



Deed of Settlement

DEED OF SETTLEMENT BETWEEN THE CROWN AND NGĀTI PAOA

General background

Ngāti Paoa is an iwi of approximately 3,500 members (according to 2013 Census figures). The area of interest of Ngāti Paoa stretches along the western shores of the Hauraki Gulf and the eastern suburbs of Auckland, from Te Aroha to Warkworth. It comprises islands in the Tāmaki Strait (including Waiheke and Ponui Islands) and reaches across to the Coromandel Peninsula over Manaia and Kaimarama.

Ngāti Paoa is one of the iwi of Ngā Mana Whenua o Tāmaki Makaurau (the Tāmaki Collective). It is also a member of the Pare Hauraki and the Marutūāhu Iwi collectives. Ngāti Paoa has received collective redress from the Tāmaki Collective Redress Deed and will receive collective redress through the Pare Hauraki Collective Redress Deed. It is also intended Ngāti Paoa will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

On 29 June 2011, the Crown recognised the mandate of the Ngāti Paoa Trust Board, to be represented by two negotiators, to negotiate a comprehensive settlement of the historical Te Tiriti o Waitangi/Treaty of Waitangi claims of Ngāti Paoa with the Crown.

The mandated negotiators and the Crown entered into an Agreement in Principle Equivalent on 22 July 2011. The Ngāti Paoa governance entity, the Ngāti Paoa Iwi Trust, was ratified in August and September 2013.

On 18 August 2017, Ngāti Paoa and the Crown initialled a Deed of Settlement (the deed). The deed is subject to ratification by the members of Ngāti Paoa and conditional on the enactment of Treaty settlement legislation. On settlement, the trustees of the Ngāti Paoa Iwi Trust will manage the settlement assets.

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 Paoa.

Summary of the historical background to the claims by Ngāti Paoa

In 1840 a number of rangatira of Ngāti Paoa signed te Tiriti o Waitangi/the Treaty of Waitangi in Tāmaki and the Coromandel. After Auckland was established as the capital in 1841 Ngāti Paoa supplied the settlement with produce.

In 1841 the Crown purchased 6,000 acres at Kohimarama and 220,000 acres at Mahurangi and Omaha from Ngāti Paoa and other iwi. No reserves were made in these lands. In the 1840s and 1850s the Crown retained approximately 90,000 acres of land in which Ngāti Paoa had interests as surplus from pre-Treaty transactions and pre-emption waiver transactions. This included approximately 78,000 acres in south Tāmaki which had been purchased by a missionary in 1836 and 1837.

In July 1863 the Crown invaded the Waikato when its forces crossed the Mangatāwhiri. Some Ngāti Paoa rangatira expressed their loyalty to the Crown. Other Ngāti Paoa resisted the occupation of their lands. In October 1863 the HMS Miranda shelled the Ngāti Paoa village Pūkorokoro, and in December a Crown militia made a surprise attack on a group of 40 to 50 Māori, including some Ngāti Paoa, near Paparata in East Wairoa.

In December 1864 the Crown proclaimed confiscation blocks in Waikato and Pokeno, and in East Wairoa in January 1865. Ngāti Paoa had interests in the 51,000 acre East Wairoa confiscation block and in the Central Waikato confiscation district which included Maramarua and Pūkorokoro. The confiscated lands included Kohukohunui and Rataroa, Ngāti Paoa's sacred maunga. No land was returned to Ngāti Paoa in the East Wairoa confiscation block.

Between April and June 1864, the Crown conducted military operations against Māori in Tauranga Moana. After the conflict ended, the Crown proclaimed a confiscation district of 214,000 acres, and in 1868 a further 76,000 acres were added to this district. Ngāti Paoa had interests in lands which were included in the confiscation district.

In 1865 the Crown promoted legislation which introduced the Native Land Laws, under which title to much Māori land was individualised. The individualisation of title made Ngāti Paoa lands more susceptible to alienation. Much of Ngāti Paoa's land on Waiheke and on the Wharekawa Coast was sold to private purchasers in the late nineteenth and early twentieth centuries. Crown purchasing activity from the 1870s also led to the alienation of much of Ngāti Paoa's land, including 45,000 acres at Piako.

