

## NGĀI TAHU (TŪTAEPATU LAGOON VESTING) BILL

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### EXPLANATORY NOTE

#### *General Policy Statement*

The Tūtaepatu Lagoon is a coastal wetland situated north of Kaiapoi in the South Island of New Zealand, in an area of coastal dunes, partly wild and partly planted in pine trees. The Tūtaepatu Lagoon has a public walkway across it.

In 1991, the Waitangi Tribunal made its report on the major grievances of Ngāi Tahu. In 1995, the Waitangi Tribunal made its report on certain ancillary claims by Ngāi Tahu, one of which concerned the loss of the Tūtaepatu Lagoon, of importance to Ngāi Tahu as kainga nohoanga, mahinga kai, and urupā.

Since 1991, Ngāi Tahu and the Crown have made a number of attempts to reach a negotiated settlement of all Ngāi Tahu's claims. In 1994, in recognition of the long process of negotiation that had already taken place, the Crown agreed to make an 'on account' offer. On 14 June 1996, the Crown and Ngāi Tahu signed a Deed of 'On Account' Settlement in which it was agreed, in relation to the Tūtaepatu Lagoon, that—

- (a) The classification of the Tūtaepatu Lagoon as a Government purpose (wildlife management) reserve would be revoked; and
- (b) The Tūtaepatu Lagoon would be vested, by way of gift, in Ngāi Tahu in fee simple, free of marginal strip requirements, and subject only to a public walkway over its south-eastern corner; and
- (c) The classification of certain reserves would be revoked and a new recreation reserve vested in Te Rūnanga o Ngāi Tahu and the Waimakariri District Council as trustees, subject to the fulfilment of certain conditions; and
- (d) The inclusion of the Tūtaepatu Lagoon in the management plan for the new recreation reserve.

The new reserve comprises land in 3 existing recreation reserves, but does not include the Tūtaepatu Lagoon.

The Bill gives effect to the Deed of 'On Account' Settlement in relation to the Tūtaepatu Lagoon and the new reserve.

#### *Clause by Clause Analysis*

*Clause 1* relates to the Short Title and commencement of the Bill. The Bill comes into force on 1 April 1998.

*Clause 2* defines terms used in the Bill.

*Clause 3* provides that the Bill binds the Crown.

*Clause 4* revokes the reservation of the Tūtaepatu Lagoon as a reserve under the Reserves Act 1977.

*Clause 5* revokes the declaration of the Tūtaepatu Lagoon as a wildlife refuge under the Wildlife Act 1953.

*Clause 6* vests the Tūtaepatu Lagoon in Te Rūnanga o Ngāi Tahu by way of gift in fee simple.

*Clause 7* records that Te Rūnanga o Ngāi Tahu intends that the future management of the Tūtaepatu Lagoon will be undertaken in accordance with the objectives set out in Appendix 3 of the Deed of 'On Account' Settlement or objectives substantially similar to them. The objectives are included in *Schedule 3*, but they have no greater status or force than they have in the deed.

*Clause 8* requires Te Rūnanga o Ngāi Tahu to grant to the Crown a walkway over the south-eastern corner of the Tūtaepatu Lagoon. The walkway is subject to the New Zealand Walkways Act 1990 (except for certain sections), and Te Rūnanga o Ngāi Tahu is to be the controlling authority of the walkway under that Act.

*Clause 9* requires the District Land Registrar of the Canterbury Land Registration District to issue a certificate of title for the Tūtaepatu Lagoon, subject to any survey requirements.

*Clause 10* requires Te Rūnanga o Ngāi Tahu and the Waimakariri District Council to establish a trust for the holding, administration, and management of the new reserve.

*Clause 11* requires Te Rūnanga o Ngāi Tahu and the Waimakariri District Council to agree on the boundaries of the new reserve. The new reserve comprises land in 3 existing recreation reserves, but does not include the Tūtaepatu Lagoon. Once the trust is established and the boundaries are agreed and notified to the Minister of Conservation, the Minister must declare the new reserve to be a recreation reserve with such name as the Minister determines, appoint the trustees to be the administering body of the new reserve, and vest the new reserve in the trustees.

*Clause 12* requires the management plan prepared for the new reserve to include the Tūtaepatu Lagoon. This clause also permits the management plan to include such other land as Te Rūnanga o Ngāi Tahu and the Waimakariri District Council agree on from time to time.

*Clause 13* applies the Reserves Act 1977 to the new reserve, except as provided in the Bill.

*Clause 14* authorises the Governor-General by Order in Council to extend the time within which anything is to be done under *clause 10* or *clause 11*.

*Clause 15* amends the First Schedule of the Conservation Act 1987 to add a reference to this Bill in the Acts administered by the Department of Conservation.

