



Deed of

Deed of Settlement
between the Crown
and Ngāti Mākinō

Settlement

General Background

Ngāti Mākinō are a group of approximately 2,000 members based in the Bay of Plenty. Their area of interest runs from Lakes Rotoiti and Rotoma to the coast.

The Crown first signed Terms of Negotiation with the Ngāti Mākinō Heritage Protection Trust in October 1998; however, the Crown withdrew from these negotiations. In February 2008, the Crown entered into joint Terms of Negotiation with the Ngāti Mākinō Heritage Trust and the Waitaha Raupatu Trust, and Agreements in Principle were signed with each on 16 October 2008.

Ngāti Mākinō and the Crown initialled a Deed of Settlement on 16 December 2010. The Deed was then ratified, and signed on 2 April 2011. The settlement will be implemented following the passage of settlement legislation.

Ngāti Mākinō was represented in negotiations by the Ngāti Mākinō Heritage Trust, chaired by Awhi Awhimate. Day-to-day negotiations were led by Awhi Awhimate, Te Ariki Mōrehu, Morris Meha and Neville Nepia.

The Office of Treaty Settlements, with the support of the Department of Conservation 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 Ngāti Mākinō.

Summary of the Historical Background to the Claims by Ngāti Mākinō

Ngāti Mākinō did not sign the Treaty of Waitangi, and during the 1840s and 1850s dwelt peacefully with settlers in their rohe. From 1863 the Crown gradually increased its presence in the Bay of Plenty but applied little pressure on Māori to sell their lands. Customary law largely continued to prevail.

In 1863 the war between the Crown and the Kingitanga in the Waikato brought tension to the region. The need to choose between support for the Crown, degrees of armed neutrality, and support for the Kingitanga split Ngāti Mākinō internally. At Kaokaoroa in 1864, Ngāti Mākinō helped fight off a Kingite taua from the east coast. Not long afterwards, Ngāti Mākinō battled Crown forces at Te Ranga, near Tauranga.

A new round of conflict began in 1865 when the Crown sought those responsible for the murders of a Crown official and others. Ngāti Mākinō played no part in the killings. The Crown deemed that certain tribes had been in rebellion and confiscated approximately 448,000 acres of land in the Eastern Bay of Plenty under the New Zealand Settlements Act 1863. While the confiscation was not directed specifically at them, all Ngāti Mākinō were affected.

The Crown established a Compensation Court to return land to those who had not been in rebellion. Some Ngāti Mākinō were awarded land and others were deemed to be rebels and excluded from ownership. The court returned land in a form inconsistent with customary tenure.

Ngāti Mākinō's tribal system was further undermined in the 1860s by the operation of the native land laws and the establishment of the Native Land Court. Ngāti Mākinō had no alternative but to use the Court if they wished to secure legal title to their lands and participate in the new economy. The Court caused so much unrest amongst Bay of Plenty iwi that the Crown was forced to suspend its operations for several years.

Ngāti Mākinō preferred to lease their lands to private parties but by the mid-1880s the Crown had bought the majority of Ngāti Mākinō's lands. In securing title to their lands, Ngāti Mākinō incurred heavy survey costs. The Crown emphasised the size of survey debts and wrongly let Ngāti Mākinō believe interest was accruing on them. The Crown also improperly prevented Ngāti Mākinō from selling land to private parties.

By 1900 Ngāti Mākinō were virtually landless. Nonetheless, the Crown compulsorily acquired further Ngāti Mākinō land for public works and to establish scenic reserves. Private parties continued to purchase what little land remained, including the majority of Ngāti Mākinō's Otamarakau and Whakarewa reserves, both of which were originally awarded with inalienable titles. In the 1920s the Crown introduced schemes to consolidate and develop fragmented Māori land-holdings, but Ngāti Mākinō possessed insufficient land to participate in them. By 1992, only 0.6% of the combined area of the three major blocks in which Ngāti Mākinō had interests remained in the hands of the iwi.

From the 1940s many Ngāti Mākinō moved to forestry settlements looking for work. The Crown encouraged this migration and the forest industry became an important part of the economic well being of Ngāti Mākinō. However, the restructure of the Forest Service in the 1980s caused extensive unemployment and dislocation for Ngāti Mākinō.

Settlement

Summary of the Ngāti Mākino Settlement

Overview

The Ngāti Mākino Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of Ngāti Mākino 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;
- cultural redress; and
- financial and commercial redress.

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

Crown Acknowledgements

The Crown acknowledges that certain actions or omissions of the Crown arising from interaction with Ngāti Mākino breached the Treaty of Waitangi and its principles.

The claims relate to the impact of the 1866 Eastern Bay of Plenty raupatu on Ngāti Mākino; the Crown's failure to provide Ngāti Mākino with a form of collective title in the native land laws until 1894; the improper land purchase techniques used by the Crown and the Crown's failure to ensure that Ngāti Mākino were left with sufficient land for their present and future needs.

