TE RŌPŪ WHAKAMANA I TE TIRITI O WAITANGI

TE MANUTUKUTUKU

50

An early crowd of 100 quickly swelled to more than 300 as Māori and Pākehā from all over the North Island gathered at Manukorihi Marae on 17 March 1983 to discuss the Government's rejection of the Waitangi Tribunal's recommendations on protecting north Taranaki fishing resources. Photograph courtesy of the *Taranaki Daily News*.

1975 2025

A Tribute to the Tribunal

Professor Sir Pou Temara

Tribunal member Professor Sir Pou Temara

Koinei te rima tekau o ngā tau e toitū ana Te Rōpū Whakamana i te Tiriti o Waitangi, Te Taraipiunara o Waitangi rānei (te Taraipiunara). Ahakoa ko tēhea ingoa e whakahuatia ana, e mārama ana ngā mahi hei whakatutukitanga māna, e mārama ana te kaha whirinaki o te iwi Māori ki tēnei rōpū, ki tēnei taraipiunara, hei wāhi haerenga mō rātou ki te rapu utu mō o rātou whenua i riro i raro i ngā ture a te Kāwanatanga o te wā i roto i ngā tau e maha. Kei tētahi taha o ngā kerēme ko Te Karauna, te mana whakahaere i te Kāwanatanga i Aotearoa me ōna rōia whakaharahara. Kei te taha ki ngā iwi ko ngā kaikerēme me ō rātou rōia. Nā, ka tohea te kaupapa i runga i whakapae a ngā kaikerēme kua takahia ngā mātāpono o te Tiriti o Waitangi e te Karauna.

Ko tā te Taraipiunara he whakarongo ki ngā tohe kōrero a tētahi taha, a tētahi taha. Ki te kore ōna mema e mārama, kua pātai i ngā pātai e mārama taketake ai rātou.

Kua rima tekau tau te Taraipiunara e whakarongo ana ki ngā kerēme. E hia ngā kaiwhakawā kua noho hei ārahi i ngā taraipiunara mō ia kerēme, ā, e noho tonu nei, e whakatūria tonu nei ngā whakakīkīnga whāruarua i ngā wa e wātea ana he tūranga. Kua whakairia hoki ngā kākahu o ētahi o aua kaiwhakawā o te Taraipiunara i a rātou ka piki i te ara poutama ki ngā tūranga teitei o tō rātou nā ao, kua haere rānei ki te kōti teitei katoa i te rangi. Ko koutou ērā Kaiwhawā Ken Hingston, Ken Gillanders-Scott, Richard Kearney, Ashley McHugh, Hoeroa Marumaru, Norman Smith, David Ambler, me koe Nick Carter. He pai taku noho i raro i a Heta, he hoa tata māua ko Hoeroa, he tangata kounga a Rawiri Ambler.

He pērā anō hoki ngā mihi ki ngā mema i noho i runga i te Taraipiunara i tērā rima tekau tau, he Kahurang ētahi, he Tā ētahi, he mana mātauranga ki ngā momo kaupapa e hāngai ana ki ngā tikanga Māori, ki ngā hītori Māori me ngā ture whenua. Rātou katoa i whai wāhi nui ki ngā mahi a te Taraipiunara i roto i tēnei rima tekau tau. Nōku te waimarie ki te mahi tahi me ngā mema o te Taraipiunara rātou ko ngā kaiwhakawā i ngā pae whiriwhiri maha, Pākehā mai, Māori mai, iwi huhua mai. Rātou katoa he rangapū pūmau, whakaaro nui, pono, kaha ki te mahi, he kura māhora. E hia ōku hoa nō tēnei kāhui.

He tokomaha o rātou kua haere ki te Huinga Kahurangi. He maha rawa koutou ki te whakahuahua, engari rā e aku pāpā, e Tā Monita Delamere, kōrua ko Te Makarini Temara me koe e te tuakana Te Wharehuia Milroy. Aue, mēnā ahau e hiahia ana kia pai taku moe i ngā pō, me whakahua taku hoa a Angela Ballara. Ki a koutou e kui mā e koro mā, tae noa ki ngā kaiwhakawā kua wahangū, ka noho ko te Taraipiunara o Waitangi hei kōhatu whakamaumarahatanga mō koutou. E kore koutou e warewaretia. Kua whakairotia koutou ki ngā ngākau o ngā iwi kua tū ki mua i a koutou.

Kia hoki ake ki te ao o te ora.

Inā mutu te whakarongo ki te kerēme, kua noho te Taraipiunara ki te wānanga i ngā kōrero i mua i te taenga ki tētahi whakatau tika. Hei konei kua tuhia te rīpoata o ngā whakakitenga me te whakatau e tika ana, ki te Karauna.

Mēnā ka waimarie, ka puta he kāpeneihana – ahakoa iti, ahakoa nui ake rānei – ki ngā kaikerēme. I tua atu i te kāpeneheihana ko te hua nui ki te iwi kerēme ko te kōrero me te mōhio kua rangona ā rātou kōrero, ko te mōhio o ngā whānau ki o rātou hītori, ko te noho o te rīpoata a Te Taraipiunara o Waitangi ki ō rātou whare hei taonga mā rātou.

Nō te tau 2008 i noho ai au i te Taraipiunara, ā, i noho au ki te whakarongo i ētahi kerēme nui. Nā tōku mōhiotia i te ao Māori ka māmā ētahi tikanga, ka noho rānei hei tūtukinga waewae. He tokomaha ngā kaumātua me ngā rangatira e mōhio ana ahau, ā, nā tō mātou mōhio ki a mātou, ka whakaaro rātou ka puta te ihu o ā rātou kerēme. Tērā hoki ētahi kerēme e tutū ana te puehu, ka whai wāhi au ki te hohou i te rongo, nā roto mai i te mōhio ki ngā tikanga. I kite hoki mātou i ētahi kaumātua mutunga mai o te rangatira ihu tū. E kore tō mātou pae whiriwhiri e wareware ki a John Henry o Te Kotahitanga Marae, Ngāti Maniapoto.

Kua kite hoki ahau e panoni haere ana ētahi o ngā tikanga a te Taraipiunara, ko ngā rōia taiohi ngā kaipanoni. Ko te reo whakahaere kaupapa o te Taraipiunara ko te reo Ingarihi, kātahi ka maranga ohorere ake he whakatipuranga rōia, ko te reo Māori anake e whakamahia ana e rātou. Ka kāhaki te tikanga rā, kua noho i nāianei hei tikanga e āhei ai te kaiwhakawā ki te whakahaere kerēme i roto i te reo, i te reo rua rānei. Kua hanganoa.

Ka whakahua ake i ngā kaiwhakapākehā reo. I tīmata mai au i te kaiwhakapākehā reo. E hahu ake ana i a Rangi McGarvey, kaiwhakapākehā paerewa teitei.

Kāore i tika kia hapa he kupu mihi ki ngā rōia. I roto i te rua tekau tau e noho ana au i te Taraipiunara, e mahi tahi ana mātou ko ngā rōia, ā, kua taunga au ki a rātou e nohonoho mai ana inā kuhu atu mātou ki te kauhanganui whakawā. Kua kaumātua ētahi, pērā i a au o runga i te Taraipiunara. Kua kite hoki au i ngā rōia torekaihuruhuru, e ākona ana e ngā rōia matua. I tēnei rā kua puta ngā ihu, kua kōē, ko ētahi kua noho hei kaiwhakawā ārahi i ngā kerēme a te Taraipiunara. Kua noho tēnei kāhui rōia hei whānau mō te Taraipiunara, ā, i a au ka mihi ki a rātou mai i te pae whiriwhiri, ākene kua takahia e au ngā tikanga noho wehe. Me pēhea hoki, he whanaunga ētahi o ēnei rōia ki a au.

Hei whakatepe, ki ngā kaimahi o te Taraipiunara, he nui ngā panoni i te rima tekau tau ka hipa, he nui rawa i tōku wā. E mihi ana ki te kaha o ngā kaiwhakahaere me ngā ringa āwhina ki te kuhu i a rātou, i roto i ngā whakahau a ngā mana teitei atu. Kua iti iho te kaute pūtea ki te utu i ngā wāhi hui, i ngā waka haere ki ngā wāhi hui, ngā wāhi noho mō te Taraipiunara me ō rātou hiahia; ngā kaituhi rīpoata me ā rātou mahi ki te tuhi i ngā tarāwhe hei wānanga mā te pae whiriwhiri, me ngā rōia e āwhina ana i te Taraipiunara ki te wetewete i ngā rīpoata a te Karauna, a ngā kaikerēme me ngā rīpoata rangahau a ngā kairangahau. Nā ā koutou mahi katoa e hika mā i angitu ai te Taraipiunara, koia ka whakanuia i roto i tēnei mihi.

Hari rima tekau tau ki te Taraipiunara o Waitangi.

This is the fiftieth year of existence for the Organisation that Gives Mana to the Treaty of Waitangi or the Waitangi Tribunal. Whatever name is used, its responsibility is clearly stated in either name. It is a place that iwi Māori go to as the last resort to seek resolutions for land taken under legislation or other means by the governments of the times. On one side of the claim there is the Crown responsible for the Government, with its learned lawyers. On the opposing side are iwi claimants and their equally learned lawyers. In this forum, the claimants endeavour to expose breaches to the principles of the Treaty of Waitangi by the Crown.

The Tribunal sits and listens to the submissions from both sides. It only asks questions so that clarity is beyond question.

It has been listening to claims for 50 years. There have been many judges who have presided over those claims, with many still there and new ones being appointed to fill vacancies. Some have hung up their Tribunal gowns as they are appointed to higher positions in the judiciary, while some have gone on to the highest court in heaven. They are Judges Heta Ken Hingston, Ken Gillanders-Scott, Richard Kearney, Ashley McHugh, Hoeroa Marumaru, Norman Smith, David Ambler, and Nick Carter. I had a good relationship with grumpy Judge Heta; Judge Hoeroa and I often held court at 6 pm; and Rawiri Ambler was special.

Similar tributes are given to Tribunal members who have been part of the Tribunal in the past 50 years. They included dames and knights, all with requisite knowledge and experience on tikanga Māori, Māori history, and land issues and land law. They all made and continue to make a huge contribution in these 50 years. I am so privileged to work with other members on the many panels we sat on. I include the presiding judges in that tribute, all of them, Pākehā, Māori, and other races, were professional, committed, wise, hardworking, and embracing. I made many friends.

A significant number of the members have passed on. There are too many to remember, but how can I not mention my uncles Sir Monita Delamere and Te Makarini Temara, and you my senior Te Wharehuia Milroy? Oh, and I dare not forget my friend Angela Ballara if I want to sleep well at night. To you, O Sirs and Ladies, together with the honourable presiding judges who are now silent, the Tribunal will stand as a lasting memorial to you all. You will not be

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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 84

Waitangi Tribunal

Kei Roto | Inside

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From the Chairperson

Piki Mai.
Kake mai.
Whakatau mai ki roto ki
te mahi a Te Roopū Whakamana i
te Tiriti o Waitangi
mai i te tau kotahi mano iwi rau whitu
tekau mā rima.

As everyone reading this will know, the Waitangi Tribunal was established by the Treaty of Waitangi Act 1975. By establishing the Tribunal, Parliament provided a legal process under section 6 by which Māori could file claims against the Crown alleging acts or omissions inconsistent with the principles of the Treaty of Waitangi / te Tiriti o Waitangi and causing prejudice to those claimants.

The Waitangi Tribunal is deemed to be a commission of inquiry by its bespoke legislation, the Treaty of Waitangi Act 1975. As well as being a commission of inquiry, the Waitangi Tribunal is described by its legislation as a tribunal. Importantly, it has features of both. The Tribunal is concerned generally with the task of finding facts based on the presentation of evidence, and it decides cases by applying settled rules or principles to facts. It exercises an inquisitorial jurisdiction, and its decisions have wide-ranging effects, not confined to deciding questions involving individual rights. On the administrative–judicial spectrum, the Tribunal is generally situated closer to the judicial end of the spectrum. In *Joseph on Constitutional and Administrative Law*, Professor Philip Joseph notes that commissions of inquiry will often investigate matters that would ordinarily fall for adjudication in the courts and cites the Waitangi Tribunal as an example of a tribunal exercising 'judicial (or quasi-judicial) functions'. In this way, the Tribunal is properly understood as a standing commission of inquiry

Hagen Hopkins

Chairperson Chief Judge Dr Caren Fox

exercising judicial and quasi-judicial functions.

The role of the Tribunal is set out in section 5 of the Treaty of Waitangi Act and includes:

- inquiring into and making recommendations on well-founded claims;
- examining and reporting on proposed legislation, if it is referred to the Tribunal by the House of Representatives or a Minister of the Crown; and
- making recommendations or determinations about certain Crown forest land, railways land, State-owned enterprise land, and land transferred to educational institutions.

In fulfilling its role, the Tribunal has exclusive authority to determine the meaning and effect of the Treaty. It may also decide on issues raised by the differences between the Māori and English texts of the Treaty.

Over the 50 years of its history, the Tribunal has contributed to the resolution of many claims and to the reconciliation of outstanding issues between Māori and the Crown. In this respect it has:

- registered over 3,500 claims;
- commenced inquiry on, or fully or partly reported on, most of those claims;
- issued over 150 final reports; and
- issued or will issue district historical reports covering over 91 per cent of New Zealand's land area, the remaining area being the subject of direct negotiation with the Crown.

This fiftieth anniversary issue of *Te Manutukutuku* reviews and celebrates the work of the Tribunal through the thoughts and experiences of different stakeholders. It demonstrates what has been achieved and what still must be done.

In this latter respect, on 2 July 2025 I released the Tribunal's *Strategic Direction 2025–2035*, which sets key targets for 2030 and 2035, delivering the inquiry work programme in two phases. From 2025 to 2030, the Tribunal will prioritise its hearing of most historical claims by completing the final five district inquiries and the inquiry into claims with remaining historical issues, as well as five of the kaupapa inquiries. From 2030 to 2035, the Tribunal will complete the remaining eight kaupapa inquiries and start its inquiry into the remaining contemporary claims. During both periods, the Tribunal will continue to expedite its inquiries into claims and applications for remedies granted urgency. In this way, we will bring the hearing of historical and kaupapa claims to an end.

Nō reira, e te iwi tēnā koutou.

Chief Judge Dr Caren Fox
Chairperson
Waitangi Tribunal ❐

From the Director

Tēnā koutou.
E ngā iwi o te motu, e ngā whakakanohitanga tapu o ngā mātua tupuna, tēnā koutou.
E tangihia ana ngā mate o te wā, o te mārama, o te tau.
Hoki ora mai ki a tātou te kāhui hunga ora, tēnā tātou katoa.
He mihi tēnei ki a koutou i runga i te karanga o tērā tau – te huringa tau rima tekau o Te Roopū Whakamana i te Tiriti o Waitangi. He kaupapa whakahirahira, he tūāoma nui, he hokinga mahara.
E karangahia nei tātou kia titiro whakamuri ki ngā mahi kua tutuki i roto i ngā tau; e karangahia hoki tātou kia tuku mihi ki te hunga mahi i kuhu ai i ngā tatau o te whare o Te Taraipiunara. Me mihi hoki, ka tika, ki ngā tōtara nā rātou i rūnā ai te kei o te waka o Te Taraipiunara kia tae atu ki ana pae tata, ki ana pae tawhiti. E tika nei te kōrero 'He rau ringa e oti ai'.

Tīa Leota

Pae Matua / Director Steve Gunson

It is a privilege to contribute to this special fiftieth anniversary edition of *Te Manutukutuku*. First and foremost, I would like to mihi to the many hands who have supported the work of the Tribunal over the past five decades. I would also like to acknowledge my predecessors, the previous directors of the Tribunal Unit: Renee Smith (acting), Grace Smit, Julie Tangaere (acting), Juliet Robinson (acting), Cath Nesus, Tipene Chrisp (acting), Darrin Sykes, Kim Ngārimu (acting), Neville Baker (acting), Morris Te Whiti Love, Dr Ian Shearer (acting), Buddy Mikaere, and Sir Wira Gardiner.

Behind the scenes, the Tribunal is supported by a group of 66 dedicated administrative, operational, and technical staff. I am immensely proud of the people and teams that have worked hard this year to support the Tribunal to carry out its work programme.

What strikes me most when reflecting on 50 years of the Tribunal's mahi is the way that it has continuously evolved and sought to do things differently. In terms of the Tribunal Unit, it means we are always ready to pivot and adjust to the changing environment.

In the year 2025, we celebrated 50 years of the Tribunal and renewed our strategic direction. Our new strategic goals have once again created a space in which we are changing and evolving alongside the Tribunal as it looks to complete the current active inquiries by 2035.

E mihia nei ngā mahi o te wā mua, e huri nei te kanohi ki te anamata. Nau mai te kaha kia whakatutukihia ngā mahi, ngā whāinga me ngā wawata kei a tātou.

Steve Gunson
Pae Matua / Director
Waitangi Tribunal Unit
Māori Land Court ❐

Sir Edward Durie Reminiscences

Sir Edward Taihakurei Durie KNZM

This speech was delivered by Sir Edward Taihakurei Durie KNZM at the opening of the Waitangi Tribunal's fiftieth anniversary conference on 9 October 2025 at Te Herenga Waka Marae, Wellington. Some edits have been made for clarity and readability.

Can I just say something first about Bill Wilson, because he was the most recent one that was mentioned up there? Bill Wilson was a former Supreme Court judge. On the Waitangi Tribunal, he was a member of the Muriwhenua Inquiry and a very big help to us. We were going up to Muriwhenua one year, and we were reading the newspapers and it was all about a new Act that had come out for the sale of State-owned enterprise assets. We knew that up in Muriwhenua there were three large farms against which Māori had claims and that they could be very much affected by that sale.

