

Historical Account for the Agreement in Principle between Ngā Rauru Kīitahi and the Crown

Ngā Rauru Rohe

1. These sites are the occupied sites that Ngā Rauru recognise as marking its “traditional” rohe according to the tupuna. The rohe of Ngā Rauru at 1840 started from Kaihaukupe (Castlecliff, Wanganui). Nga kainga at Kaihaukupe were Kaihokahoka, Te Oneheke, Te Ahituatini, Te Wharekakaho, Kokohuia and Pungarehu (near Cobham Bridge). From Pungarehu the rohe extended to Kaierau, (now St Johns Hill, Wanganui), to Tawhitinui (opposite Ranana, on the banks of the Whanganui River), and to the Matemateaonga Range (Mangaehu Pa) near the source of the Patea River, where Maipu Pa and Hawaiki Pa (Te Arei o Rauru) are situated. Along the Patea River are Owhio, Kaiwaka, Arakirikiri, Ngapapataraiwi and Tutumahoe Pa and kainga, followed by Parikaranga and then Rangitaawhi and Wai-o-Turi at the mouth of the Patea River. Along the shoreline between Patea and Waverley, lies Te Kiri o Rauru. Between Rangitaawhi and the mouth of the Whenuakura River stands Tihoi Pa (where Te Rauparaha rested). From Tihoi the rohe extends to Waipipi, the Waitotara River, Tapuarau, Waiinu, Waikaramihi and Te Wai o Mahuku (near Te Ihonga). It continues past the Ototoka stream to Okehu, where stands Popoia, and then onwards to the mouth of the Kai Iwi stream and Taipake Tuturu. From there the rohe stretches past Tutaramoana back to Kaihaukupe.
2. The land was rich in resources over which Ngā Rauru exercised kaitiakitanga according to Ngā Rauru custom.
3. Prior to 1860 Ngā Rauru were a prosperous iwi in South Taranaki who engaged in an extensive trade with European settlements involving agricultural and other produce.

Early purchases

4. The New Zealand Company claimed to have purchased a block around Wanganui during 1839 and 1840. Its claims were contested by many Maori with interests in the area. In 1845, however, Commissioner Spain found that a purchase had been made and recommended that it be completed by the payment of compensation to certain owners. Maori continued to oppose his recommendation. The Waitangi Tribunal in its Whanganui River Report criticised his recommendation on several grounds. The Tribunal considered that Spain had not properly considered the evidence available to him, and that his decision was influenced by the Governor’s instructions, the New Zealand Company’s plans and the circumstances of European settlers.
4. The Wanganui district was unsettled during this period. During 1847 Maori under Te Mamaku, a Wanganui chief, opposed the presence of European troops in Wanganui, and fighting broke out. Other local Maori supported the Crown presence, and peace was restored by the end of the year.

6. In 1848 the Crown acquired a block at Wanganui of some 86,000 acres, paying the 'compensation' specified by Spain but gaining a larger piece of land than had been included in the 1845 award. Land Purchase Commissioner Donald McLean met with Wanganui iwi and "the Ngatiruanui and Waitotara claimants" in May of 1848, and their representatives signed the deed between 26 May and 29 May 1848. Approximately 20,000 acres of the Wanganui Purchase was within the traditional rohe as described by Ngā Rauru.
7. Legislation passed by the Crown during the 1840s prohibited Europeans from leasing Maori lands held under customary tenure. Although Ngā Rauru leased lands to local settlers on an informal basis, this legislation restricted their ability to realise the market value of lands which they chose to lease. This may have led some Ngā Rauru to consider selling land to the Crown, especially after 1856 when land reserved from sales could be lawfully leased.
8. In the early 1850s some Ngā Rauru entered into a pact with other iwi of Taranaki and elsewhere to oppose further sales of land to the Crown, and Ngā Rauru lands were later declared to be under the protection of the Maori King. Other Ngā Rauru held that the iwi alone should decide if and when their lands should be sold. Thereafter some Ngā Rauru provided active support to those Te Atiawa who opposed land sales in northern Taranaki, while others remained neutral.
9. In May of 1859 Ngā Rauru of Waitotara agreed to sell the Waitotara Block, between the Okehu Stream and the Waitotara River and inland to Puketarata, to the Crown. A deposit of £500 was paid, with the receipt being signed by 14 people. Over the following year, after lengthy negotiations, the boundaries of the block and of seven reserves were agreed upon, and surveyed with the cooperation of the sellers. Negotiations over the Waitotara purchase ceased when the war in North Taranaki began, and were formally suspended by the Crown later in 1860 as part of a general termination of purchasing activity on the West Coast.

