

TE MANUTUKUTUKU

*Te Roopu Whakamana i te
Tiriti o Waitangi
Panui*



*Waitangi Tribunal Division
Department of Justice
Newsletter*

Tekau ma whitu Akuhata 1992

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Ngai Tahu Sea Fisheries Report Released

The Ngai Tahu Sea Fisheries report released on 11 August has been misrepresented by the media. This article will hopefully help to rectify that misinformation.

Tribal Recommendations

The Tribunal's recommendations proposed a negotiated settlement of the Ngai Tahu sea fishery grievance. It recommended that the settlement should include an additional percentage of quota to Ngai Tahu under the quota management system and the delivery mechanism should be the Maori Fisheries Act 1989.

The Tribunal also recommended:

- ▲ the return to Ngai Tahu of exclusive eel fishing rights in Waihora (Lake Ellesmere) and cancellation of existing eel fishing licences with compensation payment to the existing licence holders
- ▲ a change to the Fisheries Act 1983 to provide for certain mahinga kai reserves for iwi or hapu as proposed in the Sustainable Fisheries Report of the Ministerial Task Force, April 1992.

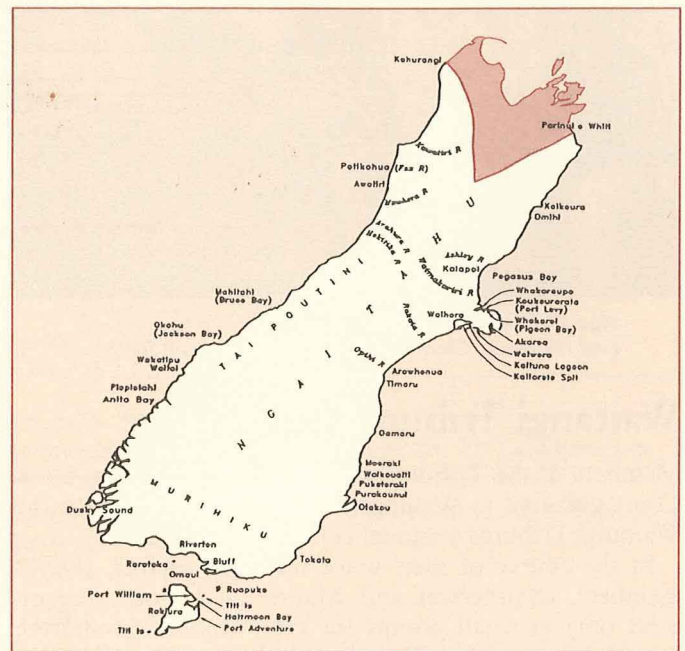
The report did not recommend that most of the South Island's fisheries be handed over to Ngai Tahu. *It did not recommend* that all the fisheries within 12 miles of the coast be returned to Ngai Tahu.

Entitlement to Sea Fisheries

The Waitangi Tribunal rejected the Ngai Tahu claim to 100% of all sea fisheries off their boundaries. The Tribunal found that Ngai Tahu has an exclusive treaty right to the sea fisheries surrounding the whole of their coastline to a distance of 12 miles or so. Ngai Tahu also has a Treaty development right, exclusive to the tribe, to a reasonable share of the sea fisheries off their coastline extending beyond the continental shelf and into deep water fisheries within the 200-mile exclusive economic zone.

The Tribunal found that it was not in a position to assess accurately the value of the sea fisheries to which Ngai Tahu is entitled. However, it was noted that appropriate allowance should be made for the serious depletion of the inshore fishery off the Ngai Tahu coastline when assessing the reasonable share of the Ngai Tahu entitlement.

There is a need for the Crown and Ngai Tahu to negotiate and reach a settlement by way of compromise. According to the report, circumstances such as public conscience, the nation's ability to meet the cost and the need for a permanent solution should be considered.



Te Rohe o Ngai Tahu

Treaty Breaches by the Crown

The Waitangi Tribunal has found that Ngai Tahu were prejudicially affected by the various acts and omissions, policies and statutes of the Crown relating to their sea fisheries. These breaches were inconsistent with the principles of the Treaty of Waitangi.

The failure of the Crown to provide adequate land resources directly affected the tribe, preventing the continuation of their thriving and expanding sea fishing activity.

A further serious breach was the assumed right of the Crown to dispose of Maori fisheries without consent or consultation with the iwi as if the fisheries were Crown property under the quota management system. The report is critical of the quota management scheme for its effect on Ngai Tahu Treaty rights.

