

# Keeping Promises: The Treaty Settlement Process

by Mark Derby



Philly and Maizy are sisters. They live in Ōtaki, a small town on the Kapiti Coast. Both girls are fluent in te reo Māori, and when they leave school, they plan to apply for iwi scholarships to help with further study. Some of these scholarships are funded from Treaty settlement money, and Philly and Maizy's mum says the girls' great-great-great-grandfather, Mete Kīngi Te Rangi Paetahi, would be pleased by this. He was one of New Zealand's first Māori members of parliament, elected in 1868.

Mete Kīngi was an optimistic man. He welcomed European settlement and saw no reason why Pākehā and Māori couldn't both prosper. Mete Kīngi also believed the government would always act in good faith towards his people. This included keeping promises made in the Treaty of Waitangi.



## Change

When the Treaty of Waitangi was signed in 1840, almost all the land and natural resources of New Zealand belonged to Māori. Chiefs who signed the Treaty were told that unless they decided otherwise, this situation wouldn't change. Māori were guaranteed tino rangatiratanga – absolute authority – over their land, villages, and taonga. But it didn't turn out that way. Over the following decades, Māori became a poor people in a country filled with opportunity.

From the 1840s, chiefs were encouraged to sell their land to the government. This land, which was wanted for Pākehā settlement, was usually bought for a low price and resold to settlers for a profit. In some places, Māori resisted **colonisation**. They tried to hold on to their land and authority, and this caused tension.

As the Pākehā population continued to grow, the demand for land increased. Eventually the situation erupted into conflict. From 1845 to 1872, Māori and the British fought a series of battles known as the New Zealand Wars. As punishment for "rebellious" against the government, some iwi had their land taken. Pākehā called this confiscation. Māori used another word: raupatu – taken by force. The government wasn't always careful about whose land was confiscated, and some iwi loyal to the Crown lost land in the same way.

**colonisation:** when a country is taken over by another country





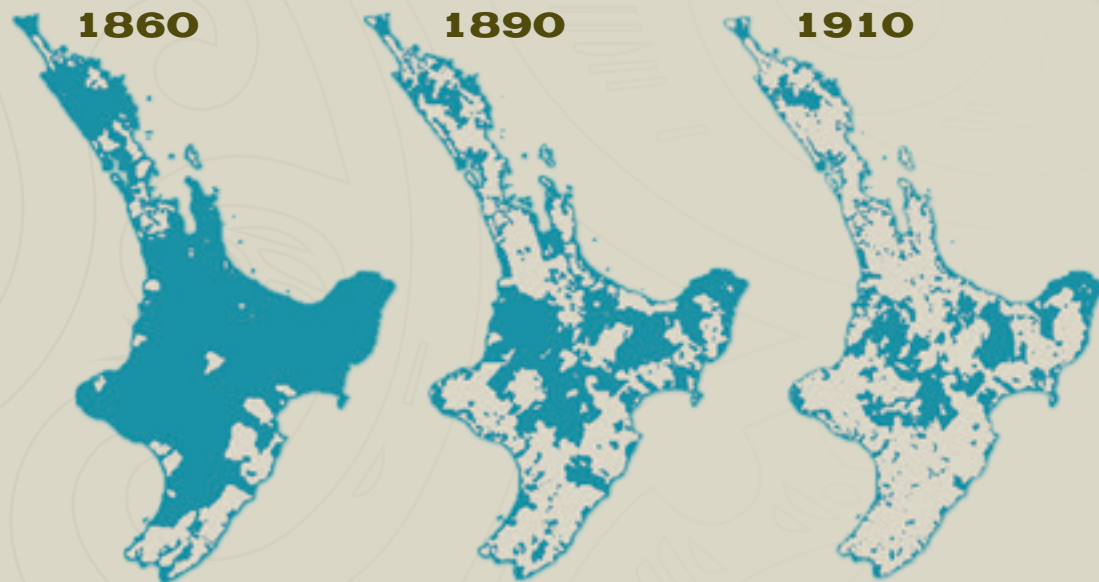
▲ Locals gather for a land court hearing in Ahipara, 1904



▲ A land court hearing in the Tamatekapua wharenui, Ōhinemutu, Rotorua, around 1890



▲ Women in Tokaanu waiting for a land court hearing, 1914



■ MĀORI LAND

Māori also lost land through the Native Land Court system set up in 1865. The court changed the way Māori land was owned so that it was easier for settlers to buy. Land could no longer be held collectively by iwi or hapū; instead, it had to be put in the names of individual owners. This new system was very different from how Māori traditionally held land. Owners could now sell the land without the permission of the wider group. Among Māori, the Native Land Court quickly got the nickname “te kōti tango whenua” (the land-taking court).

