

Pumautanga Korero

MARCH-APRIL-MAY 2007

A newsletter for Te Arawa descendants about the settlement of the historical Treaty of Waitangi claims of the iwi and hapu affiliated to Te Pumautanga O Te Arawa

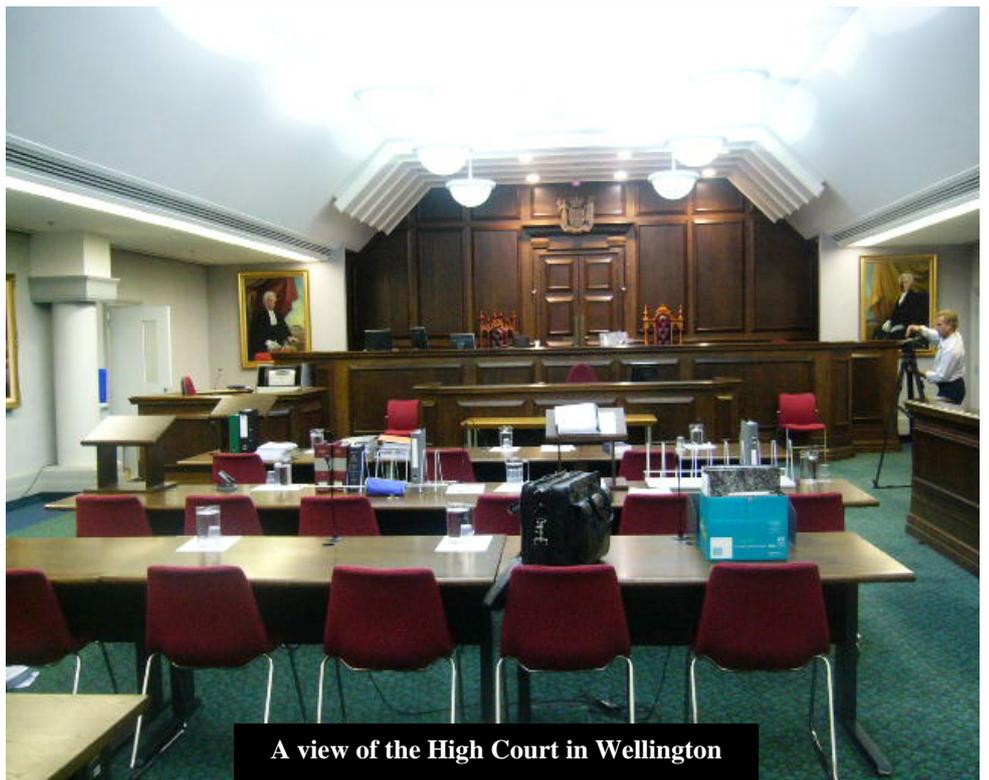
Te Arawa settlement must proceed

Over two days on 26th and 27th April, the High Court in Wellington became the forum for a hearing into claims against the Crown and specifically the TPT Deed of Settlement. The hearing was attended by a delegation of TPT trustees.

The High Court was convened to hear claims by the Federation of Maori Authorities (**FOMA**) and NZ Maori Council (**NZMC**) as plaintiffs, challenging aspects of the Deed of Settlement signed between the Crown and TPT. In the course of the action and just prior to case being heard, Tuwharetoa was allowed to be joined with the plaintiffs.

The plaintiffs claimed that the Crown had breached agreements reached between the three parties to the Crown Forests Assets Act, i.e. FOMA, NZMC and the Crown. By declaring itself a 'confirmed beneficiary' the Crown was able to secure the residual accumulated rentals associated with land secured by TPT under the deferred selection mechanism. TPT had argued vociferously with the Crown at the negotiation table, that those rentals should be given to TPT or at the very least retained for the benefit of future claimants into the CFL lands.

