



Deed of

Deed of Settlement
between the Crown and
Te Rūnanga o Ngāti Whare

Settlement

General Background

Ngāti Whare are a central North Island iwi whose rohe (territory) is based around Te Whaiti, Minginui and the Whirinaki Conservation Park. The area in which Ngāti Whare claim interests for Treaty settlement purposes covers approximately 192,000 hectares. Ngāti Whare have 3,400 registered members.

The historical grievances of Ngāti Whare relate primarily to the Crown's actions during the 1860s wars, restrictions on land use and land alienation, the Urewera District Native Reserves Act 1896, Crown corporatisation, cessation of indigenous forest logging and the return of Minginui without providing Ngāti Whare with sufficient resources.

An account of the historical background agreed between the Crown and Ngāti Whare is included in the Deed of Settlement, along with acknowledgments of Crown breaches of the Treaty of Waitangi and a Crown Apology for those breaches.

The Crown recognised the mandate of Te Rūnanga o Ngāti Whare (Te Rūnanga) to negotiate a settlement on behalf of Ngāti Whare to settle their historical Treaty claims on 18 November 2003. The Crown signed Terms of Negotiation with Te Rūnanga on 7 May 2004. On 25 June 2008 Ngāti Whare signed the Central North Island Forests Iwi Collective Deed of Settlement, which records the agreement of the Central North Island Forests Iwi Collective and the Crown to settle the historical CNI Forests Land claims.

On 19 June 2009, the Crown and Ngāti Whare signed an Agreement in Principle and a Deed of Settlement based on this agreement was initialled on 22 October 2009. The Deed of Settlement was then ratified by the members of Ngāti Whare and signed on 8 December 2009.

The Deed of Settlement will be implemented following the passage of settlement legislation.

Te Rūnanga is led by James Carlson (Chair). The Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, represented the Crown in high-level negotiations with Ngāti Whare.

Summary of the Historical Background to the Claims by Ngāti Whare

Ngāti Whare did not sign the Treaty of Waitangi. In the two decades after 1840 the Crown did not establish a relationship with Ngāti Whare from which Ngāti Whare felt a meaningful duty of allegiance to the Crown could be derived. Ngāti Whare did not sell any land at this time. In 1864 Ngāti Whare fought at the battle of Orakau, helping their whanaunga resist the Crown's invasion of the Waikato.

From 1868, war was brought to Te Urewera as the Crown sought to apprehend Te Kooti. Ngāti Whare chose to support Te Kooti, seeing him as a prophet and identifying with the injustice of his situation.

In pursuit of Te Kooti, a Crown force made a surprise attack on the Ngāti Whare pā, Te Harema, in May 1869. Te Kooti was not there nor were most of the Ngāti Whare fighting force. Five or six Ngāti Whare men were killed. Some were shot as they resisted the attackers, while others were killed as they retreated from the pā "hampered with their women and children". Some of the men shot were elderly. According to Ngāti Whare oral tradition, women were raped in the attack and as a consequence some committed suicide. As many as 50 women and children were taken prisoner. Te Harema pā was destroyed along with all other kainga, cultivations and provisions in the valley.

Between April and May 1870 the remainder of Ngāti Whare voluntarily surrendered to the Crown. They joined the prisoners taken at Te Harema and were placed under the control of Crown allies at Te Pūtere. Ngāti Whare returned home between 1872 and 1874.

In the late 1870s the Native Land Court began to investigate title to lands in which Ngāti Whare had interests. Ngāti Whare maintained opposition to the Court and did not actively participate in hearings or contest title investigations. This non-participation resulted in Ngāti Whare interests not being fully recognised. Land sales, often to the Crown, followed the hearings. The alienation of these lands left Ngāti Whare eager to retain ownership of their remaining lands.

Parliament enacted the Urewera District Native Reserve Act 1896 to give effect to agreements made between the Crown and Ngāti Whare and other Urewera Māori. The 1896 Act provided for an alternative to a Native Land Court determination of ownership of customary lands in a 656,000 acre reserve that included the remaining lands of Ngāti Whare. Decisions for the use of land would be made collectively and according to Māori custom. Ngāti Whare believed this system would protect their lands from sale, particularly the timber-rich Te Whāiti series blocks.

