

Mihimihi

E ngā mana, e ngā iwi, e ngā waka, tēnā koutou katoa.

Ko tēnei he pānui mo ngā tangata whenua, ko te iwi o ngā waka o Kāi Tahu, o Kāti Māmoe, o Waitaha me ngā iwi o ngā Mātāwaka ki roto i ngā rohe o te whānui o Kāi Tahu.

Kua tata tae ki te wā Kirihimete. He wā pai hei tūtakitaki whānau. Ngā mihi o te Kirihimete me te Tau Hau.

Kia ora.

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Staff Profiles:

Joy Smith, Manager

Before joining the law centre as Manager in 2006, Joy was for 12 years Executive Officer at Kāti Huirapa ki Puketeraki Runaka.

Sommer Paekau (Tainui) Llb, Barrister

Graduating in 2005 with a Bachelor of Laws, Sommer, a mother to three beautiful tamariki joined the law centre in 2006 as a Barrister. Sommer leaves us at the end of the year, moving to Hamilton to be closer to family

Leah Rivers Llb, Barrister

Graduating in 2002 with a Bachelor of Laws, Leah joined the law centre as a Barrister in 2006. Leah has travelled extensively and has one son.

Desiree Mahy (Tuhoe) Llb, BTch(0-8, Barrister

Graduating in 2006 Desiree worked for the University of Otago as Kaiawhina Māori mo Te Kete Aronui. Desiree joined the law centre in 2007 as a Barrister. Desiree has one daughter.

Sine Fraser Summer Clerk

Sine, our Summer clerk until January 2009 is currently completing a BA (Honours) in French and an Llb at Otago University. Sine is going to France in January to take some papers for her French degree. We wish her all the best for that journey.

Ngāi Tāhu Māori law Centre Board of Governance:

There have been some changes to our board in 2008.

Sadly Khyla Russell and Wendi Morris resigned from the board this year. We thank them for all their hard work.

We are grateful to Des Tipa and Jane Graveson who have taken up the vacant positions.

Current Board members are:

- Des Tipa
- Jane Graveson
- David Mules
- Suzanne Spencer
- Nicola Taylor
- Royden Somerville
- John Dawson

We thank all Board members for their ongoing support.

ABOUT NGĀI TAHU MĀORI LAW CENTRE

We provide a **free** legal service in Māori land law issues to Ngāi Tahu Māori living anywhere in the world and to all Māori of any iwi living in the rohe of Ngāi Tahu. If you have questions or concerns about your Māori Land interests or want to know if you have any Māori Land give us a call on

0800 626 745

Or email: info@ngaitahulaw.org.nz

Ngāi Tahu Hui a Tau 2008

Hui a Tau took place in Kaikoura from the 21st to the 23rd November.

Ngāi Tahu Māori Law Centre had one of many stands. As usual our stand was very popular. We received a number of enquiries and provided people with lots of information. Lollies were available for children and cloth bags for adults.

The weather was beautiful all weekend and the entertainment was great with whale watching tours, Pio as MC and a Salmonella Dub concert on the Saturday night.

Photos of Hui a Tau are scattered throughout this newsletter.

Mortgages on Māori Freehold Land

Judge Ambler recently wrote on this topic (Te Pouwhenua November 2008). His comments are very useful and are summarised below.

Māori Freehold Land Titles are as good as a general title. A Māori Freehold Land Title is adequate Mortgage security at most banks. Westpac, PSIS, ASB and ANZ National Banks will accept Māori Freehold Land as security.

Māori Land owners who wish to use their Māori Freehold Land as Mortgage Security must ensure they complete a formal application for a loan with all necessary supporting material including title and financial details.

Do not be put off by front line Bank staff. They are known to give the wrong information. Ensure all application requirements and other lending criteria are met. There is seldom any need to change the status of Māori land to obtain a loan

Whale Watching Trip – Hui a Tau



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Desiree and Leah ready for a big day on the stand at Hui a Tau.

