



Waitangi Tribunal

TE MANUTUKUTUKU

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

Whiringa-ā-nuku 2002

56

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Editorial

Waitangi Tribunal
Website Re-launched

2

Gisborne Tribunal underway
with writing report

Ngāti Awa Settlement
Cross-Claims Report

3

Urewera

4

Kaipara (Wai 674) Interim
Report Issued

5

The Northern South Island
(Wai 785) Inquiry
& Generic Hearings

New Communications Officer

6

New Tribunal Members Appointed
Māori Land Court Judges Appointed

7

New Staff

8



WAI 1000 – “a significant if poignant milestone”

Registering WAI 1000 – L-R: Morrie Love (director), Chief Judge Joe Williams (Acting Chairperson) and Jacqui Lethbridge (Assistant Registrar)

The Tribunal registered its 1000th claim, since it was set up in 1975.

Wai 1000 is a multi-issue, representative claim lodged on behalf of Ngāti Oneone and Te Aitanga-a-Hauiti. It broadly relates to the confiscation of various lands, waterways and taonga within the rohe of Ngāti Oneone from Pouawa to Tūranganui-a-Kiwa.

The Wai 1000 claim was registered in the Waitangi Tribunal in August 2002. When signing the direction to register it, Chief Judge Williams said it was no longer daunting to work with so many claims, due to the more efficient process being followed under the new approach.

Wai 1000 could be one of the claims grouped for hearing in the East Coast inquiry district. The Tribunal's forward programme, released in April 2002, has scheduled the completion of the casebook of research for the East Coast claims for

June 2003. If this takes place, under the Tribunal's new approach into the hearing of claims, Wai 1000 and other East Coast claims could be inquired into as early as 2004.

The Tribunal's Acting Chairperson, Chief Judge Joe Williams said he was confident that claims will continue to be heard and be reported on in a more condensed timeframe than previously possible, through harnessing the co-operative energy of focused claimant groups, and Treaty sector organisations.

“In the last financial year the Tribunal was actively involved with over 250 claims either in judicial conferences, hearings, or report writing on the claims,” he said. “Additional claims intensify the process but won't significantly increase the time it will take to conclude the historical claims process, particularly with the Tribunal's new approach to its inquiries.” ●



Editorial

With the registration of WAI 1000 signalling that the Tribunal has registered nearly 1000 claims since 1975, (some WAI numbers relate to consolidated, not individual claims), it is time to look at where the Tribunal has got to in dealing with these claims.

Since the conclusion of the Rangahaua Whānui research project in 1996, the Tribunal has been grouping claims for inquiry by geographical districts. A casebook of the main historical and other evidence is then compiled and all the claims in a district are inquired into together in a single inquiry, sometimes under a single WAI number.

To summarise, there are now a total of 37 districts covering the entire country. See *Te Manutukutuku* 55 (www.waitangi-tribunal.govt.nz/news/temanutukutuku/backissues.asp)

Three districts have been settled by negotiation with the Government, five more have completed through the Tribunal's processes and have been reported on. Four districts have been through the Tribunal's inquiry process and are awaiting a Tribunal report. Four more districts are currently in hearing, with a further four in the research phase or in casebook preparation. This leaves 17 districts still requiring a casebook, inquiry and settlement.

The current level of activity means that nearly a quarter of all claims are currently being actively dealt with in some phase of the Waitangi Tribunal's process. As new claims are added, they do not significantly affect the overall time it will take to inquire into all historical claims. Research is now becoming more generic and is being shared amongst the claimant communities. Individuals

and smaller groups are being encouraged to cluster rather than splinter, to make their claims more effective and the process more efficient as a whole.

Although the number of urgent inquiries requiring hearing time remains fairly stable, the demand for rapid decisions on current issues of Government policy and practice has not abated. Imminent settlements often give rise to issues for adjoining tribes, or with matters of representation within tribes. The Tribunal's new approach to dealing with district inquiries targets issues of boundaries and mandate at an early stage, to avoid the need for an 'eleventh hour' urgent hearing.

