



Deed of Settlement

DEED OF SETTLEMENT BETWEEN THE CROWN AND TE PATUKIRIKIRI

General background

Te Patukirikiri's area of interest is outlined on the attached map.

Te Patukirikiri is one of the iwi of Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective). It is also a member of the Pare Hauraki Collective and the Marutūāhu Collective. Te Patukirikiri has received collective redress from the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and will receive collective redress through the Pare Hauraki Collective Redress Deed. It is also intended Te Patukirikiri will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

On 29 June 2011, the Crown recognised the mandate of the Te Patukirikiri negotiators to negotiate a comprehensive settlement of the historical Te Tiriti o Waitangi/Treaty of Waitangi claims of Te Patukirikiri with the Crown.

The mandated negotiators and the Crown entered into an agreement in principle equivalent on 22 July 2011. The Te Patukirikiri governance entity, the Te Patukirikiri Iwi Trust, was ratified in June and July 2013.

On 8 September 2017 Te Patukirikiri and the Crown initialled a Deed of Settlement (the Deed). The Deed is subject to ratification by the members of Te Patukirikiri and conditional on the enactment of the settlement legislation. On settlement, the trustees of the Te Patukirikiri Iwi Trust will manage the settlement assets.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand 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 Te Patukirikiri.

Summary of the historical background to the claims by Te Patukirikiri

In 1836, settlers purchased Whanganui Island from Te Patukirikiri. The Crown retained approximately 173 acres of "surplus" lands from later investigation into this transaction. In 1845, settlers purchased 850 acres at Waiheke and 800 acres at Coromandel and Cape Colville from Te Patukirikiri. During its investigations, the Crown made no assessment of the adequacy of lands remaining in Te Patukirikiri ownership.

In November 1852, Te Patukirikiri agreed with the Crown that some Māori owned land could be licensed for gold mining. The Crown was to make regular lease payments to the Māori landowners.

On 12 July 1863, the Crown invaded the Waikato. During the war the Crown occupied lands near Pūkoro / Miranda in which Te Patukirikiri had customary interests. On 31 October 1863, the Crown proclaimed a blockade of the Hauraki Gulf / Tikapa Moana, which was enforced by HMS Miranda and HMS Sandfly. Te Patukirikiri felt intimidated by these vessels. The Crown further established a number of military bases in Hauraki. The Crown subsequently confiscated large areas of Māori land, including land in which Te Patukirikiri had customary interests.

In 1865, the Native Land Court awarded 10 Coromandel blocks to Te Patukirikiri rangatira. Later that year, another 13 Coromandel blocks were variously awarded to Te Patukirikiri and another Marutūāhu iwi. Between 1865 and 1869, the Native Land Court investigated title for 14 blocks, totalling 6 500 acres, on Waiheke. Te Patukirikiri individuals were awarded interests with another Marutūāhu iwi in two of these. Soon after these awards, many of the owners of these blocks sold their interests.

Residence site licences were incorporated in new gold mining legislation introduced in the early 1870s. Licensees received a long-term and renewable right to build upon a site, for which the Crown collected fees which it paid to Māori landowners. Māori were unable to remove their lands from these agreements. Despite the decline of gold mining after the 1860s, the Crown continued to grant residence site licences through to the 1920s. Throughout the 19th and 20th centuries the Crown did not ensure rents were regularly revised. In 1962, Parliament removed the Crown's power to cancel licences and converted the licences to leases renewable every 21 years in perpetuity.

By 1871, Te Patukirikiri were virtually landless. At the end of the 20th century, less than 3 percent of the Hauraki rohe remained in Māori hands.

The first government Native School in Hauraki opened in 1883. Māori children were strongly discouraged from speaking te reo Māori at school, and were punished if they did. Monolingualism increased in the period 1950–1975, when the effect of education policies was compounded by urbanisation. The decline of te reo Māori contributed to a loss of Te Patukirikiri mātauranga Māori.

In the 20th century Te Patukirikiri experienced lower life expectancy and higher infant mortality rates than Pākehā. Te Patukirikiri also experienced higher unemployment and lower mean income rates than the general New Zealand population.

Overview

The Deed is the final settlement of all historical Treaty claims of Te Patukirikiri 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; and
- financial and commercial redress.

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

Crown acknowledgements and apology

The Deed contains acknowledgements that historical Crown actions or omissions including confiscation, the operation and impact of the native land laws, continued Crown purchasing and Public Works takings left Te Patukirikiri virtually landless, undermined their economic, social, and cultural development, and led to the alienation of sites of cultural and spiritual significance.

The Crown acknowledges the harm endured by many Te Patukirikiri children from decades of Crown policies that strongly discouraged the use of te reo Māori in school. This had detrimental effects on Māori language proficiency and fluency, the inter-generational transmission of te reo Māori and the knowledge of tikanga Māori practices.

The Deed also includes a Crown apology to Te Patukirikiri for the prejudice they have suffered as a result of its actions and its breaches of Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Cultural redress

The cultural redress package for Te Patukirikiri intends to recognise the traditional, historical, cultural and spiritual associations of Te Patukirikiri with places and sites owned by the Crown within their area of interest.

