



Waitangi Tribunal

Te Rōpū Whakamana i te Tiriti o Waitangi
The Waitangi Tribunal

Kia puta ki te whai ao ki te ao mārama

from the world of darkness, moving into light

The Waitangi Tribunal



The Waitangi Tribunal is a permanent commission of inquiry. It was established in 1975 under the Treaty of Waitangi Act. It is a bicultural organisation with around 20 Māori and Pakeha members. Māori Land Court judges normally preside over Waitangi Tribunal inquiries. The Ministry of Justice provides support staff for the Tribunal.

Waitangi Tribunal Inquiries



Most Waitangi Tribunal inquiries progress in a sequence of four steps from claims to preparation, hearing and report.



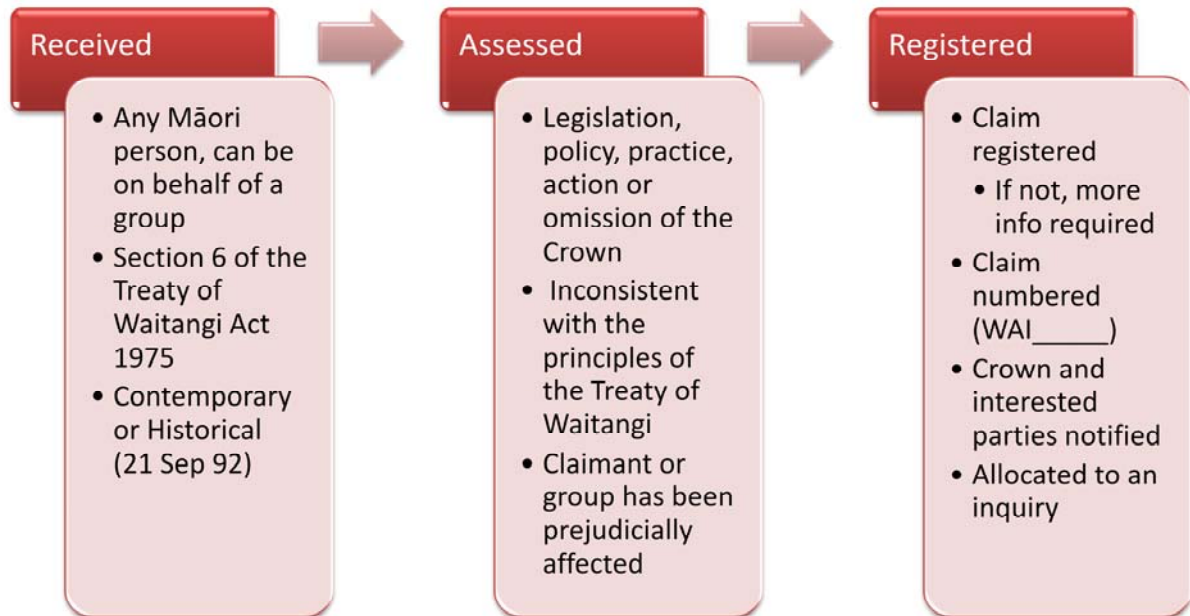
The Te Paparahi o Te Raki Inquiry is a modification of this with two separate stages covering different types of issues. These stages will each follow the regular pattern of progress: claims, preparation, hearing, and report.

Current Phase: Te Paparahi o Te Raki Inquiry



We are currently in the preparation phase of Stage 2 of the Te Paparahi o Te Raki Inquiry.

Claims



The Tribunal process begins when claims are received by the Waitangi Tribunal.