The new approach will reduce the time of the overall settlements process, from the start of amassing the research to the conclusion of negotiations, by reducing the "waiting time" for claimants. This means that the intensity of effort has increased for the Tribunal, the Crown Forestry Rental Trust, claimant counsel and the Crown. It has also encouraged claimants to maintain clear channels of communication between groups, and be prepared to proceed at pace.

The much more focused new approach will have great benefits when it comes to the final settlement of claims. The extra work now required early in the process will resolve many disputes when they first surface, and produce dividends later through minimising the risk of traditional flashpoints on the eve of settlement. It is envisioned that the robustness of the process will produce cohesive groups who are ready to negotiate settlements soon after their inquiry has completed. ●

Waitangi Tribunal Website Re-launched

The Waitangi Tribunal has recently re-launched its website, with a new look and focus on information availability.

The new site is at www.waitangi-tribunal.govt.nz and it will provide updated information on the Tribunal's activities.

The site will contain information on the Waitangi Tribunal, its members, the status of current inquiries, the Treaty of Waitangi and its principles and education kits for schools.

The new section for reports has drop-down menus for five geographical regions and for reports on generic

claims, that are not regionally specific. This allows people to see easily which reports cover the same area of the country. Ease of navigation is provided by report summaries and full reports, and a user-friendly search function. The Tribunal is pleased to have all its reports finally available on-line.

The extranet facility in the Inquiries section is under construction and will contain detailed information for stakeholders of current claim inquiries. It is intended that this pass-worded section will contain

detailed documents only for stakeholders in current inquiries, including the casebook and major directions. The first inquiry the Tribunal is hoping to assist is Te Urewera.

Te Manutukutuku on-line:

www.waitangi-tribunal.govt.nz/news/temanutukutuku

If you are on the *Te Manutukutuku* mailing list but would rather just download your copy or read it on-line, please e-mail Phyllis.Ferguson@courts.govt.nz and ask to have your name removed from the mailing list. ●

Gisborne Tribunal underway with writing report

Since the closing submissions in the Gisborne inquiry were heard in June, the members of the Tribunal have made progress with the writing of their report. The members are very mindful of the need to maintain the momentum built up during both the interlocutory and hearing stages of the inquiry by producing their report within a tight timeframe. It is hoped the report will be completed before Christmas, in keeping with the Tribunal's responsibility to get the claimants, and the Crown, from grievance to settlement as quickly as possible. The Tribunal's new approach to in-

quiries extends to the preparation of the report itself and does not end with the closing hearing.

The report will need to also cover the relationship between Tūranga Māori and the Crown since 1840. Issues to be addressed in the report include the 1865 battle of Waerenga-a-Hika, the 1868-69 engagements at Matawhero and Ngātapa, the resulting deed of cession or forfeiture of land to the Crown, the advent of the Native Land Court and its replacement of customary tenure, Māori attempts to manage their remaining lands themselves through the Rees-



Hei Algie (the last surviving grandchild of Te Kooti) presenting, on behalf of all Gisborne claimants, the mauri stone for the inquiry to the Tribunal. The mauri was carried to all hearings throughout the district.

Pere trusts, through to the East Coast Commission, and environmental and public works issues.

The Gisborne Tribunal are Chief Judge Joe Williams (presiding), Dame Margaret Bazley, Professor Wharehuia Milroy, and Dr Ann Parsonson.

Ngāti Awa Settlement Cross-Claims Report

In June 2002, claims objecting to aspects of the Ngāti Awa settlement were granted urgency and heard by a Tribunal consisting of Judge Carrie Wainwright (presiding), Dame Margaret Bazley, Areta Koopu, and Joe Northover.

Claims were presented by Ngāti Haka Patuheuheu, Ngā Rauru o Ngā Pōtiki, the Wai 36 Tūhoe claimants, and Ngāti Rangitīhi.

