

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 82



Waitangi Tribunal

Papaki tū ana ngaa tai o mihi ki te raki, ki te tonga, ki te rāwhiti, ki te uru. Tangi ana te reo o mihi hei whakanui i te kaupapa whakahirahira o te wā, arā, te aranga mai o Puanga me te iwa o Matariki.

Koia pū ngā tohu o te tau hou, waihoki he karanga ki te marea kia huri ngā whakaaro ki ngā mate o te tau, ki te hunga kua whetūrangitia.

He karanga hoki tā te kāhui whetū tapu nei ki ngā kohikohinga uri puta noa kia kaha tonu ki te tuku whakawhētai mō ngā hua o ngā rangi tata nei, ki te whakariterite anō mō ngā rā e heke mai ana.

Mānawa maiea te aranga o Puanga, Mānawa maiea te putanga o Matariki, Mānawa maiea ngā ariki o te rangi, Mānawa maiea te mātahi o te tau. Tihei mauri ora!

E tiro whakarunga te kanohi tāngata ki a Matariki kanohi iti, te mātahi o te tau.

Te Raki Handover



Tribunal staff and panel members at the Te Raki handover

ON SATURDAY 9 December 2023, the Tribunal handed over the first part of *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry* to claimants at the Waitangi Treaty Grounds. During the ceremony, panel members presented copies of the published report to hapū representatives from the seven taiwhenua (sub-regions) within the inquiry district: Takutai Moana, Te Waimate Taiāmai ki Kaikohe, Hokianga, Whāngārei, Mangakāhia, Whangaroa, and Mahurangi and the Gulf Islands.

Approximately 500 people from around Northland, claimants living outside the district, and representatives of the Crown were present for the

handover. The ceremony was a moving occasion, and many speakers remembered the claimants and members of the Tribunal who had passed away during the course of the long-running inquiry. Their photos were displayed on the mahau of Te Whare Rūnanga.

Tino Rangatiratanga me te Kāwanatanga was first released online on 22 December 2022. It considered 415 claims brought by individuals, whānau, hapū, and iwi organisations. The Tribunal received the claims between 1985 and 2008, and it heard them over the course of 26 hearings from March 2013 to October 2017. The stage 2 part 1 report follows the Tribunal's stage 1 report, *He Whakaputanga me te Tiriti/The Declaration and the Treaty: Report*

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From the Chairperson

THE last few months have seen the Tribunal busy with urgent inquiries and reports, as we note in this edition of *Te Manutukutuku*. Since the formation of the new Government, applications for urgency have been received and granted concerning: the disestablishment of Te Aka Whai Ora (the Māori Health Authority); the treatment of te reo Māori in the public service; the repeal of section 7AA of the Oranga Tamariki Act; the proposed Treaty Principles Bill and the statutory review of enactments with references to Treaty principles; and the reintroduction of the requirement for referenda before the establishment of Māori wards and constituencies in local government.

At the time of writing, reports have been issued on the repeal of section 7AA and the referendum requirement for Māori wards. The urgent inquiry into the disestablishment of Te Aka Whai Ora was halted because of the introduction of legislation and will now take place later this



year as a priority inquiry within the wider Health Services and Outcomes Inquiry.

An issue arose in the Oranga Tamariki urgency as to whether the Tribunal had the power to summons the Minister for Children to explain her position. As noted later in this issue, the Court of Appeal upheld the Tribunal's authority to do so.

All this activity takes place against the backdrop of the proposed review of the Tribunal's scope and purpose, as set out in the coalition agreement between the National and New Zealand First Parties. We await details of this review and signal the Tribunal's

intention to engage constructively with it.

In the meantime, our overall inquiry programme progresses. A particular milestone during these past six months has been the release of two reports, concerning Porirua ki Manawatū and Taihape, from among our remaining district historical inquiries.

In this edition, we also take the opportunity to congratulate Tribunal members who have recently received honours and awards. More generally, I want to express the Tribunal's thanks to its dedicated staff, whose hard work and commitment have made it possible for us to carry the current workload and deliver timely results.

Ngā mihi o te wā o Matariki ki a tātou.

Chief Judge Dr Caren Fox
Chairperson
Waitangi Tribunal



From the Director

KA MAHUTA a Matariki i te pae, ka mahuta ō tātou tūmanako ki te tau. Tēnā koutou. With the recent increase in urgent inquiries, I want to highlight the ongoing dedication and commitment of the Waitangi Tribunal Unit staff.

The Claims and Registry, Inquiry Facilitation, Research, and Report Writing Teams have continued to respond to the pressure and challenges of a full work programme. Supporting the Tribunal to swiftly complete two urgent inquiries and release reports in two district inquiries demonstrates their ongoing ability to be flexible and



to respond to the changing environment. These four reports are summarised here.

Our work over the next year will be focused on inquiries in the urgent, priority, district, remedy, kaupapa, and

remaining historical claims categories. I am confident that the unit will continue to respond as required – waiho i te toipoto, kua i te toiroa.

Finally, I would like to mihi to those members who have recently received awards and honours, kei te mihi, kei te mihi, kei te mihi ki a koutou.

