



Deed of Settlement

BETWEEN THE CROWN AND NGATIKAHU KI WHANGAROA

Background

Ngatikahu ki Whangaroa (NKKW) is a claimant group of approximately 3000 people whose area of interest lies in the Far North between the Mangonui Harbour and Whangaroa Harbour. The iwi is bordered by Ngāti Kahu to the north-west and Ngāpuhi to the south-east.

In September 2001, the Crown recognised the mandate of the NKKW Trust Board to negotiate on behalf of NKKW. The Crown and the NKKW Trust Board signed Terms of Negotiation in October 2004 that agreed the scope, objectives and general procedures for the negotiations. An Agreement in Principle (AIP) was signed in December 2007, and a refined AIP was signed in July 2014.

On settlement the trustees of the post settlement governance entity (PSGE), the Kahukuraariki Trust, will manage the settlement assets.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand, the Ministry for Primary Industries, and Manatū Taonga the Ministry for Culture and Heritage, 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 NKKW.

Summary of the historical background to the claims by Ngatikahu ki Whangaroa

Prior to 1840, Europeans and Māori conducted land transactions within the Ngatikahu ki Whangaroa rohe. The majority of these involved other iwi who asserted some authority over the region. The Crown was meant to investigate the legitimacy of these transactions in the 1840s, but in most cases failed to do so because of concerns this would aggravate inter-tribal conflict. In the 1850s, the Crown investigated some Mangonui land claims, but did not investigate others. Though Ngatikahu ki Whangaroa occupied many of these blocks, the Crown failed to adequately consider their customary interests.

The Crown considered all customary title was extinguished if a land commissioner confirmed the transaction. It assumed ownership of an estimated 11,000 acres of Ngatikahu ki Whangaroa ancestral lands through its 'surplus' land policy. Māori evidence regarding these transactions was not always heard in an open, public inquiry.

In 1841, the Crown sought to settle a dispute between two Māori rangatira by acquiring their interests in the area between Mangonui, Taemaro and Otangaroa. Though these transactions involved Ngatikahu ki Whangaroa's ancestral lands, there is no evidence of their involvement or of the Crown sufficiently investigating their customary interests.

In 1863, the Crown signed the Mangonui purchase to settle outstanding Māori claims in the eastern Mangonui area. The Crown agreed to set aside Taemaro and Waiaua as Māori reserves, but it reduced the size of Taemaro reserve – excluding some areas occupied and cultivated by Ngatikahu ki Whangaroa. A Ngatikahu ki Whangaroa petitioner later claimed that the Mangonui purchase of approximately 22,000 acres only involved about 2,000 acres at Kopupene.

The establishment of the Native Land Court in 1865 altered Māori customary tenure by allowing individual ownership. The 500-acre Motukahakaha block was awarded to two Māori owners and was later sold to private interests. The Native Land Court awarded Māori title to the 977-acre Takerau block, but then cancelled it after deciding Takerau was Crown land.

Māori were awarded title to the 3,990-acre Taemaro block in 1870, which lay within the boundaries of the 1863 Mangonui purchase. The Crown believed it owned the block, but failed to attend the court hearing. Māori later surrendered title to Taemaro in exchange for an enlarged 99-acre reserve at Taemaro and a 649-acre reserve at Waimahana. The Crown passed the Taimaro and Waimahana Grants Act 1874, which empowered the Governor to establish the two reserves. The Act vested Taemaro reserve in six individuals and Waimahana reserve in ten individuals.

Taemaro remained a contentious issue for Ngatikahu ki Whangaroa, who claimed they were coerced into surrendering title to the block. Crown officials denied any coercion. Ngatikahu ki Whangaroa repeatedly petitioned the Crown about 'surplus' lands and the Taemaro and Takerau transactions.

After Crown officials approached them about gifting an area Lord Ranfurly had picnicked at for a scenic reserve, Motukiwi Hone Tua and other Ngatikahu ki Whangaroa offered the Crown approximately ten acres for this purpose. The Crown, however, eventually decided to take 706 acres for the Ranfurly Bay Scenic Reserve, including important Ngatikahu ki Whangaroa wāhi tapu and urupā. Māori owners received a total of £1,060 from the Crown as compensation, but lost £40 per year from a 30-year lease of the block.

Following World War Two, the Crown took land at Matarakaka that the navy had occupied during the conflict. In 1983, the Crown transferred the land to the Lands and Survey Department, and only re-vested it in Māori ownership in 1990. The Crown purchased other land at Matarakaka for scenic reserve purposes without getting the consent of all owners. Ngatikahu ki Whangaroa were left virtually landless and the majority of their people now live outside their rohe.

Summary of the Ngatikahu ki Whangaroa settlement

Overview

The Ngatikahu ki Whangaroa Deed of Settlement will be the final settlement of all historical claims of Ngatikahu ki Whangaroa 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 Ngatikahu ki Whangaroa
- cultural redress, and
- financial redress.

The benefits of the settlement will be available to all members of Ngatikahu ki Whangaroa wherever they live.

Crown acknowledgements and apology

The Crown apologises to Ngatikahu ki Whangaroa for Crown acts and omissions that breached its obligations under te Tiriti o Waitangi/the Treaty of Waitangi. The breaches relate to the Crown's investigation of pre-Treaty land transactions and the taking of 'surplus' lands, its failure to ensure Ngatikahu ki Whangaroa received sufficient reserves, its failure to protect tribal structures, its compulsory taking of excessive land under the Public Works and Scenery Preservation Acts and its failure to ensure Ngatikahu ki Whangaroa retained sufficient land for its present and future needs. The Crown profoundly apologises for these failures and acknowledges their adverse effect on successive generations of Ngatikahu ki Whangaroa.

