



Deed of

Deed of Settlement
between the Crown and
NgāiTakoto

Settlement

General background

NgāiTakoto is one of five iwi based in Te Hiku o Te Ika a Maui (the tail of the fish of Maui). Their rohe extends from the river of Wharo (Ahipara) in the south to Te Rerenga Wairua (Cape Reinga) in the north, and across to the Kermadec Islands and Three Kings Island, then down to Rangaunu Harbour, across the hill range and Pa at Pungaungau, Wharekakariki, Tutatarakihi, Pukekahikatea to Kerekere Pa (Kaitaia) and returning across Tangonge, to Wharo.

Negotiations between the Crown and NgāiTakoto started in 2008. The five Te Hiku iwi (including NgāiTakoto) also signed the Te Hiku Agreement in Principle in January 2010.

On 23 November 2011, NgāiTakoto and the Crown agreed that the deed of settlement setting out collective Te Hiku o Te Ika iwi redress and redress specific to NgāiTakoto was ready for presentation to the members of the iwi to decide whether it was an acceptable settlement of their historical claims. The deed was then ratified by the NgāiTakoto community and signed on 27 October 2012 in Kaitaia. The settlement will be implemented following the passage of settlement legislation.

NgāiTakoto were represented in negotiations by NgāiTakoto Ā Iwi Research Unit Trust.

The Office of Treaty Settlements, with the support of the Department of Conservation, the Treasury, Land Information New Zealand 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 NgāiTakoto.

Summary of the historical background to the claims by NgāiTakoto

Traditionally, the NgāiTakoto rohe is defined by the journeys taken by spirits as they return to their spiritual homeland of Hawaiki, stretching from the southern boundary, of Ahipara in the west and Rangaunu in the east, northward to Te Rerenga Wairua (Cape Reinga).

Prior to the arrival of Europeans, NgāiTakoto were largely based around various pa and kainga Kapowairua, Parengarenga, Houhora, Waimanoni, Kaitaia and Te Make. Like other Te Hiku iwi, they were highly mobile, relying on the coast and local waterways for kai and passage.

British missionaries were some of the first settlers to establish themselves within the NgāiTakoto rohe. The local iwi initially saw advantages with the arrival of settlers, through the introduction of new technologies, access to the European world, and the benefits these might bring.

Numerous land agreements with settlers occurred throughout the 1830s, covering much of the NgāiTakoto rohe. While some of the deeds provided for ongoing use of land by local Māori, they were signed by rangatira from other iwi, and NgāiTakoto had limited involvement in the transactions.

NgāiTakoto signed Te Tiriti o Waitangi/Treaty of Waitangi in Kaitaia on 28 April 1840. After the signing of the Treaty, the Crown appointed land claims commissioners to investigate pre-Treaty land claims. The commissioners' final recommendation confirmed the alienation of an initial 32,000 acres of land in the NgāiTakoto rohe; settlers received 17,000 acres and 15,000 went to the Crown as surplus land. NgāiTakoto with interests in these lands were to receive 450 acres.

Unlike the terms of the original land transactions, the new Crown grants did not allow for NgāiTakoto to continue to use cultivation areas and kainga in Te Make, Ohotu, Awanui and numerous other traditional areas. The loss of rights to land along the Awanui River was especially hard as it limited access to river resources and fertile land.

Moreover, some of the proposed 450 acres of reserves were never established.

In 1844, NgāiTakoto lost further land rights in the forced cession of almost 2500 acres at Ruatorara (East Beach), when the Crown demanded another iwi provide compensation to a settler over an incident involving a ship in Ahipara.

In 1858 and 1959, before the pre-Treaty transactions were finalised, the Crown purchased an additional four land blocks (Muriwhenua South, Wharemaru, Oinu, and Ahipara), totalling 112,613 acres, in which NgāiTakoto had mana whenua interests. As with previous transactions, NgāiTakoto had no involvement in these arrangements, nor were they able to retain any of the reserves created from these Crown purchases, including the Houhora Peninsular which totalled 7500 acres.

By 1859, NgāiTakoto were virtually landless. The loss of their lands severely affected their ability to access and manage traditional natural resources, destroyed their cultural foundations and undermined the tribal structures of NgāiTakoto.