Cultural redress

1. Recognition of the traditional, historical, cultural and spiritual associations of Ngāti Mākino with places and sites within their area of interest. This allows Ngāti Mākino and the Crown to protect and enhance the conservation values associated with these sites.

1(A) SITES TRANSFERRED TO NGĀTI MĀKINO

8 sites of special significance will be vested in Ngāti Mākino, totalling 720 hectares. These include:

- Transfer of 3 sites within Rotoehu Conservation Forest: (Te Kōhanga, Ngā Porotai o Waitaha-a-Hei and a 3-hectare site for a wānanga)
- Rākau o Kauwae Hapa, formerly Rotoehu East Conservation Forest
- Lake Rotoiti Scenic Reserve, the maunga tupuna (ancestral mountain), Matawhāura; jointly with Ngāti Pīkiao, through the Affiliate Te Arawa Settlement and the balance of Matawhāura into iwi ownership.

The vesting of these sites is subject to a number of special conditions including scenic reserve status and protection of public access where appropriate.

1(B) OVERLAY CLASSIFICATION OR WHENUA RĀHUI

The declaration of an area as a overlay classification or whenua rāhui provides for the Crown to acknowledge iwi values in relation to that area.

The settlement provides an overlay classification or whenua rāhui over 256 hectares of Lake Rotomā Scenic Reserve.

1(C) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

A Statutory Acknowledgement registers the association between Ngāti Mākino and a particular site or area and enhances Ngāti Mākino's ability to participate in specified Resource Management Act processes.

Deeds of Recognition oblige the Crown to consult with Ngāti Mākino on specified matters and have regard to their views regarding their special associations with certain areas.

The settlement provides a deed of recognition and a statutory acknowledgement over 256 hectares of Lake Rotomā Scenic Reserve; and a statutory acknowledgement over 416.2 hectares of Lake Rotoiti Scenic Reserve.

2. Relationship Redress

2(A) PROTOCOLS

Protocols will be issued by the Minister for Arts, Culture and Heritage and the Minister of Energy and Resources. These set out the way in which certain government agencies will interact and consult with Ngāti Mākino when carrying out statutory duties and functions within the Ngāti Mākino area of interest.

2(B) LETTERS OF INTRODUCTION

The Crown will write to a number of local government authorities encouraging them to enter into formal relationships with Ngāti Mākino so that they can work together on matters of common interest, such as the development and review of district and regional plans. The Minister for Treaty of Waitangi Negotiations has written to the Minister of Housing drawing his attention to Ngāti Mākino's housing aspirations.

2(C) SOCIAL SERVICE DEVELOPMENT

A payment of \$500,000 has been made to the Ngāti Mākino Heritage Trust to employ a whole-of-government facilitator to assist with identifying and remedying social service needs.

2(D) MARAE RESTORATION AND REVITALISATION

A payment of \$1 million has been made to the Ngāti Mākino Heritage Trust for the restoration and revitalisation of six marae within the Ngāti Mākino rohe.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

Ngāti Māhino will receive financial redress of \$9.8 million as well as the \$1.5 million already paid for marae restoration and to assist the iwi to identify and remedy their social service needs. This amount does not include interest accrued since the signing of the Agreement in Principle.

3(B) COMMERCIAL REDRESS

Ngāti Māhino will purchase the remaining 3,450 hectares of the Rotoehu West licensed Crown Forest Land out of their settlement funds.

In addition, Ngāti Māhino will have:

- the right of first refusal over five sites of public conservation land should the Crown ever decide that they are no longer required for conservation purposes.
- the opportunity to enter into a sale and leaseback agreement over the Ōtamarākau School land, subject to agreement on the lease terms with the Ministry of Education.



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 Deed of Settlement is \$11,300 million, comprising financial redress, marae restoration and revitalisation, and social service development. This amount does not include interest or the value of cultural redress properties listed above.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally, no. However, one site, Rotoehu East Conservation Forest, totalling 275 hectares will be vested without provision for continued public access. The site is landlocked and currently has no practical public access so is not subject to regular public usage. Public access is preserved for all other vested sites.

4. Are any place names changed?

Two sites vested within Rotoehu Conservation Forest have been named Te Kōhanga and Ngā Porotai o Waitaha-a-Hei. Rotoehu East Conservation Forest has been renamed Rākau o Kauwae Hapa.

5. 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.

6. Does Ngāti Mākino 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 the final settlement of all Ngāti Mākino historical or pre-1992 claims. The settlement legislation, once passed, will prevent Ngāti Mākino from re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement package will still allow the Ngāti Mākino Heritage Trust or members of Ngāti Mākino 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.

7. Who benefits from the settlement?

All members of Ngāti Mākino, wherever they may now live.

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