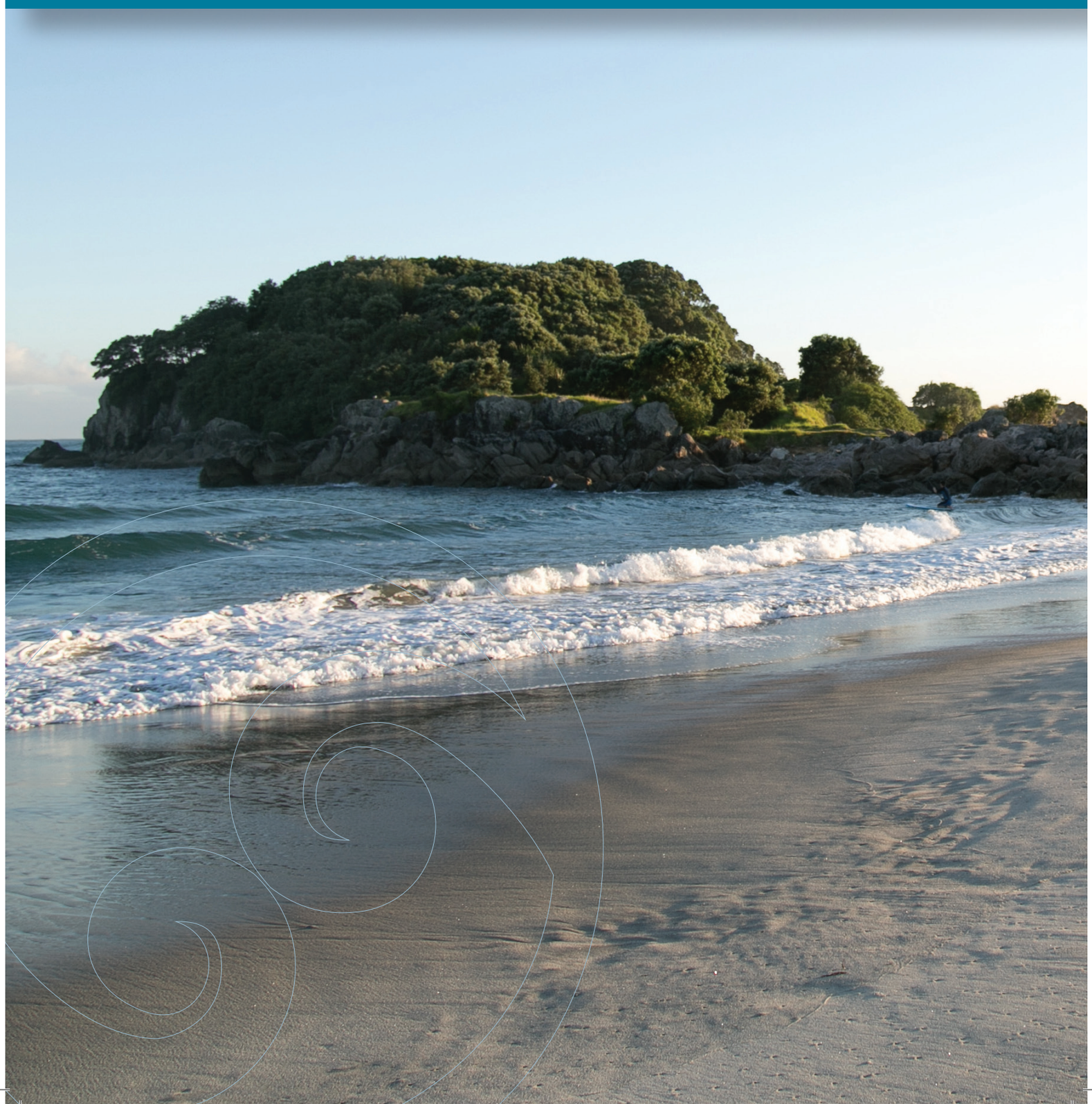
Te Kāwanatanga o Aotearoa

E74

The Section 8I Report

A report on the progress made on implementation of Waitangi Tribunal recommendations to the Crown
For the period 1 July 2022 to 30 June 2023



Presented to the House of Representatives under Section 8I of the Treaty of Waitangi Act 1975.

Contents

Kei ngā mātāwaka o te motu e nōhia nei tēnei whenua taurikura o tātou, tēnā koutou katoa.

E waingōhia ana ahau ki te whakaatu atu i tēnei pūrongo ā-tau mō te Section 8I, koinei te mea tuatahi a tēnei Kāwanatanga haumi. Kei roto nei e tūhia nei ko ngā mahi mai i te 1 o Hūrae 2022 tae noa ki te 30 o Hune 2023, kei roto hoki ko ētahi kōrero whakamārama mō ngā pūrongo 37 a te Taraipiunara (e rima ngā mea i whakarewahia i te tau 2022 ki te tau 2023).

I am pleased to present this Section 8I annual report, the first under this coalition Government. This report covers progress from 1 July 2022 to 30 June 2023 and includes updates for 37 Tribunal reports (five released within 2022–2023).

Māori Development Minister,
Tama Potaka

He kupu takamua nā te minita
Minister's Foreword

Ko tētahi o ngā herenga o te Section 8I o te Treaty of Waitangi Act 1975 ko te whakarite i tētahi pūrongo ā-tau mā te Whare Pāremata mō ngā mahi e whakahaerehia ana i te whakatinanatanga o ngā tohutohu nā te Taraipiunara o Waitangi ki te Karauna.

Kei roto nei ko tētahi whakaaturanga matua e aro atu ana ki te katoa o te hātepe kerēme, e kōrerotia ana ko te hātepe a te Taraipiunara o Waitangi mai i te wā e tāpae atu ai ngā kaikerēme i tētahi kerēme, tae noa ki te whakataunga me ngā mahi o muri i te whakataunga. Ka tirohia hoki te hononga o tēnei hātepe ki ngā tāpiritanga whakamārama a ngā whakahaere mō te Section 8I, me te āhuatanga o te pūrongo Section 8I hei wāhanga o te hātepe mō ngā kerēme mō te Tiriti o Waitangi.

E aro atu ana te Kāwanatanga ki te whakarato i te ritenga pai rawa, ā, e ngākau titikaha ana ki te whakapai ake i te whāomotanga me te whaikaha. E manako ana ahau kia haere tonu te whanaketanga o te pūrongo Section 8I kia tika tonu nei tōna take mō ngā tāngata katoa i Aotearoa nei.

E takoto ana ki roto i tēnei pūrongo ko ngā mōhiotanga, ngā kōrero, me te horopaki e pūrangiaho ai ngā take ka āta tirohia ngātahitia e mātou ko ngā kaikerēme.

I a mātou e nanaiore atu ana ki te whakatutuki i tētahi Aotearoa e kitea ai, e whakanuia ai hoki ngā ahurea me ngā hapori katoa, ka pūmau tonu tō mātou manawa nui ki te Tiriti o Waitangi.

Section 8I of the Treaty of Waitangi Act 1975 requires an annual report to the House of Representatives on the progress being made in the implementation of recommendations made to the Crown by the Waitangi Tribunal.

Inside is a Feature Presentation that focuses on the claims process in its entirety, covering the Waitangi Tribunal process from the moment claimants lodge a claim, through to settlement and post settlement. It looks at how this process ties into Section 8I report agency update contributions, and into the function of the Section 8I Report as a part of the claims process.

This Government is focused on delivering best practice and committed to improving efficiency and efficacy. I expect the Section 8I Report to continue to evolve to ensure it remains fit for purpose for all New Zealanders.

This report provides knowledge, information and context to understanding the issues we are committed to working through in partnership with all claimants.

As we strive to achieve an Aotearoa New Zealand that recognises and celebrates all cultures and communities, our commitment to the Treaty of Waitangi remains resolute.

E tau ana,

Nā Hōnore Tama Potaka
Nā te Minita Whanaketanga Māori

Te Pūrongo i te Section 8I:
He Kupu Whakataki

Ko tēnei pūrongo he kōrero whakamārama ki te Whare Pāremata mō ngā mahi a te Karauna i tāna whakatinana i ngā tūtohu a te Taraipiunara o Waitangi mai i te 1 o Hūrae 2022 tae noa ki te 30 o Hune 2023.

Ko te Treaty of Waitangi Act 1975 tētahi ara e kitea ai, e pūmau ai hoki ngā mātāpono o te Tiriti o Waitangi (te Tiriti) mā roto i te whakatūnga o te Taraipiunara o Waitangi (te Taraipiunara). Kei te Taraipiunara te mana ki te whakarite tūtohu mō ngā kerēme e pā ana ki te whakahāngaitanga ā-ringa o te Tiriti, kei a rātou hoki te mana ki te whakatau mēnā rānei e ōrite ana te āhua o ētahi take ki tērā o ngā mātāpono o te Tiriti.

He nui ngā pūrongo a te Taraipiunara e kōrero nei i ngā whakapae e mea ana i takahia te Tiriti o Waitangi (te Tiriti) me ōna mātāpono e te Karauna i mua i te 21 o Hepetema i te tau 1992 (ko te rā e wehe ai ngā kerēme o mua i ngā kerēme o nāianei). Kei te Minita mō ngā Take Tiriti te haepapa ki te whiriwhiri i ngā whakataunga mō ēnei kerēme o mua.

Hāunga rā ētahi āhuatanga iti nei[1], i te nuinga o te wā kāore e taea e te Taraipiunara o Waitangi te whakarite tūtohu e herea ai te Karauna. I te nuinga o te wā, kei te Karauna te mana whakatau mēnā rānei ka whāia ngā tūtohu a te Taraipiunara (tētahi wāhanga, te tūtohu katoa rēnei), māna hoki e whakatau mēnā ka whiriwhiri ki te taha o ngā Māori i runga i aua tūtohu. I a ia e mahi ana, e mōhio ana te Karauna he whakahirahira te āhua o ngā kitenga me ngā tūtohu a te Taraipiunara ki te hononga kei waenga i ngāi Māori me te Karauna, tae ana ki te hātepe whakataunga o ngā kerēme Tiriti. Nā runga i tērā, ko ngā kitenga me ngā tūtohu a te Taraipiunara o Waitangi tētahi wāhi whānui e tīmata ai ngā kōrerorero i waenga i te Karauna me ngā Māori mō ngā take e whakahirahira ana ki ngā rōpū e rua nei.

Mō te āhua o ngā kerēme o mua, ka hua mai i ngā whakataunga i whiriwhiria ko tētahi whakaaetanga i waenga i te Karauna me ngā kaikerēme. Ko te take o ēnei whakaaetanga ko te whakatau i ngā takahitanga o te Tiriti, ko te aronga ko te whakaatu i ngā take matua o ngā rōpū whiriwhiri. Ahakoa ko te takunetanga ko te whakahāngai i ngā whakataunga ki te wairua o ngā tūtohu a te Taraipiunara (i ētahi wā mā ngā whakataunga ka tīmata mai te whakatinananga o ngā tūtohu), ko te tino take o tētahi whakataunga ko te whakaatu atu i ngā take matua o ngā rōpū whiriwhiri, me ngā rōpū e kuhu atu ai ki roto i aua whakataunga i runga i ō rātou ake mana.

Ka whakaatu atu tēnei pūrongo i te whakahaeretanga nō tēnei tau o te whakatinana i ngā tūtohu ki te Karauna, nā te Taraipiunara i tuku i waenga i te 1 o Hūrae 2022 ki te 30 o Hune 2023. He nui ngā pokapū Kāwanatanga i homai rā he kōrero mō te Pūrongo Section 8I 2022/23. Kei te wāhi whakamutunga o te pūrongo nei he whakarāpopoto mō te āhua o ngā kerēme katoa o te Taraipiunara o Waitangi.

Kei roto hoki i tēnei pūrongo ko tētahi Whakaaturanga Matua: *Te Hātepe Kerēme me te Āheitanga o te Pūrongo Section 8I,* ko tōna aronga ko te katoa o te hātepe kerēme, ka tūhura hoki i ngā haepapa o te Taraipiunara mō te wā i mua i te whakataunga, me ngā haepapa o te Tari mō ngā hononga i waenga i te Māori me te Karauna kei roto i Te Arawhiti mō ngā wāhanga i muri iho i te whakataunga. Ka titiro whānui hoki ki te take o te Pūrongo Section 8I, ā, ka wānangahia ka pēhea e pai ake ai te papanga me te whakapono.

1 Kei te Taraipiunara te mana ki te whakarite tūtohu i herea ai te Karauna mō ēnei āhuatanga: te whenua o ngā ngahere o te Karauna kei raro i te mana o tētahi whakaaetanga ngahere a te Karauna; ngā 'whenua maumaharatia', arā ko ngā whenua e pupuritia ana, i pupuritia rānei i mua rā, e tētahi whakahaere whakaemi moni a te Kāwanatanga, e tētahi whare wānanga rānei; ko ngā whenua o mua o New Zealand Railways, ka mutu kei runga i tōna kokoraho ko tētahi reo tohu e mea nei ka taea e te Taraipiunara o Waitangi te tūtohu atu me whakahoki te whenua ki te Māori māna kē e pupuri.

Section 8I Reporting: Introduction

This report provides Parliament with an update on the Crown's progress implementing Waitangi Tribunal recommendations between 1 July 2022 and 30 June 2023.

The Treaty of Waitangi Act 1975 provides for the observance and confirmation of the principles of the Treaty of Waitangi (the Treaty) through the establishment of the Waitangi Tribunal (the Tribunal). The Tribunal has jurisdiction to make recommendations on claims relating to the practical application of the Treaty, and to determine whether certain matters are inconsistent with the principles of the Treaty.

Many of the Tribunal's reports address claims of Crown breaches of te Tiriti o Waitangi (te Tiriti) and its principles that occurred before 21 September 1992 (the date used to demarcate between historical and contemporary claims). The Minister for Treaty of Waitangi Negotiations has responsibility for negotiating settlements of these historical claims.

With a few key exceptions[2] the Waitangi Tribunal is unable to make recommendations that are binding on the Crown. In most cases, the Crown may choose whether to adopt the Tribunal's recommendations (in part or in full) or negotiate with Māori based on these recommendations. In practice, the Crown recognises that the Waitangi Tribunal's findings and recommendations make an important contribution to the relationship between Māori and the Crown, including the processes of settling Treaty claims. In this way, Waitangi Tribunal findings and recommendations provide a comprehensive starting point for engagement between the Crown and Māori on issues of importance to both parties.

In relation to historical claims, a negotiated settlement produces an agreement between the Crown and claimants. The purpose of these agreements is to settle any breaches of the Treaty and aims to reflect the interests of the negotiating parties. While settlements are intended to be consistent with the spirit of the Tribunal's recommendations (and in some cases settlements directly implement recommendations), the purpose of a settlement is to reflect the interests of the parties concerned, and who freely enter into those settlements.

This report presents the progress made between 1 July 2022 and 30 June 2023 on the implementation of recommendations made to the Crown. A number of government agencies have contributed to the 2022/23 Section 8I Report. At the end of the report is a summary on the status of all Waitangi Tribunal Claims.

Also included in this report is a Feature Presentation: *The Claims Process & the Function of the Section 8I Report*, which focuses on the claims process in its entirety and explores responsibilities of both the Tribunal in pre-settlement, and the Office for Māori Crown Relations – Te Arawhiti in post settlement stages. It also takes a wider view into the purpose of the Section 8I Report and how improvements can be made to improve accountability and transparency.

2 The Tribunal has the power to make binding orders with respect to: Crown forest land that is subject to a Crown forestry licence; 'memorialised lands', which are lawns owned, or formerly owned, by a State-owned enterprise or a tertiary institution; or former New Zealand Railways lands, that have a notation on their title advising that the Waitangi Tribunal may recommend that the land be returned to Māori ownership.

Abbreviations

CFL	Crown Forest Land
Corrections	Department of Corrections (Ara Poutama Aotearoa)
CMA	Crown Minerals Act
CPTPP	Comprehensive and Progressive Trans-Pacific Partnership
DHB	District Health Board
DIA	Department of Internal Affairs (Te Tari Taiwhenua)
DOC	Department of Conservation (Te Papa Atawhai)
DPMC	Department of the Prime Minister and Cabinet (Te Tari o te Pirimia me te Komiti Matua)
HUD	Ministry of Housing and Urban Development (Te Tūāpapa Kura Kāinga)
ISDA	International Swaps and Derivatives Protocol
ISDS	Investor state dispute settlement
KĀINGA ORA	Homes and Communities
LINZ	Land Information New Zealand (Toitū Te Whenua)
MBIE	Ministry of Business, Innovation, and Employment (Hīkina Whakatutuki)
MCH	Ministry of Culture and Heritage (Manatū Taonga)
MDC	Māori Development Corporation
MFAT	Ministry of Foreign Affairs and Trade (Manatū Aorere)
MfE	Ministry for the Environment (Manatū Mō Te Taiao)
MfMD	Minister for Māori Development
MFTOWN	Minister for Treaty of Waitangi Negotiations
MoE	Ministry of Education (Te Tāhuhu o te Mātauranga)
MoH	Ministry of Health (Manatū Hauora)
MoJ	Ministry of Justice (Te Tāhū o te Ture)
MPI	Ministry for Primary Industries (Manatū Ahu Matua)
MSD	Ministry of Social Development (Te Manatū Whakahiato Ora)
MTA	Muaūpoko Tribal Authority
NHF	Nature Heritage Fund
NPS FM	National Policy Statement Freshwater Management
NWOMTB	Ngāti Whātua o Ōrākei Māori Trust Board
OT	Oranga Tamariki (Ministry for Children)
PHO	Primary Health Organisation
PSGE	Post-Settlement Governance Entity
PVR	Plant Variety Rights
RMA	Resource Management Act
SILNA	The South Island Landless Natives Act
STATS NZ	Statistics New Zealand (Tatauranga Aotearoa)
TAMA	Te Aitanga a Māhaki and Affiliates
TE ARAWHITI	Office of Māori Crown Relations - Te Arawhiti
TIMA	Tūhoronuku Independent Mandated Authority
TPK	Te Puni Kōkiri (Ministry of Māori Development)
TPP	Trans-Pacific Partnership
UPOV 91	International Convention for the Protection of New Varieties of Plants
UPR	Universal Periodic Review
WPCT	Whakatōhea Pre-Settlement Claims Trust

Te Whakaaturanga Matua mō te Tau 2022/23
2022/23 Feature Presentation

The 2022/23 Section 8I Feature Presentation takes a deep dive into the Waitangi Tribunal claims process. It explores the establishment of the Waitangi Tribunal, the stages of a claim from submission to the Tribunal through to settlement with the Crown, and post-settlement processes.

The second half of the Feature Presentation considers the purpose of the Section 8I Report within the claims process and its potential to foster greater transparency in relation to how Crown agencies implement recommendations.

8

The Claims Process and the Function of the Section 8I Report

The Establishment of the Waitangi Tribunal and the Evolution of the Treaty of Waitangi Act 1975

From the early 1970s, Aotearoa New Zealand witnessed increasing unrest from protest movements that were largely centred around the treatment of Māori in historical and contemporary contexts and calls for greater equality with non-Māori. Collective goals of the protest movement included the revitalisation of te reo Māori and Māori culture and practices; and cessation of the sale and purchase of whenua Māori.[3] For decades, Māori had sought to resolve long-held historic grievances with the Crown through legal means but had achieved little success.

In part response to the growing protest movement, the government promoted a bill that was enacted as the Treaty of Waitangi Act 1975 (the Act). Section 4 of the Act established a commission of inquiry to be known as the Waitangi Tribunal (the Tribunal).[4] The Tribunal enquires into claims brought by Māori relating to legislation, and policies and practices, actions, and omissions of the Crown, that are alleged to prejudicially affect Māori and to be inconsistent with the principles of te Tiriti o Waitangi/the Treaty of Waitangi (te Tiriti/the Treaty).[5] Where the Tribunal finds such claims to be well-founded, it may make recommendations to the Crown regarding actions to compensate for or remove the prejudice or to prevent other persons from being similarly affected in the future.[6]

Initially, the Tribunal could only hear claims relating to actions or policies of the Crown that occurred after its establishment in 1975. However, following further protest by Māori activists and the realisation that most of the grievances held by Māori related to pre-1975 actions of the Crown, Parliament extended its jurisdiction in 1985 to include claims dating back to the signing of te Tiriti/the Treaty on 6 February 1840. This significantly widened the scope of claims that could be considered and marked a major development in the Tribunal's purpose.

3 Waitangi Tribunal (n.d.). *Past, present & future of the Waitangi Tribunal*. Available at: www.waitangitribunal.govt.nz/about/past-present-future-of-waitangi-tribunal/ (Accessed: 03 May 2024).

4 Treaty of Waitangi Act 1975, section 4.

5 Treaty of Waitangi Act 1975, section 6(1).

6 Treaty of Waitangi Act 1975, section 6(3).

Following the broadening of the Tribunal's jurisdiction, a large number of claims were submitted. The Tribunal fell behind with its work, causing frustration while claimants waited to be heard.[7] In 1996, in an effort to streamline and expedite the process of inquiring into claims, the Tribunal launched a new system for hearing claims. It began to group historical claims relating to a specific area or district, which were then researched together and compiled in a single casebook. Researching and hearing claims in a specific area is known as a district inquiry. The Mohaka ki Ahuriri inquiry was the first district inquiry, quickly followed by Tauranga Moana.[8]

In 2006, Parliament amended the Act to provide that no new "historical claims" could be registered in the Tribunal after 1 September 2008. "Historical claims" are defined, in section 6AA of the Act, as claims relating to a policy or practice adopted or an act done or omitted by or on behalf of the Crown before 21 September 1992.[9] In a press release relating to the jurisdictional change, the government of the day stated that:

> *"A time limit on registering historical claims will allow Māori to change focus from identifying breaches of the Treaty of Waitangi to concentrating on reaching settlements with the Crown. Settlements give claimants the chance to develop their tribal structures, safeguard their regional interests, invest in the education of their children, re-build the tribal estates and take part in business."*[10]

The Tribunal is required to produce a report of its findings and recommendations (if any) relating to alleged breaches of te Tiriti/the Treaty. Whilst its recommendations are not legally binding (except in certain limited circumstances), over the years, the Tribunal's work has provided a foundation for hapū/iwi and the Crown to negotiate numerous te Tiriti/Treaty settlements.

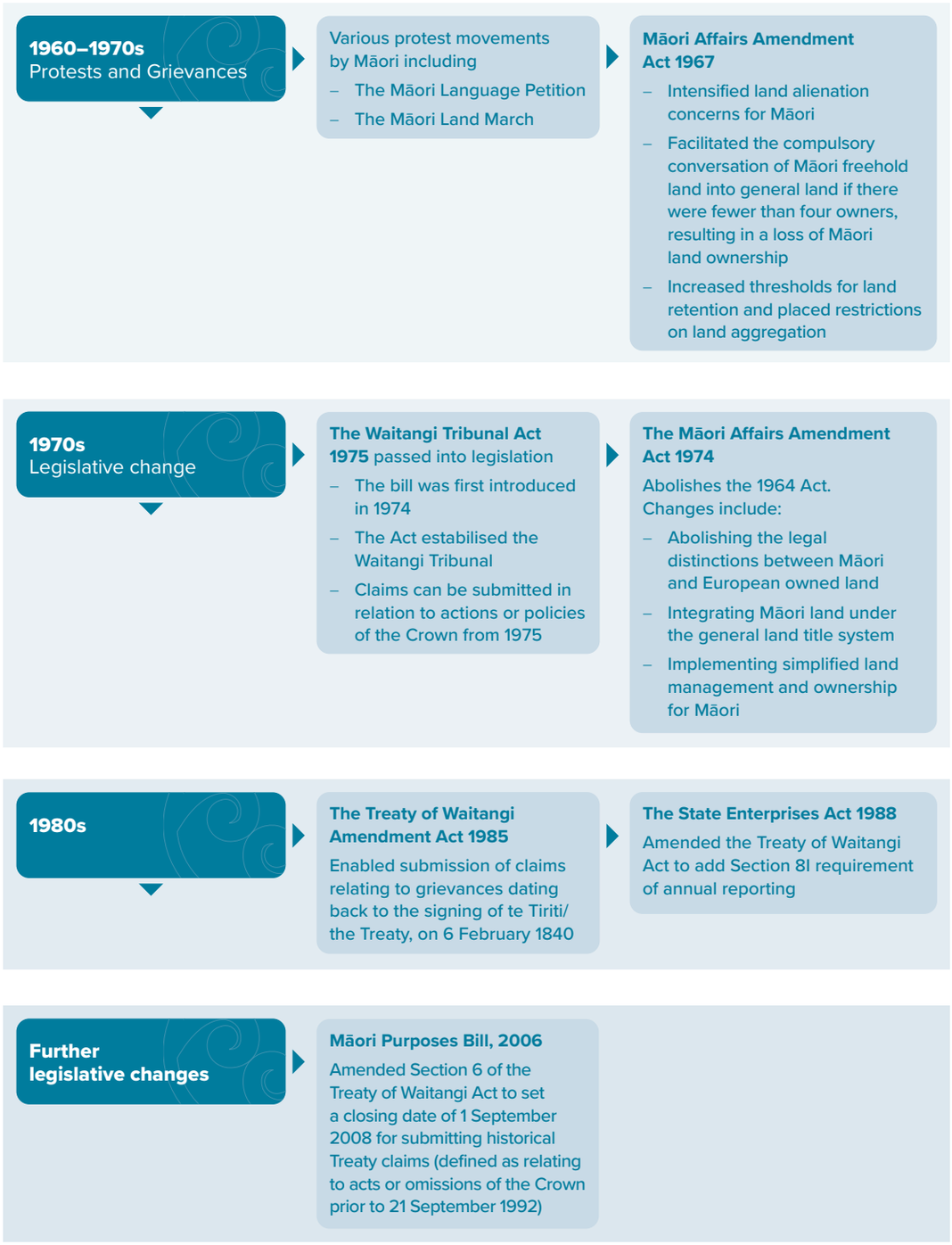
7 Derby, M. (2012). *Te Rōpū Whakamana i te Tiriti o Waitangi*, Te Ara – The Encyclopaedia of New Zealand. Available at: teara.govt.nz/en/waitangi-tribunal-te-ropu-whakamana/print (Accessed: 03 May 2024).

8 Waitangi Tribunal, *Te Manutukutuku*, Issue 57, Poutū-te-rangi 2003, March 2003. Available at: www.waitangitribunal.govt.nz/en/news-2/all-articles/te-manutukutuku-newsletter (Accessed: 03 May 2024).

9 Treaty of Waitangi Act 1975, section 6AA.

10 Hon Parekura Horomia (2006). *Govt honours pledge on Treaty Claim Time Limit* – English, The Beehive. Available at: www.beehive.govt.nz/release/govt-honours-pledge-treaty-claim-time-limit-english (Accessed: 03 May 2024).

Figure 1: Some of the key events leading up to the establishment of the Waitangi Tribunal and some key legislative changes that have impacted the Waitangi Tribunal and Treaty settlement process.[11]



11 Compiled from a review of relevant legislation found at www.legislation.govt.nz

Waitangi Tribunal Membership

The Act states that the Tribunal may consist of a maximum of 20 members, including the Chairperson.[12] The members are appointed by the Governor-General on the recommendation of the Minister for Māori Development made after consultation with the Minister of Justice. The Chairperson must be a Judge or retired Judge of the High Court or the Chief Judge of the Māori Land Court.[13]

The Chairperson appoints a Tribunal panel (the panel) of between three and seven members to carry out an inquiry into a claim or group of claims.[14] The panel consists of a presiding officer, who can be a member of the Tribunal or a Māori Land Court Judge, and Tribunal members who are appointed for their knowledge and expertise pertaining to the claim and inquiry matter.[15] At least one panel member must be of Māori descent.[16]

The presiding officer has specific responsibilities as outlined in Schedule 2 of the Act, including setting times and places for Tribunal sittings,[13] holding conferences of parties (judicial conferences)[17] and issuing directions[18] that instruct relevant parties to carry out specific tasks. The presiding officer is required to be the decision maker of the Tribunal in circumstances where there is disagreement on any matter when the members are equally divided.[19]

12 Treaty of Waitangi Act 1975, section 4(2).

13 Treaty of Waitangi Act 1975, section 4(2)(a).

14 Treaty of Waitangi Act 1975, schedule 2, section 5(1)(b).

15 Waitangi Tribunal (2023). *Guide to the Practice and Procedure of the Waitangi Tribunal:* A Comprehensive Practice Note Issued under Clause 5(9) and (10) of Schedule 2 to the Treaty of Waitangi Act 1975, Guide to Tribunal Practice and Procedure, p. 9. Wellington: Waitangi Tribunal. Available at: www.waitangitribunal.govt.nz/en/education/new-content-page-2/new-content-page-2 (Accessed: 03 May 2024).

