



# Deed of Settlement

BETWEEN THE CROWN AND NGĀI TE RANGI AND NGĀ PŌTIKI

## Ngāi Te Rangi and Ngā Pōtiki - Settlement summary

On 25 October 2013 the Crown, Ngāi Te Rangi and Ngā Pōtiki initialled a Deed of Settlement.

The Deed of Settlement was signed on 14 December 2013.

Deeds to amend were signed on 6 October 2014 and 13 April 2016.

## General background

Ngāi Te Rangi is a Tauranga Moana iwi with a population of approximately 12,200 people (2006 census).

Ngāi Te Rangi's claims are based on both raupatu and post-raupatu actions and omissions of the Crown. The Waitangi Tribunal reported on the claims of Ngāi Te Rangi and Ngā Pōtiki in the following reports: Tauranga Moana, 1886–2006: Report on the Post-Raupatu Claims; Te Raupatu o Tauranga Moana: Report on the Tauranga Confiscation Claims; and Te Maunga Railways Land Report.

The mandate of Te Rūnanga o Ngāi Te Rangi Iwi Trust (Te Rūnanga) to negotiate the settlement of Ngāi Te Rangi's historical Treaty claims was conditionally recognised in October 2008. The condition was that Ngā Pōtiki (one of Ngāi Te Rangi's ten hapū) be given the opportunity to participate in the negotiations. Indications are that Ngā Pōtiki's population is somewhere between 1,000–1,200 people.

In May 2011 the Crown recognised the mandate of the Ngā Pōtiki a Tamapahore Trust (The Trust) to represent the Ngā Pōtiki claimant community in negotiations of their Historical Treaty claims as part of the Ngāi Te Rangi negotiations with Te Rūnanga.

Throughout negotiations Te Rūnanga and the Trust agreed a single negotiations table would be used to negotiate a single Ngāi Te Rangi settlement that includes Ngā Pōtiki. Te Rūnanga negotiated generic matters and the specific and exclusive matters for the hapū it represents. The Trust will negotiate Ngā Pōtiki specific and exclusive matters. All important decisions were made by consensus.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand, the Ministry of Education 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 Ngāi Te Rangi.

## Summary of the historical background to the claims by Ngāi Te Rangi

During the 1840s and 1850s, the Crown had a limited presence in Tauranga. Ngāi Te Rangi continued to operate under their traditional tikanga and authority.

In 1858 the Kīngitanga was founded to create a Māori political authority that could engage with the Crown. Many Ngāi Te Rangi hapū and individuals supported the Kīngitanga. During the early stages of the Waikato war, Ngāi Te Rangi supplied food, weapons, ammunition and men to their Waikato allies. In January 1864 the Crown sent troops to Tauranga to disrupt this, and in April Ngāi Te Rangi defeated the Crown at the battle of Pukehinahina (Gate Pā). In June Crown troops defeated Māori forces at Te Ranga.

Between 1865 and 1868 the Crown established a confiscation district in Tauranga covering 290,000 acres to punish Māori who had opposed the Crown. Governor Grey undertook to return three-quarters of the district and retain one-quarter of the lands of rebels. Ngāi Te Rangi rangatira understood that only those considered to be in rebellion would lose a quarter of their lands. The Crown instead retained a 50,000 acre block between the Waimapu and Wairoa Rivers. This included key Ngāi Te Rangi settlements on the Te Papa and Otumoetai peninsulas and other Ngāi Te Rangi settlements and resource-gathering sites in the ranges. The remaining lands in the confiscation district in which Ngāi Te Rangi held interests were returned by the Crown to individuals rather than hapū. This was a slow process which was not completed until the mid-1880s.

In 1865 prominent Ngāi Te Rangi rangatira Hori Tupaea became associated with Pai Marire activities and was detained without being charged with any offence. He was released on parole on condition that he declare his allegiance to the Crown and live at a place of the Governor's choosing, affecting Ngāi Te Rangi leadership at a crucial time.

Between 1864 and 1866 the Crown purchased 90,000 acres of land at Te Puna-Katikatiki. The purchase was arranged with nine Ngāi Te Rangi chiefs despite the opposition of other Ngāi Te Rangi rangatira. The Crown also purchased the Te Papa Peninsula from the Church Missionary Society (CMS), despite the CMS insisting that it held the land for the benefit of Ngāi Te Rangi and other Māori. Today Te Papa is the site of Tauranga's central business district.

The individualisation of title made Ngāi Te Rangi lands more susceptible to alienation. Crown purchasing activity, in particular during times of economic hardship in the 1880s and 1890s, led to the loss of lands at one of Ngāi Te Rangi's most significant sites, Mauao, as well as land at Otawa and on the offshore islands Moturiki, Motuotau and Karewa.

During the twentieth century, infrastructure projects underpinning the development of Tauranga were constructed on land compulsorily acquired from Ngāi Te Rangi. These projects included the airport and port, Tauranga-Mount Maunganui power transmission line, water and harbour works, and Tauranga Te Maunga motorway. Some of these projects have resulted in the environmental degradation of Tauranga Moana and a reduction in biodiversity and food resources. Ngāi Te Rangi consider that the use of the Public Works Act had the same result as confiscation.