So we thought that Sir David Baragwanath, who was the lawyer up there at the time, would not miss a trick and would be giving us a hard time in the morning. Sure enough, he was there at 9 am asking the Tribunal to put aside what it had for the day and to go straight into addressing this concern about that Act. David, as usual, finished his submissions at about noon. We always thought of him as the legal equivalent of the opera singer – the opera that never ends – but he was brilliant. He framed his submission so well we could virtually write it up as a report.

We adjourned at midday. Bill Wilson made a big contribution. He was very clever in this area. We had a report finished by about 3 pm. We telephoned it through to Wellington – we only had typewriters in those days, no emails – and it was in the hands of the Minister by 4.30 pm. We did not have the rulebook then that required applications for urgency, so that was a very quick result. It was remarkable how rapidly things could change.

Sir Geoffrey Palmer, who is here today, was at the time either the Minister of Justice, the Attorney-General, or the Prime Minister – he filled all the roles. He picked up straight away that this was really an issue for the High Court, so he made a small amendment to the legislation to say that nothing in the Act shall be contrary to the principles of the Treaty of Waitangi. David Seymour has been thanking him ever since.

The effect was that David Baragwanath and Dame Sian Elias

Former Tribunal chairperson Sir Edward Taihakurei Durie KNZM

were able to move it swiftly into the High Court, then into the Court of Appeal, and that decision from Robin Cooke and Ivor Richardson was the start of Treaty jurisprudence. That was the major change for the Tribunal. Before that, we were like a man-of-war with no guns – we could make only recommendations. Suddenly, there was a way of shifting things to another court, where effect could be given to the principles we had been writing about. I remember Bill for his contribution on that occasion.

There is one other person I would mention who was not a member of the Tribunal but may as well have been, because of the advice she gave us informally, and that is Dame Joan Metge, who died about two weeks ago. She introduced Māori studies to this (Victoria) university in the 1960s, when there was strong opposition. The argument was that Māori did not write and universities were about literature, so how could you have Māori studies? Anthropology yes, but not Māori studies. But she got it started. She was also a major thinker on tikanga Māori, which might seem strange given that she looked like a very English schoolteacher, yet she was deeply involved in thinking about how you take what people say and do and convert that into a legal system.

I would like to start by referring to our guest speakers and their connections to the Waitangi Tribunal. Judge Meer from the Land Claims Court in South Africa was its president. That court resulted from discussions in which the Waitangi Tribunal was present. In 1995, following the end of apartheid, I was an observer and resource person at the African National Congress constitutional conference in Cape Town. I was there for the Tribunal and the Māori Land Court, interested in historical justice and land restitution. I could see we had many areas in common, even black spot removals. The Land Claims Court emerged from that process and I am looking forward to hearing how things went from there.

A special welcome to Judge Diane McDonald. In Canada, we followed their example in setting up the Tribunal. In 1976, Judge Thomas Berger of the British Columbia Supreme Court conducted the Mackenzie Valley Pipeline Inquiry. He said that, if we were going to deal with indigenous people, we could not ask them to come into our systems – we had to go to them, on their ground, and following their processes and laws. That was exactly what we were thinking in New Zealand.

If we had said that here in 1976, nobody would have listened. But if a distinguished Canadian judge said it, people paid attention. I went over to meet him, travelled to Yellowknife, to Inuvik, and to spring camps with the Dene people. Their way of thinking was no different in principle from Māori here. That process became the model we followed when the Tribunal finally got off the ground.

We also needed a green light from our own jurists. I went to Sir Thaddeus McCarthy, then president of the Court of Appeal. He said that policy inquiries could be shaped any way you liked as long as you complied with natural justice. He advised working with Ministers. We did not do that, because we thought our role was to assess claims against the Crown, not work with it. Looking back, I regret that, because once you find a breach, the next step – how to fix it – is pure policy.

Looking back over 50 years, the Treaty was once not considered part of the law. Today, Treaty jurisprudence is taught in law schools. Māori law was not recognised; today it is, even by the Supreme Court. Fifty years ago, most Māori did not know how their land was lost. Today, the full story is available in Tribunal archives. As a child biking past land my grandmother said was ours, I asked how we lost it. They did not know. That loss of knowledge was devastating. Today, historians have restored that knowledge, and that is a huge change.

Māori was once a dying language. Today, we could not stop it. Māori news once had 15 minutes a week on radio; today, we have our own stations and television channel. Customary fishing rights were once ignored; now, Māori have their own fishing industry. But the greatest achievement is that we have changed New Zealand's national identity. We no longer look to a 'motherland'. We are grounded in who we are. I realised this watching the New Zealand Youth Choir begin with a karanga, move through waiata and haka, and win the World Youth Choir competition. You would never have seen that 50 years ago.

The Tribunal did not drive the bus – politicians did. Matiu Rata introduced the Treaty of Waitangi Act. He was visionary, energetic, and profoundly underestimated in our history. Others followed: Geoffrey Palmer, Doug Graham, Jim Bolger, Margaret Wilson, Michael Cullen, Chris Finlayson. The Crown is not the enemy. It did enormous work to get us where we are.

I thank the lawyers who knew when to stand back and let the people lead, and the Crown Law Office for respecting the Tribunal process. I thank the protest movement, which made our ideas seem conservative by comparison and kept pressure on when things stalled.

Finally, I thank the Tribunal members themselves – academics, practitioners, historians, leaders – people I loved and still miss. Their balance of thought and practicality made the work possible.

And I thank those who followed: Sir Joe Williams, Wilson Isaac, and Judge Fox, who has brought tikanga Māori to the forefront and taken us into constitutional thinking. Even imagining what a constitution might look like helps us find a better framework for the future.

Thank you all very much. I greatly appreciate the opportunity. ❐

Justice Joe Williams Looks Back

Justice Joe Williams

Whatanui Flavell, Haututū Creatives

Former Tribunal chairperson Justice Joe Williams

The Treaty of Waitangi Act received the royal assent on 10 October 1975, three days before Whina Cooper's month-long 'land march' from Te Hāpua arrived at the steps of Parliament. Of course, *something* had to be done about the Treaty. The legal mythology circa 1975 – that the Treaty was a 'simple nullity' – was impossible to explain, let alone justify, in terms that were not straight-out racist. And, by then, Māori indignation was no longer confined to radical rangatahi groups like Ngā Tamatoa; it had gone mainstream. So mainstream, in fact, that the Māori establishment was willing to protest, as Whina's leadership of the hīkoi showed. For a month, the march had dominated the headlines. The narrative and its images captured the sympathy of a significant proportion of the electorate.

Politically, options for reform were limited. A general codifying statute was out of the question, but Matiu Rata, the sponsoring Minister, wagered that a standing commission of inquiry into Treaty matters, with recommendatory powers only, would be seen by both sides as enough of a *something*: it would be sufficiently toothless to be palatable to Wellington, but Māori might be prepared to wait and see how it panned out – after all, it was at least independent of the politicians. Matiu's political judgement was sound.

The Treaty of Waitangi Act purported to create a thing called the Waitangi Tribunal. It would have three members: the chief judge of the Māori Land Court (in those days, New Zealand's only judicial leader with particular knowledge of Māori legal matters) and two members appointed respectively by the Minister of Justice and the Minister of Māori Affairs, as the latter office was known at the time. The chief judge would be the chair of the Tribunal.

The Tribunal would have prospective jurisdiction only. No one in 1970s Wellington considered that opening the Pandora's box of past Treaty breaches was a good idea, even when the opener was toothless. On the other hand, the Tribunal would be allowed to inquire into the Treaty consistency of existing statutes, and the Government of the day's policies or proposed policies. It was thus an instrumentally weak forum, but, at the same time, its remit was much wider than that of the mainstream courts. It would be allowed to operate in the liminal space between law and politics. It would take a decade of experience of the Tribunal, and especially of the imaginative approach to contemporary claims taken by Chief Judge Eddie Durie, who was appointed chair in 1980, before Wellington changed its mind about historical claims.

Eddie built the Tribunal canoe that we can still recognise, which he did while paddling it; a feat that, in hindsight, was extraordinary. It helped that the timing was right, but 'cometh the hour, cometh the man' as they say. He was helped by part-time members of the standing of Paul Temm QC (a leader of the legal establishment

and later High Court judge) and Sir Graham Latimer (vice president of the National Party and chair of the New Zealand Māori Council). They must have been seen by appointing Ministers as two very safe pairs of hands to guide the new, young, chief judge.

Eddie felt that the Tribunal's primary task would be to communicate to the Pākehā establishment, in a modulated judicial voice, something of the contemporary Māori experience of law and government. In this, he set about reconciling two versions – and two visions – of life in Aotearoa; a task the Tribunal is still engaged in. His fellow members supported this approach.

Had Eddie been a mere legal technician, applying statutory language without that sense of a Treaty-based underlying purpose, I doubt that the Tribunal would have lasted. For example, that Tribunal was prepared to test the past–present divide by weaving Māori colonial experience into its contemporary claim narratives, while being very careful not to cross the jurisdictional bar against entertaining historical claims. This careful testing of the waters eventually led Wellington to accept that New Zealand was mature enough to reopen Pandora's colonial box. At the time, Sir Humphrey Appleby might have said that that was a 'brave' decision, but no one would gainsay it now.

Eddie then set about rebuilding his waka to meet the requirements of the moment, but this time in partnership with the legislative and executive branches, both of which were willing to follow his lead. The three-person model was expanded in membership to meet the nature and quantity of the expected increase in workload. Panels of four or five could sit to hear historical claims: panels that included revered kaumātua, leading historians, anthropologists, lawyers, business leaders, central- and local-government figures, and other community leaders (both Māori and non-Māori). The ingredients were in place for the Tribunal to become the kind of truth and reconciliation forum the country needed.

In my experience, both as counsel appearing before the Tribunal in the late 1980s and 1990s and as a presiding officer in the 2000s, the impact of this expanded approach was profound. First, Māori claimant communities saw themselves on the panels that judged their historical claims; not just themselves, but the very best of themselves – kaumatua like Bishop Manuhuia Bennett, Sir Monita Delamere, Sir Hugh Kawharu, Sir John Turei, Tuahine (Joe) Northover, Sir Hirini Mead, Te Wharehuia Milroy, Sir Pou Temara, Dame Areta Koopu, Keita Walker, Dame Georgina Te Heuheu, Ranginui Walker – all tikanga experts and all rangatira in their own right.

Claimants looked on these kaumātua with respect and awe. They knew a Tribunal on which one or other of these kaumātua sat would 'get' their stories and experiences. This was important. It was the Treaty equivalent of parties to complex insurance litigation seeing in an experienced commercial judge someone who understood their world. It did not mean one or other of the disputants would win, just that the judge would 'get it.'

It helped also that, under the leadership of these kaumātua, the Tribunal embraced the performative aspects of intercommunity engagement according to tikanga Māori. When a Tribunal came into a community to hear its claims, that community always put its best foot forward. Though full of grief for what, and who, had been lost, claimants nonetheless used the event to demonstrate and celebrate their survival. Hearings were cathartic in that very positive way. The irony was that, because they brought the community together, young and old, hearings into historical claims inevitably shifted from the price paid in the past to the needs of the present and the future.

Leading historians and academics like Keith Sorrenson, Dame Evelyn Stokes, Mary Boyd, Angela Ballara, Anne Parsonson, Robyn Anderson, Grant Philipson, and Aroha Harris were the empirical engine room in historical claims – they knew *a lot* about New Zealand history. Deploying that expertise forensically was new territory for this discipline – and not all historians were comfortable with the kind of counterfactual analysis (did what happened meet required standards?) which is essential to all forensic inquiry. For example, Bill Oliver (who was not a member but was a regular witness in the 1990s and early 2000s) complained that the Tribunal engaged in 'retrospective utopianism.' This showed a clash of cultures: between the lawyer's need to *judge* facts and the historian's preference to just *explain* them. I learned a great deal about my own discipline from these learned expert members. Most especially they taught me that law is really a subcategory of history. Having (still) only a rudimentary grasp of our history, I have suffered from historian-envy ever since. Without the wisdom and expertise of these specialist members, the Tribunal would have failed.

A highlight of my time as counsel and as a member of the Tribunal was coming to understand and appreciate the contributions of non-specialist members of the Tribunal – ex-central-government politicians, like former Speaker of the House Sir Doug Kidd, who sure understood how governments worked; former senior civil servants like Dame Margaret Bazley, whose understanding of the public sector was of incalculable value to the Tribunal; sector group leaders like former president of Federated Farmers John Kneebone, whose grasp of the human condition made him a great judge; and (then) chair of the National Bank Sir John Ingram. Sir John was an engineer by trade, and he gave one of my unfortunate witnesses a lesson in algebra when under cross-examination

that neither I nor my witness will forget. In my experience, (and with the odd exception that I will pass over) the Tribunal's generalists never let personal politics get in the way of their sworn task. They sat, listened, learned, and reached their conclusions fearlessly. And almost all of them said to me what an incredible privilege membership of the Tribunal was. I agree. It was.

The membership was not the only secret sauce in the Tribunal recipe. There was (and is) the Tribunal's staff of report writers, researchers, facilitators, registrars, and managers, who worked closely with the membership to complete claim inquiries. This was achieved with minimal collateral damage to, and perhaps even some healing within, stressed claimant communities. Often, claimant–Crown relationships also benefited from spending time in close proximity over the course of several weeks of hearings. It would be unfair of me to name individual staff members, some of whom still work at the Tribunal, but it is no overstatement to say that staff were every bit as important to the Tribunal's work as the members and presiding officers – and sometimes they were *more* important.

The proof of the pudding, as they say, is in the eating. The result of 50 years of collective effort has been the incredible progress made in the settlement of historical Treaty claims affecting the rights and interests of almost a million descendants of those who signed the Treaty on behalf of their communities – and a few who did not. Progress, I suggest, that is unequalled in the post-colonial world.

Sir Eddie Durie built his Waitangi Tribunal waka while he and a small crew paddled it. The crew got bigger over time, and so did the waka. It had to, as our national ambition for its journey grew. Over those 50 years, navigators and paddlers have come and gone. New ones have boarded to continue the work of their predecessors. With historical claims almost behind us, and the essentials of Treaty jurisprudence in place, the time has now come to take another look at whether the waka is fit for the next phase of its, and our, journey. This is a great question to ask. But do not stop paddling.

Ki te hoe!

The handover of the Wai 262 report Ko Aotearoa Tēnei *in 2011*

A Former Chair's View

Judge Wilson Isaac

When I became the chairperson of the Waitangi Tribunal in 2009, the Government had not long prior announced its goal to settle all historical Treaty claims by 2014. Māori could go directly to the Crown or they could first have their claims heard and reported on by the Tribunal.

At that time, we had four major inquiries in report writing (Urewera, Wairarapa ki Tararua, Wai 262, and National Park). The Whanganui land claims were in hearing, and what we thought were the last district inquiries were in preparation: Te Paparahi o te Raki (Northland), the East Coast, and Taihape ki Kapiti. The East Coast claimants decided to take the direct negotiations route, and Taihape ki Kapiti was split into two smaller inquiries – Taihape: Rangitīkei ki Rangipō and Porirua ki Manawatū. The 2008 deadline for the filing of historical claims also resulted in 1,800 new claims to the Tribunal, although we estimated that around 60 per cent could be dealt with in existing inquiries. With the work ahead of us, I was determined to ensure that the Tribunal was focused on completing its historical inquiries in a timely manner.

When we prepared our 10-year strategic direction in 2015, we also realised that we had to start making inroads into the many nationwide-focused 'kaupapa' or thematic claims sitting on the Tribunal's books. These were different from claims in district inquiries, which were mostly about the concerns of whānau, hapū, and iwi in their local area. Kaupapa claims were about issues that affected all Māori nationally. So we began to roll out the kaupapa inquiry programme and identified broad themes or kaupapa arising from the claims, such as military veterans-related issues, health, housing, mana wahine, the justice system, and so on. The kaupapa inquiries had an immediate effect on how the Government operated because, regardless of what may be said, I consider the Crown and its officials pay attention to the Tribunal's reports. We know that many governments have been guided by the reports on how they should operate when engaging with Māori and issues affecting Māori. If that focus continued, the Tribunal and Māori would benefit, so that was the impetus to get the kaupapa inquiries going.

In terms of the challenges ahead and what is next for the Tribunal, I think it is important for the Tribunal to maintain its mana and integrity. If it ever loses that for whatever reason, then it will lose the ability and faith of Māori and the Crown to continue its important work. The Tribunal has got to exist within the jurisdiction it has, because its jurisdiction is not likely to be extended. From the Tribunal's perspective, it has got to have the courage and the conviction to adhere to the principles of its governing Act. It also needs to have members who have the faith of Māori and Pākehā behind them, so that it has the integrity and mana to go forward. It should not lose sight of the overarching principle that the Tribunal is a forum for Māori and, without that forum, the voice of Māori will be diluted. ❐

Former Tribunal chairperson Judge Wilson Isaac

Whatanui Flavell, Hautūrū Creatives

An Interview with Dr Barry Rigby

In this edited 2019 interview courtesy of Manatū Taonga Ministry for Culture and Heritage, veteran broadcaster Wena Harawira speaks to one of the Tribunal's longest-serving staff members, historian Dr Barry Rigby, as part of the Te Tai Whakaea Treaty Settlement Stories project.

Senior Research Analyst/Kairangahau Matua Dr Barry Rigby (centre), with claimants Hori Winikerei Taua of Kawerau-a-Maki (left) and Pamela Warner of Ngāti Rongo ki Mahurangi (right)

Why did you join the Waitangi Tribunal and how did that come about?

Well, I suppose I would have to start with my involvement with the Citizen's Association for Racial Equality (CARE), an organisation formed in the 1960s. The Dunedin branch featured Irihapeti Murchie and was very much at the forefront of trying to get recognition of Māori rights. And also, of course, in 1973 there was a planned Springbok tour of New Zealand.

Our president that year, Keith Sorrenson of Ngāti Pukenga from Tauranga, later became a Waitangi Tribunal member. But he was crucial in persuading Prime Minister Norman Kirk to call off the 1973 Springbok tour. I have been a lifelong anti-apartheid activist as a result. That dovetails I think very much in upholding a commitment to te Tiriti o Waitangi and all that it represents.