Further breaches under the Article 2 guarantee of *te tino rangatiratanga* were:

- ▲ a failure to protect and conserve the sea fisheries
- ▲ the Crown's assumption that non-Maori had equal rights with Maori in the whole of their fishery
- ▲ the Crown's wrongful assumption that it owned the oysters offered for sale by public tender (Sea Fisheries Act 1984)

▲ the Crown's failure to give statutory recognition of the Treaty in fisheries legislation.

Undermining Ngai Tahu's mana whenua and mana moana tribal rights resulted in material and cultural deprivation, the Tribunal noted.

The report also recorded that despite repeated requests from Ngai Tahu, the Crown refused to give effect to legislative provisions, in force between 1900 and 1962, which provided for the reservation of exclusive Maori fishing grounds.

The *Ngai Tahu Sea Fisheries Report* is available from: Brooker & Friend Ltd, PO Box 43, Wellington. Tel: 0-4-385 6683 Fax: 0-4-385 7300

409 pages Price: \$51.65 (incl GST and postage)



Ngai Tahu report production team. From left: Noel Harris, Paul Husbands, Clare Taylor, Kate Riddell, Craig Southern

Waitangi Tribunal Conference

Members of the Tribunal and judges of the Maori Land Court gathered in Wellington at the end of June for the Waitangi Tribunal's annual conference.

In the course of their work for the Tribunal, the 17 members, chairperson and Maori Land Court judges, meet only in small groups for the purpose of inquiring into claims.

The annual conference provides the opportunity for the Tribunal to discuss, as a whole, the issues that it faces.

This year the Tribunal invited several groups, whose functions and interests converge with its work, to participate in different sessions. Representatives of Federated Farmers, the Maori Fisheries Commission, Maruwhenua (Ministry for the Environment), and a panel of Maori affairs media representatives discussed matters of common concern with the members and exchanged information.



Conference in session. From left: John Kneebone, Tribunal member; Federated Farmers guests - Malcolm Lumsden, senior vice-president; Rob McLagan, chief executive; Michael Smith, legal adviser

Annual Report Summary

Following is a summary of the Waitangi Tribunal's 1991-92 activities.

During the 1991-92 year there was a 34.7% increase in the number of registered claims from 216 to 291. The more important statistic, however, was the clearance rate on claims. Up to June 1991, the Tribunal had dealt with a total of 29 claims which had either been reported or withdrawn. This year 24 further claims (giving a total of 51) are in these categories or are regarded as being closed to further inquiry unless the matter is raised again by the claimants. Admittedly, most of these claims are single-issue claims.

Tribunal Servicing

In the 1991-92 financial year, members of the Tribunal recorded over 400 sitting days, much lower than in previous years. This reflects the 1991 change whereby the Tribunal's now deals with more claims through short judicial conferences rather than formal hearings. The benefit is that research and other issues are dealt with prior to formal hearings which, as a consequence, should be much shorter than is currently the case. The Tribunal, of course, continues to recognise the importance of the hearing as a public forum for claims.

Statistics (as at 30 June 1992)

Claims	Number
registered	291
reported/withdrawn or no further inquiry	51
in report writing	3
proceeding before the Tribunal	23
referred for mediation	4
referred for negotiation	10
referred for Maori Land Court inquiry	2
under research (either Tribunal or claimant)	178
awaiting initial assessment or deferred at claimant request	20

Tribunal staff completed a total of 17 exploratory and other research reports during the year, and assisted with the writing, editing and production work associated with four major Tribunal reports, three of which are due for release in the next financial year. The major production project completed during the year was the **Wai 38: Te Roroa report**.

Hearings and conferences were held on:

WAI 27	Ngai Tahu fisheries
WAI 30	Tainui (Waikato River Dam)
WAI 38	Te Roroa
WAI 45	Muriwhenua
WAI 48	Whanganui ki Maniapoto
WAI 86	Waikareao Estuary
WAI 102	Te Tau Ihu o Te Waka
WAI 116	Taemaro
WAI 119	Mohaka
WAI 143	Taranaki
WAI 145	Wellington Tenth's
WAI 153	Geothermal
WAI 200	Hauai
WAI 235	Crown Forest Assets
WAI 261	Auckland Hospital Endowment land - Dommett Avenue
WAI 264	Railway Lands
WAI 276	Sylvia Park land.

Public Information

The work of the Tribunal continues to attract a high public profile. This is reflected in the number of media contacts throughout the year – 39% were from radio, 44% print and 17% television. Public inquiries on a wide range of topics totalled 222. Tribunal members and staff completed about 52 speaking engagements during the year.

