



Deed of Settlement

BETWEEN THE CROWN AND NGĀTI RĀRUA

General background

The rohe of Ngāti Rārua is included within 'Te Tau Ihu' the top of the South Island.

In October 2006, the Crown recognised the mandate of Ngāti Rārua along with other 'Tainui Taranaki' iwi to enter negotiations for a comprehensive Treaty of Waitangi Settlement. The Crown signed terms of negotiations with the umbrella entity Tainui Taranaki ki te Tonga Limited, which included the Ngāti Rārua Iwi Trust, on 27 November 2007.

On 11 February 2009, the Crown and 'Tainui Taranaki' iwi, including Ngāti Rārua, signed a Letter of Agreement which formed the basis for this settlement. The Deed of Settlement was initialled on 7 October 2011 and signed on 13 April 2013. 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 Ngāti Rārua.

Summary of the historical background to the claims of Ngāti Rārua

Ngāti Rārua came to Te Tau Ihu o te Waka a Maui (the Northern South Island) in the late 1820s. Ngāti Rārua established pā and kainga at Te Tai Tapu, Golden Bay, Tasman Bay and Wairau.

In 1839 the New Zealand Company signed deeds with Māori that purported to purchase the entire northern South Island. No Ngāti Rārua resident in western Te Tau Ihu signed the Company deeds. In 1842 the Company presented gifts to local Māori, including Ngāti Rārua, upon establishing its Nelson settlement. Ngāti Rārua expressed an interest in European settlement but denied that the 1839 transactions had effected a sale of their land.

In 1844 a Crown-appointed commissioner investigated the Company's purchases. He heard from only one Māori witness in Nelson, who was Ngāti Rārua, before suspending the inquiry to enable the company to negotiate a settlement. Local Māori signed deeds of release in return for accepting payments described by the commissioner as gifts to assist settlement rather than payments for the land. A share of the money was set aside for Golden Bay Ngāti Rārua not present at the commissioner's hearing or arbitration.

In 1845, on the commissioner's recommendation, the Crown prepared a grant to the New Zealand Company of 151,000 acres of land in Tasman and Golden Bays which would have reserved 15,100 acres for Māori. However, the Company objected to several aspects of this grant. In 1848 the Company accepted a new Crown grant for a larger area of land that reserved only 5,053 acres at Nelson and Motueka, and areas in Wairau and Golden Bay.

Ngāti Rārua had negligible involvement in the administration of the Nelson and Motueka reserves, known as 'Tenths'. Most were leased to settlers to generate income that was spent on Māori purposes. In the 1850s and 1860s the Crown allocated a number of Motueka Tenths sections to Ngāti Rārua for their occupation. However, ownership of these lands was not granted separately to Ngāti Rārua. From 1887 the Tenths were leased under perpetually renewable leases. Rentals were infrequently reviewed and over time inflation reduced real rental returns. During the twentieth century the Tenths were reduced by the compulsory acquisition of uneconomic shares and the sale of reserves.

In 1847 the Crown purchased the Wairau district from three North Island chiefs. No other right holders, including Ngāti Rārua, were consulted or involved in the transaction. In 1852, the Crown purchased the mineral-rich Pakawau block, paying only for its agricultural value. The 1853 Te Waipounamu deed purported to purchase all remaining land in the region. Ngāti Rārua in western Te Tau Ihu did not sign the deed, but were to receive a share of the purchase money. Ngāti Rārua protested the Crown's actions but it was not until 1855 that the Crown met with resident Māori to finalise the purchase. During these negotiations the Crown applied pressure on Ngāti Rārua, including presenting their land as already sold. Ngāti Rārua and another iwi were paid £600 for their remaining interests in Te Waipounamu. The reserves created by the Crown for Ngāti Rārua from the Waipounamu purchase, particularly at Wairau and Pukatea, were generally inadequate for customary use or agricultural farming.

Ngāti Rārua had excluded the 88,350 acre Te Tai Tapu block from the Waipounamu sale. In 1873 the Crown took effective control of Te Tai Tapu to regulate gold mining on the land. However, Ngāti Rārua obtained little financial benefit from the arrangement. In 1883 Ngāti Rārua sold the block.

By the late nineteenth century, Ngāti Rārua were virtually landless. At this time the Crown allocated landless Ngāti Rārua individuals land on Stewart Island but never granted them title to the land.