You have held numerous roles. Can you describe what you did or do as a senior historian, senior research analyst, inquiry facilitator, claims facilitator, and specialist adviser for the Ministry of Justice?

Being a historian for the Waitangi Tribunal has been my core role. I had a PhD in history from the United States, looking at American land speculation in the Pacific and the Caribbean. That fitted well with the examination of pre-Treaty transactions and Crown purchases in New Zealand, so the historical role has been most important for me, and most of my reports have been on the history of the alienation of Māori land during the nineteenth century, the century when Māori lost most of their land in Aotearoa.

The facilitation role, however, is very important too, because that is the people-to-people thing, and I did a particularly important facilitation role in Muriwhenua, where I was involved in setting up a tripartite, cooperative committee of the claimants, Crown, and Tribunal in 1989. The Crown unfortunately withdrew in 1991, but that put me in touch with people like Margaret Mutu.

We will get on to that in the larger story but finally – and this is another extension in the facilitation role – in 2007 and 2008 I was called a specialist adviser and went on the road with Tony Sole from Ngāti Ruanui. He had been the claims development leader at the Office of Treaty Settlements. He talked about direct negotiations and I talked about the Tribunal inquiry to people who had yet to participate in Tribunal inquiries. So that was the people-to-people thing again, put in at a premium.

You talked about being quite brutal in describing the Treaty process to some of those claimants that you were consulting . . . brutally frank with them about the pros and cons of each path (the inquiry and direct negotiation). How did they respond to that?

I think people like to know how hard it might be going through an extended Waitangi Tribunal inquiry programme. You do not want to mislead people into thinking that it is all going to be over in a few months. It is never over in a few months, and that long hard grind is something that people need to be prepared for in advance.

Tony was also not gilding the lily at all. When you get into direct negotiations, it is tough. He pulled no punches in that regard. I was very impressed with how frank he was.

In August 2008, the (historical) claims cut-off deadline was imposed. Claimants filed over a thousand new historical claims with the Waitangi Tribunal. How did you feel about that?

Well, it was quite amazing because the torrent of claims was really in the last 36 hours. And I remember that evening being at the Tribunal office at 11 pm and a gentleman had his claim, but he arrived at Parliament with his claim,

so he said, 'What do I do with this?' I said to him, 'Meet me at a well-known building, No 1 The Terrace, it is called The Treasury'. So that is where he came from – Parliament – and I came from the Tribunal, and he gave me his claim just a few minutes before the midnight deadline.

So, yes, it was an amazing experience. We had not predicted it and I remember afterwards this was Joe Williams' last month as our chairperson, and he said that he thought the 1,000 claims were a vote of confidence in the Tribunal.

Concrning the early years of the Tribunal, we did talk about Matiu Rata being a powerful influence on Treaty politics. You believed he intended the Tribunal to be a social and cultural safety valve. Can you explain why?

I think it had a lot to do with the fact that the Māori land march arrived three days after the passage of the Treaty of Waitangi Act 1975. The land march was very powerful, led by Whina Cooper. Whina had started the land march in Matiu's home kāinga, Te Hapua, where the famous first Muriwhenua hearing was held just 11 years later.

So, once you believe that – this was in keeping, I think, with the Rātana tradition that he was very much a child of – that getting things into Parliament and discussed in formal judicial arenas was a way of ensuring there was a constructive outcome. And in that sense I think he saw the Tribunal as a safety valve.

Given your stance and membership with CARE, do you think it was a cultural and social safety valve?

Yes, I think CARE was an organisation of direct action. We participated in a lot of demonstrations and supported the occupations particularly at Bastion Point and the Raglan Golf Course. But I think ultimately we believed there needed to be a legal outcome for Māori that was going to put Māori in a better position for future generations, and I think the Tribunal was a good expression of taking protest off the streets and putting them into a judicial and law-making and settlement-making operation.

Who or what has kept you at the Tribunal?

Well, I think it is the memory of having been part of a process that really has served all New Zealanders over four decades. We are now 44 years old and I am proud to have been associated with an organisation that is trying to give effect to te Tiriti o Waitangi, a document that had been neglected for over a hundred years.

So that is what has kept me at the Tribunal. Loyalty to the Tribunal, loyalty for what it stands for, and giving effect to te Tiriti o Waitangi. ❐

Dr Barry Rigby on a site visit at Wharerā Pā

A Research Journey

Cathy Marr

I was involved with research for Waitangi Tribunal inquiries for almost three decades, from the late 1980s to the early 2020s. Those decades largely coincided with the Tribunal's district inquiry programme into historical claims, a rich period for historical research and a major challenge for the Tribunal. My involvement was not continuous. I dipped in and out for many years, and I worked in many different aspects of research. That included everything from preparing document banks of evidence for inquiries, writing discussion and background papers, leading and reviewing research projects, and presenting and being cross-examined before inquiries. I spent two separate periods as a staff member of the Tribunal Unit, ending as chief historian. I was also privileged to work closely with some Tribunal panels utilising research (not mine!) when considering issues and writing their reports. That experience gave me a unique perspective on many aspects of research and its importance for Tribunal inquires.

This piece is much too short to cover important aspects of that research experience in any detail. The development of Tribunal practices and reporting has also been covered better elsewhere. I do, however, want to acknowledge and thank all those Māori communities, Tribunal panel members, and research colleagues who were so patient and taught me so much, in the main with incredible patience and good humour.

It might be interesting to focus on just one development that began my association with Tribunal research. The *Raupatu Document Bank* is not terribly noteworthy in itself, and it had mixed success. But it did introduce me to many of the research issues the Tribunal faced with the district inquiry process and its many innovative responses. Document banks of evidence for all kinds of inquiries are nothing new. As always, however, the Tribunal was operating under very different conditions and had to innovate quickly while still meeting all the requirements of legal process.

By the 1980s, like many young Pākehā, I was impressed with Sir Edward Durie's brilliant leadership of the Tribunal in its early years. There were plenty of critics, but the Tribunal process did seem to offer hope of a more mature and peaceful approach to addressing Māori concerns. It was a real contrast to the bullying grandstanding at Bastion Point, and the growing violence of the Springbok Tour. A bipartisan consensus was developing that fortunately also coincided largely with the district inquiries, for which political leaders on all sides are due proper acknowledgement. At the same time, I could not see how I could directly contribute. I did not have the knowledge or expertise.

That changed when the Treaty of Waitangi Act 1975 was amended and the Tribunal was able to investigate claims back to 1840. The huge historical claims (even when divided by district) presented an enormous challenge for the Tribunal to deal with in a timely fashion and within the limits of its resourcing. That included finding more innovative ways to deal with the mountains of evidence now being brought before it. It had been apparent, for example, that the large Ngāi Tahu Inquiry had created considerable pressures, with parties filing multiple copies of the same documents or parts of them. It was costly and time consuming to deal with, not to mention having to cart suitcases of documents around. The Tribunal decided it would prepare ahead with the major raupatu or muru raupatu claims, which concerned lands confiscated from Māori following the New Zealand Wars. There was to be a *Raupatu Document Bank* containing copies of core documents most likely to be essential for all the upcoming raupatu inquires. Everyone in those inquiries would have access to the *Bank* early, and could then cite *Bank* documents instead of filing multiple separate copies.

When Dr Marire Goodall pitched the Tribunal's proposed contract to create the *Raupatu Document Bank* to me, I knew I had the expertise and the necessary contacts. Like everyone else back then, I was not sure how long the Tribunal might survive, so a limited contract suited my existing business in other historical research specialising in Government records. That was, ironically, quite successful. The economic upheavals and rapid Government restructuring of the 1980s and early 1990s had caused considerable chaos with public records. Many were destroyed at the time or sold to private business. Many more were simply lost from rapid restructuring. It was not unusual, for instance, for agencies to find they now had no idea who now owned the land their buildings sat on, what their assets were, or whether their new sites were contaminated. It was great business sorting it out. At the same time, like many other young people, I was tired of Government austerity policies and had been seriously considering offers of better opportunities in Australia.

This project seemed well worth delaying my plans for. It was a huge challenge, but I felt I could finally offer something useful and knew that, in return, it would provide me insights into a world of which I was then largely ignorant. Like the majority of research projects I took on for the Tribunal, the *Raupatu Document Bank*

was extremely challenging and enjoyable, not least for the people I met and worked with. The projects routinely paid less and had more stringent time limits than my private work. However, like some of the other researchers, I was happy to use private work to subsidise work for the Tribunal. What I gained in other ways was well worth it.

The *Bank* project soon highlighted what was true for much of the historical research required for Tribunal district inquiries. It was not that Māori did not know the issues and their impacts. The difficulty was in painstakingly working through the labyrinth of Government legislation, policies, and processes to provide the level of detail required for evidence in Tribunal inquiries. As with most research at that time, there was very little in the way of published history to rely on at the level of detail required. I could completely understand the frustration of many Māori (and their lawyers) in receiving lengthy detailed reports on Government processes in which they could not recognise themselves.

Sorting out what was essential documentation for raupatu raised much the same issues. Additionally, quick early searches for relevant documents revealed the chaotic nature of the various raupatu processes and even legislation. Further, while much of the documentation was available in major institutions such as the Alexander Turnbull Library and Archives New Zealand, a surprising amount was still lying about in basements and courthouses – some, it turned out, still wrapped in the brown paper tied with string from the days it was first stored.

There were further challenges. Digitising documents was still very much in its infancy. It was not possible to digitise printed legislation or *Gazette* proclamations, let alone spidery nineteenth-century handwriting. Nor was it possible to digitise large, hand-coloured maps and plans. The completed *Raupatu Document Bank* had to be accurate and easy to use for all parties or it would fail. But digitised and computerised indexing systems were not up to that either. I eventually resorted to old school archival methods to create and organise the *Bank* and access to the documents within it. Joy Hippolite and I were extremely relieved when a somewhat sceptical lawyer made first use of the *Bank* and pronounced it surprisingly easy to use.

The *Raupatu Document Bank* would never have succeeded without our core team of four bright and committed researchers, who bore the brunt of the hard, difficult slog of finding and searching records for copying. Many thanks are due to Tutahanga Douglas, Joy Hippolite, Marama Laurenson, and John Whaanga. They all went on to have stellar careers, though notably all avoided anything that smacked of that kind of research again. Michael Belgrave provided patient support, while Tui Macdonald helped with accurate compiling and pagination. David Young somehow managed to magic up financial and agency support for each new group of records added to the *Bank*. The staff of numerous agencies and research institutions provided enormous support, as did the many research assistants who helped out for varying time periods. They are too many to name but they all made the project possible.

Special acknowledgement is also due to the managers at Archives New Zealand and the Alexander Turnbull Library at the time. They had the confidence and expertise, not so common in generic managers now, to trust in our existing relationship and agree to bend rules to support a project to not only support the Tribunal's process but to ease likely research pressure on themselves. That included allowing us to set up our little photocopier on their premises. It had very limited functions but good light quality and a tray that was kind to copying fragile materials. We hired it because there were no funds to buy one. It provided such sterling service over so much copying that the stunned hire company told us to keep it. It continued to whir on at the Tribunal Unit's offices for a considerable time after the project ended.

The *Raupatu Document Bank* also introduced me to many claimants and researchers who were supportive and encouraging of the project. It also enabled me to begin my long journey of finally learning some of the real history of our colonial past I had never encountered in my academic studies.

The final, 140-volume colour-coded (by volume cover) *Raupatu Document Bank* was in many ways a success. The intention was to produce about 18 copies to be provided to parties, with some additionally located in libraries near to raupatu districts. In spite of its size, the *Bank* was, for a time, surprisingly popular, well in excess of the original copies we provided. It turned out that collections of such documents were highly sought after, especially in districts outside the main city centres. If we had known and charged even a small amount more than cost price, we would have made a substantial sum. However, that was not the role of a commission of inquiry and further copying was completely battering the original *Bank*. I ended all further copying after we got well into the twenties of sets.

The *Document Bank* highlighted the difficulties the Tribunal faced in trying to plan ahead when very little was certain and outside events happened very quickly. In this case, the very welcome Waikato-Tainui settlement, negotiated without a Tribunal inquiry, effectively reduced the importance of the *Bank* for all raupatu inquiries. The *Bank* has still been useful, but not in the same way as originally envisaged. As other raupatu inquiries were delayed, the utility of the *Bank* was further reduced as significant advances in digitising records finally arrived and archival systems changed. Document banks continue to be used for research but now at a more individual research report level and largely in electronic form. ❐

A Waitangi Tribunal Unit Life

Noel Harris
East Ham, Te Atiawa Ngamotu

My first introduction to the Waitangi Tribunal was in the 1990s, with its shift from Databank House in Boulcott Street to the Dominion Farmers' Institute Building in Featherston Street. A chance meeting with Buddy Mikaere, the director of the Tribunal Unit, got me preparing layout plans for the relocation. My previous trade was architectural draughting.

This assignment morphed into me becoming the 'mapping officer'. Buddy was my mentor, and the research unit was led by Dr Michael Belgrave. Overall, the Tribunal had a comfortable and friendly vibe.

The Dominion Farmers' Institute Building, a refurbished heritage building, was well located and handy to Wellington Railway Station. The plan was to fit all staff onto one floor, adjacent to the existing Māori Land Court judiciary. This made for a compact floor layout, where the centrally placed photocopier became the place for those daily catch-ups.

My adjusting to computer mapping was a tentative and huge step from using a manual draughting machine. My computer illiteracy was scratchy so it became small steps quickly.

Mapping Officer Noel Harris

Looking back, much mahi has been achieved over time. Some major projects included Te Rohe Potae, Te Urewera, the Central North Island, and Te Paparahi o te Raki. The main bulk of mapping was smaller jobs though not at all less complex – jobs like Ngai Tahu, National Park, Taranaki, the Bay of Plenty, and so on.

Eternally connected to all these individual jobs are the people – whether claimants, staff, or Tribunal members alike, I still see their faces sharing in the mamae. My way has been to keep names of those creating maps within map records as a memento and not just, say, a Wai number.

It was enjoyable providing maps and graphics for *Te Manutukutuku*. There would always be urgency and hustle, which made life interesting.

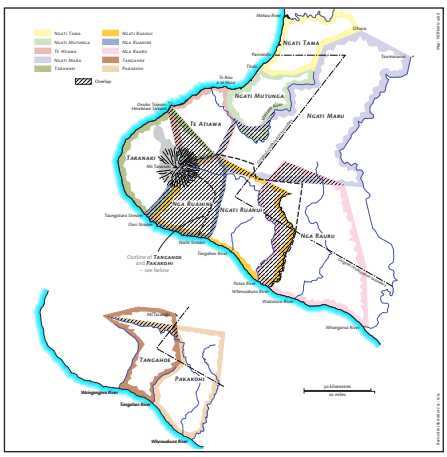
What makes for a good map? Maps or depictions can represent land, physical features, demographics, politics, iwi stories, and so on. Getting a coherent balance is the goal. The finishing-off comes with appropriate fonts, linework, colours, and shading.

Map inductions are fun and a break from the routine. Sharing knowledge with new staff, outside visitors, school groups, and others did bring out puzzlement at times. Topographical, cadastral, quids, chains, links. What is that?

Mapping Tribunal work is like enjoying a favourite hobby every day. Our unique mahi fuses my sense of aesthetics, an innate desire to draw, and a whakapapa cobbled from whaler–Māori beginnings in pre-Treaty, pre-settler Taranaki and the docklands of East London.

It has been a special privilege to have shared in the quest to understand the settler–Māori relationship. So many fond memories, and far too many people long gone, yet not all forgotten. ❐

Maps drawn by Noel for the Taranaki *and* Matua Rautia *reports and for the Whanganui Inquiry*



A Cover Story

Dominic Hurley

The first Tribunal reports were simple affairs, produced inhouse and consisting of only a few pages (or even just one page) and looking like any other procedural memorandum. In those days, the Tribunal's seal was individually affixed to each page of these reports – a job that would have been very time-consuming if it had survived through to the longer historical reports that were to come.

Even as the reports got more complex and increased in length, they remained very basic, resembling an Act of Parliament – roughly A5 in size and with a simple title page but no cover. However, that changed in 1990 when Wellington-based legal publishers Brooker and Friend took over the printing from Government Print thanks to Judge Peter Trapski (who was both a Tribunal member and on Brooker's board) and the forward thinking of the owner of the company, Stuart Brooker.

The reports were now printed on A4 paper and had separate covers, which used one of several different versions of the Tribunal's now well-recognised Cliff Whiting jacket design, often with red and blue spot colouring. Brooker's original plan was to publish the reports individually and grouped together as a report series akin to *New Zealand Law Reports* (to be known as *Waitangi Tribunal Reports*). This is why they did not utilise the full size of the A4 sheet and why they had a 'WTR' running head.

In 1996, we parted ways with Brooker's (which by then was part of the international Thomson Corporation) and returned to the now-privatised Government Print, trading under the name Legislation Direct. We took the opportunity to standardise the covers, using just one

Turanga Tangata, Turanga Whenua *as it was printed in 2004 and as it could be done today*

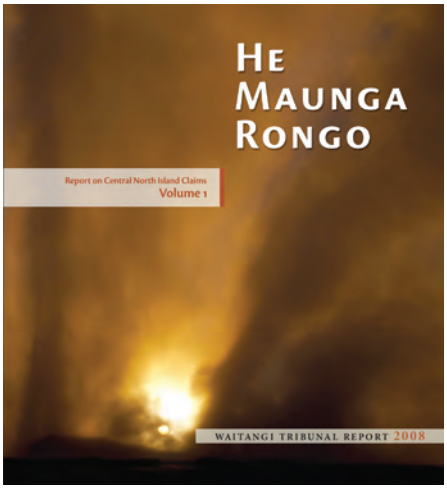
of the Whiting versions, we dropped all references to the never-materialised *Waitangi Tribunal Reports* series, and when we reprinted old reports we corrected some inconsistencies between titles as they appeared on the cover and the title page.

