

**TE KOROWAI O NGĀRUAHINE TRUST
TE KĀHUI O TARANAKI TRUST
TE KOTAHITANGA O TE ATIAWA TRUST
TE RŪNANGA O NGĀTI MARU TRUST
TE RŪNANGA O NGĀTI MUTUNGA TRUST
TE RŪNANGA O NGĀTI RUANUI TRUST
TE KAAHUI O RAURU TRUST
TE RŪNANGA O NGĀTI TAMA TRUST
COLLECTIVELY KNOWN AS NGĀ IWI O TARANAKI**

**and
THE CROWN**

**TARANAKI MAUNGA
TERMS OF NEGOTIATION**

November 2016

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TARANAKI MAUNGA TERMS OF NEGOTIATION BETWEEN NGĀ IWI O TARANAKI AND THE CROWN

1. Background

1.1 Through their respective Deeds of Settlement with the Crown Taranaki Iwi, Ngāruahine, Te Atiawa, Ngāti Ruanui, Ngā Rauru Kīitahi, Ngāti Tama and Ngāti Mutunga settled their Historical Treaty of Waitangi Claims in relation to Taranaki Maunga. The Deeds state:

1.1.1 the Governance Entities of Taranaki Iwi, Ngāruahine, Te Atiawa, Ngāti Ruanui, Ngā Rauru Kīitahi, Ngāti Tama and Ngāti Mutunga will work together with the mandated representatives of Ngāti Maru to develop an apology and cultural redress in relation to the Historical Claims that relate to Taranaki Maunga; and

1.1.2 the apology and cultural redress in relation to the Historical Claims that relate to Taranaki Maunga will not include any financial or commercial redress.

2. Parties to these Terms of Negotiation

2.1 The parties to this document, known as the Terms of Negotiation, are the Crown, as defined in clause 7.1, and Ngā Iwi o Taranaki as defined in clause 6.1.

3. Purpose of these Terms of Negotiation

3.1 These Terms of Negotiation:

3.1.1 set out the scope, objectives, general procedures and “ground rules” for the formal discussions the parties will conduct in developing redress in relation to Taranaki Maunga;

3.1.2 record the intentions of the parties regarding the negotiations process, including the intention to negotiate in good faith, confidentially and without prejudice; and

3.1.3 are not legally binding and do not create a legal relationship. However, the parties acknowledge that each expects the other to comply with the terms set out in this document during negotiations.

4. Guiding Principles

4.1 The parties agree to the following principles for conducting negotiations:

a. Mana Motuhake/ Authority

The principle of *Mana Motuhake* means having respect for the authority and autonomy of each of the parties and their roles and responsibilities.

b. Te Tirohangaroa/ Forward Looking:

The principle of *Tirohangaroa* means a commitment to negotiate outcomes that are to the greatest possible benefit for Taranaki Maunga, his uri and Aotearoa/New Zealand, recognising and accepting that this will require a commitment and action.

c. Mahi Tahi (Kotahitanga)/ Collaboration

The principle of *Mahi Tahi* means a commitment to work in the spirit of co-operation, a unity of purpose, a flexible approach and a willingness for reasonable compromise to work towards a solution.

d. Manaakitanga/ Reciprocity

The principle of *Manaakitanga* means a commitment to behaviour and an approach that is mana enhancing towards each other requiring generosity, care, respect and reciprocity.

e. Pono/ Good Faith

The principle of *Pono* means honesty and sincerity of intention and includes fostering a negotiating environment of mutual trust and confidence between the parties. In the interests of transparency, this involves the parties discussing their settlement framework, objectives and policies.

f. Tika/ Transparency

The principle of *Tika* means having honesty and sincerity of intention and includes fostering a negotiating environment that is transparent and fair.

