TE RÕPŪ WHAKAMANA I TE TIRITI O WAITANGI WAITANGI TRIBUNAL

Tākiri te haeata, ka ao, ka awatea, horahia mai ko te ao mārama



STRATEGIC DIRECTION 2014-2025

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Illustrations

Page iv: Tribunal chairperson Chief Judge Wilson Isaac

Page v: Waitangi Tribunal Unit acting director Julie Tangaere

- Page vi: The Waitangi Tribunal, March 2014
- Page 2: Mangatū remedies claim hearing, Te Poho-o-Rāwiri Marae, Gisborne, June 2012
- Page 5: Cover of Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Te Taumata Tuatahi
- Page 6: Cover of The Stage 1 Report on the National Freshwater and Geothermal Resources Claim
- Page 7: Chairperson Chief Judge Wilson Isaac and Sir Tumu Te Heuheu at the handover of the National Park report Te Kāhui Maunga, Chateau Tongariro, November 2013 (photograph Andrew Gregg)
- Page 8: The Te Paparahi o te Raki Tribunal are welcomed onto Te Karetu Marae, May 2013
- Page 10 (clockwise from top left): Haka taua at the presentation of the National Park report Te Kāhui Maunga, Chateau Tongariro, November 2013 (photograph Andrew Gregg); Waitangi Tribunal Unit staff at Te Rohe Põtae hearing, Maniaroa Marae, March 2014; Te Paparahi o te Raki Tribunal members Judge Craig Coxhead and Kihi Ngatai plant a tree, July 2013; Waitangi Tribunal Unit staff at the Waitangi Tribunal Members' Forum, March 2014
- Page 12 (clockwise from top left): Te Kapotai welcome the Te Paparahi o te Raki Tribunal onto Waikare Marae, May 2013; Waitangi Tribunal Unit waiata for new members Professor Richard Hill, Professor Pou Temara, Dr Aroha Harris, Tania Simpson, and Basil Morrison at Te Herenga Waka Marae; the Mangatū Tribunal at Te Poho o Rāwiri Marae, Gisborne, 2013
- Page 14: Te Rohe Põtae Tribunal hearing, Te Kotahitanga Marae, November 2013

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Contents

The second

| From the chairperson |
|--|
| From the director |
| Our vision |
| Our purpose and role |
| The Treaty/Te Tiriti |
| Mission |
| Role and functions |
| Strategic challenges |
| Resolving Treaty grievances |
| 1 Bringing closure to historical claims |
| 2 Addressing contemporary claims |
| 3 Responding rapidly to urgent situations |
| 4 Balancing priorities and deploying resources effectively |
| 5 Managing uncertainty and risk |
| 6 Managing transition and change |
| The strategic direction |
| The strategic framework |
| From 2014 to 2020: complete historical claims and high-priority kaupapa claims |
| From 2020 to 2025: substantially advance or complete kaupapa and contemporary claims |
| During both periods: address urgent claims |
| From 2025: progress new contemporary claims. |
| Strategic goals |
| 1 Complete the final district inquiries and remaining historical claims by 2020 |
| 2 Progress high-priority kaupapa claims by 2020 |
| 3 Substantially advance or complete the remaining kaupapa claims by 2025 |
| 4 Address the backlog of contemporary claims by 2025 |
| 5 Address urgent claims arising from Treaty settlement processes and any kaupapa or |
| contemporary claims granted urgency |
| What will the achievement of these strategic goals mean? 1 11 |
| Organisational capacity and capability |
| Preparing for change |
| The Tribunal's membership |
| A consultative and responsive approach |
| |
| Balancing priorities and setting achievable goals |
| Sustaining core values |

FROM THE CHAIRPERSON

As the Waitangi Tribunal approaches the fortieth anniversary of its foundation in 1975, I am pleased to introduce the Waitangi Tribunal's strategic direction for the period 2014 to 2025.

