

TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

TE MANUTUKUTUKU

Kia puta ki te whai ao ki te ao mārama

From the world of darkness moving into the world of light

Issue 71



Waitangi Tribunal

Kei Roto | Inside

Te Paparahi o te Raki Finishes Hearings	1
From the Chairperson	2
From the Director	2
New Members	3
He Aitua – Judge David Ambler	4
He Aitua – Rangi McGarvey	4
A New Structure for the Unit	5
Priority Report on Muaūpoko Claims	6
Report on Reoffending Rates	8
Ngāpuhi Mandate Inquiry Report	9
Te Raki (Northland) Hearings Finish	10
Freshwater and Geothermal Resources	11
Inquiry Programme Overview	13
Urgent Inquiries	15
Health Kaupapa Inquiry Starts	16

The Waitangi Tribunal
Level 7, Fujitsu Tower
141 The Terrace
Wellington
New Zealand
DX SX11237
Tel: 64 4 914 3000
Fax: 64 4 914 3001
www.waitangitribunal.govt.nz

Te Manutukutuku is produced and published by the Waitangi Tribunal Unit of the Ministry of Justice, and every effort has been made to ensure that it is true and correct at the date of publication.

Te Paparahi o te Raki Finishes Hearings

IN this issue, we feature the Te Paparahi o te Raki (Northland) regional inquiry, in which the hearings of claimant, Crown, and research evidence finished in December 2015. At the twenty-sixth and final hearing, held at Waitangi in October 2017, the Tribunal heard closing arguments from the Crown, marking the completion of more than four years of hearings. With more than 400 claims, this has been the largest of the Tribunal's district and regional inquiries.

This issue profiles the growing diversity of the Tribunal's inquiry programme. We cover two recent Tribunal reports on claims given urgency or priority and a third inquiry given priority. They are part of an expanding portfolio of claims granted an early inquiry and report. These and the Tribunal's regular district and kaupapa inquiries are reviewed in articles describing progress over the last two years.

We introduce recently appointed Tribunal members and mark the recent passing of Judge David Ambler and Rangi McGarvey, two significant contributors to the work of the Tribunal for many years past. An article outlines recent changes in the Ministry's Waitangi Tribunal Unit, which services the Tribunal.

Alongside Te Raki, the three other district inquiries – Te Rohe Pōtae (the King Country), Taihape, and Porirua ki

Manawatū – have all made steady progress. This issue covers the Tribunal's *Horowhenua* report in June 2017 on the historical claims of Muaūpoko, to which the Porirua ki Manawatū inquiry panel granted priority in 2015 to assist the parties.

Urgent inquiries have featured prominently in the Tribunal's inquiry programme. One article summarises the Tribunal's report *Tu Mai te Rangi!*, released in April 2017, on its urgent inquiry into a claim concerning the disproportionate impact on Māori of prisoner reoffending rates. A second article covers the Tribunal's *Ngāpuhi Mandate Inquiry Report*, released in September 2015, which addressed claims concerning the Crown's process for recognising Tūhoronuku's mandate to negotiate a Treaty settlement on behalf of Ngāpuhi, as well as the terms of the mandate itself.

Several other urgent inquiries into claims about Treaty negotiation processes or settlement terms are currently under way.

We also report on the development of the National Freshwater and Geothermal Resources inquiry, which focuses on the Government's proposals for freshwater reform. The inquiry was given priority and is currently in hearing. Finally, we note the start of the kaupapa inquiry into health services and outcomes. □

From the Chairperson

THIS ISSUE amply illustrates three central features of the Tribunal's inquiry programme as our strategic direction takes shape:



progress in the final four district inquiries; an escalating urgency agenda; and the development of the kaupapa (thematic) inquiry programme.

As reported in this issue, solid progress has been achieved in the district inquiries. Between them, these district inquiries are hearing more than 800 claims, the great majority of them historical. They will continue to dominate the Tribunal's inquiry work programme for some years to come and are central to fulfilling our commitment to completing the Tribunal's inquiry into historical claims as rapidly as possible. They contribute to the broad process leading to the resolution of historical Treaty claims.

The past year has also seen a steep

rise in applications for urgency. The sheer volume of applications is unprecedented. As outlined in this issue, many have arisen out of contested negotiations processes and historical Treaty settlement terms and reflect the tensions they inevitably generate. Others concern particular Crown policies and actions.

The Tribunal sets a high threshold for granting urgency, the key factor being a likelihood of imminent and irreversible prejudice. As a result, relatively few applications succeed, but all receive careful consideration. Rather than full inquiry, some go to further informal discussion or Tribunal mediation, enabling claimants and Crown to re-engage. This pre-inquiry work and the ensuing inquiries demand substantial time and effort from the judicial decision-makers, Tribunal members, and staff assisting, resources that would otherwise advance the Tribunal's regular inquiry programme.

The expanding urgency workload, including urgent remedies, has unavoidably slowed the development of new kaupapa inquiries into claims

that relate to significant national issues affecting Māori as a whole. That programme is nonetheless gathering momentum. The Veterans inquiry is advancing its historical research in preparation for hearings later in 2018. The Health Services and Outcomes inquiry is in active planning. A targeted inquiry into claims concerning the legislation affecting Māori customary rights in the coastal and marine area/takutai moana is starting. I have also scheduled judicial conferences in March 2018 to consult affected claimants on commencing kaupapa inquiries into housing and mana wāhine claims.

This issue also marks the passing of Judge David Ambler and Rangi McGarvey. Ki a kōrua ngā puna o te kī, ngā puna o te mātauranga, e kore te puna aroha e mimiti mō kōrua. E moe, okioki kōrua.

Chief Judge Wilson Isaac
Chairperson



From the Director

KIA ORA
TATOU.

It is again my pleasure to update you all on the work of the Waitangi Tribunal Unit over the past year. It has been a



year of change for the Unit, as one part of a larger restructure to all the courts,

tribunals, and other public services supported by the Ministry of Justice. I expand on these changes later on in *Te Manutukutuku*.

As part of the changes, the Waitangi Tribunal Unit has a new management structure and I would like to take this opportunity to introduce and reintroduce my team of managers: Chief Historian – Cathy Marr; Manager Claims and Registry – Kylie Fletcher; Manager Inquiry Facilitation

– Helena Dillon; Manager Report Writing – Sonya Wynne; Manager Research Services – Andrew Francis; Tribunal Advisor – Richard Moorsom; Registrar – Nyenyezi Siameja.

Kia ora rā.

