



Deed of Settlement

Between the Crown
and Te Uri o Hau

General Background

Te Uri o Hau is a Northland hapu grouping of Ngati Whatua whose area of interest is located in the Northern Kaipara region (see attached map). Te Uri o Hau descend from Haumoewaarangi through Hakiputatomuri, who is Te Uri o Hau's founding ancestor. Te Uri o Hau has approximately 6000 members and ancestral marae at Otamatea, Waikaretu, Oruawharo, and Arapaoa. Te Uri o Hau also have ten whanau marae within the region.

An account of the historical background agreed between the Crown and Te Uri o Hau is included in the Deed of Settlement. A summary of this is included in the attached material. Te Uri o Hau's historical claims relate in general terms to breaches by the Crown of its obligations under the Treaty of Waitangi in relation to land purchases prior to 1840, Crown land purchases, the operation and impact of the Native Land Court, and land administration structures and practices in the 20th century.

Negotiations on a settlement package with Te Uri o Hau began in August 1999. A Heads of Agreement recording agreement on the main components of a settlement was signed on 20 November 1999. A Deed of Settlement - the formal Crown offer to Te Uri o Hau to settle historical claims under the Treaty of Waitangi - was then developed by the Crown and Te Uri o Hau negotiators. The Deed was initialled on September 12, 2000 and was subsequently ratified by the members of Te Uri o Hau through a postal ballot. The Deed signed today is now subject only to the formal approval of Parliament.

Te Uri o Hau was represented in negotiations by its mandated negotiators Sir Graham Latimer, Morehu Kena, Jimmy Connelly, Harry Pomare, Russell Kemp, Rawson Wright and Tapihana Shelford (Minister). The negotiators built on the substantial groundwork undertaken by claim managers and Dr David V Williams.

The Office of Treaty Settlements headed by Ross Philipson, with the support of Treasury, Ministry of Fisheries and the Department of Conservation, represented the Crown in day to day negotiations.

The Minister in Charge of Treaty of Waitangi Negotiations Hon Margaret Wilson represented the Crown in high level negotiations with Te Uri o Hau.

Historical Background to the Claims by Te Uri o Hau

Crown Policy – Crown Purchases and Native Land Laws

The Crown has accepted that it had a duty under the Treaty of Waitangi to

- act in the utmost good faith toward Maori
- ensure Maori retained sufficient land for sustenance and growth,
- ensure European settlement occurred in an orderly fashion,

And, that the alienation of Maori land and the operation and impact of the native land laws had a number of consequences, including

- a significant loss of land by some Maori communities, with some becoming virtually landless,
- the removal of a key resource, contributing to a breakdown of Maori communities and hindering their effective participation in society,
- community dispersal, resulting from the fragmentation of land ownership.

Te Uri o Hau's Claims

The specific claims made by Te Uri o Hau include concern at the actions of the Crown in reviewing land purchases prior to 1840, Crown purchases prior to 1865, the operations of the Native Land Court in the 19th century and land administration structures and practices in the 20th century.

In 1842 the Chiefs of Te Uri o Hau and Ngapuhi ceded to the Crown between 2,200 and 3000 hectares as punishment for Maori action against a storekeeper believed to have desecrated an urupa and removed human remains. No payment was made for the land.

Crown purchases between 1854 and 1865 saw 110,000 hectares alienated from Te Uri o Hau, around 60% of their total land holdings in the Otamatea and Pouto areas. Only three reserves were established following these purchases and, of those, two were alienated soon after.

Te Uri o Hau also believe the operation of the Native Land Court in Te Uri o Hau's area of interest was prejudicial to Maori land owners wishing to retain their land. Reserves set aside following sales often included wahi tapu, but were inadequately protected from alienation in spite of their owners' wishes. A Validation Court was employed in the area that sought to 'validate' incomplete dealings in Maori land in the 1890s. A disputed sale of 815 hectares was resolved in favour of purchasers and against the wishes of the people of Te Uri o Hau.

