



Deed of

Deed of Settlement
between the Crown
and Te Aupōuri

Settlement

General Background

Te Aupōuri is one of five iwi based in Te Hiku o Te Ika a Maui (the tail of the fish of Maui), the region from the Hokianga Harbour to Mangonui northwards. Their primary tūrangawaewae is Te Kao, a small rural settlement at the southern end of Pārengarenga Harbour, and their principal marae is Pōtahi. Their rohe extends from Te Oneroa-a-Tōhē (Ninety Mile Beach) on the west coast to Tokerau (Great Exhibition Bay) on the east coast, and from Ngapae (Waipapakauri Ramp) in the south to Te Rerenga Wairua (Cape Reinga) in the north, encompassing the surrounding offshore islands. According to the 2006 census, approximately 9,300 people affiliate to Te Aupōuri.

Negotiations between the Crown and Te Aupōuri began in 2000 and the first Agreement in Principle was signed in 2004. The five Te Hiku iwi (including Te Aupōuri) also signed the Te Hiku Agreement in Principle in January 2010.

On 3 November 2011 Te Aupōuri and the Crown agreed that the deed of settlement was ready for members of the iwi to decide whether it was an acceptable settlement of their historical claims. The deed was then ratified by the Te Aupōuri community, and signed on 28 January 2012 at Pōtahi Marae in Te Kao. The settlement will be implemented following the passage of settlement legislation.

Te Aupōuri were represented in the final stages of the negotiations by the trustees of Te Rūnanga Nui o Te Aupōuri Trust who took over responsibility from the Te Aupōuri Negotiations Company.

The Office of Treaty Settlements, with the support of the Department of Conservation, the Treasury, 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 Aupōuri, as did his predecessors Hon Dr Michael Cullen, Hon Mark Burton and Hon Margaret Wilson.

Summary of the Historical Background to the claims by Te Aupōuri

Te Aupōuri were signatories to He Whakaputanga and Te Tiriti o Waitangi. Traditional Te Aupōuri life was regulated by their coastal environment and followed seasonal cycles of gardening, fishing and other food-gathering activities. Te Aupōuri interacted with early Europeans but entered few land transactions before 1840.

In 1858 the Crown purchased the Muriwhenua South and Wharemaru blocks (over 100,000 acres). A reserve was set aside for Te Aupōuri but not protected from later sale. There was also an expectation that European settlement would produce economic benefits but little settlement or benefits followed. Te Aupōuri petitioned unsuccessfully about the very low purchase price for Muriwhenua South. Te Aupōuri also protested the wrongful inclusion of land at Wairahi in the block. Local whānau were deprived of their land for more than 40 years while the Crown investigated and rectified this.

In the 1870s the Native Land Court awarded Te Aupōuri interests in various land blocks naming only ten persons as owners of each block. There was no provision requiring them to act as trustees for the wider group and the blocks were soon sold, causing hardship and conflict. Te Aupōuri retained only a few areas – notably Pārengarenga and interests in the Ohao and Pakohu blocks. Te Aupōuri became dependant on gum digging which caught many Te Aupōuri in a downward cycle of debt, poverty and deprivation.

In 1896 the Native Land Court determined title to Pārengarenga block where most of the remaining Te Aupōuri land interests lay. High hearing and survey costs left the owners with substantial debt. To prevent forced sale for debt recovery Te Aupōuri asked the Crown to vest the block in the Tokerau Māori Land Council. Although the debts were repaid by 1910, the lands did not return to owner control for many decades. Te Aupōuri were left with only three small reserves at Pārengarenga and Te Kao to live on.

In the 1920s the Crown established a dairy scheme at Te Kao in an effort to alleviate poverty. The partitioning of dairy units and development costs charged against them created unsustainable debt for many farmers, leading to further alienation. The development schemes did not create the outcomes Te Aupōuri were led to expect and deprived many Te Aupōuri owners of control of their remaining land.