In the decades following the major land purchases of the mid-nineteenth century, the socio-economic position of Ngāti Rārua and the Māori population of Te Tau Ihu became characterised by marginal economic status, poor health and low educational attainment.

Summary of the Ngāti Rārua settlement

Overview

The Ngāti Rārua Deed of Settlement is the full and final settlement of all historical Treaty of Waitangi claims of Ngāti Rārua, 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 to Ngāti Rārua
- cultural redress
- financial and commercial redress.

The benefits of the settlement will be available to all members of Ngāti Rārua wherever they may live.

The Ngāti Rārua settlement was negotiated alongside settlements with the other seven iwi with historical claims in Te Tau Ihu (the northern South Island). Some redress in the Ngāti Rārua settlement is joint redress with other iwi or overlaps with redress in other Te Tau Ihu settlements. The settlement legislation to enact the Ngāti Rārua Deed of Settlement is drafted as part of an omnibus bill that will implement all Te Tau Ihu Treaty settlements.

Crown acknowledgements and apology

The Deed of Settlement contains a series of acknowledgements by the Crown where its actions arising from interactions with Ngāti Rārua have breached the Treaty of Waitangi and its principles.

The Crown apologises to Ngāti Rārua for its acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. These include the Crown's failure to adequately protect the interests of Ngāti Rārua during the process by which land was granted to the New Zealand Company; the failure to provide sufficient reserves, including tenths reserves, and to provide for Ngāti Rārua to control those tenths they occupied and used; the administration of the tenths reserves; the failure to adequately protect Ngāti Rārua interests during Crown purchases between 1847 and 1856; the operation and impact of the native land laws on Ngāti Rārua land; the failure to effectively implement the landless natives reserves scheme; and the failure to ensure Ngāti Rārua retained sufficient land for their future needs.

Cultural redress

1. The cultural redress recognises the traditional, historical and spiritual association of Ngāti Rārua with places and sites owned by the Crown within the Ngāti Rārua rohe. This allows Ngāti Rārua and the Crown to protect and enhance the conservation values associated with these sites.

1(A) VESTING OF SITES

The settlement provides for eight sites to be vested only in Ngāti Rārua and eight sites jointly vested in Ngāti Rārua and one or more other iwi with claims in Te Tau Ihu, totalling

approximately 102.93 hectares. The vesting of these sites is subject to specific conditions including protection of conservation values and public access.

Sites to be vested in Ngāti Rārua are:

- Wairau Pā, approximately 1.46 hectares
- Rārangi (Ngāti Rārua), approximately 0.25 hectares
- Kawatiri Confluence, approximately 2 hectares
- Glenhope (Kawatiri), approximately 3.4 hectares
- Te Tai Tapu (Snake Creek), approximately 10 hectares
- Coombe Rocks, approximately 1.6 hectares
- Pah Point (Whanganui Inlet), approximately 1 hectare
- Waikutakuta/Robin Hood Bay, approximately 0.08 hectares

Sites to be jointly vested in Ngāti Rārua and one or more other iwi with Te Tau Ihu claims are:

- Pūponga Farm Triangle Flat, approximately 0.2 hectares
- Pūponga Farm Cape House, approximately 5 hectares
- Puketawai, approximately 11.9473 hectares
- Tokomaru/Mount Robertson, approximately 49.6 hectares
- Horahora-kākahu, approximately 1.2141 hectares
- Pukatea/Whites Bay, approximately 1.2 hectares
- Pūponga Point Pā site, approximately 14 hectares
- Mātangi Āwhio, approximately 0.2061 hectares.

1(B) VEST AND GIFT BACK

The settlement provides for two sites – Kaka Point and Te Tai Tapu – totalling approximately 28,602.0209 hectares, to jointly vest in Ngāti Rārua and certain other Te Tau Ihu iwi on settlement date and then re-vest back in the Crown seven days later as a gift from those iwi to the people of New Zealand.

1(C) OVERLAY CLASSIFICATION

An overlay classification (known as Parirau Whakaruru in the Ngāti Rārua settlement) acknowledges the traditional, cultural, spiritual and historical association of Ngāti Rārua with certain sites of significance. Overlay classifications apply to conservation land and requires the New Zealand Conservation Authority (and any relevant conservation board) to have particular regard to Ngāti Rārua values and protection principles. The settlement provides for the following overlay classifications:

- Te Waikoropupū Springs Scenic Reserve
- Farewell Spit Nature Reserve
- Heaphy Track (northern portion)
- Wairau Bar and Wairau Lagoons (part of the Conservation Area – Wairau Diversion Mouth and part of the Wairau Lagoons Wetland Management Reserve).