First Taranaki War

10. The Crown's attempts to survey the Pekapeka block at Waitara in Northern Taranaki were prevented by unarmed Maori, mainly women. This action was considered to be an act of rebellion by the Crown and martial law was proclaimed on 22 February 1860.
11. The English version of the Proclamation stated that "active military operations are about to be undertaken by the Queen's forces against Natives in the Province of Taranaki in arms against her Majesty's Sovereign Authority". The Pekapeka block was subsequently occupied by Crown troops. Te Atiawa supporters of Wiremu Kingi, a rangatira of Waitara, then built a fortified pa on the block, which was attacked by Crown troops on 17 March.

12. Other iwi of Taranaki, including Ngā Rauru, entered the war in the north on the side of Wiremu Kingi and his supporters. The Crown's attack on the pa was followed by a reprisal by some Taranaki Maori, including Ngā Rauru, who attacked settlers and settlements south of New Plymouth on 27 March 1860. Ngā Rauru tradition records that they suffered significant loss of life in the following war. A peace agreement was reached in April 1861 and provided that the Crown purchase of the Pekapeka block would be investigated.

The Waitotara Purchase

13. The negotiations between the Crown and Ngā Rauru of Waitotara for the purchase of the Waitotara block resumed in 1862, following the Taranaki peace settlement. By this time many Ngā Rauru no longer wished to sell their land to the Crown. Supporters of the Kingitanga sought to have the 1859 agreement to sell set aside, but were unable or unwilling to return the deposit, which the Crown insisted upon as a condition for terminating the sale process. The Crown was aware of significant opposition to the sale but still proceeded with it on the strength of the 1859 agreement.
14. Ngā Rauru chief Aperahama put the case before King Tawhiao in 1862. The King declined to take the block under his protection or to prohibit the completion of the sale and also ordered that opposition to it cease. This decision created an environment in which it was difficult for Ngā Rauru supporters of the King who opposed the sale to clearly express the degree of their dissatisfaction with it. The pressures created by continuing negotiations during 1862 and 1863 exacerbated existing divisions within Ngā Rauru. Terms of the sale were agreed upon at a meeting between the Crown and those who wished to sell in mid-March of 1863, notice of completion of the purchase was given, and the sale was finalised early in July 1863.
15. The war in Taranaki began again in May 1863 after the final agreement about the Waitotara purchase was reached but before the deed was signed. Members of Ngā Rauru left the area to join in the war against the Crown. The Crown itself had recognised in 1860 and 1861 that it was not appropriate for land purchasing to continue in a district where fighting was taking place, but the same restriction was not applied after May 1863.
16. In the course of negotiations during 1862-63 the Crown insisted that the reserves proposed in 1860 be reduced in size, with the result that some 1,000 acres were removed from one of them. The sellers wanted the 100-acre Kaipo block to be included in the reserves, but the Crown refused to agree. Instead, at the time of the signing they were able to re-purchase this land from the Crown at the standard rate of 10 shillings per acre. The title for Kaipo was not formalised until 1884, when it was granted to individuals rather than Ngā Rauru as a tribe.

17. The Waitotara deed was finalised on 4 July 1863 by the Crown and a number of Ngā Rauru chiefs. Four of the original fourteen who had signed in 1859, signed again in 1863, with an additional twenty-eight other signatories. The Crown considered the absence of opposition to the signing to be evidence of acceptance of the transaction by those who were absent. A payment of £2,000 was made and some 6,062 acres of the 32,700-acre block were reserved from the sale. The payment, less £100 for Kaipo, was placed in a bank account for later distribution. There appears to be no reliable record of who ultimately received the money.
18. Chief Aperahama in mid July of 1863 stated that, “The land shall not be given up! Never! never! never! never! never!” For reasons relating to the complex history of this sale the Crown gave no weight to his clear protest. Twenty-six thousand, six hundred and thirty eight acres were alienated from Ngā Rauru through this purchase, and the customary title to the 6,062 acres of reserved lands were all later converted to individual title through the Native Land Court process. Unresolved grievances about the Waitotara purchase contributed to the tensions that led to active warfare in this area in 1865.