This publication appears at a significant time in the history of the Tribunal and of the resolution of Treaty claims brought by Māori against the Crown. We are currently approaching the completion of our long-running district inquiry programme, in which many historical and contemporary claims have been and are being heard. When the final inquiries conclude, the Tribunal will have reported on claims arising in more than 90 per cent of New Zealand's land area.

The challenge for the Tribunal has been to provide an independent, impartial, public, and accessible forum to which claimants can bring their claims alleging breaches of the principles of the Treaty of Waitangi and have them heard



and reported on in a timely manner. I am confident that the Waitangi Tribunal has provided a high-quality inquiry process and authoritative reports that continue to add real value to the integrity and durability of Treaty settlements.

There is still much to be done. We must finish the large district inquiries, which bring together many hundreds of claims. In addition, more than a third of registered claims await action. They include historical claims filed too late to be heard in a district inquiry; issue-focused or kaupapa claims affecting Māori in general; and contemporary claims from the last two decades.

Our overarching aim is to provide inquiry pathways tailored to the aspirations of all remaining claimants who wish the Tribunal to consider their claims. This means comprehensively tackling all claims before us and those yet to be filed. To that end, we have adopted a long-term strategic framework that sets out the main components of the Tribunal's future inquiry programme. This includes both established forms of inquiry, such as the district inquiries under way, and innovative, new pathways to deal with remaining historical claims, kaupapa claims, and contemporary claims.

Achieving the strategic goals outlined in this document will enable the Tribunal to transition by the mid-2020s to a focus primarily on contemporary claims as they are filed, including new kaupapa claims raising nationally significant issues as well as claims seeking urgency. During this transition and beyond, the Tribunal will remain committed to its core objective: to advance a Treaty-based Crown–Māori relationship and thereby sustain the political, social, and cultural fabric of Aotearoa/New Zealand.

Chief Judge Wilson Isaac Chairperson of the Waitangi Tribunal

FROM THE DIRECTOR

The Waitangi Tribunal Unit is pleased to have been given the opportunity to contribute to the development of this new strategic direction for the Waitangi Tribunal. The strategic direction provides a clear platform upon which the unit will develop and implement a range of initiatives and processes to support the Waitangi Tribunal to achieve its strategic objectives through to 2025.

Achieving the Tribunal's strategic goals will require both the Tribunal and the unit to work collaboratively together to explore opportunities to implement a new and innovative future operating model which improves business processes and enables the Tribunal to achieve the timely completion of claims for its claimants.

The Ministry of Justice's business strategy and focus to improve customer service and service delivery by reducing time to deliver services by 50 per cent by



2017 are well aligned with the Tribunal's overall strategic intentions. The Waitangi Tribunal Unit is committed to working proactively with the chairperson, presiding officers, and members of the Tribunal to do this and will shortly commence work to further develop the strategies that will be required to contribute both to the strategic priorities of the Tribunal and to the Ministry's business strategy.

The launch of the Waitangi Tribunal's strategic direction will signal a new pathway for the unit and one that we are ready to embrace.

Kia ora ra. angune

Julie Tangaere Acting Director of the Waitangi Tribunal Unit





The Waitangi Tribunal at the Waitangi Tribunal Members' Forum, March 2014

Back row (from left): Ronald Crosby, Dr Ann Parsonson, Judge Michael Doogan, Basil Morrison, Dr Aroha Harris, Dr Rawinia Higgins, Dr Grant Phillipson, Judge Stephen Clark, Judge David Ambler, Judge Layne Harvey, Tim Castle, Nicholas Davidson, Dr Monty Soutar

Front row (from left): Joanne Morris, Judge Sarah Reeves, Professor Pou Temara, Sir Tamati Reedy, Deputy Chief Judge Caren Fox, Chief Judge Wilson Isaac (chairperson), Sir Hirini Mead, Miriama Evans, Dr Robyn Anderson, Dr Angela Ballara

Absent: Judge Stephanie Milroy (then deputy chairperson), Judge Patrick Savage (deputy chairperson), Judge Craig Coxhead, John Baird, Professor Richard Hill, the Honourable Sir Douglas Kidd, Kihi Ngatai, Tania Simpson, the Honourable Paul Swain, Professor Ranginui Walker, Kaa Williams

OUR VISION

Our vision is that the Crown and Māori, reconciled in the spirit of the principles of the Treaty of Waitangi/Te Tiriti o Waitangi, will be empowered to join in creating a better future for all New Zealanders.