5. Objectives of the Negotiations

5.1 The parties agree that the primary objective of the negotiations will be to negotiate in good faith appropriate redress arrangements in relation to Taranaki Maunga that:

5.1.1 are comprehensive, final, durable and fair in the circumstances;

5.1.2 will not:

- (a) diminish or in any way affect any rights that the iwi of Taranaki have arising from Te Tiriti o Waitangi / The Treaty of Waitangi and its principles; or
- (b) extinguish or limit any aboriginal or customary rights that the iwi of Taranaki may have;

5.1.3 recognise the nature, extent and injustice of breaches of the Crown's obligations to the iwi of Taranaki under Te Tiriti o Waitangi / The Treaty

of Waitangi and its principles, and where appropriate, acknowledge the effect that these breaches have had on the economic, social, cultural and political well-being of the iwi of Taranaki;

5.1.4 will enhance the ongoing relationship between the parties (both in terms of Te Tiriti o Waitangi / The Treaty of Waitangi and otherwise);

5.1.5 will restore the honour of the Crown; and

5.1.6 demonstrates and records that both parties have acted honourably and reasonably in negotiating the redress.

5.2 In addition, the Crown acknowledges that the iwi of Taranaki view the redress arrangements as a means of:

5.2.1 enhancing their social, cultural and political development; and

5.2.2 removing the sense of grievance and restoring the iwi of Taranaki's faith and trust in the Crown.

6. Definition of Ngā Iwi o Taranaki

6.1 Ngā Iwi o Taranaki means

6.1.1 Te Korowai o Ngāruahine Trust;

6.1.2 Te Kāhui o Taranaki Trust;

6.1.3 Te Kotahitanga o Te Atiawa Trust;

6.1.4 Te Rūnanga o Ngāti Maru Trust;

6.1.5 Te Rūnanga o Ngāti Mutunga Trust;

6.1.6 Te Rūnanga o Ngāti Ruanui Trust;

6.1.7 Te Kaahui o Rauru Trust; and

6.1.8 Te Rūnanga o Ngāti Tama Trust.

7. Definition of the Crown

7.1 The Crown:

7.1.1 means the Sovereign in right of New Zealand; and

7.1.2 includes all Ministers of the Crown and all government departments; but

7.1.3 does not include:

(a) an Office of Parliament;

- (b) a Crown entity; or
- (c) a State Enterprise named in the First Schedule to the State-Owned Enterprises Act 1986.

8. Definition of Taranaki Maunga

8.1 For the purposes of these negotiations Taranaki Maunga means Egmont National Park as defined by the National Parks Act 1980 and Crown-owned land subsequently added to the Park under that Act.

9. Mandate to Negotiate

9.1 The Crown acknowledges the Post Settlement Governance entities of the iwi of Taranaki, listed in clause 6.1, and Te Rūnanga o Ngāti Maru have mandates to negotiate with the Crown to develop an apology and cultural redress in relation to Taranaki Maunga.

9.2 Ngā Iwi o Taranaki will appoint a Negotiating Team to represent Ngā Iwi o Taranaki in negotiations with the Crown.

10. Subject Matter for Negotiation

10.1 The parties will together agree upon subject matters to be negotiated. Any party may raise for discussion subject matters in addition to those agreed upon.

10.2 The list of subject matters to be discussed will include the following categories of redress:

10.2.1 the Crown's apology and acknowledgements; and

10.2.2 cultural redress.

10.3 The parties acknowledge that The Taranaki Report - Kaupapa Tuatahi of the Waitangi Tribunal may contain discussion of issues that may be relevant to the subject matters to be negotiated.

11. Process of Negotiations

11.1 The parties agree that the general process of negotiations will include, but not necessarily be limited to:

Agreement in Principle

11.1.1 the signing of an Agreement in Principle which will outline the scope and nature, in principle, of the redress arrangements which will be recorded in the Deed;

Initialled Deed

11.1.2 the initialling of a Deed by the parties. The Deed will set out the terms and conditions of the redress arrangements;

Governance Entity

11.1.3 the parties will agree the appropriate governance entity or arrangement to receive and manage the redress on behalf of the iwi of Taranaki;

Ratification

11.1.4 the presentation by Ngā Iwi o Taranaki of the initialled Deed to the iwi of Taranaki for ratification in a manner to be agreed by the parties. An approved governance entity or the appropriate arrangement to receive and manage redress will also be presented to the iwi of Taranaki for ratification in a manner to be agreed by the parties;

Deed Signed if Ratified

11.1.5 if the Deed is ratified, Ngā Iwi o Taranaki will sign the Deed on behalf of the iwi of Taranaki and a Crown representative will sign on behalf of the Crown;

Governance Entity Establishment/Adoption

11.1.6 the establishment of the approved governance entity or the receipt of redress by the appropriate arrangement. This will only occur if Ngā Iwi o Taranaki ratify the governance entity or the appropriate arrangement to receive and manage the redress; and

Legislation

11.1.7 the passage of legislation providing redress. The redress will be provided on the date the legislation comes into effect.

