



Deed of Settlement

BETWEEN THE CROWN AND THE MAUNGAHARURU-TANGITŪ HAPŪ

General background

The Maungaharuru-Tangitū Hapū are comprised of Ngāti Kurumokihi, Ngāti Marangatūhetau (also known as Ngāti Tu), Ngāti Whakaari, Ngāti Taura, Ngāti Te Ruruku ki Tangoio, and Ngāti Tahu. The Hapū are based north of Napier in the Hawke's Bay.

On 20 October 2009 the Crown recognised the mandate of Maungaharuru-Tangitū Incorporated to represent the Maungaharuru-Tangitū Hapū in negotiating a comprehensive historical Treaty settlement. The Crown signed Terms of Negotiation with Maungaharuru-Tangitū Incorporated on 26 June 2010.

On 22 September 2011, the Crown and the Maungaharuru-Tangitū Hapū signed an Agreement in Principle which formed the basis for this settlement.

On 22 March 2013, the Maungaharuru-Tangitū Hapū and the Crown initialled a Deed of Settlement. The deed was then ratified by the people of Maungaharuru-Tangitū Hapū and signed on 25 May 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, Ministry of Primary Industries, 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 the Maungaharuru-Tangitū Hapū.

Summary of the historical background to the claims of the Maungaharuru-Tangitū Hapū

In 1851 the Crown purchased large land blocks at Ahuriri and Mohaka. The Crown did not ensure that adequate reserves within these blocks would be preserved in Hapū ownership. The Hapū consider that they were not adequately consulted during the negotiation of the Ahuriri purchase, and that the Crown included Te Whanganui-ā-Orotu (the Napier Inner Harbour), which the Hapū had not intended to sell, within this purchase.

The Crown continued purchasing Hapū lands until 1873. In 1865 it promoted legislation which provided for Māori land to be awarded to no more than ten individual owners who were then able to treat tribal lands as their personal property. The Crown and private interests subsequently purchased several blocks from Hapū individuals awarded titles under this legislation.

In 1866 several inland rangatira wrote the Crown that they would lead a party to Hawke's Bay to negotiate a peaceful end to their involvement in the New Zealand Wars. In October 1866 Crown military forces attacked this party at Omarunui and Petane after the expiry of an ultimatum demanding the surrender of Omarunui within one hour. Twenty-three Māori were killed, and some Hapū individuals were among eighty-six prisoners who were exiled to the Chatham Islands where they were detained without trial for nearly two years. In 1868 the prisoners escaped, and became embroiled in a war. During this war Crown forces summarily executed a number of prisoners captured at Ngatapa in January 1869.

In 1867 the Crown proclaimed a large confiscation district which included most of the Hapū takiwā. In 1870 the Crown agreed it would retain more than 9,000 acres at Tangoio North, and return much of the confiscation district, including twelve blocks within the Hapū takiwā, to individual Māori. The Crown did not issue Crown grants for most of those blocks for more than 40 years. However it did make one grant to a Crown ally from another hapū of more than 30,000 acres at Kaiwaka. The Hapū incurred significant expenditure over several decades in unsuccessful attempts to have this one owner recognised as a trustee for the customary owners.

The Crown agreed in 1870 that the returned land could not be sold. However the Native Land Act 1909 removed all restrictions on the alienation of Māori land, and in 1911 the Crown began purchasing the returned land. The owners of some blocks made collective decisions not to sell, but the Crown still purchased interests in these blocks from individual owners. The Crown also purchased land after using its monopoly powers to prevent owners for long periods of time from leasing their land to private parties and deriving an income, which then placed pressure on them to sell to the Crown. By 1930 the Crown had purchased more than 100,000 acres which was nearly all of the land returned to Māori in 1870. The remaining Hapū landowners were left without a viable economic presence in their traditional takiwā.

Since the 1880s deforestation and the development of pastoral farming has significantly increased erosion and pollution in the takiwā. The health of Lake Tūtira has dramatically deteriorated, and the Hapū have lost significant fisheries here and along the coastline.

Between 1860 and 1930 many Hapū family lines died out due to infectious diseases and diseases of poverty such as typhoid and tuberculosis. Although living conditions and Crown health services have improved since 1945, substantial gaps have continued between the health of Hapū members and pākehā.

