



Deed of

Deed of Settlement
between the Crown and
Ngāti Apa ki te Rā Tō

Settlement

General Background

Ngāti Apa ki te Rā Tō has customary interests in the Te Tau Ihu or northern South Island region. Around 700 people registered an affiliation to Ngāti Apa in the 2006 Census.

The Waitangi Tribunal heard the Te Tau Ihu claims of all iwi with interests in the northern South Island between August 2000 and March 2004, and released preliminary reports in 2007 and a final report in November 2008.

On 23 November 2005, the previous Minister in Charge of Treaty of Waitangi Negotiations and Minister of Māori Affairs recognised the mandate of the Kurahaupō Ki Te Waipounamu Trust to represent Ngāti Apa and two other iwi in negotiating a comprehensive historical Treaty settlement. The Crown signed Terms of Negotiation with the Kurahaupō Trust in June 2006. On 11 February 2009, the Crown and the Kurahaupō Trust co-signed a Letter of Agreement.

On 27 August 2010, Ngāti Apa and the Crown initialled a detailed Deed of Settlement based on this agreement. The Deed was then ratified, and signed on 29 October 2010. The settlement will be implemented following the passage of settlement legislation.

Ngāti Apa was represented in their negotiations by the Ngāti Apa ki te Rā Tō Trust, chaired by Brendon Wilson. Day to day negotiations were led by Peter Mason. The Office of Treaty Settlements, with the support of Department of Conservation, Land Information New Zealand, the 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 the Kurahaupō Trust and Ngāti Apa.

Summary of the Historical Background to the Claims by Ngāti Apa ki te Rā Tō

Ngāti Apa have resided in the northern South Island for many generations. At 1820 Ngāti Apa occupied and used resources in the outer Marlborough Sounds at Anamahanga (Port Gore), Waimea, Whakatu (Nelson) Te Tai Aorere (Golden Bay), Te Tai Tapu (Tasman Bay, Whanganui and the northern West Coast) and down to the Kawatiri region. In the 1820s and 1830s iwi from the North Island invaded and settled in the northern South Island. Although Ngāti Apa no longer had exclusive possession of all their territory they retained their tribal structures, chiefly lines and ancestral connections to the land.

In 1839 the New Zealand Company signed deeds with Māori that purported to purchase the entire northern South Island. Ngāti Apa were not consulted. In 1844 a Crown-appointed Commissioner investigated the Company's purchases and deemed the Company had made a limited purchase of land in the northern South Island. The Crown failed to investigate the rights of Ngāti Apa before granting land to the Company. Ngāti Apa did not receive any payment for their interests or a share in the Nelson Tenth's reserves that were set aside from the land granted to the Company.

Between 1847 and 1856 the Crown sought to purchase the remaining Māori land in the northern South Island. Despite the Crown being aware that Ngāti Apa claimed rights in some of the areas that were being purchased, Ngāti Apa were not included in any of the transactions. Consequently Ngāti Apa, in contrast to all the other northern South Island iwi, received no payment for the alienation of their land, and no reserves were set aside for them.

Ngāti Apa received some recognition in the 1860 Arahura (West Coast) purchase. Their rangatira Pūaha Te Rangī was a signatory to the deed. Ngāti Apa received a small share of the purchase price and several reserves. The reserves were insufficient for the present and future needs of the iwi. Ngāti Apa also obtained a share in several endowment reserves, but for various reasons, including inefficient Trustee administration, Ngāti Apa did not obtain significant economic benefit from these reserves.

In 1977 the remaining reserves on the West Coast, including the Westport town sections in which Ngāti Apa held a nine-tenths interest, were transferred to the Mawhera Incorporation. A Commission of Inquiry had earlier put forward options for the future management of the Westport sections, including owner representatives working with the Māori Trustee to determine the future of the sections. The Crown did not consult separately with Ngāti Apa owners, and did not offer them the option of working with the Māori Trustee. Ngāti Apa reserve owners became shareholders in the Mawhera Incorporation but no longer controlled the land and could not utilise it for tribal or community purposes.

