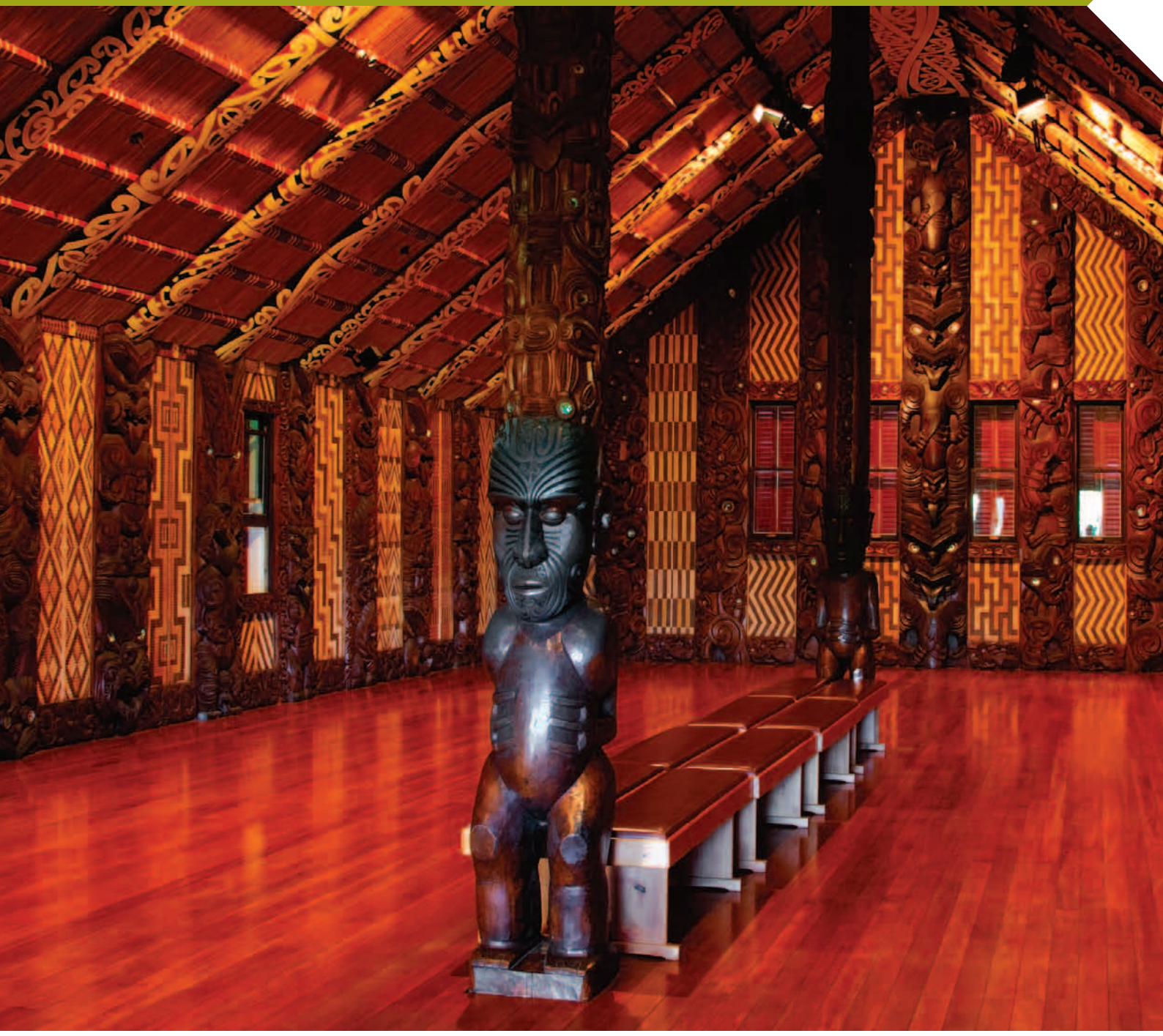
Human Rights Commission
*Te Kāhui Tika Tangata*

# The Treaty Relationship 2011
## Te Hononga Tiriti i te tau 2011



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Published February 2012
Auckland, Aotearoa New Zealand



Cover image:Cover image: Whare Rūnanga in the Treaty Grounds, Waitangi. Jim Harding/hedgehoghouse.com

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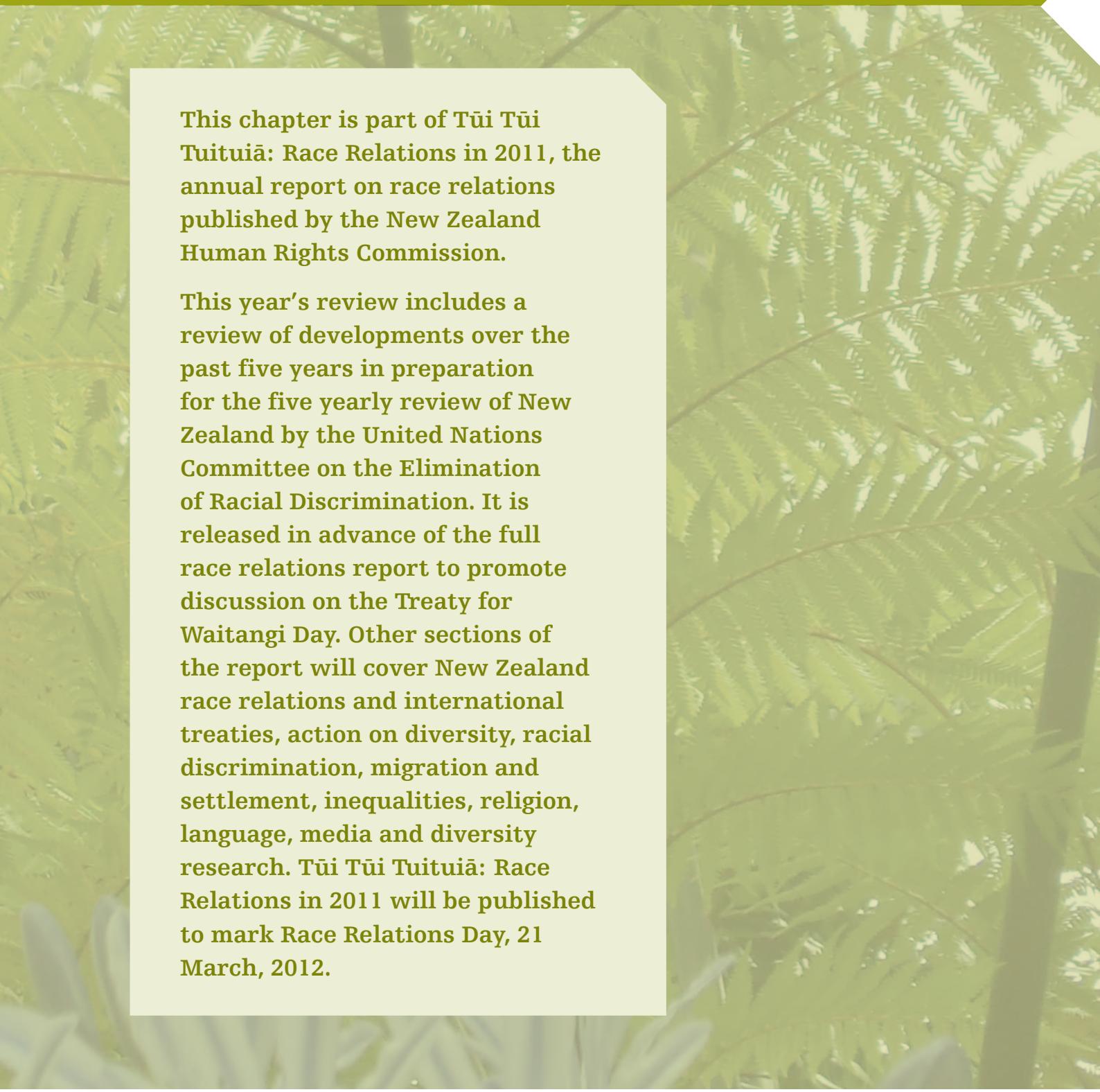


**This chapter is part of Tūi Tūi Tuituiā: Race Relations in 2011, the annual report on race relations published by the New Zealand Human Rights Commission.**

**This year's review includes a review of developments over the past five years in preparation for the five yearly review of New Zealand by the United Nations Committee on the Elimination of Racial Discrimination. It is released in advance of the full race relations report to promote discussion on the Treaty for Waitangi Day. Other sections of the report will cover New Zealand race relations and international treaties, action on diversity, racial discrimination, migration and settlement, inequalities, religion, language, media and diversity research. Tūi Tūi Tuituiā: Race Relations in 2011 will be published to mark Race Relations Day, 21 March, 2012.**

# The Treaty Relationship 2011
# Te Hononga Tiriti i te tau 2011

## Priorities 2012

- Informed public discussion of New Zealand's constitutional arrangements including the Treaty of Waitangi
- The Government's response to the Wai 262 report *Ko Aotearoa Tēnei: This is New Zealand.*

*Dr Pita Sharples leads the group of dignitaries to sign the Agreement in Principle with Ngāti Whatua o Ōrākei, including redress over Auckland's volcanic cones in February 2010. NZ Herald/Brett Phibbs*

### The past five years in review

The dispute over the foreshore and seabed continued to affect the Treaty relationship and political formations, with the newly established Māori Party reaching a confidence and supply agreement with the National Party led government after the 2008 general election. The Foreshore and Seabed Act 2004 was replaced by the Marine and Coastal Area (Takutai Moana) Act 2011, prompting a further change in the political landscape with the establishment of the Mana Party by former Māori Party MP Hone Harawira.

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations in 2007, with New Zealand initially voting against it but then pledging its support in 2010.

