RESEARCH PAPER

# A GIANT TREATY RORT?

## TREATY TRANSPARENCY – 1975 TO 2026

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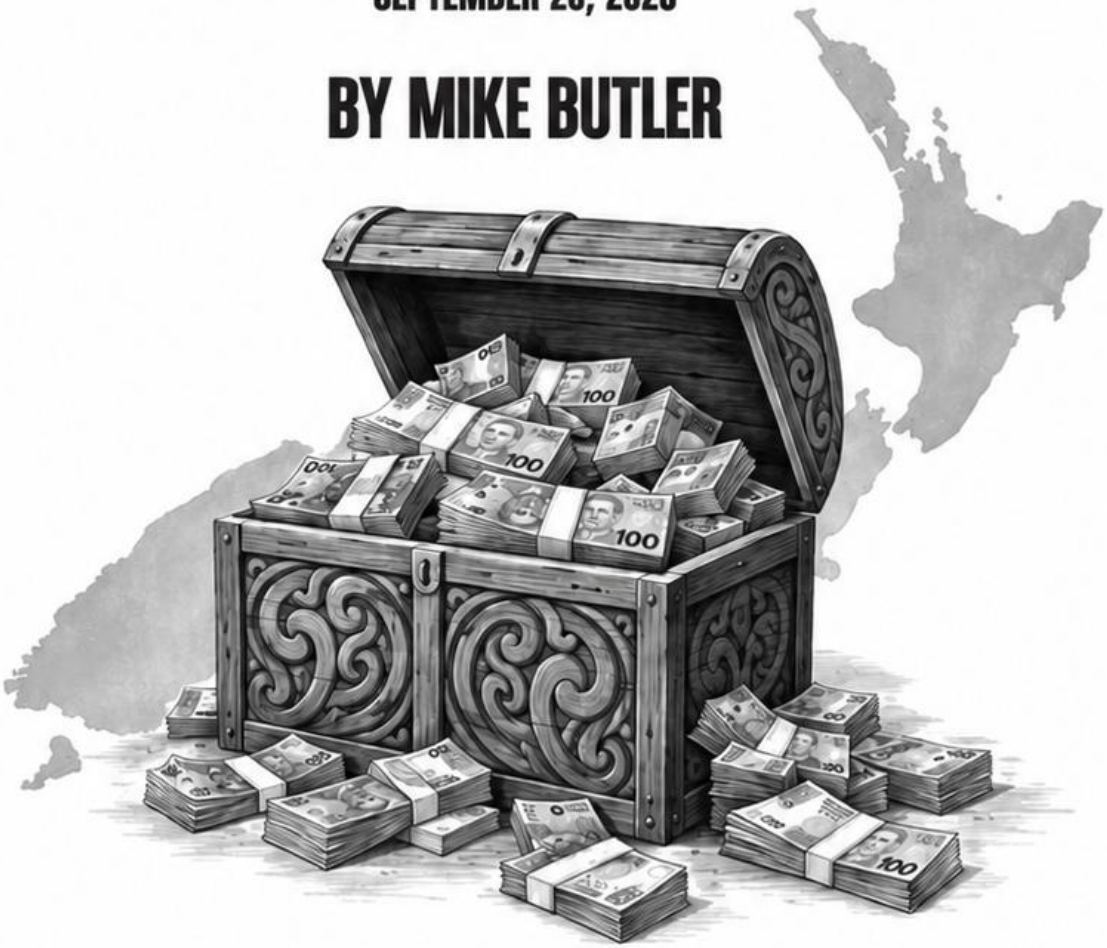
BY MIKE BUTLER



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# Introduction

Does Treaty of Waitangi policy amount to a rort that has grown beyond the wildest dreams of those who set it up and is now too large and too deeply embedded for any government to dismantle?

That is the question that emerged from spending a couple of months updating the treaty settlement financial redress total to $4.94-billion, as detailed on the table at the end of this study.

The word “rort” is a colloquial term used in New Zealand and Australia to describe a scheme that takes unfair advantage of a public service, loophole, or resource.

It is often applied to political expense scandals, exploiting bureaucratic loopholes, or bending the rules of an organization or government program for personal benefit.

It usually results in public backlash, policy changes, or reprimands.

Treaty policy has delivered massive wealth and control to a select few. Whether it is a massive rort or an unintended consequence remains to be seen.

I started looking closely at New Zealand history about 20 years ago when writing *The First Colonist – Samuel Deighton 1821-1900*, which is the story of my great grandfather who was a resident magistrate in 19th Century New Zealand. That led to other books which included *The Treaty – Basic Facts* published in 2021.

I could compare my great grandfather’s letters and eye-witness accounts of specific incidents, with accounts of those incidents as described in treaty settlements that were well under way by then. It was obvious that while the Waitangi Tribunal has produced a number of extensive reports on our history, those reports deliver a persuasive grievance narrative that frames events in terms of the Treaty of Waitangi and treaty principles.

This treaty settlement transparency project was initiated in conjunction with the New Zealand Centre for Political Research, in 2012. The purpose was to establish the financial redress total in order to work out when fiscal envelope relativity payments would be triggered.

On March 23 that year, we predicted that those payments were to start. The government confirmed it in October of that year.

The 2012 report was done based on 28 settlements totalling $1.7-billion in 2012 dollars. This update covers 115 settlements with financial redress totalling just under $5-billion to June 30, 2026.

This study goes back to 1800 and looks at the steps and missteps along the way to find out why we, in 2026, are in an ideological war over issues that more than 100 years ago were regarded as settled.

Our present predicament is rooted in the Treaty of Waitangi Act 1975, its extension back to 1840, a revision of the Treaty of Waitangi that took place in the mid-1980s, and the creation of treaty principles.

The redefinition of four key words in the treaty led to four core beliefs which function within treaty policy like dogmas function in a religion.

Those four words are “kawanatanga”, “rangatiratanga”, “taonga”, and “tikanga”, which were used to convey the words “sovereignty”, “possession”, “property” and “rights” respectively in the final treaty draft in English that “te tiriti” was translated from.

While the religious, dogmatic approach may have started out as a way to deflect attention from assertions that don’t withstand scrutiny, as you will see in this report, enforcement of treaty orthodoxy has now escalated to a point where a citizen may lose his or her job for refusing to comply.

The treaty principles, also created in the mid-1980s, have allowed the treaty document to move from a historical text into enforceable modern legislation.

They have transformed law, enabled the treaty settlement process, and imposed a bicultural structure on the public sector where “partnership, participation, and protection” are the foundational buzz words.

This resource explains the who, what, where, when, why, how of the treaty settlement programme, all within the context of how it came about, and how the ideology was developed.

# 1. A game of two halves

New Zealand history in the 19th century was a game of two halves and only one half attracts compensation. There was the history of British settlement from 1840. But before that, there were the inter-tribal Musket Wars from 1807 to 1845. Those wars redrew the tribal map, setting the scene for the Treaty of Waitangi agreement between 512 chiefs and the British Crown in 1840. This agreement, in turn, opened the way for large-scale British settlement, much of which took place in areas vacated by the Musket Wars – such as Wellington, Taranaki, Auckland, and Hawke's Bay. When conflict between rebellious tribes and the government erupted, on occasions revenge was taken by some Maori fighting for the government to settle Musket War grudges.

# 2. The Musket Wars

Muskets were a type of muzzle-loading firearm that the Maori people of New Zealand did not have before contact with people from the developed world - including Dutch seafarer Abel Tasman in 1642, British captain James Cook in 1769, and with whalers, sealers, and missionaries.

Musket Wars started at the Battle of Moremonui, about 40km north of Dargaville, in a clash between the Ngati Whatua tribe and Ngapuhi. Despite having muskets, Ngapuhi lost. Fuelled by the desire for revenge (*utu)* and status (*mana*) and worsened by the use of muskets, Ngapuhi went on a rampage which displaced tribes down the North Island.

An arms race ensued and the subsequent Musket Wars engulfed virtually every part of the North Island, the South Island, even reaching the remote Chatham Islands. Between 1818 and the mid-1840s, an estimated 3000 battles and raids occurred. Every tribe was forced either to acquire muskets to survive or flee.

There was a massive drop in the Maori population, from about 120,000 to 70,000 between 1800 and 1840, primarily the result of war and representing just over 40 percent of the total Maori population at the time.[1]

The entire Auckland isthmus and the lower Waihou Valley were left empty and depopulated. Several Taranaki tribes abandoned their traditional lands entirely, moving south to Wellington, the Chatham Islands, and parts of the South Island. Hawke's Bay occupants sheltered at Mahia.

The massive waves of refugees and newly emptied zones left vast tracts of land subject to overlapping, unresolved tribal ownership claims. This opened the door for massive British settlement in the 1840s, led by the private-enterprise New Zealand Company.

[1] Robinson, John. *The Corruption of New Zealand Democracy*, Tross Publishing, Wellington 2011. P 16

Eventually, the Native Land Court (established in 1865) pragmatically and legally treated the year 1840—the signing of the Treaty of Waitangi—as the baseline moment to freeze and judge customary ownership. This effectively locked the newly disrupted, post-Musket War realities into permanent colonial law.

## 3. The Moriori genocide

A violent invasion of the Chatham Islands by mainland Maori tribes Ngati Mutunga and Ngati Tama in late 1835 provides a snapshot of atrocities that went on during the Musket wars. As a result, the Moriori population plummeted from roughly 1700 in 1835 down to just 101 by 1870.

Displaced from Taranaki, Ngati Mutunga and Ngati Tama were leading an uneasy existence in Wellington when they found out about the Chatham Islands. They chartered a British ship, the Lord Rodney, and on November 19, a group of 500 sailed 770km east and proceeded to take over. Another group of 400 followed on December 5 that year.

Although the Moriori population outnumbered the arriving armed invaders nearly two to one, they refused to fight back, choosing to follow "Nunuku's Law", established centuries earlier by chief Nunuku**,** that outlawed murder, war, and cannibalism.

During the initial weeks, the invaders killed an estimated 300 Moriori (about one-sixth of the total population). Here's what happened:

- Defenceless Moriori were systematically gathered on the beaches and executed.
- Bodies of the slain—including men, women, and children—side-by-side on the beaches, stretching for long distances, as a brutal assertion of territorial ownership.
- The practice of *kai tangata* (eating defeated enemies) was weaponised on a large scale. Captives were forced to watch, and sometimes carry the firewood or help prepare the ovens for, the cooking of their own families and neighbours.
- The remaining 1500 survivors were divided among the invaders as slaves. The conditions of this bondage were notoriously harsh:
- To crush their spirits, Moriori were forced to defile their own *wahi tapu* (sacred places) and cut down their ancestral trees, breaking their connection to the land.
- Captives were worked to exhaustion, often forced to carry heavy burdens across long distances under threat of immediate execution.
- Moriori men and women were strictly forbidden from marrying or having children with each other.
- Many Moriori women were taken by the invaders as concubines. Any child born of these forced unions belonged to the captor's tribe, effectively wiping out pure-blooded Moriori lineages over the span of a generation.

The initial killings and cannibalism were over by 1840, when the treaty was signed, but survivors were still enslaved and the land remained stolen.

Although the Crown had no role in the genocide, a Crown apology and financial redress of $18-million was issued via the Moriori Claims Settlement Act in 2021. This was partly acknowledgement that the Crown did not act to free enslaved Moriori after 1840, and partly to do with court rulings over land ownership.

There has been no recognition or apology from Ngati Mutunga and Ngati Tama to Moriori. Both mainland tribes received multi-million-dollar settlements.

## 4. Tribes fight the government

Sporadic armed conflict from 1845 between the New Zealand government and Maori had a number of causes. Treaty settlements focus on alleged Crown actions and omissions after 1840. However, much of what happened after 1840 was a consequence both of what happened before 1840, and the forces unleashed when primitive religion merged with Christianity from 1862. Here are the conflicts:

**The Northern War** (1845–1846): Sparked by Hone Heke in the Bay of Islands, in reaction to the capital being moved away from his area and the imposition of customs duties.

**Wairau Affray** (June 17, 1843): An early dispute between New Zealand Company settlers and Ngati Toa led by Te Rauparaha, over land 10km north of Blenheim, resulted in the deaths of 22 settlers and four Maori. Governor Robert FitzRoy made matters worse by not responding to the killings.

**The Taranaki Wars** (1860–1861 and 1864–1866): Tit-for-tat fighting known as the Puketapu feud, which began on August 3, 1854, within the Te Atiawa tribe in Taranaki, over land sales, escalated, over six years, into armed conflict between tribes and the government, in Taranaki, starting on March 17, 1860.

**Waikato War** (1863–1865): A campaign against the *Kīngitanga* (Maori King movement) which challenged the sovereignty of the Crown.

**The East Coast Wars** (1865–1866): A complex conflict triggered by the spread of the *Pai Marire* (Hauhau) syncretic religion from Taranaki via the Bay of Plenty, into the East Coast area.

**Tītokowaru's** west coast campaign (1868-1869), in reaction to land confiscation and settler encroachment.

**Te Kooti's** East Coast campaign (1868–1872), which began as a reaction to alleged wrongful arrest and exile, powered by a religion, *Ringatu*, which he created, and

which escalated after he and 298 others escaped from the Chatham Islands and when the government tried to rearrest him.

**Pai Marire Hauhaus**

Te Ua Haumene, a Wesleyan lay preacher who founded Pai Marire (settlers called them Hauhaus because of their battle chant), was perhaps the first Maori to blend Stone Age animism with Christianity's risen saviour (who could enable life after death and bring you to a promised land). Enslaved as a child, Te Ua learned to read and write Maori, he studied the Bible (especially the Book of Revelation and its message of the coming last days), and he was baptised. In 1862, after the first Taranaki war and the grounding of the steamer *Lord Worsley* on September 1, 1862, Te Ua had visions which led him to believe that the last days were at hand, that he was chosen by God as a prophet, and that Maori were a lost tribe of Israel whose birthright would be restored in New Zealand.

Preaching his message built a following some of whom became radicalised and added military action to Te Ua's "good and peaceful" crusade.

- On April 6, 1864, a group of followers ambushed British soldiers, decapitated them and paraded the severed heads across the North Island for use in religious rites and to recruit tribes to their cause.
- Followers attacked a British military redoubt at Sentry Hill on April 30, 1864. Believing Te Ua's prophecy that raising their right hand and chanting "Hapa! Hapa! Pai Marire, Hau! Hau! Hau!" would ward off bullets, they marched directly into heavy gunfire and over 50 Maori were killed or wounded.
- After Sentry Hill, survivors abandoned the peaceful aspects of the faith. Apostles like Kereopa Te Rau and Patara Raukatauri weaponised the religion into an aggressive anti-colonial insurgency, spreading it to the Bay of Plenty and the East Coast.

**Te Kooti and Ringatu**

Te Kooti created another version of Maori Christianity that he called Ringatu. Also mission educated, baptised, and well-versed in the Old and New Testaments, he led a varied and often turbulent life in Poverty Bay, transitioning to a successful merchant trader. While fighting with government forces against the Pai Marire in Gisborne from November 17-22, 1865, he was accused of spying and supplying ammunition to the other side and jailed on the Chatham Islands where he donned his religious leader mantle and created Ringatu.

With 297 others, Te Kooti seized a ship and escaped from the Chathams, landing south of Poverty Bay on July 10, 1868. He:

- Defeated colonial militia at Ruakituri shortly after arrival, capturing weapons and supplies,
- Raided Matawhero on November 10, 1868, killing 60 including the magistrate,

- Was driven from Ngatapa Pa in January 1869, when 100 of his men were killed,
- Raided Mōhaka (northern Hawke's Bay) for supplies and massacred 68 people (both settlers and Maori, from April 10 to 12, 1869,
- Fled into the rugged, heavily forested Te Urewera mountains, where he gained the backing of the Tuhoe iwi (tribe) and stayed there from 1869 to 1872.

His forces depleted, in 1872, the Maori King, Tawhiao, granted Te Kooti formal sanctuary. Te Kooti lived in the King Country until he was officially pardoned by the government in 1883.

Early 20th century historian James Cowan estimated that 2990 people were killed across all campaigns between 1845 and 1872. A total of 2254 Maori were killed, an estimated 250 of whom fought for the government. A total of 736 British soldiers and settlers were killed.

**Confiscation**

Land confiscation has been a consequence of war for thousands of years. Confiscation became a consequence of New Zealand's civil war which was fought at the same time as the American Civil War, during which confiscation was an important factor. America's first Confiscation Act was passed on August 6, 1861, four months after armed conflict erupted in New Zealand. Property and slave confiscations proceeded from then. Something needed to be done to stop the seemingly perpetual eruption of armed conflict. At that time, the New Zealand government could not contemplate the presence of armed and dangerous tribes controlling the central North island of New Zealand with the ability to attack coastal settlements at any time. Two Acts were passed to deal with the conflict.

- The Suppression of Rebellion Act 1863 enabled martial law to suppress "the rebellion which unhappily exists in this colony and for the protection of the persons and property of Her Majesty's loyal subjects within the same."[2]
- The New Zealand Settlements Act 1863 enabled land confiscation and was intended to establish "a sufficient number of settlers" to provide for "permanent protection and security".[3] How does a government end a war? If there are no consequences for the side that stops fighting first the war continues.[4]

A total of 12,000 square kilometres, making up 4.4 percent of the country, was confiscated. The confiscations were not liked at the time, but New Zealand has lived in peace since then.

**Conclusion**

Treaty settlements focus on alleged treaty breaches over the way successive governments managed New Zealand while British settlement took place. They ignore both the legacy of

[2] The Suppression of Rebellion Act 1863. www.legislation.govt.nz/act/public/1863/7/en/latest/#LMS1262623
[3] New Zealand Settlements Act 1863, http://nzetc.victoria.ac.nz/tm/scholarly/tei-Mac02Comp-t1-g1-t18-g1-t25.html
[4] See *The Long Road to Parihaka* by Piers Seed, Probitis Publishing, 2026, info@piersseed.co.nz for an excellent analysis of the New Zealand land confiscations.

the Musket Wars and the impact of Maori Christianity. The Waitangi Tribunal has incorrectly reframed the government's role in armed conflicts and land confiscation as breaching both the revised 1980s treaty and the 1980s treaty principles. The conflicts and confiscations are incorrectly summarised to a soundbite as "a way for greedy colonisers to get land".

## 5. Parihaka

The Parihaka village was founded by Te Whiti o Rongomai and Tohu Kakahi immediately following the 1865 Taranaki land confiscations, on confiscated land. The village became both a refuge and the centre of an asymmetrical cold war against the much stronger government. Here is a narrative compiled from 19th century newspaper reports:

Both Te Whiti and Tohu had interacted with Te Ua and the Pai Marire (Hauhau) movement and both accompanied or led warriors during early conflicts, such as the attack on the Sentry Hill redoubt in 1864.

Te Whiti styled himself as a prophet who blended traditional Maori beliefs with a radical interpretation of the Old Testament. He explicitly taught that Maori were descended from the lost tribe of Israel.

On the 18th day of every month, Te Whiti and Tohu held meetings at Parihaka to deliver metaphorical, poetic sermons, speaking in proverbs and biblical allegories. He framed the actions of the British colonial government to Pharaoh or the Babylonians, while Maori were the oppressed Israelites.

Thirteen years of meetings built Parihaka into the biggest Maori settlement in New Zealand before the government began surveying the confiscated Waimate Plains, on July 29, 1878.

On September 19 that year, the surveyor's camp cook was shot dead at a survey camp. The killer sought and got refuge at Parihaka. Te Whiti refused to turn him over to the government.

On March 24, 1879, Te Whiti ordered his men to remove physically the government surveyors, which they did.

On May 26 Te Whiti and Tohu ordered his people to start ploughing settler's farms - to assert that Te Whiti, not the government, owned the land. The ploughing protest expanded throughout Taranaki region, eventually leading to 400 arrests. That was the ploughing campaign.

The government built a road through confiscated land. In June 1880, Te Whiti's people blocked the road by building fences across it. When constables removed the fences, Te Whiti's people rebuilt them. There were 200 further arrests. That was the fencing campaign.

Then Te Whiti started talking about war at a monthly meeting in September 1881,[5] although his style was to achieve progress towards a goal by manipulating the opinions of settlers by getting coverage in newspapers.

The government used Te Whiti's war talk as an excuse to crack down. Native Minister John Bryce on horseback led 1600 men into Parihaka village at 9am on November 5, 1881. Leaders were arrested and held without trial. More than 1600 residents were evicted. Houses and crops were destroyed.

There were no deaths and the only injury was when a horse stepped on a boy's foot on eviction day. That boy was five-year-old Maui Pomare, who grew up to become the country's first Maori doctor and later the Minister of Health.

The sheer numbers of soldiers was the main reason why there was no resistance.[6]

However, the Parihaka Reconciliation Act, which came with a $9-million reconciliation payment,[7] which includes a Crown apology, tells a totally different story which has become the official version of the Parihaka story. The underlined text below, and referenced notes, show exactly how the government rewrites history by framing 19th century events with 20th century dogmas.