In 1953 the Crown empowered the Māori Trustee to compulsorily acquire Te Aupōuri Pārengarenga block interests considered uneconomic. Many Te Aupōuri lost their whenua tuku-iho and connections to their tūrangawaewae through this process.

The Crown's actions and omissions left many Te Aupōuri without sufficient land for their needs resulting in many leaving their rohe to survive. Te Aupōuri have lacked opportunities for economic and social development and endured extreme poverty and poor health. This deprivation and separation of whānau has been detrimental to their material, cultural and spiritual well-being and Māori language proficiency has suffered as has the ability to pass on te reo and tikanga to new generations.

Summary of the Te Aupōuri Settlement

Overview

The Te Aupōuri Deed of Settlement will be the final settlement of all historical claims of Te Aupōuri 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 Te Aupōuri;
- cultural redress;
- financial and commercial redress; and
- collective redress.

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

Crown Acknowledgements and Apology

The Crown apologises to Te Aupōuri for its acts and omissions which have breached the Crown's obligations under Te Tiriti o Waitangi/the Treaty of Waitangi. These breaches include the taking of Motuopao Island under the Crown's surplus land policy, the forced cession of land at Ruatotara (East Beach) in 1844 for a civil offence, pre-1865 Crown purchasing, the impact of native land legislation, the failure to return compulsorily vested lands at Pārengarenga and ensure Te Aupōuri retained sufficient lands for their needs while the land was under the control of the Tokerau Māori Land Board, the empowerment of the Māori Trustee to compulsorily acquire uneconomic interests in Te Aupōuri land between 1853 and 1974, and the cumulative impact of Crown actions and omissions that left many Te Aupōuri without sufficient suitable land for their needs. The Crown profoundly regrets its breaches of Te Tiriti o Waitangi/the Treaty of Waitangi which have adversely affected Te Aupōuri cultural frameworks, the ability to exercise customary rights and responsibilities and to succeed economically.

Cultural redress

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

1(A) SITES TRANSFERRED TO TE AUPŌURI

A total of 11 properties will be vested in Te Aupōuri, and 7 jointly vested in Te Aupōuri and one or more other Te Hiku iwi, totalling approximately 1370 hectares. These include:

Sites to be vested in Te Aupōuri:

- Te Ārai Conservation Area Site, approximately 1191.4 hectares
- Te Ārai Ecological Sanctuary, approximately 4.8 hectares
- Te Tomo a Tāwhana (Twin Pā) sites – located within Te Ramanuka Conservation Area, approximately 3.8 hectares
- Maungatūketūke Pā (in Te Paki Recreation Reserve), approximately 2 hectares
- Pitokūku Pā (in Te Paki Recreation Reserve), approximately 3.7 hectares
- Taurangatira Pā (in Te Paki Recreation Reserve), approximately 10.7 hectares
- Kahokawa, approximately 5.5 hectares
- Te Rerepari, approximately 6 hectares
- Hukatere Pā, approximately 10 hectares
- Waiparariki (Te Kao 76 and 77B), approximately 59.3 hectares
- Part Te Kao School site (site A), approximately 2.9 hectares for leaseback to the Crown

Joint vesting to Te Aupōuri and Ngāti Kuri:

- Murimotu Island, approximately 8.5 hectares;
- Bed of Waihopo Lake, approximately 14 hectares (subject to survey);
- Bed of Lake Ngakeketo (in Te Paki Recreation Reserve), approximately 9 hectares (subject to survey)

Joint Vesting to Te Aupōuri, Ngāti Takoto, Te Rarawa and Ngāti Kuri:

- Te Oneroa-a-Tōhē sites, totalling approximately 214 hectares

1(B) CULTURAL REDRESS FUND

Te Aupōuri will also receive a cultural redress fund of \$380,000 to assist it to undertake projects of cultural significance.

