



Deed of Settlement

DEED OF SETTLEMENT BETWEEN THE CROWN AND NGĀTI TŪWHARETOA

Background

Ngāti Tūwharetoa is the fifth largest iwi in New Zealand and has a population of approximately 35,000 members. The Ngāti Tūwharetoa area of interest is centred on Lake Taupo (Taupomoana) and the central plateau and covers most of the central North Island and Te Arawa regions.

In 2008 Ngāti Tūwharetoa received a share of Crown forest land in the central North Island valued at \$203 million as part of the CNI Forests Iwi Collective settlement. This redress was received on account of their individual comprehensive settlement.

In November 2011, the Crown recognised the mandate of the Tūwharetoa Hapū Forum (THF) to represent Ngāti Tūwharetoa in negotiating a comprehensive historical Treaty settlement.

The Crown signed Terms of Negotiation with THF on 14 January 2013. On 6 March 2015, the Crown and THF signed an Agreement in Principle which formed the basis for this settlement.

On 15 December 2016, THF and the Crown initialled a Deed of Settlement (the Deed). The Deed is subject to ratification by the members of Ngāti Tūwharetoa and conditional on the enactment of the 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 Ngāti Tūwharetoa.

Summary of the historical background to the claims by Ngāti Tūwharetoa

Before 1860 Ngāti Tūwharetoa actively opposed Crown purchase negotiations for land in their rohe. Following the invasion of Crown forces in the Waikato in 1863, Ngāti Tūwharetoa was drawn into the fighting because of their whakapapa connections and allegiance to the Kingitanga. The war marked the beginning of widespread disruption to the social, political and economic structures of Ngāti Tūwharetoa life. A number of Ngāti Tūwharetoa people lost their lives in these battles.

In the 1860s, the Crown introduced a series of native land laws which provided for the individualisation of Māori land holdings which had previously been held in tribal tenure. This induced profound change to systems of Māori customary land tenure, and contributed to the alienation of Ngāti Tūwharetoa whenua by undermining tribal control over their land. Crown purchasing of Ngāti Tūwharetoa land also began in the 1860s and became increasingly intensive through the 1870s and 1880s. By 1900, the Crown had acquired more than 430,000 acres of Ngāti Tūwharetoa land. Today, much of this land remains in Crown ownership and forms large portions of the public conservation estate.

In the 1880s, the Crown sought to establish a national park around Tongariro maunga. In 1887, Horonuku Te Heuheu Tukino IV made a tuku of the three volcanic peaks to protect and preserve the mountains for Ngāti Tūwharetoa, other iwi, and all New Zealanders. The Ariki's intention was to enter into a partnership with the Queen; however, legal ownership of the mountain peaks was vested solely in the Crown which began a process whereby Ngāti Tūwharetoa's authority over the taonga in the Tongariro National Park has been greatly reduced.

From the 1890s, trout and other exotic fish were introduced into Lake Taupo and the waterways of Tongariro, which significantly depleted indigenous freshwater fish species and forced Ngāti Tūwharetoa to rely on introduced fish species for food, hospitality, trade, and koha. In 1926, the Crown acquired the beds of Lake Taupo and its tributaries, which it held for 66 years before they were returned to Ngāti Tūwharetoa in 1992.

Throughout the 20th century, the Crown's prolonged imposition of orders against private alienation of lands owned by Ngāti Tūwharetoa locked up much of the iwi's land and resources (particularly indigenous timber), and precluded the iwi from developing these assets.

Since the 1870s, the Crown took Ngāti Tūwharetoa land for a variety of public works, many of which disrupted or uprooted their communities. Many of these public works projects have been of considerable benefit to the people of New Zealand but have polluted, destroyed, or irreparably harmed many of the natural resources within Ngāti Tūwharetoa's rohe; for example, in 1941 the Crown installed control gates on the Waikato River at the outlet from Lake Taupo which flooded Ngāti Tūwharetoa land and destroyed many cultural and geothermal taonga.

Between 1964 and 1984, the Crown constructed a hydroelectric power scheme around the Tongariro maunga, which radically re-engineered the natural waterways of the volcanic plateau and has had wide-ranging and deeply felt impacts upon Ngāti Tūwharetoa. The Crown's use of Lake Rotoaira as a storage reservoir for the scheme resulted in its substantial ecological destruction.

Economic marginalisation, unemployment and underdevelopment have contributed to the extensive outward migration of Ngāti Tūwharetoa peoples as they have left their rohe in search of opportunities elsewhere.

