



Deed of Settlement

DEED OF SETTLEMENT BETWEEN THE CROWN AND NGAATI WHANAUNGA

General background

Ngaati Whanaunga and its associated hapu number 620 according to the latest census number. The tribal rohe of Ngaati Whanaunga is defined by the traditional coastal markers – mai Nga Kuri a Whareki ki Te Arai o Tahuhunuiarangi.

Ngaati Whanaunga is one of the iwi of Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective). It is also a member of the Pare Hauraki Collective and the Marutūāhu Collective. Ngaati Whanaunga has received collective redress as part of the Tāmaki Collective Redress Deed and will receive collective redress as part of the Pare Hauraki Collective Redress Deed. It is also intended Ngaati Whanaunga will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

On 29 June 2011, the Crown recognised the mandate of the Ngaati Whanaunga Incorporated Society and the mandated negotiators to negotiate a comprehensive settlement of the historical te Tiriti o Waitangi/the Treaty of Waitangi claims of Ngaati Whanaunga with the Crown. The mandated negotiators and the Crown entered into an agreement in principle equivalent on 22 July 2011.

On 25 August 2017, Ngaati Whanaunga and the Crown initialled a Deed of Settlement (the Deed). The Deed is subject to ratification by the members of Ngaati Whanaunga and conditional on the enactment of the settlement legislation. Subject to ratification by the members of Ngaati Whanaunga, the Ngaati Whanaunga Ruunanga Trust will manage the settlement assets on settlement.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand and other government agencies, represented the Crown in day-to-day negotiations.

The Minister for Treaty of Waitangi Negotiations, the Honourable Christopher Finlayson, represented the Crown in high-level negotiations with Ngaati Whanaunga.

Whanaunga kiitahi Historical background to the claims by Ngaati Whanaunga

In the early-nineteenth century, Ngaati Whanaunga lived in Hauraki, Taamaki, and Mahurangi. In 1836, a missionary negotiated a transaction for a large Taamaki block with Ngaati Whanaunga and other iwi. The missionary agreed that the iwi and hapuu who sold the land would retain the use of one-third. The Crown later failed to return one-third of the land to the vendors or to create reserves for the former Ngaati Whanaunga owners. The Crown also did not make any investigation into whether Ngaati Whanaunga retained adequate lands for their needs. Ngaati Whanaunga were also involved in pre-Treaty transactions on Aotea, Hikutaia, and Ahuahu.

Ngaati Whanaunga rangatira signed te Tiriti o Waitangi/the Treaty of Waitangi at Karaka Bay in Taamaki and at Waiau (Coromandel).

In 1841, the Crown purchased approximately 220000 acres at Mahurangi and Omaha from Ngaati Whanaunga and other Marutuuahu iwi. The boundaries of this sale were later disputed by Ngaati Whanaunga. In 1850 the Crown granted the Awataha block to the Catholic Bishop. In the 1920s, Ngaati Whanaunga petitioned the Crown stating that the Awataha block in Takapuna had not been included as part of the 1841 agreement, and therefore the Crown grant to the Bishop was invalid.

From 1852, Ngaati Whanaunga made a number of agreements with the Crown in which some Maaori-owned land could be licensed for gold mining. The land was to remain in Maaori ownership. In 1935, Ngaati Whanaunga and other Hauraki iwi petitioned Parliament, protesting that they had not received all of the income they were due from mining. A commissioner recommended an ex-gratia payment of £30000 – £40000 be made to affected iwi. Despite further petitions, no such payment was made.

In July 1863, the Crown invaded the Waikato when its forces crossed the Mangataawhiri Stream. Ngaati Whanaunga resisted the Crown occupation of their lands and engaged in guerrilla warfare. In November, Crown forces captured Puukorokoro after troops from HMS Miranda shelled and burnt whare, and destroyed canoes. The Crown subsequently built a redoubt at Puukorokoro and named the site Miranda. In 1864 and 1865, the Crown proclaimed confiscation blocks in Waikato, Pokeno, East Wairoa, and Tauranga (Katikati-Te Puna). Ngaati Whanaunga had interests in these confiscation blocks.

From 1865, the native land laws provided for the individualisation of Maaori land tenure. The individualisation of title made Ngaati Whanaunga lands more susceptible to alienation. Ngaati Whanaunga were not consulted in the establishment of the native land laws, which, over time, contributed to the erosion of the traditional tribal structures of Ngaati Whanaunga.

