
Parties

TE RŪNANGA O NGĀI TAHU

and

HER MAJESTY THE QUEEN

in right of New Zealand

DEED OF SETTLEMENT
SECTION 2



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SECTION 2: CROWN'S APOLOGY, ACKNOWLEDGEMENTS AND AGREEMENTS

2.1 APOLOGY BY CROWN

The Crown apologises formally and will apologise publicly to Ngāi Tahu as follows:

"1. Kei te mōhio te Karauna i te tino roa o ngā tūpuna o Ngāi Tahu e totohe ana kia utu mai rātou e te Karauna - tata atu ki 150 ngā tau i puta ai tēnei pēpeha a Ngāi Tahu arā: "He mahi kai tākata, he mahi kai hoaka". Nā te whai mahara o ngā tūpuna o Ngāi Tahu ki ngā āhuatanga o ngā kawenga a te Karauna i kawea ai e Matiaha Tiramōrehu tana petihana ki a Kuini Wikitoria i te tau 1857. I tuhia e Tiramōrehu tana petihana arā:

"Koia nei te whakahau a tōu aroha i whiua e koe ki runga i ēnei kāwana ... tērā kia whakakotahitia te ture, kia whakakotahitia ngā whakahau, kia ōrite ngā āhuatanga mō te kiri mā kia rite ki tō te kiri waitutu, me te whakatakoto i te aroha o tōu ngākau pai ki runga i te iwi Māori kia noho ngākau pai tonu ai rātou me te mau mahara tonu ki te mana o tōu ingoa."

Nā konei te Karauna i whakaae ai tērā, te taumaha o ngā mahi a ngā tūpuna o Ngāi Tahu, nā rēira i tū whakaiti atu ai i nāia nei i mua i ā rātou mokopuna.

2. E whakaae ana te Karauna ki tōna tino hēanga, tērā i takakino tāruaruatia e ia ngā kaupapa o te Tiriti o Waitangi i roto i āna hokonga mai i ngā whenua o Ngāi Tahu. Tēnā, ka whakaae anō te Karauna tērā i roto i ngā āhuatanga i takoto ki roto i ngā pukapuka ā-herenga whakaatu i aua hokonga mai, kāore ia (te Karauna) i whai whakaaro ki tāna hoa nā rāua rā i haina te Tiriti, kāore hoki ia i whai whakaaro ki te wehe ake i ētehi whenua hei whai oranga tinana, whai oranga ngākau rānei mō Ngāi Tahu.

3. E whakaae ana te Karauna tērā, i roto i tāna takakino i te wāhanga tuarua o te Tiriti, kāore ia i whai whakaaro ki te manaaki, ki te tiaki rānei i ngā mauanga whenua a Ngāi Tahu me ngā tino taonga i hiahia a Ngāi Tahu ki te pupuri.

4. E mōhio ana te Karauna tērā, kāore ia i whai whakaaro ki a Ngāi Tahu i runga i te ngākau pono o roto i ngā tikanga i pūtake mai i te mana o te Karauna. Nā tāua whakaaro kore a te Karauna i puaki mai ai tēnei pēpeha a Ngāi Tahu: "Te Hapa o Niu Tireni". E mōhio ana te Karauna i tāna hē ki te kaipono i ngā āhuatanga whai oranga mō Ngāi Tahu i noho pōhara noa ai te iwi ia whakaturupuranga heke iho. Te whakatauāki i pūtake mai i aua āhuatanga: "Te mate o te iwi".

