

Northern South Island a Top Priority

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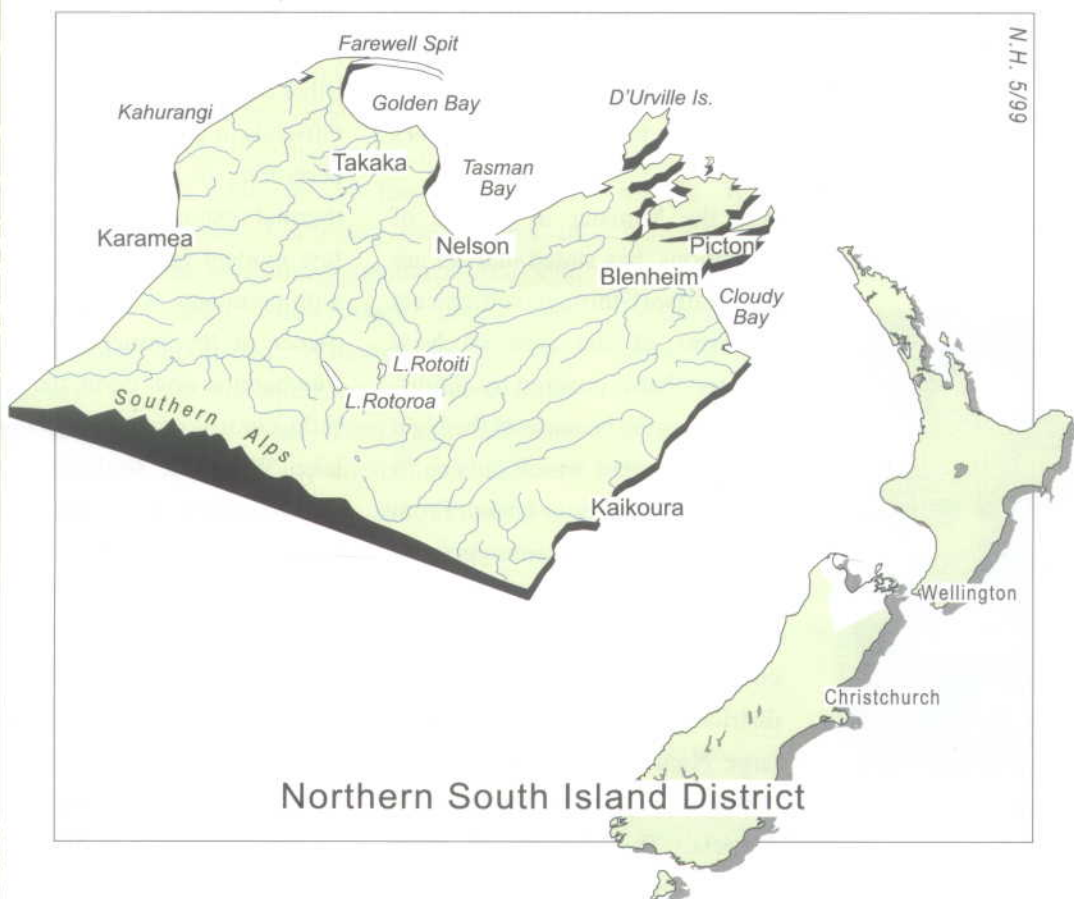
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The Waitangi Tribunal has made the Northern South Island inquiry one of its top priorities, and is aiming to begin hearings for the district early next year.

An important step in this process will be made this month when the Tribunal is expected to appoint a Presiding Officer for the inquiry. The Presiding Officer will then hold a pre-hearing conference in June.

Almost all of the research required for the inquiry is already underway. For the Tribunal to be able to keep to its planned start date, that research will need to be completed by the 30 September 1999.

A hui for all claimants in the Northern

South Island region, organised by the Crown Forestry Rental Trust, was held from the 16–18 April at Whakatu marae in Nelson. Tribunal staff members were at the hui to explain the Tribunal's procedures and to answer claimants' questions. Among the other speakers at this hui were Nellie Rata, widow of the late Matiu Rata, and claimants from other regions who came to discuss their own experiences of Tribunal hearings.

Elizabeth Cox has recently been appointed as the new claims facilitator for the Northern South Island region. She took over the role from Joy Hippolite in January.

