

**NGĀTI WHĀTUA IWI
and
THE CROWN**

KAIPARA MOANA FRAMEWORK AGREEMENT

18 August 2014

Introduction

1. This document is a Framework Agreement between the Ngāti Whātua iwi and the Crown.

Background

2. Ngāti Whātua iwi include the groups of Te Roroa, Te Uri o Hau, Ngā Maunga Whakahī and Ngāti Whātua Ōrākei and their constituent hapū and whānau. All Ngāti Whātua descend from the tupuna Haumoewarāngi.
3. The Ngāti Whātua rohe is expressed as Tāmaki ki Maunganui i te Tai Hauāuru and Tāmaki ki Manāia i te Rāwhiti. The northern boundary is expressed as Manāia titiro ki Whatitiri, Whatitiri titiro ki Tūtamoe, Tūtamoe titiro ki Maunganui. The Southern boundary is expressed as Te Awa o Tāmaki. The area runs from the Tāmaki River in the South to Maunganui on the West Coast in the North and to Whangarei Harbour on the East Coast.
4. While most of the Ngāti Whātua historical claims have been settled through the four existing Ngāti Whātua iwi deeds of settlement (Te Uri o Hau, Te Roroa, Ngāti Whātua o Kaipara and Ngāti Whātua o Ōrākei), the remaining Ngāti Whātua historical Treaty claims and redress over Kaipara Moana are yet to be finalised.
5. The Ngāti Whātua o Kaipara Deed of Settlement (DOS) set aside the issue of cultural redress in relation to Kaipara Moana to be dealt with at a future time. This was due to the need to engage with wider iwi and hapū groups who share interests in the Kaipara Moana and a desire to allow the Auckland City reorganisation and the foreshore and seabed reforms to 'bed in' first.
6. Te Uri o Hau Deed of Settlement acknowledges the special association Te Uri o Hau has with coastal areas through a statutory acknowledgment over the Kaipara Moana and its tributaries. Te Uri o Hau has also lodged an application under the Marine & Coastal Area (Takutai Moana) Act 2011 for customary marine title and protected customary rights through a recognition agreement with the Crown.
7. Ngāti Whātua o Ōrākei and Te Roroa settlements include reference to hapū associations with the Kaipara Moana. Ngāti Whātua Ōrākei had occupied much of the Tāmaki Isthmus and southern margins of the Kaipara Moana. Te Roroa had occupied the rich river valleys of Waimamaku, Waipoua, and Kaihū, as well as other contiguous lands between the Hokianga harbour and Kaipara Moana.

Kaipara Moana

8. Kaipara Moana is of great traditional, cultural, historical, and spiritual importance to all Ngāti Whātua iwi. This framework agreement sets out the basis for provision of cultural redress in relation to Kaipara Moana.

9. Tāporapora was a promontory directly opposite the entrance to Kaipara Moana. Toko-o-te-Rangi was the son of Kauea and grandson of Toi-Kai-Rākau, who led an early immigration to the region. Subsequently the tupuna Rongomai, captain of the Māhūhū-ki-te-rangi waka, came to Tāporapora, and he and his followers took wives from among the people they found there. All of Ngāti Whātua are connected to the Māhūhū-ki-te-rangi and Tāporapora has added significance because this was the waka tauranga site.
10. At that time Tāporapora was an extensive area of dry land, extending from the entrance of Kaipara Moana to near the mouth of the Ōruawharo River. The land was covered in lakes and kūmara cultivations, and supported a large population. What remains of Tāporapora is located on the tip of the Ōkahukura Peninsula.
11. Kaipara Moana is the largest harbour in the southern hemisphere. Historically, it has been an important resource to Ngāti Whātua and surrounding communities, and will continue to be so long into the future.
12. Various local authorities have been responsible for Kaipara Moana. Before the establishment in 2010 of the Auckland Council, the Northland Regional Council, Kaipara District Council, Rodney District Council and Auckland Regional Council all had responsibilities in respect of Kaipara Moana according to their respective territorial boundaries. Following the amalgamation of Auckland Council the relevant local authorities are Northland Regional Council, Kaipara District Council and Auckland Council. Ngāti Whātua wish to establish one body to provide for the consolidated, integrated and holistic governance of Kaipara Moana. Ngāti Whātua iwi seek increased involvement in planning and decision making processes affecting the Kaipara Moana and Ngāti Whātua iwi and to improve the mauri and health of the Moana.
13. Restoring and protecting the mauri of the Kaipara, and improving the environmental health of Kaipara Moana, is of utmost importance to Ngāti Whātua. In 2005 Ngā Kaitiaki Tai Ao o Kaipara and Te Uri o Hau Settlement Trust tribal elders with other Ngāti Whātua led the establishment of the Integrated Kaipara Harbour Management Group, comprising representatives from key Crown agencies, community and regional council. The purpose of the group was to promote integrated and co-ordinated interagency management and kaitiakitanga of the Kaipara Moana and its catchment. The Integrated Kaipara Harbour Management Group combines two approaches to achieve a common vision to environmental management of Kaipara Moana: one indigenous (Mātauranga Māori) and the other derived from western knowledge. Ngāti Whātua support the Integrated Kaipara Harbour Management Group and do not seek to replace its role arising from these negotiations.