## Protest

By the beginning of the twentieth century, the government began to admit that it hadn't always been fair to Māori. James Carroll, the Native Minister, said in 1906 that it was time to compensate those Māori who had lost land because of the Crown's actions. “We have reached that stage now when, I think, these matters should be settled, so as to clear our consciences.”

But in the decades that followed, only a very small amount of land or money was given to iwi, making no real difference to their situation. Māori continued to protest about the way the government had treated them – and was still treating them – and the Treaty of Waitangi remained a focus of that protest.

## The Waitangi Tribunal

In the 1970s, after many decades, the government finally began to listen to Māori. In 1975, it established the Waitangi Tribunal. This is like a court that investigates claims that the Treaty of Waitangi hasn't been honoured. In the tribunal's early years, it could only consider breaches of the Treaty that occurred in the years after the tribunal was set up. One of the first claims to the tribunal resulted in te reo Māori being made an official language of New Zealand.

In 1985, a major change to the rules enabled Māori to also make historical claims dating back to 1840, the year the

Treaty was signed. This right to make a historical claim ended in 2008.

Between 1985 and 2008, Māori lodged more than two thousand claims with the Waitangi Tribunal that related to historical grievances. However, not all Māori have wanted the tribunal to investigate their claims. In these cases, it has been possible for Māori to negotiate a settlement directly with the government. This work is done through the Office of Treaty Settlements – the part of government that settles all Treaty claims, including those that have been before the Waitangi Tribunal.

## Settlement

Although many of the historical claims have been made by individuals, Treaty settlements are almost always with an entire iwi. Most settlements are reached after many months of negotiation. Each one is different, but they generally include an agreed historical account of what happened, an apology, and compensation, usually paid in the form of money and Crown-owned land. Some settlements include a written agreement about the way Māori and the government will work together – managing historic places or conservation land, for example. Other settlements restore traditional rights to Māori, such as the right for iwi and

hapū to gather food from certain places within their territory. Sometimes significant place names are changed back to their original. Ninety Mile Beach, in Northland, is now known as Te Oneroa-a-Tōhē and is co-managed by Te Hiku iwi and the local councils.

The first Treaty settlement was signed in 1989. One significant early settlement was the 1992 Sealord deal, which involved not just one iwi or hapū but all Māori. This settlement compensated for the loss of traditional fishing rights. Among other things, Māori were given a half share in Sealord, the country's largest fishing company.



▲ Tame Iti (with pou whenua) and Whina Cooper (front middle) leading the 1975 Māori Land March through Hamilton

## Who is the Crown?

The Treaty of Waitangi was signed by over five hundred Māori chiefs from different iwi. A British official named William Hobson signed on behalf of Queen Victoria, the British monarch who ruled over the British Empire at the time. The chiefs who signed the Treaty with Hobson agreed to become subjects of Queen Victoria and for Aotearoa to become part of the British Empire. Hobson became New Zealand's first governor.

The British monarch remains our head of state, but New Zealand is now an independent country and no longer has a governor. Instead, we have a governor-general and a **cabinet**, both of whom represent the authority of the British monarch (otherwise known as the Crown).

## Settlement Process

Although the details of each Treaty settlement are different, the government always follows the same process to ensure that an agreement is reached.

1. Historical research to establish whether the promises made in the Treaty of Waitangi were kept or broken
2. Confirmation that the people the government is negotiating with have the support (or mandate) of their iwi or hapū
3. An "agreement in principle" (the first version of the settlement), which is discussed with the entire iwi or hapū
4. The signing of the final version of the settlement
5. The passing of a new law to confirm the settlement

**cabinet:** the senior ministers responsible for determining government policy



The first major claim about historical land confiscation was settled with Waikato–Tainui in 1995. This settlement package was worth \$170 million, made up of cash and land. Queen Elizabeth II was visiting New Zealand at the time, and she signed the settlement wearing a feather cloak gifted to her by Tainui. She also apologised to iwi for the fact Treaty promises were broken.

