



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI PŪKENGĀ

General background

Ngāti Pūkenga are today dispersed through four small and scattered kāinga located in Tauranga, Maketu, Whangārei and Hauraki. This settlement will be comprehensive settlement for all Ngāti Pūkenga historical Treaty claims. Ngāti Pūkenga will also be entitled to share in any collective iwi redress that may arise due to any collective iwi negotiations.

On 25 January 2010, the Crown recognised the mandate of Te Au Maaro o Ngāti Pūkenga Charitable Trust to represent Ngāti Pūkenga in negotiating a comprehensive historical Treaty settlement.

The Crown signed Terms of Negotiation with Ngāti Pūkenga on 25 January 2010. On 27 July 2012, the Crown and Ngāti Pūkenga negotiated a Statement of Position and Intent which formed the basis for this settlement.

On 23 November 2012, Ngāti Pūkenga and the Crown initialled a Deed of Settlement. The deed was then ratified by the people of Ngāti Pūkenga and signed on 7 April 2013. The settlement will be implemented following the passage of settlement legislation.

Te Au Maaro o Ngāti Pūkenga Charitable Trust were represented by Rahera Ohia, Shane Ashby, Te Awanuiarangi Black, Dominic Wilson and Areta Gray in day-to-day negotiations. The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand, the Ministry of Primary Industries 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 Pūkenga.

Summary of the historical background to the claims of Ngāti Pūkenga

Ngāti Pūkenga today is an iwi comprising the descendants of Te Tāwera, Ngāti Ha and Ngāti Pūkenga.

Ngāti Pūkenga are tangata whenua of Tauranga Moana and in 1840 their ahi kāroa in Tauranga Moana had been sustained in accordance with their tikanga over many generations. They were renowned as warriors and priests, and were an iwi who were often called upon to assist other tribal groups with their disputes.

The Ngāti Pūkenga rangatira, Te Kou o Rehua signed Te Tiriti o Waitangi at Maungatapu in April 1840. He expected that the Crown would protect his people's rights, property, and privileges, and repeatedly spoke of the partnership which he believed flowed from Te Tiriti.

By the mid-1850s, however, Ngāti Pūkenga was concerned at the discriminatory nature and inconsistent application of the law by the Crown. Nevertheless, Ngāti Pūkenga did not send men to fight against the Crown after it invaded the Waikato in 1863, and, as an iwi, did not fight in 1864 when war came to Tauranga Moana after Crown troops attacked Pukehinahina.

In 1865, the Crown issued an order in council to create a confiscation district which was extended by statute in 1868 to include 290,000 acres. It also purchased 93,000 acres of the land 'returned' to Māori inside the confiscation district at Katikati Te Puna from another iwi without investigating the ownership of this land. The Crown paid Ngāti Pūkenga compensation of £350 for their interests in the 50,000 acres of the confiscation district which it retained and £150 for their interests in Katikati Te Puna.

The Crown was slow to return the land in the confiscation district it did not otherwise acquire. In 1877, when a commission finally investigated the customary ownership of land in which Ngāti Pūkenga claimed ancestral interests, it did not allow them to present their evidence in an open hearing. Ngāti Pūkenga were only awarded a small block at Ngāpeke on the basis of a tuku aroha by another iwi in addition to the 98 acres reserved for them in the 50,000 acre block the Crown retained. The Crown repeatedly relied on the advice of a single official to reject Ngāti Pūkenga's numerous protests that this did not reflect their customary interests.

Ngāti Pūkenga lost much of their kāinga matua through the confiscation of their lands at Tauranga Moana and were dispersed between their four small and scattered kāinga as a result. The Native Land Court awarded individual Ngāti Pūkenga interests in a number of blocks at Maketū. The Court also awarded Ngāti Pūkenga land at Pakikaikutu and Manaia which had been gifted by other iwi. However, the individualisation of tribal land tenure imposed by the native land laws made Ngāti Pūkenga lands more susceptible to alienation, partition and fragmentation.

