



Human Rights  
Commission

*Te Kāhui Tika Tangata*



# Te Tiriti o Waitangi

## Treaty of Waitangi

2010 in review

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Cover image: People gather on the treaty grounds at Waitangi, 6 February. Credit: G. Bowker, NZ Herald.

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This chapter comes from *Tūi Tūi Tuituiā – Race Relations in 2010*, the annual review of race relations in New Zealand published by the Human Rights Commission.

It reviews developments in relation to the Treaty of Waitangi and is released in advance of the full review to promote discussion on the treaty for Waitangi Day. Other sections of the annual review cover New Zealand and the United Nations; action on diversity; racial discrimination and harassment; migration and settlement; inequalities in civil, political, economic and social rights; religious diversity; language; the media; and diversity research in New Zealand. *Tūi Tūi Tuituiā – Race Relations in 2010* will be published in the lead-up to Race Relations Day, 21 March, 2011.

# Human rights and the treaty

## What happened in 2010?

- The Human Rights Commission reviewed the status of human rights and the treaty.
- The Government expressed its support for the United Nations Declaration on the Rights of Indigenous Peoples.
- The United Nations Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, visited New Zealand.
- The Government established a constitutional review process.
- The Marine and Coastal Area (Takutai Moana) Bill was introduced into Parliament.
- A Māori Advisory Board was established by the Local Government (Auckland Council) Amendment Act.
- The Waitangi Tribunal registered its 2310th claim; released its final reports into both the Wairarapa ki Tararua and Tauranga district inquiries; released pre-publication reports on aspects of the Te Urewera, Indigenous Flora and Fauna and Cultural Intellectual Property, and Petroleum inquiries; and released an urgent report on the East Coast settlement process.
- A third Crown-iwi Kōkiri Ngātahi hui was held to discuss how best to achieve the 2014 treaty settlement goal.
- Twelve deeds of mandate were recognised by the Crown for the negotiation of historical treaty settlements and 13 terms of negotiation and five agreements in principle were signed. Eight deeds of settlement were initialled and eight deeds of settlement were also signed. Legislation was enacted for three treaty settlements. Progress in achieving treaty settlement milestones exceeded previous years.
- Legislation was passed to give effect to a \$97 million aquaculture settlement with South Island and Coromandel iwi
- Three more iwi recognised under the Māori Fisheries Act gained mandated iwi organisation (MIO) status, enabling them to receive their allocation of fisheries settlement assets. Only four iwi are yet to set up their MIOs.
- Nine applications for mātaihai customary fishing reserves were approved by the Minister of Fisheries.
- Aotearoa Fisheries Limited issued its first dividend to iwi shareholders of \$9.4 million.
- An institute was established to share experiences and expertise with iwi moving into post settlement mode.
- The first 14 Māori cadets graduated from the Department of Conservation's Tauria Kaitiaki Taiao training programme.
- Te Whare Wānanga o Awanuiārangi received a settlement of \$14 million for claims of insufficient funding first made through the Waitangi Tribunal.
- The preferred national Māori flag was flown for the first time from the Auckland Harbour Bridge and some government buildings on Waitangi Day 2010.
- A public opinion survey found the number of New Zealanders who had a good understanding of the treaty fell slightly, from 41 per cent to 39 per cent. However, 60 per cent of people polled viewed the treaty as New Zealand's founding document.

## Human Rights in New Zealand 2010: Treaty of Waitangi

The Human Rights Commission's five yearly review of human rights, *Human Rights in New Zealand 2010 – Ngā Tika Tangata o Aotearoa*, was published in December. One chapter assessed the status of human rights and the Treaty of Waitangi. In summary, it said:

“The status of human rights and the treaty in New Zealand today is mixed. There are legislative mechanisms in place to protect the principles of the treaty and the rights of Māori as indigenous people. In practice, the level of recognition and

protection varies. There has been significant progress in hearing and settling treaty claims, the revitalisation of Māori language, and establishing whānau-centred initiatives, particularly in health and education.

“Systemic disadvantage remains to be fully addressed, however, and the process of providing redress for historical grievances is yet to be completed. Significant challenges remain in Māori land development, enabling Māori participation in decision-making at the local level, and in improving social and economic outcomes for Māori in health, education, employment, standard of living and imprisonment.

“With the Māori population projected to grow to 810,000, or 16.2 per cent of the population by 2026, it is vital that representative structures and public services are optimised. This is to ensure the endurance of the treaty partnership and better economic, social and cultural outcomes for Māori and non-Māori New Zealanders.”

### **Government supports declaration**

The Government announced its support for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in April. The announcement was made by the Minister of Māori Affairs at the United Nations Permanent Forum on Indigenous Issues, in New York, and shortly afterwards by the Minister of Justice in Parliament, in Wellington. New Zealand initially voted against the declaration at the UN General Assembly in 2007, along with Australia, Canada and the United States. Australia reversed its position in 2009, and Canada and the United States did so following New Zealand in 2010.

The declaration is not legally binding. However, it brings together existing provisions of binding human rights treaties to form part of the international human rights framework.

Indigenous rights express how general human rights are interpreted and applied in the context of the specific individual and collective situation of indigenous peoples. They affirm that indigenous peoples are entitled to their distinct identity. Indigenous rights recognise the historical and ongoing circumstances that have prevented indigenous peoples from fully enjoying their rights on an equal basis with others.

With its strong focus on the reciprocal relationships between indigenous people and the State, many of the declaration’s provisions reinforce the Treaty of Waitangi principles that provide for cooperation, mutual respect, good faith, consultation and partnership.

The declaration sets out the individual and collective rights of indigenous peoples, including rights to self-determination, culture, identity, language, employment, health, education, land and resources. It emphasises the rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions, and to pursue their development in keeping with their needs and aspirations. The declaration sets out the responsibilities of states to assist indigenous peoples in realising those rights.

### **UN workshop on the declaration**

An international workshop on the UN Declaration on the Rights of Indigenous Peoples was held in Auckland in December. Hosted by the New Zealand Human Rights Commission and the United Nations Office of the High Commissioner for Human Rights, it brought together representatives from national human rights institutions and indigenous people’s organisations from 15 countries in the Asia-Pacific region. The workshop contributed to the development of guidelines for national human rights institutions, indigenous peoples and states to implement the declaration. In the concluding Tāmaki Makaurau Statement, states were encouraged to comply

with and effectively implement all the obligations contained in the declaration, to ratify and comply with all UN human rights conventions, and to establish national human rights institutions where they did not exist. Indigenous peoples and states in the Asia Pacific region were called on to implement the declaration as a standard of achievement to be pursued in a spirit of partnership and mutual respect.

### Wairoa school commits to human rights

The Kura Kaupapa Māori o Kahungunu ki Wairoa declared itself a “kura tika tangata”, or human rights school, on Human Rights Day (10 December). The kura took part in the Human Rights Commission’s Tūhonohono Māori project, which promotes human rights in Māori communities. The Commission’s Ahi Kaa team assisted the kura with workshops in July and September on the UN Convention on the Rights of the Child (UNCROC), the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and other international treaties. They discussed the whakapapa, language and role of human rights in the community. Staff member Anahera Scott said, **“Human rights fit into our charter, not just the curriculum. It underpins everything we do.”**

As a kura tika tangata, the school has committed to teach human rights in an environment that reflects human rights and responsibilities. The ceremony was attended by Human Rights Commissioner Karen Johansen, who presented the school with a framed bilingual copy of the Universal Declaration of Human Rights and a certificate of acknowledgment from the Race Relations Commissioner. The declaration of the kura stated **“We are a kura tika tangata because we actively promote and protect human rights, recognising that our tamariki are our greatest taonga. Under the guidance of the philosophy and principles of Te Aho Matua, we hereby make our declaration to be a kura tika tangata and invite you to sign our declaration statement in support of our kaupapa.”**

Signatories included whānau and community representatives, government agencies and a representative from the Office of the High Commissioner for Human Rights in Geneva, who was in New Zealand for the Asia-Pacific regional workshop on the UNDRIP.



