

Taranaki claims could be largest

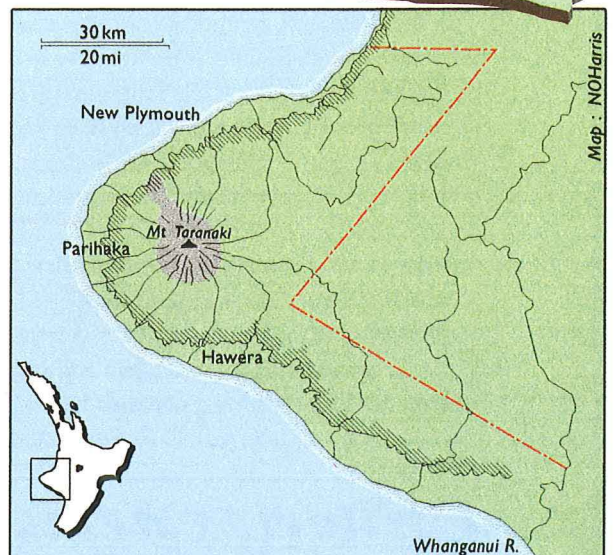
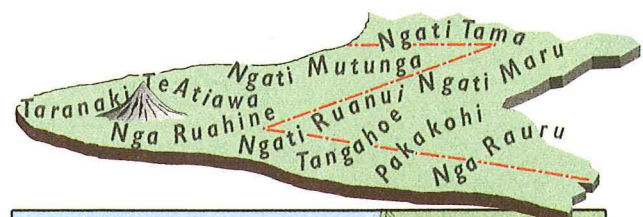
The Taranaki claims, grouped together, 'could be the largest in the country', according to the interim Taranaki report. The report states that 'there may be no others where as many Treaty breaches had equivalent force and effect over a comparable time.' The Tribunal estimates the area of lands wrongfully expropriated at just under two million acres. The report also states that the loss of land, as debilitating as that has been in itself, must be viewed together with the related ongoing effects of social and economic destabilisation.

In the report, released on 14 June, the Tribunal questions the validity and legality of the actions of successive governments. The Tribunal sees 'the claims as standing on two main foundations, land deprivation and disempowerment, with the latter being the principal one. By "disempowerment", we mean the denigration and destruction of Māori autonomy or self-government.' In the overview it had been stated that the 'real issue is the relationship between Māori and the Government.'

The 316-page report investigates in detail the historical background of the claims of the Taranaki hapū. The report is damning of the actions of governments in both this and last century. The conflict in Taranaki was unusually intense and prolonged; the Tribunal uses the term 'The Never-ending War' to describe the constant state of land conflict in Taranaki since 1839. The conflict extends beyond the parameters of the New Zealand Wars, which raged longer in Taranaki than any other part of the country. The 'bush-scouring' tactics of the colonial army, which involved the indiscriminate torching of Māori villages and crops, was most widely employed in Taranaki. The most infamous of the subsequent incidents, which will never be forgotten by Māori around the country, was the invasion of the peaceful village of Parihaka in Central Taranaki in 1881, twelve years

after the cessation of hostilities in Taranaki. According to the present report the invasion and sacking of Parihaka by government

Map of Taranaki showing main hapū groupings and confiscation line



Confiscated land in Taranaki

troops 'must rank with the most heinous action of any government, in any country, in the last century.'

Following the wars of the 1860s Taranaki Māori used passive protest, notably the ploughing of newly surveyed plots of lands and roads. The protest was kept up as ploughers were arrested so that 'over 400 Taranaki ploughmen swelled the gaols of Dunedin, Lyttelton, Hokitika and Mount Cook in Wellington.' The ploughmen were followed into the jails by over 200 'fencers', who had repaired fences broken down by the Armed Constabulary. The report notes:

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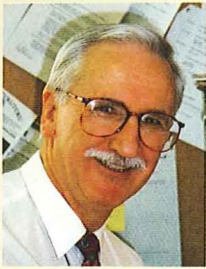
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'Ka pū te rūhā, ka hao te rangatahi'



Ian Shearer

It is my very great pleasure to be able to welcome Morris Love as the Waitangi Tribunal's new Director.

