

Submission to the Māori Affairs Committee

In the matter of the *Ngāti Tamaoho Claims Settlement Bill*

Auckland Council, [XX] July 2017



Auckland Council

Te Kaunihera o Tāmaki Makaurau



Mihimihi

Ka mihi ake ai ki ngā maunga here kōrero,
ki ngā pari whakarongo tai,
ki ngā awa tuku kiri o ōna manawhenua,
ōna mana ā-iwi taketake mai, tauiwi atu.
Tāmaki – makau a te rau, murau a te tini,
wenerau a te mano.
Kāhore tō rite i te ao.

I greet the mountains, repository of
all that has been said of this place,
there I greet the cliffs that have
heard the ebb and flow of the tides
of time,
and the rivers that cleansed the
forebears of all who came those
born of this land
and the newcomers among us all.
Auckland – beloved of hundreds,
famed among the multitude, envy
of thousands.
You are unique in the world.

Title: Ngāti Tamaoho Claims Settlement Bill

This submission is from Auckland Council. It submits on the *Ngāti Tamaoho Claims Settlement Bill* ('the Bill') to the Māori Affairs Committee ('the Committee').

The submission represents the views of Auckland Council and has been approved by the Governing Body.

Auckland Council does not wish to appear before the Committee.

1. Executive Summary

- 1.1. Auckland Council ('the council') supports the Bill and acknowledges the importance of this Treaty settlement to Ngāti Tamaoho and the people of Auckland.
- 1.2. The council supports an amendment to clause 52 of the Bill to clarify the administrative processes the council must follow relating to granting of interests in land, or interests that are not an interest in land for the Hūnua Falls property.

2. Background

- 2.1. The Ngāti Tamaoho deed of settlement is an agreement between Ngāti Tamaoho and the Crown which settles the unsettled historical grievances of Ngāti Tamaoho and provides settlement redress. The settlement is given effect to through the Ngāti Tamaoho Claims Settlement Bill.
- 2.2. Ngāti Tamaoho is an iwi in the Auckland Council area. Auckland Council welcomes the settlement of the historical grievances of Ngāti Tamaoho and looks forward to continuing its relationship with Ngāti Tamaoho when the settlement process is completed.
- 2.3. Ngāti Tamaoho is party to Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014. Ngāti Tamaoho therefore receives settlement redress over maunga and motu in the Tāmaki region and participates, as a member of the Waiohūa Tāmaki Ropu, in the governance body for the volcanic cones, the Tūpuna Maunga o Tāmaki Makaurau Authority ('Maunga Authority'). Auckland Council and iwi have equal representation on the Maunga Authority.
- 2.4. Ngāti Tamaoho has an ongoing relationship with Auckland Council. The settlement redress this Bill provides is important for the future growth and development of Ngāti Tamaoho. Of note are the commercial opportunities over New Zealand Defence Force land in Papakura, the former Otara Police Station, and properties in Manukau and Hūnua. Also significant are the range of statutory acknowledgements and deeds

of recognition provided to Ngāti Tamaoho, geographic place name changes, and the vesting of cultural redress properties.

3. Submissions in support

- 3.1. The balance of this submission brings attention to two items of Treaty settlement redress provided to Ngāti Tamaoho which have involved Auckland Council – the Waitete Pā property (Waiau Pā Historic Reserve) and the Hūnua Falls property. Drafting in the Deed and Bill reflect understandings reached during negotiations and in decisions by council.

Waitete Pā property

- 3.2. Clause 56 of the Bill provides for the transfer of the Waitete Pā property (currently known as the Waiau Pā Historic Reserve) to Ngāti Tamaoho as a historic reserve subject to section 18 of the Reserves Act 1977.
- 3.3. Part of the Waiau Pā Historic Reserve (Lot 2 DP 88996 of 0.3354 hectares) was formerly an esplanade reserve owned by the Franklin County Council. In the late 1970s the Franklin County Council agreed for this portion to transfer to the Crown at nil consideration to form part of the reserve.
- 3.4. Land transferred at nil consideration is treated as a gift. Under Treaty settlement policy, if Crown-owned land was originally acquired through a gift, confirmation is sought from the original donor that the donor is comfortable with a transfer to the settling group. As successor to the Franklin County Council, Auckland Council has confirmed it supports this transfer, on the basis the land will remain a historic reserve, administered and maintained by Ngāti Tamaoho.
- 3.5. The council looks forward to engaging with Ngāti Tamaoho as the future owner and administering body for the Waitete Pā Historic Reserve.

Hūnua Falls property

- 3.6. Clauses 50 to 55 provide for the transfer of the Hūnua Falls property (Hūnua Falls Scenic Reserve) to Ngāti Tamaoho and three other iwi – Ngāi Tai ki Tāmaki, Ngāti Koheriki and Ngaati Whanaunga. The land will remain a scenic reserve with Auckland Council as the administering body as if under section 28 of the Reserves Act 1977 (i.e., an appointment to control and manage a reserve).
- 3.7. The council currently administers the Hūnua Falls Scenic Reserve as part of the Hunua Ranges Regional Park. The Bill prescribes that, as long as the council remains the administering body, the regional parks management plan in force will continue to apply. When the council reviews that plan, and to the extent it applies to the reserve, the council and the owners must jointly prepare and approve the section which relates to the reserve.
- 3.8. Transfer of the Hūnua Falls property will take effect on the latest of the settlements for the four participating iwi. It is not clear when this will occur. Until transfer, and if

supported by iwi, council is willing to enter into an interim agreement, consistent with council's Regional Parks Management Plan 2010, in relation to how the Hūnua Falls Scenic Reserve will be managed.

- 3.9. Clause 52 of the Bill provides that, as long as the council remains the administering body for the reserve, the owners may accept, grant or decline to grant any interest in land that affects the reserve land. The clause also provides that council must undertake the administrative processes required by the Reserves Act in relation to each application.
- 3.10. Auckland Council understands Parliamentary Counsel Office will propose technical amendments to this clause to expressly disapply section 59A of the Reserves Act 1977. This change is proposed to ensure it is clear which process under the Reserves Act 1977 council as the administering body is to follow in relation to applications for an interest in land, and to applications for an interest that is not an interest in land in respect to the Hūnua Falls property.
- 3.11. The council supports this amendment as a necessary and practical clarification.