Steve Gunson
Pae Matua/Director
Waitangi Tribunal
Māori Land Court



Member News

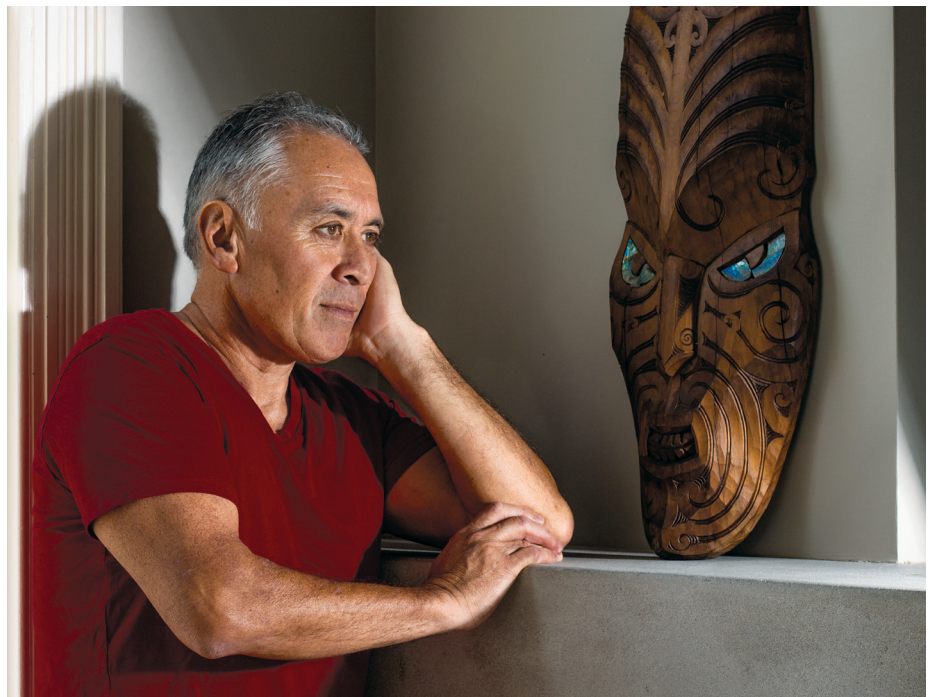
Monty Soutar's Award

On 22 March, Dr Monty Soutar ONZM was presented with the prestigious Manakura Award at the Ngarimu VC and 28th (Māori) Battalion Scholarships and Awards event. The scholarships are awarded annually to tertiary students who demonstrate characteristics aligned with the values of the 28th Battalion, while the Manakura Award is presented every three years to an outstanding Māori leader.

Monty was born in Whakatāne to a Ngāti Awa father (from the Ngāi Te Rangihouhiri hapū) and a Ngāti Porou mother. He grew up near Ruatoria on the East Coast and attended Hiruharama and Manutahi Māori Schools, where his father was teaching. Nearly all the pupils at these schools were Māori, much of the surrounding farmland was Māori-owned, and the Māori community was 'very strong culturally and very supportive of each other'. Both Monty's parents were Māori speakers, as was practically everyone else in the community older than him. Given all this, Monty recalls, 'it wasn't until I left the East Coast in the 1970s that I realised Māori were not the majority of the population.'

Monty was raised surrounded by his extended whānau. His father was from a large family and had himself been raised by his grandfather. Monty had six siblings but his household was always broader than that: cousins and his mother's many whāngai younger siblings lived there at different times. Monty says that his family background gave him a strong sense of identity and that the number of relations around him created within him 'a sense of responsibility to others'.

Monty boarded at Hato Paora College for Māori boys near Feilding. While the school was Catholic and his family were Anglican, this was of no



Dr Monty Soutar ONZM

moment, as 'it was the education my three brothers and I were sent there for'. However, Monty was expelled in his final year, with the rector telling him, 'You will never amount to anything.' Monty explains that this was just the motivation he needed. He went on to obtain university entrance at a different school, trained as a teacher, and completed two degrees, majoring in education and Māori studies. He then had a stint teaching, worked in the Māori Land Court, and joined the army, before returning to university to lecture in Māori studies and complete a masters and a PhD. He learnt that 'persistence was the key' to these achievements and that 'talent will only get you so far'.

Prior to his appointment to the Tribunal in 2002, a career highlight for Monty was leading the team that conducted interviews with surviving veterans (and their wives) of the 28th Battalion. This work led on to the 2008 publication of *Nga Tama Toa: The Price of Citizenship*, Monty's history of

c Company. The interviews enlightened Monty about 'some of the prejudice veterans faced during and after the Second World War'. It was fitting indeed that Monty therefore received his Manakura Award at c Company Memorial House in Gisborne. Of the award, Monty says:

It's truly an honour given what Lt Ngarimu VC and the 28th (Māori) Battalion represents. It is acknowledgement of the commitment I made to documenting the Battalion's history all those years ago and which I continue to do today.

Monty regarded becoming a member of the Tribunal as another honour, especially since it happened at a comparatively young age. He says his time at the Tribunal has 'opened my eyes to the injustices Māori have faced in this country and to how poorly we teach about this.'

We congratulate Monty on receiving his prestigious award.

Tania Simpson ONZM

On 30 December 2023, Tribunal member Tania Simpson (Tainui, Ngāi Tahu, Ngāpuhi, Pākehā), became an Officer of the New Zealand Order of Merit for services to governance and to Māori.

Tania hails from Te Rohe Pōtae, being born in Ōtorohanga and growing up in Te Kūiti. Her father, Murray, was a farm machinery and truck mechanic and a wood turner, while her mother, Maxine, worked in retail. Tania remembers:

Maniapoto was very much a bi-cultural community, and it was my Pākehā father who, having grown up in the primarily Māori community of Hangatiki, taught us basic phrases in te reo Māori. Reo and waiata were taught in our primary school and there was a tribal kapa haka that we all joined.

Tania showed early flair as an entrepreneur, running a business teaching jazz and tap dance in the King Country while still at secondary school. She went on to the University of Waikato to study languages (French, Japanese, and Māori), while also working as a guide at Waitomo Caves.

After university, Tania worked as a papakāinga housing officer for the then Housing Corporation and translated Māori letters written to Bishop

Tania Simpson ONZM



Selwyn in the University of Waikato's collection. Roles followed in policy at the newly formed Te Puni Kōkiri, including secondments with the former Office of Treaty Settlements (negotiating the return of Mataatua Whareniui) and with a commercial bank in Auckland (finding an investor for East Coast forestry).

A professional highlight for Tania was the establishment of her own consultancy, which grew to employ over 30 people. Around this time, Tania began the professional governance work that is significant for her today. She holds or has held directorships with Auckland International Airport, the Reserve Bank of New Zealand, Meridian Energy, and Tainui Group Holdings, as well as with a range of charitable and public organisations.

In 2008, Tania became a member of the Waitangi Tribunal. She considers this appointment – and her involvement in Tribunal inquiries – another career highlight. In Tania's words:

The work of the Tribunal presents a unique opportunity to contribute to the healing of the past, the resolution of grievances, and to inform the evolution of the Treaty partnership. It is a challenging but worthy opportunity to help smooth the path of the evolving Treaty relationship.

The members and the staff warmly congratulate Tania on her New Year Honour. This award joins such personal accolades as obtaining the rank of Commander in the Order of the Taniwha – (Kīngi Tūheitia's Orders) – and the rank of Dame in the Order of St Lazarus, which supports those marginalised in society.

Linda Smith's Award

Tribunal member Professor Linda Tuhiwai Smith CNZM (Ngāti Awa, Ngāti Porou, Tūhourangi) has received the top honour of the Royal Society Te



Linda Smith with her Rutherford Medal

Apārangi – the Rutherford Medal 2023 – for her internationally recognised scholarship in decolonising and indigenous research methodologies.