The Tribunal re-issued its information booklet during the year in response to a continuing demand and a reprint may already be required. The other major publication for 1991, *Claims to the Waitangi Tribunal* written by WH Oliver, has been selling steadily. The resource kits for schools have become increasingly popular and the circulation of our bi-monthly newsletter *Te Manutukutuku* has increased.

New Claims Registered

WAI 288

Claimants: T Rangitakatu for Te Runanga o Ngati Kahu
Concerning: Kaingaroa forest
Region: Murupara
Received: 25 May 1992

WAI 289

Claimants: Sam Moeke for Ngati Porou
Concerning: Hauraki and Coromandel goldfields agreement
Received: 25 May 1992

WAI 290

Claimants: Harry Martin and Lucy Reuben for the Ngati Mahana people of Whakaaratamaiti
Concerning: Compulsory acquisition of Whakaaratamaiti block during the First World War.
Region: Putaruru
Received: 12 May 1992

WAI 291

Claimants: Marie Oldridge, Kimiora Tito and Druis Bennett as descendants of Te Tirarau of the hapu of Parawhau and Uriroroi
Concerning: Allotment E 57 Maungakarama parish
Region: Whangarei
Received: 24 April 1992

WAI 292

Claimants: Hoana Karekare and Mei Matiu for the Awarua Karena Wiki whanau
Concerning: Te Kao lands and waterways
Region: Northland
Received: 11 May 1992

WAI 293

Claimants: Bonita Morehu for the Haira whanau
Concerning: Horohoro State Forest
Region: Rotorua
Received: 23 April 1992

WAI 294

Claimants: Harry Pomare for Te Uri o Hau
Concerning: Pouto lands
Region: Dargaville, Northland
Received: 19 June 1992

WAI 295

Claimants: Tarewa Rota and others for the Mangahoutoa Trust
Concerning: Kohumaru Station
Region: Northland
Received: 24 June 1992

WAI 296

Claimants: Sir Charles Bennett and others for Te Arawa
Concerning: Maketu Estuary
Region: Bay of Plenty
Received: 6 May 1992

WAI 297

Claimant: Tamihana Akitai Paki of Ngati Whatua iwi
Concerning: Auckland Maccess and Mana programmes
Region: Auckland
Received: 10 June 1992

WAI 298

Claimants: Lawrence Tukaki-Millanta for the original owner of Whangaokena Island
Concerning: Whangaokena Island (also known as East Island)
Region: East Cape
Received: 10 July 1992

WAI 299

Claimants: Peter Kahukiwa for Ngai Tatana and others
Concerning: Esk Forest, Mohaka Waikare block
Region: Wairoa
Received: 27 July 1992

WAI 300

Claimants: Tiopira Te Rauna Hape for Te Taiwhenua o Te Wairoa and te Runanga o Ngati Rakipaaka
Concerning: Geothermal resource at Morere Hot Springs
Region: Hawkes Bay
Received: 31 July 1992

WAI 301

Claimants: Tiopira te Rauna Hape for Te Taiwhenua o Te Wairoa and Te Runanga o Ngati Rakaipaaka
Concerning: Wharerata State Forest
Region: Hawkes Bay
Received: 18 June 1992

Legal Aid for Claimants

The introduction of the Legal Services Act 1992 means that claimants can no longer seek legal aid from the Tribunal. Claimants must now request legal aid from:

Wellington District Sub-Committee,
Legal Services Board, High Court,
PO Box 1091, Wellington
Attention: Mr N Uesi, Deputy Registrar

The Waitangi Tribunal Division still has a responsibility to provide legal advice and to ensure that claimants are assisted in presenting their claims.

New Zealand Document Exchange

The Waitangi Tribunal has joined New Zealand Document Exchange Ltd. Our number is DX 8101.

Forward Programme for 1992-93

(as at 1 July 1992)

In hearing

▲ WAI 143: Taranaki raupatu

Research and hearings continuing. Two further hearings before end of 1992 (September to mid-November).

▲ WAI 45: Muriwhenua land claims

Research and hearings continuing. At least one further hearing before the end of 1992.

▲ WAI 38: Te Roroa

Reported. Further short hearing on remedies to be scheduled fourth quarter 1992.

▲ WAI 145: Wellington Tents

Request for urgent resumption of hearing to hand. Tribunal decision awaited.

