



Deed of

Deed of Settlement
between the Crown and
Te Rarawa

Settlement

General background

Te Rarawa is one of five iwi based in Te Hiku o Te Ika a Maui (the tail of the fish of Maui). Their rohe extends from Hokianga eastwards along the Hokianga River to Mangataipa, then north along the Raetea ranges, down the Pampurua River to Maimaru across towards Awanui, westwards to Hukatere on Te Oneroa-a-Tōhē (Ninety-Mile Beach), back down the coastline past Ahipara towards Hokianga.

According to the 2006 census, approximately 14,895 people affiliate to Te Rarawa. There are many more overseas.

Negotiations between the Crown and Te Rarawa began in 2002 and an Agreement in Principle was signed in 2007. The five Te Hiku iwi (including Te Rarawa) also signed the Te Hiku Agreement in Principle in January 2010.

On 3 November 2011, Te Rarawa and the Crown agreed that the deed of settlement was ready for members of the iwi to decide whether it was an acceptable settlement of their historical claims. The deed was then ratified by the Te Rarawa community, and signed on 28 October 2012. The settlement will be implemented following the passage of settlement legislation.

The mandate for Te Rarawa was given to Te Rūnanga o Te Rarawa which was represented in negotiations over the negotiation period by Joseph Cooper, Haami Piripi, Paul White, Gloria Herbert, and Malcolm Peri.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand, the Ministry for the Environment 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 Te Rarawa, as did his predecessors Hon Dr Michael Cullen, Hon Mark Burton and Hon Margaret Wilson.

Summary of the historical background to the claims by Te Rarawa

Te Rarawa is a confederation of hapū, which emerged in the 16th century, and occupied the land in and around Hokianga, Whāngāpe and Ōwhata harbours, Te Oneroa-a-Tōhē, Tangonge and areas lying inland to Maungataniwha. Today, Te Rarawa and affiliated and associated hapū have as their foundation 23 hapū marae. Each hapū has its own identity.

Te Rarawa began to foster relationships with European sawyers, traders and missionaries from the early 1800s. In an attempt to expand their own economic activities and take advantage of developing technological opportunities, Te Rarawa allowed a number of settlers to live on their land.

By the 1830s, political engagement between Te Rarawa and the Crown had begun, and the iwi supported the idea of Māori taking a united approach to engagement with British officials. In 1835, Te Rarawa rangatira signed He Whakaputanga o te Rangatiratanga o Nū Tīreni (the Declaration of Independence); this was followed by the signing of Te Tiriti o Waitangi/ the Treaty of Waitangi in 1840.

Prior to the signing of the Treaty, Te Rarawa had entered into over 20 transactions with settlers, for land around the Kaitāia plains and the coastal fringe of the northern Hokianga Harbour along to the western arm of the Mangamuka River. While these transactions introduced Te Rarawa to British ideas of land ownership, the iwi maintained their traditional approach towards land dealings with an expectation of ongoing rights and obligations, often continuing to occupy and cultivate land.

After the 1840 signing, the Crown investigated pre-Treaty land transactions within Te Rarawa rohe, which included vital kainga and cultivation areas; approximately 21,500 acres of which went to the Crown as surplus land.

Further land was alienated when the Crown began a large scale land purchasing programme in the far north from 1858, with the aim of extinguishing customary land title and securing Crown ownership for the purpose of opening up Māori land for European settlement. By 1865, the Crown had purchased more than 100,000 acres in the Te Rarawa rohe.

This land loss was compounded by later Crown purchasing and the impact of the native land laws, which gave rights to individuals. This disrupted Te Rarawa tikanga and divided hapū, as the new land tenure system did not provide for the full range of complex and overlapping traditional land rights.

Even though there was limited European settlement on the acquired Crown land, and it was aware that previous purchases had not brought economic benefits to the iwi, the Crown continued to purchase land in the Te Rarawa rohe. From the 1870s to late nineteenth century, it purchased over 130,000 acres of Te Rarawa land and forest.

By the time the Crown suspended their land purchasing in 1899, Te Rarawa held less than a third of their original land.

Twentieth century claims from Te Rarawa relate largely to land administration issues, including failure to protect iwi interests in Te Karae and Waireia D, which were compulsorily vested in the Tokerau Māori Land Board. The Crown's land consolidation resulted in some Te Rarawa losing interests in land to which they had ancestral connections.

The cumulative impact of Crown actions and omissions left many Te Rarawa without sufficient and suitable land for their needs. The iwi have lacked opportunities for economic, social and cultural development, and those who remained in their rohe now live in one of the most deprived areas in New Zealand.

