



Deed of Settlement

BETWEEN THE CROWN AND TŪHOE

General background

The Tūhoe area of interest is based around Te Urewera. Tūhoe have approximately 9,300 registered members.

In 2007 the Crown recognised the mandate of Te Kotahi ā Tūhoe to represent Tūhoe in negotiating a comprehensive historical Treaty settlement.

The Crown signed Terms of Negotiation with Te Kotahi ā Tūhoe on 31 July 2008. On 2 July 2011, the Crown and Tūhoe signed a high level relationship statement (Nā Kōrero Ranatira ā Tūhoe me Te Karauna) at Ruatāhuna.

On 22 March 2013, Tūhoe and the Crown initialled a Deed of Settlement. The deed was then ratified by the people of Tūhoe and signed on 4 June 2013. The settlement will be implemented following the passage of 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.

Te Kotahi ā Tūhoe was led by Tāmati Kruger. The Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, represented the Crown in high-level negotiations with Tūhoe.

Summary of the historical background to the claims of Tūhoe

Tūhoe did not sign the Treaty of Waitangi, and the Crown had no official presence in Te Urewera before the 1860s. Tūhoe remained in full control of their customary lands until 1865 when the Crown confiscated much of their most productive land, even though they were not in rebellion and the confiscation was not directed at Tūhoe.

The prejudice created by the confiscation was exacerbated by the Compensation Court process which returned much of the confiscated land to other Māori, but excluded Tūhoe from land they traditionally occupied and cultivated.

After the confiscation the Crown waged war in Te Urewera until 1871 as it sought to apprehend those responsible for the 1865 death of Crown official, Fulloon, and then capture Te Kooti following his escape from Crown detention. The Crown extensively used 'scorched earth' tactics, and was responsible for the execution of unarmed prisoners and the killing of non-combatants. In 1870 Tūhoe people were forced out of Te Urewera and detained at Te Pūtere where they suffered further hardship. The wars caused Tūhoe to suffer widespread starvation and extensive loss of life.

In 1871 peace was restored to Te Urewera when the Crown withdrew its forces and agreed to leave Tūhoe to manage their own affairs. A governing council of chiefs, Te Whitu Tekau was then established to uphold mana motuhake in Te Urewera.

Between the 1870s and the 1890s Crown pressure and the claims of other iwi led to the introduction into Te Urewera of the Native Land Court, surveying and land purchases despite Te Whitu Tekau opposition. In 1875 the Crown induced Tūhoe to sell a large area of land at Waikaremoana by threatening to confiscate their interests if they did not sell.

Tūhoe sought to protect their remaining lands from sale and in 1896 Parliament enacted the Urewera District Native Reserve Act. This provided for local self-government over a 656,000 acre Urewera Reserve, and for decisions about the use of land to be made collectively and according to Māori custom. Tūhoe believed this system would protect their lands from sale. However, the Crown did not implement the self-government provisions of the Act and undermined its protective provisions.

Between 1896 and 1921 Crown purchasing in and around Te Urewera (some of which was illegal), and roading and survey costs imposed on Tūhoe under the 1921 Urewera Consolidation Scheme resulted in a significant loss of land. Harsh tactics were used to acquire land at Waikaremoana, where the Crown assumed control over Lake Waikaremoana and resisted attempts for decades by Māori owners to secure title to the lake bed.

In 1916 70 armed police arrested Tūhoe prophet Rua Kenana at Maungapōhatu. Two Tūhoe men were killed during the arrest. Rua was cleared of eight charges including sedition, but was convicted of moral resistance relating to an earlier arrest attempt and jailed. The Maungapōhatu community went into decline after this and has not recovered.

Following the 1921 consolidation scheme Tūhoe were only left with 16 percent of the Urewera Reserve, much of which was unsuited to settlement or economic development. This was insufficient to support an increasing population.

In 1954 the Crown established Te Urewera National Park which included most of Tūhoe's traditional lands. The Crown neither consulted Tūhoe about the establishment of the Park nor its 1957 expansion, and did not recognise Tūhoe as having any special interest in the Park or its governance. National Park policies led to restrictions on Tūhoe's customary use of Te Urewera and their own adjoining land.

Today around 85 percent of Tūhoe live outside Te Urewera. Those who remain struggle to make a living and face various restrictions placed on the land and resources in the area. Many suffer from socio-economic deprivation of a severe nature.

Summary of the Tūhoe settlement

Overview

The Tūhoe Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of Tūhoe resulting from acts or omissions by the Crown prior to 21 September 1992, and is made up of a package that includes:

- **agreed historical account, Crown acknowledgments and apology**
- **redress over Te Urewera and other cultural redress**
- **redress in relation to Mana Motuhake**
- **financial and commercial redress.**

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

Crown acknowledgements and apology

The deed contains a series of acknowledgements by the Crown where its actions arising from interaction with Tūhoe have breached the Treaty of Waitangi and its principles.

