



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI TAMATERĀ

General background

Ngāti Tamaterā is an iwi of approximately 2577 members (according to 2013 Census figures). The area of interest of Ngāti Tamaterā extends from Mahurangi in the north to Ngā Kuri a Whareī in the south encompassing the islands and shores of Tikapa Moana/Hauraki Gulf from Auckland to the Coromandel Peninsula to the islands and shores of Te Tai Tamawahine reaching southwards to Katikati-Te Puna. This is expressed by Ngāti Tamaterā as 'mai Matakana ki Matakana'.

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

On 20 June 2011, the Crown recognised the mandate of the Ngāti Tamaterā negotiators to negotiate a comprehensive settlement of the historical te Tiriti o Waitangi/the Treaty of Waitangi claims of Ngāti Tamaterā with the Crown. The mandated negotiators and the Crown entered into an agreement in principle equivalent on 22 July 2011. The Ngāti Tamaterā Post Settlement Governance Entity, the Ngāti Tamaterā Treaty Settlement Trust, was ratified between June and August 2012.

On 20 September 2017, Ngāti Tamaterā and the Crown initialled a Deed of Settlement (the Deed). The Deed is subject to ratification by the members of Ngāti Tamaterā and conditional on the enactment of the settlement legislation.

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 Ngāti Tamaterā.

Summary of the historical background to the claims by Ngāti Tamaterā

Between 1836 and 1839, missionaries negotiated an agreement to purchase the 83,000-acre Tāmaki block from Ngāti Tamaterā and other iwi which included provision for one-third of the block to be reserved for Māori. The Crown did not follow the recommendation made by the Land Claims Commissioner investigating this transaction in 1842 to return one-third of the block to Māori. Instead, it granted 5494 acres to a missionary purchaser and retained the remaining 78,000 acres in accordance with its surplus lands policy. In 1851, following further investigation, Ngāti Tamaterā agreed to relinquish their claim in the Tāmaki block in exchange for £200. The purchase was never surveyed in its entirety and no land was reserved for Ngāti Tamaterā.

At Karaka Bay on 4 March 1840, several Marutūāhu rangatira signed te Tiriti. One signatory was 'Paora', who is thought to be Paora Te Putu of Ngāti Tamaterā. However this cannot be firmly established. Another copy of the Treaty was taken to Coromandel Harbour on 4 May but no Ngāti Tamaterā rangatira signed the document. It is believed Tāraia Ngākuti Te Tumuhua of Ngāti Tamaterā was one of two rangatira who refused to sign the Treaty.

In 1841, the Crown acquired land at Mahurangi and Kohimarama from Ngāti Tamaterā and other iwi. In 1844, a reserve set aside from the Mahurangi sale was alienated by another iwi. This left Ngāti Tamaterā with no reserves in the Tāmaki region. Ngāti Tamaterā were excluded from their ancestral lands and the economic benefits of growth in Auckland.

From 1852, when gold was discovered in Coromandel, the Crown tried to gain consent for gold mining on Ngāti Tamaterā lands. In 1861, some representatives of Ngāti Tamaterā agreed to open lands to mining, while other Ngāti Tamaterā rangatira remained resolutely opposed. In 1862, the Crown proclaimed most of the Coromandel Peninsula a goldfield despite this opposition.

In 1863, Ngāti Tamaterā refused to fight in conflicts between the Crown and the Kīngitanga. Despite this, in 1864 and 1865, the Crown confiscated lands in which Ngāti Tamaterā had interests in the central Waikato raupatu district. Ngāti Tamaterā did not receive compensation for their interest in these confiscated lands. In Tauranga Moana, Ngāti Tamaterā received a share of £1660 for their interest in the confiscated Te Puna and Katikati blocks and two reserves of 65 acres. This seriously undermined Ngāti Tamaterā's relationship with their ancestral lands in Tauranga Moana.

After the war, interest in gold mining at Thames and Ohinemuri intensified. Ngāti Tamaterā initially opposed leasing more land for gold mining but, by 1867, some Ngāti Tamaterā rangitira agreed to lease further lands to the Crown. However, complaints arose about the Crown's collection and distribution of revenue from the goldfields.

