



Deed of Settlement

Between the Crown and
Ngaa Rauru Kiihahi

General Background

Ngaa Rauru Kiihahi is one of eight generally recognised iwi of Taranaki. Rauru is the eponymous ancestor of Ngaa Rauru Kiihahi and it is from him that the tribal name is derived. Ngaa Rauru Kiihahi is located in south Taranaki and has approximately 3,000 members.

The history of the interaction between Ngaa Rauru Kiihahi and the Crown has been outlined in the Waitangi Tribunal's Interim Taranaki Report, published in 1996. The claims of Ngaa Rauru Kiihahi relate in general terms to breaches by the Crown of its obligations under the Treaty of Waitangi and in particular the waging of war resulting in loss of life, the confiscation of large amounts of land and other land dealings.

An account of the historical background agreed between the Crown and Ngaa Rauru Kiihahi is included in the Deed of Settlement, along with the Crown's acknowledgement of breaches of the Treaty of Waitangi and its principles and a Crown apology for those breaches.

Negotiations on a settlement package began in October 2000. In May 2002, the Crown and Ngaa Rauru Kiihahi signed an Agreement in Principle. The Crown and the mandated iwi representatives initialled a draft Deed of Settlement in October 2003, which was then ratified by the members of Ngaa Rauru Kiihahi through a postal ballot. The Deed is now subject only to the establishment by Ngaa Rauru Kiihahi of a suitable governance entity to receive the settlement redress, and the passage of settlement legislation.

Ngaa Rauru Kiihahi was represented in negotiations by Martin Davis, Taituha Kingi and Bill Hamilton, representatives of the mandated Ngaa Rauru Iwi Authority. The Office of Treaty Settlements, with the support of the Department of Conservation, Treasury and other government agencies, represented the Crown in day-to-day negotiations. The Minister in Charge of Treaty of Waitangi Negotiations, Hon Margaret Wilson, represented the Crown in high-level negotiations with Ngaa Rauru Kiihahi.

Summary of the Historical Background to the Claims by Ngaa Rauru Kiihahi

Prior to 1860, Ngaa Rauru Kiihahi was a prosperous iwi in south Taranaki who engaged in extensive trade with European settlements. In 1848 the Crown acquired a block at Wanganui of some 86,000 acres, including approximately 20,000 acres within the Ngaa Rauru Kiihahi rohe.

In the 1850s, some Ngaa Rauru Kiihahi entered a pact with other Taranaki iwi and elsewhere to oppose further land sales. In 1860, resistance to the survey of the Pekepeka block at Waitara was deemed an act of rebellion, and the Crown commenced hostilities in north Taranaki. Some Ngaa Rauru Kiihahi entered the war on the side of the non-sellers.

In May of 1859, Ngaa Rauru Kiihahi of Waitotara agreed to sell the Waitotara Block to the Crown. Negotiations over the Waitotara purchase ceased when the northern hostilities began, and resumed in 1862. The Crown was aware of significant opposition to the sale but proceeded with it on the strength of the 1859 agreement. The sale was finalised in July 1863.

War broke out again in Taranaki in May 1863. Fighting continued in this area until 1867. The Crown adopted a policy of "scorched earth" involving the destruction of villages and cultivations. Ngaa Rauru Kiihahi suffered much loss of life and property during these "bush scouring" campaigns.

In 1865, the Crown declared three confiscation districts in New Zealand under the New Zealand Settlements Act of 1863. The Sim Commission estimated that over 150,000 acres were confiscated from within the Ngaa Rauru Kiihahi rohe.

In June of 1868, fighting resumed in south Taranaki and further lives were lost, including those of Ngaa Rauru Kiihahi children. In February of 1869, the Crown's forces pushed all Ngaa Rauru Kiihahi out of South Taranaki and pursued them into the interior, destroying crops, livestock and dwellings. Prior to 1873, most were forbidden by the Crown to return to their lands.

The compensation process for confiscated land provided for in the confiscation legislation was inadequate and ignored customary forms of land tenure. None of the compensation awards had been implemented by 1880 and the Crown appointed the West Coast Commissions in the 1880s to remedy this situation and fulfil Crown promises.