Taonga were also removed from wahi tapu in the Wairoa-Kaipara District and the Pouto Peninsula without permission.

In the 20th century Te Uri o Hau believe they were disadvantaged by land administration structures and practices that saw some Te Uri o Hau land owners retain few legal powers over their own property. Land development schemes in operation during the 20th century also saw further alienation and produced results that fell well below the landowners' expectations.

Settlement

Deed of Settlement - Te Uri o Hau

The Te Uri o Hau Deed of Settlement is made up of a package that includes;

1. Crown acknowledgements of breaches of the Treaty of Waitangi and its principles (based on an agreed historical account) and a Crown Apology to Te Uri o Hau
2. Cultural Redress
3. Commercial Redress

Only Crown assets are involved in the redress offered to Te Uri o Hau, except for a .5ha site (the location of Whakahuranga Pa) purchased from a private owner on a willing seller/willing buyer basis that will be transferred to Te Uri o Hau.

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

Crown Apology

The Crown unreservedly apologises and profoundly regrets that its actions, in failing to preserve sufficient lands for Te Uri o Hau, have had pervasive and enduring consequences, resulting in Te Uri o Hau losing control over the majority of their lands.

Cultural Redress

1. Restoration of Te Uri o Hau access to traditional foods and food gathering areas, including

1(a).CUSTOMARY FISHERIES

Te Uri o Hau 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 Uri o Hau area of interest, including the customary interest of Te Uri o Hau in those fisheries generally and the toheroa, shark, ray, flounder, snapper, kahawai and mullet fisheries in particular.

Other provisions include

- The Ministry of Fisheries will consult with Te Uri o Hau and safeguard Te Uri o Hau's existing customary fishing rights, if the numbers of toheroa rise to levels that make a commercial catch possible.
- A Right of First Refusal to buy a proportion of surplus Crown quota for surf clams, tuatua, paddlecrab and toheroa in any quota management area covering Te Uri o Hau's area of interest if these species become part of the quota management system.
- A commitment by the Crown to consult with Te Uri o Hau should they propose to include the Pouto Lakes eel fisheries within the application of the Fisheries (Kaimoana Customary Fishing) Regulations.
- A commitment to consider restrictions on certain eel fishing methods in the Pouto Lakes and applications to relocate elvers within waterways in Te Uri o Hau's area of interest.

- An agreement by the Crown to make regulations to define the existing oyster reserves in parts of the Kaipara Harbour (established in 1913 as a reserve exclusive to Te Uri o Hau), and provide for a management structure nominated by Te Uri o Hau to manage customary food-gathering of oysters in the reserves.

1(b). NOHOANGA.

This is an area of up to one hectare of Crown-owned land near a waterway that gives access to traditional sources of food. Te Uri o Hau members will have the right to use this entitlement for non-commercial, lawful fishing and food gathering for up to 210 days a year.

Three nohoanga are being offered and will be located in the Pouto and Kahuparere Stewardship Areas.

2. Recognition of Te Uri o Hau's traditional, historical, cultural and spiritual associations with places and sites owned by the Crown within their area of interest. This allows Te Uri o Hau and the Crown to protect and enhance the values associated with these areas and sites and includes

2(a).STATUTORY ACKNOWLEDGEMENTS

These register the special association Te Uri o Hau has with an area of Crown-owned land and will be included in the settlement legislation. They are recognised under the Resource Management Act 1991 and the Historic Places Act 1993.

There are to be six such acknowledgements:

The Mangawhai Marginal Strip, the Oruawharo River Stewardship Area, the Pouto Stewardship Area, the Pukekararo Scenic Reserve, the Kaipara Harbour and the Mangawhai Harbour.

2(b). DEEDS OF RECOGNITION

These oblige the Crown to consult Te Uri o Hau and have regard for their views regarding Te Uri o Hau's special association with a site on Crown-owned land and specify the nature of Te Uri o Hau's input into management of those areas by the Department of Conservation.