Cultural redress

Recognition of the traditional, historical, cultural and spiritual association of Ngatikahu ki Whangaroa with places and sites owned by the Crown within their area of interest. This allows Ngatikahu ki Whangaroa and the Crown to protect and enhance the conservation values associated with these sites.

CULTURAL REDRESS PROPERTIES

Fifteen cultural sites will be vested to Ngatikahu ki Whangaroa totalling approximately 3422.3 hectares. These include:

- Clarke Block (380.4 hectares)
- Kōwhairoa ana koiwi (1.6 hectares approximately)
- Opakau Urupā (9.4545 hectares)
- Otara ana koiwi (1 hectare approximately)
- Pear Tree Bay property (1 hectare approximately)
- Pukeānginga/Kiwitahi Urupā (12.2923 hectares)

- Stony Creek Station (2275.2786 hectares)
- Te Komanga Urupā (0.4 hectares approximately)
- Temahani Urupā (6.07 hectares approximately)
- Thomson Block (390.0974 hectares)
- Waipouritaka ana koiwi (1 hectare approximately)
- Kōwhairoa Peninsula property (282.9 hectares approximately) to be administered as a historic reserve
- Waihi Bay property (1 hectare approximately) to be administered as a scenic reserve
- Paekauri (10.9 hectares approximately) subject to a conservation covenant
- Taemaro to Tokamatā (40 hectares approximately) subject to a conservation covenant.

The reserve status and covenants will provide for public access and the protection of conservation values.

OVERLAY CLASSIFICATION

The settlement will provide for an overlay classification over Whakaangi (being Whakaangi Scenic Reserve). The overlay classification provides for the Crown to acknowledge Ngatikahu ki Whangaroa's values in relation to this area.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Ngatikahu ki Whangaroa and a particular site and enhances Ngatikahu ki Whangaroa's ability to participate in specified Resource Management Act processes.

The Crown offers statutory acknowledgements over Paekauri Conservation Area; the Coastal Marine Area adjacent to the area of interest; Oruaiti River and its tributaries within the Ngatikahu ki Whangaroa area of interest; and Akatāre Historic Reserve.

DEED OF RECOGNITION

Deeds of recognition can be provided over sites where statutory acknowledgements have also been offered. A deed of recognition provides for Ngatikahu ki Whangaroa to be consulted on specific matters, and the relevant minister must have regard to their views. The Crown offers Ngatikahu ki Whangaroa a deed of recognition over Akatāre Historic Reserve.

PLACE NAMES

Eleven geographic names will be assigned or altered on settlement.

RELATIONSHIPS

Protocols

The Deed of Settlement will provide for protocols regarding the interaction between Ngatikahu ki Whangaroa and the Department of Conservation, and Manatū Taonga Ministry for Culture and Heritage.

Letter of recognition

The settlement provides for the Director-General of the Ministry for Primary Industries to write a letter of recognition to the governance entity acknowledging Ngatikahu ki Whangaroa as tangata whenua within their area of interest and are entitled to have input and participation in relation to the Fisheries Act 1996.

Letter of introduction

The settlement provides for the Director of the Office of Treaty Settlements to write to the Northland Regional Council and the Far North District Council introducing the trustees of the Ngatikahu ki Whangaroa post settlement governance entity and to encourage each council to enter into a memorandum of understanding (or a similar document) with the post settlement governance entity.

Financial redress

The Crown will pay Ngatikahu ki Whangaroa post settlement governance entity:

- financial redress of \$6.2 million in lieu of the Crown's existing Agreement in Principle (AIP) commitment to maintain the condition (plant and stock) of Stony Creek Assets in substantially the same condition as they were at the date of the 2007 AIP, of which \$3 million will be paid on-account to the post settlement governance entity following the signing of the deed of settlement, agreement to the settlement legislation, and Ngatikahu ki Whangaroa ratifying the governance entity, and
- interest on the financial redress of \$6.2 million from 7 July 2014 to the day before settlement date and adjusted for any on-account payments.

The settlement also provides for a cultural fund of \$300,000 for the development and implementation of a historic reserve management plan for the Kōwhairoa Peninsula Property.



Questions and answers

1. What is the overall package of redress?

The settlement package is made up of:

- an historical account, acknowledgements and an apology by the Crown for the Crown's acts and omissions that caused prejudice to Ngatikahu ki Whangaroa and breached the Treaty of Waitangi and its principles
- cultural redress, including the vesting of 15 sites including Stony Creek Station and \$0.3 million as a cultural fund for a reserve management plan for the Kowhairoa Peninsula
- financial redress of \$6.2 million plus interest (in lieu of the Crown's earlier commitment to maintain the assets at Stony Creek in substantially the same conditions as in 2007).

2. Is there any private land being transferred?

No.

3. Are the public's rights affected?

In general, all existing public access rights in relation to areas affected by this settlement will be preserved.

4. Do Ngatikahu ki Whangaroa 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 finalised by the passage of settlement legislation, both parties agree it will be a final and comprehensive settlement of all the historical Treaty of Waitangi claims of Ngatikahu ki Whangaroa (relating to events before 21 September 1992). The settlement legislation, once passed, will prevent Ngatikahu ki Whangaroa from relitigating the claim before the Waitangi Tribunal or the courts. The settlement package will still allow Ngatikahu ki Whangaroa 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 and claims under the Marine and Coastal Area (Takutai Moana) Act 2011. The Crown retains the right to dispute such claims or the existence of such title rights.

5. Who benefits from the settlement?

All members of Ngatikahu ki Whangaroa, wherever they may now live.

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