The pace of historical Treaty of Waitangi settlements increased dramatically, from ten milestones achieved in 2007 to over 60 in 2011. The aspirational goal of settling all historical claims was brought forward from 2020 to 2014 by the new National Party led Government in 2008. Revised negotiation and settlement policies were introduced and funding was increased to enable settlements to be achieved. Major settlements included the Ngāti Porou deed of settlement in 2010, the Waikato-Tainui River settlement in 2010, the 'Treelords' Central North Island settlement in 2008, and settlement with the Wellington iwi collective Taranaki Whānui ki Te Ūpoko o Te Ika in 2008. Claimants have increasingly sought, through Treaty settlements, a greater role in natural resource management. Government decisions in 2010 provided more certainty about what redress will be available to provide for greater iwi involvement in decision making on natural resources. The Waitangi Tribunal has released a number of reports on district, kaupapa and urgent inquiries and dealt with an influx of mainly historical claims submitted just before the 1 September 2008 deadline for lodging new historical claims.

The relationship between Māori and local government has sometimes been controversial. In 2009, the new Auckland 'super-city' Council was formed, without following a

recommendation by the Royal Commission on Auckland Governance that three Māori seats be established. An independent Māori Statutory Board was established that saw Māori appointed as members of a substantial number of Council Committees. However, Māori are yet to achieve guaranteed proportional representation at the Council table itself. The discussion about whether to establish Māori seats was picked up by many other councils in 2011.

The Iwi Chairs Forum was established in 2005 as a platform for sharing knowledge and information between tangata whenua. It meets regularly to discuss Māori aspirations in cultural, social, economic, environmental and political development. The forum has established a rangatira ki te rangatira (leader to leader) relationship with the Prime Minister and senior cabinet ministers. Iwi leaders recognise they are not mandated to speak on behalf of Māori but that their knowledge can contribute to policy discussions.

The past few years have seen the foundation laid for a review of New Zealand's current constitutional arrangements. A Constitutional Advisory Panel was established which will seek views on, among other things, how the Treaty should be reflected in New Zealand's constitutional arrangements. The conversation is to be with New Zealanders and was agreed as part of the National-Māori Party Confidence and Supply Agreement in 2008. Terms of Reference for the Consideration of Constitutional Issues were agreed in 2010 and a process for appointing an independent panel and engaging with New Zealanders was announced in 2011.

Māori centred initiatives have progressed, including projects within the Drivers of Crime programme led by the Ministry of Justice; projects commissioned by the Māori Economic Taskforce; and Whānau Ora in the health sector. In spite of this, significant inequalities remain. These are outlined in the Inequalities chapter of this report.

## The Treaty relationship in 2011

The United Nations Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, published his report on New Zealand in February. He found much to be positive about, but highlighted inequalities between Māori and non-Māori that must be addressed in order to achieve true partnership.

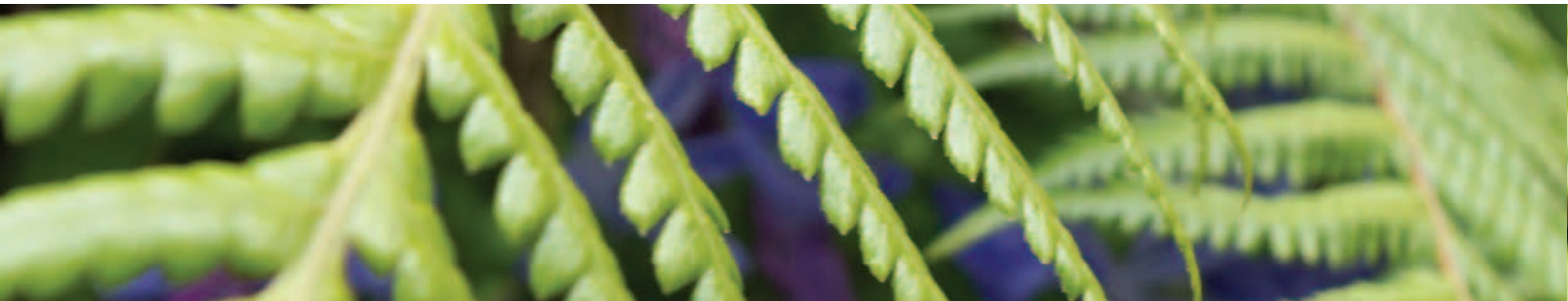
The Marine and Coastal Area (Takutai Moana) Act 2011 was passed bringing to a close six years of dispute, for now. A twelve member panel was appointed to conduct a constitutional review. Terms of reference include the place of the Treaty.

Forty-nine out of 78 councils considered establishing Māori seats. For some councils, the question sparked public controversy. Although many Māori communities, where asked, supported the establishment of Māori seats, only two Councils agreed to establish them.

A Business and Economic Research Limited (BERL) report commissioned by the Māori Economic Taskforce showed the value of the Māori asset base was almost $37 billion in 2010. A panel has been appointed by the Government to develop a strategy and action plan to further grow the Māori economy.

A significant number of Treaty settlement milestones were reached. In April, the first readings of three Treaty settlement bills – The Ngā Wai o Maniapoto (Waipā River) Bill, Ngāti Porou Claims Settlement Bill and Ngāti Pāhauwera Treaty Claims Settlement Bill – were combined in Parliament for the first time.

The Waitangi Tribunal published *Ko Aotearoa Tēnei : This is New Zealand*, its report on New Zealand law and policy affecting Māori culture and identity. It describes New Zealand as being at a crossroads in race relations, the Treaty relationship and its sense of nationhood.



The opening ceremony of the Rugby World Cup demonstrated New Zealand's pride in Māori culture. Māori communities were heavily involved in welcoming international rugby teams and visitors to cities and towns around New Zealand, and in showcasing Māori culture and enterprise.

## The National and Māori Parties' relationship

After the general election in November, the National and Māori Parties agreed a Relationship Accord and Confidence and Supply Agreement. The Māori Party agreed to vote in support of all matters subject to confidence and supply votes for the 2011-2014 parliamentary term. In return, National agreed to support certain policy programmes.

Under the agreement, National will work with the Māori Party in response to the Land and Water Forum's recommendations and in considering effective engagement with Māori as part of the review of the Crown Minerals Act 1991. Both parties will continue to work together on the review of New Zealand's constitutional arrangements and the Minister of Māori Affairs will continue to lead the Māori Economic Strategy together with the Minister of Economic Development. The two co-leaders of the Māori Party were allocated ministerial responsibilities, including Māori Affairs and Whānau Ora.

The agreement includes a commitment to reprioritise the goals of Te Puni Kōkiri, the Ministry of Māori Development. The immediate areas of focus will shift to give urgent priority to improving Māori employment, training, housing and education outcomes. A high-level policy unit will be created within Te Puni Kōkiri to provide strategic advice to the Minister of Māori Affairs.

Other aspects of the agreement, including continued work on Whānau Ora and action to address social and economic inequalities, are set out in the Inequalities chapter of this report.

## Developments in natural resource management

Arrangements to involve iwi in natural resource management (including co-governance and advisory bodies) are increasingly a feature of historical Treaty settlements, particularly with regional councils.

The Hawke's Bay Regional Council has resolved to establish a committee with equal membership of councilors and iwi governance group representatives. The committee will have a governance role reviewing and recommending changes to the region's Resource Management Plan. The plan deals with regional issues such as water quality and quantity, air quality, coastal resources, indigenous vegetation and wetlands, gravel management and natural hazards. The Crown through its deed of settlement with Ngāti Pāhauwera has agreed to establish the committee in legislation to make it permanent and ensure the rights of appointment for iwi governance entities in the region. Additional funding of $100,000 was approved in October to assist groups such as Ngāti Pāhauwera with the first three years of set-up costs as they establish this resource management arrangement.

The governance partnership established through the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 is another example of the importance placed on Crown/iwi partnerships. The Act established the Waikato River Authority, a body made up of five Crown appointees and five river iwi representatives. The Waikato River Authority's role is to:

- set the primary direction through the vision and strategy to achieve the restoration and protection of the health and wellbeing of the Waikato River for future generations

- promote an integrated, holistic, and coordinated approach to the implementation of the vision and strategy and the management of the Waikato River
- fund rehabilitation initiatives for the Waikato River in its role as trustee for the Waikato River Clean-up Trust.

The establishment of the Authority has strengthened the Waikato River iwi relationship with local councils. In November 2011, the authority signed a partnership agreement with the Waikato Regional Council. The agreement provides opportunities for the Waikato River Authority to contribute to Council decision making processes on river-related issues, and also for shared service arrangements aimed at reducing administration costs associated with restoring the health of the river. The vision and strategy has become part of the Council's regional policy statement.

In July, the Government made decisions to provide more certainty about what redress might be available in historical Treaty negotiations to involve iwi in natural resource management. A number of matters are considered in all negotiations when natural resource matters are raised by claimants to guide consideration of how best to involve iwi in natural resource management. These include the strength and nature of the iwi's association to the resource, the nature of the grievance, the aspirations of Crown and iwi in relation to the resource, the need for a well-designed institution and the need to ensure durability of the settlement.

Shared governance of Auckland's volcanic cones is another example of partnership over natural resources. Shared governance of volcanic cones such as Maungawhau: Mt Eden and Maungakiekie: One Tree Hill was set out in the Ngā Mana Whenua o Tāmaki Makaurau and Crown Record of Agreement signed in 2011. The agreement will see 13 mana whenua groups taking ownership of the cones, to be held in trust and managed for the common benefit of the iwi, hapū and people of Auckland, with the cones co-governed by the mana whenua groups and the Auckland Council.

The issue of involving Māori in the management of natural resources extends beyond Treaty settlements. The Minister for the Environment told the Kōkiri Ngātahi hui in 2010 that ongoing reform of the Resource Management Act includes the objective to put in place better mechanisms to allow Māori to participate in resource management processes.

The issue of establishing Māori seats on councils is discussed later in this chapter.

