



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI HEI

General background

Ngāti Hei is an iwi of approximately 500 members (according to 2013 Census figures). The area of interest of Ngāti Hei is located on the eastern seaboard of the Coromandel Peninsula from Onemana to Whangapoua. It is centered around Tairua and Ahuahu and includes offshore islands extending north to Cuvier Island.

Ngāti Hei is a member of the Pare Hauraki Collective and will receive collective redress through the Pare Hauraki Collective Redress Deed.

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

On 31 May 2017, Ngāti Hei and the Crown initialled a Deed of Settlement (the Deed). The Deed was ratified and then signed on 17 August 2017. The settlement will be implemented following the passage of settlement legislation. On settlement, the trustees of the Ngāti Hei Post Settlement Governance Entity will manage the settlement assets.

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 Ngāti Hei.

Collective redress

Ngāti Hei is a member of the Pare Hauraki Collective and will receive collective redress through the Pare Hauraki Collective Redress Deed.

The collective approach recognises that the iwi of Hauraki have various overlapping customary interests which cannot be considered separately from each other. Details about the collective redress can be found in the Pare Hauraki Collective Redress Deed and the summary of that Deed.

Summary of the historical background to the claims by Ngāti Hei

In 1836 and 1837, a timber trader made agreements with Ngāti Hei rangatira over lands on either side of the Ounuora River. In 1839, another trader negotiated a land transaction for an area around Tairua. Both claims were investigated by the Land Claims Commission. There were anomalies in the evidence presented to the Commission. The boundaries of the transactions and the goods given in payment to Māori were sometimes unclear. After accepting the commissioners' recommendations, the Crown awarded almost 7000 acres of land in which Ngāti Hei had interests to European claimants. As a result, Ngāti Hei lost much of their coastal whenua.

Between 1858 and 1865, the Crown purchased Ahuahu from other Hauraki iwi. There is no evidence that Ngāti Hei were consulted about this purchase or that they received payment for their customary interests in the island.

Between 1859 and 1865, the Crown bought over 20,000 acres of land in the Ngāti Hei rohe. The Crown did not provide reserves for Ngāti Hei; nor did it require any assessment as to whether Ngāti Hei retained adequate land for their needs.

Between 1870 and 1890, 15 large blocks of 1000 acres or more, totalling over 93,000 acres, were permanently alienated from Ngāti Hei. The Crown purchased 12 of these blocks, over 81,000 acres in total.

In 1885, the Ngāti Hei owners of Kuaotunu 3 entered into a lease arrangement with a timber felling company. The owners considered that the lease gave the company only the right to harvest timber. The owners claimed that the company had deliberately misled them over the contents of the lease, which included rights to land. The timber company took its case to the Validation Court in 1895. Ngāti Hei incurred considerable costs attending the court hearing in Auckland. The court rejected the timber company's case. At the same time, the Crown was in the process of purchasing interests in Kuaotunu 3. The Crown refused to give Ngāti Hei a reserve at Te Whauwhau, partly on the basis that there had been no reserve granted in the lease, despite the lease having no legal standing.

There has been a history of extractive industry in the Ngāti Hei rohe, including kauri logging, kauri gum digging, flax milling, gold mining, and fishing. Ngāti Hei have derived little long-term benefit from these industries, and the damage done to the environment in their rohe is a source of grievance for them.

In 1923, Ngawhira Tanui of Ngāti Hei wrote to the Crown to ask for a survey of Ohinau Island for the purpose of taking her claims for ownership to the Native Land Court. The Crown reacted by delaying the Native Land Court hearings while it surveyed the island and took it under the Public Works Act 1908. Although the Crown needed only a small part of the land for a lighthouse, it acquired the whole 72-acre island.

By the end of the 20th century, Ngāti Hei were virtually landless. The resulting marginalisation of Ngāti Hei, including loss of te reo Māori, educational underachievement, sickness, and socioeconomic deprivation, caused the iwi much suffering. The Crown's discouragement of te reo Māori, along with the fragmentation of Ngāti Hei tribal structures and the migration from ancestral lands, severely affected Ngāti Hei's ability to pass mātauranga Māori on to their mokopuna.

Summary of the settlement between the Crown and Ngāti Hei

Overview

The Deed is the final settlement of all historical Treaty claims of Ngāti Hei 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 Ngāti Hei wherever they may live.

Crown acknowledgements and apology

The Deed contains acknowledgements that the cumulative effect of the Crown's actions and omissions, including land acquisition and the operation and impact of the native land laws, rendered Ngāti Hei virtually landless and the loss of land and resources had a negative impact on the ability of Ngāti Hei to participate in new economic opportunities and challenges emerging within their rohe in the 20th century.

The Crown acknowledges that it failed to take adequate steps to protect the traditional tribal structures of Ngāti Hei and this was a breach of the Treaty and its principles. The Crown also acknowledges that the degradation of the environment arising from various industrial activities in the rohe of Ngāti Hei (including gold mining, gum digging and flax milling) has been a source of distress and grievance to Ngāti Hei.

