



Deed of

Deed of Settlement
between the Crown
and Ngāti Manuhiri

Settlement

General Background

Ngāti Manuhiri are based at Omaha Marae near Leigh. Their area of interest extends along the eastern coast of North Auckland from Bream Tail in the north to Whangaparoa in the south, and includes Te Hauturu-o-Toi/Little Barrier Island Nature Reserve.

Sir Douglas Graham delivered a proposal to the iwi/hapū of the Kaipara, Mahurangi, Tāmaki Makaurau, Hauraki and Coromandel regions in June 2009 that all iwi/hapū in those regions, including Ngāti Manuhiri, enter direct negotiations with the Crown for the settlement of their historical Treaty claims. At a hui-a-iwi in July 2009, Ngāti Manuhiri gave the Manuhiri Omaha Kaitiakitanga Ora Trust (MOKO Trust) an interim mandate to negotiate a deed of settlement with the Crown. Negotiations between the Crown and Ngāti Manuhiri then progressed in parallel with a formal mandating process. At a series of hui-a-iwi in late 2009, Ngāti Manuhiri gave the MOKO Trust a mandate to negotiate the settlement of all Ngāti Manuhiri historical Treaty claims. The Minister of Māori Affairs and Minister for Treaty of Waitangi Negotiations recognised this mandate and an Agreement in Principle on 22 December 2009.

Ngāti Manuhiri initialled a Deed of Settlement on 2 March 2011. The Deed was then ratified by the Ngāti Manuhiri community, and signed on 21 May 2011. The settlement will be implemented following the passage of settlement legislation.

The Office of Treaty Settlements, with the support of the Department of Conservation, the Treasury 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 Manuhiri.

Summary of the Historical Background to the Claims by Ngāti Manuhiri

Ngāti Manuhiri did not sign the Treaty of Waitangi but with the arrival of the colonial government they developed cordial relationships with Crown officials.

In 1841 the Crown purchased an extensive area called “Mahurangi and Ōmaha”, which included much of the lands in which Ngāti Manuhiri held customary interests. Ngāti Manuhiri were not consulted about the sale and the Crown did not conduct an investigation of customary rights when it purchased these lands. Nor did the Crown provide adequate compensation and reserves for the future use and benefit of Ngāti Manuhiri when it later learned of their interests in the purchase area.

By the 1850s, when the Crown recognised Ngāti Manuhiri interests in these lands, settlers had begun to move into the area and Ngāti Manuhiri were left with no option other than to accept compensation and inadequate reserves, rather than overturning the sale itself. The Crown also carried out further purchases from 1853 that overlapped with the “Mahurangi and Ōmaha” lands, and paid generally low prices for those lands.

In 1844 the Crown punished a Ngāti Manuhiri chief for his role in a muru (ritualised plunder for compensation) of settlers at Matakana by pressuring him to cede his ancestral interests in land outside the Ngāti Manuhiri area of interest.

The balance of Ngāti Manuhiri lands passed through the Native Land Court. The awarding of land title to individual Ngāti Manuhiri rather than to the iwi or hapū, made those lands more susceptible to partition, fragmentation and alienation. This had a detrimental effect on Ngāti Manuhiri, contributing to the erosion of their traditional tribal structures. Ngāti Manuhiri also lost a number of wāhi tapu that were of significance to them despite efforts to reserve them from sale.

From the 1870s the Crown expressed a desire to acquire Te Hauturu-o-Toi/Little Barrier Island. Title determination for the Island by the Native Land Court was a long, costly and fraught process. From the early 1890s the Crown made a concerted effort to acquire the Island, mainly for the purpose of creating a reserve for the protection of birds. The Crown carried out negotiations to purchase Te Hauturu-o-Toi in a monopoly environment, excluding private parties who wished to purchase valuable kauri there. Some of the owners had substantial debts as a result of the Native Land Court hearings and only wished to sell if those costs were met.

From 1892 the Crown began negotiations with individual owners of Te Hauturu-o-Toi with offers that did not take into account the standing timber. Some of the owners agreed to sell; others did not. The Little Barrier Island Purchase Act 1894, with compulsory mechanisms similar to public works legislation, made Te Hauturu-o-Toi Crown land. In 1895 the island was made a Nature Reserve. Some of the owners (who were key leaders of Ngāti Manuhiri) refused to accept the compensation paid under the Act and refused to leave the island. They were forcibly evicted in 1896.

At around 1840 Ngāti Manuhiri held customary interests through a tribal estate of approximately 250,000 acres. In the 1890s, Ngāti Manuhiri held about ten per cent of this estate. Today, Ngāti Manuhiri are effectively landless, holding title to around 1,300 acres in small multiply-owned blocks of land.

Settlement

Summary of the Ngāti Manuhiri Settlement

Overview

The Ngāti Manuhiri Deed of Settlement will be the final settlement of all historical claims of Ngāti Manuhiri 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 Ngāti Manuhiri;
- cultural redress; and
- financial and commercial redress.