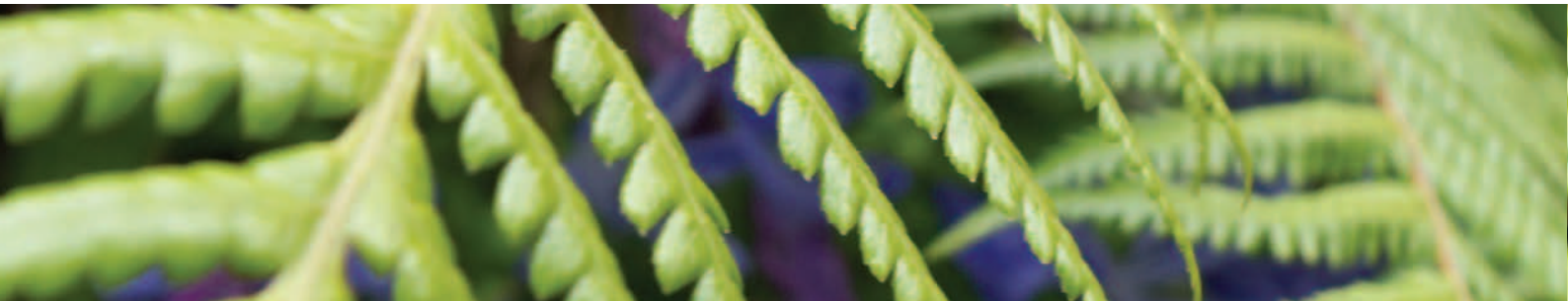
### UN Special Rapporteur's report

The UN Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, published his report on the situation of Māori in February. He had visited New Zealand in July 2010 to meet government ministers, iwi and other interested parties to discuss human rights and indigenous development.

He praised NZ's significant strides in addressing concerns raised by the former Special Rapporteur in his report. These included:

- support for the UN Declaration on the Rights of Indigenous Peoples
- repeal of the Foreshore and Seabed Act 2004
- efforts to carry out a constitutional review process.

Professor Anaya noted the Treaty settlement process, despite its shortcomings, is one of the most important examples in the world of addressing historical and ongoing grievances. However, he also noted the extreme disadvantage in the social and economic conditions of Māori people in comparison to other New Zealanders. In summary, he recommended the Government:



*United Nations Special Rapporteur James Anaya.*
*NZPA/Ross Setford*

1. Focus on increasing Māori participation in local governance, and guarantee Māori seats on the Auckland Council.
2. Ensure consultation with Māori, for example on law or policy, is consistent with tikanga. Māori technical capacity should be increased through funding to enable informed participation in consultations.
3. Ensure adequate funding for the Waitangi Tribunal to work through its pending caseload, and consult Māori on the future role of the Waitangi Tribunal.
4. Ensure the 2008 deadline for lodging historical claims with the Waitangi Tribunal does not prevent legitimate claims being lodged and the goal of completing Treaty settlements by 2014 does not compromise negotiations.
5. Accompany any acts against the recommendations of the Waitangi Tribunal with a written justification.
6. Make every effort in Treaty settlement negotiations to involve all groups with interests and strengthen dispute resolution mechanisms where there are disputes over representation.
7. Show flexibility in Treaty settlement negotiations and give greater consideration to the traditional connection with land and resources.
8. Consider forming an independent commission or tribunal to review Treaty settlements.
9. Reconsider the decision not to return Ngāi Tūhoe their traditional lands within the Urewera National Park, given the merits of the Tūhoe claim and restorative justice.
10. Begin discussions with Māori as soon as possible regarding the constitutional review process.
11. Consult widely with Māori to address any remaining concerns about the Marine and Coastal Area (Takutai Moana) Bill.
12. Overcome the shortage of teachers fluent in te reo Māori and continue to develop Māori language programmes.
13. Continue to support Māori television.
14. Continue to work with whānau, iwi and Māori leaders to assess the causes of discrepancies in health conditions and identify culturally appropriate solutions.
15. Redouble efforts, in consultation with Māori leaders, to address the high rates of Māori imprisonment.
16. Continue support for Whānau Ora.
17. Focus on urban Māori when addressing Māori social and economic disadvantage.


*Protest against the Government's Foreshore and Seabed legislation. NZ Herald/Brett Phibbs*

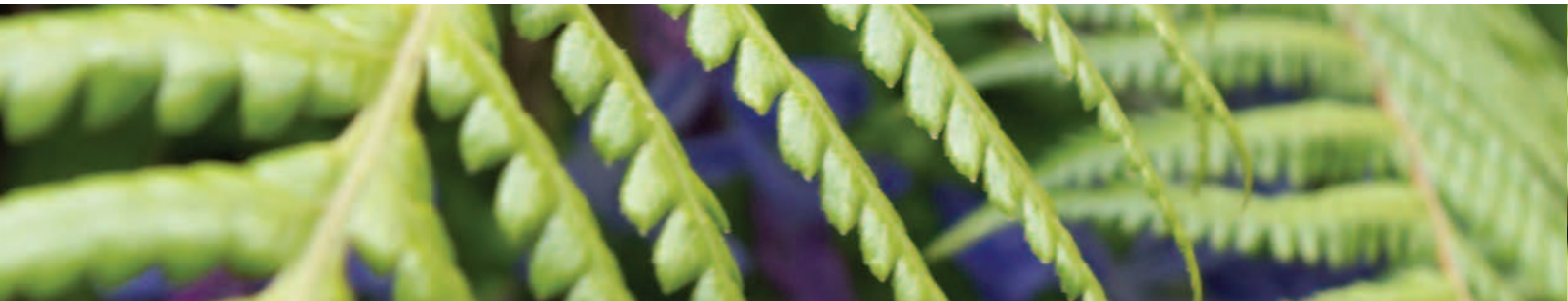
The Special Rapporteur formally presented his report to the United Nations Human Rights Council in September. The New Zealand Government and the Human Rights Commission welcomed his report with the Government noting it would continue to confront remaining challenges with a spirit of discourse and partnership. The Commission's statement drew particular attention to the social and economic inequalities highlighted in the report. The Commission referred to its ongoing work on structural discrimination, Māori representation in local government and the theme for Race Relations Day 2012, "a fair go for all".

## Marine and Coastal Area Act passed

The Marine and Coastal Area (Takutai Moana) Act 2011 was passed in March with a majority of 63 to 56.

The Bill spent five months before the Māori Affairs Select Committee, but few changes were made following this consideration.

The Act repealed the Foreshore and Seabed Act 2004 that provided for Crown ownership and extinguished Māori customary interests. The new Act replaced the previous regime with a non-ownership model. No one (including the Crown) owns, or can own, the common marine and coastal area. Land that is in private ownership or land that is owned by the Crown as a conservation area, national park and reserve, or wildlife management reserve, wildlife reserve, or wildlife sanctuary is excluded from the common marine and coastal area. The new regime restores and gives legal expression to customary interests. It establishes a scheme to ensure the protection of the



legitimate interests of all New Zealanders in the marine and coastal area.

The Act recognises and protects the exercise of existing lawful rights of New Zealanders, including free public access, navigation and fishing.

It also provides two pathways to recognise Māori customary interests. Iwi, hapū or whānau can apply to the High Court to have applications heard and determined, or they can seek recognition of their customary interests through agreement with the Crown.

Groups whose interests are recognised through "customary marine title" can exercise a range of rights. They can permit activities requiring a resource consent, some conservation activities, and can create a planning document for high level influence on the regulation of the relevant area by local government. Customary title provides for protection of wāhi tapū (sacred places), prima facie ownership of newly found taonga tūturu (objects that relate to Māori culture, history or society and which are more than 50 years old), and ownership of non-nationalised minerals (minerals excluding gold, silver, petroleum and uranium).

Groups whose interests are recognised through "protected customary rights" can gain recognition and protection for longstanding and continuing customary activities.

The Act recognises the universality of Māori interests by providing for a right to participate in conservation procedures, thus formalising existing best practice in coastal management.

## Constitutional review panel

In August, the Government announced appointments to the constitutional review panel. The terms of reference were first announced in December 2010. Issues to be considered include the size of Parliament, the length of the electoral term, Māori representation in central and local government, the role of the Treaty of Waitangi and whether New Zealand needs a written constitution.

The panel is an independent group that will lead public discussion and then report to the responsible ministers. Emeritus Professor John Burrows co-chairs the panel with Sir Tipene O'Regan of Ngāi Tahu. The other members are former Dunedin Mayor Peter Chin, journalist and former ACT MP Deborah Coddington, former Labour Deputy Prime Minister the Hon. Dr Michael Cullen, former National Minister of Māori Affairs the Hon. John Luxton, Samoan sportswoman and teacher Bernice Mene, Dr Leonie Pihama, Hinurewa Poutu, Professor Linda Smith, former New Plymouth Mayor Peter Tennent, and Emeritus Professor Ranginui Walker.

The panel's work began in 2011 with research and planning on how to engage with all New Zealanders about New Zealand's current constitutional arrangements. It will report to responsible ministers in September 2013, identifying areas of broad public consensus and where further work is required.

## Māori seats in local government

The question of whether to establish Māori seats on local councils was considered by 49 out of 78 councils around the country in 2011. Under the Local Electoral Amendment Act 2002, councils can vote to establish Māori seats (wards for District Councils, constituencies for Regional Councils). The council must do so by November 23, two years before the next local government elections. That is, by 23 November 2011 for the 2013 elections.

There were varying degrees of community engagement, consultation with Māori and controversy about whether to establish Māori seats. Some councils considered the option

without consulting Māori. Others engaged with their local Māori community and through established advisory boards. Some Māori communities supported the option of establishing Māori seats while others preferred alternative options. Waikato Regional Council and Nelson City Council resolved to establish Māori seats, and New Plymouth and Wairoa Councils resolved to have a poll on the issue at the next election.

Māori seats on council guarantee Māori will be represented in governance. Other options, such as statutory boards or advisory committees, also ensure Māori are engaged. Environment Bay of Plenty Regional Council is the only council in the country to have established Māori seats. Staff and councilors describe the seats as having strengthened how the council operates, allowing for more representation and engagement with the community.