Ngāi Te Rangi lost control over further lands through Crown policies including land development schemes and the compulsory acquisition of uneconomic shares.

The Crown's actions and omissions have meant that today Ngāi Te Rangi is virtually landless, retaining only approximately 2 percent of their rohe, and that their cultural landscapes and seascapes have been compromised and diminished.

## Summary of the historical background to the claims by Ngā Pōtiki

In January 1864, the Crown deployed troops to Tauranga to stem the flow of Māori forces to the Waikato conflict. The Crown considered many Tauranga Māori to have been in 'rebellion' during 1863 and 1864, and between 1865 and 1868 established a confiscation district in Tauranga covering 290,000 acres to punish Māori who had opposed the Crown. The land in the confiscation district in which Ngā Pōtiki held interests was subsequently returned, but this land was returned under Crown grants to individual owners and was a slow process which was not completed until the mid-1880s.

Ngā Pōtiki were awarded lands at Mangatawa and Pāpāmoa. By 1893 the Crown had acquired well over half the Pāpāmoa block, including most of the coastline in the block, using aggressive purchasing tactics. This restricted Ngā Pōtiki access to their important coastal resources and sites of significance such as coastal urupā. From 1896 the remaining 6,000 acres of Pāpāmoa and Mangatawa were subject to a long and complex process of subdivision and alienation. Residential development along the Pāpāmoa coastal plain over the latter part of the twentieth century has been at the expense of Ngā Pōtiki heritage and archaeology.

Since 1886, 421 acres of Ngā Pōtiki lands have been acquired for public works purposes. These include Mangatawa, a maunga tapu of great importance to Ngā Pōtiki and noted as the burial place of Tamapahore, the founding tūpuna of Ngā Pōtiki. In 1946 the Crown compulsorily acquired 5 acres of Mangatawa for a quarry. Quarrying destroyed the once formidable Mangatawa hill-top pā, with its kainga and cultivation terraces, and burial caves, and uncovered numerous koiwi.

In 1967 the Crown took 32 acres of the Pāpāmoa block adjacent to Te Tahuna o Rangataua (Rangataua estuary), where some Ngā Pōtiki were living, for the purposes of rubbish disposal. In 1975, despite vociferous opposition by Ngā Pōtiki, the Mount Maunganui Borough Reclamation and Empowering Act brought into operation a plan for reclamation work on the Rangataua tidal flats, and the construction of sewerage ponds and an outfall joining the ponds to the ocean. The ponds and adjacent rubbish dump make food gathering and other activities in Te Tahuna o Rangataua undesirable, effectively dislocating Ngā Pōtiki from the area.

Between 1976 and 1978 the Mount Maunganui Borough Council created easements through Ngā Pōtiki lands in the Mangatawa and Pāpāmoa blocks, including through the Waitahanui urupā, for the laying of a pipe to discharge wastewater from the sewerage ponds into the Pacific Ocean. The passage of sewerage through this extremely tapu place is repugnant to Ngā Pōtiki.

From 1962, with the agreement of the Māori owner, the Post Office used the summit of Kopukairoa (also referred to as Kopukairua) as the site of a VHF transmitter. In 1971 the Crown formally took Kopukairoa summit through public works legislation. Ngā Pōtiki regard Kopukairoa as a maunga of immense cultural importance, and its loss remains a source of significant grievance.

Ngā Pōtiki consider that the amount of land taken for public works does not convey the full extent of the loss to them. Public works takings have had enduring negative impacts on Ngā Pōtiki's lands, resources, mana, cultural integrity and identity.

The land which Ngā Pōtiki retained proved insufficient for Ngā Pōtiki's needs during the twentieth century. By the end of the century Ngā Pōtiki were left with just over 2,600 acres of land in Māori freehold title. The small amount of land that Ngā Pōtiki retains is largely cut off from the ocean, and this has impacted negatively on the identity of Ngā Pōtiki.

## Summary of the Ngāi Te Rangī and Ngā Pōtiki settlement

### Overview

The Deed of Settlement with Ngāi Te Rangī and Ngā Pōtiki will be the final settlement of all historical claims of Ngāi Te Rangī and Ngā Pōtiki 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 Ngāi Te Rangī and Ngā Pōtiki;
- cultural redress; and
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngāi Te Rangī and Ngā Pōtiki, wherever they live.

### Crown acknowledgements and apology

The Deed of Settlement contains a series of acknowledgements from the Crown of the breaches of the Treaty of Waitangi it committed in its dealings with Ngāi Te Rangī and Ngā Pōtiki.

The Deed of Settlement also contains an apology from the Crown to Ngāi Te Rangī and Ngā Pōtiki for those acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. These include: the war in Tauranga and resulting loss of life; the confiscation of the 50,000 acre block at Tauranga; the return of lands in the Tauranga Confiscation District in the form of individualised title; the failure to protect iwi interests when the Crown purchased the Te Puna and Katikati blocks in 1864; the impact of the native land laws on tribal structures; the use of aggressive tactics during Crown purchases in the 1880s and 1890s; the failure to ensure sufficient lands were retained for future needs; the compulsory acquisition of uneconomic interests between 1953 and 1974; and the failure to protect the interests of owners, to adequately notify and provide compensation to all owners, and knowingly taking more land than required, in public works takings.