This vision is expressed in the whakataukī of the Waitangi Tribunal:

Transitioning from our past to a new future

Tākiri te haeata, ka ao, ka awatea, horahia mai ko te ao mārama

Dawn breaks, comes the daylight and the world is aglow with brilliant light

THE WAITANGI TRIBUNAL

- The Waitangi Tribunal comprises a chairperson and up to 20 members appointed by the Governor-General, with Māori Land Court judges able to serve as inquiry presiding officers. Legally qualified members may also preside.
- The Tribunal's Governance Group, convened by the chairperson, provides strategic direction and reviews the progress of the Tribunal's work programme.
- The Ministry of Justice provides operational support to the Tribunal through the Waitangi Tribunal Unit, which delivers a comprehensive range of registrarial, event management, research, report writing, and administrative services.

OUR PURPOSE AND ROLE

The Treaty/Te Tiriti

The Treaty of Waitangi/Te Tiriti o Waitangi provides a centre of gravity around which our multicultural society can coalesce. It goes to the core of our national identity as the founding constitutional document of our country.

Mission

The Waitangi Tribunal's mission is to uphold the principles of the Treaty/Te Tiriti. It does so by serving as the primary forum for hearing and reporting on Māori claims against the Crown alleging breaches of the Treaty, offering a 'truth and reconciliation' process and impartial findings on claims. It contributes to the durable and fair resolution of Treaty claims and to restoring and upholding the Treaty partnership between Māori and the Crown. In so doing, the Tribunal aims to advance the well-being of the Crown–Māori relationship and to sustain the political, social, and cultural fabric of Aotearoa/New Zealand.

Role and functions

The Waitangi Tribunal was established by statute in 1975 as a standing commission of inquiry. It provides an independent, impartial, public, and accessible forum to which Māori can bring their claims concerning Crown laws, policies, and actions that they allege to be in breach of Treaty principles and to have resulted in prejudice to the claimants.

Since 1985, the Tribunal has been empowered to inquire into claims arising at any time from the signing of the Treaty in 1840 to the present day. The Tribunal has a statutory duty to inquire into every claim submitted and registered. The Tribunal's principal functions are:

- to inquire into Māori claims relating to the practical application of the principles of the Treaty;
- to determine whether the matters alleged by the claimants are inconsistent with those principles; and, if so,
- to establish whether prejudice to the claimants has resulted or may occur; and
- to recommend to the Crown, for claims adjudged well-founded, action to compensate for, remove, or prevent the prejudice.

The Tribunal may also:

- refer claims to mediation; and
- > under specific circumstances, make binding recommendations for the return of land currently or formerly owned by the Crown where the Crown and the claimants have not been able to negotiate a settlement.

STRATEGIC CHALLENGES

Resolving Treaty grievances

Māori and the Crown share an overarching commitment to the partnership envisaged in the Treaty of Waitangi/Te Tiriti o Waitangi. The persistence of unresolved Treaty grievances from the past imposes a major obstacle to restoring and sustaining a Treatybased relationship. Some Māori still live with a deep sense of grievance and loss about the way their communities were treated, especially where they were affected by colonial wars, land loss, and economic and social marginalisation. The past two decades have seen a sustained effort by both Treaty partners to settle Treaty claims and build a lasting platform for positive future engagement.

There is broad acceptance of the need to achieve a fair and lasting resolution of Treaty grievances. The



THE TRIBUNAL'S CONTRIBUTION TO SETTLING TREATY CLAIMS

T HE changes brought about by groups' engagement with the Tribunal are a necessary platform for a robust and durable claim settlement process. Without a Waitangi Tribunal inquiry, most claimant groups are not ready to settle. In the process of preparing for and participating in Tribunal hearings, groups test and confirm their leaders, and are encouraged to pull together as communities. They emerge ready to make hard decisions that will stick. This groundwork is vital for the challenge ahead: negotiating a full and final settlement with the Crown.