From the Director

Completion of the Claims Process

It is now possible to contemplate the completion of the historical Treaty claims process. The Tribunal is predicting that around 2007 it will have completed researching, hearing and reporting on claims from all of the 35 or so districts into which the country has been divided for inquiry purposes. Let's take stock of what still remains, not just in terms of districts, but in terms of tribal groups still to be heard and matters to be addressed.

Sir Douglas Graham, the Minister in Charge of Treaty of Waitangi Negotiations, has stated that we are

over halfway through settlements in terms of the area of New Zealand that is covered by claims. This is largely because of the Ngāi Tahu settlement which covers 75 per cent of the South Island. From a district, tribal or claims perspective, however, we are not yet even near halfway. On the Tribunal's count, it has dealt fully with 8 districts (one of which is the very large Ngāi Tahu district), and is currently inquiring into 6 more districts. That leaves 21 more

districts to complete. If we look on a tribal basis at settlements, two main tribal groups have settled. On the guidelines used by Te Ohu Kai Moana, there are some 78 tribal groups. That would mean that there are still 76 tribes waiting to have their historical land claims settled. Looking at the number of outstanding claims, the Tribunal has yet to start inquiring into another 490 or so claims. The Tribunal's approach of considering districts rather than simply claims helps to rationalise the workload in front of it. The Tribunal is likely to take approximately the same time to deal with each district from the time research starts to the time of the completion of the Tribunal's report. Nonetheless, slowness and steadiness will win the day and everyone will share in the settlements process. We need to bring politicians to an understanding that there is no quick-fix in this process if we want lasting settlements.

Surprisingly, or perhaps not so, one issue that has been very lightly touched upon in the Treaty claims settlements process is settlements that provide some tangible form of acknowledgement of the exercise of tino rangatiratanga. The most common and likely example of this would be the recognition of some form of tribal self-governance over things like natural resources. Officials in government agencies have worked on policy pertaining to rivers (both the bed and the flow), geothermal resources, coal and oil since around 1986 with few evident results. The clearest result was achieved with pounamu, where Ngāi Tahu is now effectively the owner of the mineral, wherever it may exist. Ngāti Tūwharetoa now owns the bed of Lake Taupo, but has little control over what happens on, in and about the lake. While the settlement instruments developed for the Ngāi Tahu settlement may be said to have a broader application, it is difficult to see how these might be implemented in other areas. The creation of nohoanga sites beside rivers is one instance. These are one hectare pieces of river used for seasonal camping and fishing on the likes of the Ashley River in Canterbury. Whether this would be an appropriate mechanism for, say, the Mohaka River, is an interesting question.

The frustration of Māori, especially with respect to river claims, is understandable. Many river claimants have wrestled with the legal system for years to try to get the recognition which they believe they are entitled to. This recognition may not be in an ownership regime in the British legal sense, but one of more effective control of the health and life of a total river system, much in the way that happened in pre-European times. For many iwi and hapū, simply being consulted as an 'interested group' is not sufficient when it is 'their' natural resource in question. The challenge for the Government is to make the next step or steps towards providing for the appropriate recognition of rangatiratanga over resources such as rivers.



Morris Love

Morris Te Whiti Love
Director

Waitangi Tribunal Report Recommends Capital Funding For Wānanga

In its latest report the Waitangi Tribunal recommends that the Crown provide three statutorily recognised wānanga Māori with capital establishment funding.

The *Wānanga Capital Establishment Report* released in April examines the Education Amendment Act 1990 and its operation in relation to wānanga. Wānanga provide tertiary education in a Māori context and follow on from kōhanga reo (pre-school), kura kaupapa (primary), and whare kura (secondary schools). The three officially recognised wānanga are Te Wānanga o Aotearoa, at Te Awamutu, Te Wānanga o Raukawa, at Otaki, (both established in 1993) and Te Whare Wānanga o Awanuiarangi, at Whakatane (established in 1997). The report states that 'Official recognition of wānanga as "Tertiary Education Institutions" means that they have the same official status as universities, polytechnics, and colleges of education'.

The Tribunal has recommended that a one-off payment be made to each of the wānanga sufficient to:

- compensate the three wānanga, as a matter of urgency, for the expenditure of capital and labour that they have invested in the land, buildings, plant and equipment on the various sites that they occupy, and on which they operate their teaching programmes and provide accommodation and other necessary amenities for their staff and students;
- cover the real cost of bringing the buildings, plant and equipment of the various establishments up to a standard comparable to other

tertiary institutions and commensurate with the needs of their existing and anticipated rolls over the next three years.

- meet the proper costs and disbursements the wānanga have incurred in their preparation and presentation of their claims.