Settlement

Summary of the Ngāi Takoto Settlement

Overview

The Ngāi Takoto Deed of Settlement is the final settlement of all historical claims of Ngāi Takoto 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 Ngāi Takoto;
- cultural redress;
- financial and commercial redress; and
- collective redress.

The benefits of the settlement will be available to all members of Ngāi Takoto, wherever they live.

Crown acknowledgements and apology

The Crown apologises to Ngāi Takoto for its acts and omissions that breached the Crown's obligations under Te Tiriti o Waitangi/the Treaty of Waitangi. The breaches relate to the Crown's investigation of pre-Treaty land transactions and taking of 'surplus land'; the forced cession of land at Ruatorara (East Beach) in 1844; the Crown's pre-1865 land purchases; and the failure to ensure Ngāi Takoto had sufficient land for its present and future needs. The Crown profoundly regrets its failure to actively protect Ngāi Takoto and acknowledges that this hindered their ability to participate in economic development and marginalised the iwi.

Cultural redress

1. Recognition of the traditional, historical, cultural and spiritual association of Ngāi Takoto with places and sites owned by the Crown within their primary area of interest. This allows Ngāi Takoto and the Crown to protect and enhance the conservation values associated with these sites

1(A) SITES TRANSFERRED TO NGĀI TAKOTO

A total of 10 properties will be vested in Ngāi Takoto and six jointly vested in one or more other Te Hiku iwi, totalling approximately 1355 hectares.

Sites to be vested in Ngāi Takoto:

- Wharemaru/East Beach site, approximately 1000 hectares
- Kaimaumu Marae site, more or less 14.57 hectares
- Waipapakauri Beach site, approximately 6 hectares
- Waipapakauri Papakainga site, approximately 5.3 hectares
- Bed of Lake Ngatu, approximately 54 hectares
- Bed of Lake Rotokawau, approximately 16 hectares
- Bed of Lake Ngakapua, approximately 14 hectares
- Bed of Lake Katavich, approximately 7 hectares
- Bed of Lake Waiparera, approximately 112 hectares
- Hukatere site A, approximately 2 hectares

Joint vesting to Ngāi Takoto and Te Rarawa:

- Tangonge site, approximately 110 hectares
- Lake Tangonge site A, approximately 31 hectares

Joint vesting to Ngāi Takoto, Te Rarawa, Ngāti Kuri and Te Aupōuri:

- Te Oneroa-a-Tōhē sites, totalling approximately 214 hectares

1(B) CULTURAL REDRESS FUND

Ngāi Takoto will also receive a cultural redress fund of \$2.4 million to assist it to undertake projects of cultural significance.

1(C) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgement recognises the association between Ngāi Takoto and a particular site and enhances Ngāi Takoto's ability to participate in specified Resource Management processes. The Crown offers Statutory Acknowledgements over:

- Lake Heather (Wai Te Huahua)
- Lake Rotoroa
- Lake Waikaramu
- Remainder of Lake Ngatu Recreation Reserve
- Rarawa Beach Campground
- Kowhai Beach
- Southern part of Waipapakauri Conservation Area
- Whangatane Spillway
- Awanui River

1(D) PLACE NAME CHANGES

Six place names will be altered through the Ngāi Takoto settlement, including dual Māori-English names for Ninety Mile Beach (Te Oneroa-a-Tōhē/Ninety Mile Beach), Cape Reinga (Cape Reinga/Te Rerenga Wairua), Spirits Bay (Piwhane/Spirits Bay), East Beach (Ngārui-o-te-Marangai Beach), Tatarakihi (Tūtatarakihi), and Walker Island (Tāhuhua-Paopao-Karoro Island).

2. Relationships

2(A) PROTOCOLS, LETTER OF COMMITMENT & PROMOTION OF RELATIONSHIPS

The deed of settlement provides for protocols to be issued by the Minister for Culture and Heritage, the Minister of Energy and Resources and the Minister of Primary Industries. These protocols set out how the relevant government agencies will interact and consult with Ngāi Takoto when carrying out duties and functions.

In addition, the Minister of Primary Industries will appoint Te Rūnanga o Ngāi Takoto as a fisheries advisory committee.

The deed of settlement also provides for Ngāi Takoto, the Museum of New Zealand Te Papa Tongarewa Board and the Department of Internal Affairs to enter into a letter of commitment to facilitate the care, management, access to and use of, and development and revitalisation of, iwi taonga. The Crown will facilitate a process between Ngāi Takoto and New Zealand Historical Places Trust to enter into a working relationship on specific projects of mutual interest.

