

Ngāti Mutunga o Wharekauri Iwi

Whiringa-a-nuku Panui

Kahikatea tu i te uru!

Proposed Vesting of Taia Historic Reserve

Kia ora e te whānau,

The Ngāti Mutunga o Wharekauri Iwi Trust (the Iwi Trust) is seeking support from all Ngāti Mutunga o Wharekauri to oppose the vesting of Taia Historic Reserve in Hokotehi Moriori Trust.

On Saturday 26 September 2020, the Department of Conservation (DoC) issued a notice of its intention to vest Taia Historic Reserve (1,198 hectares) in Hokotehi Moriori Trust (see opposite advertisement).

Prior to the issue of this Notice, the Iwi Trust directly engaged with DoC to find a solution that meet DoC's obligations to Ngāti Mutunga o Wharekauri under Te Tiriti o Waitangi. The DoC Notice was issued against the explicit written objection of the Iwi Trust – an objection which the Iwi Trust has yet to receive the courtesy of a reply other than the publishing of the DoC advertisement.

The Iwi Trust has previously sought to prevent the exclusive vesting of Taia through proceedings taken in the High Court and Court of Appeal. These proceedings provided extensive evidence that Ngāti Mutunga o Wharekauri has long standing customary rights and interests in Taia including mana whenua status over the entirety of Taia. Ngāti Mutunga o Wharekauri customary rights were guaranteed under Article Two of Te Tiriti o Waitangi in 1842 when Wharekauri (Chatham Islands) were annexed to New Zealand. On this basis, exclusive vesting of Taia in Hokotehi Moriori Trust is wrong as it will extinguish Ngāti Mutunga o Wharekauri customary rights to Taia, and is also contrary to the obligations that DoC has under section 4 of the Conservation Act 1987 "to interpret and administer the Act to give effect to the principles of Te Tiriti o Waitangi".

The Iwi Trust is preparing an extensive submission, objecting to the proposed vesting, and providing evidence that its objection is intrinsically linked our customary rights in Article Two of Te Tiriti o Waitangi which are expressed as mana whenua held by Ngāti Mutunga o Wharekauri on Wharekauri (Chatham Islands). Submitters are working to a very tight timeline as submissions must be received by the Dunedin Office of DoC by **5pm Friday 30 October 2020** (submission information below). The Iwi Trust will indicate it wishes to be heard in person in support of its submission.

It is concerning that DoC has proceeded so far with a flawed process and this raises serious doubts as to whether DoC has the cultural competence to give effect to its Treaty obligations. The time has come for Ngāti Mutunga o Wharekauri people to stand up for our mana whenua status by objecting to this process and demanding that DoC show some long-overdue respect for the mana of Ngāti Mutunga o Wharekauri.

Ngāti Mutunga o Wharekauri uniformly supports the recognition and protection of Moriori waahi tapu and rakau momori on Taia as well as the protection of natural values there. We **disagree strongly** that vesting in Hokotehi Moriori Trust is needed to achieve that protection. Indeed, that is likely to be counterproductive. The best approach is for Taia to remain in Crown ownership with a management plan involving both iwi and imi that is prepared under the umbrella of proper Treaty partnerships with the Crown.

Individuals are invited to send a submission to DoC. This may be as simple as supporting the Iwi Trust submission. It may include information about particular whānau connections with Taia. Do not be shy about asking to speak to your submission in person. For those of you who have not previously engaged in a process like this, the Iwi Trust is happy to help you. There is a submission template included in this pānui for those that wish to use it, and this can also be emailed to you by request.

Ngā mihi,

Deena Whaitiri
Chair



PROPOSED VESTING OF TAIA HISTORIC RESERVE

Under the provisions of Section 26(3) Reserves Act 1977, notice is given of a proposal to vest the Taia Historic reserve, Chatham Island, in Hokotehi Moriori Trust.

The land's legal description is Sections 4 and 23 and Part Section 13 Owenga Settlement and it is around 1198 ha.