> **Apology of the Crown**
>
> A few short years after guaranteeing to Maori the undisturbed possession of any lands they wished to retain, the Crown began to systematically dispossess the tangata whenua of their Taranaki lands. By purchase deed, force of arms, confiscation and statute, the Crown took the rich lands of Taranaki and left its people impoverished, demoralised, and vilified. (i) The Crown reiterates the apologies it has made to iwi of Taranaki for its many failures to uphold the principles of partnership and good faith that the Treaty of Waitangi embodies,(ii) and for the immense harm those actions have caused to generations of Māori in Taranaki.
>
> The Crown now offers the following apology to the people of Parihaka, past and present.
>
> In 1866, the settlement of Parihaka was established as a final refuge for Taranaki hapū whose homes and cultivations had been repeatedly destroyed by Crown troops, and who had recently suffered the indiscriminate confiscation of traditional lands that had sustained them and their tupuna for generations, and which formed the very bedrock of their identity.
>
> At a time of unprecedented loss and continuing Crown violence, the people of Parihaka chose to establish their new community under principles of compassion, equality, unity, and self-sufficiency. Under the leadership of Tohu Kakahi and Te Whiti o Rongomai, the community at Parihaka asserted their customary rights to land and political autonomy (iii)through symbolic acts of protest while promoting peaceful engagement between Māori

[5] *New Zealand Times*, 20 September, 1881, p3
[6] *Press*, 7 November, 1881, p2.
[7] Note, the core of Parihaka was made up of people from the tribes of Taranaki

and Pākehā. Parihaka became a place of refuge and a source of inspiration for thousands of people from across Taranaki and from elsewhere in Aotearoa.

The Crown acknowledges that it utterly failed to recognise or respect the vision of self-determination and partnership (iv) that Parihaka represented. The Crown responded to peace with tyranny, to unity with division, and to autonomy with oppression.

The Crown therefore offers its deepest apologies to the people of Parihaka for all its failures, and in particular for the following actions:

(a) For imprisoning Parihaka residents for their participation in the ploughing and fencing campaigns of 1879 and 1880, and for promoting laws that breached natural justice by enabling those protestors to be held in South Island jails without trial for periods that assumed the character of indefinite detention;
(b) For depriving those political prisoners of their basic human rights, and for inflicting unwarranted hardships both on them (v) and on members of their whanau and hapu who remained behind and sustained Parihaka in their absence;

(c) For invading Parihaka in November 1881, forcibly evicting many people who had sought refuge there, dismantling and desecrating their homes and sacred buildings, stealing heirlooms, and systematically destroying their cultivations and livestock;(vi)

(d) For the rapes committed by Crown troops in the aftermath of the invasion, (vii) and for the immeasurable and enduring harm that this caused to the women of Parihaka, their families, and their descendants until the present day;

(e) For the arrest and detention of Tohu Kakahi and Te Whiti o Rongomai for sixteen months without trial in the South Island;

(f) For its imposition of a pass system which regulated entry into Parihaka, denied residents the freedom of movement, and prevented supporters from providing Parihaka with supplies following the invasion;

(g) For compounding these injustices by returning land under a regime that deprived owners of control and ultimately the ownership of much of the Parihaka reserves, and which remains in place to this day.

The Crown denied Parihaka the right to develop and sustain itself on its own terms, and then failed for many years to address the resulting grievances in an appropriate way. The Crown profoundly regrets these actions, which have burdened the people of Parihaka with an intergenerational legacy of grievance and deprivation, and which have burdened the Crown with a legacy of shame.

On the 7th day of November every year, the whanau of Parihaka come together to remember those tupuna who, in 1881, met the Crown's soldiers with songs and gifts of food, and who honoured their commitment to peace while their homes and gardens were destroyed and leaders imprisoned.

> The Crown now joins Parihaka in paying tribute to the men, women, and children who responded to the Crown's tyranny with dignity, discipline and immense courage. It is the Crown's sincerest hope that through this apology, Parihaka and the Crown can now acknowledge their shared past, move beyond it, and begin to work together to fulfil the vision of peaceful coexistence that Tohu and Te Whiti described.[8]

Note that:

(i) There is no reference to "tribal rebellions", which were explicitly stated in 1860s legislation.

(ii) This breach is based on treaty principles which don't appear in the Treaty of Waitangi, but which were created in 1987.

(iii) This assertion of customary rights to land and political autonomy ignores both the cession of sovereignty as stated in the treaty, as well as the Crown's right to confiscate land as a consequence, in this case, of rebellion, which is also a Maori customary right.

(iv) Assertions of self-determination and partnership are mostly 1980s constructs. The choice of Parihaka and the Kingitanga to oppose government authority in the 19th century, either by armed conflict or unarmed protest actions, were perceived as rebellion.

(v) The crackdown on November 5, 1881, is more accurately described as an eviction. The settlement was built on land that had been confiscated. Te Whiti had a large number of people there built up over years of monthly liberation meetings.

(vi) The apology claims the imprisoned ploughmen and fencers suffered "unwarranted hardships" but Te Whiti was reported to have said that he thought his people "though prisoners, would be well provided for until the land question is temporarily settled…"[9]

(vii) An Official Information Act request for evidence "for the rapes committed by Crown troops" got a letter that cited testimony to the 1927 Sim Commission, a newspaper report from 1882, an unreferenced assertion in *Ask That Mountain* by Dick Scott,[10] oral testimony to the Waitangi Tribunal by a single claimant, and a poi song/dance that purportedly tells the story. Two actual witnesses who spoke to the Sim Commission, and who were aged around 14 at the time, said that "the women folk were gathering food for the people in the pa, for us, and the soldiers were assaulting the women folk. Some of those women got children through the soldiers".[11]

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[8] The Parihaka Reconciliation Act 2019. https://www.legislation.govt.nz/act/public/2019/60/en/latest/#DLM7397114

[9] Taranaki Herald, July 29, 1879

[10] *Ask That Mountain: The Story of Parihaka* published in 1975 is part of a new wave of writing that took Maori oral history at face value.

[11] Mike Butler, Parihaka, the Green Party, and rape. https://breakingviewsnz.blogspot.com/2017/11/mike-butler-parihaka-green-party-and.html

Noticeably absent in the apology is any reference to damage to the property of settlers by ploughing, fencing, and having trees felled, driving some into financial ruin.

The New Zealand government has accepted the activist view that Parihaka was about peaceful, non-violent Maori resistance to colonial land theft and the preservation of indigenous self-determination. However, 19th century newspapers tell the story of a self-serving leader who posed as a prophet who carried on a cold-war version of the war against the government which had escalated from an intra-tribal feud over land sales in Taranaki.

- Both leaders, Te Whiti and Tohu Kakahi, fought with a religious group named Pai Marire (Hauhaus) known for desecrating bodies and drying the heads of victims for use in recruiting and for religious rites.
- Tohu Kakahi acted as a spiritual advisor to the second Maori King, Tawhiao, and even spiritually confirmed Tawhiao's kingship, both of whom belonged to Pai Marire.
- Their immediate objective was to stop the colonial government from surveying, sub-dividing, and selling confiscated land to European settlers.
- They aimed to build a fully autonomous Maori society that could thrive independent of colonial rule.

**Conclusion**

The Parihaka story proves false the activist claim that land was confiscated to satisfy settler greed for land. This is because there was a delay of 14 years between land confiscations in Taranaki, which began in 1865, and when surveys of that land, that started in 1879. If confiscations were to satisfy rampant desire for land, confiscations, surveys, and sales would have taken place in 1865. The colonial government's slowness to manage the confiscated land, largely caused by Te Whiti's obfuscation, enabled locals to farm the land for 14 years before surveyors appeared.

# 6. Land mostly sold

The main historical treaty grievance in New Zealand is the fact that from 1840 to 1900, Maori land ownership reduced from 100 percent to roughly 4 percent. This is phrased as "land loss", which is an emotive word that triggers feelings like sadness, grief, and pain that helps market treaty settlement policy. Most of this transfer of land during the 19th century was by sale (91.6 percent), confiscation (4.4 percent), with some also taken by forced purchase for public works.[12] The total land area of New Zealand is 268,021 square kilometres, which is equal to 26.8 million hectares or roughly 66.23 million acres. This chapter is about land sales.

[12] **Public works** takings escalated more heavily in the 20th century. There is no single official percentage of these takings during the 19th century.

Before contact with the developed world, land in New Zealand was only valuable to Maori as a source of food, either by growing stuff or by hunting and gathering. The land came to have marketable value in the 19th century when buyers appeared, and those buyers were new arrivals from Britain, either entrepreneurs or settlers.

**Surplus land:** There had been a rush of sales in the 1830s, with deeds claiming an acreage greater than the land area of New Zealand. The New Zealand Land Claims Commission investigated claimed sales of over 45 million acres, reduced that to an audited area of 12.2 million acres, and awarded less than 1 million acres to European settlers. The Crown permanently took approximately 204,000 acres (roughly 82,500 hectares) as official "surplus land" which is approximately 0.31% of the total land area of New Zealand. That taking became a grievance investigated by the Waitangi Tribunal. Note: The Maori vendors kept the money and assets received for the land. The settler purchasers were left out of pocket. The man who drafted the Treaty of Waitangi, James Busby, had large areas of land taken from him by the government. He spent most of his life after 1840 fighting for compensation.[13]

**1840-1862:** The Treaty of Waitangi gave the government an exclusive monopoly on purchases of land from Maori.[14] That meant the government controlled the price. Early transactions involved open tribal assemblies and hui, but by the late 1840s, some government agents negotiated separate, private deals. Frequently, a sale and purchase for a block was concluded with one group and another group would appear, assert that they also owned the land, and demand money for the same block. Maori vendors were surprised to see the government on-sell a block for a much greater amount than they had received and frequently asked for more money.

Land sales and conflict were closely linked and complicated. For instance, the chief who sparked fighting against the government in Taranaki in 1860, Wiremu Kingi, was the same person who put his mark on the deed that sold that land to the New Zealand Company in 1839. An insight from British missionary Samuel Ironside, who worked for 20 years in New Zealand to 1858, was that “it was not the settlers’ greed for land which had originated the war”. Talking about New Plymouth in the lead-up to the Taranaki war in 1860, Ironside also wrote that: “The natives had found out that by assuming a threatening attitude they could obtain any exorbitant demands.”[15]

**Maori land legislation:** The New Zealand Parliament passed legislation to address such issues. The Waitangi Tribunal has framed this legislation as “significantly accelerating Maori land loss”. The record shows that Maori vendors were keen to sell. For instance, the 19th

[13] Ramsden, Eric. *Busby of Waitangi: H.M.'s Resident at New Zealand*, 1833-40, A. H. & A. W. Reed (Wellington and Dunedin, 1942

[14] This was apart from a brief period in 1844 termed the “pre-emption waiver” when Maori could sell directly to settlers.

[15] Taranaki Herald, Volume XVII, Issus 924, 16 October 1869, Page 5

century forebears of Ngai Tahu, a tribe that has subsequently earned the reputation as pre-eminent complainers, sold most of the South Island in 10 deals over 20 years after selling the entire South Island before 1840. The most prominent 19th-century New Zealand Acts concerning Maori land include:

- **Native Lands Act 1862** abolished the Crown's monopoly on land purchases (pre-emption) and enabled a court process for vendors to prove ownership (to deal with the problem of successive waves of people demanding money for the same block).[16]
- **New Zealand Settlements Act 1863** enabled land confiscation and was intended to establish "a sufficient number of settlers" to provide for "permanent protection and security."[17]
- **Native Lands Act 1865** formally established the **Native Land Court** (later renamed the Maori Land Court). It enabled conversion of Maori land ownership into titles derived from the Crown in the names of no more than 10 persons.[18]
- **Native Land Act 1873** repealed the 1862 and 1865 Acts which abolished the 10-owner rule, required *all* individual owners to be named on the title, and enabled Maori land to be set aside as reserves.[19]
- **Public Works Lands Act 1864** enabled the government to take land for infrastructure like roads, railways, and telegraph lines, with compensation with differing provisions depending on whether it was general or Maori land. [20]
- **West Coast Reserves Settlement Act 1881** enabled the creation and setting apart of reserves for Natives within the confiscated territory which were leased out.[21]
- **Crown and Native Lands Rating Act 1882** introduced local government rates on Maori land that had hitherto been exempt.[22]
- **Native Townships Act 1895** empowered the government to establish and build townships on Maori-owned land to open up the central North Island. The areas, each of 500 acres, were to be gazetted rather than purchased. Native allotments were to be set aside. Of the 18 areas intended, Otorohanga, Taumarunui, Te Araroa, Te Kuiti, and Tokaanu are the only recognisable names that remain.[23]
- **Native Land Court Act 1894**: Consolidated the powers of the Native Land Court and confirmed the Crown's right to buy any Maori land and the right of Maori owners to sell to the Crown.[24]
- **Maori Lands Administration Act 1900**: Created regional Maori Land Councils to oversee land transactions and set aside inalienable family land reserves (*papakāinga*).[25]

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[16] Native Land Act 1862. https://www.legislation.govt.nz/act/public/1862/42/en/latest/#LMS1261714
[17]New Zealand Settlements Act 1863.
https://www.legislation.govt.nz/act/public/1863/8/en/latest/#LMS1262638
[18] Native Lands Act 1865. https://www.legislation.govt.nz/act/public/1865/71/en/latest/#LMS1264344
[19] Native Land Act 1873. https://www.legislation.govt.nz/act/public/1873/56/en/latest/#LMS1285987
[20] Public Works Lands Act 1864. https://www.legislation.govt.nz/act/public/1864/5/en/latest/#LMS1262860
[21] West Coast Settlements Reserves Act 1881. https://www.legislation.govt.nz/act/public/1881/19/en/latest/#
[22] Crown and Native Lands Rating Act 1882.
www.legislation.govt.nz/act/public/1882/41/en/latest/#LMS1307175
[23] Native Townships Act 1895. https://www.legislation.govt.nz/act/public/1895/12/en/latest/#LMS1412858
[24] Native Land Court Act 1894. https://www.legislation.govt.nz/act/public/1894/43/en/latest/#
[25] Maori Lands Administration Amendment Act 1901.
https://www.legislation.govt.nz/act/public/1901/42/en/latest/#LMS1037871

**Conclusion**

The record shows that main way by which Maori owners became separated from land they owned is that they sold it, to the government, and kept on selling until more than 90 percent of New Zealand had gone from Maori ownership. The Waitangi Tribunal reframed these sales as breaches of the treaty by the Crown.

# 7. Old claims and compensation

The round of historical compensation claims that started in 1985 proceeded without disclosing that there had been full and final settlements of these grievances in the 1940s. New claims started trickling in. Eventually, a deadline for lodging historical claims was set at midnight on September 1, 2008. The total number reached was 2034.[26]

Claims by Maori for compensation are nothing new. Grievances about land sales were aired in the treaty debate at Waitangi on February 5, 1840. On October 22, 1849, Ngai Tahu chief Matiaha Tiramōrehu wrote a letter of complaint about issues to do with the 1848 sale of most of the South Island to the government. In 1882, chiefs took just nine grievances to Queen Victoria in Britain. They were:

1. The greed of the New Zealand Company that caused conflict in Wairau (on June 17, 1843, when in an attempt to arrest Te Rauparaha and his nephew Te Rangihaeata, four Maori and 22 settlers were killed.
2. The war against Te Rangihaeata in 1842-3 and unlawful execution of his followers.

3. The war in the north against Heke and Kawiti (1845).

4. The divisive fight between Te Hapuku and Te Moananui (in Hawke's Bay in 1857) caused by government land buying in 1848.

5. The war against Wiremu Kingi at Waitara.

6. The Waikato war in 1863.

7. The tribal fight among Ngati Tautahi because of government agents' land-buying practices. Four people were killed.

8. The imprisonment of 200 of Te Whiti's men in 1879.

9. The imprisonment of Te Whiti in 1881. The deputation asked for Te Whiti's release.[27]

[26] Treaty deadline brings a pile of faxes, *Dominion Post*, September 2, 2008.
[27] Walker, ibid, p. 162. Lord Kimberley received the petition on behalf of the Queen and referred the deputation back to the New Zealand government, and Prime Minister Frederick Whittaker dismissed the petition.

The chiefs did not get an audience with the Queen and were directed back to the colonial government in New Zealand. Between 1840 and 1975, the government response to Maori claims was sporadic.

**The Mackay inquiries**

Native Land Court Judge Alexander Mackay investigated South Island land purchases (including Kemp's Deed). He reported in 1887 and 1891 that the Crown had failed to provide enough land for Maori to survive, recommending urgent land allocations.

**Native Land Commission**

The Native Land Claims Commission in 1920 investigated 11 claims in different areas[28] including the Ngai Tahu complaint about inadequate reserves. The commission did a detailed calculation and reached a figure of £76,125 plus 72 years of interest at 5 per cent, plus costs, bringing the total to £354,000.[29]

**Sim commission**

Supreme Court Judge William Sim in 1926 considered confiscations in Taranaki, Waikato, Tauranga, Whakatane, Opotiki, Urewera, Gisborne, and Hawke's Bay. The inquiry was not linked to Treaty of Waitangi obligations because the government held that Maori who fought against the government had repudiated the treaty. That commission recommended £5000 annually to Taranaki tribes and £3000 annually to Waikato. [30]

The **1922 Arawa lakes settlement** agreed that the government controlled the Rotorua lakebeds and had the right to use the water, while the tribe had title to all islands not already sold, and right to access them, as well as use, management and control of parts of lake beds. Any Crown lands on the border could be vested in Arawa. Tribe members could catch any indigenous fish. The Arawa District Trust Board would receive an annual grant of £6000.

The **Ngai Tahu Claim Settlement Act 1944** awarded £300,000, payable at a rate of £10,000 a year for 30 years to Ngai Tahu, the tribe that sold 80 percent of the South Island in 10 deals over 20 years from 1844 for a total of £14,750. That tribe had already received two settlements for two complaints about the same sale. They were:

- A grant of 4930 acres for the alleged inadequacy of reserves in the 20-million-acre Kemp sale in 1848.

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[28] The History of Inquiries, *The Ngai Tahu Report 1991*, http://www.waitangi-tribunal.govt.nz/reports/viewchapter.asp?reportID=D5D84302-EB22-4A52-BE78-16AF39F71D91&chapter=142

[29] The History of Inquiries, Ngai Tahu Report 1991, Waitangi Tribunal, http://www.waitangi-tribunal.govt.nz/reports/viewchapter.asp?reportID=D5D84302-EB22-4A52-BE78-16AF39F71D91&chapter=142

[30] Royal Commission on land confiscations. http://www.nzhistory.net.nz/culture/the-1920s/1927

- A further grant of 142,463 acres of land via the South Island Landless Natives Act 1906 to settle 4063 “landless” Maori.

The **Taranaki Maori Claims Settlement Act 1944** was intended as a final settlement of claims in that area. The Taranaki Maori Trust Board received a £5000 annuity (according to the Sim commission recommendation) plus a £300 lump sum payment for loss of property at Parihaka in 1881.

The **Waikato-Maniapoto Maori Claims Settlement Act 1946** was a final settlement of grievances over the confiscation of Waikato Maori land. It established the Tainui Maori Trust Board to receive £5000 a year in perpetuity, plus a further £5000, plus £1000 a year for 45 years. Tainui received £4155 in 1948 as part of a surplus-lands settlement.

In the **Finance No. 2 Act, on October 12, 1946**, the government settled with eastern Bay of Plenty tribe Whakatohea that had sustained land confiscation, and paid £20,000. In 1958, **Urewera** claims were settled with a lump sum payment of £100,000. A claim relating to Rotorua Township Pukeroa Oruawhata land in Waiariki district was settled in 1954 for £16,500.[31]

When it became clear that the government would pay compensation for historical claims, a flood of claims came in. Would the treaty settlement project have unfolded differently had the government been open about earlier settlements?

## 8. Simple nullity no more

Many will recall a time when the Treaty of Waitangi did not feature in public life. This situation followed a judgement in 1877 titled *Wi Parata v Bishop of Wellington* in which Chief Justice Sir James Prendergast declared the Treaty of Waitangi a "simple nullity". The hearing was in response to a land dispute. The judgement sidelined the treaty.

Protest surfaced when the Maori Affairs Amendment Act 1967 made it easier for the Crown to convert communal Maori land into individual titles and enabled the forced sale of blocks deemed too small or underutilized. The New Zealand Maori Council, the Maori Graduates Association, the Maori Women's Welfare League, and the Citizens Association for Racial Equality, condemned the Act as the "last land-grab".

The subsequent Maori Affairs Amendment Act 1974 rolled back these land clauses but that did not stop Maori protest. Influenced by international civil rights movements, the anti-Vietnam War movement, and global Black Liberation, young urban Maori formed new activist collectives.

[31] Settlements of Major Maori Claims in the 1940s, Richard Hill, Department of Justice, Wellington, 1989. http://www.nzcpr.com/Richard Hill’s Report.pdf

- Nga Tamatoa (The Young Warriors), was formed in 1970 by Maori students at the University of Auckland. This group adopted confrontational, direct protest alleging institutional racism, land loss, and the erosion of Maori culture.
- The Maori Organisation on Human Rights was established around the same period, focused on class struggle, inequality, and alleged breaches of Treaty of Waitangi rights.

Activists took their demands to the public through--

- Waitangi Day Protests (from 1971): Nga Tamatoa disrupted the official February 6 state proceedings at Waitangi, declaring it a "day of mourning" rather than a celebration of partnership, alleging unfulfilled Treaty promises.
- The Maori Language Petition (1972): Nga Tamatoa and the Te Reo Maori Society of Wellington delivered a 30,000-signature petition to Parliament on September 14, 1972. This led to the introduction of Maori language options in schools and paved the way for the creation of Maori Language Week.
- The Maori Land March (1975): Organized by Eva Rickard, Titewhai Harawira, Tama Poata, Syd Jackson, and others, and led by 79-year-old Dame Whina Cooper, and chanting "Not one more acre of Maori land". The march departed from Te Hapua in the Far North on September 14, 1975, with 50 marchers and arrived at Parliament on October 13, with a crowd of roughly 5000. Cooper presented the *Memorial of Right* and a 60,000-signature petition to Prime Minister Bill Rowling asking for the preservation of all remaining Maori land and an end to its alienation by the Crown.