The deed of settlement also provides for the promotion of relationships with local authorities and government agencies. The Minister for Treaty of Waitangi Negotiations and the Director of the Office of Treaty Settlements will write letters of introduction and relationship promotion to Crown Ministers, government agencies, local authorities and museums.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

NgāiTakoto will receive a financial quantum of \$21.04 million, plus interest through their settlement. NgāiTakoto will purchase from this quantum:

- part of the Crown-owned Sweetwater farm; and
- other Crown-owned properties including:
 - three schools (Paparore, Waiharara and Awanui) to leaseback to the Crown;
 - three Land and Information New Zealand properties;
 - three Office of Treaty Settlements landbank properties; and
 - two Office of Treaty Settlement landbank properties to be purchased jointly with Te Rarawa.

Collective redress

4. The collective redress elements of the deed have been negotiated between the Crown, NgāiTakoto, Ngāti Kuri, Te Aupōuri and Te Rarawa. Collective redress will be available to Te Hiku iwi as they complete settlements.

4(A) AUPOURI CROWN FOREST LAND

NgāiTakoto, Te Aupōuri, Te Rarawa, and Ngāti Kuri will jointly own (as tenants in common) the 21,283 hectares Crown forest land on the Aupouri peninsula and will receive a share of the accumulated rentals (approximately \$2.2 million to each iwi). NgāiTakoto will own an undivided 20 percent share of future rentals.

4(B) TE ONEROA-A-TŌHĒ/NINETY MILE BEACH

The settlement will create the Te Oneroa-a-Tōhē Board to manage the beach – a new permanent joint committee between iwi, Northland Regional Council and Far North District Council.

The Te Oneroa-a-Tōhē Board (the Board) will have 50 percent iwi members and 50 percent local authority members. It will be chaired by iwi and make decisions by a 70 percent majority.

The Board will provide governance and direction in order to promote the use, development and protection of the Te Oneroa-a-Tōhē/Ninety Mile Beach management area and its resources in a manner which ensures the environmental, economic, social, spiritual and cultural wellbeing for present and future generations. The Board is responsible for developing a beach management plan. It will publicly notify the plan and seek submissions on it. The plan will be recognised and provided for in the next revisions of the relevant Regional Policy Statement, Regional Plan and District Plan.

The Board will consult with communities through the beach management plan regarding any changes to beach access (eg by changing access points and reducing environmental damage on and to the beach). The feedback from this consultation will influence the plan which the Board will then implement.

The iwi members of the Board will appoint up to half of the hearing panel for consent applications within the beach management area.

The Crown is providing a one-off contribution of \$137,500 per iwi to install interpretative signs, raise pouwhenua at Waipapakauri and fund regeneration activities along the beach. The Crown is also providing a one-off contribution of \$400,000 to establish the Board.

4(C) KOROWAI FOR ENHANCED CONSERVATION

The settlement includes a co-governance arrangement for conservation land known as the *Korowai for Enhanced Conservation*.

The word 'korowai' means cloak. The *Korowai for Enhanced Conservation* recognises the historical, spiritual and cultural association Te Hiku iwi have with public conservation land. It gives iwi greater input into decision-making including in the protection of public conservation lands and important cultural taonga within the combined areas of interest of NgāiTakoto, Te Aupōuri, Te Rarawa and Ngāti Kuri.

A new Te Hiku Conservation Board will be established with equal Te Hiku iwi and public membership.

The Te Hiku Conservation Board will have a number of statutory functions, similar to those of the Northland Conservation Board, including recommending the approval of a new Te Hiku part of the Northland Conservation Management Strategy, relating to public conservation land within the area covered by the Korowai.

Te Hiku iwi and the Department of Conservation (DOC) will co-author the Te Hiku part of the Conservation Management Strategy, which will ensure that Te Hiku iwi interests will be integrated into this primary DOC planning document.

The Korowai means DOC decision-making under the Conservation Act 1987 and Schedule 1 legislation will occur in a framework in which iwi cultural interests will play a key role. There will also be joint decision-making between DOC, Ngāti Kuri, NgāiTakoto and Te Aupōuri over approximately 70 hectares of public conservation land at Cape Reinga/Te Rerenga Wairua, a place of profound significance to Te Hiku iwi.