During the 1870s, the Crown used monopoly purchasing powers and raihana debts to acquire Ngāti Tamaterā lands at Ohinemuri, Moehau, and Waikawau. Māori purchased goods from stores and the Crown paid for the items, treating the payment (raihana) as pre-title advances against Māori lands. The Crown charged these debts against lands at Ohinemuri, Moehau, and Waikawau. Ngāti Tamaterā saw opening Ohinemuri land for gold mining, with the Crown retaining the revenue, as a way to repay significant debts while retaining ownership of the land. As a result of this, Ngāti Tamaterā did not receive any income from gold mining in their rohe.

In 1878, Native Land Court investigations awarded the Crown 22,125 acres of land at Moehau and 44,161 acres at Waikawau. Within 2 years, the Crown purchased further lands at Moehau originally set aside as a reserve for Ngāti Tamaterā. The Crown continued to acquire interests in Ohinemuri and was awarded more than half the block in 1882. By 1900, Ngāti Tamaterā retained less than 600 acres of land at Ohinemuri and, by 1910, approximately 85 per cent of Hauraki land had been alienated from Māori.

The environmental impact of gold mining on the Ngāti Tamaterā rohe was profound. The discharge of mining waste into rivers left waters unsuitable for human consumption and compromised the quality of life for Ngāti Tamaterā living nearby. In the early 20th century, the Hauraki Plains drainage scheme did further damage to traditional Ngāti Tamaterā food sources. The small area they retained within the scheme limited their capacity to participate in the emerging agricultural economy. In the 20th century, Ngāti Tamaterā lands in Hauraki were alienated through the Public Works Act and the compulsory Crown acquisition of land the Crown deemed uneconomic. By the mid-20th century, Ngāti Tamaterā retained very little of its ancestral rohe.

Summary of the settlement between the Crown and Ngāti Tamaterā

Overview

The Deed is the final settlement of all historical Treaty of Waitangi claims of Ngāti Tamaterā 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 acknowledgements and apology
- cultural, and
- financial and commercial redress.

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

Crown acknowledgements and apology

The Deed contains acknowledgements that the cumulative effect of the Crown's actions and omissions, including confiscation, the operation and impact of the native land laws and continued Crown purchasing, has left Ngāti Tamaterā virtually landless and undermined their economic, social and cultural development. The Crown's failure to ensure that Ngāti Tamaterā retained sufficient land for their present and future needs was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The Deed also includes a Crown apology to Ngāti Tamaterā for its failure to protect them from rapid alienation of land in the decades following the signing of te Tiriti o Waitangi/the Treaty of Waitangi, the loss of life and the devastation caused by hostilities and the enactment of laws and policies that have led to the loss of whenua and te reo Māori. The Crown unreservedly apologises for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Cultural redress

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

Sites vested in Ngāti Tamaterā

A total of 25 sites of cultural significance will be vested in fee simple in Ngāti Tamaterā:

- Homunga (113.72 ha) as a scenic reserve
- Horapūpara (0.9894 ha)
- Kāruhiruhi (7.8 ha) as a recreation reserve and subject to a right of entry
- Te Maunga Mau-paki (14.0 ha) subject to a conservation covenant
- Ō-kaharoa ki waenganui site A (10.4 ha) subject to an easement, a restrictive covenant and a right of entry
- Ō-kaharoa ki waenganui site B (20.2 ha) as a recreation reserve and subject to two easements and a right of entry
- Ō-kaharoa-mā-whiti (123.3 ha) as a recreation reserve and subject to two easements and a right of entry
- Ō-kahu-tai (13.1 ha) as a recreation reserve and subject to an easement, a right of entry and continued affordable camping
- Papa-aroha (5.15 ha) as a scenic reserve
- Pāuhu (20.5 ha) as a recreation reserve and subject to an easement and a right of entry
- Rangitāwhiri (16.2684 ha) as a recreation reserve
- Tāpapakaroro (52.1 ha) as a recreation reserve and subject to a right of entry
- Te Karaka property (0.08ha) subject to the removal of a caveat over the title

- Te Rauwhitiora (0.5185 ha) as a recreation reserve subject to co-governance with Thames-Coromandel District Council
- Te Āputa (40.7575 ha) as a scenic reserve
- Te Kahakaha (235.94 ha) as a scenic reserve
- Te Rohu (0.2879 ha) as a recreation reserve
- Te waha o Te Parata (2.176 ha) as a recreation reserve subject to co-governance with Thames-Coromandel District Council
- Urarima (9.7 ha) as a government purpose reserve and managed through Pare Hauraki Collective arrangements
- Waikanae property (5.2 ha) as a recreation reserve
- Waikawau property (5.54 ha) subject to continued public access and use of the boat ramp and two easements
- Wai-ō-umu (1.41 ha) as a recreation reserve subject to co-governance with Thames-Coromandel District Council
- Waipatukahu (1.0805 ha) as a recreation reserve subject to co-governance with Thames-Coromandel District Council
- Waitāwheta (145.2821 ha) as a scenic reserve; and
- Whakaangi (19.3 ha) as a recreation reserve and subject to 3 easements and a right of entry.