Morris Te Whiti Love is affiliated to Ngāti Te Whiti, Ngāti Tawhirikura, and Ngāti Puketapu hapū of Te Ātiawa as well as to Taranaki tūturū. He is a descendant of Te Whiti o Rongomai and the Ngā Motu chiefs, Honiana Te Puni and Wi Tako Ngatata, who established their mana whenua in Te Whanganui a Tara (Wellington), along with their relation Te Wharepourī. Morris is also a descendant of John Agar Love from the Isle of Skye who married Mere Ruru Te Hikanui from Taranaki.

His family and other Taranaki families have retained mana whenua in Wellington and the Hutt Valley since early in the 19th century. The Love family have maintained their interests in both Wellington and the Marlborough Sounds, along with their interests in Taranaki. Arapawa Island in the Marlborough Sounds is particularly important as it was here both Morrie's father Wera Te Teira (Taylor) and uncle, Makere Rangiatea (Sir Ralph) Love, were born. Morrie's mother is of European extraction and was born in Waitotara. She is an internationally known expert in the iris species.

Morrie was brought up in the Wairarapa and went to Kuranui College. He completed a degree in Agricultural Engineering at the University of Canterbury and Lincoln College, specialising in water and soil engineering. He is married with four children and also has two mokopuna.



Morris Te Whiti Love

He has worked for catchment boards (now regional councils) in both Hawkes Bay and Canterbury, dealing with engineering schemes and water resources. He spent time teaching civil engineering in Papua New Guinea.

While working in Canterbury he became involved in the Ngāi Tahu claim as it went through the Tribunal hearing process, and gave evidence in relation to water issues and Waihora (Lake Ellesmere). This interest and work in water resources brought him to Wellington to work on Māori consultation for the Resource Management Law Reform, and subsequently to work in policy advice for Maruwhenua, the Māori secretariat of the Ministry for the Environment.

With the reform of the Māori Affairs portfolio and the formation of Manatū Māori, Morrie applied his policy experience to form the Natural Resources Unit of the new organisation. He managed this unit until further restructuring when Manatū Māori was replaced by Te Puni Kōkiri. That led to a break into private consultancy work in Māori resource management and Treaty claims on natural resources. Prior to his present appointment Morrie returned to the Ministry of the Environment to manage Maruwhenua.

As for myself, I can say that I'm proud to work for all the people who are served by the Waitangi Tribunal and will continue to do so as long as I am able.

Nō reira, Mauria ko ōku painga, Waiho ko ōku wheru

Nā Ian Shearer
Acting Director

Fisheries decision endorses Tribunal

On 30 April, Lord Cooke of Thorndon delivered the Court of Appeal's judgement for the *Te Runanga o Muriwhenua vs Te Rūnanga Nui o Te Upoko o te Ika Association Inc Appeal Case*. In its decision that the allocation of commercial fisheries quota should go to all Māori, the Court of Appeal endorsed a previous Waitangi Tribunal recommendation. In addition to this decision regarding fishing quota, the court also clarified the Waitangi Tribunal's jurisdiction for investigating claims regarding commercial fisheries.

The Court of Appeal ruled that 'iwi' needed to be defined within a wider meaning of 'the people' rather

than 'tribe'. This decision endorses the Tribunal's findings in *The Fisheries Settlement Report 1992* (Wai 307), where the Tribunal recommended that fisheries allocation needed to be determined in a broad and general way, reflecting the variety of circumstances experienced by iwi. By considering a wide range of factors in the definition of 'iwi', this Court of Appeal ruling follows the Tribunal's recommendation in 1992.

The Court ruled that their definition of 'iwi' was supported by Tribunal opinion, the Williams Dictionary of the Māori Language, and the intentions of the Deed of Settlement 1992. The Court ruled that the Deed of Settlement was conceived

as a pan-Māori settlement of fisheries claims, for the benefit of Māori, including urban Māori, not for the benefit of selected groups of Māori only. The Court ruled that it is the Treaty of Waitangi Fisheries Commission's duty to ensure that any scheme or legislation proposed by them includes equitable and separately administered provision for urban Māori.