Justice Joe Williams, then chairperson of the Tribunal, 2005

Tribunal makes a critical contribution to this process, which is now well advanced. Tribunal inquiries bring the challenge of engagement between the Crown and Māori into an open process in which grievances are presented and evidence is produced and tested. Generally, the Tribunal does not itself settle Treaty claims, though many of the settlements reached over the last two decades have their foundation in a Tribunal report.

In 1975, the Honourable Matiu Rata envisaged a Waitangi Tribunal that would become a vital instrument for honouring the Treaty/Te Tiriti. Today, nearly 40 years on, his vision has been realised: through Tribunal district inquiries the great majority of Māori iwi and hapū have had their claims reported on or are in the process of being heard.

In this context, the Tribunal faces six main strategic challenges.

Bringing closure to historical claims Both Māori and the Crown – and all New Zealanders – are keen to see historical Treaty grievances settled as soon as possible. Māori and the Crown have already concluded a wide range of historical Treaty settlements and many more are targeted for completion within the next few years.

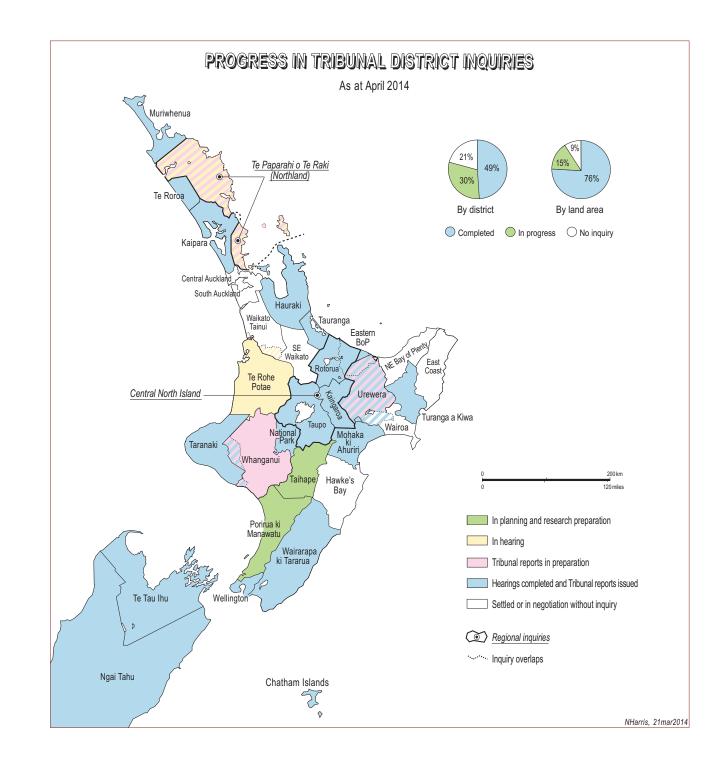
The Tribunal's main focus has been on hearing and reporting on historical claims in district inquiries. Research, multiple claimants, a fair and open hearing, and a comprehensive Tribunal report

DISTRICT INQUIRY PROGRESS

The Tribunal has 37 districts nationwide. The historical and contemporary claims arising in one or several districts are grouped for joint inquiry. To date, the Tribunal:

- has reported on 18 districts;
- has six inquiries under way covering 11 districts;
- has eight remaining districts, which have proceeded or are proceeding to settlement without inquiry.

Together, completed and active Tribunal district inquiries embrace more than 90 per cent of the country's land area.



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demand time and effort of the claimants and the Crown, as well as the Tribunal.

The challenge is to deliver (for those who wish to be heard) a high-quality district inquiry process and report in time to add real value to the integrity and durability of Treaty settlements.

A sizeable number of claims with historical grievances have not been addressed in the inquiry for their district. Most were submitted too late for inclusion, many of them in the weeks before the statutory deadline of 1 September 2008 for filing new historical claims.