16 Treaty of Waitangi Act 1975, schedule 2, section 5(6)(c).

17 Waitangi Tribunal (2004). *Claims Process: Prepare for hearing*. Available at:waitangitribunal.govt.nz/claims-process/going-to-hearings/prepare-for-hearing/ (Accessed: 03 May 2024).

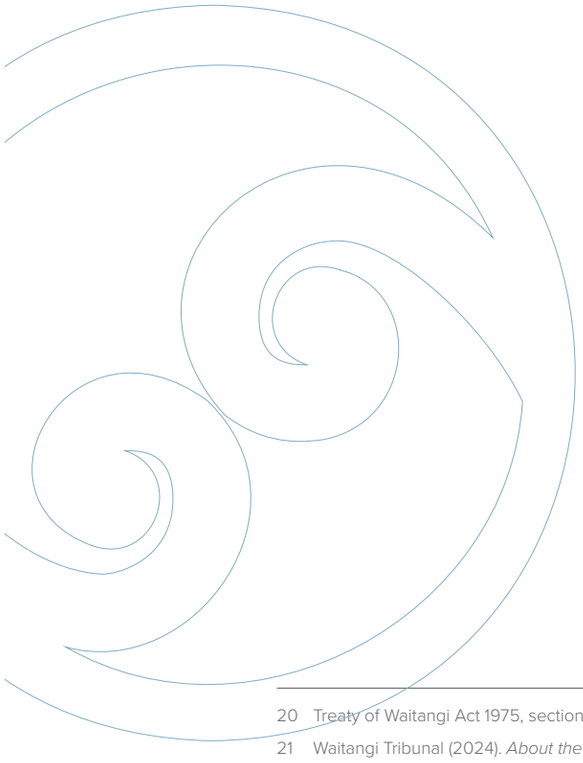
18 Waitangi Tribunal (2024). *Waitangi Tribunal directions*. Available at: www.waitangitribunal.govt.nz/publications-and-resources/waitangi-tribunal-directions/ (Accessed: 03 May 2024).

19 Treaty of Waitangi Act 1975, schedule 2, section 5(7).

The Waitangi Tribunal Unit

The Act requires the Ministry of Justice to provide "such secretarial, recording, and other services as may be necessary to enable the Tribunal to exercise its functions and powers".[20] The Waitangi Tribunal Unit (the Unit) was established within the Ministry of Justice to provide these services.[21] Those that work for the Unit are not considered members of the Tribunal. The Unit consists of 65 staff, at full capacity, across various teams:[22]

- **Registrarial:** assesses applications to register and amend claims, manages applications for urgencies and remedies, oversees the records of inquiry, and advises the Legal Services Commissioner on legal aid funding to claimant(s).
- **Claims coordination:** provides logistical support relating to judicial conferences, hearings, and Tribunal panel meetings, and helps inquiry participants to engage effectively with Tribunal processes. The team maintains and distributes documents filed on the records of inquiry, updates key database systems and provides administrative support for Tribunal members.
- **Inquiry facilitation:** advises on delivery of inquiry processes and provides claimant(s) and Tribunal panels advice on inquiry process matters up to the close of hearings.
- **Research services:** assists Tribunal panels to plan and implement casebook research programmes, as well as undertaking Tribunal-commissioned research and providing quality assurance.
- **Report writing:** supports the planning and delivery of Tribunal reports, assists Tribunal panels to draft reports, and manages report publication.



20 Treaty of Waitangi Act 1975, section 4(5).

21 Waitangi Tribunal (2024). *About the Tribunal - Waitangi Tribunal Unit*. Available at: www.waitangitribunal.govt.nz/en/about/about-the-waitangi-tribunal/the-waitangi-tribunal-unit (Accessed: 03 May 2024).

22 Waitangi Tribunal (2023). *Pūrongo-ā-tau:* Annual report released. Available at: www.waitangitribunal.govt.nz/en/education/new-content-page-2/nga-purongo-a-tau (Accessed: 03 May 2024).

Waitangi Tribunal Claims Process

Claims and Inquiries

Claims that Māori have been prejudicially affected by actions, inactions, laws or policies of the Crown and that such actions, inactions, laws or policies are inconsistent with te Tiriti/the Treaty may be submitted to the Tribunal.[23]

The Tribunal conducts several types of inquiries,[24] these being:

- **District Inquiries:**[25] These inquiries group claims (largely historical) in a particular area into one inquiry. There are 37 inquiry districts, with the Tribunal having completed the majority of the related inquiries. Some districts have not had an inquiry as claimants chose to negotiate a settlement directly with the Crown.

  At present, there are five active district inquiries: three in the hearings process (Porirua ki Manawatu (Wai 2200), North-Eastern Bay of Plenty (Wai 1750) & Renewed Muriwhenua Land Inquiry (Wai 45)); and two in the report writing stage (Te Paparahi o Te Raki (Wai 1040) & Taihape: Rangitīkei ki Rangipō (Wai 2180)).
- **Kaupapa Inquiries:** An inquiry programme with a thematic focus, that deals with issues that affect Māori on a national level and are not typically associated with a district. There are 13 topics for inquiry. At present, one inquiry has been completed (Takutai Moana (Wai 2660)), seven inquiries are underway, and five inquiries are yet to start.[26] Examples of inquiries that are underway include the Housing Policy and Services Kaupapa Inquiry (Wai 2750), the Justice System Kaupapa Inquiry (Wai 3060) and the Military Veterans Kaupapa Inquiry (Wai 2500).
- **Historical Claims (not included in District Inquiries):** These are claims that have not been settled nor fully heard in the ongoing district inquiries and relate to matters prior to 21 September 1992. In September 2018, the Waitangi Tribunal issued a memorandum explaining that remaining historical claims from inquiry districts would be grouped into regions for assignment to a standing panel. The same memorandum established the Southern North Island and South Island Claims inquiry (Wai 2800).[27]

---

23 Waitangi Tribunal (2020). *Claims process*. Available at: www.waitangitribunal.govt.nz/claims-process/ (Accessed: 03 May 2024).

24 Waitangi Tribunal, *Ngā Pūrongo-a-Tau o te Matariki 2022 ki 2023,* Annual Report, Issue 1, Whiringa-ā-rangi 2023, November 2023.
Available at: www.waitangitribunal.govt.nz/en/education/new-content-page-2/nga-purongo-a-tau (Accessed: 03 May 2024).

25 In 2001, the Tribunal adopted a New Approach for District Inquiries, to progress inquiries while ensuring the process was fair. More information can be found on the Waitangi Tribunal website at: www.waitangitribunal.govt.nz/inquiries/district-inquiries

26 Waitangi Tribunal (n.d.). *Kaupapa Inquiries*. Available at: www.waitangitribunal.govt.nz/inquiries/kaupapa-inquiries (Accessed 3 May 2024).

27 Wai 2800, #2.5.1.

- **Remedies Inquiries:** Remedies inquiries take place when the Tribunal has found a claim to be well-founded and claimants wish the Tribunal to make specific recommendations on the actions that the Crown needs to take to remedy the prejudice. This can include asking the Tribunal to exercise its binding recommendatory powers in respect of Crown Forest Land or State-Owned Enterprises land. Many remedies inquiries proceed on an urgent basis.

  One example of this type of inquiry is the Mangatū Remedies Inquiry (Wai 814), in which the Tribunal considered whether it should exercise its powers under section 8HB of the Act to recommend the return of the Mangatū Crown forest licenced lands to Māori ownership.
- **Urgent Inquiries:** This is a particular type of application made to the Tribunal for a claim or group of claims to be prioritised ahead of other claims and heard urgently by the Tribunal.[28] An example is the Kura Kaupapa Māori Urgent Inquiry (Wai 1718), which resulted from Te Rūnanga Nui o Ngā Kura Kaupapa Māori successfully applying for an urgent hearing on behalf of 62[29] kura and over 6,500 students. Claimants alleged that the Crown had breached te Tiriti/the Treaty in relation to Kura Kaupapa.

For a claim to be heard under urgency or in a remedies inquiry, claimant(s) must provide information that illustrates the following criteria:

1. That the applicants are suffering, or are likely to suffer, significant and irreversible prejudice as a result of current or pending Crown actions;
2. That there is no alternative remedy that, in the circumstances, it would be reasonable to exercise; and
3. That the applicants are ready to proceed urgently to a hearing.[30]

Submission, Assessment, and Registration of a Claim

Claims submitted to the Tribunal (typically by email, post, or in-person) are assessed prior to registration. The assessment determines whether claims meet the criteria for consideration by the Tribunal in section 6 of the Act. The criteria are:

1. the claimant(s) are Māori;
2. the claim relates to an ordinance, regulation, order, proclamation, notice or other statutory instrument, policy or practice, or an act or omission of the Crown;
3. the claim alleges that the ordinance, regulation, order, proclamation, notice or other statutory instrument, policy or practice, or an act or omission of the Crown prejudicially affects the claimant(s); and
4. the claim alleges inconsistency with the principles of the Treaty of Waitangi.[31]

If claims fail to provide the appropriate information they may not be considered for registration.

Under section 7 of the Act, the Tribunal, at its discretion, can choose not to inquire into any claim made under section 6, if they are of the opinion that:

1. the subject matter is trivial;
2. the claim is not made in good faith; or

28 Waitangi Tribunal (2024). *Claims Process: Apply for urgency.* Available at: www.waitangitribunal.govt.nz/claims-process/going-to-hearings/apply-for-urgency/ (Accessed 14 May 2024).

29 Wai 1718, #3.1.2

30 Ibid.

31 Waitangi Tribunal (2022). *Claims Process: Make a Waitangi Tribunal claim.* Available at: www.waitangitribunal.govt.nz/en/claims-process/about-the-claims-process/the-claims-process (Accessed 03 May 2024).

3. there is another avenue of remedy other than challenging the Crown.

In such cases, claims are not registered with the Tribunal and no inquiry takes place. The Tribunal will inform the claimant(s) of the reasons for not progressing with the claim.[32]

Claims that meet the criteria are registered and assigned a claim number ('Wai' number).[33] The Tribunal informs the claimant(s) and the Crown that the claim has been registered and will advise the claimant(s) if further information is required.

Research and Evidence – record of inquiry and casebook

Once a claim has been registered and any related claims are grouped together, for example in a kaupapa or district inquiry, the Tribunal sets up a record of inquiry and the research stage of the inquiry begins. The record of inquiry collates relevant documents such as statements of claim, directions/memoranda relating to procedural issues and evidence submitted by claimants and the Crown.

The types and amount of research and evidence required depends on the claim. The Tribunal commissions a casebook and review of the existing evidence at the beginning of an inquiry, to determine what further research is needed.

The casebook is a collation of claimant evidence, alongside final technical evidence reports. Claimant evidence provides a way for claimants to capture the experiences and traditions of their community and tūpuna. Technical research can involve working in Crown archives/records, libraries, and other historical sources. It is commissioned by the claimant(s) and the Crown either separately or in collaboration and is generally carried out by contractors and experts such as historians. The Tribunal can also commission technical research or may authorise a claimant to commission research at the Tribunal's expense.[34]

The evidence collated in the casebook can take various forms, such as:

- written reports, briefs of evidence, whakapapa charts;
- oral accounts of witnesses' own experiences, whaikōrero, waiata, haka, kōrero pūrākau; and
- maps, indexed collections of documents, photographs, PowerPoint presentations and site visits.

Once the casebook is complete, it is presented to the Tribunal,[35] put on the record of inquiry and distributed to counsel representing claimants and the Crown prior to the hearing process.

Hearings

Once the evidence has been collated, the Tribunal holds hearings relating to the claims.

Typically, there are hearing weeks where a hearing may last up to five days. The length and general order of hearings is dependent on the inquiry and the amount of work required to prepare for it. In a smaller inquiry it would be expected that there be no more than two to

32 Treaty of Waitangi Act 1975, s 7(2).

33 Waitangi Tribunal (2022). *Claims Process: Make a Waitangi Tribunal claim.* Available at: www.waitangitribunal.govt.nz/en/claims-process/about-the-claims-process/the-claims-process (Accessed 03 May 2024).

34 Treaty of Waitangi Act 1975, sch 2, s 5A(1).

35 Waitangi Tribunal (2023). *Guide to the Practice and Procedure of the Waitangi Tribunal*: A Comprehensive Practice Note Issued under Clause 5(9) and (10) of Schedule 2 to the Treaty of Waitangi Act 1975, Guide to Tribunal Practice and Procedure, p. 9. Wellington: Waitangi Tribunal. Available at: www.waitangitribunal.govt.nz/en/education/new-content-page-2/new-content-page-2 (Accessed: 03 May 2024).

three hearings weeks over a short period of time. Larger scale inquiries, however, may take place over several months or even years.

Generally, hearings proceed as follows:

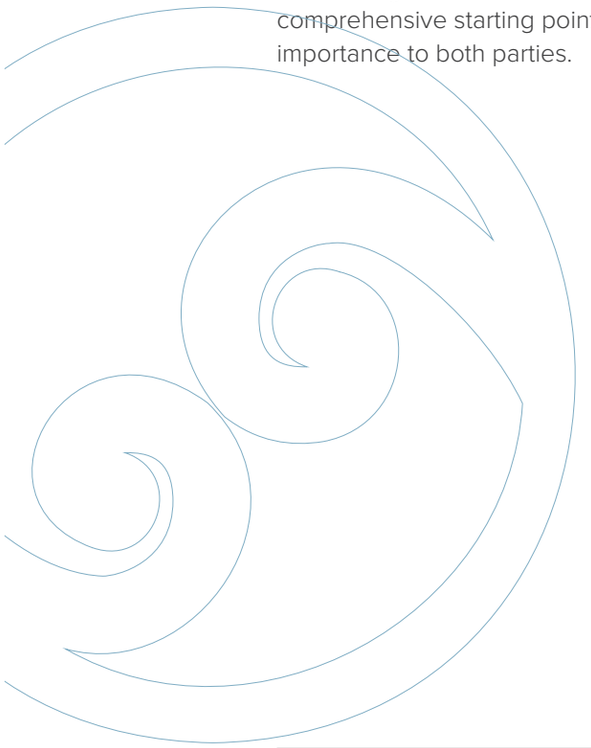
- the claimant(s) and the Crown present their opening submissions to outline their arguments with regard to whether or not the Crown has breached te Tiriti/the Treaty;
- claimant(s) and the Crown present their evidence (including technical evidence, where applicable). Evidence commissioned directly by the Tribunal will also be heard;
- other parties with an interest in the inquiry (interested parties) present their submissions and evidence; and then
- all parties present closing submissions on their overall arguments to support their respective cases.[36]

Reports

Once the hearings stage has been completed, the Tribunal writes and publishes a 'Waitangi Tribunal Report' that details its findings and any recommendations.[37]

The time it takes to write the report depends on several factors, such as the size of the inquiry. Report writing can take from a few days or weeks for urgent inquiries through to several years for large and complex inquiries. The Tribunal will occasionally hold a report handover ceremony for the claimant(s) and other parties that have participated in the inquiry. The final published report is then available to download (in soft copy) or purchase in hard copy off the Tribunal's website.

Whilst there are only a few situations where the Tribunal can make recommendations that are binding on the Crown, its findings and recommendations can nonetheless provide a comprehensive starting point for engagement between the Crown and Māori on issues of importance to both parties.



36 Waitangi Tribunal (2024). *Claims Process: What happens at the hearing*. Available at: www.waitangitribunal.govt.nz/claims-process/going-to-hearings/what-happens-at-the-hearing/ (Accessed: 03 May 2024).

37 Waitangi Tribunal (2024). *Claims Process: After the hearing*. Available at: www.waitangitribunal.govt.nz/claims-process/after-hearing/ (Accessed 14 May 2024).

The Office for Māori Crown Relations – Te Arawhiti and Treaty Settlements

The Office for Māori Crown Relations – Te Arawhiti negotiates the settlement of historical Treaty of Waitangi claims on behalf of the Crown.

Te Arawhiti was established as a departmental agency in December 2018, hosted within the Ministry of Justice. Te Arawhiti brought together the previous Office of Treaty Settlements (including the Takutai Moana team) and Post Settlement Commitments Unit (now Te Kāhui Whakamana) and established the Crown Māori Relations Unit (now Te Kāhui Hīkina)[38] which cemented the crucial role of the agency in both the settlement and post-settlement stages.

Claims need to be registered with the Tribunal before the Crown can begin negotiating with a claimant group. Once a claim is registered, claimant groups can seek negotiations with the Crown straight away or may choose instead to have their claims heard by the Tribunal before entering negotiations.

While any Māori can make a claim to the Tribunal, in seeking a comprehensive, fair and durable settlement for all historical grievances of a claimant group, the Crown strongly prefers to negotiate with large natural groupings and enters into negotiations with mandated representatives.

Negotiating a Treaty Settlement

A key objective of negotiations for Treaty settlements is to help set right the grievances that claimant groups have about historical Crown actions or omissions.

During negotiations, the Crown and the mandated representatives put forward their proposals for settling the claim and try to reach an agreement. Usually, an agreement in principle is signed by both parties, which sets out their agreement on the monetary value of the settlement and the scope and nature of other redress to be provided[39].

The redress may include a mutually agreed historical account of the group's relationship with the Crown and the grievances being settled, acknowledgements by the Crown, including any acknowledgements of Treaty breaches, an apology from the Crown, financial and commercial redress (including cash and Crown assets), and cultural redress (e.g. the return of culturally significant land, statutory recognition mechanisms and relationship agreements).

When all the details of the redress have been agreed, these are set out in a draft Deed of Settlement for approval by Cabinet and for ratification by the claimant group. The content of the Deed of Settlement may also be set out in settlement legislation enacted by Parliament.

As part of the settlement process, claimant groups establish a post-settlement governance entity (PSGE), which can start as early as the pre-negotiation stage, to hold and manage the settlement redress received from the Crown on behalf of their beneficiaries.[40]

38 The Office of Māori Crown Relations – Te Arawhiti (n.d.). *Welcome to the Office for Māori Crown Relations – Te Arawhiti.* Available here: www.tearawhiti.govt.nz.

39 www.tearawhiti.govt.nz/assets/Treaty-Settlements/The-Red-Book/The-Red-Book-2018.pdf.

40 Te Puni Kōkiri (n.d.). *Te Kāhui Māngai – Directory of Iwi and Māori Organisations: Glossary*. Available here: www.tkm.govt.nz/glossary (Accessed: 03 May 2024).

Through Deeds of Settlement and settlement legislation, Crown agencies are legally obligated to deliver on their Treaty settlement commitments. As of 20 June 2023, the Crown has signed 100 Deeds of Settlement with claimant groups, enacted 75 pieces of Treaty settlement legislation, and has approximately 40 settlements remaining.[41]

Post-settlement Processes

Post-settlement, Te Arawhiti supports the Crown to uphold and meet its te Tiriti/Treaty settlement commitments.[42] One of the ways Te Arawhiti does this is through Te Haeata, which is an online record of settlement commitments as recorded in Deeds of Settlement and settlement legislation. Te Haeata allows registered users (commitment holders)[43] to search for commitments and enter the status of their commitments. Deeds and settlement legislation remain the authoritative source of information about Treaty settlements.

In the Section 8I Report 2022/23 reporting period, core Crown agencies were directed by Cabinet to review the status of Treaty commitments they are responsible for on Te Haeata.[44] Those agencies with less than 1,000 commitments were to complete this by 30 June 2023 and those with more than 1,000 commitments had until 22 December 2023.

Cabinet also directed core Crown agencies to begin reporting on the status of their Treaty settlement commitments from the financial year 2023/24 in their annual reports as a mechanism to hold Crown agencies accountable for these.[45]

Status information data held within Te Haeata is currently only visible to users from the responsible entity and Te Arawhiti. By 1 July 2024, PGSEs will have access to data for their respective settlements. This will provide PSGEs with assurance the Crown is meeting its legal obligations to them under their settlement.[46] In the event that there are any issues arising from non-completion of a commitment, Cabinet has approved a Crown post-settlement issue resolution pathway, created and maintained by Te Arawhiti.[47]

How are Contemporary Claims Resolved?[48]

The Crown's response to contemporary claims is led by the government department or agency that has responsibility for the relevant policy area. For instance, the Ministry of Economic Development led the Crown response on contemporary claims about television and radio broadcasting rights and once resolved,[49] the responsibility for Crown policy in this area was passed to Te Puni Kōkiri. Similarly, the Crown's response to contemporary claims on Crown minerals is managed by the Ministry of Business, Innovation and Employment.[50]

---

41 This number remains approximate as groups may come together or split apart for Treaty settlement negotiations. It also does not include an unknown number of Ngāpuhi settlements.

42 The Office of Māori Crown Relations - Te Arawhiti (n.d.). *Te Kāhui Hīkina (Māori Crown Relations)*. Available at: www.tearawhiti.govt.nz/te-kahui-hikina-maori-crown-relations/ (Accessed: 03 May 204).

43 Commitment holders include the Crown, local government, and PGSEs.

44 Cabinet Māori Crown Relations: Te Arawhiti Committee Paper: *Enhancing Oversight of Treaty Settlement Commitments* (16 December 2022), CAB-22-MIN-0597. tearawhiti.govt.nz/assets/Publications/Proactive-releases/2023-03-21-Proactive-release-He-Korowai-Whakamana-Enhancing-oversight-of-Treaty-settlement-commitments.pdf (Accessed: 03 May 2024).

45 The Office of Māori Crown Relations - Te Arawhiti (2023). *Te Pūrongo ā-Tau o Te Arawhiti: Our Annual Report*. Available here: www.tearawhiti.govt.nz/assets/Publications/Corporate/MOJ0617.2_Annual-Report_printed-version-2022-23_v2.pdf (Accessed: 03 May 2024).

46 www.tearawhiti.govt.nz/assets/Tools-and-Resources/TA015.03-Guidance-for-updating-status-of-commitments-on-Te-Haeata-v3.pdf p.4 (Accessed: 15 May 2024).

47 Cabinet Māori Crown Relations: Te Arawhiti Committee Paper: *Enhancing Oversight of Treaty Settlement Commitments* (16 December 2022), CAB-22-MIN-0597. tearawhiti.govt.nz/assets/Publications/Proactive-releases/2023-03-21-Proactive-release-He-Korowai-Whakamana-Enhancing-oversight-of-Treaty-settlement-commitments.pdf (Accessed: 03 May 2024).

48 www.tearawhiti.govt.nz/assets/Treaty-Settlements/The-Red-Book/The-Red-Book-2018.pdf.

49 Claims can be resolved through direct negotiation, Treaty settlements, formal apologies, or legislation.

50 www.tearawhiti.govt.nz/assets/Treaty-Settlements/The-Red-Book/The-Red-Book-2018.pdf.

Building an Ecosystem of Accountability and Collaboration around the Implementation of Waitangi Tribunal Recommendations

Following the settlement reached in respect of what is now known as the 'Lands Case' of 1987, Parliament amended the Treaty of Waitangi Act through section 4 of the Treaty of Waitangi (State Enterprises) Act 1988.[51] This added the requirement, through 'Section 8I', for the Minister for Māori Development (previously known as the Minister of Māori Affairs) to prepare and lay before the House of Representatives a report on *"the progress being made in the implementation of recommendations made to the Crown by the Tribunal"* on a yearly basis.

The Section 8I Report (the Report) is located within the pre-settlement ecosystem as a mechanism to hold the Crown accountable in its progress in implementing recommendations made by the Tribunal, while the role of Te Arawhiti and Te Haeata as a platform sit in the post-settlement context. In its current format, the Report applies an over-arching lens to the settlement of whole claims, which includes reporting progress against any specific recommendations made by the Tribunal where these exist.

Initially, the Tribunal made more specific, prescriptive recommendations. Therefore, Te Puni Kōkiri followed this approach through the development of the Section 8I Reports and presented the update in relation to the implementation of the recommendations, on a line-by-line basis. However, in more recent years, the Tribunal has shifted to a less prescriptive approach, proposing that the Crown and claimants address issues raised by claims or negotiate a settlement based on its general findings, rather than making a series of prescriptive recommendations.

51 Treaty of Waitangi (State Enterprises) Act 1988. Available here: www.legislation.govt.nz/act/public/1988/0105/latest/DLM132561.html.

Function of the Section 8I Report

Delivered annually to the House of Representatives, the Report is placed on the public record, which allows for transparency regarding the Crown's actions in response to Tribunal findings and to settle Treaty claims. It also provides an opportunity for the Crown's progress against Tribunal recommendations to be publicly examined.

The function of the Report, as part of this broader ecosystem discussed in this section, is multifaceted. As part of a desk-top analysis of previous Section 8I Reports, the following list captures some of the intended outcomes of Section 8I Reports:

1. **Ensuring accountability:** Holding government agencies and the Crown accountable for taking action on the Tribunal's recommendations;
2. **Promoting transparency:** Allowing whānau, hapū, iwi and the wider public to see the progress being made on addressing Treaty grievances;
3. **Facilitating engagement:** Encouraging ongoing dialogue between the Crown and whānau, hapū and iwi on the implementation of the Tribunal's recommendations, fostering a more collaborative approach to resolving issues;
4. **Informing Stakeholders:** Informing claimants, stakeholders, and the general public about the status of recommendations and the actions taken by the Crown. This is crucial for claimants and their communities to understand how their claims are being addressed and for the public to be aware of the ongoing process of Treaty settlements; and
5. **Demonstrating commitment**: Signalling the government's commitment to te Tiriti/the Treaty and its principles, reinforcing the Treaty's importance in New Zealand's legal and constitutional framework.

The Approach to the Section 8I Report Over the Years

The Report has changed year on year, with the Minister for Māori Development responsible for ensuring that the Report is fit for purpose.

The 1992 Report identified that the 1991 Report did not include narratives within the Crown's updates that captured claimant voices. Therefore, as part of the update to the Motunui-Waitara Claim (Wai 6), it stated that "Te Ātiawa *(the claimants)* have advised the Council that they already detect improvements in the quality of water around the shellfish reefs".[52]

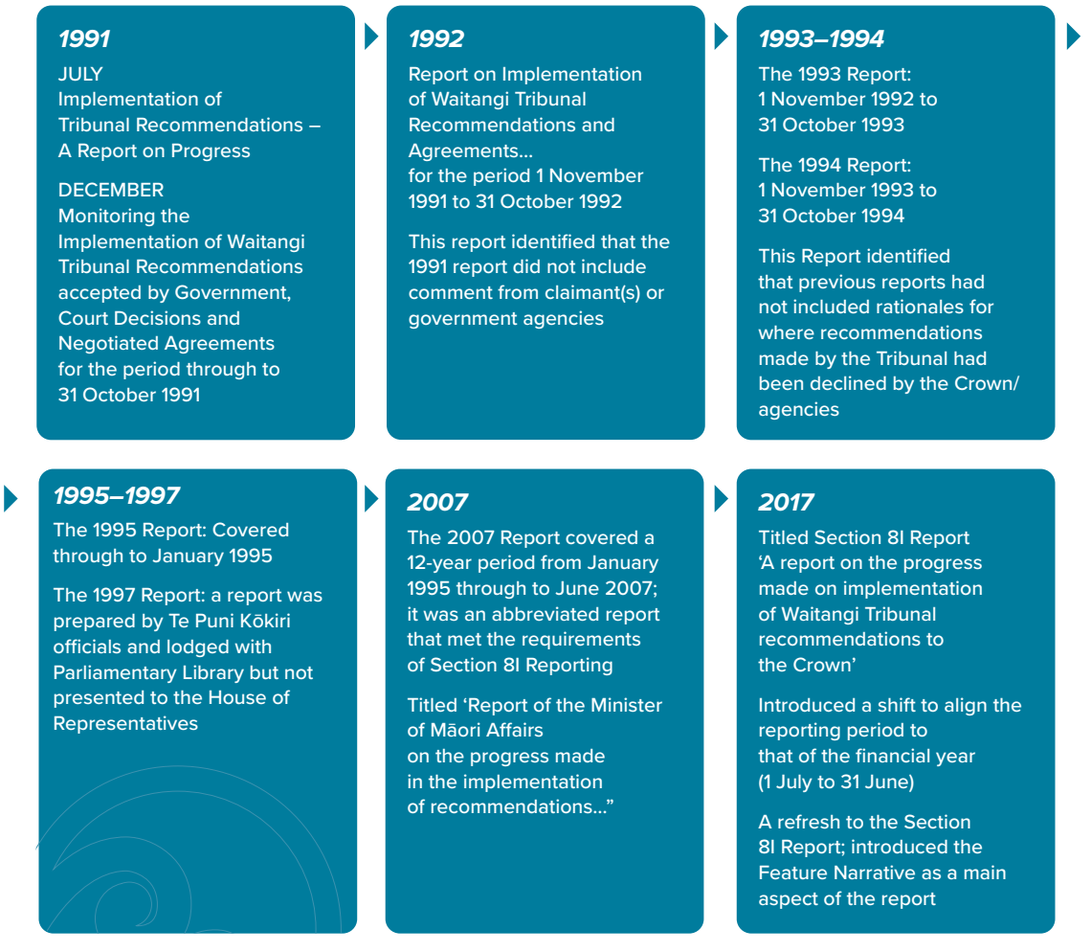
The 1994 Report differed from previous reports by including updates and explanations in relation to recommendations that had not been implemented.