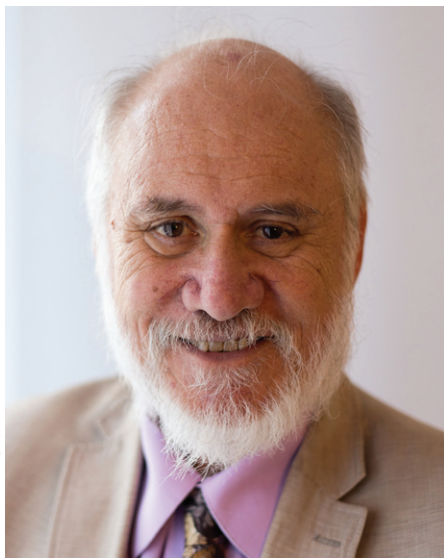
Grace Smit
Director



New Members

SINCE our last edition, two new members have been appointed and five current members reappointed to the Tribunal.

Dr Tom Roa



Tio Leota Photography

Dr Tom Roa (Ngāti Maniapoto and Waikato-Tainui) is an associate professor in Te Pua Wānanga ki te Ao/ The Faculty of Māori and Indigenous Studies at Waikato University. An expert in translation between te reo Māori and English and the oral and written history of Waikato-Tainui, Ngāti Maniapoto, and the Kīngitanga, Dr Roa has researched and contributed to a wide range of publications on a Māori classificatory regime for flora and fauna and traditional ecological knowledge, the theory and practice of translating from and into te reo Māori, Māori men's health, and Māori military history.

Dr Roa has served for many years in Te Kauhanganui, the Kīngitanga parliament, including as its chairperson. He has also been a member and chairperson of Te Arataura, the Waikato-Tainui executive board, and is a Justice of the Peace.

Professor Linda Smith



Tio Leota Photography

Linda Tuhiwai Smith CNZM (Ngāti Awa and Ngāti Porou) is Professor of Education and Māori Development and Pro-Vice Chancellor Māori at the University of Waikato. She has worked in the field of Māori education for many years as an educator and researcher and is well known for her work in kaupapa Māori research.

Professor Smith has published widely in journals and books. Her book *Decolonising Methodologies: Research and Indigenous Peoples*, published in 1998, has achieved an international reputation. She was a first joint director of Ngā Pae o te Maramatanga, New Zealand's Māori Centre of Research Excellence, and a professor of education at the University of Auckland, and she is the founding director of the University of Waikato's Te Kotahi Research Institute.

Professor Smith is also a member of New Zealand's Health Research Council, the chair of the Māori Health Research Committee, the president of the New Zealand Association for Research in Education, and a member of the Marsden Fund Council and convener of the Social Sciences

Assessment Panel. In the 2013 New Year Honours, she was made a Companion of the New Zealand Order of Merit for services to Māori and education, and in 2016 she was elected a Fellow of the Royal Society of New Zealand.

Nau mai haere mai to our two new members. We also congratulate Dr Aroha Harris (Te Rarawa, Ngāpuhi), Dr Ann Parsonson, Dr Robyn Anderson, Dr Grant Phillipson, and Basil Morrison on their reappointment to the Tribunal.

Departing members

We acknowledge three departing Tribunal members, the Honourable Sir Douglas Kidd and Emeritus Professor Sir Tamati Reedy, members since 2004 and 2010 respectively, as well as Miriama Evans, who has resigned from the Tribunal after serving since 2013. All have made substantial contributions to the work of the Tribunal.

Sir Tamati has been a member of three urgent inquiry panels and the Porirua ki Manawatū district inquiry panel, which has recently released its priority report on Muaūpoko claims (see page 6). Sir Tamati will not continue with the Porirua ki Manawatū inquiry.

Sir Douglas Kidd has sat on eight urgent Tribunal inquiries, as well as the Tongariro National Park district inquiry, which reported in 2013. He continues as a member of the Porirua ki Manawatū and Taihape district inquiry panels and also sits on the Military Veterans kaupapa inquiry.

Miriama Evans sat on two urgent Tribunal inquiries and was a member of the Health Services and Outcomes inquiry panel. She was also a valued member of the Tribunal's Governance Group. □

He Aitua – Judge David Ambler

TIWHATIWHA te pō! Kua hinga te tōtara o te Waonui! Kua tau te pōkēkēao ki runga i a tātou. E Rawiri tēnei mātou e auhi nei, e ruku popoi nei mōu i huri kaweka ki ngā rire-ā-rangi.

Judge David Ambler passed away on 11 November in Whangārei at the age of 50 after a long illness. His is an untimely and grievous loss not only to his whānau and friends but also to the Māori Land Court and the Waitangi Tribunal, the law profession, and the many clients and claimants he served as a lawyer and a judge over the past quarter century.

After being appointed to the bar in 1990, Judge Ambler worked as a staff solicitor at Kensington Swan in Auckland before moving to Rotorua in 1992 to work with East Brewster Solicitors, where he became a partner in 1997. During his time as a lawyer, he represented claimants in Hauraki, Te Urewera, Wairarapa ki Tararua, and



the Central North Island, as well as clients before the Māori Land Court.

He applied this extensive experience as a practitioner to good effect when he was appointed in 2006 to the Māori Land Court bench. In the Tribunal jurisdiction, his major contribution was as presiding officer for the large Te Rohe Pōtae (King Country)

district inquiry, in which, amongst other innovations, he pioneered the early hearing of claimant traditional and oral evidence in nga kōrero tuku iho hui. He remained actively involved in leading the Te Rohe Pōtae panel's preparation of its report until the last.

Judge Ambler was a respected colleague of everyone he worked with at the Court and the Tribunal. Fluent in te reo Māori, Judge Ambler brought to his work his knowledge, commitment, and passion for the law, tikanga Māori, and Iwi Māori. His tangihanga at Moko Marae, near Te Puke, was attended by the Chairperson, fellow judges, Tribunal members, and staff of the Waitangi Tribunal Unit and the Māori Land Court.

Kua pōhara tātou katoa i tō rironga e te rangatira. Haere ki a Ruakūmea, ki a Ruatōia, e kukume tonu nei, e tōtō tonu nei i te tangata ki te pō.

Ko te aunga o te moe ki a koe e hoa. □

He Aitua – Rangi McGarvey

TĀTAI whetū ki te rangi, mau tonu, mau tonu.

Tātai tangata ki te whenua, ngaro noa, ngaro noa.

Te Tama a Tūhoe Pōtiki me Ngāti Whakaue kua ngaro ki te pū o mahara.

Kua wahangū te reo whakapākehā o te Rōpū Whakamana i te Tiriti o Waitangi.

Kua haumūmū te tohunga reo Māori o te Paremata.

Ka tika te kōrero mō te kōtuku rerenga tahi.

Nō reira moe mai e Rangi i tō moenga roa.

It is with much sadness that we note the passing of Te Rangi Karaitiana McGarvey (Rangi McGarvey), who

passed away suddenly at his home on 12 October 2017.

Rangi's tangihanga took place at his tūrangawaewae at Tauarau Marae, Ruatoki, which hosted the Tribunal for its hearing in January 2005 in the Te Urewera district inquiry. The tangihanga was attended by Māori Land Court judges, Tribunal members, and staff, who spoke of Rangi's extraordinary contribution to the Tribunal.