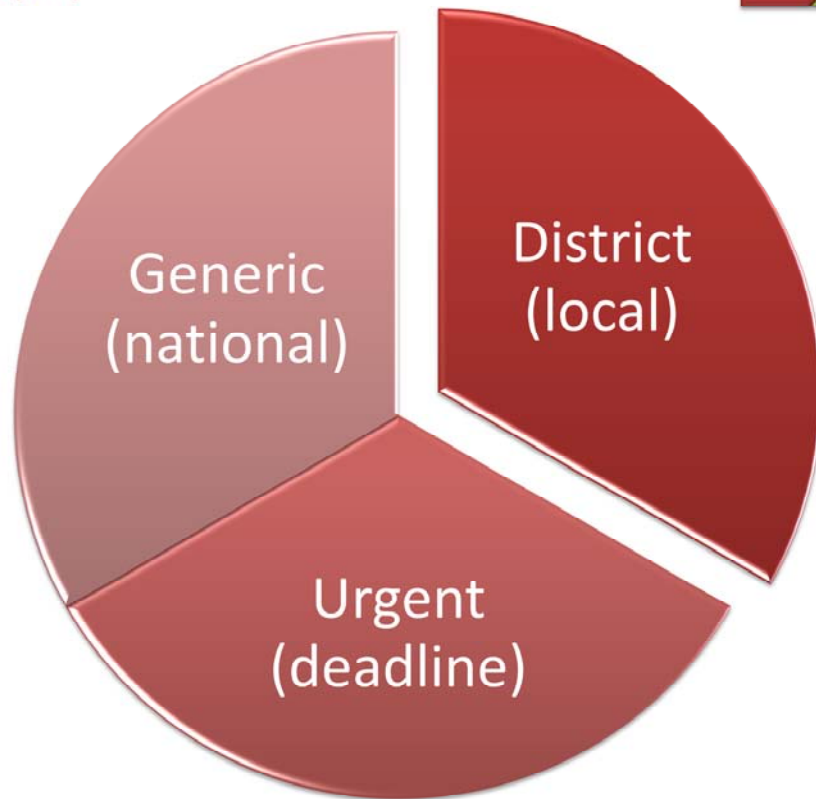
Any Māori person can make a Treaty of Waitangi claim, and the claim may be on behalf of a group or organisation.

The Tribunal cannot receive historical claims any more, but is still able to receive claims concerning Crown actions or omissions that occurred after 21 September 1992.

In order to be registered, a claim must say what the Crown did that was wrong - this may be any legislation (including rules and regulation), policy, practice, action or omission of the Crown that was inconsistent with the principles of the Treaty of Waitangi - and how the claimant or claimants' group has been prejudicially affected by that wrong. If this is not clear, the claimant may be asked to provide more information.

The claim will be numbered when registered, and the Crown and any interested parties notified.

