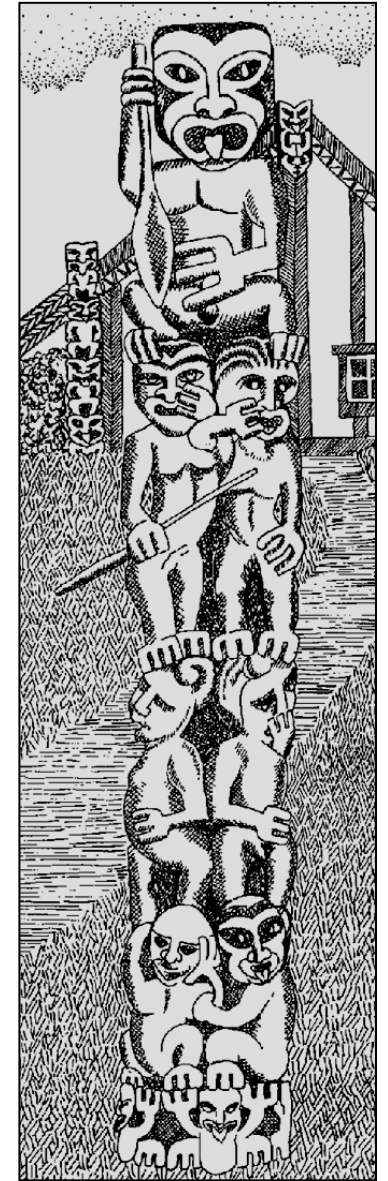


2 Treaty of Waitangi



Two versions of the Treaty of Waitangi exist, the English version that is commonly thought to be the only version and the Maori version.

Maori Version of the Treaty

Ko te tuatahi

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.

Ko te tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga Hapu ki nga tangata katoa o Nui Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era waahi 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.

Ko te tuatoru

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini. Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nui Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

A Literal English Translation Of The Maori Text (NZ Court of Appeal, 29 June 1987, credited to Professor I H Kawharu)

The First

The Chiefs of the Confederation and all the chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government over their land.

The Second

The Queen of England agrees to protect the chiefs, subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures. But on the other hand the Chiefs of the Confederation and all the chiefs will sell land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

The Third

For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties of citizenship as the people of England.

Maori Text version signed by 512 Chiefs and by William Hobson, Consul and Lieutenant Governor.

English version**Article The First**

The chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess or may be supposed to exercise or to possess over their respective Territories as the sole sovereigns thereof.

Article The Second

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession: but the Chiefs of the United Tribes and the individual Chiefs yield to her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article The Third

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her Royal protection and imparts to them all the rights and Privileges of British Subjects.

English Text version signed by 30 Chiefs and by William Hobson, Consul and Lieutenant Governor.

Kai Tahu Whanui Perspective

(Supplied by Roopu Kaitiaki)

Foundation Document

The Treaty of Waitangi is the foundation document of New Zealand society, the basis on which the partnership between Maori and the Crown was established.

The Kai Tahu rangatira Karetai and Korako signed the Treaty on behalf of the Otago section of the tribe at Pukekura (Tairaroa Heads) on 13 June 1840. The Treaty was also signed at three other locations in Te Waipounamu by Kai Tahu; at Akaroa, Ruapuke and Cloudy Bay.

Kai Tahu considered that the Treaty bound the whole tribe of Kai Tahu irrevocably to an agreement which imposed responsibilities on both signatories, the Crown and Kai Tahu alike.

Kai Tahu Treaty Principle

Although the principles of the Treaty of Waitangi are being determined by the judiciary, the Waitangi Tribunal and the Government, Kai Tahu offer their own Treaty of Waitangi principle left to them by their ancestors:

This was the command that thy love laid upon these Governors-

- That the law be made as one
- That the commandments be made one
- That the nation be made one
- That the white skin be made one and that it be made just equal with the dark skin.....
- And that all might enjoy a peaceable life.
(Petition to the Queen prepared by Matiaha Tiramorehu and the Otago Chiefs, 23 September 1857, when Kai Tahu were pressing the Crown to honour the terms of Kemp's Deed).

More recently a Kai Tahu elder has expressed the principles of the Treaty as:

Article One “Kawanatanga” or “governorship”, meaning the Crown’s responsibility to make just laws and govern by them and the citizens duty to abide by them.