*Te Marau a Kura o Ngati Kahungunu o Te Wairoa celebrates their human rights school declaration.*

*Credit: Gisborne Herald*



United Nations Special Rapporteur James Anaya.

Credit: NZPA/Ross Setford.

## Special Rapporteur visits

The UN Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, visited New Zealand in July to meet government ministers, iwi and other interested parties to discuss human rights and indigenous development. At the conclusion of his visit, he applauded New Zealand's endorsement of the UN Declaration on the Rights of Indigenous Peoples, progress in treaty settlements, and the establishment of the Whānau Ora programme. He also:

- noted concern that redress provided in treaty settlements does not go far enough to meet the interests of Māori and called for the Government to reconsider the return of Te Urewera National Park to Ngāi Tūhoe
- called for the Government to ensure that adequate consultation takes place with Māori on the replacement regime for the 2004 foreshore and seabed legislation, avoiding discriminatory effects on Māori and recognising their customary foreshore and seabed rights
- called for the forthcoming constitutional review to ensure that the principles of the Treaty of Waitangi are formally recognised

- noted concern at lower social and economic conditions suffered by Māori, especially their high imprisonment rates, and called for ongoing measures to address these conditions (such as Whānau Ora) to be a high priority.

## Constitutional review

The Government announced the terms of reference for a constitutional review in December. The review was part of the relationship and confidence and supply agreement between the National Party and the Māori Party after the 2008 general election.

The review will seek the public's views on constitutional issues that include:

- the size of Parliament and electorates
- the length of parliamentary terms
- Māori seats in Parliament and local government
- Māori electoral participation
- how the Treaty of Waitangi is reflected in constitutional arrangements
- Bill of Rights issues
- whether New Zealand should have a written constitution.

The issues will be confirmed in 2011. Public engagement will begin following the general election. A report summarising the views on constitutional issues and recommendations on possible areas for reform is expected by the end of 2013. The Government has undertaken to respond to the review's recommendations by 30 June, 2014.

No changes will be made as a result of the review unless there is widespread support for change.

## Social and economic initiatives

New social and economic initiatives for Māori in 2010 included:

- the Māori Economic Taskforce launched *Iwi Infrastructure and Investment*, a set of resources for

iwi about infrastructure opportunities, public-private partnerships and commercial entities, with case studies

- the launch of the Whānau Ora programme and the selection of 25 Whānau Ora service providers
- new funding for Whare Oranga Ake, an initiative to contribute to reducing criminal offending, for up to 42 Māori inmates annually
- the opening of four new rangatahi courts on marae (bringing the total to six)
- a focus on Māori education and employment programmes by the Department of Corrections
- the Kāinga Whenua initiative to provide loans for housing on multiple-owned Māori land
- an independent report found positive outcomes of the Te Kotahitanga programme for greater use of Māori values in the classroom
- a comprehensive review of Māori language activity and commitment to develop a revised Māori Language Strategy.

Other chapters of *Race Relations in 2010* look at research showing inequities and challenges faced by Māori in areas of crime and safety, high imprisonment and recidivism rates, unemployment, income, housing, health and education, and the state of the Māori language.

A further chapter reviews legislation that removes prisoners' voting rights, slow progression to trial in the "Operation 8" case, closure of the Te Hurihanga programme for youth offenders and its replacement "Fresh Start", and changes to parole and sentencing with the "three strikes" bill.

### **Marine and Coastal Area (Takutai Moana) Bill**

The Marine and Coastal Area (Takutai Moana) Bill was introduced to Parliament in September, following a review of the Foreshore and Seabed Act by an expert panel. In July 2009, the panel recommended the repeal of the act and its replacement by legislation

based in the Treaty of Waitangi partnership and acknowledgment of the customary rights of hapū and iwi. The panel said these were property rights and should not be lightly removed. The panel further recommended restoring access to the courts to determine customary rights, and making provision for reasonable public access. They proposed two options for the apportionment of customary and public interest – regional or national settlements, or a mix of the two.

The Government discussion paper in response set out a range of options. After consultation hui, the Government negotiated again with the Māori Party and the Iwi Leaders Group. The Coastal and Marine Area (Takutai Moana) Bill was introduced into Parliament in September with their qualified support.

The bill provides for the repeal of the Foreshore and Seabed Act and provides that the common marine and coastal area (currently the foreshore and seabed) will not, and cannot be, owned by anyone apart from land that is in private ownership or Crown land that is a conservation area, national park or reserve, wildlife management reserve, wildlife reserve, or wildlife sanctuary.

The bill divests the Crown and local authorities of any part of the common marine and coastal area in their ownership but continues rights of public access in, on, over and across the common marine and coastal area and retains existing rights of access, fishing and navigation. The Crown retains ownership of petroleum, gold, silver and uranium in the marine and coastal area.

The holders of existing resource consents in the common marine and coastal area do not have their rights limited by the bill. Existing leases, licences or permits will run until their expiry. Existing ownership of structures in the common marine and coastal area continue.

Legal recognition of Māori customary interests is provided for in three ways:

- mana tuku iho – the mana based relationship that iwi and hapū have with the common marine and coastal area is acknowledged
- protected customary rights – exercised in 1840 and continuing today
- customary marine title – where it can be shown that a group has occupied a specific part of the common marine and coastal area to the exclusion of others without substantial interruption since 1840. This allows rights such as planning rights, but land cannot be sold and public access is guaranteed in most cases.

The Māori Affairs Select Committee heard submissions on the bill in November and December. The Coastal Coalition campaigned against the bill, which it saw as handing ownership of the foreshore and seabed to Māori. A number of iwi and others opposed the bill, contending that it still discriminated against Māori and that the new prescribed tests for customary marine title were too restrictive and that a limit of six years to claim customary title was unjust. Māori Party MP Hone Harawira dissociated himself from the party's support for the legislation. The Labour Party, contrary to earlier indications, said it would vote against the bill, given the extent of opposition, leaving the Government with the narrowest of majorities to proceed.