The Deed also includes a Crown apology to Ngāti Hei for its actions which harmed Ngāti Hei and for its breaches of the Treaty and its principles.

The Crown prejudiced Ngāti Hei by promoting laws and policies which led to the loss of their whenua, damaged the environment and severely undermined the wellbeing and ability of Ngāti Hei to pass on mātauranga Māori to their mokopuna. The Crown unreservedly apologises for its breaches of the Treaty and its principles.

Cultural redress

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

SITES VESTED IN NGĀTI HEI

Fifteen sites of cultural significance will be vested in fee simple in Ngāti Hei:

- Purangi (6.5 ha)
- Rangihau (56 ha)
- Kohuamuri (52.7 ha)
- Tapu Point (0.5 ha)
- Opou (319 ha) subject to a conservation covenant and easement
- Hereheretaura Pā (2.2 ha) as a historic reserve
- Te Pare Pā (7.7 ha) as a historic reserve
- Kaitoke/Pukekaroro (13.4 ha) as a scenic reserve
- Pukeumu (85.2 ha) as a scenic reserve
- Opuā (21.4 ha) as a scenic reserve

- Matarangi Pā (21.7 ha) as a scenic reserve
- Te Rerepiki (110 ha) as a scenic reserve
- Te Puia (21.6 ha) as a recreation reserve to be jointly administered by the Ngāti Hei governance entity and the Thames-Coromandel District Council
- Whitianga Pā (14.5 ha) as a scenic and historic reserve
- Paparoa (37.1 ha) partly as a local purpose (education and cultural) reserve and partly as a scenic and historic reserve to be jointly administered by the Ngāti Hei governance entity and the Thames-Coromandel District Council
- Puke Pakira (1 ha).

Some of the properties will be included as part of the Hauraki Gulf Marine Park.

SITES JOINTLY VESTED IN NGĀTI HEI AND OTHER IWI

- Pauanui Tihi (10 ha) will be jointly vested as undivided half shares in Ngāti Hei and Ngāti Maru as a scenic reserve, and
- Opera Point property (23 ha) will be jointly vested as undivided half shares in Ngāti Hei and Te Patukirikiri as a historical reserve.

SITES TO BE VESTED AND VESTED BACK TO THE CROWN

Within two years from settlement date, Te Karaka will be vested in the Ngāti Hei governance entity who will vest it back 30 days later to the Crown for the people of New Zealand.

Within one year from settlement date, Repanga (Cuvier) Island Nature Reserve will be vested jointly in the governance entities of Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and Ngaati Whanaunga 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 Ngāti Hei 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 te o a Hei, in relation to Cathedral Cove Recreation Reserve and the Repanga (Cuvier) Island Nature Reserve. The statement of values over the Repanga (Cuvier) Island Nature Reserve will be jointly agreed by Ngāti Hei, Ngāti Maru, Ngāti Tamaterā and the Ngaati Whanaunga.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Ngāti Hei 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 following areas:

- Hikuai River Area
- Kapowai River Area
- Kuaotunu Recreation Reserve
- Otama Beach
- Punaruku Scenic Reserve
- rivers, streams and their tributaries within the Tairua Harbour catchment area
- Tapuaetahi (including Tapuaetahi Scenic Reserve)
- Te Karaka
- Whangapoua Forest Conservation Area

- rivers, streams and their tributaries within the Whangapoua Harbour catchment area
- rivers, streams and their tributaries within the Wharekawa Harbour catchment area, and
- rivers, streams and their tributaries within the Whitianga Harbour catchment area.

CHANGES TO PLACE NAMES

The settlement legislation will provide for the following official geographic name changes:

- Castle Island to Castle Island/Ngātūturu
- Rabbit Island (in Opito Bay) to Motu-o-Whairaka/Rabbit Island
- Rabbit Island (off Slipper Island) to Waikaiā/Rabbit Island
- Grahams Stream to Waitoko Stream
- Wigmore Stream to Ko Tahuri-ki-te-Rangi Stream, and
- The Twins (Motumanga) to Motumāhanga/The Twins.

The Minister for Treaty of Waitangi Negotiations will write to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa requesting the Board list the Māori name of a number of geographic names as an unofficial original Māori name.

STATEMENT OF ASSOCIATION WITH MOEHAU AND TE AROHA

The Deed will acknowledge that Ngāti Hei has associations with, and asserts certain spiritual, cultural, historical and traditional values in relation to, 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 titi season. The Crown intends that any redress over Ruamaahua provided in a Treaty settlement will include Ngāti Hei.

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 will include Ngāti Hei.

OHINAU ISLAND

The settlement legislation will enact a Māori Land Court order and will vest Ohinau Island in the Ngāti Hei governance entity as if the property were a cultural redress property.

