



Deed of

Deed of Settlement
between the Crown and
Ngati Toa Rangatira

Settlement

General background

The Ngati Toa Rangatira area of interest spans the Cook Strait. It covers the lower North Island from the Rangitikei in the north and includes the Kapiti Coast, Hutt Valley, and Wellington areas, as well as Kapiti and Mana Islands. It includes large areas of the Marlborough Sounds and much of the northern South Island. Ngati Toa Rangatira's area of interest is about 4 million hectares in total.

In November 2005, the Crown recognised the mandate of Te Runanga o Toa Rangatira to represent Ngati Toa Rangatira in negotiating a comprehensive historical Treaty settlement. The Crown signed Terms of Negotiation with Ngati Toa Rangatira on 24 September 2007.

On 11 February 2009, the Crown and Ngati Toa Rangatira co-signed a Letter of Agreement which formed the basis for this settlement. The Deed of Settlement was initialled on 30 August 2012 and signed on 7 December 2012. The settlement will be implemented following the passage of 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 Ngati Toa Rangatira.

Summary of the historical background to the claims by Ngati Toa Rangatira

By 1840 Ngati Toa Rangatira had established a powerful position in the Cook Strait region with settlements in the lower North Island and upper South Island (Te Tau Ihu). Several Ngati Toa Rangatira chiefs, including Te Rauparaha and Te Rangihaeata, signed the Treaty of Waitangi.

In 1839, Ngati Toa Rangatira signed the Kapiti deed with the New Zealand Company for approximately 20 million acres between Taranaki and north Canterbury. The oral translation of the English deed did not accurately convey its meaning and effect.

Ngati Toa Rangatira opposed Company surveys in the Wairau. In 1843, an attempt by an armed party of Nelson settlers to arrest Te Rauparaha and Te Rangihaeata resulted in a violent clash and the deaths of twenty-two Europeans and up to nine Māori.

A Crown-appointed commissioner investigated the Company's land claims covering Port Nicholson and Te Tau Ihu. In Port Nicholson the Crown established a process by which the Company could validate its purchases by paying additional money to Māori in return for the signing of deeds of release. In 1844 Te Rauparaha accepted £400 for the 'surrender' of Ngati Toa Rangatira interests in Harataunga (the Hutt Valley). Te Rangihaeata only accepted a share of the money in 1845 but did not regard this payment as extinguishing the rights of allies from other iwi. The Crown treated the payment, which did not define the boundaries of Harataunga or provide any reserves, as extinguishing Ngati Toa Rangatira interests across the Port Nicholson block.

In 1845 the commissioner recommended that the Company receive a grant of 151,000 acres in Te Tau Ihu. The Wairau was not included in his recommendation. The Crown later established reserves, some of which became known as 'tenths' reserves, within the land granted to the Company at Port Nicholson and Nelson. Ngati Toa Rangatira did not receive a share in the 'tenths' reserves despite their interests in Port Nicholson and Nelson settlement area.

During 1845, Te Rangihaeata and his section of Ngati Toa Rangatira supported the claims of their allies living on disputed land north of Rotokakahi in the Hutt Valley. These tensions led to several violent incidents between Māori, settlers and Crown troops. The Crown subsequently took political and military action against Te Rauparaha and Te Rangihaeata in order to establish its authority and reduce the power and influence of the senior Ngati Toa Rangatira chiefs. In July 1846 the Crown seized Te Rauparaha and several other Ngati Toa Rangatira chiefs at Porirua. The Crown detained Te Rauparaha without trial for 18 months. Crown forces pursued Te Rangihaeata who withdrew into Horowhenua.

In 1847, whilst Te Rauparaha was in captivity and Te Rangihaeata in exile, the Crown purchased the Wairau and Porirua districts from several younger Ngati Toa Rangatira chiefs who hoped to secure Te Rauparaha's release. Reserves of over 100,000 acres were set aside in the Wairau and over 10,000 acres in Porirua.

Between 1853 and 1865 the Crown's Te Waipounamu, Whareroa, Wainui, Papakowhai and Mana Island purchases further reduced the lands remaining in Ngati Toa Rangatira ownership. The Waipounamu deed repurchased nearly all of the large Wairau reserve. Between 1897 and 1911 the Crown, after prohibiting the sale or leasing of Kapiti Island to private interests, bought the majority of Kapiti Island from Ngati Toa Rangatira.