Linda was born in 1950 in Whakātāne, the daughter of Hirini Moko Mead and June Te Rina Mead, née Walker. The family moved around the North Island while Linda was a child, and she completed some of her secondary school education in Illinois while her father was doing his PhD. She credits that experience with changing her trajectory by renewing her confidence in herself as a learner.

Upon her return to New Zealand, Linda joined Ngā Tamatoa at Auckland University. During this time, she spoke to hostile audiences about why the Treaty is important, honing her abilities as a communicator and educator. Pursuing these commitments into a career in teaching and research, Linda released *Decolonising Methodologies: Research and Indigenous Peoples* in 1999. Critiquing the colonising structures of traditional research methodologies, she offered a vision for kaupapa Māori research. This vision continues to shape research methodologies worldwide, and her book has been translated into five languages and attained nearly 300,000 citations.

Linda has continued research in kaupapa Māori education, theory, and research; mana wāhine; Māori health;

and historical and intergenerational trauma. She has also worked to transform educational institutions into spaces where Māori can thrive, taking on various leadership roles at Auckland University and co-founding Ngā Pae o te Māramatanga, the Māori Centre of Research Excellence. She has been a distinguished professor and deputy chair of council at Te Whare Wānanga o Awanuiārangi since 2021. In recent years, Linda has also published several children's books exploring themes of trauma, designed to be tools to support tamariki.

Reflecting on receiving the Rutherford Medal, Linda said that, while it is ironic to be recognised by the colonial systems she has spent her career critiquing,

it's important for us, for Māori, for indigenous peoples, to have our knowledge recognised, and to occupy and create spaces inside big institutions of knowledge.

A member of the Tribunal since 2016, Linda is currently serving on the Mana Wāhine and Health inquiry panels.

Hana O'Regan ONZM

Like Tania Simpson, Tribunal member Dr Hana O'Regan (Kāi Tahu, Kāti Māmoe, Waitaha) also became an Officer of the New Zealand Order of Merit in the New Year's honours, in her case for services to education.

The youngest of five children, Hana was born in Wellington to a Kāi Tahu father, Tipene (later Sir Tipene, who is also of Irish extraction), and a Pākehā mother, Sandra. Her father lectured at Wellington Teachers' College but at an early point in Hana's life also joined the Ngāi Tahu Māori Trust Board. Hana's whānau life thereafter became increasingly dominated by Kāi Tahu kaupapa and politics and, in due course, particularly by Te Kereme, the iwi's claim



Dr Hana O'Regan ONZM

against the Crown that it lodged with the Waitangi Tribunal in 1986.

Through both her parents, Hana says that she inherited 'a strong sense of justice and the need to commit to something bigger than yourself'. She was outraged as a school student, for example, to learn that te reo was not treated as an academic subject, and she came to realise that the education system funnelled Māori into low-skilled employment. She developed an early commitment to equity and inclusion through education.

Hana became increasingly drawn toward learning te reo and contributing to its revitalisation, particularly within her own iwi. Here, again, her early experiences were to be influential. Māori leaders from around the motu came to the family house to speak to her father, and this stirred an early passion for the language.

At the age of six, Hana suffered a terrible accident that severed her right hand. It was reattached but doctors feared she would never regain movement in it. During school holidays, Ngāti Maniapoto master weaver Te Auē Davis took Hana with her during her heke around the country. As Hana slept, Te Auē worked on her hand 'to get it moving and functioning again'. Not only did this succeed, but 'my time with Aunty Te Auē strengthened my resolve to learn te reo'. As a

result, after having all her schooling in Wellington, Hana moved away at the age of 12 to board at Queen Victoria College in Tāmaki, in pursuit of te reo.

Hana spent her final year of school as an exchange student in Thailand and then returned to Wellington to study te reo and politics at Victoria University. She moved to Otago University for her honours and masters, writing dissertations on aspects of Kāi Tahu language, culture, and identity. In 2004, she was one of the first students to participate in the exclusive reo academy Te Panekiretanga o te Reo Māori, graduating in 2005. In 2017, she gained a PhD at Auckland University of Technology, her thesis being a study of Kāi Tahu's reo revival strategy (Kōtahi Mano Kāika) and other indigenous language revival efforts.

Hana considers both her Panekiretanga study and her professional leadership of Kōtahi Mano Kāika as career highlights.

Becoming a Tribunal member in 2021 was 'an absolute honour' for Hana, especially having grown up 'in the shadow of Te Kereme'. Her experiences as a member have left her more convinced than ever on 'the importance of the role of the Tribunal in creating the space for injustices and grievances to be heard and addressed'.

Hana was 'overwhelmingly humbled' to be awarded the New Zealand Order of Merit, especially at a time when the kaupapa her career was focused on – such as te reo, te Tiriti, equity in learning, and so on – 'were all being challenged in the political and public arenas in our country, in a way I hadn't seen for decades'.

In her professional life, Hana is also tumu whakarae at Tātai Aho Rau/Core Education. She describes the experience of working there, alongside others equally committed to equity and education, a 'privilege' and 'incredibly uplifting and rewarding'.

We congratulate Hana on achieving her significant and well-deserved honour. ☆

Staff Profiles

Anetanui White

Anetanui White (Ngāti Toa Rangatira, Ngāti Raukawa me Ngāi Tahu) feels fortunate to have spent her whole life in and around Porirua City. She grew up in Titahi Bay and now lives surrounded by extended family at Takapūwāhia Pā.

After finishing secondary school, Aneta studied at Te Herenga Waka Victoria University of Wellington, gaining a bachelor of arts majoring in criminology.

Aneta pursued the major thinking she wanted to be a police officer, but realised while studying that this was not the career path for her. Staying in the justice realm, however, Aneta joined the Ministry of Justice after graduating, holding positions at the High Court and at district courts.

In her time at the district court system, Aneta met the Tribunal's current director, Steve Gunson. Encouraged by him, Aneta applied for the role of manager claims and registry at the Waitangi Tribunal Unit in 2022 and was successful. At first, Aneta was not sure that management was for her but,

Anetanui White



after looking further into the Tribunal and the mahi that it did, she knew that it aligned with her 'passion for Te Ao Māori and making Aotearoa a better place for Māori.'

In her role, Aneta oversees the unit's diverse Claims and Registry Team. Claims coordination staff maintain and distribute documents filed on the Tribunal's records of inquiry, while providing logistical and administrative support to enable the smooth functioning of judicial conferences, hearings, and Tribunal panel meetings. As well as the claims coordinators, Aneta line-manages the deputy registrars and assistant registrars, who provide legal advice to the Tribunal.

Dan Morrow

Dan Morrow is a Wellingtonian. He was born and raised in the central city and attended primary and secondary school there. He grew up playing sports and had an early love for English literature and history, which he studied as an undergraduate at the University of Auckland.