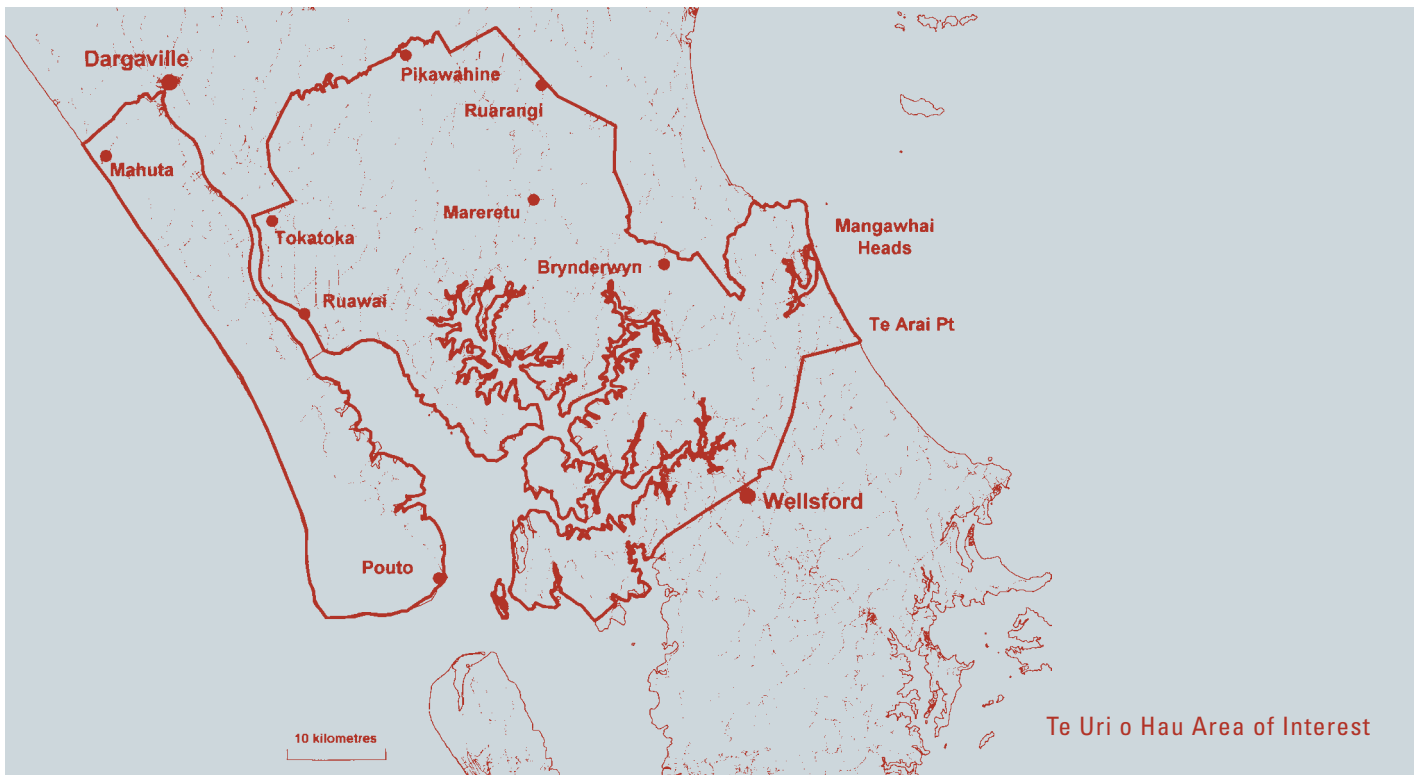
There will be four Deeds covering the Mangawhai Marginal Strip, the Oruawharo River Stewardship Area, the Pukekararo Scenic Reserve and the Pouto Stewardship Area.