By 1926 most of the Ngati Toa Rangatira reserves at Porirua had been alienated. Ngati Toa Rangatira gifted 500 acres at Whitireia to the Crown for the establishment of a school. When no school was established Ngati Toa Rangatira sought unsuccessfully to have the land returned. In 1948 and 1960 the Crown took several hundred acres of Ngati Toa Rangatira land at Takapuwhia under public works legislation for general housing purposes. Over time, the application of the native land laws led to most of the Porirua reserves being partitioned into smaller subsections. Today Ngati Toa Rangatira are virtually landless.

Porirua harbour, an important food resource for Ngati Toa Rangatira, was adversely affected by pollution and sewage generated by urban development. This has had a severe impact on the ability of Ngati Toa Rangatira to use and protect traditional resources.

Settlement

Summary of the Ngati Toa Rangatira Settlement

Overview

The Ngati Toa Rangatira Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of Ngati Toa Rangatira 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 acknowledgments which form the basis for a Crown apology to Ngati Toa Rangatira
- cultural redress
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngati Toa Rangatira 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 Ngati Toa Rangatira have breached the Treaty of Waitangi and its principles.

The Crown apologises to Ngati Toa Rangatira for its acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. The breaches include failing to protect the interests of Ngati Toa Rangatira when acquiring their interests in the Port Nicholson block; detaining the Ngati Toa Rangatira chief, Te Rauparaha, for 18 months without trial; undermining the power and influence of the key Ngati Toa Rangatira leaders, Te Rauparaha and Te Rangihaeata, by detaining Te Rauparaha and pressuring other chiefs of Ngati Toa Rangatira into agreeing to the Wairau and Porirua purchases in the absence of Te Rauparaha and Te Rangihaeata; failing to ensure that Ngati Toa Rangatira received an interest in the Wellington and Nelson "tenths" reserves; and failing to ensure Ngati Toa Rangatira retained sufficient land for their future needs.

Cultural redress

1. Recognition of the traditional, historical, cultural and spiritual associations of Ngati Toa Rangatira has with places and sites owned by the Crown within their area of interest. This allows Ngati Toa Rangatira and the Crown to protect and enhance the conservation values associated with these sites, and includes:

1(A) SITES VESTED IN NGATI TOA RANGATIRA

Twenty sites will be vested in Ngati Toa Rangatira and three sites jointly vested in Ngati Toa Rangatira and one or more other Te Tau Ihu iwi, totalling approximately 267 hectares. The vesting of these sites is subject to specific conditions including protection of conservation values and public access. In some instances the sites will continue to be administered by local authorities.

- Akatarawa Road conservation area, approximately 1.00 hectares
- Former Tuamarina school house, approximately 0.15 hectares
- Rarangi (Ngati Toa Rangatira), approximately 0.75 hectares
- Rangihaeata, 0.09 hectares
- Pelorus Bridge, 1.00 hectares
- Titahi Bay Road site A, 0.25 hectares
- Titahi Bay Road site B, 0.63 hectares
- Waikutakuta/Robin Hood Bay, 2.00 hectares
- Elaine Bay, 0.52 hectares
- Te Mana a Kupe, 4.41 hectares
- Taputeranga Island, 2.58 hectares
- Onehunga Bay, 6.03 hectares
- Whitianga site, 1.77 hectares
- Te Arai o Wairau, 0.43 hectares
- Wainui, 1.50 hectares
- Te Onepoto Bay, 0.66 hectares
- Taupo urupā site, 0.09 hectares
- Whitireia urupā site, 1.01 hectare
- Kapiti Island sites (see below)

Joint vesting in Ngati Toa Rangatira and one or more other iwi:

- Tokomaru/Mount Robertson, 49.60 hectares
- Horahora-kākahu, 2.35 hectares
- Pukatea/Whites Bay, 1.32 hectares.

1(B) KAPITI ISLAND

Kapiti Island was, and is, a place of immense significance to Ngati Toa Rangatira. The Kapiti Island redress will continue to protect the high conservation values of Kapiti Island. Public access to the island will continue to be restricted. The Kapiti Island redress package includes:

- Vest and gift back of Kapiti Island Nature Reserve site (1760 hectares).
- Vesting of Kapiti Island North Nature Reserve site (188 hectares at the northern end of the island) in Ngati Toa Rangatira. The Department of Conservation will remain responsible for its management.
- Vesting in fee simple of one hectare of Crown land at the northern end of the island in Ngati Toa Rangatira, subject to a conservation covenant with provision for a building to be built.
- An overlay classification called Nga Paihau ki Kapiti will be declared over Kapiti Island Nature Reserve, Kapiti Island North Nature Reserve and Kapiti Marine Reserve.
- A Strategic Advisory Committee will be established with governance responsibilities over the Kapiti Island North Nature Reserve site and the Kapiti Island Nature Reserve site. The Committee will include Ngati Toa Rangatira and the Department of Conservation with provision for other iwi to be included in the future.
- A conservation management plan for the Kapiti Island North Nature Reserve site and the Kapiti Island Nature Reserve site will be jointly approved by the Strategic Advisory Committee and the Wellington/Hawke's Bay Conservation Board.