Dan went on to complete a post-graduate honours degree in history and eventually a PhD at the University of Melbourne on an Australian Federal Scholarship. His thesis, entitled 'Melbourne's West: A Study of People and Place' (2010), examined macro-economic trends in twentieth-century Australia and their effect on local communities in a historically underprivileged area of the city.

Dan's career has been varied and has included working as a social science lecturer at the Royal Melbourne Institute of Technology and the University of Otago, and spending six years as curator, social history, at the Waikato Museum of Art and History. While at the museum, Dan became



Dan Morrow

acquainted with the role that Waikato-Tainui played in Hamilton during the post-settlement era, which sparked his interest in Treaty settlements and the Waitangi Tribunal. Previously, he had published research on the relationship between Māori and the State.

Dan was appointed principal historian in the Report Writing Team at the Waitangi Tribunal Unit in 2018. Since then, he has supervised drafting standards and contributed advice to a large number of inquiries. He is particularly grateful to have been a staff writer on the now completed Te Rohe Pōtae District Inquiry. Dan has a keen interest in the machinery of government and enjoys working across kaupapa and urgent inquiries as well as district inquiries, using skills in analysis, writing, and political economy to assist Tribunal panels. ☆

VISIT THE TRIBUNAL ONLINE

For the very latest information on claims, hearings, and reports, visit:

www.waitangitribunal.govt.nz

International Delegations Visit

THE Waitangi Tribunal and the Māori Land Court have hosted numerous international visitors since early 2023, including from Australia, Fiji, and the United States, all interested in our contributions to state-indigenous reconciliation and native land administration.

In February 2024, Chairperson Chief Judge Dr Caren Fox and Deputy Chairperson Judge Sarah Reeves hosted the United States Ambassador to New Zealand, Tom Udall. The ambassador expressed admiration for the work of the Tribunal and shared his own experiences of working with Native American groups in his former role as senator for New Mexico.

In October 2023 and February 2024, Chief Judge Fox, with other presiding officers and Tribunal members, hosted two delegations from Fiji, which included the Minister for iTaukei Affairs, the Honourable Ifereimi Vasu; the Minister for Lands and Mineral Resources, the Honourable Filimoni Vosarogo; the Fijian High Commissioner to New Zealand, Ratu Inoke Kubuabola; and the commissioner's First Secretary, Josua Tuwere. The delegations were interested in the Tribunal's role in the settlement of historical grievances, as well as the functions of the Māori Land Court, to inform their exploration of introducing similar processes in Fiji.

In early April 2023, the Wellington-based judges hosted a cross-party select committee from the Queensland Legislative Assembly and, in late April 2023, then-acting Chairperson Judge Reeves hosted Queensland's Minister for Aboriginal and Torres Strait Islander Partnerships, the Honourable Craig Crawford. Like the Fijian delegation, the Queensland legislators sought insights into the Tribunal's role in Treaty settlements and as a truth and reconciliation body and also wanted



Minister for iTaukei Affairs, Culture, Heritage, and Arts the Honourable Ifereimi Vasu with Chief Judge Dr Caren Fox

procedural details about how Tribunal members are chosen and appointed. The select committee wished to apply this information to their own processes under their Path to Treaty Act 2023, which they were considering at the time of their visit. The Act, which

Tribunal Chairperson and Māori Land Court Chief Judge Dr Caren Fox, United States Ambassador Tom Udall, and Tribunal Deputy Chairperson Judge Sarah Reeves in front of a mural by Robyn Kahukiwa



passed into law in May 2023, provides for a First Nations Treaty Institute to prepare Aboriginal and Torres Strait Islander peoples for Treaty negotiations and for a Truth-telling and Healing Inquiry to hear and record the historical and ongoing impacts of colonisation for these groups.

The Tribunal has also hosted the following rōpū: students from St Olaf College, Minnesota (February 2024); Churchill Fellow and member of the United Nations Permanent Forum for Indigenous Issues (Pacific) Hannah McGlade (November 2023); Eisenhower Fellow Christina Snider-Ashtari (November 2023); the Tribal Affairs Secretary at the office of the California State Governor, Gavin Newsom (November 2023); students from the United Nations Youth Australia Aotearoa Leadership Tour (September 2023); Churchill Fellows Robyn Smith Walley and Jody Nunn from Reconciliation WA (July 2023); and Melbourne Law School staff and students (November 2023). ☆

Te Kete Pūputu

IN DECEMBER 2023, the Mana Wāhine Kaupapa Inquiry unveiled ‘Te Kete Pūputu: The Online Guide to the Mana Wāhine Tūāpapa Evidence’.

Rather than presenting the kōrero it heard in its first six tūāpapa (contextual/foundational) hearings in a traditional report, the panel decided to create a website so people can navigate and explore the mātauranga for themselves. Users can immerse themselves in the testimonies of over 120 witnesses on the topics of tikanga as it

relates to wāhine Māori and the Māori understanding of wāhine in te ao Māori before colonisation and can see images and videos from the hearings.

Witnesses’ kōrero is organised using the four key themes of the hearings, which are stories of atua whāea and how they shape the lives of wāhine today; the relationship between wāhine and tāne in traditional Māori society; the mana and rangatiratanga of wāhine in pre-colonial society; and wāhine authority over whenua,

whakapapa, whānau, whai rawa, and mātauranga.

The website’s name, ‘Te Kete Pūputu’, conveys a closely woven basket, capturing the Tribunal’s intention of drawing together the rich tapestry of evidence heard from wāhine around the motu and sharing it as widely as possible.

The website can be accessed via the Mana Wāhine Kaupapa Inquiry page on the Tribunal’s website or at the URL <https://tinyurl.com/4tmwzdn5>. ☆

A screenshot of ‘Te Kete Pūputu’

INQUIRIES

Waitangi Tribunal > Inquiries > Kaupapa inquiries > Mana Wāhine Kaupapa Inquiry > Te Kete Pūputu: The Online Guide to the Mana Wāhine Tūāpapa Evidence

Te Kete Pūputu: The Online Guide to the Mana Wāhine Tūāpapa Evidence

Nau mai haere mai kuhu mai ki *Te Kete Pūputu: The Online Guide to the Mana Wāhine Tūāpapa Evidence*.

Whaowhia te kete mātauranga
Fill your basket of knowledge.

In its tūāpapa phase (comprising contextual hearings), the Mana Wāhine Kaupapa Inquiry has gathered a rich body of evidence from wāhine around the motu. In line with this whakataukī, the Mana Wāhine Kaupapa Inquiry panel want this kōrero to be available as widely as possible. This website is a step towards this.