Claimants objected to items of redress offered to Ngāti Awa by the Crown on the grounds that their customary interests in these items are yet to be heard by the Tribunal, and that they would be prejudiced by the inclusion of these items in the settlement. The contested items include the transfer to Ngāti Awa of Crown forest licensed land in Matahina A1B, A1C and A6 blocks. Also, claimants objected to items of 'cultural redress' including the vesting in Ngāti Awa

of Kaputerangi historic reserve and Matahina A4 block. The Crown also recognised Ngāti Awa's rights of consultation and rangatiratanga over the Matahina A5 block, part of Ōhiwa Harbour and Moutohorā Island, stipulating that these rights are not exclusive in that they can also be offered to other claimants later.

In addition, the claimants alleged that the policies and practices of the Crown with regard to the settlement of claims in general are in breach of the principles of the Treaty of Waitangi.

The Tribunal's focus in the inquiry was on whether the Crown's policies, as expressed in the content of the settlement offer to Ngāti Awa, and the Crown's practices as expressed in its communication and consultation with affected claimants, were in accordance with the principles of the Treaty of Waitangi.

The Tribunal reported that, in this case, the Crown's policies on the inclusion of Crown forest licensed land in settlements, and the management of cross-claims to that category of redress, did not breach the principles of the Treaty. The Tribunal likewise considered that the Crown's approach to cultural redress in settlements did not breach the Treaty. The report is, however, critical of the manner in which the Crown articulated and disclosed its policy, and calls for the Crown to ensure that the cost of arriving at settlements in future is not a deterioration of inter-tribal relations.

The report will be available on the website: www.waitangi-tribunal.govt.nz/reports in November. Copies are available from Legislation Direct: Tel (04) 496 5225 or free fax 0800 804 454.

UREWERA

The Waitangi Tribunal started its Urewera district inquiry this year, with judicial conferences and the completion of a casebook of research. Most of the 33 claims are from Ngāi Tūhoe. Other claimants include Ngāti Whare, Ngāti Manawa, Ngāti Ruapani, Ngāti Haka Patuheuheu, and Ngāti Kahungunu.

The claims focus on a series of alleged grievances about actions of the Crown:

- ◆ Confiscation of land in the Bay of Plenty (including most of Tūhoe's best agricultural land) and in Wairoa/Waikaremoana.
- ◆ The government's military invasion of the Urewera and its effects.
- ◆ Loss of access, ownership, and resources in Ōhiwa Harbour and Lake Waikaremoana.

- ◆ The Crown's failure to work constructively with, and even active undermining of, Māori tino rangatiratanga in the Tūhoe Rohe Pōtae over many decades.
- ◆ The Crown's use of the Native Land Court to force individual tenure and land sales on the outskirts of the Urewera.
- ◆ The failure of the Urewera District Native Reserve legislation to achieve the claimants' goal of preserving Urewera lands and autonomy.



- ◆ The failure to accommodate the aspirations of all tribes when setting up the Urewera District Native Reserve in 1896.
- ◆ The loss of two-thirds of the land in the Urewera District Native Reserve in the early 20th century by the government illegally buying up individual interests for very low prices.
- ◆ The Crown's taking of thousands of acres for survey costs and roads that were never built.
- ◆ The Crown's scheme of consolidating the interests it had bought in such a way that it took land it had never purchased and moved some Māori off ancestral land that was not sold.
- ◆ Constant restrictions on the use to which surviving lands and timber could be put, culminating in the locking up of almost all resources in a National Park, without adequate compensation.
- ◆ The ongoing social and economic damage caused by Crown actions.
- ◆ The ongoing cultural damage caused by Crown actions.

The Tribunal, the Crown Forestry Rental Trust, and the claimants have been researching these claims for several years. A casebook of 55 reports and publications was completed in June 2002. These high quality reports make up 80 percent of the research needed to hear the claims. Reports representing the outstanding 20 percent will be completed by the end of 2002.

The Urewera Tribunal was appointed in early 2002. It consists of Judge Patrick Savage (presiding), Dr Ann Parsonson (historian), Rangitihī Tahuparae (kaumātua), and Joanne Morris (lawyer). They held their first judicial conference in March.

