

New Logo for Tribunal's 25 Year Anniversary

A brand new logo will herald the beginning of the Tribunal's 25 year anniversary celebrations in October this year.

The designer of the logo, Brian Gunson, says his design was influenced by original artwork by Cliff Whiting, commissioned by the Tribunal in 1987. That artwork focuses on the signing of the Treaty of Waitangi and the consequent interwoven development of Māori and Pākehā history.

"Whereas the original design depicts two distinct characters dressed in 19th Century garb, this design builds on the evolution of the two peoples who aren't quite so different any more," says Brian.

"I have extended and focused on a feature of Cliff's original design which is of two figures meeting each other on equal terms, which personifies the role of the Tribunal. I have reset the figures on their own background. Where they stand represents the land.

"The drawing surrounding them represents the environment and beyond

them, the double spiral depicts an intermingling of the breath which is shared in the hongī. There is also a mingling of the two traditional forms of greeting with the European clasped handshake and the Māori hand on the shoulder and hongī – a mixing of personal space and entities. The Tribunal has moved beyond two people meeting in a confrontational way towards resolution and reasoned debate where issues are settled face to face. This design represents a shift where issues can be discussed and solutions found."

A week of events is also planned to commemorate the anniversary. Although details of these events are not yet confirmed, they are likely to include an exhibition, a ministerial reception and the official launch of the Tribunal's revamped web page. The annual Tribunal members' conference will also be held at this time.



Waitangi Tribunal

New Booklet for Claimants

A new booklet provides information to help claimants, along with members of claimant groups, become more effective participants in the claims process.

The Claims Process in the Waitangi Tribunal: Information for Claimants, provides information on how to make a claim, preparing a claim for hearing, claimants' costs, the claims settlement process and the Tribunal's hearing process.

If claimants have further queries they

are encouraged to talk with Tribunal staff or to refer to the Tribunal's *Business Strategy* (published annually) and web page located at:

www.waitangi-tribunal.govt.nz.

The booklet is intended as a guide only and at times the Tribunal may and does adapt its procedures to meet the needs of particular circumstances.

Copies of the booklet can be obtained from the Tribunal offices or downloaded from the website.

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Morris Love

From the Director

The Treaty of Waitangi Act came into effect on 10 October 1975, so this year we celebrate our 25th anniversary. The Waitangi Tribunal will mark this occasion with a range of events during the week of 9–13 October 2000. Further details of those events will appear in the next issue of *Te Manutukutuku*.

In April 2000, a constitutional conference was held at Parliament, organised by the Institute of Policy Studies at Victoria University. Large numbers of papers were submitted and constitutional matters were discussed fully. Much of the conference focused on the Treaty and its position in any proposed constitution for Aotearoa New Zealand. Discussion was concentrated on the principles and interpretation of the broad position of the Treaty in any constitutional framework. I believe that, from a practical perspective, in terms of the Treaty of Waitangi, much could be effectively achieved before moving to a republic. The Treaty's primary significance, for any constitutional arrangements, is associated with the requirement to deal fully and fairly with historical Treaty claims. By getting on with the completion of the historical claims process to settle those claims in an equitable, durable and comprehensive way, a major hurdle would be overcome. The focus could then shift to how contemporary issues are dealt with, such as the Crown being removed from the Treaty equation and replaced by the Government, or even the office of a President.

With these constitutional issues in mind, the challenging job of completing the historical claims process is one to grasp with renewed vigor. There remains a

temptation for some parties to sidestep the current processes that lead to sustainable settlements, because of the time they take. The Tribunal is actively exploring ways for claimants to move more expeditiously through the process. Presently, the Tribunal process – from the start of intensive research to the finished product of a Tribunal report – takes around six years. If claimants have a secure mandate, it takes at least another two to three years until matters are finally settled in negotiation with a deed of settlement and consequent legislation. Republicanism and a new constitution may not be driving the process yet, but it is another incentive to complete the historical claims process as quickly and as comprehensively as possible.

