



Deed of

Between the Crown and
Te Pumautanga o Te Arawa

Settlement

General Background

Te Pumautanga o Te Arawa (Te Pumautanga) represents around 24,000 people of eleven Te Arawa iwi and hapu (the Affiliate Te Arawa Iwi/Hapu) whose area of interest covers over 500,000 hectares.

In 2003, the Affiliate Te Arawa Iwi/Hapu mandated Nga Kaihau o Te Arawa Executive Council (the Executive Council) to negotiate a settlement of their claims. The Crown recognised the mandate of the Executive Council in April 2004, and negotiations on the settlement package began with the signing of Terms of Negotiation in November 2004.

On 5 September 2005, the Executive Council and the Crown signed an Agreement in Principle. A Deed of Settlement based on this agreement was ratified by members of the Affiliate Te Arawa Iwi/Hapu through a postal ballot and signed at Te Pakira marae on 30 September 2006 (the 2006 Deed). Te Pumautanga is the governance entity ratified by the Affiliate Te Arawa Iwi/Hapu to receive the settlement assets.

Following further negotiations between the Crown and Te Pumautanga, the 2006 Deed was amended to take into account, among other things, the agreement reached between the Crown and the Central North Island Forests Iwi Collective (CNI Collective) regarding licensed Crown forest land in the CNI region. This revised Deed (the 2008 Deed) was re-ratified by the Affiliate Te Arawa Iwi/Hapu members in June 2008 and signed by the Hon Dr Michael Cullen and the Te Pumautanga Trustees on 11 June 2008 at Te Pakira Marae in Rotorua. The Deed of Settlement will be implemented following the passage of settlement legislation.

Te Pumautanga carried out negotiations on behalf of the Affiliate Te Arawa Iwi/Hapu. Te Pumautanga is chaired by Eru George (Ngati Kearoa, Ngati Tuara), and day-to-day negotiations were managed by the Chief Negotiator, Rawiri Te Whare (Ngati Tahu- Ngati Whaoa) and negotiators Henare Colbert (Ngati Ngararanui), Ruka Hughes (Ngati Rongomai), and Brian Bargh (Ngati Kearoa, Ngati Tuara).

The Office of Treaty Settlements, with the support of the Treasury, the Department of Conservation, Land Information New Zealand and other government agencies, represented the Crown in day-to-day negotiations. The Minister in Charge of Treaty of Waitangi Negotiations, Hon Dr Michael Cullen, and his predecessor Hon Mark Burton, represented the Crown in high-level negotiations with Te Pumautanga and the Executive Council.

Summary of the Historical Background to the Claims by the Affiliate Te Arawa Iwi/Hapu

The Affiliate Te Arawa Iwi/Hapu (the Affiliates) traditionally operated as independent entities, coming together when prompted by common interests. The Affiliates engaged with opportunities created by the arrival of Pakeha traders and missionaries in their rohe from the 1830s. By the late 1860s, however, few Pakeha had settled in the area, and the Affiliates still held almost all of their land in customary title.

The Crown introduced the Native Land Court (the Court) into the central North Island in 1867 to convert customary title into title derived from the Crown. Some Affiliates engaged with the Court to gain secure titles to assist leasing of land and secure their lands against claims from other groups. Others objected to the Court. The Government received complaints about the cost of hearings, survey charges and applications initiated without the consent of other owners.

From 1873 the Crown focused on the purchase of Maori land to facilitate Pakeha settlement in the central North Island. The Crown was aware some Maori resisted the sale of land and initially proposed to lease land. In most cases it opened negotiations before the Court had determined owners. The Crown tried to secure land by making preliminary agreements with, and paying deposits to, sections of "recognised owners". In some cases this bound the recipients into negotiations before the purchase price had been agreed. The Crown generally did not pay rent on land it negotiated to lease until title had been determined. By August 1874 the Crown had opened, but not completed, lease negotiations for almost 650,000 acres and purchase negotiations for almost 400,000 acres of land within the Affiliates' area. Between 1873 and 1877 the Crown suspended the operation of the Court over much of the land in which the Affiliates had interests, which delayed the finalisation of most negotiations.

The Crown's attempts to lease or purchase land brought a variety of responses from Affiliates. Some entered negotiations because they wanted to derive an income from their land. Others expressed unhappiness at the Crown's approach and opposed negotiations. Some sought to maintain tribal control over land through tribal komiti (committees).