1(D) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

A Statutory Acknowledgement registers the special association Ngāti Rārua has with an area, and will be included in the settlement legislation. Statutory Acknowledgements are recognised under the Resource Management Act 1991 and Historic Places Act 1993.

The acknowledgement requires that consent authorities provide Ngāti Rārua with summaries of all resource consent applications that may affect the areas named in the acknowledgements.

Deeds of Recognition oblige the Crown to consult with Ngāti Rārua and have regard to their views regarding the special association Ngāti Rārua has with a site. They also specify the nature of the input of Ngāti Rārua into management of those areas by the Department of Conservation.

The Crown offers a Statutory Acknowledgement and Deed of Recognition over the following areas:

- Maungatapu
- Lake Rotoiti, Nelson Lakes National Park
- Lake Rotoroa, Nelson Lakes National Park
- Abel Tasman Monument in Abel Tasman National Park
- Westhaven (Te Tai Tapu) Marine Reserve and Westhaven (Whanganui Inlet) Wildlife Management Reserve (Statutory Acknowledgement only)
- Parapara Peak
- Pukeone/Mount Campbell
- Wharepapa/Arthur Range
- Para Swamp Wildlife Reserve
- West of Separation Point/Te Matau
- Wairau Lagoons and Te Pokohiwi/Boulder Bank Historic Reserve (Statutory Acknowledgement only)
- Kaiteriteri Scenic Reserve
- Wairau River Diversion Conservation Area
- Wairau River, marginal strips
- Maitai River and its tributaries
- Wairau River, Omaka River, and Ōpaoa River and their tributaries
- Waimea River, Wairoa River, and Wai-iti River and their tributaries
- Motueka River and its tributaries
- Aorere River and its tributaries
- Riuwaka River, and Resurgence, and its tributaries
- Paturau River and its tributaries
- Anatori River and its tributaries
- Buller River (northern portion) and its tributaries
- Anaweka River and its tributaries
- Kaka Point (Statutory Acknowledgement only).

The Crown offers a Coastal Statutory Acknowledgement over the Te Tau Ihu coastal marine area.

Statutory Acknowledgments and Deeds of Recognition are non-exclusive redress, meaning more than one iwi can have a Statutory Acknowledgment or Deed of Recognition over the same site.

1(E) PLACE NAME CHANGES

The Te Tau Ihu settlements provide for 53 existing geographic names to change and 12 sites which do not currently have official names to be assigned geographic names. The full list of place name changes is included in the Ngāti Rārua Deed of Settlement, available on www.ots.govt.nz

1(F) CROWN PAYMENT

In recognition of the shared commitment of Ngāti Rārua and Te Rūnanga o Ngāi Tahu to a positive, co-operative and enduring relationship the Crown will pay Ngāti Rārua \$500,000.

1(G) MINERAL FOSSICKING

The settlement provides for the river beds within a specified area to be searched for natural material with the permission of the trustees of the Ngāti Rārua Settlement Trust.

2. Relationships

2(A) RELATIONSHIP REDRESS

The Deed of Settlement provides for the promotion of relationships between Ngāti Rārua and local authorities. Nelson City Council, Tasman District Council, Buller District Council and Marlborough District Council are encouraged to enter into a Memorandum of Understanding with Ngāti Rārua.

2(B) PROTOCOLS

Protocols will be issued to encourage good working relationships on matters of cultural importance to Ngāti Rārua. Conservation, fisheries, taonga tūturu and mineral protocols will be issued.

2(C) LETTERS OF INTRODUCTION

The Deed of Settlement provides for the promotion of relationships between Ngāti Rārua and museums. The Crown will write letters of introduction to 182 museums across New Zealand.

2(D) RIVER AND FRESHWATER ADVISORY COMMITTEE

The Deed of Settlement provides for Ngāti Rārua to participate in an advisory committee providing input into local authority planning and decision making in relation to the management of rivers and fresh water under the Resource Management Act 1991, within the jurisdictions of Marlborough District Council, Nelson City Council and Tasman District Council.