For the Tribunal to get through its increasingly demanding hearing programme, we must tighten our collective belts. To maximise hearing time there needs to be a reduction in the costs associated with hearing. To reduce costs, the Tribunal will no longer provide for morning and afternoon teas for persons attending hearings. We will ensure strict controls are applied on the funding of venue hire or any other items. The Tribunal is aware that most claimants have access to Crown Forestry Rental Trust (CFRT) funding for hearings. Any group without access to CFRT funding will be funded by the Tribunal at a different rate to minimise disadvantage. Details of the policy will be available from claims administrators or from the Tribunal's offices. The new policy will come into effect from 1 July 2000. The predicted savings will enable the Tribunal to conduct an additional two weeks of hearings each year. As demand for hearing time increases, we will do all we can to speed up the process.

Morris Te Whiti Love
Director

Petroleum Claim (Wai 796)

As a result of a judicial conference on 1 May, the Waitangi Tribunal has granted an urgent hearing of a claim brought by Thomas Tohepakanga Ngatai on behalf of Ngā Hapu o Ruahine in relation to the Taungatara –Tariki

–Araukuku (petroleum, natural gas and minerals) claim Wai 796. The hearing will cover aspects that were not considered in the Tribunal's 1996 *Taranaki Report: Kaupapa Tuatahi*.

The Tribunal has said that the two

main criteria for an urgent hearing of Wai 796 were: that the claimants are, or are likely to be, prejudicially affected to a significant extent by current or pending Crown actions or policies and that claimants were ready to proceed with an urgent hearing of the claim.

The Tribunal considered the

Mokai School Report

Na roto i te purapura, te māramatanga i tipu mai i Mokai.

The knowledge of the light was born from enlightenment here in Mokai.

The closure of Mokai Primary School [at Atiamuri near Taupo] was not undertaken consistently with the principles of the Treaty of Waitangi," the Waitangi Tribunal has said in its *Mokai School Report*, released on 17 April 2000.

The claim was lodged by Mohi Osborne and Te Aroha Adams on behalf of themselves and their children, who were enrolled at Mokai Primary School immediately before it was closed by the Minister of Education on 3 October 1999. They claimed they were prejudiced by breaches of the principles of the Treaty of Waitangi, occasioned by inadequate consultation with the school community before the school's closure and by the closure itself. The claim was urgently heard by the Tribunal, in November 1999 and January 2000.

"It was said [by the claimants] that the Minister of Education's closure of the school, and the process by which that was achieved, did not take sufficient account of Mokai tino rangatiratanga and the taonga of te reo and mātauranga Māori that the Crown is obliged to protect," the report states.

"The claimants contested the reasons for the ministerial decision to close Mokai Primary School. That

decision was based in large part on seven unfavourable reviews of the school conducted by the Education Review Office (ERO) between 1991 and mid-1998. The claimants also contested the adequacy of the Ministry of Education's consultation with the school community during the nearly four-year period, commencing in November 1995, that was spanned by the closure process. They contended that the Crown did not give sufficient consideration to the school's importance to the children and the wider community of Mokai, nor to the efforts made by the school since 1996 to improve the quality of the education it was providing.

"The Crown's position was that the Minister's decision to close Mokai Primary School was reached after consideration of all relevant matters so that neither the process by which that decision was reached nor the fact of the school's closure was inconsistent with the Treaty's principles. This view was based on an interpretation of the ambit of the Crown's authority to govern (kāwanatanga) that did not engage directly with the claimants' view that Mokai tino rangatiratanga is inextricably bound up with the taonga of Māori language and knowledge and that the Crown needed to give this matter due consid-

eration when assessing the school's future.

"Our analysis of the evidence and submissions presented in the claim leads to the conclusion that, despite the Crown's commitment to the goal of improving the education of Māori children, the closure of Mokai Primary School was not undertaken consistently with the principles of the Treaty of Waitangi. In brief, the 'good governance' that is required of the Crown, and that is demonstrated by its attention to protecting taonga and enhancing tino rangatiratanga by reasonable means, was not evident in the chain of events that culminated in the school's closure. The nature of the prejudice this has caused the claimants is such that we recommend that Mokai Primary School be 'reopened' with more intensive support from the Crown than was available in the past. We also recommend that the Crown clarify its policies and processes for intervening (by closure or other means) in the government of schools in difficulty.