When considering how to address the lack of Māori councilors on the Bay of Plenty Regional Council, the council commissioned a review into the question of establishing Māori seats. The council appointed Judge Peter Trapski to conduct hearings. In 1998, Judge Trapski issued his report. He reviewed arguments both for and against Māori seats and concluded in their favour. He quoted the Royal Commission on the Electoral System, which had described Māori seats in Parliament as a means through which "an important minority might reasonably expect to enjoy a just and equitable share of political power and influence in a decision-making system which is subject to the majority principle and over which the political parties hold sway". Judge Trapski concluded:

> **"Adoption of the proposal would deliver to Māori the same voting rights as others. Their electoral rights would be no greater than those afforded to any other voter in the Region … The proposal is in conformity with the delivery of the democratic process in New Zealand, and in conformity with New Zealand's constitutional principles."**

## Māori Economic Development Panel

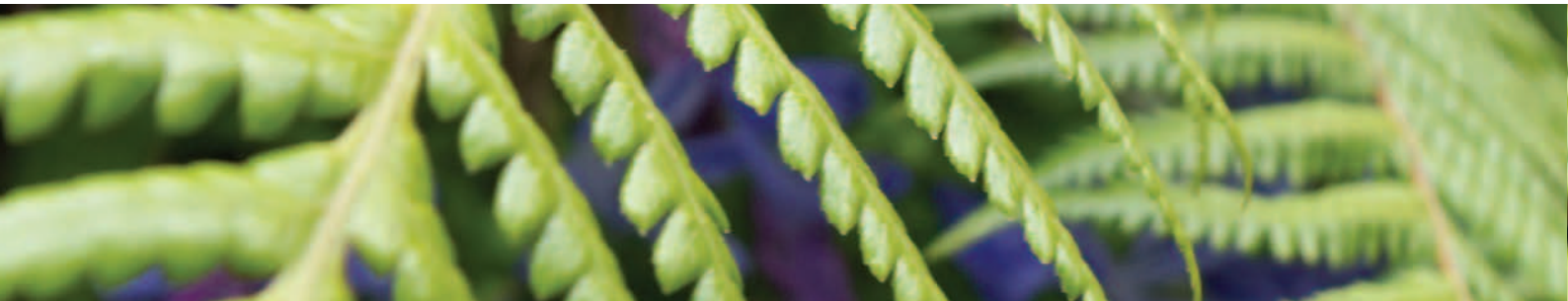
In May, the Minister of Māori Affairs and the Acting Minister for Economic Development announced their intention to establish an independent panel to develop a Māori economic development strategy and action plan. The panel was appointed in September and is tasked with reporting back to the two ministers by July 2012.

The strategy and action plan will focus on ways to improve the performance and productivity of the Māori economic sector and identify how the Government could support these aims. These will include questions on how to raise the rate of return on Māori-owned assets and improve infrastructure through collaboration amongst Māori, iwi stakeholders and the Crown.

## Māori Economic Taskforce

The Māori Economic Taskforce was established in 2009 out of the Māori Economic Summit hosted by the Minister of Māori Affairs. In May, another summit was held for the purpose of reviewing and reporting on progress against the three goals of the Taskforce. Progress is summarised here.

1. To support Māori through the economic recession.
   Projects under this goal include:
   - the Māra Kai project with 450 community gardening projects
   - training and job placement programme
   - the establishment of the National Māori Business Network (Kōtuitui Inc.) to enhance regional Māori business networks



# Waitangi Tribunal

- a group training programme which included five projects across key growth industries, supporting participants to achieve 1550 qualifications and secure 252 employment positions.

2. To position Māori for future strategic economic opportunities.

Projects under this goal included:

- exploring opportunities to develop a "Brand Māori" to promote the value of engaging with Māori business
- an Iwi Co Investment project, including wānanga and resource material about infrastructure opportunities, public and private partnerships, kaupapa Māori models for commercial collaboration and infrastructure investment preferences
- updated analysis of the Māori asset base. The taskforce commissioned research by BERL that culminated in a report estimating the value of the 2010 Māori economy as nearly $37 billion.

3. To promote kaupapa Māori and Māori structures as drivers of prosperity.

Projects under this goal included:

- the Māori Community Wellbeing study and He Oranga Hāpori project developed community wellbeing indicators
- a Māori delegation to China, led by the Minister of Māori Affairs, built connections with some of China's business leaders based on traditional Māori values such as whanaungatanga and manaakitanga.

The Waitangi Tribunal is an independent Commission of Inquiry, established by the Treaty of Waitangi Act 1975. It inquires into claims brought by Māori into acts and omissions by the Crown alleged to have breached the Treaty of Waitangi.

The deadline for lodging new claims relating to historical grievances (grievances suffered before 21 September 1992) was 1 September 2008. However, claims relating to contemporary grievances can still be lodged and historical claims can be amended.

In July, the Tribunal released its report on what it called the most complex and far-reaching claim it has inquired into, the Wai 262 claim concerning indigenous flora and fauna and Māori cultural intellectual property. It continued to progress other district inquiries and approved an urgent hearing of the Kōhanga Reo National Trust's claim.

## Reports published

Wai 262 report: *Ko Aotearoa Tēnei*

*Ko Aotearoa Tēnei: This is New Zealand* is the Tribunal's first whole-of-government report addressing the work of more than 20 government departments and agencies. It is also the first Tribunal report to consider what the Treaty relationship might become after historical grievances are settled, and how that relationship might be shaped by changes in New Zealand's demographic makeup over the next 30 to 40 years.

In its report, the Tribunal stated that as a result of historical settlements and the resulting tribal economic renewal, along with growth in the Māori population and other social changes, "New Zealand sits poised at a crossroads both in race relations and on our long quest for a mature sense of national identity".

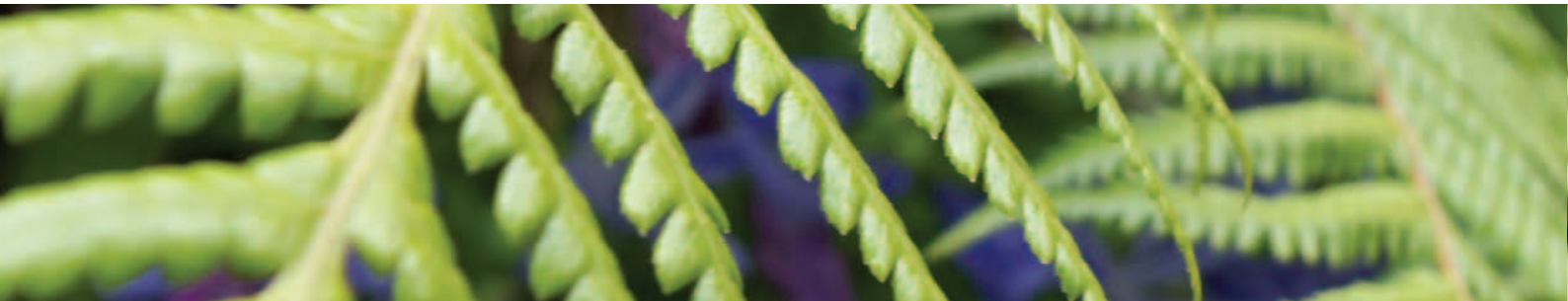
*Titirangi Primary School's senior kapa haka group/RawVision*

The Tribunal said the Treaty envisages the Crown-Māori relationship as a partnership, in which the Crown is entitled to govern but Māori retain tino rangatiratanga (full authority) over their taonga (treasures). This partnership framework provides the way forward for the Crown-Māori relationship.

In many respects current laws and government policies fall short of partnership, instead marginalising Māori and allowing others to control key aspects of Māori culture. This leads to a justified sense of grievance, and also limits the contribution Māori can make to national identity and to New Zealand's economy.

Current laws, for example, allow others to commercialise Māori artistic and cultural works such as haka and tā moko without iwi or hapū acknowledgement or consent. They allow scientific research and commercialisation of indigenous plant species that are vital to iwi or hapū identity without input from those iwi or hapū. They allow others to use traditional Māori knowledge without consent or acknowledgement. The laws provide little or no protection against offensive or derogatory uses of Māori artistic and cultural works.

These laws also sideline Māori and Māori cultural values from decisions of vital importance to their culture – for example, decisions about the flora, fauna and the wider environment that created Māori culture, and decisions about how education, culture and heritage agencies support the transmission of Māori culture and identity. Iwi and hapū are therefore unable



to fulfil their obligations as kaitiaki (cultural guardians) towards their taonga – yet these kaitiaki obligations are central to the survival of Māori culture.

*Ko Aotearoa Tēnei* makes a number of recommendations for the reform of laws, policies and practices relating to health, education, science, intellectual property, indigenous flora and fauna, resource management, conservation, the Māori language, arts and culture, heritage, and the involvement of Māori in the development of New Zealand's position on international instruments affecting indigenous rights.

Key recommendations include:

- The 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; and expanded roles for some existing bodies, including Te Taura Whiri (the Māori Language Commission), the newly established national rongoā (Māori traditional healing) body Te Paepae Matua mō te Rongoā, and Māori advisory bodies relating to patents and environmental protection.
- Improved support for rongoā Māori, te reo Māori, and other aspects of Māori culture and Māori traditional knowledge.
- Amendments to laws covering Māori language, resource management, wildlife, conservation, cultural artefacts, environmental protection, patents and plant varieties, and more.

Some criticised the Tribunal for not being bold enough in its report. Others appreciated the platform it provides for a longer conversation between the Crown and Māori. The Government has yet to respond to the report.

### Management of the petroleum resource

In March, the Tribunal released its final report on claims regarding the Crown's management of the petroleum resource.

The Tribunal found there are a number of systemic flaws in the operation of the current regime for managing the resource, with the result that decision-makers have tended to minimise Māori interests while elevating others. The Tribunal made a number of recommendations designed to enable Māori to be more effectively involved in decision-making processes.

## Progress in inquiries

### Urgent hearing of the Kōhanga Reo National Trust claim

In October, the Tribunal granted an urgent hearing in response to an application from the Kōhanga Reo National Trust. The Trust's application concerned the Early Childhood Education Taskforce's report of June and how the Government might respond.

The Trust's claim alleges that they have not been provided protection and autonomy by the Ministry of Education and are forced to fit within mainstream early childhood education frameworks. For example, Kōhanga Reo are required to employ qualified early childhood educators and funding is allocated on the basis of the number of qualified teachers. This conflicts with the qualifications devised by the Trust specifically to provide for the kaupapa of parents and whānau learning alongside children. The Trust also notes it has not been given sufficient priority in consultations with the Government and that their requests to participate in the research for the Taskforce report were ignored.

The hearing is scheduled to begin in March 2012.