Types of inquiry

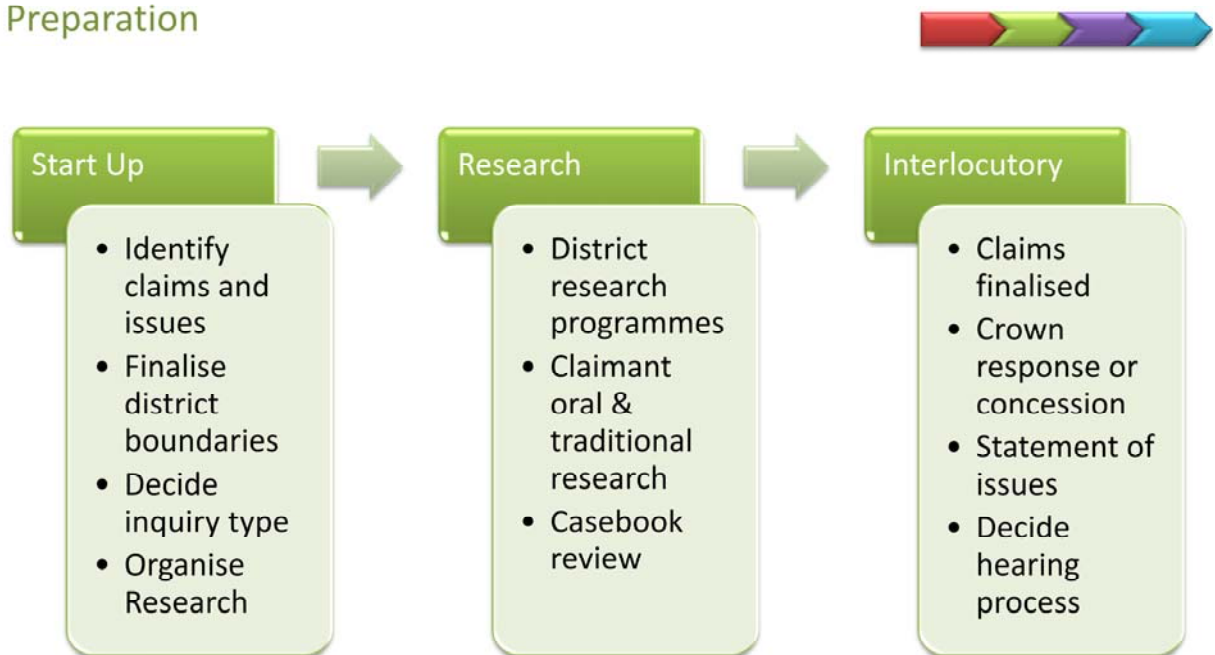


Claims are allocated to inquiries. Most claims are heard in a district inquiry, which covers all claims arising in a particular locality.

Some claims are heard in a generic inquiry if they concern national rather than local issues.

A very few claims are heard in an urgent inquiry. This only occurs if where there is some form of deadline that needs to be met.

Preparation



The next step is to prepare for hearings.

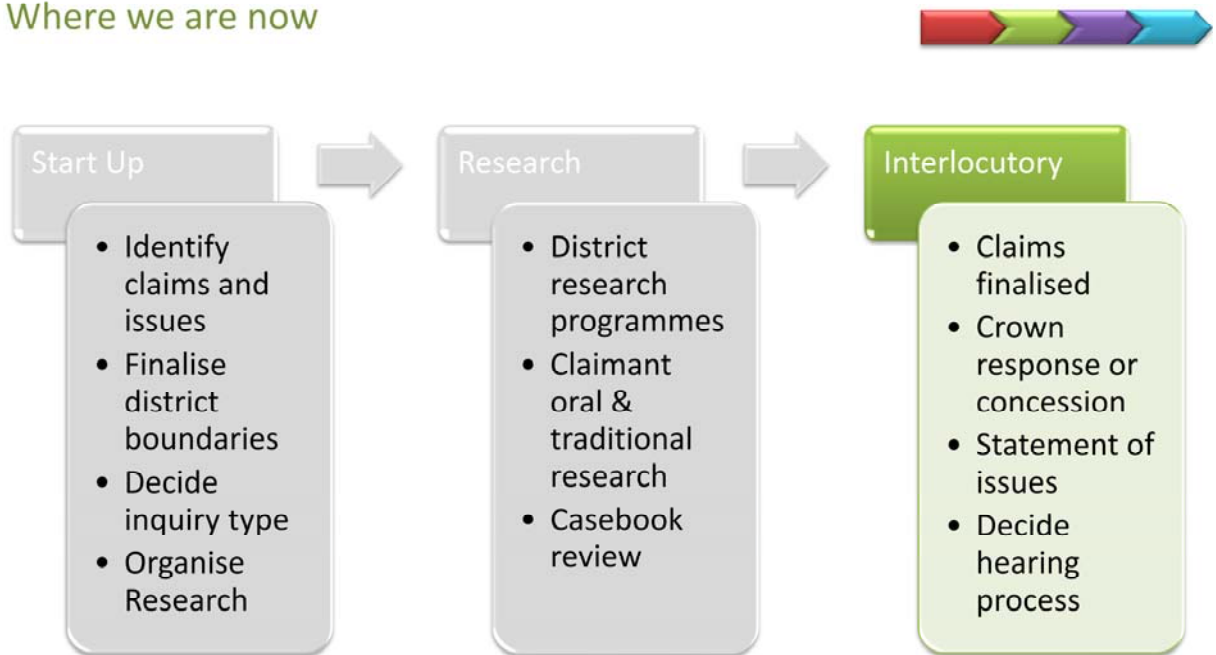
Start up conferences are held to identify the relevant claims and issues, to finalise the boundaries of an inquiry district, to decide on the type of inquiry that will be held, and to organise research. Evidence is then gathered.

Most evidence is found through historical research. District-wide research programmes cover all the issues raised in all the claims, and any other issues that are discovered. Claimants conduct their own oral and traditional research at the same time. All the new and existing research is collated and reviewed to see if there is a “sufficient and adequate” casebook of evidence to go to hearing.