5. *E whakaae ana te Karauna tērā, mai rāno te piri pono o Ngāi Tahu ki te Karauna me te kawe pono a te iwi i ā rātou kawenga i raro i te Tiriti o Waitangi, pērā anō tō rātou piri atu ki raro i te Hoko Whitu a Tū i ngā wā o ngā pakanga nunui o te ao. E tino mihi ana te Karauna ki a Ngāi Tahu mō tōna ngākau pono mō te koha hoki a te iwi o Ngāi Tahu ki te katoa o Aotearoa.*
6. *E whakapūaki atu ana te Karauna ki te iwi whānui o Ngāi Tahu i te hōhonu o tōna (te Karauna) āwhitu mō ngā mamaetanga, mō ngā whakawhiringa i pūtake mai no roto i ngā takakino a te Karauna i takaongetia ai a Ngāi Tahu Whānui. E whakaae ana te Karauna tērā, āua mamaetanga me ngā whakawhiringa hoki i hua mai no roto i ngā takakino a te Karauna, arā, kāore te Karauna i whai i ngā tohutohu a ngā pukapuka ā-herenga i tōna hokonga mai i ngā whenua o Ngāi Tahu, kāore hoki te Karauna i wehe ake kia rawaka he whenua mō te iwi, hei whakahaere mā rātou i ngā āhuatanga e whai oranga ai rātou, kāore hoki ia (te Karauna) i hanga i tētehi tikanga e maru motuhake ai te mana o Ngāi Tahu ki runga i ā rātou pounamu me ērā atu tāonga i hiahia te iwi ki te pupuri. Kore rawa ia (te Karauna) i aro ake ki ngā aurere a Ngāi Tahu.*
7. *E whakapāha ana te Karauna ki a Ngāi Tahu mō tōna hēanga, tērā, kāore ia i whai whakaaro mō te rangatiratanga o Ngāi Tahu, ki te mana rānei o Ngāi Tahu ki runga i ōna whenua ā-rohe o Te Wai Pounamu, nā rēira, i runga i ngā whakaritenga me ngā herenga a te Tiriti o Waitangi, ka whakaae te Karauna ko Ngāi Tahu Whānui anō te tāngata whenua hei pupuri i te rangatiratanga o roto i ōna takiwā.*
8. *E ai mō ngā iwi katoa o Aotearoa e hiahia ana te Karauna ki te whakamārie i ngā hara kua whākina ake nei - otirā, ērā e taea i nāianei- i te mea kua āta tau ngā kōrero tūturu ki roto i te pukapuka ā-herenga whakaritenga i hainatia i te 22 o ngā rā o Whitu hei tīmatanga whai oranga i roto i te ao hōu o te mahinga tahi a te Karauna rāua ko Ngāi Tahu."*

* * * * *

"1. The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai tākata, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramōrehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramōrehu wrote, 'This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily

... and remember the power of thy name.' The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

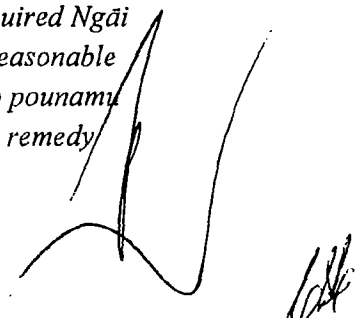
2. The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

3. The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

4. The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tireni!' ('The unfulfilled promise of New Zealand') The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').

5. The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

6. The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

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7. *The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.*
8. *Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu.*"

2.2 ACKNOWLEDGEMENTS BY CROWN

The Crown acknowledges:

- 2.2.1 the legitimacy of the Ngāi Tahu Historical Claims and the breaches of the Treaty of Waitangi by the Crown in relation to the Ngāi Tahu Historical Claims;
- 2.2.2 that the Settlement does not diminish or in any way affect the Treaty of Waitangi or any of its articles or the ongoing relationship between the Crown and Ngāi Tahu in terms of the Treaty of Waitangi or undermine any rights under the Treaty of Waitangi, including rangatiratanga rights;
- 2.2.3 the fact that the recognition of the grievance of Ngāi Tahu in relation to the Ngāi Tahu Claims is overdue;
- 2.2.4 except as provided in *clause 12.14.11(a)*, the terms of this Deed are not intended to affect the rights of Ngāi Tahu in respect of fisheries as confirmed and recognised by section 26ZH of the Conservation Act 1987, the Māori Fisheries Act 1989 and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;
- 2.2.5 the contribution of Ngāi Tahu, through the sale of its lands, to the development of Te Wai Pounamu and of New Zealand;
- 2.2.6 the suffering caused to Ngāi Tahu through the Crown's failure to provide adequate reserves, the reserves which were not provided and the inadequate price paid for Ngāi Tahu lands by the Crown being estimated by Ngāi Tahu to have a present day value of not less than \$20 billion; and
- 2.2.7 that the Crown has not asked Ngāi Tahu to concur with, and Ngāi Tahu has never concurred with, the concept of the "settlement envelope" or its

