



Deed of

Deed of Settlement
between the Crown and
Te Ātiawa o Te Waka-a-Māui

Settlement

General background

The rohe of Te Ātiawa o Te Waka-a-Māui is included within the top of the South Island.

In October 2006, the Crown recognised the mandate of Te Ātiawa along with other 'Tainui Taranaki' iwi to enter negotiations for a comprehensive Treaty of Waitangi Settlement. The Crown signed terms of negotiations with the mandated negotiators on 27 November 2007.

On 11 February 2009, the Crown and 'Tainui Taranaki' iwi, including Te Ātiawa 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 21 December 2012. 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 Te Ātiawa.

Summary of the historical background to the claims of Te Ātiawa o Te Waka-a-Māui

Te Ātiawa came to Te Tau Ihu (the northern South Island) in the late 1820s. Te Ātiawa established pā and kainga at Queen Charlotte Sound (Totaranui), Tasman Bay, Golden Bay and Te Tai Tapu.

In 1839 the New Zealand Company signed deeds with Māori that purported to purchase the entire northern South Island. In 1840 over twenty Te Ātiawa signed the Treaty of Waitangi at Totaranui.

In 1842 the Company presented gifts to local Māori, including Te Ātiawa, upon establishing its Nelson settlement. Te Ātiawa also contested the meaning of the Company's 1839 transactions. In 1844 a Crown-appointed commissioner investigated the Company's purchases. He heard from one Māori witness in Nelson before suspending the inquiry to enable the company to negotiate a settlement. 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. Some Te Ātiawa from Golden Bay were not present at the commissioner's hearing.

In 1845, on the commissioner's recommendation, the Crown prepared a grant to the New Zealand Company of 151,000 acres 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 the Wairau and Golden Bay.

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

Between 1848 and 1850 the Crown assisted the New Zealand Company to purchase Waitohi, (now known as Picton), the principal settlement of Te Ātiawa in Totaranui. As part of the sale Te Ātiawa relocated to a reserve at Waikawa that had less suitable soil for cultivation than Waitohi.

In 1852, the Crown purchased the mineral-rich Pakawau block. The Crown only paid for the agricultural value of Pakawau. In 1853, the Crown signed the Waipounamu deed with other iwi, and purported to have purchased most of the remaining Māori land in Te Tau Ihu. Te Ātiawa did not sign the deed, but were to receive a share of the purchase money. The Crown used the 1853 deed to pressure resident Te Ātiawa to agree to the sale and the alienation of their land. Resident Te Ātiawa received £613 for the Waipounamu purchase compared with £900 paid to non-resident Te Ātiawa. The reserves created for Te Ātiawa were generally inadequate for customary use or agricultural or pastoral farming. Over time most Te Ātiawa reserves in Totaranui and Golden Bay were alienated, including several hundred acres taken by the Crown for public works and scenery preservation purposes.

By the late nineteenth century, Te Ātiawa were virtually landless. At this time the Crown allocated landless Te Ātiawa individuals land on Stewart Island and on the West Coast but never granted them title to the land.

The loss of land and poor quality reserves have contributed to socio-economic hardship for Te Ātiawa. Crown policies of assimilation and integration as well as urbanisation exacerbated cultural dislocation. Te Ātiawa have lost connection with many significant sites and resources which has had a detrimental effect on their spiritual, economic and cultural wellbeing.

Settlement

Summary of the Te Ātiawa o Te Waka-a-Māui Settlement

Overview

The Te Ātiawa Deed of Settlement is the full and final settlement of all historical Treaty of Waitangi claims of Te Ātiawa 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 acknowledgments and apology to Te Ātiawa
- cultural redress
- financial and commercial redress.

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

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

Crown acknowledgements and apology

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

The Crown apologises to Te Ātiawa 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 Te Ātiawa 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 Te Ātiawa to control those tenths they occupied and used; the administration of the tenths reserves; the failure to adequately protect Te Ātiawa interests during Crown purchases between 1853 and 1856; the operation and impact of the native land laws on Te Ātiawa land; the failure to effectively implement the landless natives reserves scheme; and the failure to ensure Te Ātiawa retained sufficient land for their future needs.

Cultural redress

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

1(A) KAITIAKI

The settlement provides for the appointment of Te Ātiawa as statutory kaitiaki with the ability to provide advice in relation to the restoration of native flora and fauna in the following areas:

- Matapara/Pickersgill Island
- Blumine Island
- Allports Island
- Mabel Island
- Amerikiwhati Island.

