



Deed of Settlement

BETWEEN THE CROWN AND THE IWI AND HAPŪ OF TE ROHE O TE WAIROA

Background

The iwi and hapū of Te Rohe o Te Wairoa comprise approximately 25,500 members (2013 census). The iwi and hapū of Te Rohe o Te Wairoa are included as one of six large natural groups negotiating the settlement of the historical Treaty of Waitangi claims of Ngāti Kahungunu (and in this case, Ngāti Rongomaiwahine). Ngāti Kahungunu is the third largest tribal group in New Zealand. The area of interest of the iwi and hapū of Te Rohe o Te Wairoa covers the northern Hawke's Bay and the southern Gisborne areas.

In February 2011, the Crown recognised the mandate of Te Tira Whakaemi o Te Wairoa (Te Tira) to represent the iwi and hapū of Te Rohe o Te Wairoa in negotiating a comprehensive historical Treaty settlement. On 30 June 2012, the Crown signed Terms of Negotiation with Te Tira. On 11 June 2014, the Crown and Te Tira signed an Agreement in Principle which formed the basis for this settlement.

On 25 May 2016, Te Tira and the Crown initialled a deed of settlement. The deed of settlement and the post-settlement governance entity, Tātau Tātau o Te Wairoa Trust, were ratified in July and August 2016. The deed of settlement was signed on 26 November 2016. 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 the iwi and hapū of Te Rohe o Te Wairoa.

Summary of the historical background to the claims by the iwi and hapū of Te Rohe o Te Wairoa

The Crown did not take the Treaty of Waitangi/Te Tiriti o Waitangi to Te Rohe o Te Wairoa, so the iwi and hapū of Te Rohe o Te Wairoa had no opportunity to consider whether to sign it.

Between 1864 and 1868, the Crown purchased about 83,000 acres in Te Rohe o Te Wairoa. It did not always adequately survey the blocks it purchased, or fully investigate who had customary rights in them; nor did it set aside adequate reserves.

When fighting broke out between the Crown and Māori in other regions in the 1860s, the iwi and hapū of Te Rohe o Te Wairoa worked hard to maintain peace among themselves in the rohe. War began there only when the Crown attacked the Omaruhakeke kāinga on Christmas Day 1865. Some of the iwi and hapū of Te Rohe o Te Wairoa who opposed the Crown in 1866 by fighting were captured and summarily executed or detained without trial on the Chatham Islands. Others from the iwi and hapū fought alongside the Crown. The war led to on-going divisions between hapū who fought on different sides, as well as significant loss of life and property.

In April 1867, some Wairoa Māori agreed under duress to cede 42,000 acres to the Crown. Some people from the iwi and hapū who did not consent to this cession had their interests effectively confiscated.

After the 1868 escape of Te Kooti and other prisoners from the Chatham Islands, the Crown again asked some Wairoa Māori for military assistance. Members of the iwi and hapū fought on both sides of the ensuing war and there were more summary executions.

In 1875 the Crown acquired 178,000 acres of land near Lake Waikaremoana by exploiting confusion about the legal status of the blocks. The Crown paid various parties, including other iwi, for their interests, but it completed the purchase process before seeking agreement from a prominent Ngāti Hinemanuhiri leader and his hapū with interests in the area.

In 1867 and 1868, the Native Land Court awarded ownership of numerous Wairoa blocks to a maximum of 10 individual owners, allowing them to dispose of this as their absolute property, rather than acting as trustees. The native land laws provided for individualisation of title and failed to provide a means for the collective administration of the land of the iwi and hapū until 1894.

In the twentieth century, the Crown purchased further substantial areas of land in Te Rohe o Te Wairoa. In some transactions the Crown misused its monopoly powers or purchased from individual owners after the owners had collectively decided against selling. In one large purchase, it unilaterally reduced the price owners had agreed to accept. The Urewera Consolidation Scheme (1921) led to significant loss of interests in land. The Crown assumed control over Lake Waikaremoana and resisted attempts for decades by Māori owners to secure title to the lakebed. In 1954, the Crown established Te Urewera National Park without consulting the iwi and hapū of Te Rohe o Te Wairoa about its establishment or recognising their interests in part of the park. In 1961, the Crown bought 19,700 acres from Ngāti Hingānga to add to the park.

