



Deed of

Deed of Settlement
between the Crown and
Tapuika

Settlement

General background

The origins of Tapuika in Aotearoa date back to the arrival of Tia and his son Tapuika on Te Arawa waka. According to Tapuika tradition, Te Takapu o Tapuika, the tribal estate of Tapuika the iwi was formed on the lands within the claim or taumau of Tia in the Bay of Plenty between Papamoa and Maketu.

Tapuika is represented in negotiations by the Tapuika Iwi Authority who, together with Te Maru o Ngāti Rangiwewehi Iwi Authority, signed joint terms of negotiation with the Crown on 14 August 2008. The Crown recognised their mandate on 30 October 2008. The Ngāti Rangiteaorere Claims Committee joined the negotiations in 2009 and the three together form the collective Ngā Punawai o Te Tokotoru. While the three iwi have worked collaboratively during negotiation, each iwi has negotiated separate Treaty settlements. On 16 June 2011, the Crown signed an Agreement in Principle with the Tapuika Iwi Authority.

The Crown and Tapuika Iwi Authority initialled a Deed of Settlement on 11 October 2012. The Deed was then ratified and signed on 16 December 2012. The settlement will be implemented through settlement legislation.

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 Tapuika Iwi Authority.

Summary of the historical background to the claims of Tapuika

The historical account describes how, when the Crown brought war to Tauranga in 1864, members of Tapuika went to assist their traditional allies. The Crown regarded Māori who fought against it in the Tauranga battles as rebels and confiscated 290,000 acres of land around Tauranga including land in which Tapuika had customary interests. The Crown retained 50,000 acres and returned the remainder to Māori. However Tapuika and others regarded as unsurrendered rebels were generally excluded from this process and Tapuika were awarded none of the land they claimed.

Tapuika settlements provided a base for opposition to the survey of the confiscation district. Crown forces, using a scorched earth policy, destroyed these settlements and the surrounding cultivations. The Crown then ordered a military occupation of Tapuika land.

In the early 1870s, Native Land Court operations and Crown land purchase activities caused tensions between Tapuika and other iwi over rights to land in the Maketū district. In 1875 the Native Minister, seeking to resolve the issue, drew a boundary across the takapū that conflicted with an earlier judgment of the Native Land Court. Tapuika were subsequently excluded from almost all their ancestral lands beyond that boundary – approximately 40,000 prized coastal acres. Tapuika, a coastal people, were left with no coastal lands.

In purchasing land, the Crown used pre-title advances, some of which were made to individuals of other iwi, and used outstanding debts to apply pressure to Tapuika. By 1900, Crown purchases had left Tapuika with approximately 10,000 acres of land. Title to this land had been heavily fragmented by Native Land Court partition and succession processes.

In the twentieth century, the Crown took land from Tapuika for public works eighty times, including land taken in 1939 for a Native School. Rather than pay compensation, the Crown returned a smaller area which Tapuika had gifted to the Crown for another school in 1886. In 1971 the Crown took land from within a Tapuika urupā in breach of the provisions of the Public Works Act.

Tapuika consider the waterways of their rohe as taonga. However, since the late nineteenth century, these waterways have been modified and polluted. As a result, Tapuika wāhi tapu have been destroyed, Tapuika's traditional sources of food and water have been compromised, and it has become increasingly difficult for Tapuika to maintain their customary relationships with their waterways.

For a full description of the historical grievances please refer to the historical account in the deed.

Settlement

Summary of the Tapuika Settlement

Overview

The Tapuika Deed of Settlement provides for full and final settlement of all historical Treaty of Waitangi claims of Tapuika resulting from acts or omissions by the Crown prior to 21 September 1992, and 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 Tapuika wherever they may live.

Crown acknowledgements and apology

The Crown acknowledges that it breached the Treaty of Waitangi and its principles in its dealings with Tapuika. These breaches include the Crown's responsibility for initiating hostilities in Tauranga in 1864 and subsequent loss of life for Tapuika; the compulsory extinguishment of Tapuika customary interests through the Tauranga raupatu of the 1860s; the destruction of Tapuika settlements in 1867 using scorched earth tactics; the erosion of the traditional tribal structures of Tapuika as a result of native land laws; and the unlawful taking of a Tapuika urupā (cemetery) in 1971. The deed also includes an apology from the Crown to Tapuika for these breaches of the Treaty of Waitangi.

Cultural redress

1. Recognition of the traditional, historical, cultural and spiritual associations Tapuika has with places and sites within their area of interest. The cultural redress package consists of a co-governance arrangement over the Kaituna River, the vesting of sites of significance, other site specific redress and relationship redress.