Second War

19. After the peace agreement of April 1861, Pekapeka remained occupied by the military pending the inquiry into the Pekapeka block. Iwi of central and south Taranaki retained control of the Omata and Tataraimaka blocks, south of New Plymouth, which were claimed by the Crown. In March and April of 1863, and before the promised inquiry into Pekapeka had been completed, the Crown’s forces re-occupied Omata and Tataraimaka without provocation by Maori. Troops moving between the two blocks crossed Maori land without permission. In response to this trespass, Crown troops were attacked on Maori land at Oakura on 4 May 1863 and soldiers were killed.
20. In April of 1863 the Governor accepted that the Pekapeka block purchase at Waitara had not been properly carried out, and decided to abandon it. This decision was not publicly announced until 11 May by which time the fighting had resumed. At the same time the Crown began planning to take Maori land at Oakura as punishment for the attack, and on 6 July 1863 proclaimed its intention to survey settlements on the land. Confiscation was finally proclaimed in Taranaki in 1865.
21. Before 1865 there was little if any fighting in South Taranaki. Near the end of 1864 the Crown decided to launch an offensive there to control the area along the Waitotara Road and north of the Waitotara River and to establish military settlements in the area. In January of 1865 General Cameron’s forces advanced west from Wanganui. A battle was fought at Nukumarū, within the Waitotara block. In July 1865, Weraroa pa was captured by the Crown, and several Ngā Rauru were subsequently taken prisoner. Many Ngā Rauru were displaced from their lands during the fighting. Cameron’s campaign in 1865 covered the whole of the South Taranaki coast, as did General Chute’s in 1866 who advanced from the north. Fighting continued until the end of 1867.

22. In its southern Taranaki operations the Crown adopted a policy of attrition or “scorched earth” involving the destruction of villages and cultivations. The aim was to reduce the ability of those considered by the Crown to be rebels to make war. Ngā Rauru suffered much loss of life and property during these “bush scouring” campaigns.
23. After the army pushed through South Taranaki military settlers followed behind and established a new settler population on the confiscated lands of Ngā Rauru. After being displaced since 1865 many Ngā Rauru pledged loyalty to the Crown during 1867 so that they could return to their homes, but continued to protest against the confiscations.
24. In June of 1868 Titokowaru made war on settlers in the area. In the fighting which then ensued around Tauranga Ika pa, further lives were lost and much Ngā Rauru property was destroyed. Unlike Ngā Rauru, settlers whose property was taken or destroyed were later provided with government loans to assist in their post war recovery.
25. On 27 November 1868, a colonial militia encountered a group of unarmed Ngā Rauru and Taranaki iwi children at Handley’s woolshed near Waitotara. The children were from the nearby Tauranga Ika pa, the eldest about ten years old. In an unprovoked attack, the militia fired on the group and pursued them on horseback and attacked them with sabres. The children were wounded and killed.
26. After Tauranga Ika pa was abandoned as a defence stronghold in February of 1869, the Crown’s forces pushed all Ngā Rauru out of South Taranaki and pursued them into the interior, destroying crops, livestock and dwellings at every opportunity. Pursued by Crown forces and deprived of food and shelter Ngā Rauru were forced to place themselves under the protection of the Whanganui tribes. Prior to 1873, most were forbidden by the Crown to return to their lands. This was in response to both settler fears of Maori attack after the war with Titokowaru and the desire of the Crown to settle military and colonial settlers on the lands.

Confiscation

27. The confiscations, that were to have such long term and damaging impact on Ngā Rauru, were effected by the New Zealand Settlements Act 1863. The Preamble stated the North Island has been subject to “insurrections amongst the evil-disposed persons of the Native race”. There was no mention of the Crown’s role in initiating the wars. The Act was used to effect the confiscation of lands of Maori who the Crown assessed to have been engaged in rebellion against the authority of the Queen since 1 January 1863. Where the Governor in Council was satisfied that a tribe or a “considerable number” of a tribe had since 1 January 1863 been engaged in rebellion, he could declare the district available for confiscation. Subsequent settlement of those districts by colonists was considered the “best and most effectual means” of achieving two of the Act’s purposes: permanent protection and security, and maintaining the Queen’s authority.