Rangi began his simultaneous interpretation for the Tribunal in the early 2000s and completely transformed the hearing process to enable te reo speakers to speak in an uninhibited manner. As a simultaneous interpreter of te reo Māori, Rangi was without peer.



Taavake Ateaki

Te Rangi Karaitiana McGarvey, you will be missed but your legacy will remain. □

A New Structure for the Unit



George Craw

Waitangi Tribunal Unit staff at Waiwhetu Marae, Lower Hutt, in April 2017

THE Waitangi Tribunal is an independent, permanent commission of inquiry which hears and reports on Treaty claims. The Government provides the Tribunal with administrative, registrarial, event management, research, report writing, and other services through the Ministry of Justice's Waitangi Tribunal Unit.

On 1 May this year, the Ministry completed a series of changes to bring together all operations and service delivery as a single operational group supporting courts and tribunals. In the restructure, the Waitangi Tribunal Unit was placed within Courts and Tribunals, Regional Service Delivery, which includes the District Court, the Māori Land Court, and other specialist tribunals.

One focus of the changes was to build a structure to support staff across the Ministry to collaborate more and to work collectively. A second was to create clear lines of accountability and simpler management structures. A third was to ensure Ministry staff would be enabled to develop the necessary skills

to perform their roles effectively (for example, better training and development and system improvements).

Within the Unit, a number of changes were made to how we operate and are organised. The new structure comprises four teams – Claims Coordination and Registry, Inquiry Facilitation, Research Services, and Report Writing.

An important change was a reduction in the layers of management and number of managers, and a move away from managers of staff also being the technical leaders of their teams. Correspondingly, technical leadership was strengthened with additional staff positions at the Senior and Principal levels. The work is now led by the Principals, who sit across the Report Writing, Research Services, and Inquiry Facilitation teams. These staff are responsible for leading the design, planning, and delivery of large-scale, complex commission of inquiry processes and projects while being free of line-management responsibilities. Likewise, the 13 Seniors across the WTU lead, mentor, and support staff members,

and lead and contribute to inquiries, research projects, and report writing.

The Chief Historian is responsible for overall technical leadership and has an important role across all teams. The Tribunal Advisor position supports the Chairperson, presiding officers, and members, and provides strategic advice. Recently, the Registrar was also established as a senior technical position leading registrarial functions and legal and procedural advice.

Our new structure has provided a range of opportunities for staff progression through promotion to more senior roles. In addition, a number of former staff have returned, bringing with them an enhanced range of experience and expertise. Following the implementation of the new structure, additional staff resources were also approved by the Ministry. These include five additional report-writing staff and two registrarial staff. These positions were created to assist with the completion of the district inquiry programme, the increase in urgency applications, and the number of urgent inquiries. □

Priority Report on Muaūpoko Claims

ON 30 June 2017, the Waitangi Tribunal released a pre-publication version of its report *Horowhenua: The Muaūpoko Priority Report*. The Tribunal members for this report were Deputy Chief Judge Caren Fox (presiding), Sir Tamati Reedy, Sir Douglas Kidd, Dr Grant Phillipson, and Tania Simpson.

The Muaūpoko iwi are a people of the lower North Island, whose Treaty claims focus in particular on the Horowhenua district and Lake Horowhenua. In 2013, the Crown recognised the mandate of the Muaūpoko Tribal Authority to negotiate a Treaty settlement for this iwi. At the request of some members of the Muaūpoko claimant community, the Tribunal agreed to hear the Muaūpoko claims early, in advance of a settlement being negotiated. This involved prioritising 30 claims for hearing, and required speedy research to cover as many key issues as possible. The other claimant iwi in the Porirua ki Manawatū district, Te Ati Awa/Ngāti Awa ki Kapiti and Ngāti Raukawa and affiliated groups, agreed to early hearings for Muaūpoko.

The Tribunal advised all parties that the Muaūpoko hearings would focus mostly on Horowhenua, and findings would not be made on the respective rights of the various iwi. The claims of Ngāti Raukawa about the Horowhenua lands and lake will be heard later in the inquiry.

After Nga Kōrero Tuku Iho hui in 2014 to hear the claimants' oral evidence, the Tribunal held three weeks of hearings in 2015. All of Muaūpoko participated in and supported the hearings, which were held partly in Levin and partly in Wellington.

The final submissions were received in May 2016, after which the Tribunal took 13 months to complete its priority report. During the inquiry, the

Tribunal was assisted by the Crown's significant concessions of Treaty breach, which included that some legislation and Crown actions have prejudiced Muaūpoko and that the tribe has been rendered landless.

In its report, the Tribunal found that the Crown imposed its nineteenth-century land laws, including the Native Land Court and individual titles, on the Muaūpoko tribe. This had serious effects on the people, including excessive land loss in the 1890s and twentieth century, which could not be controlled or stopped by tribal leaders. The Tribunal also found that the Crown purchased the site of the Levin township in 1887 in a manner that was very unfair to Muaūpoko.

Then, in the 1890s, the Crown purchased the Levin State Farm block from a single owner who did not have the right to sell it. The purchase was later imposed on the Muaūpoko owners by legislation after long, costly litigation. They received no money for it. The Crown conceded that it

purchased the state farm block in breach of the Treaty.

One aspect of the litigation was the 1896 Horowhenua commission, the costs of which were imposed on Muaūpoko, even though they had not been consulted and had not agreed to it. As a result, the Crown essentially confiscated a quarter of the Horowhenua block from Muaūpoko, a serious breach of the Treaty. The long litigation also left many tribal members in so much debt that further land loss resulted, including the loss of the treasured Waiwiri lake.

By the end of the twentieth-century, the Muaūpoko people were virtually landless. The Tribunal made findings on claims about the Hōkio Native Township, and about a block purchased by the Crown for a Pākehā farmer in the 1920s. Otherwise, a lack of evidence prevented the Tribunal from reporting on twentieth-century land issues at this stage of the inquiry.

Other crucial twentieth-century issues included claims about Lake

Lake Horowhenua in 1875



John Hoyte (1835–1913)



Paul Hamer

Green algae at the lakeside – Lake Horowhenua in 2015

Horowhenua and the Hōkio Stream. Muaūpoko ownership of the beds of these taonga was declared by the Native Land Court in the 1890s. The Tribunal found that the Crown, in order to get access to Lake Horowhenua for public recreation, passed an Act in 1905 to make it a public domain. Ever since, it has been controlled and managed by a domain board. Muaūpoko never agreed to this, and the Tribunal found that the Act also failed to include various undertakings made in 1905.

In the first half of the twentieth century, the lake was lowered by four feet, the Hōkio Stream was altered, and the lake virtually placed under the control of the Levin borough council, despite the opposition of the Muaūpoko owners. Some of their complaints were upheld by a commission in 1934 but the Crown did not make even a partial settlement of their grievances until 1956.