1(C) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

A Statutory Acknowledgement recognises the association between Ngati Toa Rangatira and a particular site or area and enhances the iwi's ability to participate in specified Resource Management processes. Deeds of Recognition oblige the Crown to consult with Ngati Toa Rangatira on specified matters and have regard to their views regarding their special associations with certain areas.

The Crown offers a Coastal Statutory Acknowledgement over the following areas:

- Te Tau Ihu coastal marine area
- Cook Strait
- Te Awarua-o-Porirua Harbour
- Thoms Rock/Tokahaere
- Kapukapuariki Rocks
- Toka-a-Papa Reef
- Tawhitikuri/Goat Point
- Wellington Harbour (Port Nicholson)

The Crown offers Statutory Acknowledgements (SA) and Deeds of Recognition (DoR) in relation to the following areas within Ngati Toa Rangatira's area of interest:

- Balance of Mana Island (SA, DoR)
- Red Rocks Scientific Reserve (SA, DoR)
- Pukerua Bay Scientific Reserve (SA, DoR)
- Oteranga Bay Marginal Strip (SA)
- Queen Elizabeth Park (SA)
- Whareroa Farm (SA)
- Te Onepoto Bay (SA)
- Pauatahanui Wildlife Reserve (SA, DoR)
- Horokiri Wildlife Management Reserve (SA, DoR)
- Battle Hill Farm Forest Park (SA)
- Lake Rotoiti, Nelson Lakes National Park (SA, DoR)
- Lake Rotorua, Nelson Lakes National Park (SA, DoR)
- Wairau Pa (SA, DoR)
- Chetwode Islands (SA, DoR)
- Malcolm's Bay Scenic Reserve, Arapaoa Island (SA, DoR)
- Hutt River and its tributaries (SA, DoR)
- Maitai River and its tributaries (SA, DoR)
- Wairau River, Omaka River, Ōpaoa River, and Kaituna River and their tributaries (SA, DoR)
- Te Hoiere/Pelorus River and its tributaries (SA, DoR)
- Tuamarina River and its tributaries (SA, DoR)
- Buller River and its tributaries (SA, DoR)
- Waimea River and its tributaries (SA, DoR)
- Motueka River and its tributaries (SA, DoR)

1(D) OVERLAY CLASSIFICATION (NGA PAIHOU)

An overlay classification (known as Nga Paihau in the Ngati Toa Rangatira settlement) acknowledges the traditional, cultural, spiritual and historical association of Ngati Toa Rangatira with certain sites of significance. The declaration of an area as an overlay classification provides for the Crown to acknowledge iwi values in relation to that area.

The settlement provides overlay classifications over Kapiti Island (the Kapiti Island Nature Reserve site, the Kapiti Island North Nature Reserve site and the Kapiti Marine Reserve), the Brother Islands and Wairau Lagoons/Part of the Wairau Lagoons Wetland Management Reserve.

1(E) TE TAU IHU RIVER/FRESHWATER ADVISORY COMMITTEE

The settlement provides for Ngati Toa Rangatira to participate in an advisory committee providing input into local authority planning and decision making under the Resource Management Act at review, preparation and notification stages.

1(F) POUTIAKI REDRESS

Poutiaki is the Ngati Toa Rangatira word for guardianship of an area. The redress recognises the role of Ngati Toa Rangatira as a kaitiaki of Cook Strait and the coastal marine area in Porirua Harbour, Port Underwood and Pelorus Sound. The Poutiaki redress primarily focuses on iwi identification of values, principles and issues in a Poutiaki plan which is to be produced by Ngati Toa Rangatira.

The Poutiaki Plan will be considered by regional councils within the regional planning framework. Ngati Toa Rangatira will also be one of the interested parties invited to participate in a Cook Strait Forum to be chaired by the Wellington Regional and Marlborough District Councils. The forum will bring together local and central government, iwi and other entities with interests in the Cook Strait to discuss issues of concern about the Cook Strait coastal marine area and share information. Invitees would participate as they see necessary.

1(G) SOUTHERN ROHE

The Crown will pay the governance entity the sum of \$500,000 in acknowledgement of claims within Ngati Toa Rangatira's southern rohe.

