
Parties

TE RŪNANGA O NGĀI TAHU

and

HER MAJESTY THE QUEEN

in right of New Zealand

DEED OF SETTLEMENT
SECTION 1


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SECTION 1: DEFINITIONS AND INTERPRETATION**1.1 DEFINITIONS**

In this Deed, unless the context requires otherwise:

the Act means the Te Rūnanga o Ngāi Tahu Act 1996;

administering body has the meaning given to it in the Reserves Act 1977;

aquatic life has the meaning given to it in the Conservation Act 1987;

Business Day means a day (other than Saturday or Sunday) on which registered banks are open for normal banking business in Wellington and Christchurch but shall exclude any day in the period commencing 25 December in any year, and ending on 5 January in the following year and shall be deemed to commence at 9.00 am and to terminate at 5.00 pm;

Charter means the charter of Te Rūnanga referred to in section 16 of the Act;

Coastal Marine Area has the meaning given to it in section 2 of the Resource Management Act 1991, where it is defined as meaning the foreshore, seabed, and coastal water, and the air space above the water -

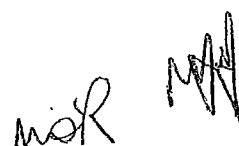
- (a) Of which the seaward boundary is the outer limits of the territorial sea:
- (b) Of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of -
 - (i) One kilometre upstream from the mouth of the river: or
 - (ii) The point upstream that is calculated by multiplying the width of the river mouth by 5;

conservation has the meaning given to it in the Conservation Act 1987;

conservation area has the meaning given to it in the Conservation Act 1987;

Conservation Board has the meaning given to it in the Conservation Act 1987;

Conservation Management Plan has the meaning given to it in the Conservation Act 1987;



Conservation Management Strategy has the meaning given to it in the Conservation Act 1987;

Crown means Her Majesty the Queen in right of New Zealand;

Crown Agency means a Department (as defined in section 2(1) of the Public Finance Act 1989), a Crown Entity or a State Enterprise or any company which is wholly owned by a State Enterprise;

Crown Body means the Crown (whether acting through a Minister or otherwise) or a Crown Entity or a State Enterprise or any company which is wholly-owned by a Crown Entity or a State Enterprise;

Crown Entity has the meaning given to it in the Public Finance Act 1989;

Crown Forestry Rental Trust means the forestry rental trust established under the Crown Forest Assets Act 1989;

this Deed means this Deed of Settlement comprising the Introduction and Sections 1 to 20 and including the Attachments to it and the Deed Maps and Allocation Plans appended to it;

Deed of On Account Settlement means the deed dated 14 June 1996 between the Crown and Te Rūnanga pursuant to which the Crown provided certain redress to Te Rūnanga on an 'on account' basis;

Deed Redress means:

- (a) the amount payable by the Crown to Te Rūnanga referred to in *clause 2.4* (which is the sum of \$160,000,000, being the Redress Amount less \$10,000,000 paid by the Crown to Te Rūnanga under the Deed of On Account Settlement; and
- (b) any further amounts payable by the Crown to Te Rūnanga under *clause 18.6* (if any); and
- (c) any of the other redress referred to in *clause 2.3.1* (other than interest payable in accordance with *clause 2.6* and, without prejudice to *clause 19.2.2*, the licence fees and interest referred to in *clause 2.3.1(f)*);

but does not include:

- (i) any interest which may be payable by the Crown under *clause 8.7* and any other amount payable by the Crown if it does not offer to give possession of any property to be transferred under *Section 4* (Transfer of Commercial Properties - Not Subject To Deferred Selection), *Section 5* (Transfer of Commercial Properties - Subject To Deferred Selection), *Section 6* (Transfer of Farm Assets), *Section 7* (Transfer of Forestry Assets) or *Section 10* (High Country Stations);
- (ii) the transfer of any property to Te Rūnanga or any Ngāi Tahu Recipient pursuant to *Section 4* (Transfer of Commercial Properties - Not Subject to Deferred Selection), *Section 10* (High Country Stations), *Section 11* (Mahinga Kai - Transfer and Vesting of Properties), *Section 13* (Specific Sites), *Section 14* (Ancillary Claims) or *Section 15* (South Island Landless Natives Act) (other than a property transferred without charge to Te Rūnanga); or
- (iii) the transfer of any property to Te Rūnanga or any Ngāi Tahu Recipient pursuant to any right exercised by Te Rūnanga under:
 - (1) the right to purchase certain properties as described in *Section 5* (Transfer of Commercial Properties - Subject To Deferred Selection), *Section 6* (Transfer of Farm Assets) or *Section 7* (Transfer of Forestry Assets);
 - (2) the rights of first refusal in relation to certain land and other assets described in *Section 9* (Rights of First Refusal);
 - (3) the right of first refusal relating to shellfish quota referred to in *clauses 12.14.14 to 12.14.19*; and
 - (4) the right for Te Rūnanga to acquire authorisations or authorities with respect to coastal space referred to in *clause 12.17*;