Before 1990, all new tertiary education institutions received capital establishment funding from the Crown. Following the passage of the Education Amendment Act 1990, capital establishment grants were abolished. Wānanga are the only tertiary education institutions established since 1990, and have not received any capital establishment assistance from the Government. This has had a negative impact upon their financial viability as tertiary education providers.

The Wānanga Māori Funding claim (Wai 718) was lodged with the Waitangi Tribunal on 11 May 1998. The claim was granted urgency, and hearings began at Raukawa Marae in Otaki on 19 October 1998 and were completed in early December 1998. The claimant is Rongo Herehere Wetere on behalf of Te Tauihu o Ngā Wānanga Association (comprising Te Wānanga o Aotearoa, Te Wānanga o Raukawa and Te Whare Wānanga o Awanuiarangi).

Copies of the report are available from GP Publications, tel. 04-496 5603 or free fax 0800 804 454, or at Bennetts Bookshops for RR \$29.95. The executive summary as well as the chapter on findings and recommendations can be accessed on our website at www.knowledge-basket.co.nz/waitangi/welcome.html



(left to right) Judge Richard Kearney (Presiding Officer), Josie Anderson (Tribunal Member), Allan Sargison (Crown witness), Bishop Manuhua Bennett (Tribunal Kaumatua), Professor Whatarangi Winiata (Te Wānanga o Raukawa Chief Executive) and Keita Walker (Tribunal Member)

Auction Deferred for Tribunal Report

The Government's auction of 35 management rights of radio signals in the 2Ghz frequency band, which was scheduled to take place on 29 March 1999, has been deferred for three months while the Government awaits the results of the substantive hearing of a Waitangi Tribunal claim.

The claim to radio spectrum management and development was received by the Tribunal on 9 March 1999 and soon after heard under urgency. This resulted in the Tribunal's majority recommendation, based on provisional findings, that the Government postpone its auction.

The management rights at the centre of the claim would be for 20 years. They would give successful

tenderers the right to issue licences to generate signals either to themselves or to operators purchasing or renting from them. The frequency has known potential for telecommunications and narrowcasting but not broadcasting. (Narrowcasting is the delivery of programmes to a targeted

audience, usually on a much smaller scale than broadcasting.) The claimants contend that management rights in this frequency band would provide significant benefits for Māori both economically, and in the protection and promotion of Māori language and culture.



Tribunal Members and Crown representatives listen to evidence via video link at Wai 776 hearing.

A substantive hearing of Wai 776, the Radio Spectrum Management and Development claim, was heard by Judge Patrick Savage (Presiding Officer), Ms Josie Anderson and Professor Keith Sorrenson on 30 April, 3-4 May and 10-12 May 1999. The Tribunal is now writing its report.

Wellington Tenth's Claim in Closing Phases



Te Atiawa, Ngāti Mutunga and Taranaki claimants Sam Raumati, Ted Tamati, Mark Te One, Grant Knuckey, Te Ru Korere, Maiki Te One (sitting), Richard Te One (second row) and Mahara Okeroa (third row) at the last hearing of claimants of the Wellington Tenth's claim, Wai 145.

The Tribunal's inquiry into the Wellington Tenth's claim (Wai 145), and other claims that relate to the Port Nicholson block in the Wellington, Hutt Valley and

Makara coastline area, is now in its closing phases.

The claim concerns an area of land originally known as the Port Nicholson block and comprises more

than 200,000 acres. Hearings in this inquiry began eight years ago. Early on in the process attempts were made to settle the claim by direct negotiation, but these failed. At a later stage, the inquiry was broadened to include other claimants, which required more time for research and hearings.

The last research reports were presented to the Tribunal at a hearing last December. No new evidence can now be presented. Final submissions have now been heard from Ngāti Mutunga, Ngāti Rangatahi, Ngāti Tama, Ngāti Toa Rangatira, Muaupoko, Ihakara Porutu Puketapu and the Wellington Tenth's Trust. The Crown made its final submissions earlier this year. Now that the hearings have finished, the Tribunal will write its report. Tribunal Members hearing the claim are Professor Gordon Orr (Presiding Officer), Professor Keith Sorrenson, Bishop Manuhua Bennett and John Clarke.

Ustinov at Kaipara Inquiry

Planet Ustinov, a Granada Television programme screened in the United Kingdom recently, included footage of presenter Peter Ustinov visiting a Kaipara hearing at Maungaturoto in August 1997.