The 1995 Report was to be the last report to be tabled in the House for some time. In June 2007, the then Minister of Māori Affairs indicated the intention to table a report the following month that would capture the 12-year period since the 1995 Report was tabled.[53] In the period between the 1995 Report and the 2007 Report, significant progress had been made in both the pre- and post-settlement space, including the Tribunal's increased capacity for hearing claims, and the Crown's increasing experience in negotiating and settling Treaty claims, in particular those of historic nature.

52 Te Puni Kōkiri (1992). *Report on Implementation of Waitangi Tribunal Recommendations and Agreements negotiated between Māori claimants and the Crown* at 6.

53 Although a Section 8I Report was prepared in 1997, it was not tabled in the House for unknown reasons however it was lodged in the Parliamentary Library. See Cabinet Minute Cabinet Business Committee: *Implementation of Recommendations Made by the Waitangi Tribunal to the Crown* (30 July 2007), CBC Min (07) 15/16.

Figure 2: A visual timeline that outlines some of the key changes to the Section 8I Reports over the years, including the name of the report, the reporting period, and, where applicable, acknowledgements of, or rationales for changes.



A refreshed approach from 2017/2018 saw the introduction of the Feature Narrative as a way of highlighting a kaupapa as part of the Report. This approach aimed to improve transparency of the Crown's progress on Tribunal recommendations and elevate the visibility of these efforts through its improvements to the reporting framework, as discussed in the Minister's Introduction to the Report. At the same time as this refresh, the Office for Māori Crown Relations - Te Arawhiti was established, bringing better alignment to the pre- and post-settlement work being done by agencies and improving transparency in that space.

Potential for Change

Changes are regularly made to the Section 8I Report to ensure that the Report delivers on its intended outcomes and is fit for purpose. In the introduction to the 2017/18 Report, the Minister for Māori Development acknowledged that the Report only presented the Crown's view on progress and indicated that officials intended to improve the reporting template in the coming years. The 1992 Report identified that the Section 8I Reports could better incorporate claimant voices, but while claimant voices were included in the 1992 Report, this has not been improved on or done consistently in the years since. Te Puni Kōkiri has received feedback from some community readers of the reports to the effect that the Report more generally could better incorporate claimants' voices, noting the importance of including Māori voices.

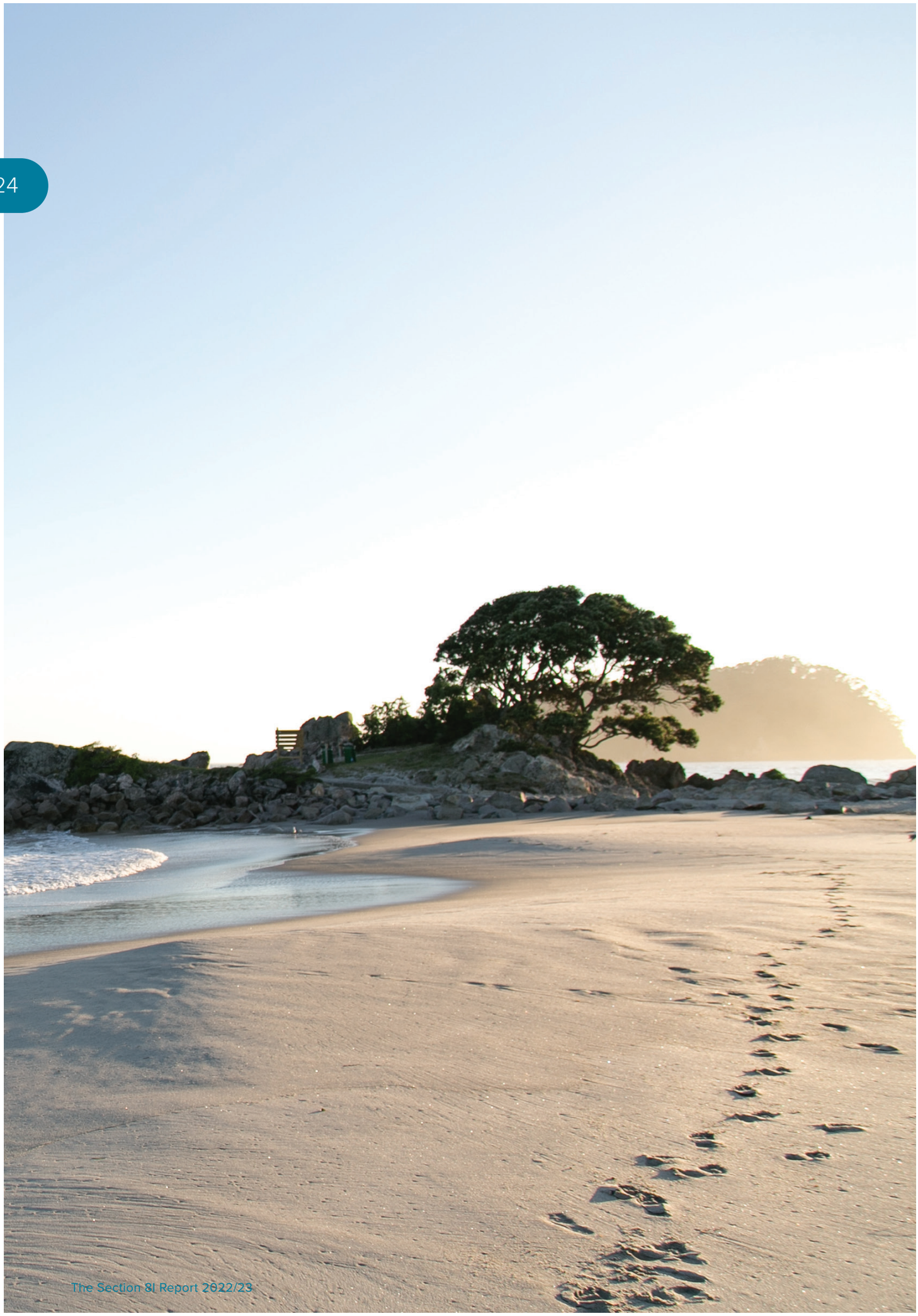
Improvement in this space would better place this Report to deliver on its intended outcomes, as outlined in the section above, by promoting engagement with claimant(s) in order to provide an opportunity to include their perspective, improving accountability and transparency and demonstrating commitment to Te Tiriti o Waitangi, which will positively contribute to the Māori-Crown relationship.

A small operational change that Te Puni Kōkiri can make to improve the way in which this report delivers on its intended outcomes is to improve the timeliness of the reporting process. Today, the presenting of the report is often more than 12 months after the reporting period ends. Improving the timeliness will better align the reporting period and the presentation to Parliament to ensure the relevance of progress that has been made and remove current issues of incongruence.

The significant delay between the end of the reporting period and the time of presenting in Parliament hinders delivering on accountability and transparency. It also risks having a negative impact on communications and/or relationships between claimants and government agencies implementing the Crown's response to Tribunal recommendations. Furthermore, it prevents the public, in particular claimants, from being able to track the progress of claims via the Section 8I Report until well after that information is out of date.

To better deliver on the intended outcomes of the report, as discussed above, future reports will look to implement changes that will improve accountability, transparency, engagement with and informing claimants and stakeholders, and the government's commitment to delivering on its Tiriti/Treaty obligations. This will include officials from Te Puni Kōkiri engaging with government agencies and claimants about what these changes should look like to ensure that the Section 8I Report delivers on its intended outcomes and is fit for purpose.

Ehara taku toa i te toa takitahi,
engari he toa takitini
My success is not mine alone,
it is the success of the collective



Te Nekehanga o te Whakatinana i ngā Tūtohutanga mō te Tau 2022/23 Progress Implementing Recommendations 2022/23

In accordance with Section 8I of the Treaty of Waitangi Act 1975, this section provides information on the progress of the implementation of the Waitangi Tribunal (the Tribunal) recommendations by the Crown for the period 1 July 2022 to 30 June 2023 (2022/2023).

This section provides the status of all reports that are in progress. This includes reports from the Tribunal with no specific actions, or that are currently in negotiation (including those where negotiations are on hold because of litigation).

It covers all active claims and includes items from the period 1 July 2022 to 30 June 2023 (2022/2023) where there have been updates (noting that it can take up to five years to settle a claim).

Status categories and definitions

Two status classifications determine the status category used. Where applicable, some report updates have a category from each classification.

- **Classification: Work carried out by Crown to implement the Waitangi Tribunal recommendations**
  - **In progress** – the work to action the Waitangi Tribunal recommendations is currently being undertaken by the Crown.
  - **Completed** – indicates that the implementation of the Waitangi Tribunal recommendations has been completed by the Crown.
- **Classification: Status of the Treaty Claim**
  - **Ongoing** – indicates that the Waitangi Tribunal is still hearing claims related to the inquiry or related to claims currently under active negotiation.
  - **Partially settled** – indicates that a settlement has been reached with respect to some, but not all, claims inquired into by the Waitangi Tribunal in the report. However, the settlement of any outstanding claims is not currently under active consideration by the Crown.
  - **Settled** – indicates that a settlement has been reached with a particular claimant group, even where recommendations do not immediately appear to have been addressed in the context of that settlement.

If you are viewing this document digitally you can use Adobe Reader search function to look up your claim number or search using keywords.

In the top left hand corner of your browser you will see a set of tools like the ones to the left. Click on the magnifying glass to open the search dialogue box, then type your claim number or key word to locate in the document.

WAI 2750: *The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* – Pre-publication Version, 2023

Ministry of Housing and Urban Development, Te Puni Kōkiri, Stats NZ, Kāinga Ora, Department of Corrections, Oranga Tamariki, Ministry of Health, Te Arawhiti

Summary of Findings and/or Recommendations

The Stage One report is limited to the issues contained in the statement of issues for Stage One, being the Crown's strategies and policies concerning Māori homelessness 2009-2021. The Tribunal described its analysis as "significantly constrained" by the interconnection of homelessness to many housing matters it had not yet inquired into. Nonetheless, the Tribunal made certain breach findings in respect of matters where there had been a clear picture of the Crown's actions and omissions.

Specifically, the Tribunal found as follows:

- The Crown breached its Treaty duty of consultation through Statistics New Zealand's failure to consult with Māori in the development of its homelessness definition in 2009. It also further failed to rectify this in the following years.
- The Crown failed to adequately collect data on homelessness in New Zealand, breaching both principles of good government and active protection.
- The Crown conceded it had breached the treaty in the 'early part' of the inquiry period through its inadequate response to homelessness. The Tribunal considered that this concession covered the period till at least the first half of 2016.

  Specifically, the Tribunal found that the Crown breached the principle of active protection by not providing Māori who are homeless with housing that meets a range of basic standards in terms of amenities, comfort, and security. In addition, the Crown breached the principle of equity through the growing overrepresentation of Māori with unmet housing needs, and the Crown breached the principle of good government by failing to implement or monitor progress with He Whare Āhuru (the Māori Housing Strategy).
- The Crown breached the principle of partnership by the narrowness of its consultation over the Homelessness Action Plan and the Māori and Iwi Housing Innovation (MAIHI) Framework. The ongoing fragmentation and congestion in the housing system were undermining Māori housing ambitions. The Tribunal found this to be a breach of good government for at least the majority of the period 2009–2021.

WAI 2750: *The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness* – Pre-publication Version, 2023

Ministry of Housing and Urban Development, Te Puni Kōkiri, Stats NZ, Kāinga Ora, Department of Corrections, Oranga Tamariki, Ministry of Health, Te Arawhiti

As the Crown conceded in the Oranga Tamariki inquiry, it has failed over a long period to reform the welfare system in order to improve outcomes for Māori; at a minimum, the Tribunal found this to be a breach of the principle of good government.

With specific regard to rangatahi homelessness, the Tribunal found that the Crown had breached the principle of active protection in its failure to take vigorous action to protect this vulnerable group. The Tribunal also found that the Crown has breached the principle of good government through its failure to obtain adequate data on rangatahi homelessness.

Recommendation

The Tribunal made one recommendation: that the Crown and Māori should work together in partnership to co-design a new definition of homelessness.

To amend the above breaches, the Tribunal issued a range of recommendations:

- The Crown urgently provide further funding, resourcing, Māori health and vaccination data, and other support to help Māori providers and communities address issues arising from the pandemic
- The Crown improve its collection of quantitative and qualitative ethnicity data relevant to Māori health outcomes, and (in partnership with Māori) in the quality of data on tangata whaikaha and whānau hauā
- The Crown strengthen its monitoring programme and partner with Māori to establish what should be monitored and how it should be reported
- The Crown partner with Māori to design and implement an equitable paediatric and booster vaccine sequencing framework for Māori
- A comprehensive list of principles to be reflected in future Crown-Māori engagement with the national collective proposed by the claimants and other Māori groups.

The Tribunal concluded that until the Crown ensures an equitable vaccine rollout, it will remain in active breach of Te Tiriti o Waitangi.

Status Update **In progress**

The Report was released on 18 May 2023 and is limited to the period between 2009-2021.

The Ministry of Housing and Urban Development | Te Tūāpapa Kura Kāinga will consider the implications and provide an update in the 2023/2024 Section 8I Report.

WAI 3060: *Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry* – Pre-publication Version, 2023

Ministry of Justice, Ministry for the Environment, Ministry of Health

Summary of Findings and/or Recommendations

The Tribunal Report on Whakatika ki Runga is the result of a mini-inquiry into the Crown's approach to funding the participation of claimants engaging in Tribunal processes. The mini-inquiry the first stage of a larger inquiry into the justice system.

The Tribunal found that the Crown breached the principles of partnership, active protection, good government, and equity as it:

- did not develop nor implement a robust funding model for claimant funding for kaupapa and urgent inquiries;
- has taken too long to address this issue; and
- has failed to engage appropriately with Māori in developing a funding policy for claimants in the Tribunal.

The Tribunal additionally found that the Crown had breached the Treaty guarantee of rangatiratanga over taonga regarding translations from Te Reo Māori, and breached the principles of partnership, good government, and active protection as:

- the different and inconsistent rules leading agencies apply to funding claimants in kaupapa inquiries do not work for claimants. This has (and continues) to affect claimant participation. Funding claimants through lead agencies is ineffective and the Crown failed to fix this;
- In the context of funding claimants in Tribunal inquiries, the Crown did not seek alternatives to payment by reimbursement regarding funding claims in inquiries; and
- current processes do not support the ability of participants in inquiries to have their evidence and submissions translated without cost or inconvenience to them.

The Tribunal identified limitations that, collectively, adversely affect claimants' access to justice and put the Crown in breach of the principle of active protection. Specifically, it found that:

- the Act's financial requirements are inappropriate, and may deter claimants;
- defining 'legal services' differently in this jurisdiction is pointless and discriminatory, and could mean that claimants cannot get legal assistance in areas where they need it; it is not necessary for the commissioner to approve grants of legal aid and the process causes unacceptable delays;
- interim legal aid should be available for claimants in Tribunal proceedings;
- it is unfair that the administrative effort required to apply for and manage legal aid in this jurisdiction is not reimbursed;
- references in sections 11(3) and 16(4) of the Treaty of Waitangi Act 1975 are confusing;
- the criteria for expert witnesses do not take into account the different circumstances of experts in te Ao Māori, and do not provide for the circumstances when persons may need to be regarded as expert witnesses even though they are associated with the claimants; and
- the guidelines for applying for and managing legal aid are inadequate and not comprehensive.

In the long-term, the Tribunal recommended that the Crown and Māori engage in a process to design a suitable system to fund Tribunal claimants in inquiries where there is no other claimant funding.

In the short-term, the Tribunal recommended that the Crown urgently requires lead agencies to adopt a common set of protocols based on the Mana Wāhine General Claimant Funding Policy, with one minor variation; to develop arrangements that do not depend on claimants submitting receipts for reimbursement; and take all necessary steps to ensure that the Waitangi Tribunal Unit provides for all evidence and submissions filed in Te Reo Māori to be translated as of right without cost or inconvenience to the claimant or creator of the document.

WAI 3060: *Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry* – Pre-publication Version, 2023

Ministry of Justice, Ministry for the Environment, Ministry of Health

The Tribunal have no recommendations in relation to the Legal Services Act 2011, however, the Tribunal has recommended that the commissioner:

- Examine and amend the documents *Granting Aid for Waitangi Tribunal Matters – Operational Policy and Legal Aid Services Grants Handbook* to make them comprehensive, and descriptive of the actual process for assessing eligibility and managing legal aid grants to Tribunal claimants; and
- Work with the director of the Waitangi Tribunal Unit to streamline the production of section 49 reports (as far as possible within the present legislative settings) and develop the office's protocol on expert witness called by claimants to ensure that they are clear, culturally appropriate, and workable.

Status Update **In progress**

The Tribunal produced the Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry report in February 2023.

The Crown is considering the findings and recommendations in relation to Claimant Funding Policy; Te reo Māori translations; and Legal Aid Services and will provide an update in the 2023/2024 Section 8I Report.

Summary of Findings and/or Recommendations

This report covers 415 Te Paparahi o Te Raki (Te Raki) claims that were submitted under the Treaty of Waitangi Act 1975. The first part of the stage 2 report into Te Raki claims primarily considered the interactions of Te Raki Māori with the Crown over the period from 6 February 1840 until the close of the nineteenth century.

The Tribunal recommended that:

- The Crown acknowledge the Treaty agreement it entered with Te Raki rangatira in 1840, as explained in the stage 1 report.
- The Crown make a formal apology to Te Raki hapū and iwi for its breaches of te Tiriti/the Treaty and its mātāpono/principles for:
  - Failing to recognise and respect the tino rangatiratanga of Te Raki hapū and iwi.
  - The imposition of an introduced legal system that overrode the tikanga of Te Raki Māori.
  - The Crown's failure to address the legitimate concerns of Ngāpuhi leaders following the signing of te Tiriti, instead asserting its authority without adequate regard for their tino rangatiratanga.
  - The Crown's conduct during the Northern War.
  - The Crown's imposition of policies and institutions that were designed to take control and ownership of land and resources from Te Raki Māori and effected a rapid transfer of land into Crown and settler hands.
  - The Crown's refusal to give effect to the Tiriti/Treaty rights of Te Raki Māori within the political institutions and constitution of New Zealand, or to recognise and support their paremata and komiti despite their sustained efforts in the second half of the nineteenth century to achieve recognition of and respect for those institutions in accordance with their tino rangatiratanga.
- All land owned by the Crown within the inquiry district be returned to Te Raki Māori ownership as redress.
- The Crown provide substantial further compensation to Te Raki Māori to restore the economic base of the hapū, and as redress for the substantial economic losses they suffered due to the breaches of the Crown.
- The Crown enter discussions with Te Raki Māori to determine appropriate constitutional processes and institutions at national, iwi, and hapū levels to recognise, respect, and give effect to their Tiriti/Treaty rights. Legislation, including settlement legislation, may be required if the claimants so wish.

The Tribunal reserved the right to make further recommendations on the matters addressed in this part of the report in subsequent volumes.

Findings

The Early Period of Interaction between Rangatiratanga and Kāwanatanga spheres of Authority, and the Northern War

The Tribunal found that the Crown's actions relating to authority in this period were inconsistent with the guarantees of article 2 of the treaty and breached te mātāpono o te tino rangatiratanga and te mātāpono o te hauruatanga/the principle of partnership. As the actions of the Crown during this period lacked informed Te Raki Māori consent, the Tribunal also found their actions were inconsistent with the Crown's duty of good faith conduct, and therefore breached te mātāpono o te houruatanga me te mātāpono o te whakaaronui tētahi ki tētahi/the principles of partnership and of mutual recognition and respect.

The assertion of effective Crown authority over Te Raki Māori

During this period, the Tribunal found that the Crown's actions to assert its authority breached te mātāpono o te tino rangatira¬tanga, and te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect. By claiming this authority without first engaging with and seeking consent from Te Raki Māori and failing to engage with Māori to ensure recognition and respect of Māori customary law, the Crown breached te mātāpono o te houruatanga/the principle of partnership.

The Crown's impacts on the economy of Te Raki Māori

The Tribunal found that the Crown breached te mātāpono o te tino rangatiratanga, and te mātāpono o te houruatanga/the principle of partnership by imposing custom duties without engaging with Te Raki Māori and without considering the impacts for Māori. The Tribunal also found that by moving the capital to Auckland, the Crown changed the treaty relationship with Te Raki Māori. These actions were inconsistent with the Crown's duty of good faith, and breached te mātāpono o te houruatanga/the principle of partnership.

The Crown's actions before the Northern War

The Tribunal found that the actions of the Crown before the war were inconsistent with its obligation to act honourably, fairly, and in good faith, and its obligation to recognise, and respect the tino rangatiratanga of Ngāpuhi hapū, and Te Raki hapū. Their actions were found to be inconsistent with its obligations to recognise and respect tino rangatiratanga in accordance with tikanga. Therefore, the Tribunal found that the actions of the Crown breached te mātāpono o te tino rangatiratanga, te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect, te mātāpono o te houruatanga/the principle of partnership, and te mātāpono o te matapopore moroki/active protection.

The Crown's conduct of war

The Tribunal found that the Crown acted inconsistently with its obligation to act honourably, fairly and in good faith towards its treaty partner. The Crown breached its duty to recognise, and respect tino rangatiratanga of Ngāti Manu and their rights to their lands and resources. The Tribunal found that the Crown's conduct of war and its actions during the Northern War breached te mātāpono o te tino rangatiratanga, te mātāpono o te matapopore moroki/the principle of active protection, te mātāpono o te houruatanga/the principle of partnership, and te mātāpono o te mana taurite/principle of equity.

The Crown's land fund model and policies for colonial development

The first Land Claims Commission

The Tribunal found that the Crown failed to provide a parallel role for Māori, ensure that Māori intentions were understood, respected, and safeguarded, give effect to what was promised to Māori by the Crown's representative and meaningfully acknowledge and incorporate reference to tikanga. Consequently, the Crown breached o te mātāpono o te tino rangatiratanga, te mātāpono o te houruatanga/ the principle of partnership, te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect, te mātāpono o te matapopore moroki/the principle of active protection and te mātāpono o mana taurite/the principle of equity and was in breach of the guarantees of article 2 of the Treaty.

The Crown's development of its purchasing policy

The Tribunal found that the Crown failed to engage with Te Raki Māori in developing its purchasing and settlement p olicy and prioritised its political and economic objectives. These actions breached te mātāpono o te tino rangatiratanga, and te mātāpono o te houruatanga/the principle of partnership. By denigrating the validity of Te Raki Māori rights in land and accepting the principle that those rights could be extinguished over

large areas of land at low cost, the Tribunal found that the Crown breached te mātāpono o te houruatanga/the principle of partnership, te mātāpono o te whai hua kotahi me te matatika mana whakahaere/the principle of mutual benefit and the right to development, and te mātāpono o te matapopore moroki/the principle of active protection.

The policies towards the validation of old land claims

The Tribunal found that the Crown acted beyond the commissioner's recommendations, issued grants that were not recommended by the commissioners and failed to act to ensure Māori rights were protected. These actions breached te mātāpono o mana taurite me te mātāpono o te matapopore moroki/the principles of equity and active protection.

The Crown's pre-emption waiver policy

The Tribunal found that administration of the Crown's pre-emption waiver policy was flawed and faced deficient scrutiny, breaching te mātāpono o te matapopore moroki/the principle of active protection.

The Bell commission and the Crown's policies on scrip and surplus lands

The Tribunal found that the Crown failed to establish an impartial and fair process to Māori and disregarded its duty to act in the utmost good faith. The Tribunal found the actions of the Crown were in breach of te mātāpono o te tino rangatiratanga, te mātāpono o te whakaaronui tētahi ki tētahi/ principle of mutual recognition and respect, te mātāpono o te houruatanga/the principle of partnership, te mātāpono o te whai hua kotahi me te matatika mana whakahaere/principle of mutual benefit and the right to development, te mātāpono o te matapopore moroki/principle of active protection, and the right to development and te mātāpono o te whakatika/principle of redress.

The Crown's implementation of its purchasing policy

The Tribunal found that the Crown limited the ability of Māori to exercise all the rights of ownership and did not consider Te Raki Māori views and interests. Therefore, the Crown breached te mātāpono o te tino rangatiratanga, te mātāpono o te whai hua kotahi me te matatika mana whakahaere/the principle of mutual benefit and the right to development, te mātāpono o te houruatanga/the principle of partnership, and te mātāpono o te mana taurite/the principle of equity.

The Crown's purchasing practices on the ground

The Tribunal found that the purchasing practices and actions of the Crown were inconsistent with its duty to act in good faith towards its treaty partner. The Tribunal found that the Crown failed to act reasonably, honourably, and involve Te Raki Māori in decision-making about the alienation and settlement of their lands. These actions breached te mātāpono o te houruatanga/the principle of partnership, te mātāpono o te mana taurite/the principle of equity, te mātāpono o te whaihua kotahi me te matatika mana whakahaere/the principle of mutual benefit and the right to development, te mātāpono o te tino rangatiratanga, te mātāpono o te kāwanatanga, and te mātāpono o te matapopore moroki/the principle of active protection, and te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect. The Tribunal found that the Crown's actions relating to authority in this period were inconsistent with the guarantees of article 2 of the treaty and breached te mātāpono o te tino rangatiratanga and te mātāpono o te hauruatanga/the principle of partnership. As the actions of the Crown during this period lacked informed Te Raki Māori consent, the Tribunal also found their actions were inconsistent with the Crown's duty of good faith conduct, and therefore breached te mātāpono o te houruatanga me te mātāpono o te whakaaronui tētahi ki tētahi/the principles of partnership and of mutual recognition and respect.

The constitutional changes implemented by the Crown and its policies for extinguishing Māori title and further purchasing

The provision the Crown made for Te Raki Māori tino rangatiratanga as it established institutions for settler self-government

The Tribunal found that the Crown failed to recognise, respect and give effect to Māori political rights. The Crown undermined the Treaty relationship and did not negotiate with Te Raki Māori or provide safeguards to ensure that Māori could continue to exercise autonomy and tino rangatiratanga. Additionally, the Tribunal found that the Crown failed to declare self-governing Māori districts, denied majority of Māori representation in the General Assembly prior to 1867, and failed to ensure that Māori were represented in the Legislative Council and in provincial assemblies. These actions breached te mātāpono o te tino rangatiratanga, te mātāpono o te houruatanga me te mātāpono o te whakaaronui tētahi ki tētahi/the principles of partnership and of mutual recognition and respect.

The significance of the Kohimarama Rūnanga

The Tribunal found that the Crown's actions were inconsistent with their obligation of good faith as it denied Māori opportunities for ongoing input into government policy on fundamental matters to them. These actions breached te mātāpono o te houruatanga/the principle of partnership.

Governor Grey's rūnanga, and the 'new institutions'

The Tribunal found that the promises made and following failings to deliver were inconsistent with the Crown's obligation of good faith. The Crown's actions breached te mātāpono o te houruatanga me te mātāpono o te whakaaronui tētahi ki tētahi/the principles of partnership and of mutual recognition and respect.

The establishment of the Native Land Court

The Tribunal found that in establishing the Native Land Court and failing to seek Māori engagement on the provisions of the Native Land Act 1862, the Crown breached te mātāpono o te tino rangatiratanga, te mātāpono o te matapopore moroki/the principle of active protection and te mātāpono o te houruatanga/the principle of partnership.

The restructure of the Native Land Court and the Native Lands Act 1865

The Tribunal found that the Crown failed to make a good-faith effort to engage with and secure Māori consent in advance of the changes to the Native Land Court system. The Crown also effectively removed Māori control of the title investigation and determination process and abolished the flexible and tikanga-informed process. From these actions the Crown breached te mātāpono o te houruatanga/the principle of partnership, te mātāpono o te matapopore moroki/the principle of active protection, te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect and te mātāpono o te tino rangatiratanga.