28. The Act did not provide a definition of rebel. It did provide that no compensation would be given to those who had been "engaged in levying or making war or carrying arms against Her Majesty the Queen or Her Majesty's Forces in New Zealand" or those who had "aided assisted or comforted such persons". The New Zealand Settlements Act does not mention punishment, but was punitive in nature. This is clear from contemporary government statements and from the Proclamation of 17 December 1864 that declared that the Governor would punish those "guilty of further violence" and take possession of and retain "such land belonging to the rebels as he may think fit ". The British Colonial Office had misgivings about the scope and application of the Act, considering it "capable of great abuse" but allowed the legislation to proceed because final authority for any confiscation remained with the Governor. The Colonial Secretary instructed the Governor to withhold his consent to any confiscation, which was not "just and moderate".
29. In the confiscation proclamation of 2 September 1865, the Governor proclaimed the "Ngaatiawa", "Middle Taranaki" and "Ngaatiruanui" confiscation districts. All of southern Taranaki (the "Ngaatiruanui Coast") was declared an "eligible site", liable to be used for the purposes of European settlement. The confiscations were indiscriminate in that the lands taken greatly exceeded the minimum necessary for achieving the purposes of the New Zealand Settlements Act, and included the whole of the lands of the eligible sites, rather than just the lands required for the purpose of specific settlements. All the land that could be confiscated within the declared confiscation districts was confiscated, despite the declaration in the confiscation proclamation of 2 September 1865 that the land of "loyal inhabitants" would be taken only where "absolutely necessary for the security of the country". The Act also punished those considered loyal Maori by enabling the Crown to deprive them of ownership of their lands. The Act provided for those considered loyal to be compensated for confiscation as had been indicated by the Proclamation of Peace on 2 September 1865. The proclamation promised to restore land immediately to those who were prepared to submit to the Crown's authority, but the promise was not fulfilled.
30. Extensive supplementary and subordinate legislation was passed by the Crown following the 1863 Act. This legislation added to the impact of the confiscations by extending the Crown's control over the rights and property of Maori in Taranaki. In January of 1867 the Crown decided to abandon the confiscation of the lands between the Waitotara and Whanganui Rivers. This seems to have been done because almost all of the unsold lands involved were claimed by those considered loyal. Steps were being taken at this time to settle all Maori claims within the remaining confiscated area, including the provision of reserves for those considered rebels.

Compensation Court

31. A Compensation Court was set up under the New Zealand Settlements Act 1863 to compensate some of those whose lands were confiscated by the Crown. The compensation process and its outcomes added to the uncertainty, distress, and confusion among the people of Ngā Rauru as to where they were to live and whether they had security of title.
32. Maori who, for the purposes of the New Zealand Settlements Act 1863, had been found to be in arms against the Crown since 1 January 1863, or to have supported those found to be in arms, could not receive compensation.
33. Claimants had to establish both that they had an interest in the land, and that they had been 'loyal' to the Crown. In many cases the Court relied on the evidence of very few witnesses, rather than fully investigating the circumstances of each person affected. The Compensation Court process excluded potential claimants who failed to meet registration requirements, and claimants who did not appear at hearings. In many cases this non-attendance was due to the hearings being held in wartime and claimants not receiving notification of the hearings.
34. Although Maori claimants were required to comply with Compensation Court processes or be excluded, in 1866 Parliament retrospectively declared the Court's own actions and proceedings to be valid and beyond judicial scrutiny, even if statutory requirements had not been met.
35. Ngā Rauru claims were heard in December 1866 and January 1867 as part of the middle section of the "Ngaatiruanui Coast" District (between Kaipokonui and Waitotara). Only 40 people out of 997 were assessed to be resident and considered loyal. They were awarded 440 acres each. New rules for absentee claimants were applied in these hearings. Under these rules those who were absent and considered loyal received 16 acres each. Reserves for Maori who were considered rebels were made through a different process.
36. The Compensation Court awards for the middle section of the "Ngaatiruanui Coast" District were inadequate in size and isolated. Out of some 17,000 acres, more than 12,000 acres were in bush and the majority were inland, away from the fertile coastal plains. No special provision was made for pa and urupa. Customary forms of tenure were not preserved in the awards, all of which were made to individuals. Title was not issued until all the interests in the area were determined, the precise location settled, the areas surveyed by Crown agents, and the shares formalised by the Court. There was a delay of seven years from when the awards were granted in 1867 to when the titles were issued in 1874. By this time almost 14,000 acres were alienated, mainly by sale or lease to the Crown as part of a systematic Crown purchasing programme. Meanwhile, expanding colonial settlement further reduced the amount and quality of the Crown lands available for allocation to Maori claimants.

37. In 1872 a Crown purchase agent was found by a Crown appointed Commission to have behaved fraudulently in respect of Compensation Court awards. This agent had purchased Ngā Rauru land for himself and private purchasers, failed to properly account for payment to sellers, and fraudulently appropriated payments that were intended for Ngā Rauru owners. The Crown failed to respond adequately to their concerns even after an official investigation upheld their complaints.
38. None of the awards of the Compensation Court in the middle section of the “Ngaatiruanui Coast” District were properly implemented and by 1880, when the West Coast Commission began its investigations, no Ngā Rauru had received grants for the land.

