

Haka Ka Mate Attribution Bill

Government Bill

This bill was formerly part of the Te Tau Ihu Claims Settlement Bill as reported from the Māori Affairs Committee. The Clerk of the House has divided it into the following bills:

- Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Bill comprising clauses 1 and 2, Parts 1 to 3, and Schedules 1 to 4
 - Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Bill comprising Parts 4 to 7 and Schedules 5 to 9
 - Ngati Toa Rangatira Claims Settlement Bill comprising Parts 8 to 10 and Schedules 10 to 14
 - this bill comprising Part 11 and Schedule 15
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Hon Christopher Finlayson

Haka Ka Mate Attribution Bill

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Schedule 15

Statement relating to Ka Mate

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Haka Ka Mate Attribution Act **2014**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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633 Purpose

The purpose of **this Part** is to give effect to certain provisions of the deed of settlement that settles the historical claims of Ngati Toa Rangatira. The provisions relate to the haka Ka Mate. 5

634 Provisions take effect on settlement date

The provisions of **this Part** take effect on the settlement date. 10

635 Act binds the Crown

This Part binds the Crown.

636 Interpretation of Act generally

It is the intention of Parliament that the provisions of **this Part** are interpreted in a manner that best furthers the agreements expressed in the deed of settlement. 15

637 Interpretation

In **this Part**, unless the context requires another meaning,—
communication has the meaning given by section 2(1) of the Copyright Act 1994 20

Crown has the meaning given by section 2(1) of the Public Finance Act 1989

deed of settlement means the deed of settlement for Ngati Toa Rangatira dated 7 December 2012, entered into by the Crown, Ngati Toa Rangatira, and the Toa Rangatira Trust, including any schedules or attachments and including any amendments 25

film has the meaning given by section 2(1) of the Copyright Act 1994

Ka Mate means the words and associated actions and choreography, whether in whole or part, of the haka known as Ka Mate

Ngati Toa Rangatira has the meaning given by **section 430(1) of Parts 8 to 10 of the Te Tau Ihu Claims Settlement Act 2013** 5

publication means that something is—

- (a) issued to the public; or
- (b) made available to the public by means of an electronic retrieval system 10

right of attribution means the right of attribution conferred by **section 639**

rights representative means—

- (a) Te Runanga o Toa Rangatira Incorporated; or
- (b) the person to whom the right to enforce the right of attribution under **section 641** has been assigned in accordance with the constitutional documents of Te Runanga o Toa Rangatira Incorporated or any other prior rights representative 15

settlement date means the date that is 70 working days after the date on which **this Part** comes into force. 20

638 Acknowledgements by the Crown

- (1) The Crown acknowledges the significance of Ka Mate—
 - (a) as a taonga of Ngati Toa Rangatira; and
 - (b) as an integral part of the history, culture, and identity of Ngati Toa Rangatira. 25
- (2) The Crown acknowledges the statement made by Ngati Toa Rangatira, and set out in **Schedule 15**, relating to—
 - (a) Te Rauparaha, the composer of Ka Mate:
 - (b) the composition of Ka Mate: 30
 - (c) the association of Ngati Toa Rangatira with Ka Mate and their role as kaitiaki of Ka Mate:
 - (d) the values of Ngati Toa Rangatira concerning the use and performance of Ka Mate.
- (3) The Crown recognises that Ngati Toa Rangatira hold the right of attribution. 35

639 Right of attribution

- (1) Ngati Toa Rangatira have a right of attribution in relation to Ka Mate.
- (2) The right of attribution applies to the things described in **section 640**. 5
- (3) Anything to which the right of attribution applies must include a statement that Te Rauparaha was the composer of Ka Mate and a chief of Ngati Toa Rangatira.
- (4) The statement must be— 10
 - (a) clear and reasonably prominent; and
 - (b) likely to bring Te Rauparaha's identity, as the composer of Ka Mate and a chief of Ngati Toa Rangatira, to the attention of a viewer or listener.
- (5) However, the right of attribution is subject to any written waiver given, or written agreement entered into, by the rights representative. 15