2(c).SPECIAL AREAS OR KIRIHIPI

This is an additional status for some existing conservation areas that acknowledges Te Uri o Hau's traditional, cultural, spiritual and historic values and associations.

Special Area status requires the Minister of Conservation and Te Uri o Hau to develop and publicise a set of principles which will assist the Minister to avoid harming or diminishing Te Uri o Hau's values in each of the Special Areas.

The NZ Conservation Authority and the Northland Conservation Board will also be required to have regard to the principles and consult with Te Uri o Hau. It is the same concept as a Topuni in the Ngai Tahu settlement



There are two such areas proposed for the Te Uri o Hau area of interest; the Tāpora Government Purpose (Wildlife Management) Reserve and the Pouto Stewardship Area.

2(d). PROTOCOLS WITH GOVERNMENT DEPARTMENTS AND THIRD PARTIES

The Deed of Settlement establishes protocols to ensure good working relationships between Te Uri o Hau and the Ministry of Fisheries, the Ministry of Economic Development, the Department of Conservation and the Ministry of Culture and Heritage on cultural matters of importance to Te Uri o Hau.

The Crown has also agreed to encourage the development of memoranda of understanding between Te Uri o Hau and the Kaipara District Council, the Rodney District Council, the Northland Regional Council, and the Auckland Regional Council.

2(e). PLACENAMES

A total of 5 existing place names will, in future, also have an official Māori name. These are: Whakapirau / Rocky Point, Lake Karoro / Mathews, Pukepohatu/Bald Rock, Puroa/Boar Hill, Whakapaingarara/Tapu Bush.

In addition, Maungaturoto Scenic Reserve will be renamed the Pukeareinga Scenic Reserve, Pukearenga will be known as Pukeareinga, the name of Waikere Creek will be changed to Waikeri Creek, and the Tāpora Government Purpose (Wildlife Management) Reserve will be known as Manukapua Wildlife Reserve.

Seven sites not currently named will receive official names.

Te Uri o Hau will also be notified by the New Zealand Geographic Board about future name proposals in their area of interest.

2(f). SITES TRANSFERRED TO TE URI O HAU

Eleven areas of special significance to Te Uri o Hau on Crown-owned land will be returned to them. A variety of arrangements are being entered into to ensure ongoing protection of values associated with these areas, where appropriate.

These include: an urupa which is currently part of the Pukekaroro Scenic Reserve, that part of the Whakahuranga Pa site in the Oruawhāro River Stewardship Area, that part of the Humuhumu Lake Bed owned by the Crown, part of the Maungaturoto Scenic Reserve, an ancestral burial site in the Pouto North Stewardship Area, the Whakapirau Cliffs which are part of the Rocky Point Marginal Strip, the Horokako Stewardship Area, 0.6 hectares at the Pouto Road End, wahi tapu sites in the Pouto Forest, a pa site on an Historic Reserve in Dargaville and a site in the Okahukura Stewardship Area. A total of approximately 30 hectares is involved.

Te Uri o Hau and the Kaipara District Council will also form a joint administering body to manage an Historic Reserve in Dargaville that is owned by the Crown. The Reserve is the site of the pa of Te Uri o Hau's eponymous ancestor, Haumoewarangi.

Commercial Redress

This redress recognises the economic loss suffered by Te Uri o Hau arising from breaches by the Crown of its Treaty obligations. It is aimed at providing Te Uri o Hau with resources to assist it to develop its economic and social well being. It includes;

1. A combination of Crown-owned land selected by Te Uri o Hau and cash up to a value of \$15.6 million. Among the properties which Te Uri o Hau have selected are two on which Crown Forests are located. Te Uri o Hau will also receive the accumulated rentals from these forests.
2. Right of First Refusal - Te Uri o Hau will also have, for a period of 50 years following the passage of the settlement legislation, a Right of First Refusal to buy, at market value, any properties in the Te Uri o Hau Right of First Refusal Area currently owned by the Crown which become surplus.