Statement of Ngāti Whātua values

Kaipara Moana

14. Ngāti Whātua make the following statement of their values associated with Kaipara Moana:

E kore e mōnehunehu te pūmahara ki ngā whēinga o neherā nā rātou nei i toro te nukuroa o Te Moana-nui-ā-Kiwa o Te Moana Tāpokopoko ā Tāwhaki me Papa-horo-nuku. Ko a rātou tapuwae kua kākahutia ki te kiri o Papa-tū-ā-nuku e hora nei – Kaipara Moana he tawhiti he manatunga he taonga he tapu...he ngaru nui mā te tauihu o te waka e wāwāhi...

- ❖ Kaipara Moana is ancient, a bastion of nature, alive with history of days of eras past; its bounty is its inherent beauty; it's waters, beaches, banks, streams and seabed, and all the minerals below the water; and all the minerals above the water. Kaipara Moana is taonga.
- ❖ Kaipara Moana is a place of spiritual value, a space with its own mauri and identity imbued with a mana of its own.
- ❖ Kaipara Moana brands itself, inspiring its people to commit to its care. Kaipara Moana with its mauri represents the essence that binds the physical and spiritual elements of all things together, generating and upholding all life and well-being.

Kaipara Moana and Ngāti Whātua

- ❖ Kaipara Moana he tino taonga tēnei kia Ngāti Whātua.
- ❖ For Ngāti Whātua, Kaipara Moana is the 'processing data-centre' the heart of their ūkaipō, their locale of origin their homeland.
- ❖ Kaipara Moana gives meaning to Ngāti Whātua as a being, indigenous ethnicity, culture, language, customs, and identity.
- ❖ The well-being of Kaipara Moana is intrinsically linked with the well-being of Ngāti Whātua.
- ❖ Kaipara Moana is known as the food bowl of Ngāti Whātua who have a divine responsibility to uphold the cultural heritage and tikanga of Ngāti Whātua that is embodied in the ethics of kaitiakitanga.
- ❖ Mauri is the critical element of the spiritual relationship of Ngāti Whātua with Kaipara Moana.
- ❖ In that space, in that place, Ngāti Whātua holds mana whenua / mana moana and upholds the sacred obligations as kaitiaki of Kaipara Moana.

Kaipara Moana and all New Zealanders

- ❖ Kaipara Moana is prized by many for the acknowledged special associations as well as the customary interests within.
- ❖ Kaipara Moana is prized by New Zealanders as a place of outstanding national value and intrinsic worth.
- ❖ Kaipara Moana is respected for its natural value as an estuarine ecosystem containing some of the rarest ecosystems in New Zealand including sand dune, sea grass, freshwater and estuarine wetland ecosystems.
- ❖ Kaipara Moana provides for fishing, shellfish gathering, swimming, diving and exploring to all New Zealanders. It is recognised for its cultural, commercial and recreational fisheries resources.

Acknowledgements

15. The Crown acknowledges:

- a. the very strong associations of Ngāti Whātua iwi with Kaipara Moana;
- b. the responsibilities and rights of Ngāti Whātua as kaitiaki;
- c. Ngāti Whātua iwi have outstanding historical Treaty claims relating to the Kaipara Moana;
- d. the Ngāti Whātua aspiration for more effective participation in decision-making processes affecting the Kaipara Moana, and to protect and enhance the environmental well-being and cultural integrity of the Kaipara Moana;
- e. the benefits that will result from the involvement of Ngāti Whātua in decision-making processes on Kaipara Moana including assistance in promoting a more integrated approach to the management of the Kaipara Moana, bringing important perspectives of iwi with mana moana to the table and empowering Ngāti Whātua to carry out their role as kaitiaki;
- f. the roles and responsibilities of local authorities; and
- g. the interests of people and communities in the Kaipara Moana.

16. Ngāti Whātua and the Crown acknowledge the rights of the public to access, use, navigate, fish and otherwise enjoy the Kaipara Moana.