Financial and commercial redress

3. This redress recognises the losses suffered by Ngāti Rārua arising from the breaches by the Crown of its Treaty of Waitangi obligations. It will provide Ngāti Rārua with resources to assist them in developing their economic and social well-being.

3(A) FINANCIAL REDRESS

Ngāti Rārua will receive financial redress of \$11,760,000 in recognition of all their historical claims. Interest that has been accumulating since February 2009, when their Letter of Agreement was signed, will also be paid.

3(B) COMMERCIAL REDRESS

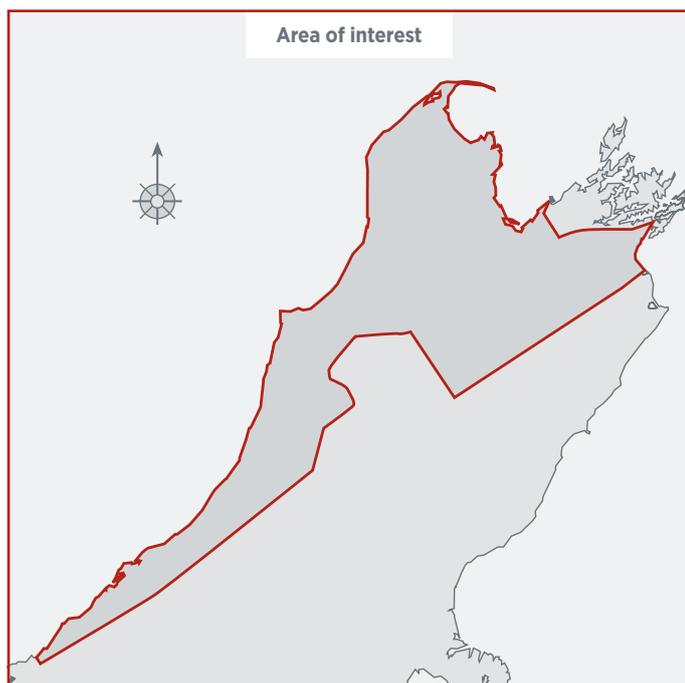
Ngāti Rārua will purchase ten properties at settlement date, six of which will be leased back to the Crown. Ngāti Rārua have a further nine deferred selection properties that are available for purchase by Ngāti Rārua for three years after settlement date.

Questions and Answers

Ngāti Rārua will have the ability to purchase more than 11,793 hectares of the licensed Crown forest land in Te Tau Ihu, some of which is to be jointly owned with other iwi in Te Tau Ihu. Through the licensed Crown forest land Ngāti Rārua will receive a further (approximately) \$7.75 million in accumulated rentals, currently held by the Crown Forestry Rental Trust.

Ngāti Rārua will have a right of first refusal over a number of listed sites for a period of 169 years from settlement date. They will also have a right of first refusal over Nelson Marlborough Institute of Technology for 169 years.

Ngāti Rārua will have a right of first refusal over a number of Crown properties in Te Tau Ihu if they become surplus to the Crown's requirements. This right continues for 100 years from the settlement date.



1. What is the total cost to the Crown?

The total cost to the Crown of the settlement redress outlined in the Deed of Settlement is \$11.76 million (plus interest accrued since the signing of the Letter of Agreement), the value of the cultural redress properties to be vested and transferred for no consideration and the \$500,000 Crown payment.

2. Is there any private land involved?

No. In accordance with Crown policy, no private land is involved.

3. Are the public's rights affected?

No, all existing public rights to the areas affected by this settlement will be preserved.

4. Are any place names changed?

Yes. The Deed of Settlement, along with the other Te Tau Ihu Deeds of Settlement, will provide for 12 new placenames and 53 name changes.

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. When will the settlement take effect?

The settlement will take effect following enactment of the settlement legislation.

7. Does Ngāti Rārua have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

No. If a Deed of Settlement is ratified and passed into law, 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 Ngāti Rārua. The settlement legislation, once passed, will prevent Ngāti Rārua from re-litigating their claim before the Waitangi Tribunal or the courts.

The settlement package will still allow Ngāti Rārua or members of Ngāti Rārua to pursue claims against the Crown for acts and 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.

8. Who benefits from the settlement?

All members of Ngāti Rārua wherever they may now live.

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