Explanation of the name ‘Kete Pūputu’

Ka kitea te takena mai o te ingoa ‘Kete Pūputu’ i te akiaki nei a Bruce Biggs kia ‘whaowhia te kete mātauranga’. Tērā anō he kōrero tawhito i kitea ki te waiata tangi a Tūroa mō Te Kōtuku. Ka takoto te kōrero ‘Whaowhia te kete putuputu o Raukatauri’. Arā he whai rautaki te kete, he whai mana te kete, koia i kata ai a Kae.

Na, ka rua ngā aronga matua ki te ingoa. Tuatahi he kete kōrero tēnei hei pupuru i ngā tuhinga, i ngā puakanga a ngā kaikōrero, i ngā kohinga a ngā kairangahau, i ngā putunga rau whārangi e iri ai ki te paetukutuku. Tuarua he putuputu te raranga i a te kete nei, kāore i te pūareare, he piripiri ngā rau, kāore i te koroputaputa. He pakari, he kaha te hanga putuputu, he hiahia nō mātou. He kete pupuru taonga te kete, he pupuru pūkenga, he pupuru wheako, he pupuru i te manawa nui o wāhine.

He iho tō Te Kete Pūputu ki te kupu ‘putu’, arā, ko te heipū atu, ko te pūkei mai ki tētehi wāhi. Kāti, ka whakairihia ake ki te ingoa Kete Pūputu te aronga ki a Raukatatauri me te whirikoka o Hine-te-iwaiwa mā, e mana ai ngā tū kōrero, ngā tū tauākī ki te tūāpapa o Mana Wāhine.

POPULAR LINKS



Theme 1 - Atua whāea



Theme 2 - Relationality and balance



Theme 3 - Wāhine mana and rangatiratanga



Theme 4 - Domains of wāhine authority

on Stage 1 of the *Te Paparahi o Te Raki Inquiry* (2014), which concluded that the rangatira who signed te Tiriti in the Bay of Islands and Hokianga in February 1840 did not cede their sovereignty.

Part I of the stage 2 report addresses Māori–Crown political engagement, land administration and alienation, and Crown military action in the inquiry district. A common theme in the claims was the desire of Te Raki Māori to regain their ability to exercise the tino rangatiratanga (autonomy) promised to them in te Tiriti. Overall, the Tribunal found that the Crown had overstepped the bounds of its kāwanatanga (authority to govern) in Te Raki between 1840 and 1900, leading to the erosion of Te Raki Māori rangatiratanga.

The Tribunal concluded its report with a number of recommendations aimed at supporting the Crown and Te Raki Māori in their future Treaty settlement negotiations. As a first step towards the settlement of those grievances, the Tribunal recommended that the Crown acknowledge the Treaty agreement it entered into with Te Raki



Panel members Dr Ann Parsonson, Judge Craig Coxhead, and Dr Robyn Anderson

rangatira in 1840 and apologise for its Treaty breaches. The Tribunal also recommended that the Crown return all Crown-owned land in the district to Te Raki Māori; provide economic compensation; and enter discussion with Te Raki Māori to determine appropriate constitutional processes

and institutions at the national, iwi, and hapū levels to recognise, respect, and give effect to their Treaty rights.

The stage 2 panel comprised Judge Craig Coxhead (presiding), Dr Robyn Anderson, the late Dr Kihi Ngatai, Dr Ann Parsonson, and the late Emeritus Professor Ranginui Walker. ☆

The Tribunal presents copies of the published report to claimant representatives at the Waitangi Treaty Grounds



The Tribunal is Reviewed

APRIL and May 2024 were marked by constitutionally significant litigation concerning the Tribunal's jurisdiction. It arose out of the urgent inquiry into the repeal of section 7AA of the Oranga Tamariki Act 1989, which set out the duties of Oranga Tamariki's chief executive in relation to the Treaty (see story page 15).

Initially, the Tribunal sought the voluntary appearance of the Minister for Children, the Honourable Karen Chhour, to give evidence, owing to her active role in the repeal. However, the Crown replied that the Minister would not appear and that the Cabinet papers produced would sufficiently show the intentions behind the repeal.

The Tribunal continued to maintain that the Minister's evidence would be of assistance, while the Crown submitted that it would seek to review any decision to summons her. On 11 April, the Tribunal issued a summons for the Minister to attend before it. Although this would be the first time

that the Tribunal had summonsed a Minister, Ministers have previously given evidence.

The Minister commenced a judicial review of the decision. The Tribunal filed submissions to assist the High Court on its jurisdiction and comity. (Comity is the principle that different branches of government should not unreasonably interfere with each other's roles.) The Māori Womens' Welfare League, Ngāti Pikiao, Ngāti Hine, and Waikato-Tainui were the main respondents.

On 22 April, the High Court found in favour of the Minister, holding that the summons was constrained by comity and that the evidence was not clearly necessary. This decision was appealed by the claimant parties.

Before the appeal hearing, the Minister wrote to the Tribunal explaining that in her opinion all information was already before the Tribunal. Meanwhile, the Tribunal issued an interim report.

After the hearing and before the release of the judgment, the Tribunal issued a further report outlining its findings and recommendations, with parties retaining leave to apply for further directions after the judgment. The repeal Bill was also introduced shortly before the judgment's release.

On 13 May, the Court of Appeal overturned the High Court's decision, finding that the summons was lawful. The court recognised the constitutional importance of the Tribunal given its statutory obligations and powers to issue summons. Comity did not limit the Tribunal's powers in this case as it was simply fulfilling its statutory duty and comity was already reflected under section 6(6) of the Treaty of Waitangi Act 1975. Even if comity applied, it applied to the Crown as well as the Tribunal, and such a duty would involve the Minister voluntarily providing the requested information, consistent with the Crown's Treaty obligations. ☆

Professor Ngāpare Hopa

THE Waitangi Tribunal wishes to acknowledge the passing of former member Professor Ngāpare Hopa on 30 April. Professor Hopa, of Tainui and Ngāti Tūwharetoa, was a member of the Tribunal from 1989 to 1993 and served on the Te Roroa and Mohaka River Inquiries.

Professor Hopa was brought up in Waikato but attended Queen Victoria School and Epsom Girls Grammar School in Auckland. After finishing college, she went to Auckland University, then trained and worked as a teacher. She also spent a year as a cadet Māori welfare officer before making her way overseas.