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

Crown Apology

The Crown's apology to Ngāti Manuhiri covers the 1841 Mahurangi and Omaha purchase, the Crown's failure to create adequate reserves, the operation of the Native Land Laws and the Crown's acquisition of Te Hauturu-o-Toi/Little Barrier Island including showing blatant disregard for the Ngāti Manuhiri residents on the island. The Crown also apologises for the way that Ngāti Manuhiri were left virtually landless. The loss of these lands had devastating consequences for the cultural, spiritual, economic and physical well-being of Ngāti Manuhiri that continue to be felt today.

Cultural Redress

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

1(A) REDRESS OVER TE HAUTURU-O-TOI/LITTLE BARRIER

Te Hauturu-o-Toi/Little Barrier Island Nature Reserve will be vested in Ngāti Manuhiri on settlement. Within seven days the whole of the Island, minus 1.2 ha, will be gifted back to the people of New Zealand. The title will be held by the Crown.

The 1.2 ha site to be vested in the Ngāti Manuhiri Settlement Trust will be subject to a covenant. The covenant will allow for Ngāti Manuhiri to build on the site in accordance with the Resource Management Act and Conservation Act requirements. Public rights will not be affected. Public access will continue to be retained subject to the current permit access restrictions.

In recognition of Ngāti Manuhiri's historical, cultural and spiritual association with Te Hauturu-o-Toi/Little Barrier Island Nature Reserve the Ngāti Manuhiri Settlement Trust together with the Conservation Board will approve a conservation management plan for the Island. Additionally, Ngāti Manuhiri members may seek approval from the Ngāti Manuhiri Settlement Trust and the Department of Conservation to remove stones from the island for cultural purposes.

1(B) OTHER SITES TRANSFERRED TO NGĀTI MANUHIRI

Five other sites will be vested in Ngāti Manuhiri totalling approximately 70 hectares. These include:

- Wakatūwhenua as recreation reserve formally part of Leigh Recreation Reserve (approximately 5.5 hectares);
- Mt Tamahunga summit as scientific reserve formerly part of Omaha Ecological Area (approximately 10 hectares);
- Pakiri Block Conservation Area subject to a covenant (approximately 47.4 hectares);
- Pakiri Domain Recreation Reserve (approximately 2.02 hectares); and
- Pakiri Riverbed subject to a covenant (approximately 4.9 hectares (subject to survey)).

The reserve status and covenants will provide for public access and the protection of conservation values.

1(C) OVERLAY CLASSIFICATIONS

The settlement will provide for two overlay classifications. One overlay classification will apply over Te Hauturu-o-Toi/Little Barrier Island Nature Reserve gift area and the other over Wakatūwhenua (part of Leigh Recreation Reserve, Goat Island Scientific Reserve and Cape Rodney Marine Reserve). The overlay classifications provides for the Crown to acknowledge Ngāti Manuhiri's values in relation to these areas.

1(D) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgements recognises the association between Ngāti Manuhiri and a particular site and enhances Ngāti Manuhiri's ability to participate in specified Resource Management Act processes.

The Crown offers Statutory Acknowledgements over Motu Hāwera (comprising the remainder of Leigh Recreation Reserve and Goat Island Scientific Reserve); the Crown-owned portion of Mt Tamahunga (Omaha Ecological Area), Ngāti Manuhiri coastal area of interest; the Hoteo, Puhoi, Pakiri, Matakana, Waiwerawera and Poutawa Rivers; Ngaroto lakes (Spectacle, Slipper, Tomarata and Ngaroto lakes); Tohitohi o Reipae (The Dome); Pohuehue Scenic Reserve; and Kawau Island.

1(E) PLACE NAME CHANGES

Five geographic names will be assigned or altered on settlement.

2. Relationships

2(A) PROTOCOLS

The Deed of Settlement will provide for protocols regarding the interaction between Ngāti Manuhiri and the Department of Conservation, the Ministry of Economic Development and Ministry for Culture and Heritage.

2(B) LETTERS OF INTRODUCTION

The settlement provides for the Minister for Treaty of Waitangi to write to certain Ministers, agencies and museums, and the Auckland Council introducing the trustees of the Ngāti Manuhiri Settlement Trust.