Settlement

Summary of the Te Rarawa Settlement

Overview

The Te Rarawa Deed of Settlement will be the final settlement of all historical claims of Te Rarawa 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 Te Rarawa;
- cultural redress;
- financial and commercial redress; and
- collective redress.

The benefits of the settlement will be available to all members of Te Rarawa, wherever they live.

Crown acknowledgements and apology

The Crown apologises to Te Rarawa for its acts and omissions which have breached the Crown's obligations under Te Tiriti o Waitangi/the Treaty of Waitangi. These breaches include the Crown's investigation of pre-Treaty transactions and the taking of land under its surplus lands policy, the failure to set aside sufficient reserves for Te Rarawa in pre-1865 Crown purchases, the impact of native land laws, Crown purchasing after 1865, the compulsory vesting of a large amount of Te Rarawa land in the Tokerau Māori Land Board between 1906 and 1909, Crown purchases of vested land, the failure to protect Te Rarawa interests when the Tokerau Māori Land Board approved the sale of Waireia D, empowering the Māori Trustee to compulsory acquire uneconomic interests in Te Rarawa land, the road survey at Owata that led to the imprisonment of Maraea Te Awaroa Heke, and the landlessness of some Te Rarawa hapū.

Cultural redress

1. **Recognition of the traditional, historical, cultural and spiritual association of Te Rarawa with places and sites owned by the Crown within their primary area of interest. This allows Te Rarawa and the Crown to protect and enhance the conservation values associated with these sites and includes:**

1(A) SITES TRANSFERRED TO TE RARAWA

A total of 17 properties will be vested in Te Rarawa and six jointly vested in Te Rarawa and one or more other Te Hiku iwi, totalling approximately 1024 hectares.

Sites to be vested in Te Rarawa:

- Epakauri Conservation Area, approximately 648 hectares
- Tauroa Point, approximately 133 hectares
- Mapere, approximately 19.03 hectares
- Te Oneroa-a-Tōhē – Clarke Road site, approximately 3.6 hectares
- Lake Tangonge site B, approximately 25 hectares
- Awanui River site, more or less 1.7155 hectares
- Whangape Road site, more or less 0.0985 hectares
- 12 Waiohēhue Road, more or less 2.0588 hectares
- Part Former Awanui (Kaitāia) Riverbed, approximately 0.5550 hectares
- Hukatere site B, approximately 2 hectares
- Pukepoto School, approximately 4.7981 hectares for leaseback to the Crown

- Rotokakahi War Memorial Site, approximately 0.8621 hectares
- Rotokakahi, approximately 2.78 hectares
- Motukaraka (sites A and B), more or less 40.4959 hectares
- Whangape Site, more or less 0.8875 hectares
- Kaitāia Domain, approximately 12.4008 hectares
- Mangamuka Road, Mangamuka, approximately 1.4 hectares
- Mangamuka Road, Tūtekēhua, more or less 1.0067 hectares

Joint vesting in Te Rarawa and Ngāi Takoto

- Tangonge Site, approximately 110.0 hectares
- Lake Tangonge site A, approximately 31.0 hectares

Joint vesting to Te Rarawa, Ngāi Takoto, Te Aupōuri and Ngāi Kuri

- Te Oneroa-a-Tōhē sites, totalling approximately 214.00 hectares

1(B) WARAWARA WHENUA NGĀHERE I TE TAI AO

An agreement between Te Rarawa and the Department of Conservation that provides for joint roles in relation to the governance and management of the Warawara Forest Park public conservation lands.

1(C) CULTURAL REDRESS FUND

Te Rarawa will also receive a cultural redress fund of \$530,000 to assist it to undertake projects of cultural significance.

1(D) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgement recognises the association between Te Rarawa and a particular site and enhances Te Rarawa's ability to participate in specified Resource Management processes. The Crown offers Statutory Acknowledgements over:

- Herekino, Whāngāpe, Hokianga harbours
- Awaroa and Awanui rivers
- Wairoa Stream
- Tauroa Peninsula
- Coastal marine area extending from Hokianga Harbour to Hukatere

1(E) PLACE NAME CHANGES

Four geographic names will be amended or corrected through the Te Rarawa settlement including dual Māori-English names for Ninety Mile Beach (Te Oneroa-a-Tōhē/Ninety Mile Beach), Shipwreck Bay (Te Kōhanga/Shipwreck Bay), The Narrows (Rangiora Narrows), and Rangi Point (Kawehītiki Point).