In February 2007, FOMA/NZMC amended their statement of claim taking the position that the CFL lands can only be transferred by recommendation of the Waitangi Tribunal using its resumptive powers. The plaintiffs therefore sought an order from the High Court to remove the CFL lands offered to TPT from the settlement. TPT believed that such a decision would so severely impact on the settlement as to completely undermine the settlement. Consequently TPT was forced to expend some of its limited resources to defend its settlement. It was important that a delegation of TPT trustees attend the two day hearing in Wellington to publicly demonstrate their concern for the security of the settlement.



A view of the High Court in Wellington

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Pumautanga Korero

Pumautanga Korero is produced every two months by Te Pumautanga O Te Arawa Trust.

It aims to inform Te Arawa descendants about the settlement of the historical Treaty of Waitangi claims of its affiliate iwi and hapu.

To support the communication of affiliates, articles may be presented for possible publication. For all editorial inquiries please contact:

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E-News

To receive our newsletters by email, please contact us during office hours.

Kia ora...

Message from the Chairman

In the first issue of Pumautanga Korero, we provided an update on the important work streams identified by TPT to be completed over the next two years. Those work streams included:

- *a Historical Text-Based Resource that will record the history of the direct negotiation process between the KEC and the Crown;*
- *a number of Residual Negotiations yet to be undertaken by TPT;*
- *the Legislative Process;*
- *dealing with Cross Claims and Mandate Issues; and*
- *the Transitional Development Phase.*

We are working hard to progress these work streams within the scheduled timeframes. We are largely on track to do so despite having to contend with a range of external issues.

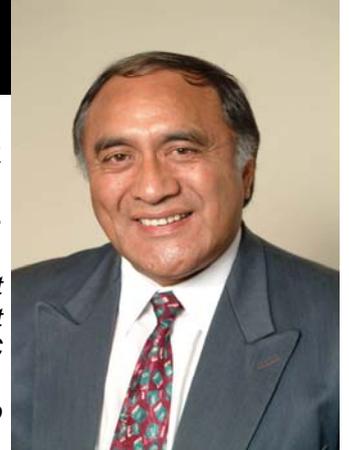
The recent judgement of the High Court upheld the settlement and vindicated TPT's need to join the litigation. TPT had to defend its settlement as the cases brought against particularly the Crown sought to remove significant parcels of land from our settlement. As reported in our cover story, Judge Gendall's judgement was clear and emphatic – "Te Arawa's settlement must proceed". We welcome that decision. That said however, we are mindful that the Plaintiffs might appeal that decision before the Appeals Court. They have by 1 June 2007 to lodge their appeal.

A report from the recent urgent Inquiry into the Te Arawa Settlement is due. We understand the Tribunal is considering reopening the Inquiry for what would be in our view be an unprecedented fourth urgent Hearing. After three years of litigation it would appear that the only ones benefiting from this process are certain members of the legal fraternity.

On a more positive note, Affiliate's continue in their quest to establish legal entities and infra-structure. We have provided further grants to assist Affiliate Marae. TPT is keen to make the \$100,000 distribution to the affiliate groups as soon as they are legally established and have met all of the distribution requirements in accordance with TPT's policy. Congratulations to Ngati Ngararanui who have met all of those requirements..

We look forward to the introduction of settlement legislation into the House of Parliament. That will signal the start of the legislative passage. Affiliates will be encouraged to participate in the select committee process by making submissions supporting the settlement to the Select Committee. TPT is due to begin its planned political strategy.

In the meantime as noted above, we will push forward to progress and complete our five key work streams.



ERU GEORGE
Chairman

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Chairman

Continued from cover page

TPT's position is very clear. The Crown and Maori were to use their 'best endeavours' to settle claims into the CFL lands. TPT has negotiated in good faith exercising its rights under the Treaty to reach this settlement with its Treaty party, the Crown. TPT as a Treaty partner is able to choose the direction it wishes to take in terms of settling the historical Treaty claims of its Affiliates. The settlement was clearly ratified by an overwhelming majority.