### **Māori representation in local government**

The Human Rights Commission published a discussion document *Māori Representation in Local Government: the Continuing Challenge*, following a workshop on a draft at the New Zealand Diversity Forum in August. The report looked at a case study of the successful Māori representation model in the Bay of Plenty Regional Council. The report reviewed recommendations of the Royal Commission of Inquiry into Auckland Governance for Māori seats on the new Auckland Council; the defeat of Māori Party MP Te Ururoa Flavell's private member's bill to extend Māori representation; and the provision for Ngāi Tahu representation among the Environment Canterbury

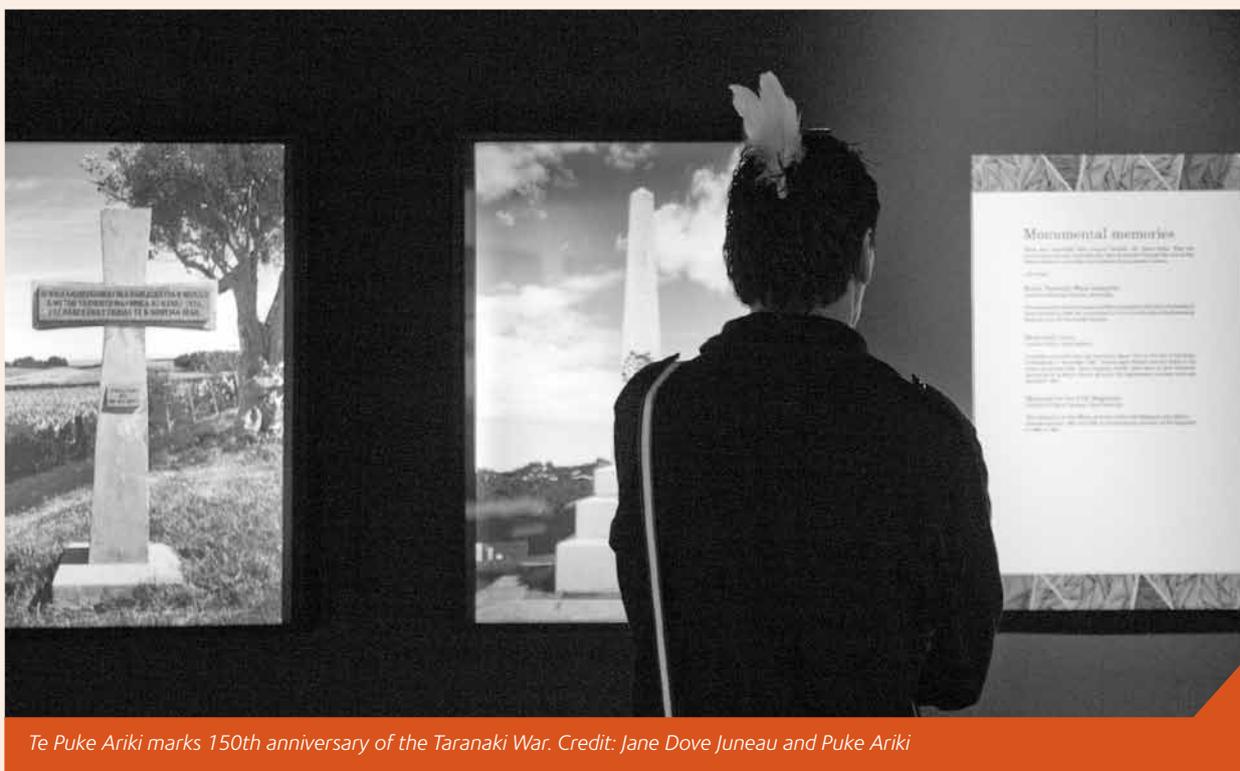
Commissioners. The report recommended:

- analysis of the 2010 local elections results should be undertaken to determine the extent of Māori representation
- iwi should discuss whether or not they want Māori seats on their local or regional council
- the Auckland Council should establish Māori seats without further ado, subject to re-endorsement by Auckland iwi
- discussions should take place between councils and iwi on Māori seats and Māori representation prior to the next representation review (in 2011-12)
- councils should support the Māori choice
- Environment Canterbury commissioners should resolve to establish a Māori constituency for the 2013 elections
- there should be further national discussion on improved provision for Māori representation.

### **Māori representation on the Auckland Council**

The Government did not follow a recommendation from the Royal Commission on Auckland governance and considerable public support for the establishment of three dedicated Māori seats on the new Auckland Council. Instead, a Māori statutory board was established by the Local Government (Auckland Council) Amendment Act 2010 to promote cultural, economic, environmental and social issues of significance to Māori residing in Auckland. The council must "take into account" the advice of the board, and the board and council must meet at least four times a year.

Members of the board were elected by an iwi selection body in November, with David Taipari as chair. Key issues included developing co-governance arrangements for the city's maunga/volcanic cones, the city's district plan, resource management and ensuring Auckland marae capitalise on tourism spending for the 2011 Rugby World Cup. The board



*Te Puke Ariki marks 150th anniversary of the Taranaki War. Credit: Jane Dove Juneau and Puke Ariki*

can have up to two votes on committees dealing with natural and physical resources. At the end of 2010, the board argued that the scope of natural and physical resource issues was wide enough for it to have seats on all other Auckland Council committees.

After the board's inaugural meeting in November, Auckland mayor Len Brown said there were plans to review Māori representation after a period of 12 to 18 months. The select committee examining Auckland governance legislation had urged the Auckland Council to consider establishing Māori representation if there was strong community support. Its report indicated such support existed.

#### **Te Puke Ariki marks 150th anniversary of the Taranaki War**

A major exhibition was opened at Te Puke Ariki in New Plymouth by the Prime Minister on 17 March, the 150th anniversary of the commencement of the Taranaki Land Wars in Waitara. The exhibition, *Te Ahi Kā Roa, Te Ahi Kātoro, Taranaki War 1860 – 2010*,

*Our Legacy, Our Challenge*, was accompanied by educational programmes and community events. It told the story of the war, using historic photographs, taonga, digital technology and poignant firsthand accounts. It offered an unflinching look at the harsh reality of war and colonisation in Taranaki. The exhibition was the final in a series of five exhibitions on the theme of Common Ground leading up to the anniversary. Previous exhibitions were Takapou Whāriki, which explored family history and identity; Taranaki Whenua, which looked at issues surrounding land; Taranaki Culture, which celebrated the region's creativity; and Taranaki Fortunes, which dealt with matters of regional economy. The final exhibition revisited all these topics of family, land, culture and economy in the light of the devastating effects of Taranaki war.

# Waitangi Tribunal

The Waitangi Tribunal released pre-publication versions of some of its major district inquiries, in order to assist claimants and the Crown on specific issues in settlement negotiations. It also released a separate chapter on the use of te reo Māori ahead of its full report on the Wai 262 claim about indigenous flora and fauna and cultural intellectual property, to assist a ministerial review of the Māori language sector and strategy.

## Tauranga Moana, 1886-2006: Report on the post-raupatu claims

Published in September, this report covered over 50 claims as stage two of the tribunal's inquiry into Tauranga Moana claims, covering issues arising in the decades after raupatu. Stage one had examined raupatu claims.

The report looks at land loss after 1886, notably through Crown purchasing, public works, pressures caused by actual and potential rates debt, and the processes of urbanisation and subdivision. The tribunal described the effect of the loss of land as being nearly total land loss. It looked at problems with land and resource development, local government issues, environmental issues and cultural heritage. The report urged greater collaboration and information flow between various arms of government, in order to redress the prejudice suffered and assist Māori in their future development. It recommended that the settlement of claims of Tauranga iwi and hapū be addressed as a matter of high priority, and urged substantial redress be made for post-1886 breaches, separately and in addition to redress for the raupatu. It particularly stressed the importance of returning land wherever possible.

## Te Urewera: Part two report on the Wai 894 claim

This was a pre-publication version of the tribunal's report into the treaty claims of the iwi and hapū of Te Urewera. Part two has seven chapters, and follows on from the release of Part one in April 2009, that ended with the conclusion of the war in the centre of Te Urewera in 1871.

