



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Haka Ka Mate Attribution Act 2014 Guidelines



Haka Ka Mate Attribution Act 2014

Purpose of guidelines

The purpose of these guidelines is to explain when attribution is required under the Haka Ka Mate Attribution Act 2014 and how to comply with the Act. They are also intended to explain to the reader why the haka Ka Mate is of such cultural importance to Ngāti Toa Rangatira, much in the way national anthems are of importance to other countries and cultures.¹ The Act is therefore a way of giving meaningful recognition to the mana (significance) of the haka. The Act also gives Ngāti Toa Rangatira recognition of their cultural association with the haka by ensuring the original creator of the haka is recognised when it is used. The guidelines provide the following information:

- › Background
- › History of Ka Mate
- › Ngāti Toa Rangatira Deed of Settlement
- › What is a right of attribution?
- › When do you have to attribute?
- › How does the Act require you to attribute?
- › Examples – some circumstances in which attribution is required
- › Exceptions – some circumstances in which attribution is not required
- › What happens if you do not attribute when required?
- › How can you check whether an attribution statement is required or sufficient?
- › Are there any alternatives to providing an attribution statement?
- › Is guidance available for use of the haka Ka Mate generally?

Background

The haka Ka Mate was composed around 1820 by the famous Ngāti Toa chief Te Rauparaha. It is an iconic part of New Zealand culture. Although it may be known to some through its performance by kapa haka groups, New Zealand sports teams and performance by the All Blacks, it has had special cultural significance for Ngāti Toa Rangatira since its composition.

The haka Ka Mate is a taonga (treasure) of Ngāti Toa Rangatira and is an integral part of Ngāti Toa Rangatira history, culture and identity. It has come to represent to Ngāti Toa Rangatira not only the survival of Te Rauparaha but a part of Ngāti Toa Rangatira's collective identity, the re-establishment and re-invention of that iwi due to the vision and actions of Te Rauparaha.

Ngāti Toa Rangatira regard themselves as the kaitiaki (guardians) of the haka Ka Mate and Te Rūnanga o Toa Rangatira has been charged by the iwi to celebrate the haka Ka Mate on behalf of the descendants of Te Rauparaha and the iwi and protect the haka Ka Mate from culturally inappropriate and offensive use.

History of Ka Mate

Te Rauparaha—the creator (composer) of the haka Ka Mate

Ka Mate was composed by the Ngāti Toa Rangatira chief Te Rauparaha, a descendant of Hoturoa who was captain of the Tainui canoe. Te Rauparaha was born in the 1770s at Kāwhia and he died in 1849 at Ōtaki. Te Rauparaha was a man of great mana; he was the instigator of the emigration of Ngāti Toa Rangatira from Kāwhia, their consequent conquest and settlement in Kapiti, Port Nicholson, and Te Tau Ihu, and their revitalisation as an iwi.

¹ The guidelines have been developed to assist with compliance with the Act. If there is any inconsistency, the Act prevails.

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 Ngāti Raukawa/Ngāti 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 Kāwhia, Werawera took him back to Maungatautari so that his grandfather could see him. When the old man saw the baby, he stated, “Ae. Koia.”

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.

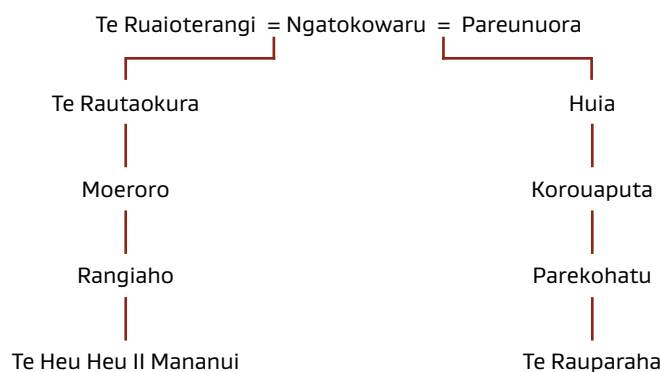
Composition of the haka Ka Mate

The story of the composition of Ka Mate is well known within the oral histories of Ngāti Toa Rangatira. The event took place while the iwi were still based in Kāwhia and Te Rauparaha was gaining prominence as a leader.

