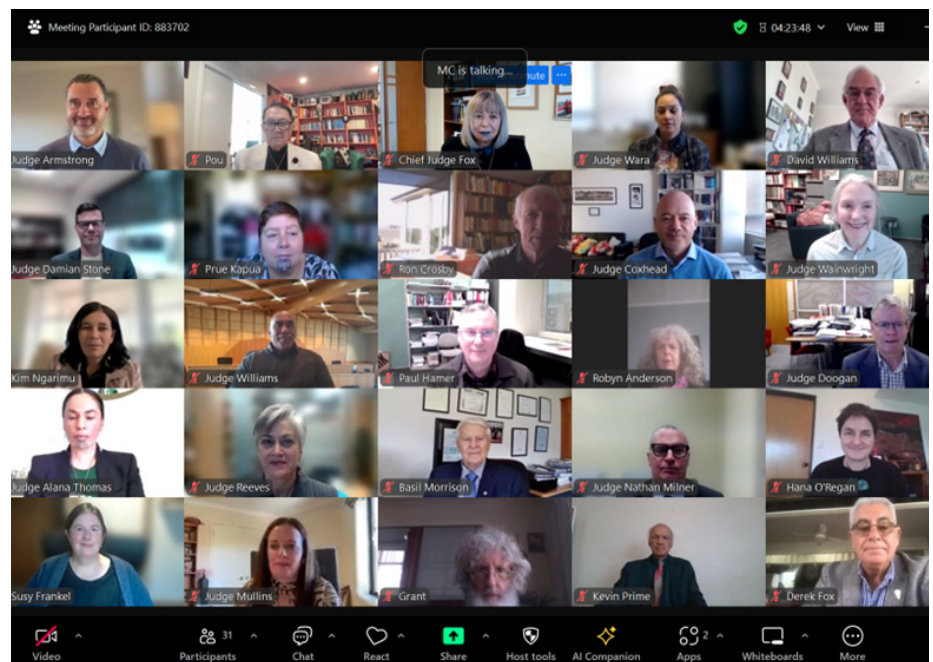
- ▶ The Treaty clause review policy should be put on hold while it is reconceptualised through collaboration and co-design engagement with Māori.
- ▶ The Crown should consider a process in partnership with Māori to undo the damage to the Māori-Crown relationship and restore confidence in the honour of the Crown. While the Tribunal noted that this issue was wider than the two specific policies before it in this urgent inquiry, it stated that it made this recommendation based on its findings and the redress that is necessary to remove the prejudice and prevent similar prejudice in the future.

The panel in this urgent inquiry comprised Chief Judge Dr Caren Fox, Derek Fox, Prue Kapua, Dr Grant Phillipson, and David Williams. □

A Virtual Members' Conference

EACH year, the Tribunal membership gathers in Wellington to share experiences and information and to discuss topical issues. The conference is usually held over two days and features a mixture of presentations, speakers, and discussion forums.

This year, the conference was held online from 10 to 11 July. Presiding officers and members provided updates on their inquiries, including recent inquiry innovations. Session topics included the Tribunal's future direction and its strategic direction, the fiftieth anniversary in October 2025, and a preview of the refreshed website, which is now live. Guest speakers included the Honourable Jenny Shipley and the Honourable Margaret Wilson. □



Members convene online for the conference