Since the 1870s the Crown has compulsorily taken more than 500 acres for public works purposes from the iwi and hapū of Te Rohe o Te Wairoa. At Opoutama, it compulsorily took land for a landing ground from Māori, while leasing land from a Pākehā.

By 2001, nearly 90 percent of the iwi and hapū lived outside Te Rohe o Te Wairoa. Many of those who remain suffer from serious socio-economic deprivation. Crown regulatory regimes left the iwi and hapū unable to exercise their kaitiakitanga responsibilities in relation to rivers, wetlands and other significant areas in Te Rohe o Te Wairoa. Despite this, the iwi and hapū of Te Rohe o Te Wairoa have a long history of service in New Zealand's armed forces. The people also contributed generously to the Māori Soldiers' Fund during World War I. Hereheretau Station, the most long-standing asset of the fund, is made up of land originally owned by hapū of Te Rohe o Te Wairoa.

Overview

The settlement will be the final settlement of all historical Treaty of Waitangi claims of the iwi and hapū of Te Rohe o Te Wairoa resulting from acts or omissions by the Crown prior to 21 September 1992. The deed of settlement is made up of a package that includes:

- an agreed historical account, Crown acknowledgments and apology;
- cultural redress; and
- financial and commercial redress.

The benefits of the settlement will be available to all members of the iwi and hapū of Te Rohe o Te Wairoa wherever they may live.

Crown acknowledgements and apology

The deed of settlement includes the Crown's acknowledgement that its actions and omissions breached the Treaty of Waitangi and its principles, and have caused the iwi and hapū of Te Rohe o Te Wairoa significant prejudice.

The deed of settlement also includes the Crown's apology for these actions and omissions, specifically for the war it fought against those members of the iwi and hapū of Te Rohe o Te Wairoa it deemed to be rebels, its unjust attack on the Omaruhakeke kāinga in 1865, the summary execution of prisoners in 1866, and the detention without trial of some members of the iwi and hapū of Te Rohe o Te Wairoa on the Chatham Islands from 1866 to 1868. These actions have led to lasting divisions between hapū for which the Crown expresses deep remorse. The Crown apologises for the destructive impact and demoralizing effects its actions have had upon the iwi and hapū of Te Rohe o Te Wairoa following its introduction of the native land laws, its relentless land purchasing programme, and its forced cession and effective confiscation of iwi and hapū of Te Rohe o Te Wairoa interests. The Crown's apology also acknowledges the significant, cumulative, and detrimental impact its breaches of the Treaty have had upon the cultural, spiritual and physical well being of the iwi and hapū of Te Rohe o Te Wairoa and their economic development.

Cultural redress

The deed of settlement includes a cultural redress package intended to recognise the traditional, historical, cultural and spiritual associations of the iwi and hapū of Te Rohe o Te Wairoa with places and sites owned by the Crown within their area of interest. It also intends to build enduring relationships with Government departments, local authorities and the Te Urewera Board.

SITES TO BE VESTED IN THE IWI AND HAPŪ OF TE ROHE O TE WAIROA AND GIFTED BACK TO THE CROWN FOR THE PEOPLE OF NEW ZEALAND

The following sites will be vested in Tātau Tātau o Te Wairoa Trust which will then gift them back to the Crown for the people of New Zealand:

- Kumi Pakarae Conservation Area (approximately 264.1 hectares);
- Mahia Peninsula Scenic Reserve (approximately 373.8 hectares);
- Morere Springs Scenic Reserve (approximately 371.9 hectares);
- Otoki Government Purpose (Wildlife Management) Reserve (approximately 49.6 hectares); and
- Te Reinga Scenic Reserve Property A (approximately 11.5 hectares).

OVERLAY CLASSIFICATIONS

Overlay classifications acknowledge the traditional, cultural, spiritual and historical association of the iwi and hapū of Te Rohe o Te Wairoa with certain sites of significance. The declaration of an area as an overlay classification provides for the Crown to acknowledge the values of the iwi and hapū of Te Rohe o Te Wairoa in relation to that area.

