



# Deed of

Deed of Settlement  
between the Crown  
and Ngāti Pāhauwera

# Settlement

## General Background

Ngāti Pāhauwera is a confederation of hapū with historical interests in northern Hawke's Bay. Their core area of interest stretches from the Ohinepaka Stream (south of Wairoa) to the Waikari River and inland from these areas towards the Maungaharuru range and north towards the Waiau River. Ngāti Pāhauwera currently has approximately 6000 registered members.

The Waitangi Tribunal reported on the claims of Ngāti Pāhauwera in its Mohaka ki Ahuriri and Mohaka River Reports.

In 1994 the Māori Land Court appointed eight people to represent Ngāti Pāhauwera under section 30 of Te Ture Whenua Māori Act 1993 for the prosecution and settlement of the Ngāti Pāhauwera Treaty claims against the Crown. The Crown and the section 30 representatives signed Terms of Negotiation in Wellington on 8 May 2008. On 30 September 2008 the Crown and Ngāti Pāhauwera signed an Agreement in Principle which covered the foreshore and seabed interests of Ngāti Pāhauwera as well as their historical Treaty claims.

On 5 November 2010, Ngāti Pāhauwera presented a Deed of Settlement detailing the historical Treaty settlements aspects of this Agreement to their people. The Deed was then ratified, and signed on 17 December 2010. The settlement will be implemented following the passage of settlement legislation.

Ngāti Pāhauwera was represented in their negotiations by the trustees of the Ngāti Pāhauwera Development Trust which took over responsibility from the section 30 representatives. The Foreshore and Seabed Unit of the Ministry of Justice and the Office of Treaty Settlements, with the support of Department of Conservation, Land Information New Zealand, Ministry of Fisheries, the Ministry for the Environment and other government agencies, represented the Crown in day-to-day negotiations. The Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, and his predecessor Hon Dr Michael Cullen, represented the Crown in high-level negotiations with Ngāti Pāhauwera.

## Summary of the Historical Background to the Claims by Ngāti Pāhauwera

Before 1840, there is no record of Ngāti Pāhauwera having entered into any written contracts for the sale or lease of their lands with Europeans. The signing of the Treaty changed little for Ngāti Pāhauwera, who continued to hold their land and resources under a customary form of tenure where collective ownership was paramount. In the early 1850s the Crown became interested in acquiring land to meet a growing settler demand.

### Early land transactions

The Crown acquired the 87,500 acre Mohaka block from Ngāti Pāhauwera in 1851 for a low price. This began a process of land alienation that left Ngāti Pāhauwera with insufficient landholdings. The Crown reserved only 100 acres from the Mohaka transaction for the future use of Ngāti Pāhauwera at Te Heru o Tūreia but acquired this reserve a few years later, while the expected economic benefits for Māori from proximity to European settlement did not materialise. In 1864 the Crown acquired the 21,000 acre Waihua block to confirm Ngāti Pāhauwera loyalty in the lead up to war on the East Coast. The additional 1,152 acres incorrectly included in this block were never returned or purchased. These transactions contained the more productive lands of Ngāti Pāhauwera.

### Effects of war

Following military conflict with Pai Mārire in the Napier area in 1866 the Crown confiscated all Māori land between the Waikari and Esk rivers. This included lands in which Ngāti Pāhauwera held interests, even though they had fought alongside Crown forces.

Ngāti Pāhauwera suffered severe loss of life and property after the Crown ignored warnings of a possible attack on Ngāti Pāhauwera communities at Mohaka during the New Zealand wars. In April 1869, 56 Ngāti Pāhauwera men, women, and children were killed during an attack at Mohaka. Others were wounded and taken as prisoners. Property, crops and supplies were looted and destroyed. The Crown did little to help Ngāti Pāhauwera to recover.

### Land loss

Crown imposed legislation failed to protect Ngāti Pāhauwera landholdings and traditional structures. In 1868 Ngāti Pāhauwera sought to secure title to much of their land to the north of the confiscation area through the Native Land Court. Legal irregularities in most of these titles caused significant problems for Ngāti Pāhauwera into the early twentieth century.

The native land court process facilitated alienation of further Ngāti Pāhauwera landholdings. In 1907 a Royal Commission concluded that Ngāti Pāhauwera needed all their remaining land for their occupation and support. The Crown nevertheless acquired a significant proportion of the remaining lands by 1930 and private purchasing continued too. The Crown failed to monitor the impact of ongoing land purchase activity.

By 1930 approximately 25,000 acres remained in Ngāti Pāhauwera ownership but much of it was held in fragmented titles or was otherwise unusable. Crown purchasing continued. In 1930 a land development scheme was introduced to improve the viability of Ngāti Pāhauwera farms following consolidation of titles. The amount of land in Ngāti Pāhauwera ownership was insufficient and only selected individuals were able to access any benefit. Ngāti Pāhauwera were virtually landless.