The Court of Appeal in endorsing the Waitangi Tribunal's recommendations has ruled on how future fisheries allocation will be determined, ensuring equal representation for all Māori. The Tribunal welcomes this development in the law.



Taranaki report continued

Throughout this period, the rule of law and the civil and political rights of Taranaki Māori were suspended. By special legislation, all rights of trial were denied in all but 40 cases. Several hundred were sent to gaol for indefinite periods at the Governor's pleasure. This was well after the 'end of the wars' in 1869.

In terms of strict law, according to the legal advice we have taken and with which we concur, the initial military action against Māori was an unlawful attack by armed forces of the Government on Māori subjects who were not in rebellion and for which, at the time, the Governor and certain Crown officers were subject to criminal and civil liability. Subsequently, if Māori were in rebellion against the Crown, it was only because the Government itself had created a situation where that must inevitably have been so, as a matter of fact, and had then passed legislation to ensure it was so, as a matter of law.

The Tribunal has found that successive governments acted outside the law. 'This illegality [the confiscations] may have been technically cured by a later amendment to the [New Zealand Settlements] Act [1863] that made all illegalities legal, or at least beyond judicial review; but this remarkable piece of legislative wit did nothing to save the unlawfulness of the confiscations of the Parihaka lands, or the rest of central Taranaki.' The long-term consequence of the government's actions was 'to alter Māori land tenure and to destroy, by stealth and by arms, the capacity of Māori to manage their

own properties and to determine rights within them.'

The report finds that the Sim Commission of 1927 had in fact underestimated the amount of land which was effectively confiscated. There were other so-called 'purchases' both before and after the wars, which the Tribunal considers must also be regarded as wrongful expropriation in Treaty terms. In total the amount of land involved comes to an estimated 1,922,000 acres (777,914 ha). Less than 5% of their original lands remains in Taranaki Māori ownership today, and most of this land is tied up in perpetual leases.

The perpetual leases are highlighted as a major impediment to grievance resolution. The report observes that 'the promises of reserves made in the confiscations of the 1860s, limited though they may have been, have still to be given effect, and on current projections will not have final effect for a further 63 years – over 180 years after they were made.' This is just one example of an historical injustice which has been allowed to remain through until the present day.

The report shows the acute need for a settlement and makes preliminary recommendations on the question of remedy. As noted before, this could be the largest claim before the Tribunal. Quantified in today's terms the value of land unlawfully expropriated alone amounts to billions of dollars. However, the Tribunal also states quite clearly that the effects of social and economic destabilisation on

groups and individuals needs to be added to the impact of land loss.

In addressing the question of remedy the Tribunal notes that it has yet to hear the Crown's case. However the concept of 'full and final settlement' is addressed. The Tribunal notes that current political policies mean that claimants are required to settle for a fraction of the billions of dollars which the value of the claims may be assessed at, based on legal principles. ... Whatever the case, it seems to us that a full reparation based on usual legal principles is unavailable to Māori as a matter of political policy, and if that is so, Māori should not be required to sign a full and final release for compensation as though legal principles applied.

The report proposes that settlement not be made for Taranaki as a whole, but with the main hapū aggregations, according to three regional divisions.

At this stage, although not making any specific reference to quantum, the Tribunal considers that one-seventh of any settlement should go to the central grouping and three-sevenths to each of the southern and northern groupings. The Tribunal recommends that division within each grouping should be decided amongst the hapū.

A second report, unless matters are resolved earlier, will precis the history relevant to particular groups and associated ancillary claims that may need to be distinguished in any comprehensive settlement. Copies of the *Taranaki Report: Kaupapa Tuatahi* are now available and can be ordered using the form below.

Please send me _____ copy(ies) of The Taranaki Report: Kaupapa Tuatahi (Wai 143) at \$99.95 per copy.