The appropriateness of titles awarded by the Native Land Court

The Tribunal found that the Crown introduced laws offering title that failed to give legal expression to collective tenure and to accord with Te Raki Māori preferences. The Crown failed to provide an equivalently robust titling regime for Māori. These actions breached te mātāpono o te houruatanga/the principle of partnership and te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect, the guarantee of te tino rangatiratanga and te mātāpono o te mana taurite/the principle of equity.

The Native Land Court's operation in Te Raki

The Tribunal found that the Crown's failure to create a body in which Māori had the determining role when deciding questions relating to their own lands breached te mātāpono o te houruatanga/the principle of partnership. The Tribunal also found that the Crown's failure to ensure that assessors had equal status and authority to judges throughout the period under consideration was a breach of te mātāpono o te mana taurite/the principle of equity.

The Crown also failed to ensure adequate notification of hearings, that the associated costs were shared appropriately and fairly, and failed to monitor court processes. These actions breached te mātāpono o te houruatanga/the principle of partnership, te mātāpono o te mana taurite/the principle of equity and te mātāpono o te matapopore moroki/the principle of active protection.

Te Raki Māori engagement with the Native Land Court and the consequences of that engagement

The Tribunal found that the Crown made engagement with the Native Land Court and its processes practically obligatory, therefore breaching te mātāpono o te tino rangatiratanga. The Tribunal also found that the Crown failed to ensure that the costs of extinguishing customary Māori title in the Native Land Court were allocated appropriately. This was in breach of te mātāpono o te mana taurite/the principle of equity, te mātāpono o te houruatanga/the principle of partnership and te mātāpono o te matapopore moroki/the principle of active protection.

The forms of remedy and redress provided for Māori by the Crown's Native Land regime

The Tribunal found that the Crown failed to remedy the systemic deficiencies for nearly 30 years. This breached te mātāpono o te matapopore moroki/the principle of active protection and te mātāpono o te whakatika/the principle of redress. The Tribunal also found that the Crown failed to provide a robust appeal mechanism and therefore breached te mātāpono o te mana taurite/the principle of equity.

The political and economic objects of the Crown's purchasing programme

The Tribunal found that the actions of the Crown were inconsistent with its duty to engage with Māori in good faith and breached te mātāpono o te mana taurite me te mātāpono o te whai hua kotahi me te matatika mana whakahaere/the principle of equity and the principle of mutual benefit and the right to development, te mātāpono o te matapopore moroki/the principle of active protection, te mātāpono o te kāwanatanga, te mātāpono o te houruatanga/the principle of partnership, and te mātāpono o te tino rangatiratanga.

The Crown's actions on the ground purchasing practices

The Tribunal found that the Crown undermined Te Raki Māori and failed to respond in a timely and effective manner with appropriate remedies. The Tribunal found the Crown acted inconsistently with its duty of good-faith conduct and that its actions breached te mātāpono o te tino rangatiratanga, te mātāpono o te whakatika/the principle of redress, te mātāpono o te whai hua kotahi me te matatika mana whakahaere/the principle of mutual benefit and the right to development, te mātāpono o te matapopore moroki/the principle of active protection and te mātāpono o te houruatanga/the principle of partnership.

The steps the Crown took to protect Te Raki hapū interests

The Tribunal found that the Crown fell short of the protective duties inherent in the treaty partnership. This breached te mātāpono o te matapopore moroki/the principle of active protection, and te mātāpono o te houruatanga/the principle of partnership.

The Crown also failed to implement an effective policy for restricting the alienation of Māori land, develop a policy for creating reserves, ensure that Te Raki whānau and hapū retained enough land and resources to meet their obligations under tikanga, and ensure effective implementation of protective legislation. These actions by the Crown further breached te mātāpono o te tino rangatiratanga, te mātāpono o te mana taurite/the principle of equity, and te mātāpono o te whai hua kotahi me te matatika mana whakahaere/the principle of mutual benefit and the right to development.

Parliamentary representation for Te Raki Māori

The Tribunal found that the representation of Māori in the House of Representatives, the General Assembly and Legislative Council and the rejection of legislative proposals breached te mātāpono o te kāwanatanga me to mātāpono o te houruatanga/the principle of partnership, te mātāpono o te kāwanatanga me te mātāpono o te mana taurite/the principle of equity.

Te Raki Māori proposals for rūnanga and native committees

The Tribunal found that the Crown acted inconsistently with its obligation to recognise and respect the tino rangatiratanga of Te Raki Māori and to give effect to proposals for their self-government at a regional and local level. This was a breach of te mātāpono o te tino rangatiratanga, te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect, and te mātāpono o te houruatanga/the principle of partnership.

Proposals for a Māori Parliament

The Tribunal found that the Crown acted inconsistently with its obligation to recognise and respect the tino rangatiratanga of Te Raki Māori. This breached te mātāpono o te tino rangatiratanga and te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect. The Tribunal found that the Crown committed a serious breach of its obligation to act in good faith towards its treaty partner. This was in breach of te mātāpono o te houruatanga/the principle of partnership.

Te Raki Māori appeals and petitions

The Tribunal found that the Crown breached its duty of good faith by ignoring recognition of tino rangatiratanga for Te Raki Māori. This was in breach of te mātāpono whakatika/the principle of redress.

The Kotahitanga parliaments

The Tribunal found that the Crown acted inconsistently with its obligation to recognise and respect the tino rangatiratanga of Te Raki Māori. This was in breach of te mātāpono o te tino rangatiratanga and te mātāpono o te whakaaronui tētahi ki tētahi/the principle of mutual recognition and respect. It also breached te mātāpono o te houruatanga/the principle of partnership by failing to enter meaningful conversations about the Kotahitanga proposals until the 1890's.

The 'Dog Tax War'

The Tribunal found that the Crown breached te mātāpono o te tino rangatiratanga, and te mātāpono o te houruatanga/the principle of partnership. The Crown arrest of Hōne Toia and followers of Te Huihui was inappropriate and calculated to intimidate Māori. This was in breach of te mātāpono o te mana taurite/the principle of equity and te mātāpono o te kāwanatanga.

WAI 1040: *Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry* – Pre-publication Version, 2022

Te Arawhiti

Status Update **In progress**

In response to the Tribunal's findings, the Crown submitted that:

- Crown sovereignty was not incompatible with the continued recognition of Māori law and custom.:
- the Treaty resulted in two forms of authority – the Crown's sovereignty and Māori chieftainship over their lands and taonga; and
- that quite how the two forms of authority were to relate to each other was not made clear in te Tiriti/the Treaty.

Part One of the Stage Two report does not make conclusions about the sovereignty the Crown holds today, as exercised through Parliament. New Zealand today is a constitutional monarchy with sovereignty residing with the Crown, and Parliament continuing to have full powers to make laws.

In June 2023, the Minister for Treaty of Waitangi Negotiations wrote to all hapū groupings working on mandate development to restate the Crown's commitment to discussion Declaration of Independence/He Whakaputanga and the Treaty/Te Tiriti and how rangatiratanga might be expressed in the 21st century. This was in response to several inquiries about when the Crown will issue a formal response to the Tribunal's Stage Two report findings. The Crown continues to seek hapū feedback on their preferred approach for discussing these matters with the Crown.

Summary of Findings and/or Recommendations

The Porirua ki Manawatū inquiry heard 17 claims on behalf of Te Ātiawa/Ngāti Awa whānau, hapū, and iwi over 2017–2018. These claims related to the Crown's alleged interference with and diminishment of Te Ātiawa/Ngāti Awa's tino rangatiratanga, loss of land, degradation of the local environment, and the desecration of their cultural sites and wāhi tapu.

Findings

The Crown Pre-Emption Era, 1840-65

The purchase of the Whareroa and Wainui blocks

The Tribunal found that the Crown breached the Treaty principles of partnership and active protection by:

- failing to investigate customary title in the Whareroa and Wainui blocks prior to purchasing;
- failing to engage with or seek the consent of the Whareroa community or Puketapu;
- imposing the purchases on Ngāti Maru, Ngāti Mutunga, and Puketapu; and
- failing to make sufficient reserves for the present and future needs of the Whareroa occupants (including wāhi tapu and urupā).

The Crown's pressure on Te Ātiawa/Ngāti Awa to give up the Kīngitanga

Through persuading the people in Waikanae in 1864 to give up their political institutions, the Tribunal found that the Crown breached the Treaty principles of partnership and Māori autonomy, resulting in lasting prejudice to Te Ātiawa/Ngāti Awa.

The Native Land Court Era at Waikanae, 1870–1900

The Crown's native land laws

The Tribunal found that the native land laws (the Native Lands Act (NLA) 1865, the NLA 1867, the NLA 1873, the NLA 1886) imposed by the Crown breached the Treaty principles of partnership, active protection, and the article 2 guarantee of tino rangatiratanga. The lack of safeguards or remedies provided by the Crown were also found to be breaches of active protection and partnership.

Additionally, the Tribunal found that the remedial legislation (Ngarara and Waipiro Further Investigation Act 1889) breached the Treaty principles of partnership, active protection, mutual benefit, and the article 2 guarantee of tino rangatiratanga.

Further to the Treaty breaches in the native land laws above, the Crown breached the principles of partnership and active protection by:

- Failing to pursue the Native Councils Bill 1872 past its first introduction to Parliament, and thereby failed to provide Māori with a proper role in the determination of their own land entitlements;
- Being responsible for compromising the outcome of the Ngarara commission;
- Not providing a proper inquiry into those who were wrongly omitted and were not remedied adequately;
- Refusing to consider further remedies of the Ngarara and Waipiro Further Investigation Act 1889;
- Failing to improve the impact of full individualisation of title on Ngarara West; and
- Purchasing land in the Muaupoko block and Ngarara West C without regarding the best interests of the Māori owners.

Legislative provision for voluntary arrangements

Regarding the Ngarara West subdivisions, the ownership arrangements in 1891 only covered some owners and was made before the court had made its awards to other owners. This resulted in a faulty arrangement although this was not the Crowns fault. The Tribunal however found that the Crown failed to provide a remedy when petitioned about the outcome and fragmentation of this arrangement.

WAI 2200: *Waikanae: Report on Te Ātiawa/Ngāti Awa Claims* – Pre-publication Version, 2022

Te Arawhiti, Department of Conservation

Relevance and limitations of the Crown's concessions

The Crown accepted two Treaty breaches; failing to ensure the retention of sufficient lands and failing to protect the tribal structures of Te Ātiawa/ Ngāti Awa ki Kāpiti.

Twentieth-Century Land Claim Issues

Exemptions and compulsory vesting for sale

The Crown made a concession of a Treaty breach regarding Ngarara West A78E2 being vested for sale. In failing to halt the compulsory vesting, the Crown conceded that this was a breach of the principle of active protection.

The significant reduction of legislative protections for Māori land 1900-13

The Tribunal found that the legislation relating to protections of Māori land was inadequate, and inconsistent with the Treaty principles of active protection and partnership.

Māori Land Board confirmation of purchases

The Tribunal found that the Crown's failure to lessen the damage to Māori caused by the private purchasing system of land (through failing to provide an effective protection mechanism and failing to reform the private purchasing system) breached the principles of active protection and equity.

Rating exemptions and compulsory vesting

The Crown failed to actively protect Māori at Waikanae through rates exemptions. This failure and its results were a breach of active protection.

The Ministerial veto and compulsory vesting of Māori land for sale

The Tribunal found that the Crown breached article 2 of the Treaty as it failed to protect the remnants of Māori land at Waikanae and failed to assist owners to retain their land

Specific claim issues: Parata Native Township

The Tribunal found that the Crown breached partnership and active protection as it did not work with Wi Parata to ensure native allotments were reserved, took allotments for reserves without agreement from the owner, and the establishment of the Native Townships Act 1910. The Crown also breached the guarantee of tino rangatiratanga as it excluded current and future owners from administrative roles in the township.

Regarding the transfer of the trustee role to Māori Land Boards, the Tribunal found that doing so without consultation or consent, therefore failing to exercise the Crown's protective role, was a breach of active protection. The Tribunal also found that the failure to consult prior to authorising sales was a breach of partnership.

The Tribunal found that the Māori Purposes Act 1948 repealed provisions for a perpetual trust, and with its restrictions on alienation of estate land was enacted at the wish of the beneficiaries, was not in breach of Treaty principles.

The fate of the allotments

The Tribunal found that the sale of these reserves, which should have been available for the use of beneficial owners, was in breach of the principle of active protection. The Tribunal also found that the Crown breached the principles of active protection and partnership when it transferred three out of four sections of public reserve land to the Wellington Education Board. These sections were leasable and had not been set aside for public use.

Paraparaumu Aerodrome

The Tribunal found that the Crown's justification for taking parts of Ngarara West B4, was in breach of active protection, and taking this land breached the guarantee of tino rangatiratanga, partnership, and active protection. Furthermore, the Tribunal found that the negotiations undertaken with the lessees (rather than the landowners) breached the guarantee of tino rangatiratanga and the principle of equity. The Tribunal additionally found that the Crown's conduct during consultation when selling the aerodrome was inconsistent with the principles of partnership and active Protection. When disposing of the aerodrome land, the Tribunal found that the Crown breached active protection and redress as it did not choose a Treaty-compliant option.

Ngarara West B7 2B, B7 1, and B5 land

The Tribunal found that the Crown breached the principle of active protection in taking this land, and breached the principle of partnership when it did not properly obtain the views of the affected whānau.
There was surplus land available at the aerodrome that the Crown elected to not offer back – the Tribunal found this action to be in breach of active protection.

The Tribunal additionally found that the Crown's native land laws contributed to the landlocked state of Ngarara West C41 (lots 1-3, and part of 4) were in breach of Treaty principles. The Tribunals recommendations in relation to this will be released following the Taihape Tribunal releases their report on landlocked land issues.

Section 3A(6A) of the Airport Authorities Act and the sale of land at Avion Terrace

The Crown conceded that in the sale of Avion Terrace, it had failed to take action to ensure the protective mechanisms of section 40 of the Public Works Act 1987 (which protects the previous owner's interests) were fulfilled, breaching Treaty principles. The Tribunal found the Crown's actions to be in breach of active protection and found that the omissions of the Crown following the sale breached active protection and partnership. Additionally, the Tribunal found that the offer-back provisions under Section 40 of the Public Works Act 1987 are not consistent with Treaty principles.

Waikanae River

The Tribunal found that the Crown breached active protection and the article 2 guarantee of tino rangatiratanga by not providing an appropriate form of title and division of the riverbed. The Tribunal also found that the compulsory taking Māori land for flood protection/riparian land, the Public Works Act 1928 and the Public Works Amendment Act 1962 were in breach of active protection and equity. Further breaches of equity were found by the Tribunal as through the denial of opportunity to negotiate the sale (as an alternative to compulsory taking).

Waikanae town centre

The Tribunal agreed with the findings of the Tauranga Tribunal that the Town and Country Planning Act 1953 was in breach of the principles partnership and active protection, particularly section 47.

Hemi Matenga Memorial Park

The Tribunal found that the Crown's decision to accept the Hemi Matenga Estate trustee's offer of 720 acres for a scenic reserve (however, obtaining 805 acres) was in breach of the principle of active protection. Furthermore, the Tribunal found that the lack of ability for mechanisms to enable claimants to exercise tino rangatiratanga and kaitiaki over the reserve is a breach of the principles of tino rangatiratanga and partnership.

Prejudice

Overall, the Tribunal found that the claimants faced extensive prejudice due to the acts, omissions, and resulting Treaty breaches of the Crown.

WAI 2200: *Waikanae: Report on Te Ātiawa/Ngāti Awa Claims* – Pre-publication Version, 2022

Te Arawhiti, Department of Conservation

Recommendations:

Public Works Act 1981

The Tribunal recommended that:

- The Public Works Act 1981 urgently be amended to include a Treaty of Waitangi clause and give effect to the principles of the Treaty of Waitangi.
- The offer-back provisions of the Public Works Act 1981 be amended to provide for offering land back to successive generations of descendants (not limited to immediate successors), and (if they do not or cannot take the offer), a second offer be given to hapū or iwi.
- The Tribunal noted that they may have more specific recommendations on reform of the offer-back regime and other aspects of the Public Works Act in a later volume of the report and urged the Crown to undertake the recommendations of the Wairarapa Tribunal, the Te Tau Ihu Tribunal, the Tauranga Tribunal, and the Te Rohe Pōtae Tribunal regarding reform of the Public Works Act.

Hemi Matenga Memorial Park

The Tribunal recommended that the Wi Parata Waipunahau Trust (the landowner of Ngarara West C41 lots 1–3), be consulted in any about the ownership and/or management of the Hemi Matenga Memorial Park.

As in the Horowhenua volume, the Tribunal recommended that the numerous findings of Treaty breach and prejudice found in this report make it urgent for the Crown to negotiate a Treaty settlement with Te Ātiawa/Ngāti Awa. The Tribunal noted that the parties may want to consider whether they await findings and recommendations on issues excluded from this volume (such as environmental claim issues).

Status Update **Ongoing**

The Wai 2200 Porirua ki Manawatu District Inquiry is still underway. The Tribunal is currently hearing the claims of Ngāti Raukawa and affiliated groups. There have been fifteen claimant hearing weeks, with at least a further week to come. After that will be Crown evidence and closing submissions. The Tribunal has signalled that certain claims of Te Ātiawa/Ngāti Awa, along with claims of other iwi participating in the inquiry, will be heard in the inquiry's final, "Wider Inquiry" phase. This phase commenced in 2022 with a brief hearing and is expected to pick up again in 2025 after the current Ngāti Raukawa ki te Tonga phase concludes. The Tribunal has issued three pre-publication volumes of its eventual report on the Porirua ki Manawatū Inquiry. On 28 June 2017, the Tribunal issued Horowhenua The Muaūpoko Priority Report. On 14 December 2022, the Tribunal issued a report, Waikanae, on the claims of Te Ātiawa/Ngāti Awa. On 27 March 2023, the Tribunal issued a priority report on the Kōpūtara reserve and Lake Kōpūtara.

The Tribunal has not indicated when it expects hearings for the final Wider Inquiry phase to be complete.

The Tribunal has signalled that its final findings and recommendations, at the conclusion of the Wider Inquiry phase, may address grievances of iwi whose claims have been heard during the previous phases.

Historical claims of Te Ātiawa/Ngāti Awa ki Kapiti have not yet been settled and negotiations have not commenced.

WAI 2358: *The Interim Report on Māori Appointments to Regional Planning Committees* – Pre-publication Version 2022

Ministry for Environment

Summary of Findings and/or Recommendations

This report was prepared to assist the Crown with their final decisions before the Natural and Built Environment Bill is introduced to Parliament. It focuses on the issue of Māori representation on regional planning committees, particularly how Māori representatives on these committees should be selected (for example, the participation of hapū, urban Māori, and groups with rights and interests, and agreement with the Crown around the appointment and dispute processes).

The Tribunal found that the Crown's proposal that iwi and hapū should lead and facilitate the process to decide an appointing body is Treaty compliant (noting that all the detail had not been decided at the time of the hearing). It also found that the Crown's proposal for a legislative requirement that iwi and hapū engage with their members and with groups who hold relevant rights and interests 'at place' (and keep a record of the engagement), is Treaty compliant. Details regarding the appointment process are still in development, but the Tribunal has made some suggestions as to how aspects of this should be implemented (including in respect of Māori landowners and urban Māori communities).

The Tribunal agreed that the proposal for iwi and hapū to lead and facilitate a decision-making process about an appointing body would be consistent with Treaty principles and found that the Crown is required to protect and empower the exercise of tino rangatiratanga. This would require the Crown to provide secretariat/administrative support and funding to enable successful implementation of the proposed self-determined processes.

The Tribunal did not reach an overall view as to whether the Crown's proposed process was Treaty compliant, as arrangements negotiated through Treaty settlements and other processes could potentially affect the proposed appointments process in some regions.

The Tribunal did not find any Treaty breaches in this report (and made no recommendations). The Tribunal noted that claimants and interested parties disagreed with the Crowns proposal for various reasons. There were calls for a pause and further consultation on a completed proposal, and the Tribunal bought this to the Crown's attention, but did not make suggestions for this to occur.

Status Update **In progress**

The Ministry for the Environment's (MfE) proposed appointment process for Māori representation on Regional Planning Committees (RPCs) was found to be Treaty compliant at a high level of principle. Therefore, no further action is required as no further recommendations were given.

WAI 2521: *Motiti: Report on the Te Moutere o Motiti Inquiry*, 2022

Te Arawhiti

Summary of Findings and/or Recommendations

The Wai 2521 Report focuses on the kinship review undertaken by the Crown in 2015 and 2016, and through that review whether the Crown properly informed itself of the identity of the tangata whenua of Motiti Island. A secondary focus of this report is the Tribunal's findings as to who the tangata whenua of Motiti Island are. The third issue addressed is whether the tangata whenua of Motiti Island are a separate tribal entity, or whether the Ngāti Awa Claims Settlement Act settled their claims.

Regarding the kinship review process, the Tribunal did not find any breaches of Te Tiriti. It did, however, find that aspects of the review process were initially flawed, but corrected during the course of the review.

The Tribunal found that Te Patuwai are tangata whenua of Motiti Island and that they affiliate to Ngāti Awa. Therefore, the Tribunal found that the Ngāti Awa Claims Settlement Act 2005 did settle the historical claims of Te Patuwai – including of Te Hapū descendants – in relation to Motiti Island. The Tribunal also found that Te Whānau a Tauwhao, a hapū of Ngāi Te Rangi, are tangata whenua of Motiti.

As the Tribunal did not find any breaches of Te Tiriti, no recommendations were made. However, the Tribunal suggested the Crown should initially engage with Te Patuwai Tribal Committee on future issues regarding Motiti and made suggestions on how the Crown should approach disputes about tribal identity in general.

Status Update — **In progress**

Te Arawhiti have written to Te Puni Kōkiri, the Department of Conservation and the Department of Internal Affairs to share the Tribunal's findings and clarify how agencies should engage on matters related to Motiti Island.

Te Arawhiti have also written to the claimants and Ngāti Awa to share the Tribunal's findings and advise them of Te Arawhiti approach to engagement going forward.

Te Arawhiti are still waiting for Ngāti Awa to confirm the correct person and will also write to Te Patuwai and offer to meet with them and Ngāti Awa to discuss the longer-term approach to Crown engagement.

Te Arawhiti are considering doing a synopsis of lessons learnt by the Crown regarding the Te Moutere o Motiti inquiry.

WAI 2575: *Haumaru: The Covid-19 Priority Report*, 2021

Ministry of Health

Summary of Findings and/or Recommendations

In 2021, the Tribunal held a priority hearing into alleged breaches of Te Tiriti arising from the Covid-19 vaccination strategy and the early transition to the Covid-19 Protection Framework (the Framework).

The Tribunal found:

- Breaches of active protection and equity through insufficient data collection by the Crown;
- Cabinet's decision to reject its own officials' advice to adopt an age-adjustment for Māori in the vaccine rollout breached active protection and equity;
- The transition to the Framework breached the principles of active protection, equity, tino rangatiratanga, options, and partnership, and placed Māori at a disproportionate risk of contracting Covid-19;
- The Crown did not jointly design vaccine sequencing with Māori, which further breached tino rangatiratanga and partnership; and
- Severe, lasting, and immediate prejudice to Māori due to these Te Tiriti breaches.

To amend the above breaches, the Tribunal issued a range of recommendations:

- The Crown urgently provide further funding, resourcing, Māori health and vaccination data, and other support to help Māori providers and communities address issues arising from the pandemic;
- The Crown improve its collection of quantitative and qualitative ethnicity data relevant to Māori health outcomes, and (in partnership with Māori) in the quality of data on tangata whaikaha and whānau hauā;
- The Crown strengthen its monitoring programme and partner with Māori to establish what should be monitored and how it should be reported;
- The Crown partner with Māori to design and implement an equitable paediatric and booster vaccine sequencing framework for Māori; and
- A comprehensive list of principles to be reflected in future Crown-Māori engagement with the national collective proposed by the claimants and other Māori groups.

The Tribunal concluded that until the Crown ensures an equitable vaccine rollout, it will remain in active breach of Te Tiriti o Waitangi.

Status Update — **In progress**

Funding and support provided by the Ministry of Health to Māori providers, to support the COVID-19 response

On 1 July 2022, the health reforms introduced by the Pae Ora Act established new entities and functions, as well as altering the functions of the Ministry of Health. This included the transfer of the role of funding services from the Ministry of Health to the new entities of the Māori Health Authority and Health New Zealand.

$14.8 million was allocated in both the 2021/22 and 2022/23 financial years to support approximately 160 Māori health providers over 10 months. This funding is part of a larger $140 million package allocated to support the Māori and Pacific Omicron response including for Whānau Ora and the Māori Communities COVID-19 Fund administered by Te Puni Kōkiri.

A winter preparedness package was funded to all providers over winter 2022 to support providers to respond to the surge in COVID-19 and other winter illnesses over the winter period.

WAI 2575: *Haumaru: The Covid-19 Priority Report*, 2021

Ministry of Health

Additional data provided to Māori providers to support with the COVID-19 response.

Data sharing agreements are now in place with 10 Māori providers, 16 iwi and five Māori commissioning agencies. Reporting on these arrangements in September 2022 indicated that data sharing has given Māori providers insights into the needs of their communities and supported them to target vaccination to where it is most needed. For example, a Māori provider that could use shared data went on to provide 21% of all COVID-19 vaccinations to Māori in the North Island.

Longer-term work on improving the collection of ethnicity data continued, noting that leadership of the Patient Profile and National Health Index project transferred to Health New Zealand through the health reforms.

Mechanisms for monitoring the COVID-19 response for Māori

The Ministry of Health continued to convene the Māori Monitoring Group to provide independent advice, accountability, and monitoring of the Ministry of Health. The group was repurposed in 2023 to focus on broader Māori health areas.

The Ministry of Health also published the December 2022 Māori COVID-19 Monitoring Report[54], which provided an overview of progress made against the Māori Protection plan between May and November 2022.

Additionally, in January 2022, as part of the monitoring and reporting of the Māori COVID-19 response during the Omicron outbreak, the Māori Health Directorate within the Ministry of Health ran a fortnightly survey of Māori health providers. The survey aimed to understand what was and wasn't working for the providers and their communities, and what adaptations were needed to enable Māori providers to continue their response. Results from this survey were circulated across relevant teams in the Ministry fortnightly, with teams using this information to support policy changes to improve the Crown's response for Māori, funding decisions, and provision of evidence for governance groups throughout the response. In November 2022, the Ministry of Health decided to pause the survey to lighten the burden of providers' reporting.

Paediatric and booster roll out

Significant work continued to occur to bolster the uptake of the paediatric and booster rollout for Māori across the country, for example:

- In May 2022, Māori providers received $6.35 million in outreach immunisation funding to expand their current COVID-19 vaccination services and deliver the full range of nationally approved immunisations. Targets for this funding and support included communities where vaccination rates are lower than national rates, including Ōpōtiki, Kawerau, Murupara, Flaxmere, Wairoa, Tūrangi, Kaitī, Kaitāia and Kaikohe. Kaumātua, tamariki and rural communities have been other priorities.
- In addition, since May 2022, $2 million has been invested in the roll-out of Mā te Kōrero Ka Eke. This national programme takes a kaupapa Māori approach to improving uptake of COVID-19 vaccination for tamariki and their whānau, alongside other immunisations and health services. Mā te Kōrero Ka Eke is the first hauora programme to be delivered in kura kaupapa, kōhanga reo and wānanga. Examples of the programme's initiatives to date include delivering holistic health services at kapa haka events and kōhanga reo anniversary celebrations.
- Work has also begun to increase broader immunisation rates, with focus on childhood immunisations. This work is ongoing.

54 www.health.govt.nz/publication/2021-covid-19-maori-health-protection-plan-may-2022-monitoring-report.

WAI 814: *The Mangatū Remedies Report*, 2021

Te Arawhiti

Summary of Findings and/or Recommendations

The Mangatū Remedies Report concerns remedy applications filed by groups affected by Crown Te Tiriti breaches in the Tūranga (Poverty Bay) district. These breaches were earlier identified in the Tribunal's 2004 Tūranga inquiry and included the Crown's acquisition of parts of the land now comprising the Mangatū Crown Forest. At that time, the Tribunal made no recommendations, giving rise to the remedy's applications.

In the 2021 Remedies Report, the Tribunal made an interim recommendation that the Mangatū Crown Forest licensed land be returned to Māori ownership under section 8HB of the Treaty of Waitangi Act 1975 for claims throughout the district. Additionally, the Tribunal indicated the claimants should receive the entirety of the compensation available under clause 3, schedule 1 of the Crown Forest Assets Act 1989.

The Tribunal made general non-binding recommendations, including that the Crown issue a joint historical report and Crown apology and negotiate additional redress with the claimant groups.