Industrial and agricultural development and urbanisation through the twentieth century has caused significant environmental degradation. The impact on Ngāti Pūkenga has been severe. Valuable sources of kaimoana at Tauranga Moana, Maketu and Manaia have been lost due to the pollution and sedimentation of waterways. Changes to the environment, including the clearing of indigenous vegetation, have led to regular flooding at Manaia which has prevented iwi landowners from effectively cultivating and farming their lands near the coast. Ngāti Pūkenga consider that they have benefitted little from the rapid urbanisation which has occurred in the Tauranga district since 1945. Until recently they were excluded from any involvement in planning or resource management.

Since the raupatu in Tauranga Moana, Ngāti Pūkenga has been dispersed to four dislocated kāinga which have functioned as autonomous entities in their own regions. Ngāti Pūkenga believe they have been inappropriately marginalised in histories about Crown-Māori relations in Tauranga Moana.

Summary of the Ngāti Pūkenga settlement

Overview

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

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

Crown acknowledgements and apology

The deed contains a series of acknowledgements by the Crown where its actions arising from interaction with Ngāti Pūkenga have breached the Treaty of Waitangi and its principles.

The Crown unreservedly apologises for bringing war to Tauranga Moana, and unjustly extinguishing all customary title to land within the Tauranga Moana confiscation district. The Crown is sorry that Ngāti Pūkenga did not receive the same opportunity as others to protect and nurture their interests in Tauranga Moana after the raupatu, and that Ngāti Pūkenga were left increasingly dependent on lands outside Tauranga Moana for their support. For the Crown, the marginalisation of Ngāti Pūkenga in Tauranga Moana, and the harm this caused, are sources of profound regret.

The Crown apologises for exacerbating this harm by consistently failing to respect the rangatiratanga of Ngāti Pūkenga in their remaining lands.

The Crown acknowledges the suffering it caused Ngāti Pūkenga through its breaches of the Treaty of Waitangi. This settlement will, the Crown sincerely hopes, mark the beginning of a new relationship between the Crown and Ngāti Pūkenga which is founded on respect for the Treaty of Waitangi and its principles.

Cultural redress

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

1(A) SITES TRANSFERRED TO NGĀTI PŪKENGĀ

Four sites will be vested in the post-settlement governance entity:

- Liens Block
- Pae Ki Hauraki
- Otukopiri
- Te Tihi o Hauturu

Otanewainuku and Puwhenua will be jointly vested with five other iwi.

1(B) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgement recognises the association between Ngāti Pūkenga and a particular site or area and enhances the iwi's ability to participate in specified resource management processes.

The Crown offers a statutory acknowledgement over the following areas:

- Te Tumu to Waihi Estuary
- Hauturu Block
- Pakikaikutu
- Manaia Harbour
- Manaia river.

1(C) CULTURAL REVITALISATION

The Crown will pay to the governance entity on the settlement date \$500,000 for Ngāti Pūkenga cultural revitalisation, and \$180,000 for Marae revitalisation in Manaia.

Relationships

2(A) PROTOCOLS

The Deed of Settlement will provide for protocols to facilitate good working relationships between Ngāti Pūkenga and the Minister for Arts, Culture and Heritage.

2(B) LETTERS OF INTRODUCTION

The Minister for Treaty of Waitangi Negotiations will write to:

- Ministry of Business, Innovation and Employment
- Ministry of Education
- Ministry for the Environment
- Ministry for Primary Industries
- Ministry of Social Development
- Ministry for Culture and Heritage
- Bay of Plenty Tertiary Partnership
- University of Waikato
- University of Auckland
- Massey University
- North Tec
- Te Wananga o Aotearoa
- Te Wananga o Raukawa
- Waiariki Institute of Technology
- Telecom New Zealand Ltd
- Whangārei District Council
- Northland Regional Council
- Thames Coromandel District Council
- Waikato Regional Council
- Bay of Plenty Polytechnic
- Te Whare Wananga o Awanuiarangi