Over the course of the twentieth century almost all of Ngāti Paoa's remaining land was alienated to private purchasers and the Crown. Some land was taken under the Public Works Act. These public works takings sometimes resulted in the destruction of pā and wāhi tapu. In 1908 the Crown authorised a project to drain and develop the Hauraki wetlands. Over the following decades the Crown altered the waterways, drained the wetlands and changed the course of the Waihou and Piako rivers.

By the end of the twentieth century only 27% of Ngāti Paoa spoke Te Reo. The decline of Ngāti Paoa tribal structures and the loss of Te Reo contributed to a loss of Ngāti Paoa mātauranga Māori. In the twentieth and twenty-first centuries, Ngāti Paoa generally experienced poorer health, including lower life expectancy and higher infant mortality, than Pākehā. Ngāti Paoa also experienced higher unemployment than the general population, and a lower median annual income.

Overview

The Ngāti Paoa Deed of Settlement is the final settlement of all historical Treaty claims of Ngāti Paoa 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, which form the basis for a Crown apology to Ngāti Paoa;
- cultural redress; and
- financial and commercial redress.

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

Crown acknowledgements and apology

The Deed contains acknowledgements that the cumulative effect of the Crown's actions and omissions, including confiscation, the operation and impact of the native land laws and continued Crown purchasing, has left Ngāti Paoa virtually landless and undermined their economic, social and cultural development. The Crown's failure to ensure that Ngāti Paoa retained sufficient land for their present and future needs was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

The Deed also includes a Crown apology to Ngāti Paoa for its failure to protect them from the rapid alienation of land in the decades following the signing of te Tiriti o Waitangi/the Treaty of Waitangi, the loss of life and the devastation caused by hostilities, and the enactment of laws and policies that have led to the loss of whenua and te reo Māori. The Crown unreservedly apologises for its breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

Cultural redress

The cultural redress package for Ngāti Paoa intends to recognise the traditional, historical, cultural and spiritual associations of Ngāti Paoa with places and sites owned by the Crown within their area of interest.

SITES VESTED IN NGĀTI PAOA

The settlement will vest 10 sites of cultural significance in Ngāti Paoa:

- Kaiaua School property (2 ha), subject to a lease back to the Ministry of Education;
- Māwhitipana (1.9 ha) as a recreation reserve;
- Paoa Ururoa (0.4 ha) as a historic reserve;
- Paoa Ururua (1.6 ha) as a recreation reserve;
- Paoa Whanake (2 ha) as a local purpose (marae) reserve;
- Papakura Pā (1 ha) as a scientific reserve;
- Pokai Wawahi Ika (2.3 ha) as a recreation reserve;
- Tauwhare Koiora (1.3 ha), part as a recreation reserve and part as a historic reserve;
- Te Iwi Rahirahi (0.6 ha) as a local purpose (esplanade) reserve; and
- Te Waero Awe Houkura (0.9 ha) as a recreation reserve, subject to a lease over the buildings to the Auckland Council.

Some of the properties will be included as part of the Hauraki Gulf Marine Park.

SITES TO BE VESTED IN NGĀTI PAOA AND VESTED BACK TO THE CROWN

Two sites will be vested in the Ngāti Paoa governance entity which will vest them back seven days later to the Crown for the people of New Zealand. They are:

- Te Haupa Island Scenic Reserve; and
- Pūkorokoro / Miranda Taramaire Government Purpose Reserve Wildlife Management Area.

This arrangement provides for recognition of the association Ngāti Paoa has with these sites. The sites will continue to be subject to reserve status and there will be no change to the management arrangements for the sites during and after the vesting and vest back.

OVERLAY CLASSIFICATIONS

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of Ngāti Paoa with certain sites of significance. The declaration of an area as an overlay classification provides for the Crown to acknowledge iwi values in relation to that area.

The settlement provides an overlay classification over Te Haupa Island Scenic Reserve and Pūkorokoro / Miranda Taramaire Government Purpose Reserve Wildlife Management.

STATUTORY ACKNOWLEDGEMENTS

A statutory acknowledgement recognises the association between Ngāti Paoa and a particular site or area and enhances the ability of the iwi to participate in specified resource management processes.

