



Deed of Settlement

BETWEEN THE CROWN AND NGĀI TAI KI TĀMAKI

Background

The rohe of Ngāi Tai ki Tāmaki is centred in Tāmaki Makaurau/Auckland, extending to Hauraki/Coromandel and, in particular, the coastline, harbours and motu/islands of the Waitematā harbour and Tikapa Moana/Hauraki Gulf. It has a population recorded in the 2013 Census of 498 members.

Ngāi Tai ki Tāmaki is one of the iwi covered by the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and is participating in collective negotiations in respect of historical claims in the Hauraki region.

Ngāi Tai ki Tāmaki gave the Ngāi Tai ki Tāmaki Tribal Trust a mandate to negotiate a deed of settlement with the Crown by way of mandating hui and on 26 February 2010 the Crown recognised the mandate. The Tribal Trust and the Crown signed terms of negotiation in June 2010 that agreed the scope, objectives, and general procedures for the negotiations. On 5 November 2011 an Agreement in Principle was signed between the Tribal Trust and the Crown.

On settlement the trustees of the Post-Settlement Governance Entity (PSGE), the Ngāi Tai ki Tāmaki Trust, will manage the settlement assets.

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

The Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, represented the Crown in high-level negotiations with Ngāi Tai ki Tāmaki.

Summary of the historical background to the claims by Ngāi Tai ki Tāmaki

According to their oral traditions, Ngāi Tai ki Tāmaki have maintained customary interests and ahi kā in Tāmaki, Hauraki, and Tikapa Moana (Hauraki Gulf) since time immemorial.

Before te Tiriti o Waitangi was signed, Ngāi Tai ki Tāmaki rangatira, alongside rangatira of other iwi, were involved in land transactions in Tāmaki and the inner-Gulf islands. Ngāi Tai ki Tāmaki consider that their tūpuna did not intend to permanently alienate their ancestral lands through transactions in the late 1830s. Rather, Ngāi Tai ki Tāmaki view those transactions as attempts by their tūpuna to foster ongoing, mutually beneficial relationships with Europeans.

Between 1836 and 1839 Ngāi Tai ki Tāmaki and other iwi negotiated transactions with a missionary for a large land block in Tāmaki. In 1837 the missionary wrote that the iwi and hapū who had sold the land would retain at least one third of the block 'for their personal use for ever.' The exact size of the transaction has never been definitively established, but in 1948 a Royal Commission concluded the block was nearly 83,000 acres.

Ngāi Tai ki Tāmaki tradition records that two Ngāi Tai ki Tāmaki rangatira signed te Tiriti o Waitangi at Karaka Bay on 4 March 1840.

In 1842 a Land Claims Commissioner recommended that the Crown leave one-third of the missionary purchase in the 'undisturbed possession' of Māori. In 1844 another commissioner recommended the Crown grant 5,500 acres to the missionary. The Crown retained the remainder of the land, amounting to more than 78,000 acres, as 'surplus'. The Crown made no assessment of the adequacy of lands remaining in Ngāi Tai ki Tāmaki's possession. In 1854 the Crown paid Ngāi Tai ki Tāmaki £500 to relinquish their claims to land within the Tāmaki block, and granted the Umupuia Reserve to Ngāi Tai ki Tāmaki. The reserve was a fraction of the size of the original Tāmaki block and substantially less than the one-third the missionary had said would be set aside for Māori.

Motutapu is an island of great significance to Ngāi Tai ki Tāmaki. On 11 January 1840 Tara Te Irirangi and five others signed a deed conveying Motutapu and several other inner-Gulf islands to a settler married to Ngeungeu of Ngāi Tai ki Tāmaki. On 15 December 1840 the settler lodged a claim for the islands to be heard by the Land Claims Commission, but died before the Commission investigated the claim.

Acting on the recommendation of a Land Claims Commissioner, the Crown later granted 2,560 acres on Motutapu to the 6 children of the settler who made the 1840 transaction. The Crown granted the land to the children, who were Ngāi Tai ki Tāmaki, in individualised European title. By 1870 Ngāi Tai ki Tāmaki interests in Motutapu had been alienated.

On 12 July 1863 the Crown invaded the Waikato when its forces crossed the Mangatāwhiri. The majority of Ngāi Tai ki Tāmaki expressed loyalty to the Crown. Ngāi Tai ki Tāmaki did this to protect their iwi and their whenua from the effects of war. On 30 January 1865 the Crown proclaimed a 51,000-acre confiscation block in East Wairoa, in which Ngāi Tai ki Tāmaki had interests. The Compensation Court awarded Ngāi Tai ki Tāmaki claimants a total of £1200 in compensation for their interests in East Wairoa.

