

10th Annual

MĀORI LEGAL FORUM

27 & 28 April 2011, Museum of New Zealand Te Papa Tongarewa, Wellington

Addressing post-settlement rights, co-governance and economic development
Current legislation, reforms and settlements

**Ministerial Address by Hon Christopher
Finlayson, Minister for Treaty of Waitangi
Negotiations**

Keynote Addresses by:
Chief Judge Wilson Isaac, **Māori Land Court**
& **Chair, Waitangi Tribunal**
Deputy Chief Judge Caren Fox,
Māori Land Court
Tukoroirangi Morgan, Chair,
Waikato Tainui

**Chaired by Damian Stone, Kahui Legal &
Tama Potaka, Tainui Group Holdings**

- Constitutional reform and the role of the Waitangi Tribunal
 - Treaty settlements – process and recent examples
 - Marine and Coastal Area Bill
 - Waikato River Authority
 - Aquaculture & Māori rights
 - Co-management of natural resources
 - Māori and Local Government
 - Post Settlement Governance Entities
- Māori Economic Development panel

Registered Māori Trusts – Special discounted price available (see back page for details)

	DAY 1 – 27 April 2011		
8.30	Registration and coffee		
8.45	Mihimihi		
9.15	Opening remarks from the Chair Damian Stone, Partner, Kahui Legal		
9.25	Ministerial Address: The path of Treaty Settlements towards 2014 From 2009 to 2010, the Office of Treaty Settlements along with claimants achieved its largest volume of milestones in a single year. The Minister will discuss further expected progress and give an overview of claims currently at different stages of negotiation. <ul style="list-style-type: none"> • The Crown's role in actively helping Treaty claimants • Changes taking place with regard to Treaty claims as these evolve • Impact of progress on the ongoing dynamics of the Crown-Māori relationship • Achieving a measure of justice Hon Christopher Finlayson, <i>Minister for Treaty of Waitangi Negotiations</i>		
10.00	Keynote Address: Constitutional reform and the role of the Waitangi Tribunal after 2014 As a result of the Relationship and Confidence and Supply Agreement between the Māori Party and the National Party, the Government has announced a constitutional review, with particular reference to the place of the Treaty of Waitangi in the constitution. This presentation from the Tribunal will start with an update on current work and recommendations and lead to a discussion around the possible future role for the Tribunal in a post-settlement environment. Chief Judge Wilson Isaac, Chief Judge, Māori Land Court and Chairperson, Waitangi Tribunal		
10.45	Wā Kai (Morning tea)		
11.15	Ministerial Address: Progress on the Marine and Coastal Area (Takutai Moana) Bill The Marine and Coastal Area Bill restores the right of iwi to seek customary title in parts of the Common Marine and Coastal Area, a fundamental right removed by the 2004 Foreshore and Seabed Act. However, the Government has faced objections in its quest to create a law that will bridge the gap between the Māori concept of tikanga and post-colonial property rights. Here we discuss feedback from the public consultation process and the recommendations of the Māori Affairs Select Committee. <i>Minister currently under invitation</i>		
11.50	Marine and Coastal Area Bill – A legal and an iwi perspective <ul style="list-style-type: none"> • Building on the legal precedent set by the Ngāti Apa ruling • Title by Māori; regulation by the Crown – how will this relationship work in practice? • Challenges for iwi in proving exclusive use and occupation since 1840 • The potential scope and effect of customary marine title once granted • Explaining coastal Māori planning documents • Clause 27 and public access • The process of settling claims outside Court Dayle Takitimu, Principal, October Law & Counsel for Te Whanau a Apanui		
12.30	Kai o te poutūtanga (Lunch)		
		1.20	Aquaculture Legislation Amendment Bill – Maintaining Māori rights in a \$1b industry The new Aquaculture Legislation Amendment Bill (No 3) is expected to result in the creation of more aquaculture space. Hui were held to discuss how the Crown can deliver its obligations under the Māori Commercial Aquaculture Claims Settlement. Following the Technical Group's report, a Cabinet decision is expected in early 2011. <ul style="list-style-type: none"> • Understanding the new mechanism for delivering the Crown's new space obligation • Feedback from hui and the Technical Group • The role of councils in allocating authorisations and managing high or competing demand for space within the coastal marine area • The role of Māori in developing a more integrated management approach • Preparing to negotiate with the Crown and how iwi can maximise the economic and social benefits created Richard Bradley, Development Manager, Te Runanga a Rangitane o Wairau Trust
		2.10	Keynote Address: The Treaty and the Declaration: Applying indigenous rights based on the UNDRIP in a New Zealand context While the UNDRIP is not binding, by supporting it the NZ Government is required to take "appropriate measures, including legislative measures, to achieve the ends of the Declaration". With 46 articles and broad coverage of the rights and recognition of indigenous peoples' concerns, the Declaration is expected to become the primary framework for discussing issues between Māori and the Crown. The Māori Land Court indicated that the UNDRIP will have particular significance for its work – and one year after NZ signed the Declaration we hear how it has been applied in some of the Court's judgements. Deputy Chief Judge Caren Fox, Māori Land Court - Te Kooti Whenua Māori
		2.50	WAI 262: Will New Zealand set legal precedent? Many governments still struggle to reconcile protection of the collectively owned, traditional knowledge of their indigenous peoples with IP systems based on defined ownership and commercial advantage. The Waitangi Tribunal is currently writing its report on the WAI 262 claim. If it finds in favour of the claimants, it would create legal precedent and hence the New Zealand findings are being watched closely internationally. Lynell Tuffery Huria, Senior Associate, AJ Park
		3.25	Wā Kai (Afternoon tea)
		3.40	What are the legislative requirements for local authorities to explicitly consider the needs, rights and interest of Māori? <ul style="list-style-type: none"> • Can local councils and Māori develop a formal process to include Māori in policy development? • Participation of Māori in the management and development of natural resources • Interface between local authorities and Māori in the settlement process and post-settlement • How can LG fulfill their statutory obligations to Māori? • Local government vs central government obligations Dr Janine Hayward, Associate Professor, Otago University
		4.25	Should Māori seats on councils be protected by law? Bay of Plenty Regional Council is the only local authority with dedicated Māori seats. The system has been in place for 3 terms now and here they share their thoughts on the merits of Māori representation in local government and how it has worked for them in practice. The Royal Commission