Status Update **Ongoing**

The Crown sought judicial review of the Tribunal's approach to:

1. the scope of its jurisdiction under section 8HB of the Treaty of Waitangi Act;
2. the calculation of compensation under the Crown Forests Assets Act; and
3. the terms and conditions attached to the Tribunal's transfer recommendations.

One of the claimants also sought judicial review of the Tribunal's approach to their interests in the Crown Forest land. The High Court found in favour of the Crown as to the statutory compensation issue, however dismissed all other aspects (including the claimant party's review). All parties have appealed the High Court decision to the Court of Appeal.

This work is on hold pending the outcome of the judicial review. The hearing will take place in July 2024.

WAI 1750: *The Priority Report on the Whakatōhea Settlement Process*, 2021

Te Arawhiti

Summary of Findings and/or Recommendations

The Priority Report on the Whakatōhea Settlement Process concerned the Tribunal's inquiry into claims concerning the Crown's negotiations with the Whakatōhea Pre-Settlement Claims Trust of a settlement of the historical Treaty claims of Whakatōhea. The issues reported on by the Tribunal were the parallel process offered to Whakatōhea in the proposed Whakatōhea settlement, under which the Tribunal would retain jurisdiction to inquire into and make findings, but not recommendations, on Whakatōhea's historical Treaty claims, aspects of the mechanism to amend the Whakatōhea Pre-Settlement Claims Trust's negotiations mandate, and the role of hapū during ratification and voting by Whakatōhea members on the Whakatōhea deed of settlement.

The Tribunal found the Crown had breached Treaty principles in relation to aspects of the parallel process, the mechanism to amend the Trust's mandate, and the deed of settlement ratification process.

The Tribunal also made findings on some aspects of these issues that the Crown had not breached Treaty principles, and areas where potential future Te Tiriti breaches could be avoided by mitigating action.

In relation to its findings of Treaty breach, the Tribunal recommended:

- To remove prejudice, the Crown make initialling the Deed of Settlement conditional on amendments to the withdrawal mechanism and adequate time be provided following these amendments.
- The Crown ensure hui-ā-hapū after the initialling of the Deed of Settlement and before the ratification hui and hapū postal vote.

The Tribunal made suggestions that to avoid further Te Tiriti breaches, the Crown should amend its funding policy for groups seeking to utilise the mechanism to amend the Trust's mandate, ensure suitable funding is available, and ensure the rangatiratanga of hapū that have decided to withdraw are actively protected in any decision-making on the outcome of that process.

Status Update — **Completed**

The recommendations have been actioned by the Crown. No further action or update is required.

WAI 2915: *He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry*, 2021

Oranga Tamariki

Summary of Findings and/or Recommendations

The Tribunal concluded that the disparity between the number of Māori and non-Māori entering State care could be attributed in part to the effects of land alienation and dispossession, but also to the Crown's failure to honour its Treaty guarantee to Māori of the right of cultural continuity. This is embodied in the guarantee of tino rangatiratanga over their kāinga.

The Crown must actively protect the availability and viability of kaupapa Māori solutions in the social sector and in mainstream services, in such a way that Māori are not disadvantaged by their choice. The Tribunal considered that the legislative and policy changes introduced since 2017 will not be sufficient to realise the kind of transformation required to achieve a Treaty/Tirti-consistent future.

The Tribunal refrained from overly prescriptive recommendations. The Tribunal's primary recommendation is for the establishment of a Māori Transition Authority led by Māori with support from the Crown, to identify the changes necessary to eliminate the need for State care of tamariki Māori, and to consider system improvements, both within and outside of the legislative and policy settings for Oranga Tamariki.

Status Update — **In progress**

The Crown is not taking forward the Tribunal's recommendation to establish a Māori Transition Authority at this time. The focus remains on acting to address known issues in the care and protection system, and to improve outcomes for tamariki, rangatahi and whānau.

In 2022/23, Oranga Tamariki continued to reflect the findings from the Tribunal and other reviews of the organisation in its work programmes and overall direction. Through the various reviews, and from the voices of tamariki, children, rangatahi, young people, families and whānau, Oranga Tamariki know that the way it has been operating has previously inadvertently caused harm. A change is needed to ensure Oranga Tamariki can meet current and future demand and need for services, particularly for the increasing number of tamariki and rangatahi who require intensive support.

The Oranga Tamariki Action Plan (the Action Plan) was launched in July 2022, partly in response to the Tribunal's report and other reviews. The Action Plan drives transformation across the children's sector to ensure that tamariki and rangatahi with the greatest needs are visible and prioritised across the work of all agencies. Since the launch, the relationships and collaboration between agencies, communities and regional public service leaders has improved, and the network of connection points has expanded.

Engagement with a range of Māori and Pacific partners and providers has been prioritised to understand the unique cultural needs that exist for whānau. Many of the partners that Oranga Tamariki engaged with are iwi/hapū mandated social service providers and are linked to the whānau through whakapapa. The engagements leveraged relationships that already existed between the engagement team and partners. To support with this, all engagements were guided by Whanaungatanga, Rangatiratanga, Manaakitanga, Wairuatanga, and Kotahitanga.

The Action plan is a cross-agency response with joint responsibility, a cross-agency working group has been established, that meets fortnightly to work through the initiatives in the action plan to ensure that Oranga Tamariki is working collectively with other Children's agencies. Many of the partners and providers already have relationships with each of the agencies.

A critical part of the Action Plan is engagement with Regional Public Service Commissioners (RSPC), public service leaders and leadership groups at a regional level. This regional activation and expansion includes:

- Providing evidence and data to regional leaders to inform community-led planning and the development of community solutions.

- Children's agencies activating their internal regional networks to drive consistent leadership across levels of the system.
- Ensuring that the mahi of the Action Pan is visible in the Regional Plans and that the children and young people are prioritised in those regional plans.
- Fostering good connectivity within the system by maintaining consistent communication about the Action Plan's purpose and objectives.
- Leading conversations about the Action Plan in Regional Leadership Groups and in other multi-agency meetings.
- Escalating system issues that can't be resolved at a local level for support.
- Highlighting successful multi-agency mahi already underway so that we can learn from what's already working well. This gives Oranga Tamariki a strong platform to take the spirit and intent of the Action Plan into the future.

Oranga Tamariki has established a Transformation Programme to make the necessary transformative change to lift the standard of our systems, processes, culture, capabilities, and leadership.

The Transformation Programme is putting in place the building blocks for a future way of working and incorporates work initiated under the Oranga Tamariki Future Direction Plan (agreed by Cabinet in September 2021) under a new, integrated programme structure which will accelerate the delivery of our mission critical work.

Alignment with a consolidated strategy

During the 2022/2023 year, Oranga Tamariki worked on consolidating and integrating the agency's efforts to ensure it is realising the aspirations of Te Kahu Aroha and earlier reviews. The new strategy provides a clear framework to align transformation efforts and wider activities against.

The strategy commits to delivering seven key impacts, against which Oranga Tamariki will measure the agency's performance:

- Tamariki and rangatahi Māori are safe and secure under the protection of whānau, hapū and iwi
- Whānau resilience is strengthened to care for tamariki and rangatahi
- Tamariki in care or custody are safe, recovering and flourishing
- Improved equity for Māori, Pacific and Disabled tamariki and rangatahi
- Fewer tamariki, rangatahi and whānau need statutory services
- Tamariki, rangatahi, whānau and victims of youth offending feel listened to, valued, and understood
- Oranga Tamariki operate efficiently and effectively to deliver against our commitments.

It also sets out three strategic shifts which reflect and respond to the priorities of Oranga Tamariki's commun`ities, informed by the many engagements undertaken with tamariki, rangatahi, whānau and community partners, and reviews of the care and protection and youth justice systems over the past 30 years. These three shifts, and key actions taken under each, are outlined below.

Mana Ōrite – shift decision making and resource by enabling our communities.

Over the last year Oranga Tamariki:

- Supported nine Enabling Communities prototype partners (an increase of four since last year) to design solutions they know work for their tamariki and whānau
- Formed a new strategic partnership agreement with Te Whānau o Waipareira Trust, supporting wraparound, holistic services for whānau in West Auckland under a by Māori, for Māori approach

- Supported the launch of Te Ara Mātua – a bespoke iwi-led plan aiming to keep tamariki and whānau of Hawke's Bay out of the Oranga Tamariki system, and to return those currently in the system to the protection of the whānau, hapū and iwi
- Increased our investment in Iwi and Māori organisations to $159m (up from $146m last year). This represents 30% of our total provider funding, an increase from 20% five years ago.

Whakapakari Kaimahi – enable our people.

Over the last year Oranga Tamariki:

- Continued implementing its practice approach to embed rights based, relational, inclusive, and restorative ways of working
- Implemented comprehensive social worker induction, professional development, and supervision approaches
- Have had 376 kaimahi complete Tū Māia, a comprehensive cultural capability training programme, developed in partnership with Te Tauihu o Ngā Wānanga. A second cohort of 400 kaimahi started in May 2023
- Implemented FastTrack, a rapid response for persistent young offenders, bringing together multi-disciplinary kaimahi with the right capability to deliver wrap-around support to whānau to help their tamariki get back on track.

Rato Pūnaha – lead the system.

Over the last year Oranga Tamariki:

- Completed seven out of eight in-depth needs assessments that identified actions to better support priority populations, as part of the first full year of implementing the Oranga Tamariki Action Plan
- Completed Year 2 of Te Tohu o Te Ora survey of tamariki and rangatahi in care, which helps us to understand the experiences of tamariki and rangatahi and inform practice improvement. The findings are reported in Te Mātātaki 2023.
- Established a Disability Advisory Group and developed our Disability Strategy that focuses Oranga Tamariki's effort to improve equity for tangata whaikaha/Disabled people
- Expanded Whiti, a user friendly tool for frontline kaimahi, that gives them the right information at the right time. This year Oranga Tamariki improved the tool and extended it to cover Youth Justice services.

WAI 898: *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, 2020

Te Arawhiti, Ministry for Primary Industries

Summary of Findings and/or Recommendations

Parts I and II of the pre-publication version of Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims were centrally concerned with the negotiations between the Crown and leaders of Te Rohe Pōtae – especially Ngāti Maniapoto (Maniapoto) – regarding land, land laws, the extension of the North Island Main Trunk Railway into their district, and the respective spheres of Crown and Māori authority within the district. These negotiations, and the agreements that resulted, are known by Te Rohe Pōtae Māori as Te Ōhākī Tapu. This term is derived from Te Kī Tapu (the sacred word), a phrase Maniapoto leaders used to describe the conduct they sought from the Crown.

Parts I and II also reviewed numerous other aspects of the Crown's actions in Te Rohe Pōtae before 1905. The Tribunal found the claims covered in parts I and II of the report to be well founded. In summary, the Crown chose not to give practical effect to the Treaty principle of partnership in Te Rohe Pōtae from 1840 to 1900. It failed to recognise or provide for Te Rohe Pōtae Māori tino rangatiratanga before and during the negotiations collectively described as Te Ōhāki Tapu. This failure resulted in multiple breaches of the principles of the Treaty of Waitangi, and Te Rohe Pōtae Māori have suffered significant and long-lasting prejudice as a result.

The Tribunal therefore recommended the Crown take immediate steps to act, in conjunction with the mandated settlement group or groups, to put in place means to give effect to their rangatiratanga.

The Tribunal said that how this can be achieved will be for the claimants and Crown to decide. However, it recommended that, at a minimum, legislation must be enacted that recognises and affirms the rangatiratanga and the rights of autonomy and self-determination of Te Rohe Pōtae Māori.

In the case of Ngāti Maniapoto, or their mandated representatives, the Tribunal recommended that legislation must take into account and give effect to Te Ōhāki Tapu, in a way that imposes an obligation on the Crown and its agencies to give effect to the right to mana whakahaere.

In Part III of Te Rohe Pōtae Māori report the Tribunal recommended that during settlement negotiations with Te Rohe Pōtae Māori, the Crown should discuss a possible legislative mechanism (should they wish it) that will enable iwi and hapū to administer their lands, either alongside the Māori Land Court and Te Tumu Paeroa (the Māori Trustee) or as separate entities.

The Tribunal released part IV of Te Mana Whatu Ahuru in 2019 which looked at how the rapid alienation of Māori land affected tribal authority and autonomy in the district. Part V, released in 2020, examined the effects of Crown policies and actions on health, education and te reo Māori in Te Rohe Pōtae. In Part IV of the report, the Tribunal found that the Crown failed to sustain Te Rohe Pōtae self-government in a Treaty compliant way. While Te Rohe Pōtae Māori participated in a succession of representative structures and institutions expected to provide them with at least a form of mana whakahaere, these spheres of influence were limited, and many did not prove enduring.

The Tribunal found a number of Treaty breaches including:

- The Crown's failure to ensure structures within local government enabled Te Rohe Pōtae to exercise their mana whakahaere and tino rangatiratanga
- the compulsory taking of Māori land for public works development purposes, alienated large tracks of Māori land and Te Rohe Pōtae tribal authority. Without meaningful consultation or meeting tests of last resort, the Crown undertook the largest individual takings for public works in New Zealand history in the inquiry district during the twentieth century
- Crown regulation of the natural environment further diminished Te Rohe Pōtae Māori tribal authority over many taonga and sites of significance, and Crown regulation and mismanagement of the natural environment likely resulted in significant damage to many of these important sites.

WAI 898: *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*, 2020

Te Arawhiti, Ministry for Primary Industries

Based on its findings of Treaty breach in these areas, the Tribunal made recommendations to restore or better enable Te Rohe Pōtae Māori mana whakahaere, including amending the legislative and policy frameworks associated with each area under review and by accounting for identified breaches in any Treaty settlement processes with claimants.

In Part V of the report, the Tribunal found that breaches of the Treaty of Waitangi have led to long-term and ongoing poor health and wellbeing outcomes for many Māori in Te Rohe Pōtae.

The Tribunal found that Crown policies relating to land contributed to the erosion of the economic and resource base that could otherwise have been drawn upon to provide for Te Rohe Pōtae Māori experiencing hardship. As a result, Māori were disadvantaged within the local economy, earned less than other population groups, had worse health and lower quality housing, migrated away from the district out of necessity, had an often-fragile hold on employment, and for many years were unable to exert social autonomy over the health and well-being of their communities, including on matters such as alcohol use and regulation.

In the areas of education and te reo Māori the Tribunal found that the declining use of te reo Māori in the district throughout much of the twentieth century was clearly linked to the large-scale alienation of Te Rohe Pōtae land and the associated erosion of Māori mana whakahaere, customary ways of life and social organisation, as well as the spread of state-administered native and board schooling throughout the district.

Part VI – Take a Takiwā was released in 2020 and is an inventory of all the claims in this district inquiry and of the Tribunal's claim specific findings.

Status Update — Partially Settled

Settlement legislation for Ngāti Maniapoto was passed on 25 November 2022.

The Crown has continued to work with hapū and iwi of Waikato-Tainui towards the settlement of their remaining claims. This includes a number of claims around Whaingaroa, Aotea and Kāwhia Harbours which the Tribunal reported on in Te Mana Whatu Ahuru. The parties are working towards an agreement in principle in late 2024.

Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims (Part IV)

The Ministry for Primary Industries commitments to Maniapoto are carried out under the 1992 Fisheries Deed of Settlement.

Te Mana Whatu Ahuru Report on Te Rohe Pōtae Claims (Part VI)

The Ministry for Primary Industries fisheries commitments for Te Rohe Pōtae claims are carried out and reported under the Fisheries Settlement. Aquaculture commitments are addressed and reported under Ahu Moana: The Aquaculture and Marine Farming Report WAI 953 report.

WAI 2200: *The Kārewarewa Urupā Report*, 2020

Ministry of Culture and Heritage

Summary of Findings and/or Recommendations

In the Kārewarewa Urupā Report, the Tribunal found that Treaty principles were systematically breached in relation to the exploratory authorities (those that conduct an invasive investigation of a site) and the requirements of section 56 of the Heritage New Zealand Pouhere Taonga Act 2014.

In respect of section 56 of the Heritage New Zealand Pouhere Taonga Act 2014, in order to prevent the recurrence of prejudice in the event of future applications relating to the Kārewarewa urupā or to other wāhi tapu, the Tribunal recommended that:

- Heritage New Zealand Pouhere Taonga should undertake a review, led by the Māori Heritage Council (Te Kaunihera Māori o te Pouhere Taonga), of the assessment process for section 56 applications concerning sites of interest to Māori. The Māori Heritage Council should then recommend a more Treaty-consistent timeframe for the evaluation and determination of those applications, so that the Crown's Treaty obligation of active protection of taonga can be met. Heritage New Zealand should then make the recommendation to the Minister for Arts, Culture and Heritage.
- The Minister for Arts, Culture and Heritage should introduce legislation as soon as possible to amend the timeframe in section 56 of the Act, in accordance with any recommendations from the Māori Heritage Council and Heritage New Zealand.
- In the case of applications relating to wāhi tapu including urupā (gravesites), section 56 should be amended to require applicants to provide an assessment of cultural values and the impact of proposed work on those values, in the same manner as for section 44 applications.
- These should regard the relationship of Māori with their culture and traditions with their wāhi tapu.

Status Update **Ongoing**

Heritage New Zealand Pouhere Taonga has changed its section 56 of the Heritage New Zealand Pouhere Taonga Act 2014 assessment processes to reflect the Tribunal's recommendations. Other recommendations made by the Tribunal require legislative change.

Manatū Taonga will explore possible legislative options to address any remaining issues.

WAI 2870: *He Aha I Pērā Ai The Māori Prisoners Voting Report*, 2020

Ministry of Justice, Department of Corrections

Summary of Findings and/or Recommendations

This inquiry related to three claims that sought the repeal of section 80(1)(d) of the Electoral Act 1993 and was heard under urgency in May 2019. The Crown accepted that the enactment of this section of the Act has had a significantly disproportionate impact on Māori since 2010 when it was amended to exclude sentenced prisoners from registering as an elector and extend an existing voting ban to include all prisoners incarcerated at the time of a general election.

The Tribunal found that the Crown had acted inconsistently with the Treaty principles of partnership, kāwanatanga, tino rangatiratanga, active protection, and equity, and that its actions prejudicially affected Māori.

Recommendations included:

- Urgent amendments to legislation to remove the dis¬qualification of all prisoners from voting, irrespective of their sentence. A return to the law as it was before 15 December 2010 is not recommended because even that law disproportionately affected Māori.
- The Crown start a process immediately to enable and encourage all sentenced prisoners and all released prisoners to be enrolled in time for the general election in 2020.This process needs to include providing electoral information to all prisoners and, where possible, released prisoners through media accessible and appropriate to their needs, and in te reo Māori and English.
- A process is implemented for ensuring that Crown officials provide properly informed advice on the likely impact that any Bill, including members' Bills, will have on the Crown's Treaty of Waitangi obligations.

Status Update — **Ongoing**

In June 2020, the Electoral (Registration of Sentence Prisoners) Amendment Act was enacted. This enables people who are serving prison sentences of less than three years to enrol and vote.

As required by the Act, the Department of Corrections (Corrections) established a process to engage with people in prison for the 2020 Election.

As part of the reception process, Corrections continues to require staff to engage with all eligible people sentenced to prison. During this process staff discuss their ability to register to vote and encourage their enrolment. Staff also explain their ability to apply to have their details secured on the unpublished roll.

Once completed, staff submit the forms to the Electoral Commission.

Supporting people to enrol aligns with Hōkai Rangi and Corrections' aim of assisting the people in its management to participate more fully in society.

New Zealand's electoral framework has been recently reviewed by an independent Panel of experts (the Panel). The Crown is expected to publish the Panel's final report in early 2024.

WAI 2660: *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 1 Report*, 2020

Te Arawhiti

Summary of Findings and/or Recommendations

The inquiry is being held in two stages. In stage 1, the Tribunal prioritised hearing issues of Crown procedure and resources under Te Takutai Moana Act 2011 (the Act), particularly applicant funding. The Tribunal reported on stage 1 on 30 June 2020.

The Tribunal found that aspects of the procedural and resourcing regime did fall short of Treaty compliance. Among other things, the regime failed to:

- Provide cultural competency training for registry staff, to improve the experiences of Māori interacting with the High Court, both on marine and coastal matters and more generally.
- Provide adequate and timely information about the Crown engagement pathway for applicants to seek recognition of their customary rights in the marine and coastal area
- Provide adequate policies to ensure that the High Court pathway and the Crown engagement pathway operate cohesively
- Actively and practically support efforts to resolve overlapping interests in the marine and coastal area
- Cover 100 per cent of all reasonable costs that claimants incur in pursuing applications under the Act
- Manage real or perceived conflicts of interest in the administration of funding
- Provide sufficiently independent, accessible, and transparent mechanisms for the internal reviewing of funding decisions
- Enable timely access to funding for applicants in the Crown engagement pathway
- Fund judicial review for Crown engagement applicants and Māori third parties.

The Tribunal found that, in these respects, Māori had been and remained significantly prejudiced. However, it said that other deficiencies in the regime had not ultimately prejudiced the claimants.

The Tribunal urged the Crown to remedy the shortcomings identified in the report. It said that Māori would continue to be prejudiced until the Crown took steps to make the Act's supporting procedural arrangements fairer, clearer, more cohesive, and consistent with the Crown's obligations as a Treaty partner.

Status Update — **In progress**

Te Arawhiti has improved applicant funding and continues to progress the dual pathway issue to resolution.

Applicant funding

On 1 March 2023, Te Arawhiti launched the revised takutai moana financial assistance scheme (the scheme). The revised scheme included a number of changes making it easier for applicant groups to progress their applications. The changes include:

- improving the structure of the scheme, budget templates and guidelines, and information about how to use the scheme;
- increasing the overall funding allocation for all applicant groups;
- enabling costs incurred in High Court hearings, interlocutory hearings, case management conferences and appeals to met;
- fund collaborative projects and activities between applicant groups where it would assist in progressing their respective applications; and
- enabling up-front funding through small and large grants, alongside reimbursement payments.

WAI 2660: *The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 1 Report*, 2020

Te Arawhiti

Cohesion between pathways

From September to December 2022, Te Arawhiti undertook public consultation with applicants and other interested parties (including the judiciary) on a set of options to resolve the dual pathway issue. Te Arawhiti received 27 submissions. The feedback received in the submissions will inform ongoing policy work.

Overlapping claims

Work is underway to provide applicants with clear guidance regarding overlapping claims. It is expected that this guidance will be completed by mid-2024.

The Tribunal intends to release the Wai 2660 Stage 2 Report in October 2023.

WAI 2358: *The Stage 2 Report on the National Freshwater and Geothermal Resources Claim*, 2019

Ministry for the Environment, Department of Internal Affairs

Summary of Findings and/or Recommendations

The Tribunal's stage 2 report covered both Resource Management Act (RMA) and policy reforms between 2009–2017. It recognised that the Crown's efforts to acknowledge and provide for Māori rights and interests through "Te Mana o te Wai" in the National Policy Statement on Freshwater Management, and the 'Mana Whakahono ā Rohe' mechanism in the RMA, while being good first steps, do not go far enough.

The Tribunal noted that the Crown and claimants agreed on a number of key points, however despite this, the Crown's position continued to be that 'no one owns the water'.

The report goes on to make several recommendations:

- Amendments to the principles that govern how decisions are made under the RMA (Part 2 of the Act)
- Crown establishment of a national co-governance body with Māori and that co-governance agreements should be provided for in all Treaty settlements
- The Crown should ensure that Māori are properly resourced to participate effectively in RMA processes
- Amendments to the water quality standards in the national policy statement, the introduction of long-delayed stock exclusion regulations and the commitment of long-term funding to restore degraded water
- Stronger recognition of Māori values in the national policy statement itself
- 'Urgent action' to develop measures of habitat protection and habitat restoration
- The continuation of Crown-Māori co-design in policymaking where Māori interests were concerned
- Any new allocation regime included regional allocations for iwi, Māori land, and for cultural purposes.

Status Update — **In progress**

Resource management system reform

In June 2020, a Resource Management Review Panel published its report: New Directions for Resource Management in New Zealand. This recommended new legislation to replace the Resource Management Act 1991 (RMA). In response, the Crown worked towards three proposed Acts. These were:

- The Natural and Built Environment Act;
- The Spatial Planning Act; and
- The Climate Adaptation Act.

The Natural and Built Environment Bill (NBE Bill) and the Spatial Planning Bill (SP Bill) were introduced to Parliament in November 2022. The first reading for both bills took place on 22 November 2022.

The Environment Select Committee heard submissions on the bills throughout early 2023 and presented its reports back on 27 June 2023. These reports included comment and proposed amendments for clauses in the bills, including:

- The purpose of the NBE Bill, including to recognise and uphold te Oranga o te Taiao
- The definition of te Oranga o te Taiao
- A clause requiring the principles of te Tiriti o Waitangi to be given effect to
- The establishment of a National Māori Entity for te Tiriti performance monitoring
- Tools for iwi, hapū, and Māori groups with interests' participation in resource management
- Māori land
- Engagement agreements
- Funding and implementation support

- Protection of rights and interests in freshwater and geothermal resources
- A new allocation framework based on principles of environmental sustainability, efficiency, and equity
- The establishment of a Freshwater Working Group, to make recommendations relating to freshwater allocation and a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation
- Upholding Treaty settlements, Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act, and other existing RMA arrangements
- Upholding Takutai Moana rights.

Freshwater management

Since the Tribunal released its report in 2019, the Crown has introduced several funds dedicated to improving environmental and freshwater outcomes, including the Jobs for Nature programme and the Freshwater Improvement Fund. Although not specifically targeted at funding tangata whenua led projects, these have also included funding for iwi led initiatives e.g., the Wairarapa Moana remediation project.

Amendments were made to the National Policy Statement for Freshwater Management (NPS-FM), in 2020 to strengthen the Te Mana o Te Wai decision making framework – including a more explicit process outlining that tangata whenua must be involved in freshwater decision making (see NPS-FM 3.2).

In 2020, the Crown introduced the Essential Freshwater package which included the amended NPS-FM, Resource Management (National Environmental Standards for Freshwater Management 2020 (NES-FM)), and Resource Management (Stock Exclusion) Regulations 2020. Stock exclusion regulations are being implemented, as are comprehensive requirements for Regional Councils to introduce methods to at least maintain, or improve, water quality outcomes.

The 2020 NPS-FM strengthened a number of provisions from the 2017 NPS-FM related to the recognition of Māori values, including the inclusion of mahinga kai as a compulsory value (was a matter which must be considered under 2017 NPS-FM), as well as providing (as discussed above) significantly more direction on how tangata whenua values must be incorporated into the freshwater decision making process – including as values under the National Objectives Framework.

Amendments to the NPS-FM also provided for significantly more protection of freshwater species - threatened species are explicitly recognised through a policy objective (and associated requirements ie, mapping of habitats of threatened species within a Freshwater Management Unit (FMU)) and as a compulsory value. This is complemented by, and integrated with, terrestrial protections for threatened species and their habitats under the National Policy Statement for Indigenous Biodiversity (2023).

Although it does not constitute co-design, significant progress has been made in including Treaty Partners in the policy development process for Essential Freshwater in 2020, and subsequent amendments to pieces of national direction included within that package.

Te Mana o te Wai

In December 2022, the Water Services Entities Act 2022 (the Act) was passed and legally establishedt four water services entities, which would assume responsibility for delivering three waters services from 1 July 2024. The Act specified the purpose and objectives of the entities, their governance and accountability arrangements, ownership model and legal form, along with Te Tiriti obligations and Te Mana o te Wai.

In summary, the core features of the four-entity model are:

- The entities are financially and operationally independent of local authorities, and are governed by independent, competency-based boards. The boards must include members who collectively have knowledge and expertise in relation to the principles of te Tiriti o Waitangi and perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.

WAI 2358: *The Stage 2 Report on the National Freshwater and Geothermal Resources Claim*, 2019

Ministry for the Environment, Department of Internal Affairs

- The entities remain in public ownership, where territorial authorities in an entity's catchment area own the entity on behalf of their communities, via a shareholding arrangement.
- Regional representative groups will comprise of a subset of territorial authority owner representatives and a matched number of mana whenua representatives. Regional representative groups will appoint an entity's board, provide regional and local level direction to the board, monitor the board's performance and are appointed via a constitution.
- Entities must respond and give effect to Te Mana o te Wai statements, which can be made by mana whenua whose rohe or takiwā includes a water body in the service area.
- Entities must partner and engage early and meaningfully with Māori; and give effect to Treaty settlement obligations to the extent that the obligations apply to the performance or exercise of the duties, functions, or powers of the entity.
- Entities will be supported by a strengthened regulatory regime, that includes both quality (Taumata Arowai) and price (economic regulation; the Commerce Commission).