In 1883 and 1892 the Native Land Court investigated the ownership of land that had been excluded from Crown purchases, and the Nelson Tenth's reserves. In the Te Tai Tapu and Nelson Tenth's cases the Court deemed that Ngāti Apa did not have rights and they were excluded from ownership. In 1889 the Court granted Ngāti Apa two small reserves at Anamahanga (Port Gore). When the larger of the reserves was sold the remaining 5 acre reserve was the only land left in Ngāti Apa ownership outside the West Coast.

By 1900 Ngāti Apa were landless. The Crown attempted to alleviate their position through the provision of 'Landless Natives Reserves'. Following the petition of Hoani Mahuika, Ngāti Apa individuals were allocated land at Whakapoai on the West Coast. The Crown never granted them title to the land. Ultimately the reserves scheme did nothing to alleviate the landless position of Ngāti Apa in the northern South Island.

Settlement

Summary of the Ngāti Apa ki te Rā Tō Settlement

Overview

The Ngāti Apa Deed of Settlement is the final settlement of all historical claims of Ngāti Apa 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 Ngāti Apa;
- cultural redress; and
- financial and commercial redress.

No private land is involved in the redress, only Crown assets.

The benefits of the settlement will be available to all members of Ngāti Apa ki te Rā Tō, wherever they live.

Crown Apology

The Crown apologises to Ngāti Apa for past dealings that breached the Crown's obligations under the Treaty of Waitangi. These were the failure of the Crown to adequately recognise the customary rights of Ngāti Apa in its resolution of New Zealand Company transactions and its pre-1865 purchases of land, the exclusion of Ngāti Apa from the Nelson and Motueka tenths reserves and the Crown's failure to set aside adequate reserves and to ensure that Ngāti Apa retained sufficient lands for its future needs.

Cultural redress

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

1(A) OVERLAY CLASSIFICATION

The overlay classification (known as a Tōpuni or Whenua Rāhui in some other settlements) acknowledges the traditional, cultural, spiritual and historical association of Ngāti Apa 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 overlay classifications over the alpine tarns in Nelson Lakes National Park (Blue Lake/Rotomairewhenua, Lake Constance/Rotopohueroa, Lake Angelus/Rotomaninitua, and Lake Arnst Tarns/Paratitahi Paraumu); Lake Rotoiti and Lake Rotoroa jointly with Rangitāne, and over the Heaphy Track jointly with other Te Tau Ihu iwi.

1(B) SITES TRANSFERRED TO NGĀTI APA

The settlement vests the alpine tarns in Ngāti Apa, subject to them being gifted back to the people of New Zealand. The settlement will also vest 28,500 hectares of Crown-owned parts of the Te Tai Tapu block within the North West Nelson Forest Park in Ngāti Apa jointly with other Te Tau Ihu iwi, subject to the land being gifted back.

Four sites totalling approximately 29 hectares to be vested in Ngāti Apa, subject to specific conditions including protection of public access where appropriate:

- Aorere Scenic Reserve
- St Arnaud site
- Te Tai Tapu
- Port Gore

One site at Mātangi Āwhio (Nelson), of 0.2061 hectares, is to be vested in Rangitāne o Wairau, Ngāti Apa ki te Rā Tō, Ngāti Kuia, Ngāti Tama manawhenua ki te Tau Ihu, Ngāti Rarua, Te Atiawa o te Waka-a-Maui and Te Pataka a Ngāti Koata.

1(C) STATUTORY ACKNOWLEDGEMENTS AND DEEDS OF RECOGNITION

A Statutory Acknowledgement registers the association between iwi and a particular site or area and enhances the iwi's ability to participate in specified Resource Management Act processes. Deeds of Recognition oblige the Crown to consult with Ngāti Apa on specified matters and have regard to their views regarding their special associations with certain areas.

The Crown offers a Coastal Statutory Acknowledgment over all the Te Tau Ihu coastal marine area north of the Ngāi Tahu takiwā.