The Crown apologises to Tūhoe for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These include:

- indiscriminate raupatu, wrongful killings, and years of scorched earth warfare
- denying Tūhoe the right of a self governing Urewera Reserve by subverting the Urewera District Native Reserve Act 1896
- excluding Tūhoe from the establishment of Te Urewera National Park over their homelands
- wrongly treating Lake Waikaremoana as Crown property for many years.

Te Urewera

1. Te Urewera will have its own legislation and exist as a separate legal identity. It will be governed by Tūhoe and Crown nominees to act in the best interests of Te Urewera.

The deed of settlement provides for:

- The current national park land to be vested in a Te Urewera legal identity and protected under new standalone legislation.
- The legislation will recognise and provide for cultural values associated with Te Urewera and will include key principles relating to the protection of biodiversity, natural and historic heritage, public input into management and public access into the future.
- The identity will be represented by a Governance Board with equal numbers of Crown and Tūhoe appointees at establishment and chaired by a Tūhoe nominee. Board members will be required to act in the interests of Te Urewera itself, as set out in legislation. After three years Tūhoe will have six nominees on the Board and the Crown three. The Board will be required to strive for unanimous decisions on certain key issues and otherwise by consensus.

- The Board will have the responsibility of approving a management plan for Te Urewera with advice from the New Zealand Conservation Authority.
- Tūhoe, the Crown and Te Urewera Board will seek higher international recognition for Te Urewera such as a UNESCO biosphere reserve to promote the area's unique values.
- Tūhoe will have an increasing role in the management of Te Urewera over time with the Department of Conservation also maintaining their role.
- The new arrangements will be independently reviewed after five years to assess the extent to which the purpose of the Te Urewera Act is being achieved.

Mana Motuhake

2. Mana Motuhake redress relates to improved relationships between Tūhoe and the Crown and the delivery of government and iwi services to Tūhoe communities.

CROWN/TŪHOE RELATIONSHIP AGREEMENT

The Crown/Tūhoe relationship agreement, Nā Kōrero Ranatira ā Tūhoe me Te Karauna, signed in 2011 provides a foundation for how Tūhoe and the Crown will work together.

SERVICE MANAGEMENT PLAN

Mana Motuhake redress includes a social Service Management Plan (SMP) governing relationships with, and the management and delivery of services by, Tūhoe and the Ministry of Social Development; Ministry of Education; Ministry of Business, Innovation and Employment; and District health Boards over the long term.

The SMP establishes an initial working relationship of up to forty years between these Crown agencies and Tūhoe. The commitments in the SMP are made for the purposes of developing, implementing, expanding and renewing from time to time, a plan for the transformation of the social circumstances of the Tūhoe people.

CROWN AGENCY RELATIONSHIPS

The deed of settlement provides for protocols to be issued by the Minister for Arts, Culture and Heritage and the Minister for Primary Industries. These protocols set out how these government agencies will interact and consult with Tūhoe. In addition, the Minister for Primary Industries will appoint Te Uru Taumatua as a fisheries advisory committee.

There will be a relationship agreement with the Ministry for the Environment.

The deed of settlement also provides for Tūhoe, the Museum of New Zealand Te Papa Tongarewa Board and the Department of Internal Affairs to enter into a letter of commitment to facilitate the care, management, access to and use of, and development and revitalisation of Tūhoe taonga.

LOCAL AUTHORITIES

The deed also provides for the promotion of relationships between Tūhoe and the Whakatāne District Council, Wairoa District Council, Hawke's Bay Regional Council and Bay of Plenty Regional Council.

Cultural redress

3. Cultural redress provides for the recognition of the traditional, historical, cultural and spiritual associations Tūhoe has with places and sites owned by the Crown within their area of interest. This allows Tūhoe and the Crown to protect and enhance the conservation values associated with these sites.

3(A) SITES TRANSFERRED TO TŪHOE

The vesting of seven sites:

- Onīni, Ruātahuna
- Waikokopu
- Te Tii as a local purpose (iwi community purposes and nature protection) reserve, Ruātahuna
- sites from within the Central North Island Forests land.

3(B) AREA ACKNOWLEDGMENT

The deed of settlement includes an acknowledgement of Tūhoe's association with the land within the area of interest.

3(C) PLACE NAME CHANGES

Six place names will be altered through the Tūhoe settlement:

- Waiwai Creek to Waewae Creek
- Waimana River to Tauranga River
- Oueari to Ōueariu
- Tataiahapi Pa to Tātaiāhape
- Mahihi Stream to Mahihirangi Stream
- Purenga Stream to Te Purenga o Tāneatua Stream.