2. Relationships

2(A) PROTOCOLS, LETTER OF COMMITMENT & PROMOTION OF RELATIONSHIPS

The deed provides for protocols to be issued by the Minister for Culture and Heritage and the Minister of Primary Industries. These protocols set out how these government agencies will interact and consult with Te Rarawa when carrying out duties and functions.

In addition, the Minister of Primary Industries will appoint Te Rūnanga o Te Rarawa as a fisheries advisory committee.

The deed of settlement also provides for Te Rarawa, 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 iwi taonga.

The Crown will facilitate a process between Te Rarawa and New Zealand Historic Places Trust to enter into a working relationship on specific projects of mutual interest.

The deed also provides for the promotion of relationships with local authorities and government agencies.

The Minister for Treaty of Waitangi Negotiations and the Director of Office of Treaty Settlements will write letters of introduction and relationship promotion to Crown Ministers, government agencies, local authorities, entities and museums.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

Te Rarawa will receive financial and commercial redress of \$33.840 million, plus interest through their settlement.

Te Rarawa will use some of this redress to purchase:

- Crown-owned farms (Te Karae and part of Sweetwater farm)
- other Crown-owned properties including:
 - six schools (Matihetihe, Te Kura Taumata O Panguru, Kohukohu, Herekino, Broadwood and Ahipara), which will be leased back to the Crown;
 - Takahue Block – 526.36 hectares (more or less) Crown forest licence land;
 - six Land Information New Zealand properties;
 - eight Office of Treaty Settlements landbank properties; and
 - two Office of Treaty Settlements landbank properties to be purchased jointly with Ngāi Takoto
- Te Tapairu Hirahira o Kahakaharoa.

Te Rarawa will also have an exclusive right of first refusal to purchase 34 other Crown-owned properties located within the exclusive Te Rarawa area of interest.

Collective redress

4. The collective redress elements of the deed have been negotiated between the Crown, Te Rarawa, Ngāti Kuri, Te Aupōuri and Ngāi Takoto. Collective redress will be available to Te Hiku iwi as they complete settlements.

4(A) AUPOURI CROWN FOREST LAND

Te Rarawa, Te Aupōuri, Ngāi Takoto and Ngāi Kuri will jointly own (as tenants in common) the 21,283 hectares Crown forest land on the Aupouri peninsula and will receive a share of the accumulated rentals (approximately \$2.2 million to each iwi). Te Rarawa will own an undivided 20 percent share.

4(B) TE ONEROA-A-TŌHĒ/NINETY MILE BEACH

The settlement will create the Te Oneroa-a-Tōhē Board to manage the beach – a new permanent joint committee between iwi, Northland Regional Council and Far North District Council. The Te Oneroa-a-Tōhē Board (the Board) will have 50 percent iwi members and 50 percent local authority members. It will be chaired by iwi and make decisions by a 70 percent majority.

The Board will provide governance and direction in order to promote the use, development and protection of the Te Oneroa-a-Tōhē/Ninety Mile Beach management area and its resources in a manner which ensures the environmental, economic, social, spiritual and cultural wellbeing for present and future generations. The Board is responsible

for developing a beach management plan. It will publicly notify the plan and seek submissions on it. The plan will be recognised and provided for in the next revisions of the relevant Regional Policy Statement, Regional Plan and District Plan.

The Board will consult with communities through the beach management plan regarding any changes to beach access (eg by changing access points and reducing environmental damage on and to the beach). The feedback from this consultation will influence the plan, which the Board will then implement.

The iwi members of the Board will appoint up to half of the hearing panel for consent applications within the beach management area.

The Crown is providing a one-off contribution of \$137,500 per iwi to install interpretative signs, raise pouwhenua at Waipapakauri and fund regeneration activities along the beach. The Crown is also providing a one-off contribution of \$400,000 to the Board.

4(C) KOROWAI FOR ENHANCED CONSERVATION

The settlement includes a co-governance arrangement for conservation land known as the *Korowai for Enhanced Conservation*.

The word 'korowai' means cloak. The *Korowai for Enhanced Conservation* recognises the historical, spiritual and cultural association Te Hiku iwi have with public conservation land. It gives iwi greater input into decision-making including in the protection of public conservation lands and important cultural taonga within the combined areas of interest of Te Rarawa, Te Aupōuri, Ngāi Takoto and Ngāi Kuri.

A new Te Hiku Conservation Board will be established with equal Te Hiku iwi and public membership.