SITES VESTED IN TE PATUKIRIKIRI

The settlement will vest four sites of cultural significance in Te Patukirikiri:

- the Coromandel Hospital property (3.48 ha);
- Te Kauri Block property (5.03 ha) subject to a conservation covenant and easement;
- the Whakaneke property (191.27 ha) subject to a conservation covenant and easement; and
- the Patukirikiri property (4.47 ha) as a recreation reserve and jointly administered with the Thames-Coromandel District Council.

SITES JOINTLY VESTED IN TE PATUKIRIKIRI AND OTHER IWI

- The Opera Point property (23.02 ha) will be jointly vested as undivided half shares in Te Patukirikiri and Ngāti Hei as a historical reserve; and
- Te Toka Atea (19.64 ha) will be jointly vested as undivided half shares in Te Patukirikiri and Ngāti Tamaterā, subject to a conservation covenant and easement.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Te Patukirikiri and a particular site or area and enhances the ability of the iwi to participate in specified resource management processes.

The Crown offers a statutory acknowledgement over the following areas:

- Kauri Block Conservation Area;
- Preece Point property; and
- Taumatawahine Scenic Reserve.

CHANGE OF CONSERVATION STATUS

The settlement legislation will change the classification of Motutapere Island Scenic Reserve from a scenic reserve to a nature reserve.

STATEMENTS OF ASSOCIATION

The Deed will acknowledge that Te Patukirikiri has associations with, and asserts certain spiritual, cultural, historical and traditional values in relation to Te Aroha maunga, Te Toka a Kapetua – Bean Rock and Waiheke Island.

Relationships

PROTOCOLS, RELATIONSHIP AGREEMENT

The Deed will provide for the Minister for Culture, Arts and Heritage and the Minister for Primary Industries to issue protocols that set out how their respective agency will interact with and consult the Te Patukirikiri governance entity when carrying out statutory duties and functions.

The Te Patukirikiri governance entity will enter into a conservation relationship agreement with the Department of Conservation that will outline how the Department of Conservation will engage with Te Patukirikiri.

PROMOTION OF RELATIONSHIPS

The Minister for Treaty of Waitangi Negotiations will write to the following local authorities and museums to raise the profile of Te Patukirikiri, advise them of matters of particular importance to the iwi and encourage them to better engage with the iwi:

- Auckland Council;
- Thames-Coromandel District Council;
- Waikato Regional Council;
- Tāmaki Paenga Hira Auckland War Memorial Museum;
- Waikato Museum; and
- Museum of New Zealand Te Papa Tongarewa.

Financial and commercial redress

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

The total financial redress for Te Patukirikiri is \$3 million, including \$971,433 in on-account payments.

COMMERCIAL REDRESS PROPERTIES

- Te Patukirikiri will receive the right to purchase for 2 years after the settlement date 2 properties. 1 of the properties, Te Rerenga School site, is subject to a lease-back to the Crown.
- Te Patukirikiri will receive a Right of First Refusal (RFR) shared with Ngāti Maru and Ngāti Tamaterā in relation to a disposal by the Crown or a Crown body of specified RFR land. The RFR is for a period of 177 years.

Collective redress

As a member of the Tāmaki Collective, Te Patukirikiri has received collective redress as part of the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed. Te Patukirikiri will also receive collective redress as part of the Pare Hauraki Collective Redress Deed which includes collective cultural and commercial redress. The details of the redress can be found in the Pare Hauraki Collective Redress Deed settlement summary. It is also intended Te Patukirikiri will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

MINERALS

Ownership of any Crown-owned minerals in land transferred to Te Patukirikiri under the deed will also transfer to Te Patukirikiri. This does not include nationalised minerals (petroleum, gold, silver and uranium) or affect other lawful rights to subsurface minerals.

All land which is currently subject to Schedule 4 protection will continue to be subject to the same type of protection once owned by iwi.

HARBOURS AND HAURAKI GULF

The settlement does not provide for redress in relation to Tikapa Moana/ the Hauraki Gulf and Te Tai Tamahine/Te Tai Tamawahine. The Crown and Te Patukirikiri have agreed to conduct separate negotiations in the future to discuss potential cultural redress in relation to these areas.

Questions and Answers

1. What is the total settlement package?

- Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi;
- an agreed historical account;
- cultural redress including the vesting of a number of sites in the Te Patukirikiri area of interest and relationship redress;
- financial redress of a total of \$3 million (including previous on-account payments); and
- commercial redress involving the right to purchase 2 Crown properties for up to 2 years and a shared right of first refusal over Crown land for a period of 177 years.

Te Patukirikiri has received collective redress through the Tāmaki Collective and will also receive collective redress as part of the Pare Hauraki Collective Redress Deed. The details of the redress can be found in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and Pare Hauraki Collective Redress Deed summaries. It is also intended Te Patukirikiri will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

2. Is there any private land involved?

No.

3. Are the public's rights affected?

No. Nothing will change for the public. Public access, recreational use, reserve status and existing third-party rights are maintained.

4. Are any place names changed?

No.

5. What is a statutory acknowledgement?

A statutory acknowledgement acknowledges 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. A statutory acknowledgement does not convey a property right and is 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 will take effect following the enactment of the settlement legislation.

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

No. 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 Te Patukirikiri. 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 Te Patukirikiri 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 Te Patukirikiri wherever they may now live.