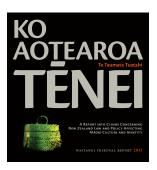
The challenge is to provide (for those who wish to engage) a tailored Tribunal process that makes a timely contribution to the settlement of their claims.

Some claimants raise kaupapa (thematic) grievances that affect Māori nationwide. A number have participated in thematic and district Tribunal inquiries, but others have yet to be heard. The issues they raise are wide-ranging and some have historical roots.

The challenge is to provide (for those who wish to be heard) access to a Tribunal inquiry in advance of historical Treaty settlements that are likely to include them.

2 Addressing contemporary claims Contemporary grievances now stretch back more than 20 years. Many have already been included in district Tribunal inquiries. Others have been heard in thematic

inquiries on issues concerning, for example, Māori culture and identity (Wai 262) and kōhanga reo. A substantial number remain, however very few feature in Treaty settlements, whose focus is on historical grievances.



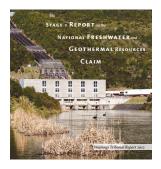
Most unreported claims with contemporary grievances are not likely to be fully resolved in the remaining district inquiries and historical Treaty settlements. Some of them have a local focus; others raise kaupapa issues of national significance.

The challenge is to provide claimants alleging contemporary grievances with access to a Tribunal inquiry process that accommodates the pressure to progress historical claims while giving due weight to contemporary kaupapa claims of national significance.

B Responding rapidly to urgent situations Alongside its regular inquiries, the Tribunal must also provide a priority pathway for urgent claims. Some arise from Treaty settlements under negotiation, in particular regarding Crown processes and proposed terms of settlement. Some

'HISTORICAL' AND 'CONTEMPORARY' CLAIMS

The Crown defines 'historical' Treaty grievances as those having arisen before 21 September 1992 and 'contemporary' grievances as those having arisen on or after that date. Many claims allege both historical and contemporary grievances. Since the statutory deadline of 1 September 2008 for filing new historical claims, the Tribunal's registry has been open only to new contemporary claims.



follow the failure of negotiations after a Tribunal inquiry, with the claimants returning to the Tribunal for binding remedies. Others are triggered by a Government policy initiative or action, ranging from a specific local

matter to a national issue affecting all Māori, such as the 2003 foreshore and seabed policy and, more recently, rights to freshwater and geothermal resources.

The challenge is for the Tribunal to be able to respond quickly and effectively where a claim merits urgent inquiry, without unduly impeding or delaying existing inquiries.

Balancing priorities and deploying resources effectively

The Tribunal has already heard and reported on hundreds of claims and others have been settled by direct negotiation without inquiry. Many hundreds more, however, remain fully or partly open for inquiry. The Tribunal needs to be responsive to the wishes of the claimants and the Crown, for instance to deal first with historical claims or to expedite inquiry proceedings to assist settlement negotiations. It must also deploy its limited human resources of judges and members carefully, for instance by grouping claims for joint inquiry.

Large multi-year inquiries demand sustained effort from the claimants, the Crown, and the Tribunal alike, and long-term planning of the Tribunal's inquiry programme is essential for giving greater certainty on when claims are expected to be heard. The Tribunal will need to work closely with its administration to find efficient and innovative ways to progress and complete claims. The challenge is for the Tribunal to organise and sustain a long-term inquiry programme that balances priorities and resources and is responsive to the aspirations of the parties to its inquiries.

Managing uncertainty and risk

5 Many external factors influence the demand for a Tribunal inquiry and the pace at which inquiries can be prepared and the claims heard and reported on. Claimants' readiness to pursue their Treaty claims before the Tribunal is affected by a wide array of competing demands on their communities and leaders. Claimant aspirations and opportunities may also change mid-inquiry, for instance through early engagement in settlement negotiations with the Crown.

Urgent inquiries inevitably divert Tribunal resources from regular inquiries under way.

The challenge for the Tribunal is to assess and manage risk effectively and to consult and communicate clearly and promptly with participants in affected inquiries, while sustaining high-priority commitments.