Copies of the report can be purchased from Legislation Free Direct telephone 04 496 5603 or free fax 0800 804 454 or at Bennetts Bookshops. Or you may view the report from our website at:

www.waitangi-tribunal.govt.nz.

situation would preclude Ngā Hapū o Ruahine from concluding a settlement with the Crown and that this constitutes a significant prejudice to claimants. It further considered that if other Taranaki iwi are prepared to conclude settlements on the terms offered by the Crown it would negate any interest that those iwi may have

in the petroleum resource, causing further prejudice to Ngā Ruahine.

A research report compiled for the claimants by Richard Boast was filed with the Tribunal on 19 May. The report explores issues that the claimants consider relevant to the claim.

A judicial conference was held on 14 June to determine the nature of the

evidence proposed to be produced by the Crown; the time needed for the task; the nature of any further evidence required by the Tribunal; and the means of ensuring evidence is produced.

Hearings are expected to begin in October.



Judicial Conference at Gisborne



Claimants listen intently to new direction in Gisborne inquiry.

A judicial conference held at Gisborne in May heralded a new direction for the Tribunal's inquiry process, with a primary focus of encouraging claimants and their counsel to settle preliminary issues.

Issues discussed at the conference included the district boundary, the finalisation of the casebook, the

time-tabling of pre-hearing interlocutory (preliminary) steps, funding issues for research, claim management and legal counsel, and representation issues.

Chief Judge Joe Williams presided over the conference, which was attended by representatives of all the Turanganui claimant groups.

Gisborne Inquiry District

Joy Hippolite, the Tribunal Claims Facilitator in the Gisborne inquiry, gave a presentation at the conference outlining the Tribunal's strategy of grouping historical and contemporary claims for research and hearing on a district basis.

Preliminary Steps

The Tribunal's district casebook approach, introduced in 1996, whereby all claims within a nominated district are heard together and as far as

possible all major historical research for the inquiry is undertaken prior to the commencement of hearing, was also discussed.

It is expected that the casebook for Gisborne will be completed towards the end of this year, to enable the inquiry to proceed quickly.

Claim cut-off date

Views of claimant counsel were also sought in regard to a possible cut-off date after which any claims filed will not be heard in the Gisborne inquiry.

Mandate and Representation Issues

At the conference, parties were asked to formally identify the traditional groups which they represent and this information was recorded by the Tribunal. The Judge stressed that representation issues must be raised at an early stage, if they are to be raised at all.

Tarawera Forest Hearing

A hearing of the Tarawera Forest Claim (Wai 411) was held in Wellington from 6–9 June. During the opening hearing, submissions by claimant and Crown counsel were given as well as evidence from both claimant and Crown 'expert' witnesses. 'Traditional' evidence was also presented by claimant witnesses.

A second hearing will be held from 18–22 September in Wellington, where all further evidence and closing submissions will be presented. The Wai 411 is a single claim focusing on the events surrounding the formation of Tarawera Forests Ltd and such later events as are relevant to the claimants' allegation of prejudice.

Two claimant groups have an interest in this claim. The claimants are Beverley Adlam (who has replaced the principal claimant Shuki Savage) and Motai Park. The Wai 46

1994. The Wai 46 claim was originally registered on 18 November 1988 and has been reported on by the Tribunal in its *Ngāti Awa Raupatu Report* of 1999. The Wai 46 claimants are at present negotiating with the Crown towards settlement.



The Tribunal, claimant and Crown counsel listen to evidence presented at the first of two Tarawera Forest hearings to be held in Wellington.

claim brought by Hirini Moko Mead on behalf of Te Rūnanga o Ngāti Awa has also been included in the inquiry.

The Wai 411 claim was first registered at the Tribunal on 19 January

Prior to the hearing and after a judicial conference, the Tribunal reiterated the view in the *Ngāti Awa Raupatu Report* that Wai 411 is a claim affecting prescribed

Northern South Island Hearings Closer

The Northern South Island inquiry has taken a number of important steps towards beginning hearings. Almost all the reports required for the casebook of this inquiry have now been submitted to the Tribunal, and have been sent to Senior Tribunal Historian Professor Keith Sorrenson, to be assessed. They have also been distributed to all the relevant parties.

The inquiry's second pre-hearing conference was held on 27 April of this year. Judge Wilson Isaac presided over the conference, with Rangitihi Tahuparae, Professor Sorrenson and two of the other Northern South Island Tribunal members also present. The conference was held in Wellington, and many claimants made the trip across Cook Strait to attend. At the conference, Professor Sorrenson indicated that he expected the casebook would be approved, clearing the way



Northern South Island judicial conference in progress

for hearings to begin.