Financial and commercial redress

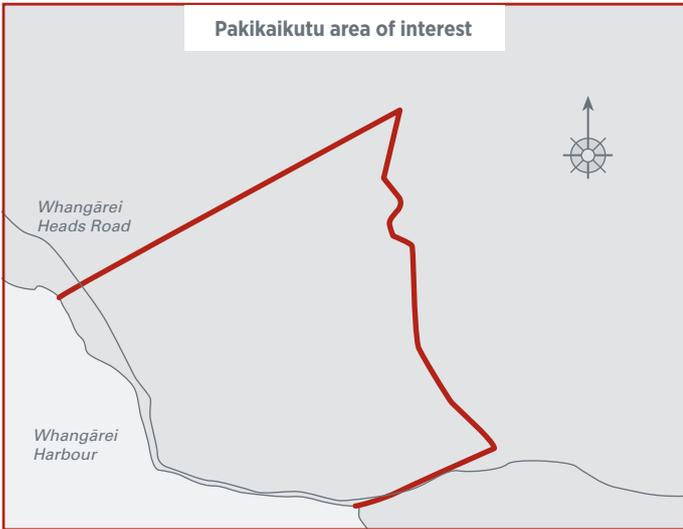
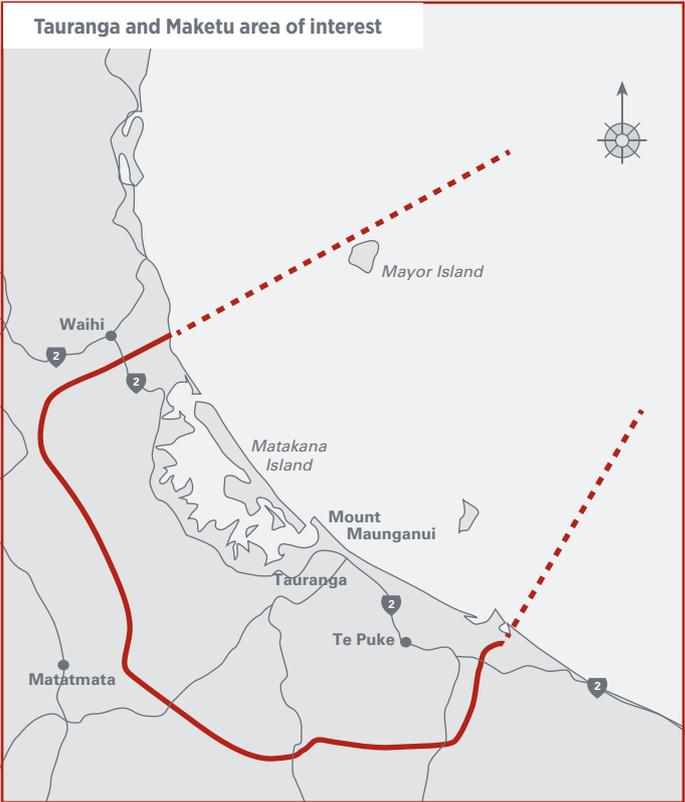
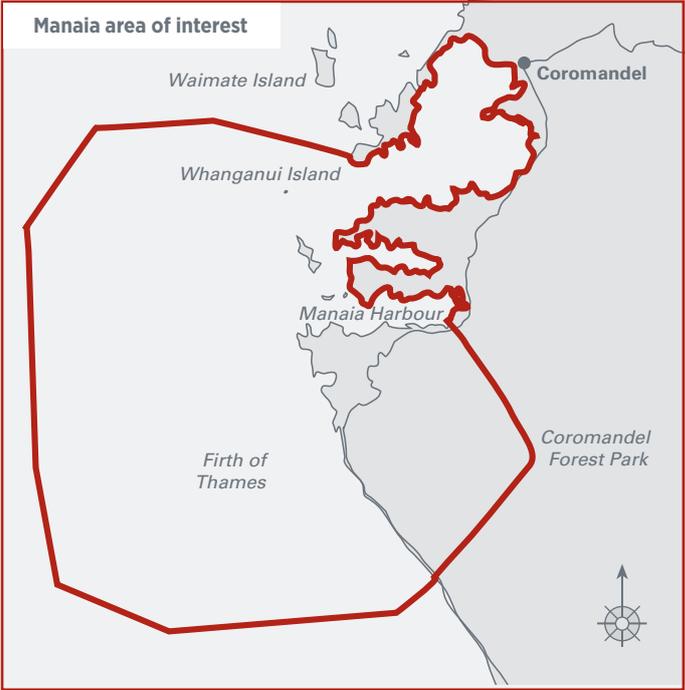
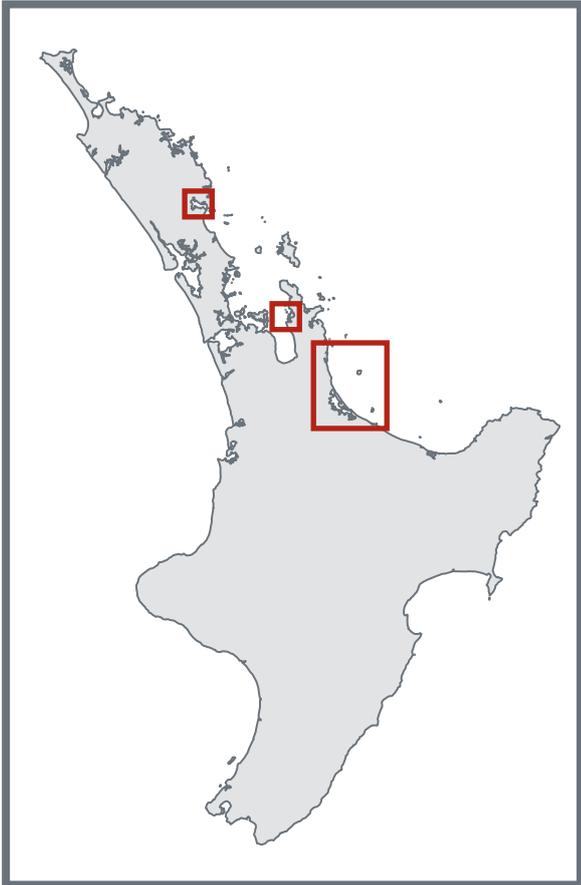
3. This redress recognises the losses suffered by Ngāti Pūkenga arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Ngāti Pūkenga with resources to assist them to develop their economic and social well being.