1(A) KAITUNA RIVER CO-GOVERNANCE

The settlement establishes a framework for co-governance of the Kaituna River. A statutory body, Te Maru o Kaituna (the Kaituna River Authority), will be established through the Tapuika settlement with membership drawn from local authorities, Tapuika and other iwi with associations with the Kaituna River.

1(B) LOWER KAITUNA WILDLIFE MANAGEMENT RESERVE

The Lower Kaituna Wildlife Management Reserve will be vested jointly in Tapuika and Ngāti Whakaue, who will, in turn and after a specified period of time, gift the reserve back to the Crown. The status of the reserve remains unaffected during the vesting and gift back process.

1(C) ENHANCING CULTURAL PRESENCE WITHIN TE PUKE

The Crown will provide \$500,000 to assist Tapuika to enhance their cultural presence within Te Puke.

1(D) VESTING OF SITES OF SIGNIFICANCE

12 sites of special significance to Tapuika totalling approximately 209 hectares will be vested in Tapuika, including:

- 3 sites from within Kaharoa Conservation Forest

(Te Pehu, Te Weta, Wai Paepae)

- 2 sites from within Te Matai Conservation Forest (Te Kainga Onaumoko, Te Whatitiri)
- Otahu Pā (Rangiuru area)
- Otukawa (Pah Road area)

An additional site, Te Taita (6 hectares) will be vested jointly in Tapuika and Ngāti Rangiwewehi.

Otanewainuku (117ha) and Puwhenua (67.5ha) will be jointly vested in Tapuika, Ngāti Te Rangi, Ngāti Ranginui Ngāti Pukenga, Waitaha and Ngāti Rangiwewehi through provisions in the respective deeds of settlement with each iwi.

Three sites will be vested in fee simple, while the remainder are vested subject to relevant reserve classifications.

1(E) WHENUA RĀHUI

The settlement provides a whenua rāhui, or overlay classification, over Opoutihi, a 65-hectare area with Gammons Block Conservation Area.

1(F) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

The settlement provides for statutory acknowledgements over a large number of sites and waterways of significance to Tapuika.

Deeds of recognition are also provided in relation to several sites administered by the Department of Conservation and in relation to the Kaituna River.

1(G) GEOGRAPHIC NAMES

Tapuika have proposed new or altered geographic names for five geographic features or sites in their area of interest.

1(H) PROTOCOLS

Protocols will be issued by the Minister for Arts, Culture and Heritage and the Minister of Energy and Resources. A Conservation Relationship Agreement will be entered into by the Minister of Conservation and Tapuika.

Financial and commercial redress

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

Tapuika will receive financial redress of \$6,000,000 less the on-account payment of \$2.5m, which was provided to Tapuika in December 2008.

The exact mix of cash and properties will be determined following the signing of the settlement, but includes the purchase of:

- 12 commercial redress properties in Te Puke
- up to four additional properties as commercial redress, including Kaharoa Forest, Te Matai North, Te Matai South (jointly with Ngāti Rangiwewehi) and Puwhenua Forest (in agreed portions with Ngāti Ranginui and Ngāti Rangiwewehi). The cost of all commercial redress properties is \$3,092,355.

Tapuika will also have a right of first refusal in relation to 11 Crown-owned properties.



Q&A

Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of redress offered to Tapuika is \$6,500,000, plus the value of cultural redress properties and interest on quantum.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally, no. Public access will be maintained to the vast majority of sites through the application of reserve status. Public access will not be provided to one small site, which has been provided for the purpose of a plant nursery.

4. Are any place names changed?

Yes. Five geographic name changes will be made through the Tapuika settlement. Four of the name changes relate to waterways in the Tapuika area of interest and one to an historic site.

5. Does Tapuika have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

If a Deed of Settlement is ratified, signed and supported by legislation, both parties agree it will be a final and comprehensive settlement of all historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Tapuika. Tapuika will retain the right to bring a contemporary claim, including to water rights and interests. The settlement legislation, once passed, will prevent Tapuika from re-litigating the claim before the Tribunal or the courts.

6. What happens to memorials on private titles?

The legislative restrictions (memorials) placed on the titles 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. What are Statutory Acknowledgments 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.

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 and specify the nature of their input into the management of the site.

Statutory Acknowledgements and Deeds of Recognition are included in most Treaty settlements.

8. What is a whenua rāhui?

A whenua rāhui (known as a topuni or overlay classification in some settlements) acknowledges the traditional, cultural, spiritual and historical association of an iwi with certain sites of significance administered by the Department of Conservation.

The whenua rāhui requires the Minister of Conservation and the settling group to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing values of the settling group with regard to that land. The New Zealand Conservation Authority and relevant Conservation Boards will also be required to have regard to the principles and consult with the settling group.

9. Who benefits from the settlement?

All members of Tapuika, wherever they may now live.

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