
Parties

TE RŪNANGA O NGĀI TAHU

and

HER MAJESTY THE QUEEN

in right of New Zealand


DEED OF SETTLEMENT
SECTION 17

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SECTION 17: CONDITIONS AND LEGISLATION

17.1 CONDITIONAL DEED

17.1.1 Passing of Legislation

Subject to *clause 17.1.2*, this Deed and the Settlement are conditional on:

- (a) the passing of the Settlement Legislation and the making of an Order in Council bringing into force the Settlement Legislation (other than any section relating to an individual property which is to come into force on a date provided for in the section itself);
- (b) the passing of the Ngāi Tahu (Tūtaepatu Lagoon Vesting) Bill.

17.1.2 Some Provisions not Conditional

Although this Deed and the Settlement are conditional on the matters specified in *clause 17.1.1*, the parties acknowledge that certain provisions of this Deed become binding on the parties upon execution of this Deed. Where any provision of this Deed says that any provision is not conditional as described in *clause 17.1*, the provision concerned shall be binding upon the parties unless and until termination of this Deed under *clause 17.2*, and any amount payable by one party to the other under any such provision in relation to the period prior to the date of termination shall be paid notwithstanding such termination.

17.1.3 Waiver

Te Rūnanga may, at its sole discretion, waive the condition referred to in *clause 17.1.1(b)*, in which case that condition will be deemed to have been satisfied for the purposes of this Deed

17.2 TERMINATION IF DEED REMAINS CONDITIONAL

17.2.1 Termination

If the conditions referred to in *clause 17.1.1* have not been satisfied by the date which is 12 months after the date of this Deed, then either party may, by notice to the other, terminate this Deed. If that happens, this Deed will be at an end and neither party will have any rights or obligations under it. The parties agree that this Deed will be treated as having been entered into on a “without prejudice” basis until it becomes unconditional.

17.2.2 Costs Before Termination

If this Deed is terminated under *clause 17.2.1*, the Crown shall pay on demand (and on receipt of copies of receipted invoices or other satisfactory evidence of payment) to Te Rūnanga its reasonable costs and expenses reasonably incurred to a maximum of \$500,000.00 (plus GST) in complying with those obligations under this Deed with which Te Rūnanga had to comply before termination. The



Crown's obligations under this *clause 17.2.2* shall continue after termination under *clause 17.2.1*.

17.3 INTRODUCTION OF SETTLEMENT LEGISLATION

The Crown agrees that it will, within 6 months after the date of this Deed (or such longer period as the Crown and Te Rūnanga may agree), propose for introduction to Parliament legislation to give effect to the Settlement, and to achieve certainty in respect of, and to record the approval by Parliament of, the Settlement. The proposed Settlement Legislation will, without limitation:

17.3.1 include a provision as follows:

- (1) *"The settlement of the Ngāi Tahu claims to be effected pursuant to the deed of settlement is final, and the Crown is released and discharged in respect of those claims;*
- (2) *Subsection (1) does not limit the deed of settlement;*
- (3) *Despite any other enactment or rule of law, no court or tribunal has jurisdiction to inquire or further inquire into, or to make any finding or recommendation in respect of -*
 - (a) *Any or all of the Ngāi Tahu claims; or*
 - (b) *The validity of the deed of settlement; or*
 - (c) *The adequacy of the benefits provided to Te Rūnanga o Ngāi Tahu and others under this Act or the deed of settlement; or*
 - (d) *This Act;*
- (4) *Subsection (3) does not exclude the jurisdiction of a court or tribunal in respect of the interpretation or implementation of the deed of settlement or this Act";*

17.3.2 include such provisions as are required to give effect to the Crown's obligations in respect of the Settlement Legislation pursuant to this Deed;

17.3.3 include any other provisions required to achieve certainty, finality and durability of the Settlement and to give effect to this Deed;

17.3.4 provide for the removal of Memorials from titles to land within the Takiwā of Ngāi Tahu Whānui with effect from the Settlement Date;