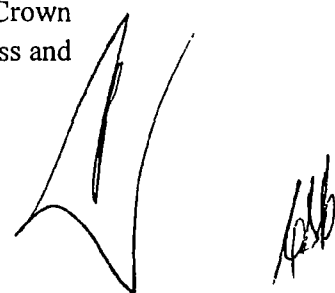
quantum, which was rejected by Ngāi Tahu at a hui at Tuahiwi held on 24 March 1995.

2.3 REDRESS FROM CROWN

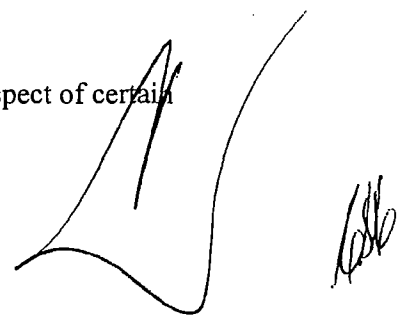
2.3.1 Summary of Redress

The Crown agrees to provide the following redress in recognition of the mana of Ngāi Tahu and to discharge the Crown's obligations to Ngāi Tahu in respect of the Ngāi Tahu Claims:

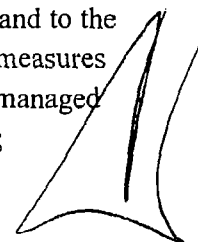
- (a) the payment of the Settlement Amount to Te Rūnanga in accordance with *clause 2.4*;
- (b) the payment of interest in accordance with *clause 2.6*;
- (c) the vesting in Te Rūnanga of title to Aoraki/Mount Cook and the gifting back of such title by Te Rūnanga to the Crown as provided for in *Section 3* (Aoraki/Mount Cook);
- (d) the transfer to Te Rūnanga of certain properties pursuant to the provisions of *Section 4* (Transfer of Commercial Properties - Not Subject To Deferred Selection) and *Section 8* (Transfer of Assets (General));
- (e) the right of Te Rūnanga to purchase certain properties pursuant to the provisions of *Section 5* (Transfer of Commercial Properties - Subject To Deferred Selection), *Section 6* (Transfer of Farm Assets), *Section 7* (Transfer of Forestry Assets) and *Section 8* (Transfer of Assets (General));
- (f) making provision for the payment to Te Rūnanga of the licence fees held by the Crown Forestry Rental Trust and the Crown relating to the Licensed Land transferred to Te Rūnanga under *Section 7* (Transfer of Forestry Assets) and interest earned by the Crown on any licence fees retained by the Crown pending completion of any licence fee review, subject to the relevant provisions of *Section 7* (Transfer of Forestry Assets);
- (g) rights of first refusal in favour of Te Rūnanga over certain land and other assets as described in *Section 9* (Rights of First Refusal);
- (h) the transfer to Te Rūnanga of the Crown's interest in the High Country Stations subject to certain areas being gifted or leased back to the Crown and certain areas being subject to covenants relating to public access and conservation, as provided in *Section 10* (High Country Stations);