The covers were printed on a range of single-colour cards sold under names such as Splendorlux, Chromolux, and Kaskad. Unfortunately, however, each range essentially repeated the same narrow range of colours, so we were not spoilt for choice. Despite this, there were some covers from this period that stood out. The two-volume *Mohaka ki Ahuriri Report* (2004) still looks striking with its black card and silver ink and *Turanga Tangata, Turanga Whenua* (2004) used a distinctive mottled board because the presiding officer, Chief Judge (now Justice) Joe Williams, wanted the report to look like it had a leather cover. Though truth be told the card does not much resemble leather, it was the best option we had at the time. Nowadays, we would create a leather texture in Photoshop and print that onto white card and give the text a simulated embossing effect.

With a change in format to a square double-column layout in 2007 came a new approach to the covers. Panels could now choose an image tailored to the content of that report. The first report to take advantage of that was the *Tamaki Makaurau Settlement Process Report* (2007), which overlaid the Cliff Whiting design on a photograph of downtown Auckland.

Notable other covers from this period included those for *Te Kahui Maunga* (2013), with images of Tongariro, Ngāuruhoe, and Ruapehu; *Whaia te Mana Motuhake* (2015), which had a montage of pictures arranged to the grid structure underlying the report; *Matua Rautia* (2013), which reproduced a painting by Robyn Kahukiwa; and *The Te Arawa Settlement Process Reports* (2007), which bore an image of the tekoteko of the whare tupuna at Te Papaiouru Marae in Rotorua. The last cover was so striking that we were later contacted by Phoenix Books, who wanted to (and did) use the photograph for the cover of Vincent

The cover of volume 2 of He Whiritaunoka



The cover of volume 1 of He Maunga Rongo

O'Malley and David Armstrong's *The Beating Heart: A Political and Social-Economic History of Te Arawa*.

To find suitable cover images, we look through newspaper and library archives, image banks, social media, and websites such as Flickr. We have used images taken by Tribunal staff, professional photographers, and members of the public. In choosing a cover image, we have to consider whether it will fit (for example, can we make a landscape photograph work on a portrait cover), whether we are going to wrap it around to the back cover, and whether there is a suitably uncomplicated area for the title to go (and, if there is not, whether we can still make the text stand out from the background). Finally, we have to make sure that we have permission to use the image, which involves tracking down the copyright holder.

While some panels like a landscape or historical image, others have chosen something more symbolic. For example, the three volumes of *He Whiritaunoka* (2015) featured specially commissioned artwork referencing the knot Hōri Kīngi Te Anaua tied in taunoka to express his hopes for an end to the New Zealand Wars. *Whakatika ki Runga* (2024), which looked at the Crown's obligations to fund claimants, used a flight feather of a kōrako to convey 'Ka whakatika ki runga, kia tau ki te pae' ('Setting out on the path, the objective in mind'). And volume 1 of *He Maunga Rongo* (2008) showed an almost abstract photograph of two geysers at Whakarewarewa, in reference to Ngātoroirangi calling for fire from Hawaiki.

More recently, the panels for the COVID-19 Priority Inquiry and the Inquiry into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership went for something a little different. The first panel wanted their *Haumaru* cover to reflect the distinctive style of the striped posters that we had all become accustomed to seeing in 2020, and so we colour-matched the posters' yellow stripes and overlaid them on a contrasting banded version of Cliff Whiting's design. The second panel used a piece of digital art created by Extended Whānau on their cover.

The last 50 years have seen a wide range of cover designs but we are not done yet. Here's to future reports! ❐

Haumaru, *the Tribunal's priority report about the Government's handling of the* COVID-19 *pandemic*

One of the Government posters that inspired the cover of Haumaru

The cover of Whakatika ki Runga

An Ex-Director's Point of View

Buddy Mikaere

It should be a time to celebrate, this fiftieth anniversary of the Waitangi Tribunal. But I find myself writing these lines with an anxious heart. In 2025 and early 2026, we are witnesses to kaupapa Māori under almost continuous attack from a coalition government obdurately intent on removing almost every aspect of Māori cultural integration into contemporary society here in Aotearoa.

These efforts range from the erasure of everyday Māori words from children's books on the spurious ground that they could be 'confusing' to abandoning or relegating the use of Māori names for Crown agencies and departments of government. In first place of course is the removal of Treaty principles provisions from legislation.

The cost-of-living economic crisis, far more apparent to the many less-fortunate members of our communities, serves as a distraction from these almost wholesale coalition government led efforts towards the dismantling of our brave, bold even, attempts to produce a much more rounded and culturally aware New Zealand society. A society that, as an ideal, truly reflects the Treaty principle of mutual benefit.

I am sorry that politics and this turn of events with its ability to impact wider Māori life is taking place. It is a situation which appeals to an obvious voting demographic, and these actions are obviously designed to retain the support of that demographic.

While it is readily apparent that politics has a lot to do with this situation, it should not. For example, in the past I have held up the work of the Tribunal and the governments of the day as an example of a bipartisanship that works. For example, Labour, in the form of Māori Affairs Minister Matiu Rata, was instrumental in the establishment of the Tribunal by introducing its founding legislation in 1975. The Tribunal at that time had the ability to investigate only contemporary claims. That was followed by Minister Koro Wētere, who supported legislative change that gave the Tribunal the ability to investigate historical, rather than just contemporary, Treaty claims.

It seemed to me that Labour introduced the instigating legislation, but it was often the National politicians who followed in their footsteps and put into place the mechanics to implement Tribunal recommendations. I remember the Bolger Government and Justice Minister Doug Graham pushing moves to speed up the Tribunal processes and how Graham wept unashamedly at the signing of the Ngāi Tahu claim settlement legislation. And that momentum was reflected across the board in many, many contemporary cultural developments that to me signalled an awareness of what a Treaty relationship for the entirety of our society might look like.

It is my ardent wish that we do not see the demise of the Tribunal and its work on the ground of perceived political expediency and decades of effort laid to waste. ❐

Former Waitangi Tribunal Unit Director Buddy Mikaere

Whatanui Flavell, Hautūtū Creatives

From Registrar to Claimant Counsel

Tom Bennion

I was first introduced to the Waitangi Tribunal when it was such a minor division in the Justice Department that it shared a wooden in-tray for correspondence with the Abortion Supervisory Committee and used an early model Amstrad personal computer and dot-matrix printer for outgoing letters. This perhaps reflected the modest gesture towards the easing of Māori–Crown tensions that the Tribunal then represented.

During the first phase of its historical inquiries, in the late 1980s and early 1990s, when several significant iwi and hapū historical claims were being lodged each week and the district inquiries process was being developed, the Tribunal was housed in a soulless generic office building on the Terrace (the *Report on the Muriwhenua Fishing Claim* was completed there). By roughly the early 1990s, I can remember that it had moved to bespoke premises on Featherston Street, where large works by Māori artists hung in a quiet lobby.

Lawyer Tom Bennion

It is hard to pin down the precise recipe that has made the Tribunal enduring and now viewed as an important piece of the constitutional fabric of Aotearoa, but key elements are obvious. The first is the fact that the Māori Land Court judges who chair most Tribunal panels are expert in two legal systems. They will consider claimant whakapapa, tikanga, and hapū and whānau dynamics in the morning and the complexities of tenancy in common, *ad medium filum aquae*, and the latest rulings on international law relating to treaties in the afternoon. Also, undoubtedly, the singular influence in the formative years of the Tribunal of Edward Taihākurei Durie, who refused to allow the ngako of the historical claims, mulled over for generations, to be subverted by standard English law processes.

Then there are the lettered New Zealand historians who sit on all historical claims. They make sense of hastily scribbled instructions to Crown officials 150 years ago and maps of land blocks with nearly indecipherable lines and markings. They wade through ponderous parliamentary papers and thousands of pages of Native Land Court minutes.

Wrapped around all of this, providing the highest level of mana and gravity to all proceedings, keeping them calm, safe, and tika, are the kaumātua. As a lawyer, they are the individuals you most want to impress, or at least not disappoint.

Given all of this, it is not surprising that there is wonderful variety in the life of a Tribunal lawyer. It is a sunrise pōwhiri with Ruapehu in the background, watching a haka in a snowstorm at Raetihi, hot summer afternoons on marae in Te Rohe Pōtae, watching rangatira in a packed hall in Taumarunui debating tribal boundaries for a whole day, sitting out a raging cyclone in a Northland marae, site visits to forests, maunga, wāhi tapu, and innumerable car trips to remote rural places, where a small ope awaits to brief the lawyer on their claim. ❐

Titiro Whakamuri, Kokiri Whakamua

Annette Sykes

The Waitangi Tribunal has had a significant impact on indigenous rights and policy and, dare I suggest, in developing a sense of nationhood in modern Aotearoa New Zealand that is borne from the acceptance of its bijural foundations, tikanga Māori, and Pākehā law.

As we mark the Tribunal's fiftieth anniversary, we cannot avoid the fact that its role is being questioned. We need to be cognisant that, as part of the apparatus of the legal system, the institution itself is subject to the power of the parliamentary process. The protections of the rule of law that have guided our constitutional process seem to be actively ignored by the present recalcitrant executive.

At present, the Tribunal's procedure is directed to the very precise objective of ensuring that the interpretative framework of te Tiriti o Waitangi / the Treaty of Waitangi and its principles is consistent with its actual meaning.

We need to remind ourselves that the creation of the Tribunal was not just some magnanimous move by the Crown to atone for over a century of colonisation, theft of resources, displacement of mana whenua, decimation of our spiritual and physical wellbeing, and denial of our mana motuhake and rangatiratanga. Nor was the Tribunal intended as a truth, redress, and reconciliation commission. We forget this history at our peril, as we face a repeat of those same forces today.

The future of the Tribunal depends on the law, politics, and people it serves. The place of the Tribunal as a constitutional change-agent that ensures that te Tiriti / the Treaty and its principles and values are being upheld is as necessary now as it has ever been.

Lawyer Annette Sykes

However, when the Crown refuses to implement – or, worse, even acknowledge – the Tribunal's findings and recommendations, a people's faith in the institution can wane. A hostile government, critical Ministers, aging claimants, a lack of resourcing, an overworked judiciary, and a limited number of lawyers willing to confront the reality of life on legal aid to sustain the work we do are all issues that currently plague the Tribunal. If the Tribunal is to remain relevant in the next 50 years, hard questions must be asked. These may include:

- What are the role and function of the Tribunal in contemporary Aotearoa?
- Should the Tribunal remain a tribunal or should it become a commission with different powers?
- Should the criteria for claims be widened or narrowed and, if so, how?
- How can the Tribunal enforce Crown accountability in practice?
- What role should lawyers play?
- Is there a need for streamlined representation?
- Should the Tribunal be less adversarial, more inquisitorial, and more accessible and, if so, how?
- What if the Tribunal is stripped of its ability to address contemporary breaches?

The future of the Tribunal will be determined by a combination of community activists, whose protests will shift the dial on what becomes its social consciousness; politicians in the House, whose legislation will lay the groundwork for its outcomes; judges, panel members, and lawyers, who shape its jurisprudence; and the emerging generation, who have a sense of duty to seek justice for the claims that their kaumātua made on their behalf.

The Tribunal has acted as 'the conscience of the nation', at times reminding us of the very constitutional foundations of the modern Aotearoa and the promises of coexistence that, when woven together, provide a fine tapestry of values and principles that create the basis for mutual respect and recognition and the foundations from which a nation and its peoples can thrive.

Whether these benefits will outweigh the costs in the future as this Government's systematic sabotage takes effect is something we will continue to re-evaluate. It will become clear reasonably quickly how this will play out. As we work through this new trauma, we as lawyers need to keep the doors of dialogue open and show courage and commitment to te Tiriti / the Treaty in how we navigate the path ahead. ❐

An Interview with Virginia Hardy

Virginia Hardy has been Crown counsel for over 25 years, managing lawyers at the Crown Law Office dealing with Treaty/te Tiriti issues. From 2014 to 2023, Virginia was the Deputy Solicitor-General. She has appeared regularly both in the Waitangi Tribunal and in the courts, including the Privy Council and Supreme Court. We reproduce below an edited transcript of her interview with Te Whatanui Flavell for the Waitangi Tribunal's fiftieth anniversary celebrations.

Crown counsel Virginia Hardy

I suppose we can start with your work and how long you have been involved with the Waitangi Tribunal.

I started at the Crown Law Office, the Government's lawyers, about 25 years ago, as a Crown counsel in what was the only and small team developed within Crown Law to think about the Treaty of Waitangi. Most of that work in those days related to Tribunal inquiries. More recently, there has been a significant increase in litigation in the courts as justiciable issues have arisen. But, in those early days, the key forum was the Tribunal.

My first engagement with the Tribunal was twofold. First were early petroleum and radio spectrum claims, which were urgent inquiries into contemporary matters. Second was the inquiry into claims in the Kaipara. For those claims, Crown lawyers (two of us) and historians travelled to marae hearings to hear the stories of Uri o Hau and Ngāti Whātua ki te Tonga, and the other claimants clustered around both ends of the Kaipara Harbour. So that was, as you can imagine, a most extraordinary experience.

For several years, I worked on the Wai 262 inquiry, also known as the flora and fauna claim or 'the claim about everything'. The report for Wai 262, *Ko Aotearoa Tēnei*, came out about 2011, so even that is becoming history. But it is an amazing read about topics from the intellectual property issues of who owns a haka, to relations to the tuatara, to how New Zealand negotiates international agreements and the Māori perspective and input in such negotiations. And, if you read the report, there is something revealing about the task of the Tribunal, which is to try, with a kind of elegance and imagination, to figure out what the Treaty relationship is or might be, which goes beyond grievance into something that is contemporary and that might work with all of the pushes and pulls of the complicated world we live in, domestically and internationally. So I guess that is a long way of saying that reading some of those reports on the Tribunal website is a really good education.

What is it like being the Crown lawyer, being in those positions where you are talking and listening and observing, I would imagine, some pretty hostile environments, some emotionally charged environments. What is that like?

Challenging, but I always think back to when I applied for the job I have had for so long; it was Sir John McGrath (who was the Solicitor-General) who interviewed me. A friend of mine had said to me, 'Why on earth are you applying for this job? You are just on a hiding to nothing.'

I said that to Sir John, and he said, 'Well, the Government – the Crown – has a respectable argument to make, to question the claims, and that is an important role.' And I have held to that approach. Crown Law tries to be respectful but also clear in making and testing arguments, which is ultimately a critical part of the process.

Sometimes it is hostile. I have been presented at a hearing with an old grey blanket as a kind of piece of theatre and mockery, I suppose, of the Crown's stance. But, by accepting that gesture as part of the performance, I think you can deal with it. In terms of the experience of traveling to marae for a hearing, the manaakitanga, the inclusion that is shown to you at cup-of-tea-time is there. There is always a break and a laugh. So I think there is a fundamental understanding, on one level anyway, that you are part of a joint process.

Just reflecting on your time working alongside the Tribunal, what have been some of the really influential or key claims or moments throughout that time for you?

Influential in the Treaty settlement process is the *Tamaki Makaurau Settlement Process Report* relating to the Ngāti Whātua negotiations with the Crown. The Crown was endeavouring to achieve a comprehensive settlement with Ngāti Whātua. Other iwi were concerned that their interests were being sidelined in the push to get to that settlement. That was the challenge. The claimants described a situation of first up, best dressed. The Tribunal called that out in no uncertain terms and, although it was a challenging report to receive at the time, it had an influence on the approach to settlements which is borne out today.

I would also add the Wai 262 report (*Ko Aotearoa Tenei*) because of its breadth and the intellectual challenge that ideas about the meaning of culture and its regulation posed for everybody involved.

The Waitangi Tribunal has been around for 50 years. How impactful do you think it has been?

I think it has been impactful. The early report about the State-Owned Enterprises Act, done at great speed by the Tribunal with its finger on the pulse of that issue, was hugely influential. It changed the way the law made room for claims and led to a regime that meant that the Government has been more accountable than it would have been otherwise.

So there is that kind of impact, which is short and sharp. And then there is something like the Wai 262 report, which is more of a low rumble of a report. The report took care to put issues in balance; I think it has had a long, slow influence, certainly on the way public servants think about how to address an issue that might have a Crown–Māori component.

What are you most proud of when you reflect on your mahi within the Waitangi Tribunal, and I suppose the Tribunal as a whole?

I think being part of historical district inquiry work. The reports are permanently important, they are detailed, and they have been an opportunity for history to be told at a certain time. There will be changes in views about how that history might be told, but the reports are really well-written records for iwi and for all New Zealanders.

And then there have been the intellectual demands of dealing with issues about economics and social health, politics, and power, and how to translate claims into that setting.

What I hope is that, for the Government, we at Crown Law have represented a fair and clear and willing engagement in that process, irrespective of the various views, including of the Tribunal, of the position that we are putting forward, but always with respect, I hope. And I am proud of the lawyers and historians that I have worked with, for whom I know that is important.

What would you change about the Tribunal?

Some observations I would have for thinking through the next decades include the Tribunal reflecting further on the merits of that early mode of quick, short inquiries and reports. I think that such an approach could be more responsive to shifting policy and the political context and so be more influential.

I think there is merit in thinking further about how to formulate a contemporary inquiry and a report. The inquiry is in the hands of the Tribunal. They are a standing commission of inquiry, so they can actually have a lot of power to set their own process.

Another thought is about reflecting on the conceptual framework which is applied. Is the model that applies here to the Crown–Māori relationship one of restoration and reparations? Or is it a redistribution and equity model? And how do those relate? This raises really significant questions of: How big is the State? How devolved is power? Where does ultimate responsibility sit? How are taxes deployed?

And those issues make me sometimes want to ask: What is the big picture endpoint of the Tribunal's view of the economic and social structure of New Zealand, when incrementally one can see that the reports point to an increase in tino rangatiratanga? What is the shape of New Zealand when all the recommendations accumulate? Those are my questions.

You said earlier that you were warned that it was going to be a really challenging job. What are your thoughts and reflections now?