Subsequent legislation was being considered by select committee to add to the Water Services Entities Act, including provisions that clarified the processes required for future water services entities to conduct work on Māori land.

WAI 2575: *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*, 2019

Ministry of Health

Summary of Findings and/or Recommendations

The stage one report focuses on the legislative, strategic and policy framework that administers New Zealand's primary health care system, including in particular the New Zealand Public Health and Disability Act 2000, the New Zealand Health Strategy, the Primary Health Care Strategy and He Korowai Oranga, the Māori Health Strategy.

The Tribunal concluded the primary health care framework fails to state consistently a commitment to achieving equity of health outcomes for Māori. The Tribunal was also critical of the 'Treaty clause' in the New Zealand Public Health and Disability Act 2000 and that the articulation of Treaty principles in health system documents was out of date.

In the context of primary health care, the Tribunal also found deficiencies in funding, performance, and accountability mechanisms, and in decision-making and influence for the design and delivery of services. It found that the Act's provision for Māori representatives on district health boards does not fully reflect the principle of partnership, and that some boards do not prioritise cultural competency as a skillset intrinsic to their governance processes and responsibilities.

The Tribunal made a number of recommendations. The two overarching recommendations were that the New Zealand Public Health and Disability Act and its associated policies and strategies be amended to:

- Give effect to Treaty principles and ensure that those principles are part of what guides the primary health care sector; and
- Include an objective for the health sector to achieve equitable health outcomes for Māori.

In relation to structural reform of the primary health care system, the Tribunal made an interim recommendation that the Crown and the stage one claimants work together to develop terms of reference to explore the concept of a stand-alone Māori primary health care authority.

The Tribunal released an additional final chapter of the stage 1 Hauora report in 2021. The final chapter reviewed and finalised the three interim recommendations made when the stage 1 report was initially released in 2019.

In reviewing progress on these interim recommendations, the Tribunal noted the Crown's health system reforms and the establishment of a Māori Health Authority earlier in 2021. It called on the Crown to keep working with Māori to create a health care system that aligns with tino rangatiratanga. However, on the second interim recommendation - relating to the development of a methodology to assess the extent of underfunding of Māori primary health organisations - the Tribunal noted a lack of progress which it said was compounding the prejudice Māori have suffered. It therefore reiterated the urgent need to agree an underfunding methodology without further delay.

Status Update — **In progress**

Pae Ora (Healthy Futures) Act 2022

The Pae Ora (Healthy Futures) Act 2022 (the Act) came into effect on 1 July 2022.

The Act includes specific provisions to address and/or meet the Crown's obligations under Te Tiriti.

The Act provides for "the Crown's intention to give effect to the principles of Te Tiriti o Waitangi" in a number of ways:

The Minister of Health, Ministry of Health and all health entities are required to be guided by the health sector principles outlined in the Act, which are aimed at improving the health sector for Māori and improving hauora Māori outcomes. The health sector principles include the principle of ensuring Māori achieve equitable health outcomes (at section 7 (1) (a) (iii) of the Act).

WAI 2575: *Hauora Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*, 2019

Ministry of Health

The Act established the Māori Health Authority and provided for the establishment of Iwi Māori Partnership Boards (IMPB).

It requires the Minister of Health to establish a Hauora Māori Advisory Committee from which they seek advice before exercising certain powers, including appointments to the Māori Health Authority Board.

The Act includes criteria for appointments to the Health New Zealand and Māori Health Authority boards, including the boards having knowledge of, and experience and expertise in relation to, Te Tiriti and tikanga Māori.

Māori Health Authority

The Māori Health Authority came into being on 1 July 2022 as an independent statutory entity to work in partnership with both the Ministry of Health and Health New Zealand with the responsibility of ensuring the health system works well for Māori. The objectives of the Māori Health Authority are to:

a. ensure that planning and service delivery respond to the aspirations and needs of whānau, hapū, iwi, and Māori in general

b. design, deliver, and arrange services:

   i. to achieve the purpose of the Pae Ora Act in accordance with the health sector principles; and

   ii. to achieve the best possible health outcomes for whānau, hapū, iwi, and Māori in general.

c. promote Māori health and prevent, reduce, and delay the onset of ill-health for Māori, including by collaborating with other agencies, organisations, and individuals to address the determinants of Māori health.

Partnership arrangements

Hauora Māori Advisory Committee

The Pae Ora Act requires the establishment of a Hauora Māori Advisory Committee (HMAC), which advises the Minister of Health on matters relating to the board of the Māori Health Authority. The purpose of HMAC is to ensure that the voices of Māori are heard at all levels of decision-making in the new health system, and by doing so, supporting the delivery of equitable health outcomes for Māori.

The Minister of Health must seek and consider the HMAC's advice before exercising any of the following statutory powers:

- Appointing or removing members to the Māori Health Authority Board.
- Requiring the Māori Health Authority to develop an improvement plan.
- Issuing letters of expectation to the Māori Health Authority.
- Requiring amendments to The Māori Health Authority's statement of intent or statement of performance expectations.

The functions of HMAC also including advising the Minister of Health for the purpose of:

- Appointing a Crown observer to The Māori Health Authority; or
- Replacing all members of the Māori Health Authority board with a commissioner.
- The Minister of Health is also required to consult with HMAC prior to determining the expert advisory committee on public health.
- HMAC may provide other advice as requested by the Minister.

If the Minister of Health is required to consider the HMAC's advice, and the Minister of Health does not agree with HMAC's advice, and the matter in which the advice related to requires public notification, the public notification must indicate that the Minister of Health did not agree with the HMAC's advice.

On 1 July 2022, an interim committee was established consisting of eight members who were appointed by the Minister of Health, after consultation with the Minister for Māori Development. The interim Hauora Māori Advisory Committee met monthly during the reporting period.

Iwi Māori Partnership Boards

The Pae Ora Act also established Iwi Māori Partnership Boards (IMPB), which act as a vehicle for Māori to exercise tino rangatiratanga and mana motuhake with respect to planning and decision-making for health services at the local level. The Act requires the Māori Health Authority and Health New Zealand to engage with IMPBs to enable Māori to have a meaningful role in the planning and design of local services.

The Act does not specify the number or boundaries of IMPBs. During the reporting period iwi groups, the Ministry of Health, Māori Health Authority, District Health Boards, pre-existing Māori relationship boards, and Hauora Māori providers worked to define the areas that would be covered by each IMPB. Fifteen IMPBs have been recognised via Orders in Council:

- Te Taumata Hauora o Te Kahu o Taonui (Tai Tokerau & Tāmaki Makaurau)
- Ngaa Pou Hauora oo Taamaki Makaurau (South Auckland)
- Te Tiratū (Waikato-Tainui)
- Te Moana a Toi (Mataatua)
- Tairāwhiti Toitū Te Ora (Tairāwhiti)
- Te Taura Ora o Waiariki (Te Arawa)
- Tūwharetoa (Tūwharetoa)
- Te Punanga Ora (Taranaki)
- Te Mātuku (Whanganui)
- Tihei Tākitimu (Hawkes Bay)
- Te Pae Oranga o Ruahine o Tararua (Manawatū)
- Te Karu o te Ika Poari Hauora (Wairarapa)
- Ātiawa Toa (Greater Wellington/Hutt)
- Te Kāhui Hauora o Te Tau Ihu (Nelson/Marlborough)
- Te Tauraki (Ngāi Tahu)

Underfunding methodology

During the reporting period, the Crown continued to engage with the claimants around the Tribunal's underfunding recommendations. A number of hui and workshops were undertaken, including between the Stage One named claimants and the Ministers of Health and Māori Crown Relations: Te Arawhiti.

WAI 2840: *The Hauraki Settlement Overlapping Claims Inquiry Report*, 2019

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal found that the claims of Ngāti Porou ki Hauraki were not well founded, but upheld the claims of Ngāi Te Rangi, Ngāti Ranginui, and Ngātiwai. It found the Crown had breached its Treaty obligations to the iwi in several ways and criticised the policies and processes guiding the Crown's actions.

The Tribunal recommended the Crown halt progress of the legislation giving effect to the Pare Hauraki Collective settlement deed, and individual Hauraki iwi settlement deeds, until the contested redress items have been through a proper process to resolve overlapping claims.

It also recommended that the Crown, when undertaking overlapping engagement processes during settlement negotiations, fully commits to and facilitates consultation, information-sharing, the use of tikanga-based resolution processes at appropriate times, and for the Red Book (a guide to the Treaty of Waitangi claims settlement process) to be amended accordingly.

The Tribunal set out substantive new recommendations on the use of tikanga-based processes to resolve overlapping interests.

Status Update — Ongoing

Since the Tribunal released the Hauraki Settlement Overlapping Claims Inquiry Report in December 2019, the Crown has provided time, space and support for Pare Hauraki and overlapping groups to address the issues between them.

Good progress has been made between Pare Hauraki and Ngā Hapū o Ngāti Ranginui. The result is a tikanga process agreed to address the issues between them, with an open invitation for Ngāi Te Rangi and Ngāti Pūkenga to join that process at a time, and in a manner, which suits them.

Ngātiwai and the Hauraki groups have been engaging on their overlapping interests since 2020. The Crown has sought submissions from the groups and advice on tikanga implications to help inform decision-making. This process is ongoing.

Te Arawhiti has updated sections of the Red Book relating to overlapping interests.

WAI 2662: *The Whakatōhea Mandate Inquiry Report*, 2018

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal found that the Crown should not have recognised the mandate of the Whakatōhea Pre-settlement Claims Trust, to negotiate a settlement of Whakatōhea historical Treaty claims, in December 2016 and that the decision to recognise the Trust's mandate was not fair and reasonable, and breached the Treaty principle of partnership.

The Tribunal also found that:

- including the Mokomoko whānau claim in the Pre-Settlement Trust mandate without the whanau's consent and honouring commitments previously made breached duties of good faith, conduct and partnership
- the way in which the Crown included and described the Te Kahika claimants in the Deed of Mandate fell short of Treaty requirements of good faith conduct and partnership.

The Tribunal's main recommendation was that the Crown meet the reasonable costs of implementing a vote process enabling Whakatōhea hapū to decide on how they now wish to proceed with their historical claims. It also recommended the Crown:

- suspend substantive work on the Whakatōhea negotiations until completion of the vote
- commit to maintaining the baseline redress offered in the Whakatōhea Agreement-In-Principle
- pay interest at commercial rates on the cash component of the settlement offer.

Status Update — **Completed**

The recommendations have been actioned by the Crown. No further action or update is required.

WAI 2540: *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates*, 2017

Department of Corrections

Summary of Findings and/or Recommendations

Among the Tribunal's recommendations was that the Department of Corrections revise the Māori Advisory Board's terms of reference to enhance the board's influence in high-level discussions with the Department of Corrections concerning the protection of Māori interests. There should be a continuing focus on widening iwi membership of this board.

It recommended that the department work with the enhanced board to design and implement a new Māori-specific strategic framework and that it set and commit to Māori-specific targets for the department to reduce Māori reoffending rates substantially and within reasonable timeframes. Progress towards this target should, the Tribunal said, be regularly and publicly reported on. The Tribunal also said the Crown must include a dedicated budget to appropriately resource the new strategic focus on Māori.

The Tribunal recommended that the department provide greater Treaty-awareness training for senior staff, to incorporate mātauranga Māori into Departmental culture, practice, and operations.

Finally, the Tribunal recommended that the Corrections Act 2004 be amended to state the Crown's Treaty obligations to Māori due to their disproportionate presence in correctional facilities.

The Tribunal has recommended not only greater levels of partnership between the Department and Māori, but also a re-orientation of the Department's approach to Māori re-offending.

Status Update — **In Progress**

Revise the terms of reference of the Māori Advisory Board

The terms of reference for Te Poari Hautū Rautaki Māori were revised and updated during the 2021/22 financial year and confirmed at the August 2022 governance meeting. As well as continuing to provide strategic leadership around the development of policy and initiatives to improve outcomes and reduce Māori offending, the revised purpose of the Poari is to ensure Ara Poutama Aotearoa acts in accordance with te Tiriti to achieve the goals of Hōkai Rangi, those of the individual, and the family.

The updated terms of reference provide for an iwi Poari member to be elected/appointed to co-chair alongside the Chief Executive. This was actioned at the August 2022 governance meeting and the co-chairs model is now in place. Work is continuing to strengthen the Poari membership as a collective.

Design and implement a revised strategy with the Māori Advisory Board

Hōkai Rangi was launched in 2019 as the department-wide strategy, with a particular focus on addressing the significant over-representation of Māori in the Corrections system. Recommendations from Tū Mai te Rangi! were translated into actions within the strategy.

As of 30 June 2023, 30 of the 37 Hōkai Rangi short-term actions have been substantively delivered. Progress against delivery of the remaining seven actions has been impacted by factors such as access to sites and staff shortages. Four of the remaining seven actions are now also substantively delivered and progress on the final three is underway.

Our strategic focus is to deliver long-term embedded change to the corrections system. As such, we are not marking actions as 'completed' or 'closed'. In many cases, these actions will require ongoing effort throughout the duration of the strategy and beyond to sustain and embed change. We therefore mark actions as being 'substantively delivered' once the key work products have been delivered and are in use within the organisation. This recognises that effort is ongoing to implement and embed.

WAI 2540: *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates,* 2017

Department of Corrections

Include measurable targets in the Māori strategy and relationship agreements

In the face of ongoing challenges of COVID-19 and more recently staffing pressures, we have continued to progress the development of a performance framework to help us track progress towards achieving our strategic outcomes – improved public safety, reduced reoffending, and a reduction in the overrepresentation of Māori in the corrections system. During 2022/23, we further piloted data collection approaches related to measuring the authenticity and effectiveness of our Partner relationships.

The focus to date has been on identifying appropriate measurable progress indicators. We have iterated the framework many times, the latest iteration is close to stable.

The coming months will be focussed on implementation planning. Internal monitoring and reporting against the new performance framework is planned to commence in April, whilst we continue to test and refine as required.

Include a dedicated budget

Hōkai Rangi is the department-wide strategy, it is envisaged that the entirety of Corrections budget is used to achieve the long-term goals of the strategy.

Our strategic focus is to deliver long-term embedded change to the Corrections system. In many cases, these actions will require ongoing effort throughout the duration of the strategy and beyond, to sustain and embed change.

Some areas that give effect to Hōkai Rangi are as follows:

- Corrections continues to provide Māori focused programmes and initiatives, including five Te Tirohanga units, two Whare Oranga Ake facilities and the Tiaki Tangata reintegration service.
- Budget 2019 invested $98 million of operating and capital funding over four years into a pathway for people to experience a kaupapa Māori and whānau centred approach for all their time with Corrections, from pre-sentence to reintegration and transition in their community.
- Budget 2020 invested $49.6m of operating and capital funding over four years into a pre-trial service that provides people remanded in custody (or at risk of being remanded) greater opportunities to achieve positive change earlier in their justice system journey, reducing additional harm.
- Budget 2021 invested $10.018m of operating and capital funding over four years to provide a co-ordinated, seamless, end-to-end kaupapa Māori experience for wāhine Māori in the care and management of Corrections in Ōtautahi and across the wider Canterbury region.
- Budget 2021 also invested $51.21m of operating and capital funding over four years towards operationalising the Waikeria Prison Development, to deliver an integrated, person-centred, humanising, healing, accessible and needs-based kaupapa Māori model of care for the whole site. This will significantly improve rehabilitation and reintegration outcomes for Māori within the context of whānau, hapū, iwi, and communities.

Provide greater Treaty-awareness training for senior level Department staff

Corrections is improving its Māori Crown relations capability through adopting and implementing the Whāinga Amorangi all-of-government capability framework developed by Te Arawhiti. Specifically, building capability in te reo Māori and New Zealand history/Tiriti o Waitangi literacy. We have reported on our implementation progress under the Public Service Act 2020, section 14 Māori-Crown relations capability in 2021, 2022 and 2023.

We are working towards the completion of Phase 1 Empowering your people – with a focus on developing competency to leaders. We have delivered a range of specific New Zealand history and Treaty of Waitangi 'in person' programmes to cohorts largely consisting of leaders and other roles of influence across the department. Other programmes such as E Toru Ngā Mea (a series of values-led workshops delivered to leaders and teams) provide broad cultural capability development across most of the Whāinga Amorangi 6 competency areas.

WAI 2540: *Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates*, 2017

Department of Corrections

We have also developed a cultural capability hub on the department's intranet which provides a wide range of self-directed learning resources to all staff to encourage ongoing support with their development, that they can access in their own time and at a pace they can manage themselves. This included the launch of a specific learning campaign for Waitangi Day 2023, which is available permanently for all staff.

Amendments to the Corrections Act

The Corrections Amendment Bill was introduced to the House in June 2023. As introduced, the Bill included a Treaty clause, five additional principles to guide the corrections system, and specific provisions relating to a Māori strategy and access to cultural activities and mātauranga Māori for prisoners. These provisions are aimed at improving rehabilitation and reintegration for Māori in the corrections system. The Bill was referred to the Justice Select Committee.

WAI 2561: *The Ngātiwai Mandate Inquiry Report*, 2017

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal recommended that the negotiations process be paused, and that the following steps be undertaken:

i. Mediation or facilitated discussions be held to debate the unsatisfactory elements of the Deed of Mandate

ii. In the event these mediated discussions were rejected by the parties, the Tribunal recommended withdrawing the mandate and setting up of a new entity such as a rūnanga or taumata (congress).

In the event these mediated discussions proposed changes, the Tribunal recommended that these would need to be put to hapū for approval.

Status Update — **In Progress**

Crown funding is available for a proposed Ngātiwai process to address unsatisfactory elements of the Deed of Mandate. This would include discussions between the Ngātiwai Trust Board and those who raised particular issues in the mandate inquiry (Patuharakeke, Te Waiariki-Ngāti Korora-Ngāti Takapari and Te Whakapiko).

WAI 2200: *Horowhenua: The Muaūpoko Priority Report*, 2017

Department of Corrections

Summary of Findings and/or Recommendations

The Tribunal recommended that the Crown negotiate with Muaūpoko a Treaty settlement that will address the harm suffered, and that the settlement include a contemporary Muaūpoko governance structure with responsibility for the administration of the settlement.

The Tribunal further recommended that the Crown legislate as soon as possible for a contemporary Muaūpoko governance structure to act as kaitiaki for Lake Horowhenua and the Hōkio Stream, and associated waters and fisheries, following negotiations with the Lake Horowhenua Trustees, the lakebed owners, and all Muaūpoko on the detail.

The Tribunal recommended that the Crown provide to the new Lake Horowhenua Muaūpoko governance structure annual appropriations to assist it to meet its kaitiaki obligations in accordance with its legislative obligations.

Status Update — **Ongoing**

The Wai 2200 Porirua ki Manawatu District Inquiry, in which Muaūpoko claims were heard, is still underway, and the Tribunal has signalled that certain claims of Muaūpoko, along with claims of other iwi participating in the inquiry, will be heard in the inquiry's final, "Wider Inquiry" phase. This phase commenced in 2022 with a brief hearing focussed on Muaūpoko grievances and is expected to pick up again in 2025 after the current Ngāti Raukawa ki te Tonga phase concludes.

The Tribunal has not indicated when it expects hearings for the final Wider Inquiry phase to be completed.

The Tribunal has signalled that their final findings and recommendations, at the conclusion of the Wider Inquiry phase, may address grievances of iwi whose claims have been heard, and reported on, during the previous phases.

Muaūpoko historical claims remain unsettled.

WAI 2522: *Reports on the Trans-Pacific Partnership Agreement*, 2016, 2020, 2021

Minsitry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, Ministry for Primary Industries

Summary of Findings and/or Recommendations

Following its 2016 report on stage one of this inquiry (which concerned the Treaty exception clause in the Trans-Pacific Partnership (TPP)), the Tribunal set down four issues for stages two and three of the inquiry. The first and second issues, which concerned Crown engagement with Māori during the negotiation of the TPP and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), were settled in a mediation between the Crown and claimants in October 2020. The Tribunal conducted a hearing on the fourth issue, which concerned claims regarding the e-commerce chapter of the CPTPP, in November 2020.

The Tribunal held a hearing on the third issue in November 2019 (for stage two of the inquiry). The third issue concerned whether the Crown's process for engagement with Māori in the review of the plant variety rights regime and its policy on whether or not New Zealand should accede to the 1991 International Union for the Protection of New Varieties of Plants, is consistent with its Tiriti / Treaty obligations to Māori.

In its stage two report released in May 2020, the Tribunal found that both the Crown's engagement with Māori during the Plant Variety Rights Act review was conducted in good faith and was reasonable in the circumstances, and its policy decisions on the plant variety rights regime did not misunderstand or misapply the Wai 262 Tribunal's characterisation of kaitiakitanga in relation to plant variety rights. The Tribunal supported Cabinet's decision to implement and go further than relevant recommendations of the Wai 262 Tribunal.

The Tribunal concluded the Crown's actions were consistent with its Tiriti obligations and therefore made no recommendations.

The Stage 3 report was the Tribunal's final Report into claims regarding the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP). The Report focuses on Te Tiriti consistency of the electronic commerce (e-commerce) provisions in the CPTPP.

The Tribunal was unable to make definitive findings on a definition of 'Māori data'. However, the Tribunal found that Māori data has the potential to be mātauranga Māori, and therefore has the potential to be taonga and should be subject to the Crown's duty of active protection. The Tribunal considers there are risks to Māori interests and Te Tiriti regarding cross-border data flows, regulatory chill, and the location of computing facilities and source code. The Tribunal sees a cumulative, significant risk to Māori interests arising from the e-commerce provisions and considers the reliance on exceptions/exclusions to mitigate the risk as inadequate to the Crown's duty of active protection. It does not share the Crown's confidence that Māori rights and interests in the digital domain are un-affected by the CPTPP and does not consider that the Crown is actively protecting the taonga of mātauranga Māori.

Overall, the Tribunal finds the Crown has failed to meet the required standards of partnership and active protection. The Tribunal views that the main prejudice to Māori stems from the potential constriction of domestic policy and options regarding securing Māori data in Aotearoa.

The Tribunal did not make any recommendations after noting the initiatives and actions taken by the Crown in parallel to the inquiry, and placed weight also on the existing findings and recommendations from Stage 2 of the Wai 262 Report (see the Wai 262 response).

Status Update — **In progress**

As noted, The Tribunal did not make any recommendations as a part of its third and final report on Comprehensive and Progressive Agreement for Trans-Pacific Partnership and commented favourably on developments between the Crown and Māori in this sector taken in parallel to and subsequent to the inquiry. As such, there is no formal reporting requirement for this report. Nevertheless, the Ministry of Foreign Affairs and Trade, the Ministry for Primary Industries and the Ministry of Business, Innovation and Employment reported back in 2022 on developments to respond to the report, and may provide further updates in future as relevant.

WAI 903: *He Whiritaunoka: Whanganui Land Report*, 2015

Te Arawhiti

Summary of Findings and/or Recommendations

The He Whiritaunoka: Whanganui Land Report identified a large number of Treaty breaches by the Crown, relating to issues including the Crown's military conduct between 1846 and 1848, its purchase of the Whanganui Block in 1848 and the Waimarino Block in 1887, the operation of the native land laws, the acquisition of Whanganui lands for scenic reserves, and the development of native townships. The Tribunal described the serious economic, social, and cultural damage that these breaches caused the iwi of Whanganui and recommended that the Crown take this serious prejudice into account when it negotiated Treaty settlements.

Status Update — Settled

The Ngāti Rangi Trust signed a deed of settlement in August 2018, and the Ngāti Rangi Claims Settlement Act was enacted in August 2019.

Status Update — Ongoing

Uenuku Charitable Trust, representing Whanganui Central (Te Korowai o Wainuiārua) will sign a deed of settlement in July 2023, and Te Korowai o Wainuiārua Claims Settlement Bill will be introduced in August 2023.

Ngāti Hāua Iwi Trust representing Ngāti Hauā in the northern Whanganui region signed an agreement in principle in October 2022 and are currently working towards initialling a deed of settlement.

Whanganui Land Settlement Negotiation Trust representing Whanganui South signed an agreement in principle in August 2019 and are now working towards initialling a deed of settlement.

WAI 2417: *Whaia te Mana Motuhake / In Pursuit of Mana Motuhake: Report on the Māori Community Development Act Claim*, 2015

Te Puni Kōkiri

Summary of Findings and/or Recommendations

The Tribunal recommended that any future review of the Māori Community Development Act be led by Māori – specifically the New Zealand Māori Council, in coordination with regional and urban iwi authorities, and bodies like District Māori Councils, Māori Wardens, the Iwi Chairs Forum, Māori Women's Welfare League, and the Kiingitanga.

The Tribunal suggested that the review take the Kōhanga Reo review model, and through this report, could recommend the future directions of the New Zealand Māori Council (NZMC) and the institutions and kaupapa it is responsible for.

The Crown's role would be to resource the review process and support the amendment process to the 1962 Act. It would also need to ensure that the review led by the New Zealand Māori Council was robust and the reforms were widely supported.

The Tribunal found that all reasonable costs flowing from the review and consultation process should be met by the Crown. The Crown should commit, through legislative amendment, to reasonable funding to give effect to the resulting strategic direction and to maintain the structure of the representative national body that is determined through the consultation process.

The Tribunal further recommended that the Māori wardens project continue but that an interim advisory group or governance board be appointed from among the New Zealand Māori Council and Māori wardens to provide Māori community oversight of the funding, training, and other support delivered under the project.

The Tribunal also recommended that the Crown enter discussions with the New Zealand Māori Council for reimbursement of legal costs incurred by the New Zealand Māori Council that have not been covered by legal aid.

Status Update — **In Progress**

In late 2018, a strong working relationship was initiated between the New Zealand Māori Council (NZMC) and Te Puni Kōkiri. NZMC leadership attended the Māori Warden's conference in 2019 and heard first-hand the aspirations for greater self-management and autonomy from Māori Wardens. The Director and Chair of the NZMC were also appointed members of the Māori Wardens Modernisation Working Group.

Following the 2021 New Zealand Māori Council Triennial Elections, the leadership of the NZMC changed, and the new leadership was less comfortable with the direction of the modernisation kaupapa. Te Puni Kōkiri continues to work closely with the NZMC to find a way forward.

Details include:

a. The review of the Māori Community Development Act 1962;

b. A review of their annual appropriation; and

c. The modernisation of Māori Wardens.

WAI 2490: *The Ngāpuhi Mandate Inquiry Report*, 2015

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal identified flaws in the structure and processes of the Tūhoronuku Independent Mandated Authority (IMA) and found the Crown to have breached the Treaty. It did not, however, believe that the Crown should withdraw its recognition of the mandate and require that a new mandate process take place. The Tribunal recommended that the Crown halt negotiations with the Tūhoronuku IMA until the Crown could be satisfied:

- that Ngāpuhi hapū had been able to discuss and confirm whether they wanted the Tūhoronuku IMA to represent them in negotiations
- that Ngāpuhi hapū who did want to be represented this way had been able to confirm (or otherwise) their hapū kaikōrero (speaker) and hapū representatives on the board
- that Ngāpuhi hapū had been able to discuss and confirm whether there was appropriate hapū representation on the board
- that there was a workable withdrawal mechanism.

The Crown should also make it a condition of its recognition of the mandate that a majority of hapū kaikōrero remain involved in Tūhoronuku. Finally, the Tribunal also recommended that the Crown support those hapū who did withdraw to enter settlement negotiations as soon as possible.

Status Update — Ongoing

In December 2019, the Crown discontinued its recognition of the Tūhoronuku Independent Mandated Authority mandate and invited proposals from hapū groupings to negotiate the settlement of their historical Treaty claims.

Since the call for proposals hapū groupings have been forming. Two groupings (Te Whakaaetanga, in Te Pēwhairangi, and Te Rūnanga o Ngāti Hine) have been confirmed and are developing mandate strategies. The Crown is also working with and supporting groups in Whangaroa, Mangakāhia, Waimate-Taiāmai, Kaikohe, Te Pēwhairangi, and the Hokianga to come together and submit mandate proposals. This work is ongoing.

WAI 1130: *Te Kāhui Maunga: The National Park District*, 2013

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal noted that the Treaty principles of dealing fairly and with utmost good faith have been breached, that substantial restitution is due, and that the quantum should be settled by prompt negotiation.

The Tribunal recommended that the Crown undertake further research on the Ōkahukura 8M2 acquisition to ascertain whether compensation was ever paid to the owners.