The Crown offers Statutory Acknowledgements and Deeds of Recognition in relation to the following rivers within Ngāti Apa's area of interest:

- Waimea River (including Wairoa River and Wai-iti River as its tributaries), jointly with other Kurahaupō iwi
- Motupiko River, jointly with Rangitāne
- Anatori River (South of the Whanganui Inlet)
- Kawatiri River (northern portion); and
- Tākaka River

There are 12 further acknowledgements and deeds in the agreement relating to:

- Kaiteriteri Scenic Reserve
- Farewell Spit
- Big River site (Te Tai Tapu)
- Westhaven (Te Tai Tapu) Marine Reserve and Westhaven (Whanganui Inlet) Wildlife Reserve
- Alpine Tarns, Nelson Lakes National Park

Jointly with other iwi

- Tarakaipa Island
- Te Ope o Kupe (Anamahanga/Port Gore)
- Puhikereru/ Mt Furneaux
- The Brothers Islands
- Kohi te Wai (Nelson)
- Lake Rotoiti
- Lake Rotoroa

2. Recognition of Ngāti Apa’s traditional, historical, cultural and spiritual association in their area of interest:

2(A) EELS

The settlement will provide acknowledgement of Ngāti Apa’s cultural association with eels in Nelson Lakes National Park. Ngāti Apa will be able to apply to the Minister of Conservation for consent under section 5(2) of the National Parks Act 1980 to take eels from the Nelson Lakes National Park for customary use.

2(B) FOSSICKING

The settlement provides a right to access public conservation land in Te Tau Ihu above the Ngāi Tahu takiwā to look for and take by hand any sand, shingle or natural material from a river bed within conservation land without being required to obtain an access permit.

2(C) TE TAU IHU RIVER/FRESHWATER ADVISORY COMMITTEE

The settlement establishes a stand-alone iwi advisory committee providing input into local authority planning and decision making under the Resource Management Act at review, preparation and notification stages.

2(D) PLACE NAME CHANGES

Together the settlements with iwi who have interests in Te Tau Ihu include a total of 65 geographic name changes. The full list of place name changes is included in the Deed of Settlement, available on www.ots.govt.nz

3. Relationships

3(A) PROTOCOLS

Protocols will be issued by the Minister of Conservation, the Minister of Fisheries, the Minister of Energy, and the Minister for Arts, Culture and Heritage. These set out the way in which certain government agencies will exercise their functions within the protocol area and enable Ngāti Apa to have input into decision-making processes.

3(B) RELATIONSHIP AGREEMENT

The Crown will write to relevant local authorities encouraging them to enter into a Memorandum of Understanding with the Ngāti Apa governance entity.

Financial and commercial redress

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

4(A) FINANCIAL REDRESS

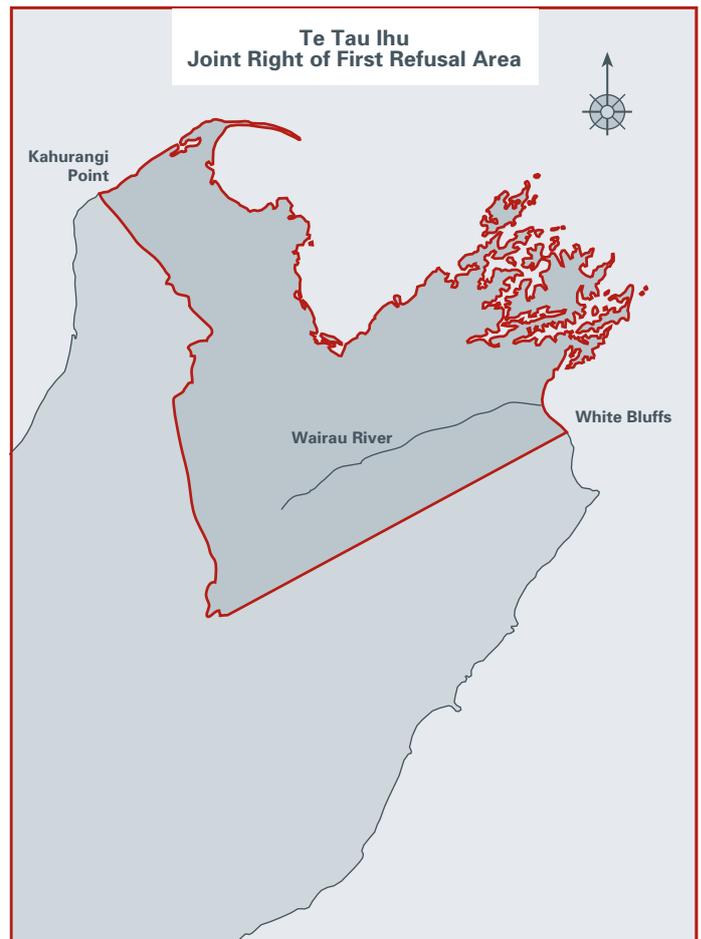
The financial and commercial redress package totals \$28.374 million, including \$12.24 million redress in lieu of licensed Crown Forest Land and interest that has been accumulating since the signing of the Letter of Agreement.