Article Two “Rangatiratanga” or “chieftainship”, meaning the guarantee of Maori property rights, Maori ownership and control of their own economic resources.

Article Three “Kotahitanga” or “one-ness”, meaning equal rights for all, economic as well as political.

(Rakiihia Tau, Tuahiwi Marae)

Runanga System

The signing of the Treaty of Waitangi saw the abandonment of the old aristocratic Maori tribal system in favour of a community of equals, a change encouraged also by the missionaries. This adjustment in the interests of equality required by the Treaty is today expressed in the runanga system of community organisation. This reflects the commitment and spirit with which Kai Tahu entered into the new order.

Kai Tahu Loyalty

The succeeding generations of Kai Tahu pledged their loyalty to the Treaty and the original commitment their rangatira made to it. The headstones of Chiefs Karetai and Taiaroa at the Otakou urupa bear inscriptions which are witness of their loyalty to the Queen.

The church at the Otakou marae was built in 1940 as a Centennial Memorial to two events, the signing of the Treaty of Waitangi and the establishment of the first christian mission at Waikouaiti, both of which occurred in 1840.

The Crown

The Crown has exercised its rights of governorship under Article One since the Treaty was signed in 1840. But the non observance of Kai Tahu rights under Article One and Two of the Treaty since the 1840s form the essence of the Kai Tahu ‘claim’ before the Waitangi Tribunal.

The Kai Tahu Claim before the Waitangi Tribunal

The Waitangi Tribunal conducted hearings held throughout the South Island over a two and a-quarter year period, 17 August 1987 to 10 October 1989. The efforts of the claimants, the Crown and the Tribunal’s research teams has resulted in a priceless database with detail on every facet of the ‘claim’. The tribunal produced a 1254 page report on the findings of the “nine tall trees” and a separate report on the fisheries section of the claim. In 1995 a report by the Waitangi Tribunal on the non tribal element of the ‘claim’ was produced, this is known as the ‘Ancillaries Report’.

Quoted from Volume one, page 174 of the Waitangi Tribunal Report in reference to one segment of the Kai Tahu claim “The predominant theme that constantly arises in the findings of the tribunal and indeed almost as constantly conceded by the Crown, is the failure of the Crown to ensure Kai Tahu were left with ample land for their present and future needs”.

Settlement

The Crown and Kai Tahu concluded negotiations to settle the historic Kai Tahu 'claim' with the signing of a Deed of Settlement at Kaikoura on the 21st November 1997.

Partnership

Kai Tahu embrace the ethic of partnership. The principle of sharing is central to Maori sentiment. Kai Tahu recognise the need to work with the wider community to ensure a positive future for all people. Kai Tahu are the Crown's Treaty partner and as such have a special status. The concept of partnership is fundamental to the compact or accord embodied in the Treaty of Waitangi. Inherent in it is the notion of reciprocity. The Treaty implies a partnership, exercised with the utmost good faith. The test for regional and territorial authorities is how they develop an effective partnership with Kai Tahu. The authorities might like to consider some of the Waitangi Tribunal's statements on equitable partnership.

Partnership - The Otago Regional Council View

Every person or body exercising functions or powers under the Resource Management Act in relation to managing the use, development and protection of natural and physical resources shall take into account the principles of the Treaty of Waitangi (section 8 of the Resource Management Act). In identifying the principles to be taken into account the Council will be bound by legal decisions and particularly notes the three principles set out by the Court of Appeal in *Court of Appeal v Attorney General 1987 CA 54/87*:

- (i) The principle of partnership.

- (ii) The principle of active protection of Maori people in the use of their lands and waters to the fullest extent practicable.
- (iii) The principle of utmost good faith in dealings with the other Treaty partner.

The Council will also take into account the perspective of Kai Tahu Whanui in relation to the principles of the Treaty.

In taking account of those principles, there are two broad elements to the partnership requirements to be considered.

The first is related to the **ownership** of the region's natural and physical resources. Ownership issues relating to any of Otago's resources can only be resolved through consultation between the treaty partners - the Crown and Kai Tahu. This Regional Policy Statement cannot consider ownership issues.

The second element is one of partnership over the **management** of the region's natural and physical resources. In taking account of the principles of the Treaty, it is appropriate that this Regional Policy Statement outline how local authorities can recognise and provide for partnership with Kai Tahu relating to the management of the region's resources.