In the 1880s the Court adjudicated over much land in the Affiliates' area, including many of the blocks the Crown had brought under negotiation in the 1870s. Land was generally awarded in individual interests and the Crown could partition out the interests it had purchased from owners without gaining the agreement of other owners of the land. Attending Court hearings, sometimes considerable distances from their kainga (homes), was costly for the Affiliates.

For most of the 1870s-1890s the Crown protected its negotiations from interference by using legislative provisions and proclamations to prevent private parties from negotiating for land over which it was negotiating. The Crown provided few reserves in lands purchased from Affiliates in the 1870s-1890s. The combined effect of actions such as the use of payments for land before title was determined, aggressive purchase techniques employed on occasion by the Crown and the use and implementation of monopoly powers over dealings in land meant that the Crown failed to actively protect the interests of the Affiliates in the land they wished to retain.

By the late 1920s many Maori owned small, fragmented and uneconomic interests in a number of blocks throughout their rohe as a result of individualisation and partition of land interests. The Crown attempted to resolve this by introducing consolidation schemes and providing funds for development schemes to utilise land. Landowners' rights were significantly affected while their land was tied up in development schemes. Affiliates placed land into over 25 development schemes between 1929 and the mid-1980s. By the early 1990s most scheme lands in the Rotorua area had been released from Crown control. Some schemes were successful while others struggled to fulfil expectations.

The Crown acquired Affiliate land through public works and scenery preservation legislation. In the nineteenth century land was compulsorily acquired for public works purposes including roading and railway. In the twentieth century land was taken for internal communications, electricity generation, scenic reserves, forest plantation and an aerodrome. Compensation was generally paid for the taking of lands; however, some Affiliate lands were used for roading purposes without compensation. Over time, through purchases and public works takings, the Affiliates lost ownership of some important geothermal lands and wahi tapu.

Settlement

Summary of the Affiliate Te Arawa Iwi/Hapu Settlement

Overview

The Affiliate Te Arawa Iwi/Hapu Deed of Settlement is the final settlement of all historical claims of the iwi and hapu represented by Te Pumautanga o Te Arawa 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 the Affiliate Te Arawa Iwi/Hapu;
- cultural redress; and
- financial and commercial redress.

No private land is involved in the redress, only Crown assets.

The benefits of the settlement will be available to all members of the Affiliate Te Arawa Iwi/Hapu, wherever they live.

Crown Apology

The Crown apologises to the Affiliate Te Arawa Iwi/Hapu for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These were the failure to adequately protect tribal structures following the impact of the native land laws, the failure to actively protect the interests of Affiliate Te Arawa Iwi/Hapu when purchasing land and the failure to ensure that some Affiliate Te Arawa Iwi/Hapu were left with sufficient land for their present and future needs.

Cultural redress

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

1(A) SITES TRANSFERRED TO AFFILIATE TE ARAWA IWI/HAPU

The 2006 Deed provided for 19 areas of Crown-owned land of special significance to the Affiliate Te Arawa Iwi/Hapu to be returned.

These sites include:

- Rangitoto Site Pa
- Punaromia Site
- Moerangi Site
- Site on Horohoro Bluff
- Sites on Paeroa Range
- Site adjacent to Orakei Korako
- Lake Rotokawa Site
- Site adjacent to Lake Rotomahana
- Roto-a-Tamaheke Reserve
- Beds of Lakes Rotongata and Rotoatua
- Okataina Outdoor Education Centre
- Pateko Island
- Te Koutu
- Te Wairoa
- Kakapiko

The Whakarewarewa Thermal Springs Reserve, Wai-o-Tapu Site, and Okataina Lodge Site will be transferred subject to the existing leases.

An undivided half share of the 45 hectare Te Ariki site will be transferred to the Affiliate Te Arawa Iwi/Hapu, and the Crown will hold on trust the remaining undivided half share for potential use in a future Treaty settlement with other iwi with interests in the Te Ariki site.

These sites total approximately 675 hectares. In many cases, the settlement legislation will protect the sites' natural values. Public access to sites with high public use will be preserved, as will existing third party rights.