The reserve was established following an application by Te Kotahi Moriori to the Nature Heritage Fund. It has been classified as an 'historic' reserve in recognition of Moriori waahi tapu and rakau momori. The reserve also has areas of pasture and coastal wetlands.

For further information please contact the Rēkohu/Wharekauri/Chatham Island office (03 305 0098 or chathamislands@doc.govt.nz). Written submissions and objections to the proposal (including the grounds for objection) and an indication of whether you wish to be heard in support of your submission or objection may be made to:

Statutory Land Management Manager
Dunedin Service Centre
PO Box 5244
DUNEDIN 9058
Or email: djwakelin@doc.govt.nz

Submissions must be received by 5pm Friday 30th October 2020

TRYPHENA CRACKNELL
Operations Manager
Rēkohu/Wharekauri/Chatham Island

Ngāti Mutunga o Wharekauri Iwi Trust Submission Summary

On behalf of its members and beneficiaries, Ngāti Mutunga o Wharekauri Iwi Trust strongly objects to the proposal to vest the ownership of Taia Historic Reserve exclusively in Hokotehi Moriori Trust. Exclusive vesting is not necessary to achieve the protection of the cultural and natural heritage of Taia. It would be better by far to engage both iwi as Treaty partners with the Crown to achieve this very long-term goal and commitment.

Ngāti Mutunga o Wharekauri is the *iwi* that holds exclusive *mana whenua* status over Taia and has done so since Wharekauri was comprehensively conquered and subjugated by Ngāti Mutunga o Wharekauri in 1835/36. The customary authority (*mana whenua*) thereby established has never been extinguished or transferred by Ngāti Mutunga o Wharekauri in the past 185 years and it is inconceivable that it would be transferred, either whole or in part, in the future. With every passing year, the ancestral connection of Ngāti Mutunga o Wharekauri and Wharekauri (now in its 9th generation) continues to strengthen.

Furthermore, the *mana whenua* status of Ngāti Mutunga o Wharekauri is integral to the *tino rangatiratanga* of Ngāti Mutunga o Wharekauri secured and guaranteed by Article II of Te Tiriti o Waitangi which came into effect on Wharekauri in November 1842. Under section 4 of the Conservation Act 1987 "This Act is to be interpreted and administered as to give effect to the principles of the Treaty of Waitangi". This requirement is a "mandatory relevant consideration" for the Minister in making her decision on the proposed vesting pursuant to the Reserves Act 1977.

It is an impossibility for the Minister to authorise the vesting of Taia exclusively in Hokotehi Moriori Trust and to meet her responsibilities under Section 4. Furthermore, the advertised proposal is itself a proof of a serious failure within the Department of Conservation to understand and implement its responsibilities under section 4 with respect to its relationship with its Treaty partner, Ngāti Mutunga o Wharekauri.

The way to rectify this failure before its consequences become irreversible is for the proposed vesting to be declined, the ownership of Taia to remain as is (with the Department of Conservation) and for the Department to develop a management plan for Taia that has the full engagement and support of both iwi. In that event, Ngāti Mutunga o Wharekauri will support the most effective means identified under that plan to protect the full range of the cultural and natural values present on Taia including those cultural values of special significance to Moriori.

You and your whānau are strongly encouraged to send a submission to DoC by 5pm on Friday 30th October 2020.
Attached is a submission template for your convenience.

Statutory Land Management Manager
Dunedin Service Centre
PO Box 5244
Dunedin 9058

Email: djwakelin@doc.govt.nz

Tēnā koe

Submission Proposed Vesting of Taia Historic Reserve

My name is:			
I live at:			
Email:		Phone number:	
I whakapapa to Ngāti Mutunga o Wharekauri through my tūpuna:			

I am/ I am not a registered member of the Ngāti Mutunga o Wharekauri Iwi Trust.

I am making this submission on behalf of myself and my whānau [if applicable].