Please add \$3.75 to your total order for postage and packaging. **Total Order \$** _____

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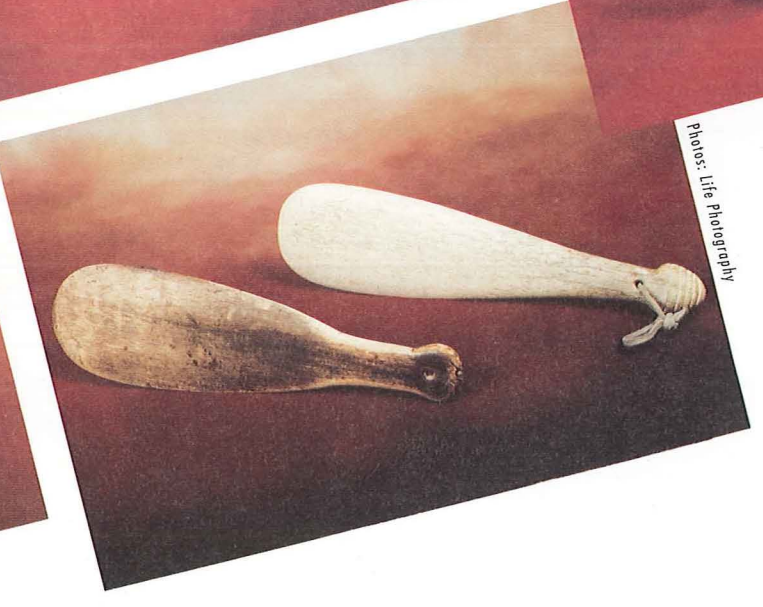
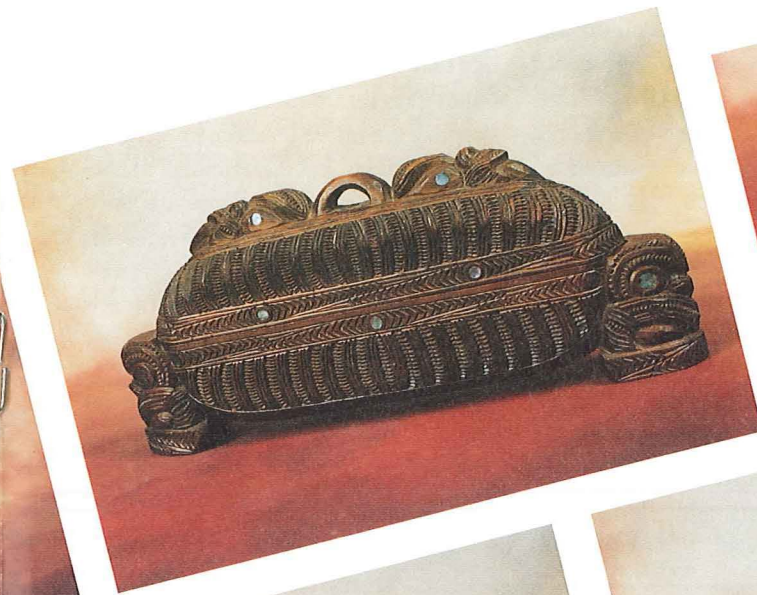
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Waitangi Tribunal taonga collection

The Waitangi Tribunal has recently acquired several taonga at an auction that was held at Dunbar Sloane Auctions on Wednesday 24 April 1996. The Tribunal understands that the bulk of the items auctioned were from private collections, with some pieces being included from collections as far away as Britain. The Tribunal acquired these taonga on the understanding that the exact origin of most of the pieces was unknown. The Tribunal is, therefore, currently undertaking measures to find out more about the history and identity of these taonga. The Tribunal would appreciate receiving

any information that may assist in our efforts to find out more about the taonga pictured here.

Any enquiries regarding these taonga are welcomed, as well as any information regarding their origin.



photos: Life Photography

Rangahaua Whānui update

The Rangahaua Whānui Project was set up in 1993 by a mentor group consisting of Members of the Tribunal and other interested bodies. Its implementation has been supervised by an advisory group of prominent historians, headed by Professor Alan Ward of the University of Newcastle.