I am glad I took the job. I think it has been a fascinating job. It is the most interesting legal work in New Zealand because this is the only place where this Treaty work happens. There is a rich history, rich relationships amongst people, and challenging legal, cultural, political, and economic issues to tackle. ❐

Fifty Years of the Tribunal

Natalie Coates

As the Waitangi Tribunal marks its fiftieth anniversary, it is worth pausing to consider how significant this institution has become to Aotearoa. For five decades, it has helped the country better understand, honour, and make sense of te Tiriti o Waitangi. Much of its value has been quietly woven into the fabric of national life over time. Yet, the convergence of the Tribunal's anniversary with renewed political pressure, including the prospect of diminishing its role, creates an important moment to reflect on the essential contribution it makes to our constitutional landscape.

One of the Tribunal's most enduring contributions is its creation of a rigorous, nation-shaping historical record. No other institution has captured, with such care and depth, the voices, experiences, and histories of Māori as they relate to te Tiriti. Its reports form the most comprehensive and authoritative account of how the Crown has upheld (or failed to uphold) its obligations. In this sense, the Tribunal repeatedly holds up a mirror to the nation. Each report reflects where we stand in our Treaty relationship at a particular moment in time, offering a snapshot of progress, tension, and aspiration on an issue-by-issue basis.

This work has also resulted in real and practical outcomes, not only for iwi but for the nation as a whole. The Tribunal's historical inquiries provided the evidential backbone for the modern Treaty settlement process. Its findings have underpinned most settlements, enabling iwi to rebuild asset bases, develop intergenerational strategies, and invest in cultural, social, and economic wellbeing. Further, while not every recommendation is accepted, the Tribunal's reports have

Lawyer and expert witness Natalie Coates

meaningfully contributed to changes in both policy and the law, such as in the recognition of te reo Māori as an official language, the funding of wānanga, the ownership of fisheries quota and the radio spectrum, and the development of our voting system and laws relating to the takutai moana and natural resource management frameworks. The legal landscape of Aotearoa would have looked radically different over time without its contributions.

The Tribunal has also played a major role in shifting public understanding of the Treaty. Its reports have helped produce a more accurate and honest picture of our shared history. In applying the Treaty and building jurisprudence around what it requires in different contexts, the Tribunal has helped give life to te Tiriti. Concepts such as tino rangatiratanga and the idea of the Treaty as a living partnership have, over time, entered mainstream conversations in part because the Tribunal has made them visible and comprehensible. Even if current debates feel fraught, the long-term shift in public consciousness owes much to the Tribunal's steady, evidence-based work.

Equally important is the Tribunal's role as a forum where Māori can articulate grievance, frustration, and aspiration in a respectful, structured environment. For many, it has been the only place where their stories are formally heard and recorded – an essential process in a country shaped by Treaty breaches and deeply contested histories.

For the Crown, the Tribunal has long served as both a guidebook and a conscience. Its findings endure beyond political cycles, offering clarity and direction long after headlines fade. Recommendations, even when not immediately adopted, remain permanently available as reference points for future improvement. Governments come and go, policy priorities shift, political winds change, but Tribunal findings persist. Indeed, many recommendations once considered too bold or contentious later became foundations of settlements, legislation, or social policy. The Tribunal does not weaken the State – it equips it. It provides the information necessary to make better, fairer, more historically aware decisions.

Of course, the Tribunal is not perfect. No institution tasked with navigating history, law, identity, politics, and justice ever could be. But imperfection should be an invitation to strengthen and refine its role, not to cut it back or remove it. A review done in good faith should be an opportunity to ensure that the Tribunal continues to evolve toward a more Treaty-consistent future.

As the Tribunal turns 50, we are reminded not simply that it is valuable when challenged but that it has become a constitutional pillar. This milestone invites us to recognise and protect the enduring role it plays in shaping a more just and informed future for Aotearoa. ❐

Reflections on 50 Years

Kipa Munro

Tuia te rangi e tū iho nei, tuia te papa e takoto nei, tuia te muka tangata e rangitāmirohia nei, e whiria nei i roto i tō tātou whare, e ita ai te taukaea o te aroha kei roto i tēnā, i tēnā o tātou. Ko te reo te maiaorere i tuituia, i tānikotia e ō tātou tūpuna hei tāwharautanga mō ngā whakatupuranga o mohoa noa nei, o haere ake nei kia mahana tonu ai tātou i roto i te ao hurihuri.

As I reflect on 50 years of the Waitangi Tribunal, there are many moments, events, milestones, changes, and people that come to the forefront of those reflections, especially those of our people who stood to present their kōrero i mua i te aroaro o te Taraipiunara who are no longer with us today. However, it would be remiss of me not to speak directly to the hearings that my iwi, Ngāpuhi, and my hapū, Ngāti Rēhia, were heavily involved in: the Te Paparahi o te Raki Inquiry (Wai 1040).

The Wai 1040 inquiry began almost 20 years ago now, with the people of Ngāpuhi nui tonu coming together to organise and prepare for how we were going to present these longstanding grievances and te Tiriti claims to the Tribunal in a way that was uniquely Ngāpuhi and that held true to our tikanga and rangatiratanga. Therefore, my first key reflection on the Tribunal as an institution is that it allows us, as claimants and as hapū, to be involved in a legal process that welcomes these expressions of our rangatiratanga.

During the hearings, my hapū was honoured to host the Tribunal at our marae, Whitiora, in Te Tii. The majority of the evidence provided by members of our hapū was given in te reo Māori, and many other claimants and key witnesses presented evidence on their issues in both te reo Māori and English.

The provision to allow the hearings to be heard in our reo and to be conducted on our marae created a space where my people felt comfortable and open to provide their kōrero, which more often than not was a very mamae process for them.

I wish to take this opportunity to acknowledge Judge Coxhead and the esteemed members of the Tribunal panel that allowed for our tikanga processes to sit alongside those of the Tribunal. I firmly believe that the Tribunal has been the only place where we as Māori can go, in order for our truth to be told, for our history to be corrected, and hopefully for change to be made.

Of course, holding hearings on marae and providing for the simultaneous translation of te reo Māori is not unique to the Waitangi Tribunal. However, I understand that it is unique to the majority of our courts and tribunals in Aotearoa.

It is in that vein that I strongly believe that the Tribunal has played a significant role in shaping what a legal system incorporating tikanga could and should look like in Aotearoa. It upholds a Māori worldview of both how legal issues could be dealt with and, ultimately, access to justice. My hope for the future is that it continues to do so. ❐

Ngāti Rēhia claimant Kipa Munro

Being Part of the Process

Dr Robyn Anderson

Working as a historian member of the Waitangi Tribunal has been a great privilege. These are not just empty words. It is a truism that, if we do not understand history, we are likely to repeat it. I strongly believe in the Tribunal process and its investigation of historical claims as a means for redress and social justice.

The popular conception of history, and the history of colonisation in particular, is that it deals with events long in the past; studying it is merely a 'nice to have'. What is more, Māori should just get over it and move on. But as I get older, I am increasingly conscious that what is the past for one generation is the lived experience of another. It is a sobering thought that I was alive – even an adult – when events took place that are now the subject of history courses and major Treaty claims. So, history does not stay behind; it stays with us, and my hope is that knowledge of it will guide us towards a more just and equitable future.

The Tribunal process undertaken over the last 50 years has not just drawn from the documentary record – it has been informed by oral histories and has changed how we think about our past. It has sustained some of the very best scholarship of the last five decades and generated a huge record that is yet underutilised by academics and other institutions; but it is there for future generations.

Of course, our task demands that the focus is on what went wrong – the misunderstandings, the mistakes, and the wrongdoings – but it has also highlighted the contribution of both Māori and Pākehā to a society of which we could be proud. The history that informs Tribunal thinking demonstrates that ideas and principles we assume to be of recent genesis have been articulated since the foundation of the nation.

For me, the opportunity to work with people from diverse fields and to listen to the experiences and perspectives of witnesses from different areas and walks of life has been a defining life experience.

Apart from that, it has been tremendous fun and an opportunity to travel the motu and hear so many special stories, both distressing and elevating; to sit in some lovely wharenui, some humble, others grand; and to be hosted with such hospitality and warmth and aroha. We have been stuck in the mud, travelled by boat around some superb harbours, and eaten a lot of oysters and some wonderful home-baking.

I have watched the people listen with close attention to the evidence and debate it with enthusiasm. I remember the women of Whangaroa stitching red blankets with words drawn from the hearings in which they were participating. They referenced the red blankets displayed by Ngāpuhi in protest at the centenary of the signing of te Tiriti at Waitangi, to be worn at important future events. Each member would receive one. These are memories to be treasured for the rest of my life. ❐

Tribunal member Dr Robyn Anderson

We've Come a Long Way

Basil Morrison CNZM, JP

I have had many memorable experiences as a Tribunal member over the last 18 years. I am also sitting on five current Tribunal panels: the North-Eastern Bay of Plenty District Inquiry (Wai 1750), the Housing Policy and Services Kaupapa Inquiry (Wai 2750), the Climate Change Priority Inquiry (Wai 3325), the Social Services and Social Development Kaupapa Inquiry (Wai 3650), and the Identity and Culture Kaupapa Inquiry (Wai 3500).

What stands out most, though, is my time on the North-Eastern Bay of Plenty Inquiry. There are highs and lows. The experience of sitting through Tribunal hearings can be very emotional. As a panel, we have heard some extremely heart-wrenching testimony from families about what happened to their ancestors and what was done to their people. I will be sitting behind my computer reading the evidence, or hearing and seeing it in person, and there are tears running down my cheeks. It is a horrendous period in New Zealand's history. But the Tribunal is a wonderful creation, and it provides a platform for people both to say what they have witnessed and to be heard. The hearings are always balanced by the joyful moments when we gather all together, the claimants, the Crown, and the Tribunal for hakari (kai) at the end of the week. There are jokes and laughter. It is all memorable.

I had a similar experience with the evidence we heard in the Homelessness Inquiry in 2021 about people up north living in their cars. The testimony was very moving. Then, as always, there is the warmth and hospitality of the haukāinga. The highlights are definitely the fellowship and friendship, the camaraderie of fellow panellists and judges, and the hospitality received on marae.

Tribunal member Basil Morrison (left) with the North-Eastern Bay of Plenty panel at Ōpape Marae, 2023

When I try to explain my work with the Tribunal to family and friends, and indeed publicly, they usually think Treaty breaches are about things that happened in the 1800s. But Treaty breaches have been happening over the last three or four decades, and generations of Māori have been affected, such as by the Crown's housing policies and the resulting increase in Māori homelessness. I tell them how I am always taken aback by the claimants' willingness for charity, forgiveness, hospitality, and generosity after what they have been through.

In terms of the Tribunal's most significant contribution to New Zealand, it has to be the creation of the Tribunal itself and its role in the Treaty settlement process. When I was chairman of the Commonwealth Local Government Forum Board in London, I visited 42 countries. I am also the Honorary Consul of Uganda in New Zealand. So I have seen many of the countries colonised by the Crown. I have also seen the truth and reconciliation process in South Africa.

Aotearoa New Zealand's Treaty process has provided an avenue for Māori grievances to be aired, shown, and proved, and for the Crown to respond. The Tribunal is an important part of that process, and I take my hat off to the legislators who made the arguments and did the work to set up what has been a fantastic thing for this country. As well as providing a platform for Māori to be heard, the Tribunal has provided an opportunity for the Crown to see, hear, and recognise what it has done in breach of the Treaty.

In my view, the Māori language and the interrelationships we build with Māori are two ways we can progress towards being a nation that honours the Treaty. The Māori language is not as prominent across the country as it could be. But society is changing, and in many ways has come a long way over my lifetime. Change is happening – it is happening today, it is happening tomorrow, and there is a new generation leading it. Our eight-year-old great-granddaughter, Indie, is blue-eyed and blonde and can speak te reo better than me. ❐

Truth and Reconciliation

Emeritus Professor David V Williams FRSNZ

Tribunal member Emeritus Professor David V Williams

In 1987, Professor Keith Sorrenson, a historian member of the Tribunal, wrote an academic paper commenting on the Tribunal's findings in the *Report of the Waitangi Tribunal on the Motunui–Waitara Claim* (1983). He viewed those findings as a radical reinterpretation of New Zealand history. What was 'radical' about the findings was that they gave credence to Māori histories of te Tiriti, and of the impacts of colonisation on Māori. Those histories were not new but were not widely known to the general population.

Having been involved in Tribunal processes in a variety of roles since Wai 1 in 1977, one of my deep regrets is that so few Pākehā attend the Tribunal's public hearings. The published reports are freely available, but simply being present to listen and learn while evidence is given is an opportunity that far too few tangata tiriti have chosen to embrace over the years.

The work of truth and reconciliation commissions in other countries – especially South Africa – became an impetus for Māori to treat the Waitangi Tribunal as a forum for their own truth-telling. The Tribunal has heard hapū-centric evidence in public hearings from kaumātua and kuia, whose wisdom and knowledge had been overlooked or disregarded in the past.

Usually, the radical reinterpretations of history in Tribunal reports have been accompanied by rather mild and pragmatic recommendations for remedies. In spite of that, a multitude of claimants over the decades, and still now, continue to choose to pursue grievances about Crown conduct in claims to the Tribunal. It gives claimants the opportunity to speak truth to power. They seek validation for their own perspectives on Māori–Crown relations in the past and in the present.

For some, the Tribunal's preference for issuing recommendations that are achievable (and quite often are in fact achieved) has been its strength from 1983 to the present. Others, of course, see that as a weakness. Practical recommendations eschew the higher moral ground, do not call for full compensation for Māori losses, and thus fail to impose full accountability on the Crown for its Treaty breaches.

Tribunal members have a duty to weigh up contested possibilities in each of the hearings we sit on. We listen to the evidence and submissions of the claimants and the Crown, and we then produce the reports. Even if our recommendations are not implemented in the short term, our reports will be a significant repository in the historical archive of the nation for future generations to access. This Tribunal's work is of great importance within the parameters of the current constitutional order, even as we hear calls for a constitutional transformation in the future that may or may not include an ongoing role for the Tribunal. ❐

A Cultural Education

Joanne Morris OBE

This text is based on the longer interview with Joanne Morris conducted for the 2025 documentary Karanga Rā, *which commemorates the fiftieth anniversary of the Tribunal's establishment.*

I was appointed as a Tribunal member in 1989 and was a member for 25 years. At the time I was appointed, I was a 34-year-old senior law lecturer at Victoria University of Wellington, and in 1988 I had chaired a committee of inquiry into pornography. We had reported on schedule, which must have impressed the powers that be because almost immediately I was appointed to the Tribunal and to the Broadcasting Standards Authority. To my embarrassment, Eddie Durie used to jokingly introduce me at hearings as 'an expert in pornography'!

Being appointed to the Tribunal was both a surprise and the start of the steepest learning curve of my life. Before I was part of a Tribunal panel, I went with my six-month-old baby to a hearing in Rotorua to get a feel for the proceedings. They were in a hall rather than on a marae, and I watched for a day with very little idea about what was happening. I had no deep understanding – or even a shallow understanding – of Māori culture, and I remember sitting there as an audience member thinking, 'Oh my goodness, what is this?'

Once I was part of Tribunal panels, however, with access to all the documents and counsel arguments, I learned quickly enough and had wonderful colleagues to guide me – but I was still learning during my entire 25 years! Being a young Pākehā woman lawyer in the Tribunal environment was a unique experience. My colleagues on the first major inquiry I was part of, the Muriwhenua Inquiry, were

Former Tribunal member Joanne Morris

eminent people – Eddie Durie, Evelyn Stokes, Monita Delamere, and Manu Bennett – and they knew so much about the land and its history, and the names and relationships of all the people involved. I remember thinking, 'Will I ever learn this?'

In the historical inquiries I was part of – Muriwhenua, Te Urewera, and Te Raki stage one – I felt I played a supporting role to my historian and kaumātua colleagues. But, with my legal knowledge and academic background, I was able to take a leading role in a number of contemporary policy claims.

A standout experience for me was presiding over the Te Whānau o Waipareira Inquiry, with Hugh Kawharu, John Ingram, Hepora Young, and Pam Ringwood – so I had these four amazing older people around me. That was the first claim brought by a non-kin group claiming funding from the Government on the basis of iwi status. It was a controversial issue, and our decision changed the future of funding for Māori-based community groups. It was a real moment in history where the public service had not caught up.

I feel incredibly lucky to have had my time on the Tribunal. It has exposed me to a world that not many Pākehā see in any depth. I have been on many marae up and down the country, witnessing and experiencing Māori culture at its finest. The values of inclusiveness and manaakitanga that are so evident there have had a lasting influence on my own interactions with others, both at work and at home.

The Tribunal will never cure all the injustices from New Zealand's past, but I believe it is the only institution that goes somewhere towards it. There has to be a role for a watchdog that can hold the Government accountable for breaches of the Treaty – past, present, and future. I am thrilled the Tribunal is in such good health after 50 years. ❐

The Te Whanau o Waipareira Report *of 1998 caused headlines*

Te Whānau o Waipareira

A Claimant's Perspective

Lady Tureiti Moxon
Ngāti Paahauwera, Ngāti Kahungunu me Kati Ruahikihiki Kati Mamoe Kai Tāhū ahau.

Whatanui Flavell, Haututū Creatives

Former Tribunal member and claimant Lady Tureiti Moxon

I initially worked as a lawyer in te Tiriti jurisprudence, Māori land law, and civil law. At McCaw Lewis Chapman in Kirikiriroa, I was involved in two te Tiriti claims to the Waitangi Tribunal, namely Wai 228 and Wai 789, which respectively concerned the confiscation of Matakana Island and the closure of Mokai Primary School. The Tribunal's processes for both claims were very clear and straightforward.