### Socio-economic consequences

Many people left the Mohaka district due to economic pressures, the failure of many farms and the difficulty of fully utilising the lands remaining. The socio-economic position for Ngāti Pāhauwera who remained in the district was poor. Environmental degradation led to a decline in species important to Ngāti Pāhauwera. The lack of land, resources and an economic base have significantly contributed to the economic, social and cultural impoverishment of Ngāti Pāhauwera.

# Settlement

## Summary of the Ngāti Pāhauwera Settlement

### Overview

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

No private land is involved in the redress, only Crown assets.

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

### Crown Apology

The Crown apologises to Ngāti Pāhauwera for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These included the failure of the Crown to provide adequate support to Ngāti Pāhauwera when Ngāti Pāhauwera suffered severe loss of life and property after the Crown ignored warnings of a possible attack on Ngāti Pāhauwera communities at Mohaka during the New Zealand wars; and the failure of the Crown to monitor the impact of further land purchase activity, including its own, and to ensure that Ngāti Pāhauwera retained sufficient lands for its future needs.

Ngāti Pāhauwera acknowledge that the Crown's apology represents its commitment to build a positive relationship with Ngāti Pāhauwera and to honour its obligations under the Te Tiriti o Waitangi/Treaty of Waitangi, for the good of this and future generations. Accordingly, Ngāti Pāhauwera accept the apology offered by the Crown and also look forward to building a positive relationship with the Crown.

### Cultural redress

1. **Recognition of the traditional, historical, cultural and spiritual association of Ngāti Pāhauwera with places and sites owned by the Crown. This allows Ngāti Pāhauwera and the Crown to protect and enhance the conservation values associated with these sites, and includes:**

#### 1(A) TRANSFER AND GIFT BACK

The settlement vests Te Heru o Tūreia Conservation Area in Ngāti Pāhauwera, subject to the majority of it being gifted back to the people of New Zealand for conservation purposes.

Ngāti Pāhauwera will retain approximately 160 hectares around the summit of Te Heru o Tūreia and 52.91 hectares next to the Mohaka River, to be designated Te Heru o Tūreia Conservation Covenant Area and Nakunaku Historic Reserve. Both the Ngāti Pāhauwera and Crown-owned lands will be managed together.

#### 1(B) SITES TRANSFERRED TO NGĀTI PĀHAUWERA

Altogether 16 sites totalling approximately 1087 hectares are to be vested in Ngāti Pāhauwera, subject to specific conditions including protection of public access and the maintenance of the reserve status in some cases. The other sites are:

- Takauere, formerly Pittars Conservation Area
- Ononi and Mangawhārangi, formerly Mangawharangi Scenic Reserve
- Te Kuta, formerly part of a local purpose (stock resting place) reserve
- Tauwhareroa, formerly Rawhiti Scenic Reserve
- Kuwatawata, formerly part of Mohaka River Conservation Area
- Ngākōauau (Conservation Covenant Area) and Ngākōauau (Scenic Reserve Area), formerly parts of Maulders Conservation Area
- Paaka Te Ahu, formerly Mohaka River Scenic Reserve
- Bed of Lake Rotongaio
- Bed of part Lake Rotoroa
- Tānga Kākāriki, formerly part of Kakariki Scenic Reserve
- Pūtere Scenic Reserve
- Raupunga Local Purpose Reserve

#### 1(C) CO-MANAGEMENT CHARTER

The settlement provides for a Conservation Co-management Charter which sets out how the Department of Conservation and Ngāti Pāhauwera will establish and maintain a positive and enduring partnership about conservation activities largely within the Ngāti Pāhauwera core area of interest. It is designed to improve the quality of conservation management decisions and provides a framework for mechanisms to achieve co-management.

#### 1(D) STATUTORY ACKNOWLEDGEMENT

In this settlement the Crown offers a Statutory Acknowledgement over part of the Earthquake Slip Conservation Area.

## 2. Recognition of the traditional, historical, cultural and spiritual association of Ngāti Pāhauwera in their area of interest:

### 2(A) HĀNGI STONES

The involvement of Ngāti Pāhauwera in the management of hāngi stones so that a person may not extract hāngi stones from the bed of the Mohaka and Te Hoe rivers within the core area of interest, unless the Ngāti Pāhauwera give their consent.

### 2(B) WATER CONSERVATION ORDER

Ngāti Pāhauwera will have rights to nominate members of any special tribunal appointed by the Minister of Environment to hear and report on applications to revoke or amend the Mohaka River Water Conservation Order; or make a new water conservation order in respect of the Mohaka River and its tributaries.

### 2(C) JOINT REGIONAL PLANNING COMMITTEE

Ngāti Pāhauwera, the Crown, the regional council and other groups with interests in natural resources in the region are discussing the establishment of a Joint Regional Planning committee to be established separately from the Ngāti Pāhauwera settlement.