In the programme, Ustinov comments that Māori believed in taking the Queen at her word, and 160 years later they are holding her to it. As Ustinov drives through the remote Maungaturoto valley, he muses on the whereabouts of the Waitangi Tribunal's 'courtroom' which in this instance is a marae where he is to be welcomed. 'Nations don't often go back into the past to put misdeeds right. Here, sensibly, the Māori and

the white man have recognised the possibility of shaking hands rather than waving spears and muskets. The only armies are legal ones and the only physical engagement is the hongi.'

It was symbolic for the hearing that the bust of Queen Victoria took pride of place in the whareniui. Te Uri o Hau, main claimants in Stage One of the Kaipara Inquiry, said it represented the Crown sitting amongst them. 'Do you think she will bring you luck?' asks Ustinov. 'No, not luck, justice', was the reply.

The next hearing for Stage Two in the Kaipara inquiry is scheduled for 8–11 June 1999.



Dame Augusta Wallace, Presiding Officer for the Kaipara Inquiry, flanked by Kuia Wikitoria Wright (left) and Nellie Wright, followed by Tribunal Member Evelyn Stokes and television presenter Peter Ustinov proceeding onto the marae at Maungaturoto.

Lawyers and the Waitangi Tribunal

The following comments are based on a talk that David V. Williams gave at Te Hui Raupatu o Tauranga Moana last October.

Some years ago, Waitangi Tribunal hearings involved few lawyers and heard one claim at a time. As the significance of the claims process became more apparent, the powers of the Tribunal were extended to include investigation of historical claims and the Crown Law Office began to play a significant role in all hearings. The fact that the Tribunal could make 'binding recommendations' also raised the stakes for claimants and Crown alike. The increased complexity and importance of Tribunal hearings has also led to an increased role of lawyers acting for claimants.

Legal aid is now available for Tribunal hearings. Claimants may advance their claims without a lawyer but they are often procedurally disadvantaged, especially when there are judicial conferences and chambers hearings on technical matters. This

does not mean, however, that there must be lawyers acting for every single claimant.

The value of lawyers lies in their knowledge of legal procedures and in organising the presentation of evidence. They are also important in presenting submissions on the principles of the Treaty of Waitangi relevant to the particular claims. Lawyers do not need to be experts in tikanga Māori, history, geography and the like. Their task is to assemble the evidence of tangata whenua witnesses and expert researchers in a compelling way.

Rather than one lawyer per claimant group, the claimants in each district need to assess how best to present the overall case, remembering that the purpose of Tribunal hearings is to focus on the actions and omissions of the Crown. A small team of lawyers may be able to represent a large number of claimants whilst each claimant group retains control over its part of the overall process. Many claimants want to be separately repre-

sented by their own lawyer. However, if there are too many lawyers arguing out disputes between overlapping claimants, then the danger is that the focus of the Tribunal will be diverted from Crown breaches of the Treaty.

It is important for the validity of the claims process that management of the claims remains with the tangata whenua. Legal procedures have, in the past, disadvantaged Māori. Claims managers and claimant committees need to establish clear lines of communication with lawyers so that the lawyers can do their job, while ensuring that claimants are not disempowered yet again.

David V. Williams is a part-time law lecturer at Auckland University and is involved with several Waitangi Tribunal inquiries representing claimants. David also works as an independent researcher, and has recently written a book entitled 'Te Kooti tango whenua': *The Native Land Court 1864–1909* (Huia Publishers, 1999).

Poroporoaki ki Niko Tangaroa

George Brown Manawatu Evening Standard



Niko Tangaroa

I te Hakihea kua hipa atu nei ka hinga atu i Otoko Pā tētahi o ngā tōtara o Whanganui, a Niko Maihi Tangaroa. Mai i te tau 1994, ko Niko tētahi o ngā tino poupou whakawā mō ngā take e pā ana ki te iwi o Whanganui me tō rātou awa.

Nāna i pōwhiri, i whakatau te Taraipiunera ki Otoko Pā i tō rātou haerenga atu ki te titiro ki tētahi paenga.

He tino mātau a Niko ki ngā tāhuhu kōrero me ngā tikanga o Whanganui.

Ko tōna wero ki te Taraipiunera kia whakahokia mai te tino rangatiratanga o te awa o Whanganui ki te iwi.

Nō reira e te rangatira moe mai i te taha o tō tātou Kaihanga, i waenganui i ō tātou mātua tūpuna.