Managing transition and change

Over the last three decades, the Tribunal's main focus has been on hearing historical claims in the district inquiries. That focus will change over the next decade or so as it completes inquiries into the remaining historical claims and turns its attention to reducing the backlog of contemporary claims. Both during this transitional period and in the long term, this may require major changes in modes of inquiry, skill sets, and resources.

At the same time as it prepares for change, the Tribunal's highest priority, after accommodating urgent claims as needed, is to finish the district inquiry programme, through which most remaining historical claims will be heard. The challenge for the Tribunal and its administration is to plan for and manage the transition while sustaining efficient delivery of an inquiry programme that combines district and new modes of inquiry.

THE STRATEGIC DIRECTION

Since the mid-1980s, when the Tribunal's jurisdiction was extended back to 1840, the inflow of claims has far outstripped the Tribunal's capacity to hear them. The 1 September 2008 deadline, however, closed the Tribunal's registry to new historical claims. There is now a measure of certainty about the number and scope of historical Treaty claims against the Crown. Since the deadline, the inflow of new contemporary claims has been, and is likely to continue to be, much smaller.

Many hundreds of claims have yet to be fully



heard. Not all claimants will opt for a Tribunal inquiry but, of those who do, some have been waiting for many years, and timely access to justice is an issue for all. Growing numbers may forgo further inquiry by virtue of their inclusion in historical Treaty settlements.

The Tribunal's overarching objective is to provide timely access to an appropriate inquiry pathway for all claimants who wish to bring their unresolved grievances before it.

The stabilisation of the Tribunal's claim registry – more than 90 per cent of claims have historical grievances – makes this goal achievable in the foreseeable future. Success in this would greatly reduce or eliminate the backlog of unheard claims awaiting inquiry.

Over its expected time span from 2014 to 2025, the Tribunal's long-term strategic direction will be both transitional and transformative. During the term of this strategy or soon after, it is expected that the Waitangi Tribunal will transition to a body that hears contemporary claims as they are filed, including claims prioritised as urgent or claims for kaupapa inquiries on issues of national significance. This is also likely to involve significant change in the operating and delivery model, structures, and resources of the Tribunal and the administration.

A general framework of priority settings will be essential for planning the transitional long-term inquiry programme and balancing the allocation of resources. There are four key priorities:

- Top priority goes to urgent inquiries. The Tribunal sets a high threshold for granting urgency, but, when met, the ensuing inquiry takes priority over commitments in regular inquiries.
- The second priority goes to historical claims, including kaupapa claims that raise historical grievances. This sustains the predominant focus of the Tribunal's flagship district inquiry

programme and contributes to the broad engagement between Māori and the Crown in negotiating historical Treaty settlements.

- > The third priority goes to contemporary kaupapa claims raising issues of national significance.
- > The fourth priority goes to the backlog of contemporary claims.

THE STRATEGIC FRAMEWORK

The Waitangi Tribunal's inquiry programme will be progressed in two broad transitional phases – from 2014 to 2020 and from 2020 to 2025.

From 2014 to 2020: complete historical claims and high-priority kaupapa claims

From 2014 to 2020, the Tribunal will:

> complete the final six district inquiries and

address the remaining historical claims not included in district inquiries; and

 progress kaupapa (thematic) claims, starting with high-priority issues.

From 2020 to 2025: substantially advance or complete kaupapa and contemporary claims

From 2020 to 2025, the Tribunal will:

- substantially advance or complete the remaining kaupapa claims; and
- ➤ address the backlog of contemporary claims.