In recognition of the willingness of the Affiliate Te Arawa Iwi/Hapu to accommodate the changes to the 2006 Deed (in particular removing the redress over licensed Crown forest land), the 2008 Deed includes further cultural redress including:

- a. Gifting of the land of five Rotorua school sites, with leaseback arrangements to the Crown;
- b. Gifting of the Ngatamariki geothermal assets (including four wells), based on a value of \$5 million and no right of on-sale for five years; and
- c. Forgiveness of the current Whakarewarewa Village debt of \$295,000.

1(B) OVERLAY CLASSIFICATION OR WHENUA RAHUI

The Whenua Rahui or overlay classification (known as a topuni in some other settlements) acknowledges the traditional, cultural, spiritual and historical association of the Affiliate Te Arawa Iwi/Hapu with certain sites of significance administered by the Department of Conservation.

Whenua Rahui status requires the Minister of Conservation and Affiliate Te Arawa Iwi/Hapu to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing values of the Affiliate Te Arawa Iwi/Hapu 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 Affiliate Te Arawa Iwi/Hapu.

There will be Whenua Rahui over four sites: Rainbow Mountain Scenic Reserve – Maunga Kakaramea; part of the Lake Tarawera Scenic Reserve; part of the Mount Ngongotaha Scenic Reserve; and Matawhaura (part of the Lake Rotoiti Scenic Reserve).

1(C) STATUTORY ACKNOWLEDGEMENTS

These register the special association the Affiliate Te Arawa Iwi/Hapu have with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and the Historic Places Act 1993. The acknowledgements require that consent authorities provide the Affiliate Te Arawa Iwi/Hapu with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

There will be Statutory Acknowledgements relating to three sites (the Matahaua Ecological Area, Otari Pa and parts of the Whakarewarewa Forest known as the Lake Rotokakahi/Lake Tikitapu Covenant Areas), four waterways (parts of the Kaituna and Tarawera Rivers and the Waiteti and Ngongotaha Streams) and the Rotorua Region Geothermal System.

In addition to the Statutory Acknowledgement over part of the Waikato River (Atiamuri Dam to Huka Falls), the 2008 Deed includes provisions for Te Pumautanga's future involvement in the co-management of the upper reaches of the River, and in particular over that stretch of the River within the rohe of Ngati Tahu-Ngati Whaoa.

1(D) DEED OF RECOGNITION

This obliges the Crown to consult with the Affiliate Te Arawa Iwi/Hapu and have regard to their views regarding the special association the Affiliate Te Arawa Iwi/Hapu have with the Matahāna Ecological Area. This also specifies the nature of the input of the Affiliate Te Arawa Iwi/Hapu into management of the area by the Department of Conservation and/or the Commissioner of Crown Lands.

1(E) PLACE NAMES

One place name will be altered and one assigned. Whakapoungakau will be renamed Rangitoto Peak and the name Whakapoungakau Range will be assigned to a previously unnamed range.

2. Recognition of the traditional, historical, cultural and spiritual association of the Affiliate Te Arawa Iwi/Hapu with places and sites owned by the Rotorua District Council in their area of interest:

2(A) SPECIAL CLASSIFICATION

This applies to significant sites administered by the Rotorua District Council (RDC) and recognises the values of the Affiliate Te Arawa Iwi/Hapu and the Rotorua community with these sites. Special classifications set out the protection principles for the RDC to balance in the management of these sites.

There will be special classifications over the following four sites

- Recreation Reserve at Hannah's Bay (including Otairua Swamp)
- Esplanade Land and Karamuramu Baths Land;
- Recreation Reserve adjacent to Waiteti Stream (including Te Kahupapa and Te Hinahina); and
- Recreation Reserve adjacent to Lake Okareka (known as Boyes Beach).

2(B) FUTURE VESTING

The settlement will provide for the future vesting of the Karamuramu Baths (approximately 0.4 hectares), currently administered by the RDC at the time the lease to the Rotorua Regional Airport Limited expires, or earlier if agreed.

In addition, the settlement will provide for the future vesting of two sites on Crown land, these sites being Matawhaura (part of the Lake Rototiti Scenic Reserve) and Otari Pa (totalling approximately 35 hectares) into an Entity including representatives from Ngati Pikiao and Ngati Makino. Until then, a Whenua Rahui and Statutory Acknowledgement will apply to Matawhaura and Otari Pa respectively.