Niko Maihi Tangaroa who died last December at Otoko Pā was a prominent figure during the Whanganui River hearings in 1994.

Niko presented evidence to the Tribunal outlining the significance of the link between the river and its people. He also welcomed the Tribunal onto Otoko Marae during a site visit. He shared important local history and laid down a challenge to the Tribunal to return the tino rangatiratanga of the river to the iwi of Whanganui.

Two New Members Join the Waitangi Tribunal



New Members, Dr Pita Sharples (left) and Rangitihi Tahuparae

Dr Pita Sharples and Rangitihi Tahuparae were officially welcomed as new Members of the Waitangi Tribunal at a pōwhiri on 18 February.

Both Members bring a wealth of skills and experience to the Tribunal. Dr Sharples' expertise lies particularly in the fields of education and culture. Appointed as the inaugural Chief Executive Officer of the Race Relations Office (1972–1980), he is currently Professor of Education at

Auckland University and the chairman of Hoani Waititi Marae.

Dr Sharples was instrumental in establishing Hoani Waititi Marae, which has been the base from which he has pioneered education and health initiatives such as kōhanga reo, kura kaupapa and whare kura throughout New Zealand. In 1990 he was awarded the CBE for service to education in New Zealand.

Dr Sharples is of Ngāti Kahungunu descent. His hapū are Ngāti Te Kikiri

o te Rangi me Ngāti Pahauwera. He and his wife have five children and three mokopuna.

Rangitihi Rangiwaiata Tahuparae (Tahu) has held many national and international cultural advisory positions. He is currently working as an advisor to the Governor General, the Chief Executive of Te Puni Kōkiri, and the Mayor of Wellington. He also has a background in radio, television and film.

As a child he was adopted by a tribal lawyer and has been trained as a custodian of tribal knowledge. He will be a valuable addition to the Tribunal for his expertise in tikanga and traditional knowledge and as a tohunga in the realm of Te Ao Māori.

His iwi are Whanganui Nui Tonu, Ngāti Tuwharetoa, Te Arawa, Ngāti Maniapoto and Taranaki Nui Tonu.

Members Reappointed

As well as the Tribunal's two new Members, four Members whose warrants had expired have been reappointed for a three year term. They are John Clarke, Roger Maaka, Joanne Morris and Professor Keith Sorrenson.

New Deputy Chief Historian

Dean Cowie, formerly a Senior Research Officer (SRO) and researcher at the Waitangi Tribunal, was appointed to the newly created position of Deputy Chief Historian in August last year.

He joined the Tribunal as a researcher in 1994 and has researched and facilitated several claim inquiries including Mohaka ki Ahuriri, Te Whanganui a Orotu, and Turangi Township. Dean returned to work in November after a three month holiday and by the beginning of this year had assumed all the functions of the new job. He has responsibility for managing the Waitangi Tribunal's 15 researchers and three SROs.

'I am also responsible for all the researchers' human resource needs, including leave approvals, performance plans, training and development, and ensuring they have a safe working environment,' says Dean. 'My main function is to ensure the researchers carry out the tasks they are set. As well as that, I will eventually supervise the casebook planning for half of the Tribunal's inquiry districts.'

Grant Phillipson, the Chief Historian, will oversee the other half, including districts currently in hearing. This



New Deputy Chief Historian, Dean Cowie

means Dean will assume responsibility for the East Coast of the North Island, Wairarapa to East Cape, as well as Te Urewera and Te Taitokerau.

While a SRO, Dean says he gained valuable staff management experience and organisational knowledge. A challenge for Dean will be assisting the Chief Historian in setting the research programme and providing input into the strategic direction of the Tribunal as a whole. 'By the end of the year I hope to have found my feet in this new job, and be able to return to spending at least some time writing research reports,' he says.

School Resources Available:

Treaty of Waitangi Past & Present: an educational resource kit aimed at primary and intermediate aged children, but suitable for all ages, produced with the assistance of the Legal Services Board. The kit includes an English and Māori booklet, a teachers' guide and eight illustration cards. Copies can be ordered for \$30.00 (includes GST and p&p) from Steele Roberts Ltd, PO Box 9321 Wellington, fax 04-499 0056, or email rwsteele@actrix.gen.nz.

Kaituna River, Te Roroa, Orakei educational resource kits designed for secondary schools (but suitable for year 7 and up) are now available at \$5.00 each from the Tribunal's Communications Officer, PO Box 5022 Wellington, fax 04 499 3676, email tribunal@courts.co.nz. Single sets of the Motunui-Waitara resource are also available at no extra cost. Stocks of these resources are limited so be in quick.