- (i) the vesting in Te Rūnanga of:
- (i) certain taonga sites, some of which will be subject to management by the Minister of Conservation under protected private land agreements;
 - (ii) the administration of certain reserves; and
 - (iii) title to the beds of Te Waihora, Muriwai (Coopers Lagoon) and Lake Mahināpua,
- as provided in *Section 11* (Mahinga Kai - Transfer and Vesting of Properties);
- (j) redress relating to mahinga kai as specified in *Section 12* (Mahinga Kai - General), including but not limited to:
- (i) acknowledgements of Te Rūnanga's statement of Ngāi Tahu's special association with a number of sites, including areas of land, geographic features, lakes, rivers and wetlands, through Tōpuni, Statutory Acknowledgements and Deeds of Recognition and provision for involvement by Te Rūnanga in the management of certain sites through Tōpuni and Deeds of Recognition;
 - (ii) a Statutory Adviser role for Te Rūnanga in respect of certain Crown owned land managed by the Minister of Conservation;
 - (iii) provision for a pou whenua to be placed in Kahurangi National Park;
 - (iv) provision of 72 Nohoanga Entitlements to Te Rūnanga;
 - (v) changes to certain place names and amendment of the New Zealand Geographic Board Act 1946 to encourage use of Māori names on official maps;
 - (vi) provisions for appointment of persons nominated by Te Rūnanga on the New Zealand Geographic Board, the New Zealand Conservation Authority, Conservation Boards within the Ngāi Tahu Claim Area, the Guardians of Lake Wanaka and Lakes Manapōuri, Monowai and Te Anau;
 - (vii) a statutory adviser role to Fish and Game Councils in respect of certain game birds;

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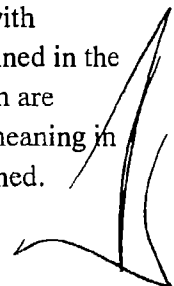
- (viii) provision for the issue of Protocols by the Minister of Conservation on certain matters;
 - (ix) acknowledgement of Ngāi Tahu's association with, and management input for Te Rūnanga in relation to, specified plant, bird and animal Taonga Species;
 - (x) increased Ngāi Tahu involvement in the management of certain fisheries, promulgation of regulations for managing customary fisheries, the re-establishment of temporary closure provisions in fisheries legislation and acknowledgement of Ngāi Tahu's special association with certain Taonga Fish Species;
 - (xi) a right of first refusal for Te Rūnanga to acquire up to 40% of the Total Allowable Commercial Catch with respect to five shellfish species, should they become subject to a Quota Management System, and the implementation of certain specific recommendations contained in the South Island Eel Plan;
 - (xii) involvement by Te Rūnanga with the Ministry for the Environment on improving the implementation of the Resource Management Act 1991;
 - (xiii) a right for Te Rūnanga to acquire 10% of any authorisations to occupy coastal space which is allocated under coastal tendering or any similar future authorities which may be issued by the Crown in respect of its land within the Takiwā of Ngāi Tahu Whānui; and
 - (xiv) the Crown agreeing to conduct a full review of legislation relating to the protection of land-based historical and cultural heritage and to provide for the participation of Te Rūnanga in that review;
- (k) the closure of certain legal but unformed roads in the Arahura Valley and vesting of title to the land in the Māwhera Incorporation (subject to provision for continuing access for affected parties) without charge to Te Rūnanga and the creation of a historic reserve (to be vested in the Māwhera Incorporation) in the catchment of the upper third of the Arahura river, as described in *clause 13.3*;
- (l) vesting of Māori freehold title to Rarotoka in Te Rūnanga without deduction from the Redress Amount (subject to a lease of one area of the island to the Maritime Safety Authority) and provision for the introduction of measures to recognise and provide for the creation of a fisheries area to be managed by Te Rūnanga adjacent to the island, as described in *clause 13.4*;



- (m) a Statutory Acknowledgement and Deed of Recognition in relation to Whenua Hou, a change in the official name of the reserve covering the island from the Codfish Island Nature Reserve to the Whenua Hou Nature Reserve, and the establishment of a committee of the Southland Conservation Board including Rakiura Māori relating to Whenua Hou, with provision for access for Ngāi Tahu to Whenua Hou, as described in *clause 13.5*;
- (n) vesting of freehold title to the Crown Titi Islands in Te Rūnanga without charge to Te Rūnanga, with the islands to be managed by an administering body comprising nominees of the Rakiura Titi Committee and Te Rūnanga as if they were a nature reserve, subject to the customary right of Rakiura Māori to take titi, as described in *clause 13.6*;
- (o) the provision of redress to the beneficiaries of the Ancillary Claims as specified in *Section 14 (Ancillary Claims)*, including:
 - (i) the vesting of land in beneficiaries of certain Ancillary Claims;
 - (ii) making provision for the transfer of land to beneficiaries of certain Ancillary Claims;
 - (iii) the provision of Fenton Entitlements and Customary Fishing Entitlements to beneficiaries of certain Ancillary Claims; and
 - (iv) the creation of the Ancillary Claims Trust to trace and identify the beneficiaries of certain Ancillary Claims;
- (p) provision for identification by the Crown of the successors of the persons to whom land should have been allocated under the South Island Landless Natives Act 1906 and vesting title to certain land in them as described in *Section 15 (South Island Landless Natives Act)* without charge to Te Rūnanga; and
- (q) making provision to maintain the relativity of the Redress Amount as provided in *Section 18 (Relativity Mechanism)*.