Just three days earlier, the Treaty of Waitangi Act 1975, which had been introduced to Parliament in November 8, 1974, passed into law on October 10, 1975. This:

- Established the Waitangi Tribunal to investigate contemporary breaches of the treaty.
- Empowered the tribunal to investigate actions that were "inconsistent with the *principles* of the treaty",
- Gave the tribunal exclusive authority to determine the meaning and effect of the treaty as embodied in the two texts (English and Maori), and
- Gave the tribunal the power to research, hear evidence, and issue official reports and make non-binding settlement recommendations to the government.

Another legislated change that appeared fair and reasonable then but was to have unintended consequences later was when the legal definition of Maori identity was changed. The Maori Affairs Amendment Act 1974 changed the definition from “50 percent or more” Maori ancestry to "a person of the Maori race of New Zealand; and includes any descendant of such a person". Additionally, the Electoral Amendment Act 1975 changed the requirement to enrol on the Maori roll to fit the new legal definition of what it is legally to be to be Maori.

Yet another 1970s change of direction was the introduction of explicit affirmative action and equity policies. The earliest targeted equity pathway began in 1972 at the University of Auckland's School of Medicine, when the government funded a number of entry places for Maori and Pacific students. By 2026, 30 percent of these places were allocated. An unreleased report is understood to have said this form of affirmative action could not be justified.

**Conclusion**

This 1967–1975 era created a blueprint for what has unfolded. Old grievances were investigated, the treaty was re-defined, treaty principles created, Bastion Point occupied, and history was re-written. The wider "Maori" definition enabled the "Maori" population to expand from 289,887 in 1971, to 356,574 in 1976, and on to 945,000 in 2026. Race-based preferential treatment expanded, while "Maori" disadvantage and incarceration percentages were regularly broadcast. These factors combined to normalise the practice of "more money for Maori".

## 9. Path back to old grievances opened

Despite the establishment of the Waitangi Tribunal in 1975, Maori protest continued. There was a highly publicised arrest, on Waitangi Day 1978, at the Raglan Golf Course, of those demanding the return of land compulsorily purchased under the Public Works Act. A 506-day occupation of the iconic Bastion Point headland in Auckland to protest against proposed housing ended on May 25, 1978, when 800 police and military removed 222 protesters. Nga Tamatoa members were pivotal in organizing protests against the 1981 rugby tour of New Zealand by a South African team.

The Fourth Labour Government was swept into power on July 14, 1984, with David Lange as Prime Minister and law professor Geoffrey Palmer as Deputy Prime Minister, Attorney-General, and Minister of Justice. The new government faced an economic crisis and panic about nuclear weapons, but pressing concerns of Maori seemed to come from every direction, Palmer noted in his 1990 book *New Zealand's Constitution in Crisis*. Palmer was heavily lobbied and the lobbying worked.

The path back to old grievances was opened, on December 9, 1985, with an amendment to Section 6 of the Treaty of Waitangi Act. This extended the Waitangi Tribunal's jurisdiction back to February 6, 1840.

The idea to investigate claims back to 1840 was born at a lecture on the Waitangi Tribunal at Turangawaewae Marae, Ngaruawahia, in 1984, when it was explained how Maori Affairs Minister Mat Rata failed to make claims retrospective to 1900. A motion asking for claims

back to 1840 be investigated was passed, and the recommendation was put to the Government.[32] Palmer said with an amazing lack of prescience that he:

> . . .did some research on the outstanding grievances and it did not appear that looking into them would open a can of worms, which many feared. I took the view that the claims may take a decade to deal with, that it would cause some anguish but would be worth it in the end. [33]

Eventually, a total of 2125 claims were registered, [34] a number dwarfing the nine grievances in 1882 mentioned above (in Chapter 2). This Working for the Waitangi Tribunal, historian Professor Alan Ward categorised 650 historical claims as:

> 1. The "loss of rangatiratanga", which includes the loss of resources, and the exclusion of Maori from the decision-making institutions.
>
> 2. Purchases under the native land acts, which extended well into the 20th century, particularly the "individualisation of title".
>
> 3. Crown purchases from 1840 to 1865, which were manipulative and denied or discouraged Maori leasehold and joint venture arrangements and the coexistence of aboriginal title rights.
>
> 4. Confiscation or forced cession after military occupation, in particular districts.
>
> 5. The colonial government's failure to ensure that adequate reserves of land remained in Maori ownership, or in trust, to fund Maori welfare.
>
> 6. The loss of ownership or control of rights in foreshores and inland waterways.
>
> 7. Public works takings disproportionately imposed upon Maori land, the rating of Maori land, and the good and bad consequences of development schemes. [35]

The Waitangi Tribunal wrote extensive reports that reframed everything that had happened since 1840 in terms of the very flexible treaty principles which are detailed below in section 11. That reframed history transformed everything that the Crown/New Zealand government had done since 1840. as the sovereign authority. into a treaty breach that attracted massive financial redress.

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[32] Walker, ibid,. p. 255
[33] Palmer, ibid, p. 80
[34] 2125 claims were registered by June 2009, after a deadline for historical claims was finally put in place.
[35] Rangahaua Whanui Research Programme executive summary, http://www.waitangi-tribunal.govt.nz/doclibrary/public/researchnatview/vol1/execsum.pdf , p2

# 10. Treaty revised

Few are aware that the Treaty of Waitangi was re-written during the 1980s by a Waitangi Tribunal member. This section explains who, what, when, how, and suggests why.

The Waitangi Tribunal posts three treaty texts on its website. There is the English text, the Te Reo Maori text, and there is what they call a "contemporary translation of the te reo Maori text".[36] Why was a new back-translation of the Maori text done when, at that time, two back-translations already existed. There was:

- The Thomas Edward Young text commissioned by the government in 1869,
- The 1840 text done by Captain Gordon Brown which was included in a dispatch of treaty documents to the United States on April 3, 1840.[37]

The "contemporary translation" comes with 11 footnotes, and this is where the devil is in the detail. These 11 footnotes include the redefinitions of four key words – "sovereignty", "possession", "property", and "rights and duties of British subjects". Here are the footnotes:

1. 'Chieftainship': this concept has to be understood in the context of Maori social and political organisation as at 1840. The accepted approximation today is 'trusteeship'.
2. 'Peace': Maori 'Rongo', seemingly a missionary usage (rongo — to hear: ie, hear the 'Word' — the 'message' of peace and goodwill, etc).
3. Literally 'Chief' ('Rangatira') here is of course ambiguous. Clearly, a European could not be a Maori, but the word could well have implied a trustee-like role rather than that of a mere 'functionary'. Maori speeches at Waitangi in 1840 refer to Hobson being or becoming a 'father' for the Maori people. Certainly this attitude has been held towards the person of the Crown down to the present day — hence the continued expectations and commitments entailed in the Treaty.
4. 'Islands': ie, coastal, not of the Pacific.
5. Literally 'making': ie, 'offering' or 'saying' — but not 'inviting to concur'.
6. **'Government': 'kawanatanga'**. There could be no possibility of the Maori signatories having any understanding of government in the sense of 'sovereignty': ie, any understanding on the basis of experience or cultural precedent.
7. **'Unqualified exercise' of the chieftainship** — would emphasise to a chief the Queen's intention to give them complete control according to their customs. 'Tino' has the connotation of 'quintessential'.
8. **'Treasures': 'taonga'**. As submissions to the Waitangi Tribunal concerning the Maori language have made clear, 'taonga' refers to all dimensions of a tribal group's estate, material and non-material — heirlooms and wahi tapu (sacred places), ancestral lore and whakapapa (genealogies), etc.
9. Maori 'hokonga', literally 'sale and purchase'. 'Hoko' means to buy or sell.

[36] Maori and English texts, Waitangi Tribunal, https://www.waitangitribunal.govt.nz/en/about/the-treaty/maori-and-english-versions

[37] This translation was included in a dispatch to the United States carried by Commodore Charles Wilkes aboard the USS Vincennes, on return from Antarctica, with a copy of the Busby February 4, 1840, document discussed in the Littlewood treaty chapter.

10. **'Rights and duties'**: Maori at Waitangi in 1840 refer to Hobson being or becoming a 'father' for the Maori people. Certainly, this attitude has been held towards the person of the Crown down to the present day — hence the continued expectations and commitments entailed in the Treaty.
11. There is, however, a more profound problem about **'tikanga'**. There is a real sense here of the Queen 'protecting' (ie, allowing the preservation of) the Maori people's tikanga (ie, customs) since no Maori could have had any understanding whatever of British tikanga (ie, **rights and duties of British subjects**). This, then, reinforces the guarantees in article 2.[38]

The "contemporary translation" could be called the "what the chiefs might have understood" version of the treaty, except that the translator neglected to refer to the documented actual comments of chiefs who either put their marks on the parchment document on February 6, 1840, or refused to.[39] These comments show what the chiefs actually understood at the time. So, who created the "contemporary translation?

The translator was the late Sir Hugh Kawharu, who was described his official biography as "a man of quiet persuasion" with "persistent advocacy for the Maori right to exercise *rangatiratanga* (self-determination)".[40] Perhaps Kawharu was working more as a Maori sovereignty activist than a treaty translator.

The grid below shows the four re-defined words and phrases as and where they appear in English and Maori texts, side-by side. The English text used is the Busby February 4, 1840, document discussed below in the chapter on the Littlewood treaty. It was used because the only difference between the two texts (apart from the date and absence of signatures) is the absence of the word "maori" in the preamble and in Article 3 to the English text.

| | **English** | **Maori** |
|---|---|---|
| **Preamble** | . . . cession of the **sovereignty**. | . . . **government of the Queen** |
| **Article 1** | The chiefs of the Confederation of the United Tribes and the other chiefs who have not joined the confederation, cede to the Queen of England for ever the entire **Sovereignty** of their country. | Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te k**awanatanga** katoa o o ratou wenua. |
| **Article 2** | The Queen of England confirms and guarantees to the chiefs and the tribes and to all the people of New Zealand, the **possession** of their lands, dwellings and all their **property**. | Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangitira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino **rangatiratanga** o o ratou wenua o ratou kainga me o ratou **taonga** katoa. |
| **Article 3** | In return for the cession of their Sovreignty to the Queen, the people of New Zealand shall be protected by the Queen of England | Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga |

[38] Maori and English Texts ibid
[39] Colenso, William, The Authentic and Genuine History of the Signing of the Treaty of Waitangi, https://waitangi.com/colenso/colhis1.html
[40] Kawharu, Margaret, Kawharu, Ian Hugh, Te Ara Dictionary of New Zealand Biography, https://teara.govt.nz/en/biographies/6k2/kawharu-ian-hugh

| | | |
|---|---|---|
| | and **the rights and privileges of British subjects** will be granted to them. | **tikanga** katoa rite tahi ki ana mea ki nga tangata o Ingarani. |

With the texts side by side, you can see that the words “kawanatanga”, “rangatiratanga”, “taonga”, and “tikanga” were used to convey the words “sovereignty”, “possession”, “property” and “rights” respectively. Kawharu took the words “kawanatanga”, “rangatiratanga”, “taonga”, and “tikanga” all out of their contexts in the treaty document and gave them new meanings, creating four beliefs:

- “Kawanatanga” in footnote 6, sparked the assertion that chiefs could not understand “government” in the sense of “sovereignty”. That formed the basis of the claim that chiefs didn’t cede sovereignty.
- “Rangatiratanga” in footnote 7, was rebranded as “chiefly authority”. That became the treaty justification for Maori sovereignty, and that morphed into a special right, rangatiratanga, that only people of Maori descent have.
- “Taonga”, in footnote 8, was asserted to refer to all dimensions of a tribal group's estate, material and non-material. That went on to mean that if something exists (such as geothermal energy, water, spectrum, indeed everything in New Zealand’s exclusive economic zone), and if a Maori has not already sold it, a Maori must be paid for it.
- “Tikanga” in footnote 11, asserts that the Queen really wanted to protect Maori customs because Maori did not understand British customs. That formed the basis of the assertion that people of Maori descent should live according to tikanga lore, not the range of laws in force in the English-speaking world. This in turn enabled the Supreme Court to incorporate its version of tikanga in New Zealand law.

***Kawanatanga:*** Kawharu asserted, in footnote 6, that chiefs could not understand “government” in the sense of “sovereignty”. This neglects to acknowledge the comments of 16 chiefs at the treaty debate at Waitangi on February 5, 1840, which were recorded in writing by eyewitness missionary William Colenso. These comments show that seven of them did not want a British governor to judge and condemn them or even hang them by the neck. What they alluded to describes the implications of sovereignty.[41]

***Rangatiratanga:*** Unlike his discussion of “*kawanatanga*” above, Kawharu did not link the Maori word to the English source word. As you can see from the grid above, Kawharu ignored the fact that “*rangatiratanga*” was selected to translate “possession”. Kawharu back-translated “*rangatiratanga*” as “unqualified exercise of the chieftainship” without mentioning that the “unqualified exercise of the chieftainship” was over “lands, dwellings and all their property”. His assertion that the Queen intended “to give them complete

[41] Colenso ibid

control according to their customs" gave "*rangatiratanga*" a life of its own and, over time, "*rangatiratanga*" became the Maori word for "Maori sovereignty".

***Taonga*:** Kawharu wrote that "*taonga*" refers to "all dimensions of a tribal group's estate, material and non-material". Such was his 1987 definition. Yet in 1820, chief Hongi Hika, defined "taonga" as "property procured by the spear"[42]Kawharu's redefinition enabled claims and compensation for fisheries, radio spectrum and so on.

***Tikanga:*** Kawharu wrote that "There is a real sense here of the Queen 'protecting' (ie, allowing the preservation of) the Maori people's *tikanga* (ie, customs) since no Maori could have had any understanding whatever of British *tikanga*". Since the 1980s, much effort has gone into creating a perception that Maori customs created a peaceful society of noble savages. The depredations of the Musket Wars have been airbrushed away.

Without Kawharu's redefinition of tikanga, the Supreme Court would have had difficulty using the *Ellis v R (Continuation)* case to establish that tikanga Maori is a foundational source of New Zealand common law which can be applied universally, even in cases involving non-Maori individuals.

Kawharu had conflicting interests. He was a member of the Waitangi Tribunal from 1986 to 1996 and chair of Maori studies at Auckland University. While on the tribunal, Kawharu was chair of the Ngati Whatua o Orakei Trust Board and represented his tribe in the Bastion Point protest and land negotiations from 1978 to 1991.[43]

Kawharu's "contemporary translation", although not published until 1989, was available to the Appeal Court in 1987 for the lands/treaty principles case discussed in the next chapter.

Kawanatanga, rangatiratanga, taonga, and tikanga became core beliefs that the Waitangi Tribunal expects people to accept as absolute truth without question or doubt. These core beliefs function within treaty policy like dogmas function in a religion. Dogmas create a distinct line between what falls inside and outside a specific faith.

- Accepting the central dogmas is usually an implicit requirement for conversion or official membership.
- By declaring an infallible truth, the religion protects its original scriptural message from being watered down or altered.
- Anyone who obstinately rejects or denies an established dogma is generally viewed as being in "actual error" (heresy).

[42] This translation was for *A Grammar and Vocabulary of the Language of New Zealand* published in 1820.
[43] Contemporary translation of the te reo Maori text https://www.waitangitribunal.govt.nz/en/about/the-treaty/maori-and-english-versions

**Conclusion**

Today it appears that there are many different interpretations of the Treaty of Waitangi. There are actually only two texts – the text agreed to in 1840, and the 1980s text with 11 footnotes that lay down the four core dogmas of treatyism - kawanatanga, rangatiratanga, taonga, and tikanga

The treaty soon morphed into an agreement in which the chiefs agreed to allow a governor to control British while chiefs could carry on being chiefs. Eventually, in 2014, the tribunal openly reversed the meaning of the treaty when it recommended, via the Te Paparahi o Te Raki inquiry, that northern Maori did not cede sovereignty. Unceded sovereignty came to mean (for some) that "Maori" should govern "Maori". By 2019, New Zealand was (and still is) facing a proposal for two racially-separate governments under tribal control.[44]

# 11. Treaty principles and grievance creation

Make no mistake, the treaty principles are a big deal. This is because without them, the Crown could not have breached the treaty, and without treaty breaches there would be no multi-billion-dollar compensation payments and resource transfers to entities defined as Maori.

The principles of the Treaty of Waitangi are broad operational guidelines used by New Zealand courts, the government, and the Waitangi Tribunal to apply the Treaty of Waitangi to modern law and policy. There are no principles as such in the treaty as agreed in 1840.

The first recorded mention of the phrase "treaty principles" was in Parliament on November 8, 1974, uttered by Maori Affairs Minister Matiu Rata, when introducing the Treaty of Waitangi Bill. The phrase was included in the Treaty of Waitangi Act 1975. There was no formal definition of what they were.

A purpose for the existence of defined treaty principles came from another phrase in the Treaty of Waitangi Act, which gave the tribunal the exclusive authority to determine the meaning and effect of the Treaty.

**Treaty principles defined**

An attempt to define treaty principles first appears in *New Zealand Māori Council v Attorney-General 1987.* This is also known as the lands case because the New Zealand Maori Council went to court to prevent the transfer of Crown land into new state-owned enterprises until protections were put in place for outstanding Maori treaty claims.

The Court of Appeal had to work out what the phrase "treaty principles" could mean because that 1987 "Lands" case involved the State-Owned Enterprises Act 1986, in which

[44] This is according to the government-commissioned *He Puapua* plan discussed in Chapter 27.

Section 9 said "Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi".

The treaty text used by the Appeal Court to ponder these principles was Kawharu's rewritten version with the 11 footnotes discussed in the section above.

Meanwhile, the five justices presiding were heavily lobbied by a number of highly placed activists, along with Kawharu, each with a vested interest on a decision favouring the Maori Council, and each of whom had sworn affidavits.

Those lobbyists included Dame Whina Cooper of land march fame, Maori studies professor Mason Durie, Ngai Tahu claimant Harry Evison, Claudia Orange of treaty book fame, and Whatarangi Winiata, who went on to lead the Maori Party.

Out of that hearing came a decision favouring the Maori Council and a number of treaty principles. Here is how Justice Robin Cooke defined treaty principles in his part of the judgement dated June 29, 1987:

1. The Treaty signified a **partnership** between races.
2. The issue becomes what steps should be taken by the Crown, as a partner acting towards the Maori partner with the utmost **good faith** which is the characteristic obligation of partnership.
3. The relationship between the Treaty partners creates responsibilities analogous to **fiduciary duties**.
4. The duty of the Crown is not merely passive but extends to **active protection** of Maori people.
5. **The duty to act reasonably and in the utmost good faith is not one-sided**.
6. A duty to **remedy past breaches** was spoken of.
7. The Crown should grant at least some form of **redress**, unless there are grounds justifying a reasonable treaty partner in withholding it.
8. A **duty 'to consult'** was also propounded. Exactly who should be consulted before any particular legislative or administrative step which might affect some Maoris, it would be difficult or impossible to lay down. Moreover, wide-ranging consultations could hold up the processes of Government in a way contrary to the principles of the Treaty.[45]

**Principles for Crown Action on the Treaty of Waitangi**

The next step came on July 4, 1989, when the Fourth Labour Government published five *Principles for Crown Action on the Treaty of Waitangi.* They are:

[45] Cooke P, NZ Maori Council v Attorney General 1987, pages 35-38. This list was constructed by directly quoting Cooke's phrasing excerpted from longer sections of text. This because the usual practice of paraphrasing these principles loses Cooke's nuancing.

- **The Principle of Government (*kawanatanga*)**, which confirms the Crown's right to govern, pass laws, and maintain a unified legal system for all citizens.
- **The Principle of Self-Management (*rangatiratanga*)**, which recognises the right of iwi (tribes) and hapu (sub-tribes) to control and enjoy resources. Although this right is restricted by the Crown to mean "self-management" rather than absolute authority.
- **The Principle of Equality**, which affirms that all New Zealanders are equal before the law and that the state will take targeted measures to redress socioeconomic disparities for Maori.
- **The Principle of Reasonable Co-operation**, which mandates that both the Crown and Maori act in good faith, treating the treaty as a partnership for a shared nation.
- **The Principle of Redress**, which commits the government to providing fair and effective processes—primarily via the Waitangi Tribunal—to resolve historical land and cultural grievances

**Constitution changed**

These "treaty principles" have allowed the treaty document to move from a historical text into enforceable modern legislation. They have transformed law, enabled the treaty settlement process, and imposed a bicultural structure on the public sector where “partnership, participation, and protection” are the foundational buzz words.

This evolution of Treaty principles fundamentally changed New Zealand’s constitution, shifting it from a system of absolute British parliamentary sovereignty toward a treaty partnership framework without the word partnership actually appearing in the treaty. And this was done while carefully circumventing voters and taxpayers.

The architect of this treaty policy, Sir Geoffrey Palmer, wrote in his 1992 book *New Zealand’s Constitution in Crisis*, that because addressing Maori grievances was politically unpopular, and legislation to address grievances ran the risk of being outvoted, he set up “processes, and procedures and the principles on which decisions should be based.” [46]

As Leader of the House, Attorney-General, Minister of Justice, Deputy Prime Minister, and eventually Prime Minister from August 8, 1989, Palmer had immense power.

**Ever-changing lists**

There is no single fixed or final list of treaty principles. Various entities make them up to suit various agendas. Thirteen years ago, I collected 13 different sets of treaty principles. Three

[46] Palmer, ibid, p. 76

sets are included in this article. The Waitangi Tribunal customises principles for whatever issue it is pondering.