Iwi will have decision-making power over applications from iwi members for customary materials, gathering of flora and possession of dead protected fauna, in accordance with an agreed customary materials plan between iwi and DOC. It will contain criteria and guidance on who, what, when, how and where customary materials can be gathered, obtained or possessed.

Each iwi will hold a register of wāhi tapu sites and identify general wāhi tapu areas. Iwi will have the opportunity to enter into management agreements in relation to wāhi tapu on public conservation land.

4(D) SOCIAL DEVELOPMENT AND WELLBEING ACCORD

The Te Hiku – Crown Social Development and Wellbeing Accord sets out how the iwi and the Crown will work together to improve the social circumstances of the Te Hiku whanau, hapū and iwi and the wider community.

In particular, the Accord will be implemented through multi-level engagement between Te Hiku iwi and the Crown including:

- an annual Te Hiku iwi-Crown Taumata Rangatira hui between the Ministers who have signed the Accord or whose departments have portfolio agreements and Te Hiku iwi representatives;
- regular Crown-Te Hiku iwi operational level engagement through Te Kahui Tiaki Whanau (a twice-yearly forum) and related Kaupapa Cluster meetings (ongoing engagement in relation to particular kaupapa/specific areas of work); and
- an evaluation and planning process to assess progress and design and implement strategies to achieve the shared outcomes for the Accord.

The Accord involves nine agencies: the Ministry of Social Development, Te Puni Kōkiri, the Ministry of Education, the Ministry of Productivity, Innovation and Enterprise, New Zealand Police, the Ministry of Justice, the Department of Internal Affairs, the Department of Corrections and Statistics New Zealand. The Crown is providing a one-off contribution of \$812,500 per iwi towards the implementation of the Accord.

The Accord will enable the government and the iwi to address pressing socio-economic issues in what is one of the most impoverished areas of the country.

4(E) JOINT RIGHT OF FIRST REFUSAL

NgāiTakoto will have a right of first refusal (RFR) for 172 years to purchase listed Crown properties should the Crown decide to sell them. This RFR is shared with other Te Hiku iwi whose areas of interest overlap with NgāiTakoto. NgāiTakoto will also have the opportunity to purchase Te Hiku RFR properties located outside the NgāiTakoto area of interest if the iwi in whose area the property is located do not want to purchase them.



Q&A

Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the NgāiTakoto Deed of Settlement includes \$21.04 million plus interest, discount on farm purchase price, the value of the cultural redress properties to be vested, \$2.4 million cultural redress fund, \$812,500 towards social accord implementation, \$137,500 in recognition of the historical and cultural associations of NgāiTakoto with Te Oneroa-a-Tōhē/Ninety Mile Beach and a portion of the one-off contribution of \$400,000 to the Te Oneroa-a-Tōhē Board.

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.

Once the Aupouri Crown forest land transfers out of Crown ownership, the agreement of the landowner (iwi) will be required for both foot and vehicular access other than use of Hukatere Road. The scope of such access will remain subject to the forestry operational requirements of the licensee.

4. Are any place names being changed?

Yes. Place names are significant for recognising iwi associations with geographic areas.

Six place names will be altered through the NgāiTakoto settlement, including dual Maori-English names for Ninety Mile Beach (Te Oneroa-a-Tōhē/Ninety Mile Beach), Cape Reinga (Cape Reinga/Te Rerenga Wairua), Spirits Bay (Piwhane/Spirits Bay), East Beach (Ngārui-o-te-Marangai Beach), Tatarakihi (Tūtatarakihi), and Walker Island (Tāhuahua-Paopao-Karoro Island).

5. Does NgāiTakoto have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

When the deed is signed and settlement legislation is passed it will be a final and comprehensive settlement of all the historical (relating to events before 21 September 1992) Treaty of Waitangi claims of the iwi. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement still allows NgāiTakoto to pursue claims against the Crown for acts or omissions after 21 September 1992, as well as claims based on the continued existence of aboriginal title or customary rights. The Crown retains the right to dispute such claims or the existence of such title rights.

6. Who benefits from the settlements?

All members of NgāiTakoto whom descend from the tupuna Tuwhakaterē, wherever they may now live, will benefit from the settlement of the iwi of which they are a registered member.

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