### Te Paparahi o Te Raki (Northland) regional inquiry

The Te Raki inquiry includes around 370 registered claims brought mainly by Ngāpuhi, Ngāti Whātua, Ngāti Wai, Ngāti Hine, Patuharakeke, Ngāti Rehua and Ngāti Manuhiri claimants. It embraces a large area stretching from the Maungataniwha Range in the north down to North Shore in Auckland and bordering the Te Roroa and Kaipara inquiry districts to the west.

Major issues in the inquiry include:

- the immediate aftermath of the Treaty of Waitangi (in particular the Old Land Claims process 1841-43 and the Northern War 1844-46)
- the 1860s rūnanga system and the Crown's relationship with the Kotahitanga movements of the 1880s and 1890s
- the operation of the Native Land Court and the alienation of Māori land in the nineteenth and twentieth centuries
- the management of Māori land in the twentieth century
- waterways, environmental impacts, and public works takings.

Stage 1 of the inquiry focuses on Māori and Crown understandings of He Whakaputanga o te Rangatiratanga: the Declaration of Independence 1835 and Te Tiriti o Waitangi: the Treaty of Waitangi 1840. Hearings concluded in February and the Tribunal is writing its Stage 1 report.

In mid-2011, the Tribunal commenced the interlocutory phase of Stage 2 of the inquiry, which will focus on post-1840 claims. Claimants and Crown supported the Tribunal's proposal to begin, in mid-2012, with an initial round of hearings on generic big-picture issues shared by most claimants, followed by sub-regional hearings of local claim issues.

### The Te Rohe Pōtae (King Country) district inquiry

The Te Rohe Pōtae district inquiry encompasses more than 260 claims from Ngāti Maniapoto, Ngāti Hikairo, Tainui Awhiro, Ngāti Raukawa, and other iwi and hapū.

The inquiry district ranges from Whaingaroa – Raglan Harbour and the Puniu River in the north down close to Taumarunui in the south and eastwards towards the watershed with the Taupō district.

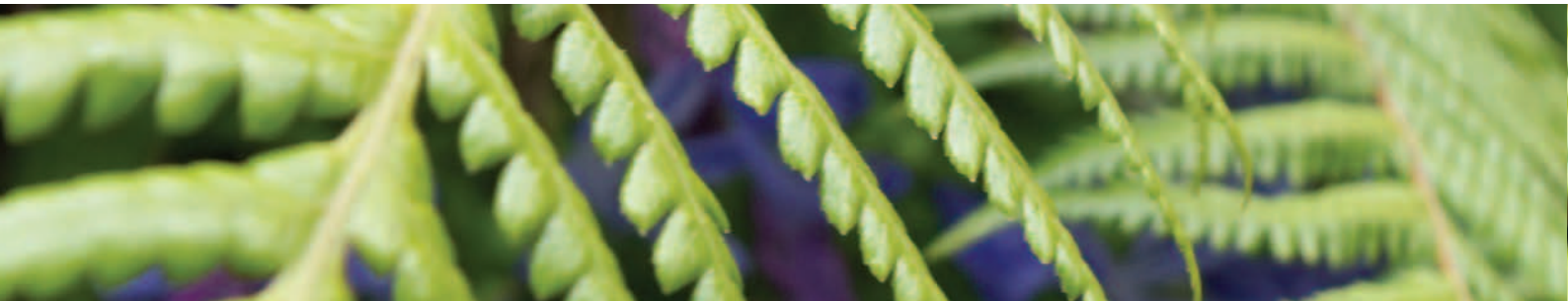
A large research programme was brought to completion in late 2012 and most of the technical evidence needed for the inquiry has now been filed. Participants in the inquiry are currently particularising the claims and identifying and refining the issues on which the hearings will focus. The Tribunal's statement of issues, which details the key issues in contention between claimants and the Crown, is due in May 2012 with hearings set to begin in August 2012.

### The Te Urewera district inquiry

Most of the claims in the Te Urewera inquiry are from Ngāi Tūhoe. Other claimant communities involved include Ngāti Whare, Ngāti Manawa, Ngāti Ruapani, Ngāti Haka Patuheuheu and Ngāti Kahungunu.

The main issues range from the military conflict of the 1860s and the ensuing raupatu; the political relationship between the Crown and Urewera Māori; land administration and alienation, including the Urewera District Native Reserve Act, Crown purchasing, and the Urewera consolidation scheme; the creation of the Urewera National Park; to environmental and socioeconomic issues.

The Tribunal is preparing its report, the first part of which was released in April 2009 and the second in August 2010. The third part is due for release in early 2012. Further parts will follow thereafter.



### Porirua ki Manawatū district inquiry

The Porirua ki Manawatū district covers the Rangitīkei, Manawatū, Horowhenua, and Kāpiti areas as far as Porirua. Several iwi, principally Ngāti Apa, Rangitāne ki Manawatū, and Ngāti Toa Rangatira, are negotiating or have settled their claims in this region directly with the Crown. Those participating in the Tribunal inquiry include Muaūpoko, Ngāti Raukawa, Ngāti Kauwhata, Te Ati Awa/ Ngāti Awa, and other iwi/hapū with claims arising within the inquiry area.

Over the past year the Tribunal has engaged in extensive consultations with the participating claimants on inquiry goals, process and evidential research. The research phase is expected to commence in the first half of 2012.

### The Taihape district inquiry

The Taihape district area stretches from the Ruahine, Kaweka and Kaimanawa ranges to the east and north to the Mangapapa and Hautapu Rivers in the west and the Oroua River in the south. The inquiry includes more than 30 claims from Ngāti Hauiti, Ngāti Tamakōpiri, Ngāti Whitikaupeka, Ngāi Te Ohuake, Ngāti Paki, Ngāti Hinemanu, and other iwi and hapū.

The inquiry is being prepared for hearing. During 2011, the Tribunal completed its consultations with the parties on evidential requirements and confirmed a casebook research programme, which is currently being implemented.

### East Coast district inquiry

The East Coast inquiry comprises numerous claims from Ngāti Porou and a number of other iwi and hapū, including Uepohatu, Ruawaipu, Te Aitanga-a-Hauiti and Te Whānau-ā -Apanui. The inquiry covers an area from Gisborne to just south of Cape Runaway in the north, and inland to the Raukumara Range and the Waipaoa River. In early 2011, following the signing of a deed of settlement between the Crown and Ngāti Porou that included most of the claims in the district, the Tribunal deferred its inquiry indefinitely.

### Tongariro National Park district inquiry

The National Park inquiry comprises approximately 40 claims from Ngāti Tūwharetoa, Ngāti Hikairo, Ngāti Rangi, Ngāti Haua, and several other iwi and hapū. It covers an area slightly larger than the Tongariro National Park, including the mountains Tongariro, Ruapehu, and Ngāuruhoe. The main issues include: the operation of the Native Land Court in the district; the alleged "gift" of the mountain peaks by Tūwharetoa paramount chief Te Heuheu Tūkino in 1887; the management of the national park; and the Tongariro Power Development scheme.

During the year, the Tribunal has been preparing its report, which it expects to release by mid-2012.

### The Whanganui district inquiry

The Whanganui inquiry encompasses over 70 claims from Whanganui iwi and hapū. The inquiry district includes the Whanganui river and all its tributaries, including the townships of Whanganui, Raetihi, Ōhakune and Taumarunui.

Claims relate to the early purchase of Whanganui lands by the New Zealand Company; the Native Land Court and Crown purchasing of Māori land in the 19th and early 20th centuries; the vesting and management of land in the 20th century; takings for public works, particularly for scenery preservation; the foundation of the Whanganui National Park; the main trunk railway line; the creation and management of native townships; and issues of authority and kaitiakitanga of the environment.

# Treaty settlements

The Tribunal has stated its intention to complete its report before negotiations with the Crown commence for the settlement of the land claims – negotiations on the river claims will be conducted separately. During 2011, the Tribunal consulted the claimants further on the issues to which they wish the Tribunal to give priority, as a result of which it has confirmed nine core issues that will be covered in its report. The Tribunal expects to release its report by mid-2013.

### The Mangatū remedies inquiry

Following the Supreme Court's judgment in *Haronga v Waitangi Tribunal*[1], the Tribunal resumed the Tūranga/Gisborne district inquiry and reconstituted the inquiry panel to hear an application for remedies in respect of Crown forest land acquired by the Crown from the Mangatū Incorporation in 1961-1962. The Tribunal is conducting an interlocutory process to establish the scope of the inquiry and the issues to be heard.

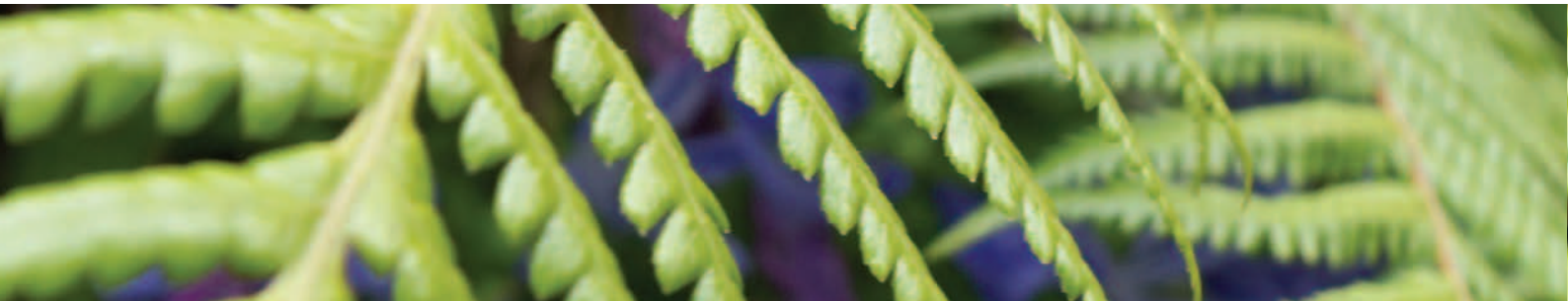
The Government and Māori have continued to progress negotiations to settle claims about historical Treaty of Waitangi grievances. The Government continues its commitment to settle all historical Treaty claims in a timely manner.