1(C) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgement recognises the association between Te Aupōuri and a particular site and enhances Te Aupōuri's ability to participate in specified Resource Management processes. The Crown offers Statutory Acknowledgements over:

- Manawatāwhi / Three Kings Islands
- Raoul Island, Kermadec Islands
- Simmonds Islands
- Paxton Point Conservation Area, including Rarawa Beach camp ground (Wharekāpu / Rarawa)
- Kohurōnaki Pā
- North Cape Scientific Reserve

1(D) PLACE NAME CHANGES

Nineteen geographic names will be altered through the Te Aupōuri settlement, including dual Maori-English names for Ninety Mile Beach (Te Oneroa-a-Tōhe / Ninety Mile Beach), Cape Reinga (Cape Reinga / Te Rerenga Wairua), Spirits Bay (Piwhane / Spirits Bay), Paxton Point (Wharekāpu / Paxton Point), Henderson Bay (Ōtaipango / Henderson Bay) and Mount Camel (Tohoraha / Mount Camel). The full list of place name changes is included in the Te Aupōuri Deed of Settlement, available on www.ots.govt.nz.

2. Relationships

2(A) PROTOCOLS, LETTER OF COMMITMENT & PROMOTION OF RELATIONSHIPS

The deed provides for protocols to be issued by the Minister for Culture and Heritage, the Minister of Energy and Resources and the Minister of Primary Industries. These protocols set out how the relevant government agencies will interact and consult with Te Aupōuri when carrying out duties and functions.

In addition the Minister of Primary Industries will appoint the Trustees of Te Rūnanga Nui o Te Aupōuri as a fisheries advisory committee.

The deed of settlement also provides for Te Aupōuri, 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 iwi taonga. The Crown will also facilitate a process between Te Aupōuri and New Zealand Historical Places Trust to enter into a working relationship on specific projects of mutual interest.

The Minister for Treaty of Waitangi Negotiations and the Director of the Office of Treaty Settlements will write letters of introduction and relationship promotion to Crown Ministers, government agencies, local authorities and museums.

2(B) TE AUPŌURI PATU

The deed provides that the Crown will facilitate a relationship between Te Aupōuri and Norfolk Island Museum in relation to two Te Aupōuri patu held at Norfolk Island Museum.

2(C) STATEMENT OF ASSOCIATION: KUAKA (GODWITS)

The deed provides a Crown acknowledgement of Te Aupōuri's association with Kuaka.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

Te Aupōuri will receive a financial quantum of \$21.040 million together with interest from the date of signing the Te Hiku agreement in principle.

Te Aupōuri will purchase from this quantum:

- the Te Aupōuri undivided share of Aupouri Crown Forest Land;
- two Crown-owned farms (Te Raite and Cape View Farms); and
- other Crown-owned properties:
 - part of Te Kao School (the remainder will be gifted – refer cultural redress vesting); and
 - SH1, Te Kao – Office of Treaty Settlements' landbank residential property.

Collective Redress

4. The collective redress elements of the deed have been negotiated between the Crown, Ngāti Kuri, Te Aupōuri, Ngāi Takoto and Te Rarawa. Collective redress will be available to Te Hiku iwi as they complete settlements.

4(A) AUPOURI CROWN FOREST LAND

Te Aupōuri, Te Rarawa, Ngāi Takoto and Ngāti Kuri will jointly own (as tenants in common) the 21,283 hectares Crown forest land on the Aupouri peninsula and consequently will receive a share of the accumulated rentals. Te Aupōuri will own an undivided 30 percent share.

4(B) TE ONEROA-A-TŌHĒ/NINETY MILE BEACH

The settlement will create the Te Oneroa-a-Tōhē Board to manage the beach – a new permanent joint committee between iwi, Northland Regional Council and Far North District Council. The Te Oneroa-a-Tōhē Board will have 50 percent iwi members and 50 percent local authority members. It will be chaired by iwi and make decisions by a 70 percent majority.

The Board will provide governance and direction in order to promote the use, development and protection of the Te Oneroa-a-Tōhē / Ninety Mile Beach management area and its resources in a manner which ensures its environmental, economic, social, spiritual and cultural wellbeing for present and future generations. The Board is responsible for developing a Beach Management Plan. It will publicly notify the plan and seek submissions on it. The Plan will be recognised and provided for in the next revisions of the relevant Regional Policy Statement, Regional Plan and District Plan.