The Crown also acknowledges the role of Te Ātiawa as kaitiaki over the coastal marine area in Queen Charlotte Sound. Te Ātiawa will produce a kaitiaki plan which will be taken into account by the Marlborough District Council.

1(B) VESTING OF SITES

The settlement provides for 13 sites to be vested in Te Ātiawa and seven sites jointly vested in Te Ātiawa and one or more other iwi with Te Tau Ihu claims, totalling approximately 155.72 hectares. The vesting of these sites is subject to specific conditions including the protection of conservation values and public access.

Sites to be vested in Te Ātiawa are:

- Tapu Bay (Kaiteriteri), approximately 0.2 hectares
- Umukuri Bay urupā (Arapaoa Island), approximately 0.097 hectares
- Tapu Bay (Motueka), approximately 0.48 hectares
- Pakawau Inlet, approximately 1.1 hectares
- Onauku Bay (Arapaoa Island), approximately 2 hectares
- Anatoia Islands, approximately 0.220 hectares
- Moioio Island, approximately 0.94 hectares
- Katoa Point, approximately 90 hectares
- Wedge Point, approximately 2 hectares
- Ngākuta Point, approximately 2.3269 hectares
- Ngaruru (Arapaoa Island), approximately 4.8 hectares
- Arapawa Māori Rowing Club site, approximately 0.0080 hectares
- Momorangi Point, approximately 0.2 hectares.

Sites to be jointly vested in Te Ātiawa 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
- Te Tai Tapu, (Anatori South), approximately 15 hectares
- Te Tai Tapu, (Anatori North), approximately 5 hectares
- Pūponga Point Pā site, approximately 14 hectares
- Mātangi Āwhio, approximately 0.2061 hectares.

1(C) VEST AND GIFT BACK

The settlement provides for two sites totalling approximately 28,602.0209 hectares to jointly vest in Te Ātiawa and more than one other Te Tau Ihu iwi. Kaka Point and Te Tai Tapu vest in fee simple in Te Ātiawa on settlement date. On the seventh day following settlement date the two sites will vest in the Crown as a gift back to the people of New Zealand.

1(D) OVERLAY CLASSIFICATION

An overlay classification (known as Kahukiwi in the Te Ātiawa settlement) acknowledges the traditional, cultural, spiritual and historical association of Te Ātiawa with certain sites of significance. The declaration of an area with an overlay classification provides for the Crown to acknowledge iwi values in relation to that area.

The settlement provides for overlay classifications over:

- East Head
- the Brothers
- Te Waikoropupū Springs Scenic Reserve
- Farewell Spit Nature Reserve
- Heaphy Track (northern portion).

1(E) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

Statutory Acknowledgements register the special association Te Ātiawa 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 acknowledgements require that consent authorities provide Te Ātiawa 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 Te Ātiawa and have regard to their views regarding the special association Te Ātiawa has with a site. They also specify the nature of the input of Te Ātiawa into management of those areas by the Department of Conservation.

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

- Queen Charlotte Sound/Tōtaranui and Islands
- Kaka Point (Statutory Acknowledgement only)
- Kaiteriteri Scenic Reserve
- Maungatapu
- Lake Rotoiti, Nelson Lakes National Park
- Lake Rotoroa, Nelson Lakes 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
- Hura (on Arapaoa Island)
- Wharehunga Bay Recreation Reserve (on Arapaoa Island)
- West of Separation Point/Te Matau
- Te Anamāhanga/Port Gore
- Maitai River and its tributaries
- Waimea River, Wairoa River, and Wai-iti River and their tributaries
- Motueka River and its tributaries
- Tākaka River and its tributaries
- Aorere River and its tributaries
- Te Hoiere/Pelorus River and its tributaries
- Riuwaka River and Resurgence and its tributaries
- Waikawa Stream and its tributaries
- Waitohi River and its tributaries
- Paturau River and its tributaries
- Anatori River and its tributaries
- Tuamarina River and its tributaries
- Moutere River and its tributaries
- Turimawiri River and its tributaries
- Titi Island Nature Reserve (Deed of Recognition only).

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

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

1(F) STATEMENT OF ASSOCIATION

The Deed of Settlement acknowledges the statement by Te Ātiawa of their association with the Tuturiwhatu (banded dotterel).

1(G) 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 Te Ātiawa Deed of Settlement, available on www.ots.govt.nz.

1(H) CROWN PAYMENT

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

1(I) POUWHENUA

The Deed of Settlement provides for Te Ātiawa to create and erect a pouwhenua, the location of which will be discussed with the Department of Conservation.

