



Deed of

Between the Crown
and Te Roroa

Settlement

General Background

Te Roroa are a group of approximately 3,000 members based in Northland. Their area of interest runs from south of Dargaville to the Hokianga, centring on the Waipoua Forest.

The history of the interaction between Te Roroa and the Crown has been outlined in the Waitangi Tribunal's *Te Roroa Report*, published in 1992, and also referred to in the *Kaipara Interim Report* published in 2002.

The claims of Te Roroa relate to breaches by the Crown of its obligations under the Treaty, particularly a number of Crown acts and omissions in relation to the operation and impact of the Native Land Court process and Crown land purchasing in the 1870s, which resulted in the virtual landlessness of Te Roroa.

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

Te Roroa and the Crown have been engaged in periodic negotiations since 1992. In 1993 Te Roroa and the Crown entered into a "Framework Agreement" governing the conduct of negotiations. In 1996, the Crown formally recognised the mandate of the Te Roroa negotiators and the parties signed Terms of Negotiation specifying the objectives and general procedures for the negotiations. On 20 December 2004, the Crown and Te Roroa signed an Agreement in Principle. A Deed of Settlement based on this agreement was confirmed by exchange of letter on 10 September 2005. The Deed was then ratified by members of Te Roroa through a postal ballot, and signed on 17 December 2005. The Deed of Settlement will be implemented following the passage of settlement legislation.

Te Roroa was represented in negotiations for the settlement of their historical claims by a group of negotiators including Alex Nathan, Daniel Ambler and Moengaroa (also known as Sharon) Murray. The Office of Treaty Settlements, with the support of the Department of Conservation, Treasury and other government agencies, represented the Crown in day-to-day negotiations. The Minister in Charge of Treaty of Waitangi Negotiations, Hon Mark Burton, represented the Crown in high-level negotiations with Te Roroa.

Summary of the Historical Background to the Claims by Te Roroa

From an early time the people of Te Roroa occupied lands stretching from the Kaipara harbour north to the Hokianga harbour, including the kauri forest at Waipoua. Wesleyan missionaries established missions in the Hokianga from the mid-1830s and there were early Pakeha residents who lived with Māori communities from this time.

In 1842 the Crown required some chiefs of the northern Kaipara to cede between 2,200 and 3,000 acres of land as punishment for plunder of a store, whose owner was believed by local Māori to have desecrated an urupā and removed human remains. No payment was made for the land and the Crown failed to consult with, or consider the interests of, Te Roroa groups that had significant interests at Te Kopuru.

Te Roroa offered to sell the Crown some lands in the vicinity of Waimamaku and Waipoua in 1874. During the series of negotiations that followed, the Crown failed to instigate and follow clear procedures to identify and exclude from its purchase all the lands Te Roroa indicated to surveyors they wished to retain. This led to the alienation of Te Roroa from some of their most treasured sites, particularly at Kaharau, Manuwhetai, and Whangaiariki. Shortly after the sales were concluded in 1876 Te Roroa began protesting the Crown's failure to provide reserves they believed had been agreed to.

The lands retained by Te Roroa were awarded by the Native Land Court to individuals, rather than to the iwi or hapū. Individualisation made those lands susceptible to partition, fragmentation and alienation. The Crown continued to purchase land from Te Roroa until the iwi was effectively landless.

Sacred burial sites of Te Roroa, such as those at Aratapu and Kohekohe were desecrated and looted while koiwi (human remains) as well as taonga (artefacts) were sold or added to Museum collections.

The separation of Te Roroa from their wāhi tapu and taonga has been a source of great spiritual and emotional pain for Te Roroa. The Crown acknowledges 'ngā aureretanga o Te Roroa' (the continuous crying of Te Roroa) as a result of this separation.

Te Roroa have sought redress on a wide range of issues since 1861 and the Crown has failed to appropriately deal with the grievances of Te Roroa prior to this settlement.

Settlement

Summary of the Te Roroa Settlement

Overview

The Te Roroa Deed of Settlement is the final settlement of all Te Roroa historical claims 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 Te Roroa;
- Cultural redress; and
- Financial and commercial redress.

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

Crown Apology

The Crown apologises to Te Roroa for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include the cession of land at Te Kopuru in 1842; Crown land purchases from 1876; the operation and impact of the native land laws; and the Crown's failure to ensure that Te Roroa retained sufficient land for their present and future needs.

