**Māori Party Mana Motuhake Policy**

**Executive Summary**

The Māori Party rededicate ourselves to Te Tiriti o Waitangi, a covenant entered into by our people and the Crown, starting with a meeting of our northern Māori leadership on the 6th February 1840 at Waitangi.

We distil the three clauses of a constitutional document that is the foundation of this country’s nationhood. Te Tiriti reaffirmed our precolonial mana motuhake rights:

* The first article of the covenant awarded total custodianship of Aotearoa to the Crown. It did not award ownership.
* The second article put beyond all doubt the assertion of Rangatiratanga – the right of Māori to have total control and governance of all their own domains.
* The third article asserted that Māori would be treated equally with all non-Māori.

Clearly, and at huge cost to document, this covenant was breached from the day it was signed and continues to be breached 180 years later.

The Māori Party has announced a policy platform that is intergenerational and will never be retreated from. The only way this nation can work is where Māori assert their right to self-management, self-determination, and self-governance over all their domains.

The Māori Party will:

1. Commit all Māori to the Māori electoral roll by 2023.
2. Entrench all Māori electorates.
3. Establish a Māori Parliament.
4. Implement all Matike Mai recommendations for constitutional transformation
5. Overhaul the Te Tiriti settlement process and end the fiscal envelope.
6. Insert relativity clauses into all Te Tiriti settlements, to ensure all iwi have parity with Ngāi Tahu and Waikato-Tainui.
7. Make Waitangi Tribunal recommendations binding on the Crown, and implement all unaddressed WAI claim recommendations.
8. Abolish “full and final” settlements and the “large natural groupings” approach to recognising mana whenua groups.
9. Return conservation land to whānau, hapū and iwi Māori.
10. Introduce a first right of refusal policy for mana whenua when private land of historical significance comes up for sale – like Ihumātao.
11. Remove the racist provision that allows for referenda to overturn council’s decisions to establish Māori wards.
12. Establish a Parliamentary Commissioner for Te Tiriti o Waitangi to provide oversight of the Crown.

**Solution**

**Implementing constitutional transformation**

**Māori Parliament**

We demand a Māori Parliament, exactly the same as has been granted to the Irish, the Scots and the Welsh. Westminster did not work for the Scots or the Irish - Wellington definitely does not work for Māori. Our right to self-governance and self-determination is clear. All fiscal transfers to this Māori Parliament have been clearly identified by the Māori Party in the release of its policies. Mainstream management of matters Māori will come to an end.

The Māori Party will:

* Demand a Māori Parliament

**Matike Mai**

Matike Mai Aotearoa, the Independent Working Group on Constitutional Transformation, was first promoted at a meeting of the Iwi Chairs’ Forum in 2010. The Terms of Reference given to the Working Group were deliberately broad – *“To develop and implement a model for an inclusive Constitution for Aotearoa based on tikanga and kawa, He Whakaputanga o te Rangatiratanga o Niu Tireni of 1835, Te Tiriti o Waitangi of 1840, and other indigenous human rights instruments which enjoy a wide degree of international recognition”.*

The working group, led by Moana Jackson and Margaret Mutu, undertook a significant process of engagement over several years with tangata whenua right across Aotearoa.

When Matike Mai published their report in 2016, they [recommended](https://nwo.org.nz/resources/report-of-matike-mai-aotearoa-the-independent-working-group-on-constitutional-transformation/):

1. That during the next five years Iwi, Hapū, and other lead Māori organisations promote ongoing formal and informal discussions among Māori about the need for and possibilities of constitutional transformation.
2. That such discussions also be included as an annual agenda item at national hui of lead Māori organisations such as the Waitangi hui of the Iwi Chairs’ Forum.
3. That a Māori Constitutional Convention be called in 2021 to further the discussion and develop a comprehensive engagement strategy across the country.
4. That at an appropriate time during the next five years a further Working Group be appointed to begin consideration of relevant structural and procedural issues as they pertain to Māori.
5. That at an appropriate time during the next five years Iwi, Hapū, and lead Māori organisations initiate dialogue with other communities in their rohe about the need for and possibilities of constitutional transformation.
6. That at an appropriate time during the next five years Iwi, Hapū, and lead Māori organisations initiate formal dialogue with the Crown and local authorities about the need for and possibilities of constitutional transformation.
7. That in 2021 Iwi, Hapū, and lead Māori organisations initiate dialogue with the Crown to organise a Tiriti Convention to further discussions about the need for and possibilities of constitutional transformation.

The Māori Party commits to implementing all Matike Mai recommendations. It is well past time that Aotearoa undertook the fundamental constitutional transformation that these recommendations prescribe. We will always champion the introduction of constitutional guarantees of the tino Rangatiratanga and mana motuhake of whānau, hapū and iwi.