3(A) FINANCIAL REDRESS

Ngāti Pūkenga will receive financial redress of \$5 million plus interest

3(B) COMMERCIAL REDRESS

Ngāti Pūkenga will be entitled to purchase, using part of their financial redress, a number of commercial redress properties at a value of \$1.88 million



Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown is \$5million plus the value of cultural redress properties to be vested.

2. Is there any private land involved?

In accordance with Crown policy, no private land is involved.

3. Are the public's rights affected?

No.

4. Are any place names changed?

No.

5. What are Statutory Acknowledgements and Deeds of Recognition?

Statutory Acknowledgements acknowledge 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. Statutory Acknowledgements do not convey a property right and are non-exclusive.

6. 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.

7. When will the settlement take effect?

The settlement comes into force on the day after the date on which it receives the Royal assent.

8. Does Ngāti Pūkenga 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 historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Ngāti Pūkenga. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Pūkenga 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.

9. Who benefits from the settlement?

All members of Ngāti Pūkenga wherever they may now live.

10. What about the Tauranga Moana Iwi Collective Deed?

At the time of signing, the Tauranga Moana Iwi Collective are working towards signing the collective deeds.

11. Will there be any delays for Ngāti Pūkenga because of the Tauranga Moana Iwi Collective deed?

Yes. Once the Ngāti Pūkenga Deed is signed, the introduction of settlement legislation will wait until the Tauranga Moana Iwi Collective Deed is signed as some redress that Ngāti Pūkenga will receive is included in the Tauranga Moana Iwi Collective Deed. The Ngāti Pūkenga settlement legislation will settle all Ngāti Pūkenga claims and therefore the Crown cannot introduce settlement legislation until all redress provided to Ngāti Pūkenga is agreed.

12. What about the Hauraki Collective Deed?

At the time of signing, the Hauraki Collective and the Crown are still negotiating towards a Collective Deed.

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