640 Right of attribution applies to certain things

- (1) The right of attribution applies to— 20
 - (a) any publication of Ka Mate for commercial purposes:
 - (b) any communication of Ka Mate to the public:
 - (c) any film that includes Ka Mate and is shown in public or is issued to the public.
- (2) However, the right of attribution does not apply to— 25
 - (a) any performance of Ka Mate, including by a kapa haka group:
 - (b) any use for educational purposes of anything that includes Ka Mate:
 - (c) anything made for the purpose of criticism, review, or reporting current events:
 - (d) any communication to the public of anything described by **paragraph (a) or (c)** for a purpose that is not commercial. 30
- (3) In **subsection (1)**, **Ka Mate** includes a performance or representation of Ka Mate (so that, for example, a communication of Ka Mate includes a communication of a performance or representation of Ka Mate). 35

641 Remedy for failure to attribute

- (1) The right of attribution may be enforced only by obtaining a declaratory judgment or order against a person responsible for the thing to which the right applies.
- (2) The right of attribution may be enforced only by the rights representative on behalf of Ngati Toa Rangatira. 5
- (3) The Declaratory Judgments Act 1908 applies to proceedings for the declaratory judgment or order, despite anything to the contrary in any enactment or rule of law.
- (4) The declaratory judgment or order may state that— 10
- (a) the right of attribution applies to the thing for which the person is responsible; and
- (b) the person must comply with **this Part**.
- (5) To avoid doubt, the court may award costs under section 13 of the Declaratory Judgments Act 1908. 15

642 Review of this Act

- (1) The Ministry of Business, Innovation, and Employment must review **this Part** after the fifth anniversary of its commencement.
- (2) The purpose of the review is— 20
- (a) to consider whether the interests of Ngati Toa Rangatira relating to Ka Mate are sufficiently protected by **this Part** and any other relevant enactment or policy of the Crown; and
- (b) if the interests are not considered to be sufficiently protected, to consider additional protection for them. 25

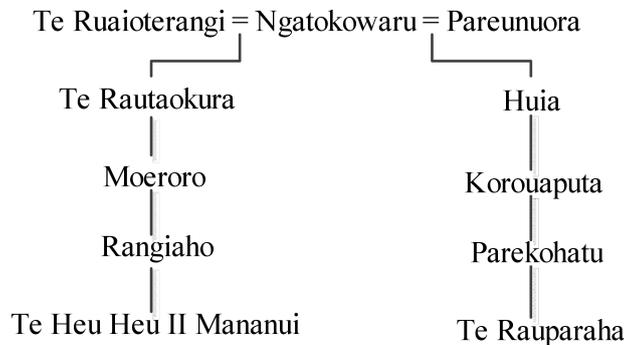
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Schedule 15**s 638(2)****Statement relating to Ka Mate****1 Te Rauparaha—the creator (composer) of the haka Ka Mate**