A Treaty settlement is an agreement negotiated between the Crown and a Māori claimant group. It settles all historical breaches of the Treaty of Waitangi suffered by the Māori claimant group (that is, grievances suffered before 1992). It usually includes financial and cultural redress, commercial redress, an agreed historical account, apology and acknowledgements. The process for negotiations proceeds from the Māori group's negotiators having a deed of mandate recognised by the Crown; terms of negotiations signed; an agreement in principle setting out major elements of the redress package; the deed of settlement sets out the full terms of the settlement and is a legally binding document between the iwi and the Crown; the settlement is then implemented through legislation.

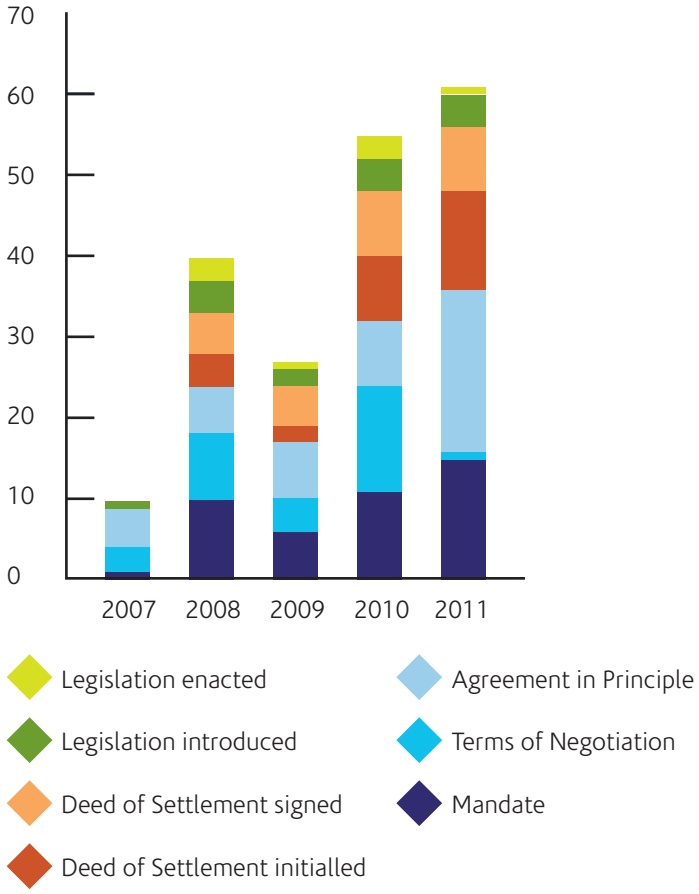
Good progress has been made this year with Treaty settlements, in particular through the entrenchment of the regional approach to progressing negotiations and resolving overlapping claims. The regional approach proved efficient and has sped up the negotiations process in Muriwhenua, Tāmaki Makaurau, Hauraki and northern Hawke's Bay, amongst others.

Although a significant number of milestones were achieved in 2011, several issues make the aspirational goal of settling all Treaty settlement claims by 2014 more challenging.

1 [2011] NZSC 53



## Treaty settlement milestones achieved




In July, the Supreme Court directed the Waitangi Tribunal to urgently inquire into the claim of the owners of the Mangatū Incorporation, asking the Tribunal to use its binding powers to recommend the return of the forest to Māori ownership. Since the Supreme Court ruling, more claimants (individuals, hapū, iwi, and Māori entities) have sought inquiries by the Waitangi Tribunal into their claims relating to Crown forest licensed land. Depending on the outcome of the urgent inquiry into the claims of the Mangatū Incorporation, further claimants may decide to appeal to the Waitangi Tribunal to seek similar rulings.

This has the potential to significantly lengthen the Treaty settlement process.

The Wakatu Incorporation is seeking remedies from the Crown in a High Court action, on the ground the Crown failed in its duty to the original owners of the Tenths Reserves in the Nelson region and their descendants. The High Court proceedings with the Wakatu Incorporation has delayed negotiations with four iwi in the top of the South Island, preventing them from signing a Deed of Settlement with the Crown. The outcome of this action may have considerable ramifications for Treaty settlement policy generally.

The Crown's more flexible approach to the large natural groups' policy and mandating has the potential to increase the number of settlements. For example, in the Hauraki region the Crown has now formally recognised 12 deeds of mandate, which includes some comparatively small groups. The Crown is currently negotiating a comprehensive settlement with the Hauraki Collective (which is made up of representatives from each of the 12 iwi), but is also seeking to recognise the individual interests of each of the iwi in the single settlement. Should this approach be unsuccessful, it is likely to increase the number of individual settlements required in the region. This may further delay the Crown's goal of settling all Treaty settlement claims by 2014

In July, the Government held its third annual Te Kōkiri Ngātahi (Moving Forward Together) hui in Wellington. The theme of the hui was sharing ideas and experiences to gain a better understanding of the Treaty settlement process.

In early 2011, the Minister for Treaty of Waitangi Negotiations made a submission to the Review of Standing Orders to consider ways to expedite the passage of Treaty settlement legislation. As a result, in the next

parliamentary term (50th) the House will have the option of extended sitting hours and the option to progress bills as cognate (Parliament considering bills concurrently). These measures are intended to address the increased volume of Treaty settlement legislation. For example, in 2012, it is estimated that there will be 15-20 Treaty settlement bills ready for introduction.

The next section outlines some of the highlights of historical Treaty settlements in 2011. It does not cover every milestone achieved.

### Bills introduced for Maniapoto, Ngāti Porou and Ngāti Pāhauwera

In April, the initial readings of three Treaty settlement bills were combined in Parliament for the first time. Dealing with Treaty bills as cognate is one example of how existing Parliamentary mechanisms can be used to progress Treaty settlement legislation more efficiently.

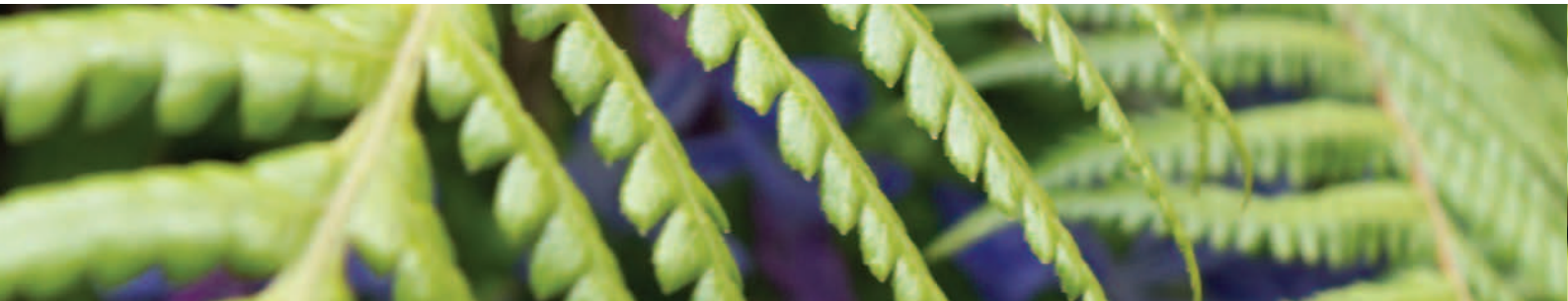
- The Ngā Wai o Maniapoto (Waipā River) Bill extends the co-governance framework over the Waikato and Waipā rivers established by the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 to the Upper Waipā River. It allows Ngāti Maniapoto to participate in co-governance with the Waikato River Authority. The bill gives effect to a co-management deed signed between the Crown and iwi in November last year. Ngāti Maniapoto has around 31,000 members.
- The Deed of Settlement of Historical Claims of Ngāti Porou, and the associated Ngāti Porou Treaty Claims Settlement Bill, settle all the historical claims of Ngāti Porou. The settlement includes financial and cultural redress of $110 million and the return of sites of high cultural significance to Ngāti Porou totalling approximately 5898 hectares. It also provides Ngāti Porou with input into the strategic governance of specific conservation sites and relationship agreements designed to facilitate good working relationships between specific Crown agencies and Ngāti Porou. Ngāti Porou has around 72,000 members.
- The Deed of Settlement with Ngāti Pāhauwera, and the associated Ngāti Pāhauwera Treaty Claims Settlement Bill, settles all the historical claims of the confederation of hapū known as Ngāti Pāhauwera.The redress package includes a Crown apology, financial redress of $20 million and cultural redress involving 16 sites totalling approximately 1087 hectares to be vested in Ngāti Pāhauwera, subject to specific conditions including protection of public access. The settlement also provides that the Crown and Ngāti Pāhauwera establish a committee with the Regional Council providing governance level contribution to regional planning. As part of the settlement, a co-governance charter with the Department of Conservation will apply within the Ngāti Pāhauwera core area of interest.

### Bill introduced for Ngāti Mākino

The Deed of Settlement with Ngāti Mākino and the associated Ngāti Mākino Claims Settlement Bill settle all the historical claims of Ngāti Mākino. The Bill was introduced into Parliament in October.

### Other bills

A number of Treaty settlement bills introduced in Parliament did not progress through Parliament in 2011 (for instance, the Ngāti Manawa and Ngāti Whare settlement bill was introduced in 2010 and did not progress past Select Committee report back). The legislative backlog is delaying the transfer of assets to iwi and in some cases has triggered on-account payments to iwi, in recognition of the delay in the legislative process.



With more Deeds of Settlement anticipated to be signed by 2014, there is an even greater risk of major delays in the legislative programme in the next few years, which will prevent iwi from accessing Treaty settlement assets. Only one Treaty settlement bill was enacted this year. The Whanganui Iwi (Whanganui (Kaitoke) Prison and Northern Part of Whanganui Forest) On-Account Settlement Act 2011 was passed in July.

## Signed Deeds of Settlement

### Ngāti Whātua o Kaipara

The Crown and Ngāti Whātua o Kaipara signed a Deed of Settlement in September.

These claims relate to the loss of their land which had devastating consequences on their social, cultural, spiritual and physical wellbeing with the consequences still felt today.

Components of the settlement include commercial and financial redress worth $22.1 million, including the transfer of Woodhill Forest. Cultural redress includes the return of the Ngāti Whatua o Kaipara ancestral mountain, Atuanui: Mount Auckland and eight other significant sites.