1(H) PLACE NAME CHANGES

Place names are significant for recognising iwi associations with geographic areas. The settlement legislation will provide for the place name changes to be made to 12 North Island sites and 9 South Island sites.

New geographic names for :

- Taupo Point
- Kapukapuariki Rocks
- Mount Porirua
- Haukopua Point
- Motuhara Point
- Te Ana-o-Hau
- Toka Potaka Rock

Altered names for:

- Rangituhi/Colonial Knob
- Tawhitikuri/Goat Point
- Te Awarua-o-Porirua Harbour
- Toka-a-Papa Reef
- Te Rewarewa Point
- Te Whanganui/Port Underwood
- Pelorus Sound/Te Hoiere
- Te Koko-o-Kupe/Cloudy Bay
- Oraumoa/Fighting Bay
- Te Hoiere/Pelorus River
- Pukatea/Whites Bay
- Tokomaru/Mount Robertson
- Waikutakuta/Robin Hood Bay
- Queens Charlotte Sound/Totaranui

Relationships

2(A) LETTERS OF INTRODUCTION

The deed of settlement provides for the promotion of relationships with local authorities and government agencies. The Crown will write letters of introduction to local authorities, government agencies and museums, encouraging them to enter into a Memorandum of Understanding with the Ngati Toa Rangatira governance entity.

2(B) WHITIREIA PARK MANAGEMENT ARRANGEMENT

A joint board is established and appointed to control and manage the Whitireia Park recreation reserve, the Onehunga Bay historic reserve and Te Onepoto Bay recreation reserve. The joint board will be comprised of members appointed by the Wellington Regional Council and the Ngati Toa Rangatira governance entity.

2(C) QUEEN ELIZABETH PARK CAMPING GROUND APPOINTMENT TO CONTROL AND MANAGE

The Ngati Toa Rangatira governance entity is appointed to control and manage the Queen Elizabeth Park campground site as a local purpose reserve for campground purposes.

2(D) HAKA KA MATE

The Crown will introduce unique legislation that will acknowledge the significance of the haka Ka Mate as a taonga to Ngati Toa Rangatira and an integral part of Ngati Toa Rangatira history, culture and identity. The legislation will require the composer of the haka, Ngati Toa Rangatira chief Te Rauparaha, to be attributed in certain circumstances (for more information see page 4 of this summary).

Financial and commercial redress

3. The financial and commercial redress is aimed at providing Ngati Toa Rangatira with resources to assist them to develop their economic and social well being. It includes:

3(A) FINANCIAL REDRESS

Ngati Toa Rangatira will receive financial redress of \$70,610,000.00. This includes \$10 million in recognition of the Crown's actions in undermining the maritime domain of Ngati Toa Rangatira in the Cook Strait region in the nineteenth century.

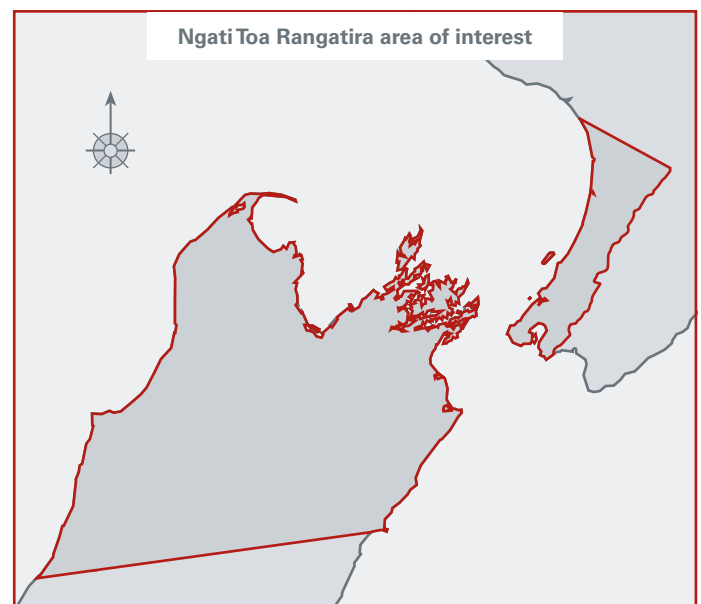
3(B) COMMERCIAL REDRESS

Ngati Toa Rangatira will have the option to purchase 19 properties that may be purchased in fee simple (including land at Kenepuru Hospital) and 80 properties for purchase and leaseback to the Crown (including the Wellington Central Police Station and the Porirua Police College).

Ngati Toa Rangatira will make decisions following the signing of the deed of settlement on properties to be transferred at settlement date. The remaining properties may be purchased after settlement date through a deferred selection process.