The Tribunal found that the 1956 legislation made some improvements but was inadequate to settle past grievances and also failed to protect the Muaūpoko owners' rights and interests in the years that followed. By the 1980s, Muaūpoko had walked out of the domain board, but promised reforms were never made.

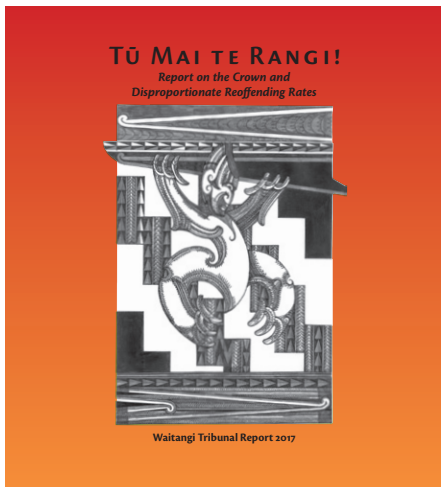
Perhaps most seriously, the Tribunal found that the Crown's actions, including its funding decisions, were complicit in the serious pollution and degradation of the lake and the Hōkio Stream. By 2010, Lake Horowhenua was New Zealand's 'seventh-worst out of 112 monitored lakes'. Although the recent Lake Horowhenua Accord holds some promise for lake restoration, the Tribunal noted that it was voluntary and that much more was needed.

In her letter of transmittal, Deputy Chief Judge Fox observed that

Muaūpoko were an 'ancient, proud, and dignified people' who have been much harmed by Crown acts in breach of the Treaty of Waitangi and its principles. In order to provide redress for the breaches and prejudice, the Tribunal recommended that the Crown negotiate a Treaty settlement with Muaūpoko. The settlement would need to include a new governance structure to act as kaitiaki for Lake Horowhenua, the Hōkio Stream, and associated waters and fisheries.

The Tribunal suggested that the Waikato-Tainui river settlement might serve as a model. The governance body would need 'annual appropriations to assist it to meet its kaitiaki obligations in accordance with its legislative obligations'. The Tribunal reserved any recommendations for Ngāti Raukawa in respect of Lake Horowhenua and the Hōkio Stream until later in its inquiry. □

Report on Reoffending Rates



ON 11 April 2017, the Waitangi Tribunal released *Tu Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates*. The report was the outcome of an urgent inquiry into the Crown's actions and policies in reducing the disproportionate rate of Māori reoffending.

Tom Hemopo originally submitted the claim to the Tribunal in August 2015 on behalf of himself and his iwi, Ngāti Maniapoto, Rongomaiwahine, and Ngāti Kahungunu. Mr Hemopo, a retired senior probation officer, alleged that the Crown, through the Department of Corrections, had not made a long-term commitment to reducing the high rate of Māori reoffending relative to non-Māori. The Tribunal, consisting of Judge Patrick Savage, Bill Wilson QC, Tania Simpson, and Professor Derek Lardelli, heard the claim under urgency at the Waitangi Tribunal's offices in Wellington from 25 to 29 July 2016.

Though *Tu Mai te Rangi!* focused specifically on reoffending, the broader imprisonment figures for Māori in New Zealand were an important backdrop to the inquiry. Māori make up around half of New Zealand's prisoners, despite being only 15 per cent of the national population. The Tribunal said the substantial disparity

between Māori and non-Māori reoffending rates contributes to the disproportionate number of Māori in prison. The Tribunal said that in this situation, the Crown must give urgent priority to addressing this disparity if it was to meet Treaty standards.

Tu Mai te Rangi! examined recent efforts by the Department of Corrections to reduce the overall reoffending rate. The Tribunal concluded that recent Crown statistics show that in respect of this target Māori progress has slowed dramatically while the gap between Māori and non-Māori has widened.

The claimant expressed concerns that Māori overrepresentation in the criminal justice system is so long-standing that for many New Zealanders it seems to be normal. The Tribunal said: 'It is not, and cannot be considered, normal.'

The report concluded that the Crown, through the department, was not prioritising the reduction of Māori reoffending rates. Since 2013, the Tribunal said, the department had had no Māori-specific plan or strategy to address this issue. It had also applied no specific target or budget to reducing Māori reoffending rates. For these reasons, the Tribunal found the Crown in breach of the Treaty principles of active protection and equity.

The Crown had not, the Tribunal said, breached the principle of

partnership, since the department was making genuine attempts to engage with iwi and hapū. The Tribunal concluded, however, that, if the Crown did not fulfil its proposed commitments to develop its partnerships with Māori, it risked breaching its partnership obligations in the future.

Among the Tribunal's recommendations was that the department revise the terms of reference of its Māori Advisory Board to strengthen the board's influence in high-level decisions around Māori interests. Specifically, it recommended that the department work with the board to design and implement a new Māori-specific strategy and commit to a target to reduce Māori reoffending rates. Progress towards this target should, the Tribunal said, be regularly and publicly reported on. The Tribunal also recommended that the Crown provide a dedicated budget to resource the new strategic focus appropriately.

Minister of Corrections Louise Upston commended *Tu Mai te Rangi!* as 'really constructive', and noted its practical recommendations. Similarly, Department of Corrections Chief Executive Ray Smith accepted the report as 'constructive and helpful', saying that 'the report's six recommendations are fair and will be considered in our wider work with strategic partners as we continue to learn and strive to improve'. □

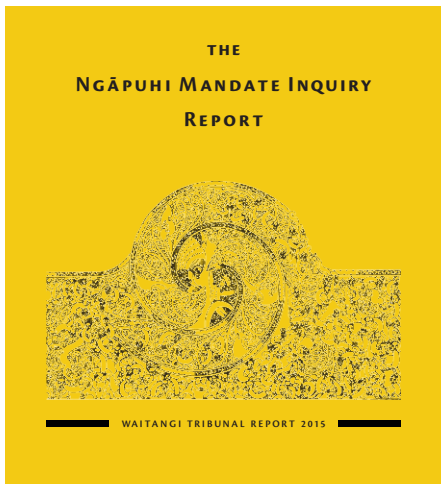
Do You Want to Stay Up to Date with Waitangi Tribunal Matters?

If so, subscribe to Te Manutukutuku!

Just put your name, phone number, and postal address (including postal code) in the body of an email, with 'Subscribe' in the subject line, and send it to:

TMTTsubscriptions@justice.govt.nz

Ngāpuhi Mandate Inquiry Report



ON 11 September 2015, the Tribunal released *The Ngāpuhi Mandate Inquiry Report* following an urgent inquiry into 15 claims, primarily from Ngāpuhi hapū and hapū collectives. The claimants were challenging the Crown's recognition of the mandate of the Tūhoronuku Independent Mandated Authority (IMA) to negotiate a settlement of the historical Treaty claims of all Ngāpuhi. The panel, comprising Judge Sarah Reeves (presiding), Dr Robyn Anderson, Kihi Ngatai, and Lady Tureiti Moxon, heard the claims at Waitangi in December 2014 and Wellington in March 2015.