### Ngāti Whātua o Ōrākei

In November, the Crown and Ngāti Whātua o Ōrākei signed a Deed of Settlement. Like Ngāti Whātua o Kaipara, Ngāti Whatua o Ōrākei lost virtually all their land as a result of the past actions of the Crown.

Ngāti Whātua o Ōrākei will receive financial and commercial redress worth $18 million, which includes $2 million already received by Ngāti Whātua o Ōrākei as redress for the 1993 Railways settlement, and the return of the culturally significant site, Purewa Creek Conservation Area. Public access will not be affected.

### Waitaha

In September, the Crown and Waitaha, a Bay of Plenty iwi, signed a Deed of Settlement.

Redress includes financial and commercial redress worth $11.8 million and the return of culturally significant sites, funding for marae restoration and revitalisation, social service development and an educational endowment fund in the name of Hakaraia Mahika, a spiritual leader of Waitaha who was pursued to his death by the Crown.

### Ngāti Mākino

The Crown and Ngāti Mākino signed a Deed of Settlement in April.

The claims of Ngāti Mākino cover the Bay of Plenty region from Lakes Rotoiti and Rotomā to the coast. They relate to the New Zealand Wars and the Bay of Plenty confiscation, the operation and impact of the native land laws, the Crown's land purchasing techniques and twentieth century issues of public works and scenic reserve takings.

The Deed of Settlement sets out commercial redress worth $11.9 million and includes the return of culturally significant sites, recognition of the importance of other sites to Ngāti Mākino, marae restoration and revitalisation and social service development.

### Ngāti Manuhiri

Ngāti Manuhiri, a hapū of Ngāti Wai, signed a Deed of Settlement in May. The claims of Ngāti Manuhiri relate to the loss of land and the actions of the Crown, covering the eastern coastline of North Auckland from Bream Tail in the north to Whangaparāoa in the south and includes Te Hauturu-o-Toi: Little Barrier Island Nature Reserve.

The settlement includes commercial and financial redress worth $9 million and the return of six culturally

significant sites including 1.2 hectares on Te Hauturu-o-Toi: Little Barrier Island. Te Hauturu-o-Toi is of high cultural significance for Ngāti Manuhiri and was a permanent home for them until 1896 when the Crown passed legislation to compulsorily acquire the island, forcibly evicting the owners.

On settlement Te Hauturu-o-Toi: Little Barrier Island Nature Reserve will be vested in Ngāti Manuhiri who will then gift it back to the people of New Zealand, retaining 1.2 hectares for cultural purposes. The island's status as a nature reserve will continue.

### Rongowhakaata

Rongowhakaata (including Ngā Uri o Te Kooti Rikirangi), one of the three Tūranga iwi, signed a Deed of Settlement with the Crown in September.

The settlement includes a Crown apology for its role in the war in Tūranga in the 1860s, as well as the summary execution of prisoners at Ngatapa in 1869, the imprisonment of a number of Rongowhakaata on the Chatham Islands, the operation of the Poverty Bay Commission and the Native Land Court and the confiscation of large areas of Rongowhakaata land.

The settlement will vest the original parts of Te Hau ki Tūranga, a whare whakairo (meeting house) currently on display at Te Papa, in Rongowhakaata on settlement date. Te Hau ki Tūranga is an elaborately carved whare whakairo built in the 1840s which was confiscated by the Crown in 1867.

The redress package includes financial redress of $22 million plus accrued interest, the return of several Crown-owned properties in the Gisborne region, an apology, acknowledgements and an historical account relating specifically to Ngā Uri o Te Koori Rikirangi and an apology and acknowledgements relating to Te Hau ki Tūranga.

## Agreements in principle

### Maungaharuru Tangitu Hapū

In September, the Crown signed an agreement in principle with the Maungaharuru Tangitu hapū of the Hawke's Bay. The Maungaharuru Tangitu hapū were subjected to extensive land confiscations in the Mōhaka/Waikare area and were wrongfully detained following military engagement with the Crown.

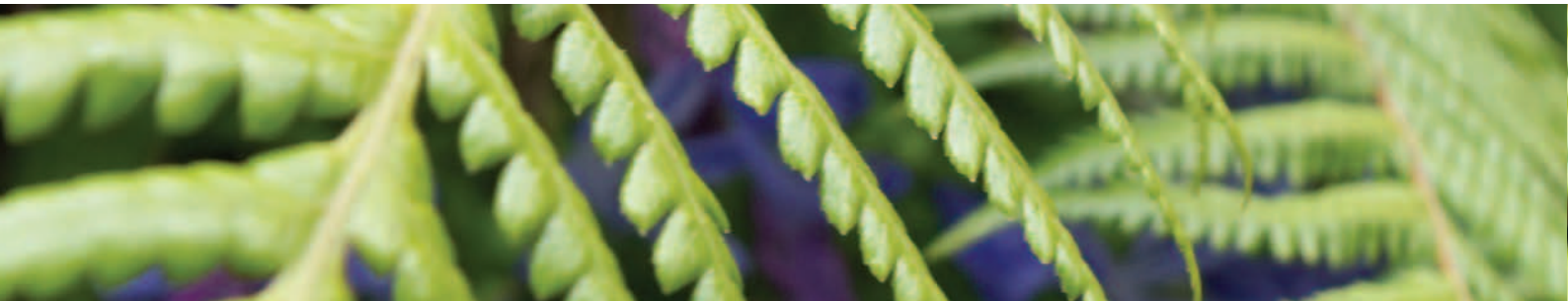
The redress package includes financial redress of $23 million plus interest and the cultural redress including part of Opouahi Station, recognising the cultural importance of the Maungaharuru range and Tutira areas.

### Ngāti Rangiwewehi and Tapuika

In June the Crown signed agreements in principle with Ngāti Rangiwewehi and Tapuika, two Bay of Plenty iwi. The Ngāti Rangiwewehi and Tapuika agreements include a total amount of $6 million each. The agreements also include cultural redress and the right to purchase Crown-owned properties. As part of the cultural redress, the Crown will vest the Hamurana Springs Recreational Reserve in Ngāti Rangiwewehi. Tapuika will receive 13 cultural sites totaling approximately 182 hectares, including Pokopoko Stream Scenic Reserve, subject to conditions including the protection of public access.

### Ngāti Rangiteaorere

In October, the Crown signed an agreement in principle with Ngāti Rangiteaorere, a small iwi situated on the Eastern shores of Lake Rotorua. The agreement includes financial redress of $750,000 and the vesting of part of the Lake Okataina Scenic Reserve to the iwi, subject to scenic reserve status and the Western Okataina Walkway.



### Ngāti Rēhua-Ngāti Wai ki Aōtea

Ngāti Rēhua-Ngāti Wai ki Aōtea (Ngāti Rēhua) signed an Agreement in Principle with the Crown in June. Ngāti Rēhua is a hapū of Ngāti Wai based on Aōtea: Great Barrier Island.

The agreement includes financial redress of $4.6 million and cultural redress including the transfer of part of Hirakimatā: Mt Hobson and Ōkiwi Recreation Reserve on Aōtea: Great Barrier Island, transfer and gift back of the Mokohinau Islands Scenic and Nature Reserve and vesting of sites of significance within Rakitū Island Scenic Reserve.

A settlement with Ngāti Rēhua is part of a proposal developed by Sir Douglas Graham for the settlement of claims in the Tāmaki Makaurau region. Ngāti Rēhua have been in negotiations with the Crown since June 2009.

### Ngāi Tai ki Tāmaki

Ngāi Tai ki Tāmaki signed an Agreement in Principle with the Crown in November. Ngāi Tai ki Tāmaki are an iwi/hapū with affiliations to both Waikato-Tainui and Hauraki and will also receive redress through settlements with the Tāmaki and Hauraki Collectives in respect of their shared interests in Tāmaki Makaurau (Auckland) and Hauraki.

The agreement includes financial redress of $11.5 million and cultural redress over sites on the Hauraki Gulf islands, Te Naupata: Musick Point, along the Tāmaki Makaurau coastline and in Clevedon.

A settlement with Ngāi Tai ki Tāmaki is part of a proposal developed by Sir Douglas Graham for the settlement of claims in the Tāmaki Makaurau region. Ngāi Tai ki Tāmaki signed terms of negotiations with the Crown in June.

### Terms of negotiation and deeds of mandate

The Crown recognised the mandates of 15 individual groups to negotiate on behalf of their people including the 12 groups making up the Hauraki Collective, Te Tira Whakaemi o Te Wairoa, Te Akitai Waiohua, Rangitaane o Wairarapa and Ngāti Tuwharetoa.

In 2011, the Crown signed terms to enter negotiation with Ngāti Te Ata, with several more groups anticipated to sign in early 2012.

# Aquaculture

## Aquaculture legislative reform

Changes to the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, the Fisheries Act 1996, the Māori Commercial Aquaculture Claims Settlement Act 2004 and the Resource Management Act 1991 came into effect in October. The reforms were intended to reduce costs, delays and uncertainty; promote investment in aquaculture development; and promote integrated decision-making. Changes give effect to the requirements for marine farming consent applications, applications for regional coastal plans and managing space in the coastal marine area.

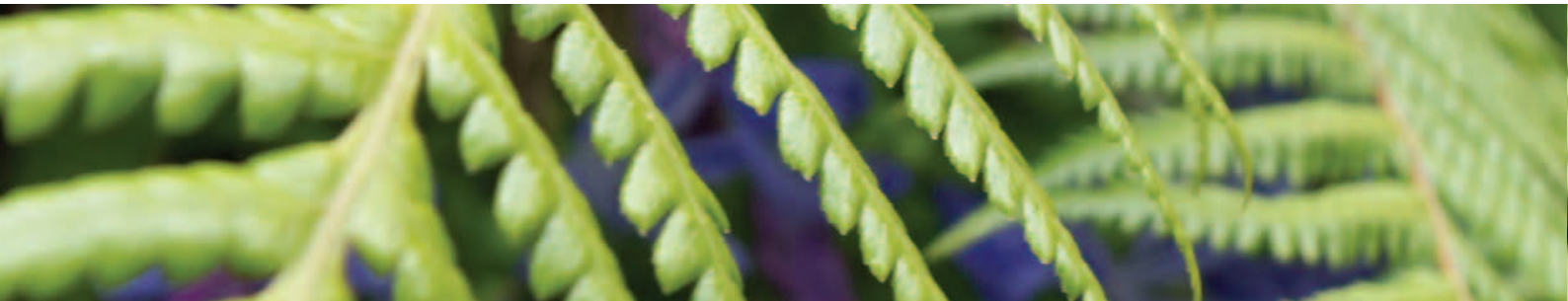
Reform of the Māori Commercial Aquaculture Claims Settlement 2004 provides for the full and final settlement of contemporary Māori claims to commercial aquaculture. The Settlement Act was developed in parallel with the 2004 aquaculture law and provided for claims to be settled by allocating authorisations for 20 per cent of aquaculture management areas to iwi. The legislative reforms remove the requirement for Aquaculture Management Areas to be established before new space can be applied for. A new delivery mechanism for the settlement has been established.