The Tribunal recommended an expression of recognition and respect for the spiritual regard that the claimants express for Tongariro as a special maunga (mountain), in the form of joint management of the Tongariro National Park by the Crown and the former owners. It should be taken out of DOC control and managed jointly by a statutory authority of both Crown and Ngā Iwi o Te Kāhui Maunga representation. Title should also be held jointly between these two groups, in a new form of 'Treaty of Waitangi title'.

The land used for quarrying and metal extraction should not only be returned but be made clear and safe: returned in a usable condition at no cost to the former owners or their successors. The Tribunal further recommended that there be compensation for the damage and destruction caused to the land and ancestral remains.

Finally, the Tribunal recommended that waterways of Te Kāhui Maunga, including Lake Rotoaira, should be monitored, and the Crown should fund this research.

Status Update — Ongoing

The Crown has committed to collective negotiations over Tongariro National Park with iwi with interests in the national park. Negotiations have not yet started.

WAI 2336: *Matua Rautia: The Report on the Kōhanga Reo Claim*, 2013

Te Arawhiti

Summary of Findings and/or Recommendations

The urgent inquiry was triggered by the publication in 2011 of the report of the Early Childhood Education (ECE) Taskforce, which, the claimants said, they had not been consulted on and had seriously damaged their reputation. They argued that the report, and Government policy development based on it, would cause irreparable harm to the kōhanga reo movement.

The Tribunal endorsed the conclusion of the Wai 262 report that urgent steps were needed to address recent Crown policy failures if te reo Māori is to survive. The Tribunal noted that survival requires both Treaty partners – Māori and the Crown – to collaborate in taking whatever reasonable steps are required to achieve the shared aim of assuring the long-term health of te reo Māori as a taonga of Māori.

It recommended that the Crown, through the Prime Minister, appoint an interim advisor to oversee the implementation of the Tribunal's recommendations to redevelop the engagement between Government agencies and the Trust.

The Tribunal recommended that the Crown, through the Department of the Prime Minister and Cabinet and the independent advisor, oversee the urgent completion of a work programme addressing:

i. a policy framework for kōhanga reo
ii. policy and targets for increasing participation and reducing waiting lists,
iii. identification of measures for maintaining and improving the quality in kōhanga reo.
iv. supportive funding for kōhanga reo and the Trust
v. provision of capital funding to ensure that kōhanga reo can meet the standards for relicensing
vi. support for the Trust to develop the policy capability to collaborate with Government in policy development for kōhanga reo.

The Tribunal further recommended that the Crown discuss and collaborate with the Trust to scope and commission research on the kōhanga reo model.

The Crown, through Te Puni Kōkiri, the Ministry of Education, and the Trust, must inform Māori whānau of the relative benefits for mokopuna in attending kōhanga reo for te reo Māori and education outcomes.

Finally, the Tribunal recommended that the Crown formally acknowledge and apologise to the Trust and kōhanga reo for the failure of its ECE policies to sufficiently provide for kōhanga reo. The Crown should also agree to meet the reasonable legal expenses of the Trust in bringing this claim.

Status Update — **In Progress**

As part of Budget 2021 and Budget 2022, the Crown set aside funding to support improved pay for kōhanga staff at the same time that funding of additional pay was allocated for teachers in education and care services.

This recognises the equitable funding principle referenced in the Tribunal's report. The Crown and Trust have worked together over the past year on how this funding should be applied, and the Trust has consulted with kōhanga whānau on a proposed pay scheme.

Funding will be drawn down and used to improve kaimahi pay before the contingency which expired in June 2023.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Summary of Findings and/or Recommendations

Wai 262 claims are about Māori participating in decisions about taonga Māori. These encompass legislation, Crown policy and practices relating to intellectual property, indigenous flora and fauna, resource management, conservation, the Māori language, arts, culture, heritage, science, education, health and the making of international agreements.

In summary the Tribunal recommended:

- Establishment of new partnership bodies in education, conservation, and culture and heritage
- A new commission to protect Māori cultural works against derogatory or offensive uses and unauthorised commercial uses; a new funding agent for mātauranga Māori in science
- Expanded roles for some existing bodies including Te Taura Whiri (the Māori Language Commission), the newly established national rongoā body Te Paepae Matua mō te Rongoā
- Māori advisory bodies relating to patents and environmental protection
- Improved support for rongoā Māori (Māori traditional healing), te reo Māori (language), and other aspects of Māori culture and Māori traditional knowledge.
- Amendments to laws covering Māori language, resource management, wildlife, conservation, cultural artifacts, environmental protection, patents, and plant varieties.

Following a comprehensive report on progress on Ko Aotearoa Tēnei in the 2017/18 Section 8I Report, the sections below focus only on the recommendations for which agencies have reported progress in the 2020/21 year.

The Tribunal's recommendations relating to Plant Variety Rights included legislative amendment to the Plant Variety Right Act to provide for:

- the commissioner to have more control over plant variety names
- the clarification that discovered varieties do not qualify for a plant variety right
- a power to refuse a plant variety right on the ground it would affect kaitiaki relationships with taonga species.
- the commissioner to be supported by a Māori advisory committee.

Note that further details on Plant Variety Rights can be found under Wai 2522.

The Culture and Heritage recommendations included that Te Puni Kōkiri (TPK), and the Ministry for Culture and Heritage (MCH) take leadership roles to improve coordination and collaboration between themselves over mātauranga Māori and forming a Māori Crown partnership entity for the culture and heritage sector.

The Tribunal's recommendations relevant to rongoā Māori included:

- Recognising that rongoā Māori has significant potential as a weapon in the fight to improve Māori health. This will require the Crown to see the philosophical importance of holism in Māori health, and to be willing to draw on both of this country's two founding systems of knowledge.
- Identifying and implementing ways of encouraging the health system to expand rongoā services.

The Tribunal's recommendations for the Ministry of Education (MOE) include establishing a Crown Māori partnership entity in the education sector, and developing specific indicators for mātauranga Māori (language, culture, and knowledge).

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

In respect of the Protected Objects Act, the Tribunal recommended that:

- prima facie Crown ownership of newly discovered protected objects remain in place as a matter of practicality, but be statutorily renamed 'interim Crown trusteeship'
- a body of Māori experts share in decision making with the Chief Executive of the MCH on applications for export of Māori objects; customary ownership of newly found taonga; and whether individual examples of 'scientific material' should qualify for protection as taonga tūturu
- the Act be amended to exempt kaitiaki who reacquire taonga from having to register as collectors with the Ministry for Culture and Heritage
- the Crown establish a restitution fund to help kaitiaki to reacquire their taonga on the open market. Iwi may wish to contribute to such a fund as their resources permit.
- Te Papa Tongarewa develop best-practice guidelines for private collectors of taonga who are willing to involve kaitiaki in their care of the objects they own.

Status Update **In Progress**

The Crown 's response to these issues has focused on prioritising key kaupapa through a cross government approach led and coordinated by Te Puni Kōkiri. Outside of the key priority areas, the Crown continues to progress and address these issues within their own agency work programmes.

In January 2022, Cabinet agreed to the whole-of-government work programme Te Tumu mō te Pae Tawhiti. The work programme builds the foundational architecture needed to address the issues and opportunities relating to the active protection, use, and development of mātauranga Māori and other taonga, much of which was covered within the Wai 262 claim.

Te Tumu mō te Pae Tawhiti involves 11 cross-agency, priority, far-reaching focus areas where Te Puni Kōkiri and other agencies partner to deliver Ministerial priorities. Additional to these are nine areas of 'Te Pae Tawhiti-aligned mahi' that are discrete projects that are vital for the delivery of the work programme.

The focus for Te Puni Kōkiri, alongside partner agencies, is now on developing policy advice on the key areas Te Puni Kōkiri leads on.

The work programme includes a balance of mahi already underway, achievable in the near term, alongside goals for the longer-term focussing on:

System levers

Sui generis intellectual property (IP) policy and legal system

Te Puni Kōkiri continued to lead the development of a sui generis intellectual property (IP) policy and legal system for mātauranga Māori and taonga. The development of a sui generis (bespoke) IP system will address concerns raised in relation to ownership, control, and benefits of mātauranga Māori both domestically and internationally. Te Puni Kōkiri will continue to develop policy options for a domestic sui generis system.

Te Puni Kōkiri sent a delegation to attend the World Intellectual Property Organisation (WIPO) intergovernmental committee IGC 47, June 2023 with a renewed Cabinet approved negotiating mandate. Negotiations for the minimum international standards to protect Traditional Knowledge and Traditional Cultural ex vpressions at WIPO will continue in 2024 and 2025.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Research, Science and Innovation (RSI)

As part of Te Ara Paerangi, the Ministry for Business, Innovation and Employment has established the National Research Priorities (NRPs) that will become the main instrument in directing mission-led research in Aotearoa New Zealand.

An Independent Strategic Panel was established to recommend a portfolio of NRPs to the Crown which focuses on the challenges and opportunities that are most important to Aotearoa New Zealand that research can address.

The Ministry for Business, Innovation and Employment has set clear expectations that Māori will be involved throughout the process of developing NRPs, as sector experts, strategic experts and Tiriti partners.

This follows Te Ara Paerangi Te Tiriti Statement on embedding Te Tiriti within the RSI through initiatives including promoting effective partnerships and suitable representation of Māori across RSI workforces, governance, leadership and management, broad and purposeful investment in mātauranga Māori and the promotion of a thriving ecosystem of Māori-led and community-led RSI activity.

Evaluation framework

Te Puni Kōkiri is leading the development of an Evaluation framework to measure outcomes related to mātauranga Māori. The evaluation framework will enable agencies to measure and monitor the policy settings that influence the Crown's interaction with mātauranga Māori, ensuring that future opportunities are appropriately identified, utilised, and actively protected.

Two different evaluation tools are being developed to provide guidance for agencies to provide guidance and identify areas of improvement, while also assessing policy outcomes.

Māori Data Governance

Since Te Kāhui Raraunga published the Māori Data Governance Model in May 2023, work is progressing between Statistics New Zealand and the Data Iwi Leaders Group to scope priorities for a multi-year work programme.

Domestic levers

Development of a bioprospecting regime

Te Puni Kōkiri is leading the development of a domestic bioprospecting regime. An effective and efficient bioprospecting regime for Aotearoa New Zealand will protect kaitiaki interests in taonga species and mātauranga Māori while ensuring the benefits from access to genetic material, including commercial benefits are realised for the benefit of all of Aotearoa New Zealand.

Te Puni Kōkiri sent a delegation to the World Intellectual Property Organisation (WIPO) Special Session of the Intergovernmental Committee (IGC) on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore in September 2022 to continue negotiations on a global instrument that will recognise Indigenous Knowledge within the patent system on inventions that utilise Genetic Resources.

Te Puni Kōkiri continues policy work to develop a domestic bioprospecting regime.

Te Puni Kōkiri also continues to contribute to the Convention on Biological Diversity (CBD) cross-government work programme.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Exploring biodiversity incentives to support Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020

The National Policy Statement on Indigenous Biodiversity (NPSIB) has been finalised and is expected to go live in August 2023.

Te Mana o te Taiao sets two goals for Aotearoa New Zealand regarding biodiversity incentives:

- Nature to be part of the everyday life and identity of New Zealanders, and individuals are motivated, supported and, where appropriate, incentivised to make decisions that ensure sustainable use, reduce negative impacts, and restore and protect indigenous biodiversity.
- Landowners, businesses, resource users/owners and industry are supported and, where appropriate, incentivised to contribute to the protecting and restoring indigenous biodiversity.

The current Te Mana o te Taiao implementation plan captures 10 actions from five central government agencies and regional, unitary and district councils, that contribute to these two incentive-related goals.

A work programme exploring the potential for a biodiversity credit system to incentivise positive biodiversity action began in early 2023.

The Department of Conservation and the Ministry for the Environment jointly developed and released a discussion document for public consultation in mid-2023. It seeks feedback on support for the idea of biodiversity credits, what tenure of land it could apply to, whether such a system should align to international developments and carbon markets, and what role (if any) the Crown could have in such a system. The submissions will be analysed, and advice will be provided to the incoming government as to whether and how they wish to take the work further.

The Department of Internal Affairs, as the Department supporting the National Library and Archives New Zealand, continues to work in collaboration with the Ministry of Culture and Heritage Manatū Taonga, Heritage New Zealand Pouhere Taonga, Museum of New Zealand Te Papa Tongarewa, and Ngā Taonga Sound & Vision to support whānau, hapū, iwi and Māori to:

- access the broad suite of the Crown's collections and holdings and undertake research;
- enhance the descriptions of the collections to enable easier and accurate identification of whānau, hapū, and iwi relevant taonga;
- develop plans with them for the ongoing care of their taonga and mātauranga, including those in the Crown's collections; and
- tell their cultural histories and narratives in their own way.

Collectively these culture and heritage agencies are known as Te Ara Taonga.

Over this period the Department of Internal Affairs, through the work of the National Preservation Office at the National Library, worked with Te Ara Taonga agencies to provide support to hapū and iwi, affected by the cyclones. This included working with hapū and iwi to restore taonga, wharenui, whakapapa documents, photographic portraits, and images.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

The Department of Internal Affairs has also continued work through its Te Ara Tahi programme looking at how the National Library and Archives, in collaboration with Ngā Taonga Sound & Vision (the institutions), can bring together their resources to better meet the changing needs and expectations of whānau, hapū, iwi, Māori and the diverse communities of Aotearoa New Zealand. Initiatives over this time have included:

a. Implementation of mātauranga Māori quality assurance standards that support kaimahi to recognise the unique rights and interests Māori have to their taonga and mātauranga and ensure that these are included in the development, design, and ongoing operation of their work.

b. Development of a mātauranga Māori strategy to strengthen and support a shared pathway for our collective work that enables better protection, promotion, preservation, provenance, and probative value of mātauranga Māori within the institutions to ensure that the individual and collective rights and interests of Māori are prioritised and upheld.

c. Adoption of a mātauranga Māori policy that guides and outlines a statement of the recorded, documentary and heritage institutions commitment to establishing and maintaining effective protection, and application of mātauranga Māori across all areas of heritage responsibility.

d. Undertaking customer insights research across the institutions to get a better understanding of how taonga and mātauranga is found within the collections, how it is accessed or not accessed, what is being accessed and why, and lastly, how we can better their relationships with taonga and mātauranga in the future.

e. Continuing to work alongside mana whenua in the cultural narrative identity, design, and development of the new purpose-built archival facility in Wellington.

Revitalise te reo Māori

Te Puni Kōkiri has continued to partner closely with Te Mātāwai on releasing the report from the review of Te Ture mō Te Reo Māori 2016. The review was conducted by a Steering Group, comprised of equal numbers from the Crown and Te Mātāwai, who delivered the final report on the review in November 2022.

The Review found that the structures established by the Act are primarily functional but there are opportunities to strengthen the Act and current policy settings to strengthen the implementation of Te Whare o Te Reo Mauri Ora.

Budget 2023 included an investment of $51 million over two years for the Māori media sector - ensuring sustainability and a fuller range of Māori media content. It also included an investment of $10.4 million over four years to support reo revitalisation at the community level, via the Crown's relationship with Te Mātāwai.

The $51 million investment in the Māori media sector can be broken-down into the following:

- $20 million over two years will fund media content that reflects Māori language and culture, and $10 million over two years will fund content that reflects Māori stories and perspectives for receptive audiences.
- $10 million over two years is also provided for a continuation of iwi media collaboration initiatives, and $2 million over two years to meet iwi media transmission costs.
- $9 million over two years will go towards growing the capacity and capability of the Māori workforce in both te reo Māori and technical and vocational skills so that it is ready to deliver on the wider aspirations of the Māori media programme.

The International Decade of Indigenous Languages was adopted by the United Nations General Assembly in 2019, proclaiming the period of 2022-2032 the International Decade of Indigenous Languages, based on a recommendation by the Permanent Forum on Indigenous Issues. The Decade aims to raise awareness about the critical plight facing indigenous languages around the world and to mobilise people to take action.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Te Puni Kōkiri helped facilitate the Aotearoa New Zealand delegation to the Decade launch in Paris, led by the Hon Willie Jackson, Minister for Māori Development and Minister of Broadcasting and Media. Hon Willie Jackson was partnered by Te Mātāwai Co-Chairs, Reikura Kahi and Bernie O'Donnell, as key leaders in Te Whare o te reo Mauriora. The delegation also included Te Taura Whiri i te Reo Māori Commissioner, Professor Rawinia Higgins, who is serving as a member of the Global Taskforce for the Decade, as well as UNESCO National Commission Culture Commissioner, Dr Dan Hikuroa.

Since the Decade was launched last year, Te Puni Kōkiri has produced statements, in consultation with Te Mātāwai and Te Taura Whiri i te reo Māori, for two international fora on our support for the Decade and to share some of its revitalisation initiatives. These statements share Aotearoa's experience of language revitalisation under the Te Whare o te reo Mauriora framework with other indigenous peoples and countries.

Further forecasting through the He Ara Poutama mō te reo Māori microsimulation tool is providing data-centric evidence to allow Te Whare o te Reo Mauriora agencies to develop and adapt to the maihi Māori and maihi Karauna goals.

Te reo Māori revitalisation through Māori media and broadcasting had significant events from 2022-2023. Creating more Māori programming and making it widely available has increased access to te reo Māori and normalises its use for every New Zealander. Seeing diverse Māori content and hearing te reo Māori across a range of media platforms encourages whānau across the country to use the language more every day.

Review of the Wildlife Act 1953 and partial review of the National Parks and Conservation General Policies

The Department of Conservation is leading the Review of the Wildlife Act 1953 and partial review of the National Parks and Conservation General Policies.

The review of the Wildlife Act may provide opportunities to address some of the Tribunal's recommendations, such as that no-one should own protected wildlife, and for shared management of protected species in line with partnership.

The Minister of Conservation will report back in July 2023 to Cabinet on progress on the review. Cabinet agreed in principle to repeal the Wildlife Act and replace it with new species legislation and invited the Minister to report back in the first quarter of 2024 with advice on the potential approach for a new species-related Act. Cabinet also agreed to high-level policy objectives for what a new species system could aim to achieve, to guide and evaluate further policy work on the review. The Department of Conservation will be providing further advice to the incoming Minister in May 2024 so decisions can be made on next steps.

The Strategic Oversight Group (SOG), which was appointed to give independent advice on the review, provided its initial advice to the Minister of Conservation in April 2023. The SOG supported replacing the Act, and recommended nine principles that the new legislation should address. The Department of Conservation serviced the SOG to meet several times during 2022/23 leading up to their providing this advice.

Department of Conservation's statutory Conservation General Policy and General Policy for National Parks (General Policies), set DOC's key strategic and policy direction. The aim of the partial review of the General Policies is to ensure DOC's Treaty responsibilities are both visible and easy to understand within them. An independent Options Development Group made recommendations in a report that was publicly released in March 2022.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

In November 2022, the Minister of Conservation agreed to explore a suite of potential changes to the General Policies that could be progressed in the short term. In early 2023, DOC worked on initial drafting of proposed amendments. The programme awaits further Ministerial direction and consultation with the New Zealand Conservation Authority.

Proposals to improve the regulations for genetically modified organisms used in laboratory and biomedical research.

Consultation will commence in July 2023 on several proposed changes to the regulatory settings for Genetically Modified Organisms (GMOs). The 10 proposed policy changes will focus on the regulatory settings for laboratory and biomedical research.

The aim of this work was to ensure the regulatory settings for GMOs more proportionately managed risks to the environment and people, were up to date and future proof, and contributed to better health and research outcomes.

The consultation involved engagement with hapū, iwi and Māori to initiate conversations on what regulatory requirements might best protect Māori rights and interests, especially as they relate to taonga species.

National Policy Statement for Fresh Water Management

Te Mana o te Wai (through Jobs for Nature) provides $30m (through a multi-year appropriation ending in 2025) to 35 hapū, iwi, marae, and Māori landowners.

This funding will enable the recipients to build their capacity and capability in freshwater management and decision making, as set out in the National Policy Statement on Freshwater Management 2020 (NPS-FM 2020). It also includes recognition and utilisation of mātauranga Māori.

Further, the Jobs for Nature Essential Freshwater Fund provides an additional $25m to complement this work.

Review of the Haka Ka Mate Attribution Act

Te Puni Kōkiri is working alongside Ngāti Toa Rangatira and the Ministry of Business, Innovation and Employment on the review of the Haka Ka Mate Attribution Act 2014. The Act provides Ngāti Toa Rangatira with a legislative means to protect Haka Ka Mate as a taonga.

The statutory review of the Act will provide Ngāti Toa Rangatira and the Crown with an understanding how effective legislative attribution has been in actively protecting and enabling appropriate use of this taonga. It will also provide insight into what is needed to protect such taonga here and abroad. The review will be progressed in 2024.

Plant Variety Rights

In 2017, the Ministry for Business, Innovation and Employment initiated a review of the current Plant Variety Rights (PVR) Act. It was agreed that consideration of the Wai 262: Ko Aotearoa Tēnei recommendations on the PVR regime would form part of the review.

The Plant Variety Rights Act (the Act) received royal asset in November 2022. The Act replaces the Plant Variety Rights Act 1987 by modernising the regime and implementing the Crown's obligations under the Treaty of Waitangi in relation to the plant variety rights regime and New Zealand's obligations under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). This includes the establishment of a Māori Plant Varieties Committee (the Committee).

The Committee will support early engagement between breeders and kaitiaki, assess the impact of PVR grant on kaitiaki relationships, and make determinations on proceeding certain applications related to new plant varieties breed in New Zealand from indigenous plant species and other species of significance to Māori.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Policy into Practice fund

This fund sought to take opportunities to actively protect and enable appropriate use of taonga Māori with a specific interest in mātauranga Māori through innovative Māori-led solutions.

The purpose of the fund was to invest in key opportunities for what is effective in the active protection and appropriate use of taonga Māori. An outcome of this fund is to continue to learn through practice and from practitioners. It will explore different approaches across the spectrum of Māori businesses, entities, and organisations with a focus on realising the benefits for iwi Māori.

The objective of the fund was to enable Māori-led and localised initiatives to realise the economic, environmental and/or cultural benefits of protection and appropriate use of taonga Māori with a specific interest in mātauranga Māori and identify mechanisms that protect and appropriately use mātauranga Māori to illustrate broader system needs.

18 initiatives were funded through this process.

International levers

Māori engagement in international instruments and fora.

Te Puni Kōkiri is supporting implementation of the Indigenous Peoples Economic and Trade Cooperation Agreement (IPETCA). Aotearoa New Zealand has played a strong leadership role in negotiating, concluding, and implementing IPETCA and will be the Chair for 2023/2024, following the establishment of the Partnership Council. This Council, made up of Indigenous representatives and Crown officials from each party to the Agreement, is expected to formally meet for the first time on the margins of Asia-Pacific Economic Cooperation (APEC) in San Francisco in November 2023.

Aotearoa New Zealand negotiated inclusion of Māori Trade and Cooperation Chapters in the United Kingdom and European Union Free Trade Agreements (FTA), the first of its kind.

Te Puni Kōkiri is leading the following work to consider further options for strengthening how the Crown engages Māori within current treaty-making settings:

- Pōkai Ao and Indigenous Collaboration Arrangements (ICA)
- TPK hosted a visit by the CEO of the National Indigenous Australians Agency (NIAA)
- TPK and Manatū Aorere (MFAT) supported a workshop on the Australia-NZ ICA as part of the Australia NZ Leadership Forum in July (ANZLF)
- Ongoing work with Australia and Canada to identify priority areas for collaboration between respective indigenous groups with Crown support
- MFAT established Te Hurumanu, a te Tiriti o Waitangi partnership model providing leadership and advice on its strategic priorities.

Additional updates

The Ministry of Education | Te Tāhuhu o te Mātauranga (Te Tāhuhu) contributes to the whole-of-government response to the Tribunal's findings and recommendations in Wai 262, Te Tumu mō te Pae Tawhiti, primarily to the cultural outcome "upholds tikanga, revitalises te reo and strengthens Aotearoa New Zealand's understanding of te ao Māori and its role in society.[55]

55 Waitangi Tribunal Claims Update Section 81 Report 1 July 2021 to 30 June 2022. p23.

WAI 262: *Ko Aotearoa Tēnei: A Report into the Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua* (Vol 1 and 2), 2011

Te Puni Kōkiri, Ministry for Culture and Heritage, Ministry of Health, Ministry of Education, Ministry of Business, Innovation and Employment, Department of Internal Affairs, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry for the Environment, Ministry for Primary Industries, Stats NZ

Te Tāhuhu's main contributing activities included:

- Updates to curricula and assessment, together with changes to early childhood curricula
- The release of the draft Te Mātaiaho | the refreshed NZ Curriculum in March 2023.
- Integration of te ao Māori and mātauranga Māori into the NCEA achievement standards and subjects.
- Other work to support teaching and learning of te reo and mātauranga Māori.

Updating curricula and assessment

A redesign of Te Marautanga o Aotearoa was intended to support kura and schools to promote a te ao Māori approach in learning and teaching contexts.

The draft of Te Mātaiaho | the refreshed New Zealand curriculum was released in March 2023. This release included a full draft whakapapa (the Māori relationship framework that provides the structure of the refreshed curriculum).

A suite of kaiako materials was released online to support the implementation of Te Takanga o te Wā and Aotearoa New Zealand's Histories. The Ministry began a programme with kura and schools, called Te Takanga o Te Wā hei Tīrewa Ako: Kia whakaū, to support implementation of Te Takanga o te Wā curriculum content in kura and schools. The Critical Local Histories is expected to strengthen partnerships between schools, kura, iwi, hapū and mana whenua to support implementation.

Regionally-allocated professional learning and development has supported 199 school proposals prioritising Mātauranga Māori and te reo Māori. The Māori Achievement Collaborative national contract supported 604 school principals to lead to support Māori success including improved use of te reo me ōna tikanga and greater inclusion of te ao Māori within curriculum.

Huia Kaimanawa – a transformative Māori leadership group – worked with kaiuru (Māori leaders) across Aotearoa to support them to develop Mahere Rautaki (strategic leadership plans). By March 2023, 14 tumuaki had completed the Māori first-time principals programme. A further 27 emerging leaders also completed the programme with six progressing to become tumuaki.

Early Childhood Curricula

Te Whāriki: He whāriki mātauranga mō ngā mokopuna o Aotearoa Early childhood curriculum (Te Whāriki) was gazetted, meaning that from 1 May 2024, all licensed early childhood services and certified playgroups (except ngā kōhanga reo) must implement the updates to meet licensing and certification requirements. Te Ara Māori (te reo Māori interpretations of the goals and learning outcomes of Te Whāriki) are intended to strengthen Māori language pathways as well as alignment of local curricula to te ao Māori.

Implementation is focused on creating resources to support Te Ara Māori in services who wish to use it in local curricula, particularly those in Māori medium services. Te Kōhanga Reo National Trust will include Te Tauira Whāriki | Te Katoa o te Mokopuna in its legal framework.

Mātauranga Māori and Te Reo Māori in Senior secondary qualifications

The National Certificate of Educational Achievement (NCEA) Change Programme aimed to integrate te ao Māori and mātauranga Māori into the NCEA achievement standards.

New achievement standards at all three levels of NCEA derived from Te Marautanga o Aotearoa have been developed and are designed to be holistic and to enable marau-ā-kura and local curriculum to be at the centre of assessment. All materials are in te reo Māori and centred on mātauranga Māori.

Draft NCEA Level 1 and 2 achievement standards for nine wāhanga ako (Te Reo Rangatira, Ngā Mahi a te Rēhia, Toi ataata, Toi Puoro, Tikanga ā-Iwi, Hangarau, Hauora, Pāngarau and Pūtaiao) have been piloted. The input of kura, kaiako and the wider hapori Māori has been instrumental in the development of these resources.

A review of New Zealand Curriculum-derived achievement standards aimed to make mātauranga Māori more equitably accessible, valued, resourced and credentialled. Building teacher capability to incorporate mātauranga Māori, te ao Māori and te reo Māori into teaching where appropriate has been a key focus of the past year's programme.

Te Reo Māori and New Kaupapa Ako Māori Subjects

NCEA te reo Māori is taught to a highly diverse group of students including Māori students who are reclaiming their heritage language and culture and non-Māori beginning their journey. Significant work alongside kaiako and mātanga reo Māori has taken place over the past year to align the achievement standards for this subject with the language development approach applied from Kōhanga Reo through to Te Panekiretanga. The new te reo Māori achievement standards were piloted across over 30 kura and schools across 2022/23.

The new subject Te Ao Haka (NCEA levels 1-3) is also derived from the New Zealand Curriculum. The subject was approved as a university entrance subject from Term 1 2023 in both English and Māori medium settings and has been adopted by many Kura Auraki and Kura Māori. The evaluation of the Te Ao Haka pilots indicated ākonga taking this subject were more motivated to attend school, felt more connected to their culture and had further opportunities open to them through the study of Te Ao Haka.