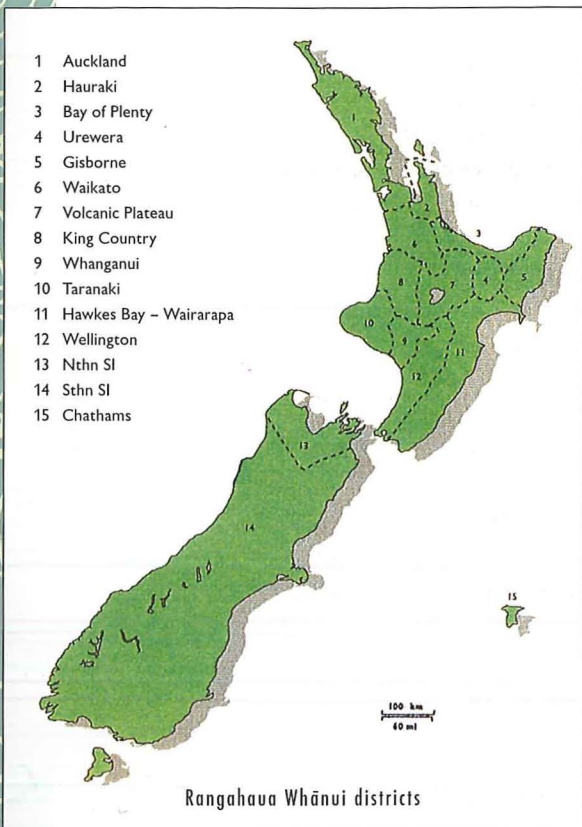
The advisory group initially divided the country into 15 geographic regions. Each region's research needs were then assessed: in some areas sufficient research was already underway; other areas, where there was greatest research need, were further subdivid-

In addition to the research on districts, national themes are also being researched. The Advisory Group originally identified 21 issues of national importance. As with the research by district, some research has already been covered elsewhere, such as the taking of land for survey liens, which has been researched by the Crown Forestry Rental Trust, so that the Tribunal decided to commission 15 national theme reports on such topics as the rating of Māori land (National Theme I). The current status of the reports on districts and on national themes is as follows:

The guidance of overview reports like that of legal expert Tom Bennion's on the rating of Māori land should simplify the future research process for both claimants and the Tribunal. *Māori and Rating Law* will describe the laws concerning the payment of rates on Māori land, and the practice followed by government in enforcing (or not enforcing) these laws. Any claimant with a complaint about rates will be able to take this report as a starting point, and then research the particular circumstances of their piece of land.

The third and final tier of the Rangahaua Whānui Project is the National Overview Report. This will include a brief section on the main causes of land alienation in each district, and the key issues which the Tribunal will need to consider with regard to claims in the district. It will also provide an overview of the relationship between the Crown and Māori in New Zealand in the context of the loss of land and other resources by Māori, and other key Treaty issues. The report will be prepared by a team of researchers, headed by Professor Ward.

The Tribunal hopes to complete the district reports, national theme reports and National Overview Report by the end of this year. The district reports are released to claimants as soon as they are completed, for their comment and feedback. Final versions of each report will be published after feedback has been received. National theme reports will be advertised in *Te Manutukutuku* as they are completed, and will be available to order. Claimants will be advised by Tribunal staff if a national theme report is of particular relevance to their claim. The National Overview report, when completed, will be available from GP Publications.



ed. As a result the Tribunal has not produced reports for some districts and has produced more than one report for others. The focus of the reports is the alienation of Māori land in each district.

Working papers available now (first release):

Volcanic Plateau, Brian Bargh (District 7)

Northern South Island Part I, Dr Grant Phillipson (District 13)

Copies of both reports are available from the Tribunal for \$17 each.

Working papers available end of June 1996 (first release):

Whanganui District, Suzanne Cross and Brian Bargh (District 9)

Auckland District, Barry Rigby, Rosemary Daamen and Paul Hamer (District 1)

Wairarapa, Paul Goldsmith (District 11A)

Wellington, Robyn Anderson and Keith Pickens (District 13)

Reports following thereafter:

Māori and Rating Law, Tom Bennion (National Theme I)

Preliminary Report on Native Townships, Suzanne Woodley (National Theme S)

Preliminary Report on Administration of Pre-1865 Crown Purchases, Helen Walter (National Theme B)

NEW CLAIMS REGISTERED

Wai No.	Claimant	Concerning
564	Wahiao R J Gray	Whakapaungakau 3B1B block, Rotorua (consolidated with Wai 153)
565	Pari Peihopa	Mt Hikurangi, Kaikohe

Legal Aid provisions for claimants

The Legal Services Act 1991 allows Māori who have a claim before the Waitangi Tribunal to apply for Legal Aid to assist with the legal costs associated with their claim. While the Legal Services Board provides the funding for Legal Aid, applications are made to the Wellington District Council and are processed by a Wellington district sub-committee. The members of the sub-committee are lawyers who have experience in claims to the Waitangi Tribunal.