3. Relationships

3(A) PROTOCOLS AND RELATIONSHIP AGREEMENT

Protocols will be issued by the Ministers of Conservation, Culture and Heritage and Fisheries, to encourage good working relationships on matters of cultural importance to the Affiliate Te Arawa Iwi/Hapu. Annual meetings will be set up with the Ministry for the Environment to discuss the performance of local government on resource management issues.

Financial and commercial redress

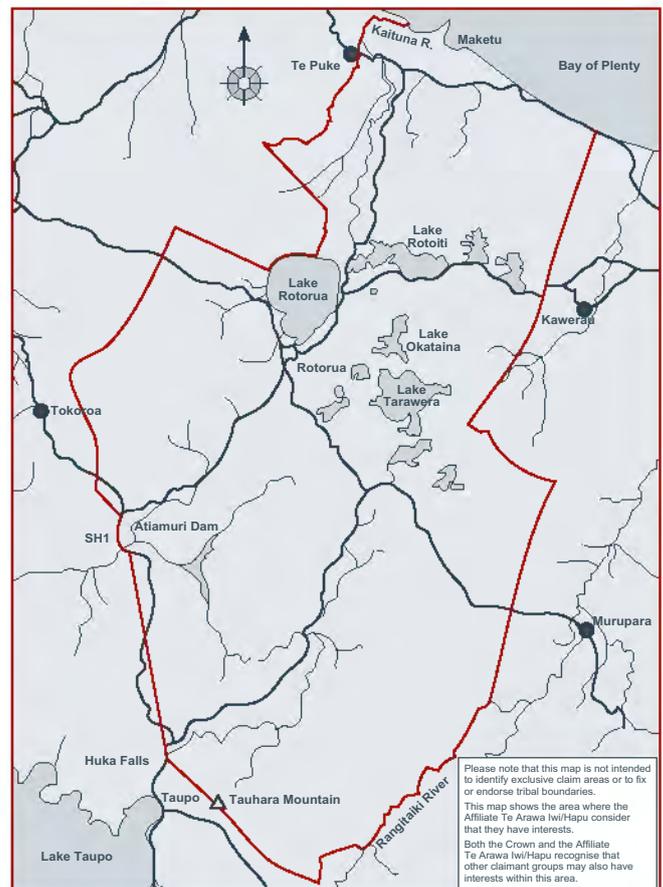
4. This redress recognises the economic loss suffered by Affiliate Te Arawa Iwi/Hapu arising from breaches by the Crown of its Treaty obligations. It is aimed at providing Affiliate Te Arawa Iwi/Hapu with resources to assist them to develop their economic and social well-being. It includes:

4(A) FINANCIAL REDRESS

A Central North Island Iwi Collective Deed of Settlement will replace the licensed Crown forest land redress negotiated in the 2006 Deed, which concerned licensed Crown forest land to the value of \$36 million, together with the accumulated Crown Forest Licence rentals associated with this land, and the opportunity to purchase further licensed Crown forest land.

Under the 2008 Deed, the Crown has recognised the financial contribution that Te Pumautanga has made to enable the transfer of the Central North Island licensed Crown forest lands to the CNI Collective (through a Trust Holding Company). The recognised value of Te Pumautanga's contribution, and additional financial redress to enable the purchase of 18% of the Rotoehu Licensed Crown Forest land, totals approximately \$38.6 million. Should the final valuations of the licensed Crown forest lands in the Central North Island Collective Settlement cause the total value of the package to reduce, the Crown has committed to compensate Te Pumautanga proportionately for the difference.

The Central North Island settlement also provides for Te Pumautanga to receive a proportionate share of the accumulated Crown forest licence rentals associated with the CNI Crown forest land and future rental income from that land.



Affiliate Te Arawa Iwi/Hapu Area of Interest

Q&A

Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown equates to a share of the licensed Crown forest lands of the CNI Collective settlement to be received by the Affiliates, the quantum to enable the purchase of 18% of the Rotoehu forest, and the value of the cultural redress transferred to Te Pumautanga as part of the package.

2. Why has the Deed of Settlement signed in 2006 been amended?

Following the signing of the Affiliate Te Arawa Iwi/Hapu Deed of Settlement in 2006, the Waitangi Tribunal recommended that the Affiliate Te Arawa Iwi and Hapu settlement legislation be deferred to allow a forum of Central North Island iwi time to consider a collective approach to settling forestry claims in this region.