Crown Purchases

39. From the early 1870s the Crown acquired Ngā Rauru land outside the confiscation area by means of purchases effected through Deeds of Cession. The Crown’s purchases from 1874 to 1881 were part of a government programme to acquire substantial quantities of Maori land in the interior. The establishment of settlers on land acquired from Ngā Rauru was a priority of this programme. For these purchases, the Crown made use of section 42 of the Immigration and Public Works Amendment Act 1871 and classified the land as being for the establishment of “special settlements”. This meant that the Crown could avoid full investigation of title by the Native Land Court before purchase, and make arrangements for purchase with willing sellers (including the payment of advances) prior to the application for title being heard by the Native Land Court. Although it was still possible for other interested parties to come before the Court and have their interests heard, the use of the Immigration and Public Works Amendment Act 1871 prejudiced the objectors and impacted on the hearing process.
40. Many of these problems arose in the acquisition of Ngā Rauru land outside the confiscation area. The purchase of the 92,000-acre Kaitangiwhenua block (primarily the customary land of Ngā Rauru and Ngāti Ruanui), was poorly controlled by the government. In 1894 a Commission of Inquiry found that after the purchase had been completed, a former purchase agent had exploited his relationship with the sellers and “fraudulently appropriated” over £5,000 from Maori. No compensation was provided.
41. In the period from 1877 to 1880 the Crown made so-called “takoha” payments to individuals in relation to the Opaku, Okahutiria and Moumahaki blocks in South Taranaki. Takoha was payment in cash to those Maori who, in the agents’ opinion, had an interest in the land prior to confiscation, or could most influence the delivery of quiet possession. Ngā Rauru consider the nineteenth-century use of this term to describe those Crown practices tarnishes the meaning of “takoha” and that the use of takoha to obtain land was improper.

Parihaka

42. In the 1860s a movement for Maori peace and independence was established at Parihaka in central Taranaki under the leadership of prophets Tohu Kakahi and Te Whiti o Rongomai. The permanent population of Parihaka consisted of Maori from throughout Taranaki and beyond, including Ngā Rauru.
43. In 1878, the confiscation in central Taranaki was widely perceived by Maori and some officials as having been abandoned by the Crown. Notwithstanding this, the Government began surveying the central Taranaki district in which the Parihaka block was located. When the survey neared Maori cultivations, Te Whiti and Tohu introduced a policy of passive resistance in response to the surveyors and the European settlers who followed. People at Parihaka removed survey pegs and undertook other forms of passive resistance. Ultimately this led to the surveyors leaving the area. Following the refusal of the Government to meet with Te Whiti to discuss the question of reserves, the prophets sent an “army” of ploughmen to plough settler land throughout Taranaki.
44. In 1880 the Government began building a road to Parihaka. When the road construction reached the Parihaka block in June 1880, the armed constabulary pulled down fences, exposing Maori crops to their horses and wandering stock. As the fences were broken, the prophets sent fencers to repair them. These passive resistance campaigns led to more than 420 “ploughmen” and 216 “fencers” from throughout Taranaki being arrested and imprisoned. Only 40 “ploughmen” received a trial. Special legislation was passed, first to defer the remainder of the trials, and then to dispense with them altogether.
45. Many prisoners, including people of Ngā Rauru, were held at the Government’s will in prisons in the South Island. Conditions were harsh and included hard labour. The detrimental impact of these conditions was compounded by the effects of ill-health and exile.
46. On 5 November 1881 more than 1,500 Crown troops, led by the Native Minister, invaded and occupied the settlement of Parihaka. No resistance was offered. Over the following days some 1,600 men, women and children not originally from Parihaka were forcibly expelled from the settlement and made to return to their previous homes. Houses and cultivations in the vicinity were systematically destroyed, and stock was driven away or killed. Looting also occurred during the occupation. Maori of Taranaki report that women were raped and otherwise molested by their attackers.
47. Special legislation was subsequently passed to restrict Maori gatherings. Throughout this period restrictions were also placed on Maori movement. Entry into Parihaka was regulated by a pass system. Six people were imprisoned and Te Whiti and Tohu were charged for sedition and held until 1883. Their trials were postponed and ultimately special legislation was passed to provide for their imprisonment without trial. This legislation also indemnified those who, in the action taken to “preserve the peace”, might have exceeded their legal powers.

48. Of the reserves that were promised to Taranaki Maori by the West Coast Commission some 5,000 acres were taken by the Crown as compensation for the costs of “suppressing the...Parihaka sedition”. The Sim Commission concluded in 1927 that the Crown was directly responsible for the destruction of houses and crops, and “morally if not legally” responsible for “the acts of the soldiers who were brought into Parihaka.” It recommended the payment of £300 as an acknowledgement, at least, of the wrong that was done to the people of Parihaka.