Between 1866 and 1871, approximately 16,000 acres of the approximately 20,000 acres awarded to Ngāi Tai ki Tāmaki by the Native Land Court was sold. Throughout the late 19th and 20th centuries most of Ngāi Tai ki Tāmaki's remaining lands were alienated to the Crown and private purchasers.

For Ngāi Tai ki Tāmaki, the loss of communal ancestral lands had a severe impact on their traditional tribal structure. Families left landless or with uneconomic land blocks had insufficient means to support themselves. From the 1880s Ngāi Tai ki Tāmaki increasingly left Umupuia in search of work. This dispersal of Ngāi Tai ki Tāmaki alienated many whānau and their descendants not only from their lands, but also from their iwi identity. This led to the loss of customary traditions, tribal authority and te reo me ōna tikanga o Ngāi Tai ki Tāmaki.

Summary of the Ngāi Tai ki Tāmaki settlement

Overview

The Ngāi Tai ki Tāmaki Deed of Settlement will be the final settlement of all historical claims of Ngāi Tai ki Tāmaki resulting from acts or omissions by the Crown before 21 September 1992 and is made up of a package that includes:

- an agreed historical account, acknowledgements and apology
- cultural redress
- financial and commercial redress

The benefits of the settlement will be available to all members of Ngāi Tai ki Tāmaki, wherever they live. The redress was negotiated by the Ngāi Tai ki Tāmaki Tribal Trust. Some redress in the Ngāi Tai ki Tāmaki Deed of Settlement is jointly provided for with Ngaati Whanaunga, Ngāti Tamaoho, Ngāti Koheriki, and the Marutūāhu Collective.

Crown acknowledgements and apology

The Deed of Settlement contains acknowledgements that historical Crown actions or omissions caused prejudice to Ngāi Tai ki Tāmaki or breached the Treaty of Waitangi and its principles.

The Deed of Settlement also includes a Crown apology to Ngāi Tai ki Tāmaki for its acts and omissions which breached the Crown's obligations under the Treaty of Waitangi and for the damage that those actions caused to Ngāi Tai ki Tāmaki. These include the Crown acquisition of large tracts of land in the Ngāi Tai ki Tāmaki rohe it considered surplus to pre-Treaty transactions, and the confiscation of 51,000 acres of land from the East Wairoa area.

Cultural redress

The cultural redress recognises the traditional, historical, cultural and spiritual association of Ngāi Tai ki Tāmaki with places and sites owned by the Crown within Ngāi Tai ki Tāmaki's primary area of interest. This allows Ngāi Tai ki Tāmaki and the Crown to protect and enhance the conservation values associated with significant sites.

VESTING OF SITES

The Deed of Settlement provides for the vesting of 16 Crown-owned sites to Ngāi Tai ki Tāmaki. The settlement legislation will vest these sites in the PSGE, the Ngāi Tai ki Tāmaki Trust, on settlement date.

The following sites will be vested in fee simple in Ngāi Tai ki Tāmaki:

- Mangemangeroa (Whitford Conservation Area)
- Te Wairoa (Wairoa River Conservation Area)
- Hihiorapa urupā (part of Hūnua Falls Scenic Reserve), to be administered as a scenic reserve
- Hukunui (part of Motutapu Island Recreation Reserve), to be administered as an historic reserve
- Motukaraka (Motukaraka Island Recreation Reserve), to be administered as a recreation reserve
- Ororopupu (part of Motutapu Island Recreation Reserve), to be administered as a recreation reserve
- Tai Rawhiti (Tai Rawhiti Scenic Reserve), to be administered as a scenic reserve

- Te Matuku-Ngāi Tai (part of Te Matuku Bay Scenic Reserve, Waiheke), to be administered as a scenic reserve
- Te Naupata (known as Te Naupata Recreation Reserve, Musick Point), to be administered as a recreation reserve
- Te Rae-o-Kahu Pā (part of Motuihe Island Recreation Reserve), to be administered as an historic reserve
- Te Tauroa (part of Motutapu Island Recreation Reserve), to be administered as a recreation reserve
- Te Waiarohia Pā (part of Musick Point), to be administered as an historic reserve
- Totara (known as Clevedon Conservation Area), to be administered as a scenic reserve
- Waikopua (known as Waikopua Creek Conservation Area), to be administered as a local purpose reserve
- Maungarei A (Homestead Drive, Mt Wellington/Maungarei), to be set apart as a Māori reservation

HŪNUA FALLS

The Deed of Settlement also provides for the joint vesting of a Hūnua Falls property in the Ngāi Tai ki Tāmaki Trust, Ngāti Tamaoho Settlement Trust, and the PSGEs for Ngaati Whanaunga and Ngāti Koheriki. The Hūnua Falls property is to be a scenic reserve named Hūnua Falls Scenic Reserve and will be administered by the Auckland Council.