As a claimant, my first involvement with the Tribunal was in relation to my hapū Ngāti Pahauwera in the Wai 119 claim, culminating in the *Mohaka River Report* in 1992. This claim concerned the tino rangatiratanaga over the Mohaka River after the Planning Tribunal had recommended that the Minister for the Environment place a conservation order over the whole of our river. Sian Elias (who would later become chief justice) was our lawyer. The hearing was held at our marae in Mohaka, then Napier, where I gave evidence before the Tribunal. This was the first time many of us had heard the historical account of our land loss and the impact that colonialism had had on us. The greatest aspect of this claim was that it brought everyone together. Many of those involved have long since passed on. We won our case to stop the conservation order over the lower part of the Mohaka River.

I was named a claimant and gave evidence in stage 1 (primary care) of the Health Services and Outcomes Kaupapa Inquiry (Wai 2575), resulting in the creation of the standalone Māori Health Authority (though it has since been disestablished). The primary health organisations urgency claim (Wai 1315) started in 2005 in relation to the underfunding of Māori primary health organisations. The Tribunal at the time told us to work out these issues with the Ministry of Health. Workstreams were set up, but in 2008 we went back to the Tribunal because we were not getting anywhere. Then there was a change of government and everything stopped. Wai 2575 was finally heard in 2018 at Tūrangawaewae Marae in Ngāruawāhia. The recommendations of the Tribunal in its *Hauora* report were clear enough for us to push hard for the Crown to come to the party to establish the Māori Health Authority. The claimants met regularly with then-Minister of Health Andrew Little and Associate Minister Peeni Henare to implement the recommendations, establishing the interim board on 1 July 2022. It was extremely disappointing and heartbreaking to have it disestablished by the new Government two years later in 2024.

Thinking about the future of the Tribunal, the nature of successive governments means they can choose to ignore te Tiriti o Waitangi and its principles. Kaupapa inquiries are highly necessary, otherwise there would be no justice or redress for iwi Māori. The Treaty Principles Bill Inquiry (Wai 3300) is perhaps the most significant of all inquiries that has come before the Tribunal. But there have been many others of national importance, such as the COVID-19 Priority Inquiry, and the nation saw from Māori how easily we could mobilise and organise ourselves to play a significant role in vaccinating everyone, not only Māori. ❐

A Commissioned Historian

Dr Vincent O'Malley

Historian Dr Vincent O'Malley

Love it or loathe it, the Waitangi Tribunal has been at the forefront of conversations around te Tiriti o Waitangi and Māori–Crown relations for the past half century. Things hardly got off to an auspicious beginning. In introducing the Treaty of Waitangi Bill in November 1974, Matiu Rata told Parliament that he had 'some personal reservations, in that the provisions are not retrospective'. This hinted that he had failed to secure sufficient support from within Government ranks to give the new body authority to investigate historical grievances dating from prior to enactment. That would have to wait for another decade.

New Zealand was not ready in the 1970s to re-examine its history too minutely. And the Tribunal's first hearing in 1977 indicated that it probably was not ready to hear such matters either. Held in a plush downtown Auckland hotel, the hearing was conducted with all due legal solemnities but a total absence of any allowance for tikanga Māori, amidst complaints about a monocultural approach to proceedings.

From the early 1980s onwards, the Tribunal radically overhauled its hearing procedures under new chair Chief Judge Edward Taihakurei Durie, holding sittings on marae and with those hearings no longer resembling criminal trials. The Tribunal had been on something of a learning curve and since that time it has taken the rest of New Zealand on one as well, whether we like it or not. Coming to grips with the messy, protracted, and unedifying process of Māori dispossession and marginalisation has met with a backlash in some quarters. But it has also been essential for the future of our country, and a poll earlier this year that indicated that 85 per cent of the public consider knowing our history to be important and 72 per cent support the honouring of te Tiriti also suggests that fact has been meet with growing, if sometimes grudging, acceptance.

Growing up in Christchurch in the 1980s, I remember that Ngāi Tahu's historical claim to the Tribunal was accompanied by hysterical newspaper headlines suggesting that they were claiming most of the South Island. The implication was that no one's home was safe. Today, Ngāi Tahu are a major force in the local economy, employing thousands of people and contributing in multiple ways to the social, cultural, and environmental life of Te Waipounamu. We saw that after February 2011 and again in March 2019. And, having recently had cause to revisit the various Tribunal reports on the Ngāi Tahu claim that paved the way for the 1997 settlement, I have to say they stack up well more than three decades later.

On a personal level, I have had less involvement in Tribunal matters since I contributed to *Te Manutukutuku*'s fortieth anniversary issue a decade ago. As the historical inquiries gradually wind down, many of the old guard of historians now find ourselves spending more time giving expert evidence in the High Court, whether in takutai moana cases or other matters. Yet, the Tribunal's future focus on contemporary kaupapa inquiries will ensure that it continues to remain prominent in national conversations for some considerable time to come. ❐

A Hapū Perspective

Millan Ruka

In 2015, Tai Tokerau Ngāpuhi hapū collective faced a significant moment in our history – the time had come to prepare and present our Treaty of Waitangi claims to the Tribunal. It was a daunting task, requiring extensive research and writing, an unfamiliar process for many Ngāpuhi kaumatua, kuia, and marae. The question arose: Who would take on the responsibility of writing and researching our claims, and where would we begin?

Since the submission of our claims in 2016, many of our writers have sadly passed away. Some younger hapū members expressed sorrow that they were the remnants of hapū that had faded away, with little to no whakapapa to document. Their kaumatua and kuia, the holders of this sacred knowledge, had long since passed. Those of us who did write had to dig deep, immersing ourselves in unfamiliar research without mentors to guide us. While our claims were diverse, common themes of injustice emerged, such as land confiscation, severed access to wāhi tapu, and the ongoing disconnection from our whenua.

I provided 170 pages in eight submissions, including Whatitiri Māori Reserves Trust hapū land claims and Poroti Springs and rural rivers claims. It took a full year to prepare and write them. I was fortunate that others who had passed on left various research documents that we located, and our current Maungarongo trustees Taipari, Meryl, Lorraine, and Dinah made invaluable historical and contemporary whakapapa contributions.

The Tribunal hearings took place across the motu, bringing together claimants, presenters, and supporters at marae and community halls. The testimonies moved both the audience and the Tribunal itself. Some presenters read from their submissions, while others, some with great oratory skill, expanded upon their written claims.

Two such individuals stand out in my memory: Te Ihi Tito at the Mangakāhia hearings and Patu Hohepa at the Waima hearings. Te Ihi wielded his rolled-up submission like a mere, demonstrating the finesse of a warrior in battle. Patu, in his powerful address, asked the Tribunal to consider his submission as read so he could elaborate orally. His 40-minute allocation was extended to nearly 80 minutes, as he wove together the stories of Hokianga, Kaikohe, and Whangaroa, recounting the impact of historical events such as the Boyd massacre of 1809 and Hongi Hika's campaigns. Their contributions, now part of history, were a privilege to witness.

As we navigated our claims process back then, we reflected on the paths of other iwi. Ngai Tahu's settlement and their progress in commerce and economic development provided a model of success. The leadership of (Sir) Tipene O'Reagan was particularly inspiring. Similarly, Tainui's journey underscored the complexities of hapū and Kingitanga governance structures. Despite internal challenges, they adapted to contemporary governance, strengthening their economic and cultural foundations.

Looking back, it is clear that Treaty settlements have rejuvenated the heritage and culture of iwi such as Ngāi Tahu, Tainui, and others. Prosperity is emerging steadily, positioning these iwi as substantial contributors to the country's economic growth. The establishment of the Tribunal in 1975 provided a vital foundation for addressing historical grievances and fostering true partnership between the Crown and Māori. The Tribunal itself has evolved, deepening its understanding of the past and the present, ensuring its reports provide evidence-based guidance to Ministers and for both Crown and iwi negotiators.

For claimants, the Tribunal serves as an impartial entity, positioned between the Crown and hapū, ensuring that all voices are heard. Without this independent system and fair legal support, many claimants would face significant barriers in achieving just settlements. The legal fraternity, too, has been on a continuous learning journey to effectively advocate for claimants through thorough research and well-supported presentations. Many of our younger junior lawyers are now themselves leaders in various roles of the New Zealand judiciary system.

Deep concern has recently arisen across Māoridom – including among settled iwi and those yet to settle – regarding the proposed Treaty Principles Bill and the gradual erosion of the Tribunal's functions. Ngāpuhi, with our 160 hapū maintaining individual rangatiratanga, have yet to formally enter negotiations. The shifting of goalposts and the disestablishment of key entities such as Te Arawhiti pose formidable obstacles to maintaining a fair and structured settlement process that many have worked tirelessly to establish.

Ngāpuhi remain steadfast in our commitment to tino rangatiratanga at the hapū level. More than ever, we need the Waitangi Tribunal to record evidence and summary reports for outstanding claims and to guide the road ahead. The Māori economy has grown to $126 billion, increasing by approximately $15 billion annually. Ngāpuhi will undoubtedly play a major economic role in shaping the future, but the Tribunal remains essential in ensuring that our settlement process is fair and enduring. ❐

Beginnings of the Urgency Jurisdiction

Deputy Chair Judge Sarah Reeves

The beginnings of the Tribunal's urgency jurisdiction can be traced back to 1986 in the Muriwhenua Land Inquiry (Wai 45), when the Tribunal took steps to address an urgent issue concerning the pending State-Owned Enterprises Bill. Following submissions on the inquiry's first day of sittings, the Tribunal deliberated overnight and the following day issued a five-page interim report to the Minister of Māori Affairs recommending a halt to the transfer of Crown lands pending the completion of the inquiry and final report.

Several years later, in 1990, the Tribunal conducted the Allocation of Radio Frequencies Inquiry (Wai 26 and Wai 150), now generally recognised as the first urgent inquiry into the intended sale by the Crown of radio frequencies. The inquiry contained all the recognisable elements of an urgency application process as we now know it, with a judicial conference following the initial request for urgency and then a direction from the chairperson granting an urgent inquiry. The Tribunal's report was produced in about a month, and it recommended that the Crown suspend the radio frequency tender process to allow further consultation with iwi to take place.

Since then, the Tribunal has considered urgent applications on a regular basis, and urgency claims are now an important part of the Tribunal's inquiry programme alongside historical claims and kaupapa claims.

Urgency claims most often concern proposed Government policy or the impact of present-day Government actions. This is reflected in the kinds of issues that have come before the Tribunal at various times.

The 1990s through to the early 2000s saw urgent claims predominantly involving State resource and asset sales. Notable inquiries during this period were the Foreshore and Seabed Inquiry (Wai 1071) and the Tāmaki Makaurau Inquiry (Wai 1362), both of which, aside from the outcomes, were hugely influential in terms of public discourse of contemporary Treaty issues. The later 2000s, particularly the period from 2014 to 2020, was dominated by Treaty settlement issues, with challenges to Crown negotiation processes, mandating, and fast-track settlement processes.

More recently, a range of policy and legislative changes concerning Treaty issues in late 2023 and 2024 saw multiple urgent inquiries held within very condensed timeframes, with some urgent issues raised, heard, and reported on within days. During this period, the Tribunal demonstrated its ability to sustain a rapid and effective response under great pressure, conducting six urgent inquiries (Oranga Tamariki (Section 7AA), Māori Wards and Constituencies, Treaty Principles Bill and Treaty Clause Review Policies, Takutai Moana Act 2011, Te Reo in the Public Sector, and Te Aka Whai Ora) during this period. Urgent reports issued in 2024 accounted for seven of the 10 reports in total issued since 2020.

The decision on whether to grant an urgent inquiry is a preliminary determination based on an assessment of criteria, which have developed over time. The key consideration is the likelihood of significant and irreversible prejudice as a result of Crown actions or policy. Also relevant is whether any reasonable alternative remedy is available. The threshold for granting urgency is necessarily high because of the impact of diverting resources from the rest of the inquiry programme.

The Tribunal issued its first practice note addressing urgency applications in October 2000. The criteria and procedure for urgent applications have continued to evolve, and these are now incorporated into the Tribunal's comprehensive *Guide to Practice and Procedure*.

Deputy Chairperson Judge Sarah Reeves

Whatanui Flavell, Haututū Creatives

In July 2025, building on the Tribunal's experience in 2024, a new fast-track process named 'Te Tukanga Taihoro' was introduced. This is a standardised and streamlined process for determining applications for urgency, as well as hearing and reporting on urgent inquiries. The first inquiry to be completed using this process was the Citizenship (Ruddock) Inquiry in 2025.

A common public perception occasionally reported or expressed in the media is that the Tribunal has increasingly used its urgency jurisdiction to interrogate proposed Government actions and policy. This was no doubt exacerbated by the burst of activity in 2024 and 2025 but is not borne out by the record of how the Tribunal has exercised this jurisdiction over time.

In September 2025, Tribunal staff provided information to the Independent Technical Advisory Group analysing how the Tribunal has exercised its urgency jurisdiction since 1990. Since then, a total of 528 applications for urgency have been received. Of these 528 applications, 206 have been received since July 2015, averaging 20.3 applications per year. Over the preceding decade from July 2005 to 2015, the equivalent numbers were very similar at 199 applications in total, averaging 19.9 per year.

Since 1990, 166 applications (31 per cent) have been granted and 301 (57 per cent) have been declined or withdrawn, including some where the Tribunal considered that it had no jurisdiction to hear the claim. A further 61 applications (12 per cent) were adjourned, deferred, or postponed with a request for further information, or were subject to other decisions. In nearly all cases, proceedings did not resume.

Since July 2015, 74 applications (36 per cent) of the total of 206 have been granted and 129 (63 per cent) have been declined or withdrawn or lacked jurisdiction, with two adjourned and one pending (one per cent).

The Tribunal's development of the urgency jurisdiction was a response to the needs of claimants to have a process whereby their urgent claims of Treaty breaches could be heard and reported on in shorter timeframes and be prioritised ahead of other claims in the inquiry programme.

The reports that have been produced have been hugely influential in informing public discourse on contemporary Treaty issues. They have achieved policy and legislative outcomes and mapped ideas that will influence and shape the future Treaty relationship.

The Tribunal has used the jurisdiction relatively sparingly over time. Even so, the resource-heavy nature of these inquiries has inevitably diverted resources from the balance of the inquiry programme and has delayed timeframes for the completion of historical and kaupapa inquiries.

The recent development of Te Tukanga Taihoro is designed to address this issue by providing a standardised process to expedite applications, as well as the hearing and reporting of urgent inquiries, thereby limiting the impact on the rest of the inquiry programme.

Time will tell how effective this approach will be. ❐

Actor Keisha Castle-Hughes gives evidence before the Citizenship (Ruddock) Inquiry

Current and Future Trends

Dr Carwyn Jones

Legal scholar Dr Carwyn Jones

One of the notable features of the Tribunal's first 50 years has been how proactive it has been in evolving its procedure to the changing needs of Māori and the nation. From early adaptations stemming from Eddie Durie's observations of the Mackenzie Valley Pipeline Inquiry in Canada, to the commissioning of the *Rangahaua Whānui* series and the shift to the district inquiry programme, to the introduction of the kaupapa inquiry programme and associated innovations in process, the Tribunal has sought to provide inquiries that meet the reconciliation needs of the moment. And, as it looks to the future, I expect the Tribunal will continue to evolve.

The Tribunal's *Strategic Direction 2025–2035* envisages that, by 2035, the Tribunal will have completed the remaining district inquiries, addressed all outstanding historical claims, and completed the 13 kaupapa inquiries that are currently underway. The nature and focus of the Tribunal's work is, therefore, likely to change significantly by that time. There may well be new kaupapa inquiries that are needed, but it seems likely that the Tribunal's future work will primarily be focused on current or proposed law, policy, and other governmental practices and decisions.

Scanning over the Tribunal's recent engagement with contemporary claims suggests some patterns that may influence the way in which it adjusts its procedures in the future. There are three things that I think are noteworthy in this respect.

First, many contemporary claims arise from proposed Government actions and decisions which have been taken but not yet implemented. Consequently, there is often a desire from claimants to prevent prejudice from ocurring ahead of implementation, rather than trying to unwind actions already taken or trying to remedy prejudice after the fact. Many of these claims may require an urgent hearing. The Tribunal has shown itself to be relatively nimble in the way it has shifted resources to be able to hold urgent hearings in a timely fashion, sometimes issuing a report within days of the hearing to meet the Government's legislative timeline. The Tribunal has recently put new measures in place to ensure that urgent inquiries take place at speed. It will need to continue to develop efficiencies to enable quick, targeted, and focused inquiries and reports that can be taken into account by relevant decision makers.

Secondly, another area of contemporary claims is likely to arise in the context of the implementation of Treaty settlements. The Crown's conduct in the course of negotiating settlements has already been the subject of many urgent claims. While the Tribunal is prohibited from hearing claims about matters that have been settled, it may well be called upon where Māori are concerned that the Crown's actions in implementing settlements are themselves in breach of the principles of the Treaty.

And, finally, as we have seen with a number of recent issues that have arisen, Māori may be looking more regularly to High Court litigation as an avenue for addressing breaches of te Tiriti. Settlement legislation may provide a natural hook for this, but many contemporary Crown actions may also be subject to judicial review, even if the only relief available may be a declaration of inconsitency with te Tiriti or its principles. Litigation has always been an important component of the claims and settlement process and has directly shaped the Tribunal's powers and jurisdiction. Current trends suggest that this is likely to increase, and the Tribunal will need to be proactive in thinking through how to manage its own inquiries in a way that takes account of this and best supports the practical application of Treaty principles and the overall delivery of justice. ❐

Pākehā and the Waitangi Tribunal

Judge Carrie Wainwright

The vital work of the Waitangi Tribunal has been to speak a new truth to power. I know this well, having presided over 11 inquiries since 2000. I use the word 'new' because the truth about our past now includes a Māori view that was long invisible in the national consciousness. A preference to see only the reality of the majority continues in some quarters, but this is now regularly mitigated by valuing and understanding a Māori view of the world – partly due to the influence on public life of the work of the Tribunal.

Most New Zealanders are not Māori, but non-Māori have mainly proved willing to receive this alternative truth. This is seen in political parties' commitment to settle Treaty claims and also in the rise of Māori, te reo Māori, and Māori ways of doing things in all areas of public life. For example, pōwhiri open almost every event of consequence and haka support people and viewpoints in many different contexts.