Some of the properties which are currently part of the Hauraki Gulf Marine Park will remain in the Park.

Sites jointly vested in Ngāti Tamaterā

- Tiroa (2 ha) will be jointly vested as undivided half shares in Ngāti Tamaterā and Ngāti Maru as a scenic reserve
- Pukewhakatara (20 ha), Takaihuehue (2.9 ha) and Paewai (2.0 ha) will be jointly vested as undivided half shares in Ngāti Tamaterā and Ngāti Maru subject to conservation covenants (and an easement for Pukewhakatara)
- Tokatea (19.64 ha) will be jointly vested as undivided half shares in Ngāti Tamaterā and Te Patukirikiri subject to an easement and a conservation covenant
- Karangahake tihi (10 ha) will be jointly vested as undivided third shares in Ngāti Tamaterā, Hako and Ngāti Tara Tokanui subject to an easement and a conservation covenant
- Ngā Tukituki a Hikawera (8.7 ha) and Tangitū (7.5 ha) will be jointly vested as undivided third shares in Ngāti Tamaterā, Ngāti Maru and Ngāti Rāhiri Tumutumu subject to a conservation covenant (and an easement for Tangitū)
- Kauri Point (17.3675 ha) will be jointly vested as undivided half shares in Ngāti Tamaterā and Ngāi Te Rangi as a historic reserve administered by Western Bay of Plenty District Council
- Whakamoehau (22.2 ha) will be jointly vested as undivided half shares in Ngāti Tamaterā and Ngāti Maru subject to a conservation covenant, and
- Te Tihi o Hauturu (10.00 ha) will be jointly vested as undivided third shares in Ngāti Tamaterā, Ngāti Pūkenga and Ngāti Maru subject to a conservation covenant.

Sites vested and vested back to the Crown

Within one year from settlement date, Repanga (Cuvier) Island Nature Reserve will be vested jointly in the governance entities of Ngāti Tamaterā, Ngāti Hei, Ngāti Maru and Ngaati Whanaunga who will vest it back 7 days later to the Crown for the people of New Zealand.

This arrangement provides for recognition of the association Ngāti Tamaterā has with Repanga.

Overlay classification

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Ngāti Tamaterā with certain sites of significance. The settlement provides a joint overlay classification over the Repanga (Cuvier) Island Nature Reserve in favour of Ngāti Tamaterā, Ngāti Hei, Ngāti Maru and Ngaati Whanaunga.

The Crown will acknowledge Ngāti Tamaterā's statement of values in relation to the Repanga (Cuvier) Island Nature Reserve and will take action in relation to a joint set of protection principles agreed between Ngāti Tamaterā, Ngāti Hei, Ngāti Maru and Ngaati Whanaunga.

Statutory acknowledgements

A statutory acknowledgement recognises the association between Ngāti Tamaterā 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:

- Mercury Islands
- Ōhinemuri River and its tributaries
- Paritū (Fantail Bay)
- Kuaotunu property, and
- Whangapoua Conservation area (Aotea).

Deed of recognition

A Deed of Recognition obliges the Crown to consult with Ngāti Tamaterā on specified matters and have regard to their views regarding their special associations with certain areas. The Crown has offered Ngāti Tamaterā a deed of recognition over the Whangapoua Conservation area (Aotea).

Statement of association

The Deed will acknowledge that Ngāti Tamaterā has associations with, and asserts certain spiritual, cultural, historical and traditional values in relation to Ngā Turehu o Moehau, Waikawau, Motukorea (Browns Island), Hauraki Gulf/Tikapa Moana, Puna at Waiora and Paeroa, Moehau and Te Aroha Maunga and Tāmaki Makaurau motu and maunga.