Part two describes war in Wairoa and Waikaremoana in the mid-1860s, Crown acts of violence, and legislative land alienation until 1930. It analyses the Urewera District Native Reserve Act establishment of self-government in 1896 and collective tribal control of land. The tribunal concludes it is of huge regret that the legislation failed. The tribunal refrained from making recommendations at this point in its inquiry, except in relation to one particular piece of land at Onepoto, Lake Waikaremoana.

## The East Coast Settlement Report

The East Coast Settlement Report is the outcome of an urgent tribunal hearing held in December 2009 into the Crown's recognition of Te Runanga o Ngāti Porou's (TRONP) mandate to negotiate and settle historical Ngāti Porou Treaty of Waitangi claims. It was released in pre-publication format in March, with the publication version being released in July.

The three main claimants objected to TRONP representing them in treaty settlement negotiations. The tribunal did not inquire into matters of tribal identity but instead focused on the actions of the Crown in recognising TRONP's mandate.

The tribunal did not recommend the Crown delay settlement with TRONP as requested by the claimants. It reasoned that the potential prejudice of delaying such a significant settlement would outweigh any possible prejudice to the claimants from having their claims settled without their specific consent. However, the tribunal recommended changes to the Crown's mandate process, including earlier and more direct consultation with Wai claimants and interested parties, ensuring more information is provided in mandate strategies, and making updates to its policy guide, Ka Tika a Muri, Ka Tika a Mua.

## Wairarapa ki Tararua Claims Report

In June, the tribunal released its report on the treaty claims of iwi and hapū of the Wairarapa ki Tararua district. The tribunal describes the rapid purchase of

a large extent of Māori land in the region during the 19th century, and the disregard for the effect of land loss, in an area where the Māori population had made most of its livelihood from agriculture. The report also comments on issues of local government representation, protection of heritage sites, loss of language, and reiterates calls for policy changes to the public works scheme.

#### The Management of the Petroleum Resource Report

In December, the tribunal released a pre-publication version of its report on claims regarding the Crown's management of the petroleum resource. This report follows on from the tribunal's 2003 petroleum report, which dealt with the ownership of this resource. This version of the report was produced to coincide with legislative changes to the Crown Minerals Act 1991, under which the petroleum resource is managed.

The tribunal found there are a number of systemic flaws in the operation of the current regime for managing the petroleum resource meaning 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 regarding the petroleum resource.

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

This area comprises five inquiry districts with over 100 claims. The initial hearings began in May and took place over four weeks. The hearings focused on understandings of Te Tiriti o Waitangi and He Wakaputanga o Rangatiratanga o Niu Tirenī (the 1835 Declaration of Independence).

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

Te Rohe Pōtae inquiry encompasses the area on the west coast of the North Island to the northwest of Lake Taupo. It involves over 140 claims from Ngāti Maniapoto and other iwi and hapū, including Ngāti Hāua. Major issues in the inquiry include the Crown's relationship with the Kingitanga movement and the creation of the Rohe Pōtae; the construction of the main trunk railway through the district; the operation of the Native Land Court and the alienation of Māori land in the 19th century; the management of Māori land in the 20th century; waterways; environmental impacts; and public works takings. The research programme for the inquiry was confirmed in January 2008 and the boundary finalised in May 2008. This inquiry is in its pre-hearing and research stage. A judicial conference was held in October 2010 to discuss the proposed plan for the inquiry.

#### Te Urewera inquiry

Most of the 33 claims in this 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 in the inquiry include 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; and environmental and socio-economic issues. The first part of the report was released in April 2009; the second in August 2010.

### Porirua ki Manawatū inquiry

In 2008, the tribunal received requests to inquire into treaty claims in the Rangitīkei, Manawatū, Horowhenua, and Kāpiti areas. Some claims in this region were already in the process of being settled, with Ngāti Apa, Rangitāne ki Manawatū, and Ngāti Toa Rangatira already in negotiations with the Crown. This inquiry is now in the planning and research stage.

### The Taihape district inquiry

The Taihape district inquiry is likely to address 20 to 30 claims, particularly those of the Mōkai Pātea peoples, but also other iwi and hapū, including Ngāi Te Upokoiri and Ngāti Hinemanu; Ngāti Apa; Ngāti Rangī; peoples of Ngāti Tūwharetoa and Ngāti Raukawa; Ngāti Waewae and Ngāti Pīkiahū. The tribunal held a series of judicial conferences in 2009 and 2010 to consult and assist planning and research.

### East Coast inquiry

The East Coast inquiry comprises well over 100 claims from Ngāti Porou and a number of other iwi and hapū, including Uepohatu, Ruawaipu, Te Aitanga a Hauiti and Te Whānau-a-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. Issues include the East Coast “civil war”; Crown and private purchases of East Coast land in the 19th century and the operations of the Native Land Court; Crown and private purchases in the 20th century and land rating issues; the provision of social services; and environmental and resource issues. A pre-publication version of the report was released in March and it was published in July.

As a consequence of its findings, the tribunal deferred its inquiry into the East Coast claims to await the outcome of the ratification process of the Deed of Settlement between Te Rūnanga o Ngāti Porou and the Crown. The Tribunal will revisit its decision to defer the inquiry at the end of January 2011.

### National Park inquiry

The National Park inquiry comprises approximately 40 individual claims and encompasses Tūwharetoa, Ngāti Hikairo, Ngāti Rangī, Ngāti Haua, and several other iwi and hapū. It covers an area from just south of Turangi to north of Ohakune, and from the main trunk line in the west to State Highway 1 in the east. This includes most of Tongariro National Park, including the mountains Tongariro, Ruapehu, and Ngāuruhoe. The main issues include: the operations of the Native Land Court in the district; the alleged “gift” of the mountain peaks by Tūwharetoa paramount chief Te Heuheu Tukino in 1887; the management of the national park; and the Tongariro Power Development scheme. The final hearings were held in July 2007. The tribunal was in the process of completing its report at the end of 2010.

### The Whanganui inquiry

The Whanganui inquiry encompasses over 50 claims, covering an area stretching from the mouth of the Whanganui River to just north of 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. Claimant and Crown final submissions were heard in October and December 2009. The tribunal released a pre-publication report on findings related to a specific claim within the district in 2009.

### The Indigenous Flora and Fauna and Māori Intellectual Property (Wai 262) Inquiry

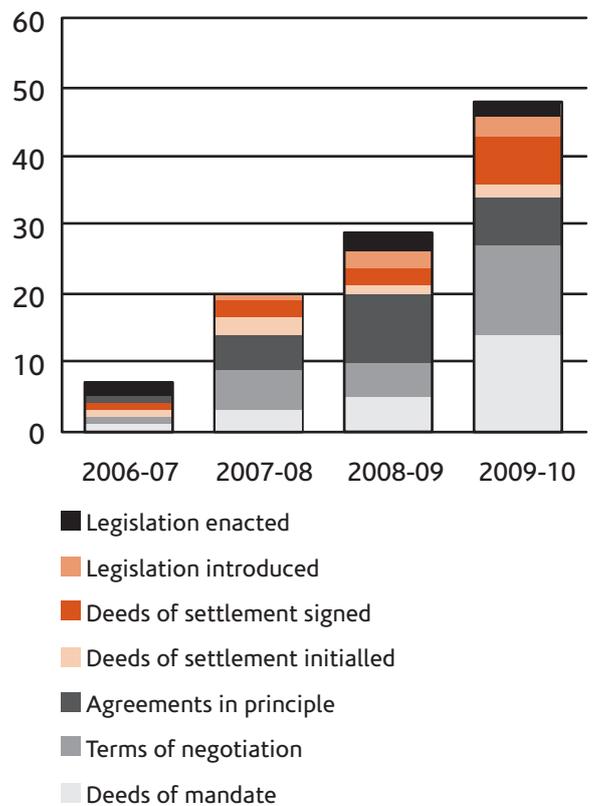
The Wai 262 claim was lodged with the tribunal in 1991 for and on behalf of six iwi: Ngāti Kuri, Ngāti Wai, Te Rārawa, Ngāti Porou, Ngāti Kahungunu and Ngāti Koata. It inquires into rights in respect of mātauranga Māori or Māori knowledge, and

## Historical treaty settlements

indigenous flora and fauna. The claimants consider these rights are guaranteed under the Treaty of Waitangi. This claim raises complex issues of intellectual property rights that will impact on many areas of government policy. Closing submissions were heard in 2007 and the inquiry is now in its report-writing phase. The chapter on te reo Māori was released in October, and is discussed further in the Language chapter of this report.