The changes have not been as speedy or as thoroughgoing as Māori claimants (and other like-minded New Zealanders) would have chosen. But, if we look back to the New Zealand of 1975 and compare the situation in 2025, there is no doubt that New Zealand is now a different place.

A personal recollection illustrates this. It was 1976, my first year at varsity (that is what we called it then), and I was riding the bus from Wellington Railway Station to Victoria University. I was sitting next to a girl I had met at early modern Europe history lectures, and she told me that she was studying te reo Māori. I was incredulous. Why would a Pākehā girl want to learn Māori? Well, she explained, she had studied Māori at Wainuiomata College. Really? My school, nearby Hutt High, offered French, Latin, German, Greek, and Russian – but not Māori. Was not Māori a dead language? (Not that this had deterred me from taking Latin.) What *use* could she make of Māori? I am pretty sure I did not know how to pronounce that word correctly.

Judge Carrie Wainwright

Jo Moore, Museum of New Zealand Te Papa Tongarewa

I can confidently assert that my equivalent in 2026 would not respond as I did. Like so many of my generation and the one before, I had drunk the 'dead language' Kool-Aid and all it entailed. But the 2026 version of me could and would proffer myriad reasons for learning the only language unique to these islands, the language that colonisers deliberately and brutally expunged, the language essential to our nationhood and especially to tangata whenua.

Can the Tribunal take credit for that difference? Not entirely, obviously. It is impossible to be precise about what the Tribunal's work has contributed but, looking back over the years, it seems to me that Tribunal reports have often been game-changers. As far as our history is concerned, they reframed our past. For the first time, we saw the incalculable harm wrought by colonisation. In kaupapa inquiries that are happening now, the Tribunal's findings and recommendations hold Crown actions up to a Treaty lens that would otherwise be simply absent.

Documenting the harm of colonisation was only the first step. What

could be done about it? Always, this work must confront whether the non-Māori majority is willing to agree to change that will benefit Māori (and many would say by doing so benefit everybody).

The set-up of the Tribunal, with its recommendatory rather than mandatory jurisdiction, and its Pākehā as well as Māori members, surely anticipates a reluctance in the majority population for Māori to be able to tell the Crown what to do to remedy Treaty breaches.

The bicultural membership of the Tribunal also reflects the bicultural vision of the Treaty of Waitangi itself. The Treaty is about settlers and Māori and the basis on which we would coexist.

When the member for Northern Māori, Matiu Rata, came up with the Tribunal as a response to the growing racial tension in New Zealand in the 1970s, Pākehā members were always a feature of his conception. The reason is simple, I believe. In the 1970s, power in New Zealand was firmly in the hands of Pākehā – Pākehā men, in fact. If the Tribunal process were to tell truth to power so that change could be effected, that truth could not be Māori truth only. Pākehā wielding power in the twentieth century had no history of listening to Māori.

It is interesting to speculate about the role that the Tribunal's Pākehā members have played and continue to play in making politically palatable the findings and recommendations in the reports.

Because the Tribunal *recommends* measures for the Crown to take, its work must have persuasive power. Sceptical parts of the population – including some members of Parliament and Ministers – may need to be reassured that the Tribunal's conclusions come from a perspective that is not exclusively Māori.

It is not that Māori claimants lie. They do not. Nor are Māori members biased. Nor do the ways in which the Tribunal tries to meet Māori preferences (hearings on marae, te reo Māori in hearings and reports) make for a biased process. No. But for that sceptical part of the population who are suspicious of any concessions to a part of the population that does not include them, Pākehā members are a kind of guarantee of objectivity. Because why would Pākehā simply agree with everything Māori claimants say? Why would they agree to findings in their favour unless the claims had substance? My mind turns to the likes of Brian Corban and John Baird, captains of industry. To John Kneebone, Federated Farmers. To Margaret Bazley, hardheaded doyenne of the public service. Members of the power elite like Jim Bolger and Doug Graham knew that these people were no saps. They would not just go along. They were independent-minded people who, as Pākehā, had no skin in the game. I believe that their presence at the table made a difference to how powerbrokers perceived the work of the Tribunal.

It is impossible to say how many have read the revisionist history in the Tribunal's reports. They probably do not penetrate the households of most New Zealanders. They are not light reading and they address topics most know little about. Still, I would hazard a guess that more Pākehā have dipped into Tribunal reports than have attended its hearings. Those Pākehā who do go to hearings are typically Crown officials, expert witnesses, lawyers – and Tribunal members. That amorphous cohort who go under the rubric 'the general public' do not regard Tribunal inquiries as any concern of theirs. That is a shame.

When I presided over the Tribunal's inquiries into the Wairarapa and Whanganui districts, listening to accounts of our fascinating past that so few know about, I often thought about how locals were absent. They were missing out on seminal information about their district, their past – and sometimes about their present too.

I will always remember Taumarunui mayor Sue Morris, the Pākehā wife of a local farmer, who made it her business to attend all our hearings in her district, taking with her the chief executive of the council. This might sound like an ordinary thing to do, but in fact it was quite exceptional in my experience. Sue told me that she was Taumarunui born and bred, and what she heard was a revelation to her. She lamented that others like her – members of the Pākehā community – were not also there in the room to hear about that other reality.

I really regret that the work of the Tribunal – and especially perhaps its hearings, which are often extraordinary events – has substantially failed to engage non-Māori. I think it probably speaks to the largely separate lives that Māori and Pākehā live, and to how unused we are as Pākehā to entering Māori spaces, whether physical or metaphysical. Such places are unfamiliar, and a bit threatening. I believe that one of the focuses of our Tribunal work going forward must be to work out how to reach non-Māori and make them realise that the work of the Tribunal is equally about them.

I feel so fortunate to be a Pākehā member of the Tribunal. Inhabiting this role has made me an altogether different kind of New Zealander from whom I would have been if I had travelled exclusively in the white lane. I have spent weeks of my life on marae with colleagues, Pākehā and Māori, who are some of the best people I have ever known. I have got to know tangata whenua of many places. I have heard their stories and learned their tikanga. I now speak Māori. I have listened to historians unpeeling our colonial history in multiple districts about which previously I knew nothing. I have immersed myself in the writing of many Tribunal reports. All of this has been and continues to be my life's work. I can honestly think of no better way to expand understanding of what it means to be a New Zealander. ❐

Innovative Practices in the Tribunal

Judge Rachel Mullins
Judge Alana Thomas

In this article, Judge Rachel Mullins and Judge Alana Thomas discuss the use of te reo Māori in recent urgent Tribunal inquiries that they presided over: Kura Kaupapa Māori Urgent Inquiry (Wai 1718) and the Citizenship (Ruddock) Urgent Inquiry (Wai 3513).

Kura Kaupapa Māori

In late 2022, the Tribunal granted an application for urgency on a narrow issue in relation to the review of the Tomorrows' School system. The applicant was Te Rūnanga Nui o ngā Kura Kaupapa Māori o Aotearoa, the kaitiaki body of the kaupapa of ngā Kura Kaupapa Māori. Shortly afterwards, I was appointed presiding officer for the inquiry, the Kura Kaupapa Māori Urgent Inquiry (Wai 1718).

This was no ordinary inquiry. All the submissions and evidence from the claimants had been filed in te reo Māori. The kohanga reo generation had arrived and were confidently and proudly expressing themselves in te reo and engaging lawyers who could also do the same. As a panel, we considered how best to respond to that. The panel members were Ahorangi Rawinia Higgins, Derek Fox, Herewini Te Koha, and Ahorangi Susy Frankel.

Judge Rachel Mullins. 'The kohanga reo generation had arrived and were confidently and proudly expressing themselves in te reo and engaging lawyers who could also do the same.'

We decided to explore the possibility of issuing our report in te reo Māori. This would be the first Tribunal report issued fully in the reo. In making our decision, we asked ourselves a few key patai: Why do we want to do this? Is it time we were brave and gave the reo the mana we have said many times in Tribunal reports that it has? If not for Kura Kaupapa, then when and for whom is the right time? I thought back to my time as claimant counsel in the Whanganui Inquiry in 2005. We were now in very different times and this was a different generation we were dealing with, a generation who were unapologetically insistent on using the reo in all spaces.

The other key question was: Who can support us with drafting this report? The Tribunal Unit did not have people with the requisite reo skills inhouse to draft the report, and there exists only a very small pool of people with the level of te reo skills to navigate the many technical, legal, and policy terms. We were also mindful of the fact that these people were highly sought after and had busy schedules. We sought guidance and support from Ahorangi Tā Pou Temara.

At the initial judicial conference with the parties, I was very open. I explained what we were thinking and asked for their feedback. I acknowledged that issuing the Tribunal report fully in the reo would be a first and in many ways an evolving process, but we were committed to regularly seeking feedback from both the Crown and the claimants throughout. The claimants were obviously supportive and the Crown was too. I would like to acknowledge Crown counsel Rachel Ennor and Te Tāhuhu o te Mātauranga/the Ministry of Education for their openness and willingness to come on the journey.

Dr Anaha Hiini, Greg Koia, Jarred Boon, Te Waipounamu Teinakore, and Ruth Smith were confirmed as our mātanga reo to assist us with drafting the report. We met with them alongside Ahorangi Tā Pou Temara and Dr Ruakere Hond, te reo experts from within the Tribunal's wider membership, to talk about what this report could and should look like. We felt that it was important the mātanga reo attend the hearings to get a feel for the people and the evidence. But we made it clear throughout the hearing process that their role was to assist in the drafting of the report and that the Tribunal panel were the decision makers.

The mātanga reo added a lot to the hearing process as they brought with them not only their reo skills but also their knowledge of tikanga, which was especially helpful when unexpected things happen – as they always do in these processes – and we as the panel could seek guidance from them in that regard too.

Our initial thinking was that the report would first be drafted in te reo Māori and then the key legal analyses, findings, and recommendations chapters would be translated and included as appendices. However, it became clear quite quickly that, given the technical nature of some parts of the report, it was extremely difficult for our matanga reo, who were not legal report writers, to capture our analysis in te reo first. Chapters 1 and 2 of the report, which set out what is at issue and provide background and context for the inquiry, were written in te reo first (and not translated). The other

five chapters were written in English first and then translated. The report includes, as an appendix, these five chapters in English.

There were some special moments. When I was a young lawyer first appearing in the Tribunal, the late Rangi McGarvey was our simultaneous interpreter. His son, Paiheke McGarvey, was the interpreter for the Kura Kaupapa Urgent Inquiry, so that was a full-circle moment for me. Crown counsel and witnesses were strongly supported by Pakake Winiata and Ngaringi Katipa, who consistently displayed high levels of integrity and professionalism when I suspect at times it would have been challenging given the evidence. A Tribunal process and giving evidence can be a nerve-wracking experience for claimants, but my observation was that they felt comfortable in the reo-speaking environment we had created. It is important that I acknowledge the role played by claimant counsel and acknowledge especially senior counsel Paranihia Walker for her leadership in the process – preparing bilingual evidence and submissions and representing the claimants with humble, yet strong, advocacy. The whole experience was also amazing for my own reo learning journey! But the most memorable highlight was the tamariki and raukura of the kura kaupapa movement – ae, ko te reo te take – engari, ko ngā tamariki, mokopuna te mea nui.

Kua ea! Kua tutuki! Our report, *Kei Ahotea te Aho Matua*, was completed and released in July 2024, and we had a ceremony to hand over the report in person at Te Poho-o-Rawiri Marae in Gisborne in March 2025.

Citizenship Inquiry

'E mārama ana mātou, kei ā tēnā, kei ā tēnā anō tōna ake tukanga kia whakaputa i ngā tuhinga reo rua, nā, ko te tukanga me te whakatakotoranga i whāia ai e mātou i tēnei rīpoata, ko te noho karapipiti o ngā whakawhitinga reo, he tukanga e whāia nei e te Kooti Whenua Māori, ka mutu, e horapa ana ki ngā pūnaha ture o whenua kē atu he rite tonu te whakaputa i ngā whakataunga reo rua.'

The Citizenship (Ruddock) Urgent Inquiry (Wai 3513) was the first Tribunal inquiry to follow the new standardised procedure for managing urgencies, Te Tukanga Taihoro. The initiative for a fast-track urgency process came out of significant consultation with stakeholders undertaken by the Independent Strategic Direction Review Group. Under the expedited process, we had to issue our report within one to two calendar months of the hearing.

John Ruddock (Ngāpuhi) was the claimant, and the inquiry was focused on whether the Citizenship Act 1977 and the current process to apply for citizenship for Māori whose parents were not born in New Zealand are in breach of te Tiriti o Waitangi principles.

The Tribunal panel was made up of myself as presiding officer and Professor Emeritus David Williams and Professor Tafaoimalo Leilana Tuala-Warren as panel members. We first convened in August 2025 to consider Mr Ruddock's application for urgency. We granted that urgency on 1 September, and two weeks later held a two-day hearing in Wellington. We released our report, *He Tangata, he Whenua*, on 31 October.

Our report has been produced in both te reo Māori and English – a full bilingual report. It follows the format used by the Māori Land Court, which is to present English and te reo Māori side-by-side in separate columns (as opposed to full-width text or chapters alternating between te reo and English).

As we were drafting the report in English, I would simultaneously draft the side-by-side translation in te reo Māori. By following that process, we were able to finalise the text and release the report in a short timeframe.

Judge Alana Thomas

The decision to release the report bilingually and adopt the format that we did was not a hard decision. During my time as a lawyer representing clients in the Māori Land Court and Waitangi Tribunal, I strongly advocated for the use of te reo Māori in the courts. Kaupare Law, my previous firm, made all its submissions in te reo Māori, and I spoke te reo Māori only in all my cases. Often, we would adopt a similar process for bilingual documentation, and I saw firsthand the benefit in doing so. In 2022, I was also involved as counsel for the applicants in *Pokere v Bodger – Ōuri 1A3*, in which the Māori Land Court released its first bilingual judgment – the first bilingual judgment of any court in New Zealand.

The use of te reo Māori in the courts, in tribunals, and in the decisions and reports we release is evolving and growing, and te reo Māori is becoming more prevalent in our proceedings. There is no 'right way' or 'correct process' to adopt in order to produce bilingual documents, in many cases, it will be determined by the kaupapa, the parties, the panel, and, in some cases, resourcing. However, what remains paramount is the recognition and protection of the mana of te reo Māori within these processes. ❐

He Whakaputanga me te Tiriti

Dr Season-Mary Downs

Looking back, my debut in the Waitangi Tribunal was remarkable. I was just 21 years old, a first-year graduate at Kensington Swan, when through some uncanny alignment I came to junior for senior barrister Michael Doogan (now Judge Doogan). Together, Mike and I represented Ngāti Hine in the Te Paparahi o te Raki Inquiry. To work for my own, well, that is what all new lawyers dream. Everything felt big and important at that time, and it still does today.

The stakes were high as hapū claimants were finally afforded the opportunity to answer a question fundamental to them: Was sovereignty ceded under te Tiriti o Waitangi? The first hearing was held in May 2010, and it was a truly momentous occasion. The foundation in whakapapa was laid by pou kōrero Erima Henare, Rima Edwards, Patu Hohepa, Hōne Sadler, and Hirini Henare.

I can remember many provocative moments during that first hearing week: Hirini Henare with Kawiti's musket in hand; the dedicated crowd of 500 plus murmuring 'wairua' as turbulent weather rolled through Ipipiri; the ceremonial handing back of Tāreha's taiaha to Ngāti Rēhia, symbolising that tikanga triumphs; and Erima Henare traversing the paradox of sovereignty, questioning the legitimacy of the Crown and de facto power maintained on 'squinty legalism'.

Evidentially, all bases were covered. Where Britain considered that Māori consent was a prerequisite for a cession of sovereignty to be valid, the Tribunal concluded that nothing in the words of the Māori text of the Treaty, or in the explanations and assurances provided to Māori by the British on 5 February 1840, expressed a cession of sovereignty under te Tiriti.

Lawyer Dr Season-Mary Downs

The Tribunal reached the significant conclusion that the northern rangatira who signed te Tiriti o Waitangi in February 1840 did not cede their sovereignty to the British Crown. It acknowledged that, while some may see its conclusions as radical, 'they are not'; when 'all of the evidence is considered . . . we cannot see how other conclusions can be reached'.

The Tribunal's report dispelled two longstanding assumptions: first, that Māori agreed to cede their sovereignty to the British and, secondly, that the Crown has a moral and legal right to govern under the Treaty. For hapū and claimants, the report was groundbreaking because it affirmed their long-held beliefs on the point of cession. The Attorney-General at the time was quick to respond, saying 'there is no question that the Crown has sovereignty in New Zealand. This report does not change that fact.'

Many of the pou kōrero and claimants have passed on, but their legacy remains. The report now forms part of Aotearoa's Treaty jurisprudence and remains on the public record for those willing to confront the question of sovereignty. For my part, my debut ignited my passion to explore through a career in law how te Tiriti o Waitangi can be honoured. ❐

Fiftieth Conference Summary Address

Judge Miharo Armstrong

This speech was written by Judge Miharo Armstrong for the closing of the Waitangi Tribunal's fiftieth anniversary conference on 10 October 2025 at Te Herenga Waka Marae, Wellington.

Tena koutou.

After listening to all our amazing kaikōrero for the last two days, I have the privilege of concluding the conference by looking back at the overall journey that the Waitangi Tribunal has taken us on for the last 50 years. Of course, that is a long and storied history, and so many of our leaders have made significant contributions to the establishment and development of the Tribunal over that time. Unfortunately, there is not enough time to acknowledge all those rangatira and the impact they had on this important jurisdiction.

So, I will be taking a bird's eye view of this journey, swooping in now and then to acknowledge some of those key developments that have led us here today.

On 8 November 1974, the Honourable Matiu Rata introduced the Treaty of Waitangi Bill into the House. This followed the Labour Government's successful election campaign to give statutory recognition to the Treaty of Waitangi.