A number of other issues were discussed at the conference. A chronology in which the hearings would proceed was established, and each of the eight iwi involved in the inquiry indicated when they would be ready to have their claims heard.

The hearings for the Northern South Island inquiry are expected to begin in August with the Ngāti Rārua iwi claims scheduled first. Although

there is limited hearing time available for the inquiry this financial year, it is hoped that the Tribunal will have heard at least three of the eight iwi by the end of 2000.

In a memorandum following the conference, Judge Isaac indicated that any historical claims that claimants wish to have heard during the inquiry must be submitted to the Tribunal by 1 December.

individuals, not a general tribal class. The Tribunal believes the claim should be dealt with independently of tribal settlements.

The Tribunal also resolved that, in light of the Crown's conflicting views and negotiations for Tuwharetoa ki Kawerau and Ngāti Awa, concerning the mandate for including the Wai 411 claim in settlements with those iwi, that Wai 411 should be heard and reported on by the Tribunal at the earliest available opportunity.

The Tribunal's jurisdiction with regard to the Maori Land Court (Rotorua) decision of 19 August 1966 was discussed at a conference on 10 May 2000. At issue was whether for the purposes of the Tribunal's hearing the Maori Land Court and Maori Trustee might be

considered to be the 'Crown'.

"The Tribunal considers that the issue of its jurisdiction in relation to the Maori Land Court decision is one that can be dealt with in the course of the present claims hearing. Especially in light of the short time before the first hearing is scheduled, it should be dealt with."

During the June hearing, Wai 46 witnesses presented evidence on the negotiations and involvement of Ngāti Awa in the establishment of Tarawera Forest Ltd. Ngāti Awa witnesses also provided evidence on the exclusion of Putauaki from the forest scheme and the reasons for the exclusion.

Tarawera Forest Ltd's counsel did not present evidence at the hearing, but will maintain a watching brief.

www.waitangi-tribunal.govt.nz

After months of behind the scenes work by a small team of staff, a revamped, refocused and modern Waitangi Tribunal internet site is due to go live by the end of August at www.waitangi-tribunal.govt.nz (It can also be accessed through the old URL of <http://www.knowledge-basket.co.nz/waitangi/>.)



Tribunal web team members (l-r) Lauren Zamalis, Lana Simmons-Donaldson, Dominic Hurley (standing) and Bronwyn Gibbs

Changes to Claims Administration and Registration

Greater efficiency and effectiveness in the registration and administration of claims were key reasons behind recent changes to the Tribunal's claims administration and registrarial areas.

In the past, both sections were managed by the Registrar, but now a new position of Claims Administration Manager has been established. Katherine Noble, the appointee, started at the Tribunal at the beginning of January, and has overall responsibility for staff management and strategic planning and budget. This enables the Registrar to focus on the legal and



Acting Registrar Sara Cunningham (l-r) and Hiria Pointon discuss a direction being signed by Deputy Chairperson of the Tribunal, Chief Judge Williams

operational handling of claims.

Six claims administrators, a

claims administration assistant and assistant registrar work closely with the Registrar to set up the record of inquiry and maintain the documentation relating to each claim from the time it is lodged until it has been reported on by the Tribunal. The claims administration section is responsible throughout for administering the Tribunal process. A key part of a claims administrator's job is event coordination, which includes arranging conferences, hearings and report-writing meetings, and liaising with Tribunal members, claimants and Crown counsel.

New Claims Manager

Katherine Noble was born in England and raised in Christchurch before moving to Wellington, where she has worked for a number of Government departments, including the parliamentary select committee on justice and law reform.

Before joining the Tribunal, Katherine spent five years in Sydney, working most recently for Clover Moore, a state MP in the New

South Wales legislative assembly.

During her time in Sydney, Katherine completed a Master of Criminology at Sydney University Law School.

"One area of interest I researched involved comparing the development of indigenous justice issues in Australia and New Zealand. Treaty issues go to the heart of who has the power to make laws in any given jurisdiction.