The deferred selection mechanism has proven enormously beneficial to TPT in that it provided opportunity for the Affiliates to secure more CFL lands than would have been possible with the Quantum alone. It is a mechanism that could be of benefit .

On 4 May Judge Gendall delivered his decision. Essentially the Court has declined the recourse sought by the plaintiffs against the Crown and TPT.

For TPT the Court was emphatic. "*Whilst Te Arawa were joined as third defendants because their rights clearly were affected by the proceedings, no relief is sought against them in the pleadings. They wished to be added as a defendant because the object of the proceedings was in part to deprive them of benefits that*

they would otherwise take. It is reasonable and a matter of justice that they be able to take a benefit of their negotiated settlement as has been the case with the five other successful iwi in past settlements. It would be wrong for their entitlements to be impeded because of essentially a challenge to the Crown retaining Crown rentals to itself.

Further, the Court went on to say, "*Te Arawa's interests and entitlements cannot, in justice, be disturbed. (underlining editor) Quite apart from the reasons for declining the declarations against the Crown, such declarations would affect Te Arawa in:*

- *receiving Settlement Licensed Land as its proper entitlement; and*
- *purchasing pursuant to its option the Deferred Licensed Land in good faith and for valuable consideration.*

Having defended its settlement for the benefit of Affiliates, TPT will now focus on the completion of the transitional development phase and most importantly, the passage of legislation through Parliament, once the Bill is introduced into the House .

First \$100,000 distribution released

A number of Affiliates are currently working through a process of either establishing new, or reconfirming existing, legal entities. The impetus for undertaking this process was undoubtedly due to the announcement that TPT would make a one-off distribution of \$100,000 to help Affiliates build sound governance infra-structures. The benefit for Affiliates is obvious, but there is also benefit for TPT.

Following the expected passing of settlement legislation in 2008, TPT will receive a number of cultural redress assets. These assets include such culturally significant sites as 45 ha of the Whakarewarewa Thermal Valley, 123 ha of the Waiotapu Thermal Wonderland, and the land beneath the Okataina Lodge. These sites carry with them ongoing leases and associated income. While they will be initially vested in fee simple ownership with TPT, TPT will want to transfer ownership of these sites to the appropriate Affiliate as soon as possible. However transfer will be subject to the Affiliate having the necessary legal structures in place to receive and most importantly manage those assets.

Continued overleaf

KAUPAPA KORERO

To date, four Trusts have been formally established - Ngati Tura/Ngati Te Ngakau Hapu Trust, Ngati Ngararanui Hapu Trust, Ngati Tuara Ngati Kearoa Hapu Trust and most recently, the Tuhourangi Tribal Authority.

TPT congratulates the following elected trustees:

Ngati Tura/Ngati Te Ngakau Hapu Trust (6)

- **Tipene Wilson – Chair**
- **Ron Roberts – Deputy Chair**
- **Delia Wilson – Secretary**
- **Mark Kahu – Trustee**
- **Robert Mackie – Trustee**
- **Takarei Te Tamaki – Trustee**

Ngati Ngararanui Hapu Trust (5)

- **Wallace Haumaha – Chair**
- **Tom Gear – Deputy Chair**
- **Guy Ngatai - Trustee**
- **Henry Colbert – Trustee**
- **Rosie Morrison – Trustee**

Ngati Tuara Ngati Kearoa Hapu Trust (5)

- **Eru George – Chair**
- **Huia Lyons – Trustee**
- **Eugene Berryman-Kamp – Trustee**
- **Manahi Bray – Trustee**
- **Robert Young – Trustee**

Tuhourangi Tribal Authority (7)

- **John Waaka – Chair**
- **Kiri Skipwith – Deputy Chair**
- **Karen Waaka – Trustee**
- **Henare Hawe – Trustee**
- **Mahinarangi Maika – Trustee**
- **Wally Lee – Trustee**
- **Frances Webster – Trustee**

A recent mediation between Te Runanga O Ngati Tahu-Ngati Whaoa Inc. (TRONTNW) and Te Runanga O Ngati Whaoa facilitated by the Maori Land Court resulted in agreement for the two Runanga to enter into discussion over processes for dealing with resource consent applications. The mandate to receive settlement assets held by TRONTNW was not raised and

therefore remains with TRONTNW.

