



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI KAHUNGUNU KI WAIRARAPA TĀMAKI NUI A RUA

General background

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua has a population of approximately 12,000 according to census figures and consists of 2 of the 6 taiwhenua (regions) that make up the Ngāti Kahungunu iwi: Ngāti Kahungunu ki Wairarapa and Ngāti Kahungunu ki Tāmaki nui-a-Rua.

In November 2012, the Crown recognised the mandate of the Ngāti Kahungunu ki Wairarapa Tāmaki Nui ā Rua Trust (the Trust) to represent Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua in negotiating a comprehensive historical Treaty settlement. The Crown signed Terms of Negotiation with the Trust in June 2013.

On 7 May 2016, the Crown and the Trust signed an Agreement in Principle which formed the basis for this settlement.

In November 2016, the members of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua ratified the post-settlement governance entity, the Ngāti Kahungunu ki Wairarapa Tāmaki nui-ā-Rua Settlement Trust (the Settlement Trust) and agreed to transfer the mandate to the Settlement Trust to continue with negotiations. In December 2016, Ministers approved the ratification results for the Settlement Trust and the trust was formally established in March 2017.

On 22 March 2018, the Settlement Trust and the Crown initialled a Deed of Settlement (the Deed). The Deed was ratified by the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua claimant community in November 2018 and is conditional on the enactment of settlement legislation.

The Office for Māori Crown Relations - Te Arawhiti, 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 Andrew Little (and his predecessor Hon Christopher Finlayson) represented the Crown in high-level negotiations with Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua.

Summary of the historical background to the claims by Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua did not sign the Treaty of Waitangi. Nevertheless, the Crown's undertakings to Māori in the Treaty apply to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua. From the 1840s Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua welcomed settlers to Wairarapa and Tāmaki nui-ā-Rua and enjoyed wealth and benefits from rents and trade.

In 1845, during the Crown's first encounter with Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua, the Crown prejudged their guilt in a dispute with settlers and forced Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua to cede tens of thousands of acres at Maungaroa with threats of armed violence.

During the late 1840s and early 1850s, the Crown threatened to end Pākehā settlement in Wairarapa and Tāmaki nui-a-Rua unless Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua sold their land to the Crown and gave up the pastoral leases, which were providing Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua with income and trade benefits while retaining ownership of the land.

In June 1853, the "Chiefs and people of Ngatikahungunu" signed the Castlepoint deed, their first land sale to the Crown. In August, Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua met Governor George Grey for a Komiti Nui (large meeting) to hear of his plans for future land sales. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua were led to expect substantial educational, health, and economic benefits from settlement as the real payment for land sales. The Crown agreed to use some of the profits it made from on-selling certain lands to provide a koha fund to be managed "in Committee" with Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua to supplement some of these benefits.

Immediately following the Komiti Nui, the Crown purchased approximately 1.5 million acres, well over half of the traditional rohe of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua. The Crown did not fulfil its obligations regarding the koha fund and Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua received few of the benefits they had been led to expect.

During early Crown purchasing the Crown agreed to set aside approximately 63,000 acres across 100 reserves for Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua but not all of these reserves were made. By 1900 only 44,000 acres remained across 65 reserves. Today, 80 percent of the land remaining to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua, almost 18,000 acres, is in the Mataikona reserve from the Castlepoint purchase.

From 1866 the Native Land Court operated in Wairarapa and Tāmaki nui-a-Rua determining the ownership of Māori land and converting customary title into title derived from the Crown, a process that imposed heavy costs on Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua owners. Until 1873 legislation limited the ownership of land blocks to 10 or fewer individuals. The individualised form of title granted by the Crown eroded tribal control of land and rendered it vulnerable to fragmentation and sale. As a result, large areas of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua land under Native Land Court title were purchased by the Crown and settlers.

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua responded to extensive Crown purchasing and other grievances with staunch but peaceful resistance and tried to work with the Crown to address issues through Kingitanga, Kotahitanga, the repudiation movement and direct engagement.

In 1888, the Crown disregarded Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua property rights and rights under te Tiriti o Waitangi when it supported those cutting a channel to Lake Ōnoke, partially draining Wairarapa Moana. To protect Wairarapa Moana and the lakes' bountiful resources as well as to end decades of dispute over control of lake levels and the outlet at Onoke, Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua made a *tuku rangatira* (chiefly gift) of their lakes to the Crown in 1896.