This system means that the Tribunal no longer appoints and funds legal counsel for claimants. Where necessary, the Tribunal advises claimants to lodge an application with the Wellington District Committee and can provide claimants with the appropriate forms.

The sub-committee meets every month to assess applications from

claimants and other people seeking Legal Aid. However, if a payment is needed urgently, the sub-committee will convene to consider the application.

Although the Tribunal does not take part in the decision to approve or decline an application, it does have a statutory role in providing information to the sub-committee about the applications received. For example, the Tribunal may be asked to estimate the length of time that is likely to lapse before inquiry into the claim is commenced or to comment on whether a claim might be dealt with in conjunction with other claims.

The sub-committee is guided by the Legal Services Act in assessing whether each application meets the criteria. To qualify for Legal Aid, the applicants must establish that they need legal counsel, that they would suffer substantial hardship if the aid

were not granted, and that the interest of their claimant group is not sufficiently protected by any other claim to the Waitangi Tribunal. Applicants have to provide information concerning their financial resources and that of any group they represent, in order for the sub-committee to make its decision.

If an application is successful, the sub-committee may direct that the applicant shall be required to contribute an amount towards their legal costs. Any amount to be contributed is determined by the sub-committee. Applications may be made by individuals or claimant groups, eg, iwi and hapū. Usually legal counsel file the application on behalf of claimants.

Application forms are available from the Waitangi Tribunal or from the Legal Services Board, PO Box 10-247, Wellington, phone: (04) 472 5045, fax: (04) 472 5046.

New claims registered continued

Wai No.	Claimant	Concerning
566	James Hemi Elkington and others	Land in the Ngāti Koata rohe (grouped for inquiry and consolidated with Wai 102)
567	Roi Anthony McCabe	Hauturu (Little Barrier Island) (consolidated with Wai 406)
568	Jane Helen Hotere	Housing Corporation of New Zealand
569	Pita Reo	Murimotu 3B1A block, South Taupo
570	Makere Rangitoheriri	Tauranga Taupo No 1B & No 2B blocks, South Taupo
571	Ngatata Love	1-3 Pipitea St (Section 1), Wellington (aggregated with Wai 145)
572	Pateriki Nikorahi	Privy Council
573	Mere Apiata and Kevin Samuels	Matauri land and resources, Northland
574	Mereana Wickliffe and Hannah Black	Sale of Karanema reserve, Hawkes Bay (consolidated with Wai 201)
575	Sir Hepi Te Heu Heu (Ngāti Tūwharetoa)	Land and resources in the Ngāti Tūwharetoa rohe
576	Gail Young for herself and descendants of Rawiri Te Ngaere, and members of Jessie Wi Kingi Whānau Trust	Waitara land and resources, Taranaki (consolidated with Wai 143)
577	Poutama Lewis Te Rata and another	Poutama land blocks, Mokau, Taranaki (consolidated with Wai 143)
578	John Rangiteremauri Heremia and another	New Zealand Qualifications Authority and Māori University Bursary Examination (grouped for enquiry with Wai 582)
579	Christine Heremia	Estate of Taite Whitiwhi Heremia
580	Toa Haere Faulkner and others	Otamataha lands, Tauranga (consolidated with Wai 215)
581	Neville Lomax and others	Ngāti Hauiti land, forests, waterways, fisheries and other resources, Rangitikei
582	Teresa Bowkett	Scaling of 'raw scores' in 1995 Māori University Bursary Examination (grouped with Wai 578)
583	Ripeka Elena Ogle	Ngāti Maru lands and resources, Taranaki (consolidated with Wai 143)

New Staff Members

The Waitangi Tribunal has recently appointed three new contract researchers: Georgina Roberts, Matthew Russell and Jonathan Easthope.