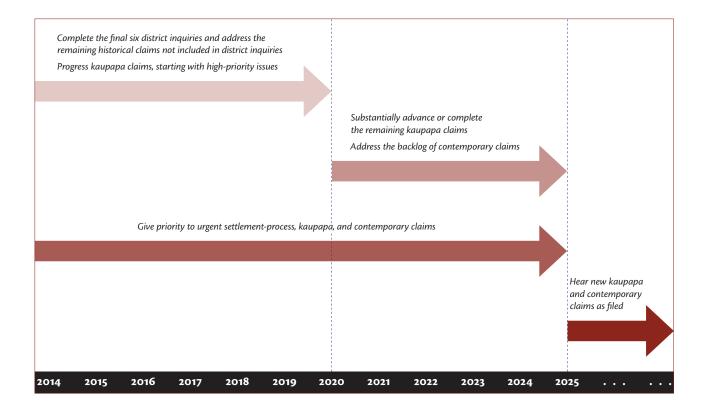
During both periods: address urgent claims

During both periods, the Tribunal will give priority to urgent settlement-process, kaupapa, and contemporary claims.

From 2025: progress new contemporary claims

From 2025, the Tribunal will begin hearing new kaupapa and other contemporary claims as they are filed.





STRATEGIC GOALS

Complete the final district inquiries and remaining historical claims by 2020

Currently, district inquiries are the main component of the Tribunal's inquiry programme. About 900 claims are under action in the final six district inquiries. The Tribunal's first strategic goal is to finish these inquiries by 2020.

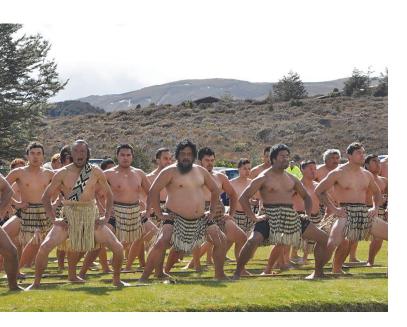
The Tribunal also has a backlog of historical claims that have not been heard in already completed district inquiries. Many of these were submitted in the weeks leading up to the historical claims filing deadline of 1 September 2008. A separate process in parallel with the active district inquiries will

be needed to address, by 2020, those claims that still require Tribunal consideration.

Progress high-priority kaupapa claims by 2020

The Tribunal has a growing backlog of kaupapa (thematic) claims that fall outside the scope of the district inquiries. Some raise key issues for the Crown–Māori Treaty relationship, and a number have already been heard under urgency for that reason.

The Tribunal's second strategic goal is to significantly reduce the backlog by 2020. To this end, in 2014 the Tribunal will start a kaupapa claims inquiry programme. It is intended that all kaupapa









claims with historical grievances that are likely to be included in historical Treaty settlements will be actioned by 2020. In addition, inquiries will commence on other high-priority kaupapa claims.

Substantially advance or complete the remaining kaupapa claims by 2025

Once most historical claims have been completed, the Tribunal will refocus on completing the remaining claims in its kaupapa inquiry programme. These will likely comprise claims with historical grievances not affected by Treaty settlements, as well as major contemporary issues. Claims with shared issues will be grouped for more efficient and expeditious inquiry.

Address the backlog of contemporary claims by 2025

After 2020, the Tribunal will also focus on clearing the backlog of contemporary claims where the issue remains live and the claimants wish to be heard. These claims will commonly focus on specific issues and local areas. Some may be left over from settlements restricted to their historical grievances. A dedicated inquiry process will be required to address them efficiently.

5 Address urgent claims arising from Treaty settlement processes and any kaupapa or contemporary claims granted urgency

In the period leading up to the settlement of all historical claims, the Tribunal will position itself to deal effectively and quickly with urgent claims generated by the historical Treaty settlements process, so that settlements may proceed both quickly and durably. Such claims, including applications for binding recommendations, are likely to become more numerous as the pace of Treaty settlement negotiations ramps up and then decline as the settlements are completed.

Applications for urgency from claimants raising contemporary issues will continue to be submitted. Some will be specific and local, others will raise nationally significant kaupapa issues.

A range of Tribunal processes can be invoked for urgent situations, involving interlocutory proceedings and mediation as well as urgent hearings. Applications for urgency and urgent inquiries need to be incorporated into the Tribunal's programme as they arise. The Tribunal's fifth strategic goal, valid in both of the transitional phases and beyond, is to consider and hear urgent claims efficiently and expeditiously.