*Schedule 1* contains a description of the Tūtaepatu Lagoon.

*Schedule 2* contains a description of the new reserve.

*Schedule 3* sets out the objectives for the future management of the Tūtaepatu Lagoon from Appendix 3 of the Deed of 'On Account' Settlement.

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Hon D A M Graham

## NGĀI TAHU (TŪTAEPATU LAGOON VESTING)

### ANALYSIS

Title	<i>New Reserve</i>
Preamble	
1. Short Title and commencement	11. Declaration of recreation reserve 12. Management plan 13. Application of Reserves Act 1977
<i>Preliminary</i>	
2. Interpretation	<i>Miscellaneous</i>
3. Act to bind the Crown	14. Extension of time limits 15. Amendment to Conservation Act 1987
<i>Tūtaepatu Lagoon</i>	
4. Reservation of Tūtaepatu Lagoon as reserve revoked	
5. Declaration of Tūtaepatu Lagoon as wildlife refuge revoked	
6. Vesting of Tūtaepatu Lagoon in Te Rūnanga o Ngāi Tahu	SCHEDULES
7. Management of Tūtaepatu Lagoon	Schedule 1 Description of Tūtaepatu Lagoon
8. Tūtaepatu Lagoon subject to walkway	Schedule 2 Description of New Reserve
9. Issue of certificate of title for Tūtaepatu Lagoon	Schedule 3 Appendix 3 of the Deed of 'On Account' Settlement
<i>Establishment of Trust</i>	
10. Establishment of trust	

### A BILL INTITULED

An Act to give effect to certain provisions of the Deed of 'On Account' Settlement, signed on 14 June 1996 by the Crown and by Te Rūnanga o Ngāi Tahu as representative of Ngāi Tahu,—

- 5 (a) By vesting Tūtaepatu Lagoon in Te Rūnanga o Ngāi Tahu; and  
(b) By providing for the establishment of a recreation reserve at Woodend

10 WHEREAS—

A. Ngāi Tahu made claims against the Crown under the Treaty of Waitangi Act 1975, and those claims have been the subject of 2 reports of the Waitangi Tribunal, the 1991 Ngāi Tahu Report and the 1995 Ancillary Claims Report:

- B. Since 1991 there have been a number of attempts by Ngāi Tahu and the Crown to reach a negotiated settlement of Ngāi Tahu's claims and to remove the sense of grievance felt by Ngāi Tahu:
- C. The Crown and Ngāi Tahu, wishing to recommence negotiations towards a comprehensive settlement of all claims made by or on behalf of Ngāi Tahu or hāpu, whānau, or individuals within Ngāi Tahu Whānui against the Crown pursuant to the Treaty of Waitangi Act 1975, have agreed to negotiate in good faith to achieve a settlement of all Ngāi Tahu's historical claims under the Treaty of Waitangi and Ngāi Tahu has agreed to an indefinite adjournment of certain litigation relating to the claims to allow those negotiations to take place: 5
- D. As a sign of good faith and as a demonstration of the Crown's goodwill, and in recognition of the long process of negotiation that has already taken place between the parties, the Crown has agreed to renew and modify an offer it made to Ngāi Tahu in 1994 to provide certain redress to Ngāi Tahu on an 'on account' basis, and Ngāi Tahu has accepted that modified offer: 10
- E. Accordingly, on 14 June 1996, the Crown and Te Rūnanga o Ngāi Tahu as representative of Ngāi Tahu signed a Deed of 'On Account' Settlement, in which the Crown agreed that it would present for the consideration of Parliament legislation to provide for— 15
- (a) The revocation of the classification of the Tūtaepatu Lagoon as a Government purpose (wildlife management) reserve; and
- (b) The vesting of the Tūtaepatu Lagoon in Te Rūnanga o Ngāi Tahu in fee simple free of any existing encumbrance, subject only to a public walkway under the New Zealand Walkways Act 1990 over the south-eastern corner of the lagoon and exempted from the marginal strip requirements of Part IVA of the Conservation Act 1987, such vesting to be by way of gift from the Crown; and 30
- (c) The revocation of certain existing reserves and for the declaration, classification and vesting of a new recreation reserve conditional on the fulfilment of certain conditions; and 35
- 40

- (d) The inclusion of the Tūtaepatu Lagoon in the management plan for the new reserve:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

- 5     **1. Short Title and commencement**—(1) This Act may be cited as the Ngāi Tahu (Tūtaepatu Lagoon Vesting) Act 1997.  
      (2) This Act comes into force on 1 April 1998.