Summary of the Maungaharuru-Tangitū Hapū settlement

Overview

The Maungaharuru-Tangitū Hapū Deed of Settlement is the final settlement of all historical Treaty of Waitangi claims of the Maungaharuru-Tangitū Hapū 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
- cultural redress
- financial and commercial redress.

The benefits of the settlement will be available to all members of the Maungaharuru-Tangitū Hapū wherever they may live.

Crown acknowledgements and apology

The deed contains a series of acknowledgements by the Crown where its actions arising from interaction with the Maungaharuru-Tangitū Hapū have breached the Treaty of Waitangi and its principles.

The Crown apologises to the Maungaharuru-Tangitū Hapū for past acts and omissions that breached the Crown's obligations under the Treaty of Waitangi. These include the impact of war and raupatu on the Maungaharuru-Tangitū Hapū; and the manner in which the Crown purchased most of the lands left to the Hapū after the raupatu.

Cultural redress

1. The deed recognises the traditional, historical, cultural and spiritual associations of the Maungaharuru-Tangitū Hapū with places and sites owned by the Crown within their area of interest. This allows the Maungaharuru-Tangitū Hapū and the Crown to protect and enhance the conservation values associated with these sites.

1(A) SITES TRANSFERRED TO MAUNGAHARURU-TANGITŪ HAPŪ

Two sites, part of larger areas, will be vested in the Hapū unencumbered:

- part of Opouahi Station
- part of Opouahi Scenic Reserve.

The vesting of the following site is subject to specific conditions including protection of conservation values and public access. The site to be vested in the Maungaharuru-Tangitū Hapū is subject to reserve status and public access being retained, Te Pohue Domain Recreation Reserve, excluding the hall that is located on the site. This site will continue to be administered by the Hastings District Council, and its reserve status cannot be revoked or reclassified.

1(B) LAKEBEDS

Four lakebeds will be vested subject to reserve status and with public access being retained:

- Lake Tūtira
- Lake Orakai
- Lake Waikōpiro
- Lake Opouahi.

The settlement will also vest in the Maungaharuru-Tangitū Hapū administration of the stratum above the lakebeds subject to reserve status. The stratum is the space occupied by the water and air

above the lakebeds, but not the water itself. If at any time in the future, the Maungaharuru-Tangitū Hapū no longer wish to retain the administration of the stratum, it will revert to the Crown.

1(C) VEST AND GIFT BACK

Certain sites are of such significance to the Maungaharuru-Tangitū Hapū that the settlement provides for them to be vested in the Maungaharuru-Tangitū Hapū on the anniversary of their confiscation and gifted back to the Crown seven days later. These sites are:

- Boundary Stream Scenic Reserve
- Bellbird Bush Scenic Reserve
- Balance of Opouahi Scenic Reserve
- Whakaari Landing Place Reserve.

1(D) OVERLAY CLASSIFICATION

An overlay classification acknowledges the traditional, cultural, spiritual and historical association of the Maungaharuru-Tangitū Hapū with certain sites of significance. The declaration of an area as an overlay classification provides for the Crown to acknowledge the values of the Hapū in relation to that area. The settlement provides the Maungaharuru-Tangitū Hapū with overlay classifications over the following sites:

- Boundary Stream Scenic Reserve
- Bellbird Bush Scenic Reserve
- balance of Opouahi Scenic Reserve
- balance of Tutira Domain Recreation Reserve.

Coastal land across the earthquake slip marginal strip, Moeangiangi marginal strip, Waipātiki Beach marginal strip, Tangoio marginal strip, and Whakaari Landing Place Reserve.

1(E) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

A Statutory Acknowledgement recognises the association between the Maungaharuru-Tangitū Hapū and a particular site or area and enhances the ability of the Hapū to participate in specified Resource Management processes. Deeds of Recognition oblige the Crown to consult with the Maungaharuru-Tangitū Hapū on specified matters and have regard to their views regarding their special associations with certain areas.