	on Auckland Governance sought their input before recommending three Māori seats on the Auckland Council. With the provision of Māori seats back on the table, what can Auckland and the rest of us learn from Bay of Plenty's example? Councillor Tipene Marr, Kohi Māori seat, Bay of Plenty Regional Council	
5.10	Summary remarks from the Chair	
5.15	Networking drinks	
	DAY 2 – 28 April 2011	
9.00	Opening remarks from the Chair Tama Potaka, General Manager Corporate Services, Tainui Group Holdings & Co-Chair, Māori Law Society	12.00 Impact of RMA Phase II on Māori interests and its interface with other legislation • Māori provisions in the RMA: trends, issues and jurisprudence • Compatibility of the RMA and the Marine and Coastal Area Amendment Bill • Amendments to the RMA in water allocation • Facilitation of tikanga Māori in RMA settings • Making all connections between legislation clear and workable to involved parties • Outlining roles and responsibilities to avoid uncertainty or ambiguity Keir Volkerling, Iwi Development/Resource Management Consultant
9.05	Co-governance and co-management of natural resources: Examining recent settlement arrangements By examining recent arrangements including the Waikato River, Whirinaki Forest and Rangitaiki River amongst others, our presenter will discuss the key principles and elements of co-governance and co-management regimes with reference to both local and international examples. Paul Beverley, Partner Environment and Resource Management Team, Buddle Findlay	12.45 Kai o te poutūtanga (Lunch)
10.00	What can other iwi and local authorities learn from the process of establishing the co-governance model of the Waikato River Authority The \$310 million Waikato River settlement gives Tainui-Waikato co-governance over the river in conjunction with Environment Waikato. It is the first time such an agreement has been sealed between iwi and the Government. The governance model originally envisioned 5 authorities and the journey to bring together the new single authority has been long and at times challenging. The Authority will set an integrated river management plan, which will have plenty of legal weight as it will become part of the Waikato regional policy statement and have status under the Resource Management Act. • Redesign of structures and transitioning to the new Authority • Examining the benefits of the Committee of Council model • Setting up joint management agreements between iwi and local authorities • Work ahead; vision, strategy and priorities Tukoroirangi Morgan, Chair, Waikato Tainui	1.45 Post Settlement Governance Arrangements: Legal structures of PSGEs In this presentation, we look at different governance structures and legal entities being used in PSGEs to make the most of post-settlement assets. • The Crown's criteria in assessing a PSGE • Key advantages/disadvantages of commonly used legal entities for PSGEs • What amendments are likely to be required to their legal structures as PSGEs evolve? • Legal implications to be aware of when determining the relationship between PSGE and its commercial arm • Clarifying governance structures in the PSGE's constitutional documents Baden Vertongen, Senior Associate, Kensington Swan
		2.45 Wā Kai (Afternoon tea)
		3.00 Panel Debate: Our work to further Māori economic development According to FOMA, there was an estimated 83 percent growth in Māori owned and managed assets between 2001 and 2006. Together with more recent research done by BERL, the figures point to a real opportunity for Māori to use this asset base for iwi-led economic development. • Changes to Māori participation in the economy in recent years • Brand Māori • Emerging industries and opportunities to unlock Māori knowledge • Exploring the possibility of private or Crown partnerships • Progress on the Māori Trustee and Māori Development Amendment Bill • Meeting the requirements of Māori asset holders • Post-settlement: Ensuring the local people actually benefit • Contributing to regional economic development • The relationship with and potential role of Local Councils • Key challenges still facing Māori economic development • Progress on the Māori Trustee and Māori Development Amendment Bill Traci Houpapa, Chair, Federation of Māori Authorities Sacha McMeeking, General Manager Strategy & Influence, Te Runanga O Ngai Tahu June McCabe, Member, Māori Economic Development Taskforce Phillip Grimshaw, Economic Development & Māori Engagement Manager, Far North District Council Dr Ganesh Nana, Chief Economist, BERL
10.50	Wā Kai (Morning tea)	
11.10	How can Māori assert legal rights to water under the current reforms? The current reforms and focus on fresh water management have special meaning for Māori. Water property ownership under the new structure needs to recognise the special relationship between Māori and water and take into account both the Treaty principles, UNDRIP and Māori interests. Here we discuss the current legal footing for Māori to have a right to be involved in the decision-making regarding the use and management of water; how the Courts have interpreted these rights and what the future might hold after the reforms. • How will the proposed reforms provide for and recognise Māori interests in fresh water? • Examples of the importance of water rights in recent Treaty of Waitangi claim settlements • The RMA, water and kaitiakitanga Prue Kapua, Principal, Tamatekapua Law	4.15 Closing remarks and end of hui