The trigger for the inquiry was the Crown's decision, formally notified on 14 February 2014, to recognise the Tūhoronuku IMA as having secured a mandate from the people of Ngāpuhi to negotiate a Treaty settlement on their behalf. The claimants alleged that the Crown had predetermined its decision, which, they argued, undermined the rangatiratanga of their hapū as they did not support the Tūhoronuku IMA. Of particular concern to them was the inability for hapū to choose not to be represented by the Tūhoronuku IMA. This flaw was made worse, in their view, by their inability to control who they were represented by within the structure of the Tūhoronuku IMA.

The Tribunal found that the Crown had not predetermined its decision to recognise Tūhoronuku IMA's mandate. It considered that the Crown had demonstrated regular, genuine, and high-level engagement in the mandating process over a period of years and that there was ample evidence of the parties endeavouring in good faith to accommodate differences.

The Tribunal nevertheless considered that any entity seeking to represent Ngāpuhi in settlement negotiations needed to demonstrate hapū support for its mandate. The strength of hapū autonomy, it found, was a defining characteristic of Ngāpuhi and the Crown had a primary Treaty duty to actively protect the rangatiratanga of Ngāpuhi hapū in deciding how and by whom they would be represented in settlement negotiations. The Crown failed in this duty by recognising the mandate of the Tūhoronuku IMA in the absence of clear evidence of hapū support for its mandate.

Further, the Tribunal identified flaws in the structure and processes of the Tūhoronuku IMA that undermined hapū and their ability to make important decisions affecting the settlement of their claims. It found that in recognising the mandate the Crown had breached the Treaty.

The Tribunal did not, however, recommend that the Crown should withdraw its recognition of the mandate and require a new mandating process to take place. It considered that negotiations towards settlement enjoyed broad support within Ngāpuhi and that flaws identified in the Tūhoronuku IMA could be remedied. Noting that 'strength comes from choice, not from lack of it', the Tribunal recommended that the Crown halt negotiations with the Tūhoronuku IMA to give Ngāpuhi the opportunity to address the issues it had identified. In particular, it was important that the hapū of Ngāpuhi be able to decide whether they wished to continue being represented by the Tūhoronuku IMA.

Following the release of the report, the Tūhoronuku IMA and Te Kōtahitanga o Ngā Hapū Ngāpuhi Taiwhenua, representing groups that had rejected the Tūhoronuku mandate, entered into an engagement process to respond to the Tribunal's findings and to find a unified pathway towards settlement. Crown agencies also participated. In August 2016, the process resulted in a joint report, *Maranga Mai*, which recorded a substantial measure of agreement.

To date, the negotiations remain on hold. □

The Tribunal panel. From left: Lady Tureiti Moxon, Judge Sarah Reeves, Kihi Ngatai, and Dr Robyn Anderson.



Te Raki (Northland) Hearings Finish

THE HEARING in October 2017 of the Crown's closing submissions brings to a close a marathon programme of 26 hearings in stage 2 of the Te Paparahi o te Raki (Northland) regional inquiry.

The stage 2 hearings followed those for stage 1, which during 2010–11 focused on Crown and Māori understandings of He Whakaputanga (the 1835 Declaration of Independence) and Te Tiriti o Waitangi / the Treaty of Waitangi. The Tribunal members for stage 1 were Judge Craig Coxhead (presiding), Professor Richard Hill, Joanne Morris, Kihi Ngatai, Keita Walker, and Professor Ranginui Walker. In its report, released in November 2014, the Tribunal concluded that Ngāpuhi rangatira of the Bay of Islands and Hokianga did not cede sovereignty, but agreed to share power and authority with Britain (see *Te Manutukutuku* 67).

Professor Hill, Ms Morris, and Mrs Walker withdrew from the Tribunal panel for stage 2 and were replaced by Dr Ann Parsonson and Dr Robyn Anderson. Sadly, Professor Ranginui Walker passed away in April 2016 (see *Te Manutukutuku* 70).

The hearings in stage 2, covering all post-1840 claim issues, started in March 2013 at Te Tiriti o Waitangi Marae. Over the next four years, the Tribunal held 22 hearing weeks at venues ranging all the way from Whangaroa and Hokianga in the north to Waitemata Harbour in the south. The hosting claimant groups rotated them around the six taiwhenua, or subregions: Whangaroa, Hokianga, Kaikohe-Te Waimate Taiamai, Takutai Moana, Whangarei-Mangakahia, and Mahurangi Gulf Islands. Taiwhenua organisations, assisted by coordinating counsel, ensured the smooth running of the hearings.



Sam Hutchinson

The Paparahi o Te Raki inquiry panel sitting at the twenty-sixth and final hearing at Waitangi in October 2017. From left: Dr Robyn Anderson, Dr Ann Parsonson, Judge Craig Coxhead, and Kihi Ngatai.

With over 400 claims participating, this is the largest inquiry since the inception of the Tribunal's district inquiry programme. Over the course of the 22 hearings, which combined region-wide themes with local claim issues, the Tribunal heard over 590 tangata whenua presentations and 56 presentations of technical evidence, as well as many submissions from claimant and Crown counsel. The evidence addressed claim issues like the Northern War of the mid-1840s, when Hone Heke felled the flagstaff at Kororāreka. Extensive land loss was a crucial issue for many, as a result of land transactions with settlers before the Treaty, the Crown's purchase of land in the region, and the alienation of land in the Native Land Court era. Claimant and Tribunal witnesses also gave evidence about waterways, environmental issues, education, health, the Māori language, and issues of Māori self-government in the nineteenth and twentieth centuries.

In addition to the Crown Forestry Rental Trust's research and claimant

evidence, there were a number of burning local issues which required extra research. The Tribunal commissioned a local and subregional research programme focusing mainly on land and environmental issues. The last of some 20 research reports were filed in August and September 2016. The hearing of evidence concluded at Waitangi

Detail from a claimant wall hanging



Michael Allen

in December 2016 with the presentation of the Crown's evidence on conservation, heritage and historical sites, housing and health issues given by senior officials from government agencies and organisations responsible for policy and operations in Northland.

During 2017, the Tribunal held three hearings of claimant closing submissions, in which the claimants' lawyers summarised their arguments on generic, *taiwhenua*, and specific claim issues. The hearings wrapped up with the Crown's closing submissions at Waitangi in October, with claimant written replies due in early 2018. Following that, the Tribunal will write its report. □



Sam Hutchinson

Claimant wall hangings at the Waitangi hearing in October 2017

Freshwater and Geothermal Resources

IN 2012, the Tribunal granted urgency to a claim from the New Zealand Māori Council about freshwater and geothermal resources. The inquiry was split into stages so that the most urgent part, which concerned the sale of shares in State-owned power companies, could be heard first (stage 1).