Ready to go to hearing

▲ WAI 55: Te Whanganui a Orutu Research completed. Hearing (one-week hearing) to be scheduled November 1992.

Report writing

▲ WAI 119: Mohaka In report writing. Projected completion early September 1992.

▲ WAI 27: Ngai Tahu ancillary claims In report writing. Projected completion first quarter 1993.

▲ WAI 32: Pouakani

In report writing. Projected completion end September 1992.

In preparation but requiring hearing/conference

▲ Bay of Plenty Raupatu claims

Tribunal research completed. Claimant research continuing. Claimant liaison needed prior to judicial conferences and possible programming for initial hearings first half 1993.

▲ WAI 102: Te Tau ihu o te waka a Maui claims

Claimant research continuing. Claimant liaison needed prior to judicial conference and possible programming for initial hearing in first half 1993.

▲ WAI 64: Chatham Islands claims

Research continuing. Judicial conference needed to ascertain further research requirements. Possibility of going to hearing second quarter 1993.

▲ WAI 153: Geothermal claims

Judicial conference needed to discuss possibility of a hearing on one or two of these claims. Possible hearing first half 1993. Claimant research continuing.

▲ WAI 201: Wairoa ki Wairarapa claims

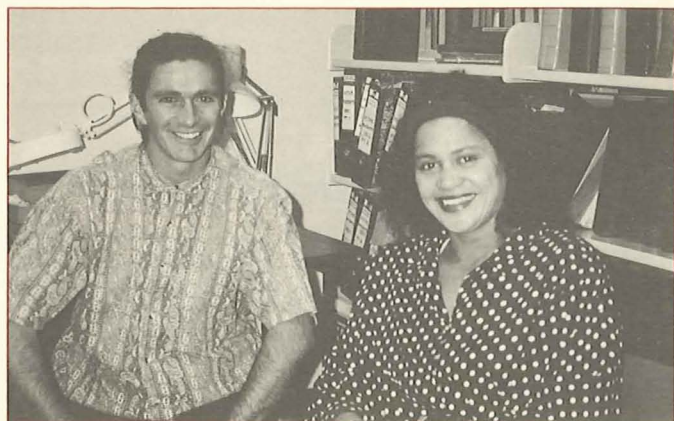
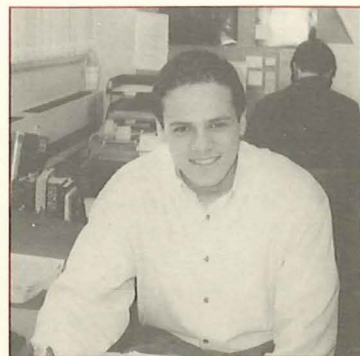
To judicial conference to ascertain further research requirements – first half 1993.

Mediations

▲ WAI 116: Taemaro One further mediation meeting second half 1992. (Possibility of being joined to Wai 45 Muriwhenua for full Tribunal hearing.)

STAFF NEWS

The Waitangi Tribunal welcomes *Hemi Pou* of Nga Puhi, who has been appointed to the position of claims administrator. Hemi came to the Waitangi Tribunal in March on secondment from the Tribunals Division. His current responsibilities include the Muriwhenua, Mohaka and Ngai Tahu claims.



Students *Murray Hemi* of Ngati Kahungunu ki Wairarapa and *Kiritahi Takiari* of Te Atihaunui-a-Paparangi and Tainui join the Tribunal's staff during University holidays. Kiritahi is studying law and Maori at Victoria University; Murray is completing an MSc in resource management at Lincoln College. He has a BA Maori from Canterbury.

▲ WAI 95: Stephens Island One further mediation meeting second half 1992. (Likely to be sent to full Tribunal hearing.)

▲ WAI 51: Waitomo Further meeting required to finalise details. Second half 1992.

▲ WAI 86: Waikareao Estuary Further meeting(s) required to resolve representation dispute and finalise agreement details. Second half 1992.

▲ WAI 200: Hauai Further meeting(s) required to try and resolve current impasse. Second half 1992.

On-going research

▲ WAI 48: Rohe Potae claims (Whanganui ki Maniapoto)

▲ Te Niho o te ika claims (Whanganui ki Porirua)

Over 60 claims are being dealt with by small claims research unit. Hearings or other related activities may be needed depending on the content of the exploratory reports.

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Your name will be added to the mailing list.

Name _____

Address _____

Return this form to the Information Manager,
Waitangi Tribunal, PO Box 5022, DX 8101
Wellington/Te Whanganui-a-Tara

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