The Crown offers the Maungaharuru-Tangitū Hapū Statutory Acknowledgements and Deeds of Recognition over the following areas:

- Mangapukahu Scenic Reserve
- Tangoio Falls Scenic Reserve
- Boundary Stream Scenic Reserve
- Bellbird Bush Scenic Reserve
- Balance of Opouahi Scenic Reserve
- Balance of Tutira Domain Recreation Reserve
- Te Kuta Recreation Reserve
- White Pine Bush Scenic Reserve
- Waipātiki Scenic Reserve
- peaks of the Maungaharuru Range
- earthquake slip marginal strip
- Moeangiangi marginal strip
- Waikoau conservation area
- Esk kiwi sanctuary area

- the Hapū coastal marine area
- rocks and reefs of Tangitū (coastline)
- Tangoio marginal strip
- Waipātiki Beach marginal strip
- Whakaari Landing Place Reserve.

The Crown offers the Maungaharuru-Tangitū Hapū Statutory Acknowledgements and Deeds of Recognition in relation to the following rivers and their tributaries within the area of interest of the Maungaharuru-Tangitū Hapū:

- Aropaoanui River
- Waikari River
- Mahiaruhe Stream
- Anaura Stream
- Waikoau River
- Te Ngarue Stream
- Esk River
- Waitaha Stream
- Pākuratahi Stream
- Sandy Creek
- Moeangiangi River.

1(F) PLACE NAME CHANGES

Place names recognise iwi associations with geographic areas. A total of 22 place names will be changed or altered including Te Ngaru Stream to Te Ngarue Stream, and Whakaari being designated an official name. For a full list of name changes, please see the Deed of Settlement on www.ots.govt.nz

1(G) PAYMENT TOWARDS MARAE RELOCATION FUND

The Crown will contribute \$2 million on-account to a marae relocation fund to enable the purchase of land on the open market if it becomes available before settlement date.

1(H) POUWHENUA

The Crown will contribute \$15,000 towards the cost of erecting pouwhenua and/or interpretation panels

2. Relationships

2(A) KAWENATA

The deed of settlement provides for a partnership agreement with the Minister of Conservation that will recognise the special relationship that the Maungaharuru-Tangitū Hapū has with conservation land and create a new relationship based on partnership.

2(B) RELATIONSHIP AGREEMENTS

A relationship agreement will be established with the Ministry for Primary Industries, Ngāti Kahungunu Iwi Incorporated and other hapū who wish to participate, in respect of fisheries.

The Maungaharuru-Tangitū Hapū will participate in an advisory committee to the Minister for Primary Industries in respect of changes to finfish restrictions and prohibitions that may affect the area known as the Wairoa Hard.

The deed will also establish a relationship agreement between the Maungaharuru-Tangitū Hapū and the Ministry for the Environment.

2(C) PROTOCOLS

The Deed of Settlement will provide for protocols to facilitate good working relationships between the Maungaharuru-Tangitū Hapū and the Minister for Energy and Resources in respect of Crown minerals and the Minister for Arts, Culture and Heritage in respect of taonga.

2(D) LETTERS OF INTRODUCTION

The Deed of Settlement provides for the promotion of relationships with local authorities and government agencies. The Crown will write letters of introduction to local authorities, government agencies and museums, encouraging them to develop an effective relationship with the Maungaharuru-Tangitū Hapū governance entity and in some cases, to discuss the erection of pouwhenua and/or interpretation panels on certain named sites.

2(E) TANGOIO SOIL CONSERVATION RESERVE REDRESS

A fund will be created by the Hawke's Bay Regional Council for the purpose of soil conservation and remedying its effects on the environment over an area, extending over the Aropaoanui, Te Ngarue, and Waipātiki and part of the Esk water catchments within the area of interest of the Maungaharuru-Tangitū Hapū (the catchments Management Area). The Maungaharuru-Tangitū Hapū and Hawke's Bay Regional Council will form a relationship to manage the fund, reflecting the special nature of the Catchments Management Area, and the desire of the Hapū to exercise kaitiakitanga there.

