

# Terra Nova *e-book*

## The Treaty of Waitangi

*New Zealand's founding document ...*

**6 February 1840**

The Treaty of Waitangi, New Zealand's founding document, takes its name from the place in the Bay of Islands where it was first signed, on 6 February 1840.

This day is now a public holiday in New Zealand.

The Treaty is an agreement, in Maori and English, that was made between the British Crown and about 540 Maori rangatira (chiefs).

Growing numbers of British migrants arrived in New Zealand in the late 1830s, and there were plans for extensive settlement.

### Signing the Treaty

Hobson and others stressed the Treaty's benefits while playing down the effects of British sovereignty on rangatiratanga (chieftainship or authority).

Reassured that their status and authority would be strengthened, many chiefs supported the agreement.

About 40 chiefs, starting with Hone Heke, signed the Maori version of the Treaty on 6 February.

By September that year, another 500 had signed copies of the document that went around the country.

Some signed while remaining uncertain; others refused or had no chance to sign.

Almost all signed the Maori text.

The Colonial Office in England later declared that the Treaty applied to Maori tribes that had not signed. Sovereignty was proclaimed over the country on 21 May 1840.



*In the grounds of Busby's House,  
the treaty was signed*

Around this time there were large-scale transactions with Maori for land, unruly behaviour from some settlers and signs that the French were interested in annexing New Zealand.

The British government was initially unwilling to act, but it eventually realised that annexing the country could protect Maori, regulate British subjects and secure commercial interests.

Lieutenant-Governor William Hobson had the task of securing British sovereignty over New Zealand. He relied on the advice and support of, among others, James Busby, the British Resident in New Zealand.

The Treaty was prepared in just a few days.

Missionary Henry Williams and his son Edward translated the English draft into Maori overnight on 4 February.

About 500 Maori debated the document for a day and a night before it was signed on 6 February.

*7th edition.*

Terra Nova *e-book*

Terra Nova Consultancy Ltd is a commercial immigration company providing advice and immigration assistance to people who wish to immigrate to and or settle in New Zealand.

This is our *seventh edition*, where we provide information about the Treaty of Waitangi, the start of New Zealand as a Nation.

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### What is the Treaty of Waitangi?

The Treaty of Waitangi is the founding document of New Zealand. It is an agreement entered into by representatives of the Crown and of Maori iwi and hapu.

It is named after the place in the Bay of Islands where the Treaty was first signed, on 6 February 1840.

The Treaty was not drafted as a constitution or a statute. It was a broad statement of principles upon which the British officials and Maori chiefs made a political compact or covenant to found a nation state and build a government in New Zealand to deal with pressing new circumstances. Like many treaties, it is an exchange of promises between the parties to it.

### What does the Treaty say?

The Treaty has three articles.

In the English version, these are that Maori ceded the sovereignty of New Zealand to Britain; Maori gave the Crown an exclusive right to buy lands they wished to sell and, in return, were guaranteed full rights of ownership of their lands, forests, fisheries and other possessions; and Maori would have the rights and privileges of British subjects.

The Treaty in Maori was deemed to convey the meaning of the English version, but there are important differences.

Most significantly, in the Maori version the word 'sovereignty' was translated as 'kawana-tanga' (governance).

Some Maori believed that the governor would have authority over the settlers alone; others thought that they gave up the government over their lands but retained the right to manage their own affairs.

The English version guaranteed 'undisturbed possession' of all properties, but the Maori version guaranteed 'tino rangatiratanga' (full authority) over 'taonga' (treasures, not necessarily those that are tangible).

The precise nature of the

### Waitangi Treaty copy (Maori)

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The English version guaranteed 'undisturbed possession' of all their 'properties', but the Maori version guaranteed 'tino rangatiratanga' (full authority) over 'taonga' (treasures, not necessarily those that are tangible).

Maori understanding was at odds with the understanding of those negotiating the Treaty for the Crown, and as Maori society valued the spoken word, explanations at the time were probably as important as the document.

exchange within the Treaty of Waitangi is a matter of debate.

### Where can I see the Treaty?

The original Treaty can be seen online and on permanent public display at Archives New Zealand in Wellington.

During the first half of 2007, a special exhibition about the Treaty – Treaty 2U – toured parts of New Zealand.