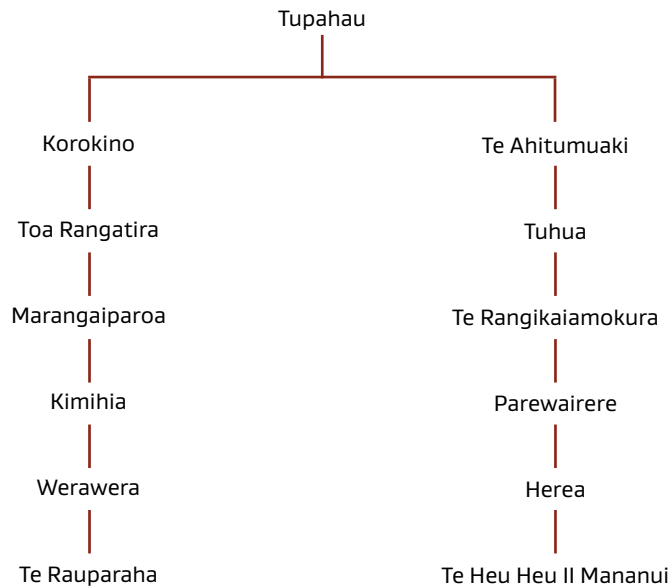
During this time, Ngāti Toa Rangatira were faced with increasing pressure and ongoing hostilities from iwi based in the Waikato, who sought access and control over coastal resources such as the Kāwhia Harbour and surrounding coast. A fragile peace had been made with the Waikato iwi, but Te Rauparaha and the other Ngāti Toa Rangatira leaders were aware of the imminent conflict which could erupt at any time.

Te Rauparaha journeyed from Kāwhia 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.

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.



Both also descend from Tupahau, ancestor of Toa Rangatira.



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 Ngāti Te Aho, who wanted revenge for a previous incident involving Ngāti 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.

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 Rangikoaea, 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 Ngāti Te Aho party entered the pa, their tohunga made incantations to locate Te Rauparaha, but the noa of Te Rangikoaea, who sat at the mouth of the pit, acted as an "ārai" or barrier. The karakia was inhibited due to the woman's presence.

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 Ngāti Te Aho were convinced that Te Rauparaha had escaped towards Taranaki. It was only then that he finally exclaimed "Ka Ora! Ka Ora! Tēnei te tangata Pūhuru hūru nāna nei i tiki mai Whakawhiti te rā!" (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!).

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.



*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!
Tēnei te tangata
Pūhuruhuru nāna nei i tiki mai
Whakawhiti te rā!
Upane, ka Upane
Upane, ka Upane
Whiti te ra!*

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

The haka Ka Mate is regarded by Ngāti Toa Rangatira as one of the legacies of Te Rauparaha. Given the role of Te Rauparaha in Ngāti Toa Rangatira history, the connection between Ngāti Toa Rangatira and the haka Ka Mate is significant, and it forms an integral part of Ngāti Toa Rangatira history, culture, and identity.

The haka Ka Mate is a taonga of Ngāti Toa Rangatira. While it is the intellectual creation of the Ngāti Toa Rangatira chief Te Rauparaha, in creating it he drew upon the body of knowledge and values Ngāti Toa Rangatira refer to as “mātauranga Māori”. In Māori 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.

By definition, Ngāti 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 Ngāti Toa Rangatira iwi history. Ngāti Toa Rangatira believe it has a kōrero embedded within it. This kōrero 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 Ngāti 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).

Ka Mate also has kaitiaki. Ngāti 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 mātauranga that sits beneath it.

As kaitiaki, the Ngāti Toa Rangatira relationship with this taonga will be perpetual. As long as it continues to exist, Ngāti 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.

Ngāti Toa Deed of Settlement

The Crown has recognised that Ngāti Toa Rangatira have a unique historical and cultural association to the haka ‘Ka mate’. As part of the Treaty of Waitangi settlement between Ngāti Toa Rangatira and the Crown, the Crown:

- › acknowledged the significance of the haka Ka Mate as a taonga (treasure) of Ngāti Toa Rangatira and an integral part of their history, culture and identity
- › acknowledged Ngāti Toa’s particular cultural, spiritual, historical and traditional association with the haka Ka Mate
- › acknowledged Ngāti Toa Rangatira’s ongoing role as kaitiaki of the haka Ka Mate
- › acknowledged the statement made by Ngāti Toa about Te Rauparaha, the composition of the haka Ka Mate, and the values of Ngāti Toa Rangatira concerning Ka Mate’s use and performance (which is set out below under the heading ‘Is guidance available for use of the haka Ka Mate generally’)
- › recognised that Ngāti Toa Rangatira holds a perpetual and unassignable right of attribution in relation to Ka Mate.

The Haka Ka Mate Attribution Act 2014 gives effect to the provisions of the treaty settlement between the Crown and Ngāti Toa Rangatira relating to the haka Ka Mate.

What is a right of attribution?

A right of attribution is a right to be identified as the creator of works like books, music, plays, films and dances. For example, the author of a book has a right of attribution in respect of that book. They have a right to be identified as the person who wrote it. As Te Rauparaha is the original creator of ‘Ka Mate’, Ngāti Toa Rangatira hold the right to have him recognised when the haka Ka Mate is used.

When do you have to attribute?

You must attribute if you intend to use the words or associated actions and choreography of the haka Ka Mate – or any part of Ka Mate – in any publication for commercial purposes, any communication to the public (the transmission or making available by means of a communication technology, for example on a blog or webcasting), or in any film that is shown or issued to the public.

Sub-section 10(1) of the Haka Ka Mate Attribution Act 2014 provides:

- (1) The right of attribution applies to –
 - (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.

How does the Act require you to attribute?