*Preliminary*

- 10    **2. Interpretation**—In this Act, unless the context otherwise requires,—

      “Council” means the Waimakariri District Council constituted under the Local Government Act 1974:

      “Deed of ‘On Account’ Settlement” means the deed signed on 14 June 1996 by the Crown and by Te Rūnanga a Ngāi Tahu as representative of Ngāi Tahu:

      “Minister” means the Minister of Conservation:

      “New reserve” means the land described in **Schedule 2**:

20    “Te Rūnanga o Ngāi Tahu” means Te Rūnanga o Ngāi Tahu as established by section 6 of Te Runanga o Ngai Tahu Act 1996:

      “Trust” means the trust established under **section 10**:

      “Tūtaepatu Lagoon” means the land described in **Schedule 1**.

- 25    **3. Act to bind the Crown**—This Act binds the Crown.

*Tūtaepatu Lagoon*

- 4. Reservation of Tūtaepatu Lagoon as reserve revoked**—(1) The reservation of the Tūtaepatu Lagoon as a reserve under the Reserves Act 1977 is revoked.

30    (2) The Reserves Act 1977 ceases to apply to the Tūtaepatu Lagoon on and from the commencement of this Act.

- 5. Declaration of Tūtaepatu Lagoon as wildlife refuge revoked**—(1) Those parts of the Second and Third Schedules that relate to the Woodend Lagoon published in the *New Zealand Gazette* (1957, Vol. I, p.10) under the heading “*Amending Declaration of Land, North Canterbury Acclimatisation District, as a Wildlife Refuge*” are revoked.

35    (2) The Wildlife Act 1953 ceases to apply to the Tūtaepatu Lagoon on and from the commencement of this Act.

**6. Vesting of Tūtaepatu Lagoon in Te Rūnanga o Ngāi Tahu**—The Tūtaepatu Lagoon is vested, by way of gift, in Te Rūnanga o Ngāi Tahu for an estate in fee simple free of any encumbrances existing immediately before the commencement of this Act. 5

**7. Management of Tūtaepatu Lagoon**—(1) As recorded in clause 4.6 of the deed, Te Rūnanga o Ngāi Tahu intends that the future management of Tūtaepatu Lagoon will be undertaken in accordance with the objectives set out in Appendix 3 of the Deed of ‘On Account’ Settlement or objectives substantially similar to them. 10

(2) The objectives are included in **Schedule 3**.

(3) **Subsection (1)** and the inclusion of the objectives in **Schedule 3** do not give the objectives any greater status or force than they have in the Deed of ‘On Account’ Settlement. 15

**8. Tūtaepatu Lagoon subject to walkway**—(1) Te Rūnanga o Ngāi Tahu must grant to the Crown a walkway over the south-eastern corner of the Tūtaepatu Lagoon.

(2) The New Zealand Walkways Act 1990 (except sections 5, 6, 7, 8 (1), 8 (2), 8 (8) (b), 11, 18, 20, 30, 31, and 32) applies to the walkway, including its establishment. 20

(3) For the purposes of the New Zealand Walkways Act 1990, Te Rūnanga o Ngāi Tahu is the controlling authority of the walkway.

(4) For the purposes of **subsection (2)**, section 8 (3) of the New Zealand Walkways Act 1990 must be read as if the words “For the purposes of subsection (1) of this Act” were omitted, and the words “For the purposes of **section 8** of the Ngāi Tahu (Tūtaepatu Lagoon Vesting) Act 1997” were substituted. 25

**9. Issue of certificate of title for Tūtaepatu Lagoon**—The District Land Registrar of the Canterbury Land Registration District must (after completion of such survey, if any, as may be necessary) issue a certificate of title under the Land Transfer Act 1952 to Te Rūnanga o Ngāi Tahu as registered proprietor of the Tūtaepatu Lagoon. 30 35

*Establishment of Trust*

**10. Establishment of trust**—(1) The Council and Te Rūnanga o Ngāi Tahu must, not later than 3 months after the commencement of this Act, establish by deed a trust—

(a) The name of which is Te Kohaka o Tuhaitara Trust; and 40

(b) The object of which is the management and administration of the new reserve.

(2) The deed establishing the trust must authorise the trustees of the trust to—

- 5 (a) Hold, manage, and administer the new reserve; and  
(b) Expend money on the new reserve, the Tūtaepatu Lagoon, and the preparation and administration of the management plan for the new reserve.

10 (3) As soon as the trust is established, the Council and Te Rūnanga o Ngāi Tahu must give to the Minister—

- (a) Notice of the establishment of the trust; and  
(b) A certified copy of the deed establishing the trust.

*New Reserve*

15 **11. Declaration of recreation reserve**—(1) The Council and Te Rūnanga o Ngāi Tahu must, not later than 3 months after the commencement of this Act,—

- (a) Agree on the boundaries of the new reserve; and  
(b) Notify the Minister of the boundaries as agreed.