By the end of the nineteenth century, Ngaati Whanaunga retained land mostly on the Western Firth of Thames in blocks shared with other iwi. Over the twentieth century almost all of these lands were alienated to private purchasers and the Crown. The lands that were lost included lands in the Hunua Ranges and Wharekawa district which the Crown took under public works legislation.

Ngaati Whanaunga children were discouraged from speaking their own language in Crown-run schools for decades. By the end of the twentieth century only 27 per cent of Ngaati Whanaunga spoke te reo Maaori. The decline of Ngaati Whanaunga tribal structures and the loss of te reo contributed to a loss of Ngaati Whanaunga maatauranga Maaori and tribal identity. In the twentieth and twenty-first centuries Ngaati Whanaunga generally experienced poorer health, including lower life expectancy and higher infant mortality, than Paakehaa. Ngaati Whanaunga also experienced higher unemployment than the general population, and a lower mean annual income.

Overview

The Deed is the final settlement of all historical te Tiriti o Waitangi/the Treaty of Waitangi claims of Ngaati Whanaunga 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, Crown acknowledgments and apology;
- cultural redress; and
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngaati Whanaunga wherever they may live.

Crown acknowledgements and apology

The Deed contains acknowledgements that the cumulative effect of the Crown's actions and omissions, including confiscation, continued Crown purchasing, and public works takings has left Ngaati Whanaunga virtually landless and undermined their economic, social and cultural development. The Crown's failure to ensure that they retained sufficient land for their present and future needs was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The Crown acknowledges the harm endured by many Ngaati Whanaunga children from decades of Crown policies that strongly discouraged the use of Te Reo Maaori in school. The Crown also acknowledges the detrimental effects on Maaori language proficiency and fluency and the impact on the inter-generational transmission of Te Reo Maaori and knowledge of tikanga Maaori practices.

The Deed also includes a Crown apology to Ngaati Whanaunga for its actions which harmed Ngaati Whanaunga and for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The relationship between the Crown and Ngaati Whanaunga might have been characterised by goodwill, partnership and mutual benefit. Instead, the Crown has waged war and confiscated their land, and promoted policies that have undermined their tribal identity, and led to loss of their taonga te reo ake o Ngaati Whanaunga and of their whenua in their rohe mai Matakana ki Matakana. For its actions which have caused Ngaati Whanaunga prejudice, and its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles, the Crown unreservedly apologises.

Cultural redress

The cultural redress package for Ngaati Whanaunga intends to recognise the traditional, historical, cultural and spiritual associations of Ngaati Whanaunga with places and sites owned by the Crown within their area of interest.

SITES VESTED IN NGAATI WHANAUNGA

Eight sites of cultural significance will be vested in fee simple in Ngaati Whanaunga:

- Papamaire (10.7 ha);
- Te Tumu o Waimai (0.06 ha);
- Te Waipuna o Rangiataea (0.16 ha);
- Tautahanga (0.5 ha) as a scenic reserve;
- Waikawau (0.5 ha) as a scenic reserve;
- Piopiotahi (0.1 ha) as General land (within the meaning of Te Ture Whenua Maori Act 1993), set apart as a Maori reservation under Te Ture Whenua Maori Act 1993;
- Ahirau (176.5 ha) subject to a conservation covenant; and

- Ngaherehere o Kohukohunui (40.4 ha) subject to a conservation covenant.

SITE JOINTLY VESTED IN NGAATI WHANAUNGA AND OTHER IWI

The Hūnua Falls property (236.2 ha) will be jointly vested as undivided quarter shares in Ngaati Whanaunga, Ngāi Tai ki Tāmaki, Ngāti Tamaoho and Ngāti Koheriki as a scenic reserve.

SITE TO BE VESTED AND VESTED BACK TO THE CROWN

Within one year from settlement date, Repanga (Cuvier) Island Nature Reserve will be vested jointly in the governance entities of Ngaati Whanaunga, Ngāti Hei, Ngāti Maru and Ngāti Tamaterā who will vest it back seven days later to the Crown for the people of New Zealand.

OVERLAY CLASSIFICATIONS

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Ngaati Whanaunga with certain sites of significance. The declaration of an area as an overlay classification provides for the Crown to acknowledge iwi values in relation to that area.

The settlement provides an overlay classification over the Repanga (Cuvier) Island Nature Reserve. The overlay classification over the Repanga (Cuvier) Island Nature Reserve will be joint between Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Ngaati Whanaunga and a particular site or area and enhances the ability of the iwi to participate in specified resource management processes.

The Crown offers a statutory acknowledgement over the Mercury Islands, the Mahakirau Scenic Reserve and part Whangapoua Forest Conservation Area.