The settlement provides overlay classifications over the Mahia Peninsula Scenic Reserve, the Morere Springs Scenic Reserve, the Te Reinga Scenic Reserve Property A and the Wharerata Hill Scenic Reserve

STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

Statutory acknowledgements recognise the association between the iwi and hapū of Te Rohe o Te Wairoa and a particular site or area and enhance the ability of the iwi and hapū of Te Rohe o Te Wairoa to participate in specified resource management processes. The deed of settlement provides for statutory acknowledgements covering:

- Hangaroa River and its tributaries;
- Kumi Pakarae Conservation Area;
- Mahia Peninsula Local Purpose (Esplanade) Reserve;
- Mangaone Caves Historic Reserve;
- Mangapoike River and its tributaries;
- Maungawhio Lagoon;
- Morere Recreation Reserve;
- Nuhaka River and its tributaries;
- Otoki Government Purpose (Wildlife Management) Reserve;
- Panekirikiri Conservation Area;
- Portland Island Marginal Strip;
- Ruakituri River and its tributaries;
- Te Reinga Scenic Reserve Property B;
- Waiatai Scenic Reserve;
- Waiiau River and its tributaries within the area of interest;
- Waikaretaheke River and its tributaries;
- Wairoa River and its tributaries;
- Un-named marginal strip (Waitaniwha); and
- Whangawehi Stream and its tributaries.

Deeds of recognition oblige the Crown to consult with Tātau Tātau o Te Wairoa Trust on specified matters and have regard to their views regarding the special association of the iwi and hapū of Te Rohe o Te Wairoa with certain areas. The deed of settlement provides deeds of recognition covering:

- Mangaone Caves Historic Reserve;
- Panekirikiri Conservation Area;
- Waiatai Scenic Reserve;
- Un-named marginal strip (Waitaniwha);
- Hangaroa River and its tributaries;
- Mangapoike River and its tributaries;
- Ruakituri River and its tributaries;
- Waiiau River and its tributaries within the area of interest; and
- Waikaretaheke River and its tributaries.

CHANGE TO CONSERVATION STATUS AND CROWN PROTECTED AREA NAME CHANGE

The settlement legislation provides for the classification of Mangaone Caves Scenic Reserve to be changed from a scenic reserve to a historic reserve. Consequently, the settlement legislation will provide for the name of the Mangaone Caves Scenic Reserve to be changed to the Mangaone Caves Historic Reserve.

TE ROHE O TE WAIROA RESERVES BOARD-MATANGIRAU

The settlement legislation will provide for the establishment of a joint board known as Te Rohe o Te Wairoa Reserves Board-Matangirau to jointly administer and manage the Ngamotu Lagoon Wildlife Management Reserve, the Whakamahi Lagoon Government Purpose (Wildlife Management) Reserve, the Rangi-houa/Pilot Hill Historic Reserve and two Local Purpose (Esplanade) Reserves. The board will comprise three members appointed by Tātau Tātau o Te Wairoa Trust and three members appointed by the Wairoa District Council.

SOCIAL AND ECONOMIC REVITALISATION STRATEGY

Separate from the implementation of the Deed of Settlement, the Crown and Te Tira are developing a framework setting out the way in which the iwi and hapū of Te Rohe o Te Wairoa and Crown agencies will work together to improve the social and economic circumstances of people in the Wairoa region. The following Crown agencies are involved in the development of a social and economic revitalisation strategy: the Ministry for Primary Industries, the Ministry of Business, Innovation and Employment, the Ministry of Education, the Ministry of Social Development and Te Puni Kōkiri.

Relationships

PROTOCOLS AND AGREEMENTS

The settlement will provide for the Minister of Energy and Resources and the Minister for Arts, Culture and Heritage to issue protocols that set out how their respective agencies will interact with and consult Tātau Tātau o Te Wairoa Trust when carrying out statutory duties and functions.

It will also provide for Tātau Tātau o Te Wairoa Trust to enter into a partnership agreement with the Department of Conservation and a relationship agreement with the Ministry for the Environment. These agreements outline how the agencies will work and engage with the iwi and hapū of Te Rohe o Te Wairoa.

Tātau Tātau o Te Wairoa Trust, the Hawke's Bay Regional Council and the Wairoa District Council will enter into a tripartite relationship agreement to establish a positive and enduring relationship between the parties.