Claimants and the Crown agreed to go through the Tribunal's new approach to hearing historical claims in a district. This involves more conferences to clarify which claims are included, who represents the claimants, and any relationship and

overlap issues. The goal is to have all these things sorted out in a transparent public process so that hearings will be more efficient and the settlement negotiations will be smoother.

A second conference set a district boundary and clarified final research needs in April. The casebook was filed in June. The next step is for claimants to prepare detailed statements of claims, setting out all grievances against the Crown, by the end of January 2003. The Crown will write a detailed response to each grievance. The Tribunal will identify points of agreement and difference, and focus what exactly it needs to hear evidence on, in a statement of issues.

After this interlocutory process, hearings of the Urewera claims will start around October next year and should take about ten months to complete.

For further information on the Urewera inquiry, please contact Ralph Johnson or Heidi Hohua at the Waitangi Tribunal. ●

Kaipara (Wai 674) Interim Report Issued

The Kaipara Interim Report has been released.

Claims in the Kaipara inquiry were heard between August 1997 and September 2001 by a Tribunal consisting of Dame Augusta Wallace (presiding), the Honourable Dr Michael Bassett, Brian Corban, Areta Koopu, Dame Evelyn Stokes, and Sir John Turei.

The inquiry was divided into three stages. Following the completion of stage one, the Te Uri o Hau claimants entered into direct negotiations with the Crown for the settlement of their claims.

The Te Uri o Hau Claims Settlement Bill was introduced into Parlia-

ment in September 2001, and is still in the House. The *Kaipara Interim Report* (2002) was a response by the Kaipara Tribunal to the negotiation of the Te Uri o Hau settlement.

The Bill contains certain acknowledgements by the Crown of breaches of the Treaty of Waitangi and its principles affecting Te Uri o Hau, which resulted in Te Uri o Hau losing control over most of their lands.

In the *Kaipara Interim Report*, the Tribunal stated that those acknowledgements should also apply to other Kaipara claims, and that those claims should now be negotiated. In northern Kaipara, the report discussed

claims by Ngā Puhi, Te Roroa, and Ngāti Wai hapū, which overlapped geographically with the claims of Te Uri o Hau. In southern Kaipara, the report looked at claims by Ngāti Whātua and others.

Although the Tribunal intends to report on issues not covered in the interim report, it strongly recommended the Crown and claimants now enter into settlement negotiations for the remaining Kaipara claims.

The report will be available on the website: www.waitangi-tribunal.govt.nz/reports in November. Copies are available from Legislation Direct: Tel (04) 496 5225 or free fax 0800 804 454.

The Northern South Island (Wai 785) Inquiry & Generic Hearings

The Northern South Island inquiry has 30 claims.

It is currently being heard by a Tribunal consisting of Judge Wilson Isaac (presiding), Roger Maaka, Professor Keith Sorrenson, Rangitihī Tahuparae, and Pamela Ringwood.

The Tribunal has heard evidence from Ngāti Rarua and Ngāti Koata. Early this year, it decided to stop hearing iwi one by one in order to bring in parts of the new approach to historical claims. This involved identifying the grievances common to all the claims, putting all the historical evidence on the table that relates to those common (generic) grievances, and hearing it in a concentrated week of historical evidence.

The generic hearing was held in Nelson in June 2002, with a further two days in Wellington in July. Issues in common to Northern South Island iwi relate to the ways in which they lost almost all of their land in just 15 years, from 1840 to 1855. They include claims that:

- ◆ The Crown did not find out the correct groups to buy land from.
- ◆ The Crown did not find out the correct representatives of those groups.
- ◆ The Crown did not find out whether or how land could be sold.
- ◆ The Crown should not have granted Nelson lands to the New Zealand Company in the 1840s, which resulted in the first major land loss.
- ◆ The Spain Commission of 1844 was not a proper inquiry into the Company's claim to land, and its

findings about land that should be reserved for Māori were not honoured.