Cultural Redress

1. Recognition of Te Roroa's traditional, historical, cultural and spiritual association with places and sites owned by the Crown within their area of interest. This allows Te Roroa and the Crown to protect and enhance the conservation values associated with these sites, and includes:

1(A) SITES TRANSFERRED TO TE ROROA

24 areas of Crown-owned land of special significance to Te Roroa will be returned to the iwi.

These sites are:

- Kaiparaheka
- Kawerua
- Waingata
- Muriwai
- Puketurehu
- Manuwhetai
- Puketapu/Whangaiariki
- Former Works Depot, Waimamaku
- Wairau
- Haohaonui
- Te Riu
- Te Taiawa
- Maunganui Bluff
- Ureti
- Papatia and Te Kopae

Waipoua Forest Cultural Redress Properties:

- Waiotane
- River Road
- Pukenuiorongo
- Northern Contiguous Area
- Southern Contiguous Area
- Huaki
- Tekateka
- Oneroa
- Whangamoa

These sites total approximately 2,000 hectares. In many cases, the settlement legislation will protect the sites' natural values. Public access to sites with high public use will be preserved.

1(B) OVERLAY CLASSIFICATION OR TAREHU

The Tarehu or overlay classification (known as a tōpuni in some other settlements) acknowledges the traditional, cultural, spiritual and historical association of Te Roroa with those parts of the Waipoua Forest not being returned to Te Roroa.

Tarehu status requires the Minister of Conservation and Te Roroa to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing Te Roroa values in relation to the Waipoua Forest.

The New Zealand Conservation Authority and the Northland Conservation Board will also be required to have regard to the principles and consult with Te Roroa.

1(C) STATUTORY ACKNOWLEDGEMENTS

These register the special association Te Roroa 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 Te Roroa with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

There are to be two acknowledgements over the Arai-Te-Uru Recreation Reserve and Tokatoka Scenic Reserve.

1(D) DEEDS OF RECOGNITION

These oblige the Crown to consult with Te Roroa and have regard to their views regarding the special association Te Roroa have with a site. They also specify the nature of the input of Te Roroa into management of those areas by the Department of Conservation and/or the Commissioner of Crown Lands.

There will be two Deeds of Recognition covering the Arai-Te-Uru Recreation Reserve and Tokatoka Scenic Reserve.

1(E) PLACE NAMES

Six place names will be corrected or recognised. Merowharara Stream will be corrected to Mirowharara Stream, Taita Stream will be corrected to Waitakuhuruhuru Stream, and Waitapu Stream will be corrected to Ngaiore Stream.

The names Mangatara Stream, Ohae and Maunga Kairara will be assigned to previously unnamed features.

2. Restoration of Te Roroa access to traditional foods and food gathering areas, including:

2(A) CUSTOMARY FISHERIES

The Te Roroa governance entity will be appointed as an Advisory Committee to the Minister of Fisheries. This committee will provide advice on the management of fisheries in the Te Roroa Area of Interest, including on the customary interest of Te Roroa in those fisheries.

Other provisions include a right of first refusal, for a period of 50 years, over specified toheroa quota if it is included in the Quota Management System in the future, and an annual meeting with the Ministry for the Environment to discuss issues such as the application of the Resource Management Act in the Te Roroa Area of Interest.

3. Relationships

3(A) PROTOCOLS

Protocols will be issued by the Ministers of Conservation, Fisheries, Culture and Heritage and Economic Development, to encourage good working relationships on matters of cultural importance to Te Roroa.