Georgina Roberts is from Rotorua, East Coast, and her tribal affiliations are Ngāti Porou, Ngāiterangi, Ngāti Kuri and Te Whānau a Rūtaupare. Georgina completed a BA in History at Victoria University of Wellington before working at National Archives.



Georgina Roberts

She worked in the Wellington Head Office of National Archives for 18 months before transferring to the Auckland office for a further six months. During her time at National Archives, Georgina wrote *He Pūkaki Māori, A Guide to Māori Sources at National Archives*, organised several

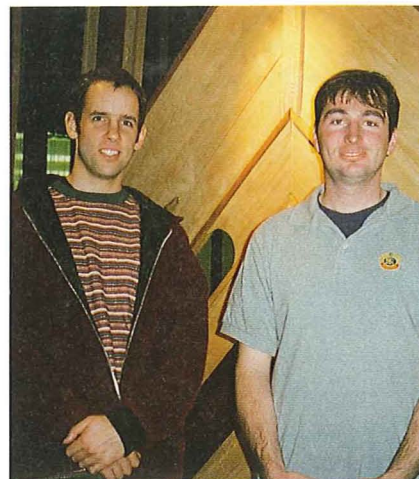
Māori archive exhibitions and worked in reference enquiries.

Georgina is now researching aspects of the Ahuriri block claim (Wai 400) and is assisting Senior Research Officer Dean Cowie in claims facilitation for the Mohaka ki Ahuriri region.

Matthew Russell was born in Auckland, raised in Whakatane and returned to Auckland for his university studies. Matthew completed his MA in History from the University of Auckland at the end of 1995. His dissertation was on George Rusden, an Australian who wrote a history of New Zealand in 1883 which was condemned by the New Zealand government of the day.

Matthew is researching Old Land Claims for the Rangahaua Whānui report together with Senior Research Officer Barry Rigby, and has recently completed a claims summary for the South Auckland/Hauraki region.

Jonathan Easthope was born and raised in Wellington and traces his ancestors back to the Orkney Islands, England, Wales and Lowland Scotland. Jonathan completed a BA(Hons) at Victoria University of Wellington, and went on to graduate with a MA in History. Jonathan's Masters' thesis was



Jonathan Easthope and Matthew Russell

about the history of publicity and was entitled *Imaging Ourselves: The Projection of Pakeha Culture Overseas 1870-1925*.

He has worked in the Alexander Turnbull Library's Photographic Archive and Pictorial Reference Service, and spent nine months at National Archives as a Retriever and Assistant Archivist. Jonathan has also worked in Pictorial Research at the Historical Branch of Internal Affairs and has done contract research for the *Dictionary of New Zealand Biography*.

Jonathan is writing a block history for Poike as part of the Tauranga claims research (Wai 362).

HE PŪKAKI MĀORI

He Pūkaki Māori is available for \$12.95 plus \$2 postage and packaging from: Huia Publishers, P O Box 17-335, Wellington. Phone: (04) 473 9262 Fax: (04) 473 9265

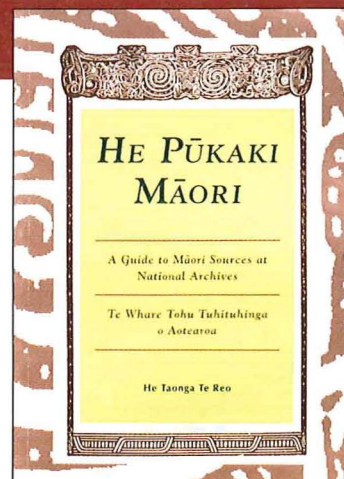
This excellent little guide to Māori material within National Archives is long overdue. It is an invaluable tool for all those working in the field and should be particularly useful for those working on Waitangi Tribunal Claims and New Zealand history in general.

Because working in Archives can sometimes appear a daunting prospect, *He Pūkaki Māori*, by listing the major archival sources, goes some way towards making the task a little more user-friendly.

Material is broadly grouped under three major subject headings: land, whakapapa and war. Other material is arranged under other headings, for example, education, health, film and photographs.

I have found my copy of *He Pūkaki Māori* to be very useful and it should be a compulsory acquisition for anyone involved in serious research on Māori topics.

Buddy Mikaere



He Pūkaki Māori



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