A cheque for \$100,000 has now been paid to the Ngati Ngararanui Hapu Trust which is in the process of building on its infra-structure.

The criteria for receiving the \$100,000 distribution are:

1. Evidence of mandate to receive distributions for and on behalf of the Affiliate;
2. A certified true and correct copy of its formally executed and attested Constitution;
3. The names, addresses and contact details of the persons currently holding the office of Chairperson, Secretary and Treasurer; and
4. Evidence of a current bank account in the name of the Entity with details of the authorised signatures.

Affiliate marae continue to apply for payment of a \$5,000 one-off distribution. During March and April, Ruamata Marae, Tarukenga Marae and Waiteti Marae applied for and received grants. This brings the total amount of grants paid to date to \$65,000.

The criteria for eligibility to receive the grant are as follows:

1. Evidence that the Marae is an existing and acknowledged traditional Marae of that Affiliate Iwi/Hapu;
2. A current Maori Land Court generated “MLIS-Management Structure Details Report” detailing the Trustees in whose names the Maori Reservation is vested;
3. The names, addresses and contact details of the persons currently holding the office of Chairperson, Secretary and Treasurer of the Marae trustees; and
4. Evidence of a current bank account in the name of the Marae with details of the authorised signatures.

Application for both grants may be made by formal letter to the secretary of the TPT with the relevant documents enclosed. Applications for marae grant must be duly authorised by the appropriate TPT trustee.

Legal challenges continue to soak up resources

As TPT heads into the important phase of drafting settlement legislation and ensuring its successful passage through Parliament, we continue to face legal challenge.

In March the Waitangi Tribunal held an urgent Inquiry into the Te Arawa Settlement. Originally scheduled for four days in Rotorua, the Inquiry was extended to five days in Rotorua with a further day involving mainly legal counsel in Wellington.

The Tribunal inquired into claims against the Crown's decision and policy regarding the Crown's acceptance of TPT's mandate to settle the historical Treaty of Waitangi claims of Affiliates. The Tribunal also inquired into the Crown's decisions and policy with regards to providing for the overlapping interests of non-Affiliates and non-Te Arawa Iwi claiming interest into areas on offer to TPT.

TPT chose not to actively participate in the Inquiry, choosing instead for legal counsel to attend in a watching brief. Our reasons for doing so relate back to the time and resources expended by TPT through its predecessor, the KEC, defending against litigation over the past 3 years. The KEC faced a four day Tribunal Inquiry in Rotorua in 2004, a one day Inquiry in

Wellington followed by a five day High Court hearing in Rotorua in 2005, and numerous mandate reconfirmation hui from 2003 to 2006. TPT estimates that the challenges and litigation to date would have cost tax payers and claimant funding combined, between \$3 million and \$5 million.

TPT has been declined funding from Crown Forestry Rental Trust (CFRT) due to CFRT policy not to fund beyond signing of the Deed of Settlement. TPT argues that a settlement is not finalised until legislation has been enacted. In addition, the deferred selection mechanism negotiated by TPT will mean final negotiation over Crown assets offered under this mechanism cannot be completed until after settlement legislation has been enacted. In the interim, TPT is having to use settlement proceeds to complete negotiations.

Given the history of litigation faced by TPT, TPT felt it could not expend any more of its limited resources in a forum that was mainly targeted at Crown decisions and policy. TPT did participate to the extent of providing assistance to the Tribunal where appropriate.

The Tribunal is expected to deliver its report in May.