Director-General has the meaning given to it in the Conservation Act 1987;

Exclusive Economic Zone has the meaning given to it in section 9 of the Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977, which says:

- (1) The exclusive economic zone of New Zealand comprises those areas of the sea, seabed, and subsoil that are beyond and adjacent to the territorial sea of New Zealand, having as their outer limits a line measured seaward from the baseline described in sections 5 and 6 and 6A of this Act, every point of

which line is distant 200 nautical miles from the nearest point of the baseline.

- (2) Notwithstanding subsection (1) of this section, where -
- (a) Any part of the median line between New Zealand and any other country is less than 200 nautical miles from the nearest part of the baseline of the territorial sea of New Zealand; and
- (b) No other outer limit of the exclusive economic zone is for the time being determined by an Order in Council made under subsection (3) or subsection (4) of this section -

that part of the median line shall be an outer limit of the zone.

- (3) The Governor-General may from time to time, by Order in Council, declare that any specified provisions of this Part of this Act, and any other specified provisions in this Act relating to the exclusive economic zone, shall apply to the Ross Dependency, with such modifications and exceptions (if any) as he may specify in the Order.
- (4) For the purposes of implementing any international agreement, or the arbitral award of any international body, or the judgment of any international Court, or for any other purpose in accordance with international law, the Governor-General may from time to time, by Order in Council, declare that the exclusive economic zone shall not extend to any specified area of the sea, seabed, or subsoil, that would otherwise be included within the exclusive economic zone by virtue of this section.

Fish and Game Council has the meaning given to it in the Conservation Act 1987;

Freshwater and *Freshwater Fish* have the meanings given to them in the Conservation Act 1987;

GST means Goods and Services Tax;

High Country Stations means the areas known as Elfin Bay Station, and Greenstone Station and the Routeburn Station, being the areas more particularly described in the definitions of *Gift Areas*, *Leaseback Conservation Areas* and *Station Areas* in clause 10.1;

historic reserve has the meaning given to it in the Reserves Act 1977;

historic resources has the meaning given to it in the Conservation Act 1987;

Marginal Strip has the meaning given to it in the Conservation Act 1987;

Memorials means resumptive memorials imposed on land pursuant to the State-Owned Enterprises Act 1986, the Education Act 1989 and the New Zealand Railways Corporation Restructuring Act 1990;

national park has the meaning given to it in the National Parks Act 1980;

national park management plan means a management plan as defined in the National Parks Act 1980;

Natural and Physical Resources has the meaning given to it in section 2 of the Resource Management Act 1991;

natural resources has the meaning given to it in the Conservation Act 1987;

nature reserve has the meaning given to it in the Reserves Act 1977;

New Zealand Conservation Authority has the meaning given to it in the Conservation Act 1987;

New Zealand Fish and Game Council has the meaning given to it in the Conservation Act 1987;

New Zealand Fisheries Waters has the meaning given to it in section 2 of the Fisheries Act 1996, where it is defined as meaning:

- (a) All waters in the exclusive economic zone of New Zealand;
- (b) All waters of the territorial sea of New Zealand;
- (c) All internal waters of New Zealand;
- (d) All other fresh or estuarine waters within New Zealand where fish, aquatic life, or seaweed that are indigenous to or acclimatised in New Zealand are found.