The Government has continued to work towards its goal of settling all historic treaty claims by 2014. The rate of progress in achieving settlement milestones has increased significantly, as shown in the table below:

**Treaty settlement milestones**



The Office of Treaty Settlements reports on progress by financial year, running from July to June as represented by the graph. For the six-month period from July to December 2010, the Office of Treaty Settlements achieved 29 milestones, a 21 per cent increase for the same period in 2009. The increase in treaty settlement progress is expected to continue to rise for the next two years.

Funding for treaty settlements was allocated an extra \$6.5 million in the 2010 budget. The Minister for Treaty Negotiations described this as an indicator of the Government’s commitment to treaty settlements, given the environment of fiscal restraint. The extra

funding will be used to increase staff to support negotiations. It also allows for increased use of facilitators and chief Crown negotiators with a wide range of experience, including former cabinet ministers, senior public servants and company directors.

In October, the Crown held its third Te Kōkiri Ngātahi (Moving Forward Together) hui in Wellington. It was attended by approximately 160 people representing settled and non-settled claimant groups. The Minister for Treaty of Waitangi Negotiations announced the introduction of an iwi mentoring scheme to support groups to share their knowledge with groups in earlier stages of the settlement process. This complements the iwi secondments programme where public servants can be seconded to iwi to assist them prepare for and participate in treaty settlements. To date there have been three secondments – to Te Aupouri, Ngāi Takoto and Ngāi Tamanuhiri. The programme's criteria have been extended to promote greater uptake. The minister also announced policy changes to allow more scope to investigate transfer of larger conservation sites in treaty settlements; and policy changes to improve the condition of properties held in the Office of Treaty Settlement's landbank.

Other policy work in 2010 included government agreement to what should be the key considerations and options for redress over natural resources to assist negotiators. The Government also agreed that the Office of Treaty Settlements should be the sole funder for claimants in treaty settlement negotiations. Funding will be transferred from the Legal Services Agency to the Office of Treaty Settlements for allocation to claimant groups. This means the Office of Treaty Settlements will now provide for pre-mandate work and for sub-groups in need of specialist or legal advice. Legal aid funding for Māori making claims before the Waitangi Tribunal will continue to be available through the Legal Services Agency. The Crown Forestry Rental Trust will continue to fund groups where Crown forests are involved in the claims.

### Waikato and Waipā River co-governance legislation

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 was passed in May and established a co-governance framework for the Waikato River. It provided for a \$210 million clean-up fund and a co-governance entity to be known as the Waikato River Authority. The authority's purpose includes setting the primary direction and strategy to restore and protect the river for future generations. Membership consists of 12 members with an equal number of representatives of the Crown and Waikato River iwi. The Ngāti Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act was passed in October 2010, enabling the people of Ngāti Tuwharetoa, Raukawa and Te Arawa to participate with Waikato-Tainui in co-governance arrangements over the Waikato River.

The Crown and the Maniapoto Māori Trust Board signed a deed of settlement for the co-governance and co-management of the Waipā River in September. This deed enables the participation of Maniapoto in co-management arrangements for the Waikato River and extends the arrangements to cover the Waipā River in its entirety.

### Ngāti Apa (North Island) legislation

The Ngāti Apa (North Island) Claims Settlement Act 2010 was passed in December. This settlement provides commercial and cultural redress, including a cash settlement of \$16 million with the ability to purchase Crown forest licenced land and other Crown properties. The settlement was one of the first to explicitly provide an amount to support the cultural revitalisation of Ngāti Apa through a research fund.

### Ngāti Manawa and Ngāti Whare legislation

Legislation to give effect to the deeds of settlement signed by the Crown and Ngāti Manawa and Ngāti Whare in December 2009 was introduced to the House in October 2010. Both Ngāti Manawa and Ngāti Whare are part of the Central North Island Iwi Collective. Legislation introduced settles the

remainder of their claims, relating to Crown actions during the New Zealand Wars and in the Urewera, alienation of land and environmental issues. The legislation will provide for the return of 12 sites of cultural significance to Ngāti Whare; the return of 16 sites of cultural significance to Ngāti Manawa; the joint return of four sites of cultural significance to Ngāti Whare and Ngāti Manawa; and apologies to Ngāti Whare and Ngāti Manawa for historical breaches of the treaty.

#### Kurahaupō deeds of settlement

In October, the Crown signed deeds of settlement with Ngāti Kuia and Ngāti Apa ki te Rā Tō, two of the three Kurahaupō iwi of the Te Tau Ihu (top of the South Island) region. The Crown had initialled these deeds in August, as well as initialling a deed of settlement with Rangitāne o Wairau, the other of the Kurahaupō iwi. The deed of settlement with Ngāti Kuia sets out commercial redress worth over \$24 million and includes an apology, the return of nine culturally significant sites and other Crown properties. The deed of settlement with Ngāti Apa ki te Rā Tō sets out commercial redress worth over \$28 million and includes an apology, the return of four culturally significant sites, and other Crown properties. Rangitāne o Wairau's deed of settlement was signed in December and provides commercial redress of over \$25 million, an apology and the return of 10 culturally significant sites and other Crown properties. The claims of Ngāti Kuia, Ngāti Apa ki te Rā Tō and Rangitāne o Wairau relate primarily to the failure of the Crown to adequately recognise the customary rights of Ngāti Kuia in pre-1865 purchases of land. Their claims also relate to the Crown's failure to ensure the iwi retained sufficient lands for their future needs.

Work continues towards a deed of settlement with Ngāti Toa Rangatira. Negotiations with the four iwi of Tainui Taranaki ki te Tonga were in abeyance at the end of 2010 due to litigation between some of the parties and the Crown.

#### Ngāti Pahauwera deed of settlement

Ngāti Pahauwera are from northern Hawkes Bay, centred on the Mohaka River. Their claims relate to severe loss of life as a result of Crown actions during the New Zealand wars, and the alienation of land.

In December, the Crown signed a deed of settlement with Ngāti Pahauwera. The deed provides financial redress of \$20 million, a Crown apology, the return of 16 sites of cultural significance and other properties. It also commits to further talks on the establishment of a joint regional planning committee for natural resources in the region, in particular the Mohaka, Waihua and Waikari Rivers. Members include Ngāti Pahauwera, the Crown and Hawke's Bay Regional Council.

#### Ngāti Porou deed of settlement

In December, the Crown and Ngāti Porou negotiators signed a deed of settlement providing financial redress of \$110 million, 15 sites of cultural significance and other properties. The package is in recognition of Ngāti Porou claims relating to Crown-imposed reforms of Māori land tenure that made it difficult for Ngāti Porou to use their land to economic advantage and contributed to their relative poverty.