If you use the haka Ka Mate in the circumstances described above, you must ensure that the work includes on or in it a statement that Te Rauparaha was the composer of Ka Mate and a chief of Ngāti Toa Rangatira. The statement must be clear and reasonably prominent. And it must be likely to bring Te Rauparaha's identity, as the composer of the haka Ka Mate and a chief of Ngāti Toa Rangatira, to the viewer's or listener's attention (an **attribution statement**).

Examples

The following scenarios illustrate some of the circumstances in which attribution is required and guidance on who is required to attribute.

Any publication of Ka Mate for a commercial purpose (for example, when you sell or hire out books or magazines, or distribute advertisements which include Ka Mate):

- › If you publish or sell a book at retail that contains the words of Ka Mate, you must ensure that the book includes an attribution statement. If the book you are selling at retail does not contain an attribution statement (for example the book was published prior to the attribution requirement), you are required to include an attribution statement on the book before it is sold.
- › If you publish an advertisement and it contains the words of Ka Mate you are required to include an attribution statement (unless the advertisement is not for a commercial purpose, for example an advertisement for a school concert).

Any communication of Ka Mate to the public (for example when you include Ka Mate on radio, television or the internet):

- › If you quote the words of Ka Mate on a blog you must ensure that the internet page includes an attribution statement.
- › If you are broadcasting a radio documentary about an early All-Blacks tour and you examine the words of Ka Mate on the radio you must ensure that the broadcast includes an attribution statement.

Any film that includes Ka Mate and is shown in public or is issued to the public

- › If you want to show a film (for example, as the operator of a cinema) and that film contains Ka Mate you must ensure that when the film is shown to the public there is an attribution statement (for example a statement before the screening of the film).
- › If you are a producer or distributor of a film that includes Ka Mate, you must ensure that there is an attribution statement when the film is issued to the public (for example when you are selling or hiring DVDs).



Exceptions

There are some circumstances where it is not necessary to include an attribution statement.

Sub-section 10(2) of the Haka Ka Mate Attribution Act 2014 provides:

(2) However, the right of attribution does not apply to –

- (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.

The following scenarios illustrate where the right of attribution does not apply:

Any performance of Ka Mate, including by a kapa haka group

If you perform Ka Mate (for example as part of a kapa haka group or at a sporting event) your performance does not require an attribution statement.

Any use of Ka Mate for educational purposes

If you use Ka Mate for an educational purpose (for example teaching a class) your use does not require an attribution statement. However, educational books, films or other teaching resources will generally require an attribution statement.

If you are a teacher and you upload the words of Ka Mate on to a learning resource website for your students, you are not required to include an attribution statement.

Anything made for the purpose of criticism, review or reporting current events

If you are creating a news report of an event which includes Ka Mate (for example a local sporting event) and your report includes a link to, or video clip of the performance of Ka Mate, you are not required to include an attribution statement.

Any communication to the public of any of these exceptions for a purpose that is not commercial

If your child is involved in a performance of Ka Mate in the school kapa haka group and you take a video of the performance and upload the video to a Facebook page so friends and family can view your child's performance, you are not required to include an attribution statement.

What happens if you do not attribute when required?

If you do not attribute when required, Ngāti Toa Rangatira may obtain a court declaration stating that you were required to comply with the Haka Ka Mate Attribution Act 2014 and ordering you to comply. If this occurs the court may make an award to Ngāti Toa towards their costs of having to bring the legal proceedings.

How can you check whether an attribution statement is required or sufficient?

The rights representative for Ngāti Toa Rangatira is its mandated iwi authority: Te Rūnanga o Toa Rangatira Incorporated. Te Rūnanga is a non-profit incorporated society with charitable status and the administrative body responsible for Ngāti Toa Rangatira estates and assets (including the haka Ka Mate).

Contact Te Rūnanga if you would like to discuss whether:

- › attribution is required
- › the way you intend to attribute is sufficient.

You may also wish to obtain legal advice.

Are there any alternatives to providing an attribution statement?

Yes. You can contact Te Rūnanga o Toa Rangatira Incorporated if you would like to:

- › seek a written waiver of the requirement to attribute (see section 9(5) of the Haka Ka Mate Attribution Act 2014)
- › enter a written agreement with the rights representative concerning your obligation to attribute (see section 9(5) of the Haka Ka Mate Attribution Act 2014).

Is guidance available for use of the haka Ka Mate generally?

Yes. You can also contact Te Rūnanga o Toa Rangatira if you would like to discuss issues not covered under the Haka Ka Mate Attribution Act 2014, like whether your proposed use of the haka Ka Mate would be considered acceptable or appropriate.

In the Act, Ngāti Toa Rangatira described their values associated with the haka Ka Mate.

Ngāti Toa Rangatira seeks 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 Ngāti Toa Rangatira that the haka is treated with respect. The values which Ngāti 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 it correctly, inspiring emotional pride in the performer.

Click here to contact Te Rūnanga o Toa Rangatira Incorporated:

<http://www.ngatittoa.iwi.nz/runanga/about-te-runanga/>