Summary of the settlement between the Crown and Ngāti Tūwharetoa

Overview

The Ngāti Tūwharetoa Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of Ngāti Tūwharetoa 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, Crown acknowledgements and apology
- cultural redress; and
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngāti Tūwharetoa 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 Ngāti Tūwharetoa have breached the Treaty of Waitangi and its principles. These include twenty breach concessions and twenty-five non-breach acknowledgements.

The Deed also includes a Crown apology to Ngāti Tūwharetoa for those Crown acts and omissions that have breached the Treaty of Waitangi and its principles. Some of the grievances most significant to Ngāti Tūwharetoa have been expressly acknowledged, including the impact of the Native Land Court and native land laws upon Ngāti Tūwharetoa, Horonuku Te Heuheu's tuku of the peaks of Tongariro maunga in 1887, and the environmental degradation that occurred to the waterways and landscapes of the central North Island following construction of the Tongariro hydroelectric power generation scheme.

Cultural redress

The Deed includes a cultural redress package intended to recognise the traditional, historical, cultural and spiritual associations of Ngāti Tūwharetoa with places and sites owned by the Crown within their area of interest. This allows Ngāti Tūwharetoa and the Crown to protect and enhance the conservation values associated with these sites.

The Deed recognises the significance of Tongariro National Park to Ngāti Tūwharetoa as a taonga tapu. Ngāti Tūwharetoa will be able to negotiate cultural redress over the Tongariro National Park, along with other iwi and hapū with interests in the Tongariro National Park. These negotiations will begin within one year of the Ngāti Tūwharetoa Deed of Settlement being signed.

SITES TRANSFERRED TO NGĀTI TŪWHARETOA

The Deed provides for the vesting of 32 Crown-owned sites to Ngāti Tūwharetoa. The settlement legislation will vest these sites in the Post Settlement Governance Entity, Te Kotahitanga o Ngāti Tūwharetoa, on settlement date. The following sites will be vested in fee simple:

- Aratiatia Flats 1 and Aratiatia Flats 2
- part of Five Mile Bay Recreation Reserve
- part of Five Mile Bay Recreation Reserve (subject to a building height covenant)
- Karapiti
- Tauhara Mountain Scenic Reserve (subject to a conservation covenant)
- part of the former Tauranga Taupo School site
- part of Wairakei Forest (subject to a conservation covenant)
- land at Loop Road, Wairakei

- land at Karetoto Road, Wairakei
- Tokaanu Market Reserve
- Puanga Street Recreation Reserve
- Tawera Street Gravel Reserve
- part of Taupo Landing Recreation Reserve
- Hautu 3F1 and Grace Road Conservation Area.

The following sites will be vested as historic reserves:

- part of Aratiatia Conservation Area
- part of Motuoapa Scenic Reserve
- Taupo Courthouse Historic Reserve
- part of Tokaanu Thermal Park Recreation Reserve
- Waihi Road Recreation Reserve
- Waihi Road Scenic Reserve.

The following sites will be vested as recreation reserves:

- part of Five Mile Bay Recreation Reserve
- Hatepe Recreation Reserve
- part of Oruatua Conservation Area
- part of Tongariro National Trout Centre (administration by The Tongariro Trout Hatchery and Freshwater Ecology Centre Trust)
- part of Taupo Landing Recreation Reserve (administration by Taupo District Council)
- part of Tokaanu Thermal Park Recreation Reserve
- Waipahihi Stream Conservation Area.

The following sites will be vested as scenic reserves:

- part of Five Mile Bay Recreation Reserve
- Motutere Scenic Reserve
- part of Oruatua Conservation Area and Oruatua Reserve
- Waiotaka Scenic Reserve
- land on the western bank of Huka Falls.

Broadlands Road Geothermal Scenic Reserve will vest as a scientific reserve.

OVERLAY CLASSIFICATION

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Ngāti Tūwharetoa 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 Deed provides two overlay classifications over areas within Pureora Forest Park.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Ngāti Tūwharetoa and a particular site or area and enhances the iwi's ability to participate in specified resource management processes.

The Crown offers a statutory acknowledgement over Lake Otamangakau, Lake Rotokawa, Lake Te Whaiiau, the Rangitāiki River and its tributaries (within the Ngāti Tūwharetoa area of interest), the Waikato River and its tributaries (within the Ngāti Tūwharetoa area of interest), the Waiotaka River and its tributaries, Titiraupenga and Pureora Mountains, and the Horomatangi, Rotokawa, Tokaanu-Waihi-Hipaua and Wairakei-Tauhara geothermal fields.