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Tēnā koe

Over the last decade, the Māori Legal Forum has closely followed all the latest developments in the regulatory and legal landscape which affects Māori.

This hui continues to be well supported and the programme has evolved over the years to ensure it reflects the dynamic environment in which we live. Treaty settlements, new legislation and more recently post-settlement management of assets and resources form the core of the programme.

In 2011, we are pleased to welcome back Chief Judge Wilson Isaac of the Māori Land Court who will discuss the recently announced Constitutional reforms and the role of the Waitangi Tribunal after 2014.

Deputy Chief Judge Caren Fox will also be in attendance to share her expertise around applying indigenous rights based on the UNDRIP in a New Zealand context.

The Hon Christopher Finlayson, Minister for Treaty of Waitangi Negotiations is confirmed to address the audience on "The Path of Treaty Settlements towards 2014".

Please keep an eye out for an announcement of the availability of the Minister for Māori Affairs to also attend the hui.

In addition, the first day of the hui will feature presentations on new legislation such as the Marine and Coastal Area Bill and the new Aquaculture Legislation Amendment Bill before shifting to a Local Government focus in the afternoon.

The second day starts with a strong focus on post-settlement governance and management of natural resources with a keynote address by Tukoroirangi Morgan, Chair of Waikato Tainui followed by more insights from people directly involved in Treaty negotiations and the set up of post-settlement arrangements.

We finish with a focused indepth panel debate on Māori economic development with input from FOMA, BERL, Ngai Tahu, Far North Regional Council and the Māori Economic Development Taskforce.

The Forum attracts most of its attendees from central government, Māori trusts, local government, and legal firms. We are delighted to once again offer a special discounted price for registered Māori trusts to facilitate their involvement as well as a Super Saver offer for all attendees. See the back of the brochure for pricing and details on how to register.

With the hope that you can join us at the 2011 hui;

Nō reira, he mihi nui ki a koutou katoa i ngā topito o te motu, o te ao. Nau mai, haere mai ki Te Whanga-nui-a-Tara.



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