Professor Hopa receiving her ONZM in 2008

In England, Professor Hopa became the first wahine Māori to gain a PhD from Oxford University, where she

took anthropology. She went on to teach at Auckland, California State, and Waikato Universities, then returned to Auckland University to become head of its Māori Studies Department. In 1999, she was appointed to the council of Creative New Zealand.

In 2008, Professor Hopa was awarded the New Zealand Order of Merit for her services to Māori, and in 2011 she was awarded Creative New Zealand's Te Waka Toi award for her contribution to Māori arts. In 2021, the Polynesian Society awarded her its Elsdon Best Memorial Medal for her contribution to Māori research.

Moe mai rā e te mareikura. ☆

Taihape Landlocked Māori Lands

ON 18 January 2024, the Tribunal released *He Whenua Karapotia, He Whenua Ngāro: Priority Report on Landlocked Māori Land in the Taihape Inquiry District* in pre-publication format. The report addresses claims that the Crown allowed Māori land in the Taihape: Rangitikei ki Rangipō inquiry district to become landlocked and failed to remedy the problem, breaching Treaty principles. It is an early outcome of the Tribunal's broader Taihape District Inquiry.

Landlocking affects Māori land nationally but is a particularly acute problem in Taihape, where more than 70 per cent of remaining Māori landholdings (in excess of 50,000 hectares) are landlocked. Many Māori landowners in the inquiry district therefore have no legal or physical access to their land. The Tribunal reported on this issue as a matter of priority due to the scale and gravity of the problem and the pressing need for effective solutions to it.

The report focuses on three issues:

- ▶ Was the Crown solely responsible for the landlocking of Māori land in the inquiry district in the period before 1912, when most landlocking occurred?
- ▶ Have the Crown's attempts to remedy landlocking since 1912 been effective and Treaty compliant? If not, what prejudice have the claimants suffered?
- ▶ Have specific actions by the Department of Conservation and the New Zealand Defence Force worsened access problems for some owners of landlocked Māori land in Taihape?

On the first issue, the Tribunal concluded that flaws in the Crown's native land legislation caused landlocking in the inquiry district. In the decades before 1912, the Crown did not require the Native Land Court to



Owners of landlocked Māori land do not have legal access to their property

preserve access to Māori land as it was partitioned. Upon the sale or lease of a partition with road access, blocks of Māori land lying beyond it usually became landlocked. In 1886, the Crown introduced measures to allow owners to apply for access to their lands as they passed through the court or within five years thereafter. The Tribunal found that these measures were ineffective in practice, however, as they still gave the court discretion on whether to grant access and required Māori owners to pay the cost of creating any access granted. Moreover, Māori should not have had to take such steps to retain access, the Tribunal concluded, as the risk of landlocking arose from legislation

imposed on them, not from actions they had taken.

On the second issue, the Crown conceded that the legal remedies it provided for landlocked Māori land between 1912 and 1975 were ineffective, treated Māori and non-Māori land unequally, and were indirectly discriminatory. From 1912 to 1975, the Native/Māori Land Court could order retrospective access to landlocked Māori land. But if the neighbouring land to be crossed had left Māori ownership before 1913, or between 1913 and 1922, the court either had no power to order access or could do so only with the neighbouring owner's consent. This restriction in the law effectively negated the court's ability to

restore access to affected Māori land in Taihape, which had almost entirely become landlocked – as neighbouring blocks were alienated – before 1913. The Tribunal agreed with the Crown that its remedies in this period prioritised European landowners’ interests to the disadvantage of Māori landowners, breaching Treaty principles.

The Tribunal found that the Crown had tried to improve its legal remedies since 1975, but with little practical effect in Taihape. From 1975, owners of landlocked Māori land could seek access via the Supreme Court (now the High Court) without the need for any other landowner’s consent, but this remedy was prohibitively expensive. In 1993, Te Ture Whenua Māori Act provided a less costly pathway for owners to seek access via the Māori Land Court but reimposed a requirement for neighbouring landowners’ consent. This requirement was removed in 2002, but neighbouring owners could appeal to the High Court. From 2020, appeals finally had to be heard in the more accessible Māori Appellate Court. Despite these improvements, no Māori of the inquiry district have

successfully used these remedies to unlock their land.

The key flaw in the Crown’s remedies, the Tribunal concluded, is that they have continued to place the huge cost of restoring access onto the owners of the landlocked Māori land. This approach has been not only ineffective but unfair, by treating owners of landlocked Māori land no differently from general landowners seeking access to landlocked land that they have purchased. The Tribunal found that the Crown’s remedies breached Treaty principles on both counts.

On the third issue, the Crown conceded that it had failed to consult owners of neighbouring landlocked Māori land when it acquired certain blocks for defence purposes and it in fact worsened their access problems. The Tribunal found that the Crown also ignored opportunities to enhance access to landlocked Māori land when it was negotiating better access to its nearby conservation land. These Crown failures breached the principle of partnership.

The Tribunal considered that the long-term loss of access to their land

has caused significant prejudice to whānau and hapū in the Taihape district, undermining their ability to act as kaitiaki, their intergenerational transmission of mātauranga relating to these blocks, and their opportunities for economic development.

To remedy the ongoing problem of landlocking in the Taihape district, the Tribunal recommended that the Crown establish a contestable fund to which Māori owners of landlocked land could apply to achieve access. The fund would pay for access that may be granted by the Māori Land Court, including any compensation payable to neighbouring owners. The Tribunal stressed that funds for this purpose should not be taken from the sum set aside to settle the district’s historical claims.

The Taihape panel comprises Justice Layne Harvey (presiding), Dr Paul Hamer, Dr Monty Soutar, and Ahorangi Tā Pou Temara. Sir Douglas Kidd (now resigned) and the late Dr Angela Ballara were former members of the panel. Hearings for the Taihape District Inquiry were held from 2016 to 2021. ☆

Kāweka and Gwavas Forest Lands

ON 16 February 2023, the Taihape panel issued its preliminary opinion on claims by the Ngāti Hinemanu me Ngāti Paki Heritage Trust to customary interests in the Kāweka and Gwavas Crown forest licensed (CFL) lands.

These CFL lands lie outside the Taihape inquiry district, east of the Ruahine Range, and have already been included in the Treaty settlements of Hawke’s Bay groups in Ahuriri and Heretaunga–Tamatea. Ngāti Hinemanu claims in Hawke’s Bay have been settled in this way, but Ngāti Hinemanu claims in the Taihape district have yet to be settled. It is generally understood that, in Hawke’s Bay, Ngāti Hinemanu interests are based on descent from Taraia Ruawhare, while in Taihape they are based on descent from Punakiao, Taraia Ruawhare’s wife. The trust claimed, however, that Punakiao herself had customary interests in these CFL lands, rather than her rights being solely confined to the Taihape side of the Ruahine Range.