From the early 1870s, the Crown also acquired Ngaa Rauru Kiihahi land outside the confiscation area. Large areas were purchased by the Crown without full investigation of title.

In the 1860s, a movement for Māori peace and independence was established at Parihaka in central Taranaki. Ngaa Rauru Kiihahi living at Parihaka were involved in acts of passive resistance in the late 1870s, in response to the confiscations and lack of reserves. In 1881 more than 1,500 Crown soldiers invaded Parihaka. Some 1,600 men, women and children were expelled from the settlement, crops were burned and homes destroyed. Many prisoners, including members of Ngaa Rauru Kiihahi, were held in the South Island. Conditions were harsh and included hard labour.

The West Coast Commissions finalised the return of limited land to iwi in Taranaki in the mid-1880s. The land returned was done so under individual title and placed under the control of the Public Trustee. Much was farmed by settlers under perpetually renewable leases or sold by the Trustee. Title amalgamation in 1963 meant beneficial owners no longer had specific interests in customary land but in all reserves throughout Taranaki. Ngaa Rauru Kiihahi iwi and hapū could not exercise Ngaa Raurutanga over the reserves in their rohe.

The investigation of the confiscations by the Sim Commission in 1926-27 was limited. The Commission found in Taranaki that every acre taken exceeded what was fair and just. The Commission recommended an annuity of £5,000 to compensate all of the iwi of Taranaki for the confiscations and a single payment of £300 for the loss of property at Parihaka. The government of the day did not discuss these payments with iwi, nor did iwi accept them as adequate. The Taranaki Maori Claims Settlement Act 1944 stated that the sums were a full settlement relating to the confiscations and Parihaka. There is no evidence Ngaa Rauru Kiihahi or other iwi agreed to this and the sums were not inflation adjusted.

Settlement

Summary of the Ngaa Rauru Kiitahi Settlement

Overview

The Ngaa Rauru Kiitahi Deed of Settlement is the final settlement of all Ngaa Rauru Kiitahi historical claims resulting from acts or omissions by the Crown prior to 21 September 1992 and is made up of a package that includes:

- An agreed historical account and Crown acknowledgements, which form the basis for a Crown Apology to Ngaa Rauru Kiitahi;
- Cultural redress; and
- Financial and Commercial redress.

No private land is involved in the redress, only Crown assets.

The benefits of the settlement will be available to all members of Ngaa Rauru Kiitahi wherever they may live.

Crown Apology

The Crown apologises to Ngaa Rauru Kiitahi for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include the Taranaki wars, the confiscation of land, and the cumulative effects of these events, which have had a devastating impact on the Ngaa Rauru Kiitahi economy, development and social structure, and left Ngaa Rauru Kiitahi virtually landless.

Cultural Redress

1. **Recognition of the traditional, historical, cultural and spiritual association of Ngaa Rauru Kiitahi with places and sites owned by the Crown within their area of interest. This allows the Crown and Ngaa Rauru Kiitahi to protect and enhance the conservation values associated with these areas and sites, and includes:**

1(A) STATUTORY ACKNOWLEDGEMENTS

These register the special association Ngaa Rauru Kiitahi has with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised for certain purposes relating to standing and notification under the Resource Management Act 1991 and the Historic Places Act 1993.

There will be eight Statutory Acknowledgements over the following sites: the Hawkens Lagoon Conservation Area, the Nukumaru Recreation Reserve, the Lake Beds Conservation Area, the Ototoka Scenic Reserve, the coastal marine area adjoining the Ngaa Rauru Kiitahi area of interest, and the Patea, Whenuakura and Waitotara Rivers.

1(B) DEEDS OF RECOGNITION

These require the Crown to consult Ngaa Rauru Kiitahi and have regard for their views regarding the special association Ngaa Rauru Kiitahi have with a site. They also specify the nature of the input of Ngaa Rauru Kiitahi into management of those areas by the Department of Conservation and/or the Commissioner of Crown Lands.