Promotion for Joy

Joy Hippolite has been promoted to the position of Senior Research Officer.

As well as continuing her own work she will be overseeing the work of five other researchers. Joy first started working for the Tribunal in 1988 where she was involved in supervising the Raupatu Document Bank project, which included recruiting and training other staff. Joy left the Tribunal in 1993 to work at the Department of Conservation, where she was a conservation officer in the Māori and Treaty issues area. She then left there to work as an independent consultant on conservation and Treaty issues. In 1997 she started working full time for the Tribunal again.

Joy graduated with a Bachelor of Arts in History and Political Science from Victoria University in 1989. At the moment she is working on the

Wairoa-Mahia district where she is doing both claims facilitation and research.

'I find writing reports very rewarding, uncovering valuable pieces of information and having something to show for the work we do here,' she says.

Joy descends from Ngāti Koata, Ngāti Toa and Ngāi Tahu. She has a 20 year old daughter and is keenly interested in sports. An essential of life, says Joy, is a sense of humour. 'It's an absolute necessity if you are working in the Treaty industry.'



Senior Research Officer, Joy Hippolite

Other Resources Available:

Please note that copyright law requires that the following videos be purchased for private use only. They are not for public broadcasting.

Waitangi Tribunal Claims Process: This video features expanded

excerpts from TVNZ's Marae interviews last year with Tribunal Chairperson Justice Durie. It is 18 minutes in duration and can be purchased for \$15.00 a copy from the Tribunal's Communications Officer, PO Box 5022 Wellington, fax 04-499 3676, email tribunal@courts.co.nz.

Te Urewera Rangahaua Whānui Report Working Paper: First Release can be obtained from the Tribunal's Administration at \$35.00 each (or \$10 for claimants) PO Box 5022, Wellington, fax 04-499 3676, email tribunal@courts.co.nz.

NEW CLAIMS REGISTERED

Wai No.	Claimant	Claim
768	David Gary Tamati	Korongata Land Blocks (Heretaunga) claim
769	Ngaraurekau Michael Tamati and another	Waipapa No.3 and Other Blocks (Heretaunga) claim
770	Edward Francis Karaitiana and others	Wairarapa Land and Fisheries (Karaitiana) claim
771	Billie Rongomaimira Biel	Ngamotu Lands, Fisheries, Foreshore and Seabed claim
772	Gary Potonga Neilson	Nga Ariki Mandating Process, Lands and Fisheries claim
773	Tureiti Ihaka Stockman	Lot 210 Parish of Te Puna claim
774	Kingi Taurua	Waitangi Lands and Resources
775	Edward Parahi Wilson	Whaingaroa Harbour and other Waikato Waters claim
776	Rangiaho Theresa Everton	Radio Spectrum Management and Development claim
777	Sir Graham Latimer and others	Sale of State Houses and Land claim
778	Tewiremu Mataia Nicholls	Ngāti Tamatera Lands and Taonga claim
779	Donna Washbrook	Pakanae School Site claim
780	Lawrence Tukaki-Millanta and others	Te Kaha Blocks and other Eastern Bay of Plenty Lands claim
781	Lennie Henare Johns and others	Tauhara Middle Block (Ngāti Tutemohuta Incorporated) claim
782	Nigel Baker and others	Tauhara Middle Blocks (Foreshore Reserves) claim
783	Lynette Waymouth and another	Tautuku and Waikawa Lands (Resource Management) claim

HEARING SCHEDULE as at 21 May 1999 (These dates may change)

Mohaka ki Ahuriri claims 24 May	Hauraki claims 21-25 June 1999
Kaipara (Stage 2) claims 8-11 June 1999	Tauranga Moana claims 28 June-2 July 1999
Mohaka ki Ahuriri 8-11 June 1999	Mohaka ki Ahuriri claims 26-30 July 1999
Indigenous Flora and Fauna claim 14-18 June	Hauraki claims 2-6 August 1999

Errata from *Te Manutukutuku* 47

Thank you to those of you who brought the errors in the Urewera map on page 5 of the last issue to our

attention. Tauranga was incorrectly located at Whakatane and the name of the Rangitaiki River was incorrectly spelt.

Some of you may also have noticed the hearing schedule on page 8 being as at a date in December instead of February.



DEPARTMENT FOR
COURTS
TE TARI KOOTI

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