Ngati Toa Rangatira will purchase more than 34,000 hectares of the Crown forest licensed land in Te Tau Ihu and will receive the accumulated rentals of approximately \$31 million associated with the land.

Ngati Toa Rangatira will also have a right of first refusal over a significant number of Crown properties in the North Island part of their rohe if they become surplus to the Crown's requirements. This right continues for 169 years from the settlement date. In Te Tau Ihu, Ngati Toa Rangatira and other Te Tau Ihu iwi have the right of first refusal, for 100 years, over surplus Crown property not already included in one of the Te Tau Ihu settlement packages.



Q&A

Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of redress offered to Ngati Toa Rangatira is \$75.235 million, which includes financial redress, interest on quantum, and payments for capacity building, wharetaonga and papakainga and the purchase of properties.

Ngati Toa Rangatira will receive accumulated rentals for the Crown Forest Licensed land purchased through the settlement, which total approximately \$31 million. They will also receive New Zealand Units associated with this land. These are not costs to the Crown.

2. Is there any private land involved?

No. Two discrete sites of City Council land – Taputeranga Island and Taupo urupā (Wellington and Porirua respectively) – are being transferred as part of the settlement. The Wellington City Council and Porirua City Council have been neutral in the transactions recognising that the deed of settlement is a settlement of grievance between the Crown and Ngati Toa Rangatira. The councils are not parties to the Treaty settlement.

3. Are the public's rights affected?

Generally no. Eight sites, totalling around 4.2 hectares, are vested in fee simple in Ngati Toa Rangatira without provision for ongoing public access. These sites are of high significance to Ngati Toa Rangatira, do not have conservation values and are not located in areas where there is regular public use.

4. Does the settlement create any special rights for Ngati Toa Rangatira?

The only 'special right' is the legislative right of attribution for the haka Ka Mate. The rest of the redress does not create any special rights and is consistent with existing legislative and policy frameworks which provide for Māori participation in conservation and planning matters.

5. Are any National Parks affected by the Settlement?

The settlement includes Statutory Acknowledgements and Deeds of Recognition over Lakes Rotoiti and Rotorua in Nelson Lakes National Park. This redress will not affect the conservation values of those sites or public access to them.

6. What is the Haka Ka Mate Attribution Bill?

Te Rauparaha must be clearly and reasonably identified as both the composer of the haka Ka Mate and a chief of Ngati Toa Rangatira whenever the haka Ka Mate is published commercially, communicated to the public, or features in a film that is shown in or made available to the public.

Communication to the public would include the inclusion of the haka Ka Mate in a television commercial or the broadcast or webcast of a performance of the haka Ka Mate.

Published commercially would include where the words of the haka Ka Mate are published in a book or journal or online, or where an object that features the words of the haka Ka Mate are offered for sale to the public.

The attribution requirement will not apply to any performances of the haka Ka Mate, for example by kapa haka groups or sports teams, or to its use for educational purposes, or work made for the purposes of criticism, review or news reporting. All members of the public and any sports teams, including the All Blacks, will still be able to perform the haka Ka Mate.

Ngati Toa Rangatira will be able to go the courts for a declaratory judgement or order where there has been failure to attribute.

The settlement redress does not require prior consent before the haka is used or performed. The right of attribution is similar to, but distinct from, the right of attribution under the Copyright Act 1994. The redress does not entitle Ngati Toa Rangatira to charge, levy, or accept any form of royalties or compensation.

7. What are Statutory Acknowledgments and Deeds of Recognition?

Statutory Acknowledgements acknowledge 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. Statutory Acknowledgements do not convey a property right and are non-exclusive.

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 and specify the nature of their input into the management of the site.

8. 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.

9. Are any place names being changed?

Yes. Several place names of Ngati Toa Rangatira will be reinstated including Porirua Harbour which will become Te Awarua-o-Porirua Harbour. The full list of name changes is included in this Deed of Settlement summary in section 1(H).

10. Does Ngati Toa Rangatira have the right to come back and make further claims about the behaviour of the Crown?

If a Deed of Settlement is ratified and passed into law, both parties agree it will be a final and comprehensive settlement of all the historical (relating to events before 21 September 1992) Treaty of Waitangi claims of Ngati Toa Rangatira. The settlement legislation, once passed, will prevent Ngati Toa Rangatira from re-litigating their claims before the Tribunal or the courts.

The settlement package will still allow Ngati Toa Rangatira or members of Ngati Toa Rangatira to pursue claims against the Crown for acts or omissions after 21 September 1992 and does not affect 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 Ngati Toa Rangatira, wherever they may now live.

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