Interlocutory conferences are the final step in preparing for hearing. “Interlocutory” is a legal term for discussions on “intermediate, procedural matters”.

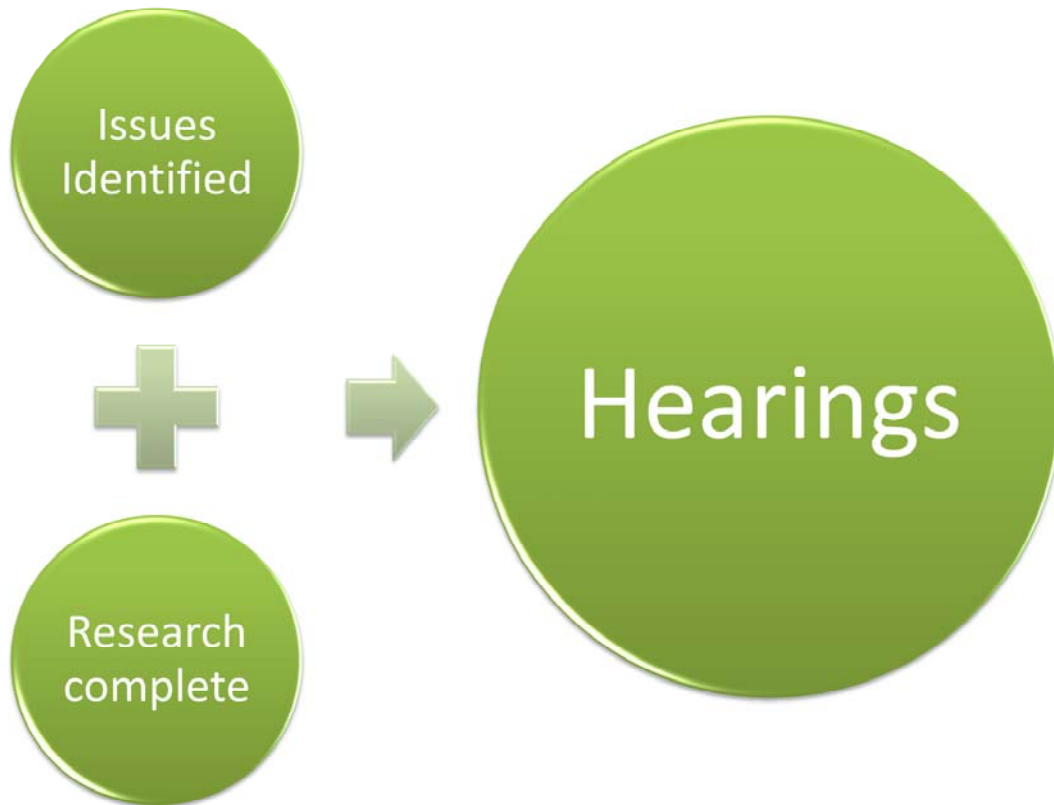
In the interlocutory phase claims are amended and finalised to detail all the issues and facts uncovered by the research. The Crown is required to respond to the detailed claims in their final form, and sometimes concedes certain points where the evidence is clear. A Statement of Issues provides a “road map” for hearings by identifying the issues remaining in dispute.

Where we are now



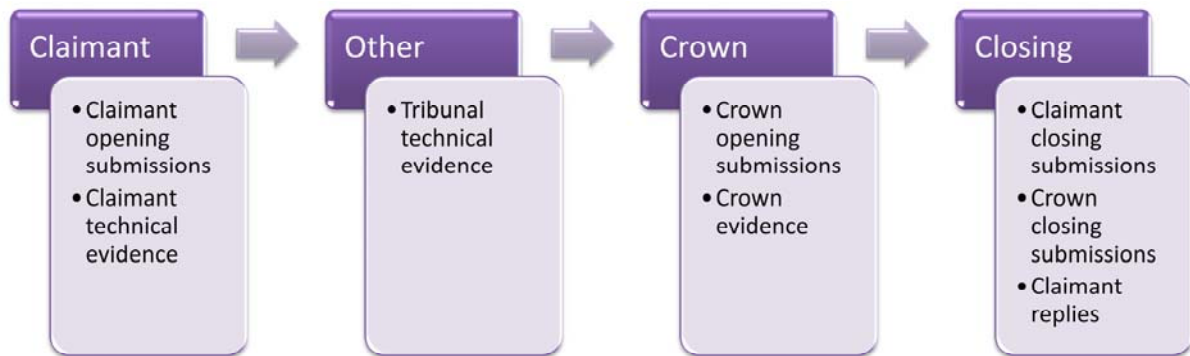
The Te Paparahi o Te Raki Stage 2 Inquiry is currently in the interlocutory phase. This is the organisational phase before hearings where we clarify the issues, claims, and prepare for hearings.