The Crown did not provide the lakeside reserves promised in the *tuku rangatira*. Instead, many years later, the Crown provided a reserve at Pouākani, hundreds of kilometres away, in the rohe of other iwi. This separated many Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua *whānau* from their *hapū* and traditional homes. Much of the Pouākani land required considerable investment to make it economically viable and the Crown subsequently took the most productive land for public works, the construction of which began before Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua owners were informed or consulted.

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua continued to suffer land loss throughout the twentieth century, including through public works takings. Today they are virtually landless and much of what they retain lacks legal or practicable access. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua have also seen their former lands and waterways degraded to fuel economic development.

The state education system for too long did not value Māori cultural understandings and generally held lower expectations for Māori academic achievement resulting in poor educational outcomes afflicting generations of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua children, their whānau and their hapū. Crown established schools also caused significant harm to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua children by discouraging the use of te reo Māori in schools and punishing them for speaking their own language while at school.

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua have contributed greatly to the nation through military service and wealth created from their lands, some of which had been gifted as with Wairarapa Moana. Despite this, the Crown's actions and omissions resulted in many Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua being alienated from their lands, culture and language and the rich fabric of hapū and iwi life has been severely damaged. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua have endured social and economic under-development as they have struggled to make use of the land they retain, maintain their traditional marae communities and recover their culture and language in the twenty-first century.

Summary of the settlement between the Crown and Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua

The Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Deed of Settlement is the final settlement of all historical Treaty claims of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua resulting from acts or omissions by the Crown prior to 21 September 1992, and 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 Kahungunu ki Wairarapa Tāmaki nui-a-Rua wherever they may live.

Crown acknowledgements and apology

The Deed contains acknowledgements that historical Crown actions or omissions caused prejudice to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua, or breached the Treaty of Waitangi and its principles.

The Deed also includes a Crown apology to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua for not honouring its obligations to respect te tino rangatiratanga o Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua through repeated breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles and for the damage caused to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua. These include the forced cession of tens of thousands of acres of land in 1845, Crown threats to end Pākehā settlement in Wairarapa and Tāmaki nui-a-Rua, the failure to protect Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua from becoming virtually landless, not upholding the spirit of the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua tuku rangatira of Wairarapa Moana in 1896, and the failure to actively protect te reo Māori.

Cultural redress

The Deed includes a cultural redress package intended to recognise the traditional, historical, cultural and spiritual associations of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua including places and sites owned by the Crown within the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua area of interest. This allows Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua and the Crown to protect and enhance the conservation values associated with these sites.

SITES VESTED IN NGĀTI KAHUNGUNU KI WAIRARAPA TĀMAKI NUI-A-RUA

The Deed provides for the vesting of 27 Crown-owned sites to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua. The settlement legislation will vest the sites in the Settlement Trust, on settlement date.

The following sites will be vested with the Wairarapa Moana Statutory Board as the administering body:

- Kahutara property as a local purpose reserve
- Kākahimakatea property as a historic reserve
- Ōwāhanga property as a local purpose reserve
- Pounui Lagoon property as a local purpose reserve
- Ruamahanga Cutoff property as a local purpose reserve
- Wairarapa Lake Domain property as a recreation reserve
- Wairarapa Lake Shore property as a local purpose reserve
- Wairarapa Lake Shore Scenic reserve property as a scenic reserve.

The following sites will be vested in fee simple:

- Akitio property
- Ngātamatea property
- Remutaka summit property (subject to an easement)
- Te Kopi property (Part Aorangi Forest Park) (subject to an easement)
- Te Oro Site A, being part of Tora Recreation Reserve

The following sites will be vested with the Settlement Trust as the administering body:

- Aorangi property as a scenic reserve
- Awakura property as a scenic reserve (subject to a co-management agreement with the Department of Conservation)
- Hikapu property as a scenic reserve
- Mangatārera o Te Whakatūrākau site A as a local purpose reserve
- Mangatārera o Te Whakatūrākau site B as a scenic reserve
- Ngā Rā-a-Kupe property as a historic reserve
- Puketoi property as a scenic reserve
- Remutaka property as a scenic reserve (subject to an easement)
- Te Hīwawā property as a recreation reserve
- Te Oro Site B as a scenic reserve
- Te Pouaruhe site A as a local purpose reserve (subject to an easement)
- Te Pouaruhe site B as a recreation reserve (subject to an easement)
- Tuhirangi property as a scenic reserve
- Whāwhānui White Rock property as a recreation reserve.

