

<p><b>HE AHA/ WHAT:</b></p> <p><b>Whanganui River Iwi Deed of Settlement 2014</b></p>	<p><b>I HEA/ WHEN:</b></p> <p><b>2017</b></p>	<p><b>KEI HEA/ WHERE:</b></p> <p><b>Whanganui</b></p>
<p><b>KO WAI/ WHO:</b></p> <p>Whanganui River Māori Trust board</p> <p>Crown</p> <p><i>“Ko au te awa, ko te awa ko au”.</i></p> <p><i>“I am the River and the River is me”.</i></p>  <p>X</p>	<p><b>HE AHA AI/ WHY:</b></p> <p>The Whanganui River is central to the existence of Whanganui Iwi (tribes) and their health and wellbeing providing physical and spiritual sustenance to Whanganui Iwi and its hapū from time immemorial. At 1840 the iwi and hapū of Whanganui (Whanganui Iwi) possessed, and exercised rights and responsibilities in relation to, the Whanganui River in accordance with their tikanga. In May 1840 fourteen Whanganui River rangatira signed the Treaty of Waitangi.</p> <p>In 1848 the Crown purchased a block of 86,200 acres at Whanganui and began to assert authority over the River. From 1887 Whanganui Māori have continuously protested against the scale and effect of the Crown’s river works, including:</p> <ul style="list-style-type: none"> <li>• 1887 Petitioning against destructon of eel and fisheries, an important food source</li> <li>• 1891 protest against the lack of Māori involvement on decision making with on the Wanganui River Trust.</li> <li>• 1903 the Coal-mines Act Amendment Act provided that the beds of all navigable rivers ‘shall remain and shall be deemed to have always been vested in the Crown’. There was no consultation with Whanganui Iwi over the legislation.</li> <li>• From 1938 until 1962 Whanganui Iwi were engaged in legal action to claim ownership of the river bed.</li> <li>• In 1949 the Supreme Court ruled that the Coal-mines Act Amendment Act 1903 had vested the riverbed in the Crown. However, a subsequent Royal Commission in 1950 found that, but for that legislation, Whanganui Iwi would be the customary owners of the riverbed and recommended compensation for gravel extraction.</li> <li>• In 1971 Whanganui Iwi consistently opposed the Tongariro Power Scheme and the diversion of water asserting that the diversions and reduced flows have damaged the health and wellbeing of the Whanganui River and adversely affected their cultural and spiritual values.</li> <li>• In 1988 the Whanganui River Māori Trust Board was established</li> <li>• In 1990 the Trust Board lodged the Whanganui River claim with the Waitangi Tribunal on behalf of all who affiliate to Whanganui Iwi.</li> </ul> <p>In 2017, the Te Awa Tupua Whanganui River Claims Deed of Settlement Act was passed.</p>	

Of global significance, the legislation establishes a new legal framework (Te Pā Auroa nā Te Awa Tupua) for the Whanganui River that is centred on the legal recognition of the Whanganui River from the mountains to the sea, incorporating its tributaries and all its physical and metaphysical elements, as an indivisible and living whole – Te Awa Tupua.

What this means is that Whanganui River has its own legal identity, having the same rights as a legal person. Te Pou Tupua, an office comprising one Crown and one Iwi representative acts as "the human face" of the river.



Members of the Whanganui Iwi on the annual tira hoe – canoe journey



Traditional eel traps on Whanganui river

<p><b>HE AHA/ WHAT:</b></p> <p><b>Ngāti Whātua Ōrākei Supreme Court action</b></p>	<p><b>I HEA/ WHEN:</b></p> <p><b>February 2021</b></p>	<p><b>KEI HEA/ WHERE:</b></p> <p><b>Tāmaki Makaurau</b></p>
<p><b>KO WAI/ WHO:</b></p> <p>Ngāti Whātua Ōrākei Attorney General Ngāti Paoa Marutūāhu</p>  <p>Supreme Court of NZ</p> <p>This an example of how the treaty jurisprudence has evolved, so now Iwi are holding the Crown to account for breaches of their treaty settlements.</p> <p>X</p>	<p><b>HE AHA AI/ WHY:</b></p> <p>In 2012 Ngāti Whātua Ōrākei (NWO) settled their claim with the Crown resulting in the passing of the Ngāti Whātua Ōrākei Settlement Act 2012. Within the Act, NWO tribal boundaries were defined.</p> <p>In 2017, as part of the proposed settlements with Ngāti Paoa and Marutūāhu, properties in central Auckland would be transferred to Ngāti Paoa and Marutūāhu. Ngāti Paoa are traditionally based in East Auckland while Marutūāhu are primarily based in and around Thames).</p> <p>NWO objected to land within their tribal boundaries being offered to other tribes (Ngāti Paoa and Marutūāhu), tribes that NWO say did not have ahi kā over the lands in question. NWO considered this action to be a breach of their treaty settlement of 2012.</p> <p>The proposed settlements with Ngāti Paoa and Marutūāhu had not yet been enacted by Parliament at the time NWO lodged its claim. NWO therefore brought judicial review proceedings challenging decisions by the Minister for Treaty of Waitangi Negotiations relating to the proposed transfer of commercial properties in central Auckland to Ngāti Paoa and Marutūāhu as part of their settlement packages.</p> <p>NWO also said it should have been consulted before such decisions relating to the transfer of properties in central Auckland to other iwi or hapū were made, in accordance with the principles of the Treaty and their own settlement of 2012.</p> <p>The Attorney-General challenged the claim on the grounds that it had not been enacted in legislation yet, therefore there was no claim to answer. This matter was heard at the high Court, then the Court of Appeal and finally the Supreme Court, which decided NWO did have a claim and sent it back to the High Court to allow proceedings to occur.</p> <p>In February 2021, the High Court started to hear the claim. NWO assert the following main points:</p> <ul style="list-style-type: none"> <li>• The transfer of land within NWO tribal boundary to Iwi that do not have a connection to that land is a breach of the Ngāti Whātua Ōrākei Settlement Act 2012</li> <li>• That when determining which lands should be transferred in treaty settlements, the Crown should apply tikanga Māori, with a focus on the concept of ahi kaa</li> </ul>	