**Treaty Principles Bill**

A direct challenge to all this came in 2024, when the ACT Party leader David Seymour fronted a government bill that would have had Parliament define the principles and put it to a referendum. The eventual[47] proposed principles were:

> **Civil government**—the Government of New Zealand has full power to govern, and Parliament has full power to make laws. They do so in the best interests of everyone, and in accordance with the rule of law and the maintenance of a free and democratic society.
>
> **Rights of hapu and iwi Maori**—the Crown recognises the rights that hapu and iwi had when they signed the Treaty/te Tiriti. The Crown will respect and protect those rights. Those rights differ from the rights everyone has a reasonable expectation to enjoy only when they are specified in Treaty settlements.
>
> **Right to equality**—everyone is equal before the law and is entitled to the equal protection and equal benefit of the law without discrimination. Everyone is entitled to the equal enjoyment of the same fundamental human rights without discrimination.

The reaction was nuclear. The thought of the great unwashed voting in a referendum was a step too far. Te Pati Maori created an action group named Toitu Te Tiriti which whipped up a storm of opposition, swamped the select committee with 300,000 (including numerous computer-generated) submissions, and brought 40,000 protesters to the steps of Parliament. In the end, both coalition partners, the National Party and New Zealand First, torpedoed the bill by voting against it at its second reading.

**Bad phrasing by a Minister?**

Did the phrase "treaty principles" come into existence by mistake? A blogger named Spaniard suggested that the Minister of Maori Affairs, Matiu Rata, was merely pointing to "the provisions of the Treaty of Waitangi" when he said "principles of the Treaty of Waitangi".[48] Those provisions are, of course, what's written in the 1840 treaty.

Spaniard noted that the Minister had received limited formal education, leaving school at the age of 12, and for much of the 1972-1975 term of his 17 years in Parliament he had been off work due to illness. The bill had been much-delayed as a result.

Whether Spaniard's conjecture is true or not, we will probably never know.

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[47] Seymour's principles went through a number of different versions.
[48] SPANIARD - Provisions of the Treaty: all the 'principles' ever were https://www.brashandmitchell.com/post/spaniard-provisions-of-the-treaty-all-the-principles-ever-were

**No principles in the treaty**

To be clear, if principles are defined as fundamental truths, rules, or beliefs that guide behaviour, there were **no principles** in the words written on parchment that were agreed to in 1840.

There were just a preamble, three articles, and a postscript in five sections which concisely lay out an agreement in which sovereignty was ceded, property rights guaranteed, new rights for Maori as British subjects granted.

**No principles no breaches?**

Without treaty principles, would there have been no breaches of the treaty by the Crown? It depends. If you follow the framing of New Zealand history as used by the Waitangi Tribunal, you would say yes. Otherwise, no.

The tribunal's argument is that the Treaty principles were created as a legal mechanism to interpret and resolve breaches that had already occurred. There would be massive breaches because:

- The Crown confiscated land, and set up the Native Land Court to dispossess Maori of their land.
- The Crown breached Article 2 of the Maori text explicitly promised to guarantee Maori *tino rangatiratanga* and was wrong to unilaterally seize absolute sovereign control.

However, the documented history tells a different story.

- Land was confiscated as a consequence of rebellion, and New Zealand was not the only country in the English-speaking world to be confiscating land at that time.[49]
- The Native Land Acts and Native Land Court were intended to resolve numerous problems that had occurred with land sales over the first 25 years of British settlement.
- The rangatiratanga argument requires acceptance of 1987 re-written treaty's four dogmas – kawanatanga, rangatiratanga, taonga and tikanga. As already explained, the word "rangatiratanga" was changed from its actual 1840 meaning of "possession" to its 1980s rendering, "chiefly authority", and that created a false excuse to repudiate cession of sovereignty.

Warts and all, everything the Crown has done since 1840 has been for the purpose of governing the country, for settlers and Maori alike. Many Maori people fought for the government during the 1860s wars. More Maori wanted to cash up by selling land to the government than just sit on it. Enabling Maori to exercise rights as British subjects was the

[49] Confiscation of assets including land featured in the American Civil War (1861-1865)

role of a government. Being able to benefit from selling land you own is a citizen right and a government responsibility to protect.

## 12. Fisheries settlement creates a path for claims

Maori received a fisheries settlement because two High Court injunctions halted the introduction of a quota management system and because the New Zealand government agreed with a Waitangi Tribunal recommendation. That tribunal recommendation was that the government had breached the Treaty of Waitangi by creating a commercial fishing system that ignored guaranteed Maori ownership and authority over marine resources. These moves led to the commercial fisheries settlements in 1989 and 1992 worth $170-million. This also brought an ongoing 20 percent stake in the entire New Zealand fishery.

The story goes like this: In 1986, the government introduced a quota management system to prevent overfishing. The Crown divided ocean fishing rights into individual transferable quotas and gifted or sold them to existing, large-scale commercial fishers. Because many Maori fished part-time alongside farming or seasonal work, they failed to meet the government's minimum catch thresholds, and lost their livelihood.

Mat Rata, the former Maori Affairs Minister who fronted the Treaty of Waitangi Act in 1975, wrote to the Waitangi Tribunal on June 7, 1985, on behalf of the Te Hapua 42 Incorporation, Ngati Kurī, and Te Aupouri, arguing that the Ministry of Agriculture and Fisheries was wrongly acting as if Maori customary fishing rights had been entirely extinguished.

Representatives of four groups, Ngai Tahu, Muriwhenua, Tainui, and the New Zealand Maori Council, went to court in 1987 to stop quota allocation, first in the northern Muriwhenua region, and then over the entire New Zealand fishery. They argued that the Crown could not hand over ownership of New Zealand's fisheries to private companies when the oceans legally belonged to Maori under the treaty. The High Court placed an injunction on the Crown, effectively halting the expansion of the quota management system because the government had failed to address indigenous property rights.

In the 1988 Muriwhenua Fishing Report, the Tribunal recommended that the Muriwhenua fisheries claims were:

- Completely well-founded,
- that Article 2 of the treaty guaranteed Maori ownership of their *taonga* (treasured possessions), which explicitly included their fisheries, and concluded
- that the Crown had failed to protect the tribes' fishing rights, and
- that traditional Maori fishing was not just for basic food gathering (subsistence) but had a massive commercial component long before European settlement.

This ultimately forced the Crown to sit down with claimants and negotiate. This paved the way for the Maori Fisheries Act 1989 and the landmark 1992 Sealord Deal. Two packages were negotiated:

1. The 1989 interim settlement: This cost the Crown $10-million in cash plus the market-value cost to buy back 10 percent of all fishing quotas to transfer to Maori.
2. The 1992 "Sealord" deal: This cost the Crown $150-million in cash to fund a joint venture with Brierley Investments to buy 50 percent of Sealord Products, New Zealand's largest deepwater fishing company at that time. The Crown paid an additional $18-million to the newly reconstituted Treaty of Waitangi Fisheries Commission. In addition, the government allocated to Maori 20 percent of all new species brought into the quota system.

Today, these settlements are benefiting 57 shareholders representing Maori tribes across New Zealand who own 30 percent of New Zealand's commercial seafood industry. While the dollar amount for the 1989 and 1992 settlements was around $170-million at that time, the total annual earnings that tribes generate from commercial fisheries assets range between $90-million and $130-million in direct annual distributions, dividends, and lease revenues.

A proposed 620,000-square-kilometre no-take zone around the Kermadec Islands which would have covered 15 percent of New Zealand's exclusive economic zone was scuppered following opposition from Maori tribes regarding fishing rights.

Maori fisheries revenue faces hurdles.

- In March 2025, a High Court ruling found that the Crown breached the Fisheries Settlement by quietly eroding Maori settlement quota via historical "28N rights". These are historical deferred compensation entitlements granted to commercial fishers in New Zealand and go back to 1989.
- Furthermore, proposed marine protections in areas like the Hauraki Gulf have triggered warnings from Maori leadership that tribes face up to $250-million in potential losses to the long-term value of their fisheries settlement assets.

**Conclusion**

The commercial fisheries settlement established a pattern for a Maori claim, which was to go to court, lodge the claim with the tribunal (which asserts unextinguished customary rights to what could be a *taonga* which they owned that the Crown failed to protect), get an injunction to stop whatever was proposed, get a favourable recommendation, and negotiate a substantial settlement. A further pattern was established. If something gained monetary value, such as a fishing quota, geothermal energy, or radio spectrum, if no Maori had ever sold it, "Maori" owned it.

# 13. The Littlewood treaty

In March 1989, while much official energy was going into settling the fisheries claim, an old handwritten English-language Treaty of Waitangi was discovered. Confirmed to be written by British Resident James Busby who was involved in drafting the treaty, and dated February 4, 1840, it has a single word that appears in the Maori text that is absent from the English, being the word “Maori” added to both the Preamble and Article 3. The texts are displayed below side-by-side so you can see which Maori words were used to convey the meaning of the words in English. If this document had been accepted as the missing final draft, all issues to do with treaty interpretation could have been solved decades ago.

| | **Busby February 4, 1840, document** | **Maori text signed on February 6, 1840** |
|---|---|---|
| **Preamble** | Her Majesty Victoria, Queen of England in her gracious consideration for the chiefs and people of New Zealand, and her desire to preserve them their land and to maintain peace and order amongst them, has been pleased to appoint an officer to treat with them for the cession of the Sovereignty of their country and of the islands adjacent to the Queen. Seeing that already many of Her Majesty’s subjects have already settled in the country and are constantly arriving: And that it is desirable for their protection as well as the protection of the natives to establish a government amongst them.<br>Her Majesty has accordingly been pleased to appoint me William Hobson a captain in the Royal Navy to be Governor of such parts of New Zealand as may now or hereafter be ceded to Her Majesty and proposes to the chiefs of the Confederation of United Tribes of New Zealand and the other chiefs to agree to the following articles.- | KO WIKITORIA te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira – hei kai wakarite ki nga Tangata maori o Nu Tirani – kia wakaaetia e nga Rangatira Maori te Kawanatanga o te Kuini ki nga wahikatoa o te wenua nei me nga motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.<br>Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana. Na kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei amua atu ki te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei. |
| **Article 1** | The chiefs of the Confederation of the United Tribes and the other chiefs who have not joined the confederation, cede to the Queen of England for ever the entire Sovereignty of their country. | Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te Kawanatanga katoa o o ratou wenua. |
| **Article 2** | The Queen of England confirms and guarantees to the chiefs and the tribes and to all the people of New Zealand, the possession of their lands, dwellings and all their property. But the chiefs of the Confederation of United Tribes and the other chiefs grant to the Queen, the exclusive rights of purchasing such lands as the proprietors thereof may be disposed to sell at such prices as may be | Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangitira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona. |

| | | |
|---|---|---|
| | agreed upon between them and the person appointed by the Queen to purchase from them. | |
| **Article 3** | In return for the cession of their Sovereignty to the Queen, the people of New Zealand shall be protected by the Queen of England and the rights and privileges of British subjects will be granted to them. | Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani. |
| **Post script** | Signed, William Hobson<br>Consul and Lieut. Governor.<br><br>Now we the chiefs of the Confederation of United Tribes of New Zealand assembled at Waitangi, and we the other tribes of New Zealand, having understood the meaning of these articles, accept them and agree to them all. In witness whereof our names or marks are affixed. Done at Waitangi on the 4th of February, 1840.[50] | (signed) William Hobson, Consul and Lieutenant-Governor.<br><br>Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.<br>Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.[51] |

Discovered in a deceased estate in Pukekohe, Auckland, the document gets its "Littlewood" name from that of the family that held it for nearly 150 years, oblivious to its value. Family members took every step to inform officialdom (visited local MP, took it to the treaty house, to the Auckland Museum, and to Archives New Zealand) about the discovery,[52] it took three years for a credentialled person to look at it. That was treaty book author Claudia Orange, who inspected it on July 11, 1992. Orange noted the W. Tucker 1833 watermark on the sheet which made the paper contemporary to 1840 and stated "it could be the one known about but never located". She also speculated that it could be an early back-translation.[53]

The first official comment came three years later. Internal Affairs Minister Graeme Lee said in September 1992 "because it has the omission on Article 2 of the fisheries and forests it certainly becomes a little more significant," quickly adding "the document does not rewrite history, does not change the Treaty of Waitangi".[54] In that New Zealand Herald report, a former Internal Affairs historian named Ian Wards said "whatever it is, it is interesting because of its date, its authentic paper, its authentic handwriting, and whatever it says".

[50] Doutre, Martin, *The Littlewood Treaty*, De Danann Publishers 2005
[51] *The Treaty of Waitangi*, Claudia Orange, Bridget Williams Books, 1987, p257
[52] Butler, Mike, Littlewood text appraisal reviewed. https://breakingviewsnz.blogspot.com/2010/05/mike-butler-lost-treaty-draft-and-race.html
[53] Doutre ibid p9
[54] *Draft puzzles experts*, New Zealand Herald, September 11, 1992.

The appearance of an old treaty document minus “fisheries” at that time was inconvenient politically, because just 12 days later, on September 23, 1992, the $170-million “Sealord” full and final part of the commercial fisheries settlement was signed**.**

When asked by Crown Law in 1993 to review the document, historian Donald Loveridge said that it was "virtually identical in all respects to the Clendon translation", and supposed that “Mr. Littlewood somehow came into possession of a mis-dated copy of this document” which was “in all probability due to a simple copying error."

The “Clendon translation" is a reference was a dispatch sent by United States consul James Reddy Clendon to Washington on February 20, 1840. This dispatch contained a hand-written copy of a treaty text in English identical to the Littlewood document but for the date. Clendon’s “translation” assertion appears in a memo included in the dispatch.[55]

Eleven years passed then "The End of the Golden Gravy Train"[56] regarding the Littlewood treaty was published in the December 2003/January 2004 issue of Investigate Magazine. High profile investigative reporter Ian Wishart drew on research by Martin Doutre that was published in 2005 in his book titled *The Littlewood Treaty – the True English Treaty Text of the Treaty of Waitangi Found*.[57]

Doutre provided the evidence, mentioned above, that handwritten copies identical to the Busby February 4, 1840, document were sent to the United States on two occasions within two months of the treaty signing at Waitangi.

Doutre wrote that “despite promises to the Littlewood family in 1989 and the general public in 1992 that a full forensic analysis would be undertaken by our experts to determine the pedigree and historical significance of the Littlewood treaty document, no such results have ever been released to the public”.[58]

In 2006, Loveridge was asked for a second, more comprehensive appraisal. He reviewed writings by National Archives treaty researcher Phil Parkinson, who verified that Busby wrote the document, as well as Doutre’s work.

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[55] A second hand-written document close to identical to the Busby February 4, 1840, was sent to the United State on April 3, 1840. Carried by Charles Wilkes, the commander of the USS Vincennes, on return from Antarctica, that treaty copy was sent with a back-translation to English of the Maori text done by a Captain Gordon Brown. There was difference between the Wilkes copy and the Busby document being in the preamble where Wilkes replaced “sovereignty” with “their lands country”.

[56] Wishart, Ian, End of the Golden Gravy Train, http://www.investigatemagazine.com/jan4treaty.htm
[57] Doutre, Martin, *The Littlewood Treaty, the true English Text of the Treaty of Waitangi – Found*. De Danann Publishers, Auckland, 2005,
[58] Doutre ibid p2

Loveridge enlarged upon his 1993 memo and argued that Doutre did not provide conclusive evidence. He repeated his view that it was a translation of the Maori text because the 1840 United States Consul for New Zealand, James Reddy Clendon, said it was.

But Loveridge also wrote that "if Clendon's description was not correct, however – for whatever reason – the possibility would remain that the date was used intentionally, and that the Littlewood document is in fact a copy of the missing draft".[59]

There are flaws in the assertion that the Littlewood treaty is a back-translation from the Maori text:

- Neither Loveridge nor Orange commented on the fact that the word "Maori" that appears in Te Tiriti is missing from the preamble and Article 3 of the Littlewood document.
- A phrase-by-phrase or segment-by-segment comparison is highly recommended—and often strictly required—to serve as proof of accuracy in a back-translation. Neither Loveridge nor Orange provided this.
- Neither mentioned the Captain Gordon Brown's back-translation, which uses ordinary language, does not have the mistakes in the Busby draft, and lacks the precision of a document written in the mother tongue of the writer.
- Neither Loveridge nor Orange mentioned the 1869 T.E. Young translation, which is an official back-translation and is reproduced on p265 of Orange's treaty book.

I saw the Littlewood treaty when it was on display in the Constitution Room at the old National Archives Building in Wellington in 2006. It was removed from public display in April 2017 to make way for the He Tohu display which features the 1835 He Whakaputanga declaration of independence, the 1840 Te Tiriti, and the 1893 Women's Suffrage Petition.

The Maori text, the "official" English text, and the Kawharu "contemporary translation" are posted on the Waitangi Tribunal's website. The Busby February 4 draft is not displayed there. For those who are aware of the Busby draft, its absence there is conspicuous.

**Conclusion**

Arguably, the appearance of the Busby February 4, 1840, would have been handled differently had not treaty issues become so highly charged politically. Had the document been investigated impartially, and had it been accepted as the missing final draft, all issues to do with treaty interpretation could have been solved decades ago. The Littlewood question is important. It is more than just forests and fisheries. It will remain an issue as long as the status of the document is not impartially investigated.

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[59] Loveridge, Donald. The "Littlewood Treaty": An Appraisal of Texts and Interpretations 2006 https://www.wgtn.ac.nz/stout-centre/research-and-publications2/research-units/towru/publications/The-Littlewood-Treaty.pdf

Acceptance of the fact that the Littlewood/Busby February 4, 1840 document and Maori texts are identical except for the addition of the word “Maori” in two places in the Maori text would mean that:

- The Busby February 4, 1840, draft would replace the current official English text in all official documents and displays.
- There would be no need for a tribunal to have the sole authority to “determine the meaning and effect of the treaty as embodied in the two texts”.
- There would be no need for the Kawharu treaty reinterpretation from which flows the ideology that appears to justify Maori sovereignty.
- There would be no need for treaty principles.
- There would be no justification for the treaty principles mantra used to find fault with and extract compensation from the government.

## 14. Private land occupied

Protesters occupied Crown land at Bastion Point in 1977 and 1978. Protesters occupied council-owned Raglan Golf Course from 1975-1983. Protesters occupied the council-owned Moutoa Gardens in Wanganui in 1995. The architects of historical redress had not contemplated the impact of Maori claims on private owners and private land was up for grabs.

A claim for private land in 1987 at Maunganui Bluff 40km north of Dargaville caused a new set of problems. The Waitangi Tribunal’s management of the Maunganui Bluff inquiry plus dithering by the government and police delivered a stark warning to the public, who were shut out of the entire process.

Protests at Waitangi, the 1975 Māori Land March and the occupation of Bastion Point energised groups to physically occupy land that they alleged had been stolen. Two farms at Maunganui Bluff, one owned by Don Harrison and the other by his neighbour, Allan Titford, were the location of one such occupation. Claimants alleged that two areas, Whangaiariki on Harrison’s farm and Manuwhetai on Titford’s, should have been reserved from the 1876 sale of the block that they were part of, the Maunganui Block. Claimants had an old survey map that they said was proof.

Harrison had farmed there since 1979 and Titford arrived in 1986, before the Te Roroa statement of claim for the Maunganui and Waipoua blocks on November 10 of that year. Titford took possession on August 1, 1987. Protesters moved in on August 7.

Both Harrison and Titford had clear title to their land. Titford traced the history of his title back to the Maunganui Block sale in 1876. He found out that a claim that land on their farms were reserves that had been in error left out of the 1976 sale had been submitted to the

Stout-Ngata commission in 1908, investigated and upheld in 1932, but overturned in 1942. The current same claim was a re-run of that claim.

Both stood up for their rights. Titford was under extra pressure because he had a two-year interest only mortgage that he planned to pay by subdividing the coastal strip, which was the area that had been occupied. That meant he directly clashed with protesters every day when he worked in the claimed area, when he bulldozed areas to form roads in his subdivision. Footage of the protest was soon on prime-time television news.

The protest lasted from August 7, 1987, until July 4, 1992, when Titford's home was burnt down, driving him off the land. During the occupation, protesters were trespassed, shelters were dismantled, bulldozers were damaged, stock was killed, a carved pole was erected and felled, and two houses were burnt to the ground. Additional pressure on Titford came from a bank, when he was unable to pay or refinance his mortgage because he had been prevented from completing the subdivision and no one wanted to buy there because of the Maori protest.

Titford wanted to present his evidence to the Waitangi tribunal hearing but, on July 13, 1989, was told he had no standing to present it.

Nine months later. on April 24, 1990, an agreed statement was released in which the government accepted all Te Roroa claims for the land on the Titford and Harrison farms. The government had decided to pay out all claims irrespective of evidence to the contrary which the government itself held. Since hearings were still running (hearings ended in May 1991) that statement was made before the inquiry had been completed. Titford was gutted. "Maori land row farmer wants to quit the country" was the headline. The Te Roroa report was presented on April 3, 1992.

Harrison had had enough so sold, to the only interested buyer, the government, on August 19, 1993. The next day, August 20, the Government amended the Treaty of Waitangi Act, section 6, subsection 4A, to say "the tribunal shall not recommend . . . (a) the return to Maori ownership of any private land; or (b) the acquisition by the Crown of any private land."

On November 3, 1994, five other affected farmers in the Maunganui Bluff area issued a multi-million-dollar lawsuit against the Government seeking punitive damages and compensation for the harm done by the land claim which had rendered their properties worthless. Eventually, the government bought them out.