Please find a picture of it here below, however it does not do it right;

### Waikato-Manakau Treaty copy (English)

The Treaty is a broad statement of principles on which the British and Maori made a political compact to found a nation state and build a government in New Zealand.

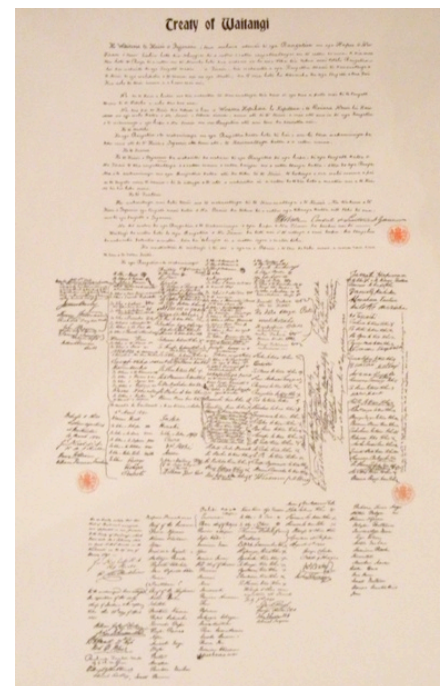
The Treaty has three articles.

In the English version, these are that Maori ceded the sovereignty of New Zealand to Britain; Maori gave the Crown an exclusive right to buy lands they wished to sell, and, in return, they were guaranteed full rights of ownership of their lands, forests, fisheries and other possessions; and that Maori would have the rights and privileges of British subjects.

### Who signed the Treaty of Waitangi, where and when?

Over 40 chiefs signed the Maori copy of the Treaty on 6 February 1840. Copies were then taken all around the country, and chiefs from many places signed.

There were about 50 signing meetings between February and September 1840 and about 540 chiefs gave their agreement. All but 39 chiefs signed a Maori-language copy of the Treaty.



*The signed Treaty of Waitangi*

### How many copies are there of the Treaty, and which one is used?

There are nine copies of the Treaty at Archives New Zealand, including the Treaty in Maori signed on 6 February 1840.

All but one of these copies is written in longhand, and only one is in English.

The structure of each follows a similar pattern, but the wording differs.

The Treaty of Waitangi Act 1975 includes a text of the Treaty in English.

The Waitangi Tribunal has exclusive authority to determine

Different understandings of the Treaty have long been the subject of debate. From the 1970s especially, many Maori have called for the terms of the Treaty to be honoured.

Some have protested – in marches on Parliament and by land occupation. There have been studies of the Treaty and a growing awareness of its meaning in modern New Zealand.

It is common now to refer to the intention, spirit or principles of the Treaty.

The Treaty of Waitangi is not considered part of New Zealand domestic law, except where its principles are referred to in several Acts of Parliament.

The exclusive right to determine the meaning of the Treaty rests with the Waitangi Tribunal, a commission of inquiry created in 1975 to investigate the Crown's alleged breaches of the Treaty.

More than 1000 claims have been lodged with the tribunal, and a number have been settled.

the meaning of the Treaty as embodied in the English and Maori texts.

### Why was the Treaty entered into?

New Zealand was changing quickly in the late 1830s.

British subjects and other Europeans were acquiring land from Maori and had set up valuable commercial operations. Large groups of settlers had set out for New Zealand in 1839.

Crime, violence and general lawlessness was rife, and the British Resident from 1833, James Busby, could do little to control it.

Foreign powers, notably the French, were also taking an interest in New Zealand.

The British government appointed Captain William Hobson as consul and provided him with instructions to negotiate for the sovereignty of New Zealand and for the setting up of a British colony.

### What happened after the Treaty was signed?

Shortly after the Treaty was signed, Lieutenant-Governor William Hobson proclaimed British sovereignty over the whole of New Zealand.

His proclamations were ratified by the British government in October 1840. Under British law, New Zealand became technically a part of the colony of New South Wales.

In late 1840 and early 1841, there were further constitutional changes, making New Zealand a Crown colony in its own right.

### Is the Treaty still valid today?

The status of the Treaty has evolved over time.

Unlike many other countries, New Zealand does not have a constitution in the form of a single document.