AREA VESTED AND GIFTED BACK TO THE CROWN

The fee simple estate of the Castlepoint Scenic Reserve will vest in the Settlement Trust on the first 16 March that falls after the settlement date. On the 7th day after the vesting, Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua will return the fee simple estate to the Crown as a gift to all New Zealanders.

SITES TO BE JOINTLY VESTED IN NGĀTI KAHUNGUNU KI WAIRARAPA TĀMAKI NUI-A-RUA AND IN RANGITĀNE O WAIRARAPA AND RANGITĀNE TAMAKI NUI-Ā-RUA

The following sites will be vested through joint redress legislation:

- Wairarapa Moana property, as a local purpose reserve, as tenants in common in shares of 90% in the Settlement Trust and 10% in the

Rangitāne Tū Mai Rā Trust. This property includes part of the bed of Lake Wairarapa and part of the bed of the Ruamahanga river

- Mākirikiri Recreation and Scenic Reserves, subject to recreation reserve status, in the ancestor Te Rangiwhakaewa. A Board will be established to act as the administering body with an equal number of members to be appointed by the Settlement Trust and the Rangitāne Tū Mai Rā Trust
- Mataikona property, in fee simple, as tenants in common as to a 50% share each.

WAIRARAPA MOANA STATUTORY BOARD

Joint redress legislation will provide for the establishment of a Wairarapa Moana Statutory Board (the Board). The Board will comprise 4 members appointed by the Settlement Trust (including two members representing Papawai Marae and Kohunui Marae), one member appointed by the Rangitāne Tū Mai Rā Trust, 2 members appointed by the Minister of Conservation, 2 members appointed by Wellington Regional Council and one member appointed by South Wairarapa District Council.

The Board will act as a guardian of the Wairarapa Moana and the Ruamahanga River catchment for the benefit of the present and future generations by:

- administering the Wairarapa Moana reserves for the purposes set out in the Reserves Act 1977 and the joint redress legislation including to protect and enhance their cultural, spiritual and ecological values
- being the manager of the Wairarapa Moana marginal strips
- providing leadership on the sustainable management of the Wairarapa Moana and the Ruamahanga River catchment
- promoting the restoration, protection and enhancement of the social, economic, cultural, environmental and spiritual health and wellbeing of Wairarapa Moana and the Ruamahanga River catchment as they relate to natural resources.

OVERLAY CLASSIFICATION

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua with the Castlepoint Scenic Reserve and provides for the Crown to acknowledge iwi values in relation to that site.

STATUTORY ACKNOWLEDGEMENTS AND DEED OF RECOGNITION

The Deed provides for 11 statutory acknowledgements and 10 deeds of recognition over areas and sites of significance.

GEOGRAPHIC AND CROWN PROTECTED NAME CHANGES

Place names recognise iwi associations with geographic names. 30 place names will be altered by settlement legislation.

TE UPOKO TAIAO

The settlement legislation will provide that the existing Te Upoko Taiao Natural Resources Plan Committee is a permanent committee of the Wellington Regional Council.

MANAWATU RIVER ADVISORY BOARD

The Rangitāne o Manawatu Claims Settlement Act 2016 provides for the establishment of a statutory board, the Manawatu River Advisory Board, to provide advice to the Horizons Regional Council. The settlement legislation will provide for the Settlement Trust to appoint a member to the advisory board.

CUSTOMARY FISHING

The Deed provides that the Crown (Ministry of Primary Industries), the Settlement Trust and the Rangitāne Tū Mai Rā Trust are committed to working collectively to explore the development of customary fisheries regulations for Wairarapa Moana and the Ruamahanga River catchment.

HE KAWENATA HOU

The Deed provides for the implementation of He Kawenata Hou (a new Covenant) whereby 10 Crown agencies and Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua will work in partnership to develop and implement a social and economic revitalisation strategy.

RELATIONSHIP AGREEMENTS AND PROTOCOLS

The Settlement Trust will enter into relationship agreements with the Department of Conservation, the Ministry for the Environment and Heritage New Zealand which outline how these agencies will work and engage with the Settlement Trust.

The Deed also provides that the Ministry for Primary Industries (MPI), the Settlement Trust, Ngāti Kahungunu Iwi Incorporated and the other mandated representatives of Ngāti Kahungunu will explore the development of a relationship agreement and that the MPI will send a letter of recognition to the Settlement Trust. In addition, the Minister of Primary Industries will appoint the Settlement Trust as a fisheries advisory committee.