Eventually, Titford's lender had initiated proceedings to sell up his father who was guarantor. Titford sold on December 12, 1995. The price was $3.25-million. Titford wrote "under duress" on the agreement.  Creditors took $2.25-million. The million dollars he banked was about $300,000 more than the amount that he had paid eight years earlier for land, plant, and stock.

*Footnote: On November 20, 2013, Titford was jailed for 24 years. He faced 53 charges, was found not-guilty on 14, and 11 of the remainder were majority verdicts. His appeal in 2017 failed. The Supreme Court would not look at his case. At the hearing in August 2026, when he was released on parole, Titford acknowledged that he had been found guilty of 39 charges but he refused to change his plea of "innocent nil debit". Both Harrison and Titford are still seeking compensation for what went on at Maunganui Bluff.*

## 15. Fiscal envelope, Waikato-Tainui, Ngai Tahu

Prime Minister Jim Bolger's National Government, which gained power on November 2, 1990, tried to put a $1-billion cap on Treaty of Waitangi settlements. This cap, known as the "fiscal envelope", was first officially proposed in December 1994. Designed to limit long-term financial liabilities and create a standard baseline before negotiating further claims, this proposed to cover all Maori historical claims and was to be achieved in 10 years. This $1-billion value was estimated in 1992 dollars.

Howls of outrage came from some who regarded a pre-determined financial cap as unjust, and a violation of the principles of the Treaty of Waitangi. Specifically, the outrage came from:

- Moana and Tony Sinclair, Auckland University Law School, as *Te Kawau Maro*.
- The Waitangi Tribunal.
- The Maori Congress and New Zealand Maori Council.
- Te Ahi Kaa, Wanganui (which included Ken Mair, Tariana Turia, and Mike Smith).
- Dr. Ranginui Walker, Eva Rickard, Annette Sykes, Sir Tipene O'Regan, and Derek Fox.

The official policy cap was formally abandoned in 1996. However, its core benchmark mechanism survived through "relativity clauses" built into two early settlements. These allowed early settling tribes a percentage share of all payments once the total of all settlements surpassed $1-billion in 1992 dollars. Supporters argue that this brings relative fairness and future proofing, ensuring that tribes were not economically penalised by settling early. That total was reached in June of 2012. By 2026, these payments had trebled the tribes' original payout.

The **Waikato Raupatu Claims Settlement Act**, which was passed into law on November 3, 1995, further compensated the tribe for the confiscation of over 1.2 million acres of land. The fact that confiscation was a consequence of rebellion was ignored, as was the fact that tribe was still receiving payments under the "full and final" Waikato-Maniapoto Maori Claims Settlement Act 1946. Queen Elizabeth II personally signed the Waikato Raupatu Claims Settlement Act 1995 into law. This 1995 settlement included:

- A formal Crown apology.
- Financial redress of $170-million.

- Relativity top-ups of 17 percent.

The **Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010** enabled another confiscation settlement for Waikato-Tainui, apparently for having the Waikato River confiscated**.** This incurred a financial obligation on the Crown of $211.8-million to settle claims relating to the Waikato River, and establish co-governance and co-management between Waikato-Tainui and local authorities.

The **Ngai Tahu Claims Settlement Act**, that was passed into law on September 29, 1998, again compensated the tribe for complaints about land sales. That tribe sold 80 percent of the South Island to the government in 10 deals over 20 years from 1844 for a total of £14,750. They had already sold (in January 1840) almost the entire South Island to wealthy Australian speculators. In 1998, Ngai Tahu was still receiving payments from the "full and final" Ngai Tahu Claim Settlement Act 1944. Considering a number of settlements that Ngai Tahu had received before 1944, as detailed above in the old claims chapter, the 1998 settlement was their fifth settlement. None of this was mentioned at the time of the 1998 settlement which included:

- A formal Crown apology.
- Financial redress of $170-million.
- Cultural redress involving Aoraki/Mount Cook, greenstone, and temporary campsites.
- Relativity top-ups of 16.1 percent.

Despite multiple ballooning settlements over 144 years, then Ngai Tahu leader Mark Solomon told Television New Zealand's Q&A show on June 6, 2010, that:

> Ngai Tahu lost 12 billion dollars worth of assets and accepted as a compensation $170-million. Do the maths. The fact that people in New Zealand argue that the settlements are far too high, if they looked at the reality of what Maori have lost, and then look at the compensation, Maori should be being thanked for the levels of the settlements they accept, not be derided by the rest of the community.

It looks like Solomon had repudiated the sale of 80 percent of the undeveloped South Island in 10 deals over 20 years, and expected to be paid, again, in 1998 dollars, for the value of 80 percent of the developed South Island. It also looks like Solomon expects to be thanked for accepting, on behalf of Ngai Tahu, hundreds of millions of dollars in payments over decades, tax-exempt status, and preferential treatment for the next 160 years.

# 16. Mandate

Establishing a mandate is step 1 for a claimant group. A deed of mandate identifies the particular claim, its geographic area, and who will benefit from the settlement. Links to a

distant ancestor define the group. Some claims may overlap with the geographic areas of interest of other tribes. Some individual claimants belong to multiple claimant entities. A claimant group must nominate people to negotiate with the Crown on their behalf. The Crown must ensure that the mandate is willingly given by the majority of the people they represent. A vote usually but not always takes place.

Data on mandate votes provided by the Office of Treaty Settlements on June 12, 2026, listed 99 claimant groups with the names of their post settlement governance entities, their locations, the year of the mandate vote, the number of registered votes, the total number of votes, and the number of votes in favour of the mandate. There was a note that, over time, especially in the early days of the process, the information was not collected consistently therefore for some groups no data was available. There were no details for some of the big tribes including Waikato-Tainui, Ngai Tahu, Tuhoe and Tuwharetoa. Thirty groups had no number of registered voters or number of votes.

The data showed that 29,681 or about 36 percent of 83,312 voters registered tribe members endorsed 69 claimant entities. Bearing in mind that some large groups are missing, and that there are 115 groups listed in the table below, the total number of people who voted in favour of their treaty settlement is about five percent of the total Maori voting population of 557,723.[60] It looks like involvement by "Maori" in the current treaty settlement process is miniscule.

Overall support for the policy by the people of New Zealand is less clear. There has never been an opportunity for taxpayers to vote on treaty settlement mandates. I put this question to MPs on a Maori Affairs select committee hearing submissions on the "Treelords" Central North Island Iwi Collective Settlement bill on August 1, 2008. One MP invoked "continuous cross-party parliamentary support" as a form of mandate. Another asserted that "every party has a treaty policy and everyone can vote for some party".

Former Treaty Negotiations Minister Christopher Finlayson wrote in 2021 that "my impression is that the vast majority of New Zealanders agree with the underlying premise of treaty settlements."[61] But former Prime Minister Geoffrey Palmer appeared much less confident when he wrote in 1992 that he set up "processes, and procedures and the principles on which decisions should be based". This was because addressing Maori grievances was politically unpopular, legislation to address grievances ran the risk of being outvoted.[62]

[60] Electoral Commission figures In July 2026 show 302,096 voters are on the Māori roll and 255,627 are on the general roll.

[61] Finlayson, Christopher, *He Kupu Taurangi Treaty Settlements and the Future of Aotearoa New Zealand*, Huia Publishers, Wellington, 2021. P27

[62] Geoffrey Palmer, *New Zealand's Constitution in Crisis*, John McIndoe, Dunedin, 1992. P80.

# 17. Agreed history and apology

An agreed history, Crown acknowledgements, and an apology are included in each deed of settlement. Agreed history differs from actual history because it records a version of events as agreed by the Crown and claimants and may differ from eye-witness accounts of those events written at the time they occurred. The apology is one-sided, being solely from the Crown to claimants. There is no evidence of claimant groups apologizing to the Crown or to other claimant groups, like Ngati Mutunga and Ngati Tama, for their role the Moriori genocide.

**Agreed history**

Agreed histories are derived from Waitangi Tribunal reports and oral histories, according to former Treaty Negotiations Minister Chris Finlayson.[63] The tribunal "examines" oral histories by way of written accounts and written responses, which falls short of the usual expectation of what an examination should entail, which is to look at, study, or inspect something very carefully, to find problems, or test a situation or claim. Oral histories delivered by tribal "elders" are not questioned because questioning a respected elder is deemed deeply offensive. Tribunal reports look like history but function like elongated persuasive arguments which push a foregone and often self-serving narrative – that colonisation wrecked traditional Maori society that was composed of noble savages living in a highly organized, resilient, egalitarian, autonomous system and governed by its own laws, customs, and political structures.

It is not difficult to compare agreed histories with actual history. While writing *The First Colonist*, I researched the history of the 1860s East Coast armed conflict. Two massacres occurred there at that time, both perpetrated by anti-government Maori fighters. One was at Matawhero (near Gisborne) on November 10, 1868, when 60 people were murdered, settlers and Maori alike. The other was at Mohaka (near Wairoa) on April 10, 1869, when seven settlers and 61 Maori were killed, mostly women and children from the local Ngati Pahauwera tribe. A settler baby had been flung in the air and bayoneted. Zealous followers of Te Kooti were the perpetrators. My great grandfather, who was the resident magistrate at Wairoa at that time, described the impact of these incidents in his official reports.[64]

The Mohaka massacre is not mentioned in the agreed history in the Tuhoe Claims Settlement Act 2014. As ancient enemies of Ngati Pahauwera, Tuhoe were the main killers at Mohaka, according to historian James Cowan.[65] The Rongowhakaata and Ngai Manuhiri agreed histories mention Matawhero but exclude Mohaka.

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[63] Finlayson and Christmas, p50
[64] Inward letters – Samuel Deighton https://natlib.govt.nz/records/22875123
[65] Cowan, James. *The New Zealand Wars and the Pioneering Period*, Volume 2, Government Printer 1955, p329

An event in Waikato a few years before the East Coast massacres is the best example of the contradiction between Maori oral history and written eye-witness accounts. This is an allegation that British colonial forces locked more than 100 Maori women, children, and elderly people, inside a church and burned them to death. The event was alleged to have happened at Rangiaowhia, 5km east of Te Awamutu, on February 21, 1864. What actually happened was that when colonial troops entered the settlement, shots were fired from a *raupo* whare. Soldiers returned fire and the whare was set on fire. Eight bodies were retrieved.

Author Piers Seed debunked this claim in *Hoani's Last Stand* in 2022. [66] He reported 12 eye-witness accounts. The first is from a boy named Potatau who was in the whare at the time. Seed shows that the burnt church lie was started by a spokesman for the Maori king, Wiremu Tamihana, who was not an eyewitness. At that time, the Maori king was fighting against the British Queen. Tamihana's lie grew in a context of widespread bitterness and resentment among the losers in the Waikato conflict. It was a fabrication used as propaganda.

Waikato-Tainui tribe members continue to circulate this propaganda despite their tribe receiving a full-and-final treaty settlement.

One day in 2014, the teacher wife of a senior advisor to the Maori king took a group of impressionable Otorohanga high school pupils to Rangiaowhia and told them the atrocity version of the story. What was presented as an educational field trip was actually a detailed indoctrination session. Two pupils were shocked into raising a petition which motivated politicians, who should have known better, and ideological fellow-travellers in the civil service, to launch Land Wars Day and a New Zealand history curriculum that promoted the views that anti-government tribes held 160 years ago.

**Apology**

The Crown seeks to restore its honour by apologising for specific actions and their effects, according to former Treaty Negotiations Minister Christopher Finlayson.[67] The apology is made to living tribe members present, to their ancestors who suffered, and to those yet born. "How can a wrong be righted without an acknowledgement of the wrong and an expression of regret," said another former Treaty Negotiations Minister, Sir Douglas Graham, who originated the treaty settlement apology in 1998.[68]

There has been no formal apology let alone acknowledgement from Tuhoe, Rongowhakaata or Ngai Tamanuhiri for involvement in the Matawhero and Mohaka murders of non-combatants, women and children. Such behaviour amounts to war crime. Instead, the New

[66] Seed, Piers, *Hoani's Last Stand*, Tross Publishing, Wellington 2022. https://trosspublishing.com/product/hoanis-last-stand/
[67] Ibid pp51-52
[68] Finlayson ibid p50

Zealand government has apologised for making Te Kooti go on his rampage by jailing him without trial.

The Parihaka apology is reproduced in full above in section 5, with analysis.

## 18. Financial redress

Treaty settlement financial redress is the payment of money to remedy a wrong, grievance, or loss. This process provides economic and commercial compensation to claimant groups for Crown breaches occurring all the way back to 1840. The process of redressing historical grievances in New Zealand is administered by the Office of Treaty Settlements.

Land “loss” is the main historical grievance, although the term blurs the distinction between land sales and land confiscation as already detailed above. With armed conflict and confiscation areas limited to parts of the North Island, most historical settlements amount to more money for old land sales.

The primary factors that the Crown considers when determining the value of each settlement are the:

- amount of land “lost” within the claim area;
- nature of the treaty breaches; and
- benchmarks set by existing settlements for similar grievances

"Secondary" factors are:

- the population of the claimant group today;
- whether there are any overlapping claims (and the extent of such claims); and
- any other special factors a claimant group thinks necessary.

In other words, the tribe with the largest area in 1840 with the biggest population today would receive the biggest treaty settlements. The tribes that prevailed in the inter-tribal Musket Wars before the treaty was signed got the most. Bad luck for their victims.

Financial redress includes cash and Crown assets that may be bought by using part of the total amount received. Frequently these assets include school buildings, police stations, and other buildings leased long-term by the government, providing a long-running, protected cash flow for the recipients. Licensed forestry land is also available, as are government farms. Rights of first refusal to buy surplus Crown property, should it come on the market, extend sometimes more than 180 years into the future.

The Office of Treaty Settlements appears sensitive about the financial redress total. A direct request for the financial redress total for all tribes under the Official Information Act resulted in a figure of $2.739-billion to February 1, 2025. Yet the total on the list below which was extracted from treaty settlement summaries posted on that office’s website shows a total of almost $5-billion.

A quick comparison with a list published in the Finlayson-Christmas book shows that relativity payments and the Waikato River confiscation settlement were not included.

Besides facing up to its past, governments have tried to justify the large cash payments as creating an economic base for the tribe, as Prime Minister Jim Bolger declared in 1997. In Kaikoura, on November 21, at the Ngai Tahu settlement signing, he said it would "allow Ngai Tahu as a tribe to develop a workable economic base and become an economic force in the South Island and New Zealand."[69]

Today, treaty settlement tribes vary widely in wealth. While early settlement groups like Ngai Tahu and Waikato-Tainui grew their initial $170-million packages into multi-billion-dollar commercial empires, many smaller or more recent iwi hold modest assets and remain largely dependent on government funding.

Ngai Tahu's total assets surpass $2-billion, driven by investments in tourism, property, farming, and seafood. Waikato-Tainui's asset base has grown to roughly $1-billion, featuring commercial property holdings like The Base shopping centre in Hamilton and high-profile hotels. The "Maori economy" which conflates Maori businesses with those of treaty settlement tribes, is regularly promoted as being worth from $8-billion to $16-billion overall across major post-settlement corporate entities.

New Zealand is a small place where people in business rub shoulders, compete, and where exists an underlying question of whether your seed capital was earned, inherited, or given to you by the government as a treaty settlement.

## 19. Cultural redress

Cultural redress seeks to recognise a group's claimed cultural and spiritual connection with its environment. This involves both the ownership and management of mountains, rivers, lakes, native bush, and living creatures, and replacing any placenames in English with Maori. There appears to be a process. First there is a familiarisation step, where the English and Maori names are displayed side-by side with the Maori name first. Soon the English name is dropped. "Taranaki-Mount Egmont", became "Mount Taranaki", then "Taranaki maunga". Funding to restore or establish maraes has featured in some settlements. Moving artifacts from museums, such as the meeting house held at Te Papa, is another manifestation of cultural redress. Recognition of the "Ka Mate" haka is yet another.[70]

Relationship redress involves the signing of agreements and accords between settling groups and various arms of government. Most relate to natural resources. Protocols with cultural and social agencies appear in most settlements. Letters of commitment are where a government agency agrees to carry out certain functions for a tribe. Letters of introduction

[69] Ngai Tahu Deed of Settlement signing https://www.beehive.govt.nz/speech/ngai-tahu-deed-settlement-signing
[70] Finlayson Christmas p88

invite government agencies to form a co-operative relationship. Relationship statements set out general principles to guide the relationship with the settling group and the Crown.

Co-governance was set up, largely when Christopher Finlayson was Treaty Negotiations Minister. This appears in two forms – as advisory boards for regional councils, and joint-management boards, to develop environmental plans and manage areas and natural features. It allows unelected tribe members to participate directly with elected local government bodies to advise and make decisions over rivers, watersheds, coastline, and landmarks.[71] Tribes are treaty partners, not stakeholders, Finlayson argued, adding that they have "unique knowledge" which can lead to "better environmental decision-making".[72]

It did not take long before tribal appointees, who were not accountable to voters, were voting on council committees whose business was not confined to resources.

Co-governance exploded into mainstream public debate when the Ardern Labour government proposed extending co-governance into public service delivery—most notably through the Three Waters local water service infrastructure reforms and the establishment of the Maori Health Authority. The Taxpayers Union picked up the issue. It sparked the creation of a group called Stop Co-governance.

The debate has remained a flashpoint. The coalition government (National, ACT, and NZ First) disestablished the Maori Health Authority and replaced the Three Waters reforms on February 27, 2024. But debate persisted as some local councils continued to negotiate partnership agreements and iwi representation that could be entrenched before the Resource Management Act was replaced. Facing pressure, the coalition government amended the Planning Bill and the Natural Environment Bill so that no existing or newly initiated agreements will transfer into the new resource management system.

There is a potentially much more damaging aspect of these cultural redress agreements. Roughly 12,000 specific commitments were made in these co-governance arrangements and consultation protocols, and various public agencies have failed to properly monitor and fulfil their obligations, straining the relationship post-settlement, according to a review by the Auditor General in 2025.[73] The question is how much will these obligations further undermine an already stretched government?

## 20. Forestry

Why did the government transfer forestry land worth more than $149.56-million and rentals worth more than $671.99-million to tribal corporations when much of that land was bought

[71] Finlayson Christmas p119
[72] Ibid, p120
[73] How public organisations are fulfilling treaty settlements, https://ao.parliament.nz/2025/treaty-settlements/summary.htm

from Maori and the forestry developed by successive governments? It started when claims all the way back to 1840 were allowed.

In 1987 the New Zealand Maori Council asked the Court of Appeal whether the government's plans to transfer land to State-owned enterprises breached the principles of the Treaty of Waitangi. The court ordered that the Crown ought not to take any further action affecting any of the assets referred to in the statement of claim and offered a definition of the principles, as detailed above.

When the government announced, in 1988, an intention to sell the 90 State-owned forests, the New Zealand Maori Council and the Federation of Maori Authorities took the Crown to court to stop the sales. In New Zealand Maori Council v Attorney-General 1989, the court ruled that Crown and Maori must negotiate a solution.

The two parties agreed on a process whereby the Crown could sell the trees, but not the land which was put in trust should claims be made relating to that land.

This agreement was enshrined in the Crown Forest Assets Act 1989 which established the Crown Forest Rental Trust, a self-funding organisation that is midway between the Crown and Maori.[74] This trust was empowered to sell licences for forestry, to receive forestry rentals, hold them in trust, and to invest them. Interest earned was intended to help Maori claimants prepare, present, and negotiate claims that involve or could involve Crown forest land.

The plan was that if forestry assets formed part of the financial redress of a settlement, the claimant would receive, in addition to the licensed forestry land, the rentals earned from that land back to 1990, plus interest on those rentals. Whatever forestry land remained after settlements had concluded was intended to return to the Crown, along with all the rentals of that land.

As settlements proceeded, the people involved in the Crown Forestry Rental Trust gradually reframed the purpose of the trust. The 1990 trust deed specified assistance for "claims that could involve Crown forest land" but trust chairman Sir Graham Latimer said, in the 2002-03 report, that the aim was "to expedite the return of Crown forest licensed land".[75]

A further tilt from the stipulations of the trust deed came in 2007, after two of the trust's appointors, the Maori Council and the Federation of Maori Authorities, sued the trust and the Crown in order to prevent payment of rentals to either Te Arawa or the Crown. Justice

[74] Trust Deed for the Crown Forestry Rental Trust. http://www.cfrt.org.nz/doclibrary/public/aboutthetrust/CrownForestry_TrustDeed.pdf
[75] Crown Forestry Rental Trust report 2002-03 http://www.cfrt.org.nz/doclibrary/public/thestorehouse/rta2002-2003/RTA0203.pdf

Warwick Gendall noted that the Crown would need either a declaration from the Waitangi Tribunal or the consent of Maori beneficiaries before it could receive accumulated rentals.[76]

The Report on Central North Island Claims (Wai 1200) that was published in late 2007 recommended that claimants and the Crown should negotiate a deal using the accumulated forestry rentals of $256,946,214. Therefore, Central North Island claimants proposed the transfer of accumulated rentals into a new entity representing the claimants who ratified the proposal.[77]

Legislation to seal the deal in which forestry land worth $149.56-million and rentals worth $288.63-million were transferred to the Central North Island Iwi Forests Collective went through in 2008. Tuhoe received $62.88-million, Ngati Whare $15.7-million, Ngati Manawa $12.2-million, and Raukawa $28.86-million.

Sharp-eyed readers would have noticed that in the space of 18 years, the entity set up to deal with claims that could involve Crown forest land ended up expediting the transfer of all Crown-forest licensed land to Maori corporations, even though 19th century governments bought all that land and 20th century governments used taxpayers' money to develop it into forestry. Legal action by a Maori body triggered a Waitangi Tribunal Report, negotiations, then the transfer of a substantial asset. This is the pathway established around 20 years earlier with the fisheries settlement.