The Te Hiku Conservation Board will have a number of statutory functions, similar to those of the Northland Conservation Board, including recommending the approval of a new Te Hiku part of the Northland Conservation Management Strategy, relating to public conservation land within the area covered by the Korowai.

Te Hiku iwi and the Department of Conservation (DOC) will co-author the Te Hiku part of the Conservation Management Strategy, which will ensure that Te Hiku iwi interests will be integrated into this primary DOC planning document.

The Korowai means DOC decision-making under the Conservation Act 1987 and Schedule 1 legislation will occur in a framework in which iwi cultural interests will play a key role. There will also be joint decision-making between DOC, Te Aupōuri, Ngāi Kuri and Ngāi Takoto over approximately 70 hectares of public conservation land at Cape Reinga/Te Rerenga Wairua, a place of profound significance to Te Hiku iwi.

In addition, Te Rarawa and DOC will have a joint management agreement relating to the Warawara forest public conservation lands.

Iwi will have decision-making power over applications from iwi members for customary materials, gathering of flora and possession of dead protected fauna, in accordance with an agreed customary materials plan between iwi and DOC. It will contain criteria and guidance on who, what, when, how and where customary materials can be gathered, obtained or possessed.

Each iwi will hold a register of wāhi tapu sites and identify general wāhi tapu areas. Iwi will have the opportunity to enter into management agreements in relation to wāhi tapu on public conservation land.

4(D) SOCIAL DEVELOPMENT AND WELLBEING ACCORD

The Te Hiku – Crown Social Development and Wellbeing Accord sets out how the iwi and the Crown will work together to improve the social circumstances of the Te Hiku whānau, hapū and iwi and the wider community.

Q&A

Questions and Answers

In particular, the Accord will be implemented through multi-level engagement between Te Hiku iwi and the Crown including:

- an annual Te Hiku iwi-Crown taumata rangatira hui between the Ministers who have signed the Accord or whose departments have portfolio agreements and Te Hiku iwi representatives;
- regular Crown-Te Hiku iwi operational level engagement through Te Kahui Tiaki Whānau (a twice-yearly forum) and related Kaupapa Cluster meetings (ongoing engagement in relation to particular kaupapa/specific areas of work); and
- an evaluation and planning process to assess progress and design and implement strategies to achieve the shared outcomes for the Accord.

The Accord involves nine agencies: the Ministry of Social Development, Te Puni Kōkiri, the Ministry of Education, the Ministry of Productivity, Innovation and Enterprise, New Zealand Police, the Ministry of Justice, the Department of Internal Affairs, the Department of Corrections and Statistics New Zealand. The Crown is providing a one-off contribution of \$812,500 per iwi towards the implementation of the Accord.

The Accord will enable the government and the iwi to address pressing socio-economic issues in what is one of the most impoverished areas of the country.

4(E) JOINT RIGHT OF FIRST REFUSAL

Te Rarawa will have a right of first refusal (RFR) for 172 years to purchase listed Crown properties should the Crown decide to sell them. This RFR is shared with other Te Hiku iwi whose areas of interest overlap with Te Rarawa. Te Rarawa will also have the opportunity to purchase Te Hiku RFR properties located outside the Te Rarawa area of interest if the iwi in whose area the property is located do not want to purchase them.



1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the Te Rarawa Deed of Settlement includes \$33.84 million plus interest, discount on farm purchase price, the value of the cultural redress properties to be vested, \$530,000 cultural redress fund, \$812,500 towards social accord implementation, \$137,500 in recognition of the historical and cultural associations of Te Rarawa with Te Oneroa-a-Tōhē/Ninety Mile Beach and a portion of the \$400,000 one-off contribution to the Te Oneroa-a-Tōhē Beach Board.

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.

Once the Aupouri Crown forest land transfers out of Crown ownership, the agreement of the new landowner (iwi) will be required for both foot and vehicular access other than use of Hukatere Road. The scope of such access will remain subject to the forestry operational requirements of the licensee.

4. Are any place names being changed?

Yes. Place names are significant for recognising iwi associations with geographic areas.

There will be four geographic names amended or corrected through the Te Rarawa Deed of Settlement.

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

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 (relating to events before 21 September 1992) Treaty of Waitangi claims of the iwi. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement still allows Te Rarawa to pursue claims against the Crown for acts or omissions after 21 September 1992, as well as 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.

6. Who benefits from the settlements?

All members of Te Rarawa, wherever they may now live, will benefit from the settlement.

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