STATUTORY ACKNOWLEDGEMENTS

The Statutory Acknowledgements are acknowledgements by the Crown of statements by Ngāi Tai ki Tāmaki of Ngāi Tai ki Tāmaki's special cultural, historical, or traditional association with certain areas of Crown-owned land.

Relevant consent authorities (ie local authorities), the Environment Court and Heritage New Zealand Pouhere Taonga must have regard to these statements for certain purposes, in particular resource consent applications under the Resource Management Act 1991 for an activity within, adjacent to, or directly affecting a statutory acknowledgement area and certain applications under the Heritage New Zealand Pouhere Taonga Act 2014.

The acknowledgements also require that the local authorities provide Ngāi Tai ki Tāmaki with summaries of all resource consent applications that may affect the areas named in these acknowledgements prior to any decision being made on those applications.

The Deed of Settlement provides for 16 Statutory Acknowledgements covering:

- A specified coastal marine area
- Kiripaka Wildlife Scenic Reserve
- Mataitai Forest Conservation Area
- Māitaitai Scenic Reserve
- Motutapu Island Recreation Reserve
- Motuihe Island Recreation Reserve
- Mutukaraoa / Hamlin Hill
- Papa Turoa Scenic Reserve
- Papepape Marginal Strip

- Stony Batter Historic Reserve
- Te Matuku Bay Scenic Reserve
- Te Morehu Scenic Reserve
- Turanga Creek Conservation Area
- Wairoa Gorge Scenic Reserve
- Wairoa River and tributaries
- Whakatiri Scenic Reserve

DEEDS OF RECOGNITION

Deeds of Recognition require the Crown to consult with Ngāi Tai ki Tāmaki, and have regard to Ngāi Tai ki Tāmaki's special association with a site or place, and specify Ngāi Tai ki Tāmaki input into the management of those areas administered by the Department of Conservation or the Commissioner of Crown Lands.

The Deed of Settlement provides for five Deeds of Recognition covering:

- Mātaitai Forest Conservation Area
- Mātaitai Scenic Reserve
- Papa Turoa Scenic Reserve
- Stony Batter Historic Reserve
- Whakatiri Scenic Reserve

RELATIONSHIP AGREEMENTS

Ngāi Tai ki Tāmaki will enter relationship agreements with the Minister for Conservation and the Ministry for the Environment. These agreements outline how the Crown will work and engage with Ngāi Tai ki Tāmaki in matters of conservation and environment.

PROTOCOLS

The Deed of Settlement provides for protocols between Ngāi Tai ki Tāmaki and certain government departments that promote working relationships and participation in areas of decision making including:

- a primary industries protocol with the Ministry for Primary Industries
- a taonga tūturu protocol with the Ministry for Culture Heritage.

PLACE NAME CHANGES

The Deed of Settlement includes a commitment to make 13 place name changes. Once the settlement legislation has been enacted the following changes will be made:

- Musick Point to Musick Point / Te Naupata
- Te Puru Stream to Te Ruangaingai Stream
- Locality known as Point View Pa to Puke-i-Āki-Rangi
- Unnamed historic site to Pōhaturoa
- Locally known as Pōwhaturoa Creek to Waipārā Stream
- Locally known as Waiomanu Pa, Maraetai Pa, and Pah Point to Papawhitu Pā
- Locally known as Te Kuiti Creek to Te Kuti Stream
- Unnamed bay between Koherurahi Point and Mātaitai Point to Mātaitai Bay
- Mātaitai Point to Mātaitai Point
- Unnamed, historic site in Tipau Point to Ōmangaia Pā

- Unnamed, locally known as Duders Point to Whakakaiwhara Peninsula
- Howick Beach to Waipaparoa / Howick Beach
- Unnamed forest on Hūnua Ranges to Te Ngāherehere-o-Kohukohunui Forest

Financial and commercial redress

This redress recognises the economic loss suffered by Ngāi Tai ki Tāmaki arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Ngāi Tai ki Tāmaki with resources to help them develop their economic and social wellbeing.

FINANCIAL REDRESS

The Crown will make financial and commercial redress to Ngāi Tai ki Tāmaki of \$12,700,000 less:

- \$500,000 already paid to the Trust on 11 February 2014 "on account" of the settlement
- the total transfer values of the commercial redress properties.

Ngāi Tai ki Tāmaki will receive interest on this financial redress.

Commercial redress properties include Clevedon School site and Maraetai Beach School site, which will be subject to a lease back to the Ministry of Education.

The settlement also provides a cultural redress payment of \$50,000 for the cultural revitalisation of Ngāi Tai ki Tāmaki.

JOINT DEFERRED PURCHASE PROPERTY

Ngāi Tai ki Tāmaki will purchase, jointly with the Marutūāhu Iwi, land at Torpedo Bay for lease back to the New Zealand Defence Force.