Wills – What you need to know

Please also see Whāngai & Succession

We encourage you to write a Will; deal with your Māori land in that Will; tell whānau about your Will, ie: where it is located and the name of your lawyer that has it!

We strongly recommend you contact a general solicitor who will further advise you about your Will.

Gifts of Māori land in Wills signed after 1st July 1993 must comply with Te Ture Whenua Māori Act 1993. Wills can be contested in limited circumstances, within 12 months of the grant of administration or 2 years if the application is made on behalf of a minor or person under a disability

The Law Centre does not execute or administer Wills but we can help you with allocating your Māori land interests clearly and accurately. If you want to discuss your Will and Māori land with us, please get in touch.

Whāngai & Succession

Please also see Wills – What you need to know

When a Whāngai parent dies without a will, their whāngai child is not entitled to succeed to any part of their estate.

If tikanga allows, the Māori Land Court may allow a Whāngai child to succeed to the Māori Freehold interests of their whāngai parent but that child will not have a claim to any other part of the estate of the deceased. Generally the Court will only allow a whāngai child to succeed to the Māori Freehold land interests of a whāngai parent if the whānau of the deceased whāngai parent consent to their inclusion.

If you have a whāngai child or children and you would like to ensure that child or those children receive any part of your estate, it is essential to make a Will stating your intentions.

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Land Locked Māori Land

Landlocked land is land surrounded by other blocks with no legal or reasonable access. Your land is landlocked if to access it you have to cross your neighbours land.

Though you may have an informal short term agreement for access with the owners of neighbouring land, a long term or permanent arrangement can only be granted by an order of the Māori Land Court.

To obtain an order of reasonable access from the Māori Land Court you will have to provide evidence explaining:

- Nature and Quality of access (if any) when you acquired the landlocked block
- The Circumstances in which the land became landlocked
- Conduct of parties and attempts made to negotiate a solution before bringing it to the Court
- Hardship caused to you if access is refused in relation to the hardship caused to any other person if the order is granted.

There are conditions attached to a Māori Land Court order granting reasonable access to landlocked Māori land. The Court will make the order to any conditions they think fit including:

- Only reasonable access will be ordered
- Applicants may have to pay compensation or exchange land as compensation to the party whose land is lost so you can have access
- Applicants may have to pay for surveying, fencing, upkeep and maintenance of the land granted
- A timeframe for the work to be carried out may be stated.

The Court can order an easement giving you permanent permission to use a certain strip of land for reasonable access or may grant a transfer of that strip's ownership to you.

Joy and Desiree working at our very busy Hui a Tau stand

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Law Reform – Client Care

New Rules of Conduct and Client Care for lawyers came in to effect on 1st August 2008.

Every lawyer must now provide clients with information and a letter of engagement which outline for example:

- The standard terms of the client/lawyer relationship
- Client care and service
- How the lawyer will charge fees
- Professional Indemnity insurance
- Methods of Complaint

New clients (after 1st August 2008) of the law centre will be provided with the above information. We cannot act for you until we have a signed and dated letter of engagement.

If you have any questions about this recent law reform further information can be obtained from www.lawsociety.org.nz

Law Reform – Enduring Powers of Attorney

Changes in law relating to Enduring Powers of Attorney (EPA) came in to effect on 26th September 2008.

These reforms came about to try to prevent the misuse of Enduring Powers of Attorney. Previous legislation had inadequate protection for donors of Enduring Powers of Attorney.

Changes include:

- A strengthened witnessing requirement for new EPA's
- An obligation on the attorney to act in the best interests of the donor
- A relevant “health practitioner” must certify the donor’s lack of mental capacity before the donor may act
- The Family Courts powers have been extended
- Requirement of consultation where there are different attorneys for property and care and Welfare.

These changes will likely result in an increase in cost for clients looking to complete Enduring Powers of Attorney. Contact a general solicitor for further advice.

Desiree, Leah and Koi ready to leave Hui a Tau



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