My submission should be read in conjunction with and in support of the submission made by the Ngāti Mutunga o Wharekauri Iwi Trust on this matter [if applicable].

I strongly object to the proposal to vest the ownership of Taia Historic Reserve exclusively in Hokotehi Moriori Trust. My objection is based on the following points:

1. Ngāti Mutunga o Wharekauri has rights to Taia under Article II of Te Tiriti o Waitangi.
2. The Tiriti rights guaranteed to Ngāti Mutunga o Wharekauri under Te Tiriti o Waitangi in respect of Taia are more significant and outweigh the interests that groups or members of the public may hold.
3. Ngāti Mutunga o Wharekauri customary rights to Taia were established in 1835. These customary rights were established in accordance with Ngāti Mutunga tikanga. At the point in which Ngāti Mutunga o Wharekauri customary rights were established on Wharekauri, Moriori customary rights were extinguished.
4. It is not possible for the Crown to reinstate or recognise Moriori customary rights extinguished by this customary process without breaching its Tiriti rights and obligations to Ngāti Mutunga o Wharekauri.
5. Ngāti Mutunga o Wharekauri rights to Taia are held through tino rangatiratanga and expressed exclusively through mana whenua status.
6. The Crown-Ngāti Mutunga o Wharekauri Tiriti relationship began in November 1842. At that time Wharekauri was under Ngāti Mutunga o Wharekauri sovereignty.
7. Te Tiriti o Waitangi obliges the Crown to protect the Tiriti rights of Ngāti Mutunga o Wharekauri as its Tiriti partner.
8. The reality of the Wharekauri/Chatham Islands is there is 100% overlap of Ngāti Mutunga o Wharekauri Tiriti customary rights and Moriori historical and cultural interests within the rohe.
9. Section 4 of the Conservation Act 1987 says "This Act is to be interpreted and administered as to give effect to the principles of the Treaty of Waitangi". This requirement is a "mandatory relevant consideration" for the Minister in making her decision on the proposed vesting pursuant to the Reserves Act 1977.
10. In my view, to advance this vesting proposal without the prior agreement of Ngāti Mutunga o Wharekauri as a Tiriti partner is already a failure by the Minister of Conservation to meet her responsibilities to Ngāti Mutunga o Wharekauri under Section 4.

11. To authorise the vesting of Taia exclusively in Hokotehi Moriori Trust would compound this failure.
12. If the Minister of Conservation were to vest Taia exclusively in Hokotehi Moriori Trust, the Minister's action would fail to recognise and protect a Ngāti Mutunga o Wharekauri Tiriti right and create another Tiriti grievance.
13. Exclusive vesting is not necessary to achieve the protection of the cultural and natural heritage of Taia. The exclusive vesting of Taia in either Ngāti Mutunga o Wharekauri or Moriori is a step towards separatism of the community on the Wharekauri/Chatham Islands.
14. A better option for the Crown is to engage with Ngāti Mutunga o Wharekauri and Moriori as Tiriti partners and achieve a long-term management goal and commitment for Taia. This is the most appropriate option to proceed because the Wharekauri/Chatham Islands way is to share in everything. Examples of this approach already exist with shared instruments being a positive outcome from Tiriti negotiations and demonstrating a willingness by Ngāti Mutunga o Wharekauri and Moriori to work in a collaborative way.
15. I consider the best way to avoid a serious mistake with consequences that are irreversible for the Wharekauri/Chatham Islands community is for the proposed vesting to be declined, the ownership of Taia to remain with the Department of Conservation and for the Department to develop a management plan for Taia that has the full engagement and support of both Ngāti Mutunga o Wharekauri and Moriori.
16. In that event, I will support the most effective means identified under that plan to protect the full range of the cultural and natural values present on Taia including those cultural values of special significance to Moriori.

I wish/do not wish to be heard in respect of my submission.

Additional comment:

Heoi ano [Yours faithfully]

Name:			
Signature:		Date:	