The Central North Island Forests Iwi Collective approached the Crown in September 2007 with a firm proposal for a process to explore a collective settlement of their historical claims over the licensed Crown forest lands.

In order to give the CNI Collective time to develop this proposal, the Crown and Te Pumautanga o Te Arawa (the governance entity representing the Affiliate Te Arawa Iwi/Hapu) agreed to defer the introduction of settlement legislation, with a commitment from the Crown that the value of the Affiliate Te Arawa Iwi/Hapu settlement would be protected.

Following an intensive phase of discussions, on 4 April 2008 the CNI Collective, with the support of Te Pumautanga, presented a settlement proposal to the Crown, which the Crown accepted on 28 April 2008, conditional on confirmation of broad support for the proposal. The proposal replaces the commercial forestry redress included in the Affiliate Te Arawa Iwi/Hapu 2006 settlement, and instead the Affiliate Te Arawa Iwi/Hapu will have a share in the CNI Collective's forestry assets.

The settlement negotiated between the Crown and the Affiliate Te Arawa Iwi/Hapu in 2006 needed to be amended to reflect this change.

3. Which Iwi and Hapu are represented by Te Pumautanga o Te Arawa?

Te Arawa Iwi and Hapu represented by Te Pumautanga o Te Arawa are:

- Ngati Ngararanui (including Ngati Tamahika and Ngati Tuteaiti);
- Ngati Kearoa Ngati Tuara;
- Ngati Tura-Ngati Te Ngakau;
- Ngati Te Roro o Te Rangī;
- Ngati Tuteniu;
- Ngati Uenukukopako;
- Tuhourangi Ngati Wahiao;
- Ngati Tahu-Ngati Whaoa;
- Ngati Pikiāo (excluding Ngati Makino);
- Ngati Rongomai; and
- Ngati Tarawhai.

Other Te Arawa groups have chosen to pursue their claims separately.

4. Has the value of the Affiliate Te Arawa Iwi/Hapu settlement diminished?

No. The total redress for the settlement of all of the Affiliate Te Arawa Iwi/Hapu's historical claims will be made up of both the redress included in the Deed of Settlement signed on 11 June 2008, and any assets they will receive through the CNI Collective settlement.

5. Is there any private land involved?

No.

6. Are the public's rights affected?

Generally, no. However, three sites totalling approximately 12 hectares, which include burial sites and ancient rock art (Pateko Island on Lake Rotoiti, Te Koutu Pa at Lake Okataina and a site at Punaromia by Lake Tarawera), will be returned to the Affiliate Te Arawa Iwi/Hapu with no provision for public access. Public access to the Lake Rotoiti Scenic Reserve and the remainder of the Lake Okataina and Lake Tarawera Scenic Reserves will be unaffected. The transfer of the Punaromia site will create a marginal strip to allow continued public access along the lake front of Lake Tarawera.

7. Are any place names changed?

One name will be altered, and one name will be assigned.

8. Does the settlement create any special rights for the Affiliate Te Arawa Iwi/Hapu?

No new rights are being created. Provisions in relation to conservation, such as Statutory Acknowledgements give practical effect to existing provisions of both the Resource Management Act and the Conservation Act that provide for Maori participation in conservation and planning matters.

9. Do the Affiliate Te Arawa Iwi/Hapu have the right to make further claims about the historical behaviour of the Crown?

No. Both parties agree that the Deed of Settlement is fair in the circumstances and will be a final settlement for all the historical or pre-1992 claims of the Affiliate Te Arawa Iwi/Hapu. The settlement legislation, once passed, will prevent the Affiliate Te Arawa Iwi/Hapu from re-litigating their historical claims before the Waitangi Tribunal or the courts.

The settlement package will not affect the ability of iwi and hapu of Te Arawa who are not affiliated to Te Pumautanga to pursue their remaining historical claims. Some have already been settled through other negotiations, such as the Te Arawa Lakes Settlement 2004, the Ngati Rangiteaorere Agreement 1993 and the Ngati Whakaue Agreement 1994.

The settlement will still allow the Affiliate Te Arawa Iwi/Hapu or members of the Affiliate Te Arawa Iwi/Hapu 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. 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 Affiliate Te Arawa Iwi/Hapu, wherever they may now live.

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