The Tribunal reported on stage 1 in 2012 (see *Te Manutukutuku* 65). It found that, in 1840, the Māori proprietary right was 'the exclusive right to control access to and use of the water while it was in their rohe' and that the closest English term for this was 'ownership'. The Tribunal also found that this right was protected and guaranteed by the Treaty, and that there was also an 'expectation in the Treaty that the waters would be shared with the incoming settlers'.

Stage 2 of the inquiry relates to the Crown's proposed reforms for the allocation, control, and management of freshwater resources.

Geothermal reforms will be considered in stage 3.

In 2013, the Crown and claimants agreed on the main issue for a stage 2 inquiry into the Crown's water reforms:

What further reforms need to be implemented by the Crown in order to ensure that Māori rights and interests in specific water resources, as found by the Tribunal at stage 1, are not limited to a greater extent than can be justified in terms of the Treaty?

In September 2014, the Crown, as agreed, filed a report detailing its proposed water reforms. By that time, it had become clear that the reforms were not moving as fast as had been anticipated.

In March 2015, after a meeting between Ministers and the Iwi Chairs Forum at Waitangi, the Crown asked for the inquiry to be adjourned. The Government wanted to try a new way

of developing policy by working with iwi leaders to come up with reform options, which would then be the subject of consultation with other Māori and the public. The Tribunal agreed to this proposal and adjourned the inquiry in June 2015 with an expectation that stage 2 hearings would start in early 2016 after the Crown had consulted on its reform proposals. At the same time, the Tribunal changed the status of the inquiry from urgent to one of priority.

The Government split its policy work with iwi leaders into four workstreams. The results of three workstreams were included in *Next Steps for Fresh Water*, a document which the Crown put out for consultation in early 2016. The fourth workstream, on water allocation and Māori economic development, was not finished. The Crown asked the Tribunal to adjourn hearings for another 12 months so that it could continue to work with iwi leaders on the fourth workstream, while

implementing other water reforms in the meantime. This was opposed by the claimants and interested parties.

In April 2016, the Tribunal decided that a second adjournment was not justified and decided to proceed to hearing. Soon after, a number of additional Māori groups asked to become interested parties and were added to the inquiry, which caused some delays to the production and hearing of evidence.

The main issues for inquiry in stage 2 were redefined as:

- (i) Is the current law in respect of fresh water and freshwater bodies consistent with the principles of the Treaty of Waitangi? and
- (ii) Is the Crown's freshwater reform package, including completed reforms, proposed reforms, and reform options, consistent with the principles of the Treaty of Waitangi?

Most of the claimants' evidence was heard at the first stage 2 hearing in November 2016 at Waiwhetu Marae in Lower Hutt. Claimants and technical witnesses presented evidence about the Resource Management Act and its reform. They also addressed the ownership, control, and management of taonga water bodies such as Lake Omapere and Poroti Springs in Northland. The declining quality of water in some rivers and lakes was a major focus. Witnesses also gave evidence about whether the Government's reforms would improve water quality and management or would fully recognise Māori rights in water. Dr Mike Joy, a freshwater ecologist, suggested that very urgent action was required to stop the decline in water quality and that the Government's reforms would not do this.

Interested parties also gave some evidence at this hearing. Witnesses spoke about issues such as the environmental management roles created



Abby Hauraki

The National Freshwater and Geothermal Resources inquiry panel at the second hearing, Ohope Marae

by Treaty settlements and water issues on a small island like Motiti.

A second hearing was held at Ohope Marae in Whakatane in June 2017 to hear more evidence from claimants and Māori groups who are interested parties. This included the witnesses of several District Māori Councils, Northland claimants, and Muaūpoko people from Horowhenua. Professor Patu Hohepa presented evidence, as did Moana Jackson and Dr Alex Frame. Important issues included the common law water rights of Māori, the roles for Māori in resource management decision-making, questions of ownership versus management, and whether Māori today have an overriding authority under the Treaty to govern their waterways.

The Crown's evidence has been filed, explaining the reforms

(proposed and completed) and the positions of Crown technical witnesses on the Resource Management Act, water quality, and other issues raised by the claimants. Some of the Crown's witnesses disagreed with parts of the claimants' evidence. The Crown witnesses will be heard in the third of the stage 2 hearings, which will take place at a time yet to be fixed. As well as the Crown's evidence, the third hearing will include witnesses from the Freshwater Iwi Leaders Group, a report on customary water rights by Sir Edward Taihākurei Durie and others, and all remaining claimant evidence.

Closing submissions will complete the stage 2 hearings (the closings have not been scheduled yet), after which the Tribunal will prepare its stage 2 report. □

Inquiry Programme Overview

THE PERIOD since July 2015 has seen steady progress in all areas of the Tribunal's inquiry programme towards its goal of completing the great majority of claims by the mid-2020s. The Tribunal has released eight reports, advanced the writing of a ninth, progressed hearings in three district inquiries, and is close to completing the remaining casebook research for the district inquiries and the first inquiry in its developing kaupapa (thematic) inquiry programme.

Urgencies, remedies

The number of applications for urgency has continued to escalate and urgency business now forms a major component of the Tribunal's work. During 2015 the Tribunal received 31 applications, in 2016 another 39 and in the first nine months of 2017 as many as 56. While the majority of applications failed to meet the Tribunal's high threshold for granting urgency, since July 2015 nine new urgent inquiries have been started involving 42 claims (see pages 15–16).

The majority of the urgent inquiries that finished during the period or are currently under way have been associated with Crown Treaty negotiation processes or the terms of Treaty settlements. They relate to the Crown's engagement with major iwi/hapū groups – Ngāpuhi and Ngāti Wai in the north, Hauraki iwi and Whakatōhea in the centre-north and Bay of Plenty, and Ahuriri Hapū and Heretaunga-Tamatea in Hawke's Bay. The *Ngāpuhi Mandate Inquiry Report*, released in December 2015, is featured in this issue (see page 9).

Three other urgent inquiries have reported on issues of national policy that were alleged to prejudice Māori – the Trans-Pacific Partnership

Agreement, the reform of Māori land law, and Māori prisoner reoffending rates (see page 15 and *Te Manutukutuku 70*).

Issues requiring early attention were given priority in four further inquiries:

- ▶ in the Te Rohe Pōtae Tribunal's report on the Maui's dolphin claims (see *Te Manutukutuku 70*);
- ▶ in the Porirua ki Manawātū Tribunal's report on Muaūpoko claims (see page 6);
- ▶ in the continuation of the National Freshwater and Geothermal Resources inquiry, which began under urgency in 2012 (see pages 11–12); and
- ▶ in starting a targeted kaupapa inquiry into the Marine and Coastal Area (Takutai Moana) Act.

Two urgent remedies inquiries on which the Tribunal had previously reported have resumed this year following court decisions on matters of law. They involve seven claims concerning Mangatū Crown forest licensed land inland from Gisborne and four Ngāti Kahu claims in the Far North.