Kāi Tahu (also known as Ngāi Tahu), whose traditional territory covers much of the South Island, waited for many years while its claim was investigated by the Waitangi Tribunal. Evidence proved that between the 1840s and the 1860s, more than half the total land area of New Zealand had been bought from Kāi Tahu by the government and that these sales had breached the Treaty. In 1998, the Crown agreed to pay the iwi a settlement worth \$170 million. The package guaranteed Kāi Tahu the ownership of all the pounamu in the South Island and the right to harvest traditional foods. Mount Cook was renamed Aoraki/Mount Cook and returned to Kāi Tahu ownership.



▲ Te Arikinui Dame Te Ātairangikaahu with Queen Elizabeth II at the signing of the Tainui settlement



▲ Pauline Tangiora (left) and Doctor Rangimarie Turuki Rose Pere celebrating the signing of Te Rohe o Te Wairoa settlement at Takitimu marae, Wairoa, 2016



▲ Kuo Langsbury, Charles Crofts, Sir Tipene O'Regan, and Mark Solomon witnessing the Ngāi Tahu Claims Settlement Bill becoming law



## Afterwards

Almost every iwi in the country has either settled its Treaty claims or is in the process of doing so. Some Māori feel a sense of achievement when a settlement is finally signed: they have come to the end of a long journey. For others, especially young Māori, the settlements can be a stepping stone into a new future with new opportunities.

At the same time, Māori realise that no amount of compensation can truly make up for what was lost. And some say not enough has been offered in the settlement packages. However, the settlement process is one way of acknowledging past wrongs, and it encourages a greater understanding of our shared history and of what happened to Māori.

▼ Te Oneroa-a-Tōhē (Ninety Mile Beach)



# SETTLEMENT OPINION



## TUI HARRINGTON

(Kāi Tahu)

My iwi's settlement was an exciting time. Everyone in my whānau enrolled in the Whai Rawa savings scheme, which was set up by Kāi Tahu's rūnanga (council). Whatever money we saved, the iwi matched it. I used the money to go to university. I also received a Kā Pūtea grant to help pay my fees. The iwi has tried to establish a strong economy with the money from the settlement.



## TENETI RIRINUI

(Ngāti Te Rangi)

My whānau are from Tauranga. I wasn't involved in our Treaty settlement process but followed it closely. Because of the courage and mahi of my wider whānau, I learnt a lot about our past. Their research and submissions taught me how historical events shaped where we are today. Although our settlement deed marks the official end of the process, the real challenge lies in how we use the experience to meet the aspirations of our people.



## MATAHANA TIKAO CALMAN

(Kāi Tahu, Ngāti Raukawa, Ngāti Toa)

I think the Treaty settlement process has been a positive step for Māori, especially the hope it's given for the future of te reo Māori. Kāi Tahu have greatly benefited, being one of the first iwi to settle. It's meant I've received help to pay for tutoring. A Treaty settlement also means I can apply for Kāi Tahu scholarships to study at university.



## REREMOANA WALKER

(Ngāti Porou)

I grieve when I hear Pākehā landowners proudly talking about the land they inherited from their fathers and grandfathers when it was once Māori land – watch *Country Calendar*! The Waitangi Tribunal has recognised these injustices, but wise heads are now needed so that iwi can manage these funds to benefit all Māori in their rohe.



## HOHAIA WHIU

(Ngāpuhi, Waikato-Tainui)

My ancestors suffered and were killed for defending their own land. They lost their land and their language too when Pākehā forced them to learn English. Because of these experiences, some Māori today are broke and at the bottom with nothing – even though we are the people of this country. Ngā Puhi is negotiating with the government to get back land that was ours in the first place. The Treaty settlement process helps us to learn who we are.



## TERENCE TAMAKEHU

(Te Āti Haunui-a-Pāpārangī)

I live in South Taranaki, where pretty much everything was taken from Māori, whether they fought against the Crown or not. The government didn't care about the details. Land confiscation was just an excuse to take what it wanted. The Treaty settlement process hasn't affected me personally, but nothing can make up for what happened to Māori.



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