## 21. Geothermal power

The geothermal energy grievance was that under the Geothermal Energy Act 1953, the Crown stripped tribes of their assumed rights by taking sole statutory ownership to tap and use all geothermal energy. Of course, this was long before the 1980s re-written treaty asserted that the word "taonga", which appears in the Maori text to translate "property", actually "refers to all dimensions of a tribal group's estate, material and non-material".[78]

Geothermal energy was harnessed in New Zealand in 1958 at the Wairakei Geothermal Power Station. While the Waitangi Tribunal heard its first specific geothermal claim in 1993 (regarding Ngawha Springs), the 2003 Ngati Tuwharetoa (Bay of Plenty) agreement was the first formal settlement legislation to integrate geothermal resources.

The 2003 settlement included statutory acknowledgements recognizing the tribe's "historical and cultural connection" to the Kawerau Geothermal Field. This settlement laid the groundwork for the manner of subsequent development.

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[76] Crown Forestry Rental Trust report 2006-07 http://www.cfrt.org.nz/doclibrary/public/thestorehouse/rta2006-2007/CFRT_AR2007_web.pdf p5

[77] Crown Forestry Rental Trust report 2007-08. http://www.cfrt.org.nz/doclibrary/public/thestorehouse/rta2007-2008/Report_to_Appointers_2008.pdf

[78] Contemporary translation of the te reo Maori text https://www.waitangitribunal.govt.nz/en/about/the-treaty/maori-and-english-versions

In 2005, Ngati Tuwharetoa Geothermal Assets Ltd bought the Crown's remaining physical assets and interests in the Kawerau steam field. This made them the first tribe to own and manage an industrial geothermal resource. It is now one of the largest direct-use industrial geothermal operations in the world

The Resource Management Act 1991 (Section 6(e)) has a central role in this development by integrating the legal recognition of geothermal fields as *taonga* (treasures) directly into New Zealand's statutory framework. Rather than managing geothermal energy solely as an economic or industrial asset, the RMA wraps it in Maori cultural and ancestral values.

There is a *tikanga* customary right under Section 14(3)(c), which enables geothermal water, heat, or energy to be taken or used via *tikanga* Maori for communal benefit without a consent, provided it does not adversely affect the environment. This legally protects centuries-old practices like cooking, bathing, and healing.

Once geothermal fields were treated as *taonga*, New Zealand electricity generators shifted from state-directed extraction to commercial joint ventures with Maori land trusts and tribes. Mercury Energy (formerly the government-owned Mighty River Power) pioneered this. Instead of purchasing land or paying flat access fees, Mercury established equity-based partnerships, altering the renewable energy sector. There are:

- The Mokai Geothermal Power Station (northwest of Taupo, commissioned in 2000), which is owned 75 percent by the Tuaropaki Trust and 25 percent by Mercury.
- The Rotokawa (50:50) and Nga Awa Purua (35:65) partnerships involving the Tauhara North No. 2 Trust.
- The Nga Tamariki Geothermal Station 17km north of Taupo. Mercury owns the plant while the Tauhara North No. 2 Trust jointly owns underlying resource consents.
- The 100MW Kawerau Power Station Mercury, which opened in 2008. In return for ongoing royalties, the Putauaki Trust allowed construction of wells and steam piping networks on trust land, and Ngati Tuwharetoa Geothermal Assets owns the steam delivery network on the field, supplying steam directly to local paper mills.

The Waitangi Tribunal went deeper into its metaphysical musings about geothermal energy in 2025, when it explicitly criticized the Crown’s draft geothermal strategy for incorrectly characterizing geothermal taonga as mere "surface features" rather than acknowledging Maori customary title and interests over the system as a whole.[79]

There is no standalone dollar figure for "geothermal" treaty settlements because the New Zealand government does not separate or settle geothermal rights as an independent asset class. But geothermal-backed entities like the Tuaropaki Trust and Tauhara North No. 2 Trust

[79] *Interim Report on the Crown’s Draft Geothermal Strategy* (part of the broader *Wai 2358 National Freshwater and Geothermal Resources Inquiry*).

now independently hold hundreds of millions of dollars in generation infrastructure, direct-use steam pipelines, and commercial glasshouses.

## 22. Spectrum

Following the pattern established by the commercial fisheries claim, the New Zealand Maori Council and the Wellington Maori Language Board in 1990 took a spectrum claim to the Waitangi Tribunal. That was the FM Radio Spectrum Claim (Wai 150), 1990. Predictably, the tribunal agreed that tribes had a "prior interest" in spectrum specifically because of its use for protecting and promoting the Maori language. The tribunal recommended that the Crown hold back frequencies for Maori broadcasting before running commercial tenders.

The government reserved dozens of specific FM and AM frequencies for Maori broadcasting. A network of tribes and urban Maori authorities were allocated these spectrum rights. The government funds 21 regional Maori radio stations through Te Mangai Paho which broadcasts across 68 localized AM and FM reserved frequencies. While frequencies are allocated for Maori language and cultural promotion, some urban Maori authorities lease their spectrum out.

The 3G Spectrum Claim (Wai 776) was lodged in 1999, triggered by the Crown's plan to auction the 2 GHz band for 3G mobile networks. Again, predictably, the tribunal reported that the Radiocommunications Act 1989 failed to acknowledge Maori rights and recommended allocating a portion of the 3G spectrum directly to Maori.

Successive governments rejected these findings, arguing that electromagnetic waves did not exist as a concept in 1840 and could not be considered a traditional *taonga*. But to appease concerns, the Crown established Te Huarahi Tika Trust in 2000 and provided funding, which eventually helped launch the 2degrees mobile network.

Maori groups continued to contest subsequent auctions for 4G technology. 4G/5G Spectrum Claims, 2009–2013 (Wai 2224) argued that their rights extended across the *entire* spectrum, not just lower frequencies used for traditional broadcasting.

A 30-year standoff ended in February 2022, when the Ardern Labour government granted Maori an ongoing 20 percent allocation of national commercial spectrum (including 5G) at no cost, a multi-million-dollar technology development fund, and a permanent role in spectrum policy-making.

Tu Atea Limited, the Maori spectrum and telecommunications service that holds 5G allocations, leases out its 20 percent share of frequencies back to telecommunications providers (like Spark, One New Zealand, and 2degrees). These multi-decade commercial spectrum rights are valued in the tens to hundreds of millions of dollars per band.

# 23. Tuhoe and the terror raids

Treaty settlements had been going for more than 20 years when, on the morning of October 15, 2007, more than 300 armed police launched coordinated, nationwide raids targeting alleged guerilla training camps reportedly working on establishing an independent state in the Urewera ranges – Tuhoe country. Properties in Ruatoki, Taneatua, Auckland, Hamilton, Palmerston North, and Wellington were searched for evidence of breaches of firearms laws. Seventeen people were arrested, including high-profile activist Tame Iti. Then, on November 14, the *Dominion Post* newspaper published raw, intercepted communications from the training camp participants, which said:

- Tame Iti had established multiple hidden camps where over 60 people from various Maori sovereignty, environmental, and anarchist groups attended.
- Participants wore military camouflage and balaclavas, used semi-automatic rifles, shotguns, and practised ambushes.
- It was suggested that while "Plan A" was political negotiation over Tuhoe sovereignty, the military training was for a "Plan B" if negotiations failed.
- Intercepted statements by camp members included motivational mantras like: *"White men are going to die,"* and *"I am training to be a dangerous, vicious commando."*

Prosecution under the Terrorism Suppression Act 2002 was sought, but the New Zealand Solicitor-General, David Collins QC, declined, describing the Act as incoherent and unworkable. Legal moves continued until 2011, when Supreme Court Chief Justice Sian Elias decided that police had trespassed on to private Maori land to install hidden cameras. This amounted to unreasonable search and seizure under the Bill of Rights Act, and rendered most surveillance evidence inadmissible. The Crown dropped all charges against 13.

In the end, only four individuals went to trial in 2012. They were Tame Iti, Rangikaiwhiria Kemara, Urs Signer, and Emily Bailey. All four were convicted of multiple firearms offences. No verdict was reached on the charge of participating in an organized criminal group. Iti and Kemara were sentenced to two and a half years in prison, while Signer and Bailey received home detention.

Looking back in time, Tuhoe people had not signed the Treaty of Waitangi in 1840, mainly because no one from the treaty expedition ventured into the Ureweras. The mountain expanse enabled Tuhoe to remain separate during the first 30 years of British settlement, until Te Kooti sought refuge there in 1869, bringing his war to them. Some Tuhoe involvement in fighting against the government 1869 is detailed above in the chapter on agreed history and apology.

Native Minister Donald McLean was the first government minister to enter formal negotiations with them, establishing a peace compact in 1871. Premier Richard Seddon and Native Affairs Minister Timi (James) Carroll led negotiations in 1895–1896.

Because Tuhoe never signed the treaty, the Waitangi Tribunal recommended that since Tuhoe did not recognize British authority, they did not owe reciprocal Treaty duties to the Crown. However, since the New Zealand Crown had proclaimed sovereignty over the entire country, the government had decided that its protective treaty promises applied to all Maori, regardless of signature. Formal terms of negotiation for a treaty settlement were signed in July 2008, when Michael Cullen was the Minister for Treaty of Waitangi Negotiations. Minister Chris Finlayson picked up the task in 2009.

A review of the terror raids by the Independent Police Conduct Authority, released on May 22, 2013, declared that the police roadblocks, detentions, and searches were "unlawful, unjustified, and unreasonable". The Ngai Tuhoe Deed of Settlement was signed on June 4 that year. The settlement was officially passed into law on July 24, 2014. Police Commissioner Mike Bush travelled to Ruatoki to deliver a formal apology to the Tuhoe people for the trauma on August 12 that year.

The Tuhoe settlement, negotiated by Finlayson, which passed into law on July 24, 2014, included:

- Financial redress totalling $170-million.
- A formal Crown apology acknowledging land confiscation and the subversion of Tuhoe autonomy.
- Giving the Ureweras its own legal personhood, managed by a joint Tuhoe and Crown board. It was no longer a national park.
- Agreeing to a tribal management plan covering housing, education, and healthcare within their region.

## 24. Legal personality

Treaty Negotiations Minister Chris Finlayson came up with the concept of granting legal personality for natural features in treaty settlements in 2009, when he encountered difficulties while negotiating with Tuhoe. He proposed that the Urewera National Park be given to Tuhoe but the Key government Cabinet said no. Finlayson became aware of “situations where the law recognises personality in a non-human living or non-living object”,[80] and decided that legal personality would permit the government to “sidestep the

[80] Finlayson Christmas ibid, page 161. The path to legal personality for natural features is described.

issue of ownership altogether by vesting Te Urewera in itself". The local Tuhoe tribe would act as its guardians. Public access would be retained. [81]

Te Urewera Settlement Act 2014 established Te Urewera as its own legal entity with the rights and powers of a person. Key points:

- Te Urewera ceased to be Crown land or a national park, becoming an inalienable freehold entity that holds its own legal identity.
- The Department of Conservation's sole management was replaced with the Te Urewera Board, initially split evenly between Tuhoe and Crown appointees before shifting to a majority of six Tuhoe and three Crown members.
- Public access and recreational use remain preserved on the same terms as before the transition.

If it sounded like a bad idea in theory, it soon became a bad idea in practice. Since Urewera lost its status as a New Zealand national park, several significant conservation, infrastructure, and governance issues have emerged.

- Tensions arose in 2019 over water conservation when Tuhoe asked the Conservation Department to halt its program to eradicate the invasive weed **lagarosiphon** in Lake Waikaremoana
- On October 12, 2022, Tuhoe announced that Conservation Department-owned backcountry huts would be replaced with modern facilities. Then 29 huts were destroyed. In response to a request by a Tuhoe member, the High Court on November 9 put a stop to hut destruction. Eight more huts were burned down late that month, including two historically significant huts. A judicial review ruling (*Tuna v Te Urewera Board*) dated December 14, 2023, ruled that the destruction of the 29 huts was entirely unlawful and found that the Director-General of Conservation and Te Urewera Board failed to consider the preservation of historical heritage and public access as mandated by the Te Urewera Act 2014.
- A key program protecting rare species like the kokako was halted, causing a surge in possums, rats, and stoats, threatening native bird populations.[82]
- Maintenance to remote tracks, bridges, and weed-control measures have ceased.

**The Whanganui River,** the country's third-longest river, in 2017, became the first river in the world to be granted legal personality. It is represented by a joint committee of tribal and government appointees. The primary management bodies established under the 2017 legislation are:

[81] Finlayson Christmas ibid, page 165
[82] Rotting animals left in traps, Stuff, February 16, 2025. https://www.stuff.co.nz/nz-news/360576549/fossilised-animals-left-traps-claims-pest-control-neglect-former-national-park),

- *Te Pou Tupua,* which is the human face and voice of the Whanganui River, which consists of two guardians, one nominated by the Whanganui tribe, and the other by the Crown.
- *Te Kopuka,* which is a management group responsible for advancing the river's environmental, social, and economic health. This includes representatives from local tribes, local government (Horizons Regional Council, Whanganui District Council), and various community/environmental interest groups.
- *Nga Tangata Tiaki o Whanganui,* which is the post-settlement governance entity that represents the iwi and holds the river's settlement assets

**Mount Egmont Taranaki Maunga:** In January 2025, New Zealand passed the Taranaki Maunga Collective Redress Act 2025, granting legal personhood to Taranaki Maunga and its associated peaks under the collective name Te Kahui Tupua. This historic Treaty of Waitangi settlement includes a formal Crown apology for 1865 land confiscations, official geographic name changes, and a new joint-management framework.

Te Kahui Tupua holds the rights, powers, and responsibilities of a legal person. The colonial name “Mount Egmont” and “Egmont National Park” were officially retired. The peak is now officially Taranaki Maunga, and the park is Te Papa-Kura-o-Taranaki. The mountain and park remain within the public conservation system, and public access rights and recreational use remain unchanged.

- A dedicated body named *Te Topuni Kokorangi* acts on behalf of the mountain.
- A joint board **c**omprises four members appointed by local Taranaki tribes and four members appointed by the Crown. The body represents the eight regional tribes: Ngaa Rauru Kiitahi, Ngaruahine, Ngati Maru, Ngati Mutunga, Ngati Ruanui, Ngati Tama, Taranaki Iwi, and Te Ati Awa.
- The Crown apology acknowledges the confiscation of the mountain and 1.2 million acres of surrounding land.

## 25. The battle for the marine and coastal area

For over a century, it was assumed that the Crown owned the foreshore and seabed based on English common law. A fight over New Zealand's marine and coastal area started in 1997, when eight northern South Island tribes tried to establish commercial mussel farms in the Marlborough Sounds. Local councils denied them the necessary Resource Management Act consents, while large non-Maori commercial operators were granted them. The saga that unfolded roughly followed the pattern established by the fisheries claim – go to a court, get a favourable decision, and go from there.

Those tribes asked the Maori Land Court to declare that the foreshore and seabed there was Maori customary land under the Te Ture Whenua Maori Act 1993. They argued that their

customary title and property rights over these marine spaces had never been extinguished since the signing of the Treaty of Waitangi in 1840.

In 2003, the Court of Appeal issued the landmark *Ngati Apa* ruling which found that Maori customary interests in the foreshore and seabed had never been legally extinguished and that tribes could ask the Maori Land Court to investigate whether these areas could be defined as Maori customary land. The Ngati Apa ruling overturned a settled 1963 Court of Appeal ruling in the 90 Mile Beach case, which confirmed the foreshore and seabed was vested in the Crown under British common law.[83]

Fearful that the courts might grant exclusive Maori ownership over beaches and block public access, the Labour-led government chose to legislate. The Waitangi Tribunal took the baton and on March 8, 2004, recommended that the Crown's proposed policy breached the principles of the Treaty of Waitangi, including the duty to actively protect Maori property rights and equality before the law.[84] Nevertheless, the Foreshore and Seabed Act passed into law on November 18 of that year. The Act:

- Vested absolute legal and beneficial ownership of the public foreshore and seabed in the Crown.
- Prevented the Maori Land Court and High Court from hearing or investigating wider customary ownership claims.
- Guaranteed ongoing public access, navigation, and fishing rights across the area.
- Allowed limited protection for specific, non-territorial customary activities practiced continuously since 1840.

The public reaction to the Act was polarized. Some Maori viewed it as a modern-day land confiscation. It triggered a protest march of 20,000 to Parliament, heavy criticism from the United Nations and the Waitangi Tribunal, and led to the fracturing of the Labour Party, prompting Labour Minister Tariana Turia to leave Labour and co-found the Maori Party.

Turia and the Maori Party entered a confidence-and-supply agreement with National-led government from 2008 which led to the repeal of the 2004 Act and the passage of the Marine and Coastal Area (Takutai Moana) Act 2011 which:

- Established that *no one* owns the common marine and coastal area and that it is a special public domain held in perpetuity.
- Restored the right for Maori to seek legal recognition of ancestral ties through Customary Marine Title or Protected Customary Rights via the High Court or direct Crown engagement.

[83] Newman, Muriel, Time for a referendum on the foreshore and seabed, https://www.nzcpr.com/time-for-a-referendum-on-foreshore-and-seabed/
[84] *Report on the Crown's Foreshore and Seabed Policy* (Wai 1071), released on March 8, 2004

- To win a Customary Marine Title (which grants resource consent veto powers but protects public access), under Section 58 any tribe or sub-tribal group had to prove they had held the area exclusively and continuously since 1840 without substantial interruption.

The public contested that Act from opposing sides. Tribes viewed the Act as a fraud and objected to its strict test of uninterrupted exclusive use since 1840. MP Hone Harawira left the Maori Party and formed the Mana Party and organized protest marches. On the other side, the Coastal Coalition argued that the entire marine and coastal area would transfer to tribal ownership, and that any recognition of Maori customary titles would inevitably compromise public beach access.

The Coastal Coalition was correct. More than 580 applications for the new property right were registered by the deadline of April 3, 2017. The total area applied for covers virtually the entire New Zealand coastline.

Judges began bending the Section 58 continuous occupation test. The Court of Appeal ruled, in the 2023 Whakatohea (*Edwards*) case, that "exclusive use" should be viewed through the lens of tikanga (Maori custom) rather than strict Western property law in which third-party activities, like commercial fishing or public navigation, did not necessarily equal a "substantial interruption" of Maori customary authority. This was further evidence that the Coastal Coalition was correct.

While the Supreme Court later refined and allowed an appeal on parts of this framework in late 2024, the lower court rulings had effectively set a legal precedent that made it significantly more achievable for tribal groups to secure Customary Marine Title.

The National-ACT-NZ First coalition government viewed the *Edwards* rulings as an act of judicial overreach that lowered the bar far beneath what the 2011 Parliament originally intended. In October 2025, the coalition passed the Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Act 2025, which decreed that "exclusive use" strictly requires both the intention and the physical capability to control the area and exclude others, and that commercial activities or public use *can* count as a substantial interruption.

The Waitangi Tribunal predictably criticized the bill for breaching treaty principles. The retrospective nature of the law forced successful tribes—such as Ngai Tahu at Ruapuke Island—back into court to re-prove their connection under the harsher criteria.

## 26. Civil service struggles with claims

The increasing complexity and costs of treaty settlements is rarely considered. First is the cost of administration. In 1989, the Treaty of Waitangi Policy Unit was formed with seven staff and existed within the Ministry of Justice. Rebranded as the Office of Treaty

Settlements, the unit in 1995 had 30 staff. Still referred to as a "compact specialised unit", the unit expanded from 2008 to 2017 to cope with the 60 settlements Chris Finlayson finalised as Treaty Negotiations Minister.

By January 1, 2019, when treaty settlement administration was folded into the Office for Maori Crown Relations – Te Arawhiti, 142 staff worked as an autonomous unit within the Ministry of Justice. The name "Maori-Crown" relations formally branded and created a physical manifestation of the "treaty partnership" construct.[85] As well as managing treaty settlements before and after settlement, plus "treaty partnerships", that office also administered coastal claims. By 2023, there were between 200 and 300 staff there.

A restructure in February 2025, the Government restructured the Office for Maori Crown Relations, renaming it Te Tari Whakatau (the Office of Treaty Settlements and Takutai Moana (coastal area)). The Maori Crown Relations portfolio, including post-treaty settlement implementation, monitoring, and compliance, was transferred to the Ministry for Maori Development (*Te Puni Kokiri*). After disestablishing 49 roles and transferring 44, approximately 100 jobs remained there. The annual budget was $35.97-million in 2026. A four-year appropriation of $1.4-billion (from 2026) is held as a Settlement Fund to be given to claimant groups.

In April 2025, Auditor-General John Ryan published a scathing report revealing that public sector agencies were failing to properly manage and fulfil roughly 12,000 legal and contractual obligations tied to about 80 Treaty of Waitangi settlements.[86] The report found that every public agency audited showed difficulties or failures in meeting their treaty settlement obligations, treating settlements as one-off tasks rather than long-term, relationships. There was poor oversight. Crown failures had already cost tens of millions of dollars in compensation, increasing the risk of further legal action against the public sector.

No New Zealand government has ever commissioned a cost-benefit analysis of Treaty of Waitangi settlements. Instead, the process has been handled through political negotiation, legal frameworks, and macro-budgetary caps rather than standard economic efficiency models.