- ◆ The Crown should not have gone on to buy almost all of the Northern South Island in the 1850s, through a process of applying pressure, dealing incorrectly with people, paying token prices that were far too low, and failing to make proper reserves.
- ◆ As a result of the Crown's actions, Northern South Island tribes were left either completely landless or without enough land to use traditional resources or develop modern farming.
- ◆ The Nelson Tenths, as a system of reserves, were a faulty and inadequate recompense for loss of land and resources.

The generic hearings focused on these issues, at which the evidence of 12 historians was cross-examined by claimants, the Crown, and the Tribunal. A thorough exploration of issues took place, after which the Crown wrote a submission outlining its position. The Crown's position was heard by the Tribunal in Nelson in September. The Crown did not accept that the evidence supports most of the grievances. However, it did accept that its actions contributed to the 'virtual landlessness' of many Northern South Island tribes.

The positions of the claimants and the Crown have now been clarified on the key issues in common to all claims. The Tribunal will go on to hear remaining tribes on their particular grievances, in light of the positions laid on the table at these generic hearings.

NEW COMMUNICATIONS OFFICER

Victoria Brown has taken up the position of Communications Officer after nearly three years as the Executive Assistant for the Tribunal.

Victoria is looking forward to the change in focus from internal to external communications, with the website being a key communications tool.

"I see the Treaty settlements process as the ultimate dispute resolu-

tion process in Aotearoa," Victoria said. "It allows the Treaty partners to recognise and acknowledge the realities of our history, and empowers the parties to expand their futures."

She has a BA in Māori Studies from Victoria University and a Graduate Diploma in Dispute Resolution from Massey University. ●

Victoria Brown



New Tribunal Members Appointed

The Tribunal formally welcomed three new members at a powhiri at Pipitea Marae on 10 September.

Gloria Herbert, from Te Rarawa and Te Aupouri, is a consultant with over 25 years experience working for iwi organisations. She provided Māori Liaison Services for Far North District Council for several years, and has held numerous board appointments in the private and voluntary sector. Mrs Herbert has been involved in a wide range of activities focusing on both Māori and community development in Hokianga and Tai Tokerau, including being the Te Rarawa representative on the Tai Tokerau Māori Trust Board. Gloria Herbert possesses in-depth knowledge across a range of Treaty related issues.

Joseph Northover is a respected Ngāti Porou and Ngāti Kahungunu kaumātua. He has extensive experience as a claimant co-ordinator in the Mohaka ki Ahuriri inquiry, and has valuable skills in tikanga and te reo Māori. He is a Ringatū minister and



Dr Monty Soutar, Joe Northover, Gloria Herbert, Judge Stephanie Milroy, Judge Layne Harvey

has been on the Board of Directors for the Ngāti Kahungunu Iwi Incorporation and other organisations. His tutoring work in the Bachelor of Arts (Māori) programme at the Eastern Institute of Technology, and his wide community experience have prepared him to interact with diverse groups.

Dr Monty Soutar is from Ngāti Porou and is Senior Lecturer and Co-ordinator of Postgraduate Studies at the School of Māori Studies, Massey University. He fulfils the Tribunal's need for a specialist Māori traditional and post-contact historian. He has significant experience in historical

research, vast experience in dealing with Māori Land Court records and has worked widely with iwi and Māori communities. He is a member of Te Papa's reference group on biculturalism.

When announcing their three year appointments, the Minister of Māori Affairs Parekura Horomia said: "The new members, bring a wealth of knowledge and experience to the Waitangi Tribunal."

Further information on Waitangi Tribunal members is available at: www.waitangi-tribunal.govt.nz/about/waitangitribunal/wtmemb ●

MĀORI LAND COURT JUDGES APPOINTED

The Māori Land Court appointed two new judges, who will also bolster the ranks of the presiding officers in the Waitangi Tribunal.

Judge Stephanie Milroy (LLM, with Distinction) is of Tūhoe and Ngāti Whakaue affiliation and is currently a senior lecturer in law at Waikato University. Judge Milroy has been an Associate Partner at Harkness Henry and Co, Barristers and Solicitors, and Senior Investigating Solicitor at Commercial Affairs Dept in Hamilton. She has considerable knowledge of Treaty issues and an extensive knowledge of Māori legal issues through her research and lecturing. Judge Milroy has also presented and published numerous articles on Māori issues. She is raising two daughters with her husband Simon Ellis. She has been appointed to the Waikato-Maniapoto district.