"I chose to work for the Tribunal

because I firmly believe the Tribunal process is all about working towards authentic justice for Maori."

Katherine's interests include movies, great food and wine, walking, swimming and singing. Katherine's husband is a computer science researcher, "who rushes all round the world giving conference papers."

"I like to join him when I can, but right now, I've got plenty here to keep me busy!"



Katherine Noble

Claim Registration Movements

With former Tribunal Registrar Geoff Melvin now working with Tom Bennion as a claimant counsel and Kim Skelton, Acting Registrar, currently on maternity leave, Sara Cunningham (Acting Registrar), and Hiria Pointon (Registrarial Assistant), have been employed on fixed-term contracts until early in the new year.

The registrarial area is responsible for the following functions:

- ensuring the Tribunal has jurisdiction to look into matters raised in each claim;
- ensuring that prospective claims meet the requirements of section 6 of the Treaty of Waitangi Act 1975;
- processing additions and amendments to claims already registered;
- processing section 8D applications (applications for the removal of memorials where the land was formerly owned by a State Owned Enterprise);
- providing section 73 reports to the Wellington Regional Legal Aid Sub-Committee; and
- providing timely and accurate advice to claimants, claimant counsel, Tribunal members and any other persons who make claim-related inquiries.

The Registrar is also responsible for maintaining the record of inquiry for each claim lodged with the Tribunal.

New Researchers



New Researchers (l-r) Peter Clayworth, Trecia Smith and Bernadette Arapere

Peter Clayworth started at the Tribunal last August and is the Claims Facilitator for the Tarawera Forest inquiry Wai 411.

Peter has also been assisting with research on the Urewera inquiry Wai 36, working on a block history of Tuararangaia and familiarising himself with the background relating to the Urewera claim. In his 'spare time' he is completing his PhD, but his advice to anyone doing the same is to finish it before they start working!

Maori history and an interest in Maori and Pakeha interaction were the main reasons Peter was keen to work at the Tribunal.

Trecia Smith began working as a Contract Researcher with the Tribunal in January, after working as an Investing Officer with Environment Canterbury.

Trecia's role at the Tribunal includes working with fellow Researcher Robert McClean on an overview report for the Wai 262 Intellectual Property and Indigenous Flora and Fauna claim.

Trecia says her research is concentrated on Crown science and plant research as well as authority rights from 1983–1998. The research also looks at policies in relation to indigenous flora and fauna developed by the Environmental Risk Management Authority.

Trecia's contract is due to expire in December.

Bernadette Arapere joined the Tribunal in May.

She was recently appointed Claims Facilitator for the King Country district inquiry and is quickly "finding her feet".

Bernadette has an MA in History from Auckland University. Her thesis, "*Māku anō hei Hanga i tōku nei Whare: Hapu Dynamics in the Rangitūkei Area, 1830–1872*", examined the relationships between hapū of Ngāti Raukawa ki te tonga from the heke (migrations) through to the major land purchases in the area in the late 1860s.

Research Counsel

Carwyn Jones began working full time at the Tribunal in the position of Research Counsel, just after Easter this year. His responsibilities include legal research for Chief Judge Williams and the Tribunal's presiding officers.

New Research Counsel Carwyn Jones at his admission to the bar



HEARING SCHEDULE for July to October 2000 (as at 6 June 2000) Note: these dates may change

Wai No	Hearing Date	Tribunal Members Hearing Claim
686	Hauraki Claims 17-21 July 2000, 28 August – 1 September 2000 24-27 October 2000, 4-8 December 2000	Dame Augusta Wallace (Presiding Officer), John Kneebone, Wharehuia Milroy, Dame Evelyn Stokes
674	Kaipara (Stage 2) Claims 31 July – 4 August 2000 Kaipara (Stage 3) Claims 11-15 September 2000, 9-13 October 2000	Dame Augusta Wallace (Presiding Officer), Sir John Turei, Brian Corban, Areta Koopu, Hon Dr Michael Bassett, Dame Evelyn Stokes
785	Northern South Island Claims 7-11 August 2000, 21-25 August 2000 2-6 October 2000, 16-20 October 2000	Deputy Chief Judge Wilson Isaac (Presiding Officer), Keith Sorrenson, Rangitihī Tahuparae, Pam Ringwood, Roger Maaka
215	Tauranga Moana Claims 25-29 September 2000, 13-17 November 2000 4-8 December 2000	Judge Richard Kearney (Presiding Officer), Areta Koopu, Hon Dr Michael Bassett, John Clarke, Sir John Turei, Keith Sorrenson
262	Indigenous Flora and Fauna Claim 4-8 September 2000	Judge Richard Kearney (Presiding Officer), Roger Maaka, Keita Walker, Pam Ringwood, Rangitihī Tahuparae
411	Tarawera Forest Claim 18-22 September 2000	Joanne Morris (Presiding Officer), John Baird, Keita Walker, Wharehuia Milroy