There will be five Deeds of Recognition, covering the Hawkens Lagoon Conservation Area, the Lake Beds Conservation Area, and the Waitotara, Whenuakura and Patea Rivers.

1(C) OVERLAY CLASSIFICATION OR TŌPUNI

The Tōpuni acknowledges the traditional, cultural, spiritual and historical association of Ngaa Rauru Kiitahi with the Lake Beds Conservation Area.

Tōpuni status requires the Minister of Conservation and Ngaa Rauru Kiitahi to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing Ngaa Rauru Kiitahi values within a defined area of Crown land.

The New Zealand Conservation Authority and the Taranaki/Whanganui Conservation Board will also be required to have regard to the principles and consult with Ngaa Rauru Kiitahi.

1(D) PLACENAMES

The name of "Hawkens Lagoon Conservation Area" will be changed to "Tapuarau Lagoon Conservation Area", and the name of "Tapuarau Lagoon" will be assigned to the unnamed lagoon commonly known as Hawkens Lagoon located within the Hawkens Lagoon Conservation Area.

1(E) SITES TRANSFERRED TO NGAA RAURU KIITAHİ

Five areas of Crown-owned land of special significance to Ngaa Rauru Kiitahi will be returned to the iwi. These are:

- Part of Nukumaru Recreation Reserve (approx. 100 ha);
- The bed of Lake Moumahaki (approx. 28 ha);
- The Rehu Village Conservation Area (approx. 5.8 ha) (jointly with Ngāti Ruanui);
- The Waiinu Beach Conservation Area (approx. 5 ha); and
- The Puau Conservation Area (approx. 4 ha).

These sites total approximately 143 hectares. The settlement legislation will protect the right of the public to carry out lawful recreational activities on Lake Moumahaki, such as swimming and fishing. The Rehu Village Conservation Area will be transferred to a joint entity established by Ngaa Rauru Kiitahi and Ngāti Ruanui.

2. **Restoration of Ngaa Rauru Kiitahi access to traditional foods and food gathering areas, including:**

2(A) CUSTOMARY FISHERIES

Ngaa Rauru Kiitahi will be appointed as Advisory Committees to the Minister of Conservation and the Minister of Fisheries. These committees will provide advice on the management of fisheries in the Ngaa Rauru Kiitahi area of interest, including on the customary interest of Ngaa Rauru Kiitahi in those fisheries.

Other provisions include:

- The Minister of Fisheries will consult with Ngaa Rauru Kiitahi and safeguard their existing non-commercial customary fishing rights if the number of certain specified customary or taonga

species rise to levels that make a commercial catch possible.

- Ngaa Rauru Kiihahi will have a right of first refusal to buy a proportion of surplus Crown quota for purimu/surf clams and kina/sea urchin in a specified area, following the introduction of these species into the quota management system.
- Provisions for the taking of undersized tuna (eel) as part of stocking or re-stocking of waterways and aquaculture projects.
- Should tendering for coastal space for marine farming occur, Ngaa Rauru Kiihahi will have the preferential right to buy a specified percentage of any authorisations, at the tender price, within a specified area. Ngaa Rauru Kiihahi retains the right to participate in other tenders for coastal space authorisations.

2(B) CAMPING ENTITLEMENTS OR ŪKAIPŌ

These are areas of up to one hectare, near a waterway, which give access to traditional sources of food. Ngaa Rauru Kiihahi members will have the right to use these entitlements for non-commercial, lawful fishing and food gathering purposes for up to 210 days a year. The ūkaipō will not impede existing public access to waterways. There are two ūkaipō sites, one in the Hawkens Lagoon Conservation Area and one in the Mangawhio Lake Scenic Reserve.

3. Relationships:

3(A) PROTOCOLS

Protocols will be established between Ngaa Rauru Kiihahi and the Ministry of Economic Development, the Ministry of Fisheries, the Ministry for Culture and Heritage and the Department of Conservation, to encourage good working relationships on matters of cultural importance to Ngaa Rauru Kiihahi.