CHANGES TO PLACE NAMES

Place names recognise iwi associations with geographic areas. Eight place names will be changed in the Deed:

- Bulli Point to Te Poporo/Bulli Point
- Cherry Bay to Kōtukutuku Bay
- Cherry Island (local use name) to Motutāhae
- Hallets Bay (Hamuria) to Pākā Bay
- Kotukutuku Stream to Kōtukutuku Stream
- Mission Bay to Ōtaiātoa Bay
- Rat Island (local use name) to Whakamourore, and
- unnamed site to Te Mako Headland
- Mission Bay Recreation Reserve to Ōtaiātoa Bay Recreation Reserve.

TE KŌPUA KĀNAPANAPA

The Deed provides for the establishment of a statutory board, Te Kōpua Kānapanapa, to restore, protect and enhance the environmental, cultural and spiritual wellbeing of the Taupo catchment, to provide strategic leadership on the sustainable and integrated management of the environment in the Taupo catchment and to provide a mechanism for Ngāti Tūwharetoa to exercise mana and kaitiakitanga over the Taupo catchment in partnership with local authorities.

Te Kōpua Kānapanapa will consist of eight members: four members appointed by Te Kotahitanga o Ngāti Tūwharetoa (the Ngāti Tūwharetoa governance entity), two members appointed by the Waikato Regional Council and two members appointed by the Taupo District Council.

MEMBERSHIP ON THE RANGITĀIKI RIVER FORUM

The Deed provides for the governance entity and the Bay of Plenty Regional Council to appoint one member each on the Rangitāiki River Forum.

NGĀTI TŪWHARETOA CULTURAL FUNDS

The Deed provides for the governance entity to receive on the settlement date:

- \$2,500,000 towards the establishment of a Ngāti Tūwharetoa Whare Taonga
- \$1,000,000 to help restore the mauri of Te Wai Ū o Tūwharetoa spring
- \$250,000 to fund projects to restore traditional mahinga kai, places of harvest and the practice of mātauranga Māori within the Ngāti Tūwharetoa area of interest, and
- \$200,000 cultural and environmental revitalisation fund for cultural redress properties of Aratiatia and Atahaka.

CONSERVATION REDRESS

The Deed provides for the development of a conservation management strategy over sites of significance to Ngāti Tūwharetoa and the ability for the governance entity to nominate a person for appointment by the Minister of Conservation to the Tongariro Taupo Conservation Board in addition to the appointment of Te Ariki (paramount chief) of Ngāti Tūwharetoa to that board.

FISHERIES REDRESS

The Deed provides for the establishment of the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust to be managed by the governance entity, the Minister of Conservation and the Tongariro National Trout

Centre who will each appoint two trustees. Ngāti Tūwharetoa will be allowed to take trout directly from the centre for cultural purposes. This is partly in recognition of the role trout have played in changing the ecosystem of Taupomoana and a reduction in the abundance of traditional fish such as koura.

Relationships

PROTOCOLS AND RELATIONSHIP AGREEMENTS

The settlement will provide for the Minister of Energy and Resources, the Minister for Primary Industries and the Minister for Arts, Culture and Heritage to issue protocols that set out how their respective agencies will interact with and consult the governance entity when carrying out statutory duties and functions.

The governance entity will enter into a partnership agreement (Te Piringa) with the Department of Conservation and relationship agreements with the Ministry for the Environment and the Department of Corrections.

LETTERS OF INTRODUCTION AND LETTER OF COMMITMENT WITH THE MUSEUM OF NEW ZEALAND TE PAPA TONGAREWA

The Minister for Treaty of Waitangi Negotiations will write letters of introduction to the Manawatū District Council, the Rangitikei District Council, the Ruapehu District Council and the Manawatū-Whanganui Regional Council to raise the profile of Ngāti Tūwharetoa with the local authorities and advise of the aspirations of specific Ngāti Tūwharetoa hapū to work more closely with the local authority.

The governance entity and the Museum of New Zealand Te Papa Tongarewa will work together on matters relating to the restoration and protection of Ngāti Tūwharetoa taonga, access to, and protection of, information and taonga relating to Ngāti Tūwharetoa, and the establishment of the Whare Taonga.

Financial and commercial redress

The redress in the Deed recognises the losses suffered by Ngāti Tūwharetoa arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Ngāti Tūwharetoa with resources to assist them to develop their economic and social wellbeing.

Ngāti Tūwharetoa have already received a share of Crown forest land in the central North Island valued at \$203 million as part of the CNI Forests Iwi Collective settlement in 2008.