NEW CLAIMS REGISTERED (as at 16 May 2000)

Wai No	Claimant	Claim
806	Maraea Rihi Blomfield and others	Tikouma Harbour and Lands (Hauraki) claim
807	Des Tata and Toa Faulkner	Motiti Island claim
808	David James Peka and others	Hoe O Tainui Ki Mahurangi Land claim
809	Toko Renata Te Taniwha and others	Ngati Whanaunga (Hauraki) claim
810	Moana Te Aria Te Uri Karaka Te Waero	Waiheke Island Domain and Te Huruhi Lands claim
811	William Kapanga Peters and Te Warana Williams	Coromandel Township and Other Lands (Te Patukirikiri) claim
812	Clive John Majurey and others	Marutuahu Lands and Taonga (Majurey) claim
813	John Rees	Motuaruhe 2 Block claim
814	Various claims	Combined Record of Inquiry for the Gisborne claims
815	Buddy Mikaere and others	Pukaingataru Block claim
816	Michael Alan Reti-Kaukau and others	Ngati Whatui-A-Pita Rohe claim
817	Neil Hirama and others	Whareroa 2G No.1A Block (Tauranga) claim
818	Takirangi Smith and others	Wairarapa Intellectual Property and Whakapapa claim
819	Wiparaki Allen Pakau and others	Waiohau Block No.2 and Rangitaiki Block No.38 claim
820	Ronald Te Ripi Wihongi and others	Lake Omapere Contamination claim
821	Reginald John Hodge and others	Maori Customary Fishing in the Tauranga Moana Area claim
822	Sharon Gemmell and others	Sites of Cultural and Historical Significance (Ngawhatu Hospital) claim
823	Edward Ere Carson and others	Karatia 3B2B2 Block claim
824	Marama Netana and others	Wiremu Hau Whanau Lands (Northland) claim
825	Tarure Kingi and others	Kainga Taru B Block claim
826	Te Awanuiarangi Black and others	Te Kawakawa Block (Clevedon) claim
827	Tumate Mahuta and others	Oioroa Block, Aotea Heads (King Country) claim
828	Marsha Wylie and others	Gisborne District Resource Management claim
829	Te Kenehi Teira and Kahurangi Hippolite	Whakapuaka, Nelson Tenth and Stewart Island claim
830	Ropata Wilson Tamu Taylor	Sandy Bay Section 27 and Motueka Section 157 (Pounamu Block) claim
831	Kihirini Koro Ronaki III	Papamoa to Matata lands
832	Mataara Wall and another	Tauhara Middle Block
833	Wiparaki Allen Pakau	Te Moana Rotoaira and other resources
834	David Tau Eden	Runanga No.1 Block and Tauhara Middle No.4 Block
835	Rangikataua Rangikataua	Geothermal resources within the Pouakani blocks
836	Patricia Henare and another	Makotuku Block VI
837	Robert Hare Rika and another	Rotomahaana Parekarangi 3A 2B Block
838	Whakapumautanaga Downs and others	Motuoapa ki Hatepe (Land, lakes and rivers within the rohe of Ngati Te Rangitiia)
839	Bill Galvin and another	Wairakei Block
840	Bill Galvin and another	Whirinaki Block
841	Mack Clarke	Land in the greater Taupo region
842	Wharekiri Biddle	Tuawhenua blocks and Te Urewera National Park
843	Barbara Ann Lloyd	Waimarino blocks and Waikune prison
844	Huhana Mihinui	Mate Pungarehu (funding for Maori health initiatives to eliminate or reduce smoking among Maori)



DEPARTMENT FOR
COURTS
TE TARI KOOTI

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