In 2015, before a settlement awarding these lands to Hawke’s Bay claimants was finalised, the trust sought an urgent Tribunal inquiry to preserve what it argued were its distinct interests in the CFL lands. The parties involved agreed to reserve 10 per cent of the company holding the CFL lands from settlement, pending consideration of the trust’s claims. The Taihape panel then embarked on a process to determine the merits of these claims.

The Tribunal commissioned expert research on the customary interests at issue and heard it, along with oral testimony from claimants and interested parties, in February 2020. It also sought an expert review of the research. In its preliminary opinion, the Tribunal concluded that there was insufficient evidence before it to sustain the trust’s claim to a customary right in the Kāweka and Gwavas CFL lands that derive from Punakiao. The Tribunal invited the parties to make submissions on its opinion and will later issue a final opinion. ☆

Kōpūtara Priority Report Released

ON 27 March 2024, the Tribunal released *The Kōpūtara Priority Report* in pre-publication format. This priority report within the Porirua ki Manawatū District Inquiry considers the Wai 1932 claim, led by Kōpūtara trustees Annabel Mikaere and Patrick Seymour. The claim was brought on behalf of the hapū Ngāti Parewahawaha, Ngāti Pareraukawa, Ngāti Kikopiri, Ngāti Tūranga, and Ngāti Tukorehe. Evidence for the claim was given at the fifth hearing of the Ngāti Raukawa and affiliated groups phase, held in April 2021 at Te Awahou Nieuwe Stroom Museum in Foxton. At the time of the hearing, the inquiry panel consisted of Deputy Chief Judge Fox (now Chief Judge Dr Fox) (presiding), Sir Douglas Kidd, Dr Grant Phillipson, Tania Simpson, and Dr Monty Soutar. However, due to health complications, Sir Douglas resigned from the Tribunal in May 2023.

The Kōpūtara trustees claimed that they were denied legal title, then access to their own land and treasured resources, for almost 150 years, during which time the environment of the reserve and lake was severely degraded. The reserve was set aside from the 240,000-acre Rangitikei–Manawatu purchase in 1870, but the claimants did not receive title until 1964 or physical access until 2016. The Crown conceded that it breached the Treaty when it failed to grant title in a timely manner, and the Tribunal also found other breaches of Treaty principles.

The Crown accepted that it failed to provide the Kōpūtara reserve with access when it granted all the land surrounding the reserve to private owners. The Tribunal found that the Crown's failure to provide access when it alone had the power to do so was a breach of the principles of the Treaty.



Lake Kōpūtara from the Kōpūtara reserve, captured during the Tribunal's site visit on 11 April 2021. The reserve is located near Foxton and Himatangi Beach.

While the Crown covered the trustees' legal fees in the 1980s in long-running litigation to obtain access, it accepted at the time that it should also compensate the claimants and fund the construction of a right of way. It did neither. The Tribunal found that this further breached Treaty principles.

The Crown also accepted that it negatively affected the environment of the reserve and Lake Kōpūtara while the claimants were locked out. The Himatangi Drainage Scheme, established and funded by the Crown, overdrained the lake and contributed to serious sand drift. That drift was made worse by the New Zealand Army's use of the reserve as a live shell range in the 1940s and 1950s. The Tribunal found that the army's damage to the reserve, the deficient legislative framework,

and excessive drainage before and by the drainage scheme were key factors in the degradation of the reserve and lake. The Crown failed to protect the environment of the reserve and lake and contributed actively to its degradation, in breach of Treaty principles.

The Tribunal found that the claimants suffered significant prejudice from these Treaty breaches. They lost access to their mahinga kai and they lost their ability to act as kaitiaki. They were also significantly prejudiced by the serious damage to the reserve and to their taonga, Lake Kōpūtara.

Overall, the Tribunal concluded that the Kōpūtara claim was well founded, and in the report it made several recommendations to remove or mitigate the harm caused by the Crown's breaches. ☆

Wards and Constituencies Report

ON 17 May 2024, the Tribunal released a pre-publication copy of *The Māori Wards and Constituencies Urgent Inquiry Report*, concerning urgent claims about the Government's proposed effective repeal of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021.

The 2021 Act removed the previous requirement that binding local polls be held following a council's decision to establish a Māori ward or Māori constituency. The proposed amendments sought to reinstate the provision for binding polls on Māori wards and required councils that have established a Māori ward or constituency without a referendum since 2021 to hold one.

On 3 May 2024, urgency was granted to four claims in the inquiry and 21 applicants were granted interested party status. The claimants and interested parties argued that the 2021 amendments had significantly increased Māori representation in local government. They described the Government's policy to effectively repeal the 2021 amendment Act as breaching the Crown's Treaty obligations. Moreover, the claimants said that the proposed repeal would prejudicially affect Māori by leading to a reduction in dedicated Māori representation, exposing Māori communities to racism and abuse and damaging their relationships with the Crown.

Due to the limited time to conclude the urgent inquiry before the amendment Bill was introduced to Parliament, the presiding officer, Judge Sarah Reeves, directed that evidence and submissions would be received on the papers and no in-person hearing would be held. The Tribunal received evidence from claimants and current and former mayors and councillors, as well as former members of Parliament.

In its report, the Tribunal found that the Crown had breached the



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Treaty principle of partnership by prioritising coalition agreement commitments and by failing to consult with its Treaty partners or stakeholders. The Tribunal said that the Crown had failed to adequately inform itself of its Treaty obligations and had failed to conduct adequate Treaty analysis during the policy development process, in breach of its duties to act reasonably and in good faith. Further, the Crown had inadequately defined the policy problem as restoring the right of the public to make decisions about Māori wards and constituencies, when no other type of ward or constituency requires a poll, in breach of the principle of equity.

In addition, the Tribunal found that the Crown had failed to actively protect Māori rights and interests by ignoring the desires and actions of

Māori for dedicated local representation. Finally, the Tribunal found breaches of the principles of mutual benefit and options. The Tribunal concluded that these Treaty breaches operated to cause significant prejudice to Māori.

The Tribunal recommended that the Crown stop the amendment process to allow proper consultation between the Treaty partners, with a view to agreeing how Māori can exercise their tino rangatiratanga to determine dedicated representation at the local level. The Tribunal also drew the Government's attention to the existing provisions in the Local Electoral Act 2001 for representation reviews that would better enable councils to seek public views on all wards and constituencies at the same time, including Māori wards or constituencies. ☆

Oranga Tamariki Urgency Report



The Oranga Tamariki (Section 7AA) Urgent Inquiry panel during hearing. From left: Ahorangi Tā Pou Temara, Judge Michael Doogan, and Kim Ngarimu.