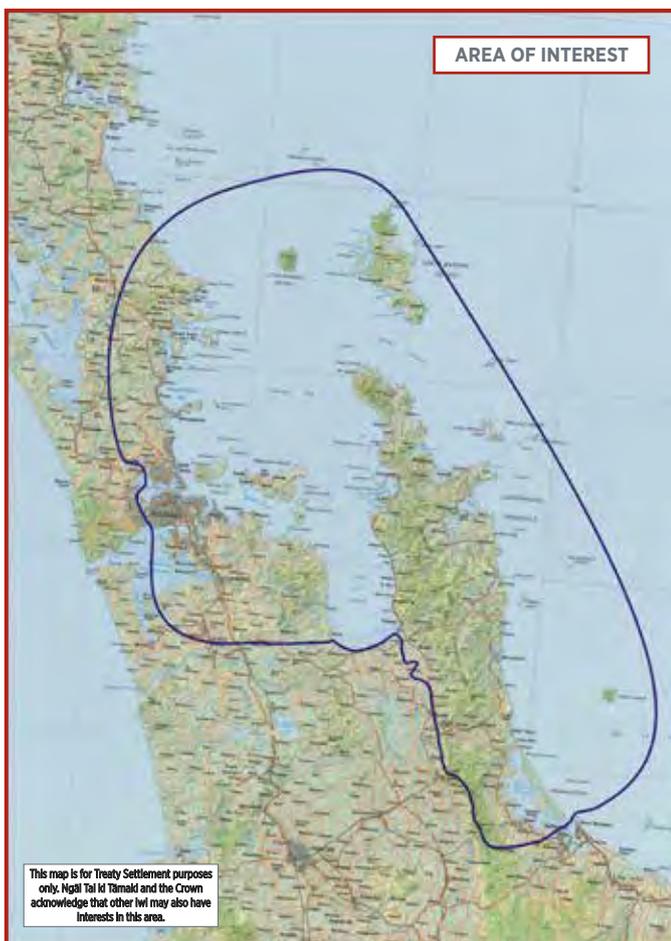
DEFERRED SELECTION PROPERTIES

Ngāi Tai ki Tāmaki will have the opportunity to purchase the following properties within a specified period of time after settlement date:

- Macleans College site (land only, 13.0 hectares, leaseback to the Crown) – up to two years after settlement date
- Glen Innes Police Station (land only, 0.2 hectares, leaseback to the Crown) – up to two years after settlement date
- Manukau Area Community Probation Centre (land and improvements, 0.4 hectares, leaseback to the Crown) – up to two years after settlement date
- Musick Point property (land and improvements, 37.3 hectares, lease to Howick Golf Club plus residential tenancy agreements) – up to five years after settlement date

Ngāi Tai ki Tāmaki will also have the opportunity to purchase, along with Ngāti Tamaoho and subject to certain conditions, New Zealand Defence Force land at Papakura.

Ngāi Tai ki Tāmaki do not have to purchase any or all of these properties.



Questions and Answers

1. What is the overall package of redress?

- Acknowledgements and an apology by the Crown for the Crown's acts and omissions that caused prejudice to Ngāi Tai ki Tāmaki and breached the Treaty of Waitangi and its principles
- Cultural redress including: an historical account, the vesting of 16 sites of cultural significance in Ngāi Tai ki Tāmaki, and \$50,000 for cultural revitalisation
- Financial and commercial redress of \$12.7 million, including two commercial properties, one joint commercial property with the Marutūāhu Collective, four deferred selection properties, and one joint deferred selection property with Ngāti Tamaoho.

2. Is there any private land being transferred?

No.

3. Are the public's rights affected?

In general, all existing public access rights in relation to areas affected by this settlement will be preserved.

4. Do Ngāi Tai ki Tāmaki have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

No. If the Deed of Settlement is finalised by the passage of settlement legislation, both parties agree it will be a final and comprehensive settlement of all the historical Treaty of Waitangi claims of Ngāi Tai ki Tāmaki (relating to events before 21 September 1992). The settlement legislation, once passed, will prevent Ngāi Tai ki Tāmaki from re-litigating the claim before the Waitangi Tribunal or the courts. The settlement package will still allow Ngāi Tai ki Tāmaki 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 and claims under the Marine and Coastal Area (Takutai Moana) Act 2011. The Crown retains the right to dispute such claims or the existence of such title rights.

5. What about Hauraki Collective negotiations?

Ngāi Tai ki Tāmaki, as members of the Hauraki Collective, will benefit from any redress agreed with the Hauraki Collective. Negotiations with the Hauraki Collective are ongoing. The Crown and Ngāi Tai ki Tāmaki have agreed this redress will be set apart from their comprehensive settlement.

6. Who benefits from the settlement?

All members of Ngāi Tai ki Tāmaki, wherever they may now live.

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