Ngāti Porou is one of the largest iwi in New Zealand, based around the East Coast of the North Island.

#### Maraeroa A & B Blocks deed of settlement

The Crown and Te Maru o Rereahu Trust negotiators initialled a deed of settlement for the Maraeroa block claims in December. Te Maru o Rereahu Trust negotiators initialled the deed on behalf of the descendants of the original owners of the Maraeroa blocks. The descendants are affiliated to Rereahu, Ngāti Tuwharetoa, Raukawa, Ngāti Maniapoto and others. The package includes \$1.8 million in financial redress and the return of conservation land and other property redress.

### Ngāti Makino deed of settlement

In December, the Crown and Ngāti Makino Heritage Trust negotiators initialled a deed of settlement. Ngāti Makino is a small iwi whose rohe lies between Rotoehu and Rotoma and the coast, in the Bay of Plenty.

Initialling the deed of settlement represents the culmination of 15 years of work for the iwi. Ngāti Makino first presented their claims to the Eastern Bay of Plenty Inquiry of the Waitangi Tribunal in 1995. Negotiations commenced in 1998 but stopped due to the difficulty in distinguishing between Ngāti Makino and Ngāti Pikiao. The Crown commenced negotiations with Ngāti Pikiao (who had joined the Ngā Kaihauu o Te Arawa Executive Council) in 2004 and gave priority to those negotiations over those with Ngāti Makino. The Crown has acknowledged that its approach had a negative impact on Ngāti Makino. Negotiations with Ngāti Makino recommenced in 2008.

The package includes financial redress of approximately \$10 million, the return of conservation land within Rotoehu forest as cultural redress and the purchase of part of the Rotoehu West Crown Forest licensed land.

### Ngāi Tamanuhiri deed of settlement

The Crown and Ngāi Tamanuhiri negotiators initialled a deed of settlement in December. The deed provides financial redress of \$11.07 million and the return of several sites of cultural significance including Te Kuri a Paoa (Young Nick's Head). The settlement is in recognition of the historical claims of Ngāi Tamanuhiri, which relate primarily to the Crown's conduct in the war in Tūranga in the 1860s; its pressure on Ngāi Tamanuhiri to sign a deed of cession for all their land; the operation of the Poverty Bay Commission; and the operation and the impact of the Native Land Court. The tribunal has reported that these breaches of the treaty in Tūranga are among the worst in New Zealand.

Work continues towards finalising deeds of settlement with the other Tūranga groups – Rongowhakaata and Te Whakarau.

### Tāmaki Makaurau agreements in principle

In February, the Crown reached a supplementary agreement in principle with Ngāti Whātua o Ōrākei, an agreement in principle with Te Kawerau a Maki, as well as a framework agreement with the Tāmaki Collective. This collective comprises iwi and hapū of the Tamaki (Auckland) region: Ngāti Whātua o Ōrākei, Te Kawerau ā Maki, Ngāti Te Ata, Ngāi Tai ki Tāmaki, Ngāti Tamaoho, Te Āki Tai, Ngāti Pāoa, Ngāti Maru, Ngāti Whanaunga, Ngāti Tamaterā and Te Rūnanga o Ngāti Whatua. Membership can be added to with the support of the existing members.

The Crown had previously signed an agreement in principle with Ngāti Whātua o Ōrākei in 2006. However, other Tāmaki groups were concerned that redress included in that package would prevent adequate redress being provided to them in future. The agreements reached in February amend Ngāti Whātua o Ōrākei's redress package, agree redress for Te Kawerau a Maki, and agree the parameters for key Tamaki redress for other groups.

Ngāti Whātua o Ōrākei's amended redress package provides an additional \$10 million in financial redress to the \$8 million agreed in 2006, as well as the return of additional cultural redress properties. Redress agreed for Te Kawerau a Maki includes \$6.5 million in financial redress, the return of five sites of cultural significance and other property redress.

There is no financial offer associated with the Ngā Mana Whenua o Tāmaki Makaurau and Crown framework agreement. The framework provides for the shared ownership of Auckland's volcanic cones (including Maungawhau/Mt Eden, Maungakiekie/One Tree Hill) with all 11 groups in the Tamaki Collective, to hold in trust for the people of Auckland. The framework also provides all Tamaki Collective groups' rights of first refusal over Crown land in Auckland for 170 years.

Ngāti Tamaoho and Ngāi Tai ki Tamaki, two Tamaki collective groups, also signed terms of negotiation this year for their own comprehensive treaty settlement negotiations.

#### Agreement in principle – Te Hiku Forum

In January, the Crown signed an agreement in principle with the Te Hiku Forum, representing Ngāti Kuri, Te Aupouri, Ngāi Takoto, Te Rarawa and Ngāti Kahu. The collective approach to negotiations with these iwi was an important factor in reaching the agreement in principle. The agreement provides for commercial redress of \$120 million between the five iwi. It includes the transfer of the Aupouri Crown forest along with accumulated rentals, and the transfer of seven Landcorp and Crown owned farms. It provides for a co-governance arrangement with the Crown over Ninety Mile Beach (Te Oneroa a Tohe) and the return of 75 hectares at Cape Reinga (Te Rerenga Wairua) as an historic reserve.

#### Terms of negotiation

During 2010, terms of negotiation were signed with 13 iwi, including a framework agreement signed between the Crown and the Hauraki Collective in October.

The framework agreement was signed by 12 Hauraki iwi – Ngāti Hako; Ngāti Paoa; Ngāti Tamaterā; Ngāti Tara-Tokanui; Ngāti Porou ki Hauraki; Ngāti Whanaunga; Ngāti Hei; Ngāti Maru; Ngāti Pūkenga; Te Patukirikiri; Ngāi Tai ki Tāmaki and Ngā Rahiri Tumutumu. It is similar to a terms of negotiation in that it sets out procedures for negotiations between the Crown and Hauraki iwi. However, the framework agreement also sets out the scope of redress to be negotiated including the right to purchase the Crown's interests in a number of forests and a right of first refusal over core Crown properties. The agreement acknowledges the cultural importance of Tikapa Moana (the Hauraki Gulf), Te Tai Tamahine (east coast of the Coromandel Peninsula), Te Aroha and Moehau maunga and the Waihou and Piako rivers.

#### Deeds of mandate

During 2010, the Crown recognised 12 deeds of mandate. A deed of mandate states who has the authority to represent the claimant group in negotiations, defines the claimant group, the claim area and the claims that are intended to be settled. The Government's intention is to commence negotiations with these groups as other claims are settled.

# Aquaculture

## Māori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act

The Māori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act was passed in March. The act gives effect to early settlement of the Crown's pre-commencement aquaculture space obligations, a \$97 million settlement for 10 South Island and Coromandel iwi (Hauraki, Ngāti Apa ki te Rā To, Ngāti Koata, Ngāti Kūia, Ngāti Rārua, Ngāi Tahu, Ngāti Tama, Ngāti Toa, Rangitāne and Te Atiawa o Te Tau Ihu). The settlement is a one-off cash payment in full and final settlement of the current Crown obligations for pre-commencement space or aquaculture space that was approved between 21 September 1992 and 31 December 2004. It follows the signing of a deed of settlement by the Crown and each of the 10 iwi in May 2009. The deed also provides for payment of future permitting decisions of pre-commencement space that is still progressing through the decision-making process. This additional payment has been provided to the relevant iwi. The settlement covers the majority of New Zealand's aquaculture development areas, including the Hauraki Gulf, Marlborough Sounds, Tasman Bay and remaining parts of the South Island.