Questions and Answers

1. What is the total cost to the Crown?

\$15.6 million plus the cost of the land returned under 2 (f) (see previous page). In addition, Te Uri o Hau will receive interest on the redress sum from the date of the signing of the Deed of Settlement until the passage of the settlement legislation.

2. Is there any private land involved?

Yes, but only one small pa site of approximately 0.5 hectares that the Crown has agreed to purchase from a private individual on a willing seller/willing buyer basis and transfer to Te Uri o Hau.

3. Are the public's rights affected?

Generally, no, but

- The three Nohoanga, which provide rights similar to those contained in other leases or licenses granted by the Department of Conservation, will be for the exclusive use of Te Uri o Hau for up to 210 days a year. A site is up to one hectare in size. It will not affect public access to waterways.
- Some very small parcels of Crown-owned land of historic significance to Te Uri o Hau (including Pa sites) totalling approximately 30 hectares will be returned to them.

4. What is a Nohoanga?

It is an entitlement to temporarily occupy a piece of Crown-owned land of up to one hectare near a traditional Te Uri o Hau food gathering area such as a river or a lake. It is set back from the marginal strip and does not impede public access to or along a waterway.

It is the same concept as a Nohoanga in the Ngai Tahu settlement.

5. What are Statutory Acknowledgements and Deeds of Recognition?

Statutory Acknowledgements indicate areas or sites with which iwi or hapu have a special relationship and place notification requirements on local bodies when considering resource consent applications. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to iwi or hapu, such as burial grounds, were simply cleared or excavated without either permission or consultation. It does not give iwi or hapu any specific property rights.

Deeds of Recognition set out an agreement between the administering Crown body through the Minister of Conservation or the Minister of Crown Lands and the iwi or hapu which recognises the iwi's or hapu's special association with a site as stated in a Statutory Acknowledgement and specifies the nature of the iwi or hapu's input into the management of the site.

Both Statutory Acknowledgements and Deeds of Recognition are applied only to areas and sites on Crown-owned land.

6. What is a Special Area or Kirihipi?

A Special Area classification recognises the cultural, spiritual and historical values of a site or area on Crown-owned land. It gives Te Uri o Hau the right to be consulted in the management of an area or site but does not override existing classifications or protections, such as an existing reserve status. It is the same concept as a Topuni in the Ngai Tahu settlement.

7. 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.

8. Does the Settlement create any special rights for Te Uri o Hau?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements and Special Areas, give practical effect to existing provisions of both the Resource Management Act - section 6 - and the Conservation Act 1987- section 4 – which provide for Maori participation in conservation and planning matters.

The settlement legislation will clarify that the existing exclusive right (established in 1913) to take oysters from a specific area is exercisable by Te Uri o Hau rather than “Maori” generally.

9. Does Te Uri o Hau have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th Centuries?

No. If the Deed of Settlement is passed into law both parties agree that it will be a fair and final settlement for all Te Uri o Hau's historical or pre 1992 claims. The settlement legislation, once passed, will prevent Te Uri o Hau from re-litigating the claim before the Waitangi Tribunal or the Courts.

The settlement package will still allow Te Uri o Hau or members of Te Uri o Hau to pursue claims based on the continued existence of aboriginal title or customary rights, or claims against the Crown for acts or omissions after 21 September 1992. The Crown also retains the right to dispute such claims or the existence of such title rights.

10. What happens next?

The Deed of Settlement is the formal Crown offer to Te Uri o Hau for final settlement of all historical or pre-1992 claims relating to the acts or omissions of the Crown. Once signed by both the Crown and Te Uri o Hau, the Deed of Settlement becomes legally binding and subject only to the passage of the settlement legislation through Parliament.

11. Who benefits from the settlement?

All members of Te Uri o Hau, wherever they may now live.