West Coast Commissions

49. The Crown appointed the West Coast Commission in January 1880 to inquire into promises made by the Crown to Maori in Taranaki concerning confiscated lands. The scope of the Commission’s inquiry and its consequent remedial actions were limited by the empowering legislation. The Commission was narrowly focused on the Compensation Court awards and specific Crown promises, and did not constitute an inquiry into the fairness of the confiscations and compensation process. One effect of this was to minimise the amount of land considered eligible for return to Maori and maximise the amount left for disposal to European settlers. In any event, at the time of these hearings, north and south Taranaki had already been substantially settled by European settlers. This meant that land was not available to provide for adequate reserves.
50. The Commission concluded that many promises had not been kept by the Crown. Among other things, it attributed all of the problems in south and central Taranaki to the Crown’s failure to establish reserves, noting that the Maori people involved “have never known what land they might call their own”. The Crown appointed a second Commission in December 1880 to implement the recommendations of the first. This Commission returned more than 200,000 acres of land to Taranaki Maori, approximately one fifth of which was in south Taranaki. Ngā Rauru shared this one-fifth with other south Taranaki iwi.
51. Virtually all of the Commission’s awards were returned to Maori as individual title, overriding the customary forms of land tenure, and providing no protection against future alienation. The second Commission was empowered to determine the owners and their shareholdings and to award land. It thus fulfilled the role of the Native Land Court, but without using the Court’s hearing procedures, and no appeal process was available to claimants.
52. The West Coast Commissions were not empowered to review whether Ngā Rauru had sufficient land or to assess their total land requirement. They could only look at what land remained and accordingly make awards. Having been exiled from their land since the late 1860s, and without permanent homes throughout the 1870s, Ngā Rauru therefore had no choice but to accept what was allocated to them. Reserves were intentionally located away from European settlements denying Maori access to the best land and what benefits those settlements brought. Many kainga, wahi tapu and in particular coastal mahinga kai sources were not included in the land awarded.

53. The second Commission recommended a system of management that placed the reserves under the control of the Public Trustee. A substantial portion of the land was leased to settlers subject to perpetual leases. This imposed system denied Ngā Rauru control over their lands and control of the income from their lands.
54. In Treaty terms the Crown was obliged in its transactions with Ngā Rauru to ensure the iwi were left with a sufficient endowment for their own needs, both present and future. This principle was clearly not applied in South Taranaki be it in the Crown's purchases, the Compensation Court's awards or the West Coast Commissions' awards.

Sim Commission

55. The Sim Commission of 1926 and 1927 was appointed to investigate confiscations under the New Zealand Settlements Act and subsequent legislation, but its terms of reference were limited. It was not to have regard to contentions that the New Zealand Parliament did not have the power to pass the confiscation legislation and that Maori "who denied the Sovereignty of Her Majesty and repudiated her authority could claim the benefit of the provisions of the Treaty of Waitangi."
56. The Sim Commission was to consider, among other things, whether in all the circumstances the confiscations exceeded in quantity what was "fair and just". When considering the value of any excess of confiscation, the Commission was required to consider the value of the land at the time of the confiscation and disregard any later_increments in value. Their terms of reference envisaged that cash compensation, not the return of land, would be recommended.
57. The Commission also investigated whether certain lands included in the confiscations should have been excluded for some special reason. It concluded that any general attempt to restore such places as canoe landing places, cemeteries and fishing grounds was by then out of the question and therefore made no recommendations in relation to these types of sites. The Commission had limited time and resources for its purpose and was unable to investigate in full several key issues. All evidence relating to land acreage was provided by the Crown.
58. The Commission found in Taranaki that every acre taken exceeded what was fair and just. "In the circumstances Taranaki Maori ought not to have been punished by the confiscation of any of their land." Its recommendations for an annuity of £5,000 for all the Taranaki confiscations and a single payment of £300 for the loss of property at Parihaka were not discussed with the iwi concerned and were never accepted as adequate. The timing of the payment of the annuity was uncertain and in the early 1930s partial sums only were paid.

59. The Taranaki Maori Claims Settlement Act 1944 states that the sums are a full settlement of claims relating to the confiscations and Parihaka. There is no evidence that Ngā Rauru or other iwi of Taranaki agreed to this. Neither these nor the previous annuities were inflation indexed and this subsequently became an issue. The Taranaki Maori Trust Board was created by the Crown to receive the annuity, rather than it being paid directly to iwi and hapu.

