

Tena Koe

The purpose of this submission is to address what we view as a deviation both in spirit and good faith to the current submission process that Opotiki District Council is undertaking with regards to the return of reserves to Te Whānau-ā-Apanui. The underlying land ownership of these blocks remains with the Crown, however, they have either been vested in the Opotiki District Council (ODC) or the ODC has been appointed Control and Management of the said reserve.

There are four sections to our submission:

1. The context both historical and current
2. The legislative framework for the transfer
3. The protections that will remain in place if the transfer occurs
4. The nature of opposing submissions
5. An expression of support to the transfer of lands to Te Whānau-ā-Apanui

Historic Context:

Historically, Te Whānau-ā-Apanui has mana whenua and moana from Hāwai in the west through to Potikirua in the east. We share boundaries with other iwi, boundaries that have been variously contested for 100s of years and more recently confirmed in such institutes as the Māori land Court.

Te Whānau-ā-Apanui have long-held grievances with the Crown. Not all of these grievances are not up for negotiation as part of this submissions process. It is worth noting, however, that the Crown has actively acknowledged breaches of the principles of the Treaty of Waitangi through the Agreement in Principle that has been reached between the Crown and Te Whānau-ā-Apanui. The Agreement in Principle can be read [here](#). These breaches have had a catastrophic impact on the iwi from a cultural, social, economic, and environmental perspective.

Despite these challenges, Te Whānau-ā-Apanui has always taken their responsibilities of citizenship of Aotearoa/ New Zealand very seriously. Te Whānau-ā-Apanui has contributed soldiers to every war that the New Zealand Government has entered into including the Boer War, World War I, World War II, the Korean War, the Vietnam War and more recently in [Afghanistan](#). Te Whānau-ā-Apanui continues to have a proud military tradition and members of the iwi continue to serve their country.

The land in Te Whānau-ā-Apanui rohe is very steep and far from the larger metropolitan areas. The land has not been desirable for farming, and thus has not faced the same pressures as many other iwi of New Zealand. We have been fortunate enough to hold on to a significant land holding. Many of the mountains, the rivers, and coastal areas remain in tribal ownership. Through the traditional practices of kaitiakitanga, our ngahere have remained intact, the rivers clean and the seas abundant with sea life. These land holdings continue to provide ecosystem services to the wider Opotiki District. Far from being selfish, Te Whānau-ā-Apanui through the custom of manaakitanga has a long tradition of allowing people access to their whenua and sharing these taonga with the people of the Opotiki district and the many visitors that enter our traditional rohe.

Te Whānau-ā-Apanui continues to practice kaitiakitanga to ensure that the natural resources afforded by our tupuna remain plentiful for generations to come. Had the whenua been alienated from Te Whānau-ā-Apanui as is the case in the majority of tribal regions, then the many splendours of our rohe would not be enjoyed by the people living in the Opotiki District. The natural forests that cover the area would have been harvested, the rivers muddied through overstocking of the flatlands and the moana would be barren as a result of over fishing. As evidence that this would be the case, one only has to look at every other district of Aotearoa where all but a few small pockets of land have been alienated from Maori ownership.

In its current state Te Whanau a Apanui remain the largest landowner, the largest contributor of eco-system services, the largest ratepayer, and also make up a significant portion of the residents in the Opotiki District.

It is within this context that the request has been made by Te Whanau a Apanui to the Opotiki District Council for the return of these reserves.

The legislative framework for the transfer

As a subsidiary of the Crown, ODC in its capacity as a decision-maker has responsibilities under the Treaty of Waitangi, and its own legislation.

Section 14(d) of the Act states that a local authority should provide opportunities for Māori to contribute to its decision-making processes.

As stated above, the underlying land ownership of these reserves remains with the Crown. The land in question is also held as a reserve under the Reserves Act 1977¹. Therefore the Conservation Act 1987 applies when ODC makes any decisions about these reserves. As such, Section 4 of the Conservation Act applies meaning that the lands held under these acts shall be administered to give effect to the principles of the [Treaty of Waitangi](#).