The Board will consult with communities through the Beach Management Plan regarding any changes to beach access (e.g. by changing access points and reducing environmental damage on and to the beach). The feedback from this consultation will influence the Plan which the Board will then implement.

The iwi members of the Board will appoint up to half of the hearing panel for consent applications within the beach management area.

The Crown is providing a one-off contribution of \$137,500 per iwi to install interpretative signs, raise pouwhenua at Waipapakauri and fund regeneration activities along the Beach. The Crown is also providing a one-off contribution of \$400,000 to the Board.

4(C) KOROWAI FOR ENHANCED CONSERVATION

The settlement includes a co-governance arrangement for conservation land known as the *Korowai for Enhanced Conservation*.

The word "korowai" means cloak. The *Korowai for Enhanced Conservation* recognises the historical, spiritual and cultural association Te Hiku iwi have with public conservation land in each of their rohe. It gives iwi greater input into decision-making including in the protection of public conservation lands and important cultural taonga within the combined areas of interest of Te Aupōuri, Te Rarawa, Ngāi Takoto and Ngāti Kuri.

A new Te Hiku Conservation Board will be established with equal Te Hiku iwi and public membership.

The Te Hiku Conservation Board will have a number of statutory functions, similar to those of the Northland Conservation Board, including recommending the approval of a new Te Hiku part of the Northland Conservation Management Strategy, relating to public conservation land within the area covered by the Korowai.

Te Hiku iwi and the Department of Conservation (DoC) will co-author the Te Hiku part of the Conservation Management Strategy, which will ensure that Te Hiku iwi interests will be integrated into this primary Department of Conservation planning document.

The Korowai means DoC decision-making under the Conservation Act 1987 and Schedule 1 legislation will occur in a framework in which iwi cultural interests will play a key role. There will also be joint decision-making between DoC, Te Aupōuri, Ngāti Kuri and Ngāi Takoto over approximately 70 hectares of public conservation land at Cape Reinga / Te Rerenga Wairua, a place of profound significance to Te Hiku iwi.

Iwi will have decision-making power over applications from iwi members relating to customary materials, including gathering of flora and possession of dead protected fauna, in accordance with an agreed customary materials plan between iwi and DoC. It will contain criteria and guidance on who, what, when, how and where customary materials can be gathered, obtained or possessed.

Each iwi will hold a register of wāhi tapu sites and identify general wāhi tapu areas. Iwi will have the opportunity to enter into management agreements in relation to wāhi tapu on public conservation land.

4(D) SOCIAL DEVELOPMENT AND WELLBEING ACCORD

The Te Hiku–Crown Social Development and Wellbeing Accord sets out how the iwi and the Crown will work together to improve the social development and wellbeing of the Te Hiku whānau, hapū, iwi and the wider community.

In particular, the Accord will be implemented through multi level engagement between Te Hiku iwi and the Crown including:

- an annual Te Hiku iwi–Crown Taumata Rangatira hui between the Ministers who have signed the Accord or whose departments have portfolio agreements and Te Hiku iwi representatives;