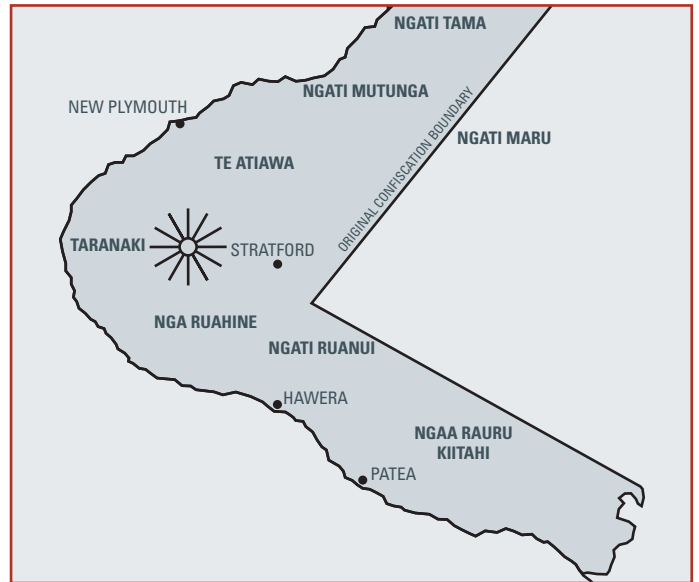
3(B) RELATIONSHIP MEETINGS

The Deed of Settlement will enable Ngaa Rauru Kiihahi to meet annually with the Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Māori Affairs to discuss the health of the Treaty relationship and other issues of importance to both Ngaa Rauru Kiihahi and the Crown.

The Minister in Charge of Treaty of Waitangi Negotiations has also written to the Ministers of Social Development, Economic Development and Māori Affairs to encourage meetings between Ngaa Rauru Kiihahi and the Chief Executives of these departments to discuss issues of mutual importance.

3(C) LOCAL GOVERNMENT AND THIRD PARTIES

The Minister in Charge of Treaty of Waitangi Negotiations has written to the Taranaki and Manawatu-Wanganui Regional Councils, the South Taranaki and Wanganui District Councils, the Taranaki/Whanganui Conservation Board, the Taranaki Fish and Game Council and the New Zealand Historic Places Trust to encourage them to enter into memoranda of understanding with Ngaa Rauru Kiihahi.



Financial and Commercial Redress

4. This redress recognises the economic loss suffered by Ngaa Rauru Kiihahi arising from breaches by the Crown of its Treaty obligations, and aims to provide Ngaa Rauru Kiihahi with resources to assist them to develop their economic and social well being. It includes:

4(A) CASH AMOUNT

Ngaa Rauru Kiihahi will receive financial redress of \$31 million.

4(B) RIGHT OF FIRST REFUSAL

Ngaa Rauru Kiihahi will have, for a period of 50 years, a right of first refusal to buy, at full market value, certain surplus Crown-owned properties.

Maunga Taranaki (Mount Taranaki)

There is no specific redress in the Deed of Settlement relating to the confiscation of Maunga Taranaki. This matter will be addressed at a later date in the settlement process in Taranaki when all the iwi of Taranaki are in a position to negotiate on this issue.

There will be no additional financial or commercial redress in relation to the mountain. Any cultural redress and apology agreed with Ngaa Rauru Kiihahi will recognise the traditional, cultural, historical and spiritual significance of Maunga Taranaki to all iwi of Taranaki while recognising the interests of the people of New Zealand generally in Maunga Taranaki.

Q&A

Questions and Answers

1. What is the total cost to the Crown?

\$31 million plus interest from the date of the signing of the Deed of Settlement, and the cost of the cultural sites returned, as listed at 1(e).

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally no, but:

- The 2 camping entitlements or ūkaipō are the same as camping entitlements granted in other Treaty settlements. Ngaa Rauru Kiitahi will have the exclusive use of 2 sites of up to 1 hectare for up to 210 days a year. These entitlements do not affect public access to waterways.
- Approximately 143 hectares of Crown-owned land will be transferred to Ngaa Rauru Kiitahi. This includes approximately 115 hectares of land currently held for conservation purposes and the bed of Lake Moumahaki (approximately 28 hectares).

