



Deed of

Deed of Settlement
between the Crown
and Ngai Tāmanuhiri

Settlement

General Background

Ngai Tāmanuhiri is an iwi based in the Gisborne (Tūranga) region. According to the 2006 census, approximately 1,700 people affiliate to Ngai Tāmanuhiri.

The Ngai Tāmanuhiri area of interest extends from Kopututea (south of Gisborne City) and down the coastline over Wharerata Forest to Paritū. From Paritū the area extends inland towards Lake Waikaremoana.

Ngai Tāmanuhiri agreed to work with the other Tūranga groups Rongowhakaata and Te Whakarau for Treaty settlement negotiations. On 29 August 2008, the Tūranga groups signed an Agreement of Principle with the Crown for a collective settlement package. In late 2009, the Crown and Tūranga groups agreed to work towards separate deeds of settlement. Ngai Tāmanuhiri is the first of the Tūranga groups to have completed negotiations.

Ngai Tāmanuhiri were represented in negotiations by the Ngai Tāmanuhiri Whānui Trust. The settlement assets will be received by a new entity called Ngai Tāmanuhiri Tutu Poroporo Trust.

The Office of Treaty Settlements, with the support of the Department of Conservation, Land Information New Zealand, Treasury and other government agencies, represented the Crown in day-to-day negotiations.

The Minister for Treaty of Waitangi Negotiations, Hon Christopher Finlayson, and his predecessor, Hon Dr Michael Cullen, represented the Crown in high-level negotiations with Ngai Tāmanuhiri.

Summary of the Historical Background to the Claims by Ngai Tāmanuhiri

In May 1840 22 rangatira from Ngai Tāmanuhiri and other Tūranga iwi signed the Treaty of Waitangi, and until 1865 Ngai Tāmanuhiri and their Tūranga whanaunga retained control of their own affairs. They remained neutral when fighting broke out between the Crown and Māori in other regions before 1865.

In March 1865 emissaries of the new Pai Marire religion, derived from the Christian bible, arrived in Tūranga, and won many new converts including some Ngai Tāmanuhiri. The emissaries' involvement in incidents outside Tūranga contributed to tensions between the Crown and Tūranga Māori. In November 1865 large Crown military forces came to Tūranga after fighting Pai Marire converts on the East Coast. Leading Tūranga rangatira sought to negotiate a peaceful solution leading up to the crisis that developed at this time. The Crown issued an ultimatum threatening Tūranga Māori with attack if they did not submit to the Crown. Without pursuing all reasonable options for preserving the peace, Crown forces assaulted the pa at Waerenga a Hika on 20 November 1865. At least 71 occupants of Waerenga a Hika were killed when Crown forces assaulted the pa.

In 1866 the Crown exiled approximately 116 Tūranga men, including some Ngai Tāmanuhiri, to the Chatham Islands. Many women and children accompanied the men. The Crown advised them they would not be released until after it had finalised arrangements to confiscate land in Tūranga. Confiscation was intended to punish what the Crown said was the rebellion at Waerenga a Hika in November 1865. The men were held without charge or trial in harsh conditions for more than two years.

In July 1868 Te Kooti led the prisoners, who became known as the Whakarau, in their escape to freedom from the Chathams. In November 1868 the Whakarau raided Tūranga, killing many people including some who had been involved in land dealings or the exile of Te Kooti. A large Crown force, including Māori allies, pursued the Whakarau to Ngatapa where, in January 1869, Crown forces summarily executed a number of prisoners after capturing this pa. Te Kooti evaded capture for four years before finding refuge in the King Country.

In December 1868 Ngai Tāmanuhiri and their Tūranga whanaunga ceded all their land to the Crown after it threatened to withdraw its protection of the district unless they did so. All Ngai Tāmanuhiri's customary interests in their lands were extinguished. The Poverty Bay Commission and then the Native Land Court awarded individualised titles to Ngai Tāmanuhiri, which made their land more susceptible to partition, fragmentation and alienation.

The Crown failed to protect Ngai Tāmanuhiri from being left virtually landless by land alienations. As late as 1983, the Crown continued to acquire Ngai Tāmanuhiri land for public works. The Manutuke Consolidation scheme deprived some Ngai Tāmanuhiri of interests in their ancestral land still in Māori ownership.