17. The Crown and Ngāti Whātua wish to protect and enhance the environmental and cultural integrity of Kaipara Moana.

Overview

18. This Framework Agreement:
 - a. represents the commitment of Ngāti Whātua and the Crown to progress the development of an agreed arrangement in respect of Kaipara Moana;
 - b. acknowledges Ngāti Whātua aspirations to have influence and involvement in the management of Kaipara Moana;
 - c. records the intentions of the Crown and Ngāti Whātua to establish a Kaipara Moana body through legislation to provide for the involvement of Ngāti Whātua in decisions on the Kaipara Moana;
 - d. is entered into on a without prejudice basis;
 - e. is non-binding and does not create a legal relationship; and
 - f. cannot be used as evidence in any proceedings before, or presented to, the courts, the Waitangi Tribunal or any other judicial body (except as agreed between the parties).
19. The Crown and Ngāti Whātua agree further negotiations will take place following the signing of this Framework Agreement to finalise the Kaipara Moana redress.

Membership of the Kaipara Moana body

20. The Kaipara Moana body will have equal Local Authority and Ngāti Whātua iwi membership.
21. Membership will include:
 - a. Te Rūnanga o Ngāti Whātua;
 - b. Te Uri o Hau;
 - c. Te Roroa;
 - d. Ngāti Whātua o Kaipara;
 - e. Ngāti Whātua o Ōrākei;
 - f. Auckland Council;
 - g. Northland Regional Council; and
 - h. Kaipara District Council.
22. Precise details of representation will be determined following the signing of this Framework Agreement.

23. Representatives from the Department of Conservation, the Ministry for Primary Industries, and other agencies may be invited to attend as non-voting members.

Scope of the Kaipara Moana body

24. The proposed area and activities of interest for the Kaipara Moana body comprise:

a. The following parts of the coastal marine area:

- i. within the line across the mouth of the Kaipara Moana; and
- ii. an area composing the waters of the Kaipara Moana of the north and south channels of the harbour that discharge to the Tasman;

b. Any agreed parts of the rivers flowing into the Kaipara Moana; and

c. The coastal environment of Kaipara Moana, where the seaward boundary is described by clause 24a above, including:

- i. the coastal marine area;
- ii. any areas identified as being affected by, or potentially affected by, coastal flooding or coastal erosion; and

iii. any of the following:

1. tidal waters and the land above mean high water springs;
2. dunes;
3. beaches;
4. areas of coastal vegetation and coastal associated fauna;
5. coastal cliffs;
6. salt marshes; and
7. coastal wetlands, including estuaries.

25. The detail of the scope of the Kaipara Moana body will be subject to further discussion and agreement and will be developed further following the signing of this Framework Agreement.

Purpose

26. The purpose of the Kaipara Moana body is to contribute to protecting, restoring and enhancing the environmental well-being and cultural integrity of Kaipara Moana for present and future generations of Ngāti Whātua and all New Zealanders.

27. In achieving the purpose the Kaipara Moana body will have particular regard to:
- a. the relationship of Ngāti Whātua iwi with Kaipara Moana; and
 - b. the social and economic well-being of people and communities.

Functions

28. The principal function of the Kaipara Moana body is to achieve its purpose.
29. Specific functions of the Kaipara Moana body will include to:
- a. prepare and approve a Kaipara Moana Strategic Document setting out the issues, vision, objectives and outcomes for the Kaipara Moana;
 - b. recommend actions to protect, restore and enhance the environmental well-being and cultural integrity of the Kaipara Moana;
 - c. monitor the implementation and effectiveness of the Kaipara Moana document;
 - d. monitor the state of the Kaipara Moana, including activities in and affecting the Kaipara Moana;
 - e. monitor the extent to which the purpose of the entity is being achieved;
 - f. work with local authorities and Crown agencies that exercise functions in relation to the Kaipara Moana;
 - g. engage with iwi in relation to their interests with the Kaipara Moana;
 - h. gather information, disseminate information, and hold meetings;
 - i. engage with, seek advice from and provide advice to councils and other agencies with responsibilities for the Kaipara Moana;
 - j. provide guidance or recommendations to relevant [local authorities or agencies] regarding potential projects, initiatives, action or research aimed at the restoration, protection, and enhancement of the health and well-being of the Kaipara Moana;
 - k. display leadership and undertake advocacy in relation to the Kaipara Moana; and
 - l. facilitate collaboration that encourages the participation of interested persons and organisations as appropriate.
30. Other functions will be agreed between the Crown and Ngāti Whātua iwi following the signing of this Framework Agreement.

Statutory Acknowledgements

31. The Crown and Ngāti Whātua iwi agree to further discuss the scope of statutory acknowledgements relating to Kaipara Moana following the signing of this Framework Agreement.

Funding

32. The Crown and Ngāti Whātua agree that the nature and source of any funding to support these Kaipara Moana arrangements will require further discussion and agreement following the signing of this Framework Agreement.

Overlapping interests

33. The Crown and Ngāti Whātua agree that any overlapping claim issues over the Kaipara Moana will need to be addressed to the satisfaction of the Crown before a Deed of Settlement can be concluded.