Ngāi Tahu means the collective of individuals who descend from the primary hapū of Ngāi Tahu, Ngāti Mamoe and Waitaha, namely Kāti Kuri, Kāti Irakehu, Kāti Huirapa, Ngāi Tuahuriri and Kai Te Ruahikihiki and *Ngāi Tahu Whānui* has the same meaning;

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Ngāi Tahu Claim Area means the Takiwā of Ngāi Tahu Whānui and the Coastal Marine Area adjacent to the coastal boundary of the Takiwā of Ngāi Tahu Whānui and the New Zealand Fisheries Waters within the Coastal Marine Area and Exclusive Economic Zone adjacent to the seaward boundary of such Coastal Marine Area. For the purposes of this definition, the northern sea boundaries of the Coastal Marine Area have been determined using the equidistance principle and the northern sea boundaries of the Exclusive Economic Zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the Coastal Marine Area (with provision to exclude part of the New Zealand Fisheries Waters around the Chatham Islands), as shown on *Allocation Plan NT 504*;

Ngāi Tahu Claimant means any of Te Rūnanga, any claimant in respect of any Ancillary Claims, Ngāi Tahu, one or more individuals, whānau, marae, hapū or Papatipu Rūnanga of Ngāi Tahu, or any person acting on behalf of any one of the above;

Ngāi Tahu Claims has the meaning set out in *clause 1.2*;

Ngāi Tahu Historical Claims means the claims referred to in *clause 1.2.1(b)* and *(c)*;

Ngāi Tahu Recipient means any member of Ngāi Tahu Whānui (or entity representing such members) to which any redress is provided, or any property is transferred, pursuant to this Deed and, for the purposes of *clause 19.1* to *clause 19.4* and *clause 20.10* includes the Ancillary Claims Trustees and any person who has been nominated by Te Rūnanga under *clause 20.9*;

OTS means the Office of Treaty Settlements;

Papatipu Rūnanga has the meaning given to it in the Act;

preservation has the meaning given to it in the Conservation Act 1987;

protection has the meaning given to it in the Conservation Act 1987;

Redress Amount means \$170,000,000;

reserve has the meaning given to it in the Reserves Act 1977;

scenic reserve has the meaning given to it in the Reserves Act 1977;

scientific reserve has the meaning given to it in the Reserves Act 1977;

Settlement means the settlement to be effected pursuant to this Deed;

Settlement Amount means \$160,000,000, being the sum calculated by deducting from the Redress Amount the sum of \$10,000,000 paid by the Crown to Te Rūnanga pursuant to the Deed of On Account Settlement;

Settlement Date means the date which is 15 Business Days after this Deed becomes unconditional;

Settlement Legislation means the bill to give effect to the Settlement referred to in clause 17.3 and, where the bill has become law, means, if the context requires, the Act resulting from the passing of such bill;

State Enterprise has the meaning given to it in the State-Owned Enterprises Act 1986;

Takiwā of Ngāi Tahu Whānui means the area identified as the Takiwā of Ngāi Tahu Whānui in section 5 of the Act;

Te Rūnanga means Te Rūnanga o Ngāi Tahu, established under section 6 of the Act.

1.2 MEANING OF NGĀI TAHU CLAIMS

1.2.1 Definition

In this Deed, *Ngāi Tahu Claims*:

- (a) means all claims made at any time by any Ngāi Tahu Claimant and:
- (i) founded on rights arising in or by the Treaty of Waitangi, the principles of the Treaty of Waitangi, statute, common law (including customary law and aboriginal title), fiduciary duty or otherwise; and
 - (ii) arising out of or relating to any loss of interests in land, water, rivers, harbours, Coastal Marine Areas, minerals, forests or any Natural and Physical Resources in the Ngāi Tahu Claim Area, caused by acts or omissions by or on behalf of the Crown or by or under legislation, being a loss that occurred prior to 21 September 1992,

whether or not the claims have been researched, registered, or notified;

- (b) includes all of the claims made by Ngāi Tahu against the Crown arising from those historical grievances of Ngāi Tahu which are referred to in the following Ngāi Tahu Wai 27 claims to the Waitangi Tribunal:

- (i) General Claim of 26 August 1986;
 - (ii) Amended Claim of 24 November 1986;
 - (iii) Amended Claim of 16 December 1986;
 - (iv) Amended Claim of 2 June 1987;
 - (v) Amended Claim of 5 September 1987;
 - (vi) Amended Claim of 13 April 1988;
 - (vii) Amended Claim of 20 December 1994;
 - (viii) Amended Claim of 12 June 1995;
 - (ix) Amended Claim of 6 July 1995; and
 - (x) Amended Statement of Claim of 7 May 1996;
- (c) includes all Wai 27 Ancillary Claims made to the Waitangi Tribunal; and
- (d) includes the claims to the Waitangi Tribunal designated Wai 189, Wai 322, Wai 324, Wai 348, Wai 380, Wai 482, Wai 498, Wai 597, Wai 618 and Wai 622; but
- (e) excludes the claim to the Waitangi Tribunal designated Wai 158, but such exclusion shall not apply to any part of Wai 158 that might relate to the original allocation of land under the South Island Landless Natives Act 1906, being a matter dealt with in the Wai 27 claims and referred to in *paragraph (b)* of this definition; and
- (f) excludes claims insofar as they relate to language and culture which are not claims which come within *paragraphs (a) to (d)* of this definition.