Remaining Lands

60. The reserves made by the West Coast Commission did not revert to Maori to do with as they pleased. Rather, they were vested in the Public Trustee to be administered under the West Coast Settlement Reserves Act 1881. The Public Trustee had full power to sell the alienable reserves and lease the inalienable ones under terms imposed by statute. Much of the land under the Public Trustee's administration was leased without the consent of the owners.
61. The West Coast Settlement Reserves Act 1892 vested all the reserves in the Public Trustee in trust for the Maori owners. As a result Maori lost their legal ownership. The Act provided for perpetually renewable 21-year leases with rent based on the unimproved value of the land. Leases previously granted by the Public Trustee at variance with the terms of their Crown grants were validated, as were earlier reductions in rent. Maori beneficial owners were effectively excluded from taking up perpetual leases from the Public Trustee under that Act. Although an 1893 amendment provided for it, statistics from 1912 indicated that, at that time, no perpetual leases had been granted to Maori.
62. The operation of the Maori perpetual lease regime was criticised in twelve inquiries from 1890 to 1975. The 1912 Commission, for example, found that two facts stood out in respect of the legislation: "The first is that every legislative measure has been in favour of the lessees and the second, that on no occasion has the Native owner been consulted in reference to any fresh legislation". In 1935, following a Supreme Court decision in favour of the Maori beneficial owners, the definition of improvements was amended by law leading to a reduction in the rents Maori would otherwise have received and nullifying the effect of the Court decision. The Maori Reserved Land Act 1955 continued the system of perpetual leases, empowering the Maori Trustee to convert any outstanding fixed term leases to leases in perpetuity and to purchase land for on-sale to lessees.
63. Titles were amalgamated in 1963. Beneficial owners no longer had a specific interest in their customary land but an interest in reserves throughout Taranaki. A 1967 amendment to the Maori Reserved Land Act 1955 provided for the Maori Trustee to sell lands to lessees, provided a proportion of the aggregated beneficial owners agreed. The consent of former owners in the block to the sale was not required. By 1974, 63.5 percent of reserved land originally vested in the Public Trustee had been sold and a further 26 percent was under perpetual lease. Portions of some of the original settlement reserves had also been taken for public works.

64. The Paraninihi ki Waitotara Incorporation was formed in 1976 to administer perpetually leased lands transferred from the Maori Trustee. This arose from the recommendations of the 1975 Commission of Inquiry into Maori reserved land. Among other things, the Commission recommended more frequent rent reviews. Owners held shares in the Incorporation. Ngā Rauru iwi and hapū did not gain control of the reserves nor could they exercise Ngā Raurutanga over the reserves in their rohe.
65. Today less than 5 percent of the reserved land in Taranaki is owned as Maori freehold land. Over time, the returns to individuals have generally diminished, as succession caused their interests to fragment. Where no successor existed, individual interests were extinguished and the associated benefits vested in the Maori Trustee.
66. Remaining land owned by Ngā Rauru other than interests in the West Coast Reserves continued to fragment and be alienated. It was also subject to being compulsorily acquired under successive public works legislation.
67. Ngā Rauru consider that their interests have been detrimentally affected by a succession of pieces of legislation (muru) that, amongst others, have included the New Zealand Settlements Act 1863, the Native Lands Act 1862, the Suppression of Rebellion Act 1863, the Maori Prisoners' Trials Act 1880, the West Coast Settlement Reserves Act 1863 and the Maori Reserved Land Act 1955.

Twentieth Century

68. Ngā Rauru claims lodged with the Waitangi Tribunal under the Treaty of Waitangi Act 1975 derive from Crown actions in the nineteenth and twentieth century and relate not only to land but to the effects of legislation and policies on all aspects of Ngā Raurutanga. Ngā Rauru believe that the six strands of Ngā Raurutanga have been prejudicially affected by Crown acts and omissions in the twentieth century that have denied the iwi the individual and collective benefits envisaged by the Treaty. As a result, Ngā Rauru believe that their traditional spiritual practices, cultural knowledge and ability to practice kaitiakitanga over all the taonga in the Ngā Rauru rohe have further diminished in the twentieth century. Ngā Rauru also believe that in relation to the health and education of Ngā Rauru people, Crown policies failed to deliver equitable outcomes when compared with other New Zealanders. And the Crown's failure to recognise te reo Maori as a national language and taonga contributed to its decline and made it difficult to learn and use the language. These are the grievances that have been recorded and pursued by Ngā Rauru claimants to the Waitangi Tribunal for which Ngā Rauru have sought recognition and resolution from the Crown.

Crown Acknowledgements for the Agreement in Principle between Ngā Rauru and the Crown