### Cultural redress

Cultural redress includes a cultural fund of \$1,931,663 for Ngāi Te Rangī and \$150,000 for Ngā Pōtiki. Cultural redress provides recognition of the traditional, historical, cultural and spiritual associations of Ngāi Te Rangī and Ngā Pōtiki with places and sites owned by the Crown within their primary area of interest. This allows Ngāi Te Rangī, Ngā Pōtiki and the Crown to protect and enhance the conservation values associated with these sites. A total of seven properties will be vested in Ngāi Te Rangī totalling approximately 226 hectares. Four of these are exclusive to Ngāi Te Rangī:

- Motuotau Island Scenic Reserve (2.5040 ha) as a Scenic Reserve
- Karewa Island Local Purpose [Wildlife] Reserve (3.5713 ha) as a Local Purpose [Wildlife] Reserve with an ongoing management right for the Department of Conservation
- Part of Otawa Scenic Reserve at Otara Maunga (10 ha) as a Scenic Reserve
- Waitao Stream marginal strip (5.5 ha) as a Scenic Reserve

Two of these, Ngā pae maunga, are shared between Ngāi Te Rangī and five other iwi as properties jointly vested in fee simple to be administered as reserves:

- Puwhenua Scenic Reserve (67.5ha)
- Otānewainuku Scenic Reserve(119.5ha)

The other cultural redress property Kauri Point (17.4) is shared between Ngāi Te Rangī and Ngāti Tamaterā as a property jointly vested in fee simple to be administered as a reserve.

#### **Statutory acknowledgements**

A statutory acknowledgement recognises the association between Ngāi Te Rangī and Ngā Pōtiki and a particular site and enhances the ability of Ngāi Te Rangī and Ngā Pōtiki to participate in specified resource management processes. The settlement provides statutory acknowledgements over areas and watercourses of significance to Ngāi Te Rangī and Ngā Pōtiki.

#### **GENERAL STATUTORY ACKNOWLEDGEMENT**

- Aongatete

#### **RIVER AND STREAM STATUTORY ACKNOWLEDGEMENTS**

- Waiau River
- Uretara Stream
- Waitao Stream
- Kaiate Stream/Te Rere a Kawau

#### **COASTAL STATUTORY ACKNOWLEDGEMENT**

- Waiorooro ki Maketu

#### **Relationship redress**

The Deed of Settlement provides for a relationship with Housing New Zealand as well as provisions for the Minister for Treaty of Waitangi Negotiations to write letters introducing members of the Ngāi Te Rangī and Ngā Pōtiki governance entity to government agencies, local authorities, educational providers and state-owned enterprises.

#### **Official geographic names**

The Deed of Settlement also provides for changes to 12 official geographic names.

## **Financial and commercial redress**

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

#### **Financial redress**

Ngāi Te Rangī will receive a financial settlement of \$26.5 million and Ngā Pōtiki will receive \$3 million. Both claimant groups will also receive accumulated interest on these sums.

#### **Commercial redress**

Ngāi Te Rangī will receive the opportunity to purchase 15 Office of Treaty Settlements Land Bank properties. Ngā Pōtiki will be able to purchase five. Ngāi Te Rangī will also receive the right to purchase six school sites (land only) owned by the Crown and administered by the Ministry of Education and the Tauranga Courthouse site (land only) as leaseback deferred selection properties. Ngā Pōtiki will receive the right to purchase one Office of Treaty Settlements Land Bank property as a non-leaseback deferred selection property. Right of First Refusal over Crown owned properties for 174 years from the settlement date will also be provided, over properties for Ngāi Te Rangī and properties for Ngā Pōtiki.

## **Tauranga Moana Iwi Collective**

Tauranga Moana iwi – Ngā Hapū o Ngāti Ranginui, Ngāi Te Rangī and Ngāti Pūkenga – have formed the Tauranga Moana Iwi Collective to negotiate collective redress in relation to their shared areas and interests. Collective redress will form part of the settlements for each of the three iwi.

## Questions and answers

### 1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the Ngāi Te Rangi and Ngā Pōtiki Deed of Settlement is just under \$31.6 million including interest.

### 2. Is 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. Are any place names being changed?

No.

### 5. 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.

### 6. Does Ngāi Te Rangi and Ngā Pōtiki 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 (relating to events before 21 September 1992) Treaty of Waitangi claims of Ngāi Te Rangi and Ngā Pōtiki. The settlement legislation, once passed, will prevent Ngāi Te Rangi and Ngā Pōtiki from relitigating the claim before the Waitangi Tribunal or the courts.

The settlement package will still allow Ngāi Te Rangi and Ngā Pōtiki 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.

### 7. Who benefits from the settlement?

All members of Ngāi Te Rangi and Ngā Pōtiki, wherever they may now live.



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