## 3. Relationships

The Crown will write to relevant local authorities encouraging them to enter into a Memorandum of Understanding with the Ngāti Pāhauwera governance entity.

The Minister for Treaty of Waitangi Negotiations has written letters of introduction to Ministers of relevant Crown bodies encouraging them to build ongoing relationships with Ngāti Pāhauwera, and to Museums and other institutions encouraging them to enhance their relationship with Ngāti Pāhauwera.

The Minister of Fisheries will write a letter outlining how Ngāti Pāhauwera will have input and participation into sustainability processes and decisions covering fisheries resources within their core area of interest.

The Hawke's Bay Regional Council, the Wairoa District Council and the Hastings District Council will send copies of applications for resource consents in the catchments of the Mohaka, Waihua and Waikari Rivers to Ngāti Pāhauwera.

The settlement recognises that Hawke's Bay Regional Council and Ngāti Pāhauwera have agreed to enter into an agreement about the extraction of gravel from the Mohaka River.

## Financial and commercial redress

### 4. This redress recognises the economic loss suffered by Ngāti Pāhauwera arising from breaches by the Crown of its Treaty obligations. It is aimed at providing Ngāti Pāhauwera with resources to assist them to develop their economic and social well-being. It includes:

#### 4(A) FINANCIAL REDRESS

Ngāti Pāhauwera will receive a financial settlement of \$20 million together with interest from the signing of the Agreement in Principle until settlement.

The sum includes the value of any licensed Crown forest land purchased as part of the settlement, as outlined below.

#### 4(B) COMMERCIAL REDRESS

Thirteen Crown properties will be vested in Ngāti Pāhauwera as commercial redress, including the Mohaka Licensed Crown Forest Land, Rawhiti Station and five surplus Wairoa District Council properties.

Ngāti Pāhauwera will have the opportunity to purchase at market value surplus Crown-owned properties within the core area of interest, for a period of up to 100 years from Settlement Date, through a Right of First Refusal.

The proposed return of surplus Crown-owned properties is subject to any offer back requirements under section 40 of the Public Works Act or any other prior obligations.

# 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 \$20 million, plus the value of the cultural redress properties to be vested, as listed at 1(B), and the value of ten of the commercial redress properties to be vested, as noted at 4(B).

### 2. Is there any private land involved?

No.

### 3. Are the public's rights affected?

Generally, no. However, the settlement provides that hāngi stones may not be extracted from the bed of the Mohaka and Te Hoe rivers within the core area of interest, unless Ngāti Pāhauwera give their consent.

### 4. Are any place names changed?

No.

### 5. Are any National Parks affected by the Settlement?

No.

### 6. Does Ngāti Pāhauwera have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

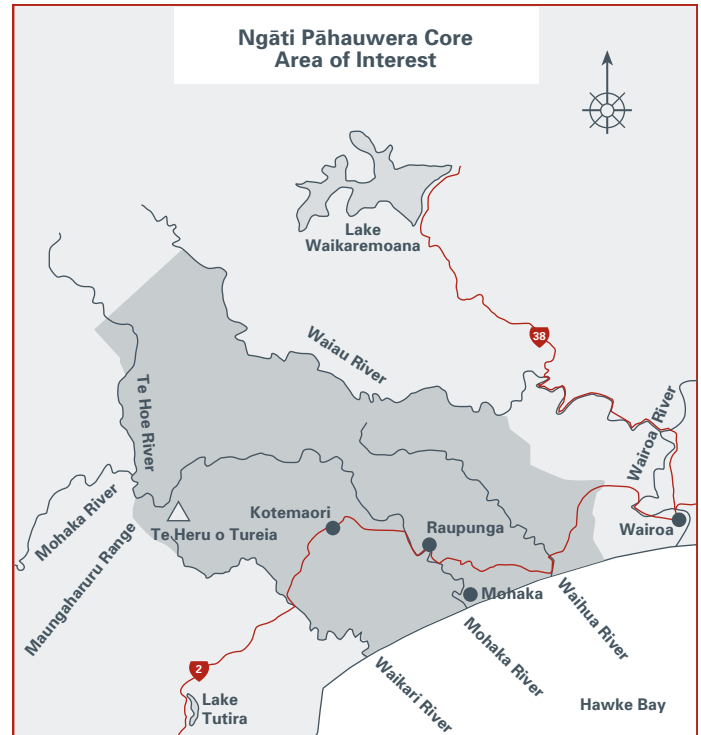
No. Both parties agree that the Deed of Settlement is fair in the circumstances and will be a final settlement for all historical or pre-1992 claims of Ngāti Pāhauwera. The settlement legislation, once passed, will prevent Ngāti Pāhauwera from re-litigating the claims before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Pāhauwera 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. This includes ongoing negotiations over any Ngāti Pāhauwera interests in the foreshore and seabed.

### 7. Who benefits from the settlement?

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

This and other settlement summaries are also available at [www.ots.govt.nz](http://www.ots.govt.nz)



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