With regards to this particular submission process the following principles apply:

1. **Informed decision making** – the ODC must satisfy itself that members of Te Whānau-ā-Apanui are fully informed about the submission process and that ODC is fully informed of the views of the members of Te Whānau-ā-Apanui about the transfer
2. **Partnership** – ODC must be able to satisfy itself that it has entered into this submissions process in full partnership with Te Whānau-ā-Apanui
3. **Active Protection** – ODC must be able to satisfy itself that it can actively protect the whenua and the values held by Te Whanau a Apanui by enacting any decision as a result of this submissions process
4. **Redress and Reconciliation** – ODC must satisfy itself that by enacting any decision as a result of this submissions process that it allows for the active redress and reconciliation of historic and contemporary breaches of the Treaty of Waitangi

¹ Noting that the Reserves Act 1977 is listed in Schedule 1 of the Conservation Act 1987 and that the Department of Conservation administers the Reserves Act.

Protections that will remain in place if the transfer occurs

Transfer of reserves and conservation lands have been a feature of Treaty Settlements across New Zealand for many years. The transfer of these lands are made with consideration of the cultural, spiritual, ancestral, and historic connections of the hapū and iwi to those lands. It also takes into regard the conservation value of said lands and the public access rights afforded to the general public to those lands. There have been a number of significant areas that have been included in settlement packages.

These include: Te Urewera, (formerly the Te Urewera National Park), Te Awa Tupua (Whanganui River) Takaparawhau (Bastion Point) Ngā Tupuna Maunga o Tāmaki Makaurau (Auckland Volcanic Cones)

While each of the management regimes has had to face its own challenges in administering these areas, to date the process has largely been positive and supported by New Zealand citizens as a whole. It is noted that the majority of Treaty Settlement legislation has passed unanimously through parliament with little or no opposition.

As previously stated, all of these reserves will remain reserves under the Reserves Act 1977. This ensures that all of the protections afforded by the Reserves Act will continue to remain in place for any reserve that is transferred. This includes opportunities for the public to contribute to any Reserves Management Plan, processes for dealing with concessions or leases on the reserves, and processes for dealing with encumbrances and encroachments.

As such, the only change that will occur if ODC relinquishes control of these reserves is restricted to what the Reserves Act already allows.

Furthermore, the settlement will continue to allow for the ODC to play a decision-making role in any development that may occur on any of these reserves through their powers under the Resource Management Act, or the Building Act.

The nature of opposing submissions

Undoubtedly ODC will receive several submissions opposing the transfer of these reserves. There will be many self-interested parties that are only interested in what they consider they may lose, rather than what the community will gain.

It is noted that in recent processes for the development of the Reserves Management Plan for Reserves in the Opotiki District, that a significant portion of submissions was received opposing the transfer of lands to Te Whanau a Apanui. In particular, requesting that an illegal roadway be formalised over the Whanarua Bay Recreation Reserve and that an easement is offered to several bach owners that purchased land knowing full well that access to their sections was directly from State Highway 35.

It is also noted that similar submissions were made by members of Te Whanau a Apanui encouraging the transfer and explaining the cultural significance of the site to the Iwi and Hapū.

However, as stated above it is important to recognise that the transfer of all of the reserves will be done so under the Reserves Act 1977. As such the same protections will remain in

place over the areas and the same processes prescribed by the act. There will continue to be public involvement in the formation of Reserves Management Plans. Also, the administering body will have to weigh up the same issues that ODC has recently had to weigh up including, the cultural values of the area, accessibility, environmental impacts facing the reserves, and recreational opportunities.

As such, there is no risk in transferring the lands that the current rights and privileges of the public will be undermined by the transfer.

An expression of support towards the transfer of lands to Te Whanau a Apanui

In conclusion, this submission is in support of the transfer of lands to Te Whanau a Apanui. In the submissions materials provided, ODC provided three options that would be considered:

1. Te Whānau a Apanui owns the reserves but Council retains sole management of the reserves
2. Te Whānau a Apanui owns the reserves and a joint reserve management board of the Council and Te Whānau a Apanui is created to manage reserves individually or collectively
3. Te Whānau a Apanui owns the reserves and is the sole management body of the reserves

This submission recommends that ODC engage with hapū of Te Whanau a Apanui and work in partnership to choose what model of transfer that is preferred by each hapū. Which option is settled on will be determined by a range of variables, for example, how did the land end up under the management of ODC.

Furthermore, this submission urges ODC to honour the Treaty of Waitangi and mana whenua rights and allow for ODC to sit on the right side of history and transfer the land in a manner that recognises the mana of Te Whanau Apanui.

Finally, this submission urges ODC to trust in Te Whanau a Apanui that the lands that are returned will be afforded the same protection and care the iwi have given the vast majority of whenua that has remained in their care.

Na mātau ko,