E-News

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Pumautanga Korero

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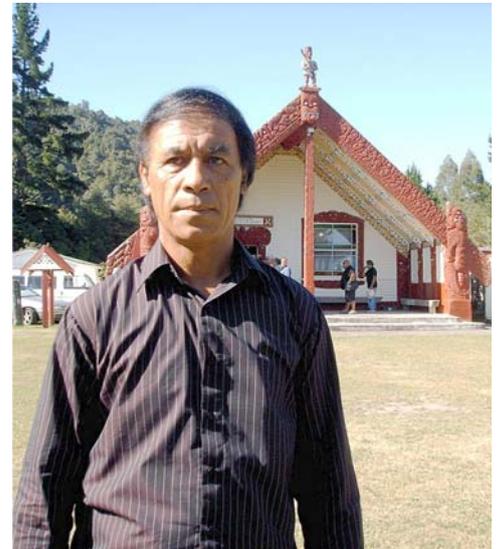
Providing assistance for Affiliate entity creation

TPT is committed to providing practical assistance for Affiliates wishing to create or reconfirm their legal entities and develop appropriate governance and management infra-structure. TPT has established a project that will in the first instance, specifically target Affiliates wishing to establish a new legal entity to receive the benefits of the settlement on behalf of beneficiaries. For Affiliates that already have a legal entity established, the project will look at a process to ensure that the entity meets the minimum criteria required in order to receive in the immediate future, a one-off \$100,000 distribution.

Secondly, the project will provide governance training for the representatives elected onto these governing bodies. It is vital for the future of these entities that representatives understand the nature and detail of their individual constitutions and their responsibilities under the constitution and general legislative accountabilities.

Thirdly, the project will look at providing a level of training to Hapu and Iwi members wishing to gain a degree of understanding of how the legal entity and in particular the entity's constitution works. In that way they will be in a better position to ensure their representative's can be held accountable.

Ruka Hughes (Ngati Rongomai) has been appointed to oversee and manage the project to ensure its required targets are being met. The primary target will be to see the establishment of legal entities for each of the 11 Affiliates, and the delivery of targeted training within 12 months. Ruka has developed networks throughout Te Arawa over a number of years in his work with a number of organisations such as "Te Pukenga Koeke O Te Arawa" and "NZ Maori Wardens". Ruka may be contacted at the TPT office or on mobile at **027 406 5784**.



TPT is also providing Affiliates legal advice through our in-house legal service team IC Solutions Ltd. IC Solutions can provide general, commercial and constitutional legal advice. It is owned by Willie and Linda Te Aho, both very well known within Te Arawa and throughout the motu.

The 'Affiliate entity' project is specifically targeted for entity creation and infra-structural development and is in addition to TPT's standard operations.



PANUI

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“Panui” is provided for Affiliate iwi and hapu wishing to engage in direct communication with beneficiaries.

The views expressed may not necessarily reflect those views of Te Pumautanga O Te Arawa Trust.

Contributions may be forwarded in a hard copy to the office (refer below) or in an electronic format to tpota@xtra.co.nz

The editor reserves the right to decline to publish readers’ contributions.

If your marae, hapu or iwi would like to advertise upcoming hui or important dates, please email your details to tpota@xtra.co.nz so we can include your notice in any upcoming newsletters.

E-News

We now have the capacity to send your copy of the Pumautanga Korero to your email address.

If you would like receive your copy by e-mail, please email the office at

tpota@xtra.co.nz

and advise your name and current postal address.

**Pumautanga Korero
PO Box 6084
ROTORUA**

REGISTRATION

If your hapu, marae or whanau are having a gathering over coming months, why not contact Te Pumautanga for registration support.

We can provide support, registration forms and newsletters to assist in the registration of yourselves and/or your whanau.

Registered beneficiaries will ultimately benefit from this settlement.

If you have a hui, birthday, sports day, family reunion, Marae working bee, land trust meeting or anything that involves a gathering for our people, phone our registration team on 0800 524 428 or email on registration@tpota.org.nz so we can help register your whanau.

We would love to be of assistance.

Contact Details

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