STATEMENT OF ASSOCIATION

The Deed will acknowledge that Ngaati Whanaunga has associations with, and asserts certain spiritual, cultural, historical and traditional values in relation to, the coastal area, Tāmaki Makaurau motu and maunga, the Moehau maunga and Te Aroha maunga.

RUAMAAHUA

The Crown will consider the operation of the Grey-Faced Petrel (Northern Muttonbird) Notice 1979 as it applies to Ruamaahua regarding its alignment with the current tīti season. The Crown intends that any redress over Ruamaahua provided in a Treaty settlement will include Ngaati Whanaunga.

TE AHUAHU / GREAT MERCURY ISLAND

The Crown intends that any redress over Crown owned land on Te Ahuahua/Great Mercury Island provided to any iwi of Hauraki include Ngaati Whanaunga.

Relationships

PROTOCOLS, RELATIONSHIP AGREEMENT

The Deed will provide for the Minister for Culture, Arts and Heritage and the Minister for Primary Industries to issue protocols that set out how their respective agencies will interact with and consult Ngaati Whanaunga governance entity when carrying out statutory duties and functions.

The Ngaati Whanaunga governance entity will enter into a conservation relationship agreement with the Department of Conservation that will outline how the Department of Conservation will engage with Ngaati Whanaunga.

PROMOTION OF RELATIONSHIPS

The Minister for Treaty of Waitangi Negotiations will write to a number of local authorities, Museums and Crown agencies to raise the profile of Ngaati Whanaunga, advise them of matters of particular importance to Ngaati Whanaunga and encourage them to better engage with them.

Financial and commercial redress

This redress recognises the losses suffered by Ngaati Whanaunga arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Ngaati Whanaunga with resources to assist them to develop their economic and social well-being.

The total financial redress for Ngaati Whanaunga is **\$16 million**. This is made up of:

- \$1,021,114 being the agreed portion of the transfer value of ten properties received on account of the settlement as part of the Pare Hauraki Collective Redress Deed;
- \$170,333 being the agreed transfer value of 150 Oputere Road, Oputere, through the Pare Hauraki Collective Redress deed;
- \$1,600,000 received within ten days of the date of the Deed as the Te Kouma on account payment on account of the settlement;
- \$500,000 received within ten days of the date of the Deed on account of the settlement; and
- \$10,878,553 to be received on the settlement date.

COMMERCIAL REDRESS PROPERTIES

- Ngaati Whanaunga will receive the right to purchase for 2 years after the settlement date 2 Treaty Settlements Landbank properties.
- Ngaati Whanaunga will receive the right to purchase for 2 years after the settlement date the Turua School site (land only) subject to its lease-back to the Crown.
- Ngaati Whanaunga will receive the right to purchase for 2 years after the settlement date, jointly with Ngāti Maru and Ngāti Pūkenga, Te Wharekura o Manaia site (land only) subject to its lease-back to the Crown.
- Ngaati Whanaunga will receive a second right to purchase the Land Information New Zealand property at 510 Preeces Point Road.
- Ngaati Whanaunga will receive a right of first refusal over the Tryphena Hall local purpose reserve for a period of 177 years after the settlement date.

Collective redress

As a member of Ngā Mana Whenua o Tāmaki Makaurau, Ngaati Whanaunga has received collective redress as part of the Tāmaki Makaurau Collective Redress Deed. Ngaati Whanaunga will receive collective redress as part of the Pare Hauraki Collective Redress Deed which includes collective cultural and commercial redress. The details of the redress can be found in the Pare Hauraki Collective Redress Deed settlement summary. It is also intended Ngaati Whanaunga will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

MINERALS

Ownership of any Crown-owned minerals in land transferred to Ngaati Whanaunga under the Deed will also transfer to Ngaati Whanaunga. This does not include nationalised minerals (petroleum, gold, silver and uranium) or affect other lawful rights to subsurface minerals.

All land which is currently subject to Schedule 4 protection will continue to be subject to the same type of protection once owned by iwi.

HARBOURS AND HAURAKI GULF

The settlement does not provide for redress in relation to Tikapa Moana/ the Hauraki Gulf and Te Tai Tamahine/Te Tai Tamawahine. The Crown and Ngaati Whanaunga have agreed to conduct separate negotiations in the future to discuss potential cultural redress in relation to these areas.

Questions and Answers

1. What is the total settlement package?

- Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi;
- an agreed historical account;
- cultural redress including the vesting of a number of sites in the Ngaati Whanaunga area of interest and relationship redress;
- financial redress of a total of \$16 million; and
- commercial redress involving the right to purchase Crown properties.