District inquiries

During this period, the Tribunal completed two district inquiries and progressed four others. To date, the Tribunal has completed reports on 20 of its 37 inquiry districts nationwide, covering 81 per cent of New Zealand's land area; and it is currently hearing or reporting on some 800 claims in four inquiries, covering another nine districts and 10 per cent of New Zealand's land area.

Of the remaining eight districts that have not seen a Tribunal inquiry, iwi/hapū in five have signed Treaty settlements with the Crown. Tribes in the remaining three are in or are

preparing for settlement negotiations. These include the north-eastern Bay of Plenty, where Te Whānau-ā-Apanui confirmed to the Tribunal in late 2016 that they would not seek a Tribunal inquiry into their claims.

The Tribunal completed its reports on two district inquiries:

- ▶ **Te Urewera:** In December 2015, the Tribunal released the sixth and final part of its pre-publication report on the Te Urewera district inquiry. It focuses on the socio-economic status of Te Urewera communities in the twentieth century and on river and environmental issues (see *Te Manutukutuku 70*). The full report has just been published.
- ▶ **Whanganui Land:** In October 2015, the Tribunal released *He Whiritauonoka: The Whanganui Land Report* at a formal handover ceremony held at Pūtiki Marae, Whanganui (see *Te Manutukutuku 70*). The report complements the Tribunal's earlier report on the Whanganui River, which was issued in 1999.

Four district inquiries are under action:

- ▶ **Te Rohe Pōtae (King Country):** The hearing of some 270 claims in the Te Rohe Pōtae district inquiry concluded in February 2015 and the Tribunal is now writing its report. Following the sad loss of Judge Ambler, Deputy Chief Judge Fox has been appointed to the panel as presiding officer.
- ▶ **Te Paparahi o te Raki (Northland):** The hearings in stage 2 of Te Raki, involving more than 400 claims and covering all post-1840 claim issues, concluded in October 2017 after 26 hearings spread over more than four years. The claimants' written replies are due in early 2018, after which the Tribunal will write its report (see page 10).

► **Taihape:** Most of the technical research for the inquiry’s research casebook was completed by mid-2016. During 2016, the Tribunal held three nga kōrero tuku iho hearings in which claimants presented oral and traditional history evidence. During the second half of 2016, the claimants amended their claims in preparation for further hearings, and the Crown stated its position on early concessions. After submissions from the parties, the Tribunal finalised the issues to be heard. The first hearing of evidence was then held at Rātā Marae in March 2017. The second, two months later, included a rare two-day joint sitting with the Porirua ki Manawatū panel to hear evidence on the Rangitikei River, which runs through both districts. Taihape hearings are expected to finish in early 2019.

► **Porirua ki Manawatū:** In 2014, with settlement negotiations commencing, the Porirua ki Manawatū Tribunal agreed to hold early hearings on Muaūpoko claims. Following completion of Tribunal-commissioned research in mid-2015, the Tribunal held three hearings in late 2015 and released its Horowhenua report in June 2017 (see page 6). In the rest of the district, the inquiry is currently in its research phase after the completion in April 2015 of a series of nga kōrero tuku iho hearings to hear claimant oral and traditional history evidence. Most of the research is expected to be completed by late 2017 and early 2018. The Tribunal is planning to begin its hearings in mid-2018.

Kaupapa inquiries

Kaupapa inquiries hear claims that relate to significant national issues affecting Māori as a whole. One continuing and two new inquiries were under way during this period:



A joint sitting of the Taihape and Porirua ki Manawatū panels to hear evidence on the Rangitikei River claims. From left: Tania Simpson, Dr Grant Phillipson, Deputy Chief Judge Caren Fox, the Honourable Sir Douglas Kidd, Judge Layne Harvey, Professor Pou Temara, Dr Monty Soutar, and Dr Angela Ballara.

► **Māori Military Veterans:** This inquiry, the first in the Tribunal’s kaupapa inquiry programme, was launched in late 2014. Currently, more than 80 claims are participating. In view of the age of some of the claimants and the importance to the inquiry of their evidence, the Tribunal held six oral evidence hearings around the country between August 2015 and October 2016 at which they and their whānau could testify in person. Meanwhile, after consulting the parties on the inquiry’s research requirements, in the second half of 2016 the Tribunal commissioned four overview research reports, which are scheduled for completion by March 2018. The Tribunal will then finalise the claim issues in preparation for the start of hearings later in 2018.

► **Health services and outcomes:** The second kaupapa inquiry has been prioritised given the seriousness of the current state of Māori health, and currently over 140 claims are participating. The Tribunal held its first judicial conference at Pipitea Marae, Wellington, in May 2017 to discuss the inquiry’s issue scope, priorities, research needs, and process. These matters have since

been the subject of joint discussions among the claimants and the Crown (see page 16).

► **Marine and Coast Area (Takutai Moana) Act:** In the first months of 2017, the Tribunal received a number of claims concerning the Marine and Coast Area (Takutai Moana) Act. Among other things, the claimants are contesting the 2 April 2017 statutory deadline for submitting applications for recognition of customary rights in the coastal and marine area. The Tribunal declined to grant urgency but in September 2017 agreed to give priority for a targeted kaupapa inquiry into claims about the legislation and the process through which the applications for recognition are being addressed.

Historical claims

Over the past two years, the Tribunal has been reviewing information on claims with historical (pre-1992) grievances that fall outside the district inquiries and/or completed Treaty settlements. Planning has begun on a standing panel process for those historical claims that claimants may wish to bring before the Tribunal. □

Urgent Inquiries

Hearing applications

In the period since July 2015, there has been a notable increase in applications to the Tribunal for an urgent hearing. In order to get an urgent hearing, the claimants need to show that they are about to suffer significant and irreversible harm from an act or policy of the Crown. They also have to show that they are ready to proceed urgently to hearing and that there is no other remedy for them. The bar is set high because a grant of urgency might mean delays for an existing Tribunal inquiry, if resources have to be redeployed to an urgent inquiry.

In addition to new claims applying for an urgent hearing, Māori who have had their claims reported on can apply for an urgent remedies hearing. Recently, this has usually involved asking the Tribunal to make binding recommendations for the return of Crown forest land or former State-owned enterprise land. The Tribunal has binding powers to recommend the return of those lands. The Crown and claimants then have 90 days to negotiate a settlement before a binding recommendation takes effect.

Since July 2015, the Tribunal has begun nine new urgent inquiries and has recently resumed two urgent remedies inquiries. It has also granted priority hearings for two other inquiries. This has impacted (or will impact to some degree) on the Tribunal's regular programme of research, hearings, and report writing.