The Crown offers a statutory acknowledgement over the following areas:

- Kiripaka Wildlife Scenic Reserve;
- Mangatawhiri Forest Conservation Area;
- Matietie Historic Reserve;
- Mutukaroa / Hamlin Hill;
- Ngahue Reserve;
- Paparimu Conservation Area;
- Point England (Kiano) Reserve;
- Pūkorokoro / Miranda Scenic Reserve;
- Pūkorokoro / Miranda Scientific Reserve;
- Richard Sylvan Memorial Scenic Reserve;
- Ruapotaka Reserve;
- Te Matuku Bay Scenic Reserve;
- Te Morehu Scenic Reserve; and
- Vining Scenic Reserve.

CROWN PROTECTED AREA NAMES

The settlement legislation will provide for the following Crown protected area name changes:

- Te Haupa (Saddle) Island Scenic Reserve to Te Haupa Island Scenic Reserve;
- Miranda Taramaire Government Purpose Reserve Wildlife Management Area to Pūkorokoro / Miranda Taramaire Government Purpose Reserve Wildlife Management Area;
- Miranda Scenic Reserve to Pūkorokoro / Miranda Scenic Reserve;
- Miranda Scientific Reserve to Pūkorokoro / Miranda Scientific Reserve; and
- Tiritiri Matangi Island Scientific Reserve to Papakura Pā Scientific Reserve.

PLACEMENT OF POU WHENUA

The Crown offers Ngāti Paoa the approval to fix or place a permanent pou whenua on Te Haupa Island Scenic Reserve and Papakura Pā to reflect Ngāti Paoa's association with those areas.

STATEMENTS OF ASSOCIATION

The Deed will acknowledge that Ngāti Paoa has associations with, and asserts certain spiritual, cultural, historical and traditional values in relation to:

- Hauraki Gulf / Tikapa Moana;
- Kōpuatai Wetland Area;
- Maungarei / Mount Wellington;
- Maungauika;
- Maungawhau / Mount Eden;
- Moehau maunga;
- Motuihe Island / Te Motu-a-Ihenga;
- Motutapu Island;
- Ōtāhuhu / Mount Richmond;
- Rangitoto;
- Takarunga / Mount Victoria; and
- Te Aroha maunga.

RUAMAAHUA

The Crown will consider the operation of the Grey-Faced Petrel (Northern Muttonbird) Notice 1979 as it applies to Ruamaahua regarding its alignment with the current titi season. The Crown intends that any redress over Ruamaahua provided in a Treaty settlement will include Ngāti Paoa.

Relationships

PROTOCOLS AND RELATIONSHIP AGREEMENT

The Deed will provide for the Minister for Culture, Arts and Heritage and the Minister for Primary Industries to issue protocols that set out how their respective agencies will interact with and consult the Ngāti Paoa governance entity when carrying out statutory duties and functions.

The Ngāti Paoa governance entity will enter into a conservation relationship agreement with the Department of Conservation that will outline how the Department of Conservation will engage with Ngāti Paoa.

PROMOTION OF RELATIONSHIPS

The Minister for Treaty of Waitangi Negotiations will write to a number of local authorities and Crown agencies to raise the profile of Ngāti Paoa, advise them of matters of particular importance to Ngāti Paoa and encourage them to better engage with them.

CULTURAL REDRESS PAYMENT

The Ngāti Paoa governance entity will receive \$1 million for cultural revitalisation and to purchase a property of cultural significance.

Financial and commercial redress

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

The total financial redress for Ngāti Paoa is \$23.5 million. This includes:

- \$1 million received in 1993 for the Railways Deed;
- \$15,625,000 paid on-account to the Pouarua Farm Limited Partnership in November 2013 for the purchase of the Pouarua Dairy Complex attributable to Ngāti Paoa;
- \$500,000 received in August 2014 on-account of the settlement; and

- \$302,167 being the agreed portion of the transfer value of the Kohera Road property received on-account of the settlement as part of the Pare Hauraki Collective Redress Deed.

COMMERCIAL REDRESS PROPERTIES

Fourteen properties held in the Treaty settlements landbank were transferred to the Ngāti Paoa governance entity in December 2015. The terms and conditions of the redress offer are recorded in a counter-signed letter dated 5 August 2015.