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 the Ngāti Hei governance entity when carrying out statutory duties and functions.

The Ngāti Hei 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 Ngāti Hei.

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 Ngāti Hei, advise them of matters of particular importance to Ngāti Hei and encourage them to better engage with them.

CULTURAL REDRESS PAYMENT

The Ngāti Hei governance entity will receive \$150,000 for cultural revitalisation and \$206,500 to purchase a property from the Pare Hauraki Collective.

Financial and commercial redress

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

The total financial and commercial redress for Ngāti Hei is **\$8.5 million**. This is made up of:

- \$500,000 received within 10 days of the date of the signing of the Deed on-account of the settlement
- \$1,230,949 to be received on settlement date
- \$4,675,000 being the transfer value of the Ngāti Hei share of Whenuakite Station (jointly with Ngāti Tamaterā), and
- \$2,094,051 being the agreed portion of the transfer value of **two** Pare Hauraki Collective landbank properties.

COMMERCIAL REDRESS PROPERTIES

- Ngāti Hei will receive the right to purchase an 85% share in Whenuakite Station
- Ngāti Hei will receive the right to purchase for two years after the settlement date the Coroglen School site (land only) subject to its leaseback to the Crown
- Ngāti Hei and Ngāti Maru will receive the right to purchase for two years after the settlement date the Tairua School site (land only) subject to its leaseback to the Crown.

Collective redress

Ngāti Hei 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.

MINERALS

Ownership of any Crown-owned minerals in land transferred to Ngāti Hei under the Deed will also transfer to Ngāti Hei. 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 Ngāti Hei 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 Ngāti Hei area of interest and relationship redress
- financial and commercial redress of a total of \$8.5 million, and
- commercial redress involving the right to purchase Crown properties.

Ngāti Hei will receive collective redress as part of the Pare Hauraki Collective Redress Deed which includes collective cultural and commercial redress.

2. Is there any private land involved?

Yes. The Crown has agreed to purchase a small parcel of private land on a willing seller/willing buyer basis, that will transfer to Ngāti Hei.

3. Are the public's rights affected?

Generally, no. Where land is transferred with a reserve classification then the relevant provisions of the Reserves Act (including those concerning public access) will continue to apply.

Crown land at Purangi, Rangihau, Kohuamuri and Tapu Point will vest in Ngāti Hei, with future public access to be decided by Ngāti Hei.

4. Will any place names change?

Yes. The settlement legislation will provide for the following official geographic name changes:

- Castle Island to Castle Island/Ngātūturu
- Rabbit Island (in Opito Bay) to Motu-o-Whairaka/Rabbit Island
- Rabbit Island (off Slipper Island) to Waikaiā/Rabbit Island
- Grahams Stream to Waitoko Stream
- Wigmore Stream to Ko Tahuri-ki-te-Rangi Stream
- The Twins (Motumanga) to Motumāhanga/The Twins.

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. 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.

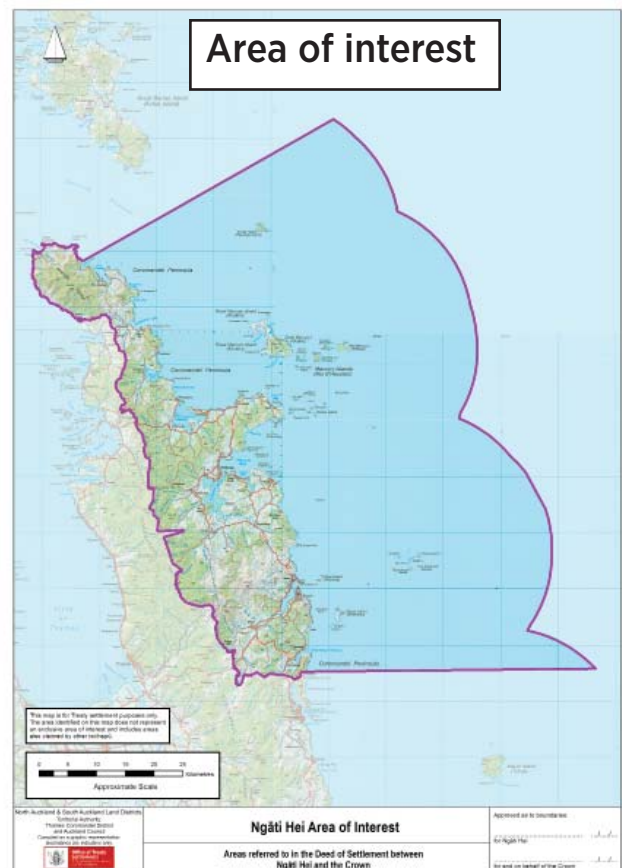
9. Do Ngāti Hei have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

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 Ngāti Hei. The settlement legislation, once passed, will prevent iwi relitigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Hei 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 Ngāti Hei wherever they may now live.



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