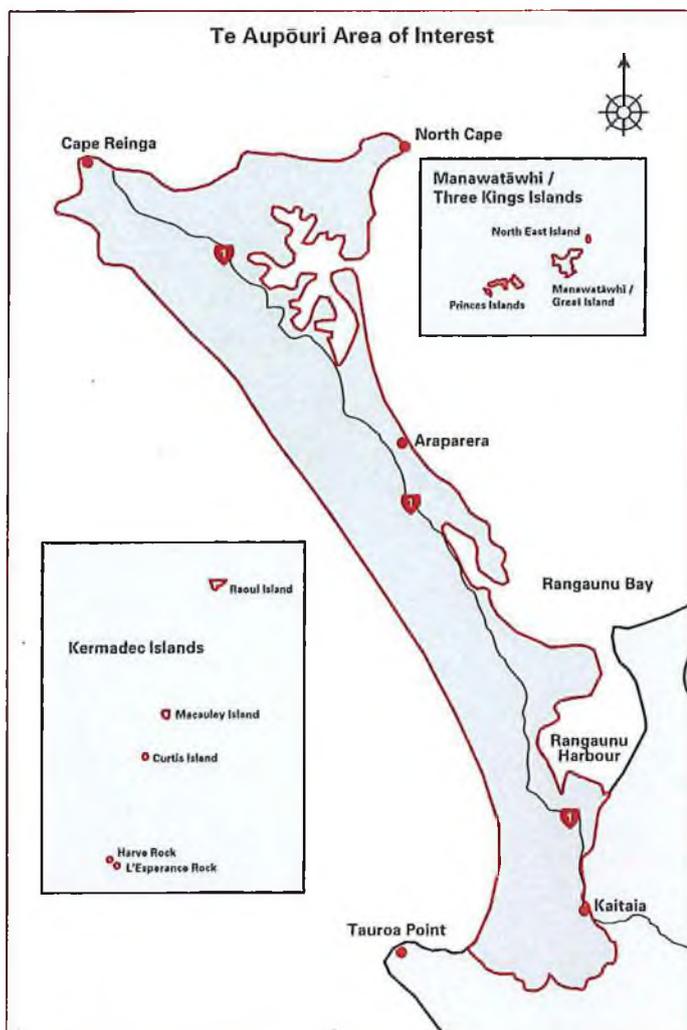
- regular Crown-Te Hiku iwi operational level engagement through Te Kahui Tiaki Whānau (a twice-yearly forum) and related Kaupapa Cluster meetings (ongoing engagement in relation to particular kaupapa/specific areas of work); and
- an evaluation and planning process to assess progress and design and implement strategies to achieve the shared outcomes for the Accord.

The Accord involves 11 agencies: the Ministry of Social Development, Te Puni Kōkiri, the Ministry of Education, the Department of Labour, the Department of Building and Housing, New Zealand Police, the Ministry of Economic Development, the Ministry of Justice, the Department of Internal Affairs, the Department of Corrections and Statistics New Zealand. The Crown is providing a one-off contribution of \$812,500 per iwi towards the implementation of the Accord.

The Accord will enable the government and the iwi to work together to address pressing socio-economic issues in what is one of the most impoverished areas of the country.

4(E) JOINT RIGHT OF FIRST REFUSAL

Te Aupōuri will have a right of first refusal (RFR) for 172 years to purchase listed Crown properties in their area of interest should the Crown decide to sell them. This RFR is shared with other Te Hiku iwi whose areas of interest overlap with Te Aupōuri. Te Aupōuri will also have the opportunity to purchase Te Hiku RFR properties located outside the Te Aupōuri area of interest if the iwi in whose area the property is located do not want to purchase them.



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 Te Aupōuri Deed of Settlement is \$21.04 million plus interest, the value of the cultural redress properties to be vested, \$380,000 cultural redress fund, \$812,500 towards social accord implementation, \$137,500 in recognition of the historical and cultural associations of Te Aupōuri with Te Oneroa-a-Tohe / Ninety Mile Beach and a portion of the \$400,000 one-off contribution to the Te Oneroa-a-Tohe Beach Board.

2. Is there 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.

Once the Aupōuri Crown forest land transfers out of Crown ownership, the agreement of the new landowner (iwi) will be required for both foot and vehicular access other than use of Hukatere Road. The scope of such access will remain subject to the forestry operational requirements of the licensee.

4. Are any place names being changed?

Yes. Place names are significant for recognising iwi associations with geographic areas. There will be 19 geographic names amended through the Te Aupōuri Deed of Settlement.

5. Does Te Aupōuri have the right to come back and make further claims about the behaviour of the Crown in the 19th and 20th centuries?

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 the iwi. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement still allows Te Aupōuri to pursue claims against the Crown for acts or omissions after 21 September 1992, as well as 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.

6. Who benefits from the settlements?

All members of Te Aupōuri, wherever they may now live, will benefit from the settlement.

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