FINANCIAL REDRESS

Ngāti Tūwharetoa will receive additional financial redress of \$25 million.

COMMERCIAL REDRESS

Ngāti Tūwharetoa will purchase part of Karioi Forest and Taurewa Station on settlement date.

Ngāti Tūwharetoa will also have the opportunity to purchase one Crown-owned property within a deferred selection period of two years after settlement date and one Crown-owned property within a deferred selection period of 6 months after settlement date. Any property will be subject to lease back to the Crown.

Ngāti Tūwharetoa will have an exclusive right of first refusal over Crown-owned properties located within a specified area for 174 years from settlement date and a right of first refusal over certain quota under the Fisheries Act 1996 for a period of 50 years.

Questions and Answers

1. What is the total settlement package?

- Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi
- an agreed historical account
- cultural redress including the vesting of a number of sites of significance to Ngāti Tūwharetoa, co-management arrangements over the Taupo catchment and relationship redress
- financial redress of a total of \$25million, and
- commercial redress.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

No. Nothing will change for the public. Public access, recreational use, reserve status and existing third party rights are maintained. Covenants and easements will guarantee continued public access, with the exception of one part of Five Mile Bay Recreation Reserve and one part of the Taupo Landing Reserve.

4. Are any place names changed?

Yes. A number of existing geographic names will change and one site that does not currently have an official name will be assigned a geographic name. A full list is included in the Deed.

5. What are statutory acknowledgements?

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.

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. Does Ngāti Tūwharetoa 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 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 Ngāti Tūwharetoa. The settlement legislation, once passed, will prevent the iwi relitigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Tūwharetoa 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.

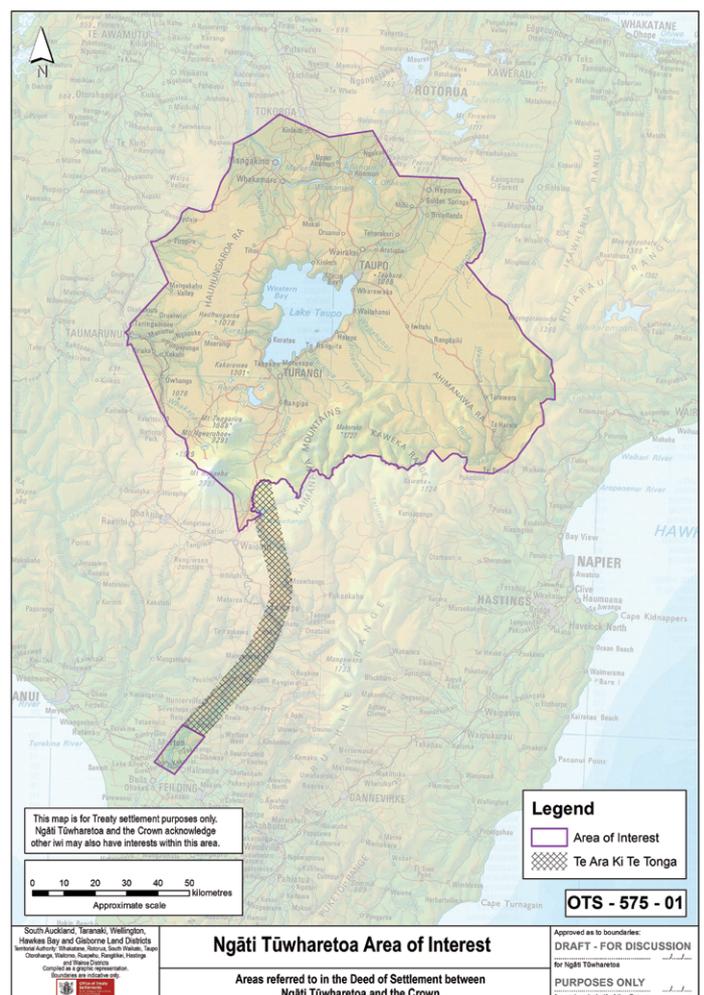
Ngāti Tūwharetoa will also be able to negotiate cultural redress over the Tongariro National Park, along with other iwi and hapū with interests in the Tongariro National Park. These negotiations will begin within one year of the Ngāti Tūwharetoa Deed of Settlement being signed.

10. Who benefits from the settlement?

All members of Ngāti Tūwharetoa wherever they may now live.

11. What about redress over the Tongariro National Park?

The Deed settles all Ngāti Tūwharetoa historical claims over the Tongariro National Park. However, the Deed provides that cultural redress over the Tongariro National Park will be negotiated separately with other iwi and hapū with interests in the Tongariro National Park.



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