The casebook method



The Tribunal will not schedule hearings until all the issues have been identified and the research is complete. This is sometimes called “the casebook method.” Normally there needs to be a “sufficient and adequate” casebook of evidence, a statement of issues, and an agreed process for hearing the claims.

Hearings

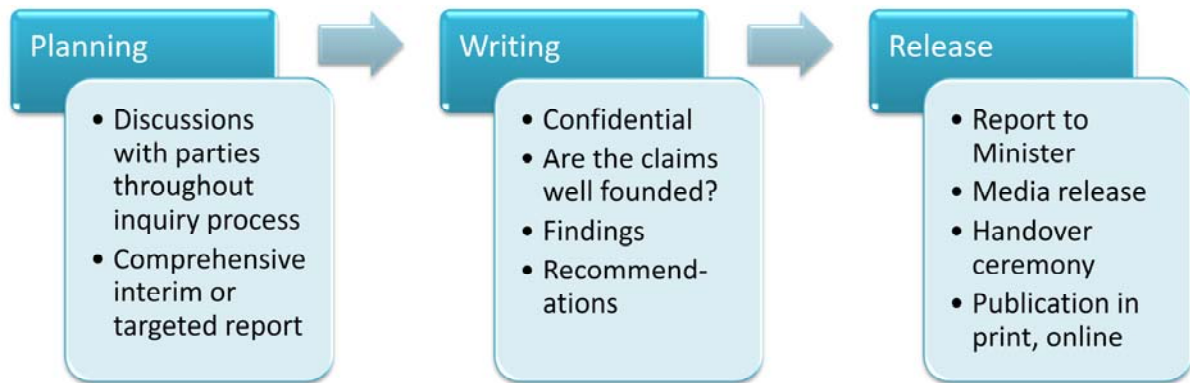


Hearings begin with the claimants' case, before moving to technical evidence, and finishing with the Crown's case.

Hearings are wrapped up with closing arguments by claimants and the Crown, and later by any claimant response to the Crown's closing arguments.

At hearings, lawyers give legal arguments and witnesses give evidence. Any witness may be cross-examined, but that normally only happens with the technical evidence. Tangata whenua witnesses may also be respectfully asked some questions.

Reporting



The Waitangi Tribunal reports on whether claims are “well founded” and makes findings and recommendations.

Discussion on the size and shape of the report begins early in the inquiry. The key question is whether a comprehensive report or a targeted report on key issues only is required. The answer to that question drives most of the inquiry planning.

The Tribunal is increasingly asked to give interim reports on particular issues to assist claimants enter into negotiations while the remainder of the report is completed.

The report is sent to the Minister of Maori Affairs, and each claimant group gets a copy. The report is printed by Legislation Direct. Digital copies are available on the Tribunal’s website some time later.



In sum, Waitangi Tribunal inquiries normally progress in a sequence of four steps.

Claims are received, assessed, and registered under the Treaty of Waitangi Act 1975.

Preparation for hearings involves start up conferences, research programmes, and interlocutory conferences. The Tribunal will not schedule hearings until the issues have been identified and research is complete.

Hearings are normally held on marae and other public venues like Town Halls. Hearings cover the claimants' case, other parties, and the Crown's case.

The Tribunal reports on whether or not the claims are "well founded" and makes findings and recommendations.

www.waitangitribunal.govt.nz

More information on the process and the Te Paparahi o Te Raki Inquiry can be found on the Waitangi Tribunal website.