The Deed provides 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 the Settlement Trust when carrying out statutory duties and functions.

LETTER OF RELATIONSHIP AND LETTER OF COMMITMENT

Land Information New Zealand (LINZ) will write to the Settlement Trust setting out how LINZ and the Settlement Trust intend to develop an enduring relationship.

The Deed also provides for the Settlement Trust, 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, Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua taonga, and access to, and protection of, information and taonga relating to Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua.

LETTERS OF INTRODUCTION

The Minister for Treaty of Waitangi Negotiations and the Chief Executive of the Office of Māori Crown Relations - Te Arawhiti will write letters of introduction and relationship promotion to Crown Ministers, government agencies, and museums.

Financial and commercial redress

This redress recognises the losses suffered by Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua arising from breaches by the Crown of its Treaty obligations. The financial and commercial redress is aimed at providing Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua with resources to assist them to redevelop their economic and social wellbeing.

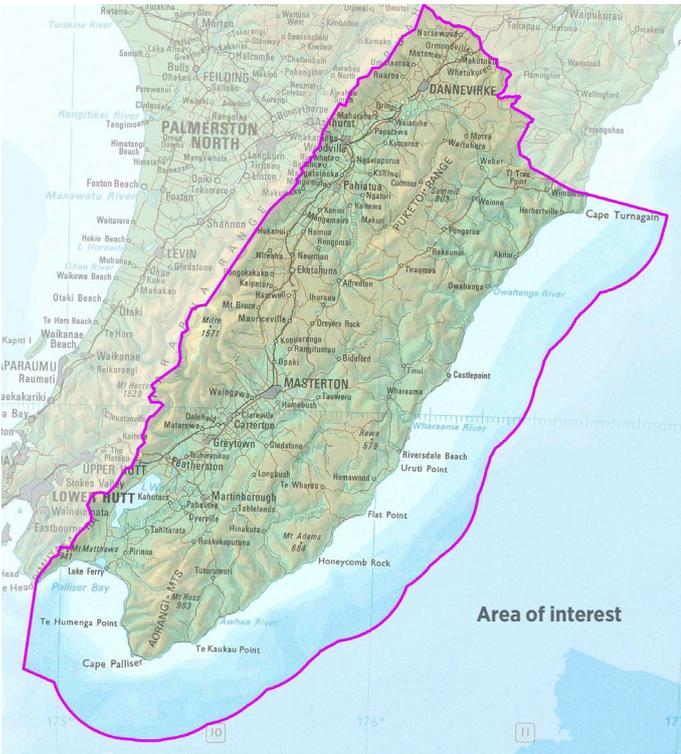
The total value of financial and commercial redress is \$115 million.

FINANCIAL REDRESS

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua will receive financial redress of \$115 million plus interest.

COMMERCIAL REDRESS

Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua receive the right to purchase: 2 properties including 70% of the Ngāumu Forest Crown Forest licensed land at settlement date; two Landcorp Farming Limited farms Wairio and Rangedale; and 28 specific commercial sites, from the Treaty Settlements Landbank and Ministry of Education for up to 2 years after settlement date. Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua will also have a right of first refusal over specific surplus Crown-owned properties within their area of interest, for a period of 178 years from settlement date.



Questions and Answers

1. What is the total settlement package?

- historical redress which includes Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi and an agreed historical account;
- cultural redress which includes the return of part of the bed of Lake Wairarapa and surrounding reserves, the vesting and gift back of Castlepoint Scenic Reserve and the return of sites throughout the Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua rohe;
- natural resources redress including the establishment of the Wairarapa Moana Board and permanence for Te Upoko Taiao;
- relationship redress including He Kawenata Hou, relationship agreements, letters of commitment and protocols;
- financial redress of \$115 million plus interest;
- commercial redress involving the right to purchase Ngāumu Forest Crown Forest Licensed land and sites from the Treaty Settlements Landbank and the Ministry of Education.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally, no. Where land is transferred with a reserve classification then the relevant provisions of the Reserves Act, including those concerning public access, will continue to apply.

4. Are any place names changed?

Yes, details of 30 official place name changes are in the Deed.

5. What are statutory acknowledgements and deeds of recognition?

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.

Deeds of recognition set out an agreement between the administering Crown body (the Minister of Conservation) 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 status requires the Minister of Conservation and the Settlement Trust to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing values of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua regarding 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 settled 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 Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua 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 claims of Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua. 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 Kahungunu ki Wairarapa Tāmaki nui-a-Rua 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 Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua wherever they may live.

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