The Māori Party will:

* Implement all Matike Mai recommendations for constitutional transformation
* Champion constitutional guarantees of tino Rangatiratanga and mana motuhake

**Overhauling the Te Tiriti settlement process**

The Māori Party will overhaul the Treaty settlement process, reforming it to create a new Te Tiriti reconciliation process that is fair, durable and considers new precedent.

We are clear that fundamental reform is needed to the settlement process. The key Crown policy settings for negotiations that must change if the process is to be durable and have the confidence of tangata whenua, and we must once and for all end the “fiscal envelope” and arbitrary deadlines for settlement claims. We should instead look to an ongoing process for Māori-Crown reconciliation and relationship-building.

The Māori Party would empower the Waitangi Tribunal by legislating to make their recommendations binding on the Crown, and we would work to implement all of the WAI claim recommendations that have been unaddressed over the last several decades.

The Māori Party will:

* Overhaul the Te Tiriti settlement process and end the fiscal envelope
* Insert relativity clauses into all Te Tiriti settlements, to ensure all iwi have parity with Ngāi Tahu and Waikato-Tainui
* Make Waitangi Tribunal recommendations binding on the Crown, and implement all unaddressed WAI claim recommendations

**Ending full and final settlements and large natural groupings**

The Government's always had the policy of wanting to settle all the historical claims with an iwi grouping at once in one settlement. The policy parameters that the Crown operates under, for example excluding the use of private land, mean there's never really been any discussion about how a particular piece of land might be dealt with because it was not part of the negotiations at all.

The Māori Party wants to see an end to “full and final” settlements, to allow historical claims to be revisited, and new claims brought, where situations have changed or whānau, hapū or iwi groups were shut out of the original negotiations.

Often groups are shut out of negotiations due the Crown’s large natural groupings policy, which doesn’t recognise the mandate of whānau, hapū and relatively small iwi. Time and time again hapū with legitimate claims have been shut down in negotiations and this has caused further harm. This divide and rule tactic has created new Te Tiriti breaches even as the Crown tries to settle historical breaches.

Hapū were the primary political unit in precolonial te ao Māori. The Māori Party upholds hapūtanga and recognise that it was the rangatira of hapū that signed Te Tiriti, and so we would ensure that the Crown negotiates with whānau and hapū and recognises their mana whenua.

The Māori Party will:

* Abolish the ‘full and final’ settlements policy
* Abolish the ‘large natural groupings’ policy and ensure that whānau, hapū and smaller iwi can have their rights recognised

**Use of private and council land**

It is time to get rid of the policy that says land that is currently in private or council ownership is unavailable for use in Treaty settlements and negotiations with hapū and iwi.

The recent Ihumātao case highlights how some of our most significant and precious land is in private ownership.

We do think that landowners should have land forcibly purchased or taken from them, as in many cases happened to our tupuna. But when land comes up for sale, there should be a first right of refusal for mana whenua, especially when land is of historical, cultural or spiritual value.

The Māori Party would develop and introduce a first right of refusal policy for mana whenua when private land of historical significance comes up for sale.

When the Crown reformed the Local Government Act in 2004, they introduced a provision that meant that all local government land couldn't be included in Treaty settlements. Those who settled prior to that were able to access council land. There is no good reason why council land shouldn’t be used for Māori-Crown reconciliation, and so the Māori would remove this provision from law.

The Māori Party will:

* Ensure that private and local government land can be returned to mana whenua
* Introduce a first right of refusal policy for mana whenua when private land of historical significance comes up for sale

**Use of conservation land**

The Māori Party will return conservation land to whānau, hapū and iwi Māori.

Under successive governments, there has been resistance from the Department of Conservation (DOC) to the use of conservation land in Treaty settlements, resistance which has only increased under the current Government. This has been a significant barrier to the return of stolen land to hapū and iwi as part of redress under the settlement process.

It is imperative that the Crown and its department, DOC, recognise that hapū and iwi are not just up to it, but that we are the ideal kaitiaki of our own whenua, awa and moana. The return of the management of Te Ūrewera to Tūhoe, and their relationship with DOC, shows how this acknowledgement can be implemented successfully in practice.

We would also overturn the policy, implemented in 2009, of not using camping grounds in the DOC estate, for the purpose of returning land to tangata whenua. While affording camping opportunities for New Zealanders have their importance that does not compare to the importance of reconciling the historical theft of land that is of huge significance to tangata whenua.

The Māori Party will:

* Return conservation land to whānau, hapū and iwi Māori
* Overturn the Crown policy of not using camping grounds in the DOC estate for the purpose of returning land to tangata whenua

**Ensuring effective Crown oversight**

**Electoral reform**

It’s critical that our people are able to participate in Crown decision-making processes fairly and accessibly. The threat of removing Māori representation is often used as a weapon against our people. We must entrench the Māori electorates and commit all Māori to the Māori electoral roll.