Ngaati Whanaunga has received collective redress through the Ngā Mana Whenua o Tāmaki Makaurau Collective and will also receive collective redress as part of the Pare Hauraki Collective Redress Deed. The details of the redress can be found in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and Pare Hauraki Collective Redress Deed summaries. It is also intended Ngaati Whanaunga will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

2. Is there any private land involved?

No.

3. Are the public's rights affected?

No. Nothing will change for the public. Public access, recreational use, reserve status and existing third-party rights are maintained.

4. Are any place names changed?

No.

5. What is an overlay classification?

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of an iwi with certain sites of significance administered by the Department of Conservation.

An overlay classification status requires the Minister of Conservation and the settling group to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing values of the settling group with regard to that land. The New Zealand Conservation Authority and relevant Conservation Boards will also be required to have regard to the principles and consult with the settling group.

6. What is a statutory acknowledgement?

A statutory acknowledgement acknowledges areas or sites with which iwi have a special relationship, and will be recognised in any relevant proceedings under the Resource Management Act 1991. These provisions aim to avoid past problems where areas of significance to Māori, such as burial grounds, were simply cleared or excavated for public works or similar purposes without permission or consultation with iwi. A statutory acknowledgement does not convey a property right and is non-exclusive.

7. What happens to memorials on private titles?

The legislative restrictions (memorials) placed on the title of Crown properties and some former Crown properties now in private ownership will be removed once all Treaty claims in the area have been settled.

8. When will the settlement take effect?

The settlement will take effect following the enactment of the settlement legislation.

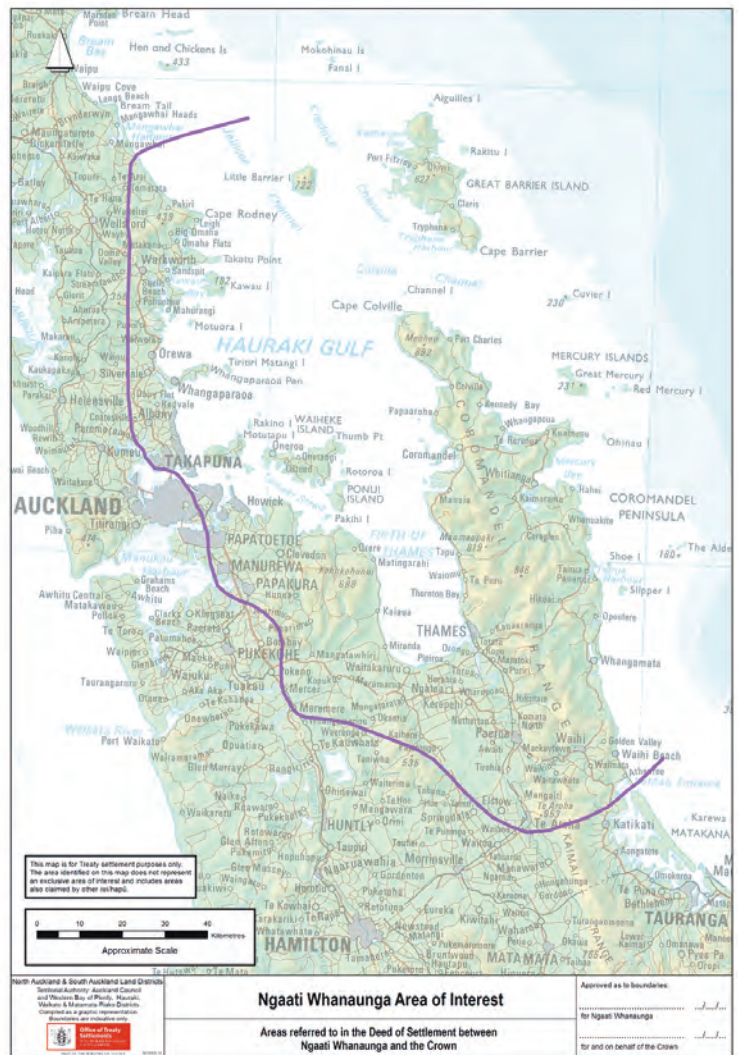
9. Do Ngaati Whanaunga have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

No. When the Deed is signed and settlement legislation is passed it will be a final and comprehensive settlement of all historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Ngaati Whanaunga. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

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

10. Who benefits from the settlement?

All members of Ngaati Whanaunga wherever they may now live.



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