1(J) WAIKAWA BAY AND WAIKAWA MARINA

The settlement provides for the Crown to provide Te Ātiawa with advice and/or expertise to undertake a study evaluating the options to improve the quality of the marine environment in Waikawa Bay.

1(K) 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 Te Ātiawa and Te Waka-a-Māui Trust.

Relationships

2(A) RELATIONSHIP REDRESS

The Deed of Settlement provides for the promotion of relationships between Te Ātiawa and local authorities. The Nelson City Council, Tasman District Council, Marlborough District Council and Buller District Council are encouraged to enter into a memorandum of understanding with Te Ātiawa.

2(B) PROTOCOLS

Protocols will be issued to encourage good working relationships on matters of cultural importance to Te Ātiawa. 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 Te Ātiawa and museums. The Crown will write letters of introduction to Museum of New Zealand Te Papa Tongarewa, Canterbury Museum, Auckland Museum, The New Zealand Film Archive, Archives New Zealand and Nelson Provincial Museum.

2(D) RIVER AND FRESHWATER ADVISORY COMMITTEE

The Deed of Settlement provides for Te Ātiawa 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.

Q&A

Questions and Answers

2(E) MEMORANDUM OF UNDERSTANDING

The settlement provides for a Memorandum of Understanding to be created between Te Ātiawa and the Department of Conservation. The Memorandum of Understanding will require that when the Department of Conservation undertake certain activities within Matapara/Pickersgill Island and Otuwhero (Motueka), the trustees of Te Ātiawa Trust will be consulted.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

Te Ātiawa will receive a financial settlement 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.

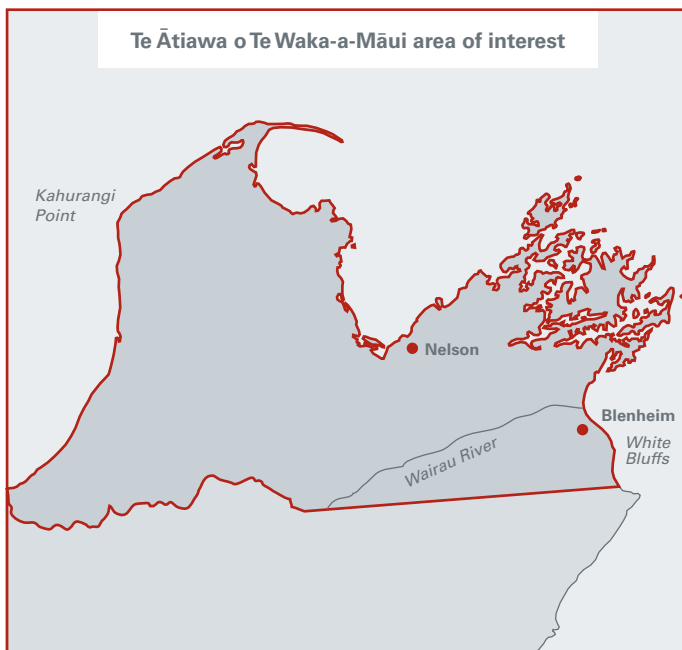
3(B) COMMERCIAL REDRESS

Te Ātiawa will purchase four properties at settlement date that will be leased back to the Crown. Te Ātiawa has a further 17 deferred selection properties that are available for purchase by Te Ātiawa for three years after settlement date.

Te Ātiawa will have the ability to purchase more than 11,750 hectares of the licensed Crown forest land in Te Tau Ihu, through which Te Ātiawa will receive a further (approximately) \$7.75 million in accumulated rentals, currently held by the Crown Forestry Rental Trust.

Te Ātiawa will have a right of first refusal over a number of listed properties for a period of 169 years. They will also have a right of first refusal over Nelson Marlborough Institute of Technology for 169 years.

Te Ātiawa will also have shared rights of first refusal with other iwi in Te Tau Ihu over other types of Crown properties in Te Tau Ihu 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 Agreement in Principle), and 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 area affected by this settlement will be preserved.

4. Are any place names changed?

Yes. The Deed of Settlement, along with 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 the enactment of the settlement legislation.

7. Does Te Ātiawa 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 Te Ātiawa. The settlement legislation, once passed, will prevent Te Ātiawa from re-litigating their claim before the Waitangi Tribunal or the courts.

The settlement package will still allow Te Ātiawa or members of Te Ātiawa 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 Te Ātiawa wherever they may now live.

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