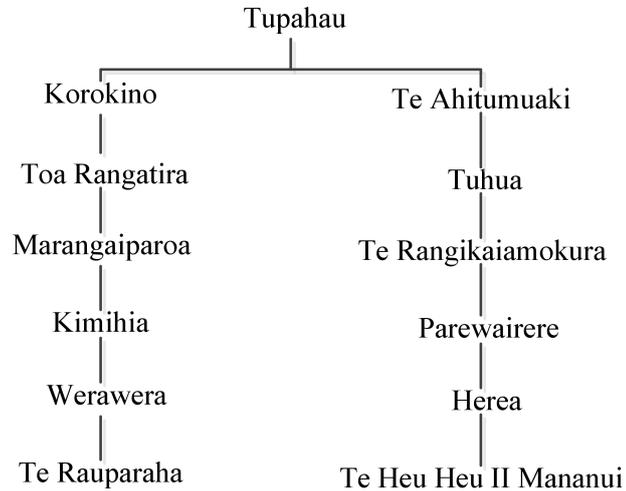
- (1) Ka Mate was composed by the Ngati Toa Rangatira chief Te Rauparaha, a descendant of Hoturoa who was captain of the Tainui canoe. Te Rauparaha was born in the 1770s at Kawhia and he died in 1849 at Otaki. Te Rauparaha was a man of great mana; he was the instigator of the emigration of Ngati Toa Rangatira from Kawhia, their consequent conquest and settlement in Kapiti, Port Nicholson, and Te Tau Ihu, and their revitalisation as an iwi. 5
- (2) Te Rauparaha was the product of an arranged marriage. Werawera (father-to-be of Te Rauparaha) heard of the beauty of Parekohatu, a younger daughter of the Ngati Raukawa/Ngati Huia chief Korouaputa. Werawera decided to approach Korouaputa and seek his consent to take Parekohatu as his wife. At Maungatautari, Werawera made the reason for his visit known. Addressing Korouaputa, he said, “I haere mai ahau ki a koe he wahine te take” (I come to you, a woman is the reason). Korouaputa replied, “Heoi ano ko te mea i mahue mai nei ki au, ko taku mokai, he mea hari wai maaku” (The only one I have left is my favourite, she brings me water). Werawera responded, “E pai ana tukuna mai” (It is well give her (to me)). Korouaputa, after giving the matter some thought, replied, “Heoi ano kaore e kore ki te whiwhi tamariki, tera ano he taniwha tetahi” (Nevertheless, yes, without a doubt, when children come there will be a taniwha). When Te Rauparaha was born in the 1770s at Kawhia, Werawera took him back to Maungatautari so that his grandfather could see him. When the old man saw the baby, he stated, “Ae. Koia.” 15 20 25 30
- (3) From that time he was spoken of as a chiefly child, and raised as a rangatira, until he grew old enough to again return to Maungatautari, this time to live with his mother’s people and to learn the art of weaponry, the flow of the taiaha, and the parry of the wahaika. 35

2 Composition of the haka Ka Mate

- (1) The story of the composition of Ka Mate is well known within the oral histories of Ngati Toa Rangatira. The event took place while the iwi were still based in Kawhia and Te Rauparaha was gaining prominence as a leader. 5
- (2) During this time, Ngati Toa Rangatira were faced with increasing pressure and ongoing hostilities from iwi based in the Waikato, who sought access and control over coastal resources such as the Kawhia Harbour and surrounding coast. A fragile peace had been made with the Waikato iwi, but Te Rauparaha and the other Ngati Toa Rangatira leaders were aware of the imminent conflict which could erupt at any time. Te Rauparaha journeyed from Kawhia to seek alliances with other tribal groups, one of those being Tuwharetoa who lived in the Lake Taupo region. Te Rauparaha was connected to Tuwharetoa and Te Heu Heu II Mananui, the Paramount Chief of Tuwharetoa. 10
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- (3) The relationship between Te Rauparaha and the Tuwharetoa chief Te Heu Heu II Mananui is shown by this whakapapa showing their respective mothers to be second cousins. 20



- (4) Both also descend from Tupahau, ancestor of Toa Rangatira.



- (5) When he arrived at Te Rapa, which is located near Tokaanu, Te Rauparaha was told by Te Heu Heu II Mananui that he was being pursued by a war party from Ngati Te Aho, who wanted revenge for a previous incident involving Ngati Toa Rangatira. Te Heu Heu directed Te Rauparaha to seek the protection of his relative Te Wharerangi at his pa on Motu-o Puhi, an island in Lake Rotoaira. 5
- (6) As the war party closed in on their quarry, guided by the incantations of their tohunga, Te Wharerangi instructed Te Rauparaha to hide in a taewa pit and instructed his wife, Te Rangikoahea, to sit at the entrance. By doing this, Te Rauparaha was hidden and protected physically, but, more importantly, in a spiritual sense as well. As the Ngati Te Aho party entered the pa, their tohunga made incantations to locate Te Rauparaha, but the noa of Te Rangikoahea, who sat at the mouth of the pit, acted as an “arai” or barrier. The karakia was inhibited due to the woman’s presence. 15
- (7) Te Rauparaha could not be sure that his presence would not be revealed and could feel the power of the incantations. He is said to have muttered “Ka Mate! Ka Mate!” under his breath (Will I die!) and “Ka Ora! Ka Ora!” (or will I live!) when the Noa reduced the incantation’s effect. These lines were repeated many times, coinciding with the waxing and waning of the tohunga’s power, until eventually Ngati Te Aho were convinced that Te Rauparaha had escaped towards Taranaki. 20 25

It was only then that he finally exclaimed “Ka Ora! Ka Ora! Tenei te tangata Puhuruhuru nana nei i tiki mai Whakawhiti te ra!” (I live! I live! For it was indeed the wondrous power of a woman (“the Noa”) that fetched the sun and caused it to shine again!).