Hearing commissioners

34. The Crown and Ngāti Whātua agree to develop a mechanism, in conjunction with local authorities, to ensure greater involvement of iwi in the selection of hearing commissioners following the signing of this Framework Agreement.

Further matters to be agreed following the signing of this Framework Agreement

35. Further discussion will be required to agree:
 - a. details in relation to its procedures including chairing, standing orders, meetings, decision-making, reporting, review and administrative support;
 - b. consultation, and where appropriate, agreement with the relevant local authorities; and
 - c. other matters which may arise in connection with Ngāti Whātua's aspirations and relationship with Kaipara Moana.

Ngāti Whātua Aspirations

36. Ngāti Whātua also seek through these negotiations to secure:
 - a. mechanisms to:
 - i. increase involvement in consultation on resource consent applications affecting the Kaipara Moana; and
 - ii. share responsibility for the management of the Kaipara Moana,
 - b. funding towards the restoration of the Kaipara Moana.

Rights unaffected

37. The Kaipara Moana Framework Agreement arrangements set out in this document do not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to the land and water over which the Kaipara Moana body exercises its functions, including rights under the Marine and Coastal Area (Takutai Moana) Act 2011. These arrangements do not invalidate provisions included in the Marine and Coastal Area (Takutai Moana) Act 2011 and do not affect: the right of iwi, hapū or whānau to apply for the recognition of customary interests (including customary marine title (CMT) and protected customary rights (PCR)) under the Marine and Coastal Area (Takutai Moana) Act 2011 and to exercise rights under that Act (including those that take effect when customary rights are recognised).

Kaipara Moana Strategic Document

Purpose and scope

1. The Kaipara Moana body will prepare, consult on, and approve a Strategic Document for the Kaipara Moana (**Kaipara Moana Strategic Document**).
2. The purposes of the Kaipara Moana Strategic Document are to:
 - a. identify the vision, objectives, recommended actions and outcomes for Kaipara Moana;
 - b. protect and enhance the environmental, economic, social well-being and cultural integrity of the Kaipara Moana for present and future generations;
 - c. provide guidance to decision makers in relation to Kaipara Moana; and
 - d. identify the significant issues (including issues likely to impact on the Moana arising from activities in the catchment of the Moana) for the Kaipara Moana.

Preparation of the Kaipara Moana Strategic Document

3. In preparing the Kaipara Moana Strategic Document the Kaipara Moana body must review any plan prepared by the Integrated Kaipara Harbour Management Group and consider whether relevant aspects of its content may be incorporated into the first Kaipara Moana Strategic Document.

Further matters to be agreed following the signing of this Framework Agreement

4. The Kaipara Moana Strategic Document will require further:
 - a. details in relation to procedures for the preparation, approval and review of the Kaipara Moana Strategic Document to be developed by the parties including how the public will be involved; and
 - b. consultation, and where possible, agreement with the relevant local authorities.
5. The Crown and Ngāti Whātua agree that the settlement legislation for Kaipara Moana will require decision makers developing or amending certain statutory plans with application to the Kaipara Moana to give a level of legal weighting to the Kaipara Moana Strategic Document.
6. The statutory plans affected by the Kaipara Moana Strategic Document and the level of legal weighting will be agreed between the Crown and Ngāti Whātua following the signing of this Framework Agreement.

SIGNED this day 18th day of August 2014

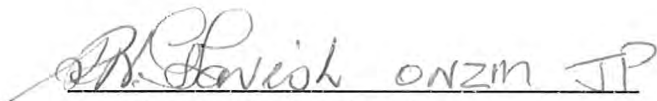
For and on behalf of the Crown:



Hon Christopher Finlayson
Minister for Treaty of Waitangi Negotiations

For and on behalf of Ngāti Whātua:

For and on behalf of Te Rūnanga o Ngāti Whātua:



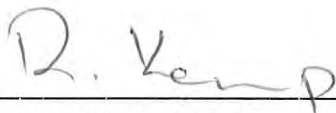
Rangimarie Naida Glavish

For and on behalf of Te Roroa:



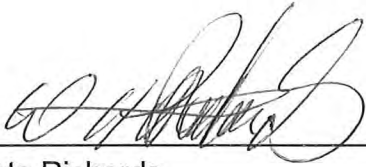
Diane Sanderson

For and on behalf of Te Uri o Hau:



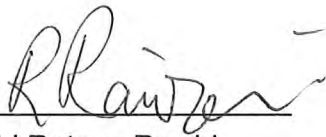
Russell Rata Kemp

For and on behalf of Ngā Maunga Whakakii:



Waata Richards

For and on behalf of Ngāti Whātua ō Ōrakei:



Rangimarie Ote Haahi Ratana Rawiri