20 (2) The Minister must, not later than 6 months after the commencement of this Act, do the things specified in **subsection (3)** if the Minister—

- (a) Has been notified of the establishment of the trust under **section 10 (3)**; and  
25 (b) Is satisfied that the deed establishing the trust complies with **section 10 (2)**; and  
(c) Has been notified of the boundaries of the new reserve under **subsection (1)**.

(3) Those things are—

- 30 (a) Declare, by notice in the *Gazette*, that the new reserve is a recreation reserve for the purposes of the Reserves Act 1977 with such name as the Minister determines; and  
(b) Appoint the trustees of the trust to be the administering body of the new reserve; and  
35 (c) Vest the new reserve in the trustees of the trust to hold and administer as a recreation reserve, and, subject to **sections 12 and 13**, to expend money in relation to the new reserve for the purposes specified in section 17 of the Reserves Act 1977.

40 (4) The things done under **subsection (3)** have effect as if they had been done under the Reserves Act 1977.

**12. Management plan**—(1) The management plan prepared for the new reserve pursuant to section 41 of the Reserves Act 1977—

(a) Must include the Tūtaepatu Lagoon; and

(b) May include such other land as the Council and Te Rūnanga o Ngāi Tahu agree on from time to time. 5

(2) The Minister must consult with and have particular regard to the views of Te Rūnanga o Ngāi Tahu before approving that part of the management plan that relates to the Tūtaepatu Lagoon. 10

**13. Application of Reserves Act 1977**—Except as provided in this Act, the Reserves Act 1977 applies to the new reserve.

*Miscellaneous*

**14. Extension of time limits**—(1) The time within which anything must be done under section 10 or section 11 may be extended (before or after the time has expired) by the Governor-General by Order in Council. 15

(2) The power in subsection (1) may be exercised more than once in respect of the same time limit. 20

**15. Amendment to Conservation Act 1987**—The First Schedule of the Conservation Act 1987 is amended by inserting, in its appropriate alphabetical order, the following item:

“The Ngāi Tahu (Tūtaepatu Lagoon Vesting) Act 1997”. 25

SCHEDULES

SCHEDULE 1

Section 2

DESCRIPTION OF TUTAEPATU LAGOON

The piece of land containing 49.2357 hectares, more or less, being Rural Section 40464 in Block XII, Rangiora Survey District, on S.O. 13696, and being part of the land comprised and described in certificate of title No. 9A/1226 (Canterbury Land Registry).

SCHEDULE 2

Section 2

DESCRIPTION OF NEW RESERVE

The pieces of land in the following recreation reserves:

- (a) Kairaki Recreation Reserve—containing 106.4693 hectares, more or less, being all the land in Reserves 4059, 4472, 4482, and 5186, and Rural Section 41097:
- (b) Waikuku Recreation Reserve—containing—  
First, 52.4441 hectares, more or less, being all the land in areas A and B on S.O. 19762 in Blocks VIII and XII, Rangiora Survey District, and being part of the land comprised and described in certificate of title 9A/1225 Limited (Canterbury Land Registry):  
and  
Second, 62.3786 hectares, more or less, being all the land in areas C, D, E, F, and G on S.O. 19763 in Block VIII, Rangiora Survey District, and being part of the land comprised and described in certificate of title 9A/1225 Limited and in Gazette Notice 471870.1 (Canterbury Land Registry):
- (c) Woodend Recreation Reserve—containing 172.9478 hectares, more or less, being all the land in Reserve 5281, and Rural Sections 39897, 41088, 41089, and 41090:
- (d) Recreation Reserve—containing 33.8468 hectares, more or less, being all the land in Part Reserve 4058 on S.O. 5813.

SCHEDULE 3

Section 7

APPENDIX 3 OF THE DEED OF 'ON ACCOUNT' SETTLEMENT

**“Proposal for the Future Management of the Tūtaepatu Lagoon**

1. The Lagoon/wetlands will be included in the management plan for the new reserve. The Lagoon/wetlands will be appropriately restored and maintained for the benefit of present and future generations.
2. Appropriate public access to the Lagoon/wetlands will be allowed except for those times when, after notification in the local newspaper, a rāhui is applied.
3. Scientific research and observation of the flora and fauna will be actively encouraged by Te Rūnanga, with a particular emphasis on Ngāi Tahu's philosophy of sustainable management.
4. The North Canterbury Fish and Game Council will have the opportunity to contribute its expertise.

SCHEDULE 3—*continued*APPENDIX 3 OF THE DEED OF 'ON ACCOUNT' SETTLEMENT—*continued*

5. There will be no harvesting or taking or killing of native and introduced birds or their eggs in a manner which would be inconsistent with the role of the Lagoon in the management and maintenance of waterfowl and other birds in North Canterbury. Dogs will be prohibited.”