The sum includes the value of any Crown land purchased as part of the settlement, as outlined below.

4(B) COMMERCIAL REDRESS

- The opportunity to purchase certain Crown-owned properties within Te Tau Ihu, either at the time of settlement or through a deferred selection process
- The opportunity to purchase certain Crown-owned properties and lease them back to the Crown; and
- The opportunity to purchase at market value surplus Crown-owned properties within Te Tau Ihu, for a period of up to 169 years from Settlement Date, through a Right of First Refusal.

The proposed return of surplus Crown-owned properties is subject to any offer back requirements under section 40 of the Public Works Act.



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 \$28.374 million, which includes interest, the value of commercial properties with cultural association, and payment in lieu of the ability to purchase licensed Crown forest land.

2. Is there any private land involved?

No.

3. Are the public's rights affected?

Generally, no. Sites at St Arnaud, Te Tai Tapu (West Coast), and Port Gore totalling approximately 13 hectares are being returned to Ngāti Apa without provision for future public access. These sites are of particular cultural significance, and are not subject to regular public use.

4. What are Statutory Acknowledgments and Deeds of Recognition?

Statutory Acknowledgements 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. It is not a property right. Neither is it exclusive.

Deeds of Recognition set out an agreement between the administering Crown body (the Minister of Conservation) and a claimant group in recognition of their special association with a site as stated in a Statutory Acknowledgement, and specify the nature of their input into the management of the site.

5. What is an Overlay Classification?

The Overlay Classification (known as a Tōpuni or Whenua Rāhui in some other settlements) 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.

6. Are any place names changed?

The Te Tau Ihu iwi have requested 65 geographic name changes under the usual statutory provisions followed by the New Zealand Geographic Board/ Ngā Pou Taunaha o Aotearoa, which the Board had no concerns with.

7. Are any National Parks affected by the Settlement?

The Alpine Tarns and Lakes Rotoiti and Rotoroa in Nelson Lakes National Park will be vested in Ngāti Apa and gifted back to the Crown. Overlay Classification, Statutory Acknowledgments and Deeds of Recognition will apply over the lakes. This redress will not affect the conservation values of those sites or public access to them. The Crown will own and manage them into the future.

8. Does the settlement create any special rights for the iwi?

No new statutory rights are being created by this agreement. Provisions in relation to conservation, such as Statutory Acknowledgements, give practical effect to existing provisions of both the Resource Management Act and the Conservation Act that provide for Māori participation in conservation and planning matters.

9. Does Ngāti Apa 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 Ngāti Apa's historical or pre-1992 claims. The settlement legislation, once passed, will prevent Ngāti Apa from re-litigating the claims before the Waitangi Tribunal or the courts.

The settlement will still allow Ngāti Apa 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.

The settlement does not address claims relating to Ngāti Apa customary interests in the North Island, which have been addressed in a separate settlement.

10. Who benefits from the settlement?

All members of Ngāti Apa ki te Rā Tō, wherever they may now live.

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