12. Communication

12.1 The parties will each ensure regular and appropriate internal consultation procedures throughout the negotiations, taking into account the need to keep the iwi of Taranaki informed, but also the need for confidentiality regarding third parties.

13. Overlapping Claims/Shared Interests

13.1 The parties agree that overlapping claim issues over redress will need to be addressed to the satisfaction of Ngā Iwi o Taranaki and the Crown before a Deed can be concluded. The parties also agree that certain items of redress provided to Ngā Iwi o Taranaki as part of the Deed may need to reflect the

importance of an area or feature to a specific group other than Ngā Iwi o Taranaki.

13.2 Ngā Iwi o Taranaki will discuss interests with overlapping groups at an early stage in the negotiation process and establish a process by which they can reach agreement on how such interests can be addressed.

13.3 The Crown may assist Ngā Iwi o Taranaki as it considers appropriate and will carry out its own consultation with overlapping claimant groups.

14. Not Bound until Deed

14.1 The parties acknowledge that this document does not bind either party to reach agreement and any agreement reached in negotiation discussions is confidential, without prejudice and will not be binding until embodied in a signed Deed and legislation.

15. Governance Structure for Redress

15.1 The parties agree that, before settlement legislation can be introduced the parties will agree how redress will be received and managed by Ngā Iwi o Taranaki. The appropriate legal entity or arrangement will need to be in place that:

15.1.1 has been ratified by the iwi of Taranaki (in a manner to be agreed by both parties);

15.1.2 is in a form that both parties agree adequately represents the iwi of Taranaki;

15.1.3 has transparent decision making processes; and

15.1.4 is accountable to the iwi of Taranaki.

16. Claimant Funding

16.1 The parties acknowledge that the Crown will make a contribution to the negotiation costs of the iwi of Taranaki. This contribution will be paid in instalments for the achievement of specified milestones in the negotiation process.

16.2 Ngā Iwi o Taranaki will adhere to the Office of Treaty Settlements' claimant funding policy guidelines. In particular, before each instalment of claimant funding is approved, Ngā Iwi o Taranaki will provide the Crown with invoices that demonstrate that the previous instalment of claimant funding was applied to negotiation expenses.

16.3 Ngā Iwi o Taranaki will also provide the Crown with independently audited accounts for the claimant funding that it receives from the Crown, certifying that the funding has been spent on the negotiations.

17. Waiver of Other Avenues of Redress

- 17.1 During these negotiations, Ngā Iwi o Taranaki agree neither to initiate nor to pursue any legal proceedings relating to the subject matter of the negotiations.

18. Procedural Matters

- 18.1 The parties agree that:

- 18.1.1 negotiations will be on a “without prejudice” basis and will be conducted in good faith and in a spirit of open co-operation;
- 18.1.2 negotiations will be conducted in private and will remain confidential unless agreed otherwise (such as when consultation with third parties is necessary) or when the Crown is required to release information under the Official Information Act 1982;
- 18.1.3 either party may withdraw from negotiations if the negotiations become untenable;
- 18.1.4 consistent with the obligations of good faith negotiations, if the Office of Treaty Settlements becomes aware of changes in the legal control, or ownership of, or the granting of long-term interests in, Taranaki Maunga, the Office of Treaty Settlements will inform Ngā Iwi o Taranaki of the proposal where possible;
- 18.1.5 early in the negotiation process both parties will discuss the iwi of Taranaki’s redress interests and the Crown’s policies in respect of those interests;
- 18.1.6 media statements concerning the negotiations will only be made when mutually agreed by both parties;
- 18.1.7 the location of meetings will be suitable and convenient to both parties; and
- 18.1.8 the Crown and Ngā Iwi o Taranaki recognise the importance of using Te Reo Māori in the negotiations, where appropriate. Ngā Iwi o Taranaki will provide the Crown with adequate notice should a translator be required.