The act also provides the Crown with an additional option for complying with its aquaculture pre-commencement space obligation. It addresses the limited prospects of the Māori Commercial Aquaculture Claims Settlement Act 2004 generating settlement assets for iwi by 2014. The additional settlement option of regional agreements enables iwi aquaculture organisations in a region and the Crown – as well as the Te Ohu Kai Moana Trustee Limited – to agree on how to settle the pre-commencement space obligation in that region. Iwi in the outstanding regions are engaging with the Crown to bring about an early settlement in their regions. Settlements have been achieved in the Chatham Islands (Moriōri and Ngāti Mutunga) and Kaipara Harbour (Ngāti Whatua).

## Aquaculture Legislation Amendment Bill (No 3) – Impact on Māori Commercial Aquaculture Settlement

The Aquaculture Legislation Amendment Bill (No 3) had its first reading in Parliament in November. The bill is intended to address the lack of any new aquaculture space being created through the Aquaculture Reform Act. It makes amendments to the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; Fisheries Act 1996; Māori Commercial Aquaculture Claims Settlement Act 2004 and Resource Management Act 1991. The bill retains the core components of the settlement, including protecting iwi rights associated with 20 per cent of new space created from 1 January 2005, but the mechanism for delivery of the settlement (Aquaculture Management Areas) is removed. The Crown is engaging with iwi to determine the most appropriate way to deliver the new space obligation.

The Ministry of Fisheries and iwi leaders appointed a technical group of Crown and iwi advisors to hold regional hui and consider options for delivering the settlement under the reforms. A series of seven regional hui were held in early December to discuss the issue with mandated iwi organisations. Delivery may be through provision of aquaculture space to iwi, financial compensation, or both. Cabinet's decision on delivery of the settlement is expected in early 2011.

# 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 2011.

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 Māori Fisheries Act, it is entitled to receive fisheries assets as the mandated iwi organisation. Mandated iwi organisations are responsible for the management of assets allocated to each iwi. These 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 iwi organisations have been mandated, with four remaining. The three iwi mandated in 2010 were Ngāti Kuri, Ngāti Manawa and Raukawa Ki Te Tonga. More than 80 per cent of Fisheries Settlement assets, equaling more than \$510 million, has been allocated to iwi.

During 2010, a number of mandated iwi organisations completed harbour and coastline agreements and/or received coastline and harbour asset entitlements. This included Ngā Rauru, Hauraki, Ngāi Te Rangī, Ngāti Ranginui, and Ngāti Pūkenga. Agreements for 509km of coastline were completed during 2009-10, taking the coastline agreements to 3800km, or 55 per cent of the New Zealand coastline. As a result, Te Ohu Kaimoana was able to transfer 65 per cent of the coastline assets to iwi.

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

Taiapure-local fisheries and mātaihai reserves are two means of protecting significant sites for Māori. A mātaihai reserve is an identified traditional fishing ground in fisheries waters, established for the purpose

of non-commercial customary food gathering. Local iwi representatives – known as tangata kaitiaki /tiaki – act as guardians or managers of a mātaihai reserve. In a mātaihai reserve all commercial fishing is banned unless the Minister of Fisheries and Aquaculture is specifically requested to allow it as part of the mātaihai reserve application; in a taiapure-local fishery the fishing rules for the wider area remain unchanged. Taiapure-local fisheries have management committees that can recommend regulations to the Minister of Fisheries and Aquaculture for managing fisheries resources.

In 2010, nine mātaihai reserve applications were approved, increasing the total to 19 around the country. Eight of the new reserves are in South Island waters and one in North Island waters. In 2010, two new applications were received for North Island waters.

Eight taiapure-local fisheries have been established to date. No new taiapure were established in 2010, but an application to establish one over Te Wakatehaua (Ninety Mile Beach) was agreed to in principle in 2009 by the then Minister of Fisheries. The Māori Land Court is conducting a public inquiry on the proposal.

## First dividends for largest Māori owned fisheries firm

Aotearoa Fisheries Limited announced in December a pay-out of its first dividend in cash to iwi shareholders. Set up by the Māori Fisheries Act 2004, Aotearoa Fisheries Limited manages commercial fishing assets on behalf of Māori. Shareholders are those 57 iwi recognised in the Māori Fisheries Act. Of those shareholders, some will receive dividends of \$5000, while other larger iwi, such as Ngāpuhi, will receive around \$1 million. Dividends are paid out to mandated iwi organisations only. Those iwi shareholders who have not yet reached mandated iwi organisation status have their dividends held in trust by Te Ohu Kaimoana.

Aotearoa Fisheries Limited's 2010 profit was \$18.9 million, from which a dividend of \$9.4 million was paid to shareholders, after Māori authority tax credits of \$7.5 million. The profit achieved in 2010 is positive considering tough economic conditions.

## Other developments

### **Institute for post treaty settlement guidance**

An institute was established in November to provide guidance for those at the post treaty settlement stage considering long-term economic development. The institute is a joint venture by Te Rūnanga o Ngāti Awa and Te Whare Wānanga o Awanuiārangī. It is intended to be a place where iwi and scholars can share ideas on the organisations iwi need to develop, how settlement assets can be used, and how iwi can influence the policy the Crown develops around the treaty relationship.

### **First Māori conservation cadets graduate**

The first 14 Māori cadets graduated from the Department of Conservation's Tauria Kaitiaki Taiao training programme in November. The intensive conservation training programme was set up early in 2009 to help the department work closer with iwi, provide practical links for iwi and hapū with conservation land, and gain skills to manage conservation land returned through treaty settlement.

The NZQA accredited training included chainsaw use, fire fighting, fencing, first aid, boat masters, computer skills and quad bike training.

The graduates have earned a Level 3 National Certificate in Conservation and Trainee Ranger Certificate from the Nelson Marlborough Institute of Technology, as well as a Level 3 Certificate in Tikanga Māori from Te Wānanga o Aotearoa.

### **Wānanga settlement reached**

The Crown signed a deed of settlement with Te Whare Wānanga o Awanuiārangī in October, worth \$14.4 million. The settlement completes negotiations over the 1999 Waitangi Tribunal Wānanga Capital Establishment Report (Wai 718). In the report, the tribunal supported the claims of three wānanga that they did not receive sufficient funding, equivalent to that of other tertiary institutions. The tribunal found that students of the wānanga were disadvantaged as a result.

Te Wānanga o Aotearoa and Te Wānanga o Raukawa settled their claims in 2001 and 2008. Te Whare

Wānanga o Awanuiārangī will use the funding to build a library, large lecture theatre, enrolment centre and other buildings at its Whakatāne campus.

### **Māori Community Development Act reviewed**

In December, the Māori Affairs Select Committee reported to the House on its inquiry into the operation of the Māori Community Development Act 1962. The act covers Māori welfare issues and the New Zealand Māori Council and other regional Māori councils and committees.

The report recommends the Government develop legislation specifically for Māori wardens, after comprehensive consultation. It recommends the Government establish an independent organisation to lead and support the wardens and increase their funding. It also recommends an evaluation of the role and funding of the New Zealand Māori Council, and repeal of existing parts of the act relating to Māori committees and community officers.