Financial and commercial redress

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

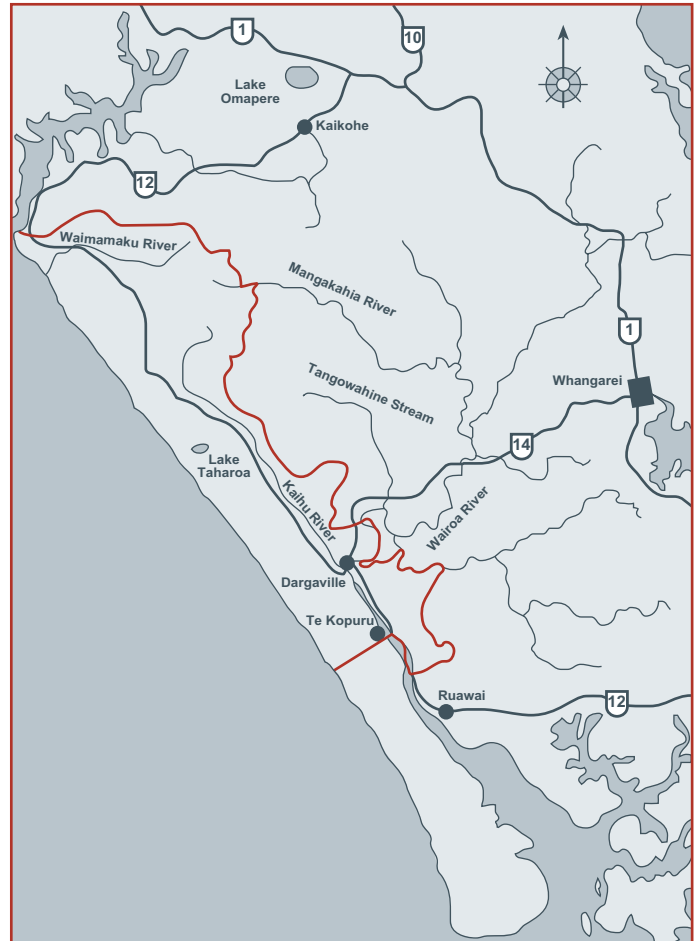
4(A) FINANCIAL REDRESS

Te Roroa will receive a combination of Crown-owned land and cash to a value of \$9.5 million.

4(B) RIGHT OF FIRST REFUSAL

Te Roroa will have, for a period of 50 years, a right of first refusal to buy, at full market value, certain surplus Crown-owned properties.

They will also have a two year right of deferred selection over certain Crown-owned properties.



Te Roroa Area of Interest

Q&A

Questions and Answers

1. What is the total cost to the Crown?

\$9.5 million plus interest from the date of the signing of the Deed of Settlement, and the cost of cultural sites returned, as listed at 1(A).

2. Is there any private land involved?

No. The Crown, however, owns several farms within the Te Roroa claim area, which were purchased in the 1990s following the Waitangi Tribunal's recommendations in its 1992 *Te Roroa Report*. The Tribunal recommended that the Crown take steps to acquire land held in private ownership which included wāhi tapu sacred to Te Roroa. Te Roroa have selected parts of these farms as their commercial and financial redress, and other parts will be available for selection for up to two years. The wāhi tapu sites on these farms will be transferred as part of the cultural redress.

In 1993 the law was amended so that the Waitangi Tribunal could no longer make recommendations in respect of private land.

3. Are the public's rights affected?

Generally no, although there are some areas of Crown-owned land which will be transferred to Te Roroa as cultural redress. Where sites have high public use, public access will be preserved (Kawerua, Maunganui Bluff, Uretī and Puketurehu).

4. What is an overlay classification or Tarehu?

A Tarehu recognises the cultural, spiritual and historical values of a site or area on Crown-owned land. It gives Te Roroa input in the management of an area or site but does not override existing classifications or protections. It is the same concept as a Tōpuni in the Ngāi Tahu settlement, or a Kirihipi in the Te Uri o Hau settlement.

5. What are Statutory Acknowledgements and Deeds of Recognition?

Statutory Acknowledgments acknowledge areas or sites with which claimant groups have a special relationship, and will be recognised in any proceedings under the Resource Management Act. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to Māori were cleared or excavated without either permission or consultation. It is not a specific property right.

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.

6. Are any place names changed?

Six place names will be corrected or recognised.

7. Are any National Parks affected by the settlement?

No.

8. What happens to memorials on private titles?

The settlement will remove the legislative restrictions (memorials) placed on the title of Crown properties and some former Crown properties now in private ownership.

9. Does the settlement create any special rights for Te Roroa?

No new rights are being created. 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.

10. Does Te Roroa 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 Te Roroa's historical or pre-1992 claims. The settlement legislation, once passed, will prevent Te Roroa from re-litigating the claims before the Waitangi Tribunal or the courts.

The settlement package will still allow Te Roroa or members of Te Roroa 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.

11. Who benefits from the settlement?

All members of Te Roroa, wherever they may now live.