WHAT WILL THE Achievement of These Strategic Goals Mean?

By achieving these strategic goals between 2014 and 2025, the Tribunal will assist the restoration and health of the Crown–Māori Treaty relationship and enhance access to justice for all claimants by ensuring that:

- > all historical Treaty claims are resolved;
- disputes arising from the settlements process are heard and resolved;
- > any urgent claims are heard and reported on;
- > the backlog of kaupapa claims is addressed;
- the backlog of contemporary claims is addressed; and
- new contemporary claims are able to be heard and reported on expeditiously.







ORGANISATIONAL CAPACITY AND CAPABILITY

Preparing for change

In order to achieve these strategic goals and outcomes, both the Tribunal and the Waitangi Tribunal Unit will need to develop and enhance their organisational capacity and capability and work closely together to ensure that the most appropriate administrative support systems are in place to support the Tribunal.

As we have set out, the Tribunal's strategic direction will require it to transition from a body currently focused on hearing hundreds of historical claims in large district inquiries, as well as non-district claims with historical grievances, to:

- a body focused on kaupapa claims of national scope and a backlog of contemporary claims; and then, over time, to
- a body focused on hearing and resolving contemporary claims as they are filed.

The Waitangi Tribunal Unit and the Ministry of Justice, working collaboratively with the chairperson and Tribunal, will play a critical role by adapting and evolving their operational processes, resources, skills, and capabilities in order to successfully implement the strategies and initiatives intended to achieve the transformation of the Tribunal by 2025.

An ability to innovate, in both process design and planning, will be critical to overall strategic success. This applies to established forms of inquiry as well as to exploring new modes of inquiry, with an eye to prioritising resources for achieving strategic objectives.

Ensuring flexibility and organisational agility will also be critical in enabling the Tribunal and the unit to respond effectively to the changing aspirations of claimants and stakeholders. These qualities will be important not only in handling the unpredictable workload of urgent and remedies inquiries but also in efficiently redeploying scarce human and financial resources in response to changes in the priority accorded to inquiry objectives.

The Tribunal will need to make active use of its statutory power to commission research. Highquality evidence will continue to be an indispensable foundation for effective Tribunal inquiries. As the district inquiries come to an end (and with them the role of the Crown Forestry Rental Trust as the primary research provider), the Tribunal may need to commission more of the technical research that it requires. Historical research will predominate up to 2020 and beyond, with an increasingly contemporary focus alongside a broadening range of specialised evidence on issues in fields such as resource management.

The Tribunal's membership

Completing the two major phases of the inquiry programme up to 2025 will rely on a Tribunal membership maintained at full strength. The higher level and greater diversity of inquiry activity will intensify calls on the membership to serve on inquiry panels. More Tribunal members, for example, will be needed who are able either to work full-time or to commit substantial periods to the writing of Tribunal reports.

A consultative and responsive approach

There will need to be intensive engagement with claimants about the status of their long-standing registered claims, to determine whether there is still a live issue that the claimants want heard and whether commonalities will allow contemporary claims to be grouped for joint research and hearing. The Tribunal will also need to design inquiry processes, in consultation with claimants and the Crown, that are tailored to the needs of the parties and the scope of each group of kaupapa and contemporary claims.

Balancing priorities and setting achievable goals

All these considerations highlight the importance of planning the inquiry programme within the Tribunal's long-term strategic framework. Inquiry targets must be achievable as well as contribute to the Tribunal's strategic goals. This will also require a careful balancing of human and financial resources across parallel inquiry pathways for historical and contemporary claims.

Sustaining core values

Organisational flexibility and redesign must not

compromise the fundamental values of the Tribunal as a commission of inquiry and a forum for truth and reconciliation between the Treaty partners. At the same time, it must enhance access to justice for the many claimants who have been waiting a long time for their claims to be heard and reported upon.

AN IMPLEMENTATION PLAN

The Tribunal and the Waitangi Tribunal Unit will work together to develop an implementation plan that outlines the initiatives and specific deliverables required to give effect to the strategic goals and priorities identified.