## 27. Relativity mechanism and looming risk

A mega-settlement with Ngapuhi—New Zealand's largest tribe with over 125,000 affiliates—poses an unprecedented financial risk to the Crown. This is because Waikato-Tainui and Ngai Tahu are legally entitled to 17 percent and 16.1 percent respectively of it. This is courtesy of the relativity mechanism, a unique legal clause in their settlements, as already mentioned. It

[85] See the treaty principles chapter above to see how "treaty partnership" was conjured up.
[86] How public organisations are fulfilling treaty settlements. https://ao.parliament.nz/2025/treaty-settlements

is to ensure that the total value of their individual historical settlements stays at a set percentage of the overall value of all settlements.

The clause was presented as protecting them from losing out if later settlements turned out to be much larger than expected. The trigger point was once the financial redress total reached $1-billion in 1992 dollars.

The first relativity payments were triggered in 2012. Since then, every five years, both tribes can ask the Crown to calculate total overall settlement spending and make a percentage top-up payment. Because the tribes disagree with the Crown on exactly what expenditures count toward the total "pool" of national settlement data, independent arbitrations have yielded extra top-ups. These are listed in the table which is at the end of these chapters. The core disagreements center on:

1. Whether non-cash Crown remedies count toward the $1-billion threshold.

- Tribes argue that when the Crown grants legal personality to natural features—such as the former Urewera national park or the Whanganui River—or provides funding for co-management, those arrangements have economic value and should expand the settlement pool.
- The Crown has sometimes classified financial redress given outside standard historical settlement structures as general public spending or separate Crown asset transfers, whereas tribes contend they are direct results of historical grievances.

2. Whether the calculation is correct. Because the calculations are based on the present-value of 1992 dollars, mathematical disagreements have occurred regarding:

- The exact inflation and interest formulas used to express modern-day settlements in 1992 values.
- How to factor in the long-term compounding value of land and property assets transferred to other tribes.

3. Even after independent arbitrators ruled that the Crown owed extra top-ups, a legal battle emerged regarding late payments.

- Ngai Tahu took the Crown to the High Court demanding interest on the money that the Crown had withheld while the disputes were being arbitrated.
- The High Court rejected the Crown's "technical arguments" to dismiss the case, questioning whether withholding interest aligned with treaty principles.

There are four financial and legal pressure points regarding a mega settlement with Ngapuhi:

1. Historically, the baseline for "large" iwi settlements was capped around $170-million. Given Ngapuhi's size, and the Waitangi Tribunal's view that Ngapuhi never ceded sovereignty, any final settlement is expected to shatter historical benchmarks.

- Every $100-million paid to Ngapuhi forces the Crown to pay an additional $33.1 million in cash directly to Waikato-Tainui and Ngai Tahu.
- To minimize these impacts, Crown accountants will face pressure to lowball the official "quantum" (cash value) of the Ngapuhi deal, triggering immediate legal pushback from the relativity tribes.

2. Because there is a lack of available Crown-owned land in Northland to transfer to the tribe, the Crown has created a Ngapuhi Investment Fund named *Tupu Tonu*.

- Tupu Tonu buys commercial assets to hold for the tribes *before* a final settlement is signed.
- This creates an accounting battlefield: Waikato-Tainui and Ngai Tahu will argue that the capital injected into Tupu Tonu represents "settlement redress" that should immediately expand the global pool. The Crown could counter that it is an ordinary commercial investment, keeping it off the relativity books.

3. The Crown's preferred model has always been a single, comprehensive "iwi-wide" settlement. However, due to intense opposition to a centralised mandate, the Government has shifted toward negotiating with up to 10 distinct northern sub-tribe groups separately.

- Fragmenting the Ngapuhi settlement into multiple, smaller, rolling deals over many years creates an administrative nightmare.
- Each individual hapu deal will feature unique cultural remedies, land-banking arrangements, and localised co-governance structures. Evaluating the "present-value equivalent" of dozens of smaller deals back to 1992 dollars will drastically increase accounting complexity and invite separate arbitrations for each transaction

4. The final deal may require complex, non-monetary constitutional arrangements or "agree to disagree" clauses regarding sovereignty.

- If the Crown concedes substantial co-governance, statutory acknowledgements, or independent regulatory powers over regional resources to satisfy Ngapuhi, assigning a precise cash value to these constitutional mechanisms will be virtually impossible.
- As seen in past arbitrations over the legal personality of Te Urewera, the Crown will value these non-cash concessions at $0, while Waikato-Tainui and Ngai Tahu will assert they hold immense economic value that must be counted.

The relativity mechanism that permits Waikato-Tainui (1995) and Ngai Tahu (1997) to get a cut of ongoing settlements has brought severe disagreements, court action, and compensation on top of compensation. Those 1990s settlements have cast a very long shadow.

## 28. Do tribes pay their fair share?

Not only have treaty settlement entities become substantially wealthy, they are entitled to trade as tax-exempt charities, paying very little tax. This exemption has been in place since the Charities Act was passed in 2005 This allowed "organisations administering marae" to bypass traditional common law charity rules which disqualify any group from charitable status if its beneficiaries were connected by private blood ties rather than a broad public benefit. Treaty settlement entities may qualify as a charity by running a marae.

This brings a substantial saving and a competitive advantage for treaty settlement tribes. For instance, in the 2025 year, the Ngai Tahu Charitable Trust and subsidiaries recorded a revenue of $336.8-million, a gross profit of $219-million, and distributed $80.8-million to Te Runanga O Ngai Tahu. There is no reference to any tax being paid other than income tax of $3-million on wages and salaries. Without charity status, tax at 28 percent on the gross profit of $219-million would be $61.3-million.[87]

Regularly, the "Maori economy" is promoted as an extremely wealthy growing asset. The "Maori economy" is a construct which includes treaty settlement entities but also covers private Maori enterprises including self-employed individuals, and the Maori workforce as a whole. In 2025, the total asset value of the Maori economy was estimated to be between $126-billion and $132-billion. This annual brag about a wealthy Maori economy comes over as somewhat insensitive, especially at a times when everyone else is regarded as stuck in a "cost-of-living crisis".

Do tribes give back to the nation that has nurtured them for 50 years?  It is difficult to calculate the combined amount of tax that is not paid by all treaty settlement entities. There is no centralized registry or single economic database that tracks the combined, before-tax commercial revenue of every treaty settlement entity even though the before-tax revenue of all commercial enterprises in New Zealand is available. However, we do know that the total before-tax revenue for all commercial enterprises across New Zealand was $976-billion. We also know that there are around 1500 Maori authorities and associated businesses in New Zealand that turn over about $4-billion a year.

How do the financially successful treaty settlement tribes compare with non-tribal corporations that have been in business for the same length of time? Tribal revenues in 2025 were in the hundreds of millions while those of New Zealand blue-chip companies are in the multiple billions. The billion-dollar companies have taken their business offshore to achieve that.

Corporate welfare is government financial support, tax breaks, or favorable policies given to private businesses or specific industries. Treaty tribes appear to regard the New Zealand

[87] Te Runanga O Ngai Tahu Annual Report 2024-2025. https://ngaitahu.iwi.nz/opportunities-and-resources/publications/ngai-tahu-annual-reports/annual-report-2025/

government as their golden goose. This gives Treaty tribes the appearance of corporate welfare recipients. A corporate welfare focus distorts the market, wastes taxpayer money, encourages cronyism, and leads to poor investments.

## 29. Treaty settlement tribes unite

It was only a matter of time before claimant entities brought together by the treaty settlement process united. This created a powerful and well-funded tribal alliance that, by 2026, was working in opposition to the government.

The spark for collective tribal action came from the Clark Labour government's Foreshore and Seabed Act 2004 and the National Party's Iwi/Kiwi campaign in 2005. Ngai Tahu head Mark Solomon pitched the idea of collective tribal action to the Maori Queen Dame Te Atairangikaahu, whose support helped lay the groundwork for the National Iwi Chairs Forum.

The first gathering took place in November 2005. Ngai Tahu, Waikato-Tainui, Ngati Whatua, Ngati Porou, and Tuwharetoa, plus the Maori king movement, formed the core. The inaugural meeting was hosted at Ngai Tahu's Takahanga Marae in Kaikoura. The focus was to increase tribal autonomy and self-governance (*mana motuhake*) while finding ways to collaborate on cultural, economic, and environmental goals.

What started as a small cluster now represents more than 70 different tribes who meet four times a year, rotating between different marae. The forum has four working groups:

- Treaty obligations, constitutional issues, and legislative reviews.
- Climate change, freshwater rights, and resource management.
- Health, education, justice, and social well-being.
- Economic growth, regional development, and tribal asset protection.

The Clark administration never formally met the forum. The Key government did, starting on February 3, 2009, at the Copthorne Hotel at Waitangi, on the eve of Waitangi Day, and just months after that government took office. That meeting created frameworks for resource negotiations, environmental policies, and the repeal of the Foreshore and Seabed Act.

In February 2010, while enjoying a close relationship with the Key government, the forum commissioned the Independent Working Group on Constitutional Transformation "to develop and implement a model for an inclusive Constitution for Aotearoa based on *tikanga* and *kawa*, He Whakaputanga o te Rangatiratanga o Niu Tireni of 1835, Te Tiriti o Waitangi of

1840, and other indigenous human rights instruments which enjoy a wide degree of international recognition".[88] This group is also known as *Matike Mai Aotearoa*.

Without publicity, on April 20, 2010, Maori Affairs Minister Pita Sharples on behalf of the Key government, went to New York and signed New Zealand up to the United Nations Declaration on the Rights of Indigenous Peoples, reversing the country's original 2007 vote against it. Sharples was co-leader of the Maori Party that was in coalition with the National Party at that time. He asserted that UNDRIP was "non-binding and aspirational". Did he know that the *Matike Mai* plan was under way?

Two long-time Maori sovereignty radicals led the *Matike Mai* working group. They were the late Dr Moana Jackson and Auckland University Professor Margaret Mutu. Jackson was a lead author and chairperson of the working group that spent years drafting UNDRIP.

In 2016, *Matike Mai Aotearoa* presented six indicative constitutional models showing various ways a treaty-based constitution could balance the spheres of *rangatiratanga* (Maori authority/self-determination) and *kāwanatanga* (Crown governance). The core concept of two spheres is a version of the Maori King movement's 19th century goal of two sovereignties – a British Queen and a Maori king.

The *Matike Mai* proposals seemed radical and far-fetched in 2016, but by 2019, certain stars were aligned. The Maori Affairs Minister was Nanaia Mahuta, a first cousin of the late Maori monarch, Kiingi Tuheitia, who in turn was part of the Iwi Chairs Group which had commissioned the *Matike Mai* report, which had already created a plan to achieve the 160-year-old *Kingitanga* goal of two sovereigns ruling New Zealand.

When the Labour-New Zealand First government commissioned a Declaration Working Group to implement UNDRIP, this Declaration group effectively adopted most of the *Matike Mai* plan and retitled it *He Puapua: Report of the Working Group on a Plan to Realise the UN Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand* which is detailed in the next section.

## 30. *He Puapua*

Shortly after the October 2020 election, a highly redacted version of the *He Puapua* report was released under the Official Information Act. The report created a roadmap to set up in New Zealand by 2040 two parallel governments, one by Maori for Maori, and the other, a fully bicultural version of what we already have, with both subject to a tribal monitoring committee. The plan had been commissioned by the government that had just been re-elected in August 2019 and presented to Maori Affairs Minister Nanaia Mahuta on November 1 that year. The report had been kept secret during the election campaign.

[88] Matike Mai Aotearoa, https://matikemai.maori.nz/matike-mai-aotearoa/

The plan mirrored the style of options for constitutional transformation presented by the *Matiki Mai Aotearoa* report which had been commissioned by the Iwi Chairs Forum in 2010.

The complete, unredacted *He Puapua* report was released under the Official Information on March 5, 2021. The opposition National and ACT parties published it on May 2, 2021, igniting a major national political debate. Although presented as a roadmap for implementing the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), it was a two-government plan, a 21st century version of the 19th century Kingitanga goal of a British Queen and a Maori king. There were three "spheres of authority" in the *He Puapua* plan:

- **The rangatiratanga sphere**, which is the Maori sphere of governance, allowing iwi, hapu, and Maori entities to exercise autonomous control over their own people, places, and resources.
- **The kawanatanga sphere**, which the Crown sphere of governance, representing the existing parliamentary and executive system to govern the rest of the country.
- **The relational sphere**, which is a shared, co-governance space where both spheres overlap to make joint decisions on matters of national importance and shared interest.

*He Puapua* translated *Matike Mai's* ideals into actionable policy objectives for the state sector. It recommended:

- New structures, which included a distinct Maori health system, a parallel Maori court system, and a potential Maori upper house of parliament.
- Binding powers for the Waitangi Tribunal.
- Co-governance across all major public sector agencies, resource management boards, and conservation efforts.

Reforms that included elements of the *He Puapua* plan started appearing in official policy and practices of the Ardern government.

1. The Three Waters infrastructure reform proposal, made public on June 30, 2021, included the *He Puapua* recommendation that Maori should hold equal authority over natural resource management and that the Crown move away from unilateral, majority decision-making.

- Regional Representative Groups mandated a strict 50/50 split of authority consisting of 50 percent local council representatives and 50 percent local iwi/tribal (*mana whenua*) representatives.
- To prevent the Crown from overriding Maori interests, the Three Waters regional groups required an 80 percent supermajority vote for major strategic and structural

decisions. This gave tribal representatives an effective veto power, ensuring that neither side could act unilaterally.

- To align with geographic tribal districts rather than colonial legal maps, the initial Three Waters proposal grouped New Zealand's 78 local authorities into four massive water entities designed to broadly align with historical tribal boundaries.

2. A separate Maori Health Authority was announced. More evidence that *He Puapua* was being imposed appeared on April 21, 2021,. This included the *He Puapua* recommendation for a distinct Maori health system with absolute *rangatiratanga,* or Maori self-determination over Maori people and services.

- The Maori Health Authority was designed as an independent statutory entity tasked with managing its own independent budget, healthcare policies, and commissioning services specifically for Maori.
- The Maori Health Authority sat parallel to Health New Zealand (Te Whatu Ora). It held the legal power to jointly sign off on the national health strategy, meaning the general health system could not lock in national plans without independent Maori approval.
- Tribal-Maori Partnership Boards across the country were legally empowered to direct and evaluate health service delivery within their respective tribal boundaries, putting local tribes at the center of regional healthcare planning.

3. Iwi roadblocks appeared during pandemic lockdowns and the plan described tribal governance of areas within clear boundaries.

4. The government outlawed petitions and votes on whether to have Maori wards and the plan specified much greater Maori involvement in local elections.

5. The number of Maori words and phrases used in television news broadcasts multiplied suddenly and the plan specified much greater immersion of the public in Maori culture to foster support.

A political backlash dogged the Ardern government until they were voted out in 2023 and the 2023-2026 Coalition government brought changes including:

- Repealed the Three Waters legislation,
- Disestablishment of the Maori Health Authority,
- Reform of the Resource Management Act,
- Treaty Principles Bill and proposed referendum (which did not proceed),

The changes ruptured a cosy relationship between the Iwi Chairs Forum and central government. The forum formally uninvited Prime Minister Christopher Luxon and Coalition Ministers from attending its national forums, although they still attended targeted, policy-

specific discussions with individual leaders. Ngapuhi leaders walked out of meetings when Ministers were present.

**Note**

Neither the Matike Mai nor He Puapua reports propose a nationwide referendum on their constitutional models. Because New Zealand has no written constitution, Parliament can alter or abolish almost any constitutional structure simply by passing an Act of Parliament with a normal, simple majority vote. Iwi leaders became emotional when ACT leader David Seymour proposed a referendum on treaty principles. It looks like former Prime Minister Helen Clark's cautious approach to iwi leaders was the wiser path to take.

## 31. The Kingitanga

There is no sign of a New Zealand flag at a Kingitanga function: the movement flies its own flags, both of the movement as a whole as well as those of supporting marae. Founded in 1858 to unite Maori tribes under a Maori king to stop the sale of tribal land, the movement continues towards a goal of building a self-sustaining Maori society that operates alongside, but independent of, Crown governance. Its religion is Pai Marire, a blend of apocalyptic Christianity and Maori beliefs. Nineteenth century settlers called them Hauhaus.

With no official head count, the movement has 28-member *marae* and cites numbers attending functions as an indication of size. For instance, the annual Koroneihana (Coronation) celebrations in Ngaruawahia attract 10,000 attendees over the course of the week-long event, according to the movement.

Rotating meetings, known as the Poukai system, remains its cultural and political backbone., It was created by the second Maori King, Tawhiao in 1885 to support and feed people who chose to remain in the King Country after defeat by the government in 1863. Today, it operates as an annual circuit of 28 day-long gatherings, functioning like a moving parliament and community hub, to keep iwi firmly connected through four core practices - direct consultation with the monarch, tribal debates, a lavish meal, and shared grieving for deceased loved ones.

The movement's financial structure relies on three main funding sources are:

- The commercial arm of Waikato-Tainui funds the Kingitanga office, the royal household, international diplomatic travel, and cultural grants for events like the annual *Koroneihana*.
- Contributions from members.
- A new pan-tribal sovereign wealth fund seeded with $100-million contributed collectively by independent iwi entities.

**A long road**

Traditionally, Maori tribes (*iwi* and *hapū*) were independent and led by their own chiefs (*rangatira*). A key driver for the idea of Maori king had been the failure of the new government to provide universal law and order.[89] Two visionaries, Matene Te Whiwhi and Tamihana Te Rauparaha, travelled across New Zealand to find a chief to create a central authority that could deal with the settler government and Queen Victoria on an equal footing. Not all Waikato Maori agreed with the plan.[90] Aging Waikato chief Potatau Te Wherowhero accepted the mantle and was formally crowned and anointed as the first Maori King in 1858. Across the country, some Maori supported the new king but far more were opposed.

Around 1500 individual Waikato warriors fought in the First Taranaki War between March 1860 and March 1861. No Waikato chiefs attended the government's Kohimarama Conference, in July 1860, which was to provide a forum for chiefs to discuss land issues, clarify the Treaty of Waitangi, and maintain peace. The first Maori king, Potatau, had died a few weeks before the conference started.

Planning for a military campaign into Waikato began in late 1861 under Governor George Grey. Driven by the need to establish control, it was a response to the Kingitanga's ban on land sales. A ban on an owner selling his or her land, by a person other than the owner, overrode the rights of the owner to sell. This applied to Maori landowners as well. Their property rights were protected by the treaty. It was exactly that sort of disagreement between two chiefs that escalated to the first Taranaki war in 1860.

Up to 2400 British imperial soldiers built the Great South Road from Auckland to Pokeno, starting January 1, 1862. A massive, 90-metre-square earthwork fort to garrison 450 troops was built from June that year. Ironclad gunboats were bought to control the Waikato River.

Armed conflict flared again in Taranaki on May 4,1863, after Governor Grey ordered the military reoccupation of a disputed piece of land. Maori ambushed a British military party at Oakura, resulting in the deaths of nine British soldiers. There was talk of a planned invasion of Auckland by tribes. Governor Grey on July 9, 1863, required Maori living in the South Auckland and Manukau districts to take an oath of allegiance to the Crown or leave. On July 12, British imperial troops crossed the Mangatawhiri Stream and advanced into Waikato.

- July 17 (Battle of Koheroa): British troops overran a newly dug Kīngitanga line on the ridges above Mercer.
- August–October (The Meremere Defence): The British used ironclad gunboats to bypass a Kingitanga fort at Meremere, forcing a Maori retreat.

[89] Robinson ibid
[90] See *The Kingite Rebellion*, by John Robinson, Tross Publishing, Wellington 2016.

- November 20–21 (Battle of Rangiriri): A decisive turning point when British forces attacked a massive defensive earthwork. After a fierce, bloody battle, 183 Maori were captured.
- December (Occupation of Ngaruawahia): Government troops occupied the deserted Kīngitanga capital, forcing the Maori King, Tawhiao, to flee further south.
- February 21,1864 (Rangiaowhia): British troops outflanked the main Maori defence lines and entered an unfortified agricultural supply village. From this event came the enduring fake news "oral history" that women and children were forced into a church and burnt to death.[91]
- March 31– April 2 (Battle of Orakau): Outnumbered and trapped without water or ammunition, 300 Kīngitanga fighters under Rewi Maniapoto initially refused to surrender but a dramatic daytime breakout ended the battle and the Waikato campaign.

Following the war, the Kīngitanga retreated south into what became known as the King Country, which became a self-governing, independent Maori state (*Te Rohe Potae*).

In 1875, the government offered Tawhiao local autonomy and some land conditional on taking an oath of allegiance to the Crown. Tawhiao declined, refusing to take the allegiance oath.

In 1878, the government offered Tawhiao the return of unsold land on the west of the Waipa and Waikato rivers, land at Ngaruawahia, money, administrative rights, honours, again conditional on taking the oath. Tawhiao declined, refusing to take the allegiance oath.

In 1879, the government repeated the 1878 offer. Tawhiao declined, refusing to take the allegiance oath.

In 1881, the government offered a pension, a furnished house, appointment to the Legislative Council, the return of 20,000 acres. Tawhiao demanded all land and refused the oath.

In 1881, Tawhiao laid down his weapons in a formal declaration of peace, not surrender.

In 1884, he travelled to London to petition Queen Victoria for the return of confiscated lands, but the British Government refused to intervene. Blocked by the Crown, the movement turned inward, establishing its own Maori parliament, *Te Kauhanganui*, in 1892.

Under the leadership of the third and fourth kings (Mahuta and Te Rata), and driven by the visionary leader Princess Te Puea Herangi, the Kīngitanga rebuilt. Te Puea established

[91] See *Hoan's Last Stand,* Piers Seed, Tross Publishing, Wellington, 2022, for the definitive account for what did and didn't happen on this day.