The events of the nineteenth century continued to have severe social, economic, and political consequences for Ngai Tāmanuhiri throughout the twentieth century. Ngai Tāmanuhiri have suffered significant socio-economic deprivation, and their children are still at great risk of poor health, unemployment and educational disadvantage.

Settlement

Summary of the Ngai Tāmanuhiri Settlement

Overview

The Ngai Tāmanuhiri Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of Ngai Tāmanuhiri 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 Ngai Tāmanuhiri;
- cultural redress; and
- financial and commercial redress.

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

Crown Acknowledgements and Apology

The Crown acknowledges its actions arising from interaction with Ngai Tāmanuhiri whereby it breached the Treaty of Waitangi and its principles.

The Crown apologises to Ngai Tāmanuhiri for its acts and omissions which have breached the Crown's obligations under the Treaty of Waitangi. The breaches include the unnecessary use of force at Waerenga a Hika and the summary executions by Crown forces at Ngatapa, the denial of basic human rights to those Ngai Tāmanuhiri detained without trial on the Chatham Islands, the pressure applied to extinguish Ngai Tāmanuhiri's customary land interests, the failure to protect Ngai Tāmanuhiri's tribal structures after land tenure reforms were imposed, and the failure to protect Ngai Tāmanuhiri from landlessness and to respect Ngai Tāmanuhiri rangatiratanga in the administration of all their remaining land.

Cultural Redress

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

1(A) SITES TRANSFERRED TO NGAI TĀMANUHIRI

One site, Young Nick's Head Historic Reserve, will be vested in Ngai Tāmanuhiri. The name of the site will be changed to Te Kuri a Paoa/ Young Nick's Head as a National Historic Reserve.

A parcel of land at Mangapoike will be vested in Ngai Tāmanuhiri as cultural redress.

1(B) STATUTORY ACKNOWLEDGEMENTS

A Statutory Acknowledgement recognises the association between Ngai Tāmanuhiri and a particular site or area and enhances Ngai Tāmanuhiri's ability to participate in specified Resource Management Act processes.

The Crown offers Statutory Acknowledgements over Waipaoa River, and the Ngai Tāmanuhiri coastal marine area.

2. Cultural revitalisation and recognition

The Crown will pay \$180,000 to the governance entity on the settlement date to assist Ngai Tāmanuhiri prepare and implement a cultural revitalisation plan.

The Crown will also pay \$100,000 to Te Rūnanga o Tūrangānui a Kiwa in trust, as a contribution to the establishment of an appropriate and enduring memorial to commemorate those members of Ngai Tāmanuhiri, Rongowhakaata and Te Whakarau who lost their lives due to the actions of the Crown in the past.

3. Relationships

3(A) PROTOCOLS

The Deed of Settlement will provide for protocols to facilitate good working relationships between Ngai Tāmanuhiri and the Department of Conservation, the Ministry of Economic Development, the Ministry of Fisheries and the Ministry for Culture and Heritage on matters of mutual importance. The Deed of Settlement will also provide for a relationship agreement with the Ministry for the Environment.

3(B) LEADERSHIP BODIES

The settlement includes an undertaking to establish a Central Leadership Group, which will also include Rongowhakaata and Te Whakarau, to provide a forum for Tūrangā iwi to engage with central government.

The settlement will also establish through legislation a Local Leadership Body with members appointed by Ngai Tāmanuhiri, Rongowhakaata, Te Whakarau and the Gisborne District Council to enhance the engagement of Tūrangā iwi in local decision making.

Financial and Commercial Redress

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

4(A) FINANCIAL REDRESS

Ngai Tāmanuhiri will receive financial redress of \$11.07 million, plus interest accrued on the financial and commercial redress.