2.3.2 Defined Terms

Words or phrases (other than proper names) appearing in *clause 2.3.1* with capitalised initial letters and which are not defined in *clause 1.1* are defined in the Section or clause of this Deed in which the substantive provisions which are summarised in *clause 2.3.1* appear, and are intended to have the same meaning in *clause 2.3.1* as they have in the Section or clause in which they are defined.



2.3.3 General Description Only

This *clause 2.3* contains a general description of the redress to be provided pursuant to this Deed and is not intended to modify or affect the interpretation of the specific provisions in this Deed relating to each item of that redress.

2.4 PAYMENT BY CROWN OF SETTLEMENT AMOUNT

The Crown will pay to Te Rūnanga the Settlement Amount in two instalments, as follows:

2.4.1 the first instalment of \$10,000,000 will be paid as a further payment 'on account' of the Redress Amount on the date which is 5 Business Days after the date on which this Deed is executed by Te Rūnanga and the Crown. Such payment will be made subject to the terms of *clause 2.5*; and

2.4.2 the second and final instalment of \$150,000,000 will, subject to *clause 17.1*, be paid on the Settlement Date.

2.5 TERMS OF PAYMENT OF FIRST INSTALMENT OF SETTLEMENT AMOUNT

Te Rūnanga and the Crown agree and acknowledge that:

2.5.1 the payment of the first instalment of the Settlement Amount is made as a further 'on account' advance of the redress to be provided by the Crown in relation to the Ngāi Tahu Claims (the first such 'on account' advance having been made pursuant to the Deed of On Account Settlement); and

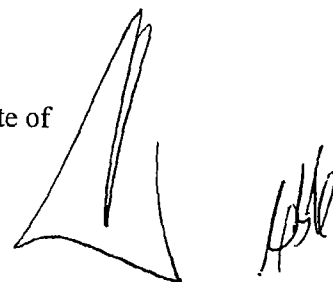
2.5.2 such payment is not contingent on this Deed becoming unconditional and is therefore not subject to *clause 17.1*; but

2.5.3 if for any reason, this Deed does not become unconditional, the amount of any redress which the Crown becomes obliged to provide to Te Rūnanga or to Ngāi Tahu to discharge the Crown's obligations in respect of any of the Ngāi Tahu Claims will be adjusted to reflect the amount of redress provided under *clause 2.4.1* (as well as the amount of redress provided pursuant to the Deed of On Account Settlement); and

2.5.4 the Crown may produce this Deed to any Court or tribunal considering the quantum of any redress to be provided by the Crown in relation to any of the Ngāi Tahu Claims in order to give effect to *clause 2.5.3*.

2.6 INTEREST

The Crown agrees that, subject to *clause 17.1*, it will pay interest at a rate of 7.91% per annum to Te Rūnanga on:

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- 2.6.1 the full amount of the Settlement Amount (being \$160,000,000) from 5 October 1996 to the date on which the first instalment of the Settlement Amount is paid under *clause 2.4.1*; and
- 2.6.2 the amount of the Settlement Amount remaining unpaid after payment of the first instalment under *clause 2.4.1* (being \$150,000,000) from the day after the date on which the first instalment is paid under *clause 2.4.1* until the date on which the second instalment of the Settlement Amount is paid to Te Rūnanga under *clause 2.4.2*.

Such interest will be payable in full on the Settlement Date, and will be subject to normal taxation law.