3(D) MEMBERSHIP ON THE RANGITAIKI RIVER FORUM

Tūhoe will appoint one member to the Rangitaiki River Forum.

Financial and commercial redress

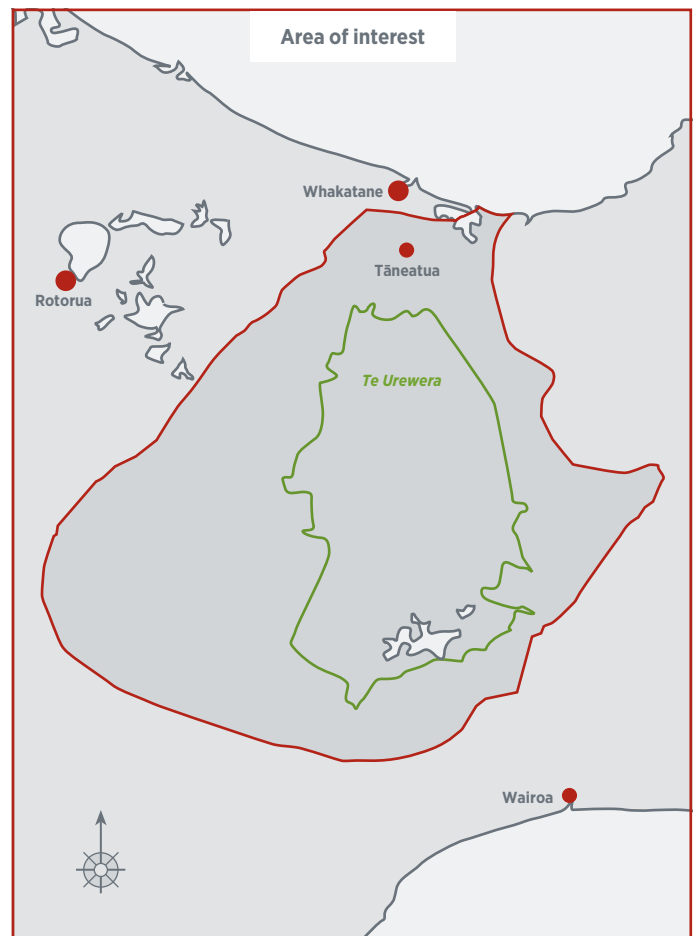
4. This redress recognises the losses suffered by Tūhoe arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Tūhoe with resources to assist them to develop their economic and social well being

4(A) FINANCIAL REDRESS

Tūhoe will receive financial redress of approximately \$170 million which includes value transferred under the Central North Island settlement in 2008.

Tūhoe will also have the opportunity to purchase five Crown owned properties within a deferred selection period after settlement date. All properties would be subject to lease back to the Crown.

Tūhoe will have an exclusive right of first refusal over Crown-owned properties located within a specified area for 172 years from settlement date.



Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the Deed of Settlement is approximately \$170 million.

2. Is there any private land being transferred to Tūhoe or Te Urewera?

No

3. Are the public's rights affected?

No. Public access to Te Urewera will be provided for on the same terms as now. However, a small number of cultural redress sites are being returned to Tūhoe without provision for future public access.

4. Are any place names changed?

Six place name alterations are specified in the Deed of Settlement.

5. 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.

6. When will the settlement take effect?

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

7. Is Lake Waikaremoana included in this settlement?

No. The Lake bed is owned by the Tūhoe Waikaremoana Trust Board and the Wairoa Waikaremoana Trust Board, leased to the Crown and managed by the Department of Conservation. Māori ownership was recognized by the Courts in 1948 and acknowledged by the Crown when a lease agreement was reached shortly afterwards.

8. Who will own Te Urewera?

Te Urewera will be its own legal entity under legislation. The members of the governance board, both Crown and Tūhoe nominees, will act in the interests of Te Urewera, like trustees or directors of a company. They will not act on behalf of either the Crown or Tūhoe.

9. Will Te Urewera still be a National Park?

Te Urewera will have a new legal identity established, and have

its governance and management arrangements set out in its own act of Parliament. Key protection principles will be included in the Te Urewera legislation, including protection of natural, historical and cultural heritage and public access.

The new legislation will ensure that the land is managed to an internationally accepted standard for national parks.

10. Who will manage Te Urewera after the settlement legislation is passed?

It will be managed by the Department of Conservation (DOC) and Tūhoe with Tūhoe building their management capacity over time. The Te Urewera Board, Tūhoe and DOC will continue to build relationships with park stakeholders.

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

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 Tūhoe. 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 Tūhoe 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.

12. Who benefits from the settlement?

All members of Tūhoe wherever they may now live.

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