ON 10 May 2024, the Tribunal released *The Oranga Tamariki (Section 7AA) Urgent Inquiry 10 May 2024 Report*. It built on the Tribunal's interim report, which was released on 29 April due to uncertainty about the date that relevant legislation would be introduced to the House.

The inquiry concerned claims submitted to the Tribunal under urgency regarding the Crown's policy to repeal section 7AA of the Oranga Tamariki Act 1989. The section imposed specific duties on Oranga Tamariki's chief executive to provide a practical commitment to the principles of the Treaty of Waitangi. This commitment included setting and reporting on expectations and targets to reduce disparities for tamariki Māori and entering into strategic partnerships with Māori and iwi organisations.

The Tribunal previously reported on section 7AA and other provisions of the Oranga Tamariki Act in its 2021 report *He Pāharakeke, he Rito*

Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry.

The claimants and interested parties argued that the Government's policy to repeal section 7AA breached the Crown's Treaty duties. In addition, they claimed that the Government had failed to consult with Māori and the Crown's strategic partners over the policy decision.

An urgent hearing was held on 12 April at the Tribunal's offices in Wellington. The panel – Judge Michael Doogan (presiding), Kim Ngarimu, and Ahorangi Tā Pou Temara – heard from three Oranga Tamariki officials, including the Ministry's acting chief executive, Darrin Haimona.

In its May report, the Tribunal emphasised that, regardless of coalition agreements,

once Ministers are sworn in and the government is formed, the executive so constituted are responsible for meeting the Crown's obligations to Māori under

the Treaty of Waitangi. It is a Treaty of Waitangi, not a proclamation of Waitangi, and the Crown does not have a unilateral right to redefine or breach its terms.

The Tribunal found that the Government's decision to repeal section 7AA had come about without proper regard to its obligations to Māori under the Treaty of Waitangi. It also found that the Cabinet decision to repeal section 7AA, in the absence of good faith dialogue and engagement with its iwi and Māori partners, was a clear breach of the article 2 guarantee to Māori of tino rangatiratanga over kāinga, the principle of active protection, and the principle of partnership. The Tribunal concluded that these breaches operated to cause significant prejudice to tamariki and whānau Māori.

The Tribunal recommended that the Government stop the repeal of section 7AA to allow for a periodic review of the legislation and policy, which is

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New Inquiries Commence

Wai 3325

On 9 February 2024, the deputy chairperson granted a priority inquiry (Wai 3325) to climate change claimants. Judge Stephanie Milroy was appointed presiding officer alongside a panel comprising Prue Kapua, Basil Morrison, Kevin Prime, and Professor David Williams. The first judicial conference was held on 1 May, and at this stage some 30 individual claims are included in the inquiry. Tribunal staff are currently preparing research scoping advice, and parties have been directed to prepare a joint statement of issues. As the deputy chairperson put it in granting priority, the inquiry's focus is on 'the physical, spiritual, and socioeconomic impacts of climate change on Māori and the Crown's response' and 'the relevant Treaty principles to be considered in climate change policy'. The inquiry is also to look at 'recommendations for how the Crown should meaningfully engage and consult with Māori'.

Wai 3327

On 1 March 2024, the deputy chairperson granted urgency to the claimants in the Te Reo in the Public Service Inquiry (Wai 3327). Judge Te Kani Williams was appointed presiding officer alongside members Professor Susy Frankel, Dr Paul Hamer, Dr Ruakere Hond, and Ahorangi Tā Pou Temara. A judicial conference was held

on 5 April, and the Tribunal has since put out a statement of issues. A hearing was held over the week of 10–14 June at the Tribunal's offices in Wellington. As the deputy chairperson put it in granting urgency, the inquiry's focus is on whether the Coalition Government's policies to 'limit the status and use of te reo Māori in the public sector' are in breach of the principles of the Treaty. The inquiry differs from other urgent inquiries in that there is no pending introduction of legislation. The deputy chairperson was concerned, however, about the 'potential chilling effect' of the Government's policies on 'the Crown's te reo revitalisation obligations'.

Wai 2575

An intention to abolish Te Aka Whai Ora (the Māori Health Authority) was set out in the new Government's 100-day plan. An urgency application from claimants was received in December 2023 and referred to the Health Services and Outcomes Kaupapa Inquiry panel for decision. That panel granted urgency in February 2024, setting down a hearing for 29 February and 1 March. The Crown was asked to defer introducing its legislation to give effect to Te Aka Whai Ora's disestablishment until 8 March. However, the Tribunal's jurisdiction was suspended by the Government's introduction of the Bill on 27 February. The scheduled hearing was thus vacated, and the Bill

passed into law on 5 March. In due course, the Tribunal reconsidered the application for urgency, and on 8 May it ruled that the claim no longer met the criteria. However, it granted a priority inquiry, with a hearing likely to be held in October 2024. The inquiry will examine 'the processes and steps taken by the Crown to disestablish Te Aka Whai Ora' and 'the Crown's proposed alternative plans to address Māori health outcomes following [the] disestablishment'.

Wai 3300

On 30 January 2024, the deputy chairperson referred a number of applications for urgency to the Constitutional Kaupapa Inquiry panel for consideration. The applications concerned the planned Treaty Principles Bill (set out in the coalition agreement between the National and ACT Parties) and the proposed legislative review and replacement of references to the principles of the Treaty (set out in the coalition agreement between the National and New Zealand First Parties). The Constitutional Kaupapa Inquiry panel began with an urgent hearing on 8 April to decide the applications. On 10 April, the Tribunal granted the claimants an urgent inquiry into these matters, the Treaty Principles Bill and Treaty Clauses Review Urgent Inquiry. The hearing was held on 9–10 May and, at the time of writing, the panel is preparing its report. ☆

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provided for under section 448B of the Oranga Tamariki Act. As a first step in this review, the Tribunal recommended that the Crown enter good faith dialogue with all its strategic partners and the Māori organisations

with which it had a relationship. The Tribunal also recommended that the Crown consider the proposals for legislative amendment set out in *He Pāharakeke* and that it retain both the section 7AA requirement to develop

strategic partnerships with Māori and iwi organisations and the requirement for Oranga Tamariki to focus on reducing disparities for tamariki Māori by setting and publicly reporting on expectations and targets. ☆