Features of the settlement mechanism under the legislative reforms:

- the Crown is responsible for delivering the settlement. The 20 per cent obligation established in the Settlement Act remains unchanged
- the settlement will be delivered on a regional basis, through agreements between the Crown and iwi
- through the regional agreement process deliverables for the settlement may include space, cash, or anything else agreed to
- the agreed deliverables will be transferred to Te Ohu Kai Moana Trustee Limited for allocation to iwi.

### Pre-commencement space settlement

Since 2010, approximately 98 per cent of all pre-commencement space settlements have been delivered to iwi aquaculture organisations. The remaining pre-commencement settlement negotiations are occurring for Northland and the Bay of Plenty, and all other outstanding obligations are expected to be concluded in 2012. The total value of pre-commencement space settlements is estimated to be approximately $105 million.



# Fisheries

Te Ohu Kaimoana, the Māori Fisheries Trust, holds fisheries assets secured by Māori through an agreement with the Crown. It manages their transfer to iwi to settle Māori claims to commercial fishing under the Māori Fisheries Act 2004. Te Ohu Kaimoana has a goal to transfer all assets to iwi by 2012.

There are 57 iwi recognised in the Māori Fisheries Act 2004. When a recognised iwi organisation has met the governance criteria set out in the Act, it is entitled to receive fisheries assets as the mandated iwi organisation for that iwi. These organisations are responsible for the management of assets allocated to each iwi. The assets consist of cash, quota and shares in Aotearoa Fisheries Limited, and are based on the population of iwi and the length of the coastline concerned. Fifty three recognised iwi organisations have now been mandated, leaving four iwi yet to be mandated. More than 80 per cent of Fisheries Settlement assets, equaling more than $510 million, have been allocated to iwi.

During 2011, a number of South Island mandated iwi organisations completed harbour and coastline agreements and/or received coastline and harbour asset entitlements. This included Te Atiawa (Te Tau Ihu), Ngāti Rarua, Ngāti Tama (Te Tau Ihu), Ngāti Apa (South Island), Ngāti Kuia, and Ngāti Koata.

Further progress in the transfer of fisheries assets is dependent on the remaining four iwi gaining mandated status. Progression plans are in place for two of the four.

## Protection of significant sites

Taiāpure-local fisheries and mātaitai reserves protect significant sites for Māori. A mātaitai reserve is an identified traditional fishing ground, established for the purpose of non-commercial customary food gathering.

Local iwi representatives – known as tangata kaitiaki/tiaki – act as guardians or managers of these reserves. In a mātaitai reserve all commercial fishing is banned; in a taiāpure-local fishery the fishing rules for the wider area remain unchanged. Taiāpure have management committees that can recommend regulations to the Minister of Fisheries and Aquaculture for managing fisheries resources.

Twenty four mātaitai reserves have been established to date. Seven came into effect in 2011, two in North Island waters and five in South Island waters. One application to establish a mātaitai reserve in the Bay of Plenty (North Island) was received in 2011.

Eight taiāpure have been established to date. No new taiāpure were established in 2011. An application to establish a taiapure at the southern end of Te Wakatehaua (90 Mile Beach) proceeded through stages of the statutory process before the Māori Land Court in 2011.

# Other developments

## Post-Treaty settlements website launched

Potentially, the signalled 2014 end of the historical Treaty settlements process ushers in a new era in Crown-Māori relations. Posttreatysettlements.org.nz is a website working to stimulate and inform debate about what these new relationships will look like. It does this through a series of papers with perspectives on five issues, with space for people to comment and discuss the ideas raised.

1. How will the Treaty relationship be conceived in 50 years time given changing demographics and the lasting effects of the current historical settlements?
2. What will be the implications of New Zealand support for the UN Declaration on the Rights of Indigenous Peoples?
3. Should there be separate Māori representation (seats) in Parliament and on local authorities alongside other consultative mechanisms?
4. Are iwi in the "post-settlement environment" on an equal footing after their Treaty settlements, in terms of the types of redress that were on the table and the adherence to relativities at the time of their negotiations? Are settlements "fair and durable"?
5. How will iwi/Crown co-management of resources play out? Are there potential conflicts of interest in iwi being managers, guardians and also developers? And how different is this to the Crown being in all three roles?

The website is a joint venture between the Institute of Policy Studies and Māori Studies (Te Kawa a Māui) at Victoria University. It is supported by a grant from the Emerging Issues Fund.

## Waitangi Day Fund

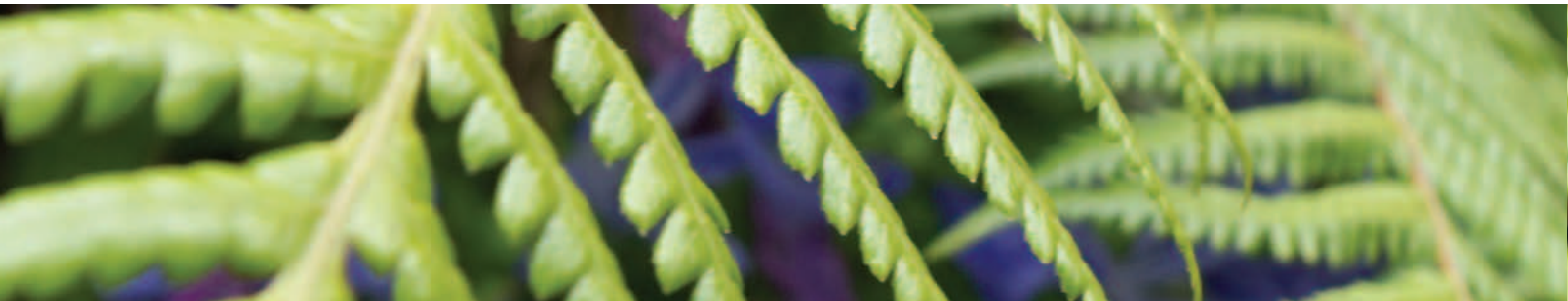
The Ministry for Culture and Heritage's Commemorating Waitangi Day Fund supports events commemorating the signing of the Treaty of Waitangi and promoting nation and community building. For 2012, the Ministry has approved 55 grants ranging from $500 to over $96,000. The fund aims to encourage a wider mix of communities to take part in Waitangi Day events. Events funded in 2012 include: commemorations at Waitangi; Auckland Deaf Society will host training for Deaf New Zealanders about the Treaty and implications for Deaf culture; the Waikato branch of the New Zealand Russian Friendship Society will host a concert for the local community; and Kaiapoi Community Board will host a re-enactment of the signing with kapa haka, food stalls, music and a parade.

## Character, mana and reputation of Mokomoko restored

In October, the Mokomoko Pardon (Restoration of Character, Mana and Reputation) Bill was introduced into the House.

The bill provides for the statutory recognition of the pardon provided to Te Whakatōhea rangatira Mokomoko in 1992 for his alleged involvement in the murder of Reverend Carl Volkner in 1865. The pardon deems that Mokomoko never committed the offence, for which he was ultimately convicted and executed. The three co-accused with Mokomoko received a statutory pardon through the Te Rūnanga o Ngāti Awa establishment legislation in 1988. The Mokomoko Pardon Bill is an important part of the healing process for te whānau a Mokomoko, as the pardon he received will now be recognised in statute. Through the bill the Crown has expressed its regret for the suffering of the whānau and has expressly sought to restore his character, mana and reputation. The content of the bill was agreed with the whānau before its introduction.

The Agreement to Introduce Legislation to Give Statutory Recognition to the Mokomoko Pardon was signed by the Minister of Māori Affairs and te whānau a Mokomoko Leadership Group at Waiaua Marae in September. Over 100 members of the whānau were present.



# Public awareness

Self-reported knowledge of the Treaty of Waitangi, human rights and indigenous rights increased significantly in 2011, according to a poll by UMR Research. However, slightly fewer people than last year agreed the Treaty is New Zealand's founding document, that the Treaty is for all New Zealanders, or that the Treaty relationship is healthy.

In the poll conducted by UMR Research for the Human Rights Commission, almost half (49%) of respondents said they had good knowledge of the Treaty of Waitangi. Half felt they had good knowledge of human rights and 36 per cent said they had good knowledge of indigenous rights. The results are the highest since the questions were first asked, in 2007, and up seven to ten per cent from the previous year.

A significant proportion of all respondents continued to rate the Crown/Māori relationship as needing improvement: 48 per cent of Māori respondents and 36 per cent of all respondents.

Overall, up to five per cent fewer people than in 2010 agreed the Treaty is New Zealand's founding document (55%); that the Treaty is for all New Zealanders (50%) or that the Treaty relationship is healthy (25%). The trend for these responses has stayed fairly level since 2007, only moving up to two per cent overall.

UMR polled 750 New Zealanders nationwide between 25 and 29 November. The poll has a margin of error of 3.6 per cent. The research has been conducted since 2000 and the same questions asked since 2007.

Around 4000 Year 9 students were surveyed by the Ministry of Education about their attitudes towards New Zealand and its key institutions as part of the International Civic and Citizenship Education Study. Students who took part in the survey were also quizzed about their views on the Treaty. Two thirds said it held personal importance for them. While 84 per cent of Māori students agreed, or strongly agreed, that the Treaty was personally important, among Pasifika students it was 75 per cent, among Pākehā/European students (60%) and Asian students (53%).

Human Rights
Commission
*Te Kāhui Tika Tangata*