- 17.3.5 provide for the removal of the obligation to impose Memorials on the titles to land within the Takiwā of Ngāi Tahu Whānui with effect from the Settlement Date;
- 17.3.6 provide that nothing in the following statutory provisions below will apply in relation to any land within the Ngāi Tahu Claim Area from the Settlement Date:
- (a) Sections 8A to 8H of the Treaty of Waitangi Act 1975;
 - (b) Sections 27A to 27C of the State-Owned Enterprises Act 1986;
 - (c) Part III of the New Zealand Railways Corporation Restructuring Act 1990; and
 - (d) Sections 211 to 213 of the Education Act 1989;
- 17.3.7 provide for the removal of the jurisdiction of the Waitangi Tribunal (or any other court or tribunal) to make recommendations for the return of Licensed Land to Māori ownership or the payment of compensation to Māori in respect of Licensed Land within the Takiwā of Ngāi Tahu Whānui ;
- 17.3.8 provide for the cessation of the Ngāi Tahu Māori Trust Board annuity;
- 17.3.9 provide that the rule against perpetuities or any relevant provision of the Perpetuities Act 1964 will not apply to any document entered into to give effect to this Deed if the application of the rule against perpetuities or the provision of the Perpetuities Act would otherwise make the document invalid or ineffective.
- 17.3.10 provide that the Settlement (other than those parts of the Settlement provided for in *clauses 13.3 and 13.6*, Section 14 (Ancillary Claims) and Section 15 (South Island Landless Natives Act))+ is for the benefit of all Ngāi Tahu Whānui collectively, and not for the benefit of any individual, single whānau, single marae, single hāpu or single Papatipu Rūnanga (except to the extent that, after the Settlement Date, Te Rūnanga determines in accordance with the Charter and the Act); and
- 17.3.11 provide for an amendment to the definition of “Ngāi Tahu Whānui” in section 2 of the Act to include a reference to Waitaha in conjunction with Ngāi Tahu and Ngāti Mamoe.

17.4 TE RŪNANGA STATEMENT REQUIRED

The proposed Settlement Legislation referred to in *clause 17.3* will include a provision or provisions to the effect that:

- 17.4.1 the Settlement Legislation will not come into force until an Order in Council bringing it into force has been executed;
- 17.4.2 no Order in Council may be made bringing the Settlement Legislation into force unless Te Rūnanga has provided a statement in writing to the Crown that the legislation as enacted is acceptable to Te Rūnanga;
- 17.4.3 an Order in Council bringing into force the Settlement Legislation (other than the sections referred to in *clause 17.1.1 (a)*) will be made no later than 20 Business Days after Te Rūnanga has provided a statement in writing to the Crown that the Settlement Legislation as enacted is acceptable to Te Rūnanga; and
- 17.4.4 if an Order in Council bringing into force the Settlement Legislation (other than the sections referred to in *clause 17.1.1(a)*) has not been made by the date which is 6 months after the date on which the legislation is enacted, then the legislation will be deemed to be repealed.

17.5 TE RŪNANGA PARTICIPATION IN DRAFTING

The Crown acknowledges that, in view of the requirements of *clause 17.4*, it is important that the proposed Settlement Legislation as introduced is in a form which is acceptable to Te Rūnanga. Accordingly, Te Rūnanga or its nominated advisors will participate along with officials in the preparation of drafting instructions to Parliamentary Counsel to prepare the Bill to be introduced and in settling the draft of the Bill with Parliamentary Counsel. The draft Bill proposed in accordance with this clause will then be submitted to Cabinet for approval. Once Cabinet has approved that draft Bill the final decision on the introduction of the Bill will be a Cabinet decision.

17.6 CONFIRMATION FROM TE RŪNANGA

Prior to the introduction of the Bill referred to in *clause 17.3*, the Crown will request that Te Rūnanga confirm in writing that, if the Bill in the form approved by Cabinet for introduction to Parliament were enacted, it would be acceptable to Te Rūnanga for the purposes of *clause 17.4*. Te Rūnanga agrees that if it gives such confirmation and the Settlement Legislation as passed by Parliament does not contain any amendments to the draft Bill in respect of which the confirmation was given, which would alter or add to the provisions of the draft Bill in a manner which is to the detriment of Ngāi Tahu Whānui, Te Rūnanga will not withhold the statement referred to in *clause 17.4*.



17.7 CONSEQUENCES OF TE RŪNANGA STATEMENT

In the event that Te Rūnanga provides a statement under *clause 17.4.2* and the Settlement Legislation comes into force, any provision of this Deed which requires that the Settlement Legislation make provision for any matter will be deemed to have been complied with even if the Settlement Legislation to which Te Rūnanga's statement under *clause 17.4.2* relates omits such provision or contains a provision which differs from it in any respect. Nothing in this clause imposes any obligation on Te Rūnanga to provide a statement under *clause 17.4.2* if any such provision has been omitted from the Settlement Legislation or changed in the Settlement Legislation.

17.8 NOT CONDITIONAL

Clause 17.1 (which provides that this Deed is conditional on the Settlement Legislation coming into force) does not apply to *clauses 17.2.2, 17.5* and *17.6*.