It has a collection of common laws, customs and legislation that establish the framework of government.

The Treaty was the initial agreement that established British authority.

This authority was later transferred to the New Zealand Parliament.

Maori leaders and people have stressed the Treaty's importance ever since.

In recent history, successive governments have recognised the significance of the Treaty in the life of the nation.

### Why are there Treaty of Waitangi claims?

Since 1840 there have been actions taken by governments that have resulted in the alienation of Maori land, waters and other resources from their owners, generally without proper consent or compensation.



Maori have tried to have their grievances addressed, and some early governments made attempts to settle their claims.

Only some of those claims were addressed, and these attempts are now considered to have been inadequate.

Recent governments have recognised that the way some land transactions took place was unjust, leaving a strong sense of grievance with the original owners and their descendants.

In 1975 the Waitangi Tribunal was established to consider claims by Maori against the Crown regarding breaches of principles of the Treaty and to make recommendations to government to remove the prejudice and provide recompense.

Since 1985 the tribunal has been able to consider Crown acts and omissions dating back to 1840. This has provided Maori with an important means to have



their grievances against the actions of past governments investigated.

### **Where can I learn more about Treaty claims and settlements?**

The Waitangi Tribunal and the Office of Treaty Settlements provide full information about the Treaty claims and settlement process.

The Waitangi Tribunal considers claims by individuals, usually on behalf of groups, issues a report about the claim and the evidence provided in the inquiry and may make recommendations.

If the government decides to settle a claim, the Office of Treaty Settlements negotiates on behalf of the Crown with the claimants.

Once claimants and the Crown agree on the terms of a settlement, they sign a deed, and the Crown passes legislation to give effect to it and remove the tribunal's ability to inquire further into those claims. Settlement redress is then transferred to the claimants.



*Signing of the Treaty*

### **How many claims are there, and how many have been settled?**

There are more than 1000 claims lodged with the tribunal.

Several historical claims have been settled with a total value of about \$600 million.

Three early settlements, Commercial Fisheries (\$170 million), Waikato-Tainui raupatu (\$170 million) and Ngai Tahu (\$170 million) make up the bulk of this.

Claims may be historical or contemporary, and they may relate to either specific pieces of land or a generic government policy.

Any Maori can make a claim at the tribunal, so many of the claims relate to the same group of people or events. The tribunal groups these overlapping claims into district inquiries, which are

then researched until a casebook of evidence is completed.

Hearings are held where claimants and the Crown give evidence. The tribunal then writes a report on whether the claims are well founded.

The Crown negotiates Treaty Settlements at the 'large natural group' level.

Historical hapu and whanau claims within a larger group are commonly addressed in one set of negotiations.

Usually, when a settlement is negotiated, all the existing and potential historical claims made by that claimant group are settled.

Once settlement legislation is passed, the Tribunal has no further power to hear historical claims made by that group.

### **Where can I read reports and deeds of settlement?**

All of the Waitangi Tribunal's reports are online.

The Office of Treaty Settlements provides online versions of deeds of settlement.

### **What was the Declaration of Independence?**

He Wakaputanga o te Rangatiratanga o Nu Tirene (the Declaration of Independence of New Zealand) was signed in 1835.

It has 52 signatures of Maori chiefs: 34 northern chiefs who signed on 28 October 1835, and then 18 others from around the country by 1839.

The declaration has four articles: all sovereign power and authority in the land ('Ko te Kingitanga ko te mana i te w[h]enua') resided with the chiefs 'in their collective capacity', expressed as the United Tribes of New Zealand; the chiefs would meet annually at Waitangi to make laws; in return for the friendship and protection that Maori were to give British subjects in New Zealand, the chiefs invited King William IV to protect the 'infant state' from attempts on its independence.

Maori have seen the declaration as British recognition of an independent Maori nation.

They have also used it as the foundation for their assertion of autonomous rights or mana motuhake.

The declaration is on display in the Constitution Room at Archives New Zealand in Wellington.

### **Where can I obtain further information about the Treaty?**

[www.nzhistory.net.nz](http://www.nzhistory.net.nz)

[www.waitangi-tribunal.govt.nz/treaty/](http://www.waitangi-tribunal.govt.nz/treaty/)

*All information in this publication has been sourced from public available sources*