The settlement legislation will provide for Tātau Tātau o Te Wairoa Trust and Te Urewera Board to enter into a partnership agreement to provide for a relationship between the parties to support the maintenance and enhancement of the association of the iwi and hapū of Te Rohe o Te Wairoa with Te Urewera.

LETTERS OF COMMITMENT, RECOGNITION AND INTRODUCTION

Tātau Tātau o Te Wairoa Trust, the Department of Internal Affairs and the Museum of New Zealand Te Papa Tongarewa will sign a letter of commitment outlining how the parties will work together to facilitate the care, management, access, use, development and revitalisation of iwi taonga.

The Ministry for Primary Industries will write a letter of recognition to Tātau Tātau o Te Wairoa Trust outlining how the iwi and hapū of Te Rohe o Te Wairoa will be consulted on policy development led, and work undertaken, by the Ministry for Primary Industries, that directly affects their area of interest.

The Minister for Treaty of Waitangi Negotiations will write to the Hawke's Bay Regional Council and the Wairoa District Council to introduce, and raise the profile of, Tātau Tātau o Te Wairoa Trust and encourage each council to enhance its relationship with Tātau Tātau o Te Wairoa Trust.

Financial and commercial redress

This redress recognises the losses suffered by the iwi and hapū of Te Rohe o Te Wairoa arising from the Crown's breaches of its Treaty obligations. The financial and commercial redress is aimed at providing the iwi and hapū of Te Rohe o Te Wairoa with resources to assist them to develop their economic and social well-being.

Financial and commercial redress

The total value of the financial and commercial settlement package is \$100 million.

On settlement date, Tātau Tātau o Te Wairoa will receive a cash sum of \$88,964,250 (plus interest). The cash sum reflects deductions for an on-account payment of \$5 million and transfer values for interests in Patunamu Crown Forest Licensed (CFL) land and Wharerata Forest Limited.

On settlement date, the Crown will transfer to Tātau Tātau o Te Wairoa Trust:

- Tātau Tātau o Te Wairoa Trust's interest in Patunamu Crown Forest Licensed land (valued at \$2,465,750)
- The Crown interest in Wharerata Forest Limited (valued at \$3,570,000).

After settlement date Tātau Tātau o Te Wairoa will have the right to purchase 24 properties from the Treaty Settlements Landbank within specified timeframes of up to two years. They will also have a preferential right to purchase, at market value, surplus Crown-owned properties within their exclusive area of interest for a period of up to 174 years from settlement date.

Questions and answers

1. What is the total settlement package?

- Crown acknowledgement and apology for historical breaches of the Treaty of Waitangi;
- an agreed historical account;
- cultural redress including the vesting and gifting back of five sites of significance to the iwi and hapū of Te Rohe o Te Wairoa and relationship redress with a number of Government departments and local authorities;
- financial and commercial redress comprising a total settlement value of \$100 million (plus interest), which includes the transfer of interests in Patunamu CFL land and Wharerata Forest Limited, the right to purchase certain Crown-owned deferred selection properties and a right of first refusal over certain Crown properties for a period of 174 years.

2. Is there any private land involved?

No

3. Are the public's rights affected?

No

4. Are any place names changed?

Following the change of its conservation status, the name of the Mangaone Caves Scenic Reserve will be changed to the Mangaone Caves Historic Reserve.

5. What are statutory acknowledgements and deeds of recognition?

Statutory acknowledgements acknowledge sites or features 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 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 or the Commissioner of Crown Lands) 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.

6. 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.

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 the iwi and hapū of Te Rohe o Te Wairoa 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 of settlement is signed and settlement legislation is passed it will be a final and comprehensive settlement of all historical (relating to events from 1840 to 21 September 1992) Treaty of Waitangi claims of the iwi and hapū of Te Rohe o Te Wairoa. The settlement legislation, once passed, will prevent the iwi and hapū of Te Rohe o Te Wairoa re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow the iwi and hapū of Te Rohe o Te Wairoa 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.

10. Who benefits from the settlement?

All members of the iwi and hapū of Te Rohe o Te Wairoa wherever they may now live.



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