POINT ENGLAND HOUSING DEVELOPMENT OPPORTUNITY

Ngāti Paoa will receive the first opportunity to purchase the development land at Point England and to enter into a development agreement with the Crown in relation to the development of housing on the property.

Collective redress

As a member of the Tāmaki Collective, Ngāti Paoa has received collective cultural and commercial redress as part of the Ngā Mana Whenua o Tāmaki Collective Redress Deed. Ngāti Paoa will also receive collective redress as part of the Pare Hauraki Collective Redress Deed which includes collective cultural and commercial redress. The details of the redress can be found in the Pare Hauraki Collective Redress Deed settlement summary. It is also intended Ngāti Paoa will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

MINERALS

Ownership of any Crown-owned minerals in land transferred to Ngāti Paoa under the Deed will also transfer to Ngāti Paoa. This does not include nationalised minerals (petroleum, gold, silver and uranium) or affect other lawful rights to subsurface minerals.

All land which is currently subject to Schedule 4 protection will continue to be subject to the same type of protection once owned by iwi.

HARBOURS AND HAURAKI GULF

The settlement does not provide for redress in relation to Tikapa Moana/ the Hauraki Gulf and Te Tai Tamahine/Te Tai Tamawahine. The Crown and Ngāti Paoa have agreed to conduct separate negotiations in the future to discuss potential cultural redress in relation to these areas.

Questions and Answers

1. What is the total settlement package?

- Crown acknowledgements and apology for historical breaches of the Treaty of Waitangi;
- an agreed historical account;
- cultural redress including the vesting of a number of sites in the Ngāti Paoa area of interest and relationship redress;
- financial redress of a total of \$23.5 million (including previous on-account payments); and
- commercial redress involving the early purchase of Crown properties.

Ngāti Paoa has received collective redress through the Ngā Mana Whenua o Tāmaki Makaurau Collective and will also receive collective redress as part of the Pare Hauraki Collective Redress Deed. The details of the redress can be found in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Deed and Pare Hauraki Collective Redress Deed summaries. It is also intended Ngāti Paoa will receive redress through the Marutūāhu Iwi Collective Redress Deed (yet to be initialled).

2. Who holds the mandate for Ngāti Paoa?

The Crown recognises the Ngāti Paoa claimant community has conferred the mandate to represent Ngāti Paoa in historical Treaty of Waitangi settlement negotiations with the Crown on:

- Ngāti Paoa Trust Board, Mandated entity; and
- Hauāuru Rawiri and Morehu Wilson, Mandated Negotiators.

The Ngāti Paoa Deed of Mandate, May 2011, provides for the division of responsibilities for negotiations between the mandated entity (Ngāti Paoa Trust Board) and the two negotiators. The mandate was reconfirmed at a hui-ā-iwi in April 2016.

3. Is the Point England housing development opportunity redress?

The Point England Development Enabling Act 2017 made 11.7 hectares available for housing development. The purpose of the Act is to contribute to alleviating housing pressures in Auckland. It is not Treaty settlement legislation.

The development land was formerly part of the Point England (Kiano) Reserve. The balance, 33 hectares, will remain recreation reserve.

As Treaty settlement redress, the Crown has offered Ngāti Paoa the first opportunity to enter into an agreement with the Crown to develop housing on the development land. This redress offer is recorded in a counter-signed letter dated 13 October 2016.

4. Is there any private land involved?

No.

5. Are the public's rights affected?

No. Nothing will change for the public. Public access, recreational use, reserve status and existing third party rights are maintained.

6. Are any place names changed?

Yes. In particular, Crown protected area names including the name Miranda will be changed to Pūkorokoro / Miranda.

7. 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 classification status requires the Minister of Conservation and the settling group to develop and publicise a set of principles that will assist the Minister to avoid harming or diminishing values of the settling group with regard to 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 settling group.

8. What is a statutory acknowledgement?

A statutory acknowledgement acknowledges 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. A statutory acknowledgement does not convey a property right and is non-exclusive.

9. 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.

10. When will the settlement take effect?

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

11. Do Ngāti Paoa 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 of Waitangi claims of Ngāti Paoa. The settlement legislation, once passed, will prevent the iwi re-litigating the claim before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Paoa 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.

12. Who benefits from the settlement?

All members of Ngāti Paoa wherever they may now live.

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