The Crown subsequently amended the 1896 Act and undermined the system of self-government it provided. In May 1915 the Crown decided to purchase the Te Whāiti block knowing that purchasing individual shares was illegal under the 1896 Act. The Crown's decision to purchase prevented Ngāti Whare from entering into timber leases with private parties or otherwise using their land. Ngāti Whare also disagreed with the Crown's valuation of the land and timber for the purchase. By 1923 Crown purchasing had left Ngāti Whare virtually landless.

From the late 1940s the Crown, through the New Zealand Forest Service, built and ran Minginui Village. This had a positive impact on the social and health conditions of Ngāti Whare.

In 1984 the Whirinaki Conservation Park was established and, shortly thereafter, the Crown stopped felling indigenous timber. Combined with the restructuring of the New Zealand Forest Service in 1986, this resulted in high unemployment rates for Minginui Village, a significant decline in services and an increase in poverty. Such problems were compounded by the return of Minginui Village to Ngāti Whare without adequate resources or support in 1989.

Settlement

Summary of the Ngāti Whare Settlement

Overview

The Ngāti Whare Settlement is the final settlement of all Ngāti Whare's historical claims resulting from acts or omissions by the Crown prior to 21 September 1992 and includes:

- An agreed historical account and Crown acknowledgements, which form the basis for a Crown Apology to Ngāti Whare;
- Cultural redress; and
- Financial and commercial redress already provided through the Central North Island Forests Land Collective Settlement 2008.

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

Crown Apology

The Crown apologises to Ngāti Whare for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include:

- the Crown's actions during and after its 1869 attack on Te Harema pā which had a destructive effect on the mana, social structure and well-being of Ngāti Whare;
- the Crown's failure to consider the impact of Ngāti Whare's non-participation in the Native Land Court processes on them and failure to act to remedy the prejudicial effects on Ngāti Whare;
- the Crown's implementations of the Urewera District Native Reserve Act 1896 which undermined the Crown's relationship with Ngāti Whare; and
- the Crown's failure to ensure that Ngāti Whare retained sufficient land for their present and future needs.

Cultural Redress

1. This redress provides for recognition of the traditional, historical, cultural and spiritual association of Ngāti Whare with places and sites owned by the Crown within their area of interest. This allows Ngāti Whare and the Crown to protect and enhance the conservation values associated with these sites. In summary, the package includes:

1(A) WHIRINAKI CONSERVATION PARK RELATED REDRESS

- The provision of a joint governance role for Ngāti Whare and the East Coast Bay of Plenty Conservation Board through the development and joint approval of a Conservation Management Plan for the Whirinaki Conservation Park
- The designation of two sites of special significance as Specially Protected Areas under the Conservation Act 1987 and, with the agreement of Ngāti Whare and the Minister of Conservation, the ability to place restrictions on activities within those sites. The two sites are:
 - Tūwatawata, a principal maunga (mountain) of Ngāti Whare, and
 - Te Whāiti-Nui-a-Toi Canyon, the home of a Ngāti Whare *kaitiaki* (guardian)
- The initiation by the Director General of Conservation of a process to assign a new name for the Whirinaki Conservation Park; and
- The inclusion of five conservation areas within the Whirinaki Conservation Park.

1(B) PROJECT WHIRINAKI REGENERATION TRUST

- The gifting of up to 640 hectares (the "Regeneration Land") within an area of land subject to the Whirinaki Crown forest license and the establishment of a joint Crown/Ngāti Whare Trust to manage a regeneration project and receive the Regeneration Land and Crown funds of \$1 million.

The regeneration project aims to regenerate back to indigenous forest an area of land that is subject to the Whirinaki Crown forest license which also bisects the Whirinaki Conservation Park. The regeneration project seeks to restore and enhance both the Whirinaki Conservation Park and the mana of Ngāti Whare as *kaitiaki* (guardians) of the Whirinaki Conservation Park while also providing benefits and enjoyment for all New Zealanders.

1(C) TRANSFER OF OWNERSHIP

- The vesting of seven sites:
 - Pareranui;
 - Waimurupūhā;
 - Tauranga-o-Reti;
 - Te Teko;
 - the Mangamate Falls Site;
 - Mangamate Kāinga; and
 - Te Takanga a Wharepakau.

These sites total approximately 36.2 hectares and are of cultural and spiritual significance to Ngāti Whare. These sites will be vested in Ngāti Whare subject to, where appropriate, protection of conservation values, ongoing public access and reserve status.