Ruamaahua

The Crown will consider the operation of the Grey-Faced Petrel (Northern Muttonbird) Notice 1979 as it applies to Ruamaahua regarding its alignment with the current tītī season. The Crown intends that any redress over Ruamaahua provided in a Treaty settlement will include Ngāti Tamaterā.

Relationships

PROTOCOLS, RELATIONSHIP AGREEMENT

The Deed will provide for the Minister for Arts, Culture and Heritage and the Ministers responsible for Primary Industries to issue protocols which set out how their respective agencies will interact with and consult the Ngāti Tamaterā post-settlement governance entity when carrying out statutory duties and functions.

The Ngāti Tamaterā post-settlement governance entity will enter into a conservation relationship agreement with the Department of Conservation which will outline how the Department of Conservation will engage with Ngāti Tamaterā.

PROMOTION OF RELATIONSHIPS

The Minister for Treaty of Waitangi Negotiations will write to a number of local authorities, museums and Crown agencies to raise the profile of Ngāti Tamaterā, advise them of matters of particular importance to Ngāti Tamaterā and encourage those bodies to better engage with Ngāti Tamaterā.

Cultural Redress Payment

The Crown will pay Ngāti Tamaterā \$277,000 to apply, at its discretion, to cultural revitalisation.

Financial and commercial redress

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

The total value of financial and commercial redress in this settlement is \$25 million.

This includes:

- \$15,300,000 paid on-account to the Pouarua Farm Limited Partnership in November 2013 for the part of the purchase of the Pouarua Dairy Complex attributed to Ngāti Tamaterā
- \$500,000 received in 2014 on-account of the settlement, and
- \$1,517,180 being the agreed portion of the transfer value of 14 properties received as part of the Pare Hauraki Collective Redress Deed.

Commercial redress properties

On settlement date, Ngāti Tamaterā will receive a 15% share in Whenuakite Station, title to 3 commercial redress properties and a right to purchase on settlement date another 6 commercial properties. The commercial redress properties include the Te Puru School site (land only). The commercial properties include parts of Cape Colville Farm Park (recreation reserves at Fletcher Bay, Stony Bay, Sandy Bay) and Waikawau Bay Farm Park.

Ngāti Tamaterā will also receive further rights to purchase properties including the right to purchase the balance of Fantail Bay Recreation Reserve (part of Cape Colville Farm Park), a joint right of first refusal for 16 Crown properties on Aotea and a joint second right to purchase the Pouarua Peat Block.

Collective redress

As a member of Ngā Mana Whenua o Tāmaki Makaurau, Ngāti Tamaterā has received collective redress as part of the Tāmaki Makaurau Collective Redress Deed. Ngāti Tamaterā will 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 Ngāti Tamaterā 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 Ngāti Tamaterā under the Deed will also transfer to Ngāti Tamaterā. 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/Hauraki Gulf or Te Tai Tamawahine. The Crown and Ngāti Tamaterā 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?

The settlement comprises:

- 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, a cultural payment of \$277,000 and relationship redress
- financial and commercial redress of \$25 million, and
- commercial redress including the transfer of, or right to purchase, specified Crown properties.

Ngāti Tamaterā will also receive cultural and commercial collective redress as part of the Pare Hauraki Collective Redress Deed. It is also intended Ngāti Tamaterā 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?

Generally, no. Where land is transferred with a reserve classification then the relevant provisions of the Reserves Act, including those concerning public access, will continue to apply.

A 16.8-hectare area of the Cape Colville Farm Park which is currently recreation reserve (part Fletcher Bay Recreation Reserve and part Stony Bay Recreation Reserve) will transfer as fee simple subject to a restrictive building covenant.

Ngāti Tamaterā will allow for the continued operation of a boat ramp at the Waikawau Property but will also be able to restrict public access to other parts of the property from time to time for cultural activities.

4. Are any place names changed?

No, but there are place name changes of significance to Ngāti Tamaterā in the Pare Hauraki Collective Redress Deed.

5. What is an overlay classification?

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of an iwi with certain sites of significance administered by the Department of Conservation.

An overlay classification status 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.

6. 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 1991. 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.

7. 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.

8. When will the settlement take effect?

The settlement will take effect following the enactment of the settlement legislation.

9. Do Ngāti Tamaterā 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 Ngāti Tamaterā. The settlement legislation, once passed, will prevent the iwi relitigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Tamaterā 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 Tamaterā wherever they may now live.

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