Financial and commercial redress

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

3(A) FINANCIAL REDRESS

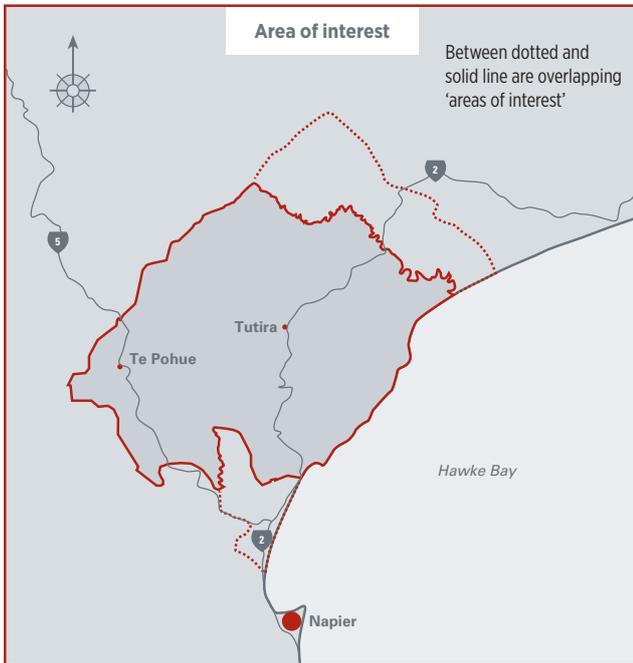
The Maungaharuru-Tangitū Hapū will receive financial redress of \$23 million together with interest from the signing of the Agreement in Principle until settlement day, less the total transfer values of the commercial redress properties.

3(B) COMMERCIAL REDRESS

With their financial redress the Maungaharuru-Tangitū Hapū will have the opportunity to purchase:

- part of Esk Forest (Crown Forest Licensed Land) for \$4.222 million
- the remainder of Opouahi Station, land and improvements with a unit value of \$5.500 million (Pohokura Road, Hawke's Bay).

The Maungaharuru-Tangitū Hapū will also receive a right of first refusal for a period of 172 years over an area within the Maungaharuru-Tangitū Hapū area of interest, as agreed with neighbouring claimant groups.



Questions and Answers

1. What is the total cost to the Crown?

The total cost to the Crown of settlement redress to the Maungaharuru-Tangitu Hapū is \$23 million together with interest from the signing of the Agreement in Principle until settlement, plus the value of the cultural redress properties, \$2 million marae relocation fund and a \$15,000 pouwhenua and interpretation fund.

2. Is there any private land involved?

No. The Te Pohue Domain Recreation Reserve, excluding the hall that is located on the site, will be transferred to the Maungaharuru-Tangitu Hapū subject to reserve status and public access being retained. This site will continue to be administered by the Hastings District Council and the current management of the community hall will continue. The reserve status cannot be reclassified or revoked.

3. Are the public's rights affected?

No. All existing public access rights in relation to areas affected by the settlement will be preserved, with the exception of the 28 hectares of the Opouahi Scenic Reserve which will be transferred unencumbered. In the case of Opouahi station, an easement over the title protects public right of access to walkways on the farm.

4. Are any National Parks affected by the Settlement?

No.

5. What are Statutory Acknowledgments?

Statutory Acknowledgments provide an acknowledgement of areas or sites with which the Maungaharuru-Tangitu Hapū 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 the Maungaharuru-Tangitu Hapū. Statutory Acknowledgments do not convey a property right and are non-exclusive.

6. What is an Overlay Classification?

An Overlay Classification acknowledges the traditional, cultural, spiritual and historical association of an iwi or hapū with certain sites of significance administered by the relevant department. In this instance, the overlay classifications are with the Department of Conservation.

An Overlay Classification 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 the values of the settling group with regard to that land. The New Zealand Conservation Authority and relevant Conservation Boards are also required to have regard to the principles and consult with the settling group.

7. Are any place names being changed?

Yes. Place names are significant for recognising associations with geographic areas. 22 geographic names will be altered or created through the Maungaharuru-Tangitu Hapū Deed of Settlement. Examples are, Te Ngaru Stream altered to Te Ngarue Stream; and the name Whakaari being designated an official name. For a full list see the Deed of Settlement on www.ots.govt.nz

8. Do the Maungaharuru-Tangitu Hapū 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 the Maungaharuru-Tangitu Hapū. The settlement legislation, once passed, will prevent the Maungaharuru-Tangitu Hapū from re-litigating their claims before the Tribunal or the courts.

The settlement package will still allow the Maungaharuru-Tangitu Hapū or members of the Maungaharuru-Tangitu Hapū 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.

9. Who benefits from the settlement?

All members of the Maungaharuru-Tangitu Hapū, wherever they may now live, will benefit from the settlement.

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

Te Kāwanatanga o Aotearoa