- The return of five wāhi tapu sites currently administered by Land Information New Zealand:
 - Te Pukemohoa Kāinga;
 - Matuatahi pā;
 - Otutakahiao;
 - Wekanui Kāinga; and
 - Otahi Kāinga.

These sites total 10.2952 hectares.

- The joint vesting of four sites in Ngāti Whare and Ngāti Manawa:
 - Te Tāpiri pā;
 - Okārea pā;
 - Te Rake pā; and
 - Hinamoki pā.

These sites total approximately 13 hectares and are of cultural and spiritual significance to both Ngāti Whare and Ngāti Manawa.

1(D) OTHER SITE SPECIFIC REDRESS

PLACE NAMES

The Whirinaki Conservation Park will be assigned a new name by the Director General of Conservation. Two other place names will also be altered to correct misspellings:

- Te Taupiri to Te Tāpiri; and
- Arahaki Lagoon to Arohaki Lagoon.

These changes will be made in consultation with the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa and in accordance with the functions and practices of that Board.

STATUTORY ACKNOWLEDGEMENTS

Statutory Acknowledgements register the special association Ngāti Whare has with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and the Historic Places Act 1993. The acknowledgements require that consent authorities provide Ngāti Whare with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

- There will be Statutory Acknowledgements over three sites:
 - the whole of Whirinaki Conservation Park;
 - specified and discrete areas of Te Urewera National Park on the eastern boundary of Ngāti Whare’s Area of Interest; and
 - the Whirinaki River and its tributaries.

Statutory Acknowledgements are non-exclusive redress, meaning more than one iwi can have a Statutory Acknowledgement over the same site.

DEEDS OF RECOGNITION

Deeds of Recognition oblige the Crown to consult with Ngāti Whare and have regard to their views regarding the special association Ngāti Whare have with a site. They also specify the nature of the input of Ngāti Whare into management of those areas by the Department of Conservation.

A Deed of Recognition will be made between Ngāti Whare and the Crown in relation to specified and discrete areas of Te Urewera National Park on the eastern boundary of the Area of Interest and the Whirinaki River and its tributaries.

1(E) OTHER CULTURAL REDRESS

- funding (totalling \$200,000) to contribute towards the restoration of Te Whāiti Court House; and
- a framework for the Rangitaiki River, to be negotiated post-Deed, for parties to establish a suitable management regime and improve the integrated management of the waters.

2. Relationships

2(A) PROTOCOLS

There will be a relationship accord with the Department of Conservation.

The Deed of Settlement will provide for protocols setting out the way in which specific government agencies will interact with Ngāti Whare in future. The agencies are:

- Ministry of Fisheries; and
- Ministry for Culture and Heritage.

There will be a relationship agreement with the Ministry for the Environment.

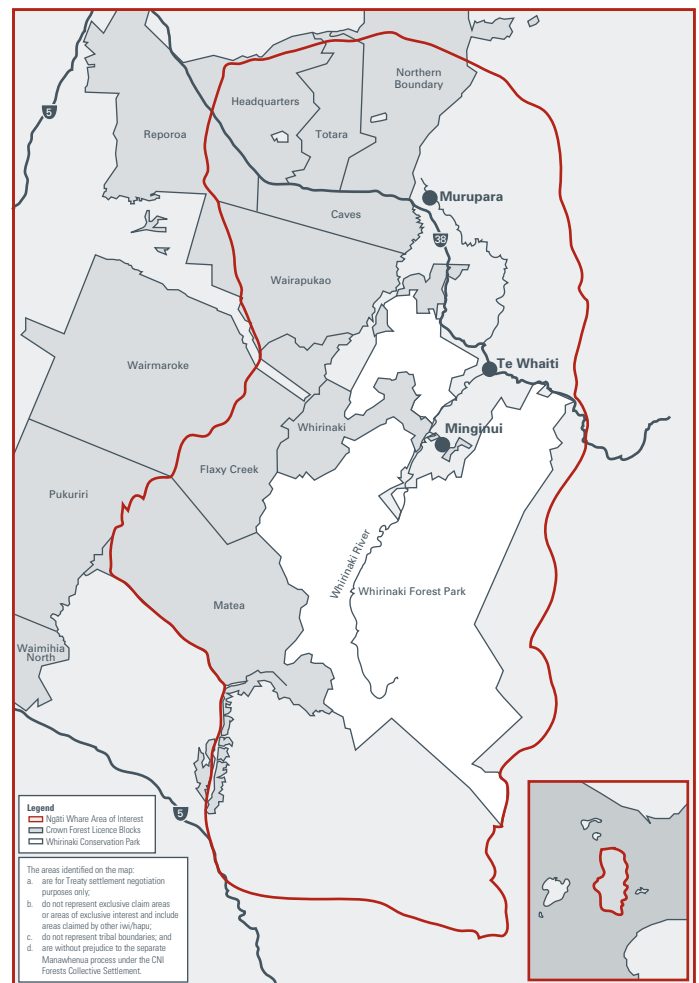
2 (B) LETTERS OF ENGAGEMENT

The Deed of Settlement will provide for the Minister for Treaty of Waitangi Negotiations to write to:

- the Minister of Māori Affairs in respect of Minginui Village; and
- regional authorities and non-government organisations encouraging ongoing relationships with Ngāti Whare.

Financial and Commercial Redress

Ngāti Whare are a party to the CNI Settlement with the Crown and other central North Island iwi and hapū with interests in CNI Forests Land. Ngāti Whare’s commercial and financial interests in that land have been addressed through the CNI Settlement.



Ngāti Whare Area of Interest

Q&A

Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of the redress outlined in the Deed of Settlement includes the Crown contribution to the Regeneration Trust, funding to assist in the restoration of a historically significant building and the cost of the cultural redress properties to be returned to Ngāti Whare.

The total value of the settlement is \$15.7 million, comprising:

- redress already provided in the 2008 CNI Settlement; and
- \$1.976 million in cultural redress giftings.

2. Is there any private land involved?

No. No private properties are included in the settlement, including those with section 27B memorials under the State-Owned Enterprise Act. Once this and any other settlements in the region are completed, the memorials will be removed from all titles.

3. Are the public's rights affected?

Generally, no. However, one site totalling approximately 5 hectares will be returned to Ngāti Whare without provision for continued public access. Public access to all other sites and the Whirinaki Conservation Park will be unaffected.

4. What are Statutory Acknowledgments and Deeds of Recognition?

Statutory Acknowledgements acknowledge areas or sites with which claimant groups have a special relationship, and will be recognised in any proceedings under the Resource Management Act and the Historic Places Act. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to Māori, such as burial grounds, were simply cleared or excavated without either permission or consultation. Statutory Acknowledgements are not a property right, nor are they exclusive.

Deeds of Recognition set out an agreement between the administering Crown body (the Minister of Conservation) and a claimant group in recognition of their special association with a site as stated in a Statutory Acknowledgement and specify the nature of their input into the management of the site.

5. Are any place names changed?

Three place name alterations are specified in the Deed of Settlement, including two alterations to correct misspelling and the assignation by the Director-General of Conservation of a new name for the Whirinaki Conservation Park.

6. Are any National Parks affected by the Settlement?

A Statutory Acknowledgement and a Deed of Recognition will be provided to Ngāti Whare over an area of Te Urewera National Park in the eastern boundary of their Area of Interest.

However, this redress is non-exclusive and does not limit other iwi from receiving similar redress, nor does it affect public access to Te Urewera National Park.

7. How does this relate to the Central North Island Forests settlement?

The CNI Settlement provides for Ngāti Whare to receive a share of the accumulated Crown forest licence rentals associated with the Licensed Crown forest lands and future rental income from that land. This Deed of Settlement includes the comprehensive settlement for their remaining claims. Their quantum includes approximately 4.8% of the value of the land in CNI Settlement.

8. Does the settlement create any special rights for Ngāti Whare?

The settlement enables Ngāti Whare to have a high-level governance role within the Whirinaki Conservation Park whilst maintaining Crown ownership. This recognises the significance of the Whirinaki Conservation Park to both Ngāti Whare and the country through the provision of a joint governance role for Ngāti Whare and the East Coast Bay of Plenty Conservation Board in the development and joint approval of a Conservation Management Plan for the Whirinaki Conservation Park.

Provisions in relation to conservation, such as Statutory Acknowledgements, give practical effect to existing provisions of both the Resource Management Act and the Conservation Act that provide for Māori participation in conservation and planning matters.

9. Does Ngāti Whare 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 the historical (pre-1992) claims of Ngāti Whare. The settlement legislation, once passed, will prevent Ngāti Whare from re-litigating the claim before the Tribunal or the courts.

The settlement package will still allow Ngāti Whare or members of Ngāti Whare 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.

10. Who benefits from the settlement?

All members of Ngāti Whare, wherever they live.