(between 1921 and 1938) Turangawaewae Marae at Ngaruawahia as the seat of the movement. She built makeshift hospitals, orphanages, and dwellings.

Under Te Arikinui Dame Te Atairangikaahu (the first Maori Queen), in 1995, Queen Elizabeth II personally signed the Waikato-Tainui Treaty Settlement and the tribe received a $170-million payout.

On January 20, 2024, in response to Coalition Government policies, Kīngi Tuheitia called a national unity gathering that brought together over 10,000 people. The conference resolved to strengthen tribal-led solutions rather than relying on State frameworks and encourage the enrolment of children in Maori language schools, the use of the Maori language.

Following Kīngi Tuheitia's death on August 30, 2024, his 27-year-old daughter, Kuini Nga Wai hono i te po, was crowned as the eighth Maori monarch.

## 32. A Ngapuhi settlement?

A mega-settlement with Ngapuhi—New Zealand's largest tribe with over 125,000 affiliates—is regularly assumed to represent the end of the treaty settlements. Their traditional homeland is in the Northland (*Te Tai Tokerau*) region, stretching from the Hokianga Harbour and Bay of Islands down to Whangarei. Ngapuhi chief Hongi Hika started the Musket Wars.

Most of the 43 chiefs who signed the treaty at Waitangi on February 6, 1840, were from Ngapuhi. That included the first to sign, Hone Heke Pokai, who became the first to object to the impact of British rule when he felled (or had felled) the Kororareka flagpole four times from July 8, 1844.

Hone Heke was upset because Ngati Whatua, the traditional and bitter enemies of Ngapuhi, had invited Governor William Hobson to set up the capital city in Auckland, mainly to get government protection against Ngapuhi which had driven them out of Auckland just 15 years earlier. Hobson liked the strategic geographic advantages, fertile agricultural lands, dual-harbour access. The deal was done in 1840 – the British flag was raised at Point Britomart on September 18 that year. The shift became official on March 14, 1841.

Moving the capital to Auckland diverted money and power away from Northland. The loss of shipping and trade and the imposition of customs duties on the remaining ships that did visit severely reduced the income that both Hone Heke and Pomare II were accustomed to receive, at a rate of £5 per ship. The final flagpole felling on March 11, 1845, escalated into an attack and the destruction of Kororareka, sparking the Northern War.

The first northern district treaty claim was made in 1985, about allegedly unfair local rating systems and not anything to do with whether or not they ceded sovereignty. That didn't appear until 2014, when the Waitangi Tribunal recommended that Ngapuhi only agreed to a power-sharing arrangement where the Crown would govern European settlers while Maori retained ultimate authority over their own lands and people. Its 2600-page Te Papa O Te

Raki reports [92] (Stage 1 and Stage 2) submit this “arguing black is white” argument by reframing everything that happened in the Far North after 1840 as a treaty breach.

The year 2014 was when the Crown recognized a Ngapuhi settlement mandate proposal from an entity named Tuhoronuku. That year, when Prime Minister John Key offered a financial inducement to settle, the then Ngapuhi *runanga* chair, Sonny Tau, expected a figure of $500-$600-million.

Terms of negotiation were signed in 2015. However, objections to this mandate arose from a group known as the Hapu Alliance,[93] a coalition of traditional sub-tribes (including major groups like Ngati Hine) that opposed Tuhoronuku.

A revised proposal (known as the *Tuhono* model) was designed to remove objections by strengthening *hapu* authority and representation within a unified negotiation framework. This was put to the vote in December 2018 but was voted down. The Crown formally withdrew its recognition of the Tuhoronuku mandate in 2019.

Meanwhile, the Hapu Alliance went to the tribunal and claimed a further treaty breach by the Crown, arguing that the negotiations with Tuhoronuku undermining the “independent authority” of individual sub-tribes to choose their own negotiators.

It was a battle over who would control the massive economic base—estimated at $200 million to $300-plus million—once the settlement was finalised. Hapu leaders feared that a centralized runanga structure would retain ultimate control over the assets, bypassing local communities and eroding their traditional self-determination.

It was also a battle over who holds the authority to negotiate. Hapu leaders argued that their individual ancestors signed the treaty in 1840, not a collective "Ngapuhi iwi" entity. Therefore, they maintained that only individual hapu held the authority (rangatiratanga) to negotiate and settle those claims.

In mid-2025, it was confirmed that 10 distinct northern hapu groups have been earmarked to enter settlement discussions with the first mandate achieved, the Minister for Treaty of Waitangi Negotiations Paul Goldsmith confirmed.

**Conclusion**

No military land confiscation took place in areas traditionally occupied by Ngapuhi. Land no longer in Ngapuhi possession was sold, not stolen. Using the $170-million treaty settlement benchmark for large groups that was established in 1995, the present value of that amount is $387.5-million, or $38.75-million to each of 10 *hapu* entities. If Ngapuhi claims had been

[92] Te Paparahi O Te Raki Report, https://www.waitangitribunal.govt.nz/en/inquiries/district-inquiries/te-paparahi-o-te-raki-northland

[93] A *hapu* is a family cluster with a shared ancestor, also known as a clan.

impartially investigated in a timely manner, would we now be talking about a multi-million-dollar settlement to 10 groups in Northland?

## 33. Who really broke the treaty?

It wasn't the Crown that repeatedly broke the Treaty of Waitangi, and almost $5-billion has been paid to "settle" grievances that had been fabricated, according to commentator Dr John Robinson. A career scientist, Robinson has seen the inside of the treaty industry, has worked for it, and knows exactly how it functions. He analysed alleged treaty breaches by the government in his book *Who Really Broke the Treaty?*[94]

The Treaty of Waitangi, as agreed in 1840, handed the sovereignty of New Zealand to Britain. Land in Maori possession in 1840 remained in Maori possession until the Maori owners wished to sell it. All Maori people living in New Zealand were given British citizenship. That agreement gave the right to govern. British law prevailed thereafter. The absolute rule of the chiefs was gone, he wrote.

But when the Treaty of Waitangi Act created the Waitangi Tribunal, naïve politicians gave radicals free reign to twist the treaty, plunder the coffers, and try to seize control of New Zealand. This 50-year grand scheme centres on allegations that "the Crown" (meaning you and I), broke the treaty and should pay compensation.

But if the treaty gave the government the right to govern according to the rule of law, what is it to break the treaty? That would be action against the sovereignty of the united nation, and action taken outside the rule of law. Robinson shows that the Crown did not breach the treaty at all, and that all breaches were done by rebellious chiefs, and here they are:

1. Mass murder of settlers by chiefs Te Rauparaha and Te Rangihaeata at Wairau in 1843.
2. Rebellion incited by Te Rauparaha and Te Rangihaeata in Wellington in 1846.
3. War waged by Hone Heke against the government in the north in 1845-56.
4. Rebellion at Waitara by Wiremu Kingi over the sale of the Pekapeka block in 1859.
5. The establishment of a rival Maori monarch in 1859, rebellion, and war.

During these events the Crown and the governors never broke the treaty. All actions taken were in accord with the accession of sovereignty and the assertion of British law. Firm government action that defeated tribal rebels during the 1860s was not to break the treaty. It was to uphold the treaty. Land confiscations did not breach the treaty. They were a consequence of rebellion, Robinson wrote.

There were numerous efforts by the government to bring the second Maori King, Tawhiao, and his supporters, back into the New Zealand community after their defeat in 1864. But

[94] Robinson, John, *Who Really broke the treaty*, Tross Publishing, Wellington, 2024

Tawhiao continued to insist that he had “the sole right to conduct matters in [his] land from the North Cape to the southern end”.

“All treaty settlements are based on the Crown breaking the treaty. Since that is not so, all such settlements are a fraud,” Robinson wrote, adding that “here is no justification for the continued existence of either the settlements or the Waitangi Tribunal”.

## Conclusion

"Hikois from hell" and “rip the country apart” were the phrases used by former Prime Minister John Key in 2014 when asked about abolishing the Maori seats. We’ve seen hikois in the past two years, most notably a 40,000-person Treaty Principles Bill hikoi. We have also have seen Te Pati Maori game the Maori seats for electoral advantage. The hikois look like bullying. Te Pati Maori’s strategy with the Maori seats looks like manipulation of the system.

This dual strategy has been repeated on numerous occasions since 1975, when modern treaty policy was launched. Wealth and power have been transferred, since 1975, to a tiny segment of the population. Now there are demands for two parallel governments, one for Maori and the other for everyone else, and both under tribal control.

This study shows how, over 50 years, the Treaty of Waitangi was redefined and treaty principles created. The treaty, an historical document that was legally regarded as a nullity, was transformed into an all-encompassing sacred text that commands blind faith and devotion. This text, regarded as a divine covenant by some, centers on four dogmas:

- “Kawanatanga” - that chiefs didn’t cede sovereignty.
- “Rangatiratanga” - a special right that only people of Maori descent have.
- “Taonga” - if a thing exists, and if a Maori has not sold it, a Maori must be paid for it.
- “Tikanga” - Maori people should live according to lore that is outside New Zealand law.

The treaty principles, none of which are in the 1840 treaty, have allowed the treaty document to move from a historical text into enforceable modern legislation. They have transformed law, enabled the treaty settlement process, and imposed a bicultural structure on the public sector where “partnership, participation, and protection” are the foundational buzz words.

I have witnessed the degeneration of race relations, over 50 years, from hardly an issue to division bordering on strife, both through society and within families. ACT Party leader David Seymour, who was accused of causing this strife, was the only politician to have the courage to take some meaningful step to sort out a problem that had grown for decades.

This study shows how a succession of governments created and funded scores of new tribal groups. This turned out to be a foolish mistake because these groups soon united as the Iwi

Chairs Forum and joined the Maori sovereignty cause when they commissioned a plan to establish a constitutional framework based on “Te Tiriti” and the “He Whakaputanga” declaration of independence, a 1835 document superseded by the treaty.

By this stage, “Maori rights” had morphed from the 1840 rights as British subjects to the rights as created in the 1980s treaty and principles.

One model in that Matike Mai plan became the basis of another plan, the *He Puapua: Report of the Working Group on a Plan to Realise the United Nations Declaration on the Rights of Indigenous Peoples in Aotearoa/New Zealand.* That plan, was for two parallel governments in New Zealand, one by Maori for Maori, and the other, a fully bicultural version of what we already have, with both under tribal control. Laughable and impractical, yes. But the Ardern 2020-2023 government stupidly began implementing it.

We can now see the results of trying for 50 years to appease grievances by giving preferential treatment, cash, and political power. Appeasement was regarded as weakness, and was treated with contempt. Demands for money and power escalated. Appeasement has failed.

Another approach, in the interests of all New Zealanders, would turn off the treaty tap, end the “for Maori” funding. Don’t give political power without requiring electoral accountability. Don’t allow treaty tribes to do business without paying tax.

But first, a few legislative changes are required:

- The Treaty of Waitangi Act, which placed undefined treaty principles in legislation, is faulty and should be repealed.
- The Waitangi Tribunal, which is a permanent commission of inquiry restricted to claims by people of Maori descent, should be disestablished because it has destabilised government and continues to cause racial division.
- Allowing the 1980s rewritten “contemporary translation” to supersede the actual treaty has been a gross error. It has no place in New Zealand law and administration.
- The Busby February 4, 1840, treaty document should be subjected to a verifiably independent forensic study to establish whether or not it is the final English draft of the Treaty of Waitangi. If so, it should be stored and displayed next to Te Tiriti.
- The so-called treaty principles are a fabrication that have nothing to do with the Treaty of Waitangi. They have no place in New Zealand law and administration.

We have heard a lot about our government restoring honour by admitting past mistakes and paying compensation. Perhaps now is the time to compensate for its errors in the treaty project to front up and admit these mistakes.

Whether New Zealand’s 50-year treaty project has delivered unintended consequences or simply been a giant rort is over to you to decide.

## $4.94-billion in 115 settlements

The 115 Treaty of Waitangi settlements listed below totalling $4.94-billion were compiled from details on the Office of Crown-Maori Relations website to June 30, 2026. The list of completed settlements is of those that have been passed into law. “Legislation introduced” lists settlement bills before Parliament awaiting completion. Further groups are at the earlier stages of having their mandate recognised, terms of negotiation signed, agreement in principle signed, deed of settlement initialled, and deed of settlement signed.

The Waitangi Tribunal has not necessarily investigated the specific claims of most claimant groups listed here. Instead, it has produced a number of general reports detailing grievances around the regions. Financial redress is calculated using a formula according to which the tribe that had the largest area in 1840 and the most members in 2026 will get the most money.[95]

A request under the Official Information Act in 2025 resulted in a much lower figure of $2.739-billion to February 1, 2025. Because amounts in the table were extracted from summaries on the Office of Treaty Settlements website, the amount on the table and the amount provided by the treaty settlements office should reconcile, but don’t.

| Claimant group | Year | **Value ($m)** |
|---|---|---|
| **COMPLETED SETTLEMENTS** | | |
| **Waitomo** | **1990** | **1 (loan)** |
| **Commercial Fisheries** | **1992** | **170** |
| **Ngati Rangiteaorere** | **1993** | **0.76** |
| **Hauai** | **1993** | **0.72** |
| **Ngati Whakaue** | **1994** | **5.21** |
| **Waikato/Tainui** | **1995** | **170** |
| Forest rentals | **1997** | **0.25** |
| First relativity top-up | **2012** | **70** |
| Second relativity top-up | **2017** | **190** |

[95] Letter, Office of Treaty Settlements to He Toa Takitini, September 5, 2013. http://www.hetoatakitini.iwi.nz/uploads///Quantum_factors_for_He_Toa_Takitini_Letter-_5_September_2013.pdf

| | | |
|---|---|---|
| Third relativity top-up | **2018** | **101.5** |
| Further negotiated payments | | **35** |
| Fourth relativity top-up | **2022** | **101.5** |
| Further negotiated payment | **2025** | **3.75** |
| **Waimakuku** | **1995** | **0.38** |
| **Rotoma** | **1995** | **0.04** |
| **Te Maunga** | **1996** | **0.13** |
| **Ngai Tahu** | **1998** | **170** |
| Forest rentals | **2000** | **35** |
| First relativity top-up | **2012** | **68.5** |
| Second relativity top-up | **2017** | **180** |
| Third relativity top-up | **2018** | **96.5** |
| Further negotiated payments | | **52.5** |
| Fourth relativity payment | **2022** | **96.5** |
| Further negotiated payment | **2025** | **3.75** |
| **Ngati Turangitukua** | **1999** | **5** |
| **Pouakani** | **2000** | **2.65** |
| **Te Uri o Hau** | **2002** | **17.2** |
| **Ngati Ruanui** | **2003** | **41** |
| ***Ngati Tama** | **2003** | **14.50** |
| **Ngati Awa** | **2005** | **60.9** |
| **Tuwharetoa (Bay of Plenty)** | **2005** | **12.4** |
| **Ngaa Rauru Kiitahi** | **2005** | **31** |
| **Te Arawa Lakes** | **2006** | **10.8** |
| **Ngati Mutunga** | **2006** | **14.9** |
| **Te Roroa** | **2008** | **9.5** |
| **Te Pumautanga o Te Arawa** | **2008** | **38.9** |
| ***Central Nth Island Forests Iwi Collective** | **2008** | **372.56** |

| | | |
|---|---|---|
| **Taranaki Whanui ki Te Upoko o Te Ika** | **2009** | **25.03** |
| ***Waikato River** | **2010-12** | **211.8** |
| **Ngati Apa (North Island)** | **2010** | **22** |
| **Ngati Whare** | **2012** | **18.88** |
| ***Ngati Manawa** | **2012** | **2.6** |
| **Ngati Pahauwera** | **2012** | **20** |
| **Ngati Porou** | **2012** | **110** |
| **Nga Wai o Maniopoto** | **2012** | **0** |
| **Maraeroa A and B Blocks** | **2012** | **1.8** |
| **Ngati Makino** | **2012** | **11.3** |
| **Ngai Tamanuhiri** | **2012** | **11.35** |
| **Rongawhakaata** | **2012** | **23.4** |
| **Ngati Whatua o Orakei** | **2012** | **20** |
| **Ngati Manuhiri** | **2012** | **9** |
| **Ngati Whatua o Kaipara** | **2013** | **22.1** |
| **Waitaha** | **2013** | **11.8** |
| **Raukawa** | **2014** | **61.58** |
| **Maungaharuru-Tangitu Hapu** | **2014** | **25.02** |
| **Tapuika** | **2014** | **6.5** |
| **Ngati Rangiwewehi** | **2014** | **6** |
| **Ngati Rangiteaorere** | **2014** | **0.75** |
| **Ngati Toa** | **2014** | **75.73** |
| **Te Atiawa o Te Waka-a-Maui** | **2014** | **20.01** |
| **Ngati Tama ki Te Tau Ihu** | **2014** | **20.31** |
| **Ngati Rarua** | **2014** | **19.51** |
| **Ngati Koata** | **2014** | **19.51** |
| **Rangitane o Wairau** | **2014** | **25.37** |
| **Ngati Kuia** | **2014** | **24.87** |

| | | |
|---|---|---|
| **Ngati Apa ki te Ra To** | **2014** | **28.37** |
| **Tuhoe** | **2014** | **168.92** |
| **Tamaki Collective** | **2014** | **0** |
| **Ngati Koroki Kahukura** | **2014** | **6.98** |
| **Ngati Haua** | **2014** | **13.18** |
| **H.B. Regional Council Planning Committee** | **2015** | |
| **Kawerau a Maki** | **2015** | **6.8** |
| **Ngati Kuri** | **2015** | **26.68** |
| **NgaiTakoto** | **2015** | **26.59** |
| **Te Rarawa** | **2015** | **36.7** |
| **Te Aupouri** | **2015** | **24.65** |
| **Taranaki Iwi** | **2015** | **70** |
| **Rangitane o Manawatu** | **2015** | **13.8** |
| **Ngati Hineuru** | **2016** | **27** |
| **Te Atiawa Taranaki** | **2016** | **87** |
| **Ngaruahine** | **2016** | **68.2** |
| **Whanganui River** | **2017** | **115.43** |
| **Ngati Kahu ki Whangaroa** | **2017** | **6.5** |
| **Ngati Pukenga** | **2017** | **5.5** |
| **Rangitane o Wairarapa** | **2017** | **32.5** |
| **Ngati Tamaoho** | **2017** | **10.89** |
| **Tuwharetoa** | **2017** | **27.8** |
| **Ngai Kai ki Tamaki** | **2018** | **12.75** |
| **Ngati Kahungunu ki Heretaunga Tamatea** | **2018** | **110** |
| **Te Tira Whakaemi te Wairoa** | **2018** | **100** |
| **Ngati Rangi** | **2019** | **16.91** |
| **Parihaka Reconciliation Act** | **2019** | **9** |
| **Moriori** | **2021** | **18** |

| | | |
|---|---|---|
| **Ahuriri Hapu** | **2021** | **19.5** |
| **Ngati Hinerangi** | **2021** | **8.1** |
| **Ngāti Kahungunu ki Wairarapa** | **2022** | **115** |
| **Ngati Rangitihi** | **2022** | **11.3** |
| **Te Rohe o Rongokako Joint Redress** | **2022** | **0** |
| **Ngati Maru (Taranaki)** | **2022** | **30** |
| **Maniapoto** | **2022** | **165** |
| **Whakatohea** | **2024** | **85** |
| **Ngati Haua** | **2025** | **19** |
| **Taranaki Maunga** | **2025** | **35** |
| **Te Korowai o Wainuiarua** | **2025** | **28.5** |
| **Ngati Ranginui** | **2025** | **38** |
| **Ngati Paoa** | **2025** | **23.5** |
| **Te Pire Whakahoki i a Kororipo Pa / Kororipo Pā Vesting Bill** | **2026** | **Transfers Hongi Hika's pa** |
| **Ngati Haua** | **2026** | **19** |
| **Ngati Rahiri Tumutumu** | **2026** | **5.5** |
| **Ngati Tara Tokanui** | **2026** | **6** |
| **Ngati Hei** | **2026** | **8.5** |
| **TOTAL** | | **4697.62** |
| **LEGISLATION INTRODUCED** | | |
| **Ngai Te Rangi and Nga Potiki** | | **29.5** |
| **Tauranga Moana** | | **0.25** |
| **Hauraki Collective** | | **143** |
| **Ngati Ruapani** | | **24** |
| **Nga Hapu o Nga Iwi o Whanganui** | | **45.5** |
| **TOTAL** | | **242.25** |
| | | |
| **GRAND TOTAL** | | **4939.82** |

* Taranaki tribe Ngati Tama announced in 2012 that it lost its entire $14.5-million settlement received in 2003 blaming poor investments

*Central North Island Forests Iwi Collective also received $223-million in forest rentals held in trust since 1989. That is not included in the financial redress total because it was regarded as tribal money from 1989.

* By mid-2013, bad investments and bailouts were blamed for wiping out almost half the value off Taupo tribe Tuwharetoa's $66-million share of the 2008 "Treelord's" settlement.

*Waikato River. The government argues that this is not historical redress and so should not be included in the settlement total. The $211.8-million total includes all payments for 27 years. A total of $130.8-million was paid up front.

*Ngati Manawa also received $12.2-million worth of Central North Island forestland included in the Central North Island deal.

**Sources**


1. Letter, Office of Treaty Settlements to He Toa Takitini, September 5, 2013. http://www.hetoatakitini.iwi.nz/uploads///Quantum_factors_for_He_Toa_Takitini_Letter-_5_September_2013.pdf