1. The Crown acknowledges that the cumulative effect of its breaches of the Treaty of Waitangi outlined below has contributed to the dismantling of Ngā Raurutanga, and the loss of Ngā Rauru land, language, and social structures. This has affected the economic capacity, and physical, cultural and spiritual well-being of Ngā Rauru throughout the nineteenth and twentieth centuries. The Crown acknowledges that it has failed to adequately recognise and respect Ngā Raurutanga in breach of its obligations guaranteeing Ngā Rauru the exercise of rangatiratanga under Article Two of the Treaty of Waitangi.
2. The Crown acknowledges that:
 - 2.1 Crown purchasing, such as the Waitotara purchase, commenced in 1859, created tensions that contributed to the continuation of the Taranaki wars in which Ngā Rauru participated; the continuation of the Waitotara purchase during a time of war was not appropriate and exacerbated divisions within Ngā Rauru; and
 - 2.2 because of the circumstances prevailing in Taranaki between 1859 and 1863 elements of the Waitotara purchase constituted a breach of Treaty of Waitangi and its principles.
3. The Crown acknowledges that:
 - 3.1 Ngā Rauru suffered loss of life during the wars, including the lives of unarmed children killed at Handley's woolshed in an unprovoked attack;
 - 3.2 Ngā Rauru suffered the destruction of their homes, property, cultivations and taonga at the Crown's hands during the wars and as a result of the Crown's scorched earth policy in South Taranaki;
 - 3.2 during the wars those Ngā Rauru who were driven off their lands had to rely on the goodwill of other iwi for refuge. Ngā Rauru were forced into exile from their rohe and rendered homeless from 1869 until 1873 and remained without permanent homes until they received the reserves to which they were entitled after the West Coast Commissions of Inquiry in 1880 and 1881;
 - 3.4 its treatment of Ngā Rauru imprisoned during the wars of 1865 and 1869 such as those at Weraroa, and Parihaka resulted in hardships for those imprisoned and their whanau and hapū;
 - 3.5 the treatment of those imprisoned and exiled as a result of the passive resistance campaign from 1879 to 1880 deprived them of basic human rights and inflicted unwarranted hardships on them and their whanau and hapu; and

3.6 the wars constituted an injustice and were in breach of the Treaty of Waitangi and its principles.

4. The Crown acknowledges that:

4.1 the confiscations were indiscriminate in extent and application;

4.2 it acted unfairly in labelling some Ngā Rauru as rebels which had detrimental consequences for the whole iwi whose lands were confiscated as a result;

4.3 as a result of the confiscations in 1865 Ngā Rauru were dispossessed of land and resources and unable to exercise Ngā Raurutanga over them, which had a devastating effect on the economic development, and the social and cultural wellbeing of Ngā Rauru; and

4.4 the confiscations were unjust and a breach of the Treaty of Waitangi and its principles.

5. The Crown acknowledges that:

5.1 the prejudicial effect of the confiscations was compounded by the inadequacies in the Compensation Court process by which reserves were to be granted to Ngā Rauru;

5.2 delays in the implementation of the Compensation Court awards and systematic Crown acquisition of Ngā Rauru interests meant that ultimately Ngā Rauru received only 3,000 of the 17,000 acres granted to them by the Compensation Court; and

5.3 when finally returned, Ngā Rauru customary title to these lands had been compulsorily extinguished by the Crown, and this was a breach of the Treaty of Waitangi and its principles.

6. The Crown acknowledges that:

6.1 the West Coast Commissions were inadequate in their scope and did not address the injustices perpetrated by the confiscations;

6.2 the reserves formalised by the Commissions were not sufficient for the ongoing needs of Ngā Rauru within the confiscation boundary; and

- 6.3 the cumulative effect of its actions with respect to the West Coast Settlement Reserves, including the imposition of a regime of perpetually renewable leases and the sale of land by the Public and Maori Trustees in the twentieth century:
 - 6.3.1 have ultimately deprived Ngā Rauru hapū of the control and ownership of the minimal lands set aside for them; and
 - 6.3.2 were in breach of the Treaty of Waitangi and its principles.
- 7. The Crown acknowledges that:
 - 7.1 some Crown policies relating to Māori land have had a prejudicial effect on those Ngā Rauru who wished to retain their lands and diminished their ability to exercise Ngā Raurutanga over that land;
 - 7.2 the town of Waverley, the Nukumarū Domain, the vast scenic reserves, and other tracts of land now making up the conservation estate, were once under the care of Ngā Rauru as kaitiaki;
 - 7.3 the people of Taranaki and New Zealand generally have benefited from the lands and other resources confiscated and otherwise alienated from Ngā Rauru while the cumulative effect of the Crown's actions has been to leave Ngā Rauru virtually landless; and
 - 7.4 it has failed to ensure that sufficient land was retained by Ngā Rauru for their present and future needs and this failure was a breach of the Treaty of Waitangi and its principles.
- 8. The Crown acknowledges that Ngā Rauru have pursued grievances that relate to Crown action in the nineteenth and twentieth centuries in addition to those grievances the Crown acknowledges are in breach of the Treaty of Waitangi and its principles. Ngā Rauru have sought redress for their grievances for the last 150 years and despite efforts made in the twentieth century, the Crown has failed to deal with the grievances of Ngā Rauru and its breaches of the Treaty of Waitangi and its principles in an appropriate way. The recognition of these grievances and breaches is long overdue. The sense of grief and loss suffered by Ngā Rauru remains today.