We also need to get serious about Māori representation in local government. While the form and method of representation and relationship should be determined by mana whenua in each local area, at the very least central government must immediately amend the Electoral Act to ensure that council’s decisions to establish Māori wards can’t be overturned by the racist provision that enables binding referendums – the same provision does not exist for general or rural wards.

The Māori Party will:

* Entrench the Māori electorate seats
* Remove the racist provision that allows for referenda to overturn council’s decisions to establish Māori wards
* Commit all Māori to the Māori electoral roll by 2023
* Reduce the party vote threshold to 2.5%

**Parliamentary Commissioner for Te Tiriti o Waitangi**

One of the Māori Party’s priorities will be to establish a Parliamentary Commissioner for Te Tiriti o Waitangi to provide oversight and ensure that the Crown meets its obligations under the Treaty partnership.

Currently there is no oversight of legislation or Crown departments and agencies from a Te Tiriti perspective. That’s unacceptable. The Crown has an environmental commission, a human rights commission, a disability commission – it’s well past time to establish a Treaty commission.

The Māori Party will introduce legislation to establish a Parliamentary Commissioner for Te Tiriti o Waitangi with functions and powers to enable them to:

1. Review and investigate priority issues of concern
2. Provide advice to Parliament
3. Contribute to public debate through the provision of information and analysis

The Commissioner will be appointed for a five-year term on the recommendation of Parliament and hapū, iwi and lead Māori organisations. Based on the budgets for other parliamentary commissioners, establishing this office would require approximately $4m in funding per annum.

The Māori Party will:

* Establish a Parliamentary Commissioner for Te Tiriti o Waitangi that is jointly appointed by tangata whenua and the Crown to provide oversight of the Crown

**Te Tiriti o Waitangi impact statements**

Currently, Te Tiriti is only formally considered in legislation and regulation when the Government considers it relevant. However, we know that all Crown laws and regulations have impacts on tangata whenua and on the implementation of Te Tiriti.

The Māori Party will:

* Ensure that all pieces of legislation, executive regulations and cabinet papers are required to have Te Tiriti impact statements

**Context**

The Waitangi Tribunal was established in 1975 to consider contemporary breaches of Te Tiriti. In 1985 the tribunal was empowered to hear historical grievances dating back to 1840.

Since then the Crown has worked to negotiate settlements with iwi groups across the country and is now nearing the completion of all historical claims that have been lodged.

The strong desire of the Crown and tangata whenua to settle historical Treaty grievances has led to a mainstream narrative that this will be led to the Treaty itself being settled, and the end of Māori-Crown reconciliation under Te Tiriti.

But as Moana Jackson has so often said, treaties are not settled, they’re honoured.

Te Tiriti is a document that is the foundation of a living, evolving relationship between tangata whenua and the Crown. Both parties to Te Tiriti must continually strive to meet the obligations it sets out and implement the three articles in everything we do.

Successive National and Labour governments have established a bipartisan consensus on the Treaty settlement process. These major parties have operated in lockstep over key negotiation policy settings such as full and final settlements, and only negotiating with ‘large natural groupings’. This bipartisan consensus has prevented a truly just and durable reconciliation between tangata whenua and the Crown.

The Crown has forced its policy of ‘full and final’ settlements on all the iwi it has negotiated with under the settlement process. It has also often caused new breaches and grievances through its negotiation policies, such as only negotiating with groups it determines and excluding the use of most land for negotiations.

In recent years tangata whenua and the Crown have negotiated new and innovate processes for Māori-Crown reconciliation and Treaty justice that sit outside of the formal Treaty settlement process.

In 2016, two sections of land from the historic Rangiriri pā site were returned to Waikato-Tainui. This was not connected to the settlement process, but instead came about due to the support the Māori Party received for commemorating the New Zealand Land Wars.

The landmark Parihaka reconciliation agreement, signed at the He Puanga Haeata ceremony at Parihaka in 2017, also occurred under a process outside of the formal settlement process and was undertaken on the Crown side by Christopher Finlayson as Attorney General, not as Minister for Treaty Settlements.

These innovative and nation-building approaches to Māori-Crown reconciliation are welcome and should set a precedent for our how further reconciliation can occur.

The rangatahi-led mana whenua occupation at Ihumātao has also been a key signal that we are entering a new era of Te Tiriti justice. The land was confiscated from the Kīngitanga in 1867 and has been in private ownership since. Since the Government intervention to prevent further police escalation on the whenua, the Kīngitanga have been leading a process to negotiate for the return of the land. This process could lead to a new precedent with a piece of land in private ownership being used for Māori-Crown reconciliation.