1.2.2 Interpretation of 'loss' and 'interest'

In this *clause 1.2*, *loss* in relation to any of the interests referred to in *clause 1.2.1(a)(ii)* includes extinguishment of, diminution of, or adverse effect on, any such interest and *interest* includes any legal or equitable right, title, power, privilege or benefit.

1.2.3 Exception Relating to Māori Reserved Land

Nothing in this *clause 1.2* or in *clauses 16.2.2, 17.3.1* or *17.3.2* prevents any Ngāi Tahu Claimant from receiving redress under the legislation which results from the passing of the Māori Reserved Land Amendment Bill 1996 or other legislation which addresses the grievances intended to be addressed by that Bill and the Settlement Legislation will include a provision to that effect.

1.2.4 Record of Crown Position on Wai 158

The Crown records that it regards the substance of the Wai 158 claim as relating to the Crown's contemporary indigenous forest policy that was initially given expression through the imposition of the wood-chip export ban made in July 1990 under the Customs Act 1966 and also given expression through the enactment of the Forests Amendment Act 1993 (i.e. Part IIIA of the Forests Act 1949) and that the Crown reserves its position in respect of the claim. The Crown notes that the Wai 158 claim was filed in July 1990 almost immediately following the imposition of the wood-chip export ban by the Crown.

1.3 INTERPRETATION

In the interpretation of this Deed, unless the context otherwise requires:

- 1.3.1 headings appear as a matter of convenience and are not to affect the interpretation of this Deed;
- 1.3.2 words or phrases (other than proper names) appearing in this Deed with capitalised initial letters are defined terms and all defined terms bear the meanings given to them in this Deed or in the relevant Section or clause of this Deed and words or phrases defined in any Section have the same meanings in any Attachments relating to that Section;
- 1.3.3 where a word or expression is defined in this Deed, other parts of speech and grammatical forms of that word or expression have corresponding meanings;
- 1.3.4 the singular includes the plural and vice versa, and words importing one gender include the other genders;

- 1.3.5 references to Recitals, Sections, clauses and Attachments are to Recitals, Sections and clauses of, and Attachments to, this Deed and references to Deed Maps and Allocation Plans are to the maps appended to this Deed;
- 1.3.6 references within an Attachment to a paragraph or an Appendix means the paragraph in, or the Appendix to, that Attachment;
- 1.3.7 a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations, but this provision shall be read subject to *clause 1.4*;
- 1.3.8 a reference to a party to this Deed or any other document or agreement includes that party's successors;
- 1.3.9 a reference to any document or agreement, including the Charter and this Deed, includes a reference to that document or agreement as amended, renewed or replaced from time to time;
- 1.3.10 references to monetary amounts are to New Zealand currency;
- 1.3.11 references to *written* or *in writing* include all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form;
- 1.3.12 a reference to a *person* includes a corporation sole and also a body of persons, whether corporate or unincorporate;
- 1.3.13 where a clause or Section includes a preamble, that preamble is intended to set out the background to, and intention of, the clause or Section, but is not to affect the interpretation of the clause or Section;
- 1.3.14 in the event of a conflict between the terms of the main body of the Deed and the Attachments, then the terms of the main body of the Deed shall prevail;
- 1.3.15 a reference to the provision of any Deed Redress "without charge to Te Rūnanga" means that that Deed Redress is provided by way of gift;
- 1.3.16 a reference to any document being in the form specified in an Attachment includes that document with such amendments as may be agreed in writing between the Crown and Te Rūnanga; and

1.3.17 a reference to a date on or by which something shall be done includes any other date which may be agreed in writing between the Crown and Te Rūnanga.

1.4 STATUTORY AMENDMENTS

The parties agree that the rule of interpretation referred to in *clause 1.3.7* is intended only to facilitate interpretation of this Deed in circumstances where legislative changes make statutory references in this Deed obsolete. It is not intended to indicate, and should not be interpreted as indicating, any consent by Te Rūnanga to, or acquiescence by Te Rūnanga in, the introduction to Parliament by the Crown of any proposed statutory amendment which would adversely affect the redress provided by the Crown pursuant to this Deed or the ability of either party to fulfil its obligations expressed in this Deed.