### **New governance structure proposed for Creative New Zealand**

A bill to streamline the governance of Creative New Zealand was introduced into Parliament in August. The Arts Council of New Zealand Toi Aotearoa Bill replaces the existing Arts Council, Arts Board, Te Waka Toi and the Pacific Arts Committee with a single board of 13 members.

The new council will have a minimum of four members with knowledge of Māori arts, te ao Māori, and tikanga Māori. These members will be appointed by the Minister for Arts, Culture and Heritage in consultation with the Minister of Māori Affairs. At least two members will be appointed with knowledge of Pacific Island people of New Zealand, in consultation with the Minister of Pacific Island Affairs.

The bill was referred to the Government Administration Select Committee, which reported back with some minor changes in December. A minority report from the Labour Party members of the committee expressed

concern that the dissolution of Te Waka Toi and its replacement with four qualified persons to represent Māori and their culture on a council of 13 members could result in the loss of a distinctive identity for Māori.

### Māori flag flies on Waitangi Day

A national Māori flag flew from the Auckland Harbour Bridge and some government buildings on Waitangi Day for the first time in 2010. This decision followed a national consultation process where the preferred flag was identified. The process attracted strong interest among Māori and other New Zealanders, with over 1200 submissions received. Although some saw the flying of two separate flags as divisive, there was also support for flying two flags as a symbol of partnership in the spirit of the treaty. Of those who supported the flying of two flags, about 80 per cent chose the tino

rangatiratanga flag as the preferred Māori flag.

The Ministry for Culture and Heritage's Commemorating Waitangi Day Fund assists community organisations to promote participation in events around the country. For 2011, the ministry has approved 61 grants ranging from \$500 to \$141,100. As in previous years, many successful applications have an inter-cultural focus. They include the Toi o Manukau – Māori Arts and Culture Trust event, raising awareness and understanding through the sharing of arts, crafts, music and food; a Tamil Society Waikato session with local MPs and iwi representatives for speeches, discussion and shared kai; and Te Roopu o Tane Mahuta Trust's Kaiapoi Pa Festival with international food, culture and arts to celebrate Ngāi Tahu and the treaty relationship at a significant historical location.

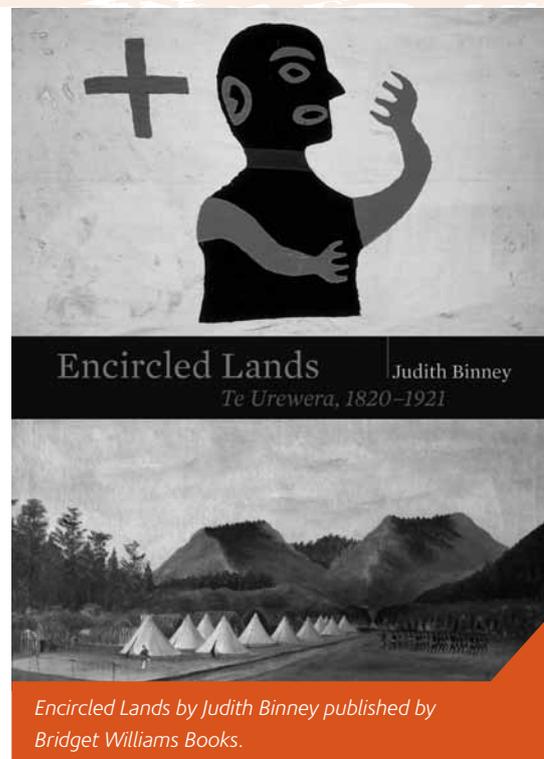
### Tūhoe history receives top award

Historian Judith Binney's history of Ngāi Tūhoe, *Encircled Lands*, (Bridget Williams Books) was the book of the year at the annual New Zealand Post Book Awards in August. The history documents Ngāi Tūhoe's quest for self-government of their lands, granted to them in law more than a century ago.

Awards judge Paul Diamond described the book as one that will profoundly change understanding of our shared history. **"Encircled Lands is an exhaustive, comprehensive history of Te Rohe Pōtae o Te Urewera, the only autonomous tribal district that was recognised in law. Not only does it fulfill the author's hopes of revealing an almost unknown history to a new audience, it also deftly illustrates why the history of the Urewera and its people continues to resonate."**

The book was launched in Ruatoki in 2009, where Ngāi Tūhoe bestowed Binney with the name Tomoirangi o Te Aroha (a little cloud of rain from heaven) in recognition of her work.

Ngāi Tūhoe's treaty settlement negotiations with the



*Encircled Lands* by Judith Binney published by Bridget Williams Books.

Crown were put on hold in April but had resumed by the end of the year. Negotiations stalled when the Prime Minister ruled out returning ownership of Te Urewera National Park to the iwi as part of the settlement.

## Public awareness

Only 26 per cent of people taking part in a nationwide poll agreed with the statement “The treaty relationship between the Crown and Māori is healthy”. This is down on the same polling conducted in 2009, but remains well above the 17 per cent recorded in May 2007, the lowest figure since this poll began.

The poll, conducted by UMR Research for the Human Rights Commission, continued to show more than a third of New Zealanders felt they had a high level of knowledge about the treaty. This is consistent with past results – 42 per cent in 2006 and 41 per cent in 2007.

The latest polling on how New Zealanders view the Treaty of Waitangi shows that 60 per cent of people agree that the treaty is New Zealand’s founding document, However only 51 per cent of all those

polled consider the treaty is for all New Zealanders. The corresponding figures for Māori respondents is 75 per cent and 61 per cent.

In the same year that New Zealand formally recognised the United Nations Declaration on the Rights of Indigenous People, 39 per cent of respondents said they had little knowledge of indigenous rights, up three per cent from 2009. Twenty six per cent of people said they have some knowledge of indigenous rights, a drop of eight per cent from 2009, while one third of people were neutral.

UMR polled 750 New Zealanders nationwide between 19 and 24 November 2010. The poll has a margin of error of 3.6 per cent. The research has been conducted since 2000, with the 2010 questions repeating those asked in 2009.

### Human Rights in New Zealand 2010: Areas for action

**The Human Rights Commission’s five yearly review of human rights, *Human Rights in New Zealand 2010 – Ngā Tika Tangata o Aotearoa*, identified the following areas for action in relation to the status of human rights and the Treaty of Waitangi:**

#### Public awareness

Increasing public understanding of the treaty and the human rights of indigenous peoples (including the meaning of rangatiratanga today), and building relationships between Māori and non-Māori New Zealanders at the community level.

#### Constitutional arrangements

Reviewing laws that make up New Zealand’s constitutional framework, to ensure the treaty, indigenous rights and human rights are fully protected.

#### Treaty settlements

Concluding the settlement of historical breaches of the Treaty of Waitangi promptly and fairly.

#### Pathways to partnership

Building on existing processes and developing new forums for Tangata Whenua and the Crown to engage at local and national levels, and developing and implementing new pathways to partnership between Tangata Whenua and the Crown.

#### United Nations Declaration on the Rights of Indigenous Peoples

Promoting awareness of the Declaration on the Rights of Indigenous Peoples in New Zealand, particularly in forums charged with the responsibility for the management and/or the administration of natural resources.

#### Children and their families

Ensuring all children and young people enjoy improved economic, social and cultural outcomes, which more fully realise the rights set out in the Treaty of Waitangi and international human rights treaties, including the Declaration on the Rights of Indigenous Peoples.



Human Rights  
Commission  
*Te Kahui Tikā Tangata*