Te reo Māori

Te Ahu o te reo Māori aims to strengthen te reo Māori capability of the education workforce so that all kura and schools can integrate te reo Māori into learning for all ākonga. Since it commenced nationally in mid-2021, a total of 16,043 participants have enrolled in the kaupapa. Participants experience increased levels of confidence, knowledge, use of te reo and tikanga Māori, improved understanding of local language features, dialects, and stories, and a strengthened understanding of te reo Māori structures, pronunciation, and use.

Rauemi (Resources): Te Aho Ngārahu promotes local stories, pūrākau, and mātauranga Māori through the development of resources based on stories from around Aotearoa New Zealand. They are designed and developed in partnership with iwi to support ākonga learning in kaupapa Māori and Māori medium settings. Te Tāhuhu worked with 13 iwi and hapū and developed 15 resources during the year. To complement this Te Tāhuhu continues to develop te reo Māori resources to support high quality teaching and learning of te reo Māori. These include reading and writing resources, distance and hybrid learning supports, teacher support materials, dictionaries, and a refresh of the instructional te reo Māori textbook.

Kura whānau reo supports whānau to create the conditions for sustainable use of te reo Māori in the home by building the Māori language capability of whānau whose tamariki and mokopuna are learning te reo Māori as a subject or learning through te reo Māori. 12 iwi and hapū commenced pilot programmes during the year.

WAI 796: *The Report on the Management of the Petroleum Resource, 2011*

Ministry of Business, Innovation and Employment

Summary of Findings and/or Recommendations

The Tribunal found that there are systemic flaws in the operation of the current regime for managing the petroleum resource. Its recommendations included that:

- settlement packages include petroleum assets for affected iwi
- petroleum royalties be used to establish a fund to assist iwi and hapū to participate in petroleum management processes
- the Crown produce National Policy Statements and National Environmental Standards to provide guidance to territorial authorities on enhancing and protecting taonga and wāhi tapu
- joint consent hearings by local authorities be put to greater use
- the Resource Management Act 1991 be amended to require decision-makers to act consistently with the Treaty principles
- the Crown Minerals Act 1991 be amended to require decision makers to act consistently with Treaty principles and provide greater protection to Māori land through compulsory notifications for applications concerning Māori land.

Status Update — **In Progress**

While the Ministry of Business, Innovation, and Employment (MBIE) has not directly addressed some of the broader issues raised by the Tribunal for Wai 796, it has continued progress towards addressing elements of them by focusing its efforts on changes to the Crown minerals permitting regime to improve how iwi interests are accommodated under the current regime.

Improving Crown engagement with iwi

With respect to ongoing improvements, MBIE actively utilises Crown Minerals Protocols and other relationship instruments when engaging with relevant iwi. MBIE has Relationship Agreements with some iwi, which provide for specific annual fora for iwi to discuss matters related to petroleum exploration and mining activities. MBIE also proactively engages with iwi when Block Offers are being considered over their rohe, and regularly engages with iwi who have existing petroleum and minerals operations in their rohe. The Block Offer 2020 (which commenced 28 March 2023) had an elongated engagement process to provide for improved engagement with Taranaki iwi, and included new initiatives including:

- Pre consultation wānanga to explain the Block Offer process
- Mid-consultation hui to explain how initial iwi submissions were being considered and what MBIE officials were proposing to recommend to the statutory decision-maker in light of iwi feedback.

This resulted in acreage adjustments to iwi views and applying iwi engagement conditions on permits.

In Budget 2022, MBIE obtained additional funding to address functional gaps within the regulatory system for petroleum and minerals. This additional funding will provide the regulator with the resources, processes and systems needed to improve and sustain how it engages with iwi under the Crown Minerals Act 1991 (CMA) and related Crown Mineral Protocols and Relationship Agreements. It will also support work to examine how the regulator can give better effect to section 4 of the CMA, which requires all persons exercising functions and powers under the CMA to have regard for the principles of the Treaty of Waitangi.

Crown Minerals Amendment Act 2023 (CMAA)

In 2019, there was a review of the CMA, which included various topic areas for more effective management of Crown-owned minerals.

WAI 796: *The Report on the Management of the Petroleum Resource, 2011*

Ministry of Business, Innovation and Employment

Following consultation on the CMA review discussion document, the CMAA 2023 introduced provisions to improve permit holder engagement with iwi and hapū. This includes providing iwi and hapū with opportunities to provide feedback into engagement reports; enabling iwi or hapū to request an annual iwi engagement report meeting be held; and making explicit that decision makers may take feedback from iwi and hapū into account when making permit allocation decisions. The amendments also introduced provisions that allow regulations to be made to state minimum content requirements for those iwi engagement reports.

The CMAA 2023 did not progress mechanisms for iwi and hapū to protect land from minerals development or what matters the Minister should consider under 14(2)(c).

WAI 215: *Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims,* 2004
Tauranga Moana, 1886-2006: Report on the Post-Raupatu Claims Vol 1 & 2, 2010

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal found that the Crown was not justified in taking military action against Tauranga Māori in the 1860s. Tauranga Māori suffered considerable prejudice as a result of breaches of the principles of the Treaty arising from the Crown's confiscation, return and purchase of Māori land in the Tauranga district before 1886.

The Tribunal recommended that the Crown move quickly to settle the Tauranga claims with generous redress.

Status Update — **Partially Settled**

Settlement legislation was enacted for Ngāti Pukenga in 2017 and for Ngāti Hinerangi in 2021.

Legislation to settle the claims of Ngāi Te Rangi and Ngā Hapū o Ngāti Ranginui is awaiting second reading.

Further progress is expected in 2024.

Hauraki iwi settlements are progressing; several bills to settle Hauraki claims were introduced in 2022, and further bills are expected to be ready for introduction in 2024.

WAI 1200: *He Maunga Rongo: Report on Central North Island Claims,* 2008

Te Arawhiti

Summary of Findings and/or Recommendations

This report describes the Tribunal's inquiry into approximately 120 claims from three districts: Rotorua, Taupō and Kaingaroa.

The Tribunal found that substantial redress was necessary. It recommended that the Crown and claimants negotiate

Status Update — **Completed**

The recommendations have been actioned by the Crown. No further action or update is required.

WAI 1353: *The Te Arawa Settlement Process Reports*, 2007

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal has convened three inquiries into this settlement, with the first two examining mandate issues while negotiations were in progress.

This report focuses on mandating and overlapping claims, noting that the Tribunal has separately heard and will report on matters associated with licensed Crown forestry land.

The Tribunal recommended that:

- the Minister of Māori Affairs commission annual audits of the Office of Treaty Settlements to ensure its management and policy operations are aligned with the Crown's Treaty obligations
- a number of non-exclusive redress items apply to groups outside the affiliate Te Arawa iwi/hapū.
- the Crown use a process to re-engage with non-affiliate groups to discuss redress sites.
- the Crown commence negotiations with Ngāti Makino
- the Crown facilitate mandating hui with identified groups outside of the affiliate Te Arawa iwi/hapū mandate.

Status Update — **Completed**

The recommendations have been actioned by the Crown. No further action or update is required.

WAI 145: *Te Whanganui a Tara me ōna Takiwā Report on the Wellington District*, 2003

Te Arawhiti

Summary of Findings and/or Recommendations

The Tribunal's main finding was that the Crown seriously breached the Treaty in the Port Nicholson block causing prejudice to Te Ātiawa, Ngāti Toa, Ngāti Tama, Ngāti Rangatahi, Taranaki and Ngāti Ruanui.

The Tribunal recommended that, given the relative complexities of the issues and the interrelationships of these groups affected by a number of Treaty breaches, the parties should clarify matters of representation and enter negotiations with the Crown.

Status Update — **Partially Settled**

Settlement legislation has been enacted for:

- Taranaki Whānui ki Te Upoko o Te Ika (July 2009).
- Ngāti Toa Rangatira (April 2014).

As part of the settlement, the Crown agreed that should Ngāti Tama (Wellington) achieve a Crown recognised mandate, the Crown will negotiate with those members of Ngāti Tama (Wellington) who consider that their historical claims are not represented by the Port Nicholson Block Settlement Trust.

Ngāti Tama Mandate Limited achieved a Crown recognised mandate in December 2013. Settlement negotiations were placed on hold because of a gap between the Crown's settlement offer and the aspirations of the iwi.

As of 2023, Te Arawhiti is re-engaging with Ngāti Tama to discuss the process for seeking a Crown recognised mandate.

WAI 953: *Ahu Moana: The Aquaculture and Marine Farming Report*, 2002

Ministry for Primary Industries

Summary of Findings and/or Recommendations

The Tribunal recommended that:

- the period before the introduction of the new Bill be used by the Crown to establish a mechanism (resourced by the Crown) for consultation and negotiation with Māori
- the consultation should focus on the existence of Treaty rights in the coastal space, which include rights (the extent of which are yet to be determined) to aquaculture and marine farming.

Status Update — **Partially Settled**

The Ministry for Primary Industries (MPI) has concluded the delivery of the Crown's pre-commencement space obligations under the Māori Commercial Aquaculture Claims Settlement Act 2004 (the Act). This relates to aquaculture development between 21 September 1992 and October 2011.

There is an ongoing settlement obligation under the Act for the Crown to provide relevant Iwi Aquaculture Organisations with regional settlement assets that are representative of 20% of new aquaculture space created or anticipated from 1 October 2011.

This obligation is delivered prospectively based on anticipated growth, to provide space early and at an economically viable scale to facilitate the development of iwi aquaculture alongside private development.

The Act required settlement assets to be delivered in four specified regions within a certain period. In other regions negotiations are required to commence following the receipt of a resource consent application.

MPI has settled in all regions where this is currently required, except Otago, Bay of Plenty and Waikato West where negotiations are underway.

Crown offers were made to Iwi Aquaculture Organisations in the Bay of Plenty and Waikato West regions in 2023. An offer is expected to be made in Otago in 2024.

MPI has worked closely with Bay of Plenty Iwi and research providers to identify opportunities for aquaculture in the Bay of Plenty region, including: the development of opportunities assessments (stocktake of current research including species and technology); an analysis of preferred options with the highest potential for aquaculture; and the development of a business case based on the analysis of options with highest potential for aquaculture.

MPI will commence an opportunities assessment with eight iwi organisations in Te Tai Tokerau in November 2024. In early 2023, MPI consulted with Iwi Aquaculture Organisations on key proposals for aquaculture in the new resource management system and consequential changes to the Māori Commercial Aquaculture Claims Settlement Act.

MPI intends to engage with Iwi Aquaculture Organisations on the review of the 2014 New Space Plan, in 2024.

In 2024, MPI intends to undertake engagement and negotiations (when relevant) with Iwi Aquaculture Organisations on the reconciliation of existing Regional Agreements. The Crown has entered into Regional Agreements with Iwi Aquaculture Organisations in the Auckland, Waikato-East, Tasman, Marlborough, Canterbury and Southland regions.

WAI 789: *The Mōkai School Report,* 2000

Land Information New Zealand

Summary of Findings and/or Recommendations

The Tribunal made specific recommendations concerning the reopening of Mōkai School. The Tribunal, however, put the onus on the community to ensure a stable and viable school roll.

Status Update — Ongoing

Mōkai School was not reopened, and the property, including a house, is currently being offered back under section 41 of the Public Works Act 1981, as the land is now not required for a public work. The land is currently the subject of a vesting application before the Māori Land Court. The vesting application was made in September 2017 and is awaiting final decisions.

WAI 45: *The Muriwhenua Land Report,* 1997

Land Information New Zealand

Summary of Findings and/or Recommendations

This report covers seven claims in Muriwhenua, the country's most northerly district. The Tribunal concluded that the Muriwhenua claims were well-founded.

The claims relate to:

- the disposal of the pre-Treaty transaction land by grant or the presumptive acquisition of the scrip lands and surplus
- land purchases by the Government
- impacts in terms of land tenure reform and disempowerment.

Status Update — Settled

Settlements of the historical Treaty claims of five Muriwhenua iwi have been settled: Ngāti Kahu ki Whangaroa, Ngāti Kuri, Te Aupouri, Ngāi Takoto and Te Rarawa.

Status Update — Ongoing

Ngāti Kahu claimants have decided to pursue its remedies through the Tribunal rather than through a negotiated settlement with the Crown.

The Tribunal has appointed a renewed Muriwhenua Land panel which has resolved to hear all unsettled claims in Muriwhenua before considering any remedies for Ngāti Kahu, Ngāpuhi and Whangaroa claimants with well-founded claims. The Renewed Muriwhenua inquiry panel is currently in the research preparation stage of its inquiry.

WAI 143: *The Taranaki Report: Kaupapa Tuatahi*, 1996

Te Arawhiti

Summary of Findings and/or Recommendations

The Taranaki Report – Kaupapa Tuatahi dealt with 21 claims relating to issues including the Crown's purchase of land in Taranaki, the Taranaki land wars, the confiscation of 1.2 million acres of land under the New Zealand Settlements Act 1863, the Crown's invasion, and destruction of Parihaka in 1881, and the placement of reserves under the administration of the Public Trustee. The Tribunal described the history of Crown actions in Taranaki as "the antithesis to that envisaged by the Treaty of Waitangi" and found that the Taranaki claims could be the largest in the country. The Tribunal recommended reparations that reflected not only the scale of land loss, but the destruction of Taranaki society and culture, economic destabilisation, personal injury, and the denial of rights over generations.

Status Update — Settled

The final comprehensive Treaty settlement in the Taranaki region was completed through the enactment of the Ngāti Maru Claims Settlement Act 2022.

Status Update — Ongoing

The individual deeds of settlement for each of the eight iwi of Taranaki included a commitment by the Crown to negotiate cultural redress in respect of Taranaki Maunga and the national park.

Negotiations in respect of Taranaki Maunga are complete, with Te Ruruku Pūtakerongo (Taranaki Maunga Collective Redress Deed) being initialled on 31 March 2023.

It is expected that Te Ruruku Pūtakerongo will be signed in September along with Te Pire Whakatupua mo Te Kāhui Tupua /Taranaki Maunga Collective Redress Bill to be introduced also in September 2023

He whakamārama i te āhua o ngā Kerēme katoa o te Taraipiunara o Waitangi
Status Update for all Waitangi Tribunal Claims

This final section lists all reports that have been released by the Waitangi Tribunal. It allows progress with implementation of recommendations to be tracked over time.

The following table lists the Crown's position on the status of the reports according to the categories in the previous section. Some reports have changed their status since 2021/22 because of new information.

WAI[56]	Report	Year[57]	Status
1	Report of the Waitangi Tribunal on a Claim by J P Hawke and others of Ngāti Whātua, concerning the Fisheries Regulations	1978	No further action
2	*Report of the Waitangi Tribunal on the Waiau Pa Power Station Claim*	1978	No further action
3	*Report on Proposed Discharge of Sewage at Welcome Bay*	1990	No further action
4	*Report of the Waitangi Tribunal on the Kaituna River Claim*	1984	In progress
5	*Report on Imposition of Land Tax*	1990	No further action
6	*Report of the Waitangi Tribunal on the Motunui– Waitara Claim*	1983	Settled
8	*Report of the Waitangi Tribunal on the Manukau*	1985	In progress
9	*Report of the Waitangi Tribunal on the Orakei Claim*	1987	In progress
10	*Report of the Waitangi Tribunal on the Waiheke Island Claim*	1987	In progress
11	*Report of the Waitangi Tribunal on the Te Reo Māori Claim*	1986	Partially settled
12	*Report of the Waitangi Tribunal on a Mōtītī Island*	1985	Partially settled
13	*Report on Fisheries Regulations*	1990	Settled
14	*Report on Tokaanu Building Sections*	1990	No further action
15	*Report of the Waitangi Tribunal on the Te Weehi Claim to Customary Fishing Rights*	1987	No further action
17	*Report of the Waitangi Tribunal on the Mangonui Sewerage Claim*	1988	In progress
18	*Report of the Waitangi Tribunal on Lake Taupo Fishing Rights*	1986	Settled
19	*Report of the Waitangi Tribunal on a Claim Relating to Māori 'Privilege'*	1985	No further action
22	*Interim Report to Minister of Māori Affairs on State- Owned Enterprises Bill*	1986	Settled
22	*Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim*	1988	Settled
25	*Report of the Waitangi Tribunal on a Claim Relating to Māori Representation on the Auckland Regional Authority*	1987	Settled
26 150	*Radio Frequencies*	1990	No further action
27	*The Ngāi Tahu Report 1991 (3 volumes)*	1991	Settled
27	*The Ngāi Tahu Claim: Supplementary Report on Ngāi Tahu Legal Personality*	1991	Settled
27	*The Ngāi Tahu Sea Fisheries Report 1992*	1992	Settled
27	*The Ngāi Tahu Ancillary Claims Report 1995*	1995	Settled

56 The table has been arranged chronologically by Wai number for easier reading. This list of Wai reflects those that have a report released on the Waitangi Tribunal website, accessible here: https://www.waitangitribunal.govt.nz/publications-and-resources/waitangi-tribunal-reports/

57 The year refers to the year the Waitangi Tribunal Report was released. Not all Tribunal reports are released in the same year that a claim is filed, therefore the years do not follow a chronological structure.

WAI[56]	Report	Year[57]	Status
32	*The Ngāti Rangiteaorere Claim Report 1990*	1990	Settled
33	*The Pouakani Report 1993 Part 1, Part 2*	1993	Settled
34	*Report on Proposed Sewage Scheme at Kakanui*	1990	No further action
38	*The Te Roroa Report 1992*	1992	Settled
45	*Report on Kaimaumau Lands*	1991	No further action
45	*Muriwhenua Land Report*	1997	Partially Settled
45	*The Ngāti Kahu Remedies Report*	2013	Ongoing
46	*Report on Disposal of Crown Land in the Eastern Bay of Plenty*	1995	Settled
46	*The Ngāti Awa Raupatu Report*	1999	Settled
55	*Te Whanganui-a-Orotū Report*	1995	In progress
64	*Rēkohu: A Report on Moriori and Ngāti Mutunga o Wharekauri claims in the Chatham Islands*	2001	In progress
67	*Report on the Oriwa 1B3 Block*	1992	No further action
83	*Report on the Waikawa Block*	1989	Settled
84	*The Turangi Township Report*	1995	Settled
84	*Turangi Township Remedies Report*	1998	Settled
103	*Report on Roadman's Cottage, Mahia*	N/A	Settled
119	*The Mohaka River Report*	1992	Settled
143	*The Taranaki Report: Kaupapa Tuatahi*	1996	Partially settled
145	*Te Whanganui a Tara me ona Takiwa: Report on the Wellington District*	2003	Partially settled
153	*Preliminary Report on the Te Arawa Representative Geothermal Resource Claims*	1993	In progress
167	*Interim Report and Recommendation in Respect of the Whanganui River Claim*	1993	Settled
167	*The Whanganui River Report*	1999	Settled
176	*Report on Broadcasting Claim*	1994	No further action
201	*The Mohaka ki Ahuriri Report*	2004	Settled
202	*Report on the Tamaki Māori Development Authority Claim*	1991	No further action
212	*Interim Report on the Rangitaiki and Wheao Rivers Claim*	1993	Settled
212	*Te Ika Whenua – Energy Assets Report*	1993	Settled
212	*Te Ika Whenua Rivers Report*	1998	Partially settled
215	*Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims*	2004	Partially settled
215	*Tauranga Moana, 1886–2006: Report on the Post- Raupatu Claims volume 1, volume 2*	2010	Partially settled

WAI[56]	Report	Year[57]	Status
261	*Interim Report on the Auckland Hospital Endowments Claim*	1991	Settled
262	*The Interim Report of the Waitangi Tribunal in Respect of the ANZTPA Regime*	2006	No further action
262	*The Further Interim Report of the Waitangi Tribunal in Respect of the ANZTPA Regime*	2006	In progress
262	*Ko Aotearoa Tēnei: A Report into Claims concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuatahi (Volume 1)*	2011	In progress
262	*Ko Aotearoa Tēnei: A Report into Claims concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Taumata Tuarua (Volume 2)*	2011	In progress
264	*Report on Auckland Railway Lands*	1992	No further action
264	*Report on Wellington Railway Lands*	1992	Settled
264	*Report on Railway Land at Waikanae*	1992	Settled
264	*Report on South Auckland Railway Lands*	1993	In progress
273	*Report on Tapuwae 1B and 4 Incorporation*	1993	Settled
276 72 121	*Interim Report on Sylvia Park and Auckland Crown Asset Disposals*	1992	Settled
304	*Ngāwhā Geothermal Resource Report*	1993	Ongoing
307	*The Fisheries Settlement Report*	1992	Settled
315	*Te Maunga Railways Land Report*	1994	Settled
321	*Appointments to the Treaty of Waitangi Fisheries Commission Report*	1992	In progress
322	*Report of the Waitangi Tribunal on the Tuhuru Claim*	1993	Settled
350	*Māori Development Corporation Report*	1993	Partially settled
411	*The Tarawera Forest Report*	2003	In progress
413	*Māori Electoral Option Report*	1994	In progress
414	*Te Whānau o Waipareira Report*	1998	No further action
449	*Kiwifruit Marketing Report*	1995	No further action
655	*Report on Aspects of the Wai 655 Claim*	2009	Settled
663	*The Te Aroha Maunga Settlement Process Report*	2015	No further action
674	*The Kaipara Interim Report*	2002	In progress
674	*The Kaipara Report*	2006	In progress
686	*The Hauraki Report (3 volumes)*	2006	Ongoing
692	*The Napier Hospital and Health Services Report*	2001	In progress
718	*The Wānanga Capital Establishment Report*	1999	Settled
728	*The Hauraki Gulf Marine Park Report*	2001	Partially settled

WAI[56]	Report	Year[57]	Status
758 142	*The Pakakohi and Tangahoe Settlement Claims Report*	2000	Settled
776	*Radio Spectrum Management and Development, Interim and Final Report*	1999	Partially settled
785	*Te Tau Ihu o te Ika a Maui: Preliminary Report on Customary Rights in the Northern South*	2007	In progress
785	*Te Tau Ihu o te Ika a Maui: Preliminary Report on Te Tau Ihu Customary Rights in the Statutory Ngāi Tahu Takiwā*	2007	In progress
785	*Te Tau Ihu o te Ika a Maui: Report on Northern South Island Claims (3 volumes)*	2008	In progress
788 800	*The Ngāti Maniapoto/Ngāti Tama Settlement Cross claims Report*	2001	In progress
789	*The Mōkai School Report*	2000	In Progress
790	*Taranaki Māori, Dairy Industry Changes, and the Crown*	2001	In progress
796	*The Petroleum Report*	2003	In progress
796	*The Report on the Management of the Petroleum Resource*	2011	In progress
814	*Turanga Tangata Turanga Whenua: The Report on the Turanganui a Kiwa Claims (2 volumes)*	2004	In progress
814	*The Mangatū Remedies Report*	2021	Ongoing
863	*The Wairarapaki Tararua Report (3 volumes)*	2010	Settled
893	*The Preliminary Report on the Haane Manahi Victoria Cross Claim*	2005	No further action
894	*Te Urewera (8 volumes)*	2017	In progress
898	*The Priority Report concerning Maui's Dolphin*	2016	No further action
898	*Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims parts IIII*	2019	Partially Settled
898	*Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims (Part VI)*	2020	Partially Settled
903	*He Whiritaunoka: The Whanganui Land Report*	2015	Partially settled
953	*Ahu Moana: The Aquaculture and Marine Farming Report*	2002	Partially settled
958	*The Ngāti Awa Settlement Cross Claims Report*	2002	In progress
996	*The Ngāti Tūwharetoa ki Kawerau Settlement Cross- Claim Report*	2003	In progress
1024	*The Offender Assessment Policies Report*	2005	In progress
1040	*He Whakaputanga me te Tiriti/The Declaration and the Treaty: The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry*	2014	Ongoing
1071	*Report on the Crown's Foreshore and Seabed Policy*	2004	No further action
1090	*The Waimumu Trust (SILNA) Report*	2005	No further action
1130	*Te Kāhui Maunga: The National Park District Inquiry Report*	2013	Ongoing
1150	*The Te Arawa Mandate Report*	2004	Settled

WAI[56]	Report	Year[57]	Status
1150	*Te Arawa Mandate Report: Te Wahanga Tuarua*	2005	Refer above
1177	*The Interim Report of the Waitangi Tribunal on the Te Tai Hauāuru by-election*	2004	No further action
1200	*He Maunga Rongo: Report on Central North Island Claims: Stage One (4 volumes)*	2008	Completed
1298	*The Report on the Aotearoa Institute Claim concerning Te Wānanga o Aotearoa*	2005	Settled
1353	*The Te Arawa Settlement Process Reports*	2007	Completed
1362	*The Tāmaki Makaurau Settlement Process Report*	2007	In progress
1750	*The Priority Report on the Whakatōhea Settlement Process*	2021	Completed
2190	*The East Coast Settlement Report*	2010	In progress
2200	*The Kārewarewa Urupā Report*	2020	Ongoing
2200	*Horowhenua: The Muaūpoko Priority Report*	2017	Ongoing
2235	*The Port Nicholson Block Urgency Report*	2012	Ongoing
2336	*Matua Rautia: The Report on the Kōhanga Reo Claim*	2013	In progress
2358	*The Stage 1 Report on the National Freshwater and Geothermal Resources Claim*	2012	In Progress
2358	*The Stage 2 Report on the National Freshwater and Geothermal Resources Claim*	2019	In progress
2391 2393	*The Final Report on the MV Rena and Motiti Island Claims*	2015	Ongoing
2417	*Whaia te Mana Motuhake/In Pursuit of Mana Motuhake: Report on the Māori Community Development Act Claim*	2015	In progress
2478	*He Kura Whenua ka Rokohanga: Report on Claims about the Reform of Te Ture Whenua Māori Act 1993*	2016	In progress
2490	*The Ngāpuhi Mandate Inquiry Report*	2015	Ongoing
2521	*Motiti: Report on the Te Moutere o Motiti Inquiry*	2022	In progress
2522	*Report on the Trans-Pacific Partnership Agreement*	2021/22	In progress
2540	*Tū Mai te Rangi! Report on the Crown and Disproportionate Reoffending Rates*	2017	In progress
2561	*The Ngātiwai Mandate Inquiry Report*	2017	In progress
2573	*The Mana Ahuriri Mandate Report*	2019	Settled
2575	*Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*	2019	In Progress
2575	*Haumaru: The Covid-19 Priority Report*	2020	In Progress
2662	*The Whakatōhea Mandate Inquiry Report*	2018	Completed
2870	*He Aha I Pera Ai The Māori Prisoners Voting Report*	2020	In progress

WAI[56]	Report	Year[57]	Status
2660	*The Marine and Coastal Area (Takutai Moana) Act 2011 Inquiry Stage 1 Report*	2020	In progress
2858	*The Maniapoto Mandate Inquiry Report*	2019	Settled
2840	*The Hauraki Settlement Overlapping Claims Inquiry Report*	2019	Ongoing
2915	*He Pāharakeke, he Rito Whakakīkinga Whāruarua: Oranga Tamariki Urgent Inquiry*	2021	In progress
2750	*Kāinga Kore: The Stage One Report of the Housing Policy and Services Kaupapa Inquiry on Māori Homelessness*	2023	In progress
3060	*Report on Whakatika ki Runga, a Mini-Inquiry Commencing Te Rau o te Tika: The Justice System Inquiry*	2023	In progress
1040	*Tino Rangatiratanga me te Kāwanatanga: The Report on Stage 2 of the Te Paparahi o Te Raki Inquiry*	2022	In progress
2200	*Waikanae: Report on Te Ātiawa/ Ngāti Awa Claims*	2022	Ongoing
2358	*The Interim Report on Māori Appointments to Regional Planning Committees*	2022	In progress
814	*The Mangatū Remedies Report*	2021	Ongoing
1750	*The Priority Report on the Whakatōhea Settlement Process*	2021	Completed
2521	*Motiti: Report on the Te Moutere o Motiti Inquiry*	2021	In progress
2522	*The Report on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (stage 3)*	2021	In progress
2575	*Haumaru: The Covid-19 Priority Report*	2021	In progress

Published by

Te Puni Kōkiri
Whiringa-ā-nuku / October 2024

Disclaimer

The information contained in this publication is for general information only. While every effort has been made to ensure the accuracy of the information, because the information is generalised, its accuracy cannot be guaranteed. Readers are advised to seek independent advice on particular matters and not rely on this publication. No liability is assumed by Te Puni Kōkiri for any losses suffered directly or indirectly by any person relying on the information contained in this publication.

Creative Commons

Te Kāwanatanga o Aotearoa