4. Can the public still fish and carry out other recreational activities on Lake Moumahaki?

Yes. The settlement legislation will protect the right of the public to carry out lawful recreational activities on Lake Moumahaki, such as swimming and fishing.

5. What is an overlay classification or Tōpuni?

A Tōpuni recognises the cultural, spiritual and historical values of a site or area. It gives Ngaa Rauru Kiitahi the right to be consulted in the management of an area or site but does not override existing classifications or protections, such as National Park status.

6. What are Statutory Acknowledgements and Deeds of Recognition?

Statutory Acknowledgements acknowledge areas or sites with which claimant groups have a special relationship, and will be recognised in any proceedings in relation to those areas under the Resource Management Act. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to Māori, such as burial grounds, were simply cleared or excavated without either permission or consultation. It is not a specific property right.

Deeds of Recognition set out an agreement between the administering Crown body (The Minister of Conservation or the Commissioner of Crown Lands) and a claimant group in recognition of their special association with a site as stated in a Statutory Acknowledgement, and specify the nature of their input into the management of the site.

7. Are any place names changed?

The name of "Hawkens Lagoon Conservation Area" will be changed to "Tapuarau Lagoon Conservation Area", and the official name of the lagoon commonly known as Hawkens Lagoon will become Tapuarau Lagoon.

8. What about Mount Taranaki?

Because of the significance of the mountain to all iwi of Taranaki, the question of an apology and redress for the confiscation of Mount Taranaki is to be deferred until all Taranaki iwi are in a position to negotiate. Redress in relation to the mountain will consist of an apology and cultural redress. No further financial or commercial redress will be provided.

9. Are any National Parks affected by the settlement?

No.

10. What happens to memorials on private titles?

The settlement legislation will remove the legislative restrictions (memorials) placed on the title of Crown properties and former Crown properties now in private ownership.

11. Does Ngaa Rauru Kiitahi gain any rights to petroleum under the settlement?

The Deed of Settlement settles all Ngaa Rauru Kiitahi historical claims against the Crown, including any historical claims regarding petroleum. The Deed does not preclude Ngaa Rauru Kiitahi from participating in any future changes to the petroleum management regime to recognise the Crown's contemporary obligations to Māori under the Treaty regarding natural resources.

12. Will the settlement create any special rights for Ngaa Rauru Kiitahi?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements and Tōpuni, give practical effect to existing provisions of both the Resource Management Act and the Conservation Act that provide for Māori participation in conservation and planning matters.

13. Does Ngaa Rauru Kiitahi have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th Centuries?

No. Both parties agree that the Deed of Settlement is fair in the circumstances and will be a final settlement for all Ngaa Rauru Kiitahi historical or pre 1992 claims. The settlement legislation, once passed, will prevent Ngaa Rauru Kiitahi from re-litigating the claims before the Waitangi Tribunal or the courts.

The settlement package will still allow Ngaa Rauru Kiitahi or members of Ngaa Rauru Kiitahi to pursue claims against the Crown for acts or omissions after 21 September 1992, including claims based on the continued existence of aboriginal title or customary rights. The Crown also retains the right to dispute such claims or the existence of such title rights.

14. Will Ngaa Rauru Kiitahi gain any rights to the foreshore and seabed under the settlement?

No. The existence of aboriginal title or customary rights is not affected by the Deed of Settlement.

The Deed of Settlement does not affect the government's proposals in relation to the foreshore and seabed.

15. What about the Taranaki Claims Settlement Act of 1944? Wasn't that final?

The settlement of 1944 was made unilaterally, without agreement with Ngaa Rauru Kiitahi. The iwi of Taranaki have never regarded the 1944 Act as adequate redress for Treaty breaches. The Crown also accepts that compensation under the Act was inadequate.

16. Who benefits from the settlement?

All members of Ngaa Rauru Kiitahi, wherever they may now live.

This and other settlement summaries are also available at www.beehive.govt.nz and www.ots.govt.nz