On Crown policies

The Trans-Pacific Partnership Agreement: In July 2015, the Tribunal granted an urgent hearing to multiple claims challenging the Crown's negotiation of the Trans-Pacific Partnership

Agreement, an international free-trade agreement which at that point was in the final stages of negotiation. The urgent issue for hearing was the 'Treaty clause' (which had not been viewed) and the role of Māori in New Zealand's ratification of the agreement. The Tribunal's urgent report was delivered in June 2016 (see *Te Manutukutuku* 70).

Te Ture Whenua Māori reform: In September 2015, the Tribunal granted an urgent hearing into claims concerning the Government's Te Ture Whenua Bill, which would repeal Te Ture Whenua Māori Act 1993 and create a new regime for the ownership, management, and control of Māori land. The Tribunal reported on these claims in March 2016 (see *Te Manutukutuku* 70).

Māori prisoners' reoffending rates: In November 2015, urgency was granted to a claim that Crown policies were not reducing the number of Māori prisoners who reoffended and were therefore not reducing the disproportionate number of Māori in prisons. The claim was heard in 2016 and the Tribunal's report was released this year (see page 8).

On mandates

Many urgent hearing applications challenge the mandate of particular bodies or groups in Treaty settlement negotiations. A number of these applications have been granted in the past, including the Ngāpuhi mandate claim – on which the Tribunal reported in December 2015 – and three more have been granted in the past two years.

Ngāti Wai mandate: In May 2016, the Tribunal granted an urgent hearing to a number of applications about the mandate of the Ngātiwai Trust Board and its marae-based structure to

represent and settle the claims of certain Ngāti Wai hapū. The Tribunal held its hearings in late 2016 and its report was released in late October 2017.

The Ahuriri hapū settlement and the mandate of Mana Ahuriri Incorporated: In March 2017, urgency was granted to a claim concerning the Crown's continued recognition of the mandate of Mana Ahuriri Incorporated. The applicants argued that Mana Ahuriri Incorporated had not complied with its constitution and had lost the support of three hapū. The issue for hearing was whether the Crown had breached the Treaty by negotiating a deed of settlement with a body that had failed to establish or maintain a proper mandate. The hearings have since been put on hold at the request of the parties to enable them to try to resolve the issue through Tribunal mediation.

Whakatohea mandate: In July 2017, the Tribunal granted an urgent hearing to 13 applications about the Whakatohea Pre-Settlement Claims Trust Board and the Crown's recognition of its mandate to negotiate a Treaty settlement. Issues include the degree of hapū support (there is a claim that five of six hapū have withdrawn) and the question of whether the Crown recognised a deed of mandate with a withdrawal mechanism that, in reality, prevented people from withdrawing their mandate. The hearings were held in November 2017.

On other issues

Hauraki Iwi Collective's claim about the Tauranga settlement: In August 2015, the Tribunal granted urgency to Hauraki iwi on a single issue: the terms of their participation in the 'Tauranga Moana Governance Group'. Under the Tauranga deed of settlement, this

local government and iwi group would be set up with governance functions for Tauranga Moana. After urgency was granted, discussions between the parties led the Crown to remove the governance group arrangement from the Tauranga deed of settlement (to be progressed separately). The urgent inquiry was adjourned in September 2015 but could be resumed at some future date if needed.

Ngāti Hinemanu's and Ngāti Paki's claim about the Heretaunga Tamatea settlement: After mediation was unsuccessful, the Tribunal granted an urgent hearing to Ngāti Hinemanu and Ngāti Paki in August 2016. This group opposed the return of Crown forest lands as part of the Heretaunga Tamatea settlement. In September 2016, however, the urgent inquiry was adjourned to enable the parties to go to Tribunal mediation. Substantial progress was made, and in early 2017 the Crown and the claimants engaged in further discussions about how to implement the agreements reached. The Heretaunga Tamatea settlement Bill, introduced into the House in June 2017, reserves part of the forestry redress for potential use in other settlements, and in August the claimants withdrew their claim.

Ngā Hapū o te Moutere o Motiti: In March 2017, the Tribunal granted urgency to an application from the hapū of Motiti Island, with the proviso that hearings would not begin until mid-2018. The issue for urgent inquiry is whether the Crown, in Treaty settlements relating to the island, has breached the Treaty by failing to properly inform itself of the Māori interests in the island.

Remedies resumed

Ngāti Kahu remedies and Mangatū remedies: In December 2016, the Court of Appeal issued its decision in a judicial review of two Waitangi Tribunal reports: *The Ngāti Kahu Remedies Report* and *The Mangatū Remedies Report*. In those reports, the Tribunal had declined to make binding recommendations for a number of reasons. The Court of Appeal upheld a decision of the High Court ordering the Tribunal to reconsider the matter, because the Tribunal had been mistaken in some of its reasons. In 2017, therefore, the two inquiries have been reconvened for the Tribunal panels to reconsider whether binding recommendations should be made.

Hearings started

National freshwater and geothermal resources: In June 2015, the Tribunal adjourned stage 2 of the national freshwater inquiry to allow the Crown time to develop reform options in conjunction with the Iwi Leaders Group. At the same time, the status of the inquiry was changed from one of urgency to one of priority. In April 2016, the Tribunal declined the Crown's request to adjourn stage 2 for a second year and agreed that hearings should begin before the end of 2016. At present, stage 2 hearings are due for completion in early 2018 (see pages 11–12).

Marine and Coastal Area (Takutai Moana) Act: In August 2017, the Tribunal granted priority for a targeted kaupapa inquiry into 18 claims about the Marine and Coastal Area (Takutai Moana) Act 2011. This inquiry will focus on whether the Act is consistent with Treaty principles and whether the resources and procedures provided under the Act are sufficient. The Tribunal agreed to hear these claims early so that any Treaty breaches in the Act's regime will be identified in time for correction before specific claims for recognition of customary rights get too advanced in the High Court. □

Health Kaupapa Inquiry Starts

THE Waitangi Tribunal's second kaupapa inquiry, into claims concerning health services and outcomes for Māori, has been prioritised given the seriousness of the current state of Māori health, commencing in November 2016. The inquiry panel comprises Judge Stephen Clark (presiding), Dr Tom Roa, Dr Angela Ballara, Tania Simpson, and Professor Linda Tuhiwai Smith.

Claimants with more than 165 registered claims have indicated their

intention to participate in the inquiry. They include several national Māori organisations such as the New Zealand Māori Council, the Māori Medical Practitioners' Association, and Māori health providers. The claims cover a wide range of issues, including the involvement of Māori in health policy formation; support and funding for Māori health providers; the provision of adequate and accessible health services; traditional healing practices; and disparities in health outcomes.

The Tribunal convened its first judicial conference at Pipitea Marae in Wellington in May 2017 to hear the views of the claimants and the Crown as to the inquiry's scope, priority issues, process, and hearing programme. On these matters, counsel from both sides have since, with the Tribunal's encouragement, cooperated in preparing the groundwork for the inquiry. The Tribunal has allowed further time for this promising dialogue to continue. □