Financial and Commercial Redress

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

3(A) FINANCIAL REDRESS

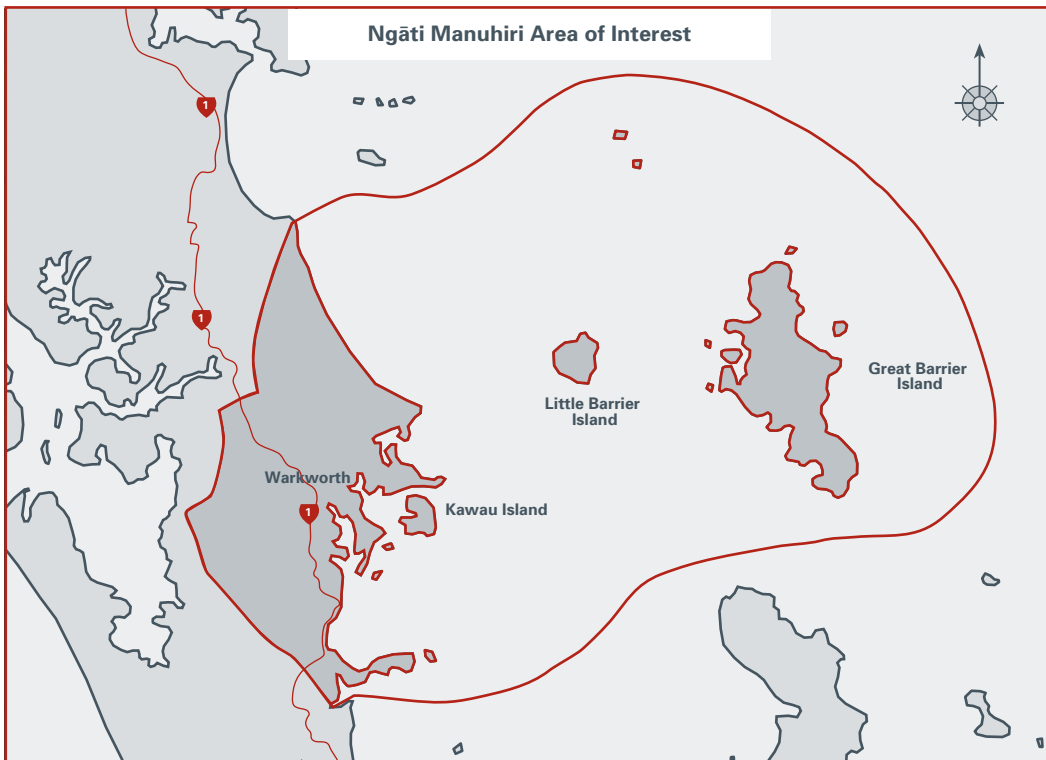
Ngāti Manuhiri will receive financial redress to the value of \$9 million plus interest through their settlement.

On settlement date Ngāti Manuhiri will receive:

- \$2,498,400 cash (plus interest payable on the \$9 million between the date of their agreement in principle and settlement date);
- the Warkworth District Court (land only), which will be leased back to the Crown;
- the Pakiri School (land only), which will be leased back to the Crown; and
- the South Mangawhai Crown Forest Licensed land, which is subject to the current forest licence, and the accumulated rentals.

3(B) RIGHT OF FIRST REFUSAL

Ngāti Manuhiri will receive a right of first refusal over 82 Crown owned properties specified in the signed deed for 169 years.



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 \$9.0 million plus interest, and the value of the cultural redress properties to be vested.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

No.

4. Will Te Hauturu-o-Toi/Little Barrier Island's status as a nature reserve be affected by the transfer and gift back of the Island?

The gifted back area (the whole island less 1.2 hectares) will continue to be a nature reserve. The 1.2 hectares that will be vested in the Ngāti Manuhiri Settlement Trust will be subject to a covenant that protects conservation values.

Public access to the whole island will continue subject to the current access restrictions. The same access restrictions will also apply to Ngāti Manuhiri.

5. Are any place names changed?

Yes. Five place names will be altered or assigned. These are Te Hauturu-o-Toi/Little Barrier Island, Paepae-o-Tu/Bream Tail, Te Hawere-a-Maki/Goat Island and Te Kohuroa/Mathesons Bay.

Ngaroto has been assigned to the historic site being the bounded extent of Spectacle and Slipper Lakes.

6. What are Overlay Classifications?

The Overlay Classification, known Whenua Rāhui in this settlement, acknowledges the traditional, cultural, spiritual and historical association of iwi with a specific site of significance administered by the Department of Conservation. The Whenua Rāhui requires the Minister of Conservation and Ngāti Manuhiri to develop and publicly notify a set of principles that will assist the Minister to avoid harming or diminishing values of the Ngāti Manuhiri group with regard to that land. The New Zealand Conservation Authority and relevant Conservation Boards will be required to have regard to those principles and consult with Ngāti Manuhiri in the activity over the areas subject to the Whenua Rāhui.

7. Are any National Parks affected by the Settlement?

No.

8. Does Ngāti Manuhiri 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 a final settlement of all of Ngāti Manuhiri's historical pre-1992 claims. Under the settlement legislation Ngāti Manuhiri will not be able to re-litigate Wai claims before the Waitangi Tribunal or the courts.

The settlement does not affect Ngāti Manuhiri's right 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.

9. Who benefits from the settlement?

All members of Ngāti Manuhiri are able to be beneficiaries of the settlement wherever they may now live.

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