Judge Layne Harvey (LLM, MComLaw) is of Ngāti Awa, Rongowhakaata, Te Aitanga-a-Māhaki, Te Whānau-a-Apanui and Ngāti Kahungunu affiliations. His thesis for his Master of Commercial Law degree from the University of Auckland was on the Treaty claims settlement process. Judge Harvey was in private practice and until recently an Associate Partner at Walters Williams, Barristers and Solicitors in Auckland, where he developed a practice in Treaty claims, settlement negotiations, and Māori issues for iwi and hapū. He has extensive experience in Waitangi Tribunal matters and Māori land law, and is also very involved with Māori organisations. He has published various articles on the Treaty of Waitangi, Māori issues, and Māori land. Judge Harvey is proficient in te reo and tikanga, and is appointed to the Aotea district.

The Minister of Māori Affairs, Parekura Horomia said: "I am extremely pleased with these appointments, both are high-calibre with a notable history of work in Māori land law and Treaty of Waitangi issues." ●

New Staff



L-R: Fiona Small, Warren Wairau, James Mitchell, Laura Burberry, Margot Fry, Leanne Boulton.
Absent: Amanda Taufale

Researchers

Ko Takitimu te waka, ko Taupiri te maunga, ko Kopuawhara te awa, ko Te Rakato te marae, ko Ngāi Kahungunu te iwi, ko Ngāi Rakato te hapū. Ko Warren Wairau tōku ingoa.

Warren grew up at Mahia Beach before attending Massey University where he graduated with a BA in History and Economics, and then a MA in History (First Class Honours). He lectured at Massey University and the New Zealand Army's Officer Cadet School. He is currently researching in the Wairarapa ki Tararua inquiry and providing facilitation assistance in the Urewera inquiry.

Leanne Boulton is from Timaru. She is currently writing her thesis and in early 2003 will add a MA in History to her degrees in English, geography, and teacher training. She was a researcher with the Te Atiawa Tribal Council, and an archivist and

researcher in Papua New Guinea. She is currently working as part of the Whanganui facilitation team, as well as researching and writing a report on Native Townships in the Whanganui district.

James Mitchell is a Dunedin born, bred and educated scholar. He recently completed his PhD in History at Otago University on New Zealanders' attitudes to immigration. He also holds a BA (Hons) in French and History. He is currently researching and writing a report for the Wairarapa ki Tararua inquiry on land alienations from 1880-1900.

Fiona Small has had an extensive career in the Treaty sector, as a Policy Analyst at Te Puni Kōkiri, and as a claimant historian for the Crown Forestry Rental Trust. Fiona said she joined the Tribunal "to help progress the new approach, which aims to

assist groups to be in a better position to negotiate a settlement of their claims by the end of the Waitangi Tribunal process". She is currently the lead facilitator for the Whanganui and Wairarapa ki Tararua inquiries.

Report Writer

Margot Fry gained a Masters in history at Victoria University in 1995 and was awarded a fellowship at the National Library of New Zealand to research and write a book about the private world of 19th century men. She spent the last few years as a contract historian and policy analyst, including lecturing at Massey University and working for ACC. She is currently working on the Gisborne claim.

Editorial Assistant

Laura Burberry has joined the report writing/editorial effort to ensure the early production of the Gisborne inquiry report. She is involved with reference checking, and editorial and research assistant work. Prior to working at the Waitangi Tribunal, Laura was contracted within the Oral History Centre of the National Library of New Zealand.

Administration Officer – Accounts Payable

Amanda Taufale previously worked at the Tribunals Division of the Department for Courts. She said although the accounts work is similar, the Tribunal offers a wealth of cultural experience for staff. She is married with a son, Liam (5), and is currently studying towards a Diploma in Business Administration. ●



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