Minister Rata said that the function of the Tribunal will be to inquire into and make recommendations on any claims, and to examine and report on any proposed legislation referred to it. Of course, at that time the proposed jurisdiction of the Tribunal was limited to hearing contemporary claims. Minister Rata expressed his personal reservations in the House that the provisions in the Bill were not retrospective, but he considered the Bill was nevertheless a step forward.

Jo Moore, Museum of New Zealand Te Papa Tongarewa

Judge Miharo Armstrong

The leader of the Opposition at that time, the Honourable Robert Muldoon, responded that it was 'a somewhat pretentious Bill which purports to do a great deal more than it will do'. He also expressed concern whether special legislation like that Bill makes the New Zealand population one people or two peoples. Despite that, following the third reading in 1975, the Bill was passed and the Waitangi Tribunal was born.

Its auspicious origins aside, the Tribunal had an underwhelming start. After being charged over exercising customary fishing rights, Joe Hawke filed the first claim before the Tribunal. Wai 1 was heard in 1977 in the ballroom of the Intercontinental Hotel in Auckland. As the charges against Joe Hawke were dropped, the Tribunal made no findings nor any recommendations.

It was five years later in 1982 that the Tribunal took a significant step forward under the leadership of the new chairperson, Sir Edward Taihakurei Durie. Aila Taylor of Te Ātiawa filed a claim with the Tribunal over one of the National Government's 'Think Big' projects, where the outfall from a synthetic fuel plant in Taranaki was going to be discharged over coastal reefs that had been mahinga kai for the Te Ātiawa people for generations.

The claim was heard at Manukorihi Pā in Waitara by Sir Eddie, Graham Latimer, and Judge Max Willis. Earlier this week, Professor David Williams wrote an article about those early days. He said that the Tribunal issued a carefully crafted report that made numerous findings and a practical recommendation to divert the outfall. Despite that, Prime Minister Muldoon quickly rejected the report. That is unsurprising, given that he was the author of the 'Think Big' projects and given his earlier opposition to the establishment of the Tribunal.

Professor Williams says it was the significant protests that followed from a range of people around the country that persuaded the Government to change its mind. The media also played an important role, with the *Auckland Star* calling the Government's actions 'monumental crassness'. Ultimately, the Government relented, and the outfall was discharged elsewhere.

The decision by Sir Eddie and those other panel members to hear the claim at the claimant's marae marked a significant shift in the Tribunal's approach, where the Tribunal travelled to the claimants, to hear them raise their grievances in their own whare, in their own rohe, where the grievance occurred. The Tribunal continued to take that approach in the decades that followed. It continues to do so now, where it can, given the limited budget allocated to it each year.

Those early Tribunal reports issued under Sir Eddie's leadership set the benchmark for Tribunal report writing. The reports were well structured,

well reasoned and established the early repuation, integrity, and legitimacy of the Tribunal. Subsequent Tribunal panels have adopted and refined that approach.

Three years after the Te Ātiawa claim, the te reo Māori claim was filed with the Tribunal. The claimants sought a recommendation that the Government should officially recognise 'i to tatau reo Rangatira'. That inquiry had such a significant impact that, before the Tribunal had even issued its report, the Government prepared the Māori Language Bill. That Bill declared that te reo Māori was an official language of New Zealand and sought to establish Te Taura Whiri (the Māori Language Commission). The Bill was introduced in the House in 1986 on the very day the Tribunal released its report on the claim. Two years later, the Education Amendment Act was passed, which recognised and promoted kura kaupapa and whare wānanga.

Recently, questions have been raised about what role the Tribunal should play in relation to the kaupapa inquiry programme and contemporary Crown policies that affect Māori. I will leave it to others to answer those questions. But the te reo Māori claim is an example of a kaupapa claim, brought to the Tribunal, that assisted the Government to develop new policy and legislation recognising and protecting important taonga that benefits not only Māori but the nation.

The Treaty of Waitangi Act was amended in 1985 to extend the Tribunal's jurisdiction so that it could hear historical claims. This was the most significant development in the Tribunal's history as, for the first time, Māori had a forum where they could bring claims that the Crown had breached the Treaty dating back to the signing of the Treaty itself in 1840.

Not surprisingly, the hearing of historical claims dominated the Tribunal's work programme for the next 40 years. Initially, the Tribunal heard each historical claim individualy. Those early reports made some of the most significant contributions to New Zealand jurisprudence on Treaty principles in any jurisdiction. However, the hearing of individual claims proved to be a slow and burdensome beast and made limited progress with resolving the growing number of historical claims filed with the Tribunal.

To address this issue, the Tribunal looked at new and innovative ways of doing things. One of those innovations was to group related claims together into districts. This allowed the Tribunal to hear those related claims in a larger but single inquiry, and to report on those claims together in one report. That approach continues to the present day and has assisted the Tribunal to determine those historical claims in a far more efficient and effective way.

I also note that this innovative approach created by the Tribunal has been adopted by the High Court, which is taking a similar regional approach to hearing claims to the takutai moana under the Marine and Coastal Area (Takutai Moana) Act.

Other innovations established by the Tribunal to hear and determine claims in a more efficient and effective way include establishing the casebook method and the use of dedicated research and report-writing staff.

In 2014, the then chairperson, Chief Judge Wilson Isaac, released a strategic direction paper, setting out how the Tribunal proposed to hear and report on the remaining claims before it. That strategic direction also recognised that, as the Tribunal completes the remaining district inquiries, it will need to turn its attention to the many outstanding contemporary claims. Many of those contemporary claims raised nationally significant issues affecting Māori as a whole, or a section of Māori in similar ways. As those claims were not confined to geographical areas, they did not fall neatly within the district inquiry programme.

In 2015, Chief Judge Isaac established the kaupapa inquiry programme. This grouped those remaining claims that were not heard in district inquiries under particular themes or kaupapa.

This year, our current chairperson, Chief Judge Dr Caren Fox, released an updated strategic direction for the next 10 years. That direction promotes a highly coordinated approach across all Tribunal inquiries so that all remaining claims, including the remaining historical claims and kaupapa inquiry programme, can be completed by 2035.

So, looking back at the last 50 years, what is the legacy that this Tribunal has created? History shows a flexible and responsive Tribunal that has adapted to the changing nature of the claims and the needs of the claimants who have come before it.

It shows a Tribunal that has been innovative in its approach, one that has led the way on how a judicial body should hear claims in a manner that recognises and provides for the tikanga of the Māori claimants who come before it.

It also shows a Tribunal that has led the way in recognising the immense value and weight of tribal histories, and the evidence from tribal leaders and experts. This has now been adopted in the mainstream courts, where we regularly see tohunga giving expert evidence on matters of tikanga.

We have a Tribunal as a forum where Māori were able to come and speak their truth about the historical injustices that occurred and the impact that this had on their tūpuna, their whānau, hapū, and iwi down through the generations.

We have a Tribunal that has assisted the Government and Māori to resolve historical Treaty grievances and to obtain redress to help hapū and iwi to move forward and to provide for their people.

We have a Tribunal that has assisted the Government to formulate policy and legislation that recognises and

provides for Māori and the recognition of the Treaty and its principles in the Government's administration.

So, with that legacy in mind, what lies ahead? What does the future hold for this important constitutional body? During this conference, we heard from several of our leaders about that. We also know that the current Government is undertaking a review of the future role of the Tribunal. We will have to wait and see what the outcome of that review is and what role the Tribunal will play moving forward.

Sometimes, to move forward it can be helpful to look back to where it all started. And so I will leave you with the words of Minister Matiu Rata when he introduced the Treaty of Waitangi Bill into the house 51 years ago. This was his vision for the Tribunal:

> Its purpose is to provide for the observation and confirmation of the principles of the Treaty of Waitangi and to determine claims about certain matters which are inconsistent with those principles. While the Treaty can be regarded as the possession by the whole of our nation of an instrument of mutuality that has endured for the past 134 years, to the Maori people it is a charter that should protect their rights. The Bill is primarily aimed at satisfying honour. It will also give physical and lawful sustenance to the long-held view that the spirit of the Treaty more than warrants our country's continued support.

Minister Rata concluded his speech with the following words:

> If Captain Hobson's statement in 1840 'He iwi kotahi tatau' 'We are one people' is to have any real and continued meaning, I believe this Bill and its proposals cannot be ignored. The Bill will both sustain and perpetuate the principles of the Treaty.

Kia ora koutou. ❐

◂ *Wraparound*

forgotten. You have been etched in the hearts of the iwi who have stood before you.

To return to the land of the living.

When the hearing is over, the Tribunal then sits to discuss and scrutinise the submissions before arriving at a decision. A comprehensive and final report is then written, with appropriate recommendations to the Crown.

If luck prevails, compensation – whether big or small – is paid to the claimants. However, besides the compensation, a benefit that gives much satisfaction is telling and having their stories heard, hearing and learning their history, and having the report of the Waitangi Tribunal in their houses as a taonga.

I have been part of the Tribunal since 2008 and sat on panels involved in some major historical claims. My profile in the Māori world has been a positive factor or sometimes a hindrance in the claims that I have sat on. I knew kaumātua and rangatira of those iwi claimants, and they expected a positive outcome to their claims because of my presence. There have been situations in marae sittings where comments have erupted into full-scale verbal war and required my intervention as the tikanga authority on the panel. And there have been kaumātua who were the apotheosis of chiefly behaviour. We have much admiration and respect for John Henry, kaumātua of Te Kotahitanga Marae, Ngāti Maniapoto.

I also note the changing culture of the Tribunal generated by younger Māori women lawyers. Where the language of the hearings was always English, a new generation of lawyers appeared without notice and spoke only Māori. That gained momentum and has now become standard practice to use Māori or both languages when presiding a claim.

That brings me to mention the interpreters of the Tribunal. I started my Tribunal life as an interpreter. We recall the expertise of the late Rangi McGarvey. He had class.

It pleases me to say a word of appreciation for the lawyers. After nearly 20 years on the Tribunal, I expect to see certain lawyers there who, like me on the Tribunal, have become the kaumātua of the lawyers. I have noted with pride young lawyers straight out of law school being mentored by their seniors and going on to be promising advocates. Some have gone on to be judges and to preside at Tribunal hearings. The lawyers become part of the whānau of the Waitangi Tribunal, and I may contravene the rules of staying independent when I acknowledge and wave to them from the bench. Some are my relations.

And, lastly, to the staff of the Tribunal. Changes happened over the 50-year period and certainly in my time. The work of the management and staff in coping with those changes, often at the dictation of higher powers, is acknowledged. There are budgetary restraints in organising hearing venues, travel, accommodation, and the needs of members; the report writers and their work in drafting chapters for consideration by the panel; and the lawyers advising and preparing the Tribunal to cope with submissions by the Crown, the claimant groups, and the professional research report. All this work makes the Tribunal the success that it is and is acknowledged and greatly appreciated in this tribute.

Happy fiftieth anniversary to the Waitangi Tribunal. ❐

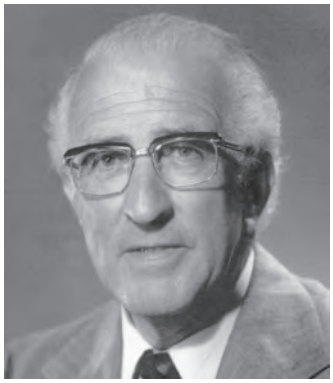
Past and Present Tribunal Members

Over the following pages, we present a gallery of past and present Tribunal members, arranged chronologically by order of their appointment and illustrated with photographs taken at or near to that time. Where a member has been appointed more than once, only their original appointment is noted.

1975

Kenneth Gillanders Scott

1976



Laurence Southwick

Graham Latimer

1980

Edward Durie

1981

Walter (Max) Willis

1982

Marcus Poole

1983

Paul Temm

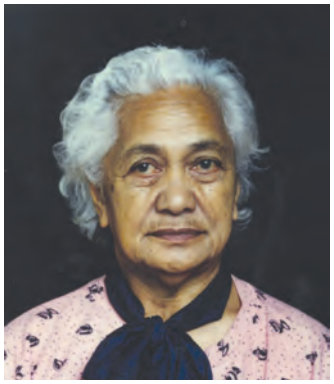
1984

William Herewini

1985

Edward (Ned) Nathan

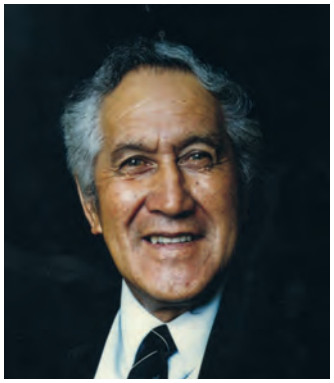
1986



Emarina (Lena) Manuel

Turirangi Te Kani

Ian Hugh Kawharu



Monita Delamere

Georgina Te Heuheu

Gordon Orr

Desmond Sullivan

Bill Wilson

Keith Sorrenson

1986 *continued*

Manuhuia Bennett

Andrew Spencer

Ross Russell

1987

Ashley McHugh

1988

Evelyn Stokes

1989

Ngapare Hopa

Mary Boyd

John Kneebone

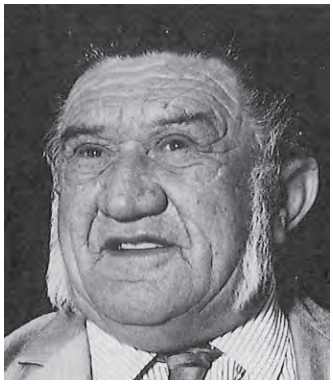
1989 *continued*

Joanne Morris

Peter Trapski

Erihana Ryan

1990



William Taylor

Heta Hingston

1992

Hepora Young

John Ingram

1993

Makarini Temara

Keita Walker

Pamela Ringwood

1993 *continued*

Glendyn Carter

Norman Smith

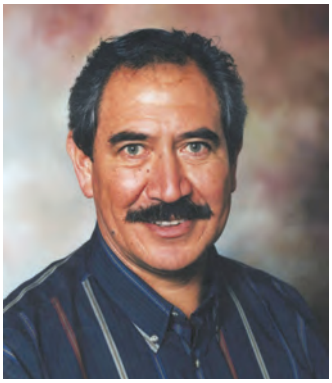
Brian Corban

1994

Michael Bassett

John Turei

1995



Roger Maaka

Judge Patrick Savage

Sir John Clark

1996

Richard Kearney

Augusta Wallace

Areta Koopu

1996 *continued*

Wilson Isaac

1998

Josephine Anderson

Wharehuia Milroy

1999

Rangitihi (John) Tahuparae

Pita Sharples

John Baird

2000

Caren Fox (née Wickliffe)

Carrie Wainwright

2001

Margaret Bazley

Ann Parsonson

2002

Monty Soutar

Tuahine Northover

Stephanie Milroy

Layne Harvey

2003

Gloria Herbert

Ranginui Walker

Hirini Moko Mead

2003 *continued*

Angela Ballara

Judith Binney

2004

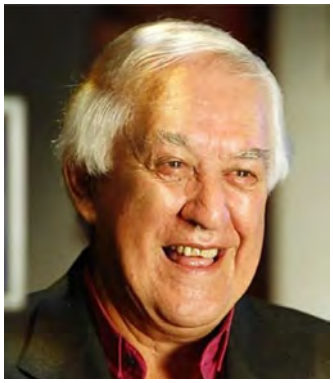
Doug Kidd

Joe Williams

Robyn Anderson

2006

Peter Brown



Paul Reeves

2007

David Ambler

Stephen Clark

Craig Coxhead

2008

Kihi Ngatai

Aroha Harris

Richard Hill

Tania Simpson

Basil Morrison

Pou Temara

Tim Castle

2010

Tamati Reedy

Sarah Reeves

2011

Grant Phillipson

Kaa Williams

Ron Crosby

2013

Miriama Evans

Nicholas Davidson

Rawinia Higgins

Paul Swain

Mike Doogan

2014

David Cochrane

Erima Henare

Tureiti Moxon

2014 *continued*

Miharo Armstrong

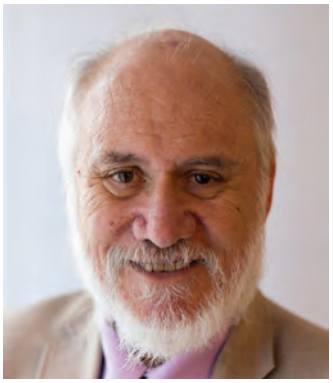
2015

Derek Lardelli

Hauata Palmer

2016

Linda Smith



Tom Roa

2018

Prue Kapua

Ruakere Hond

Kim Ngarimu

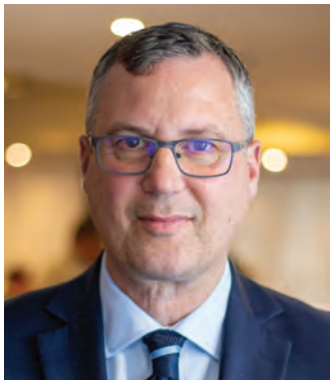
2019

Terena Wara

Damian Stone

2020

Susy Frankel



Paul Hamer

2021

Hana O'Regan

Kevin Prime

Derek Fox

Herewini Te Koha

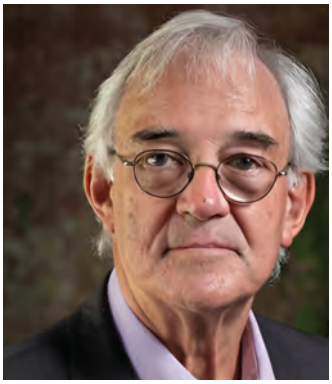
Rachel Mullins

Aidan Warren

2021 *continued*

Te Kani Williams

2023



David Williams

Alana Thomas

2024

Richard Prebble

Ken Williamson

Tipene Chrisp

Philip Crump

Vanessa Eparaima

Rex Hale

2024 *continued*

Grant Hadfield

Kingi Kiriona

Ron Mark

Leilani Tuala-Warren

Nathan Milner

2025

Gerrard Albert

Juliet Tainui-Hernandez