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- (8) The word “Upane” is an ancient battle command meaning to advance or an order to advance en masse. The composer is likening his exit from the confines of the taewa pit to the advance of a party making an attack. The final exclamation “whiti te ra” means “into the sunlight” and obviously describes the situation and his survival from the threat of capture and possible death.

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Kikiki kakaka kau ana!
 Kei waniwania taku tara
 Kei tarawahia, kei te rua i te kerokero!
 He pounga rahui te uira ka rarapa;
 Ketekete kau ana to peru koi riri
 Mau au e koro e—Hi! Ha!
 Ka wehi au a ka matakana,
 Ko wai te tangata kia rere ure?
 Tirohanga ngā rua rerarera
 Ngā rua kuri kakamu i raro! Aha ha!

Ka Mate! Ka Mate!
 Ka Ora! Ka Ora!
 Ka Mate! Ka Mate!
 Ka Ora! Ka Ora!
 Tenei te tangata
 Puhuruhuru nana nei i tiki mai
 Whakawhiti te ra!
 Upane, ka Upane
 Upane, ka Upane
 Whiti te ra!

3 Ngati Toa Rangatira association with Ka Mate, and their role as kaitiaki

- (1) The haka Ka Mate is regarded by Ngati Toa Rangatira as one of the legacies of Te Rauparaha. Given the role of Te Rauparaha in Ngati Toa Rangatira history, the connection between Ngati Toa Rangatira and the haka Ka Mate is significant, and it forms an integral part of Ngati Toa Rangatira history, culture, and identity. 5
- (2) The haka Ka Mate is a taonga of Ngati Toa Rangatira. While it is the intellectual creation of the Ngati Toa Rangatira chief Te Rauparaha, in creating it he drew upon the body of knowledge and values Ngati Toa Rangatira refer to as “matauranga Maori”. In Maori thinking, such a composition does not “belong” to the composer per se, but instead is a taonga of the iwi to which the composer affiliates. It is they who give life and form to the words. 10 15
- (3) By definition, Ngati Toa Rangatira believe it is a taonga because it has whakapapa and connects them to their ancestors. The existence of the haka Ka Mate brings the tupuna Te Rauparaha to life and tells an important story in the Ngati Toa Rangatira iwi history. Ngati Toa Rangatira believe it has a korero embedded within it. This korero relates not only to the survival of Te Rauparaha but, as part of the iwi’s collective identity, the re-establishment and revitalisation of the Ngati Toa Rangatira people due to the vision and later actions of Te Rauparaha. Because of these characteristics, the haka Ka Mate has a mauri (a life force). 20 25
- (4) Ka Mate also has kaitiaki. Ngati Toa Rangatira are the kaitiaki of Ka Mate and it is their lineage that creates this kaitiaki relationship. The primary obligation of kaitiaki is to protect and safeguard the mauri of the taonga as well as the matauranga that sits beneath it. 30
- (5) As kaitiaki, the Ngati Toa Rangatira relationship with this taonga will be perpetual. As long as it continues to exist, Ngati Toa Rangatira obligations will continue. A large component of this will be protecting the mauri of the haka Ka Mate from mistreatment such as offensive and derogatory use. 35

Haka Ka Mate Attribution Bill

4 Values concerning use and performance of Ka Mate

Ngati Toa Rangatira seek to ensure that the interests of the iwi in the haka Ka Mate are appropriately recognised. Of particular concern is the appropriate use of the haka. It is of great significance to Ngati Toa Rangatira that the haka is treated with respect. The values which Ngati Toa Rangatira seek to uphold are the ihi, wehi, and wana—the ihi being the spiritual force and the wehi and wana being the emotions that emanate from understanding and performing correctly, inspiring emotional pride in the performer.

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Legislative history

19 February 2014

Divided from Te Tau Ihu Claims Settlement Bill
(Bill 123–2) by Clerk of the House as Bill 123–3D