4(B) COMMERCIAL REDRESS

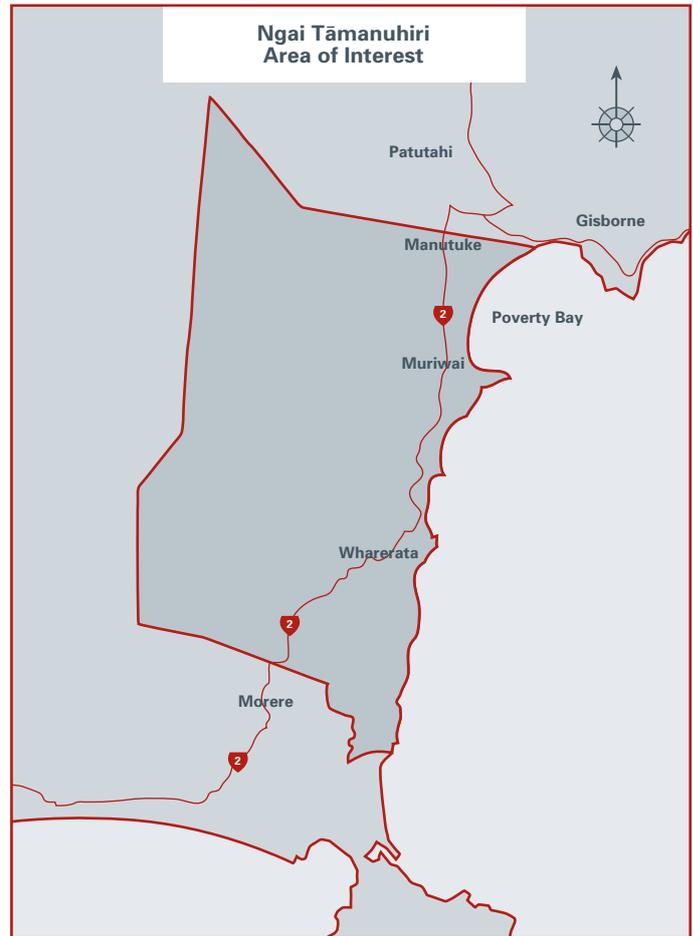
The property at 1858 Waingake Road will be vested in Ngai Tāmanuhiri as commercial redress.

Wharerata Forest will transfer to a company in which Ngai Tāmanuhiri will purchase a 50% share. The Crown will hold the remaining 50% on Trust for any other Wharerata claimant with an established historical Treaty claim.

Ngai Tāmanuhiri will have the opportunity to purchase the land under Muriwai School through a deferred selection process for two years after settlement date, on the condition it is leased back to the Crown. If Muriwai School is not selected, Ngai Tāmanuhiri have a right of first refusal over this property for 169 years after settlement date. Ngai Tāmanuhiri also have a right of first refusal (RFR) over Pakowhai Reserve. The RFR over Pakowhai Reserve will run for a period of 100 years.

This RFR means that Ngai Tāmanuhiri has the right to purchase, at market value, ahead of any other potential purchaser, the reserve land should it become available in the future.

The return of any surplus Crown-owned properties is subject to any statutory requirements such as offer back requirements under the Public Works Act and the Reserves Act 1977.



Q&A

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 Deed of Settlement is \$11.07 million plus interest, and the value of the cultural redress properties to be vested, as listed at 2(B).

2. Is there any private land being transferred?

No. Funding provided through the settlement will enable Ngai Tāmanuhiri to purchase Te Wherowhero from a private landowner.

3. Are the public's rights affected?

No. Public access to Young Nick's Head Historic Reserve/Te Kuri a Paoa remains unchanged. This site is landlocked, and access to enter the reserve remains at the discretion of the landowner of the surrounding property. This arrangement will continue.

4. What are Statutory Acknowledgments?

Statutory Acknowledgments acknowledge areas or sites with which claimant groups have a special relationship, and will be recognised in any relevant proceedings under the Resource Management Act. This provision aims to avoid past problems with land development for roading and other purposes when areas of significance to Māori, such as burial grounds, were simply cleared or excavated without either permission or consultation. A Statutory Acknowledgment is not a property right. Neither is it exclusive.

5. Are any place names changed?

Yes. The name of Young Nick's Head will be changed to Te Kuri a Paoa/Young Nick's Head as a National Historic Reserve.

6. Are any National Parks affected by the Settlement?

No.

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

No. Both parties agree that the Deed of Settlement is fair in the circumstances and will be a final settlement for all Ngai Tāmanuhiri's historical or pre-1992 claims. The settlement legislation, once passed, will prevent Ngai Tāmanuhiri from re-litigating the claims before the Waitangi Tribunal or the courts.

The settlement will still allow Ngai Tāmanuhiri 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. 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 Ngai Tāmanuhiri, wherever they may now live.

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